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BASIC SPECIAL REPORT

US-UK nuclear weapons collaboration under the Mutual Defence Agreement:

Shining a torch on the darker recesses of the 'special relationship'

By Nigel Chamberlain, Nicola Butler and Dave Andrews
BASIC Special Report 2004.3
June 2004

British American Security Information Council

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Executive Summary

US-UK nuclear weapons collaboration under the Mutual Defence Agreement:

Shining a torch on the darker recesses of the 'special relationship'

Since at least July 2003, the British Government has been discussing the renewal of a bilateral agreement with the United States that has its origins in the Cold War and permits the exchange of classified nuclear information, advanced technology and a range of materials (including plutonium, enriched and highly enriched uranium and tritium) which support both countries nuclear weapon programmes. The Labour Government has declined to set aside time for a full parliamentary debate and it has been parsimonious with the actualite of the agreement.

The 1958 Agreement For Cooperation on the Uses of Atomic Energy for Mutual Defence Purposes – also known as the Mutual Defence Agreement (MDA) – was last updated and signed in Washington on 23 May 1994, and was 'ratified' by both the UK Parliament and the US Congress by the end of that year. The then Conservative Government made strenuous efforts to prevent any Parliamentary debate and was only forced to take the issue to the floor of the House of Commons by a combination of backbench Labour members' persistence and the application of arcane procedure. The Executive still managed to restrict what passed for a legislative debate to the small hours of the last session before the Christmas recess. The debate was tagged onto a Consolidated Fund Bill debate, which started at 1.56 am on 15 December 1994 and ended at 3.15 am.

The analytical content of this report is largely based on a series of answers to Parliamentary Questions, correspondence with Ministers and civil servants and information from the United States, traditionally a less secretive system of governance than the United Kingdom. Website searches were also employed.

The report draws conclusions about the role of the MDA within the larger framework of the US-UK 'special relationship'. In particular, the report shows how the MDA sits uneasily with the UK's Nuclear Non-Proliferation Treaty (NPT) commitments, the review conference of which will be held at the United Nations in New York in 2005.

Finally, the report offers five recommendations, which, unless rebutted by more persuasive evidence, deserve to be taken seriously by the UK Government and implemented as soon as is practicable. They are:

1. The House of Commons Defence Committee should conduct an urgent inquiry into the MDA. The inquiry should review both the history and current practice of the MDA, and especially the potential conflict between the MDA and Britain's international treaty obligations. To give itself sufficient time to conduct such an inquiry, publish a report and receive a government response, the Committee should not wait until any "minor" amendments to the MDA are laid before the House.

2. The House of Commons Foreign Affairs Committee should conduct an inquiry into the outcome of the 2004 NPT PrepCom and how the Government intends to fulfil its obligations under the final document from the 2000 NPT Review Conference. This is especially important in light of the Government's stated intention to retain Trident for 30 years and initiate a debate about its replacement in the next parliament.

3. The Defence Committee, The Foreign Affairs Committee and the Liaison Committee should ask the Government to provide an opportunity for a parliamentary debate on the MDA, prior to renewal. Given that any amendment to the MDA will be considered as a treaty in itself and that it involves major political, military and diplomatic issues, such a debate is essential.

4. The Government should set aside parliamentary time for MPs to debate the appropriateness of the MDA. The latest renewal comes a decade after the end of the Cold War, in a very different strategic environment, and with potentially serious consequences for the 2005 NPT Review Conference should it be ratified for a further ten years. Moreover, since the MDA affects revenue, as such, its renewal does require the assent of Parliament.

5. In relation to MDA-related issues, including developments at AWE, the Government should review Exemption 1 of the Code of Practice on Access to Government Information (Defence, Security and International Relations) and the invocation of the 'not in the interests of national security' clause. The lack of transparency and accountability on such an important issue is an affront to participatory democracy.

Rather disturbingly, the evidence gathered for this report suggests that the current Labour Government is intent on handling this important issue in the same high-handed and undemocratic manner as its predecessor. This is all the more disappointing given that Tony Blair promised to be less secretive than former governments and gave every indication of wishing to abide by, and where possible, strengthen the UK's international treaty obligations.

The Cold War ended more than a decade ago. Britain faces new dangers and challenges for which nuclear deterrence is at best an expensive irrelevance and at worst part of the problem. BASIC believes that it is time to shine a torch on the darker recesses of 'the special relationship'. If nuclear weapons collaboration between the United States and Britain remains mutually beneficial—and at BASIC we do not think it does— then the Prime Minister should, at the very least, justify this position in a detailed statement before the House of Commons.

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1. Introduction

We became aware of the need for this study in the summer of 2003. At that time, we were discussing the periodic 'Stocktake' gathering of US and UK scientific and defence personnel at AWE Aldermaston under the auspices of the 1958 Mutual Defence Agreement (MDA). We recalled the then Conservative Government's reluctance to place the 1994 renewal before parliament, re-read Hansard transcripts from that time and realised that it was once again time for government to consider renewing what is often referred to as the 'Agreement' for a further 10 years.

Alan Simpson MP had played a leading role in bringing a reluctant government minister to the floor of the House of Commons to reply to members questions and concerns about the largely secret arrangements whereby the United States and the United Kingdom collaborated, extensively, on the development and deployment of their respective, and closely related, nuclear deterrents. He agreed to work with us to extract information from a less than forthcoming government and help produce this report.

At their meeting in December 2003, BASIC's governing Board agreed that such a study would be appropriate given the organisation's efforts to expose the underpinnings of the transatlantic strategic relationship over the last 16 years. Two of us (Nigel Chamberlain and Nicola Butler) met William Peden (now with Greenpeace International) to exchange relevant documents, recall what had happened at the time of the 1994 Agreement renewal and draw up a strategy to ensure greater accountability in government decision-making on the 2004 renewal. Dave Andrews was brought in as a consultant and provided invaluable research and technical data.

This report is a result of our combined efforts over the last year. If nothing else, it has drawn together significant information from disparate sources and asks several important questions about how Britain maintained a nuclear capability during the second half of the 20th century with minimal parliamentary oversight and little public understanding of what was done on their behalf by a largely unaccountable executive.

Naturally, we hope that our efforts have an effect on the process of UK government decision-making in relation to this important aspect of Britain's defence and security, particularly as it is clear that a possible replacement for the Trident nuclear weapons system is under active consideration and that a decision is likely to be made in the next parliament. A national debate in advance of an announcement might be regarded as novel in some quarters but would surely be a true indication of Britain's democratic maturity. Perhaps the underlying fear of undertaking a proper debate is that a decision *not* to replace Trident would be the outcome.

Nonetheless, if Britain is to be a beacon of good governance around the world, as Tony Blair often likes to suggest, then greater domestic participation in the tough 'national security' questions is a necessity. The 2004 renewal of the 1958 Mutual Defence Agreement would be a good place to start.

2. The 2004 Renewal of the US-UK Mutual Defence Agreement

The first official indication that the United Kingdom and the United States intended to renew the 1958 Mutual Defence Agreement (last amended 1994)¹ came on 15 July 2003 in response to a Parliamentary Question put down by Alan Simpson MP:

Discussions are now under way between the United Kingdom and United States Governments on the renewal of the 1958 Agreement For Cooperation on the Uses of Atomic Energy for Mutual Defence Purposes. Subject to the outcome of those discussions, we expect to lay any amendments before the House in accordance with normal procedures for Treaty renewals.

The 2003 UK Defence White Paper, released on 11 December 2003, indicated that the Trident nuclear weapons system was “likely to remain a necessary element of our security”, “a guarantor of the UK’s national security” and “could remain an effective deterrent for up to 30 years”.² This being the case, it was anticipated that a renewed Mutual Defence Agreement (MDA), effective until the end of 2014³, would become a priority for the British Government in the 2004 parliamentary session.

