

LAWS

**Strengthening Nuclear Non-Proliferation
Security Assurances
for Non-Nuclear-Weapons States.**

by George Bunn



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Foreword

The dissolution of the Soviet Union has brought new nuclear non-proliferation dangers and opportunities. Both revolve around the approximately thirty thousand nuclear weapons and the fissile materials for perhaps ninety thousand nuclear bombs in the former Soviet Union. The weapons are now deployed in only four of the newly independent states - most in Russia, but some still in Belarus, Kazakhstan and Ukraine. "Loose Nukes" is the colloquial description of one aspect of the new threats.

United States priorities have included sharply reducing, through unilateral actions and negotiated treaties such as START I and START II, the deployed weapon systems to levels of more than twenty-five years ago, and their early return to Russia. A key element is that Russia be accepted as the sole nuclear-weapon state succeeding the former Soviet Union. All fifteen of the new states that succeeded the Soviet Union initially agreed to these policies, but Ukraine is now balking. Ukraine has demanded security assurances from Russia and the United States before the remaining nuclear weapons are transferred from its territory to Russia.

In 1968, when the Non-Proliferation Treaty (NPT) was signed, the United States, the United Kingdom and the Soviet Union issued declarations of support through the UN Security Council to any non-nuclear-weapon state that had forsworn, but was threatened by or attacked with, nuclear weapons. New positive and negative assurances from all five permanent members of the UN Security Council are now vitally important, not only to

provide support to Ukraine and every other non-nuclear-weapon state's legitimate concerns, but to advance the vital goals of nuclear non-proliferation prior to the critical 1995 NPT review and extension conference.

George Bunn is one of the premier experts on the NPT. The Lawyers Alliance for World Security (LAWS) is pleased to publish this Issue Brief. It is the fourth in a recent series dealing with nuclear weapons and legal issues, the preceding three being: "Who Inherited the Former Soviet Union's Obligations Under Arms Control Treaties with the United States?" by George Bunn and John Rhineland; "Two Options for the 1995 NPT Extension Conference Revisited" by George Bunn and Charles Van Doren; and "Nuclear Testing and the Nuclear Non-Proliferation Treaty" by David Koplow.

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About the Author

George Bunn, a member of the Lawyers Alliance for World Security (LAWS) Board of Directors, is also a member of the Stanford Center for International Security and Arms Control, a Professor Emeritus and former Dean of the University of Wisconsin Law School. His government service includes having been the first General Counsel of the U.S. Arms Control and Disarmament Agency (ACDA), one of the negotiators of the Non-Proliferation Treaty and the United States representative to the Geneva Disarmament Conference with the personal rank of Ambassador.

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Security Assurances for Non-Nuclear-Weapon States as part of the 1995 Bargain to Extend the Non-Proliferation Treaty.

In 1995, a conference of the parties to the Treaty of the Non-Proliferation of Nuclear Weapons (NPT) will meet to decide by majority vote whether to extend that Treaty and, if so, for how long. Since the NPT is the foundation for U.S. efforts to prevent the spread of nuclear-weapons-manufacturing capability to additional countries all around the world, extending the Treaty indefinitely is very much in the U.S. interest. An important way of making a vote for such an extension of the treaty acceptable to many non-nuclear-weapon countries is to provide them with some assurance that their security will be protected if they continue to observe their obligation under the NPT to forswear nuclear weapons.

