

## L – Security Assurances

### Unilateral Security Assurances by Nuclear-Weapon States

[1978, 1982 and 1995]

#### China

##### *Given on 7 June 1978 [extract]*

For the present, all the nuclear countries, particularly the super-Powers, which possess nuclear weapons in large quantities, should immediately undertake not to resort to the threat or use of nuclear weapons against the non-nuclear countries and nuclear-free zones. China is not only ready to undertake this commitment but wishes to reiterate that at no time and in no circumstances will it be the first to use nuclear weapons. {A/S-10/AC.1/17, annex, para.7.}

##### *Given on 28 April 1982 [extract]*

Pending the realization of completed prohibition and thorough destruction of nuclear weapons, all nuclear countries must undertake unconditionally not to use or threaten to use such weapons against non-nuclear countries and nuclear-free zones.

As is known to all, the Chinese Government has long declared on its own initiative and unilaterally that at no time and under no circumstances will China be the first to use nuclear weapons, and that it undertakes unconditionally not to use or threaten to use nuclear weapons against non-nuclear countries and nuclear-free zones. {A/S-12/11}

##### *Given on 5 April 1995*

For the purpose of enhancing international peace, security and stability and facilitating the realization of the goal of complete prohibition and thorough destruction of nuclear weapons, China hereby declares its position on security assurances as follows:

1. China undertakes not to be the first to use nuclear weapons at any time or under any circumstances.

2. China undertakes not to use or threaten to use nuclear weapons against non-nuclear-weapon States or nuclear-weapon-free zones at any time or under any circumstances. This commitment naturally applies to non-nuclear-weapon States parties to the Treaty on the Non-Proliferation of Nuclear Weapons or non-nuclear-weapon States that have entered into any comparable internationally-binding commitment not to manufacture or acquire nuclear explosive devices.

3. China has always held that, pending the complete prohibition and thorough destruction of nuclear weapons, all nuclear-weapon States should undertake not to be the first to use nuclear weapons and not to use or threaten to use such weapons against non-nuclear-weapon States and nuclear-weapon-free zones at any time or under any circumstances. China strongly calls for the early conclusion of an international convention on no-first-use of nuclear weapons as well as an international legal instrument assuring the non-nuclear-weapon States and nuclear-weapon-free zones against the use or threat of use of nuclear weapons.

4. China, as a permanent member of the Security Council of the United Nations, undertakes to take action within the Council to ensure that the Council takes appropriate measures to provide, in accordance with the Charter of the United Nations, necessary assistance to any non-nuclear-weapon State that comes under attack with nuclear weapons, and imposes strict and effective sanctions on the attacking State. This commitment naturally applies to any non-nuclear-weapon State party to the Treaty on the Non-Proliferation of Nuclear Weapons or any non-nuclear-weapon State that has entered into any comparable internationally-binding commitment not to manufacture or acquire nuclear explosive devices, in the event of an aggression with nuclear weapons or the threat of such aggression against such State.

5. The positive security assurance provided by China, as contained in paragraph 4, does not in any way compromise China's position as contained in paragraph 3 and shall not in any way be construed as endorsing the use of nuclear weapons.

#### France

##### *Given on 30 June 1978 [extract]*

Furthermore, as regards paragraph 59 [of the Final Document of the Tenth Special Session] concerning assurances of the non-use of nuclear weapons against non-nuclear States, the delegation of France would recall that France is prepared to give such assurances, in accordance with arrangements to be negotiated, to States which constitute non-nuclear zones. {*Official Records of the General Assembly, Tenth Special Session, Plenary Meetings, 27th meeting, para. 190*}

##### *Given on 11 June 1982 [extract]*

For its part, it [France] states that it will not use nuclear arms against a State that does not have them and that has pledged not to seek them, except if an act of aggression is carried out in association or alliance with a nuclear-weapon State against France or against a State with which France has a security commitment. {*Official Records of the General Assembly, Twelfth Special Session, Plenary Meetings, 9th meeting*}

##### *Given on 6 April 1995*

The issue of security assurances given by the nuclear Powers to the non-nuclear-weapon States is, for my delegation, an important one:

Firstly, because it corresponds to a real expectation on the part of the non-nuclear-weapon States, particularly those which, have renounced atomic weapons by signing the Treaty on the Non-Proliferation of Nuclear Weapons;

Secondly, because it involves our particular responsibilities as a nuclear Power;

Finally, because it has acquired new meaning since the end of the cold war, with the growing awareness of the threat which the proliferation of nuclear weapons represents for everyone.

It is in order to meet that expectation, to assume its responsibilities and to make its contribution to efforts to combat the proliferation of nuclear weapons that France has decided to take the following steps:

Firstly, it reaffirms, and clarifies, the negative security assurances which it gave in 1982, specifically:

France reaffirms that it will not use nuclear weapons against non-nuclear-weapon States Parties to the Treaty on Non-Proliferation of Nuclear Weapons, except in the case of an invasion or any other attack on France, its territory, its armed forces or other troops, or against its allies or a State towards which it has a security commitment, carried out or sustained by such a State in alliance or association with a nuclear-weapon State.

It seems to us natural that it is the signatory countries to the Treaty on the Non-Proliferation of Nuclear Weapons — that is to say, the overwhelming majority of countries in the world — who should benefit from these assurances, since they have made a formal non-proliferation commitment. Furthermore, in order to respond to the request of a great many countries, France has sought as much as possible to harmonize the content of its negative assurances with those of the other nuclear Powers. We are pleased that this effort has been successful. The content of the declarations concerning the negative security assurances of France, the United States of America, the Russian Federation and the United Kingdom of Great Britain and Northern Ireland are henceforth practically identical.

