

Treaty on the prohibition of nuclear weapons – the 'Ban Treaty'

SUMMARY

On 7 July 2017, the United Nations (UN) conference to negotiate a legally-binding instrument to prohibit nuclear weapons adopted the Treaty on the Prohibition of Nuclear Weapons (the Ban Treaty), by 122 votes to 1, with one abstention. The treaty will come into force once 50 states have ratified it; so far it has been signed by 56 states and ratified by three. The adoption of the Ban Treaty has been hailed as historic by supporters of an initiative that has gained ground in recent years to rid the world of the most destructive weapon known to humankind. The International Campaign to Abolish Nuclear Weapons (ICAN), which spearheaded these efforts, was awarded the 2017 Nobel Peace Prize. However, opponents of the Ban Treaty argue that the conditions for disarmament do not currently exist and that promoters of the Ban Treaty fail to recognise this. They also point to weaknesses in the drafting of the treaty, and to the danger of undermining the Treaty on the Non-Proliferation of Nuclear Weapons (NPT), recognised as the cornerstone of the global non-proliferation and disarmament regime, also by proponents of the Ban Treaty. The nine states known to have military nuclear programmes did not attend the conference. Member States of the North Atlantic Treaty Organisation (NATO), which in 2016 re-confirmed a commitment to nuclear deterrence, also stayed away, with the exception of the Netherlands, which voted against the adoption of the Ban Treaty. This raises serious doubts about the impact of this new instrument and its ability to create normative values. Most EU Member States, 22 of which are members of NATO, oppose the Ban Treaty, and only five non-NATO EU Member States voted in favour. The European Parliament welcomed the convening of a conference to negotiate a legally binding instrument to prohibit nuclear weapons, noting that this would reinforce the non-proliferation and disarmament objectives and obligations contained in the NPT.

This is an updated version of an [earlier briefing](#), from January 2017.



In this briefing:

- The UN's goal of global nuclear disarmament
- The Humanitarian Initiative
- Opposition to a ban on nuclear weapons
- EU Member States' views on the Ban Treaty

The UN's goal of global nuclear disarmament

Global nuclear disarmament – in other words, a world free of nuclear weapons – is one of the [United Nations'](#) most long-standing objectives. The first ever [resolution](#) adopted by the United Nations General Assembly (UNGA) in January 1946 called for 'control of atomic energy to the extent necessary to ensure its use only for peaceful purposes' and for 'the elimination from national armaments of atomic weapons'.

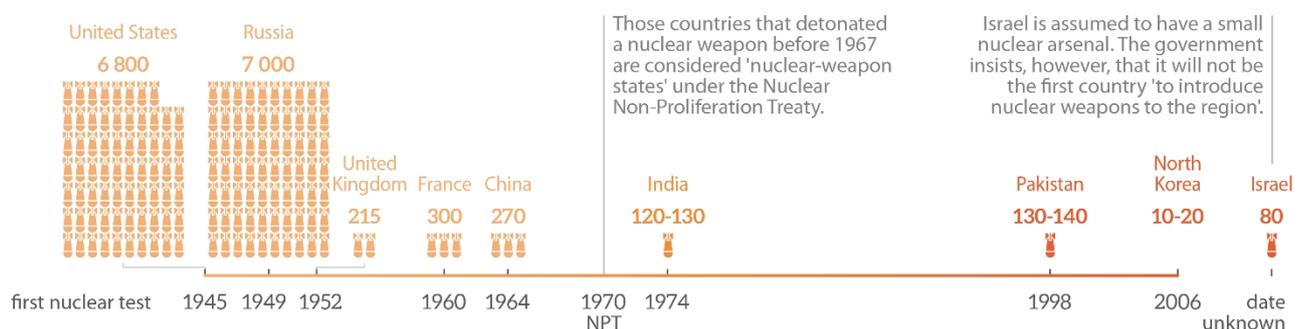
The 1970 [Treaty on the Non-Proliferation of Nuclear Weapons](#) (Non-Proliferation Treaty, NPT) is at the cornerstone of the [global non-proliferation and disarmament regime](#). It grants the five nuclear-weapon states (NWS) recognised by the NPT – China, France, the Russian Federation, the United Kingdom (UK), and the United States of America (USA) – exclusive rights to possess nuclear arsenals, but also obliges them 'to pursue negotiations in good faith on effective measures relating to cessation of the nuclear arms race ... and to nuclear disarmament' (NPT Article VI). However, non-NWS have expressed dissatisfaction at the pace of nuclear disarmament and accused the NWS of failing to specify how they would design a 'verifiable, enforceable nuclear disarmament regime' under the NPT. The NPT is reviewed every five years. Failure to [implement](#) the results of the review conferences in 2000 and 2010 has been heavily criticised, as has the failure of the 2005 and 2015 conferences to produce final documents.