To that end, this paper recommends first that the U.S. support a new United Nations (UN) Security Council resolution (a) condemning the threat of or use of nuclear weapons against countries that have forsworn them, (b) recognizing that nuclear blackmail or use against such a country would justify Security Council action, and (c) calling for immediate action by the Council if that happened. Second, it proposes a joint declaration by the five avowed nuclear-weapon powers who are also the five permanent members of the Security Council: Britain, China, France, Russia and the United States. In this declaration the five would (a) promise to refrain from using or threatening to use nuclear weapons first on a country that has forsworn such weapons, (b) agree to seek immediate Council action to provide assistance to such a country threatened or attacked first with nuclear weapons, and

(c) reaffirm their right under the UN Charter to assist such a country individually as a matter of collective self-defense if the Council, because of a veto, is unable to act.¹

Countries considering an agreement to refrain from acquiring nuclear weapons have in the past sought assurances of assistance in the event they were threatened with attack. U.S. alliance commitments to Germany, Italy and Japan seemed essential to gain their acceptance of non-nuclear-weapon status in the NPT during the late 1960s and early 1970s. In return for refraining from acquiring nuclear weapons, these three countries -- each with advanced nuclear technology--relied upon a promise of assistance from a nuclear-weapon power (the United States) in the event of nuclear blackmail or attack by another nuclear-weapon power (the Soviet Union). Indeed, Germany and Italy worked to change the

¹ For related approaches, see Jonathon Dean, "Expanding the Security Council Role in Blocking the Spread of Nuclear Weapons," *Transnational Law and Contemporary Problems* (Fall 1992, forthcoming); Lewis A. Dunn, "Fifty Years Since Stagg Field: Nuclear Non-Proliferation Challenges and Opportunities," (Unpublished manuscript, 24 November 1992); Dunn, *Containing Nuclear Proliferation*, Adelphi Paper 263, 43-44, 54-55 (Winter 1991).

The recently completed Chemical Weapons Convention uses a different approach, probably in part because of the difference between chemical and nuclear weapons, and in part because, unlike the NPT, the Convention does not distinguish between weapon "have" nations (with the five avowed nuclear-weapon countries all permanent members of the Security Council) and weapon "have not" nations. The Convention would prohibit the use, as well as the production, of chemical weapons. It contains provisions dealing with assistance for parties threatened by chemical weapons, including detection, protective and decontaminating equipment, antidotes, etc. (ARTICLE X). In case of violations threatening serious damage to the object of the Convention (e.g., use of chemical weapons on a party), a conference of the parties may recommend "collective measures" and bring the issue to the attention of the UN General Assembly and Security Council. (ART. XII. 3-4.) However, no explicit suggestion for Security Council use of force to deter or counter a threat or use of chemical weapons against a party appears in the Convention. For the text and several illuminating articles about the Convention, see *Arms Control Today*, October 1992.

duration specified in the U.S. and Soviet NPT drafts from "unlimited," to a shorter period that they thought would be commensurate with the likely duration of the North Atlantic Treaty--NATO being their protection against possible nuclear attack.² They wanted the protection of the North Atlantic Treaty as long as they were obligated not to acquire nuclear weapons.

Other forms of agreement for protection of non-nuclear-weapon countries were considered during the NPT negotiation in the 1960s. The non-aligned countries considering joining the treaty asked the likely nuclear-weapon signers (Britain, Soviet Union, United States) to promise not to use or threaten to use nuclear weapons against a non-nuclear-weapon signer. This idea came to be known as a "negative security assurance." Some non-aligned countries also expressed interest in being covered by an alliance-like "nuclear umbrella"--an assurance of assistance or protection by one or more nuclear-weapon states in the event they were threatened or attacked with nuclear weapons. This idea came to be called a "positive security assurance."³

The United States and the Soviet Union were unable to agree on language for

² George Bunn and Charles N. Van Doren, "Two Options for the 1995 NPT Extension Conference Revisited." Washington, DC: LAWS, 1992; p. 7. George Bunn and Charles Van Doren, "Options for Extension of the NPT: The Intention of the Drafters of Article X.2," in George Bunn, David A. Fischer and Charles Van Doren, *Options and Opportunities: The NPT Extension Conference of 1995*. Programme for Promoting Nuclear Non-Proliferation: University of Southampton, England, 1991. pp. 3-6.