Secondly, and for the first time, France has decided to give positive security assurances to all non-nuclear-weapon States Parties to the Treaty on the Non-Proliferation of Nuclear Weapons. Its accession to the Treaty made this decision both possible and desirable. Accordingly:

'France considers that any aggression which is accompanied by the use of nuclear weapons would threaten international peace and security. France recognizes that the non-nuclear-weapon States Parties to the Treaty on the Non-Proliferation of Nuclear Weapons are entitled to an assurance that, should they be attacked with nuclear weapons or threatened with such an attack, the international community and, first and foremost, the United Nations Security Council, would react immediately in accordance with obligations set forth in the Charter.

'Having regard to these considerations, France makes the

following declaration:

'France, as a Permanent Member of the Security Council, pledges that, in the event of attack with nuclear weapons or the threat of such attack against a non-nuclear-weapon State party to the Treaty on the Non-Proliferation of Nuclear Weapons, France will immediately inform the Security Council and act within the Council to ensure that the latter takes immediate steps to provide, in accordance with the Charter, necessary assistance to any State which is the victim of such an act or threat of aggression.

'France reaffirms in particular the inherent right, recognized in Article 51 of the Charter, of individual or collective self-defence if an armed attack, including an attack with use of nuclear weapons, occurs against a Member of the United Nations until the Security Council has taken measures necessary to maintain international peace and security.'

In this area also, we are pleased that the content of these positive assurances has been the subject of close consultations with the other nuclear Powers.

Thirdly, France, with the four other nuclear Powers, has decided to submit to the United Nations Security Council a draft resolution which constitutes a first in many respects, and which reflects our intention to meet the expectations of the international community globally, collectively and specifically;

Globally: for the first time, a draft resolution deals with both negative and positive assurances;

Collectively: for the first time, a resolution of the Security Council specifies the measures which the Security Council could take in the event of aggression, in the areas of the settlement of disputes, humanitarian assistance and compensation to the victims.

The draft resolution solemnly reaffirms the need for all States parties to the Treaty on the Non-Proliferation of Nuclear Weapons to fully respect their obligations. That is not a *petitio principii*, but a reminder of a fundamental rule. The draft resolution also emphasizes the desirable nature of universal accession to the Treaty.

The decisions which I have just announced correspond to our intention to consolidate the non-proliferation regime and particularly the Treaty on the Non-Proliferation of Nuclear Weapons, which is the cornerstone of that regime. It is our hope and firm conviction that the initiatives we have just taken will contribute thereto.

#### **Soviet Union/Russia**

##### ***Given on 26 May 1978 [extract]***

From the rostrum of the special session our country declares that the Soviet Union will never use nuclear weapons against those States which renounce the production and acquisition of such weapons and do not have them on their territories.

We are aware of the responsibility which would thus fall on us as a result of such a commitment. But we are convinced that such a step to meet the wishes of non-nuclear States to have stronger security guarantees is in the interests of peace in the broadest sense of the word. We expect that the goodwill evinced by our country in this manner will lead to more active participation by a large number of States in strengthening the non-proliferation regime. *{Official Records of the General Assembly, Tenth Special Session, Plenary Meetings, 5th meeting, paras. 84 and 85.}*

##### ***Given on 12 June 1982 [extract]***

[The Soviet Union assumes] an obligation not to be the first to use nuclear weapons. This obligation shall become effective immediately, at the moment it is made public from the rostrum of the United Nations General Assembly. ... [The question of the granting of security guarantees] could be solved by concluding an international convention. The USSR is also prepared to conclude bilateral agreements on guarantees with States which do not possess nuclear weapons and do not have them on their territory. *{Official Records of the General Assembly, Twelfth Special Session, Plenary Meetings, 12th meeting}*

##### ***Given on 5 April 1995***

Russian Federation will not use nuclear weapons against non-nuclear-weapon States parties to the Treaty on the Non-Proliferation of Nuclear Weapons, except in the case of an invasion or any other attack on the Russian Federation, its territory, its armed forces or other troops, its allies or on a State towards which it has a security commitment, carried out or sustained by such a non-nuclear-weapon State in association or alliance with a nuclear-

weapon State.

#### **United Kingdom**

##### ***Given on 28 June 1978 [extract]***

I accordingly give the following assurance, on behalf of my government, to non-nuclear-weapon States which are parties to the Treaty on the Non-Proliferation of Nuclear Weapons and to other internationally binding commitments not to manufacture or acquire nuclear explosive devices: Britain undertakes not to use nuclear weapons against such States except in the case of an attack on the United Kingdom, its dependent territories, its armed forces or its allies by such a State in association or alliance with a nuclear-weapon State. *{Official Records of the General Assembly, Tenth Special Session, Plenary Meetings, 26th meeting, para. 12}*

##### ***Given on 6 April 1995***

The Government of the United Kingdom believes that universal 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. We note with appreciation that 175 States have become parties to the Treaty on the Non-Proliferation of Nuclear Weapons.

We believe that the Treaty on the Non-Proliferation of Nuclear Weapons is the cornerstone of the international non-proliferation regime which has made an invaluable contribution to international peace and security. We are convinced that the Treaty should be extended indefinitely and without conditions.

We will continue to urge all States that have not done so to become parties to the Treaty.

The Government of the United Kingdom recognises that States which have renounced nuclear weapons are entitled to look for assurances that nuclear weapons will not be used against them. In 1978 we gave such an assurance. Assurances have also been given by the other nuclear-weapon States Parties to the Treaty on the Non-Proliferation of Nuclear Weapons.

Recognising the continued concern of non-nuclear-weapon States Parties to the Treaty on the Non-Proliferation of Nuclear Weapons that the assurances given by nuclear-weapon States should be in similar terms, and following consultation with the other nuclear-weapon States, I accordingly give the following undertaking on behalf of my Government:

The United Kingdom will not use nuclear weapons against non-nuclear-weapon States Parties to the Treaty on the Non-Proliferation of Nuclear Weapons except in the case of an invasion or any other attack on the United Kingdom, its dependent territories, its armed forces or other troops, its allies or on a State towards which it has a security commitment, carried out or sustained by such a non-nuclear-weapon State in association or alliance with a nuclear-weapon State.

