

Acronym Institute for Disarmament Diplomacy

ICAN Steering Group Partner (2017 Nobel Peace Prize)

Werks Central, 15-17 Middle Street, Brighton, East Sussex, BN1 1AL England, U.K.
Website: www.acronym.org.uk tel: +44 (0) 1273 737219 email: info@acronym.org.uk

SEDE Public Hearing, European Parliament, Brussels

18 February 2020

on

The future of nuclear arms control regimes and the security implications for the EU

Dr Rebecca Johnson (written presentation for background, not verbatim)

Executive Director, Acronym Institute for Disarmament Diplomacy

Founding president of the International Campaign to Abolish Nuclear Weapons (ICAN)

Member of the International Panel on Fissile Materials (University of Princeton)

Thank you for inviting me to address you on this important panel. As a proud European it breaks my heart that there are no longer thoughtful MEPs here from the UK to contribute to these discussions on European Security and Defence. The Prime Minister that led to Brexit never thought it would happen. But when arrogant leaders get overconfident and play political and military games their tactics can go disastrously wrong. Especially when they don't fully think through the consequences, including worst case scenarios. Brexit shouldn't have happened, but it did.

Unintended consequences also attach to nuclear weapons. Arrogant leaders that like to project nuclear status and force in the naive belief that deterrence will work no matter what they do are a major factor in nuclear risk. They turn a blind eye to the humanitarian consequences of nuclear accidents and mistakes and convince themselves that they are in control and nothing will go wrong. They put our future, and the future of our families and descendents, at risk. But from weapons to computers to human error, things do go wrong... What shouldn't happen, sometimes does. And if nuclear weapons are involved, the humanitarian and global consequences are likely to be catastrophic.

I will address the subject today from four angles, summarised in my powerpoint:

1) Current challenges for non-proliferation, arms control and disarmament agreements:

- a. The 1968 Non-Proliferation Treaty, with its 2020 review conference taking place in New York, this coming April-May.**

b. **New and enhanced nuclear weapons -- a dangerous quest for usability.** These are being brought on line as disarmament and arms limitation agreements such as the 1987 Intermediate-Range Nuclear Forces (INF) Treaty, are ignored, undermined and threatened. The INF Treaty was killed off by US President Donald Trump and Russian President Vladimir Putin last year, and there are further dangers for Europe if Trump undermines the New-START agreement instead of extending it with further strategic arms reductions.

2) The 2017 Treaty on the Prohibition of Nuclear Weapons (TPNW).

The UN negotiations were boycotted by significant nuclear armed and endorsing governments, including many European states in NATO, but the Treaty was overwhelmingly adopted by 122 members of the UN General Assembly on 7 July 2017, and is likely to enter into force in 2020 or soon thereafter.

3) Compatibilities between the NPT, TPNW, incremental steps and their roles in 'creating the environment for nuclear disarmament'.

Why legal regimes and agreements are important for our security.

4) Implementing non-proliferation and disarmament: security-supporting roles for elected representatives (regional, national, municipal) and civil society.

The NPT at 50

The NPT entered into force in 1970 with five defined "nuclear weapon states" and around 40,000 nuclear weapons, mostly Soviet and American. Fifty years later, that number has reduced to around 13,800 nuclear warheads. But though most of these belong to Russia and the United States, there are now nine nuclear armed leaders. So despite the reductions, in humanitarian terms, the almost doubling of nuclear weapon capable states is a heightened risk factor - for nuclear use, accidents and war.

Developed out of cold war mathematics and political expectations of rationally-acting decision-making among two major adversaries, nuclear deterrence cannot sensibly be relied on. With today's challenges from competitive macho leaders, climate and ecological crises, and asymmetric, cyber, AI, and autonomously acting technologies, nuclear weapons

have become more life-threatening, even as their previous roles for status and deterrence have declined.

Deterrence as a component of defence policies is probably here to stay; under question is reliance on nuclear weapons as a useful tool of deterrence. As four senior US nuclear policy makers, Henry Kissinger, George Shultz, Sam Nunn and William Perry, wrote in the Wall Street Journal in 2007 "Reliance on nuclear weapons for [deterrence] is becoming increasingly hazardous and decreasingly effective." This is even more true today than 13 years ago.

Originated by Ireland and Sweden, the NPT was more normative than arms control. This is obvious from its aspirational preamble as well as its lack of independent institutional verification and enforcement mechanisms. These lacks may be characterised as weaknesses, but that misses the point. In the geo-strategic power relations of that time, it would not have been possible to agree on more legal and technical detail in the text. This short, normative treaty was the best that could be achieved in 1968, influenced by the shock of the 1962 Cuban Missile Crisis, but still in the midst of US-Soviet cold war arms racing. Better to get it on the books in 1970 and build on it thereafter.

