



The Treaty on the Prohibition of Nuclear Weapons

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Introduction

On 7 July 2017 a special meeting of the UN General Assembly passed a resolution endorsing the newly negotiated Treaty on the Prohibition of Nuclear Weapons.¹

The event was extraordinary in several ways. It was the first time the international community ever agreed on a treaty commitment to free the world of nuclear weapons. It was agreed without the support of any of the most immediately affected states, those with nuclear arsenals. And it came at a time when arms control and disarmament have all but disappeared from diplomacy between the nuclear weapons states.

The vote was contentious. 122 UN Member States voted yes, one voted no (Netherlands), and one abstained (Singapore). The other 69 Member States did not vote, including all nine nuclear weapon states. As of November 2019, 34 states have ratified the treaty.²

The issue goes to the heart of international efforts to prevent with the threat of mass killing in war. How can the Member States of the United Nations shape international norms and principles to prevent the use of weapons of mass destruction WMD)?

There have been several attempts to limit the spread or possession of nuclear weapons, such as the Treaty on the Non-Proliferation of

Nuclear Weapons (NPT), negotiated in 1968. It came into legal effect in 1970. The NPT includes a commitment by all countries—including the Nuclear Weapons States (NWS)—to negotiate in good faith toward nuclear disarmament. The five NWS that have signed the NPT—China, France, Russia, the US and UK—have been strongly criticized by a majority of Member States for failing to live up to that obligation. The NPT faces a five-year review conference in April-May 2020, where it faces more controversy than ever before, mostly from the nuclear *have-nots* who insists the nuclear *haves* refuse to live up to their disarmament commitment.³

The new Treaty on the Prohibition of Nuclear Weapons (PNW or Nuclear Weapons Ban Treaty), goes beyond the NPT's commitment from 1968. Here the nuclear *have-nots* ambitiously seeks to make nuclear weapons illegal, to completely ban all possession of nuclear weapons. So far, 80 Member States have signed the Nuclear Weapons Ban Treaty, but only 34 have ratified it, making it part of their national law. Under the treaty, 50 ratifications are required for the treaty to *enter into force*, to make the document binding international law. Once the treaty is ratified by 50 Member States, those parties to the treaty will agree to be prohibited from development, testing, production, stockpiling, transferring, use or threat of use of nuclear weapons. It seems

¹ The full text of the treaty is available at <http://undocs.org/A/CONF.229/2017/8>

² ICAN. 'Signature and ratification status', *The International Campaign to Abolish Nuclear Weapons* (ICAN), n.d. (December 2019),

https://www.icanw.org/signature_and_ratification_status

³ Alicia Sanders-Zakre 'Deep Divisions Challenge NPT Meeting', *Arms Control Today*, April 2019, <https://www.armscontrol.org/act/2019-04/news/deep-divisions-challenge-npt-meeting>



certain that the Treaty will come into force sooner or later.⁴

How this affects the Nuclear Weapons States is not clear, and an important topic for the UN General Assembly to take up. There are currently nine states confirmed or suspected of having nuclear weapons (Table 1). The United States and Russian Federation have the two largest arsenals, by far, with approximately 6,800 and 7,000 nuclear warheads respectively. Most Nuclear Weapons States have between 100 and 300. The Democratic People’s Republic of Korea (North Korea) is the newest Nuclear Weapons State, and still has the smallest arsenal with an estimated 20 to 60 nuclear weapons. The estimated combined world arsenal of nuclear warheads around 15,000.

For UN General Assembly First Committee, the biggest issue is how to restore momentum toward nuclear disarmament. Should it work aggressively to encourage full participation by the Nuclear Weapons States? Or should it aim for more modest goals such as reducing regional tensions and specific weapons programs?

