

2000 Review Conference of the Parties to the Treaty on the Non-Proliferation of Nuclear Weapons

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Security assurances

Working paper submitted by Egypt

“Noting United Nations Security Council resolution 984 (1995), which was adopted unanimously on 11 April 1995, as well as the declarations by the nuclear-weapon States 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” (1995 Decision on “Principles and Objectives for Nuclear Non-Proliferation and Disarmament”, para. 8).

1. It was for the purpose of preserving peace and security in the world and limiting the possibilities of nuclear confrontation that the international community elaborated a legally binding instrument through which all nations would renounce the nuclear weapons option. Only the five States which had manufactured and exploded a nuclear weapon or other nuclear explosive device prior to 1 January 1967 were designated as nuclear-weapon States. In return, non-nuclear-weapon States were to be offered guarantees that nuclear weapons would not be used against them.

2. Regrettably, 30 years after the Treaty on the Non-Proliferation of Nuclear Weapons entered into force, the nuclear-weapon States have still to demonstrate to the non-nuclear-weapon States parties to the Non-Proliferation Treaty that their security will not in any way be endangered by the use, or threat of use, of nuclear weapons, and to assure them of adequate protection and assistance in such an eventuality.

3. Egypt, in its consideration of the issue of security assurances, is guided by four basic principles: credibility, deterrence, protection and assistance.

1. Credibility

4. Security assurances must capture and accurately reflect the magnitude of the nuclear threat, which was unforeseen and unimagined by the authors of the Charter of the United Nations. A distinction between a nuclear threat and a conventional threat has to be amplified in no uncertain terms. In conformity with Article 2,

paragraph 4, of the Charter, “All Members shall refrain in their international relations from the threat or use of force against the territorial integrity or political independence of any State”. Accordingly, whenever a State threatens another with conventional weapons, the Security Council is duty bound to take effective collective measures for the removal of the threat and the suppression of the aggression as stipulated in Article 1, paragraph 1, of the Charter. Experience has shown that it is no easy matter to suppress a conventional armed attack, and it is important to bear in mind that a conventional attack does not entail total destruction and massive annihilation as a nuclear one. The Security Council’s response must draw a clear distinction between the nuclear and the conventional threat.

5. Moreover, attention has to be drawn to a very grave factor, namely, subjecting the Security Council’s response to a nuclear threat to the regular voting procedure of the Charter, particularly the provisions of Article 27, paragraph 3, pertaining to the concurring votes of the permanent members. The magnitude and unparalleled destructive power of nuclear weapons necessitates a clear commitment that a nuclear threat will be deterred and the victims will be protected, assisted and defended in a manner commensurate with the gravity of a nuclear threat without the possibility of dissension in the ranks of the permanent members of the Security Council.

2. Deterrence

Aggression with nuclear weapons, or the threat of such an aggression against a non-nuclear State party to the Non-Proliferation Treaty, constitutes a threat to international peace and security. It should automatically trigger an immediate response by the Security Council, in conformity with Article 39 of the Charter of the United Nations and in a manner consistent with the substance and spirit of the relevant articles of Chapter VII.

3. Protection

6. The element of genuine protection must be clearly enunciated in the form of a mechanism for enforcement of the security assurances. Such a mechanism should indicate mandatory action to be adopted by the Security Council to redress a situation where a non-nuclear-weapon State is subjected to a nuclear attack or threat of an attack. It must be clear that the territorial integrity and political independence of any non-nuclear-weapon State, as well as the security and survival of its population, will be guaranteed as a matter of right.

4. Assistance

7. It is imperative to identify clearly the scope and nature of assistance and compensation to be provided to any non-nuclear-weapon State party to the Non-Proliferation Treaty that is a victim or object of a threat of aggression in which nuclear weapons are used. It should be recognized that assistance must be comprehensive and that reparation must be mandatory. It must include not only technical assistance, but also the political remedial assistance needed to defend the victim.

8. Notwithstanding the efforts by the non-nuclear-weapon States during the 1960s, all endeavours to incorporate security assurances in the text of the Non-Proliferation Treaty were unsuccessful. The General Assembly finally adopted the Non-Proliferation Treaty in May 1968 without a clause on security assurances.

Security Council resolution 255 (1968) was adopted one month later in conjunction with unilateral declarations by three nuclear-weapon States. However, resolution 255 (1968) was from the outset inadequate since it did not extend genuine security to non-nuclear-weapon States, nor did the resolution and the accompanying declarations add anything new to what had already been provided for in the Charter of the United Nations.

