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Search

Advanced Search

[Home](#)[Glossary](#)[Index](#)[Contact Us](#)[Parliament Live](#)

section...

Select Committee on Defence Memoranda

Annex A

Possible Constraints on future UK decision-making on any replacement for Trident

What international constraints / obligations would we face if we were to take a decision to replace Trident?

The Government is yet to take a decision on whether or not to replace Trident. However, were a decision taken to acquire a successor system, we foresee currently that the most relevant international obligations would be: a) the Treaty on the Non-Proliferation of Nuclear Weapons; b) the Comprehensive Nuclear Test-Ban Treaty; c) the Hague Code of Conduct; d) the Missile Technology Control Regime; and e) the Nuclear Weapons Free Zones treaties. The Government will continue to comply fully with these international legal and political commitments.

a) The Treaty on the Non-Proliferation of Nuclear Weapons

In this context, the two most relevant articles of the Treaty on the Non-Proliferation of Nuclear Weapons (NPT) are Articles I and VI:

- In accordance with Article I nuclear-weapon States have undertaken "not to transfer to any recipient whatsoever nuclear weapons or other nuclear explosive devices or control over such weapons or explosive devices directly, or indirectly; and not in any way to assist, encourage, or induce any non-nuclear-weapon State to manufacture or otherwise acquire nuclear weapons or other nuclear explosive devices, or control over such weapons or explosive devices.
- As one of the five nuclear-weapon States, the UK is obliged under Article VI of the NPT to "pursue negotiations in good faith on effective measures relating to the 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."

We have already taken a number of significant steps in meeting our disarmament obligations under the NPT. For example, we have reduced our nuclear capability to a minimum deterrent, represented by a single nuclear- weapons system. Since the end of the Cold War we have reduced the total explosive power of our nuclear forces by over 70%. We have also reduced the readiness of our nuclear forces: only a single Trident submarine is now on deterrent patrol, carrying 48 warheads which are de-targeted and are at several days "notice to fire".

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b) Comprehensive Nuclear Test-Ban Treaty

We signed the Comprehensive Nuclear-Test-Ban Treaty (CTBT) in September 1996 and ratified it in April 1998. This treaty prohibits any nuclear weapon test explosion or any other nuclear explosion. The Treaty's preamble recognises that the cessation of such tests constitutes an effective measure of nuclear disarmament by constraining the development and qualitative improvement of nuclear weapons and ending the development of advanced new types of such weapons. We view the CTBT as an important part of the international regime to implement global nuclear disarmament and prevent the proliferation of nuclear weapons. Although it has not yet entered into force and is therefore not a legally binding constraint, the UK is observing a moratorium on testing and has not conducted any nuclear test explosions since 1991.

c) Hague Code of Conduct

The Hague Code of Conduct (HCOC) aims to bolster efforts to curb ballistic missile proliferation. Under the HCOC the UK has committed to producing an annual statement of our missile policy, details of test sites and the numbers and types of missiles held. The UK is also committed to notify partners in advance of any launch of a long-range missile. It is intended to supplement, not replace, the Missile Technology Control Regime.

In paragraph 3c) of the HCOC States resolved to exercise maximum possible restraint in the development, testing and deployment of Ballistic Missiles capable of delivering weapons of mass destruction (WMD), including, where possible, to reduce national holdings of such missiles.

d) Missile Technology Control Regime

Under the Missile Technology Control Regime (MTCR) States seek to co-ordinate national export control licensing efforts and policies with the aim of preventing the proliferation of delivery systems for WMD.

The UK has committed to apply the MTCR's common export control policy to our list of controlled items according to our own national export control legislation. Greatest restraint is applied to "Category I" systems. These comprise complete rocket systems capable of carrying at least a 500kg payload to a range of at least 300km, and their complete sub-systems and production facilities. For these systems, there is a strong presumption to deny transfer among MTCR members. However, an "aide memoire" attached to the MTCR states that the regime does not supersede any agreement that came into force prior to 1997. This, for example, allows the transfer of Category 1 systems between NATO members.

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e) Nuclear Weapons Free Zones

The UK supports the principle of Nuclear Weapon Free Zones (NWFZs) treaties, which are regional in nature and set out the international legal constraints on the stationing, use and transiting of nuclear weapons among the States party to them. We believe they can make a valuable contribution to nuclear non-proliferation and global and regional peace and security.

For that reason, we have signed and ratified the relevant Protocols to the Treaties establishing NWFZs in:

- Latin America (Tlatelolco). This treaty prohibits inter alia the testing, deployment, possession and use of nuclear weapons or explosive devices in the Territories of the States party to the Treaty.

- The South Pacific (Raratonga). This treaty applies to an area south of the equator, including Australia. Parties are bound inter alia to prevent the stationing and testing of nuclear weapons and explosive devices within their territory.
- Africa (Pelindaba). This treaty, inter alia, prohibits the stationing of nuclear weapons and explosive devices within the territory of States Parties.

The consequence of UK ratification of these Protocols is, inter alia, an undertaking by us not to test nuclear weapons within the zone of the Treaties or to contribute to any act which would constitute a violation of the Treaties or the relevant protocol by States Parties, and, where relevant, that our Overseas Territories situated within the zone of the Treaties will be subject to certain of the provisions of those Treaties, including the prohibition on stationing nuclear weapons within those Territories situated within the zone.

[Previous](#)[Contents](#)[Next](#)[Commons](#)[Parliament](#)[Lords](#)[Search](#)[Enquiries](#)[Index](#)