Table 1. History of nuclear weapons testing

State	First test	Total tests
United States	1945	1054
Russia	1949	715
United Kingdom	1952	45
France	1960	210
China	1964	45
Israel	?	
India	1974	6
Pakistan	1998	6
DPR Korea	2006	6

⁴ NTI, ‘Treaty on the Prohibition of Nuclear Weapons (TPNW)’, *Nuclear Threat Initiative*, 4 November 2019, <https://www.nti.org/learn/treaties->

Current Situation

The Treaty on the Prohibition of Nuclear Weapons (Nuclear Weapons Ban Treaty) is the result of mounting global frustration with the failure of the Nuclear Weapons States to get rid of their weapons of mass destruction (WMD). Despite massive progress with chemical and biological weapons, nuclear weapons remain integral to their arsenals. Even though it is almost 50 years since the Nuclear Nonproliferation Treaty (NPT) came into force, and despite a wave of force cuts in the 1980s, 1990s and early 2000s, progress on nuclear disarmament has all but stopped. For the majority of UN Member States, their nuclear arsenals represent a broken promise to disarm, a violation of basic international normative principles, a source of enormous frustration, and a basic threat to their security.

Another important source of activity was a non-governmental organization NGO, International Campaign to Abolish Nuclear Weapons (ICAN). Inspired by the success of NGOs pushing previous international weapons bans like the prohibition on anti-personnel landmines (the 1997 Ottawa Convention), ICAN worked with sympathetic governments.

[and-regimes/treaty-on-the-prohibition-of-nuclear-weapons/](https://www.nti.org/learn/treaties-and-regimes/treaty-on-the-prohibition-of-nuclear-weapons/)



ICAN graphic supporting the Nuclear Weapons Ban Treaty



At a 2013 conference in Oslo, Norway, participating governments agreed that “It is unlikely that any state or international body could address the immediate humanitarian emergency caused by a nuclear weapon detonation in an adequate manner and provide sufficient assistance to those affected.” The imperative or making progress to eliminate nuclear weapons culminated in the treaty passed in 2017. This commits States Parties, who have both signed and ratified the document, to forswear any possession of nuclear weapons, including testing.

The treaty is short. It leaves important subjects like verification and responses to defection by states that abandon the treaty to return to nuclear weapons, for the future negotiations. This makes the treaty primarily an agreement on principles for eliminating nuclear weapons, not a list of detailed procedures. The expectation is that every country giving up nuclear weapons will regard its situation as unique and have to negotiate its commitments and procedures.

The document got most of its support from the Non-Aligned Movement (NAM), the UN largest voting block with 120 members. Most Nuclear Weapon States insisted that their arsenals are legitimate under international law, especially Article 51 of the UN Charter, reads:

Nothing in the present Charter shall impair the inherent right of individual or collective self-defense if an armed attack occurs against a Member of the United Nations, until the Security Council has taken measures necessary to maintain international peace and security (Un Charter, Article 51)

Britain, France and the United States were most outspoken in opposition, issued a joint statement that they did not intend to sign, ratify, or ever become a party to the treaty, calling the document “a purported ban on nuclear weapons that does not address the security concerns that continue to make nuclear deterrence necessary cannot result in the elimination of a single nuclear weapon and will not enhance any country’s security, nor international peace and security.” Countries allied with Nuclear Weapons States have generally accepted their opposition. Most close allies did not participate in the final vote in the UN General Assembly.

To treaty supporters, the Nuclear Weapons States are trying to preserve an illegal and immoral tool of power, based on no norm or principle accepting to world opinion. The opponents were not able to marshal majority opposition to negotiation. But they have been more successful after, working diplomatically to slow signatures and especially ratifications, which have been slow in coming (see the Appendix, Nuclear Weapons Ban Treaty signatories and ratifications).

History and Background of the Nuclear Dilemma

A nuclear weapon is defined as a device designed to release energy in an explosive manner as a result of nuclear fission, nuclear fusion, or a combination of the two processes. Fission weapons are commonly referred to as atomic bombs. Fusion weapons are also referred to as thermonuclear bombs or, more commonly, hydrogen bombs; they are usually defined as



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nuclear weapons in which at least a portion of the energy is released by nuclear fusion.⁵

Nuclear weapons have only been used by the United States against the Japanese cities of Nagasaki and Hiroshima in 1945, killing some 140,000 civilians through blast and fire, and another 70,000 from radiation during the next decade.⁶ The use of nuclear arms immediately proved to be controversial, with many governments calling for their use to be banned internationally outright, arguing the weapon was far too dangerous to ever be used again.⁷ Several of the scientists involved in the development claimed it was a weapon so destructive that there could be no defense against a large-scale attack.⁸