The UN's global nuclear disarmament objective, first declared in 1946, has patently not been achieved. Global stocks of nuclear weapons are at [their lowest](#) in over 50 years, but there are still an estimated [14 935](#) nuclear weapons worldwide, many on high-alert status. The overall number of nuclear weapons worldwide has fallen – from a peak of 70 000 in the mid-1980s; however, all states with nuclear weapons are currently investing vast sums in [modernising](#) their nuclear arsenals and delivery systems, raising fears of a new arms race. Overall, the security environment has deteriorated. [Rivalries](#) between nuclear-armed states, including those not recognised under the NPT, at both global and regional level, have increased the possibility of nuclear weapons being used in an armed conflict. The USA has just [announced](#) its plan to loosen nuclear weapons constraints and develop more 'usable' warheads as part of its ongoing policy review. Meanwhile, [cooperation](#) between some NWS on nuclear security measures has witnessed [setbacks](#). The number of states seeking to acquire nuclear weapons is likely to grow over the coming years.

Nuclear powers

Nine states are known to have military nuclear programmes: China, France, Russia, the UK and the USA, are recognised as nuclear-weapon states (NWS) under the NPT; India, Pakistan and Israel have never signed the NPT; North Korea meanwhile left the Treaty in 2003 to develop its nuclear weapons programme.

Figure 1 – Nuclear weapons worldwide



Data source: SIPRI, January 2017. All figures are estimates.

Several UNGA resolutions from 2012 to 2015 created new momentum for nuclear disarmament efforts. In December 2012, an [open-ended working group](#) (OEWG) was set up to work on proposals to take multilateral nuclear-disarmament talks forward. The OEWG adopted a [report](#) in August 2016 recommending that a conference be held to negotiate a treaty prohibiting nuclear weapons. On [27 October 2016](#), the First Committee on Disarmament and International Security of the UN General Assembly adopted [Resolution](#) (Resolution L.41) to convene a United Nations conference to negotiate a legally binding instrument to prohibit nuclear weapons, with a view to their elimination. The conference took place from 27 to 31 March and 15 June to 7 July 2017.

The [Treaty on the Prohibition of Nuclear Weapons](#) was adopted on 7 July 2017, on the last day of the United Nations Conference to Negotiate a Legally Binding Instrument to Prohibit Nuclear Weapons, Leading Towards their Total Elimination. The treaty includes a '[comprehensive](#)' set of prohibitions on participating in any nuclear weapons activities. These include undertakings not to develop, test, produce, acquire, possess, stockpile, use or threaten to use nuclear weapons. Furthermore, the treaty also prohibits the deployment of nuclear weapons on national territory

EU and NATO membership

EU Member State	NATO member
Belgium	Y
Bulgaria	Y
Czech Republic	Y
Denmark	Y
Germany	Y
Estonia	Y
Ireland	N
Greece	Y
Spain	Y
France	Y
Croatia	Y
Italy	Y
Cyprus	N
Latvia	Y
Lithuania	Y
Luxembourg	Y
Hungary	Y
Malta	N
Netherlands	Y
Austria	N
Poland	Y
Portugal	Y
Romania	Y
Slovenia	Y
Slovakia	Y
Finland	N
Sweden	N
United Kingdom	Y

Vote on the Treaty on the prohibition of nuclear weapons, on 7 July 2017, on the final day of the UN conference to negotiate a legally-binding instrument to prohibit nuclear weapons

For – Against – Absent

and the provision of assistance to any state in the conduct of prohibited activities. The treaty also obliges states parties to offer adequate assistance to individuals 'affected by the use or testing of nuclear weapons' as well as to take 'necessary and appropriate measures of environmental remediation' in areas under their jurisdiction or control 'contaminated as a result of activities related to the testing or use of nuclear weapons'. 122 UN Member States [voted](#) in favour of the adoption of the Ban Treaty, one voted against (the Netherlands) and one abstained (Singapore). The nine states known to have military nuclear programmes did not attend the conference, hence they did not vote, as was the case for most NATO Member States, calling into question the effectiveness of the treaty. The treaty was opened for [signature](#) on 20 September 2017 and has since been signed by 56 UN Member States; only three states have ratified it so far.

The Humanitarian Initiative

The nuclear disarmament debate has been strongly influenced in recent years by the [Humanitarian Initiative](#), which brings together states and civil society representatives dissatisfied with the lack of progress in nuclear disarmament in the context of the NPT. Noting that nuclear weapons are the only weapons of mass destruction not to have been explicitly prohibited under international law, supporters of the initiative [pledged](#) to fill the 'legal gap', by calling for effective measures (a legally binding instrument) to prohibit nuclear weapons, based on international humanitarian law. On 7 December 2015, the UN General Assembly adopted [Resolution 70/48](#) on a humanitarian pledge to eliminate nuclear weapons. [Advocates](#) of the total elimination of nuclear arms believe a comprehensive ban is the only way to avoid the potentially catastrophic [humanitarian consequences](#) of a nuclear weapon explosion, which 'would not be constrained by national borders but have regional or even global effects, potentially threatening the survival of humanity'. By stigmatising nuclear weapons, supporters of the Ban Treaty hope that it will create a new norm and thereby put NWS under [pressure](#) to show progress on disarmament.

