

Isodarco 2020

Nuclear Security Assurances

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Definition of Security Assurances

UN Charter Art 2.4

“ 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, or in any other manner inconsistent with the Purposes of the United Nations.”

Multilateral versus bilateral or unilateral security assurances. Non aggression pacts

Nuclear Security Assurances

No reference to nuclear weapons in UN Charter.

Non Proliferation Treaty

Article I

”Each nuclear-weapon State Party to the Treaty undertakes **not to transfer** to any recipient whatsoever nuclear weapons or other nuclear explosive devices or control over such weapons or explosive devices directly, or indirectly; and not in any way to assist, encourage, or induce any non-nuclear-weapon State to manufacture or otherwise acquire nuclear weapons or other nuclear explosive devices, or control over such weapons or explosive devices”.

Article II

“Each non-nuclear-weapon State Party to the Treaty undertakes **not to receive** the transfer from any transferor whatsoever of nuclear weapons or other nuclear explosive devices or of control over such weapons or explosive devices directly, or indirectly; not to manufacture or otherwise acquire nuclear weapons or other nuclear explosive devices; and not to seek or receive any assistance in the manufacture of nuclear weapons or other nuclear explosive devices.”

Article VI

”Each of the Parties to the Treaty undertakes to **pursue negotiations** in good faith on effective measures relating to **cessation of the nuclear arms race** at an early date and **to nuclear disarmament**, and on a treaty on general and complete disarmament under strict and effective international control“.

NPT lacunae

- No overall prohibition of the possession of nw
- No prohibition of use of nuclear weapons by NWS against each other
- No prohibition of use or threat of use of nuclear weapons against non nuclear weapons states

NSAs before the NPT adoption

- Non aligned members sought security assurances from NWSs in return for the acceptance of their non-nuclear status and proposed that security assurances be incorporated into the NPT.
- In the late sixties all five NWSs accepted making different unilateral non binding NSA declarations in particular with regard to Latin America. They agreed "not to use or threaten to use" nuclear weapons against parties to the 1967 Tlatelolco treaty.
- But no reference to NSAs in the NPT text and no general uniform commitment

1995 Review and Extension Conference

- To entice NNWS to accept an indefinite **extension** of the NPT in 1995, Resolution 984 was adopted by the UNSC.
- Through 984, NWS harmonized their previous unilateral commitments not to use nuclear weapons against NNWS and enshrined it into a UNSC Resolution

- UN SECURITY COUNCIL RESOLUTION 984
- Preamble: “Recognizing **the legitimate interest** of non-nuclear-weapon States Parties to the Treaty on the Non-Proliferation of Nuclear Weapons to receive security assurances”.
- Positive or negative
- Negative
- 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**”

Exceptions to NSAs

- US, Soviet Union, France and UK could still use NWS against NNWS in case of an attack... carried out .. by such a NNWS in association or alliance with a NWS.
- The US stated that NPT parties “must be **in compliance** with the Treaty in order to be eligible for any benefits of adherence to the treaty”
- China stood alone in **not** making such exceptions (unconditional NSAs) and in also renouncing the **threat of use**.

