

Briefing paper | 15 June 2017

Articles 2-5 in the Draft Convention on the Prohibition of Nuclear Weapons

The draft text of the Convention on the Prohibition of Nuclear Weapons was released by the President of the negotiating conference on 22 May.

ICAN welcomes the release of a draft treaty to ban nuclear weapons as an essential milestone in the years-long effort to ban nuclear weapons because of their inhumane and indiscriminate impacts. This paper provides background and justification for ICAN's recommendations regarding Articles 2-5 of the draft treaty text.

Understanding Articles 2-5

Articles 2-5 of the draft convention text present a set of interconnected obligations that relate, in broad terms, to ensuring the absence of nuclear weapons or ensuring an agreed process for their elimination for States Parties to the treaty.

In basic terms the current structure of the text provides:

- Article 2 – declarations to provide transparency about the status of nuclear weapons for a State Party
- Article 3 – safeguards against the subsequent development of nuclear weapons
- Article 4 – verification arrangements for states that possessed nuclear weapons after a certain date.
- Article 5 – implies the possibility of States with nuclear weapons joining the treaty under terms to be agreed in further 'protocols'

These articles should be considered as a package because they need to work together to provide a structure for how the treaty deals with the core nuclear weapons issues: past or current possession, verified elimination, and assurance against future development or acquisition..

ICAN supports the broad intention behind Articles 2-5. It is important that all States Parties be obliged to make declarations, and therefore be treated on an equal basis. It is important that the text points towards established standards for safeguards and verification.

It is very important that the treaty envisages the possibility of future States Parties with nuclear weapons joining the treaty under a set of further agreed obligations – this latter point supporting the broad principle that prohibition precedes destruction and elimination.

The need for revisions of Articles 2-5

While ICAN strongly supports the underpinning intention of these articles, significant revision is needed in order for the text to be sufficiently comprehensive, and to provide sufficient clarity in what is both a sensitive and technical area.

As a priority, the treaty text should provide a clear and explicit obligation to destroy any nuclear weapons in a verifiable, time-bound manner. It should also present a clear mechanism by which states declaring that they have nuclear weapons can join the treaty and come under such obligations for stockpile destruction.

Because the provisions of articles 2-5 are closely linked, it would be preferable for them to be revised as a package, as making adjustments article-by-article is likely to raise further complications. The structure of these articles should be changed in order to provide a clear framework for realising the intention behind them.

Principles for revisions of Articles 2-5

Broad principles to guide a package of revisions should include:

- Consideration should be given to the logical flow of the provisions in these articles.
- Declarations should not set an obligation based on a date, and need to cover a more comprehensive set of circumstances – such as any hosting of nuclear weapons on the territory of a State Party, or actions taken to ensure that activities prohibited under the treaty no longer play a role in the defence and security doctrines of States Parties.
- Any state with nuclear weapons should be obliged to submit and implement a time-bound plan for stockpile destruction. States Parties that host nuclear weapons should be obliged to submit and implement a similar plan for the removal of hosted weapons. Rather than stipulating the details of destruction or removal, the treaty can provide a framework under which such plans can be assessed and approved, to ensure that they meet the objectives of the treaty.
- Safeguards should be required in line with international standards, and nothing in the treaty should provide a justification for any reduction in the standard of safeguards that States Parties already have in place. In addition, the treaty should encourage all States Parties to adopt stronger standards in the future – providing sufficient flexibility to allow for the continued evolution of safeguards standards.