Moreover -- and this is a very important recognition -- the NPT has endured with a high level of effectiveness because on that basic normative cornerstone it was possible over the years to develop and adapt many legal, technical and normative instruments to address many of the gaps in an enduring non-proliferation and disarmament regime. The preamble laid foundations for the 1996 Comprehensive Test Ban Treaty (CTBT) as well as the TPNW. Both are highly relevant, but also controversial.

Other regime add-ons that have strengthened nuclear non-proliferation and security include: nuclear supply controls, safety and security agreements; the Additional Protocol to the IAEA safeguards agreements; UN Security Council resolutions to tackle various proliferation challenges, such as UNSC Resolution 1540 (2004), which applied WMD prohibitions to non-state actors; and the 2015 nuclear restraint agreement with Iran, brokered by the P-5 and EU representatives, known as JCPOA (Joint Comprehensive Programme of Action). From the 1970s onwards, we have also considered the various bilateral (US-Soviet/Russian) arms limitation treaties and agreements as being part of the

non-proliferation and disarmament regime. The nuclear armed states talk about their unilateral reductions and any relevant bilateral or plurilateral agreements and developments as contributions towards fulfilling the NPT's purpose and objectives.

It is as absurd and counterproductive to say that the TPNW undermines the NPT as to say that the IAEA's additional protocol undermines the 1968 safeguards agreements -- or that UNSCR 1540 undermines the NPT and UN Charter by applying the prohibitions and provisions of the NPT and other WMD regimes to non-state actors. We know there are people and governments that make these assertions, but that doesn't mean they are true (or should be taken seriously).

I heard such nonsense from nuclear armed opponents of the CTBT when I was promoting test ban negotiations in the Conference on Disarmament in the early 1990s. The complaining governments caused some problems for the CTBT early on, but most are now on board. Unfortunately, largely due to rivalry between some nuclear capable states, the CTBT has not taken full legal effect. Fortunately, its implementing organisation in Vienna has been resourced to develop an impressive monitoring regime which also supports broader security and humanitarian needs, and could play an even greater disarmament and verification role when the TPNW -- which also prohibits nuclear testing -- enters into force.

We should recall that China and France only joined the NPT in 1991-2, two decades after it entered into force. Treaties need to be built on in order to remain relevant as political times and technologies change.

The indefinite extension of the NPT in 1995 was only possible because it was attached to three key documents: adoption of basic principles and objectives for disarmament and non-proliferation, including the CTBT, a "fissban" treaty to end production of weapon-usable fissile materials and further steps on nuclear disarmament; a strengthened NPT review process; and a resolution to work towards a zone free of weapons of mass destruction (WMD) in the Middle East, which built on the NPT's encouragement of nuclear-free zones.

The most successful review conference after that was in 2000, when "Thirteen Steps" to take forward nuclear disarmament and non-proliferation were adopted by consensus. Led

by Ireland and recently denuclearised South Africa, which had formed the New Agenda Coalition (along with Brazil, Egypt, Mexico, New Zealand and Sweden). The New Agenda initiative was attacked and vilified by the nuclear armed and endorsing governments between its launch in 1998 and the adoption of the Thirteen Steps in 2000.

Over subsequent years, few if any of these agreed steps were actually taken forward in meaningful ways, and none has been implemented by the NPT-5 nuclear armed states. Even as US allies who had once attacked the New Agenda initiatives became the biggest cheerleaders for the Thirteen Steps, some of the nuclear armed states were reneging on the commitments they had made, or working assiduously to get the 2000 agreements to be ignored or watered down in subsequent NPT conferences.

In view of this history, it should not surprise anyone to hear that the New Agenda governments -- along with leading nuclear free zone states -- played important roles in promoting negotiations on the TPNW.

The 2020 Review Conference takes place 25 years after the NPT was indefinitely extended. Following the failure to reach agreement at the 2015 Review Conference, with political relations among some of the dominant nuclear armed states and in several flashpoint regions appearing increasingly bellicose and volatile, the nuclear non-proliferation regime is being described as in crisis. That's not so unusual; and, crucially, the major areas of NPT-related contention are the ongoing failure by the nuclear armed states to make significant and irreversible progress on nuclear disarmament, proliferation activities carried out under the cloak of the Treaty's Article IV (which enshrined language on a so-called "inalienable right" to nuclear technologies for "peaceful purposes") and failure to make progress on a WMD free Middle East, despite agreements in 2010 to hold a conference to address these issues.

NPT debates and outcomes are influenced by but should not be confused with security challenges and politics in the real world. That said, the real world fears, threats and risks do seem greater than we've seen since the early 1980s, and the prospects of a meaningful consensus outcome from the 2020 Review Conference are not looking good.

