

THE NUCLEAR BAN TREATY IS WAY OFF TARGET

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A coalition of nations and non-government organizations recently concluded negotiations at the United Nations on the “[Treaty on the Prohibition of Nuclear Weapons](#),” an internationally legally-binding document that would ban the signatories from developing, testing, producing, manufacturing, possessing, transferring, stockpiling, hosting, or using nuclear weapons. The treaty will be open for signature on September 20 and is expected to easily pass with one, make that, over 35 major caveats.

No nuclear weapon-possessing state, or any state covered by the U.S. nuclear umbrella of extended deterrence, is expected to vote in favor of the treaty. The only state from this group to even attend the negotiations, the Netherlands, voted against the treaty language.

When the treaty is formally adopted, it will indeed be a historic accomplishment. But, it will remain to be seen whether it will attain the historic fame of the Intermediate Range Nuclear Forces (INF) Treaty — which successfully banned an entire class of U.S. and Soviet nuclear weapons — or historic infamy, like the [Kellogg-Briand Pact](#) — which (very) unsuccessfully banned war as an instrument of the state.

[Rebecca Davis Gibbons recently explained how and why the treaty came about](#), but in short, the [original justification](#) for the treaty is that non-nuclear weapon possessing states are

[c]oncerned by the slow pace of nuclear disarmament, the continued reliance on nuclear weapons in military and security concepts, doctrines and policies, and the waste of economic and human resources on programmes for the production, maintenance and modernization of nuclear weapons...

These nuclear “have nots” are concerned that the nuclear “haves” are not meeting their [obligations under Article VI of the Treaty on the Non-Proliferation of Nuclear Weapons](#) to pursue negotiations in good faith on effective measures relating to cessation of the nuclear arms race at an early date and to nuclear disarmament, and on a treaty on general and complete disarmament under strict and effective international control.

Despite these concerns, it is clear that the United States should not just [refrain from signing](#) the treaty, but should actively discourage other states from signing it. The document simply has too many fatal flaws. First, it lacks effective verification and compliance protocols, in addition to ignoring the reasons why states fail to comply to begin with. Second, all nuclear weapon possessing states are condemned equally under the treaty, when in reality the United States has done more than any other state to advance nuclear disarmament and non-proliferation. Third, the time and effort non-nuclear states spend on promoting this treaty are much better directed toward advancing concrete nonproliferation objectives, not on a doomed treaty.

Learn From History

The long history of arms control provides two important lessons learned that nuclear ban treaty advocates should keep in mind.

First, successful ban treaties have strong verification procedures as their foundation. For example, the bilateral INF Treaty bans U.S. and Russian intermediate range (500 to 5,500 kilometers) ground-launched ballistic and cruise missiles. The vast majority of the [INF Treaty's subsections](#) contain definitions, weapon dimensions, and inspection rules all meant to provide both the United States and Russia confidence that they would be able to tell if the other side is cheating. Yet even the gold standard for treaty verification set by the INF Treaty fell short as the [inspection regime expired in 2001](#) and [Russia began to violate the treaty in 2008](#). The fact that this major violation occurred after about 20 years of the INF Treaty's entry into force only supports how important verification and compliance is to the long-term success of a treaty. As President Barack Obama stated in his 2009 speech in Prague,

[“Rules must be binding. Violations must be punished. Words must mean something.”](#)

Unfortunately, the nuclear ban treaty at the United Nations has only words to rely on, and their meaning will certainly be disputed. The nuclear ban treaty trusts the nuclear-armed states, if they ever were to become signatories to the treaty, to [“submit a report to each meeting of States Parties and each review conference on the progress made towards the implementation of its obligations under this Article, until such time as they are fulfilled.”](#) While one would hope each state would be truthful and transparent in such a report, hope is not the firmest foundation on which to ban the most destructive weapon man has ever invented.

