International Campaign to Abolish Nuclear Weapons-
Written evidence (NPT0012)

Summary of Recommendations

1. ICAN makes the following recommendations:

   - The United Kingdom should, at the earliest possible juncture, promote negotiations with other nuclear-armed states on nuclear disarmament.
   - The United Kingdom should attend meetings of states parties to the Treaty on the Non-Proliferation of Nuclear Weapons (TPNW) as an observer.
   - The United Kingdom should also offer to provide technical expertise to assist the implementation of the TPNW, in particular on verification and environmental remediation.
   - In the medium term, the United Kingdom should sign the TPNW, which it is legally entitled to do even in its capacity as a nuclear-armed state.
   - In the long term, the United Kingdom should seek to create the conditions in which it can ratify the TPNW, which is the sole multilateral weapons treaty to which it is not yet a party.
   - The UK Parliament, in particular through the select committees, should continue to scrutinise the development of government policy in relation to nuclear weapons.

The humanitarian consequences

2. Nuclear weapons are the most destructive, inhumane, and indiscriminate weapons ever created. Both in the scale of the devastation they cause and in their uniquely persistent, spreading, genetically damaging radioactive fallout, nuclear weapons are unlike any others. As the Treaty on the Prohibition of Nuclear Weapons¹ (TPNW) makes clear in its preamble, catastrophic humanitarian consequences would result from any use of nuclear weapons. Yet, on 18 December 2018, at a European Union conference on non-proliferation and disarmament in Brussels, the North Atlantic Treaty Organization (NATO) Deputy Secretary General, Rose Gottemoeller, declared that: “The risk of use of nuclear weapons has increased.”

3. Nuclear weapons release vast amounts of energy in the form of blast, heat, and radiation. A single nuclear weapon detonated over a populated area could kill millions of people. Almost everything close to ground zero is vaporized. Ionizing radiation at high doses is fatal. At all doses, it increases the lifetime risk of cancer, chronic disease, and genetic damage. Children, especially girls, and women are even more susceptible than men to radiation harm.

¹ Treaty on the Prohibition of Nuclear Weapons; adopted at New York, 7 July 2017; not yet entered into force.
4. The use of a large number of nuclear weapons would disrupt the global climate, causing widespread agricultural collapse and famine. The burning cities ignited by nuclear explosions would loft smoke high into the upper atmosphere, blanketing the globe. This, in turn, would cool, darken, and dry the Earth’s surface, decimating food crops, potentially leading to the starvation of billions of people. The International Committee of the Red Cross has warned that no meaningful humanitarian response would be possible following a single nuclear detonation anywhere, let alone in the aftermath of a full-scale nuclear war.

5. Use of a nuclear weapon against any civilian population would not only violate the law of armed conflict/international humanitarian law, if conducted intentionally this would, in all likelihood, also amount to a war crime and potentially also a crime against humanity.

**Nuclear Risks and Threats**

6. The risk of use of nuclear weapons by accident or design is significant and is increasing. As observed in the 2014 Chatham House report, *Too Close for Comfort: Cases of Near Nuclear Use and Options for Policy*, the “decades since 1945 have been punctuated by a series of disturbing close calls”. Evidence indicates that the world has, “been lucky, given the number of instances in which nuclear weapons were nearly used inadvertently as a result of miscalculation or error.”

7. The risk of use of nuclear weapons is exacerbated by the incorporation of scaleability in certain nuclear weapons — “dial-a-yield” — by which the explosive yield of a nuclear weapon can be determined in advance. Such yields range from a fraction of the power of the Hiroshima atomic bomb — considerably narrowing the gap in yield with the most powerful conventional munition — to a detonation hundreds of times more powerful. This potentially makes nuclear weapons more usable in the view of certain policy makers.

8. At the same time, offensive cyber operations mean that nuclear weapons are becoming more vulnerable to control by foreign powers or terrorist organisations. This concern is leading policy makers in China to consider moving their nuclear weapons to a “launch on warning” stance. This “hair-trigger” alert is designed to ensure a response to an incoming nuclear strike, but it also hugely augments the likelihood of a launch in error.

9. The world is engaged in a new nuclear arms race – one that is accelerating in nature and extent. After global nuclear arsenals were reduced from the highs of

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3 Ibid., p. vi.