Europe is uncomfortably close to several of the most dangerous flashpoint risks, with the US and Russia now bent on a new qualitative arms race. The numbers in their arsenals may be lower than in 1970, but at over 13,000 they are way beyond extinction level. And new weapons developments alongside the trashing of climate as well as nuclear restraint treaties do not bode well for anyone's present or future security in today's conflicted world.

New and enhanced nuclear weapons - a dangerous quest for usability

The jointly orchestrated destruction of the INF Treaty by US President Donald Trump and Russian President Vladimir Putin in 2019 is a symptom of their similarly macho and irresponsible attitudes to international relations and security, as well as increasing interest in enhancing their nuclear arsenals to provide more options for military and political uses.

Trump's 2021 budget (released on 10 February 2020) contained large increases for maintaining the US nuclear stockpile and developing new nuclear warheads. The National Nuclear Security Administration (NNSA) noted that the funds would sustain and modernize the U.S. nuclear weapons stockpile with five weapons programmes, including the B61-12 Life Extension Program, W80-4 Life Extension Program, W88 Alteration 370, W87-1 Modification Program, and the W93 warhead program.

Freed of the INF Treaty's legal constraints, Trump and Putin are now openly pursuing medium range cruise missiles that had been banned for 30 years from Europe. Russia had already undermined the INF Treaty by testing a new, mobile, ground-launched cruise missile known as 9M729 (also designated SSC-8 or SSC-X8), while simultaneously raising concerns about US ground-launched systems being deployed in Romania (with others in the pipeline) for so-called missile defence. The missiles that Moscow and Washington are now racing to deploy are intended to be dual capable for nuclear and non-nuclear warheads. This will increase the risks of miscalculation and the crisis instability problems associated with rushed decision-making and "use it or lose it" panicking about vulnerable military "assets".

Trump's Budget also identifies a newly designated "W93" warhead, which may be for deployment on nuclear submarines, but may turn out to be something even more

dangerous and destabilising. It is currently under research, but if its designers and the Departments for Defense (DOD) and Energy (DOE) decide that the warhead should be fully tested, then that could become the excuse for Trump to "unsign" the CTBT that President Clinton signed in 1996 (but the US has failed to ratify).

Hypersonic missiles are also in the US Budget and increasingly in the news. Concerned about US missile defence deployments under NATO, Russia has spent recent years developing hypersonic ballistic missiles with, reportedly, new types of warheads, nuclear and non-nuclear. Now Trump wants to build the same capabilities. According to the New York Times, hypersonic missiles are "particularly hard to defend against because they follow an unpredictable path to a target at tremendous speed".¹ Thus these nuclear armed states are fulfilling the warning prophecies by arms controllers that missile defences would not only prove to be unworkable, but in the process would drive a destabilising offence-defence arms race with Russia.

With superfast hypersonic missiles on deliberately erratic flight paths, the risks of mistakes, miscalculation and unintended detonation of nuclear weapons increases once again. We should recall the near-nuclear disasters that senior US generals and politicians such as Robert McNamara and Lee Butler ascribed to "luck".² If we don't want this be the decade when Europe's "luck" runs out, our governments and parliaments need to make clear that the dangers come not only from how nuclear weapons are managed, but in every aspect of their existence, from construction to use, from faith-based deployment and doctrines to volatile leaders and operators.

In real life, there are no safe weapons in unsafe hands. That's the reality we all need to face about nuclear weapons. We have to ban and eliminate them, or they will eliminate us. We cannot build secure and open societies under nuclear swords of Damocles.

Eleven years ago, in February 2009, nuclear armed Triomphant (French) and Vanguard (British) submarines crashed while playing secretive wargames in the Bay of Biscay. In

¹ David Sanger, 'Trump Budget Calls for New Nuclear Warheads and 2 types of missiles', *New York Times*, 10 February 2020, <https://www.nytimes.com/2020/02/10/us/politics/trump-budget-nuclear-missiles.html>

² Patricia Lewis, Heather Williams, Benoît Pelopidas and Sasan Aghlani, *Too Close for Comfort: Cases of Near Nuclear Use and Options for Policy*, Chatham House Report, April 2014, <https://www.chathamhouse.org/publications/papers/view/199200>

July 2016, a month after the miscalculated Brexit referendum, the first political act by newly-installed prime minister Theresa May was to hold a long-delayed parliamentary vote to spend billions on replacing Vanguard with a new generation of Dreadnought submarines to be armed with upgraded Trident missiles and warheads and a mixture of high yield (100 kt) and low yield (5-8 kt) warheads. With these, the Dreadnought-Trident system is supposed to deploy British nuclear forces beyond the 2060s.