In a nod to this political reality, advocates also included Article 4, Subsection 6:

The States Parties shall designate a competent international authority or authorities to negotiate and verify the irreversible elimination of nuclear-weapons programmes, including the elimination or irreversible conversion of all nuclear weapons-related facilities in accordance with paragraphs 1, 2 and 3 of this Article.

Leaving aside questions about how a state could “irreversibly” eliminate a nuclear weapons program (unlearn metallurgy and nuclear physics?), this passage raises many more issues than it resolves. Which competent international authority will verify compliance? What if states do not agree on the international authority? What powers will this international authority have? What happens when a state is caught cheating? The proposed treaty answers none of these questions. Nuclear history also teaches us that a ban treaty’s success depends in large part on the security perceptions of its adherents, not on the force of international pressure. The [recent Syrian use of chemical weapons](#) on its own people [while Damascus was an adherent to the Chemical Weapons Convention](#) only underscores this point. International pressure and norms have their uses, but ultimately it is a state’s security perceptions *uber alles* that determine its continued adherence or non-adherence to a treaty.

Again, the proposed nuclear ban treaty would do nothing to change U.S., Russian, Chinese, or North Korean security perceptions. The day after the treaty is signed will look the same as the day before it was signed. [Russia will still consider the United States and NATO as the “principle threat” to its security](#), [China will still be modernizing its nuclear weapons](#), and [North Korea will still threaten the U.S. allies of South Korea and Japan](#). In each case, nuclear weapon-possessing states will continue to view their nuclear arsenals as necessary tools for deterrence.

The Real Obstacles to Arms Control

The treaty condemns all nuclear weapon-possessing states equally, when in reality, one state has been [aggressively seeking](#) out new arms control opportunities (the United States) while others show no interest or outright hostility to the idea. In fact, the United States has done more to support the NPT than any other state: [an 82 percent reduction in the size of the active U.S. nuclear stockpile since the fall of the Berlin Wall in 1989](#), [reduction in the role of nuclear weapons in defense planning](#), [bilateral nuclear reduction treaties](#) with Russia, [perfect compliance with existing arms control treaties](#), and [multiple pleas](#) for Russia to return to the negotiating table for further reduction talks.

The Russian response to repeated U.S. negotiation offers was a firm *nyet*. When asked about further arms control negotiations with the United States, [Sergei Ivanov, then-chief of staff to Russian President Vladimir Putin, mockingly stated](#):

When I hear our American partners say: “Let’s reduce something else,” I would like to say to them: “Excuse me, but what we have is relatively new.” They have not conducted any upgrades for a long time. They still use Trident [missiles].

In essence, why negotiate on unequal footing? This is not the attitude of a state that conforms willfully with international disarmament norms.

Russia, which possess the largest nuclear stockpile in the world, actually poses the greatest roadblock to nuclear disarmament. As one of the [least transparent](#) nuclear powers, its strategic modernization program is deeply troubling to the United States and its allies in NATO. Rather than reducing the role of nuclear weapons in its defense planning, [as the United States has done](#), Russia has been [increasing the role of nuclear weapons](#) in its defense strategy. While the United States continues to adhere to its nuclear arms control commitments, [Russia has cheated on nearly every agreement it has entered into](#), most recently by deploying one to two battalions of a prohibited missile [“in order to pose a threat to NATO and to facilities within the NATO area of responsibility.”](#)

