

First Meeting of States Parties to the Treaty on the Prohibition of Nuclear Weapons

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Item 11 (b) of the provisional agenda*

Consideration of the status and operation of the Treaty and other matters important for achieving the objectives and purpose of the Treaty: universality (article 12)

Implementing article 12 of the Treaty on the Prohibition of Nuclear Weapons: universalization

Working paper submitted by the co-facilitators, Austria, Costa Rica and Indonesia

1. Under article 12 of the Treaty on the Prohibition of Nuclear Weapons, State parties are required to encourage States not party to the Treaty “to sign, ratify, accept, approve or accede to the Treaty, with the goal of universal adherence of all States to the Treaty”.
2. This is one of the key articles of the Treaty, as it embodies a wider ambition of the States parties to promote adherence to the Treaty, as well as the humanitarian rationale behind it. Universalization efforts require continuous work, not only at the first Meeting of States Parties to the Treaty, but beforehand and beyond.
3. With a view to working towards substantive outcomes of the first Meeting of States Parties, the present consultation paper intends to capture some of the shared understandings on universalization among States parties and some potential measures, recommendations and actions on article 12 implementation, with the aim of facilitating agreement at the Meeting.

I. Context

4. It is important to acknowledge different starting points to approaching universalization efforts towards States currently outside the Treaty. These range from States already adhering to nuclear-weapon-free zones or having comparable national law in place and States parties to the Treaty on the Non-Proliferation of Nuclear Weapons that do not possess nuclear weapons, to States currently relying on nuclear weapons for their security and States possessing nuclear weapons.
5. Universalization efforts are therefore understood as a broad concept that includes increasing signatures and ratifications, as well as promoting the underlying rationale of the total elimination of nuclear weapons due to their inherent risks and

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catastrophic humanitarian consequences. Universalization should also serve as a strategy to maximize the authority of the core norms and principles of the Prohibition Treaty in international politics.

Shared understandings

6. During the informal consultation process in preparation of the first Meeting of States Parties to the Prohibition Treaty, some potential shared understandings emerged on how to take universalization forward, as follows:

- Recognize that the implementation of article 12 is an obligation for States parties, but in fact efforts by all stakeholders towards that end are needed and are mutually reinforcing.
- The unequivocal legal and normative prohibition contained in the Treaty, which is based on the humanitarian consequences of nuclear violence and the inherent risks in nuclear weapons, is an essential step towards the goal of a world without nuclear weapons.
- The Treaty is an “effective measure” related to the obligation under article VI of the Non-Proliferation Treaty to pursue “effective measures” for nuclear disarmament.
- The Treaty also strengthens the nuclear taboo and reinforces International Atomic Energy Agency (IAEA) safeguards and is, thus, also an important non-proliferation measure.
- The Treaty is a response to the continued existence of nuclear weapons in global politics and the systemic risks of nuclear war that this entails. For a majority of non-nuclear-armed States, the humanitarian consequences and risks of nuclear weapons make nuclear disarmament an urgent priority.
- Every additional ratification contributes to strengthening the Treaty’s norms and principles and underscores the delegitimization of nuclear weapons and nuclear deterrence.
- Universalization goes beyond the quantitative and legal dimension of the number of ratifications. It also encompasses the extent to which the authority of the Treaty and its core norms and principles become embedded in national and world politics.
- Universalization efforts increase international pressure for the prohibition and elimination of nuclear weapons, together with growing acceptance of the Treaty’s underlying arguments.
- Universalization is also about changing the debate itself, through education, agenda-setting, advocacy, contestation and capacity-building.

