Submission by Prof Tom Sauer (Universiteit Antwerpen, Belgium) to Alpingi inquiry into resolution 70/150 "Bann við kjarnorkuvopnum".

Formal goal of the Treaty on the Prohibition of Nuclear Weapons

The formal goal of the Treaty on the Prohibition of Nuclear Weapons (or Ban Treaty) is to declare nuclear weapons illegal. It is indeed strange that biological and chemical weapons, let alone landmines and cluster munitions, have been declared illegal in the past, and nuclear weapons – that are potentially much more destructive – not. The Treaty wants to make an end to this legal gap.

The Treaty is the result of the Humanitarian Initiative that aimed at focusing on the consequences of the use of nuclear weapons for individual human beings and societies at large. The NGOs and states that are behind the Initiative felt that this crucial aspect in the debate about the future role of nuclear weapons was largely forgotten. The debate during and also after the Cold War focused instead on the sophisticated non-use of nuclear weapons amongst states, read nuclear deterrence. The fact that nuclear weapons have not been used since 1945 yielded the wrong impression that they will never be used "because of deterrence". The latter is a myth. There are historical examples where nuclear armed states have been attacked by non-nuclear weapon states (e.g. Israel in 1973). As a result, nuclear weapons are not a 'deus ex machina' that bans war between states. The theory and practice of nuclear deterrence has already failed, and in all likelihood will fail again in the future.

Probably the major lesson learned from the Humanitarian Conferences in the period 2013-2014 was that our societies are not prepared for even small-scale nuclear weapons attacks, let alone nuclear war, and that societies cannot be prepared. In combination with another outcome of the Humanitarian Initiative, namely that the use of nuclear weapons cannot be squared with modern international humanitarian law (e.g. distinction between civilians and military during war), this led to the conclusion at the Humanitarian Conferences that everything should be done to prevent the use of nuclear weapons. The best way to prevent nuclear weapons use is their elimination. The best first step, according to 122 states in the world (= two thirds of the states in the world), towards elimination consists in declaring nuclear weapons illegal. This is in a nutshell why and how the Ban Treaty came into existence.

Unstated goal of the Treaty on the Prohibition of Nuclear Weapons

The major unstated goal of the Treaty on the Prohibition of Nuclear Weapons is to trigger a new societal and political debate about the role of nuclear weapons in defense doctrines inside the nuclear armed states (= 9) and their allies. The non-nuclear weapon states understand that simply asking the nuclear armed states to disarm, despite their legal obligation under the Nuclear Nonproliferation Treaty (NPT) to disarm (art.6), apparently does not work. The historical track record since 1970 (= entry into force of the NPT) makes that abundantly clear. The non-nuclear weapon states have made their point of view crystal clear during each and every NPT Review Conference. At some of these Review Conferences, the nuclear weapon states (= 5 formal ones) promised steps in the direction of nuclear elimination and succeeded the non-nuclear weapon states to agree with a Final Document. It is the belief of the author that this period is over. The non-nuclear weapon states do not believe anymore that the nuclear weapon states are acting 'in good faith' with respect to nuclear disarmament. They have been promised different steps, and more or less none were implemented. Anno 2020, there are still 15,000 nuclear weapons in the arsenals of the nine nuclear armed states. That ridicules the promise of nuclear disarmament of the NPT. Many of the nuclear weapons are still operational and hundreds are still kept ready to be fired in a very short time. Only one of the nuclear weapon states has announced a no first use doctrine. And all of them are modernizing their nuclear weapons arsenals for billions of dollars, so they can keep nuclear weapons

for another 60-80 years. Again, that makes a mockery of the promise of nuclear disarmament (article 6) of the NPT, and is perceived as such by the non-nuclear weapon states, who are on their turn supposed to keep their obligations under the same treaty. This discriminatory regime is not tenable in term. It is hard to see how the NPT will survive another decade. That has nothing to do with the Prohibition Treaty, but only with the lack of nuclear disarmament efforts by the nuclear weapon states.

The hope of the advocates of the Prohibition Treaty is that the potential stigmatizing effects of the Treaty will make a difference in the policy of at least some of the nuclear armed states, and this on the basis of a three-step model.

