BRIEFING PAPER

Compliance with the Treaty on the Non-Proliferation of Nuclear Weapons: France¹

July 2022

Introduction

This Briefing Paper summarises compliance by France with the 1968 Treaty on the Non-Proliferation of Nuclear Weapons (NPT), identifying several instances of violation of the Treaty’s provisions. Specifically, France 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 French nuclear test was in February 1960, in Algeria.² Eight years after becoming the world’s fourth nuclear-armed State, France detonated its first thermonuclear device in the Pacific.³ None of its 210 test detonations through to 1996 was on French metropolitan territory.⁴

After France ratified the Comprehensive Nuclear-Test-Ban Treaty (CTBT) in 1998, it closed its nuclear test site in the Pacific. It also ceased the production of plutonium and enriched uranium for nuclear weapons and dismantled its production facilities.³ Since the end of the Cold War, France is the only nuclear weapons power that has eliminated its fissile material production facilities.⁶

---

¹ This legal briefing paper was prepared for ICAN by Dr. Stuart Casey-Maslen, honorary professor at the University of Pretoria; Dr. Casey-Maslen holds a doctorate in the law of armed conflict and master’s degrees in international human rights law and forensic ballistics.


France acceded to the NPT only on 3 August 1992. It never adhered to the Partial Test-Ban Treaty. As of mid-2022, France possessed the world’s fourth largest arsenal of nuclear weapons with a total of 290 nuclear warheads of which 280 are deployed strategic weapons.\(^7\)

**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**

France is not believed to have assisted any non-nuclear-weapon State to manufacture or otherwise acquire nuclear weapons since the adoption of the NPT. But in exchange for Israeli participation in the Suez Crisis of 1956, France provided nuclear expertise and constructed a reactor complex for Israel at Dimona capable of large-scale plutonium production and reprocessing.\(^8\)

**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".\(^9\)

**Compliant**


France is not believed to have not transferred nuclear weapons to another State. But in 2020, it offered to European partners a strategic dialogue on the role-played by France’s nuclear deterrence to protect Europe, and also proposed to these States to participate in the exercises of French deterrence forces.10

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

In 2020, French President Emmanuel Macron called on European Union (EU) Member States to play a more direct role in halting a new nuclear arms race, saying they “cannot remain spectators” faced with the threat to the continent’s collective security. But France has not itself played a significant role in any effort to end the new arms race as Article VI demands and it is therefore not in compliance with its international legal obligations in this regard. Indeed, in 2016, MBDA France began work on developing a mid-life upgrade of the ASMPA, its medium-range air-to ground nuclear armed missile that has been operational since 2009. The upgrade is intended to ensure the missile will be viable through to 2035. Meanwhile, work is already underway for a long-term successor to the ASMPA. The hypersonic ASN4G missile is planned to be operational in 2035 with its range exceeding 1,000km – double that of the ASMPA.11

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.

France 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 that: “a nuclear-weapon test explosion or any other nuclear explosion would defeat the object and purpose of the CTBT”.12 The creation of a nuclear simulation program in 1995 raises questions about the will to respect the letter, or at least the spirit, of this treaty.

In 1974, the International Court of Justice did not issue a declaratory judgment that atmospheric nuclear tests were contrary to international law as the application of Australia and New Zealand to the Court against France's continued atmospheric nuclear testing in the Pacific by France had sought. But the Court observed that France had discontinued its atmospheric tests and held that the President of the French Republic had made a legally binding unilateral declaration to this effect “to the international community to which his words were addressed”.

In the 1980s, French agents operating in New Zealand sank the Greenpeace ship, Rainbow Warrior, hoping to stop the organisation's protests against French nuclear testing. The bombing operation on 10 July 1985 by the Direction générale de la sécurité extérieure (the French foreign intelligence service), code-named Opération Satanique, killed Fernando Pereira, a photographer on board the ship. In 1987, after sustained international pressure, France paid US$8.2 million in damages to Greenpeace and significant sums in compensation to the Pereira family.

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”.

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”. 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.”

---

16 Ibid., para. 6.
17 Ibid., para. 4.
After the end of the Cold War, French governments maintained France’s nuclear arsenal but reduced its overall nuclear weapon stockpile, eliminating its land-based intercontinental ballistic missiles (ICBMs), beginning in 1996 and the number (6 to 4) of nuclear-powered ballistic missile submarine. The last nuclear disarmament action was announced in 2008 by president Sarkozy "With respect to the airborne component, the number of nuclear weapons, missiles and aircraft will be reduced by one-third\(^{18}\) and effective in 2011.\(^{19}\) That said, France has not sought to initiate any multilateral talks on nuclear disarmament and has thus not complied with its duty to negotiate for nuclear disarmament in good faith. In its national statement to the 2015 Review Conference of the NPT, France lauded its reduction in its nuclear arsenal as "acts ... not words", with "irreversible consequences". But, it should be noted that France nuclear budget allocated for the modernization and renewal of its two nuclear components (one sea-based and the other air-based) has increased strongly these last 20 years, as his military planning law\(^{20}\) was at €17 billion for the period 2003–08, and has so far reached €37 billion for the period 2019–25. A necessary budget, as the systems created (from 2022 to 2050, like the new nuclear submarine SNLE-3G) must be used "until 2090".\(^{21}\) This statement demonstrates a clear resolve to maintain a nuclear deterrence policy. Moreover, in terms of the complete reduction of arsenals, it is important to note that France, when it dismantled\(^{22}\) the nuclear warheads of her ballistic missiles (Hades, Pluton, or the ASMP-A cruise missiles between 2008 and 2011), did not make the fissile material unusable, but kept it in its military stockpile. The notion of irreversibility, which is essential for a true nuclear disarmament process, does not exist.

France 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, declaring that “those States will not sign or ratify the Treaty, which fails to address key issues, ignores the international security and regional challenges and does not meet the highest standards of verification".\(^{23}\)

---

\(^{18}\) Nicolas Sarkozy, presentation of Le Terrible in Cherbourg, March 21, 2008


\(^{20}\) Lettre d’information parlementaire Désarmement et non-prolifération nucléaire, "Les (mé)comptes de la bombe", n°4, 2019, icanfrance.org


\(^{22}\) VERWAERDE Daniel, Audition du directeur des applications militaires au Commissariat à l’énergie atomique et aux énergies alternatives, compte rendu n° 65, Assemblée nationale, 27 mars 2013.