In giving this assurance the United Kingdom emphasises the need not only for universal adherence to, but also for compliance with, the Treaty on the Non-Proliferation of Nuclear Weapons. In this context I wish to make clear that Her Majesty's Government does not regard its assurance as applicable if any beneficiary is in material breach of its own non-proliferation obligations under the Treaty on the Non-Proliferation of Nuclear Weapons.

In 1968 the United Kingdom declared that aggression with nuclear weapons, or the threat of such aggression, against a non-nuclear-weapon State would create a qualitatively new situation in which the nuclear-weapon States which are Permanent Members of the United Nations Security Council would have to act immediately through the Security Council to take the measures necessary to counter such aggression or to remove the threat of aggression in accordance with the United Nations Charter, which calls for taking 'effective collective measures for the prevention and removal of threats to the peace, and for the suppression of acts of aggression or other breaches of the peace'. Therefore, any State which commits aggression accompanied by the use of nuclear weapons or which threatens such aggression must be aware that its actions are to be countered effectively by measures to be taken in accordance with the United Nations Charter to suppress the aggression or remove the threat of aggression.

I, therefore, recall and reaffirm the intention of the United Kingdom, as a Permanent Member of the United Nations Security Council, to seek immediate Security Council action to provide assistance, in accordance with the Charter, to any non-nuclear-weapon State, Party to the Treaty on the Non-Proliferation of Nuclear Weapons, that is a victim of an act of aggression or an

object of a threat of aggression in which nuclear weapons are used.

This Security Council assistance could include measures to settle the dispute and restore international peace and security, and appropriate procedures, in response to any request from the victim of such an act of aggression, regarding compensation under international law from the aggressor for loss, damage or injury sustained as a result of the aggression.

If a non-nuclear-weapon State Party to the Treaty on the Non-Proliferation of Nuclear Weapons is a victim of an act of aggression with nuclear weapons, the United Kingdom would also be prepared to take appropriate measures in response to a request from the victim for technical, medical, scientific or humanitarian assistance.

The United Kingdom reaffirms in particular the inherent right, recognised under Article 51 of the Charter, of individual and collective self-defence if an armed attack, including a nuclear attack, occurs against a Member of the United Nations, until the Security Council has taken measures necessary to maintain international peace and security.

#### United States

##### *Given on 17 November 1978 [extract]*

The United States will not use nuclear weapons against any non-nuclear-weapon State Party to the NPT or any comparable internationally binding commitment not to acquire nuclear explosive devices, except in the case of an attack on the United States, its territories or armed forces, or its allies, by such a State allied to a nuclear-weapon State or associated with a nuclear-weapon State in carrying out or sustaining the attack. {A/C.1/33/7, annex}

##### *Given on 5 April 1995*

The United States of America believes that universal adherence to and compliance with international conventions and treaties seeking to prevent the proliferation of weapons of mass destruction is a cornerstone of global security. The Treaty on the Non-Proliferation of Nuclear Weapons is a central element of this regime. 5 March 1995 was the twenty-fifth anniversary of its entry into force, an event commemorated by President Clinton in a speech in Washington D.C., on 1 March 1995. A conference to decide on the extension of the Treaty will begin in New York on 17 April 1995. The United States considers the indefinite extension of the Treaty on the Non-Proliferation of Nuclear Weapons without conditions as a matter of the highest national priority and will continue to pursue all appropriate efforts to achieve that outcome.

It is important that all parties to the Treaty on the Non-Proliferation of Nuclear Weapons fulfil their obligations under the Treaty. In that regard, consistent with generally recognised principles of international law, parties to the Treaty on the Non-Proliferation of Nuclear Weapons must be in compliance with these undertakings in order to be eligible for any benefits of adherence to the Treaty.

The United States reaffirms that it will not use nuclear weapons against non-nuclear-weapon States Parties to the Treaty on the Non-Proliferation of Nuclear Weapons except in the case of an invasion or any other attack on the United States, its territories, its armed forces or other troops, its allies, or on a State towards which it has a security commitment, carried out or sustained by such a non-nuclear-weapon State in association or alliance with a nuclear-weapon State.

Aggression with nuclear weapons, or the threat of such aggression, against a non-nuclear-weapon State Party to the Treaty on the Non-Proliferation of Nuclear Weapons would create a qualitatively new situation in which the nuclear-weapon State permanent members of the United Nations Security Council would have to act immediately through the Security Council, in accordance with the Charter of the United Nations, to take the measures necessary to counter such aggression or to remove the threat of aggression. Any State which commits aggression accompanied by the use of nuclear weapons or which threatens such aggression must be aware that its actions are to be countered effectively by measures to be taken in accordance with the Charter to suppress the aggression or remove the threat of aggression.

Non-nuclear-weapon States Parties to the Treaty on the Non-Proliferation of Nuclear Weapons have a legitimate desire for assurances that the United Nations Security Council, and above all its nuclear-weapon-State permanent members, would act immediately in accordance with the Charter, in the event such non-

nuclear-weapon States are the victim of an act of, or object of a threat of, aggression in which nuclear weapons are used.

The United States affirms its intention to provide or support immediate assistance, in accordance with the Charter, to any non-nuclear-weapon State Party to the Treaty on the Non-Proliferation of Nuclear Weapons that is a victim of an act of, or an object of a threat of, aggression in which nuclear weapons are used.

Among the means available to the Security Council for assisting such a non-nuclear-weapon State Party to the Treaty on the Non-Proliferation of Nuclear Weapons would be an investigation into the situation and appropriate measures to settle the dispute and to restore international peace and security.

United Nations Member States should take appropriate measures in response to a request for technical, medical, scientific or humanitarian assistance from a non-nuclear-weapon State Party to the Treaty on the Non-Proliferation of Nuclear Weapons that is a victim of an act of aggression with nuclear weapons, and the Security Council should consider what measures are needed in the event of such an act of aggression.