9. The unilateral declarations by the three nuclear-weapon States were, in essence, statements of intent with no binding force to provide for their application or prevent their withdrawal. They stated that nuclear aggression would create a qualitatively new situation but provided no corresponding procedures for dealing with such a grave threat besides those contained in the Charter of the United Nations.

10. Security Council resolution 984 (1995), which was adopted a little over 25 years later, added three new elements:

- It was endorsed by all permanent members of Security Council;
- It addressed technical assistance in a more comprehensive manner than resolution 255 (1968), albeit in voluntary language;
- It invited States Members of the United Nations to provide assistance to any State that is a victim of an act of aggression by nuclear weapons and recognized the right of any such victim to compensation from the aggressor.

11. Prior to the adoption of resolution 984 (1995), Egypt sought to initiate a process of collective consultations to update and enhance Security Council resolution 255 (1968) in order to address the issue of security assurances to non-nuclear-weapon States in a more comprehensive manner, and submitted proposals to that effect to the Conference on Disarmament in 1991. Furthermore, Egypt conveyed its views to the five nuclear-weapon States before the adoption by the Security Council of resolution 984 (1995). However, the nuclear-weapon States completely bypassed any dialogue with the non-nuclear-weapon States on this issue, and thereby adopted a resolution that fell far short of the expectations of the non-nuclear-weapon States.

12. While the three additional elements referred to above represented a welcome improvement to resolution 255 (1968), Security Council resolution 984 (1995) failed to redress the shortcomings with regard to credibility, deterrence and protection. It only addressed assistance, as if the Security Council's role were confined to dealing with nuclear accidents.

13. In addressing the Security Council on 11 April 1995, Egypt stated that the draft resolution before the Council did not provide the non-nuclear-weapon States with the required and long-awaited security assurances to which they were entitled as a result of their renunciation of the nuclear option. In addition, Security Council resolution 984 (1995) recognized that *it* constituted “a step” in the direction of further appropriate measures to be undertaken to safeguard the security of non-nuclear-weapon States. Five years have passed since the adoption of Security Council resolution 984 (1995), and it is now appropriate that further steps should be considered to assure the non-nuclear-weapon States party to the Non-Proliferation Treaty against the use or threat of use of nuclear weapons.

14. Bearing in mind that non-nuclear-weapon States party to the Non-Proliferation Treaty have renounced the nuclear-weapons option through their adherence to a multilaterally negotiated and legally binding international instrument, the assurances these States receive against the use or threat of use of nuclear weapons should also take the form of a multilaterally binding international instrument. Such an instrument could be either an independent one or a protocol annexed to the Non-Proliferation Treaty.

15. The Review Conference is urged to consider the following:

- Calling upon the Security Council to continue its consideration of the issue of security assurances and to address the following essential principles:
 - A prior determination that the use or threat of use of nuclear weapons constitutes a threat to international peace and security;
 - A trigger mechanism, to ensure Security Council response to threats or attacks by nuclear weapons;
 - A commitment by the Security Council to take effective collective measures for the prevention and removal of threats to the peace resulting from the threat of use of nuclear weapons, and for the immediate suppression of acts of aggression or other breaches of the peace that involve the use or threat of use of nuclear weapons;
 - A renunciation by the five permanent members of the Security Council of the unanimity rule in Article 27, paragraph 3, of the Charter of the United Nations pertaining to the concurring votes of the permanent members, with regard to the application of security assurances to non-nuclear-weapon States party to the Non-Proliferation Treaty;
 - Calling on the Conference on Disarmament to begin negotiations on an internationally legally binding instrument that would assure non-nuclear-weapon States party to the Non-Proliferation Treaty against the use or threat of use of nuclear weapons and guarantee assistance in case of aggression with nuclear weapons;
 - An unconditional commitment by the nuclear-weapon States not to use or threaten to use nuclear weapons against any State party to the Non-Proliferation Treaty that does not possess nuclear weapons or place nuclear weapons on its territories;
 - Urging the nuclear-weapon States to issue a joint statement undertaking not to use or threaten to use nuclear weapons against non-nuclear-weapon States party to the Non-Proliferation Treaty or nuclear-weapon-free zones at any time or under any circumstances, pending the negotiation and adoption of a legally binding instrument on security assurances.
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