An exchange of letters

We wrote to Peter Hain MP, Leader of the House of Commons, on 15 December 2003, asking if parliamentary time would be allocated for a debate on the MDA renewal. We wrote again on the 20 February asking the same question. No reply was received.

On 2 March 2004, Peter Hain replied to a 4 February letter from Alan Simpson MP on the same subject. The Minister said that discussions were still underway and there would be “some minor amendments” to the MDA. He stated:

I agree with you that the issues related to our nuclear co-operation with the United States are of great importance and that they fully merit the scrutiny to which you refer. But I cannot undertake to find Government time for a debate on the renewal of a long standing Agreement which will not require any consequential amendment to UK legislation.

We wrote to Bruce George MP, Chairman of the Defence Select Committee, on 16 December 2003 to suggest that the MDA renewal would be an appropriate issue for consideration by the committee. The reply from the Clerk of the Committee dated 21 January 2004 stated:

It is the usual practice of the Defence Committee to examine Treaties which fall within the responsibility of the Ministry of Defence.... It is likely that at that time [when any amendments are laid before the House] the Defence Committee will wish to examine the proposals.

¹ The full text, as amended in 1994, can be viewed on the BASIC website (<http://www.basicint.org/nuclear/NPT/2004pc/1958MDA.htm>).

² ‘Delivering Security in a Changing World’, 11 December 2003 (<http://www.mod.uk/publications/whitepaper2003/index.html>).

³ If not renewed and ratified, the MDA will fall on 31 December 2004 at the end of its 10-year period of agreement.

We also wrote to Donald Anderson MP, Chairman of the Foreign Affairs Select Committee, on 26 January 2004 with a similar suggestion. The 5 February reply from the Clerk of the Committee stated:

While the Foreign Affairs Committee has a role in considering any proposal to amend an international treaty, defence planning in general – and the future of the nuclear deterrent in particular – are matters which fall within the terms of reference of the Defence Committee. Mr Anderson is not minded at this stage, therefore, to propose an inquiry by the FAC into the 1958 MDA.

We wrote to Ivor Caplin, Under Secretary of State for Defence, on 19 February 2004 requesting an indication of when any amendments to the MDA might be laid before the House. A reply from Ian Manson, Deputy Director Policy (Directorate General of Strategic Technologies) at the Ministry of Defence, dated 3 March, merely stated that, “discussions are presently continuing” and that, “it would be premature to predict exactly when Ministers will lay any amendments before Parliament, but this is likely to be later in the year”.

Alan Simpson MP wrote to the Foreign Secretary, Jack Straw MP, on 31 March 2004 requesting further clarification on how the government intended to deal with the MDA renewal. Baroness Symons replied as the Minister responsible for matters relating to international security:

In line with the December 1996 Ministerial commitments concerning all treaties signed after 1 January 1997, the renewal agreement will be laid before Parliament under the Ponsonby Rule and accompanied by an Explanatory Memorandum (EM). We will also ensure that a copy of the Command Paper and accompanying Explanatory Memorandum (EM) are sent to the relevant departmental select committee(s).

I can confirm that any amendments to the Mutual Defence Agreement laid before the House will be subject to the Ponsonby Rule. When the amendments are laid before Parliament, copies of the Command Paper and accompanying EM will be posted on the treaty pages of the FCO website. My Office will write to confirm when the amendments have been laid.

You also asked whether the minor amendments to the Mutual Defence Agreement will have any financial implications for the UK. I can confirm that neither the present Agreement nor the amendments under discussion between the UK and US officials involve any financial commitment by the UK. Nor do they commit the UK to purchase any goods or services from the US.

The Senior Research Clerk, International Affairs and Defence Section in the House of Commons Library, replied to Alan Simpson’s request for information about the Ponsonby Rule and how it would be applied to the 1994 amendment to the MDA. He said that:

The Amendment was a treaty itself, and hence it was subject to normal treaty law and practices. For the UK, these include the Ponsonby Rule, named after Arthur Ponsonby, Under-Secretary of State for Foreign Affairs in the first government of Ramsay Macdonald, who developed the practice.

In a Written Answer of 1 November 1995 Baroness Chalker outlined the Ponsonby Rule as follows:

It has been the practice of successive Governments for the past hundred years to lay before Parliament, in the Treaty Series of Command Papers, all treaties entered into by the United Kingdom, but only after their entry into force. Since 1924, it has also been the practice (known as the 'Ponsonby Rule') to lay before Parliament, before entry into force, those treaties which have been signed subject to ratification. The treaty lies on the table in the normal case for a period of 21 sitting days, after which it is ratified and published again in the Treaty Series once it has entered into force. The Ponsonby Rule, which applies as indicated only to treaties which are subject to ratification (or its equivalent), has been understood as allowing for exceptions from its operation in special cases, when other means of consulting or informing Parliament may be employed in its stead.

The above practices are not understood as precluding the Government, in appropriate cases, from proceeding to ratification (or its equivalent) without laying for 21 days or from concluding treaties which enter into force on signature. The Clerk went on to explain that in October 2002:

The Government undertook to provide a copy of any treaty laid before Parliament under the Ponsonby Rule, with an Explanatory Memorandum, to what it regarded as the most appropriate departmental select committee, so that the committee could carry out an inquiry if it so wished. ...The Procedural Committee also recommended that the Government undertake to accept a recommendation made by the relevant select committee and supported by the Liaison Committee for debate on the floor of the House of a treaty requiring ratification and having major political, military or diplomatic implications.

The letter also made it clear that treaty-making is a 'prerogative power' and while Parliament is given an opportunity to discuss them, and to interrogate the executive over its exercise of the treaty-making power, it is not asked to approve treaties laid before it. However, "treaties with direct financial implications require the assent of Parliament because they affect revenue".

In a final effort to engage with the government, we wrote to Professor Sir Keith O'Nions, Chief Scientific Adviser at the MoD and UK Principal for the MDA, on 24 May 2004 requesting his comment about the renewal discussions. No reply was received. Just before this report was published, we were informed by the MoD that discussions were at "an advanced stage", that the MDA would be signed by diplomats in Washington very soon, that Lord Bach would make a statement in the house of Lords on 22 June and that the intention was to lay any amendments before both Houses of Parliament before the summer recess (22 July 2004).

The cat and mouse parliamentary game of 'questions and answers'

A number of MPs and Lords tabled questions in 2003 and 2004 in an effort to find out the extent of the arrangements covered by the MDA. Questions had to be precise and answers were generally sparing with detail, often repetitive and sometimes not forthcoming, based on the justification of 'not in the interests of national security'.

For example, Alan Simpson MP was told on 11 June 2003, that the Ministry of Defence was withholding specific details of scientific exchanges "in accordance with Exemption 1 of the

Code of Practice on Access to Government Information (Defence, Security and International Relations)”).

In a 26 April 2004 written answer to Llew Smith MP, the Prime Minister said:

There is no statutory definition of national security. The courts accept that the interpretation of what is national security is, within a wide margin of appreciation, a matter for the Secretary of State to determine on a case-by-case basis.

On 22 May 2003, David Chaytor MP was told that 237 visits, involving one or more individuals, were made to the United States by UK personnel under the auspices of the MDA in 2002. On 11 June 2003, Alan Simpson MP was told that in 2002, 182 visits were made to the United States by Atomic Weapon Establishment (AWE) staff and 103 visits were made to AWE by US officials. In a follow-up question to try and establish how many individuals were involved in these visits and which establishments they represented, Mr Simpson was informed on 11 July 2003 that 313 AWE personnel visited the United States in 2002 under the auspices of the MDA and 485 personnel visited AWE, but was not given an answer to his specific question about site-to-site visits. In a further effort to seek clarification, he asked if a record is kept of how many days have been expended by AWE staff under the MDA. “No”, was the simple 21 April 2004 reply.

