Nuclear weapon free zones and negative security assurances

Action 7:
All States agree that the Conference on Disarmament should, within the context of an agreed, comprehensive and balanced programme of work, immediately begin discussion of effective international arrangements to assure non-nuclear-weapon States against the use or threat of use of nuclear weapons, to discuss substantively, without limitation, with a view to elaborating recommendations dealing with all aspects of this issue, not excluding an internationally legally binding instrument. The Review Conference invites the Secretary-General of the United Nations to convene a high-level meeting in September 2010 in support of the work of the Conference on Disarmament.

Action 8:
All nuclear weapon States commit to fully respect their existing commitment with regard to security assurances. Those nuclear weapon States that have not yet done so are encouraged to extend security assurances to non-nuclear-weapons States parties to the Treaty.

Action 9:
The establishment of further nuclear-weapon-free-zones, where appropriate, on the basis of arrangements freely arrived at among States of the region concerned, and in accordance with the 1999 Guidelines of the United Nations Disarmament Commission, is encouraged. All concerned States are encouraged to ratify the nuclear-weapon-free zone treaties and their relevant protocols, and to constructively consult and cooperate to bring about the entry into force of the relevant legally binding protocols of all such nuclear-weapon-free zones treaties, which include negative security assurances. The concerned States are encouraged to review any related reservation.

General negative security assurances
Since May 2010, a number of efforts have been made by some of the NPT nuclear-armed states on the topic of NSAs. Although the international community is no closer to a legally-binding agreement than before the NPT Review Conference, some NPT nuclear-armed state have modified their previous assurances.

China
China is the only NPT nuclear-armed state that has a no first use policy. This policy has two parts. Firstly, it means China has declared that it will not use nuclear weapons against any NPT nuclear-armed state in a first strike and secondly, that it will never use or threaten to use nuclear weapons against any NPT non-nuclear-armed state or members of a NWFZ.

China holds that while moving towards the complete prohibition of nuclear weapons, all NPT nuclear-armed states should abandon any nuclear “deterrence” policy based on first use of nuclear weapons as well as make an unequivocal commitment that under no circumstances will they use or threaten to use nuclear weapons against non-nuclear-armed states or NWFZs and negotiate an international legal instrument in this regard. In the meantime, China maintains, NPT nuclear-armed states should negotiate and conclude a treaty on no first use of nuclear weapons against each other.1

During the signing ceremony of the Treaty on a nuclear-weapon-free-zone in Central Asia on 6 May 2014, China reiterated its no-first-use policy.2

France
France reiterated its NSA policy in line with UN Security Council (UNSC) resolution 984 in a statement delivered during the 2010 NPT Review Conference, emphasizing that “France granted positive and negative security assurances to all non-nuclear-armed state parties to the NPT, in compliance with their non-proliferation obligations.”3
France has consistently opposed the idea of a no first use pledge and attaches less weight to NSAs than other NPT nuclear-armed states. It conditions the NSAs it has previously given to non-nuclear-armed states that are party to the NPT by arguing that nuclear retaliation is consistent with the legal right to self-defence as recognised in article 51 of the UN Charter and that the right to self-defence would, in the face of aggression by others, take precedence over any no first use commitments given in peacetime. France also argues that any state not meeting its own non-proliferation commitments, including in relation to chemical and biological weapons, could not expect any NSA to apply to them. “In its 2013 white paper it confirmed this position and explained that its nuclear force was strictly for protection in defence from aggressions by another state against France’s vital interests “wherever it may come from and whatever form it may take.”

Russia

UNSC resolution 984 remains the basis of Russia’s NSAs to non-nuclear-armed states. However, Russia has expressed readiness to move towards the elaboration of global NSAs, provided that they will take into consideration the Russian military doctrine and its national security concepts.6

On 25 December 2014, President Putin approved a new version of the Russian military doctrine. In it, Russia “reserves the right to use nuclear weapons in response to a use of nuclear or other weapons of mass destruction against her and (or) her allies, and in a case of an aggression against her with conventional weapons that would put in danger the very existence of the state.”