70,000 in the mid-1980s down to some 14,500 today, the world’s two largest military powers are dedicating trillions of dollars to modernising and rebuilding their arsenals. Aside from the renewed arms race between the Russian Federation and the United States, which may result in the reintroduction of short and intermediate-range missiles into Europe, there is also the prospect of further proliferation in Asia in competition with China. Added to this are fears of a nuclear arms race in the Middle East. The unilateral US withdrawal from the Joint Comprehensive Plan of Action (JCPOA: the Iran nuclear deal) has fuelled concerns about horizontal proliferation in the region. Saudi Arabia has made clear that it will acquire nuclear weapons should Iran seek to do so, despite both states’ membership of the NPT. Israel previously indicated it would not allow Iran to become a nuclear-armed state.

10. A new nuclear arms race and the increasing risk of use of nuclear weapons is a serious threat to the security of the United Kingdom. In order to protect its population from any intentional or accidental nuclear weapons use, the United Kingdom urgently needs to make progress on nuclear disarmament.

11. The new nuclear arms race is also a clear and serious violation of Article VI of the Treaty on the Non-Proliferation of Nuclear Weapons (NPT). China, France, the Russian Federation (as successor state to the Soviet Union), the United Kingdom, and the United States are all duty bound, along with the other 185 states parties to the NPT, to engage in good faith in efforts to end the nuclear arms race and to pursue nuclear disarmament. The International Court of Justice (ICJ) has gone further, holding in its 1996 Advisory Opinion on the threat or use of nuclear weapons that such negotiations must be brought to a successful conclusion. But no discussions on either issue are ongoing. Yet the United Kingdom government has criticised the TPNW as a “distraction”. Instead, the United Kingdom should, at the earliest possible juncture, promote negotiations with other nuclear-armed states on nuclear disarmament.

The Treaty on the Prohibition of Nuclear Weapons

12. The TPNW is a treaty of international humanitarian and disarmament law, a preventive instrument of international law conceived to prevent the catastrophic consequences that would result from any use of nuclear weapons. In the preamble to the Treaty, the negotiating states recognise the consequent need to completely eliminate nuclear weapons, which remains the only way to guarantee that they are never used again under any circumstances. The TPNW is the only legally binding global instrument of international law that outlaws nuclear weapons. It therefore complements the NPT and the treaties prohibiting the testing or placement of nuclear weapons.

13. The TPNW was opened for signature by all 197 states on 20 September 2017 and the Treaty will remain open for signature indefinitely. To date, 70 states have signed the treaty. Of these, 18 states have also deposited their instruments of ratification with the depositary — the United Nations Secretary-General — while a nineteenth has acceded to the Treaty directly. The TPNW will

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5 Treaty on the Non-Proliferation of Nuclear Weapons; opened for signature at London, Moscow, and Washington DC, 1 July 1968; entered into force, 5 March 1970.
6 ICJ, *Legality of the Threat or Use of Nuclear Weapons*, Advisory Opinion, 8 July 1996, dispositif F.
7 The Treaty was adopted by United Nations Diplomatic Conference on 7 July 2017. See the Annex for a certified copy of the treaty text.
8 Art. 13, TPNW.
enter into force as binding international law 90 days after fifty ratifications or accessions have been secured. Entry into force is expected to occur in 2020, or soon thereafter.

14. Under Article 1 of the TPNW, all use of nuclear weapons or other nuclear explosive devices is rendered unequivocally illegal for states parties, as is their development, production (along with all other forms of acquisition), possession, and testing. Threatening to use a nuclear explosive device is also specifically prohibited. The terms “nuclear weapons” and “other nuclear explosive devices” have exactly the same meaning as they do in the NPT.

15. In addition, all forms of assisting or encouraging such activities in or by any other state are unlawful for each state party. The framing of this provision is reproduced verbatim from the 1992 Chemical Weapons Convention and is thus language that is well understood under international law. Permitting the deployment of a foreign state’s nuclear weapons on a state party’s territory or in any other place under its jurisdiction or control is specifically prohibited.

