

First Meeting of States Parties to the Treaty on the Prohibition of Nuclear Weapons

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Item 11 (e) of the provisional agenda*

Consideration of the status and operation of the Treaty and other matters important for achieving the objectives and purpose of the Treaty: victim assistance, environmental remediation and international cooperation and assistance (articles 6 and 7)

Implementing articles 6 and 7

Working paper submitted by the co-facilitators, Kazakhstan and Kiribati

I. Summary

1. In the present working paper, the co-facilitators present proposed recommendations for the portions of the outcome document(s) of the first Meeting of States Parties to the Treaty on the Prohibition of Nuclear Weapons dealing with articles 6 and 7 on victim assistance, environmental remediation and international cooperation and assistance. The paper is the result of a series of consultations with States parties, international organizations and civil society on the implementation of these positive obligations. Kazakhstan and Kiribati organized those consultations at the request of the President-designate of the first Meeting of States Parties.

II. Context

2. The positive obligations of the Prohibition Treaty are central to its humanitarian goals. Their aim is to address the harm from past use and testing of nuclear weapons, as well as the ongoing and expected future harm from the contamination that resulted. Articles 6 and 7 draw on similar provisions on victim assistance, clearance and international cooperation and assistance established in the Convention on the Prohibition of the Use, Stockpiling, Production and Transfer of Anti-Personnel Mines and on Their Destruction and the Convention on Cluster Munitions, but they are the first of their kind in a nuclear weapons treaty. These articles, which should be read as a package, are designed to address the human and environmental effects of nuclear weapons and to provide affected States parties with technical, material and financial support to further the implementation of the Treaty.

* [TPNW/MSP/2022/1](#).



3. Article 6 (1) on victim assistance obliges each State party to assist individuals under its jurisdiction who are affected by the use or testing of nuclear weapons. Specifically, each State party shall, “in accordance with applicable international humanitarian and human rights law, adequately provide age- and gender-sensitive assistance, without discrimination, including medical care, rehabilitation and psychological support, as well as provide for their [the affected individuals’] social and economic inclusion.”

4. Article 6 (2) on environmental remediation requires each State party to “take necessary and appropriate measures towards the environmental remediation of areas” under its jurisdiction or control that have been contaminated by the testing or use of nuclear weapons.

5. Article 7 on international cooperation and assistance is designed to help affected States parties meet their article 6 obligations. Article 7 gives them “the right to seek and receive assistance, where feasible.” It requires States parties in a position to do so to “provide technical, material and financial assistance” to affected States parties. It also specifies that States parties that have used or tested nuclear weapons shall provide “adequate assistance to affected States Parties, for the purpose of victim assistance and environmental remediation.”

III. Proposed outcome document language

6. The consultations facilitated by Kazakhstan and Kiribati were convened to inform the content of the outcome document(s) of the first Meeting of States Parties related to implementation of the positive obligations. The subsequent language proposals are without prejudice to the decision on the type of outcome document(s) of the Meeting.

7. In their oral and written contributions to that process, States, international organizations and civil society groups offered input on the steps that should be taken at the first Meeting of States Parties with regard to victim assistance, environmental remediation and international cooperation and assistance. Their comments centred on the following six areas, around which the working paper will be structured:

- (a) Commitment to implementation;
- (b) Establishment of an implementation framework;
- (c) Reporting on implementation measures;
- (d) Intersessional work;
- (e) International trust fund for affected States;
- (f) Commitment to inclusivity.

8. States, international organizations and civil society also raised cross-cutting themes, notably the importance of gender sensitivity to victim assistance and the principle of inclusion.

9. Drawing on the results of the consultations, the co-facilitators, in the working paper, present potential draft language for the sections of the outcome document(s) of the first Meeting of States Parties dealing with articles 6 and 7. It aims to capture the views expressed during the consultations and, when appropriate, looks to past humanitarian disarmament treaties and outcome documents for specific wording.