7. In order to facilitate broad outreach efforts, the working paper proposes that States parties consider basing their universalization efforts on highlighting the core norms and principles of the Treaty, which are:

- (a) The complete and unequivocal prohibition of nuclear weapons without conditions;
- (b) That the use of nuclear weapons is unacceptable owing to the resulting short-, mid- and long-term humanitarian consequences (as expressed in the preamble);
- (c) A norm of remediation for harms caused by the prior or future use or testing of nuclear weapons (as embedded in articles 6 and 7);

(d) A norm of progress towards nuclear disarmament and its realization (as expressed in the preamble and articles 2–5);

(e) That the Treaty reinforces other norms and widely applied complementary measures, including the norms of non-proliferation and disarmament under the Non-Proliferation Treaty, norms of nuclear prohibition at the regional level as set out in nuclear-weapon-free zone treaties, the prohibition of nuclear testing (Comprehensive Nuclear-Test-Ban Treaty), the IAEA safeguards regime (referenced in article 3 of the Prohibition Treaty) and norms and principles of international humanitarian law applicable in armed conflict (all referenced in the preamble to the Prohibition Treaty).

II. Towards substantive decisions of the first Meeting of States Parties on recommendations, measures and action points

8. Universalization efforts need to be targeted. States that are, today, generally supportive of the Treaty will require different levels of engagement compared with States that have expressed opposition to the Treaty.

Elements for the implementation of article 12

A. Preliminary engagement with States not yet party to the Treaty (non-exhaustive)

9. Preliminary engagement with States not yet party to the Treaty could include the following:

- Conducting political level outreach, including outreach focused exclusively on the Treaty or during high-level engagements.
- Promoting universalization by raising the Treaty in communications between high-level officials from States parties and non-State parties to the Treaty, such as in bilateral political meetings or in letters and phone calls, ideally coordinated among Treaty supporters.
- Highlighting the importance of the Treaty in political communiqués and resolutions and/or joint regional or cross-regional statements. Such political statements are usually not legally binding, but they provide opportunities for non-State parties to express support for the Treaty and move towards signature and ratification.
- Treaty States could undertake diplomatic démarches and/or outreach visits, either on their own or in a group of Treaty supporters, in capitals of non-State parties or at regional or other relevant organizations about the value of the Treaty and the political and legal importance of signature and ratification. Group démarches could be undertaken in a cross-regional format, to underscore the universal value of a prohibition on nuclear weapons, or in a regional format, given the closer political ties between States from the same region, especially where the region is a formal nuclear-weapon-free zone.
- Sharing best practices and providing technical support for the ratification process, for example, through capacity-building activities, such as workshops and seminars, to explain the provisions of the Treaty in detail and help to clarify the steps that a prospective State party would have to undertake to implement the Treaty. To that end, States parties would endeavour to seize existing regional and multilateral frameworks, as feasible.

- Raising awareness of the Treaty at international conferences and regional workshops and seminars, as well as through the commissioning of studies and publications to promote the progressive and positive case for the Treaty.
- Highlighting the important and reinforcing role of the Treaty in the nuclear disarmament and non-proliferation regime and its positive contribution to international peace and security.
- Encouraging support for voting in favour of the relevant resolutions before the General Assembly, which are an important means for signalling political support and potential stepping stones for States to move towards joining the Treaty.
- Promoting universal observance of the Treaty's norms and objectives by discouraging, in every possible way, all actions that run counter to the spirit and purpose of the Treaty, including the modernization of existing arsenals, and the development of new types of nuclear weapons, in order to further strengthen the norm of the Treaty and take appropriate steps to end the use, stockpiling, production and transfer of nuclear weapons.
- A broad understanding of universalization efforts is necessary for those States that, for the moment, remain committed to nuclear weapons and nuclear deterrence. This could include promoting the underlying rationale of the Treaty and an encouragement for engagement and dialogue on these arguments, with a view to promoting and strengthening the norm against nuclear weapons.
- Collaborating with other existing stakeholders, such as civil society groups, academia, parliamentarians and youth, in promoting the Treaty, as well as identifying, fostering and enabling new possible stakeholders, partners and mechanisms to engage with and advance the Treaty and its universalization, as appropriate.

