

Forum

Switzerland, Nuclear Disarmament and the Origins of the Ban Treaty¹



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Abstract

En juin 2018, près d'un an après l'adoption par une conférence de l'ONU du texte du Traité sur l'interdiction des armes nucléaires (TIAN), la Suisse a publié un rapport intergouvernemental qui déconseillait une adhésion immédiate et recommandait une nouvelle réévaluation. Sur la base de ce rapport, le Conseil fédéral a décidé de ne pas signer le traité pour le moment et s'est engagé à revoir sa posi-

tion après la dixième Conférence d'examen des Parties au Traité sur la non-prolifération des armes nucléaires (TNP), qui a eu lieu en août 2022. En novembre 2023, le Conseil fédéral n'a pas encore annoncé de mise à jour de sa position. Qu'il décide de signer ou de retarder encore la signature, ce retard révèle les difficultés à concilier plusieurs priorités de politique étrangère et de sécurité.

Keywords Switzerland; Treaty on the Prohibition of Nuclear Weapons (TPNW); United Nations Organization (UN); International Committee of the Red Cross (ICRC); nuclear disarmament



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In June 2018, nearly one year after a UN Conference adopted the text of the Treaty on the Prohibition of Nuclear Weapons (TPNW, or nuclear ban treaty), Switzerland published an intergovernmental report that advised against immediate accession and recommended a further re-evaluation. Based on this report, the Federal Council decided against signing the treaty for the time being and committed to review its position following the Tenth Review Conference of the Parties to the Treaty on the Non-Proliferation of Nuclear Weapons (NPT), which took place in August 2022. As of November 2023, the Federal Council has not yet announced an update on its position. Whether it decides to sign or delay signature further, the delay reveals the difficulties of reconciling several foreign and security policy priorities.¹ A look back at Switzerland's relationship with the TPNW and the humanitarian initiative that preceded it helps to explain why treaty accession is not as straightforward as it seems.

Instigating Change

Switzerland started to build the interest and capacity for taking a more active role on nuclear disarmament issues in 2008, with the forming of an interdepartmental working group focused on defining areas for action in the nuclear disarmament field.² The impetus for further engagement in the nuclear disarmament field was spearheaded by a first speech by the then-president of the International Committee of the Red Cross (ICRC) Jakob Kellenberger to the Geneva diplomatic corps in 2010 in which he called for a legally binding treaty to prohibit and eliminate nuclear weapons.³ Only a few weeks after, the then-Head of the Federal Department of Foreign Affairs (FDFA), Micheline Calmy-Rey, in her opening address at the 2010 NPT Review Conference, called nuclear weapons unusable, immoral and illegal (“inutilisable, immorale et illégale” in French).⁴ She proceeded to describe them as weapons of extermination that violate all fundamental principles and rule of international humanitarian law and that must be outlawed through a new convention. Such language reflected a much stronger stance on disarmament than was previously the case. Prior statements emphasized disarmament but tended more toward ensuring the full implementation of past

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commitments, universality, and strengthening of the treaty in a spirit of compromise.⁵

Building on this speech, the Swiss delegation pushed effectively for the inclusion of language referencing the humanitarian consequences of nuclear use and compliance with international humanitarian law. The final document of the 2010 NPT Review Conference states that “The Conference expresses its deep concern at the catastrophic humanitarian consequences of any use of nuclear weapons and reaffirms the need for all States at all times to comply with applicable international law, including international humanitarian law.”⁶ This sentence, agreed on by all parties to the NPT including nuclear weapon states, was one of the catalysts of a 7-year long process that eventually led to the negotiation and adoption of the TPNW in 2017 and its entry into force in 2021.

This process and Switzerland's involvement in it, as well as its assessment of the TPNW over the last five years, deserves further attention in order to understand Switzerland's careful position toward the treaty to this day despite being one of its early instigators.

Gaining (Too Much?) Steam

Using the accepted humanitarian language as a basis, Switzerland coordinated a cross regional humanitarian statement at various multilateral forums starting at the 2012 NPT Preparatory Committee. The statement highlighted the grave humanitarian consequences and legal issues nuclear weapon use would pose.⁷ By the 2015 NPT Review Conference, the statement had reached 159 signatures and became a rallying point for states pushing for further action on nuclear disarmament.

In parallel, the so-called Humanitarian Initiative also gained ground and involved a separate forum where the humanitarian implications of nuclear weapons were front and center. Switzerland participated in the three international conferences that took place in 2013 and 2014 in Oslo, Nayarit (Mexico), and Vienna where it noted an additional legally binding instrument (or instruments) would be necessary to ensure the complete elimination of nuclear weapons but also highlighted the need to include all nuclear weapon states in such a debate. With the latter two conferences edging toward the idea of ban treaty negotiations, which neither nuclear possessor states nor nuclear umbrella states supported, Switzerland began to recalibrate its expectations of what such a treaty could achieve without the involvement those states. It distanced itself from the most ardent supporters of a ban treaty, by not signing the Humanitarian Pledge at the 2014 Vienna Conference for instance.

