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# United Nations conference to negotiate a legally binding instrument to prohibit nuclear weapons, leading towards their total elimination

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## Prohibiting the financing of nuclear weapons production<sup>1</sup>

Submitted by Basel Peace Office, Parliamentarians for Nuclear Non-proliferation and Disarmament and UNFOLD ZERO

### Summary

1. Financing of nuclear weapons production, whether through investment or direct budget allocation, aids and assists the production of nuclear weapons. The legally binding instrument to prohibit nuclear weapons being negotiated should therefore include a prohibition on financing of nuclear weapons production.

### Introduction

2. In working paper 14 entitled Elements for a treaty banning nuclear weapons, submitted to the UN Open Ended Working Group on Taking Forward Multilateral Nuclear Disarmament Negotiations (OEWG), the governments of Fiji, Nauru, Palau, Samoa and Tuvalu stated that a nuclear prohibition treaty 'would prohibit not only the use of nuclear weapons, but also, inter alia, their development, production, testing, acquisition, stockpiling, transfer, deployment and financing, as well as assistance, encouragement or inducement of these acts.'

3. There appeared to be no opposition to this proposal from supporters of the prohibition treaty at the OEWG, and this is to be expected. To permit financing of nuclear weapons under a nuclear weapons prohibition treaty would provide a loophole for States Parties to not only continue supporting the production of nuclear weapons, but to benefit financially from this.

4. The proposal by Fiji, Nauru, Palau, Samoa and Tuvalu to include a prohibition of financing nuclear weapons production should therefore be included in the negotiated treaty.

### Why prohibit financing

5. As indicated above, if the production and possession of nuclear weapons is to be prohibited under the treaty, then so too should be any actions which support the production and possession of nuclear weapons. This includes financing. This is the core legal argument for prohibiting financing of nuclear weapons.

6. There are also political reasons for prohibiting financing of nuclear weapons.

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<sup>1</sup> This working paper draws upon and expands the discussion in *Chapter 8: Economic aspects of a nuclear weapons ban*, in **Move the Nuclear Weapons Money**, published by International Peace Bureau, Parliamentarians for Nuclear Non-proliferation and Disarmament, and World Future Council. October 2016

7. The financing of nuclear weapons is one of the most significant drivers of the nuclear arms race. The governments of the nuclear armed countries currently spend US\$100 billion annually on their nuclear weapons programs.

8. Most of the nuclear weapons money goes to private companies which are awarded contracts to manufacture, modernize and maintain nuclear weapons and their delivery vehicles. For these companies, the bloated budgets are in their interests. Indeed, the companies actively lobby their parliaments and governments to continue allocating the funds to nuclear weapons. And they support think tanks and other public initiatives to promote the ‘need’ for nuclear weapons maintenance, modernization or expansion. In order to do this they elevate the threats from potential nuclear adversaries and lobby for enhanced nuclear weapons systems to counter those threats. This, in itself, increases the threats and antagonism between nuclear-armed States and the risks that nuclear weapons could be used by accident, miscalculation or intent.

9. US President Eisenhower warned 60 years ago of the possibility of a military-industrial complex being established - a formidable union of the armed forces and defence contractors using their power to move governments and parliaments to maintain high military budgets. This has arguably come true – especially in relation to nuclear weapons.

10. Civil society organisations, on the other hand, have virtually no access to funding to counter the lobbying weight of the nuclear weapons manufacturers.

11. Prohibiting the financing of nuclear weapons by States Parties to the nuclear prohibition treaty would help to delegitimize nuclear weapons production, and would put a dent in the power of the nuclear weapons corporations. It would strengthen the power of civil society within nuclear-armed States and globally to challenge the nuclear arms race.

12. The bloated nuclear weapons budget also impacts negatively on the international community. The biennial UN Core Budget, for example, is only US\$ 5.1 billion – or 5 per cent of the annual global nuclear weapons budget. Overseas development aid from the nuclear-armed States to the developing countries remains way under the agreed target of 0.7% of GDP, a target which could easily be reached if the funding for nuclear weapons was re-directed towards development aid.