B. Working group/contact group

10. Following exchanges during informal consultations, the present working paper serves to suggest the establishment of a working group/informal contact group at the first Meeting of States Parties to focus on promoting the implementation of article 12 in addition to national universalization efforts. This group could be composed of all interested States parties, signatories, the International Committee of the Red Cross (ICRC) and the International Campaign to Abolish Nuclear Weapons under the coordination of co-facilitators or co-chairs, with due regard to geographical representation. The group could also include, or support, a ministerial-level group committed to conducting outreach on the Treaty.

11. The group could, among other things, undertake to discuss, coordinate, plan and carry out universalization activities, as well as assessment of the effectiveness of these efforts. It could develop an informal working programme for universalization activities, including by integrating different levels (national, regional and international) of efforts and an outreach strategy to ensure the effectiveness of these activities. The group and/or States parties could develop a road map and an outreach plan.

C. Recommendations/actions for the first Meeting of States Parties to the Prohibition Treaty

12. Recommendations or actions for the first Meeting could include the following:

- Make universalization efforts a priority for States parties. Universalization efforts should be considered two-fold, namely: (a) increasing the number of

signatures and ratifications through national or coordinated efforts; and (b) actively engaging in promoting the norms, values and underlying arguments of the Treaty, such as the concern about humanitarian consequences and associated risks and the Treaty's effective contribution to disarmament and international peace and security.

- Call on all States that have not yet done so to sign and ratify the Treaty, including through ministerial or diplomatic démarches or outreach visits, either on their own or in a group of Treaty supporters, to capitals of non-State parties or to regional or other relevant organizations about the value of the Treaty and the political importance of signature and ratification.
- Make every effort to increase the number of States voting in favour of the relevant resolutions before the General Assembly as a positive signal in support of the Treaty.
- Explore potential areas where further information to facilitate accession to the Treaty might be necessary and potentially explore options on how to fill those gaps.
- Provide technical support for the ratification process, such as through capacity-building activities, such as workshops and seminars, to explain the provisions of the Treaty in detail and help to clarify the steps that a prospective State party would have to undertake to implement the Treaty. To that end, parties would endeavour to seize existing regional and multilateral frameworks, as feasible.
- Raise awareness of the Treaty at international conferences and regional workshops and seminars, as well as through the commissioning of studies and publications to promote the case for the Treaty.
- Highlight the importance of the Treaty in statements, including at the political level, in joint regional or cross-regional statements, in resolutions and in all relevant forums.
- Highlight the humanitarian consequences of nuclear weapons, the risks associated with these weapons and the legal and ethical questions regarding the use and threat of use of nuclear weapons and the practice of nuclear deterrence.
- Encourage States parties to report under the Treaty on their universalization activities.
- Engage with those States that, for the moment, remain committed to nuclear weapons and nuclear deterrence, inter alia, by providing opportunities for dialogue, highlighting the underlying rationale of the Treaty and the humanitarian consequences of nuclear weapons and their inherent risks and pursuing a fact-based approach to engaging with criticisms of the Treaty.
- Encourage and support involvement and active cooperation and, to the extent possible, coordinate these universalization efforts by all relevant partners, including the United Nations and its Secretary-General, United Nations regional centres for peace and disarmament, other international institutions and organizations, ICRC, the International Campaign to Abolish Nuclear Weapons and other non-governmental organizations, as well as parliamentarians, so as to facilitate domestic ratification processes and interested citizens.

III. Possible decision

13. A possible decision for adoption by the first Meeting could be to:

“Decide to establish an informal working group/informal contact group, comprising States parties, [signatories], the International Committee of the Red Cross and the International Campaign to Abolish Nuclear Weapons. The group will discuss, coordinate, plan and conduct universalization efforts with a view to complementing national implementations obligations of States parties with regard to article 12. The group should develop a road map and an outreach plan. The group will meet on a regular basis virtually or in person, taking into account the potential of virtual and hybrid approaches to facilitate participation, and will report back to the President [twice] yearly and to the next Meeting of States Parties or Review Conference, which will review the overall issue and progress made.”