Switzerland still pursued efforts to obtain concrete commitments on disarmament within the NPT framework by supporting a joint working paper with 12 recommendations for how states could address the humanitarian impact of nuclear weapons during the 2015 NPT Review

Conference.⁸ The failure of the 2015 NPT Review Conference to reach a final consensus document,⁹ however, led to a strengthening of support for nuclear disarmament negotiations and a further distancing by Switzerland from ban treaty advocates. An open-ended working group was established through a UN General Assembly resolution shortly thereafter to explore how to develop legal measures. The working group's final report included a recommendation to start negotiations in 2017 on a legally binding instrument to ban nuclear weapons. Switzerland abstained in the vote over the final report and also abstained in the following UN General Assembly vote on "Taking forward multilateral disarmament negotiations", which set up the 2017 conference on the ban treaty negotiations. In its explanation of vote, it noted the need for a prohibition treaty to complement existing agreements, to take both disarmament and broader security policy considerations into account, and to try to include states skeptical of such a treaty in the process.¹⁰

In March, June, and July 2017, 124 states, including Switzerland, took part in the negotiation of the TPNW. While Switzerland ultimately voted in favor of the adoption of the treaty, it raised a number of concerns throughout the negotiation process as well as in its explanation of vote.¹¹ In particular, the Swiss delegation noted the importance of a verification regime, strict safeguards under the International Atomic Energy Agency (IAEA), and complementarity with the NPT and other existing norms and agreements.¹² During the negotiation process, Switzerland and Sweden became known as the "skeptically constructive states".¹³ Their approach aspired to making the final text one that could eventually include the participation of nuclear umbrella states. Both were also cautious of the treaty's effects on military cooperation with nuclear weapon and/or nuclear umbrella states.

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Switzerland's initial concerns were further outlined in its 2018 TPNW report. These include treaty proponents' declared stigmatization agenda of denouncing and discrediting

nuclear weapon states, which is described as going against “the Swiss approach of building bridges”. The intergovernmental report also noted the TPNW’s limited effects without the participation of nuclear weapon states and their allies and delved deeper on the treaty’s potential effects for Swiss security and defense policy. These included possible restrictions – politically motivated rather than legally binding – on cooperation with NATO and bilateral military cooperation with Germany, France and Italy, all NATO allies. In case of an armed attack, TPNW membership would affect Switzerland’s scope of action and remove the option of “explicitly placing itself under a nuclear umbrella”. Despite pressure from Parliament to sign the treaty as early as December 2017, the Federal Council decided to defer accession and re-evaluate its position at a later stage. This would be based on how the TPNW, once entered into force, clarifies certain provisions notably regarding its relationship with the NPT and verification provisions. Switzerland initiated a new review process following the 2022 NPT Review Conference and First Meeting of States Parties to the TPNW but postponed any decision until after the 2023 federal elections and, most likely, the start of 2024.

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Diverging Opinions and Political Priorities

Switzerland’s wait-and-see approach toward signing the TPNW is unlike that of any other state given its geopolitical status and security requirements as a neutral country surrounded by NATO partners, its bridge-building approach, its involvement in the treaty’s early history, and its humanitarian tradition, closely linked to Geneva and disarmament achievements. Public debates on the topic have generally emphasized the latter – Switzerland’s humanitarian tradition – and tended to be in favor of accession.¹⁴ Representatives from organizations such as the ICRC and the International Campaign to Abolish Nuclear Weapons (ICAN) whose headquarters are based in Geneva have regularly called on Switzerland to sign the

treaty.¹⁵ Prominent Swiss public figures, including Kellenberger and Calmy-Rey, as well as Swiss former ambassadors, current mayors, and civil society leaders all joined an ICAN-initiative in late October 2022 calling on the Federal Council to accede to the TPNW.¹⁶ In November 2023, ICAN further announced it would develop a popular initiative to be examined by the Federal Chancellery in early 2024.¹⁷

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Yet, in the wake of Russia’s full-scale invasion of Ukraine in February 2022, the potential security and military cooperation implications of TPNW accession gained further prominence in public debates, notably, whether or not these would impact cooperation with NATO. As Switzerland examines avenues for intensifying security cooperation in an intensely politicized domestic debate, it was also criticized by NATO states due to its ban on the re-export of Swiss war material to Ukraine. In this context, support for a treaty that denounces nuclear deterrence policy on which NATO relies and whose salience has increased given Russian acts of aggression would seem like an aggravating factor.¹⁸ In a notable turn of events, members of the Swiss People’s Party, which traditionally opposes Swiss accession to international treaties and the broader applicability of international law, argued in favor of the TPNW for the sole purpose of impeding closer cooperation with NATO.¹⁹