³ The NPT negotiations are described in Mohamed Shaker, *The Nuclear Non-Proliferation Treaty: Origin and Implementation, 1959-1979*, chap. 8. New York: Oceana, 1980; and in Bunn, *Arms Control by Committee: Managing Negotiations with the Russians*, chaps. 4-5. Stanford, CA: Stanford University Press, 1992.

negative security assurances for the NPT.⁴ Moreover, neither of them wanted to expand its positive assurance alliance commitments to countries not already aligned with it--to hold its nuclear umbrella over all the non-nuclear-weapon countries that might join the NPT. The result was no language on either form of security assurance in the NPT itself. Instead, in 1968, a UN Security Council resolution was adopted which recognized that "aggression with nuclear weapons or the threat of such aggression against a non-nuclear-weapon [s]tate would create a situation in which the Security Council, and above all its nuclear-weapon [s]tate permanent members, would have to act immediately in accordance with their obligations under the United Nations Charter." While negotiating the language of this resolution, Britain, the Soviet Union and the United States agreed to identical declarations

⁴ Shortly after the Chinese test in 1964, President Johnson announced that countries that did not seek nuclear weapons could be sure that "if they need our strong support against some threat of nuclear blackmail, then they will have it." U.S. ACDA, *Documents on Disarmament*. Washington, DC: U.S. ACDA, 1069, p. 468. During 1965, non-aligned countries began asking that the NPT include positive and negative security assurances. U.S. ACDA, *International Negotiation on the Treaty on the Non-Proliferation of Nuclear Weapons*. Washington, DC: U.S. ACDA, 1069, p. 21. In 1966, Soviet Premier Alexei Kosygin proposed that the NPT include a "clause on the prohibition of the use of nuclear weapons against non-nuclear States parties to the treaty, which have no nuclear weapons in their territory." DCOR Supp. for 1966, Doc. DC/228, Ann. 1, Sec. F (ENDC/167, 3 February, 1966); Shaker, *The Nuclear NPT*, pp. 474-75 (1980). This would have left the Soviets free to threaten nuclear weapons against the Federal Republic of Germany, even if it joined the NPT, unless U.S. nuclear weapons were removed from its territory. This proposal was opposed by the United States. Later, the U.S. delegation privately asked the Soviets whether they could agree on language for a declaration or resolution to accompany the NPT based upon the formula of the 1967 Latin American nuclear-free-zone treaty (Treaty of Tlatelolco) which promises not to use or threaten to use nuclear weapons against parties observing a treaty commitment not to acquire nuclear weapons. In early 1968, the Soviets replied that they could not accept that formula because of the existence of American nuclear weapons in Germany. Memorandum of conversation, George Bunn with Yuli Vorontsov, 15 February 1968, declassified under Freedom of Information Act.

stating their intention, as permanent members of the Security Council, "to seek immediate Security Council action to provide assistance, in accordance with the Charter, to any non-nuclear-weapon state party to the treaty on non-proliferation of nuclear weapons that is a victim of an act of aggression or an object of a threat of aggression in which nuclear weapons are used."⁵

Since then, the negative assurance issue has been raised repeatedly by Nigeria and others who support the NPT but want to receive stronger security assurances for continuing to adhere to the NPT or for voting to extend the treaty in 1995.⁶ They point to the unreasonableness of the U.S. demand that they, and others, forswear nuclear weapons indefinitely when the U.S. is unwilling even to promise not to use nuclear weapons against them.⁷

For over a decade, the multilateral Geneva Conference on Disarmament has attempted to find common ground on this issue. Those supporting the NPT want assurances to be given only to countries observing that treaty or a similar obligation such as a nuclear-

⁵ See UN Security Council Resolution 255 of 19 June 1968; "U.S. Declaration on Security Assurances to Non-Nuclear Nations" of 17 June 1968, UN Security Council verbatim, S/PV.1430, pp. 22-26. For the substantially identical Soviet and U.K. statements, see *ibid.*, pp. 11-15, 17-20. A brief history of the resolution and declarations appears in U.S. Arms Control and Disarmament Agency, *Arms Control and Disarmament Agreements*. Washington, DC: U.S. ACDA, 1990, pp. 93-94.

