



Fact Sheet:

Negative Security Assurances

“Nuclear weapons powers should give an assurance that they will not use, or threaten to use, nuclear weapons against non-nuclear weapons states without nuclear weapons on their territories.” – UN GA resolution 21/53A (1966)

What are security assurances?

- A negative security assurance is the promise of a nuclear weapon state (NWS) to “*not use nuclear weapons against non-nuclear-weapon States Parties to the Treaty on the Non-Proliferation of Nuclear Weapons*”.ⁱ
- A positive security assurance is one by which the NWS “will act immediately” in the event of a nuclear attack on a non-nuclear weapon state (NNWS), pledging “technical, medical, scientific or humanitarian assistance, and affirm[ing the Security Council’s] readiness to consider what measures are needed in this regard in the event of such an act of aggression”.ⁱⁱ

What are their legal frameworks?

- General Assembly resolution 21/53(a), which calls on the Eighteen-Nation Committee on Disarmamentⁱⁱⁱ “to consider urgently the proposal that the nuclear weapons powers should give an assurance that they will not use, or threaten to use, nuclear weapons against non-nuclear-weapon States without nuclear weapons on their territories”.
- Security Council documents S/1995/261, S/1995/262, S/1995/263, S/1995/264, S/1995/265, are unilateral declarations of negative security assurances from each of the five NWS to members of the nuclear Non-Proliferation Treaty (NPT). These assurances are not legally binding, and do not apply “in the case of an invasion or any other attack on the (NWS), 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.”^{iv}

What are their intended purposes?

- NSAs are intended to encourage non-nuclear weapon states to join the NPT, to be legally protected as a NNWS against the use or threat of use of nuclear weapons, thereby acting as a dissuader from developing their own nuclear arsenals.

What are the arguments against NSAs?

- NWS see NSAs as weakening the theory and practice of deterrence.
- NSAs run counter to the US National Security Strategy in 2002, whereby the US threatened nuclear retaliation in the event of a nuclear, biological or chemical weapon attack on its soil.

Are Negative Security Assurances meaningful policies?

- Recent proliferators—in particular North Korea—have done so in part because they feared an attack by the US, whether conventional or nuclear. In the negotiations to disarm North Korea, Pyongyang demanded explicitly that the US provide security assurances that it will not attack. By this reasoning, it can be argued that, were NSAs already codified

within the NPT context, the nuclear situation on the Korean peninsula may not have reached the current dangerous levels.

- However, with the threat of nuclear war between NWS still looming—albeit not at Cold War levels—a “no first use” policy, rather than negative assurances to NNWS, would not only assure the NNWS that nuclear weapons will not be used against them, but it would also protect against any nuclear war. Therefore, a “no first use” policy is broader and therefore arguably more effective in preventing all nuclear war.

History of Security Assurances

- 1966: After the passage of General Assembly resolution 21/53(a), the Soviet Union proposed a treaty to prohibit “the use of nuclear weapons against non-nuclear States parties to the treaty which have no nuclear weapons on their territory.” The US would not agree to the proposed language because it would have enabled the USSR to threaten their NATO allies in Western Europe who had American weapons on their territory. In particular, the Soviets focused on West Germany.^v
- 1968: The US accepted language for a nuclear weapon-free zone in Latin America and added a unilateral “understanding” (interpretation) of the non-use promise both at the time of its signature and of its ratification. The understanding also included an exception to permit a nuclear response to a Soviet-assisted attack in the region.^{vi} Later, nuclear weapon-free zones were also established in the South Pacific, Southeast Asia, Africa, Central Asia and Mongolia.^{vii}
- 1968: UN Security Council passed a resolution, whereby the US, UK and Soviet Union offered positive security assurances to non-nuclear NPT parties.^{viii}
- 1975: At the NPT Review Conference, non-aligned countries produced a statement that “determined efforts must be made especially by the nuclear-weapon States Party to the [NPT], to ensure the security of all non-nuclear-weapon States Parties.”^{ix}
- 1976: The Soviet Union and other member states of the Warsaw Pact Organization proposed a treaty for a Conference on Security and Cooperation in Europe whose participants would pledge “Not to be the first to use nuclear weapons, one against the other, either on land, on the sea, in the air and in outer space...”^x
- 1978: At the first Special Session of the UN General Assembly on Disarmament, each of the NWS issued separate and unique non-use “declarations” for the benefit of non-weapon NPT parties.^{xi} Many NNWS were disappointed in the US’s declaration—it created a rather large exception—that if a non-nuclear state attacks the US and is allied or even associated with a nuclear weapon state, then nuclear weapons could be used against the non-nuclear weapon state.
- 1978-2005: The UN General Assembly adopted an annual resolution calling for the “conclusion of effective international arrangements to assure non-nuclear weapon States against the use or threat of use of nuclear weapons.” The most recent resolution, in 1996, (A/RES/61/57) was adopted with a vote of 119 in favor, one abstention and 59 votes against.
- 1991: After the dissolution of the Soviet Union, Russia, the United States, and the United Kingdom offered a pledge of no-use as part of the efforts to persuade former Soviet republics such as Belarus, Kazakhstan and Ukraine to relinquish the nuclear weapons within their territories.^{xii}
- 1995: As part of their efforts to obtain an indefinite extension of the NPT, the five NWS again offered unilateral declarations. This offer was made after the five NWS failed to find common language for a clause within the NPT context, or even for a multilateral memorandum of agreement, as was the case with the former Soviet republics.^{xiii}