But the rising tensions of the Cold War led to proliferation, first to the Soviet Union, then to American allies, as well as China. Israel is widely believed to have developed a nuclear bomb around 1967, although this remains unconfirmed.⁹ Even following the end the fall of the Cold War, nuclear weapons continued to be a strain on foreign relations. While Russia and the United States reduced their arsenals sharply through a series of nuclear weapons treaties, like the 1991 Strategic Arms Reduction Treaty (START), reductions slowed after 2010. That year the two signed and ratified the Strategic Offensive Reductions Treaty (SORTS), which limits each to 1,550 deployed strategic nuclear weapons, although it allows them to keep thousands more undeployed warheads. The future of SORTS is unclear. It is set to expire in 2021. The nuclear forces of other Nuclear Weapons States are much smaller, but not bound by any treaty.

While nuclear weapons have not been used to destroy enemy targets since 1945, they are deployed widely and used continuously for nuclear deterrence. Preventing nuclear war, according to this logic, requires nuclear weapons. That is what most nuclear forces are in hardened silos or submarines on ready alert. But even deterrent forces retain first strike capabilities, fostering ever greater tensions and uncertainty. The dilemma of nuclear weapons is creating security through the threat of mass destruction, widely seen as immoral and highly dangerous.

**For its work, ICAN won the
2017 Nobel Peace Prize**

⁵ “Nuclear Weapon”

<https://www.britannica.com/technology/nuclear-weapon>

⁶ “Nuclear Weapon”

<https://www.britannica.com/technology/nuclear-weapon>

⁷ “Senators Demand Ban on Atom Bomb” *New York Times*. 2 November 1945. <https://nyti.ms/2KnF5lw>

⁸ R.L. Duffus, “Atom Bomb Versus Human Race” *New York Times*. 17 March 1946.

⁹ Michael Wines, “End of the Soviet Union” *New York Times*. 26 December 1991.



Leaders of the International Campaign to Abolish Nuclear Weapons, from left, Beatrice Fihn, Daniel Hogsta and Grethe Ostern, after winning the 2017 Nobel Peace Prize for its work on a treaty to prohibit the weapons. (Martial Trezzini/AP)

Role of the United Nations

More than any previous nuclear weapons treaty, the Treaty on the Prohibition of Nuclear Weapons is the reaction of a majority of UN Member States. The organizational and negotiating work was done with mandates those states crafted in the UN General Assembly. And it was in the GA that the agreement was put together and finally agreed. The treaty makes it the job the UN to monitor and record the progress of ratification of the treaty, and monitoring compliance of signatories with the terms of the treaty. The treaty essentially builds on the principles of the United Nations Charter, which states in the preamble that it seeks above all “to establish conditions under which justice and respect for the obligations arising from treaties and other sources of international law can be maintained.”¹⁰

There are two vital precedents for the Nuclear Weapons Ban Treaty. First is the Treaty on the

Nonproliferation of Nuclear Weapons (the NPT). That treaty was opened for signatures in 1968 and came into effect in 1970, after being ratified by 40 signatories. The treaty was intended to limit the spread of nuclear weapons by prohibiting nations with nuclear weapons from supplying other nations with them or the means to develop them. But it also establishes a requirement for countries with nuclear weapons, the Nuclear Weapons States (NWS) as they are called in the treaty:

Each of the Parties to the Treaty undertakes to pursue negotiations in good faith on effective measures relating to cessation of the nuclear arms race at an early date and to nuclear disarmament, and on a treaty on general and complete disarmament under strict and effective international control (NPT, Article VI)

The other vital precedent is the Comprehensive Test Ban Treaty (CTBT). Finished in 1995, this requires “Each State Party undertakes not to carry out any nuclear weapon test explosion or any other nuclear explosion, and to prohibit and prevent any such nuclear explosion at any place under its jurisdiction or control.”¹¹ Opened for signatures in September 1996, the CTBT will come into force upon its ratification by the forty-four specific states listed in Annex 2 to the treaty. Thus far, thirty-six have done so. In all 163 countries have ratified it. But several have not, including several Nuclear Weapons States: China, DPR Korea (North Korea), India, Israel, Pakistan, and the United States.¹² The latter all continue to preserve their right to test nuclear weapons.