Opposition to a ban on nuclear weapons

[Opponents](#) of a ban on nuclear weapons consider nuclear weapons to be an essential element of [deterrence](#) and, as such, a means to prevent conflict and war. Deterrence is a military doctrine according to which the [risk](#) that a country will retaliate with the nuclear weapons it possesses deters an enemy from attacking. [Nuclear deterrence](#) continues to be an important aspect of the security policies of all NWS and their allies. Members of NATO, a military alliance that includes three NWS – France, the United Kingdom and the USA – [confirmed](#) in July 2016 that they consider credible deterrence and defence to be essential, and that nuclear defence capabilities will remain a core element of NATO's overall strategy. In September 2017, [NATO](#) confirmed this position, expressed the alliance's [disapproval](#) of the Ban Treaty and signalled that there would be 'no change in the legal obligations on [NATO] countries with respect to nuclear weapons'.

Criticism of the Ban Treaty

One of the Ban Treaty's greatest [weaknesses](#) is the fact that the [nuclear-armed states](#) and their allies were not involved in its drafting and do not intend to sign. Entrenched disagreements between supporters and opponents of the treaty are likely to impact on future negotiations under the NPT and may derail the 2020 NPT review conference, potentially further weakening the existing non-proliferation and disarmament regime. The treaty may also undermine the [Comprehensive Nuclear-Test-Ban Treaty](#) (CTBT) and the [International Atomic Energy Agency](#) (IAEA) safeguards regime. The [treaty](#) has also been criticised as having been hastily drafted and as lacking rigorous [verification](#) and enforcement provisions. It may also pose a risk to Euro-Atlantic and international security by delegitimising nuclear deterrence relationships. Once in force, the Ban Treaty may make it unlawful for any State Party to engage in any security relationship with a country that relies in part upon nuclear weapons for its own security. Moreover, there are concerns that the Ban Treaty will be used mainly to put pressure on France, the UK and the USA, to the detriment of European and East Asian security, rather than to address genuine security issues posed by other NWS or states known to have nuclear weapons.

EU Member States' views on the Ban Treaty

EU Member States' views on the nuclear ban treaty are divergent. [France](#) and the [UK](#) are fully committed to step-by-step nuclear disarmament but consider nuclear weapons to be an essential part of their security strategies for now. A further 20 EU Member States are NATO members and have signed up to NATO's commitment to nuclear deterrence. These include four hosts to US tactical nuclear weapons (Belgium, Germany, Italy and the Netherlands) and 16 that are covered by NATO's '[extended nuclear deterrence pledges](#)', including all the central and eastern European Member States. By contrast, Austria, not a NATO member, was one of the [key drivers](#) behind the Humanitarian Initiative. Only Austria, Cyprus, Ireland, Malta and Sweden voted in favour of the Ban Treaty and, so far, only Austria and Ireland have signed it. Some non-NATO EU Member States have come under direct pressure not to sign the Ban Treaty. Facing warnings from the US Ambassador to NATO and the US Secretary of Defense, who threatened to review Sweden's partnership with NATO, Swedish Foreign Affairs Minister, Margot [Wallström](#) protested, and declared on 2 January 2018 that Sweden would take its [decision after an independent assessment](#). There is no agreed EU position on the Ban Treaty, reflecting long-standing division on nuclear disarmament. All Member States are party to the NPT, and as such committed to pursuing policies designed to achieve a world without nuclear weapons. The EU and its Member States are committed to ensuring the success of the 2020 NPT Review Conference.

The European Parliament

On 27 October 2016, Parliament adopted a [resolution](#) welcoming the convening of a conference in 2017 to negotiate a legally binding instrument to prohibit nuclear weapons, leading towards their total elimination. The resolution invited Member States to lend support and play an active part. Parliament has not taken a position on the Ban Treaty since it was adopted on 7 July 2017.

Disclaimer and Copyright

This document is prepared for, and addressed to, the Members and staff of the European Parliament as background material to assist them in their parliamentary work. The content of the document is the sole responsibility of its author(s) and any opinions expressed herein should not be taken to represent an official position of the Parliament.

Reproduction and translation for non-commercial purposes are authorised, provided the source is acknowledged and the European Parliament is given prior notice and sent a copy.

© European Union, 2018.

Photo credits: © Zsolt Biczó / Fotolia.

eprs@ep.europa.eu

<http://www.eprs.ep.parl.union.eu> (intranet)

<http://www.europarl.europa.eu/thinktank> (internet)

<http://epthinktank.eu> (blog)

