

Getting nuclear weapons

How do you get a nuclear weapon? If you don't make it yourself, then it's probably come by acquisition or transfer. This piece will look at those two concepts, and what prohibiting them could mean for nuclear umbrella countries.

Acquisition

The issue of developing nuclear weapons brought up the nuclear Non Proliferation Treaty (NPT). For nuclear reliant states, all of whom are party to the NPT, Article II obliges non-nuclear weapon states *“not to manufacture or otherwise acquire nuclear weapons or other nuclear explosive devices”*. A ban treaty therefore is a way to reinforce the existing agreements, and also make sure that they are universally applicable to all States party (as opposed to only applicable to a category of countries).

The NPT currently splits the responsibilities around acquisition to the nuclear armed and the rest. The nuclear armed countries agree not to *“assist, encourage or induce the rest not to manufacture or otherwise acquire nuclear weapons or other nuclear explosive devices, or control over such weapons or explosive devices.”* The rest agree more broadly just not to get nuclear weapons, or *“not to manufacture or otherwise acquire nuclear weapons or other nuclear explosive devices; and not to seek or receive any assistance in the manufacture of nuclear weapons or other nuclear explosive devices.”* A ban will reinforce that any acquisition is illegal.

Financing acquisition

Negotiators of the ban treaty can also strengthen their efforts against the acquisition of nuclear weapons. One way to do this is to expand the language from the NPT and clarify the growing understanding that assistance includes financing and therefore make it clear that the financing of any acquisition will be prohibited. Nuclear reliant countries can prepare for these prohibitions in a few ways, including by putting in place national legislation now which prohibits investment in private companies that are associated with the production of key components for nuclear arsenals. Already in Switzerland and Lichtenstein there is legislation that criminalizes intentional investment in nuclear weapons. There are at least 10 examples of national legislation prohibiting investment in the production of cluster munitions, our colleagues working to Stop Explosive Investments (in cluster munitions) have done a great analysis of this type of legislation, providing lessons for future negotiators.¹

Transfer

Getting nuclear weapons by a transfer from a nuclear armed country is a delicate issue for some of NATO's non nuclear armed allies. The NPT explicitly requires states *“not to receive the transfer from any transferor whatsoever of nuclear weapons or other nuclear explosive devices or of control over such weapons or*

¹ See more about national legislation prohibiting investment in cluster munitions here: <http://www.stopexplosiveinvestments.org/legislation>

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explosive devices directly, or indirectly'. Questions have been raised about potential NATO noncompliance with this article for decades, specifically in relation to the forward deployment by the United States of nuclear weapons on the territory of (now) five NATO members, and the training of their military personnel to use those weapons. In strict interpretation of the Article, handing over control of these weapons would mean the US would violate Article I of the NPT, and the recipient state would violate Article II. The 1985 NPT Review Conference agreed as part of its Final Document that the Treaty remains in force "*under any circumstances*", with the intention of halting any NATO nuclear sharing. However, Belgium, Italy, Germany and the Netherlands continue to undergo preparations to accept control over nuclear weapons. A treaty banning nuclear weapons should clarify any outstanding questions or misconceptions. States that currently have infrastructure for hosting nuclear weapons, when joining a ban treaty, should outline a clear path towards closing or converting the infrastructure in place and ending the national preparations that currently exist in some countries to maintain a readiness to accept the transfer of nuclear weapons.

For other nuclear reliant states- like those in the CSTO, Australia, Japan or the Republic of Korea, transfer issues would require dialogue shifts with their respective nuclear weapon providers (the Russian Federation and the US), and could impact decisions on berthing. However, there would likely be little infrastructure changes necessary and only political agreements that need shifting.

Conclusion

Any plausible pathway to getting nuclear weapons should be prohibited in a nuclear ban treaty. This will reinforce the existing obligations under the NPT, while clarifying some perceived questions around that treaty which allow for questionable national practices in some states. A treaty prohibiting nuclear weapons would be incomplete without closing all pathways to getting the bomb.

About the program

No Nukes is PAX's campaign for a world free of nuclear weapons. No Nukes seeks opportunities to strengthen the global non-proliferation regime and to accelerate global nuclear disarmament by stigmatizing, outlawing and eliminating nuclear weapons

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