The Federation of American Scientists recently reported that in 2019 the US began fielding an enhanced W76-2 warhead on Trident missiles aboard the USS Tennessee ballistic missile submarine last year. This 5-7 kiloton (kt) warhead is an upgrade of the 90 - 100 kt W76 thermonuclear warheads deployed for the past three decades on Trident D5 missiles on British and American nuclear submarines.³

For politicians like Trump, lower yield weapons are better value for money because they can be used. What is the point of spending billions on weapons that cannot be fired? So these lower yield warheads are being brought in because the "strategic" weapons - that is, large city-killing warheads that are 5-100 times larger than the Hiroshima bomb's explosive power - have become heavily stigmatised and practically taboo.

Usability does not, however, equate with legitimacy. Parading low-yield nuclear weapons as more humane is meant to reassure people and distract attention from the humanitarian impacts of nuclear use and war, including climate destruction and nuclear winter. These PR reassurances are hollow. If anything, these low yield warheads and fast, erratic missiles, will make nuclear war -- by miscalculation, mistake or intention -- more likely.

Fast developing technologies, including cyber, space, nano, AI (artificial intelligence), drones and drone swarms could assist us in tackling some of the world's problems. Instead, they are mostly being directed towards new ways to put humanity at greater risk. They can enhance capabilities and also remove human and political responsibility and decision-making concerning weapons and war, as the recently formed Campaign to Stop Killer Robots opposes. Clever cyber hackers can already access command and control

³ William B Arkin and Hans Kristensen, 'US Deploys New Low-Yield Nuclear Submarine Warhead', 4 February 2020, <https://fas.org/blogs/security/2020/01/w76-2deployed/>

systems for crucial military and civilian infrastructure, from banks to electronic voting, from communications to energy, food and medical supplies, from nuclear power facilities to defence departments and nuclear weapons. Europe's many nuclear sites increase our insecurity at all levels.

The argument that nuclear weapons are essential for deterrence and war prevention in Europe flies in the face of reality, even during the Cold War. The near nuclear catastrophes such as the 1962 Cuban Missile Crisis, the 1979 and 1980 Norad computer mistakes, 1983's miscommunication and miscalculations over the Able Archer NATO exercise at the height of East-West tension, and various other near misses have been catalogued by Chatham House in 2013.⁴ But even if, for the sake of argument, nuclear deterrence worked in the Cold War, it cannot be relied on now that there are so many ways and technologies for individuals as well as governments to turn nuclear "assets" against those who most rely on them.

Once again, Europeans are getting trapped in US-Russian rivalry that threatens the security of all of us. The anachronistic B61 air-dropped nuclear bombs deployed by NATO in four European countries (Belgium, Italy, Netherlands and Germany) and Turkey, are undergoing their twelfth modification. Moreover, according to the Pentagon, this enhanced B61-12 version has significant "software vulnerabilities". On the ground, these bombs have long been regarded as useless and vulnerable -- security problems, not assets.

NATO's cohesion is most often cited as the reason for retaining nuclear weapons and practising nuclear sharing policies. Nuclear weapons are not a glue that holds Europe together, but out-dated, inhumane weapons of mass destruction that divide European peoples from each other. They also divide nuclear endorsing governments from their citizens, where opinion polls continue to show that significant majorities want nuclear weapons to be banned and eliminated. Among young people across Europe, a poll on behalf of the International Committee of the Red Cross (ICRC) found that among young people, upwards of 80 % want nuclear weapons to be banned and eliminated.⁵

⁴ Patricia Lewis et al, *Too Close for Comfort: Cases of Near Nuclear Use and Options for Policy*, Chatham House Report, April 2014, op. cit.

⁵ "[A]lthough 84 percent believe the use of nuclear weapons is never acceptable, 54 percent believe it is more likely than not that a nuclear attack will occur in the next decade." in 'Majority of millennials see catastrophic war as real

This is the generation that wants global cooperation to tackle the climate emergency. They read and talk about climate destruction from nuclear winter and military war-fighting, as well as from fossil fuels and industrial over-consumption, and they want sustainable energy policies rather than more nuclear power plants to be built, connecting up the dots between the radioactive threats from the nuclear fuel chain (uranium mining to nuclear waste) to the carbon costs of constructing new nuclear facilities.

Trump and Putin have political-power based reasons for increasing the salience of their nuclear forces. We are also used to political grand-standing with nuclear weapons by certain other leaders, most recently from India, Pakistan and North Korea. And just last week, President Macron⁶ joined this group, capitalising on heightened security anxieties provoked by Trump and Putin, as well as Brexit, to put French nuclear weapons front and centre of EU defence policies.⁷

It is important for us to recall that after the second world war, many European governments wanted to avoid future war and arms racing. The EU was built on common foreign and security principles that recognised that collective political, economic, legal and diplomatic strengths provide more effective deterrence and defence than large military arsenals and weapons of mass destruction. Many Europeans led the way after the Cold War to marginalise nuclear weapons in NATO policies and diversify Alliance activities to include programmes to strengthen non-nuclear -- and in many ways, non-military -- security, resilience and deterrence. Those gains are being reversed now.