In a 9 July 2003 answer, Mr Simpson was informed that AWE personnel visited the following sites in the United States on scientific exchanges:

- Los Alamos National Laboratory
- Lawrence Livermore National Laboratory
- Sandia National Laboratories
- ITT Industries
- Honeywell Kansas City Plant
- BWXT Pantex Plant
- BWXTY-12 Plant
- National Nuclear Security Administration Headquarters
- Bechtel Nevada
- NNSA Savannah River site
- Logicon RDA
- Titan Corporation
- Mitre Corporation
- Picatinny Arsenal
- US Strategic Command
- Defense Threat Reduction Agency
- LLE Rochester
- Pacific Northwest Laboratories
- Brookhaven National Laboratory
- Lockheed Martin Missiles and Space
- Bolling Air Force Base
- AFT AC Patrick Air Force Base
- MIT Lincoln Laboratory
- Naval Surface Warfare Center
- Science Applications International Corporation

And that US visitors to AWE on scientific exchanges in 2002 were from the following State Departments or establishments:

Los Alamos National Laboratory
Lawrence Livermore National Laboratory
Sandia National Laboratories
ITT Industries
Honeywell Kansas City Plant
BWXT Pantex Plant
BWXT Y-12 Plant
National Nuclear Security Administration Headquarters
Bechtel Nevada.
Science Applications International Corporation
Titan Corporation
US Strategic Command
Defense Threat Reduction Agency
Naval Research Laboratory
Alme Associates
Lockheed Martin Missiles and Space
LLE Rochester
Naval Surface Warfare Center
Strategic Systems Programs

In a supplementary answer, Mr Simpson was told that since 1973 Joint Working Groups were conducted under the auspices of the MDA and exchanged technical information on the following subjects:

Neutron Sources
Radiation Simulation and Kinetic Effects Technology
Energetic Materials
Compatibility of Materials
Test Diagnostics
Nuclear Materials
Warhead Electrical Components and Technologies
Non-nuclear Materials
Nuclear Counter Terrorism Technology
Facilities
Nuclear Weapons Engineering
Nuclear Warhead Physics
Computational Technology
Aircraft, Missile and Space System Hardening
Laboratory Plasma Physics
Manufacturing Practices
Nuclear Warhead Accident Response Technology
Nuclear Weapon Code Development
Nuclear Weapon Environment and Damage Effects
Methodologies for Nuclear Weapon Safety Assurance

It would seem that no less than 43 separate Joint Working Groups have met over the last thirty years with 16 of these still extant.⁴

In a 5 May 2004 answer, Defence Minister Adam Ingram reported that in the last 12 months, exchanges of information by visit and reports have occurred under the following subject headings:

⁴ 'List of Joint Working Groups (JOWOGS)', Los Alamos National Laboratory (<http://badge.lanl.gov/jowogs.shtml>).

Radiochemistry;
Safety and Security;
Safety Assessment Methodology;
Intelligence;
Non-Proliferation and Arms Control Technology;
Enhanced Surveillance;
Facilities and Infrastructure;
Senior Visits;
The Atomic Weapons Establishment Support Contract; and
Miscellaneous.

Mr. Ingram also stated that the Ministry of Defence and the Atomic Weapons Establishment maintain collaborative contact with Sandia National Laboratories, the Lawrence Livermore National Laboratories, and the Los Alamos National Laboratories under the MDA:

This contact, which may include the placement of specific work packages with the US facilities by or on behalf of HMG, principally relates to the stockpile stewardship programmes that ensure the continued safety and reliability of the UK's nuclear weapons stockpile. It would be contrary to the interests of national security to give further details of such activities, which I am therefore withholding under Exemption 1 (Defence, Security, and International Relations) of the Code of Practice on Access to Government Information.

In another answer, Mr Ingram was more specific in that he admitted that a total of 190 visits by UK personnel to these weapons laboratories and other related sites took place under the Agreement during the 12 months to 31 March 2004. The numbers of people visiting were as follows:

(a) the Pantex Plant:	41
(b) the Sandia National Laboratories:	205
(c) the Lawrence Livermore National Laboratories:	116
(d) the Los Alamos National Laboratories:	219
(e) the Nevada test site:	11
(f) the Rocky Flats Plant:	0

He added "these figures include personnel making more than one visit, and visits to several sites during a single trip".

Following a related line of enquiry, Alan Simpson MP asked the Secretary of State for Defence how many personnel were employed in the renegotiation of the MDA and the estimated cost of renegotiation. Mr Ingram responded thus on 5 May 2004:

A number of Ministry of Defence personnel are involved in renegotiating the 1958 US/UK Mutual Defence Agreement as part of their normal duties, and FCO personnel will be involved in its ratification. The cost of the renegotiation is primarily the cost of this staff effort. Since this task represents only a small proportion of individuals' workloads, it is not possible to provide an accurate estimate of the collective cost of their time.

In response to a further question about employment, Mr Ingram stated that the number of UK personnel stationed in the United States under the auspices of the MDA vary in line with operational and other requirements. Currently there are five employees, all at the Atomic Co-

ordinating Office in the British Embassy in Washington DC (including a locally employed civilian).

Mr Ingram explained that the role of the Atomic Control Office in London and the Atomic Co-ordination Office in Washington is to facilitate the conduct of bilateral business with the United States under the provisions of the MDA and that there were three staff employed in London in addition to the five employees in Washington. In another answer, he added that:

The annual running costs of the Atomic Control Office, London and the Atomic Co-ordinating Office, Washington are some £70,000 and £400,000 respectively. The costs of the London office fall to the Chief Scientific Adviser's Top Level Budget (TLB); the costs of the Washington office fall to the Centre TLB.

In a series of questions to the Foreign and Commonwealth Office, Europe Minister Denis MacShane confirmed in his answer of 21 April 2004 that “the minor amendments and updating necessary to enable the Agreement to be renewed before it expires in December 2004” and are expected “to be laid before the House later this year in accordance with normal procedures”. He also confirmed that:

When any amendments to the Mutual Defence Agreement are laid before Parliament, copies of the Command Paper and accompanying Explanatory Memorandum will be posted on the Foreign and Commonwealth Office (FCO) website in accordance with the practice established in 2002. The FCO will also place a copy of the original Agreement and subsequent amendments on its website at that time.

Developments at the Atomic Weapons Establishment (AWE)

The tone for inquiry about developments at AWE was set by Defence Minister Dr Lewis Moonie on 11 June 2003 when he declined to release specific information under Exemption 1 of the Code of Practice on Access to Government Information. He merely revealed that the 3-4 June 2003 visit from US scientists, called ‘US-UK Stocktake’ was:

The latest of a long-running series of review meetings between senior officials to discuss co-operation under the 1958 UK/US Mutual Defence Agreement and, as usual, included a short visit to the Atomic Weapons Establishment at Aldermaston.

Participants in the Stocktake meetings generally include senior members of the US Department of Energy, the Pentagon, and the defence ministries and laboratories of both countries.⁵

A spokesman for AWE told the New Scientist magazine that the Aldermaston workforce would increase from 3,500 in May 2003 to 3,800, “or higher”, by 2008, with a target of 80 physicists, materials scientists and systems engineers by the end of 2003. Some of these recruits are “highly likely” to be involved in research under the MDA.⁶

⁵ ‘US-UK Stocktake’, Sig Hecker, The Inside Story, Los Alamos National Laboratory, July 22 1997 (www.lanl.gov/orgs/pa/Director/inside072297.html).