United Kingdom

In October 2010, the UK government released its Strategic Defence and Security Review and stated that it is “now able to give an assurance that the UK will not use or threaten to use nuclear weapons against NNWS parties to the NPT.” It explained, “In giving this assurance, we emphasise the need for universal adherence to and compliance with the NPT, and note that this assurance would not apply to any state in material breach of those non-proliferation obligations. We also note that while there is currently no direct threat to the UK or its vital interests from states developing capabilities in other weapons of mass destruction, for example chemical and biological, we reserve the right to review this assurance if the future threat, development and proliferation of these weapons make it necessary.” Previous language in the 1998 Strategic Defence Review stated that the UK will not use nuclear weapons against “a non-nuclear weapon state not in material breach of its nuclear non-proliferation obligations, unless it attacks us, our Allies or a state to which we have a security commitment, in association or alliance with a nuclear weapon state.”

United States

The 2010 NPR states: “The United States will not use or threaten to use nuclear weapons against NNWS that are party to the NPT and in compliance with their nuclear non-proliferation obligations.” The NPR gives no definition of what compliance in this regard means, leaving this statement open to interpretation.

The NPR also states that conventional weapons would be used to retaliate against a biological or chemical weapons attack. This is a change from the previous NPR, which stated that nuclear weapons could be used, even if the attack came from a non-nuclear-armed state.11 The 2010 NPR does however also state that if the evaluation and proliferation in biological weapons threat would change, the US reserves the right to adjust its NSA policy accordingly.12 Furthermore, the NPR states that the nuclear weapons may still play a role in deterring conventional, chemical, and biological weapons from the states listed as not being under the US security assurances. The NPR also indicates that the US will seek to ensure that nuclear weapons would only be used in "extreme circumstances." In the same spirit, in a new guideline published in June 2013 the Department of Defense is directed to "strengthen non-nuclear capabilities and reduce the role of nuclear weapons in deterring non-nuclear attacks."14

NSAs in the UN General Assembly (UNGA)

During the 2010 session of the UNGA First Committee, resolution A/RES/65/43, “Conclusion of effective international arrangements to assure non-nuclear-weapon States against the use or threat of use of nuclear weapons,” was adopted with a vote of 106-0-56.15 The same resolution, which is introduced annually by Pakistan, was adopted again during the 2011–2014 sessions with similar votes. On all occasions, France, Russia, the United Kingdom, and the United States all abstained while China voted yes. This voting pattern is the same as before the adoption of the 2010 NPT Action Plan.16

NSAs in the Conference on Disarmament (CD)

Although no significant steps towards legally-binding NSAs have been taken, action 7 also calls on the UN Secretary-General to convene a high-level meeting in support of the CD. In September 2010 he convened such a meeting on “revitalizing the work of the Conference on Disarmament and taking forward multilateral disarmament negotiations.” Yet, NSAs were discussed only limitedly both at this meeting and the follow-up that took place in July 2011.

During its 2014 session the CD held informal discussions on all agenda items, including NSAs. No progress regarding the development of binding NSAs through the CD can be reported. However, with the resolutions passed in the UNGA First Committee, the issue clearly remains on the agenda.
Nuclear Weapon Free Zones

The Pelindaba Treaty (African Nuclear-Weapon-Free-Zone)

In accordance with Article 14 of the Pelindaba Treaty, the African region held its First Conference of States Parties to the Treaty on 4 November 2010 at the African Union Headquarters in Addis Ababa, Ethiopia.

Eight countries, Cameroon, Chad, Comoros, Congo, Ghana, Guinea-Bissau, Namibia, Sahrawi Arab Democratic Republic, and Zambia, have ratified the Treaty since the adoption of the NPT Action Plan. As of February 2014, fifteen signatories have yet to ratify the Pelindaba Treaty.