Beyond the TPNW

Despite domestic debates regarding TPNW accession, Switzerland has mostly benefitted from sitting on the fence over the last few years. A decision either way will enable closer cooperation with some states rather than others, while in the meantime Switzerland can participate in most discussions without being considered as either a TPNW state party or an ally of nuclear weapon states. Yet, a wait-and-see approach is not a viable long-term option. Some



parliamentarians and civil society groups are growing impatient – reflected in the recently announced project for a popular initiative – as are partner states for whom it will eventually become difficult to understand where Switzerland chooses to position itself in the TPNW debate. Excessive focus on this treaty also draws attention and resources away from other activities and initiatives Switzerland has and wants to undertake in the arms control, non-proliferation, and disarmament field.

The 2018 review gave the Federal Council several years before reassessing the question of accession but also required Switzerland to find new ways to pursue disarmament measures in a significantly more polarized environment. It joined the 2019 Stockholm Initiative for Nuclear Disarmament, a cross-regional grouping of initially 16 countries that worked to find ways to strengthen the NPT and achieve a realistic outcome with a focus on disarmament for the NPT Review Conference that was initially scheduled for 2020. Throughout the covid-19 pandemic, Switzerland participated in meetings of the Stockholm Initiative and contributed to its activities establishing a stepping stones approach to disarmament. Switzerland even took the lead in coordinating a nuclear risk reduction package, which gained further support beyond the Stockholm Initiative.²⁰ Despite conflicting understandings of what nuclear risk reduction entails, the term became synonymous in the lead up to the 2022 NPT Review Conference as a means to achieve some progress in exceedingly deadlocked frameworks and in the absence of any new treaty further constraining the arsenals of the nuclear weapon states.²¹ Further progress on pushing forward nuclear risk reduction seems difficult, however, seeing as some nuclear weapon states contest the framing and many TPNW states parties view it as a distraction from concrete disarmament measures. Following Russia's full-scale invasion of Ukraine, cross-regional initiatives have also become more difficult to coordinate given differences in how to address the war and its nuclear consequences permeating most discussions.

Outlook

Since 2017, Switzerland has grappled with some of the contradictions inherent with having been a key state at the source of the Humanitarian Initiative that led to the TPNW while also questioning parts of the process and resulting agreement. The TPNW lays

bare some of the difficult compromises between Swiss foreign policy ambitions and security policy requirements. Russia's war in Ukraine has strengthened the polarization of arguments on both sides. Yet, as the public debate over the last several years has shown, the signing of the TPNW has come to crystallize a number of issues in the Swiss political context beyond the treaty's ambition. In particular, TPNW-accession would indicate how Switzerland seeks to position itself in the mid- to long-term in terms of diplomatic, security, and defense cooperation with some of its closest neighbors in Europe, which remains a sensitive political issue.

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The announced popular initiative will likely serve as a conduit for further public discussion on the issue. It may serve as a form of pressure in the event of a further delay and could eventually force the government's hand if successful, but the entire process would still require at least a few years. When the Federal Council eventually comes to a decision on TPNW accession, it will at least provide some clearer direction for Swiss diplomatic efforts within the NPT regime and beyond. Given the end of the Stockholm Initiative and the difficulty to push further the nuclear risk reduction agenda for now, new objectives are needed either way. Swiss efforts over the last 15 years to carve out a space on nuclear disarmament issues while seeking to address the intense polarization debates on nuclear disarmament generate are reflective of the bridge-builder approach that many states claim to have but few are able to pursue. Should Switzerland eventually decide to sign the TPNW, finding ways to preserve such a bridge-building approach will be essential. ♦

Notes

- 1 This article is adapted from chapter “Die Rüstungskontroll-, Abrüstungs- und Nichtverbreitungspolitik der Schweiz in Zeiten des Umbruchs” that will feature in: Fabien Merz und Oliver Thränert (eds), *Bulletin 2023 zur schweizerischen Sicherheitspolitik*, Center for Security Studies (CSS), ETH Zürich, December 2023.
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- 5 See for instance: Peter Maurer, Statement to the 2005 Review Conference of the NPT, 03.05.2005; Jürg Streuli, Statement to the 3rd Session of the Preparatory Committee of the 2010 Review Conference of the NPT, 04.05.2009.
- 6 2010 Review Conference of the Parties to the NPT, Final Document Volume I, New York, 2010, p.12.
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