Nuclear weapons free zones

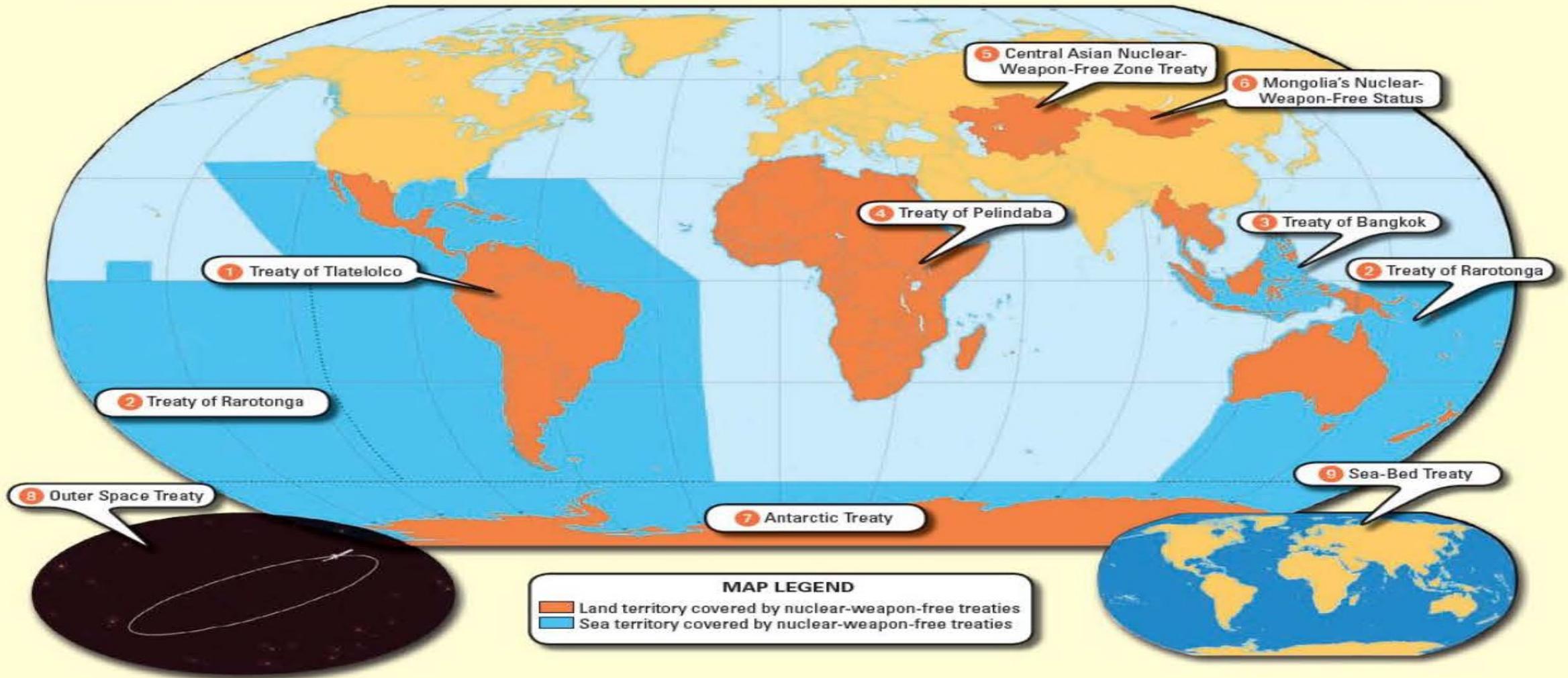
- NPT NWS also provided security assurances through protocols of the NWFZ treaties.: Tlatelolco Latin America 1967, Rarotonga (South Pacific.), Penindaba (Africa), Bangkok (South East Asia) Semipalatinsk (Central Asia).

ATTACHMENT 2: EXISTING REGIONAL NWFZs



NUCLEAR-WEAPON-FREE AREAS

Demarcation of nuclear-weapon-free zones, nuclear-weapon-free status and nuclear-weapon-free geographical regions



Source: UN Office for Disarmament Affairs, Nuclear-Weapon-Free Zones, at: <https://www.un.org/disarmament/WMD/Nuclear/NWFZ.shtml>

- The protocols to the NWFZs commit the NPT NWS not to use or **threaten** to use nuclear weapons against the regional parties
- If ratified, these protocols are legally binding.
- Russia, the United Kingdom, France, and China have ratified all Protocols with the exception of the Bangkok treaty.
- So far the US only ratified the Tlatelolco Treaty protocol

Positive security assurances

- UNSR 984 article 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;
- Another type of “positive” security assurances are more effective. US security guarantees given by US to its Allies.
- Nato Treaty Art. 5: “The Parties agree that **an armed attack** against one or more of them in Europe or North America shall be considered an attack against them all and consequently they agree that...each of them.. will assist the Party or Parties so attacked by taking forthwith...such action as it deems necessary, **including the use of armed force**, to restore and maintain the security of the North Atlantic area”

European Union Position on NSA (Geneva May 12 2018)

- The EU recognizes the **legitimate interest** of non-nuclear weapon States in receiving unequivocal security assurances from nuclear weapon States against the use or **threat** of use of nuclear weapons as part of **binding and agreed security arrangements**.
- We call on all nuclear weapon States to **reaffirm the existing security assurances**, noted by relevant UN Security Council resolutions. We recognize that treaty-based security assurances are available to nuclear weapon free zones which already comprise more than 100 States.
- We encourage all **nuclear weapon States to sign and ratify the relevant protocols** to the Treaties establishing nuclear weapon free zones, drawn up following the requisite consultations. We also call on those States in existing nuclear weapon free zones that have not yet done so to sign and ratify the relevant NWFZ treaties.