Both Protocol I (NSA) and Protocol II (ban on nuclear testing in the NWFZ) have been signed by all NPT nuclear-armed states, and ratified by all NPT nuclear-armed states except the United States. The protocols were handed in to the US Senate in May 2011 for ratification. Protocol III is open for signature by France and Spain, as non-African countries that are “de jure” or “de facto” responsible for territories within the zone. France has signed and ratified Protocol III but Spain has indicated it will not do so, arguing that its current safeguards obligations with EURATOM and IAEA are sufficient.

All NPT nuclear-armed states, except for China, have attached reservations to Protocol II, reserving the right to use their nuclear arsenals in response to "changes of the international environment".

Budapest Memorandum

The Budapest Memorandum is a political agreement with focus on Security assurances related to the Ukraine handing over nuclear weapons to Russia and consequently acceding to the NPT as a non-nuclear weapon state. It was signed in 1994 by the US, Russia and the UK giving the assurance not to use or threat to use force against the territorial integrity or political independence of Ukraine, Belarus, and Kazakhstan.

In exchange for the security assurances, these states turned over their nuclear weapons stockpiles remaining from the Soviet Union to Russia.

Ukraine and other governments have argued that Russia violated the Budapest Memorandum due to recent events in Ukraine. In a statement to the CD on 24 June 2014, Ukraine stressed that Russia had violated "each article of this fundamental document [Budapest Memorandum] for the whole international security architecture but one (article 5) – using of nuclear weapons against Ukraine." Russia however argues that the Budapest Memorandum does not apply to the Crimean incident, as it was driven by an internal political and social-economic crisis. It also argues the security assurance in the Budapest Memorandum only applies to the assurance not to use or threaten to use nuclear weapons against non-nuclear states.

The Russian view is contested among UN member states and has raised fundamental questions about the value of security assurances. Additionally, some argue that it could complicate the resolution of possible future proliferation challenges.
The Treaty of Tlatelolco
(Nuclear-Weapon-Free-Zone in Latin America and the Caribbean)

The Treaty of Tlatelolco\textsuperscript{16} entered into force on 25 April 1969 and, since 23 October 2002 when Cuba deposited its instrument of ratification, all states of Latin America and the Caribbean have signed and ratified the Treaty.\textsuperscript{27} It has two additional protocols. Protocol I involves non-Latin American countries that have territories in the NWFZ. France, the United Kingdom, and the United States have signed and ratified Protocol I. Protocol II deals with the provisions of NSAs. All NPT nuclear-armed states have ratified Protocol II, albeit with reservations.\textsuperscript{28}
Member states: Antigua and Barbuda, Argentina, Bahamas, Barbados, Belize, Bolivia, Brazil, Chile, Colombia, Costa Rica, Cuba, Dominica, Dominican Republic, Ecuador, El Salvador, Grenada, Guatemala, Guyana, Haiti, Honduras, Jamaica, Mexico, Nicaragua, Panama, Paraguay, Peru, Saint Kitts and Nevis, Saint Lucia, Saint Vincent and the Grenadines, Suriname, Trinidad and Tobago, Uruguay, Venezuela.

Ratification of Additional Protocol II:
The Treaty of Rarotonga (South-Pacific-Nuclear-Weapon-Free-Zone)

After the Treaty's entry into force in 1986, the Marshall Islands, Micronesia, and Palau became eligible states for signing this Treaty, but none have yet done so. The Treaty's Protocol I (which calls on US, UK and France to apply the key provisions of the Treaty in respect to their territories situated within the zone), Protocol II (on negative security assurances), and Protocol III (whereby NPT nuclear-armed states undertake not to test nuclear weapons in the zone) have been ratified by all NPT nuclear-armed state except for the United States. President Obama handed in the request for ratification of the three Protocols together with the Pelindaba Treaty protocols to the US senate in May 2011. As of February 2015, these protocols have not been ratified.

