

(April 2018)

## **NEGATIVE SECURITY ASSURANCES TO STRENGTHEN GLOBAL NON-PROLIFERATION AND AS PRACTICAL STEPS TOWARDS A WORLD WITHOUT NUCLEAR WEAPONS**

### **Summary of Informal Discussions**

#### **Background**

Since the adoption of the Non-Proliferation Treaty (NPT) in 1968, nuclear-weapon states have been offering non-nuclear weapon states assurances that they would not use or threaten to use nuclear weapons against them under certain conditions. The UN Security Council took note of those 'negative security assurances' (NSAs) in 1995 when the NPT was extended indefinitely. Meanwhile, nuclear-weapon free zone treaties have included legally binding NSAs. Despite NSA being part of the so-called 4 "core issues" of the agenda the Conference on Disarmament (CD), this body has been unable to agree on a common formula for more than 2 decades. In view of recent developments, especially in national security, military doctrines and the decision of the CD to establish subsidiary bodies including on NSAs, it appeared timely to revisit this issue and reflect on possible evolutions.

#### **Project**

The Delegation of Germany to the CD and the Geneva Centre for Security Policy (GCSP) jointly organised a series of informal discussions on "Negative Security Assurances to Strengthen Global Non-Proliferation and as Practical Steps towards the Final Goal of a World without Nuclear Weapons".<sup>1</sup> These events offered the opportunity to discuss whether and how new emphasis on the topic of NSAs could be stimulated as an effective measure to build confidence and thus improve the conditions for progress towards a nuclear-weapon free world and the implementation of the NPT.

#### **Public Discussion in Geneva on 19 September 2017**

The speakers were: **Paul Ingram** (British-American Security Information Council - BASIC); **Łukasz Kułesa** (European Leadership Network - ELN); **Harald Müller** (Peace Research Institute Frankfurt - PRIF); and **Fanny-Anh Le Hoang** (Group for Research and Information on Peace and Security - GRIP), and the moderator, **Marc Finaud** (GCSP). Ambassador **Michael Biontino**, the German Permanent Representative to the Conference on Disarmament, outlined that his country was promoting a fresh look and advocates informal dialogue on this topic as an instrument which had contributed greatly to building confidence in the nuclear non-proliferation regime in the NPT's history. Moreover, such assurances could also be effective measures in the context of a step-by-step approach to nuclear disarmament. Progress on NSAs could not only help to overcome some of the fault-lines in the field of nuclear disarmament and non-proliferation, but also be more easily achievable (a 'low-hanging fruit') as NSAs already existed. In conclusion, it was felt that more dialogue was needed between nuclear- and non-nuclear weapon states, in particular bearing in mind the 2018 UN High-Level Conference on Nuclear Disarmament and the 2020 NPT Review Conference.

#### **Public Discussion in New York on 5 October 2017**

The speakers were: **Paul Ingram** (BASIC); **Togzhan Kassenova** (Carnegie Endowment for International Peace); and **Jon Wolfsthal** (Carnegie Endowment for International Peace), and the moderator was Marc Finaud (GCSP). Introductory

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<sup>1</sup> This paper has been produced by the Geneva Centre for Security Policy (GCSP). While the delegation of Germany to the CD and the GCSP jointly organised a series of discussions on "Negative Security Assurances to Strengthen Global Non-Proliferation and as Practical Steps towards the Final Goal of a World without Nuclear Weapons", this paper does not necessarily reflect the position of the German Federal Government on the issue.

remarks were presented by Ambassador **Susanne Baumann**, Deputy Federal Commissioner of Germany for Disarmament and Arms Control. She noted that assurances of non-use or non-threat of use of nuclear weapons against non-nuclear weapon states (NSAs) contributed not only to the security of the latter but to global stability, lowering the risk of nuclear war. Jon Wolfsthal elaborated on the approach of the Obama administration to NSAs in the context of its nuclear posture review of 2010.