The CTBT is not legally in force, but it symbolizes an important global norm against nuclear weapons testing. Since it was completed,

¹⁰ “United Nations Charter: Preamble” United Nations. 26 June 1945.

¹¹ “Comprehensive Nuclear Test Ban Treaty” United Nations. 1996.

¹² “Comprehensive Nuclear Test Ban Treaty”, United Nations.

<https://www.un.org/disarmament/wmd/nuclear/ctbt/>



only three countries have tested nuclear weapons: India, North Korea and Pakistan, and only North Korea since 1998. In 1999 the US Senate voted against ratifying the CTBT, making the United States the only countries that outright refuses to join the agreement.

The Nuclear Weapons Ban Treaty is in large part an international response to the failures of the nuclear weapons states to fully live up to the terms of the NPT and CTBT.

Country and Bloc Positions

Nuclear Weapons States: The five official Nuclear Weapons States (as defined by the NPT, all were nuclear at the time the NPT was signed in 1968) opposed adoption of the Treaty on the Prohibition of Nuclear Weapons. Britain, France and the United States put out a joint statement of opposition to the treaty.¹³ This reads in part,

“We do not intend to sign, ratify or ever become party to it. Therefore, there will be no change in the legal obligations on our countries with respect to nuclear weapons...This initiative clearly disregards the realities of the international security environment. Accession to the ban treaty is incompatible with the policy of nuclear deterrence, which has been essential to keeping the peace in Europe and North Asia for over 70 years. A purported ban on nuclear

weapons that does not address the security concerns that continue to make nuclear deterrence necessary cannot result in the elimination of a single nuclear weapon and will not enhance any country’s security, nor international peace and security.”¹⁴

China and Russia also rejected negotiation of the treaty and refused to vote on the final document. Russia is adamant in its opposition.¹⁵ China has emerged as the most supportive of all Nuclear Weapons States of the principles behind the treaty, although it remains unwilling to commit to it.¹⁶

The Nuclear Weapons States generally prefer UN action to strengthen the 1968 NPT and CTBT, except the United States, which does not support the CTBT.

Japan is an example of a country forced into a very awkward position by the treaty. Well known for its strong diplomacy against nuclear weapons, Japan still relies on security guarantees from the United States. has stated that it is officially opposed to joining the treaty. Nagasaki Mayor Tomihisa Taue urged national leaders to “fulfill its moral obligation to lead the world toward denuclearization” by signing the treaty.¹⁷ But Prime Minister Shinzo Abe cited the fact that no nuclear state had signed and the belief that the treaty “was created without taking into account the realities of security.”¹⁸

¹³ Rick Gladstone, “A Treaty is Reached to Ban Nuclear Arms. Now Comes the Hard Part.” *New York Times*, 7 July 2017.

¹⁴ “Joint Press Statement from the Permanent Representatives to the United Nations of the United States, United Kingdom and France Following the Adoption of a Treaty Banning Nuclear Weapons” 7 July 2017.

¹⁵ Tracy Lee, ‘Russia refuses to banish nuclear weapons and comply with United Nations treaty’, *Newsweek*, 18 January 2018, <https://www.newsweek.com/russia-not-joining-uns->

[international-treaty-banning-nuclear-weapons-785064](https://www.newsweek.com/russia-not-joining-uns-international-treaty-banning-nuclear-weapons-785064)

¹⁶ Tong Zhao and Raymond Wang, ‘China and the Nuclear Weapons Prohibition Treaty’, *Carnegie Endowment*, 21 September 2017, <https://carnegietsinghua.org/2017/09/21/china-and-nuclear-weapons-prohibition-treaty-pub-73488>

¹⁷ “UN Chief Offers Warning on the Anniversary of the Last Nuclear Attack” CBS News. 9 August 2018.

¹⁸ Hurst, Daniel. “Japan Holds Firm Against Nuclear Ban Treaty on Anniversary of Nuclear Bombings” *The Diplomat*. 18 August 2018.