IV. Recommendations

A. Commitment to implement articles 6 and 7

10. States parties should emphasize the importance of the positive obligations and their link to the humanitarian objectives of the Prohibition Treaty in the outcome document(s) produced at the first Meeting of States Parties. Paragraphs 11 and 12 below make clear that implementing the obligations in articles 6 and 7 is a priority for States parties, while in paragraphs 13 and 14, a connection is drawn between international cooperation and assistance and universalization.

11. States parties commit to achieving concrete and swift progress in the implementation of their article 6 and 7 obligations to assist victims, take environmental remediation measures and provide international cooperation and assistance. These obligations are inextricably linked to the humanitarian objectives of the Prohibition Treaty. They seek to address the needs and fulfil the rights of affected individuals, and, with their implementation, the Treaty can provide a broad response to the humanitarian consequences of nuclear weapons, by not only prohibiting future detonations but also mitigating the harm caused by past use and testing.

12. States parties commit to engaging with relevant stakeholders, including international organizations, civil society, affected communities, indigenous peoples and youth, and to working cooperatively, including by mobilizing and sharing resources to advance effective and sustainable implementation of articles 6 and 7.

13. States parties recognize the importance of cooperating with affected States not party to the Treaty to advance the objectives of the Treaty and to facilitate adherence to the Treaty.

14. States parties also recognize that it is important, while encouraging adherence to the Treaty, to engage and promote information exchange with States not party to the Treaty that have used or tested nuclear weapons, or any other nuclear explosive devices, on their provision of assistance to affected States parties for the purpose of victim assistance and environmental remediation.

B. Establishment of an implementation framework for articles 6 and 7

15. Creating a mechanism or pathway for implementing both articles 6 and 7 is the first step towards ensuring the operationalization of victim assistance, environmental remediation and international cooperation and assistance. The following language lays out elements of an implementation framework. The outcome document(s) could include milestones and deadlines as do, for example, action plans for other humanitarian disarmament treaties.

16. States parties commit to:

- If affected by nuclear weapons use or testing, assess the effects of nuclear weapons use and testing with respect to areas under their jurisdiction or control, including in particular the needs of victims and contamination of the environment, as well as national capacity to address them. Initial assessments could be focused on gathering existing knowledge about ongoing and expected effects and current and planned responses to date and determining what additional information is needed; these initial assessments should be completed by and shared with the second Meeting of States Parties.

- If affected by nuclear weapons use or testing, develop national plans for implementation of their victim assistance and environmental remediation obligations, which include budgets and time frames. Such plans could be integrated into existing frameworks to increase efficiency, and international cooperation and assistance should be provided where needed to reduce the burden on affected States parties. Affected States parties should share their progress with the second Meeting of States Parties.
- Establish national focal points for articles 6 and 7, with appropriate contact details for consultations, no later than three months after the first Meeting of States Parties.
- Adopt or adapt and implement relevant national laws and policies on articles 6 and 7, where appropriate.
- Coordinate and develop mechanisms where needed to facilitate the provision by States parties in a position to do so of the international cooperation and technical, material and financial assistance that affected States parties may require to implement the Treaty's victim assistance and environmental remediation provisions. Mechanisms should match needs, which may arise at any stage of implementing article 6, with offers of assistance.
- Cooperate with the United Nations system, relevant international, regional or national organizations or institutions, relevant non-governmental organizations or institutions, the International Committee of the Red Cross, the International Federation of Red Cross and Red Crescent Societies and national Red Cross and Red Crescent Societies, and bilaterally as appropriate in the development of their implementation framework.
- Conduct all victim assistance, environmental remediation and international cooperation and assistance activities in accordance with the principles, in particular, of accessibility, inclusivity, non-discrimination and transparency, and provide victim assistance in a manner that is age- and gender-sensitive given the disproportionate impact of nuclear weapons use and testing on women and girls.
- Review the implementation framework, as well as implementation of articles 6 and 7, regularly, in particular as new information emerges and situations evolve, and draw as appropriate on lessons from implementation measures for positive obligations in other treaty regimes.

C. Reporting on implementation measures

17. Although the Prohibition Treaty, unlike other humanitarian disarmament treaties, does not include a reporting obligation, developing reporting guidelines that are voluntary and non-burdensome would facilitate assessments of the problems to be addressed and efforts to address them.