The Security Council should recommend appropriate procedures, in response to any request from a non-nuclear-weapon State Party to the Treaty on the Non-Proliferation of Nuclear Weapons that is the victim of such an act of aggression, regarding compensation under international law from the aggressor for loss, damage or injury sustained as a result of the aggression.

The United States reaffirms the inherent right, recognized under Article 51 of the Charter, of individual and collective self-defence if an armed attack, including a nuclear attack, occurs against a Member of the United Nations, until the Security Council has taken measures necessary to maintain international peace and security.

### United Nations Security Council Resolution 984 (1995)

[Adopted by the Security Council on 11 April 1995]

*The Security Council,*

*Convinced* that every effort must be made to avoid and avert the danger of nuclear war, to prevent the spread of nuclear weapons, to facilitate international cooperation in the peaceful uses of nuclear energy with particular emphasis on the needs of developing countries, and reaffirming the crucial importance of the Treaty on the Non-Proliferation of Nuclear Weapons to these efforts,

*Recognizing* the legitimate interest of non-nuclear-weapon States Parties to the Treaty on the Non-Proliferation of Nuclear Weapons to receive security assurances,

*Welcoming* the fact that more than 170 States have become Parties to the Treaty on the Non-Proliferation of Nuclear Weapons and stressing the desirability of universal adherence to it,

*Reaffirming* the need for all States Parties to the Treaty on the Non-Proliferation of Nuclear Weapons to comply fully with all their obligations,

*Taking* into consideration the legitimate concern of non-nuclear-weapon States that, in conjunction with their adherence to the Treaty on the Non-Proliferation of Nuclear Weapons, further appropriate measures be undertaken to safeguard their security,

*Considering* that the present resolution constitutes a step in this direction,

*Considering further* that, in accordance with the relevant provisions of the Charter of the United Nations, any aggression with the use of nuclear weapons would endanger international peace and security,

1. *Takes note* with appreciation of the statements made by each of the nuclear-weapon States (S/1995/261, S/1995/262, S/1995/263, S/1995/264, S/1995/265), in which they give security assurances against the use of nuclear weapons to non-nuclear-weapon States that are Parties to the Treaty on the Non-Proliferation of Nuclear Weapons;

2. *Recognizes* the legitimate interest of non-nuclear-weapon States Parties to the Treaty on the Non-Proliferation of Nuclear Weapons to receive assurances that the Security Council, and above all its nuclear-weapon State permanent members, will act immediately in accordance with the relevant provisions of the Charter of the United Nations, in the event that such States are the victim of an act of, or object of a threat of, aggression in which nuclear weapons are used;

3. *Recognizes further* that, in case of aggression with nuclear

weapons or the threat of such aggression against a non-nuclear-weapon State Party to the Treaty on the Non-Proliferation of Nuclear Weapons, any State may bring the matter immediately to the attention of the Security Council to enable the Council to take urgent action to provide assistance, in accordance with the Charter, to the State victim of an act of, or object of a threat of, such aggression; and *recognizes also* that the nuclear-weapon State permanent members of the Security Council will bring the matter immediately to the attention of the Council and seek Council action to provide, in accordance with the Charter, the necessary assistance to the State victim;

4. *Notes* the means available to it for assisting such a non-nuclear-weapon State Party to the Treaty on the Non-Proliferation of Nuclear Weapons, including an investigation into the situation and appropriate measures to settle the dispute and restore international peace and security;

5. *Invites* Member States, individually or collectively, if any non-nuclear-weapon State Party to the Treaty on the Non-Proliferation of Nuclear Weapons is a victim of an act of aggression with nuclear weapons, to take appropriate measures in response to a request from the victim for technical, medical, scientific or humanitarian assistance, and affirms its readiness to consider what measures are needed in this regard in the event of such an act of aggression;

6. *Expresses* its intention to recommend appropriate procedures, in response to any request from a non-nuclear-weapon State Party to the Treaty on the Non-Proliferation of Nuclear Weapons that is the victim of such an act of aggression, regarding compensation under international law from the aggressor for loss, damage or injury sustained as a result of the aggression;

7. *Welcomes* the intention expressed by certain States that they will provide or support immediate assistance, in accordance with the Charter, to any non-nuclear-weapon State Party to the Treaty on the Non-Proliferation of Nuclear Weapons that is a victim of an act of, or an object of a threat of, aggression in which nuclear weapons are used;

8. *Urges* all States, provided for in Article VI of the Treaty on the Non-Proliferation of Nuclear Weapons, to pursue negotiations in good faith on effective measures relating to nuclear disarmament and on a treaty on general and complete disarmament under strict and effective international control which remains a universal goal,

9. *Reaffirms* the inherent right, recognized under Article 51 of the Charter, of individual and collective self-defence if an armed attack occurs against a member of the United Nations, until the Security Council has taken measures necessary to maintain international peace and security;

10. *Underlines* that the issues raised in this resolution remain of continuing concern to the Council.

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### Working Paper: "Security Assurances"

[Submitted by New Zealand on behalf of Brazil, Egypt, Ireland, Mexico, Sweden and South Africa as members of the New Agenda Coalition (NAC), Reproduced from NPT/CONF.2005/PC.II/WP.11, 1 May 2003]

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#### 1. INTRODUCTION

The Final Document of the 2000 Review Conference of the Parties to the Treaty on the Non-Proliferation of Nuclear Weapons states that: "The Conference agrees that legally binding security assurances by the five nuclear-weapon States to the non-nuclear-weapon States to the Treaty on the Non-Proliferation of Nuclear Weapons strengthen the nuclear non-proliferation regime. The Conference calls upon the Preparatory Committee to make recommendations to the 2005 Review Conference on this issue."

Paragraph 8 of the 1995 Principles and Objectives for Nuclear Non-Proliferation and Disarmament states that: "Noting United Nations Security Council resolution 984(95), which was adopted unanimously on 11 April 1995, concerning both negative and positive security assurances, further steps should be considered to assure non-nuclear weapon States party to the Treaty against the use or threat of use of nuclear weapons. These steps could take the form of an internationally legally binding instrument."