Russia is not alone however. China also blocks the way on further negotiations for nuclear disarmament. Though Chinese officials think of China as a [“staunch champion for \[the\] nuclear disarmament process” having “faithfully fulfilled its nuclear disarmament obligations under the \[NPT\] Treaty.”](#) it is clear that China, in fact, [is the only one of the original five nuclear powers currently increasing the size of its deployed nuclear arsenal](#). According to Lieutenant General Vincent R. Stewart, Director of the Defense Intelligence Agency (DIA), China is also deploying a new weapon type, an air-launched ballistic missile [“which may include a nuclear payload.”](#) By contrast, the United States and Russia do not field any air-launched ballistic missiles, only air-launched cruise missiles. While the United States and Russia are regularly criticized for not doing enough on nuclear disarmament, the rest of the world is silent on Chinese non-compliance, perhaps out of fear of economic or security repercussions, or simply because their arsenal size is comparatively smaller. If China wishes to come back into compliance with the NPT, its leaders will visibly pursue negotiations on verifiable nuclear disarmament, but as it stands today, Chinese nuclear doctrine is [deliberately opaque](#) and its leaders show [“little readiness to enter serious negotiations with Washington.”](#)

North Korea, for its part, is the most vivid manifestation of why the nuclear ban treaty approach will fail. Despite [decades of economic sanctions, countless U.N. Security Council and General Assembly denunciations](#), and [multiple failed negotiation attempts](#), North Korea continues to test its nuclear and missile capabilities [while declaring it will never give up its nuclear weapons](#). If nuclear norms and international pressure of the sort advocated for by nuclear ban treaty supporters could work, North Korea would seem to be the perfect test case. But, so far, it has shown no intention of yielding to the pressure.

Channel Discontent Into Productive Actions

The time and effort spent by the “have nots” on negotiating, signing, and encouraging nuclear weapon-possessing states to sign the nuclear ban treaty would be much more productively channeled towards pressuring the countries of Russia, China, and North Korea. These countries are the real roadblocks to progress on nuclear disarmament. U.S. diplomats should encourage the ban treaty advocates in a number of different directions toward that goal. Because many of the countries that support the nuclear ban treaty are not economic or military powerhouses, most of their potentially productive actions will be political and diplomatic in nature.

At minimum, the non-nuclear states should propose and sign on to U.N. General Assembly resolutions that condemn Russian arms control treaty violations and China’s continuous flaunting of its NPT obligations to negotiate reductions in the size of its nuclear arsenal. Such resolutions will usefully distinguish those countries that are serious and principled versus from those who are merely posturing for politics.

In addition, over a dozen states that voted in favor of the nuclear ban treaty have conducted recent, covert, and illegal business with the world’s greatest nuclear agitator: North Korea. These countries include [Mozambique, Democratic Republic of the Congo, Sudan, Namibia, Uganda, and Iran](#). If the leaders of these states truly wish to support a world free of nuclear weapons they would rescind their hypocritical support of the nuclear ban treaty until they fully break financial ties with North Korea and actively work to enforce sanctions against Kim Jong Un’s regime. Lastly, in an ironic twist, [over 75 percent of the voluntary monetary contributions to the U.N. Office of Disarmament Affairs for the past two years](#) came from states that either voted against the nuclear ban treaty, abstained from participating in the negotiations, or possess nuclear weapons. As the old saying goes: “money talks.” And right now, most non-nuclear states are not willing to back up their political stances with monetary support.

Conclusion

Both sides of the debate acknowledge that the nuclear ban treaty before the United Nations today is a radical step. Proponents believe it is necessary to address a radical problem, while opponents believe the approach is distracting and futile at best, and harmful to ongoing efforts at worst. The weight of the evidence falls on the latter. First, the history of arms control shows that effective verification and compliance, not “norm building,” are necessary conditions for success, conditions the treaty does not contain. Second, not all nuclear weapon-possessing states are equal. As the United States leads the way in nuclear disarmament, Russia, China, and North Korea have not followed and thus are the real roadblocks to progress. Third, non-nuclear states can take concrete actions that will have a noticeable effect on disarmament efforts, much more so than voting to adopt the nuclear ban treaty. The nuclear ban treaty effort will fail because it condemns the military tool of nuclear weapons as the problem, not the state actors behind the use of that tool. It is precisely because of the enduring nature of these security threats and the [prudence of nuclear deterrence as a strategy](#) that the nuclear ban treaty should be rejected.

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