



## ADVANCING ARTICLES 6 AND 7 OF THE TPNW: IMPLEMENTATION, REPORTING, AND A TRUST FUND

October 2023

States parties should make addressing the consequences of nuclear weapons a priority in order to achieve the humanitarian purpose of the Treaty on the Prohibition of Nuclear Weapons (TPNW). The Vienna Action Plan, adopted at the First Meeting of States Parties (1MSP) in June 2022, recognized the importance of victim assistance, environmental remediation, and international cooperation and assistance. It dedicated a series of actions to implementing Articles 6 and 7 of the treaty in an “effective and timely” manner.

As co-chairs of the intersessional informal working group for the implementation of Articles 6 and 7, Kazakhstan and Kiribati focused on three areas drawn from these actions: national implementation, voluntary state reporting, and an international trust fund. Their report to the Second Meeting of States Parties (2MSP) offers recommendations in the same three areas.

Harvard Law School’s International Human Rights Clinic (IHRC) has explored each of these topics through in-depth publications that analyze relevant precedent in disarmament and other bodies of international law and offer recommendations for implementation in the nuclear weapons context. This fact sheet offers an overview of IHRC’s findings of steps states parties should take before, during, and after the 2MSP.

### **IHRC Recommendations**

In advance of the 2MSP, IHRC recommends that state parties:

- Endorse the recommendations contained in the report of the co-chairs of the informal working group on Articles 6 and 7;
- Engage in national implementation measures in accordance with their commitments under the Vienna Action Plan, beginning by completing initial assessments and developing national plans for implementing their victim assistance and environmental remediation obligations and sharing their progress at the 2MSP;
- Adopt and begin using the voluntary reporting guidelines and format contained in the co-chairs' report at the 2MSP in line with states parties' commitments under the Vienna Action Plan to (i) develop reporting guidelines, and (ii) consider developing a voluntary and non-burdensome reporting format; and
- Agree to engage in focused discussions on an international trust fund for victim assistance and environmental remediation, with the goal of adopting guidelines for establishing an international trust fund at the Third Meeting of State Parties (3MSP).

### **Resources**

- IHRC, [\*Confronting Conflict Pollution: Principles for Assisting Victims of Toxic Remnants of War\*](#) (September 2020) (with Conflict and Environment Observatory)
- IHRC, [\*Facing Fallout: Principles for Environmental Remediation of Nuclear Weapons Contamination\*](#) (June 2022) (with Conflict and Environment Observatory)
- IHRC, [\*Designing a Trust Fund for the Treaty on the Prohibition of Nuclear Weapons: Precedent and Proposals\*](#) (January 2023)
- IHRC, [\*Reporting Guidelines for Articles 6 and 7 of the Treaty on the Prohibition of Nuclear Weapons: Precedent and Recommendations\*](#) (May 2023)
- Website: ICAN, [\*“Article 6 and 7 Informal Working Group Resources”\*](#)

## NATIONAL IMPLEMENTATION MEASURES

### **Mandate and Value of National Implementation Measures**

In the Vienna Action Plan, states parties resolved to take national-level steps toward implementation of the TPNW's obligations. With regard to Articles 6 and 7, they agreed, among other actions, to assess the effects of nuclear weapons use and testing and to establish a framework for addressing the harm. They also committed to upholding certain principles, notably accessibility, inclusivity, non-discrimination, and transparency, as they engage in victim assistance, environmental remediation, and international cooperation and assistance (Action 25). Collectively, such measures are essential for operationalizing states parties' obligations under the TPNW and realizing the humanitarian potential of the treaty.

### **Recommendations to Affected States Parties**

To advance victim assistance and environmental remediation, affected states parties should:

- **Complete an initial assessment by the 2MSP (Action 30).** IHRC recommends that each affected state party include information on:
  - The impact of nuclear weapons use or testing in their territory;
  - The state's current and planned response;
  - Further data that should be collected; and
  - Research and data collection methodologies used.
- **Complete a more in-depth assessment (Action 30).** While the Vienna Action Plan does not provide a deadline for completion, IHRC recommends that each affected state party do the following and share their progress at 3MSP:
  - Assess victims' needs and environmental contamination; and
  - Evaluate national capacity to address these effects.
- **Develop a national plan and share progress with the 2MSP (Action 31).** National plans should continue to evolve as assessments progress. IHRC recommends that national plans include:
  - A budget;
  - A detailed timeline for implementation;
  - A clear delegation of responsibilities; and
  - Consideration of integrating plans into existing frameworks to increase efficiency.

### **Recommendations to All States Parties**

To advance victim assistance and environmental remediation, all states parties should:

- **Adopt and implement relevant national laws and policies on Articles 6 and 7 (Action 22).**
- **Provide, if in a position to do so, technical, material, and/or financial assistance to states parties with a demonstrated need for external support (Action 32).**

Nearly all states parties should be able to contribute given the wide range of types of assistance needed. In the TPNW's early stages, technical assistance with developing national plans is particularly important (Action 31). All states parties should consider making public any information about the impacts of nuclear weapons use or testing.
- **Establish national focal points for Articles 6 and 7 (Action 21),** if they have not already done so.