⁶ See, e.g., Nigeria's draft treaty dealing with negative assurances. Conference on Disarmament Document CD/967, 14 February 1990.

⁷ The history of the long effort by non-nuclear-weapon countries to strengthen the assurances given in 1968, in particular to add promises not to use nuclear weapons against countries that do not have them, is given in Thomas Bernauer, *Nuclear Issues on the Agenda of the Conference on Disarmament*. New York: United Nations Institute for Disarmament Research, 1991, chap 1. [Hereafter cited as *Nuclear Issues*.]

free-zone treaty. Some of those who are not NPT parties and have not otherwise forsworn nuclear weapons (Pakistan, for instance) object to such a limitation. A variety of other differences of view have been raised. The United States has been a reluctant negotiator in these talks though not entirely opposed to any form of negative assurance.⁸ It has continued to oppose any promise not to use nuclear weapons against non-nuclear-weapon parties to the NPT because it was unwilling to give up the option to use nuclear weapons first even against an adversary armed only with conventional weapons. This issue was raised again as part of the Bush administration's last look at non-proliferation policy issues before the election, but it was not resolved.

All of the five avowed nuclear-weapon states have made at least qualified unilateral negative-assurance statements applicable globally, but each country's statement is different from the others.⁹ The only statement all five have agreed on is in a 1967 protocol to the

⁸ See, e.g., Report of the Nuclear Assurances Working Group in the Report of the Conference on Disarmament to the General Assembly of the United Nations for 1990, CD/1039, 30 August 1990. The United States and all the other permanent members of the Security Council have acceded to a protocol to the Latin American nuclear-free zone treaty, the Treaty of Tlatelolco, in which they "undertake not to use or threaten to use nuclear weapons against Contracting Parties" to that treaty. Additional Protocol II to the Treaty for the Prohibition of Nuclear Weapons in Latin America was signed by the U.S. on 1 April 1968. The U.S. explained its adherence to this obligation with an understanding saying it would "have to consider that an armed attack by a Contracting Party, in which it was assisted by a nuclear-weapons state, would be incompatible with the Contracting Party's corresponding obligations under Article I of the Treaty [not acquire nuclear weapons 'by any means whatsoever' and not to deploy them 'directly or indirectly by the Parties themselves or by anyone on their behalf.']" See U.S. Arms Control and Disarmament Agency, *Arms Control and Disarmament Agreements*. Washington, DC: U.S. ACDA, 1990, pp. 64-83.

⁹ For the texts, see Bernauer, *Nuclear Issues*, pp. 6-10. The Russian and U.S. statements are quoted later in this paper. The Chinese non-use statement is the broadest. After stating that it would not use nuclear weapons first under any circumstances, China "undertakes unconditionally not to use nuclear weapons against

Latin American nuclear-free-zone treaty: "not to use or threaten to use nuclear weapons against" parties to that treaty.¹⁰ This promise was made to countries that, by joining the Latin American treaty, had agreed both to forswear nuclear weapons themselves and to prevent the deployment of nuclear weapons belonging to others on their territories. The NPT does not contain the second of these obligations. Indeed, the Soviets refused to agree to an NPT assurance of the Latin American treaty sort for the Germans, among others, because Germany had American nuclear weapons on its soil.¹¹

In unilateral declarations not to use nuclear weapons against non-nuclear-weapon countries, Britain, France, and the United States qualified their promises not to use nuclear weapons against non-nuclear-weapon states because of NATO's decision to retain the option to use nuclear weapons first against an overwhelming conventional attack. The U.S. statement, made first in 1978 and repeated many times since, is as follows:

The United States will not use nuclear weapons against any non-nuclear-weapon state party to the NPT or any comparable internationally binding commitment not to acquire nuclear explosive devices, except in the case of an attack on the United States, its territories or armed forces, or its allies, by such a state allied to a nuclear-weapon state or associated with a nuclear-weapon state in carrying out or sustaining the attack.¹²

non-nuclear countries and nuclear-free zones." The British and French statements have qualifications relating to NATO that are similar to the American statement quoted below.