⁶ ‘Britain boosts nuclear bomb research’, by Rob Edwards, New Scientist, 21 May 2003 (<http://www.newscientist.com/hottopics/tech/article.jsp?id=99993754&sub=Security%20and%20Defence>).

In response to questions from Alan Simpson MP about new scientific posts being created at AWE, Dr Moonie indicated on 12 June 2003 that graduates would be recruited to replace retiring scientists but declined to be more specific and was evasive about research into new warhead designs and possible UK participation in a second sub-critical test at the Nevada test site. He did admit that the UK is engaged in a “series of hydrodynamic experiments in the USA to ensure the safety and reliability of our Trident nuclear warheads” and that “a scientific methodology is being developed at the Atomic Weapons Establishment to continue to give this assurance with high confidence”. Finally, Dr Moonie stated that there is “no formal UK involvement in the US Advanced Concepts Initiative or the Advanced Nuclear Weapons Concepts research programme under the 1958 Agreement”.⁷

In a more helpful 11 June 2003 answer, Defence Minister Adam Ingram stated:

We have no plans to resume nuclear weapon test explosions. We are not planning any new nuclear weapons, nor are we modifying current systems to lower their yield. We maintain a research capability to ensure the safety of our existing stockpile and to support the policy set out in the Strategic Defence Review of maintaining a minimum capability to design and produce a successor to Trident should this prove necessary.

Defence Secretary Geoff Hoon added in a 12 June 2003 answer:

There are no current plans for any replacement of Trident and no decisions are yet needed. We stated in the New Chapter to the Strategic Defence Review, published last year, that the United Kingdom's nuclear weapons have a continuing use as a means of deterring major strategic military threats, and they have a continuing role in guaranteeing the ultimate security of the UK. In line with the 1998 Strategic Defence Review, it is our policy to maintain a minimum capability to design and produce a successor to Trident should this prove necessary.

This position was modified by the publication of the Defence White Paper on 11 December 2003 and reiterated by Mr Hoon in response to a parliamentary question on the same day by Dr Lynne Jones MP:

The Government stated that 'decisions on whether to replace Trident are not needed this Parliament but are likely to be required in the next one. We will therefore continue to take appropriate steps to ensure that the range of options for maintaining a nuclear deterrent capability is kept open until that decision point'. Implications for the 1958 Mutual Defence Agreement, or other relevant agreements, are therefore hypothetical at this stage.

On 9 July 2003, Alan Simpson MP was told that the new Tritium Handling Facility at AWE Aldermaston was to replace a 40-year-old facility which was being decommissioned. Mr Caplin referred a question about tritium supplies after the closure of the Chapelcross production reactors to an answer given on 12 February 2002: “The UK has sufficient stocks of tritium to meet the needs of the Trident programme for the foreseeable future”.

AWE’s Site Development Strategy Plan to turn Aldermaston from an “industrial factory into a Science and Technology centre” was made public in August 2002. Outline planning

⁷ Bush Administration plans for research into new weapons programmes.

permission was obtained in December 2003 for a high-powered laser called 'Orion'. The MoD resubmitted its Notice of Proposed Development (NOPD) in respect of the proposed Laser Research Facility at AWE Aldermaston in April 2004 (having withdrawn an October 2003 application in February 2004, faced with legal action for not having conducted an environmental impact statement) on the following grounds:

High-powered lasers enable us to replicate in the laboratory the physical conditions at the heart of a nuclear explosion - albeit on a minute scale. The HELEN laser at AWE, now more than 20 years old, was the first in the world to be used for this type of experiment and AWE has led the way in research in this area. In the future, AWE's scientists will be able to conduct laser experiments in the giant United States' National Ignition Facility, currently under construction.⁸

Also planned is a new hydrodynamics facility to enable the gathering of test data only previously available from underground nuclear tests and new laboratories for material testing which will provide underground-test-quality diagnosis of weapons material. A new supercomputer has been installed which will transpose test data into mathematical models of warhead performance.⁹ According to the 2001 AWE Annual Report, these developments are in pursuit of:

A science-based regime necessary to ensure the safety and performance of the Trident warhead stockpile and maintain our capability in the absence of testing. An essential element of this is high-performance computing and, by the end of the year, we were successful in procuring a three teraflop supercomputer, capable of three million-million calculations per second.¹⁰

The AWE website is refreshingly open about the MDA's vital importance for the UK's nuclear weapons programme which has "enabled significant advances in several areas of research", including the first joint US-UK February 2002 sub-critical test codenamed 'Vito' at the Nevada test site. Apparently, British development of the hydrogen bomb prompted the United States to sign the MDA in 1958 which "ushered in a series of technical exchanges which have been a cornerstone of life for our nuclear weapons community ever since".¹¹ The AWE website describes this cooperation as follows:

Based around a series of Joint Working Groups, each concentrating on a specific area of physics, engineering and material science, Aldermaston's specialists have for more than forty years been able to exchange and develop ideas with their counterparts from the American Laboratories to the benefit of the nuclear weapons programme on both sides of the Atlantic.¹²

The importance of this cooperation to the UK can be judged from an article in a recent issue of 'Discovery', AWE's Science and Technology Journal. Speaking of the use of laboratory

⁸ 'Laser Physics' under 'Development to support our Science Programme' section of AWE's Site Development Strategy Plan (since removed from AWE's website).

⁹ 'Why is Britain's Nuclear Weapons Infrastructure Being Upgraded?' by Di McDonald, Sian Jones and Rebecca Johnson, Disarmament Diplomacy Issue No 76, March/April 2004 (<http://www.acronym.org.uk/dd/dd76/76news03.htm>).

¹⁰ AWE Annual Report 2001 (http://www.awe.co.uk/Images/annual_report_2001_tcm6-1763.pdf).

¹¹ AWE Annual Report 2000 (http://www.awe.co.uk/Images/annual_report_2000_tcm6-1764.pdf).

¹² 'US/UK Agreement' AWE website (http://www.awe.co.uk/main_site/about_awe/history/timeline/1958).

techniques to optimise the value gained in nuclear warhead tests conducted at the US testing ground in Nevada the article goes on to say:

Together with the support of data and technical exchanges under the US/UK 1958 Mutual Defence Agreement.... this resulted in a reduced need for tests and the United Kingdom was able to put warhead systems into service with far fewer nuclear tests than any other of the Nuclear Weapon States.¹³

Nuclear cooperation with France

According to the Ministry of Defence the UK, "continues to maintain contacts with France on a range of technical and scientific issues relating to nuclear weapons".¹⁴ A Ministry of Defence report on UK-French Bilateral Defence Cooperation notes that, "Regular exchanges on nuclear policy and arms control issues take place through the Joint Nuclear Commission", and that British and French nuclear-armed submarines visit each other's ports.¹⁵

Although exchanges between France and Britain are not believed to be as extensive as those between the United States and Britain, parliamentary questions dating from 1996 indicate regular scientific exchanges and visits taking place between the UK's Atomic Weapons Establishments and France's Commissariat à l'Énergie Atomique and its Délégation Générale de l'Armement,¹⁶ the two government agencies with greatest responsibility for the French nuclear weapons programme.

Although the possibility of Britain procuring the French nuclear missile system, the M5, was briefly raised in the 1980s when the UK was considering the replacement of Polaris, it is highly unlikely that the UK would consider a French replacement for Trident in preference to a US system, as this would compromise its close relationship with the US.

