

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

Distinguished Delegates,

1. The catastrophic humanitarian consequences of nuclear weapons cannot be controlled in time or space. The only way to prevent the use of nuclear weapons is through their total elimination combined with a legally binding obligation that they will never be produced again.
2. Development, production, manufacture, and any other forms of acquisition of a nuclear weapon or other nuclear explosive device are prohibited under Article 1(1)(a) of the TPNW. The Treaty also prohibits its members, or anyone in their jurisdiction, to assist in any way with, *inter alia*, the development, production, manufacturing or stockpiling of nuclear weapons or other nuclear explosive devices in article 1 (1) (e).
3. The prohibition on development, production, manufacturing and acquisition also covers key components. It is widely accepted that the missile, rocket, or other munition, including both the container and any means of propulsion, are key components in a nuclear weapon. Many of these are designed specifically for nuclear weapon use.

Financing is “Assistance”

4. It would be illogical to prohibit the production of nuclear weapons without prohibiting the financing that enables the production to proceed. Financing gives life to the production process. The treaty’s prohibition with assistance on banned acts means it is also against the treaty to authorize investment of public or private funds in the development, production, manufacturing or stockpiling of nuclear weapons or other nuclear explosive devices.



5. Similar treaties have been interpreted to include financial assistance as prohibited conduct. In treaties with language similar to the TPNW, assistance has been understood or interpreted to definitively include financial assistance. The Convention on Chemical Weapons uses the same language as the TPNW does in its assistance provision. Article 1(1)(d) states that “Each State Party to this Convention undertakes never under any circumstances [t]o assist, encourage or induce, in any way, anyone to engage in any activity prohibited to a State Party under this Convention.” In the Oxford Public International Law commentary on the Chemical Weapons Convention, assistance is understood to include the provision “through financial resources.... to anyone who is resolved to engage in such prohibited activity.” [1]

6. The Convention on Cluster Munitions also uses the same language on assistance [2].

Existing norms

7. Our institutions regularly engage on a number of sustainability issues. Our roles have included such acts as encouraging our business partners to publicly commit to action in support of the Paris Agreement, to respect human rights in accordance with the UN Guiding Principles on Business and Human Rights, and to respect the OECD Guidelines for Multinational Enterprises, among others.

8. The UN Guiding Principles on Business and Human Rights provide a mandate to “*Seek to prevent or mitigate adverse human rights impacts that are directly linked to their operations, products or services by their business relationships, even if they have not contributed to those impacts.*” [3]

9. Similarly, the OECD Guidelines for Multinational Enterprises acknowledge and encourage the positive contributions that business can make to economic, environmental and social progress [4]. The Guidelines recommend that businesses carry out risk-based due diligence to avoid and



address potential negative impacts associated with their operations, their supply chains and other business relationships.

10. The human rights risks associated with nuclear weapons are severe and irremediable, and the companies producing key components for nuclear arsenals are contributing to these human rights risks.

11. Additionally, the UN Principles for Responsible Investment encourages institutions to consider Environmental, Social and Governance (ESG) issues into investment analysis and decision-making processes, and these are increasingly codified. There are almost 400 different policy instruments around the world which encourage or require investors to consider long-term value drivers, including factors related to ESG issues. [6]

Financing policies

12. Finally, the example of Financial Action Task Force (FATF) Proliferation Financing Controls show how important non-proliferation norms can be extended to cover non-state actors [5]. As Roelof Jan Manschot of the Center for International Legal Cooperation explains in his 2007 book chapter on “Prosecuting Violations of Non-Proliferation Legislation,” a country’s ratification of the Nuclear Non-Proliferation treaty “means that its international obligations become part of domestic law and thus apply to individuals and other non-state actors of that state” [7]. In the context of the TPNW, the expectations should be the same, because the stakes of nuclear investments are just as high as those of nuclear proliferation.

13. States bear the responsibility for the full implementation of the treaty and its articles, and for ensuring that all those operating within their jurisdiction adhere to the standards set forth.

Financial sector actors, including banks, asset managers, pension funds and investment advisors



often operate across numerous jurisdictions, and benefit from clear guidance from States.

Businesses are much more likely to accept directives from the State if they consider that the State is leading by example and ensuring that the entities closest to it, if not directly associated with it, respect the obligations under the treaty, including by guiding central banks and sovereign wealth funds to adhere to all treaty aspects.

14. Our institutions recognise the importance of both financial and nonfinancial analyses in our investment decision making. We weigh a number of regulatory and reputational risks and assess their materiality to our portfolios.

Conclusion

15. We encourage TPNW members to require that State-owned enterprises fully integrate the TPNW prohibition on all forms of assistance throughout their operations, as role models, and we encourage states-parties to incorporate best practices from the FATF Proliferation Financing Controls and ensure that obligations under the treaty are extended to both state and non-state (including private sector) actors within their jurisdiction.

Thank you

ICAN and Etica Funds – Responsible Investments



[This statement, compiled by ICAN with the support of Etica Funds – Responsible Investments, is signed by 37 investors, including asset owners, asset managers and investor alliances representing circa EUR 230 billion in assets under management]

Alternative Bank Switzerland (ABS)	KLP
Australian Ethical Investment	KPA Pension
Azzad Asset Management	Niederosterreichische Vorsorgekasse AG
Bank fur Kirche und Caritas eG	Pensioenfonds Rail & Openbaar Vervoer (Rail & OV)
Change Finance, PBC	Seva Foundation
Cruelty Free Super	Seventh Generation Interfaith Coalition for Responsible Investment
Cultura Bank	SfC - Shareholders for Change
Domini Impact Investments	Sisters of Bon Secours USA
Dominican Sisters	Sisters of Mary Reparatrix
Dominican Sisters ~ Grand Rapids	Sisters of St. Francis of Philadelphia
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