¹⁰ See footnote 8.

¹¹ See footnote 4.

¹² The text appears in U.S. ACDA *Arms Control and Disarmament Agreements*, p. 94 and Bernauer, *Nuclear Issues*, p. 9.

The Soviet Union stated in 1978 that it "will never use nuclear weapons against those States which renounce the production and acquisition of such weapons and do not have them on their territories." When signing the non-use provision for the Latin American Nuclear-Free Zone, the Soviets issued a qualifying statement somewhat like the 1978 United States statement.¹³

With the end of the Cold War and the dissolution of the Soviet Union and the Warsaw Pact, the qualifications of the NATO countries and the Soviet Union seem outdated. NATO's post-Cold War strategy reflects "a reduced reliance on nuclear weapons," and the bulk of the U.S. nuclear weapons deployed on the territories of non-nuclear-weapon NATO allies such as Germany have been removed.¹⁴ In the context of gaining a lengthy extension of the NPT in 1995, a further step toward a no-first-use strategy may be possible.

With the end of the Cold War, an increasing number of analysts are prepared to say that the only purpose of nuclear weapons is to deter and respond to the first use of nuclear weapons by others. The U.S. National Academy of Sciences' Committee on International

¹³ Bernauer, *Nuclear Issues*, p. 8.

¹⁴ "Declaration on a Transformed North Atlantic Alliance" issued by the Heads of State and Government participating in the meeting of the North Atlantic Council in London, 5 and 6 July 1990, para. 20, Conference on Disarmament (CD) Doc. 1013; "The Alliance's New Strategic Concept" agreed by the Heads of State and Government participating in the meeting of the North Atlantic Council in Rome, 7 and 8 November 1991, 6 *NATO Review* pp. 25-32 (December 1991). At this meeting, the alliance reaffirmed its decision to reduce its nuclear forces by eighty per cent. U.S. Department of State, *Dispatch* p. 826 (11 November 1991). NATO's Nuclear Planning Group agreed that "there was no longer any requirement for nuclear ground-launched short-range ballistic missiles and artillery." Communique for meeting in Taormina, Italy, 17 and 18 October 1991, 6 *NATO Review* p. 33. Presidents Bush and Gorbachev agreed to withdraw to their own territories all nuclear weapons of these kinds and to dismantle the warheads. "A New Era of Reciprocal Arms Reductions," Texts of Bush and Gorbachev statements of 27 September 1991 and 5 October 1991, *Arms Control Today* pp. 3-6 (October 1991). U.S. and Soviet intermediate-range nuclear missiles capable of reaching Russia from U.S. allies' territory in Western Europe or reaching these allies from Warsaw Pact countries' territory had already been destroyed pursuant to the Intermediate Nuclear Forces (INF) Treaty. See also "Comparison of U.S. and Russian Nuclear Cuts," Fact Sheet of the Arms Control Association, 6 March 1992.

Security and Arms Control, for example, has recommended that the United States and other nuclear-weapon states issue parallel declarations to this effect, and, in addition, promise not to use or threaten to use nuclear weapons against non-nuclear-weapon states.¹⁵

Some still argue that the United States must retain the ability to use nuclear weapons first against non-nuclear-weapon countries in regional conflicts,¹⁶ but the United States did not use its nuclear capability in Viet Nam or Korea when its forces were being beaten back. The chances that it would do so in the future are slim given the successes of its advanced-technology conventional forces in the Gulf War and the stimulation to nuclear ambitions around the world that a U.S. first use of nuclear weapons--even a first-use strategy--could produce. Moreover, the devastating loss of life that could follow implementation of such a strategy makes it morally and politically unacceptable.¹⁷ It would work at cross purposes against the need to gain a broad-based political consensus to extend the NPT indefinitely. To convince other countries that they do not need nuclear weapons, the United States must demonstrate by its conduct that such weapons are not the most important protectors of its own security.