Step 1: From banning to stigmatization

There exits already a norm that corresponds to the idea that nuclear weapons are too destructive to be used. Nina Tannenwald (Brown University) calls this the nuclear taboo. The Ban Treaty is supposed to strengthen this norm further, also by extending the norm to the possession of nuclear weapons. The hope is that Ban Treaty will stigmatize nuclear weapons and nuclear weapon states. Just like Syria under President Assad (having used chemical weapons) is regarded as a pariah state, the hope is that the nine states that possess nuclear weapons will be more and more regarded as pariah states in the future.

Step 2: From stigmatization to a renewed debate

Once the stigmatization process is under way, it may help the advocates of change inside the nuclear armed states to begin a new societal and political discussion about the future role of nuclear weapons. The Ban Treaty and the resulting stigmatization may also open the eyes of people who were not yet aware of the danger of nuclear weapons.

Step 3: From a renewed debate to policy changes

A renewed debate inside the nuclear armed states and their allies may lead to policy changes in the sense of abandoning the policy of nuclear deterrence. For allies, that means clearly communicating to one's own public opinion and to the rest of the Alliance that the country does not want to be covered any longer by the extended nuclear deterrent. But that does not mean ending membership of the Alliance.

Once one nuclear armed state or allied state changes its policy in this regard, it is likely that others will follow. To be clear, this is not an argument for unilateral disarmament of the West versus the East, or vice versa. Allied states inside NATO or even countries like the UK and France can easily give up nuclear weapons and abandon the practice of relying on (extended) nuclear deterrence without creating an imbalance between the West and the East. In the end, all remaining nuclear armed states will have to sit around the table (together with the non-nuclear weapon states) and start multilateral negotiations for a Nuclear Weapons Convention (like the Biological Weapons Convention and Chemical Weapons Convention). The latter has to determine how one goes to Global Zero, including a timetable (just like the Chemical Weapons Convention).

Current impact of the Treaty on the Prohibition of Nuclear Weapons

Already today, the Ban Treaty is triggering positive effects with respect to stigmatization. The Norwegian pension fund, a large Dutch pension fund, and more recently the KBC, which is the biggest Belgian bank, decided to divest from nuclear weapons related business. Banks make a distinction between legal and illegal weapon systems. In its press release in June 2018, KBC explicitly referred to

the Ban Treaty. Stigmatization seems to be working. Once the Ban Treaty enters into force, most states in the world (and many people inside the nuclear armed states and their allies) will define nuclear weapons as illegal weapon systems. This will in all likelihood trigger similar reactions as that of the KBC in many more private firms around the world. The renewed debate, in other words, has already started, and will get another boost once the Treaty enters into force.

The potential role of Iceland

The next step is that one of the non-nuclear weapon states inside NATO decides to follow the private sector by abandoning its policies of reliance on nuclear deterrence. Just like Belgium played a crucial role in negotiating the Landmine Treaty, just like countries like Austria, Norway, and Mexico played important roles in the Humanitarian Initiative, and just like the Netherlands (under pressure from the Parliament) withstood the pressure from the US, the UK and France and the other NATO member states by being present at the multilateral negotiations for the Ban Treaty a the UN, Iceland may take up its responsibility by being the first NATO member state to signal to the rest of the world that it takes its responsibility to bring the world closer towards nuclear elimination, in line with article 6 of the NPT. Iceland has already a policy that states that it does not allow nuclear weapons to be stationed on its territory. Signing the Ban Treaty is the next logical further step. Or is the status-quo a valid alternative ?

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Other publications by the same author about the same topic:

Tom Sauer, *Nuclear Arms Control. Nuclear Deterrence in the Post-Cold War Period* (Macmillan, London, 1998).

Tom Sauer, *Nuclear Elimination. The Role of Missile Defense* (Hurst & Co, London, 2011).

Tom Sauer and Joelien Pretorius, 'Nuclear weapons and the Humanitarian approach', in: *Global Change, Peace & Security*, vol.26 (3), 2014, pp.233-250.

Tom Sauer, 'It is time to outlaw nuclear weapons', in: *The National Interest*, 18th of April 2016.

Paul Meyer and Tom Sauer, 'The Ban Treaty: a Sign of Global Impatience', in: *Survival*, vol.60 (2), 2018, pp.61-72.

Tom Sauer and Mathias Reveraert, 'The potential stigmatizing effect of the Treaty on the Prohibition of Nuclear Weapons', in: *The Nonproliferation Review*, vol.25, 5-6, 2018 (forthcoming, already available online since December 2018).