Compliance with the Treaty on the Non-Proliferation of Nuclear Weapons: The United Kingdom

July 2022

Introduction

This Briefing Paper summarises compliance by the United Kingdom with the 1968 Treaty on the Non-Proliferation of Nuclear Weapons (NPT), identifying several instances of violation of the Treaty’s provisions. Specifically, the United Kingdom has failed to comply with its international legal obligations to pursue negotiations in good faith to end the nuclear arms race and to negotiate in good faith for nuclear disarmament.

Status as Nuclear-Weapon State under the NPT

Under Article IX(3) of the NPT, a nuclear-weapon State is one which has manufactured and exploded a nuclear weapon or other nuclear explosive device prior to 1 January 1967. The first British test detonation of a nuclear explosive device was on 3 October 1952 at the Monte Bello Islands, 70 kilometres off the Western Australian coast. The United Kingdom conducted a further 44 test detonations, more than half of which were carried out jointly with the United States at the Nevada Test Site. The United Kingdom conducted its last nuclear test on 26 November 1991.

In accordance with Article IX(2) of the NPT, the United Kingdom is one of the three Depositary States of the Treaty. It signed the Treaty on 1 July 1968 and ratified it on 27 November 1968. As of mid-2022, the United Kingdom possessed the fifth largest arsenal of nuclear weapons with a total of 225 nuclear warheads of which 120 are on active deployment in its nuclear-powered submarine force. In March 2021, however, it announced it might significantly

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increase its nuclear arsenal by as many as 35 warheads, potentially its largest and swiftest increase since the 1960s, said to be in response to the “evolving security environment”.

Prohibition on Assisting Non-Nuclear-Weapon States to Acquire Nuclear Weapons

Under Article I of the NPT, each nuclear-weapon State Party to the Treaty undertakes not to assist, encourage, or induce any non-nuclear-weapon State to manufacture or otherwise acquire nuclear weapons or other nuclear explosive devices. The notion of assistance is broad in scope. Furthermore, Article III(2) obligates every State Party not to provide to any non-nuclear-weapon State source or special fissionable material or related equipment or material unless they are subject to the requisite Comprehensive Safeguards with the International Atomic Energy Agency (IAEA).

Compliant

The United Kingdom is not believed to have assisted any non-nuclear-weapon State to manufacture or otherwise acquire nuclear weapons.

Prohibition on Transferring Nuclear Weapons to Any Recipient

Under Article I of the NPT, each nuclear-weapon State Party to the Treaty undertakes not to transfer to any recipient whatsoever nuclear weapons or other nuclear explosive devices. This is a very broad prohibition that renders illegal the transfer of such devices, not only to non-nuclear-weapon States but to any State or other entity. At the 2010 Review Conference of the NPT, the five nuclear-weapon States formally “reaffirmed their commitment not to transfer to any recipient whatsoever nuclear weapons or other nuclear explosive devices”.

Compliant

The United Kingdom is not believed to have not transferred nuclear weapons to another State, but it has leased nuclear-capable Trident II missiles from the United States since the 1980s. It is now planning to upgrade its nuclear forces with new nuclear-powered submarines and new nuclear warheads. The authorisation to build a new generation of submarines for its nuclear deterrent was granted by a decision of the UK parliament in 2016. The Dreadnought Class submarines being constructed under the Successor programme will replace the current

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four Vanguard Class submarines. They are expected to enter into force in the 2030s and remain in service for decades.\(^9\)

In August 2020, it was reported that the UK Secretary of State for Defence, Ben Wallace, had written a letter to the US Congress urging its members to support spending on a new W93 warhead. The letter stated: “Congressional funding in [2021] for the W93 program will ensure that we continue to deepen the unique nuclear relationship between our two countries, enabling the United Kingdom to provide safe and assured continuous-at-sea deterrence for decades to come.”\(^10\) In the UK Parliament, however, the Secretary of State for Defence confirmed that each nuclear-weapon State to the NPT must develop its own nuclear weapons. Mr Wallace stated: “For clarity, the United Kingdom does not buy warheads from other countries. Under the nuclear proliferation treaty, warheads have to be developed within that very country itself.”\(^11\)

The statements to US Congress and the UK Parliament appear to be inconsistent with each other. Indeed, two defence experts have stated: “In the case of the W93, Secretary of State for Defence Ben Wallace’s lobbying of US Congressional committee members over approvals for the first stages of the W93 warhead gives a clear indication of the degree of UK dependence on that programme.”\(^12\)

**Duty to Negotiate in Good Faith to End the Nuclear Arms Race**

The first obligation in Article VI of the NPT obligates every State Party to the Treaty to “pursue negotiations in good faith on effective measures relating to cessation of the nuclear arms race at an early date”. A good faith interpretation of Article VI is that no nuclear-weapon State may seek to provoke or act to cause a new nuclear arms race.