There have been other new developments that relate to security assurances. China and France have become NPT members. Now all of the permanent members of the UN Security Council, those that have a veto, are also nuclear-weapon parties to the NPT. In

¹⁵ *The Future of the U.S.-Soviet Nuclear Relationship*. National Academy Press, 1991, pp. 23-24.

¹⁶ See, e.g., Thomas C. Reed, "The Role of Nuclear Weapons in the New World Order," briefing by the Chairman of the JSTPS/SAG Deterrence Study Group, 10 October 1991.

¹⁷ See, e.g., Michael M. May and Roger D. Speed, "Should Nuclear Weapons Be Used?" (Unpublished manuscript, 1 September 1992).

1968, France abstained from the Security Council positive-assurances resolution because it chose not to join the NPT. China was not then in the UN and assumed the resolution was aimed at it--which, to some extent, the resolution was.

Former Soviet republics Kazakhstan and Ukraine at first demanded alliance-type arrangements with the United States as part of the price of giving up Soviet nuclear weapons deployed on their territories. Secretary Baker suggested they refer to the 1968 Security Council resolution adopted when the NPT negotiation was completed: "The United States made a commitment [in 1968] to the effect generally that countries that subscribe to the NPT that were subjected to nuclear threats would have a friend in court, if you will, in the United States in the sense that we would bring the issue to the United Nations Security Council."¹⁸ The presidents of Kazakhstan and Ukraine later both agreed to join the NPT as non-nuclear-weapon states.¹⁹

The possible protection offered by a future Security Council action apparently had some credibility. However, Kazakhstan and Ukraine fear, whether reasonably or not, a nuclear-armed Russia or China, each of which could veto a UN Security Council action. Though the Council has been operating effectively for several years without veto on a wide variety of projects to keep the peace, to oversee settlement of regional disputes, and to counter aggression, a veto can not of course be excluded. Thus, stronger positive-assurances by the Council, and the suggestion of individual or joint nuclear-weapon-state action if there

¹⁸ Remarks by Secretary Baker, 28 April 1992.

¹⁹ See "Lisbon Protocol to the Strategic Arms Reduction Treaty (START)", *Arms Control Today*. Washington, DC: Arms Control Association, June 1992.

were a veto, together with the addition of negative assurances from the nuclear-weapon states, would be useful to increase the credibility of the promise of protection for non-nuclear-weapon states.

In a September 1992 address to the UN General Assembly, President Bush suggested that the Security Council, including of course China and France, simply reaffirm the "assurances made at the time that the Nuclear Non-Proliferation Treaty was negotiated,"²⁰ but the time is ripe for more than that. Given China's hostility toward the 1968 resolution, its desire to be in on the beginning of new arms control enterprises undertaken with the West yet its anger at the proposed sale of U.S. F-16 fighter aircraft to Taiwan, an exploration should be made of China's interest in a resolution and declaration against first use of nuclear weapons on countries that have foresworn them. China has long advocated a no-first-use strategy with fewer qualifications than any other avowed nuclear-weapon state.²¹ A new resolution could be made more attractive to China -- as well as to the non-nuclear-weapons states which the permanent five members want to have vote in favor of an indefinite extension of the NPT in 1995--by including a prohibition on first use against all countries that have forsworn nuclear weapons. China must be a part of the negotiation if the Security Council is to be used to deal with nuclear blackmail against NPT parties not aligned with a nuclear-weapon country--as planned since 1968. China will inevitably be part of the negotiation with the non-nuclear-weapon NPT parties to extend the treaty in 1995.

²⁰ "Remarks by the President in Address to the United Nations General Assembly," New York City, 21 September 1992, White House press release.

²¹ See footnote 9.