Ambiguous Legal Significance

- The 1995 NPT conference adopted a recommendation “that further steps should be considered to assure non-nuclear-weapon States not party to the Treaty [NPT] against the use or threat of use of nuclear weapons. These steps could take the form of an internationally legally binding instrument.” This recommendation implies that the five Nuclear Weapon States do not regard their declarations as legally binding.^{xiv}
- Some experts argue that the declarations are already legally binding because they have become “customary” international law and that they were introduced as a reciprocal agreement for non-nuclear states to extend the NPT in 1995.^{xv}

Current Status

- Negative security assurances are on the Decalogue, or permanent agenda, of the UN Conference on Disarmament in Geneva. However, the negotiating body remains deadlocked and no progress has been made.
- In 2005, Brazil, Canada, Kenya, Mexico, New Zealand and Sweden presented a joint resolution to the UN General Assembly to create four Ad Hoc Committees to discuss four priority issues, including the establishment of internationally binding security assurances.
- At the 2007 Preparatory Committee Meeting for the 2010 NPT Review Conference, four different working papers were presented on establishing legally binding security assurances: the first from a group of Non-Aligned States, the second from Italy, the third from Canada and the fourth from China.^{xvi}

Citations

i The UK's declaration on security assurances, made in the Conference on Disarmament on 6 April 1995 and submitted to the Security Council in document S/1995/262. In Security Council resolution 984 (1995), the Security Council "takes note with appreciation" this declaration, along with unilateral declarations by the other four NWS (S/1995/261, S/1995/263, S/1995/264, S/1995/265).

ii Operative paragraph 5 of Security Council resolution 984 (1995)

iii The Eighteen-Nation Committee on Disarmament was the precursor to present-day Conference on Disarmament (CD). The Conference officially changed its name in 1983, and its membership grew to 38. Today the CD has 65 members.

iv See SC/1995/263, "Letter dated 6 April 1995 from the Chargé d'affaires A.I. of the Permanent Mission of the United States of America to the United Nations addressed to the Secretary-General"

v DuPreez, Jean, "The Role of Security Assurances: Is any progress possible?" NTI Issue Brief, April, 2004:

http://www.nti.org/e_research/e3_45a.html

vi Bunn, George. "The Legal Status of US Negative Security Assurances to Non-Nuclear Weapon States," The Nonproliferation Review, Spring-Summer 1997. Available online:

<http://cns.miis.edu/pubs/npr/vol04/43/bunn43.pdf>

vii Du Preez, Jean, "The Demise of Nuclear Negative Security Assurances," Article VI Forum, September 28, 2006, Ottawa, Canada. Available Online: http://cns.miis.edu/cns/projects/ionp/pdfs/visions_of_fission.pdf

viii UN Security Council Resolution 255 (1968). Available Online:

<http://f40.iaea.org/worldatom/Documents/Legal/unsc255.shtml>

ix Ibid.

x Bunn, George. "The Legal Status of US Negative Security Assurances to Non-Nuclear Weapon States," The Nonproliferation Review, Spring-Summer 1997. Available online:

<http://cns.miis.edu/pubs/npr/vol04/43/bunn43.pdf>

xi Ibid.

xii Ibid.

xiii Ibid.

xiv Ibid.

xv Ibid.

xvi See <http://www.reachingcriticalwill.org/legal/npt/prepcom07/papers.html>