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Working Paper A/AC.286/NGO.5

Quest of Legal Measures with Specificity and Feasibility for Nuclear Disarmament

Submitted by Peace Depot Inc., a Japan-based NGO

27 April 2016

A Phased Approach to a Comprehensive Nuclear Weapon Convention with an Antecedent Step of a Nuclear Use Ban Treaty Initiated by State Parties of NWFZs.

Abstract

- a. As a specific and feasible legal measure that will be needed to be concluded to attain a world without nuclear weapons, we propose a **phased approach to a “Comprehensive Nuclear Weapon Convention (CNWC)”** which includes an **antecedent step of concluding a “Treaty to Prohibit the Use of Nuclear Weapons (Nuclear Use Ban Treaty, or NUBT)”** as a first phase legal measure.
- b. We believe this approach **will not contradict with the efforts to promote a NBT and a CNWC**. They can all be pursued in parallel.
- c. The reason why we pursue a **NUBT as an independent first phase measure is that a distinct difference lies between the “use” of nuclear weapons and their “possession” or “stockpile”**. In the “use” (as well as “threat of use”) of nuclear weapons, the user has a clear intention to inflict “catastrophic humanitarian consequences” upon its foes. However limited the use is, it will cause catastrophic long-term damages to human health, the global environment and social/economic systems. In contrast, neither a “possession” nor a “stockpile” causes such damages.
- d. While a NUBT has been discussed for a long time at the UNGA, this WP will attempt to **offer a renewed thought** on its realization. The most important point here is the understanding that **constituent nations of existing nuclear weapon free zones (NWFZs) are specially qualified in requesting the conclusion of a NUBT**. The

reason for this is that the constituent nations have chosen a status of a non-NWS by abiding to legally binding regional treaties which are stricter than the NPT, and have established NWFZs as a first step toward a cooperative security system.

- e. According to the recently renewed knowledge, **even constituent nations of existing nuclear weapon free zones are not free from damages caused by the use of nuclear weapons outside the zone.** Therefore, it should be said these states are morally qualified to demand a global ban of use of nuclear weapons. Based upon this insight, we propose a “Treaty to Prohibit the Use of Nuclear Weapons” with a new spirit, **in which the states parties of NWFZs initiate the negotiation of a NUBT.**
- f. **The possibility may be remote for NWSs to support the NUBT** and legally commit themselves to no use in the near future. Even if that is the case, **it should be recognized as a legitimate legal request** for state parties to NWFZs to pursue the conclusion of a global NUBT applicable to areas beyond the zone, and to demand that all states including NWSs subscribe to it. Such attempts are fully in line with the fundamental objectives underlying the establishment of a NWFZ.
- g. **Although a NUBT is a partial legal measure, it has its significance as a first step measure leading to a CNWC.** It is likely to be achieved in a relatively short timeframe because it limits itself to the ban of “use and threat of use” alone and **avoids complex negotiations for verification systems** that are required to regulate “possession” or “stockpiling”. Still, it will create circumstantial change in nuclear disarmament efforts.
- h. As for **non-NWSs depending on nuclear weapons** under the alliance treaties with NWSs, their attitude toward the NUBT should be examined under the theme of how they can reduce the role of nuclear weapons in their national security policy. **In some cases, it will be appropriate to adopt a policy to establish a NWFZ first. In other cases, it may be possible to pursue a direct subscription to a NUBT possibly without damaging the alliance relationship with NWSs.** In either case, it is required to act with a sense of urgency to break the stalemate of nuclear disarmament based on the principles of concreteness and ethicality.
- i. Negotiations on a NUBT shall be addressed within a framework of the United Nations.

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