No wonder the Bulletin of the Atomic Scientists has moved the Doomsday Clock to 100 seconds to extinction. Their decision was based on analysis of both nuclear dangers and

possibility, and believe there should be limits', *ICRC Poll summary*, 16 January 2020,

<https://www.icrc.org/en/document/majority-millennials-see-catastrophic-war-real-possibility>

⁶ Discours du Président Emmanuel Macron sur la stratégie de défense et de dissuasion devant les stagiaires de la 27ème promotion de l'école de guerre, Paris, 7 February 2020. <https://www.elysee.fr/emmanuel-macron/2020/02/07/discours-du-president-emmanuel-macron-sur-la-strategie-de-defense-et-de-dissuasion-devant-les-stagiaires-de-la-27eme-promotion-de-lecole-de-guerre> . See also Setsuko Thurlow's open letter in *Libération* just after Macron had spoken: https://www.liberation.fr/debats/2020/02/07/emmanuel-macron-vous-n-avez-jamais-fait-l-experience-de-l-inhumanite-absolue-des-armes-nucleaires-mo_1777601

⁷ Rebecca Johnson, 'Macron's post-Brexit nuclear ambitions are destined to fail', *the Guardian*, 10 February, 2020, <https://www.theguardian.com/commentisfree/2020/feb/10/emmanuel-macron-brexit-nuclear-britain-president-france> .

climate destruction. These linked extinction threats have come about because of short-sighted, greedy, military-industrial myths and actions, and accelerated in the last 140 years.

The pursuit of new and enhanced nuclear weapons by nuclear armed governments demonstrates that nuclear deterrence is unworkable. Many military thinkers dislike the idea of nuclear weapons being reinvented for war-fighting roles. But they have to contend with besotted political leaders of today who are ignoring history and the lessons learned in the Cold War, that "a nuclear war cannot be won and must never be fought".⁸

Another generation is now impelled by fear and anger to disrupt their lives and schooling and grab the attention of leaders and "grown-ups" so that they wake up and tackle nuclear and climate threats. The EU and this Parliament must get its priorities right.

Concerted action is needed to oppose old and new nuclear weapons being deployed in Europe under NATO or any other auspices. Swift action is also required to highlight the humanitarian and security dangers attached to efforts to turn the EU into a nuclear armed defence alliance, such as M. Macron seems keen to establish. This is not a new French ambition, and it needs to be seen for what it is. Such militaristic ploys just distract and divert attention from Europe's fundamental security interests, at the top of which should be the climate emergency.

Parliamentarians can take the lead in piloting through resolutions, decisions and legislation that can reinforce and support the non-proliferation regime as a vital network of interconnected legal, normative, political and security instruments. Though limited by its cold war origins, structural contradictions and rival political ambitions, the NPT's most successful contribution to international security is its adaptability as the cornerstone of a broader non-proliferation regime comprising related agreements, instruments and institutions. Because of this, the NPT-based regime has managed to grow, although it continues to be challenged by changing geopolitical conditions and needs. It should not be written off, but strengthened.

⁸ Ronald Reagan, US President, 1984 State of the Union address, Washington D.C.

Risk assessments and humanitarian concerns woke up many governments to achieve the TPNW

Compared with the NPT, the TPNW has clearer, more accountable prohibitions and obligations as well as practical and adaptable options for nuclear armed states to join, with due recognition that one size may not fit all. The negotiators applied lessons from past treaties where verification and institutional details became politicized or burdened with too much detail, resulting in intentional (and sometimes unintentional) obstacles to negotiations, entry into force, or future effectiveness. Negotiated in the context of International Humanitarian Law (IHL) as well as disarmament, the TPNW applies in war time as well as peace, which some lawyers argue is not the case with the NPT and many arms control agreements. It also creates universally applicable prohibitions and obligations, and does not confer any status or special privileges on the NPT-5.⁹