The 1990 Review Conference draft Final Document stated in paragraph 7 under the heading Security Assurances, which, while the document as a whole did not achieve agreement, was consensus language, that:

"The Conference recognises the need for effective international arrangements, that could be included in an international legally binding instrument, to assure non-nuclear-weapon States parties to the Treaty against the use or threat of use of nuclear weapons. The conclusion of an international instrument providing for such arrangements would strengthen the security of non-nuclear-weapon States parties to the Treaty and offer additional incentives to other non-nuclear-weapon States to adhere to the Treaty. Participation of all nuclear-weapon States, including those which are not parties to the Treaty, in such an instrument would contribute to ensuring its maximum effectiveness."

In the Advisory Opinion of the International Court of Justice on the "Legality of the Threat or Use by a State of Nuclear Weapons in Armed Conflict" it was decided unanimously that: "There is in neither customary nor conventional international law any specific authorisation of the threat or use of nuclear weapons" and that "A threat or use of force by means of nuclear weapons that is contrary to Article 2, paragraph 4, of the United Nations Charter, and that fails to meet all the requirements of Article 51, is unlawful."

#### 2. PERSPECTIVE

The issue at stake is the granting of legally binding security assurances to the non-nuclear-weapon States parties of the NPT, thereby fulfilling the undertaking which should be given to the States which have voluntarily given up the nuclear-weapons option by becoming parties to the Treaty. The negotiation of legally binding security assurances within the NPT umbrella, as opposed to some other forum, would provide a significant benefit to the Treaty parties and would be seen as an incentive to those who remain outside the NPT.

Security assurances rightfully belong to those who have given up the nuclear-weapon option as opposed to those who are still keeping their options open. They would strengthen the nuclear non-proliferation regime and confirm the role of the NPT and its indefinite extension.

#### 3. SECURITY ASSURANCES IN THE CONTEXT OF THE NPT

The issue of legally binding security assurances to non-nuclear-weapon States is a complex issue. Key questions that would need to be addressed are:

- Identification of the States providing the security assurances;
- Identification of the beneficiaries of such security assurances;
- The nature and scope of the security assurances being provided;
- Elements that would need to be included in a legally binding instrument on security assurances; and
- In what format such security assurances would be provided.

#### 4. IDENTIFICATION OF THE STATES PROVIDING SECURITY ASSURANCES

The only States in a position to provide security assurances, in that they are legally in a position to possess nuclear weapons and thereby having the capacity to use or threaten to use nuclear weapons, are the nuclear-weapon States. Article IX (3) of the nuclear Non-Proliferation Treaty identifies and defines a nuclear-weapon State as a one "... which has manufactured and exploded a nuclear weapon or other nuclear explosive device prior to 1 January 1967."

#### 5. IDENTIFICATION OF THE BENEFICIARIES OF SECURITY ASSURANCES

United Nations Security Council Resolution 984(1995), acknowledges the legitimate interest of all non-nuclear-weapon States under the NPT to receive security assurances.

This legitimate interest of all of the NPT's non-nuclear-weapon States is further acknowledged in the statements (S/1995/261, S/1995/262, S/1995/263, S/1995/264, S/1995/265) made by each of the nuclear-weapons States on the issue of security assurances.

#### 6. THE NATURE AND SCOPE OF THE SECURITY ASSURANCES BEING PROVIDED

Security assurances comprise of negative and positive assurances. Negative security assurances are those in terms of which there is an undertaking by the nuclear-weapon States not to use or threaten to use nuclear weapons. Positive security assurances are those in terms of which there is an undertaking to provide assistance, in accordance with the United Nations Charter, to a State victim of an act of nuclear-weapons aggression or the

object of a threat of such aggression.

A complicating factor in this regard, however, is that all non-nuclear-weapon States are not similar. Many of non-nuclear-weapon States parties to the NPT are members of security arrangements/alliances that rely on the nuclear capability of nuclear-weapon States as an integral part of their defence strategy. It is for this reason that in some of the abovementioned statements of the nuclear-weapon States (France, Russia, United Kingdom, United States) on security assurances, these assurances were qualified by to exclude cases of an invasion or any other attack on a nuclear-weapon State's territory, its armed forces or other troops, its allies or on a State towards which it has a security commitment, carried out or sustained by such a non-nuclear-weapon State in association or alliance with a nuclear-weapon State.

A further qualification included in some of the 1995 security assurance statements of the nuclear-weapon States (United Kingdom, United States) was that those assurances given emphasised that the assurances were not regarded as applicable if any beneficiary is in material breach of its own non-proliferation and disarmament obligations under the NPT. It is assumed that the material breach referred to here relates to instances where a non-nuclear-weapon-States party to the NPT is acquiring or developing nuclear weapons in contravention with the Treaty.

The negotiation of any internationally legally binding instrument on security assurances would need to take these factors into account. Should such elements be included in the agreement it would mean that, while all non-nuclear weapon States parties to the NPT are beneficiaries of security assurances, these assurances would in certain circumstances be qualified.

#### **7. ELEMENTS THAT WOULD NEED TO BE INCLUDED IN AN INTERNATIONALLY LEGALLY BINDING INSTRUMENT ON SECURITY ASSURANCES**

An internationally legally binding instrument would, inter alia, need to include the following elements:

- A general statement of the security assurances which are the subject of the instrument.
- The identification of the States providing the security assurances.
- The identification of the States beneficiary of the security assurances.
- Any qualifications to the security assurances provided for in the instrument.
- Provisions on the mandatory actions to be undertaken by the Security Council where a beneficiary of the security assurances are the subject of a threat of use or use of nuclear weapons.

#### **8. THE FORMAT IN WHICH SECURITY ASSURANCES WOULD BE PROVIDED**

Security assurances should be provided in the context of an internationally legally binding instrument, which could either be in the format of a separate agreement reached in the context of the nuclear Non-Proliferation Treaty, or as a protocol to the NPT. The arguments that declarations made by the nuclear-weapon States are sufficient or that these assurances should only be granted in the context of nuclear-weapon-free zones are not valid. The primary undertaking not to aspire to nuclear weapons has been made under the NPT; it is therefore in the context of or as a part of this Treaty that security assurances should also be given.