16. The TPNW’s obligations build on and complement the existing nuclear non-proliferation and arms control regime, in particular the NPT and the Comprehensive Nuclear-Test-Ban Treaty (CTBT). The TPNW fills in critical gaps in that architecture by outlawing all possession and use by any state party as well as all assistance or encouragement to others to acquire nuclear weapons or other nuclear explosive devices or add to their existing arsenals. Assistance or encouragement for use, testing, or threat of use is similarly unlawful.

17. No reservations to the provisions of the TPNW are permissible. Its prohibitions and obligations apply in all circumstances, including both peacetime and armed conflict. As the preamble to the Treaty observes, its states parties acted out of deep concern about the catastrophic humanitarian consequences that would result from any use of nuclear weapons, and the recognition of the need for their complete elimination: the only way to guarantee that they are never used again under any circumstances.

18. Contrary to a myth propagated by some of those who would seek to undermine the integrity of the Treaty, the safeguards in the TPNW exceed those in the NPT. Each state party that has not possessed or acquired nuclear weapons or other nuclear explosive devices at any time since 8 July 2017 must conclude or maintain the latest form of comprehensive safeguards agreement with the International Atomic Energy Agency (IAEA). If a state party has concluded an IAEA Additional Protocol, it must maintain this instrument in force.

19. Additional obligations are imposed on any state that owned, possessed, or controlled nuclear weapons since 8 July 2017 and which adheres to the Treaty after fully disarming. Such a state must conclude a heightened set of protocols that are sufficient to provide credible assurance of the non-diversion of declared nuclear material from peaceful nuclear activities and that it has no undeclared nuclear material or activities. This is known informally as the “destroy and join” option.

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10 Art. 16, TPNW.
11 Art. 3, TPNW.
12 Art. 4(1), TPNW.
20. But it is also open to a nuclear-armed state to “join and destroy”. In such a case, the nuclear-armed state, upon becoming party to the Treaty, must immediately remove all of its nuclear weapons and any other nuclear explosive devices from operational status, and destroy all its nuclear explosive devices as soon as possible but not later than a deadline to be determined by the First Meeting of States Parties. This Meeting will be held within one year of the TPNW’s entry into force. Destruction of all stockpiles by a nuclear-armed state party must occur in accordance with a legally binding, time-bound plan for the verified and irreversible elimination of its nuclear-weapon programme, and must include the elimination or irreversible conversion of all nuclear-weapons-related facilities.

21. The TPNW obligates all states to make a declaration within 30 days of becoming party to the Treaty as to whether it has ever owned, possessed, or controlled nuclear weapons or nuclear explosive devices and whether there are any such weapons or devices in its territory or in any other place under its jurisdiction or control that are owned, possessed or controlled by another state. This provision reflects the approach taken in the 1992 Chemical Weapons Convention.

22. Each state party is required to adopt the necessary measures to implement its obligations under the Treaty. This includes legal provision for criminal sanction for prohibited activities where they are undertaken by persons or on territory under a state party’s jurisdiction or control. Furthermore, each state party must cooperate with other states parties to facilitate the implementation of the Treaty as well as promote the treaty’s universalisation.

23. Any state, nuclear-armed or not, may lawfully become a signatory to the TPNW. In accordance with international treaty law, a signatory state must refrain from acts which would defeat the object and purpose of a treaty. Thus, for a signatory to the TPNW, it would be unlawful to use a nuclear weapon under any circumstances and, in all likelihood, to test detonate a weapon.

24. Similarly, any state, nuclear-armed or not, may lawfully ratify the TPNW (if it is a signatory) or else accede directly. In such a case, however, all the obligations set out in the Treaty will apply from the moment it becomes a party. As noted above, a nuclear-armed state must immediately remove all of its nuclear weapons and any other nuclear explosive devices from operational status and begin the process of destruction.

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13 Art. 4(2), TPNW.
14 Art. 8(2), TPNW.
15 Art. 4(2) and (3), TPNW.
16 Art. 2, TPNW.
18 Art. 5(1), TPNW.
19 Art. 5(2), TPNW.
20 Art. 6, TPNW.
21 Art. 12, TPNW.
Positive obligations, including all of the prohibitions set out in Article 1 of the TPNW, apply to any “umbrella” state party, meaning a state that endorses the potential use of nuclear weapons by a nuclear-armed state on its behalf. Any such state, including any North Atlantic Treaty Organization (NATO) member, must explicitly disavow possession and potential use of nuclear weapons by any and all other nuclear-armed NATO members. Thus, a NATO member that was also state party to the TPNW could not support the NATO Strategic Concept to the extent that this document foresees such possession or use. It would continue to be lawful for it to engage in military operations with other NATO members, irrespective of whether they are nuclear-armed, as long as it respects the obligations and prohibitions set out in the Treaty.