2010

- 1) The United States will not use or threaten to use nuclear weapons against non-nuclear weapons states that are party to the NPT and in compliance with their nuclear non-proliferation obligations.
- 2) the United States reserves the right to make any adjustment in the assurance that may be warranted by the evolution and proliferation of the **biological weapons** threat and U.S. capacities to counter that threat.
- 3) The United States.. would only consider the use of nuclear weapons in **extreme circumstances** to defend the vital interests of the US,its allies and partners.
- 4) any state eligible for the assurance that **uses chemical or biological weapons** against the United States or its allies and partners would face the prospect of a **devastating conventional military** response – and that any individuals responsible for the attack, whether national leaders or military commanders, would be held fully accountable.
- 5) In the case of countries not covered by this assurance – states that possess nuclear weapons and states not in compliance with their nuclear non-proliferation obligations – there remains a narrow range of contingencies in which U.S. nuclear weapons may still play a role in deterring a conventional or CBW attack against the United States or its allies and partners.

• 2018

- 1) The United States will not use or threaten to use nuclear weapons against non-nuclear weapons states that are party to the NPT and in compliance with their nuclear non-proliferation obligations.
- 2) The United States would only consider the employment of nuclear weapons **in extreme circumstances** to defend the vital interests of the United States, its allies, and partners.
- 3) Extreme **circumstances could** include significant non-nuclear strategic attacks. Significant non-nuclear strategic attacks include, but are not limited to, attacks on the U.S., allied, or partner civilian or infrastructure, and attacks on U.S. or allied nuclear forces, their command and control, or warning and attack capabilities.
- 4) Given the potential of significant non-nuclear strategic attacks, the United States reserves the right to make any **adjustment** in the assurance that may be warranted by the evolution and proliferation of **non-nuclear strategic** attack technologies and U.S. capacities to counter that threat.

Russian Federation 2010 and 2014 Military Doctrine and Chinese declaration of 6 April 1995

- The Russian Federation reserves the right to utilize nuclear weapons in response to the utilization of nuclear and other weapons of mass destruction against it and (or) its allies ,and also in the event of aggression against the Russian Federation involving the use of conventional weapons when the very existence of the state is under threat
- China undertakes not to use or threaten to use nuclear weapons against non-nuclear weapons States or nuclear weapons free zones at any time and under any circumstances

BUDAPEST MEMORANDUM 1994

- **Security Assurances** in connection with Ukraine's Accession to the Treaty on the Non-Proliferation of Nuclear Weapon Ukraine,
- The Russian Federation, the United Kingdom of Great Britain and Northern Ireland and the United States of America, welcoming the accession of Ukraine to the Treaty on the Non-Proliferation of Nuclear Weapons as a **non-nuclear-weapon State**,
- Confirm the following:
 - 1. The Russian Federation, the United Kingdom of Great Britain and Northern Ireland and the United States of America reaffirm their commitment to Ukraine, in accordance with the principles of the Final Act of the Conference on Security and Cooperation in Europe, to **respect the independence and sovereignty and the existing borders of Ukraine;**
 - 2. The Russian Federation, the United Kingdom of Great Britain and Northern Ireland and the United States of America reaffirm their obligation to **refrain from the threat or use of force** against the territorial integrity or political independence of Ukraine, and that **none of their weapons will ever be used against Ukraine except in self-defence or otherwise in accordance with the Charter of the United Nations;**

DPRK

- Joint US/Dprk statement June 12 2018 in Singapore: “President Trump committed to **provide security guarantees to the DPRK** and Chairman Kim Jong- un reaffirmed his firm and unwavering commitment to complete **denuclearization** of the Korean Peninsula.”
- US nuclear negative security assurances ? Dprk to re-join the NPT and convincingly abide by its provisions. The US will want to ascertain its compliance.
- Conventional guarantees? Withdrawal of US forces or abolition of UN Command?
- Positive security assurances from China and /or from Russia?

Unidir/ Geneva Center for Security policy
MAPPING NEGATIVE SECURITY ASSURANCES
BACKGROUND PAPER FOR THE CONFERENCE ON DISARMAMENT
12 June 2018

- At the request of the Geneva Conference on Disarmament the authors of this paper have compiled existing assurances provided by nuclear-armed states either on a unilateral basis, within legally binding instruments (Protocols to nuclear-weapon free zones) or in politically binding instruments.

Conclusions

- Even on security assurances US and Russia are making steps backwards.
- a renewed harmonization of NWS NSAs
- making NSAs and SAs legally binding
- corroborating NSAs with tangible gestures such as CBMs
- Addressing the issue of non NPT NWSs