13. “Over 16,000 nuclear weapons remain in the world’s arsenals costing \$100 billion annually – funds that could instead be used to reverse climate change, eliminate poverty and address other social and economic needs.” A Nuclear-Weapon-Free World: Our Common Good. Joint statement of legislators and religious leaders organised by Mayors for Peace, Religions for Peace and Parliamentarians for Nuclear Non-proliferation and Disarmament.

#### **Nuclear weapons activities permitted under the prohibition treaty**

14. The nuclear weapons prohibition treaty being negotiated should prohibit financing of the production of nuclear weapons. It should not prohibit financing of nuclear weapons activities which support nuclear disarmament, such as dismantling and destruction of nuclear weapons, verification of disarmament agreements and environmental clean-up of nuclear weapons production facilities.

#### **Experience from the Cluster Munitions and Landmines Conventions**

15. The Cluster Munitions and Landmines Conventions do not specifically prohibit the financing of these weapons. However, each of the treaties includes a provision under which ‘Each State Party undertakes never under any circumstances:... To assist, encourage or induce, in any way, anyone to engage in any activity prohibited to a State Party under this Convention.’

16. This has been interpreted by some States parties as including a prohibition on the financing of the production of these weapons. For Cluster Munitions, approximately 40 States parties have made interpretive statements that investments in cluster munitions are, or can be seen as, prohibited by the Convention on Cluster Munitions.<sup>2</sup> At least 10 have already adopted legislation prohibiting such investments.<sup>3</sup>

#### **Examples of national prohibition of financing of nuclear weapons**

17. The nuclear prohibition treaty can draw from experience of several countries that have already taken steps to prohibit – or partially prohibit – the financing of nuclear weapons. This includes New Zealand, Norway and Switzerland, which have all adopted policies or legislation to divest from nuclear weapons corporations.

18. In New Zealand and Norway, public funds have divested from nuclear weapons corporations. In Switzerland, the War Materials Act Amendment of 2012 prohibits financing of nuclear weapons corporations.

19. These countries adopted such measures in the absence of a global treaty prohibiting nuclear weapons. As such, they have all been rather cautious in their approach. New Zealand and Norway only divested public funds from nuclear weapons corporations. They did not prohibit private investments or financial institutions such as banks from investing in nuclear weapons. Switzerland's legislation appears strong on paper, but relies on a more restrictive definition of 'nuclear weapons corporations', which they define as those which are primarily involved in manufacture of nuclear weapons. As nuclear weapons production is usually only a part of the activities of corporations involved, there does not appear to have been as much divestment by financial institutions in Switzerland from nuclear weapons corporations as there has been by public funds in Norway and New Zealand.

20. It will be up to the States negotiating the nuclear weapons prohibition treaty to decide whether to include a simple prohibition on financing of nuclear weapons production, and leave it up to each State party to implement this in the way they see fit, or to provide a more prescriptive provision detailing the measures required to curtail nuclear weapons financing under their jurisdiction. The former approach would most likely make the treaty easier to negotiate and enable States to ratify more quickly.

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<sup>2</sup> Australia, Belgium, Bosnia and Herzegovina, Cameroon, Canada, Colombia, DR of Congo, Rep of Congo, Costa Rica, Croatia, Czech Republic, France, Ghana, Guatemala, Holy See, Hungary, Ireland, Italy, PDR of Laos, Lebanon, Liechtenstein, Luxembourg, Madagascar, Malawi, Malta, Mexico, Netherlands, New Zealand, Niger, Norway, Rwanda, Samoa, Senegal, Slovenia, Spain, Switzerland, United Kingdom, Zambia. Source: List of disinvestment policies by country published by PAX. <http://www.stopexplosiveinvestments.org/campaign-toolkit>

<sup>3</sup> Belgium, Ireland, Italy, Liechtenstein, Luxembourg, Netherlands, New Zealand, Samoa, Spain, Switzerland. Source: List of disinvestment policies by country published by PAX