France also signed a Mutual Defence Agreement with the United States in 1961,¹⁷ but it is more limited in scope than the US-UK MDA. In 1985 the French agreement was amended to include information exchanges concerning weapon design, development, and fabrication. Unlike the British agreement, these exchanges are limited to the purpose of optimising the "safety and security of the recipient's nuclear activities or installations".¹⁸ The US is now known to have provided unofficial assistance to the French nuclear programme since the 1970s using a practice known as "negative guidance". French scientists would consult their colleagues in the US concerning nuclear weapons developments, and when the US scientists could see that their French counterparts were making an error, they would tell them.

¹³ 'Experimental Hydrodynamics', Discovery, Issue 5, P Sankey and A Fox-Boudewijn, AWE July 2002 (http://www.awe.co.uk/images/experimental_hydrodynamics_tcm6-1987.pdf).

¹⁴ House of Commons, *Official Report*, 28 Apr 2004, Column 996W.

¹⁵ Ministry of Defence, 'UK-French Bilateral Defence Cooperation', 9 February 2001 (http://www.mod.uk/issues/cooperation/uk_french.htm).

¹⁶ House of Commons, *Official Report*, 12 January 1998, Col.136.

¹⁷ 'Agreement between the Government of the United States of America and the Government of the French Republic for Co-operation in the Operation of Atomic Weapons Systems for Mutual Defense Purposes', signed in Paris, 27 July 1961.

¹⁸ 'Amendment modifying the Agreement between the Government of the United States of America and the Government of the French Republic for Co-operation in the Operation of Atomic Weapons Systems to provide for Co-operation on the Safety and Security of Nuclear Activities and Installations for Mutual Defense Purposes', Paris, 22 July 1985.

The US has assisted France with a wide range of subjects including missile design, safety of nuclear materials, and gaseous diffusion technology. It should be noted however, that from the very beginning, this co-operation was a two-way process. France provided a variety of information to the United States, including data from the last series of French nuclear tests in the 1990s. This continued a tradition of co-operation on testing results, which has existed since 1960. Nonetheless, co-operation between the US and France has been less extensive than between the UK and US.

In 1996, France and the United States signed a Memorandum of Agreement (MOA) on Co-operation Concerning Nuclear Safety and Security. The MOA is far more explicit than previous agreements between the two countries. A section on Stockpile Stewardship authorises co-operation on "theoretical, numerical and experimental simulation methods". A section entitled "Nuclear Safety and Security" covers exchange of information on aspects of nuclear weapons design including research, development, testing, fabrication, transportation and disassembly of the nuclear and explosive components. It also establishes an agreement on "use of facilities" (potentially opening the door for France to use the US Nevada test site following the closure of its own nuclear test sites) and "long term visits or assignments of technical personnel to participate in joint projects".¹⁹

Enhanced nuclear co-operation between the US and France also opens the way for increased co-operation between Britain and France. Cooperation between Britain and France is restricted by the 1958 US-UK Mutual Defence Agreement, which requires US consent before the UK can communicate any information acquired under the Agreement to a third party and vice versa. Enhanced official cooperation between the US and France therefore opens the way for greater cooperation between France and Britain and enables weapons designers from all three countries to share information.²⁰

Trident and the NPT

Alan Simpson MP asked the Secretary of State for Defence what steps the Government plan to take as a contribution to the elimination of the UK nuclear arsenal, as reaffirmed at the 2000 Non-Proliferation Treaty Review Conference. On 12 June 2003, Mr. Hoon replied that:

The United Kingdom has an excellent record in fulfilling its Non-Proliferation Treaty (NPT) obligations on nuclear disarmament. Consistent with the policy set out in the Strategic Defence Review in 1998, the UK has already gone further than other nuclear weapon states in implementing the measures agreed in the Final Document of the 2000 NPT Review Conference.

In a subsequent answer, the Defence Secretary declined to be more specific about the strategic and sub-strategic roles for Trident than to direct Mr Simpson to Chapter Four and supporting essay Five of the Strategic Defence Review.²¹

Angus Robertson MP asked the Secretary of State for Defence what the role of the Trident programme is in combating international terrorism. Mr. Hoon answered on 30 January 2004:

¹⁹ 'Memorandum of Agreement on Co-operation Concerning Nuclear Safety and Security', Washington, 4 June 1996.

²⁰ Nicola Butler, 'Sharing Secrets', *Bulletin of the Atomic Scientists*, January/February 1997.

²¹ Strategic Defence Review 1998 (<http://www.mod.uk/issues/sdr/index.htm>).

As the Government have made clear on many occasions, we would be prepared to use nuclear weapons only in extreme circumstances of self-defence. I also refer the hon. Member to paragraph 21 of the SDR New Chapter, published in July 2002 (Cm 5566 vol. 1), where we stated that: 'The UK's nuclear weapons have a continuing use as a means of deterring major strategic military threats, and they have a continuing role in guaranteeing the ultimate security of the UK. But we also want it to be clear, particularly to the leaders of states of concern and terrorist organisations, that all our forces play a part in deterrence, and that we have a broad range of responses available.'

On 3 February 2004, the Foreign Secretary said: "The UK remains committed to the NPT, which we regard as the cornerstone of the global non-proliferation and disarmament regime". And on 12 February the Defence Secretary said that, "under the terms of the Nuclear Non-Proliferation Treaty, the United Kingdom, the United States, France, China and Russia are recognised as nuclear weapon states, as defined in Article 9(3) of the Treaty". The Prime Minister had used a similar phrase in an answer on 19 January: "The US, UK, France and Russia, together with China, are recognised by the Nuclear Non-Proliferation Treaty (NPT) as nuclear-weapon States, as defined in Article 9(3) of the Treaty".

The exchange between Mike Gapes MP, the Defence Secretary and Sir Kevin Tebbit, Permanent Under Secretary at the MoD during the Defence Select Committee meeting in March 2004, is instructive:

Mike Gapes: May I ask you about strategic deterrence, Trident and missile defence? First of all a point of clarification. The wording of the strategic defence review says that our aim is a safer world in which there is no place for nuclear weapons. But the wording of the White Paper in paragraph 3.11 says that our aim is a safer world in which there is no requirement for nuclear weapons. Is there a difference between those two? Is there a reason why the wording has changed?

Mr Hoon: I have not thought of one.

Mike Gapes: It just struck me that the wording had changed. If there is no reason, then perhaps you can reassure me in writing.

Mr Hoon: I cannot think of any underlying policy difference we were intending to make.

Sir Kevin Tebbit: The conditions for complete and general global nuclear disarmament are not yet met. That is what the Secretary of State usually gets me to say.

Mike Gapes: We have in-service Tridents from 1998 and we have an understanding that it is intended to remain an effective deterrent for up to 30 years. The White Paper says that decisions on Trident's replacement are not needed this Parliament, but are likely to be required in the next one and that a "range of options" is being kept open until that decision point. Could you say something about what those options are and when the decision is likely to be taken on which of those options, if any?

Mr Hoon: No.

Mike Gapes: You do not know what the options are?

Mr Hoon: Yes, I do.

Mike Gapes: You do know what the options are. At this point is there anything you would like to say about what those options are?

Mr Hoon: No.

Mike Gapes: We are not going to get very far on that, are we? May I ask whether you have any indication as to whether this might be an international option or a European option rather than a national option?

Mr Hoon: I do not think that we need discuss anything other than a national option.

Sir Kevin Tebbit: I was just reflecting to myself that there are obligations which would preclude technology transfer of that kind anyway.

Mike Gapes: Do you mean the agreement with the United States?

Mr Hoon: The non-proliferation treaty.

Sir Kevin Tebbit: The non-proliferation treaty.

*Chairman: I hope the cameras are picking up your extreme discomfort over the last few minutes. They certainly ought to reflect it.*²²

Finally, the First Sea Lord, Admiral Alan West, reportedly told a Royal United Services Institute (RUSI) conference in May 2004 that a decision on replacing Trident is expected in the next two or three years.²³

²² Hansard, 31 March 2004

(<http://www.publications.parliament.uk/pa/cm200304/cmselect/cmdfence/465/4033107.htm>).