Treaty opponents, particularly those invested in the military-industrial-bureaucratic-academic (MIBA) establishments of nuclear armed and endorsing states, still appear bemused that this treaty was multilaterally negotiated and achieved in the United Nations despite their efforts to block it. Having failed to get the TPNW dismissed, some continue to oppose, while many others are coming to accept that this Nuclear Ban Treaty is a major new legal instrument in the international non-proliferation and disarmament regime. Some criticise the TPNW text for not having the kind of detailed verification and enforcement provisions contained in the CTBT and Chemical Weapons Convention (CWC), which were finalised in the optimistic days after the Berlin Wall fell. Taking into account that nuclear armed states had refused to engage with the negotiations but would need to participate in the TPNW's future implementation, the treaty framers chose to simplify these provisions in the head text. As well as enabling the TPNW's timely entry into force, the adaptability built into the treaty text recognises that one size doesn't necessarily fit all nuclear possessors. Learning from the NPT, the TPNW was framed so that it could grow

⁹ In conjunction with my reframing strategy, ICAN made a conscious decision to describe all states with nuclear arsenals as "nuclear armed states" in order to avoid conferring status or adding to legal-political confusions by referring to "nuclear weapon states" (NWS). This is a definition in the NPT that applies legally to just five states - the "NPT-5" - which should be distinguished from the "P5" (the term used for the five permanent members of the UN Security Council). Though the same five states occupy both roles, they are historically and politically distinct and should not be conflated. The description "nuclear endorsing" is becoming used now to denote nuclear dependent and umbrella states.

and update its procedures, timelines and technologies as needed for verification and enforcement in changing political, technological and security conditions.

The preamble expresses the humanitarian imperatives that underline the TPNW's objectives and provisions, including with regard to survivors of nuclear use, indigenous peoples affected by nuclear activities from production and testing to deployment and potential use. As shown on my powerpoint, the treaty recognises environmental and developmental impacts of nuclear weapons and endorses the importance of women, peace and security, including through education.

While building on the NPT-based regime, the TPNW was designed to plug most if not all of the NPT's significant gaps, particularly on disarmament. It had not been possible in the 1960s for the NPT to prohibit the use, production or possession of nuclear weapons, although its preamble emphasised that its purpose was to "avert the danger of ... [nuclear] war". The TPNW shares this purpose and puts prevention of nuclear use at the core of its objectives. Article I explicitly prohibits using and threatening to use nuclear weapons. To this end, it also bans relevant activities such as acquiring, producing, possessing, testing, deploying and stationing nuclear weapons, which are precursors for nuclear acquisition, threats and use.

International law treaties are binding on the states that have signed and acceded. In the TPNW, states parties undertake "never under any circumstances to... assist, encourage or induce in any way, anyone to engage in any activity prohibited to a State Party under this Treaty..."¹⁰, which means they are bound to implement the treaty's obligations with respect to anyone (i.e. individuals, companies, facilities and institutions) under their "jurisdiction or control". Already, even before the TPNW enters into force, we are seeing civil society, Mayors and other elected municipal officials voting to support the Treaty and align the cities and towns where they live with its prohibitions and obligations. These strategies are especially effective where governments are currently reluctant to sign. ICAN's "Don't Bank on the Bomb"¹¹ information materials enable municipal authorities as well as individuals to

¹⁰ Treaty on the Prohibition of Nuclear Weapons (adopted 7 July 2017)
<https://www.un.org/disarmament/wmd/nuclear/tpnw/>

¹¹ See ICAN, <https://www.icanw.org/> and Don't Bank on the Bomb <https://www.dontbankonthebomb.com/>

divest and move their money away from companies and banks that promote or profit from nuclear weapons. As a result of globalisation, most if not all nuclear armed states rely on financial institutions and manufacturing companies with headquarters or subsidiaries in several different countries. Whether the nuclear armed states like it or not, as the number of states parties grows, they will find it harder to fund and continue with some or all of their nuclear weapon related activities after the TPNW enters into force.

With 81 signatories and 35 states parties as of today (18 February 2020) the TPNW is on track to take legal effect in 2020 or soon thereafter. As more states join, work on the treaty will focus more and more on the nuclear endorsing governments, and on implementation, institutional issues and compliance, in all their aspects.

Compatibilities between the NPT, TPNW, creating the environment for nuclear disarmament and incremental arms control steps - building legal regimes that work for our security

There is no intrinsic clash between Christopher Ford's US-led initiative on "creating the environment for nuclear disarmament" (CEND), various kind of incremental steps and "stepping stones", the NPT and the TPNW. Indeed, the NPT and TPNW are legal steps taken in 1968 and 2017, and both contribute to creating the international environment for disarmament and non-proliferation. It all depends on context. Unfortunately, it appears that some believe that steps and treaties are mutually incompatible. Trashing treaties does not foster the conditions for international security, stability, disarmament or non-proliferation. Any successful disarmament regime requires legally backed norms and laws that change the environment from one that impedes disarmament to one that promotes security without nuclear weapons. This also requires an understanding of what incremental steps need to be taken by whom. Implementing existing treaties will always require norm-building and strategies involving political, technical and legal steps.