## REPORTING

### Mandate and Value of Reporting

The Vienna Action Plan recognizes the value of reporting, noting the “importance of information exchange for the implementation of articles 6 and 7.” In response, state parties resolved to:

- **Develop voluntary reporting guidelines (Action 27);**
- **Consider developing “a voluntary and a non-burdensome” reporting format by the 2MSP, “taking into account best practices for reporting under other disarmament treaties” (Action 28); and**
- **Implement Articles 6 and 7 in accordance with the principles of “accessibility, inclusivity, non-discrimination and transparency and in coordination with affected communities” (Action 25).**

Regular reporting by states parties on the status of treaty implementation can:

- **Provide transparency**, which promotes monitoring and accountability;
- **Lead to the exchange of information and expertise**, which can improve efforts to assist victims and remediate the environment; and
- **Identify the needs of affected states parties**, which can facilitate the provision of international cooperation and assistance.

### Recommendations to All States Parties

IHRC urges states parties to **adopt and begin using the proposed voluntary reporting guidelines and voluntary reporting format while allowing for ongoing review and refinement over time.** Therefore, IHRC encourages states parties to support the recommendations contained in the report of the co-chairs of the informal working group on victim assistance, environmental remediation, and international cooperation and assistance. The guidelines and format are generally consistent with IHRC recommended guidelines for Article 6 and 7 reporting, which were drawn from the precedent of other disarmament treaties. State parties should report on:

- Data on victims affected by, and areas contaminated by, nuclear weapons use and testing, the methods for gathering and the comprehensiveness of such data, and the criteria used to classify individuals as victims and areas as contaminated;
- Development and implementation of frameworks for victim assistance and environmental remediation, including national plans, laws and policies, and focal points;
- Status and progress of victim assistance and environmental remediation measures;
- Efforts to include affected individuals and communities, including Indigenous Peoples, in the planning, implementation, monitoring, and evaluation of victim assistance, environmental remediation measures, and international cooperation and assistance; and
- Details of assistance provided to or received from other states parties for victim assistance and environmental remediation, as well as the details of any assistance requested.

IHRC further recommends that states parties file an initial report covering the state party’s existing knowledge when the treaty has entered into force for the state party, followed every two years by reports with updated information, all made publicly available and submitted under clearly established deadlines.

## INTERNATIONAL TRUST FUND

### **Mandate and Value of a Trust Fund**

In the Vienna Action Plan, states parties resolved to “discuss the feasibility of, and propose possible guidelines for, establishing an international trust fund” (Action 29) to support victim assistance and environmental remediation efforts. Establishing a trust fund under the TPNW would help advance the humanitarian goals of assisting victims and remediating the environment. It would also be one way for states parties to comply with Article 7, which stipulates that states parties “in a position to do so” should provide affected states parties with technical, material, or financial assistance.

### **Recommendations to All States Parties**

In the report of the intersessional working group for the implementation of Article 6 and 7, co-chairs Kazakhstan and Kiribati have recommended **focused discussions** on the feasibility of and guidelines for a voluntary trust fund in the period leading up to the 3MSP. IHRC supports that recommendation and urges states parties to **aim for adopting guidelines for establishing an international trust fund at the 3MSP**.

Having concluded an in-depth analysis of ten existing international trust funds, IHRC makes the following recommendations for the design of a TPNW trust fund, which draw on precedent and adapt it as necessary to the nuclear weapons context.

- **Contributions:** To maximize the humanitarian impact of the TPNW, the treaty’s trust fund should encourage donations from states parties, other states, international organizations, nongovernmental organizations, the private sector, and individuals.
- **Decision-making:** Distribution decisions for the TPNW trust fund should be made by a diverse board of trustees, or other committee, comprised of representatives of states parties, representatives of affected communities, and independent experts. The body should be geographically and gender diverse.
- **Grant Recipients:** The fund’s decision-making body could choose to prioritize assistance to states parties and organizations with projects in states parties and consider extending access to the fund over time to more beneficiaries.
- **Projects:** Grants should fund the following types of projects:
  - *Capacity building projects:* Grants in this area could, for example, facilitate the development of national plans; training on relevant topics; and the provision of victim assistance or environmental remediation equipment.
  - *Victim assistance projects:* Grants could fund programs for victims that, inter alia, improve health care, create employment opportunities, provide access to education, or promote the recognition and implementation of cultural rights.
  - *Environmental remediation projects:* Grants could fund projects that support different stages of environmental remediation. Supporting risk education and measures to prevent exposure, such as marking and fencing and posting of warnings, is also important.
- **Accountability:** The TPNW trust fund should require grantees and trust fund managers to submit regular, publicly accessible reports regarding the use and allocation of funds, respectively.