#### Workshop in Geneva on 14 March 2018

More than 40 participants representing governments (including most nuclear-armed states), academia, and civil society took part in that restricted workshop. The speakers were: **Marc Finaud** (GCSP); **Robert Einhorn** (Brookings Institution); **Angela Kane** (Vienna Center for Disarmament and Non-Proliferation - VCDNP); and **Paul Ingram** (BASIC). Ambassador **Michael Biontino** reiterated the common interest in exploring new progress on NSAs in view of the 18 February 2018 decision of the CD to establish subsidiary bodies, including one on NSAs. A [background paper](#) mapping the existing NSAs and exploring areas for possible progress was presented. While Bob Einhorn questioned the broader utility of NSAs in the current overall security context (while seeing more value in risk reduction) and ongoing nuclear power competition, Paul Ingram and Angela Kane saw the clear practical contribution of NSAs to non-proliferation and nuclear disarmament.

#### Conclusions and Recommendations

The debate was deemed timely in light of current challenges to the nuclear non-proliferation regime and diverging views as to how best to achieve further progress on nuclear disarmament. However, it was complicated by the perception of some participants that negotiating multilateral agreements on NSAs could somehow legitimize nuclear weapons or that existing NSAs were sufficient.

The informal setting including experts from various angles of the political spectrum was not expected to achieve consensus on the diverse positions regarding NSAs, among nuclear-weapon states and between them and non-nuclear weapon states. Still, the objective of promoting engagement and dialogue was reached, and views were expressed that may lead to re-examining existing positions. On this basis, the following conclusions and recommendations could inspire further discussions:

##### 1) Relationship between NSAs and the Risk of Use of Nuclear Weapons:

- In the current context of a deteriorating security situation and new **nuclear risks**, efforts aimed at strengthening NSAs could help rebuilding trust and confidence;
- The risk of use or threat of use of nuclear weapons against non-nuclear weapon states was perceived by many participants as directly connected to nuclear risks in general, thus priority efforts should be made to reduce them;
- The norm of non-use of nuclear weapons against non-nuclear weapon states is a strong one, and the security concerns of the nuclear-armed states are mostly related to other nuclear-armed states;
- The **ambiguity** of declaratory policies by non-nuclear weapon states was opposed to the **clarity** sought by non-nuclear weapon states, including those benefitting from extended deterrence. There is some tension between the ambiguity about the circumstances that would trigger a possible use of nuclear weapons and the need for assurances on the part of non-nuclear weapon states that nuclear weapons will not be used against them. It would be in the interest of both non-nuclear and nuclear weapon states if the latter provided more clarity and more certainty about the implications of nuclear doctrines for non-nuclear weapon states. Indeed, the mapping of existing assurances combined with recent updates of doctrines gives an impression of complexity and uncertainty. Ambiguity can be dangerous as it may undermine the deterrent aspect of nuclear weapons and lower their threshold of use and, more generally, undermine the trust that nuclear weapon states are committed to their NPT obligations. On the other hand, more clarity could create red lines,

which could compel some nuclear-weapon states to conduct a first nuclear strike even in circumstances where there is still room for de-escalation.

- There are differences between **past assurances** endorsed by the UN Security Council in 1995 as well as enshrined in Protocols to the nuclear-weapon free zones, and the updated assurances given by some nuclear-weapon states, showing a potential for evolution and adaptation to **new contexts**;
- The option of **no-first use** of nuclear weapons can be considered as the most comprehensive NSA since it would elevate the threshold of use of nuclear weapons by making deterrence of attacks with nuclear weapons their sole purpose, thereby increasing global security. However, also this concept needs to be backed up by transparency and affirmative action;
- There is widespread agreement that NSAs have contributed positively to global security. Nuclear possessor states should seriously consider the security benefits that could be reaped if they were to clarify and elevate the threshold of use or threat of use of nuclear weapons pending their eventual elimination.

