

EXPLANATORY MEMORANDUM ON THE PROTOCOL TO THE TREATY ON A NUCLEAR-WEAPON-FREE ZONE IN CENTRAL ASIA

Title of the Treaty

Protocol to the Treaty on a Nuclear-Weapon-Free Zone in Central Asia

Command Paper Number 8952

Subject Matter

The Central Asian Nuclear Weapon Free Zone (CANWFZ) Treaty, which encompasses Kazakhstan, Kyrgyzstan, Tajikistan, Turkmenistan and Uzbekistan, was signed in 2006 and came into force in 2009. Like other nuclear weapon free zones, its primary objective is to prohibit those states from acquiring nuclear weapons or allowing them to be stationed on their territory.

On 6 May 2014 the United Kingdom, along with China, France, Russia and the United States of America, signed a Protocol to the Treaty. The Protocol prohibits those Nuclear Weapon States from using or threatening to use nuclear weapons against any state party to the CANWFZ Treaty, and will be legally binding for each state upon ratification.

Ministerial Responsibility

The Secretary of State for Foreign and Commonwealth Affairs has responsibility for the Protocol. The Secretary of State for Defence also has a policy interest.

Policy Considerations

(i) General

The United Kingdom supports the establishment of Nuclear Weapon Free Zones where they are freely arrived at by all the parties in the region concerned. We believe that they can make a valuable contribution to nuclear non-proliferation and global peace and security. For that reason we have also signed and ratified the relevant Protocols to the Treaties establishing Nuclear Weapon Free Zones in Latin America (Treaty of Tlatelolco), the South Pacific (Raratonga) and Africa (Treaty of Pelindaba).

The Government considered whether or not to sign this particular Protocol so soon after Russia's breach of its commitments under the Budapest Memorandum. On balance, it was felt that doing so now was compatible with our approach to the Nuclear Non-Proliferation Treaty, and would demonstrate our support for the countries of Central Asia in providing their Nuclear Weapon Free Zone with legally-binding negative security assurances from all Nuclear Weapon States. The Government continues to believe that this is the right approach.

(ii) Financial

There are no financial implications.

(iii) Reservations and Declarations

The United Kingdom made the following interpretive statement on signature of the Protocol, which set out our legal interpretation of certain elements within the Protocol and the Treaty.

"The Government of the United Kingdom believe that adherence to and compliance with international agreements seeking to prevent the proliferation of weapons of mass destruction are vital to the maintenance of world security.

- a) *the Government of the United Kingdom understand the obligations referred to in the second preambular paragraph of the Protocol in the context of the provisions of Article VI of the Treaty on the Non-Proliferation of Nuclear Weapons of 1 July 1968.*
- b) *the United Kingdom will not be bound by its undertaking under Article 1 of the Protocol if any Party to the Treaty is in material breach of its own non-proliferation obligations under the Treaty*

In this context the Government of the United Kingdom consider that the Treaty, including its Article 12, prohibits those actions described in its Articles 3 and 5.

- c) *The Government of the United Kingdom note that while there is no direct threat to the United Kingdom or its vital interests from States developing capabilities in other weapons of mass destruction, for example chemical and biological, they reserve the right to review their undertaking under Article 1 of the Protocol if the future threat, development and proliferation of these weapons make it necessary.*
- d) *the Government of the United Kingdom therefore reserve the right to exercise the right to withdraw from the Protocol under Article 6, or where the United Kingdom considers that the threat, development and proliferation of other weapons of mass destruction, for example chemical and biological, make it necessary, on giving notice of withdrawal to the Depository State three months in advance."*

It is worth noting that our inclusion of paragraph (b) was driven by concerns over Article 12 of the CANWFZ Treaty, which gives precedence to other previously agreed international treaties. This might include the Treaty of Tashkent, a collective security agreement allowing Russia to station its nuclear weapons on the territory of Parties to the CANWFZ Treaty. We are legally confident that, should Russia or any other signatory to the Protocol decide to take this course of action, we will not be bound by Article 1 of the Protocol.

We intend to make the same interpretive statement again on ratification, and have asked Kyrgyzstan as the Depository State to make this available to those who wish to see either the Protocol or the Treaty.

Our Ambassador to the Conference on Disarmament also made a statement at signature of the Protocol, setting out our views. This is included below.

"The United Kingdom is pleased to have signed today the Protocol to the Treaty on a Nuclear Weapon Free Zone in Central Asia, along with the other NPT Nuclear Weapon States. As everyone here today will know, under this Protocol the Nuclear Weapon States

will extend legally binding assurances not to use or threaten to use nuclear weapons against any Party to the Treaty and not to contribute to any act that constitutes a violation of the Treaty or its Protocol.

Our signature of the Treaty underlines our commitment to the principles of Nuclear Weapon Free Zones, as we recognise the role that negative security assurances can play in preventing the proliferation of weapons of mass destruction and enhancing regional and international security. It also underlines our commitment to the countries of Central Asia, with whom the United Kingdom is actively and constructively engaged, and where we are developing our relationship across a broad range of security, prosperity and governance issues in order to provide a sound basis for future stability in that region.

*The States Parties present today will note that the United Kingdom has issued a declaration that sets out our legal interpretation of certain elements within the Protocol and the Treaty. We are doing so in order that there is no doubt about the conditions under which the United Kingdom would **not** consider itself bound by Article 1 of this Protocol: notably, if any of the Parties to that Treaty allowed nuclear weapons to be stationed on their territory. We of course hope that such conditions will never arise. We trust that the Depositary State will also ensure that our declaration is made available to those who wish to see either the Protocol or the Treaty.*

To date the United Kingdom has signed and ratified Protocols to the Treaties of Tlatelolco, Rarotonga and Pelindaba, covering countries in Latin America and the Caribbean, the South Pacific and Africa respectively. Following ratification of this Protocol, which we hope will take place later this year, 78 states will have in place protocols that provide legally-binding negative security assurances from the United Kingdom. We also support the parallel political declarations adopted by the Nuclear Weapon States and Mongolia concerning that state's nuclear weapon free status. We will continue to pursue signing protocols to existing Nuclear Weapon Free Zones as a practical way of strengthening non-proliferation and disarmament architecture."

Implementation

No legislation is required. The Protocol will enter into force for each Party on the date of its deposit with the Depositary State of its instrument of ratification.