**Not Compliant**

The action of the United Kingdom that it might significantly increase its nuclear arsenal was roundly criticised for being a violation of the NPT. Mary Robinson, formerly the UN High Commissioner for Human Rights, stated: “The announcement today by the UK Government of its intention to increase by over 40% the cap on its nuclear warhead numbers is surprising and deeply alarming. This would be incompatible with the UK’s international obligations to pursue disarmament under the Non-Proliferation Treaty (NPT), and risks contributing to a dangerous new nuclear arms race. It also risks undermining the NPT Review Conference”.\(^13\) The UK’s action was even criticised by close military allies. Thus, the Minister of Foreign Affairs of Germany, Heiko Maas, stated, “The past has shown that if one side has more

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nuclear weapons, the other side will try to catch up. And that is the disastrous arms race we have been in for decades."\textsuperscript{14}

The 2010 Review Conference of the NPT did not address the issue of a new nuclear arms race. No final document was issued at the 2015 Review Conference. The 2022 Review Conference—the Tenth of the Treaty—must address compliance with the obligation by the nuclear-weapon States head on. The United Kingdom has signed and ratified the 1996 Comprehensive Nuclear-Test-Ban Treaty (CTBT). It is one of the Annex 2 States whose ratification is necessary in order to bring the CTBT into force. In a joint statement on 15 September 2016, the five NPT nuclear-weapon States declared: "a nuclear-weapon test explosion or any other nuclear explosion would defeat the object and purpose of the CTBT".\textsuperscript{15}

Duty to Negotiate in Good Faith for Nuclear Disarmament

The second obligation in Article VI of the NPT obligates every State Party to the Treaty to "pursue negotiations in good faith on effective measures relating to ... nuclear disarmament". In the common statement to the Ninth Review Conference of the NPT by the five permanent members of the UN Security Council, these five nuclear-weapon States asserted that there had been "very substantial progress on Article VI. The Cold War nuclear arms race has ended. Global stocks of nuclear weapons are at their lowest point in over half a century as the result of unprecedented efforts on the part of the nuclear-weapon States".\textsuperscript{16} Today, none of these three assertions is correct.

Not Compliant

The 2015 statement already acknowledged the “need to pursue further efforts in the sphere of nuclear disarmament in accordance with Article VI of the NPT".\textsuperscript{17} But in their common statement, the five nuclear-weapon States declared that: “We continue to believe that an incremental, step-by-step approach is the only practical option for making progress towards nuclear disarmament, while upholding global strategic security and stability.”\textsuperscript{18}

BAE Systems, based in the United Kingdom, is a major contributor to vertical nuclear proliferation. The company produces key components for the French, UK, and US nuclear arsenals. In the financial year ending 31 December 2020, BAE Systems reported revenues of £19.3 billion (some US$26 billion) and an operating profit of almost £2 billion (some US$2.7 billion).\textsuperscript{19}

\textsuperscript{14}"Germany’s Heiko Maas Criticizes UK Plans to Expand Nuclear Arsenal", \textit{Deutsche Welle}, 18 March 2021.
\textsuperscript{15}Statement issued jointly by the Governments of China, France, the Russian Federation, the United Kingdom, and the United States, Media Note, Office of the Spokesperson, US Department of State, Washington, DC, 15 September 2016, at: \url{http://bit.ly/2Z56ymV}.
\textsuperscript{17}Ibid., para. 6.
\textsuperscript{18}Ibid., para. 4.
Successive UK governments have sought to sustain the argument that, as a “responsible” nuclear-weapon State and a party to the NPT, since the end of the Cold War they have been reducing the number of nuclear warheads they possess and deploy. On that basis, it asserted, the United Kingdom is in compliance with its international legal obligations under the Treaty. As recently as 2018, the United Kingdom was vaunting that it had, since 2010, reduced warheads on each submarine from 48 to 40 and the number of operational missiles on each to not more than 8. It remained, it said, committed to achieving the long-term reduction in the overall nuclear weapon stockpile. This was evidence, the Ministry of Defence stated, of the United Kingdom’s “leading role in multilateral nuclear disarmament”. Its decision to potentially increase its nuclear arsenal by as much as 40 per cent clearly violates the duty to negotiate for nuclear disarmament in good faith.

The United Kingdom voted against UN General Assembly Resolution 75/40 in December 2020 and has continued to be hostile to the TPNW. In the discussions in the First Committee of the Assembly in October 2021, France spoke on behalf of the five nuclear-weapon States, including the United Kingdom, declaring that “those States will not sign or ratify the Treaty, which fails to address key issues, ignores the international security”. In December 2021, the United Kingdom voted against the adoption of Resolution 76/34 on the TPNW, which calls upon “all States that have not yet done so to sign, ratify, accept, approve or accede to the Treaty at the earliest possible date”.

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21 UN General Assembly Resolution 76/34, adopted on 6 December 2021 by 128 votes to 42 with 16 abstentions.