²³ 'UK Debates Trident Sub Replacement', Andrew Chuter, DefenseNews, 31 May 2004.

3. Analysis of the 2004 Renewal

UK-US nuclear weapons collaboration: the tip of an iceberg?

Rather disturbingly, the evidence presented in the previous section of this report suggests that the current Labour Government is intent on handling the important issue of the renewal of the Agreement in the same high-handed and undemocratic manner as its predecessor in 1994. This is all the more disappointing given that Tony Blair promised to be less secretive than former governments and gave every indication of wishing to abide by, and where possible strengthen, international treaty obligations - in this case the NPT. Given also that the MDA was part of a cold war era that is now well behind us, the proposed renewal of this secretive agreement is surely an appropriate subject for parliamentary investigation.

As Admiral William Crowe, a former US Ambassador to London under President Clinton, said, the US-UK relationship goes much deeper than what is covered in the headlines:

I have always described the relationship like an iceberg, in that there is a small tip of it sticking out, but beneath the water there is quite a bit of everyday business that goes on between our two governments in a fashion that's unprecedented in the world.²⁴

Is this iceberg metaphor also relevant to UK-US nuclear weapons collaboration? It certainly seems that way. Lorna Arnold, in her book 'Britain and the H-Bomb', provides an historical account of the initial benefits to Britain's nuclear weapons research and development following the signing of the MDA. She recounts how two leading Aldermaston scientists, Plowden and Penny, told Prime Minister Macmillan that Britain would soon be in a position to build up a stock of kiloton and megaton bombs of advanced design, thanks to knowledge obtained from the United States. It was stressed that the US had agreed to the MDA on the understanding that the UK would continue to invest in scientific research and development work in order to maintain the special relationship on defence collaboration, or have such access denied in the future. In short, enhanced UK-US nuclear interdependence was based on the premise that successive UK governments would continue to maintain significant levels of nuclear R&D expenditure.²⁵

During the exchange of letters BASIC and Alan Simpson MP have had with Ministers and officials, it became clear that the renewal of the MDA would not be considered sufficiently important to warrant setting aside Government time for parliamentary debate. We were told that only "minor amendments" would be needed to an existing treaty and there would be no "financial commitment by the UK". Only "treaties with direct financial implications require the assent of Parliament because they affect revenue".

We were further informed that the Government is not legally obliged to hold a debate "since Parliament is not asked to approve the treaties which are laid". The Leader of the House's suggestion of applying for an Adjournment Debate in Westminster might have been considered helpful but such debates rarely attract sufficient MPs to call such exchanges of views representative, nor do they encourage more accountable government. Such debates are committed to Hansard but there is no division to record.

²⁴ BBC News Online, 23 February 2001 (<http://news.bbc.co.uk/1/hi/world/americas/1185177.stm>).

²⁵ 'Britain and the H-Bomb', by Lorna Arnold, Palgrave: Basingstoke, 2001.

The time-honoured practice of putting down written questions to Ministers is laborious and of limited value if answers are partial, near irrelevant, incomplete or simply withheld on the grounds of 'national security'. As this response is invoked without definition, it is impossible to decide whether it is being used judiciously or arbitrarily. The Prime Minister's admittance that there is "no statutory definition of national security" and it is "a matter for the Secretary of State to determine on a case-by-case basis" must surely be open to challenge.

The suggestion that the appropriate departmental select committees might carry out an inquiry was more helpful and the response from the Defence Committee that it is likely to do so was positive. However, the timeframe will probably be short, as any inquiry will not be triggered until the amendments are laid before Parliament and the Government may wish to ratify 21 days later, or earlier, if they so choose.

Additionally, the scope of a possible Defence Committee inquiry is unclear, as is the relative weight the Government might be prepared to give to any subsequent recommendations. In essence, will the Committee be going through the motions in the UK while the wax is drying under the official seal of approval in Washington?

The letter from the Senior Research Clerk in the House of Commons Library was by far the most helpful. In it he quotes from the Government response to a 2000 Procedural Committee Report:

The Government is happy to undertake normally to provide the opportunity for the debate of any treaty involving major political, military or diplomatic issues, if the relevant select committee and the Liaison Committee so request. It agrees that this would be a useful development of the Ponsonby Rule.

Given that the Amendment is to be considered a treaty in itself and subject to normal treaty laws and practices, and given that the MDA would permit extensive exchanges of nuclear information, technology and material between the US and the UK for another 10 years, it must surely be considered a treaty involving major political, military AND diplomatic issues. As such, **BASIC recommends that the Defence Committee, the Foreign Affairs Committee and the Liaison Committee request the Government to set aside time to debate the renewal of the MDA.**

BASIC believes that there are three further compelling reasons for the Government to permit a debate in its own Parliamentary time. The first is pecuniary, the second is strategic and the third concerns treaty compliance.

Grounds for a parliamentary debate, Part I: to establish the extent of the financial implications of the MDA

Baroness Symons has stated that neither the MDA nor the amendments under discussion involve any financial commitments by the UK. Parliamentary answers have revealed relatively minor direct and indirect expenditure by the UK in facilitating the existing MDA and in preparing its 10-year renewal.

The exchange of personnel for short visits to nuclear weapons facilities in the United States, the maintenance of personnel stationed there, the proportion of FCO staff time put into the renegotiations are all detailed but not quantified. The annual running costs of the Atomic

Control Office in London and the Atomic Co-ordinating Office in Washington are £70,000 and £400,000 respectively.

However, this limited expenditure is not the entire picture, and may only represent the tip of a fiscal iceberg.

For example, in addition to personnel exchanges, 'special nuclear materials' are transferred between RAF Brize Norton and Dover Airbase in Delaware, en route to, and from the US weapons laboratories, as are 'specific work packages'. An MoD report of 2001, states:

Between 1960 and 1979 the UK supplied the US with approximately 5.4 tonnes of plutonium under the 1958 UK/US Mutual Defence Agreement (MDA) which enables transfers between the UK and US of special nuclear materials. The material was supplied in three tranches; known respectively as Barter A, B and C. Barter A and C came from the military production reactors at Calder Hall and Chapelcross, whereas civil Magnox reactors also produced some material for Barter B. In exchange, the UK received from the US 6.7kg of tritium and 7.5 tonnes of high enriched uranium (HEU) for Defence applications.²⁶

The Government is notably tight-lipped about these shipments that may be covered by non-pecuniary barter arrangements. However, they clearly have some financial implications for the UK, and the information that we have managed to obtain indicates that the US weapons laboratories are working directly on the UK nuclear weapons programme, presumably in collaboration with UK scientists.

On 22 April 2003, Los Alamos National Laboratory (LANL) announced it had successfully made the first US nuclear weapon pit in 14 years (a 'pit' is the fissile core of a nuclear warhead). This Technical Area 55 (TA - 55) facility will produce half a dozen pits a year, rising to ten per year in 2007, pending the development of a long term US pit production capability.²⁷ AWE's experience with the operation of its A-90 plutonium facility has apparently been of considerable help to LANL in its preparation for pit production.²⁸

AWE admits to the significance of the MDA when they say it has been a "cornerstone of life for our British nuclear weapon community ever since".²⁹ Somewhat ironically, the NPT is usually referred to as 'the cornerstone of arms control and reduction treaties', but the two edifices are at opposite ends of the non-proliferation architecture. Significantly, the description on the AWE website, that the MDA operates "...to the benefit of the nuclear weapons *programme* [emphasis added] on both sides of the Atlantic" implies an even higher level of interoperability than previously suspected.³⁰

It is hard to believe the claim that implementation of an agreement of this significance involves no financial costs to the British government. The US Congress allocates funds for

23. 'The United Kingdom's Defence Nuclear Weapons Programme. Plutonium and Aldermaston' - An Historical Account, Ministry of Defence, 4 September 2001 (http://www.mod.uk/publications/nuclear_weapons/aldermaston.htm).