NATO Member States: Every member of NATO is opposed to adopting the treaty. This reflects the lingering—albeit remote—role of nuclear weapons in NATO’s deterrent strategy. The only member to participate in the conference on the treaty was the Netherlands, which was the only nation to vote against its passage.¹⁹ All other NATO allies refused to vote at all, mostly for fear of weakening the alliance with the United States.

Non-Aligned Movement: the 120 members of the UN’s largest voting bloc were the force behind creation of the Ban treaty and remain its strongest supporters. Above all, they want to raise pressure on the five official Nuclear Weapons States, and end the inequality in international law that allows them to stay nuclear while the rest of the world disarms. Chairwoman of the conference, Ambassador Elayne G. Whyte Gómez of Costa Rica, speaking for the NAM, said, “The world has been waiting for this legal norm for 70 years.”²⁰ The overwhelming majority of South and Central American countries, as well as Mexico and Cuba, have also signed the treaty and many including Mexico and Cuba ratified it as well.²¹

Proposals for action

Uphold existing agreements: At a minimum, the General Assembly can ask all countries to uphold existing treaties, especially the Nuclear Nonproliferation Treaty (NPT)—and its requirement for nuclear disarmament—and the ratify the Comprehensive Nuclear Test Ban Treaty (CTBT). Even this might arouse the opposition of some Nuclear Weapons States, especially the United States.

Greater attention to existing agreements also will be regarded suspiciously by supporters of the Nuclear Weapons Ban, who suspect attention to older agreements is intended to divert attention from the goals of the more ambitious and explicit Nuclear Weapons Ban Treaty. Many of the latter also are increasingly opposed to the inequality of the NPT, but feel more positive toward the CTBT.

Encourage signatures and ratifications of the Nuclear Weapons Ban Treaty: So far treaty supporters have relied on the good will of Member States and domestic political pressure to win government action. But signatures have slowed and progress on action ratification to extremely slow, limited mostly to smaller and peripheral states. If universal nuclear disarmament is a basic necessity, say its supporters, then advocates need to make it their highest priority. Sanctions on travel by against individuals and firms associated with nuclear weapons is a start. Sanctions on trade with countries that have nuclear weapons, or permit foreign nuclear weapons to be based on their territory, could be a next step to add pressure.

Clarify the terms of Nuclear Weapons Ban Treaty: Above all, what does the treaty mean for non-signatories? When the treaty gets the required 50 ratifications—countries that have signed the treaty and also passed domestic implementing legislation—what will be required of non-signatories and non-ratifiers? Once the treaty enters into force, how will this affect the Nuclear Weapons States that stay outside its terms? This has to be decided by the international community. A majority of UN Member States could agree to strong actions—even sanctions—against the NWS, but doing so will come at a cost, financially and diplomatically. Failure to act, however, could undermine the credibility of the whole project.

¹⁹ Rick Gladstone, op.cit., 7 July 2017.

²⁰ Ibid.

²¹ “Status of Treaty.” United Nations.



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States also can be urged to take specific

actions: Several options exist for those states that have not yet signed or ratified the Treaty on the Prohibition of Nuclear Weapons. The first option is that they can continue to be a non-signatory state. Under this option, they would maintain their right to develop and stock a nuclear arsenal. This option results in a greater potential for current non-nuclear states to obtain nuclear arms. Proponents of this option often label nuclear arms a “deterrent against aggression.” The belief is that possessing nuclear arms would pose such a great threat that

any nation would be foolish to attempt an attack on the possessor. During the Cold War, this scenario led to a situation of “Mutually Assured Destruction,” and played on the natural desire to preserve the life of one’s own people. It is worth noting, that no nuclear attacks were launched during the Cold War.²²

Whether the treaty becomes the backbone of a strong new international normative principle against nuclear weapons, or is dismissed as a well-intended effort, is entirely up to the UN Member States themselves.

²² Michael Wines, “End of the Soviet Union” *New York Times*. 26 December 1991.

<https://www.nytimes.com/1991/12/26/world/end-of-the-soviet-union-bush-lauds-vision-of-soviet-leader.html>



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