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**Open-ended Working Group taking forward  
multilateral nuclear disarmament negotiations<sup>1</sup>****Geneva 2016**

Item 5 of the agenda

**Taking forward multilateral nuclear disarmament negotiations****Options for Moving Forward on Disarmament****Submitted by Arms Control Association**

1. Under Article VI of the nuclear Non-proliferation Treaty (NPT), each of the parties, including the nuclear-weapon-State parties, “undertakes 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.”
2. In its 1996 advisory opinion, the International Court of Justice (ICJ) concluded unanimously that the disarmament obligation is not limited to NPT parties.
3. But today, and contrary to these legal obligations, progress on nuclear disarmament is at a standstill, and the risk of unbridled nuclear competition is growing.<sup>2</sup>
4. All of the world’s nine nuclear-weapon States are, to varying degrees or another, devoting vast sums of money to “modernize”, up-grade and, in some cases, expand the size and lethality of their nuclear arsenals and delivery systems.
5. As Mr. Hans Kristensen of the Federation of American Scientists wrote in Arms Control Today in 2014,<sup>3</sup> the numerical nuclear arms race between the United States of America and the Russian Federation may be over; but elsewhere, “a dynamic technological nuclear arms race is in full swing and may increase over the next decade.”
6. In addition, the one multilateral treaty designed to help curb nuclear arms competition – the 1996 Comprehensive Test Ban Treaty (CTBT) – has not yet entered into force. This “legal gap” is due to the inaction of eight annex 2 States and it leaves open the door to renewed nuclear weapons testing.

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<sup>1</sup> Established pursuant to resolution 70/33 of the General Assembly of the United Nations.

<sup>2</sup> [“Nuclear Weapons Modernization: A Threat to the NPT?”](#), Hans M. Kristensen in Arms Control Today, May 2014.

<sup>3</sup> [“Nuclear Weapons Modernization: A Threat to the NPT?”](#), Hans M. Kristensen in Arms Control Today, May 2014.

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7. Worse yet, even though there is abundant evidence that even a “limited” exchange of nuclear weapons would result in an unprecedented humanitarian catastrophe—and in the view of many would violate the principles contained in the Law of War and be contrary to widespread interpretations of International Humanitarian Law—each of the nuclear-armed states continue to reaffirm the importance of such weapons for their security and maintain plans for the possible use of hundreds of these weapons in a conflict.

8. And, as the delegations at the Conference on Disarmament (CD) and here at the Open-Ended Working Group realize, there are still no legally-binding restrictions on the nuclear build-ups of world’s four non-NPT nuclear-armed States, and are currently no active bilateral or multilateral negotiations to further regulate, cap, or reduce the stockpiles of any of the world’s five original nuclear-armed States.

### **U.S. A.-Russian Federation tensions**

9. Undoubtedly, renewed tensions between Moscow and Washington are blocking progress on nuclear disarmament. The United States of America and the Russian Federation have a special responsibility to provide leadership to further reduce the role and number of nuclear weapons, but they are not doing so.

10. The States here at the Open-ended Working Group are truly concerned about urgently seeking progress toward a world without nuclear weapons must devote the diplomatic capital necessary to encourage the United States of America and the Russian federation to resume a meaningful, high-level dialogue to resolve the issues that appear to complicate progress on nuclear disarmament.

11. Although the number of nuclear weapons is down from its Cold War peak, the United States of America and the Russian Federation deploy far more nuclear weapons—some 1,800 each—than necessary for even their own nuclear deterrence “requirements.” As President Barack Obama correctly noted in a speech in 2012, “we have more nuclear weapons than we need.”

12. Yet progress on further nuclear cuts is on hold. As President Obama recently acknowledged and the Russian Ministry of Foreign Affairs confirmed, new negotiations on further nuclear disarmament beyond [the New Strategic Arms Reduction Treaty (New START) are unlikely any time soon.

13. Russian leaders cite concerns about limited but unconstrained U.S.A. ballistic missile interceptors, NATO conventional military capabilities, and third-country nuclear arsenals, as reason for rejecting the June 2013 U.S.A. proposal for a further one-third reduction in each side’s strategic nuclear forces. But the Russian Federation has failed to put forward a counterproposal and has rejected U.S.A. offers to discuss the full range of strategic issues.

14. Complicating matters, the Russian Federation also has tested ground-based cruise missiles in violation of the 1987 Intermediate-Range Nuclear Forces (INF) Treaty. U.S.A. and the Russian officials say they are interested in discussing the issue, but the matter remains unresolved. So long as it does, the prospects for negotiation of a follow-on agreement to New START are low.