That said, we also have to take into account the dismal history of nuclear armed states opposing or, alternatively, agreeing to but not implementing, various kinds of arms control initiatives in hopes of buying off NPT states parties at the five yearly review conferences. Just before each review conference, governments that endorse nuclear weapons in their defence and deterrence policies have a tendency to propose steps that they claim will

engage the nuclear armed states to do more. Presented under names such as progressive actions, building blocks, action points and now stepping stones, such initiatives are variations on the Thirteen Steps agreed by the 2000 NPT Review Conference. They contain good ideas, but will fail to be taken seriously unless they are advocated alongside the TPNW as well as the NPT.

Practical steps like dealerting, further and deeper cuts, CTBT ratification, a treaty banning fissile materials production, etc. would undoubtedly contribute towards disarmament, but they need to be put in context. The stepping stones being offered now have mostly been advocated many times in the last sixty years. Efforts to implement them have always been broken on the wheel of the status, power and value attached to nuclear weapons in some regions and countries.

The best chance of progress towards achieving these objectives is to bring the TPNW into force and start building the institutions to implement its provisions and make it effective. Take de-alerting, for example, which was called for at the 2005 NPT¹² and subsequent review conferences, following from agreement in the 2000 NPT outcome document that agreed on the need for "measures to further reduce the operational status of nuclear weapons systems".¹³ Senior diplomats, politicians and former military officers have long argued for this confidence-building measure to be undertaken by the four states that currently keep nuclear weapons on high alert (Russia, the United States, UK and France). Despite high level campaigns they have not done so. The ostensible reason is that their deterrence posture requires them to deploy at least some of their nuclear weapons in a posture that makes them ready to be fired at short notice. Other nuclear armed states justify their WMD as "deterrents", but either lack the capabilities or choose to manage their nuclear arsenals without maintaining any weapons on high alert. After years of inaction, the TPNW's objectives of preventing nuclear use has propelled de-alerting up the political-diplomatic agenda again, especially for states and civil society where nuclear weapons are deployed. De-alerting is just one of many incremental steps that could make useful contributions towards reducing risks. It can help to create the environment for nuclear

¹² See, for example, Kofi Annan 'The UN Secretary-General Address to the Nuclear Non-Proliferation Treaty Review Conference', May 2, 2005.

¹³ 2000 Review Conference of the Parties to the Treaty on Non-Proliferation of Nuclear Weapons, Final Document, Volume 1 (NPT/CONF.2000/28 (Parts I and II)), p.14. See also Rebecca Johnson, 'The 2005 NPT Review Conference: A delicate, hard-won compromise', *Disarmament Diplomacy* 46 (May 2000).

disarmament if advocates embrace such steps alongside the TPNW as well as the NPT. If not, de-alerting will continue to be rejected.

Treaties should not be thought of as ends in themselves, but as legal mechanisms to encourage and facilitate desirable national, regional and international security goals. No treaty can guarantee instant, 100% security, but through building norms and providing legal authority, they enable governments and civil society to develop more security-enhancing approaches and tools. Entry into force is not a quick fix, but the next step in building security and embedding norms, laws, practices and institutions that will facilitate disarmament, peace and security.

To be effective, legal regimes require constant commitment, vigilance, growth and resources to tackle ongoing and unforeseen risks and threats. They need to be sufficiently adaptable to incorporate further legal, political and technological developments as necessary, for example, to strengthen monitoring, verification and enforcement on the ground, and prevent dangers that may develop or arise over the years. Even basic or limited treaties can play an important part in strengthening humanitarian norms and stigmatising the weapons and practices they deal with. At their best, they help us to cap dangerous and destabilising developments in weapons and practices.

Why, then, is Trump so bent on destroying the JCPOA with Iran? Ostensibly to put pressure on Iran's president Rouhani to get a "better deal", Trump's machinations are predictably feeding pro-nuclear domestic opponents of Rouhani's policies of nuclear restraint. Trashing the JCPOA is explained by many US analysts as motivated by a desire to destroy as much of President Obama's legacy as possible. If that is a reason -- or even a factor -- for Trump, what does this say about the prospects for extending US-Russian nuclear force reductions before Obama's New START Treaty expires in 2021?

Treaties benefit us in many different ways, from building collective security to embedding shared objectives, norms, rules and laws to tackle threats and risks. They foster cooperation, understanding, confidence and trust. When states share responsibilities and resources, they are likely to enhance their mutual support, development, peaceful relations and security. They gain legal rights and impetus to promote transparency, confidence-building, monitoring, verification and enforcement.

Implementing non-proliferation and disarmament: Security-supporting roles for elected representatives (regional, national, municipal) and civil society.