Out of the four NPT nuclear-armed states that have ratified the protocols, France and the United Kingdom have made reservations on Protocol II (NSAs). These reservations are the same they have made for the Pelindaba Treaty.

**Member states:** Australia, Cook Islands, Fiji, Kiribati, Nauru, New Zealand, Niue, Papua New Guinea, Samoa, Solomon Islands, Tonga, Tuvalu, Vanuatu.
The Treaty of Bangkok (Southeast Asia Nuclear-Weapon-Free-Zone)

The Protocol to the Treaty on NSAs has not been signed by any of the NPT nuclear-armed states.31

In August 2011, the NPT nuclear-armed states met with officials from the Association of Southeast Asian Nations (ASEAN) to discuss their ratification of the Protocol to the Treaty. One follow-up meeting was held in October 2011. In November 2011, Thailand's foreign minister announced that the ASEAN countries together with the NPT nuclear-armed states had reached an agreement on how to proceed on the region's NWFZ. On 19 November the White House stated, "All sides have agreed to take the necessary steps to enable the signing of the protocol and its entry into force at the earliest opportunity."

This agreement involves further negotiations on the issue.32 In July 2012 France, Russia, the United Kingdom and the United States announced they would not be able to sign the Treaty during the ASEAN Foreign Minister's meeting. They had introduced reservations to the SEANWFZ commission too late for the commission to review them before the conference.33

As of February 2015 still no NPT nuclear-armed state has signed the Protocol to the Treaty.

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**Member states:** Brunei Darussalam, Cambodia, Indonesia, Lao People's Democratic Republic, Malaysia, Myanmar, Philippines, Singapore, Thailand, Viet Nam.
The Treaty of Semipalatinsk (Central Asia Nuclear-Weapon-Free-Zone)

The Treaty of Semipalatinsk opened signature in 2006 and entered into force on 21 March 2009. While Russia and China had expressed support for the Treaty, France, the United Kingdom, and United States opposed article 12, which states that the Treaty “does not affect the rights and obligations of the Parties under other international treaties.” These countries were concerned that under the Commonwealth of Independent States Collective Security Treaty, Russia could possibly deploy nuclear weapons in Central Asia. During the 2013 NPT PrepCom in Geneva the signatories of the Treaty launched the so-called C5-P5 consultations to resolve this issue.

On 6 May 2014, all five NPT nuclear-armed states of the NPT signed the Protocol on the margins of the 2014 NPT PrepCom in New York, providing legally-binding assurances not to use or threaten to use nuclear weapons against CANWFZ Treaty.

Ratification of Additional Protocol II:

Member states: Kazakhstan, Kyrgyzstan, Tajikistan, Turkmenistan, Uzbekistan.

Mongolia

Mongolia declared itself a single state NWFZ on 25 September 1992 and the “Law on Mongolia on its nuclear-weapon-free status” was adopted by the national parliament on 3 February 2000. Later that year, in October, the five NPT nuclear-armed states delivered a joint statement in which they reaffirmed their commitment to cooperate with Mongolia in implementing resolution 53/77 entitled “Mongolia’s international security and nuclear-weapon-free-status” of 1998. They each had declared their support bilaterally at the time.

On 17 September 2012, Mongolia and China, France, Russia, UK, and US signed parallel declarations regarding Mongolia’s nuclear-weapon-free status. The declaration included a reaffirmation of the security assurances made in 2000 and the intent to respect Mongolia’s status by not contributing to any act that would violate it.
References:

9. Ibid.
17. R. Acheson, High-level meeting on revitalizing the CD serves as catalyst for action, CD Report, Reaching Critical Will, September 2010.
21. See for example debate in the CD on 5 March and 24 June 2014, also debate in UNGA First Committee on Regional Disarmament and Security on 27 October 2014.
22. Cameroon ratified on 11 June 2009, but it was deposit on 28 September 2010.
The NPT Action Plan Monitoring Report March 2015


39 Ibid.