15. Making matters even worse, Russian officials have begun to highlight their nuclear forces as a deterrent against what they see as increasingly threatening U.S.A. and NATO conventional military capabilities. Late last year, the Russian Federation “leaked” plans for a new nuclear-armed underwater torpedo, implying it is eyeing new types of nuclear weapons.

## Other nuclear-armed States

16. Meanwhile, as the U.S.A. and the Russian tensions and arsenals attract most international attention, China, India, and Pakistan are all pursuing new ballistic missile, cruise missile, and sea-based nuclear delivery systems<sup>4</sup> themselves and increasing the size of their warhead stockpiles or their capacity to produce material to make more weapons.

17. States here at the Open-ended Working Group also have a responsibility to recommend and help encourage approaches to address this urgent challenge to the pursuit of nuclear disarmament.

18. Although smaller in number, these arsenals are just as dangerous. Pakistan has lowered the threshold for nuclear weapons use in a potential conflict with India by developing tactical nuclear weapons capabilities to counter perceived Indian conventional military threats.

19. Pakistan's stated concern about India's larger fissile stocks has led it to block negotiations on a fissile material cut-off treaty, even though the United States of America, with the support of other States, has recently opened the possibility of changing the mandate to address fissile stocks.<sup>5</sup>

20. For its part, India says it would support fissile cut-off talks, but at the same time it appears to be expanding its fissile material production capacity<sup>6</sup> as the Conference on Disarmament remains deadlocked.

21. Leaders in Beijing, New Delhi, and Islamabad profess support for non-discriminatory approaches to disarmament and minimal deterrence, but their programs are moving in the opposite direction<sup>7</sup> and there is little or no dialogue among them, and with others, on nuclear risk reduction options.

22. Chinese officials suggest they will not consider limits on their nuclear arsenal unless there are additional, deeper U.S.A. and Russian nuclear weapons cuts.

23. Although the Democratic People's Republic of Korea may be under tighter and tighter international sanctions, its nuclear weapons and ballistic programs remain unconstrained. With further nuclear and ballistic missile tests, it will likely have missile-deliverable nuclear warheads. There is an urgent need to pursue meaningful diplomacy to halt further the Democratic People's Republic of Korea nuclear and missile testing.

24. Meanwhile, Israel's nuclear opacity and the inability of the Arab League to agree on a common-sense agenda acceptable to Israel for a meeting Middle East nuclear WMD Free zone treaty have frozen discussion of practical measures to reduce nuclear and missile dangers in that region.

## Moving forward

25. These and other factors have led certain states to block consensus here in Geneva at the Conference on Disarmament and they explain why the nuclear-weapon States have failed to meet key 2010 NPT Review Conference commitments and why the States parties

<sup>4</sup> ["U.S. Floats New Fissile Talks Formula,"](#) Daryl G. Kimball, *Arms Control Today*, March 2016.

<sup>5</sup> ["U.S. Floats New Fissile Talks Formula,"](#) Daryl G. Kimball, *Arms Control Today*, March 2016.

<sup>6</sup> "India Is Building a Top-Secret Nuclear City to Produce Thermonuclear Weapons, Experts Say," By Adrian Levy, *Foreign Policy*, December 16, 2015.

<sup>7</sup> ["India's Submarine Completes Tests,"](#) Kelsey Davenport, *Arms Control Today*, April 2016.

at the 2015 NPT Review Conference were unable to agree on an updated action plan on disarmament.

26. We welcome, encourage, and applaud the efforts of many non-nuclear-weapon States and fellow members of civil society to catalyze progress through the humanitarian consequences initiative. The effort has, once again, helped raise awareness about the unique destructive power of nuclear weapons and the dubious legal and moral rationale for their possession and use.

27. Now is the time for creative, practical ideas, and, just as importantly, sustained and high-level action to overcome persistent obstacles and new challenges.

28. As the 4 May working paper submitted by Austria and 125 other countries<sup>8</sup> notes: “Achieving and maintaining a world without nuclear weapons requires a multitude of legal and non-legal measures.” We agree.

29. Progress will require the pursuit of multiple, practical, and sometimes bold, initiatives on the part of responsible leaders and groups of States.

30. As most states and civil society representatives here recognize, to be effective, these initiatives need to take into account:

(a) the security dimensions and political obstacles that currently impede progress on nuclear disarmament, and

(b) the moral, legal and humanitarian dimensions of nuclear weapons.