## 2) The Form of NSAs and the Framework for their Negotiation

- There are contradictions between **unilateral** assurances given by nuclear-weapon states (with varying conditions) and the aspirations of most non-nuclear weapon states for harmonized , legally binding assurances to be negotiated in a **multilateral** framework;
- Nuclear-weapon states have already accepted **legally binding** NSAs in protocols to the nuclear-weapon free zone treaties, and therefore cannot object in principle to such legally binding assurances;
- Although most non-nuclear weapon states became parties to the NPT even before receiving any NSAs from nuclear-weapon states, many of them have been consistently demanding **harmonized, unconditional, and legally binding** assurances;
- The search for a **common formula** is legitimate considering the diversity of unilateral declarations, legally binding provisions (with reservations or interpretative statements) and successive updates of military doctrines by the nuclear-armed states. Despite this diversity, it is not impossible to find common grounds;
- One way to revitalize the role of NSAs could be to **reaffirm existing assurances**, e. g. by declarations by the nuclear-armed states, in order to proactively counter the perception of non-nuclear weapon states of their weakening and to help strengthen the credibility of the nuclear non-proliferation regime. Reaffirming existing NSAs would be more visible and committal if done again in the UN Security Council, like with the 1995 resolution. However, this would entail bringing the 1995 commitments in line with new doctrines and the caveats and exceptions contained therein or removed from them.
- The recurrent obstacles to a **legally binding common formula** are known and mostly evolve around the question of the conditionality of NSAs: whether to mention membership in an alliance with a nuclear-weapon state as an exception; whether to make compliance with NPT obligations or WMD non-proliferation obligations; the question of how to define and verify NPT compliance and of who should decide whether a non-nuclear weapon state was compliant. What would happen, for instance, if the UN Security Council was paralyzed by a veto from a Permanent Member supporting a suspected non-nuclear weapon state?
- Most nuclear possessor states recognize the **legitimacy** of the aspirations of non-nuclear weapon states for NSAs and expressed willingness to take part in fresh discussions, especially at the CD and in the context of the NPT;
- There are advantages and disadvantages of each potential **forum** for discussion or negotiation on NSAs: the P5, the UN Security Council, NATO, the CD, the NPT, or the UN General Assembly. However, the CD has the main advantage of including all the nuclear-armed states and of its mandate to negotiate legally binding agreements on disarmament.

**3) Conditions or Exceptions for NSAs:**

- The exceptions and conditions for giving NSAs introduced by nuclear-weapon states (related to 1) alliances between nuclear- and non-nuclear weapon states, 2) nuclear response to attacks with conventional, chemical, or biological weapons, as well as 3) non-compliance with the NPT) are seen by many as unnecessary obstacles on the path towards consolidated NSAs. They are sometimes perceived as diminishing their value for non-nuclear weapon states while the nuclear-weapon states might not always be fully aware of their further impact. However, being clearer about the exceptions or conditions for NSAs would add to the clarity that non-nuclear weapon states strive for.
- It seems unlikely that **unconditional NSAs** (meaning in fact a general no-first use policy) would be feasible in the near future; however the hope was voiced that exceptions to NSAs should be reduced to existential threats to a state's survival;
- While the western nuclear-weapon states now practically exclude any use of nuclear weapons in case of conventional attacks against them or their allies by non-nuclear weapon states in **alliance** with a nuclear-weapon state, Russia still needs to be convinced to give up that exception through a more dedicated dialogue;
- Discussing the exceptions related to attacks with **chemical or biological weapons** was seen as relevant by many participants although many argued for a removal of respective caveats. While the US and UK declaratory policies refer the question of whether to include other WMD threats to possible reviews in the future, Russia clearly includes them in scenarios of use of nuclear weapons and France refers to non-compliance with all WMD non-proliferation commitments. Respective NSAs caveats under both the Obama and Trump administrations were seen as identical (a right to review the NSA if the level of lethality of biological attacks made them a strategic threat).

**In summary, the main finding of this project is that clarification is needed on the part of most nuclear-armed states as to the implications of their military doctrines for non-nuclear weapon states in order to retain overall confidence in the nuclear non-proliferation regime. One effective way of obtaining the clarifications described above could be a research project (to be conducted by UNIDIR or any other leading research institution), for instance in the form of a questionnaire to be discussed with officials from nuclear-armed states, the replies to which would be analysed and published.**