The TPNW is moving towards early entry into force, with support from a majority of states, the UN Secretary-General, the International Red Cross and Red Crescent Movement, and parliamentarians from around the world, including in nuclear-armed states. Within Europe, Switzerland’s parliament recently called on the government to sign the TPNW, while within NATO Italy and Spain are the most likely to sign in the short term. Australia’s Labor Party, likely to become the Australian Government later this year, has promised to sign the Treaty. Through the Cities Pledge, major cities are also able to express their support for the Treaty. This already includes Manchester in the United Kingdom as well as Los Angeles, Sydney, and Toronto among others. Banks and pension funds are increasingly divesting from nuclear weapons-producing companies.

It is the UK’s security interest to join the majority of states in the world in supporting this Treaty and thereby to reduce the risk of use of nuclear weapons.

Implications for the United Kingdom

The TPNW, and especially its early entry into force, will increase public pressure on the United Kingdom to join the Treaty and implement its provisions. Otherwise, this will be the only WMD prohibition or nuclear treaty that the United Kingdom has not adhere to. If the United Kingdom Government refuses to engage with the TPNW, this will undermine the UK’s implementation of the NPT as well as its credibility on other WMD and disarmament issues.

All United Nations member states were invited to participate in the negotiation of the global nuclear weapons prohibition treaty, but regrettably the United Kingdom chose not to do so. This is the first time that the United Kingdom has chosen not only to refrain from adhering to such a critical treaty, but also not even to participate in its negotiation. In recent years, the United Kingdom has failed to make a positive contribution towards ending the new arms race, much less to advocating and promoting global disarmament. Indeed, rather than engage in good faith in such negotiations, the United Kingdom has decided to renew its nuclear weapons programme at huge cost. In 2016, the Chair of the House of Commons Foreign Affairs Committee, Crispin Blunt MP, estimated Trident renewal programme costs at £180 billion, while drawing attention to the development of cyber and autonomous weapons systems that may render UK nuclear weapons practically inoperable.

30. More broadly, the new nuclear arms race is being assisted by companies in France, Germany, Italy, and the United Kingdom, among others. The NPT does not preclude non-nuclear-armed states from assisting vertical proliferation in the five nuclear-weapon states named in the NPT. But the TPNW does, meaning that sovereign and other investment funds or banks in states parties to the TPNW will not be permitted to invest in nuclear weapons development, production, and modernisation programmes anywhere in the world, including in the United Kingdom. Campaigns of disinvestment are ongoing and are gaining significant traction, even in nuclear-armed states.

31. Following the TPNW’s entry into force, the United Kingdom should attend meetings of states parties to the TPNW as an observer. It should also offer to provide technical expertise to assist the implementation of the TPNW, in particular on verification and environmental remediation. The United Kingdom has a long history in promoting implementation of weapons treaties and its expertise and experience in the context of the 1992 Chemical Weapons Convention would be especially valuable. Until the United Kingdom adheres to and fully implements the Treaty, the UK Parliament, in particular through the select committees, should continue to scrutinise the development of government policy in relation to nuclear weapons in order to prevent any intentional or accidental use of nuclear weapons.

**Concluding Remarks**

32. The TPNW offers a comprehensive framework for nuclear non-proliferation and disarmament, filling in critical legal gaps in the existing global and regional architecture. At a time when international legal constraints on nuclear weapons production and deployment are being removed one by one, its early entry into force will prove an essential counterbalance to destructive forces. The world is more threatened by the possible use of nuclear weapons than at any time in the last 30 years. The United Kingdom, as a nuclear-armed state, has an overriding moral, legal, and political obligation to promote and pursue nuclear disarmament in all available fora. It would be both lawful and highly desirable for the United Kingdom to sign the TPNW at an early stage as a first step in a process of disarmament. Negotiations with other nuclear-armed states should be initiated at once, consonant with the United Kingdom’s existing obligations under the NPT and international law more broadly.

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