

Constraints on British nuclear policy

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British nuclear policy is constrained by a number of agreements, rulings and treaties.

▶ **Nuclear Non-Proliferation Treaty (NPT)**

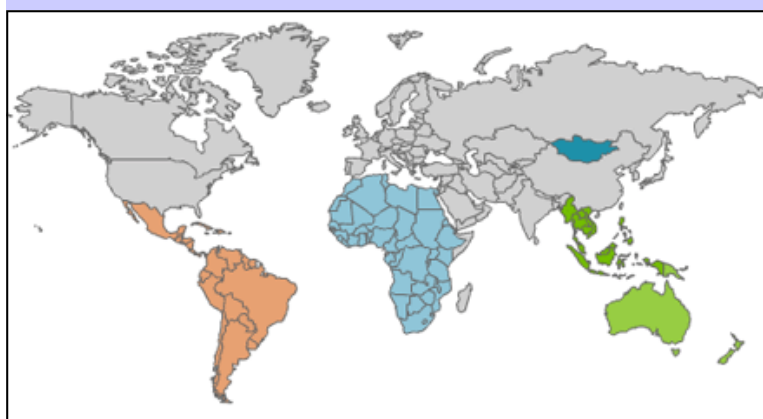
The NPT was negotiated in 1968. It acknowledged the existence of five states that had tested nuclear weapons (Britain, America, the Soviet Union, France and China). It called on these nuclear weapon states to work towards nuclear disarmament, not help any other country acquire nuclear weapons and to assist other countries in developing nuclear technologies for civilian purposes, such as nuclear power reactors. In return the non-nuclear weapon states agreed not to acquire nuclear weapons and to also work towards nuclear disarmament with the nuclear weapon states. At the 2000 NPT Review Conference Britain agreed to an “unequivocal undertaking by the nuclear weapon states to accomplish the total elimination of their nuclear arsenals leading to nuclear disarmament”.

▶ **Comprehensive Test Ban Treaty (CTBT)**

The CTBT was negotiated in 1996. Britain ratified the treaty in 1998. It prohibits any explosive nuclear tests but testing nuclear warhead components is still permitted. The nuclear weapon states have developed extensive scientific facilities to simulate nuclear tests in the absence of physical testing.

▶ **Nuclear weapon free zones (NWFZ).**

There are five NWFZ covering Africa, Latin America, South-East Asia, the South Pacific and Central Asia. Mongolia has also formally declared itself a NWFZ. Britain has ratified protocols to the zones in Africa, Latin America and the South Pacific. In doing to Britain agrees not to deploy or use or threaten to use nuclear weapons in these geographic areas. Agreement has yet to be reached on a protocol to the 1996 treaty covering South-East Asia and the 2007 treaty covering Central Asia.



Nuclear weapon-free zones (does not show Central Asian NWFZ) Source: International Panel on Fissile Materials website

► **Negative Security Assurances (NSAs).**

In 1978 and again in 1995 Britain and the other nuclear weapon states issued a 'negative security assurance' to non-nuclear weapon states. This says that Britain "will not use nuclear weapons against non-nuclear-weapon States Parties to the Treaty on the Non-Proliferation of Nuclear Weapons except in the case of an invasion or any other attack on the United Kingdom, its dependent territories, its armed forces or other troops, its allies or on a State towards which it has a security commitment, carried out or sustained by such a non-nuclear-weapon State in association or alliance with a nuclear-weapon State". This assurance does not apply to states that are in 'material breach' of their own non-proliferation obligations under the NPT.

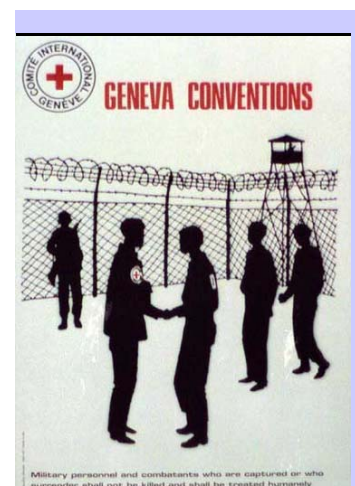
► **1996 International Court of Justice Advisory Opinion.**

Article 51 of the United Nations Charter permits the use of force for individual or collective self-defence.

In 1996 the ICJ issued an Advisory Opinion on the "Legality of the Threat or Use of Nuclear Weapons". The Court stated that the rules of humanitarian law applicable in armed conflict are fundamental and constitute intransgressible principles of international customary law. Customary international law states that use of force must comply with the requirements of the law applicable in armed conflict, in particular the principles and rules of humanitarian law. The ICJ has confirmed that it is a well-established rule of customary international law that a use of force in self-defence must be proportional to the armed attack and necessary to respond to it.

The Court concluded that "the threat or use of nuclear weapons would generally be contrary to the rules of international law applicable in armed conflict, and in particular the principles and rules of humanitarian law" but it could not "conclude definitively whether the threat or use of nuclear weapons would be lawful or unlawful in an extreme circumstance of self-defence, in which the very survival of a State would be at stake".

The British government accepted this Opinion and does not dispute that intentional humanitarian law applies to nuclear weapons. The 1949 Geneva Conventions and their 1977 Additional Protocol form the core of intentional humanitarian law and have been ratified by the UK. It has repeatedly stated that it would only consider use of nuclear weapons in "extreme circumstances of self-defence". Use of nuclear weapons would therefore only be legal if their use constituted a proportionate response to aggressive actions, was a necessary response to an attack discriminated between combatants and non-combatants and did not cause unnecessary suffering.



Geneva Convention poster.
Source: Library of Congress