#### **9. A DRAFT [PROTOCOL] [AGREEMENT]**

A draft [Protocol] [Agreement] that demonstrates how security assurances could be encapsulated taking into account the contents of this paper is attached. This draft is attached on the understanding that any such [Protocol] [Agreement] would be the subject of intensive and detailed negotiations that would need to be agreed upon by consensus amongst all the States parties to the NPT. As such, it is further understood that all States parties would reserve, and exercise, the right to make proposals for changes, additions and/or deletions to the text, should it be considered as a possible basis for further work.

### **ANNEX — DRAFT [PROTOCOL] [AGREEMENT] ON THE PROHIBITION OF THE USE OR THREAT OF USE OF NUCLEAR WEAPONS AGAINST NON-NUCLEAR-WEAPON STATES PARTIES TO THE TREATY ON THE NON-PROLIFERATION OF NUCLEAR WEAPONS**

#### **Preamble**

The States party to this [Protocol] [Agreement],

Being also parties to the Treaty on the Non-Proliferation of Nuclear Weapons opened for signature in London, Moscow and Washington on 1 July 1968 (hereinafter called 'the Treaty'),

Convinced that every effort must be made to avoid and avert the danger of nuclear war, to prevent the spread of nuclear weapons, to facilitate international cooperation in the peaceful uses of nuclear energy with particular emphasis on the needs of developing countries, and reaffirming the crucial importance of the Treaty to these efforts, **(Taken from UNSCR 984(1995))**

Taking into consideration the legitimate concern of non-nuclear-weapon States that, in conjunction with their adherence to the Treaty, further appropriate measures are undertaken to safeguard their security, **(Taken from UNSCR 984(1995))**

Agreeing that legally binding security assurances by the five nuclear weapon states to the non-nuclear-weapon states parties to the Treaty strengthen the nuclear and non-proliferation regime, **(Taken from 2000 NPT Final Document)**

Recognising the legitimate interest of non-nuclear-weapon States parties to the Treaty to receive security assurances, **(Taken from UNSCR 984(1995))**

Reaffirming the need for all States party to the Treaty to comply fully with all their obligations, **(Taken from UNSCR 984(1995))**

Reaffirming also the importance of the Treaty and the need for the full implementation and achievement of all of its provisions,

Reaffirming furthermore that the Board of Governors of the International Atomic Energy Agency (IAEA) is responsible for the consideration of cases of non-compliance with IAEA safeguards agreements, **(IAEA Statute)**

Reaffirming that the total elimination of nuclear weapons is the only absolute guarantee against the use or threat of use of nuclear weapons, **(Taken from 2000 NPT Final Document)**

Recalling the unequivocal undertaking by the nuclear-weapon States, in the Final Document of the 2000 Review Conference of the Parties to the Treaty on the Non-Proliferation of Nuclear Weapons, to accomplish the total elimination of their nuclear arsenals leading to nuclear disarmament, to which all the States Parties to the Treaty are committed under Article VI of the Treaty, **(Taken from 2000 NPT Final Document)**

Have decided and hereby agree as follows:

#### **Article I**

1. The nuclear-weapon States party to this [Protocol] [Agreement] as defined in terms of Article IX (3) of the Treaty undertake not to use or threaten to use nuclear weapons against a non-nuclear-weapon State party to the Treaty.

2. The States party to this [Protocol] [Agreement] undertake, individually or collectively, to take appropriate measures in response to a request for political, military, technical, medical, scientific or humanitarian assistance from a non-nuclear-weapon State party to the Treaty which is a victim of the use of nuclear weapons. **(Taken from UNSCR 984(1995))**

#### **Article II**

1. The security assurance provided for in terms of Article I (1) of this [Protocol] [Agreement] shall be provided by the nuclear-weapon State parties as defined in terms of Article IX (3) of the Treaty.

2. The States receiving the security assurance provided for in terms of Article I (1) shall be non-nuclear-weapon State parties to the Treaty which are in compliance with their obligations under article I I of the Treaty. **(Taken from security assurances statements by NWS of April 1995)**

3. The security assurance provided for in terms of Article I (1) shall cease to apply in the event of an invasion or any other armed attack on a nuclear-weapon State's territory, its armed forces or other troops, its allies or on a State towards which it has a security commitment, carried out or sustained by such a non-nuclear-weapon State party to the Treaty in association or alliance with a nuclear-weapon State. **(Taken from security assurances statements by NWS of April 1995)**

**Article III**

1. The States party to this [Protocol] [Agreement] undertake to cooperate with the Security Council of the United Nations in the event of the use or threat of use of nuclear weapons. The Security Council shall consider measures in conformity with the Charter of the United Nations to address such an act or action. **(Taken from UNSCR 984(1995))**

**Article IV**

1. This [Protocol] [Agreement] shall be signed and shall be open for signature by any State party to the Treaty. It shall be subject to ratification.
2. This [Protocol] [Agreement] shall enter into force for each State party on the date of deposit of its instrument of ratification.
3. This [Protocol] [Agreement] shall be of unlimited duration and shall remain in force as long as the Treaty is in force.
4. This [Protocol] [Agreement] shall not be subject to reservations.
5. Any amendments to the [Protocol] [Agreement] proposed by a State party shall be carried out in accordance with the procedures of Article VI I I (1) and (2) of the Treaty.
6. Each State party to the [Protocol] [Agreement] shall in exercising its national sovereignty have the right to withdraw from the [Protocol] [Agreement] in accordance with the provisions of Article X (1) of the Treaty.
7. The operation and effectiveness of this [Protocol] [Agreement] shall be reviewed at the Review Conferences of the Treaty.

