

LEGALITY OF NUCLEAR WEAPONS: SUMMARY

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The legality surrounding nuclear weapons is a complicated one. Answering the question “are nuclear weapons legal or not?” is a rather complicated question. It depends on the geographical area and what is done with the explosive device. The international legal framework is multilayered and each and every country is not party to each and every treaty.

1. The testing of nuclear weapons:

There are four treaties covering nuclear weapons tests. The Limited Test-Ban Treaty (1963) forbids all detonations of nuclear weapons except for those conducted underground. The Treaty on the Limitation of Underground Nuclear Weapon Tests (1974) bans nuclear weapons tests having a yield exceeding 150 kilotons. The Comprehensive Test Ban Treaty (1996) has not yet entered into force, but it would compel states not to carry out any nuclear weapon test. The Treaty on the Prohibition of Nuclear Weapons--still open for signature and ratification--includes a prohibition on nuclear weapons tests for the countries part of the agreement. Read more on: [The testing of nuclear weapons](#)

2. The production and possession of nuclear weapons:

Two treaties cover the legality of production and possession of nuclear weapons. The Nuclear Non-Proliferation Treaty (1970) recognizes five countries that can legally produce and possess them: the United States, Russia, the United Kingdom, France, and China. However, countries producing or possessing nuclear weapons who are not party to this treaty (India, Pakistan, North Korea, and Israel) are not in violation of the NPT as they are outside the treaty. The Treaty on the Prohibition of Nuclear Weapons (2017) has not yet entered into force, but it would prohibit countries party to the treaty from producing or possessing nuclear weapons in any way. Read more on: [The production of nuclear weapons](#)

3. The use of nuclear weapons:

The use of nuclear weapons is not legally forbidden in any treaty of international law that has entered into force. A 1996 Advisory Opinion from the International Court of Justice remains the only detailed account of the question on the legality of the threat or use of nuclear weapons. According to the Court, nuclear weapons use would go against one of the main articles of the United Nations Charter, but possibly not in the case of proportionate force in exceptional cases of self-defense. Read more on: [The use of nuclear weapons](#)

4. The disposal of nuclear weapons wastes:

“Countries in the world by population (2020).” *Worldometer*,
<https://www.worldometers.info/world-population/population-by-country/>.

General Assembly resolution 3472, *Comprehensive study of the question of nuclear-weapon-free zones in all its aspects*, A/RES/3472 B (XXX) (11 December 1975), available from
http://www.nuclearfiles.org/menu/library/treaties/nuclear-free-zones/UNGA_Res3472_1975.pdf.

South Pacific Nuclear Free Zone Treaty, Rarotonga, 11 December 1986, *United Nations Treaty Series*, vol. 1445 No. 24592, p.177, available from
<https://treaties.un.org/doc/Publication/UNTS/Volume%201445/volume-1445-I-24592-English.pdf>.

The Antarctic Treaty, Washington 1 December 1959, *United Nations Treaty Series*, vol. 402, No. 5778, p.71, available from
<https://treaties.un.org/doc/Publication/UNTS/Volume%20402/volume-402-I-5778-English.pdf>.

Treaty for the Prohibition of Nuclear Weapons in Latin America, Mexico, 26 April 1967, *United Nations Treaty Series*, vol. 634, No. 9068, p.281, available from
<https://treaties.un.org/doc/Publication/UNTS/Volume%20634/volume-634-I-9068-English.pdf>.

Treaty on a nuclear-weapon-free zone in Central Asia, Semipalatinsk 8 November 2006, *United Nations Treaty Series*, vol. 2970, No. 51633, available from
<https://treaties.un.org/doc/Publication/UNTS/No%20Volume/51633/Part/I-51633-080000028023b006.pdf>.

Treaty on the Non-Proliferation of Nuclear Weapons, Washington, Moscow, London, 1 July 1968, *United Nations Treaty Series*, vol. 729, No. 10485, p.161, available from
<https://treaties.un.org/doc/Publication/UNTS/Volume%20729/volume-729-I-10485-English.pdf>.

Treaty on the prohibition of the emplacement of nuclear weapons and other weapons of mass destruction on the sea-bed and the ocean floor and in the subsoil thereof, Washington, Moscow, London 11 February 1971, *United Nations Treaty Series*, vol. 955 No. 13678, p.115, available from
<https://treaties.un.org/doc/Publication/UNTS/Volume%20955/volume-955-I-13678-English.pdf>

Treaty on the Southeast Asia Nuclear Weapon-Free Zone, Bangkok 15 December 1995, *United Nations Treaty Series*, vol. 1981, No. 33873, available from
<https://treaties.un.org/doc/Publication/UNTS/Volume%201981/v1981.pdf>.

Treaty on principles governing the activities of States in the exploration and use of outer space, including the moon and other celestial bodies, Washington, Moscow, London 27 January 1967, *United Nations Treaty Series*, vol. 610, No. 8843, p.205, available from
<https://treaties.un.org/doc/Publication/UNTS/Volume%20610/volume-610-I-8843-English.pdf>.