31. Just as importantly, in our view, the pursuit of any new legal instrument or instruments to prohibit and eliminate nuclear weapons must involve nuclear-armed States and States that have foresworn them.

32. We offer the following observations and recommendations for consideration:

#### **A ban treaty**

33. At the February Open-ended Working Group discussions, a group of States and some civil society campaigners suggested it is time to launch talks on a treaty to ban nuclear weapons possession and use. In April a group of States<sup>9</sup> suggested that the Open-ended Working Group “Convene a conference in 2017, open to all States, international organizations and civil society, to negotiate a legally-binding instrument to prohibit nuclear weapons.”

34. Advocates of this approach argue that such an initiative would stigmatize the possession and use of nuclear weapons.

35. As the 4 May Austrian paper endorsed by a total of 126 States argues, “Conceptually, these different measures would include a legally binding instrument prohibiting nuclear weapons in some form.”

36. We agree that such a ban is, eventually, a necessary step toward a world without nuclear weapons. But it is doubtful that such an initiative, if launched and concluded without the active participation of any of the nuclear-armed States, would succeed in changing the opinions, policies, or dangerous nuclear weapons employment plans of the nuclear-armed states or states that host nuclear weapons.

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<sup>8</sup> See working paper: “The Legal-Gap”: Recommendations to the Open-ended Working Group on Taking forward nuclear disarmament negotiations, 4 May 2016.

<sup>9</sup> See working paper: “Addressing nuclear disarmament: Recommendations from the perspective of nuclear weapon-free zones,” 28 April 2016 submitted by Argentina, Brazil, Costa Rica, Ecuador, Guatemala, Indonesia, Malaysia, Mexico, and Zambia.

37. Nor is it clear how this could accelerate progress on the verifiable elimination of the nuclear arsenals by the nuclear-armed States.

38. This is due in large part to the fact that the nuclear-armed States will simply ignore the process and the results.

39. The key, in our view, is to draw them into the process in such a way that they are compelled or persuaded to shift their approach and accelerate action toward zero nuclear weapons.

#### **Challenge nuclear weapons use and use doctrines**

40. Another, approach—which could help address the longstanding goal of assuring non-nuclear-weapon States against the use or threat of use of nuclear weapons—would be to pursue the negotiation of a legally-binding instrument banning the use of nuclear weapons.

41. Such an instrument would not, as some have suggested, legitimize the possession of nuclear weapons. Even if the nuclear-weapon States do not initially join in the negotiation or sign such an instrument, the process itself and the final product could further strengthen the legal norm against their use and promote a global debate on how and why on nuclear-armed States should revise their dangerous nuclear doctrines by underscoring that the use of nuclear weapons is contrary to the Law of War and International Humanitarian Law.

42. For many years, India has, in fact, supported and advocated for a convention on the prohibition of the use or threat to use nuclear weapons under any circumstances. As India's Permanent Representative to the Conference on Disarmament argued in a speech to the General Assembly of the United Nations on 18 October 2013: “a multilateral, universal and legally binding instrument prohibiting the use or threat of use of nuclear weapons will contribute to the process of the step-by-step delegitimization of nuclear weapons and create a favourable climate for negotiations on an agreement on the prohibition of nuclear weapons.”

43. Another approach would be to press each of the nuclear-armed States to report, in detail, on the physical, environmental, and human impacts of their nuclear war plans, if these plans were to be carried out, and how they believe the use of hundreds of such weapons would be consistent with humanitarian law and the laws of war as some nuclear-armed States claim.<sup>10</sup>

44. Such a process could force an examination of dangerous nuclear doctrines and focus public attention on the catastrophic consequences of nuclear weapons use.

#### **Disarmament discussions in the Conference on Disarmament or through “disarmament summits”**

45. Theoretically, the Conference on Disarmament can be a forum for a dialogue on disarmament. The United Kingdom of Great Britain and Northern Ireland has put forward a useful, and wide-ranging proposal for a working group to discuss and identify effective measures on nuclear disarmament.<sup>11</sup> It would appear to be flexible enough to take all States'

<sup>10</sup> The June 2013 Report on the Nuclear Weapons Employment Strategy of the United States claims that: “[t]he new guidance makes clear that all plans must be consistent with the fundamental principles of the Law of Armed Conflict. Accordingly, plans will, for example, apply the principles of distinction and proportionality and seek to minimize collateral damage to civilian populations and civilian objects. The United States will not intentionally target civilian populations or civilian objects.”