**Article V**

1. Nothing in this [Protocol] [Agreement] shall be interpreted as in any way limiting or detracting from the obligations of any State under other agreements or treaties on the establishment of nuclear-weapon-free zones.

**Article VI**

1. This [Protocol] [Agreement], the English, Russian, French, Spanish and Chinese texts of which are equally authentic, shall be deposited in the Archives of the Depository Governments of the Treaty. Duly certified copies of this [Protocol] [Agreement] shall be transmitted by the Depository Governments to the Governments of the signatory States.
2. IN WITNESS WHEREOF the undersigned, duly authorised, have signed this [Protocol] [Agreement].
3. DONE in triplicate, at the cities of London, Moscow and Washington, the ... day of ...

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**Security assurances – Working paper presented  
by the members of the Group of Non-Aligned  
States**

[NPT/CONF.2010/PC.I/WP.10, 27 April 2007]

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1. The Group of Non-Aligned States parties to the Treaty on the Non-Proliferation of Nuclear Weapons believes that the Conference should also substantially focus on the issue of security assurances. At the 2000 Review Conference, the States parties to the Treaty had agreed that legally binding security assurances by the five nuclear-weapon States to the non-nuclear-weapon States parties to the Treaty on the non-proliferation strengthen the nuclear non-proliferation regime and called on the Preparatory Committee to make recommendations to the 2005 Review Conference of the States parties to the Treaty on the Non-Proliferation of Nuclear Weapons on this issue.
2. The Group of Non-Aligned States parties to the Treaty on the Non-Proliferation of Nuclear Weapons recalls that the fourteenth Conference of Heads of State or Government of the Non-Aligned Countries reiterated that the improvement in the existing nuclear weapons and the development of new types of nuclear weapons as envisaged in the United States Nuclear Posture Review contravene the security assurances provided by the nuclear-weapon States. They further reaffirmed that these improvements as well as the development of new types of such weapons violate the commitments undertaken by the nuclear-weapon States at the time of the conclusion of the Comprehensive Nuclear-Test-Ban Treaty (CTBT).

3. The Group of Non-Aligned States parties to the Treaty on the Non-Proliferation of Nuclear Weapons emphasizes that the indefinite extension of the Treaty does not imply the indefinite possession by the nuclear-weapon States of their nuclear arsenals and considers, in that regard, that any assumption of indefinite possession of nuclear weapons is incompatible with the integrity and sustainability of the nuclear non-proliferation regime, both vertical and horizontal, and with the broader objective of maintaining international peace and security.

4. The Group of Non-Aligned States parties to the Treaty on the Non-Proliferation of Nuclear Weapons reaffirms that the total elimination of nuclear weapons is the only absolute guarantee that there will be no use or threat of use of nuclear weapons and further reaffirms that non-nuclear-weapon States should be effectively assured by nuclear-weapon States that there will be no use or threat of use of nuclear weapons. Pending the total elimination of nuclear weapons, the Group reiterates that efforts to conclude a universal, unconditional and legally binding instrument on security assurances to non-nuclear-weapon States should be pursued as a matter of priority.

5. The Group of Non-Aligned States parties to the Treaty on the Non-Proliferation of Nuclear Weapons stresses that it is the legitimate right of States that have given up the nuclear-weapon option to receive security assurances. In that regard, the Group calls for the negotiation of a universal, unconditional and legally binding instrument on security assurances, believing that such assurances to the non-nuclear-weapon States parties to the Treaty fulfil the undertaking to the States that have voluntarily given up the nuclear-weapons option by becoming parties to the Treaty. The Group believes that legally binding security assurances within the context of the Treaty would provide an essential benefit to the States parties.

6. In keeping with the above-mentioned position and in accordance with the decision at the 2000 Review Conference, the Group of Non-Aligned States parties to the Treaty on the Non-Proliferation of Nuclear Weapons calls for the establishment of a subsidiary body on security assurances for further work to be undertaken to consider legally binding security assurances by nuclear-weapon States.

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**Security assurances – Working paper submitted  
by China**

[NPT/CONF.2010/PC.I/WP.43, 7 May 2007]

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1. In order to free the world from the threat of nuclear weapons and the danger of nuclear war, all nuclear weapons should be completely prohibited and thoroughly destructed. Before this objective is achieved, all nuclear-weapon States should undertake not to be the first to use or threaten to use nuclear weapons against non-nuclear-weapon States or nuclear-weapon-free zones at any time and under any circumstances.
2. Legally binding security assurances by nuclear-weapon States to the non-nuclear-weapon States are conducive to strengthening the international nuclear non-proliferation regime. International legally binding instruments on this issue should be concluded as soon as possible.
3. Nuclear-weapon States should diminish the role of nuclear weapons in their national security strategies and not list any countries as targets of nuclear strike.
4. Nuclear-weapon States should support the efforts of non-nuclear-weapon States in establishing nuclear-weapon-free zones and undertake corresponding obligations.
5. The Conference on Disarmament should start substantive work to achieve an international legal instrument on the issues of security assurances to non-nuclear-weapon States.

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**Security assurances – Working paper submitted  
by Italy**

[NPT/CONF.2010/PC.I/WP.27, 3 May 2007]

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1. Non-nuclear-weapon States party to the NPT can legitimately claim to receive security assurances from the five nuclear-weapon States as defined by article IX of the NPT. Such assurances can

play an important role: they can serve both as an incentive to forgo the acquisition of weapons of mass destruction and as a deterrent.

Such assurances have also propitiated the adhesion of many States to the NPT.