18. States parties commit to, before the second Meeting of States Parties:

- Recognize that information exchange on implementing articles 6 and 7 is key to achieving the goals and objectives of the Treaty. Information-sharing can be done through various means, including working papers, declarations, statements and presentations.
- Consulting with and bearing in mind the needs and constraints of affected States, develop guidelines for reporting on national measures related to victim assistance, environmental remediation and international cooperation and assistance, including deadlines, as appropriate.

- Draw on the input of relevant stakeholders, including international organizations, civil society, affected communities, indigenous peoples and youth, in the development of those guidelines.
- Consider development of a voluntary and a non-burdensome format for reporting during the intersessional period before the second Meeting of States Parties, in close cooperation with States concerned. Best practices for reporting under other disarmament treaties could be considered. Affected States should report on the effects of nuclear weapons in their territory, their progress on implementing the Treaty's victim assistance and environmental remediation obligations and where they may need external support; other States should report on what international cooperation and assistance they have provided and on their outreach to States not party in support of the objectives of articles 6 and 7.

D. Intersessional work on the positive obligations

19. To ensure that in-depth and inclusive discussions of the positive obligations continue between Meetings of States Parties, the first Meeting of States Parties should establish a programme of intersessional work on victim assistance, environmental remediation and international cooperation and assistance.

20. States parties commit to:

- Establish an informal intersessional working group on victim assistance, environmental remediation and international cooperation and assistance, in order to ensure progress on the topics between Meetings of States Parties.
- Facilitate the active participation in the informal intersessional working group's meetings of all relevant stakeholders, including international organizations, civil society, affected communities, indigenous peoples and youth, [as appropriate].¹
- Use the informal intersessional working group as a forum, inter alia: to articulate common understandings of complex issues related to articles 6 and 7; to exchange and develop best practices and standards; to report on progress in implementation; to facilitate international cooperation and assistance; and to coordinate or provide feedback on States parties' outreach to States not party concerning article 6 and 7 matters.

21. To promote inclusivity and cost-savings while ensuring regular convenings, informal intersessional working groups under the Prohibition Treaty, including that on the positive obligations, could hold in-person or hybrid meetings close to Meetings of States Parties, and additional virtual meetings in between.

E. International trust fund for affected States

22. The first Meeting of States Parties should ensure that the informal intersessional working group on positive obligations consider, inter alia, the establishment of an international trust fund for affected States as part of its work on international cooperation and assistance.

23. The informal intersessional working group on positive obligations should:

- Discuss the feasibility of and propose possible guidelines for establishing an international trust fund for States that have been affected by the use or testing

¹ This language regarding participation will require further consideration in the context of the discussions of the intersessional structure.

of nuclear weapons. The fund would, inter alia, provide aid to assist survivors and to support measures towards remediating the environment.

- Examine, as part of its work, relevant precedents for such a trust fund, such as those from humanitarian, disarmament, arms control, human rights and environmental law treaties.

F. Commitment to inclusivity

24. While inclusivity is important to all aspects of the Treaty's work, it is particularly relevant for the positive obligations. Affected communities and other key stakeholders bring unique perspectives and expertise on how to address the harm caused by nuclear weapons use and testing.

25. States parties commit to:

- Facilitate the active participation of all relevant stakeholders, taking into account the importance of gender and other factors, in meetings of the Prohibition Treaty and future discussions of its positive obligations to assist victims, take environmental remediation measures and provide international cooperation and assistance. These stakeholders should include international organizations, civil society, affected communities, indigenous peoples and youth.
- Take advantage of virtual or hybrid approaches, which promote inclusivity of the relevant stakeholders by reducing travel obstacles and costs, providing the opportunity for dedicated work on the positive obligations and other issues during the intersessional process and allowing participation in international meetings from afar. The informal intersessional working group on positive obligations will meet on a regular basis virtually or in person at a United Nations venue.
- Closely consult with, actively involve and disseminate information to affected communities at all stages of the victim assistance and environmental remediation process.
