

Having Nuclear Weapons

When considering what it means to have nuclear weapons, the ideas of stockpiling or possession of the weapons comes to mind first. Other weapons prohibitions talk about prohibiting the stockpiling or retention of the weapons, all of which comes back to the main issues- once you sign up, you agree not to have them.

Making it illegal to have nuclear weapons is not only a matter of only looking at states possessing nuclear weapons. Naturally, if you agree to prohibit having a weapon, you are by default agreeing to prohibit the deployment of that weapon. The deployment question is therefore an interesting one for NATO members that host US nuclear weapons on their territory (Belgium, Germany, Italy, the Netherlands and Turkey). For the rest of NATO's members, all of the associated ideas behind a prohibition on having nuclear weapons will simply reaffirm what they have already agreed under the NPT.

NATO, deployment and the ban

A nuclear weapons ban treaty could have an impact on the infrastructure necessary to maintain forward deployment capacities. In meeting obligations of a new legal instrument, the facilities that must currently remain certified to host nuclear weapons would no longer need to meet those standards (though activists have shown that they don't do a good job anyway). The ban treaty could require that the 180 or so forward deployed B61 nuclear bombs return to the US as a practical way to implement the treaty. There might also be a reduction in the need for guns, guards and gates at some of the bases where US nuclear weapons are currently stored in Europe. Whether the bunkers themselves would need to be dismantled is a question for each state to decide on their own. The prohibition could also lead to the end of trainings that some air forces undergo to handle nuclear weapons (though perhaps more due to a prohibition on use than on possession).

In some situations, additional bilateral negotiations might need to be undertaken on the Status of Forces

Agreements, or Agreements for Cooperation for Mutual Defense Purposes related to deployment and transfer arrangements. Turkey is a bit of an outlier as it is commonly understood that the Turkish Air Force does not train to accept transfer of US nuclear weapons, as opposed to the Belgian, German, Italian and Dutch. It is unlikely that a ban treaty would require states to give up their Dual Capable Aircraft, as these planes are also usable for conventional missions, but a ban treaty could require modifications of the planes to prevent future nuclear weapons capabilities.

A ban treaty would replace the secret practices around these agreements with a transparent, accountable and democratic practice in accordance with NATO ideologies.

NATO's most recent Strategic Concept (2010) continues the unique policies of nuclear forward deployment and of 'nuclear sharing', by declaring that the Alliance will "ensure the broadest possible participation of Allies in collective defence planning on nuclear roles, in peacetime basing of nuclear forces,

PAX Policy Brief | Having Nuclear Weapons

and in command, control and consultation arrangements”.¹ Nevertheless, the Strategic Concept is formulated carefully so it does not block changes. In theory, the text would allow a nuclear weapon free NATO without contradicting the non-binding political agreement.

It is good to remember that NATO nuclear sharing practices are not enshrined in legal agreements (there is no reference to nuclear weapons in NATO’s founding document, the Washington Treaty) so changes to the core efforts and agreements that legally bind alliance members to each other’s collective security would need no adjustment. It would only be the political statements and documents that would need to shift. As the International Law and Policy Institute argues: “concerns about the political implications for NATO ignore historical variations in member state military policy and underestimate the value of a ban on nuclear weapons for promoting NATO’s ultimate aim: the security of its member states.” If NATO member states really want to promote the ultimate aim of security for their member states, then efforts to shift language in the alliance’s political outcome documents to reflect strengthened international law will do that much more effectively than encouraging or inciting the continued possession of nuclear weapons.

Nuclear Sharing

Politically there would need to be a series of discussions inside of NATO to facilitate a transition away from the current nuclear sharing practices. The nuclear armed NATO members undertook an obligation (back in 2010) to reduce the role of nuclear weapons in their security strategy and doctrines, and NATO’s non nuclear armed allies bear responsibility for demanding compliance with that agreement. NATO continues to assert “*Arms control, disarmament, and non-proliferation continue to play an important role in the achievement of the Alliance’s security objectives. Both the success and failure of these efforts can have a direct impact on the threat environment of NATO.*”² At the same time, the alliance reaffirms, “*As long as nuclear weapons exist, NATO will remain a nuclear alliance.*” A ban treaty would force NATO members to clarify on national and at the alliance level a shared public understanding of what exactly a nuclear alliance is, and under what circumstances that includes the use of nuclear weapons causing catastrophic humanitarian harm. Even proponents of a more ‘robust’ role for nuclear weapons across NATO reaffirm that “*NATO should also underscore that all Allies continue to honour their international obligations and commitments, including on nuclear weapons.*”³

NATO member states have reserved the right to adopt independent national policies on nuclear weapons as long as the Alliance has existed. Some of these national positions already restrict participation in the

¹ Active Engagement, Modern Defence – Strategic Concept for the Defence and Security of the Members of the North Atlantic Treaty Organization (2010), page 15: http://www.nato.int/nato_static_fl2014/assets/pdf/pdf_publications/20120214_strategic-concept-2010-eng.pdf

² NATO – Wales Summit Declaration issued by the Heads of State and Government participating in the meeting of the North Atlantic Council in Wales. NATO. Available at:

http://www.nato.int/cps/en/natolive/official_texts_112964.htm [Accessed September 11, 2014].

³ Camille Grand, 2016. Nuclear deterrence and the Alliance in the 21st century. NATO Review. Available at: <http://www.nato.int/docu/review/2016/Als-o-in-2016/nuclear-deterrence-alliance-21st-century-nato/EN/index.htm> [Accessed February 20, 2017].

PAX Policy Brief | Having Nuclear Weapons

nuclear weapons activities of the Alliance, without restricting these states from participating in the work of the Alliance more generally. States can also change their role in various planning groups, and have historically done so, including in the Nuclear Planning Group.

Attitudes and agreements will have to change inside NATO with a nuclear weapons prohibition, but the core principles of international cooperation and interdependent security across the alliance will not. A ban treaty will also bring greater international attention to and pressure on NATO nuclear sharing practices as contradicting norms on nuclear weapons. A ban treaty reaffirms existing legal obligations not to transfer or acquire nuclear weapons. Finally, a ban treaty supports a shift in nuclear weapons policy setting discourse away from instruments of stability and deterrence to the recognition of them as weapons of terror and instability.

Conclusion

To be fair, this piece was meant to be all about having nuclear weapons and instead delved into questions around the deployment of those weapons. A nuclear ban treaty must include the a clear prohibition so that no one can have nuclear weapons, how that deals with deployment issues is of course clear- as that too will be illegal.

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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