2. Security assurances are already contemplated by the engagements by the five nuclear-weapon States as defined by article IX of the NPT undertaken in 1995 and noted by the United Nations Security Council in its resolution 984 (1995). **The five NPT nuclear-weapon States should reiterate their commitment and affirm or reaffirm its legally binding nature.**

3. Legally binding negative security assurances are also contemplated within the framework of the six declared nuclear-weapon-free zones: Treaty of Tlatelolco, Treaty of Pelindaba, Treaty of Bangkok, Treaty of Rarotonga, Antarctic Treaty and Treaty of Semipalatinsk. **Entry into force of these treaties and finalization of negative security assurance provisions contained therein should be achieved as a matter of priority after appropriate consultations.**

4. Not all NPT non-nuclear-weapon States have the same status with regard to security assurances. **A numerical survey could be made on countries that: (a) already enjoy security assurances; and (b) are susceptible to receiving security assurances.**

5. Several countries have requested the conclusion of a legally binding instrument on security assurances. **Further efforts should be made to explore the possibility that existing security assurances may be complemented by a multilateral legally binding instrument.**

6. Some countries have expressed the wish to receive security assurances on a bilateral basis. **It would be useful to explore the possibility of establishing legally binding security assurances on a unilateral, bilateral, plurilateral or regional basis.**

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**The issue of negative security assurances:  
Working paper submitted by the Islamic  
Republic of Iran**

[NPT/CONF.2010/PC.III/WP.2 13 April 2009]

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1. Since the first atomic bombs dropped on Hiroshima and Nagasaki in August 1945, with a destructive power 10,000 times larger than previous explosive devices, bombs a thousand times more destructive than fission bombs, i.e. thermonuclear bombs, have been designed and built. The continued existence of thousands of such bombs in the stockpiles of the nuclear powers has kept the fate of civilization and of humanity itself under horror and panic. Even with the conclusion of the Treaty on the Non-Proliferation of Nuclear Weapons, humankind has continued to live under the shadow of the possible use of the world's most destructive mass-terror weapons. Therefore, the question of the security of non-nuclear-weapon States parties to the Treaty against the use or threat of use of nuclear weapons has been and still is an important and vital issue.

2. In the early 1980s, all five nuclear-weapon States, in response to international demands for a legally binding treaty on negative security assurances against the use or threat of use of nuclear weapons, as a first, limited step accepted some qualified undertakings not to use such weapons against States parties to the Treaty and those that had renounced the production and acquisition of such weapons. In early April 1995, this pledge was reaffirmed through unilateral statements by nuclear-weapon States, and on 11 April 1995, just days before the 1995 Review and Extension Conference, United Nations Security Council resolution 984 (1995) was adopted, taking note of these unilateral statements and recognizing "the legitimate interest of non-nuclear-weapon States parties to the Treaty on the Non-Proliferation of Nuclear Weapons to receive security assurances". The Security Council was also very explicit in "considering that the ... resolution constitutes a step in this direction".

3. The unilateral declarations of the nuclear-weapon States and the Security Council resolution were duly taken note of in a package of decisions by the 1995 Review and Extension Conference of the

Parties to the Treaty on the Non-Proliferation of Nuclear Weapons. Principle 8 of the decision on principles and objectives for nuclear non-proliferation and disarmament stipulated that "further steps should be considered to assure non-nuclear-weapon States party to the Treaty against the use or threat of use of nuclear weapons. These steps could take the form of an internationally legally binding instrument".

4. Moreover, the new doctrines such as the United States Nuclear Posture Review, the development of easy-to-use mini-nukes and a recent increase in the number of cases in which some high officials of certain nuclear-weapon States have threatened non-nuclear-weapon States (such as those threats made by the President of France), all have put the non-nuclear-weapon States more than ever under the real threat of possible use of nuclear weapons.

5. The United States, through its development of new types of easy-to-use nuclear weapons and its naming of non-nuclear-weapon States as targets of such inhumane weaponry, is clearly violating its obligations under Article VI of the Treaty and putting its commitment to its 1995 unilateral statement under serious question. Hundreds of millions of dollars have already been allocated to nuclear weapon development projects such as the United Kingdom Trident or the United States mini-nukes and, recently, the addition of a nuclear-armed ballistic missile submarine to the French nuclear arsenal. The international community should not await the deployment, or even the threat of use, of such weapons to react. Such policies and practices seem to indicate that no lesson was learned from the nightmare of Hiroshima and Nagasaki. It is abhorrent that the threats and dangerous doctrine of the use of nuclear weapons against non-nuclear States were officially proclaimed by the United States and the North Atlantic Treaty Organization (NATO).

6. The 1995 unilateral statements and the subsequent Security Council resolution are inseparable parts of the deal in the 1995 Review Conference, and the efforts to undermine multilateral achievement in the field of disarmament and other areas are now seriously undermining the very credibility of the Treaty.

7. Iran considers the total elimination of nuclear weapons as the only absolute guarantee against the use or threat of use of nuclear weapons. Nuclear weapons should not imply political clout and capability to shape and influence world events or change the decisions of sovereign States. Holding on and expanding nuclear arsenals should be condemned rather than condoned or tolerated. Any increase in nuclear capability should equal a reduction in political credibility. As long as such weapons are in the stockpiles of nuclear-weapon States, no one on Earth has any security. It is therefore imperative to move on with a concerted and firm resolve to stop and reverse this fast-paced drive. Certain nuclear-weapon States have tried to create smokescreens in international forums, including the Treaty review process, to deflect attention from their abysmal record and policies.

8. Pending the total elimination of these inhuman weapons, efforts for the conclusion of a universal, unconditional and legally binding instrument on security assurances to non-nuclear-weapon States should be pursued as a matter of priority by the international community.

9. Therefore, we propose that the upcoming Conference establish an ad hoc committee to work on a draft of a legally binding instrument on the illegality of nuclear weapons and the provision of security assurances by the five nuclear-weapon States to non-nuclear-weapon States parties to the Treaty, and to submit the draft of the legal instrument to the next Review Conference for consideration and adoption. As a first step to address the twin issues of illegality of use and negative security assurances, we believe that, as suggested by the community of non-governmental organizations, the 2010 Review Conference should adopt a decision through which the Conference "decides that the threat or use of nuclear weapons against non-nuclear-weapon States shall be prohibited".

10. We strongly urge this Conference to move a step forward and to make a concrete decision on negative security assurances to assure non-nuclear-weapon States.