<sup>11</sup> Letter dated 19 February from the Permanent Representative of the United Kingdom of Great Britain and Northern Ireland to the Conference on Disarmament.

interests into account. If States do not burden this proposal with poison pill demands, it could help extend the conversations taking place at the Open-ended Working Group and engage key nuclear-armed States. If launched, it would be vital for all States to bring forward detailed and considered proposals, not tired talking points. Unfortunately, given the record of the Conference on Disarmament over the past two decades and its onerous rules for initiating talks, it is likely that one or another country will object.

46. Another option would be to initiate a series of high-level summits to put the spotlight on the issue and spur new ideas.<sup>12</sup> Leaders from a core group of States could invite their counterparts from a representative group of 20 to 30 nuclear- and non-nuclear-weapon States to join a one- or two-day summit on steps to achieve a world free of nuclear weapons, including possible new instruments to prohibit nuclear weapons, nuclear weapons use, and/or to develop a framework for achieving disarmament.

47. The first high-level meeting could be a starting point for ongoing, regular disarmament discussions at the expert and ministerial levels on the basis of a clear understanding of the devastating impacts of nuclear weapons use and an objective assessment of the security concerns of States.

48. Borrowing a concept from the nuclear security summit process, all participants should be encouraged to bring “house gifts”—specific actions by States that would concretely diminish the threat of nuclear weapons use, freeze or reduce the number of nuclear weapons, reduce the role of nuclear weapons, bring into force key agreements such as the Comprehensive Test Ban Treaty, or make their nuclear programs more transparent.

#### **United Nations study on effects of possible nuclear exchanges between weapons States**

49. Part of the Open-ended Working Group mandate is to make recommendations on “measures to increase awareness and understanding of the complexity of and interrelationship between the wide range of humanitarian consequences that would result from any nuclear detonation.”

50. One important way to do so is to launch a comprehensive, new United Nations study on the climate effects and related humanitarian impacts of nuclear weapons use.

51. Tremendous advances in climate modelling and research on both the immediate effects and impacts on climate and agriculture from large-scale nuclear weapons use have been completed since the United Nations looked at the issue 25 years ago. It is time for an up-to-date United Nations study and report on these issues to inform current and future debate and decisions on global nuclear policy.

#### **United Nations Security Council to reinforce the test ban pending entry into force**

52. The CTBT was concluded twenty years ago, yet entry into force is still many years away. It is essential that states reinforce the legal and political norm against nuclear testing by supporting initiatives that raise the political and legal barriers for testing pending entry into force of the CTBT.

53. In light of the threat of further Democratic People’s Republic of Korea nuclear testing, the central importance of the CTBT to the NPT and non-proliferation, and the ongoing efforts by several nuclear-armed States to improve their capabilities, the time is right to take this initiative.

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<sup>12</sup> This concept has been proposed by others, including Secretary General Ban Ki-moon. See [“Nuclear Disarmament Summitry”](#) in *Arms Control Today*, April 2016, for further discussion.

54. Even before the Open-ended Working Group completes its work this year, we urge all States to actively support a non-binding United Nations Security Council resolution and a parallel United Nations General Assembly measure later this year that:

(a) Calls on all States to refrain from testing and calls upon those States that have not ratified the CTBT to do so at the earliest possible time;

(b) Declares “the conduct of a nuclear test explosion would defeat the object and purpose of the CTBT.” (This would help clarify that any State that has signed the Treaty should not violate the prohibition on nuclear testing established by the Treaty.)

(c) Underscores the need for a continuous, real-time global nuclear test monitoring capability to detect, identify, and locate nuclear test explosions, and recognizes the vital contributions of the Comprehensive Test Ban Treaty Organization, including the International Monitoring System and International Data Centre.

55. A good starting point for the discussion of such an option will be the 13 June high-level meeting in Vienna on the CTBT. The elected United Nations Security Council Member States here at the Open-ended Working Group have a special responsibility to act.

#### **New START follow-on talks no later than 2017**

56. States here at the Open-ended Working Group should issue a focused and specific call for leaders in Moscow and Washington to begin formal negotiations on a follow-on to New START, and on other relevant strategic weapons issues, no later than 2017.

57. The aim should aim to cut each side’s strategic arsenals to fewer than 1,100 deployed strategic warheads and 500 deployed strategic delivery vehicles, including any strategic-range conventional prompt-strike weapons. Such talks can and should explore a wider range of issues, including transparency and confidence-building steps on tactical nuclear weapons and joint understandings on missile defense capabilities and deployments. Talks should begin soon and before New START expires in 2021.