The NPT's success in delivering its non-proliferation and disarmament objectives has been impeded because it confers special status on the NPT-5 -- and they continue to place high value on nuclear weapons and doctrines of use in their security policies. As long as the NPT-5 maintain hundreds or thousands of nuclear weapons and make new, enhanced types of warheads and delivery vehicles, they will undermine the NPT role and credibility.

What can European governments, parliamentarians and civil society do about this?

1) Take seriously that treaties can be destroyed as well as made. Recent examples are deeply worrying. The NPT is not as credible and resilient as it needs to be because it has been undermined over time by proliferators that abuse its provisions and processes in order to maintain their own freedom of action to acquire, maintain and use nuclear weapons. The NPT-based regime will erode further if the nuclear armed states continue to attack the TPNW while failing to fulfil their existing non-proliferation and disarmament obligations. **The European Parliament and, where feasible, national parliaments, should enact resolutions that support the NPT, CTBT and TPNW, recognise that they are mutually reinforcing, and support steps that governments need to commit to in 2020 and implement without further delays.**

2) Initiatives to reinforce the NPT and the TPNW, pursue incremental arms control steps and genuinely contribute to a more conducive environment for nuclear disarmament, can be compatible if they are framed to be mutually reinforcing and not mutually exclusive rivals. Security decisions have to be based on real world complexities, and not distorted by theories that rely on unrealistic, monolithic, unified, rational actor simplifications, as per theories of deterrence. Governments are subject to change. Democratic change tends to happen more frequently but less challengingly than in authoritarian regimes.

Implementing non-proliferation and disarmament does not depend on one treaty but on all the many interconnected agreements, laws, governments and civil society actors.

3) **To mitigate threats arising from any state's nuclear weapons, the EU needs to actively reinforce and implement relevant nuclear agreements, including the NPT, CTBT, TPNW, the JCPOA and extension of NewStart.** Collective statements on behalf of the EU need to address the real threats and challenges Europeans face, including the humanitarian implications of nuclear weapons deployments, doctrines of use, and nuclear sharing.

4) **The EU needs to play to its strengths as a broad, democratic, civilian 'super-power' and significant actor in many multilateral areas. Tackling our real security needs requires stronger European actions to stigmatise, ban and eliminate nuclear weapons and act collectively to tackle the climate emergency.** Nuclear weapons undermine European security and cohesion. In NATO, the United States sets the rules of engagement, and the rest are expected to fall in line (and pay). There are growing concerns that in the wake of Brexit the EU will be pressured into going down a similar path behind France and its Force de Frappe, which would be disastrous for European security and democratic cohesion.

5) A growing number of EU citizens now advocate for their countries to join the TPNW. Recognising that NATO membership and other factors make it likely that European states will be slower than most to sign in the first few years, there are other ways to engage constructively. **The European Parliament as well as the High Representative of the Union for Foreign Affairs and Security Policy, the Commission and other bodies have important roles to play in acknowledging the TPNW's contribution to non-proliferation, delegitimising nuclear weapons, disarmament and security.**

6) **As existing treaties are trashed or when nuclear armed leaders assert that they have a right to possess, deploy or use nuclear weapons, parliamentarians and all Europeans need to be more vocal in questioning doctrines of nuclear use and calling out actions that abuse power, threaten others, and behave in unstable and irrational ways that undermine our collective and human security.**

7) **Cities and civilians must not be turned into nuclear targets.** Across the world more and more municipalities are passing legislation based on **ICAN's Cities Appeal**, in which they align themselves with the TPNW's objectives and purposes and commit to taking

forward obligations that are within their local and municipal remits. **Support these initiatives in your countries and cities, and consider ways to implement them appropriately.** These might include divesting from nuclear weapons and supporting others to do the same; raising public awareness of nuclear risks in the locality; working with Red Cross and emergency services to draw up and publicise the risks, consequences and emergency planning relevant to your area in the event of nuclear detonations by accident or intention; finding ways to support nuclear survivors and remediate for harm arising from any nuclear weapon related activity in the past and prevent further harm in the present and future.

8) Finally, with the NPT Review Conference on the horizon, what are the personal and political ways you can contribute towards effective outcomes? Writing and speaking about the need to strengthen nuclear disarmament and non-proliferation would be useful. You could consider asking your government to allocate a place on its delegation for one or more parliamentarians, even if just for a few days each. If you are able to come to New York during the NPT Review Conference, let ICAN know so that we can involve you in side events and put you in touch with parliamentarians from other countries to share experiences and ideas on taking forward the challenges that I've discussed here.

Parliamentarians can also show their commitments to nuclear disarmament by supporting the TPNW as well as the NPT, undertaking resolutions in the European Parliament and their national parliaments, and signing and sharing ICAN's Parliamentary Pledge for the TPNW.