What makes sense eventually is a meeting of China and the other avowed nuclear-weapon countries in connection with Security Council business to plan for a new resolution, a five-power declaration and for other steps needed to prepare for the 1995 NPT extension conference.

Attached are a draft UN Security Council resolution and a draft five-power declaration of the kind here recommended. The language on positive assurances strengthens the 1968 text in that it contains a clearer statement that Security Council action would be taken and that collective self-defense against a nuclear threat or attack would be possible in the event of a veto of that action. However, the text would not constitute a legal promise of assistance or an alliance, and would not therefore have to be in the form of a treaty.

The resolution and declaration would also be stronger because they would contain negative security assurances. The language for these was drawn from the Latin American nuclear-free-zone treaty but modified slightly so that there would be no protection for a non-nuclear-weapon NPT member that permitted a terrorist or another state to fire nuclear weapons from its territory. Finally, the resolution and declaration would be stronger because the record of cooperation in the Security Council over the last few years has been good and all five permanent members would have participated in such a resolution.

ANNEX A

Draft UN Security Council Resolution on Security Assurances for States that Forswear Nuclear Weapons.

The Security Council; recalling its Declaration of January 31 1992 that the proliferation of nuclear and other weapons of mass destruction "constitutes a threat to international peace and security;" recognizing that nuclear weapons are the most devastating weapons of mass destruction; welcoming the observance of international obligations not to acquire nuclear weapons by over one hundred fifty (150) countries and the commitments by some of the countries that have nuclear weapons to cut their arsenals sharply; and recognizing the desires of many non-nuclear-weapon states for security arrangements to assure that there shall be no threat or use of nuclear weapons against them:

1. Condemns the threat or first use of nuclear weapons against any state observing an international obligation not to acquire nuclear weapons or other nuclear explosive devices,

2. Recognizes that such a threat or use of nuclear weapons would constitute a grave threat to international peace and security,

3. Resolves that such a threat or use of nuclear weapons would require the Council to act immediately in accordance with the Council's primary responsibility under the Charter for the maintenance of international peace and security,

4. Welcomes the Declaration by the permanent members that they will not threaten to use or use nuclear weapons first against any state observing an international obligation not acquire nuclear weapons or other nuclear explosive devices, and that, in accordance with the Charter, they will provide assistance to any such state that is the object of a threat or first use of nuclear weapons;

5. Reaffirms the inherent right, recognized by Article 51 of the Charter, of individual and collective self-defense if an armed attack occurs against a member of the United Nations, until the Security Council has taken measures necessary to maintain international peace and security.

ANNEX B

Draft Declaration by Permanent Members of the Security Council on Nuclear Security Assurances for States that Forswear Nuclear Weapons.

The Permanent Members of the Council appreciate the concern of some states that continued renunciation of nuclear weapons could one day place them at a military disadvantage or make them vulnerable to nuclear blackmail.

The Permanent Members declare that they will not use or threaten to use nuclear weapons first against any state that is observing an international obligation not to acquire nuclear weapons or other nuclear explosive devices, hereafter called a "protected state."

The first-use of nuclear weapons, or the threat of such use, against a protected state would require immediate action by the Council in exercise of its primary responsibility for the maintenance of international peace and security under Article 24 of the UN Charter.

As permanent members of the Security Council, the declarants promise to seek immediate Council action to provide assistance, in accordance with the Charter, to any protected state that is the object of a threat of use of nuclear weapons or the victim of a first-use.

The declarants reaffirm the inherent right, recognized under Article 51 of the Charter, of individual and collective self-defense if an armed attack occurs against a member of the United Nations, until the Security Council has taken measures necessary to maintain

international peace and security. The declarants recognize that if the Council is convened to deal with a first-use of nuclear weapons against a protected state and the Council fails to take action, a right of individual and collective self-defense will exist.

Any state or sub-national group considering a first-use of nuclear weapons against a protected state is hereby warned that its actions will be countered by collective or individual responses taken in accordance with the UN Charter.