#### **Call for parallel U.S.A.-Russian reductions without a new treaty**

58. At the 2010 NPT Review Conference, all of the nuclear weapon States committed “to accelerate concrete progress on the steps leading to nuclear disarmament,” including “all types of nuclear weapons.”

59. Further nuclear reductions need not wait for a new U.S.A.-Russian arms control treaty. More states need to call upon the United States of America and the Russian Federation to accelerate the pace of reductions under New START to reach the agreed limits before the 2018 deadline and call on both States to continue to reduce force levels below the New START ceilings, to be verified with the treaty’s monitoring regime.

#### **Reinforce the INF Treaty and pursue nuclear-armed cruise missile limits**

60. To sustain progress on nuclear disarmament, it is essential to reinforce and expand the 1987 INF Treaty. States who are committed to disarmament cannot afford to be silent on this issue.

61. Rather, the states here at the Open-ended Working Group should speak up and call upon the United States of America and the Russian Federation to immediately resolve compliance concerns.

62. The Open-ended Working Group should also consider endorsing the initiation of multilateral talks with on limiting and eventually phasing out all nuclear-armed cruise missile systems, which pose a growing threat to international peace and stability.

63. We also invite States here at the Open-ended Working Group to join the Arms Control Association, and many other civil society organizations and experts, including former U.S.A. Secretary of Defense Mr. William J. Perry,<sup>13</sup> in calling on President Barack Obama to cancel plans for a costly new U.S.A. air-launched cruise missile, which would have new military capabilities and is for nuclear war-fighting, not deterrence.

64. Such an initiative would allow the United States of America, the Russian federation and other countries to forgo expensive modernization programs for such missiles, and in cooperation with other key States, head off dangerous nuclear-armed cruise missile build-ups around the globe.

#### **Call on other nuclear-armed States to freeze their nuclear build-ups**

65. The world's other nuclear-armed States must do their part too. States seeking global nuclear disarmament must support an approach that takes into account the dangerous nuclear arsenals of all nuclear-armed States.

66. In addition to urging the United States of America, China, and the other CTBT Annex 2 States to finally take the steps necessary to ratify the Comprehensive Nuclear Test Ban Treaty, the Russian Federation and the world's other nuclear-armed States should be called upon by all NPT States parties to freeze the overall size of their stockpiles as long as the United States of America and the Russian Federation continue to reduce their nuclear arsenals.

67. A unified push for further U.S.A.-Russian arms cuts combined with a global nuclear weapons freeze by the other nuclear-armed States would help create the conditions for multilateral, verifiable nuclear disarmament and an eventual ban on nuclear weapons.

#### **Condemn irresponsible nuclear saber-rattling**

68. The Open-ended Working Group should take a firm stand against irresponsible nuclear saber-rattling, particularly when it is used against small states or in regional contexts. Non-nuclear weapons States and civil society organization could be more proactive in speaking out when officials in any nuclear-armed State appear to make direct or veiled references to their nuclear arsenal in order to intimidate rivals or to rally domestic audiences. This would help strengthen the taboo against direct or indirect threats of nuclear weapons use.

#### **Assess the impact of “disruptive technologies” on the nuclear disarmament**

69. The maintenance of stability and the achievement of disarmament will be affected by new conventional military technologies, particularly hypersonic weapons, missile defenses, and cyber weapons. For example, the development and spread of increasingly sophisticated cyber “weapons” is posing a considerable challenge to the management of nuclear weapons and to nuclear strategy and thinking. This new challenge has implications for the sustainment of effective command and control, stemming proliferation, and preventing espionage and sabotage.

70. In order to better understand what the implications of these technologies and weapons might be for disarmament and what limitations on these technologies are feasible, the Open-ended Working Group should endorse the creation of a group of governmental experts or special United Nations Commission to report on this question to inform current and future debate and decisions on global nuclear policy.

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<sup>13</sup> [“Overkill: The Case Against a New Nuclear Air-Launched Cruise Missile”](#) by Kingston Reif, Arms Control Association *Issue Brief*, October 19, 2015.

71. All people, including the leaders of the nations of the world, have a moral, legal, and international security imperative to come together around new and practical approaches to accelerate progress toward the elimination of the risk of global nuclear catastrophe. More than one path can and should be pursued simultaneously.

72. As Mr. Desra Percaya, Ambassador and Permanent Representative of Indonesia to the United Nations, said in a speech in Washington D.C. in March 2014: "...the world cannot wait endlessly for nuclear weapons' elimination. The risks are obvious. For a nuclear detonation, deliberate or accidental, its effects will be horrendous on people and all living things – we will all suffer. We must act now."

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