



# The Non-Proliferation Treaty Review Conference: Breakthrough or Bust in '05?

*A BASIC/ORG project - Briefing 5*

## The US-UK Mutual Defence Agreement: Contributing to vertical proliferation?



An ongoing  
contribution  
to the  
special  
relationship

### Background

As Admiral William Crowe, a former US Ambassador to London under President Clinton said about the ‘special relationship’ in a BBC interview in February 2001:

*I have always described the relationship like an iceberg, in that there is a small tip of it sticking out, but beneath the water there is quite a bit of everyday business that goes on between our two governments in a fashion that's unprecedented in the world.*

UK-US nuclear weapons collaboration is almost entirely submerged. Lorna Arnold, in her book *Britain and the H-Bomb*, provides a historical account of the initial benefits to Britain’s nuclear weapons research and development following the signing of the 1958 Agreement For Cooperation on the Uses of Atomic Energy for Mutual Defence Purposes. The US government agreed to the Mutual Defence Agreement (MDA), on the understanding that the UK would continue to invest in nuclear weapons-related scientific research and development work as an ongoing contribution to the special relationship on defence collaboration—or risk having such access denied in the future.

### What does the MDA permit?

The MDA permits the transfer of:

- nuclear warhead components, fissile material (plutonium and highly enriched uranium) and tritium;
- delivery systems (missiles); and
- submarine design specifications, nuclear propulsion plants and

HEU to fuel them, which amount to aid in the building of the platforms.

Thus, all three aspects of a deployable nuclear weapon – warhead, delivery system and platform – are put together, collaboratively, under the auspices of the MDA. In fact, it would be much easier to say what is not permitted under the MDA: the transfer of a complete nuclear warhead.

The Atomic Weapons Establishment (AWE) website describes this collaboration as follows:

*Based around a series of Joint Working Groups, each concentrating on a specific area of physics, engineering and material science, Aldermaston's specialists have for more than forty years been able to exchange and develop ideas with their counterparts from the American Laboratories to the benefit of the nuclear weapons programme on both sides of the Atlantic.*

AWE admits to the importance of the MDA when they say it has been a "cornerstone of life for our British nuclear weapon community ever since". Somewhat ironically, the NPT is usually referred to as 'the cornerstone of arms control and reduction treaties', but the two edifices are at opposite ends of the non-proliferation architecture.

## The 2004 Renewal of the MDA

Despite reaffirming their disarmament commitments at the 2000 NPT Review Conference, the US and UK governments soon afterwards embarked on secret discussions to renew the MDA for a further 10 years. BASIC, with the assistance of interested MPs, gathered information about the MDA, encouraged parliamentary debate and sought executive accountability. For further details, see BASIC's special report, *US-UK nuclear weapons collaboration under the Mutual Defence Agreement: Shining a torch on the darker recesses of the 'special relationship'* (<http://www.basicint.org/pubs/Press/040616.htm>), and a copy of the text of the MDA (<http://www.basicint.org/nuclear/1958MDA.htm>).

The fundamental purpose of the NPT is set out in the Preamble: "The prevention of the wider dissemination of nuclear weapons". In reality, this is exactly what the MDA provides – an open-ended arrangement for two named states to 'disseminate' information, technology and materials in their pursuit of more sophisticated nuclear weaponry.

The MDA actively promotes nuclear proliferation both directly and indirectly by poor example. Our efforts to bring this issue to the attention of Parliament and Congress met resistance or were ignored. The question of the provisions of MDA undermining the spirit, or even the letter of the NPT attracted a good deal of interest during the 2004 PrepCom. We anticipate it being raised again at the Review Conference.



An open-ended arrangement for two named states to 'disseminate' information



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In conjunction with the Acronym Institute for Disarmament Diplomacy and public interest lawyers, Peacerights, we sought legal opinion on the MDA renewal. Rabinder Singh QC and Professor Christine Chinkin of Matrix Chambers, considered the histories and objectives of the two treaties and their legal relationship and noted several ways in which their aims and purposes are incompatible. They concluded that: "In our view, it is strongly arguable that the renewal of the MDA is in breach of the NPT". Their full opinion can be downloaded from our website (<http://www.basicint.org/pubs/Press/040726.htm>).

Nonetheless, the UK Government ratified the MDA on 20 July 2004, without any select committee scrutiny or parliamentary debate, just before the summer parliamentary recess two days later. A Defence Minister later stated that "the Government are satisfied that the extension of the Mutual Defence Agreement for a further 10 years is compatible with the UK's obligations under the Nuclear Non-Proliferation Treaty".

The United States seemingly ratified the MDA, as it is passed the required 60 sitting days for it to lie before Congress on 18 November 2004, without any debate or congressional hearing having been called.

The MDA entered into force on 9 December 2004 following written notification by both Governments, an 'Exchange of Notes', confirming that it had complied with all national statutory and constitutional requirements.

## Future Prospects

With the 2004 renewal of the MDA prospects for progress by Britain and the United States on the nuclear disarmament component of the NPT do not look promising. Both countries have, made strenuous efforts to close the nuclear technology sharing loopholes, partly provided by agreements permitted by Article IV of the NPT. Yet, they refuse to acknowledge that the loopholes provided by the MDA undermine the NPT and contribute to the belief that both are 'discriminatory'. In summary, the US and the UK have not met their 2000 obligations to:

- set out a plan or timetable to further reduce and eliminate their nuclear arsenals;
- establish a diminished role for nuclear weapons in their national security policy; and
- provide non-nuclear weapon states with legally binding assurances that they will not be targeted by US and UK nuclear missiles.

In fact, both countries are actively discussing modernising or replacing existing nuclear delivery systems. Article VI, the nuclear disarmament component of the NPT, remains a blind spot in the two governments, field of vision. They must come to see that most Member States are unwilling to accept that activities conducted under the MDA are justifiable in purely legal terms when the clear perception is that the UK and



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the US have 'ring-fenced' their nuclear programmes as not up for debate. US-UK nuclear collaboration under 'the special relationship' must be seen for what it is - a contribution to vertical nuclear proliferation.

## Recommendations

We urge interested parties to:

1. Read the text of the MDA, BASIC's special report on the 2004 renewal and the Matrix Chambers legal opinion.
  2. Ask the Governments of the United States and the United Kingdom to explain how their obligations under the NPT are compatible with their practices under the MDA.
  3. Seek assurances that the MDA will not be used to enable collaborative scientific endeavour to design and manufacture new nuclear warheads.
  4. Affirm that international NPT obligations take precedence over bilateral MDA arrangements.
- We also urge the US and UK Governments, in the interests of transparency and as confidence building measures, to:
5. Publish details of all transfers (nuclear goods and services) made under the MDA in annual reports to Congress and the House of Commons, respectively.
  6. Use the MDA to develop broader bilateral and international cooperation on the verification of nuclear reductions and the elimination of nuclear weapons, building on the existing work that has been undertaken at British and US national laboratories.

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