27 'Los Alamos restores US ability to make nuclear weapons', LANL Press Release, 22 April 2003 (www.fnrl.org/issues/arm/sup/nuclear_los-alamos501-03.htm).

28 'US-UK Stocktake', Sig Hecker, The Inside Story, LANL, July 22 1997 (www.lanl.gov/orgs/pa/Director/inside072297.html).

29 'US/UK Agreement' AWE website (http://www.awe.co.uk/main_site/about_awe/history/timeline/1958).

30 *ibid*

oversight of the MDA and other nuclear cooperation agreements via its annual Defense Authorizations and Appropriations Bills,³¹ which are subject to full Congressional scrutiny prior to becoming legislation. In comparison Britain's Defence White Papers give little detail of government spending, so it is difficult to verify the government's claim that the MDA does not incur costs. There is also little opportunity for parliamentarians to scrutinise the British defence budget, let alone make amendments to it.

Grounds for a parliamentary debate, Part II: to clarify the strategic implications of the MDA

The very high-level connections between AWE and the US weapons laboratories open up a number of important strategic options for the UK Government, particularly at a time when the issue of Trident replacement is under consideration.

Since April 2000, for example, AWE has been managed for the Ministry of Defence by a consortium called AWE Management Limited (comprised of British Nuclear Fuels, US defence manufacturer Lockheed Martin, and service company SERCO). Dr Everet Beckner was appointed Deputy Chief Executive AWE, having formerly worked at the Sandia National Laboratories (New Mexico and California).³² Lockheed Martin manages Sandia for the US Department of Energy's National Nuclear Security Administration (NNSA). Dr Beckner left AWE in late 2001 to take up his next post as Deputy Administrator, Defense Programs, at the NNSA. This is a senior position in the Bush Administration and is appointed on the basis of a personal recommendation from the President to the Congress. Dr Beckner is now responsible for:

- the entire US nuclear weapons programme, which includes overseeing all the activities of the American nuclear laboratories and plants;
- managing the two Mutual Defence Agreements that the United States has with the United Kingdom and France;
- the collaborative international activities in defence science areas – for example, in high-energy density science and radiography, including tasks under the MDA with France on inertial fusion and radiography and involvement in the National Ignition Facility under the MDA with the United Kingdom; and
- maintaining the capability, as required, to conduct nuclear tests and design new nuclear weapon systems.³³

Given Dr Becker's high-level connections with the AWE, the US weapons laboratories and the Bush Administration and its future nuclear plans, his personal opinions may be indicative

³¹ 'Policy and Guidance for International Obligations', Department of Defense (http://www.dod.mil/comptroller/defbudget/fy2004/budget_justification/pdfs/rdtande/OSD_RDTE/Budget_Activity_3/38_0605160__R2a__Feb_2003.pdf).

³² AWE Annual Report 2000 (http://www.awe.co.uk/Images/annual_report_2000_tcm6-1764.pdf).

³³ 'Office of the Deputy Administrator for Defense Programs', US Department of Energy website (<http://www.dp.doe.gov/>).

of some of the options currently being, or shortly to be, considered by the British government. To this end, his views on some of the current key nuclear issues are as follows:

- **On low-yield nuclear weapons** – “I do support repealing the legislation. ... The reason for that is primarily one of it’s causing us to stop some analyses from occurring, which is a natural extension of work that you would do at higher yields.”³⁴
- **On new nuclear weapons development** – “To keep people thinking at the front edge of their intellectual interests, it’s important that they not be constrained to think only in terms of what’s out there, already built.”³⁵
- **On Robust Nuclear Earth Penetrators (RNEPs) or so-called ‘bunker busters’** – “The new nuclear weapons development program will start small. ... There will be about a dozen weapon designers each at the Lawrence Livermore and Los Alamos national laboratories. ... The study on the new bunker-busting bomb will probably cost up to \$50 million over two to three years. ... Energy officials will obtain congressional approval before designing any new weapons.”³⁶
- **On possible Earth Penetrator testing** – The \$15 million requested by the Energy Department for continued study of options for the high-yield ‘earth penetrator’ weapon would support “theoretical and engineering work” that “might culminate in an integral flight or laboratory test” of a prototype weapon.³⁷

While the British Government has said that it is not involved in research and development of ‘low yield’ and ‘bunker-buster’ nuclear weapons, the close connections between the US and UK nuclear science communities raise further questions about the strategic direction Britain may be taken under a renewed MDA. The continued reciprocal exchange of knowledge, technology and materials between the United States and the United Kingdom could result in the design and development of new generations of nuclear weapons, for both countries.

All the scientists require is a political lead from Whitehall.

Grounds for a parliamentary debate, Part III: to discuss the implications of the MDA on Britain’s NPT commitments

The UK Government claims to be in compliance with its NPT obligations. The repetition of this claim is generally deemed sufficient to stand for its veracity. The use of the phrase “the

³⁴ ‘United States: Bush Administration Asks for Repeal of Ban on Mini-Nuke Research’, by David Ruppe, Global Security Newswire, 6 March 2003 (http://www.nti.org/d_newswire/issues/2003/3/6/4s.html).

³⁵ ‘United States III: New Development Could Reinvigorate Scientists, Experts Say’, Global Security Newswire, 19 March 2002 (http://www.nti.org/d_newswire/issues/2002/3/19/9s.html).

³⁶ ‘United States II: ‘Bunker-Buster’ Development to Begin’, Global Security Newswire, 19 March 2002 (http://www.nti.org/d_newswire/issues/2002/3/19/8s.html).

³⁷ ‘United States: Pentagon Seeks Freedom to Research New Nuclear Weapons’, by David Ruppe, Global Security Newswire, 7 March 2003 (http://www.nti.org/d_newswire/issues/2003/3/7/6s.html).

UK is *recognised* [emphasis added] as a nuclear weapon state under the NPT³⁸ is instructive and appears to offer a false legitimacy to the indefinite continued possession of nuclear weapons. This is something clearly not envisaged at the signing of the NPT nor an interpretation which has much support elsewhere.

The Defence Committee exchange between Mike Gapes and Geoff Hoon on 31 March 2004 offer little hope in the Government being any less secretive on nuclear policy than its predecessors. Mr Hoon admitted that a range of options is being considered for the replacement of Trident but declined to inform the Defence Committee as to what they were. It is interesting that both Sir Kevin Tebbit and the Defence Secretary acknowledged in their evidence to the Committee that NPT obligations preclude technology transfer. The MDA, in stark contrast, actively promotes it.

BASIC has outlined previously how current UK policy stands in contradiction to Step 9 of the '13 Steps' attached to the Final Document of the 2000 NPT Review Conference.³⁹ Under this clause, all the nuclear-weapon States agreed to take steps:

*...leading to nuclear disarmament in a way that promotes international stability, and based on the principle of undiminished security for all.*⁴⁰

In summary, the UK has:

- failed to set out a plan or timetable to reduce its nuclear arsenal;
- failed to establish a diminished role for nuclear weapons in its national security policy; and
- actively blocked efforts to provide non-nuclear weapon states with legally binding assurances that they will not be targeted by Trident missiles.

Article VI, the nuclear disarmament component of the NPT, remains a blind spot in the UK Government's field of vision.

BASIC has also suggested that the MDA is contrary to Article I of the NPT, which obliges the nuclear weapons states not to transfer their nuclear capabilities to other states "whatsoever", "directly or indirectly".⁴¹ The fundamental purpose of the NPT is set out in the Preamble: "The prevention of wider dissemination of nuclear weapons". In reality, this is exactly what the MDA provides – an open-ended arrangement for two named states to 'disseminate' information, technology and materials in their pursuit of more sophisticated nuclear weaponry.

A number of non-nuclear weapon states parties to the NPT have also questioned whether the MDA is in compliance with Article I. During the 1995 NPT Review Conference, in Main Committee I, under the review of Article I, a number of countries led by Mexico, attempted to raise the issue. As a result, the draft report from Main Committee I noted that:

³⁹ 'NPT in Crisis? Verified compliance is the key to moving forward', BASIC Briefing for the 2003 NPT PrepCom (<http://basicint.org/pubs/nptpc03.pdf>).

⁴⁰ 2000 Review Conference of the Parties to the Treaty on the Non-Proliferation of Nuclear Weapons Final Document, New York, 2000 (<http://www.basicint.org/nuclear/NPT/2000revcon/finaldoc-advance.htm#Article%20VI>).

⁴¹ 'Time to put Article I under the Spotlight', BASIC Briefing for the 2004 NPT PrepCom (<http://www.basicint.org/nuclear/NPT/2004pc/bref1.htm>).

Among States parties there are variations in the interpretation of certain aspects of articles I and II which need clarification, especially regarding the obligations of nuclear-weapon States parties among themselves... which may have resulted in transfer of nuclear weapons in violation of the spirit and objective of article I.⁴²

The Non-Aligned Movement also proposed in a working paper that:

The Conference underlines the need for nuclear weapon States to remain in compliance with the letter and the spirit of Article I. The Conference further reiterates that the prohibition of transfer of nuclear weapons and nuclear explosive devices includes transfers between nuclear weapon States.⁴³

BASIC took the opportunity to remind delegates of their Article I commitments at the 2004 NPT PrepCom in New York by circulating copies of the UK-US MDA. Indeed, BASIC's representative at the PrepCom, Carol Naughton, reported that national delegates took copies of the MDA in such numbers that she had to photocopy more for distribution. She noted that Mexico, on behalf of the New Agenda coalition, reminded the conference that:

The achievement of nuclear disarmament is not an option, but a legal obligation established in the NPT. Equally, the indefinite extension of the Treaty in 1995 did not equate to indefinite ownership of nuclear weapons.⁴⁴

In addition to being grounds for a proper House of Commons debate, this subject should also be of interest to the House of Commons Foreign Affairs Committee given its oversight role on Britain's international standing and compliance with treaty obligations.

⁴² 'Report of Main Committee I', NPT/CONF.1995/MC.I/1, May 8, 1995. The 1995 Review Conference failed to adopt a final document, so this report was never formally agreed by States Parties.

⁴³ 'Review of Articles I and II and First to Third Preambular Paragraphs, Language proposed by the members of the Movement of Non-Aligned Countries parties to the Treaty,' (NPT/CONF.1995/MC.I/WP.9, May 8, 1995).

⁴⁴ 'Business as usual and no progress made', Report from the 2004 NPT PrepCom (<http://www.basicint.org/nuclear/NPT/2004pc/rep1.htm>).

4. Closing the Loopholes – Enhancing Democracy

Conclusions

The question of US-UK nuclear cooperation is particularly controversial, given the Bush Administration's plans to develop a new generation of 'mini-nukes' and 'bunker-busting' nuclear weapons. Despite increasing opposition in the US Congress,⁴⁵ there is a real danger that current US plans may lead to a resumption of nuclear testing. This would be deeply destabilising for the non-proliferation architecture and contrary to Britain's support for the Comprehensive Test Ban Treaty and other non-proliferation commitments. Is it appropriate for the UK to continue such a close cooperative relationship with the US weapons laboratories in these circumstances? Should Britain be supporting the Bush Administration's nuclear plans?

The US administration, supported by the UK Government, has made strenuous efforts to close the nuclear technology sharing loopholes provided for under Article IV of the NPT, quite rightly in the opinion of many observers and commentators. Yet they obdurately refuse to acknowledge that the loopholes provided by the MDA undermine the NPT and contribute to the belief that both the NPT and the MDA are 'discriminatory'. This interpretation is gaining adherents in the face of the intransigence of two nuclear weapons states who believe that their continued possession and threatened use of nuclear weapons is entirely legitimate – militarily, legally and morally.

However, such an interpretation takes nuclear non-proliferation into a cul-de-sac, as Acronym Director Rebecca Johnston points out in her assessment of the outcome of this year's NPT PrepCom:

The Third Session of the Preparatory Committee (PrepCom) for the 2005 Review Conference of the NPT closed in disarray around 8 pm Friday May 7, 2004, with adoption of only parts of its final report containing the most minimal agreements to enable the 2005 Review Conference to take place. States Parties were unable to take decisions on important issues such as the agenda and background documents, in large part because the US delegation was determined to oppose and minimise references to the consensus final document from the 2000 Review Conference, which had resulted in the ground-breaking 13-step plan of action on nuclear disarmament. The United States, actively abetted by France and Britain, with the other nuclear weapon states happy to go along, wanted to rewrite the NPT's history by sidelining the 2000 Conference commitments.⁴⁶

The Leader of the House of Commons has agreed that nuclear co-operation with the United States is an important issue which fully merits scrutiny. Furthermore, treaties with direct financial implications require the assent of Parliament, and we have shown that exchanges under the MDA do have financial implications and must, therefore, affect revenue. Now is the time to shine a torch on the darker recesses of UK-UK nuclear collaboration under the 'special relationship' – nuclear proliferation by any other name.

⁴⁵ 'Congress Support for Bunker-Buster Eroding', John Fleck, 1 June 2004 (<http://www.abqjournal.com/paperboy/ia/scitech/181448science06-01-04.htm>).

⁴⁶ 'Confusion and Anger as NPT Meeting Closes in New York', Acronym Report by Rebecca Johnston, May 8, 2004 (<http://www.acronym.org.uk/npt/index.htm>).

Recommendations

1. The House of Commons Defence Committee should conduct an urgent inquiry into the MDA. The inquiry should review both the history and current practice of the MDA, and especially the potential conflict between the MDA and Britain's international treaty obligations. To give itself sufficient time to conduct such an inquiry, publish a report and receive a government response, the Committee should not wait until any "minor" amendments to the MDA are laid before the House.

2. The House of Commons Foreign Affairs Committee should conduct an inquiry into the outcome of the 2004 NPT PrepCom and how the Government intends to fulfil its obligations under the final document from the 2000 NPT Review Conference. This is especially important in light of the Government's stated intention to retain Trident for 30 years and initiate a debate about its replacement in the next parliament.

3. The Defence Committee, The Foreign Affairs Committee and the Liaison Committee should ask the Government to provide an opportunity for a parliamentary debate on the MDA, prior to renewal. Given that any amendment to the MDA will be considered as a treaty in itself and that it involves major political, military and diplomatic issues, such a debate is essential.

4. The Government should set aside parliamentary time for MPs to debate the appropriateness of the MDA. The latest renewal comes a decade after the end of the Cold War, in a very different strategic environment, and with potentially serious consequences for the 2005 NPT Review Conference should it be ratified for a further ten years. Moreover, since the MDA affects revenue, as such, its renewal does require the assent of Parliament.

5. In relation to MDA-related issues, including developments at AWE, the Government should review Exemption 1 of the Code of Practice on Access to Government Information (Defence, Security and International Relations) and the invocation of the 'not in the interests of national security' clause. The lack of transparency and accountability on such an important issue is an affront to participatory democracy.

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