



CHALLENGES TO NEGATIVE SECURITY ASSURANCE
FRAMEWORK: A CASE STUDY OF SOUTH ASIA

By

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¹ The views expressed in this paper are author's own interpretations. It may not necessarily present any institute policy.

Abstract

Since its inception, the Conference on Disarmament (CD) has failed to make any progress towards the vital international security issue of Negative Security Assurances. This paper makes an academic attempt to identify and understand the reasons behind the lack of progress, despite the fact that most states, both in possession or without possessing nuclear weapons, continue to diplomatically support Negative Security Assurances. In addition, the prospects of Negative Security Assurances in the South Asian region have also been briefly evaluated in this paper.

Keywords: nuclear, negative security assurances, Conference on Disarmament, South Asia

Introduction

The Non-Proliferation Regime (NPR) in the nuclear arena is working on multi-pronged issues. Most effective steps in the form of legal instruments and regimes are considered to be the ones governing nuclear safety and security. The division of Nuclear Weapon States (NWS) and Non-Nuclear Weapon States (NNWS) in the NPR has secured different ways of using nuclear technology. NNWS under Non-Proliferation Treaty (NPT) have been given the right of nuclear trade for peaceful purposes. The traditional focus of NWS to pursue universal disarmament has no timeline. As a result, NNWS out of their insecurities are left with limited options. They can either turn to get military usage of nuclear technology or need to be ensured by NWS in legal condition that their territory would not be attacked by them.

Geo-strategic location of NWS surrounded by NNWS raises a lot of questions against the threat to one's national sovereignty. One important concern of NNWS is the threat they face from the NWSs in the absence of any legal commitment from NWS. In this context, the political commitments by NWS towards NNWS are called security assurances. Negative Security Assurances (NSA) and Positive Security Assurances (PSA) are internationally recognized concepts. The term NSA is defined as the guarantee by NWSs that they will not use or threaten to use nuclear weapons against those states which do not possess the nuclear weapons. On the other side, PSA refers to the guarantee by the NWSs that they will help the NNWS if attacked by another NWSs.ⁱ

The paper analyses the historical context to help understand the challenges in pursuing the NSA framework under international institutions. NSA is one of the important agenda issues for the Conference on Disarmament (CD) negotiations. It would also evaluate the relationship between NWSs and NNWSs in South Asia and whether or not, this concept is applicable to this region.

1. Historical Context

The initial negotiations of NPT supported the concept of security assurances. The Resolution 2080, tabled in 1965, was sponsored by the participant states supporting the Non-Alignment Movement (NAM) movement at the disarmament body in Geneva i.e. Conference on Disarmament (CD). The NAM states have emphasized addressing the mutual security concerns of NWS and NNWS under NPT. India (part of NAM) later supported the PSA due to its security concerns from China.ⁱⁱ The Eighth Committee on Disarmament (later named as the Conference

on Disarmament) called for the UNGA resolution 21/53(a) in 1966.ⁱⁱⁱ In 1968, The PSA was strengthened by NPT- NWSs under the collective right of self-defence, through their legally binding commitment to the resolution 225.^{iv}

NWFZ, in Latin American under Treaty of Tlatelolco (1969) has first incorporated the means of legally-binding NSA. U.S remained supportive to this treaty and announced that it would not use or threaten to use nuclear weapons against the signatories of this treaty.^v The First Special Session of the General Assembly on Disarmament in 1978 stressed to put forward effective arrangements for NNWS against the threat of nuclear weapons.^{vi}

The CD during 1983-1994 discussed the issue of NSA at ad hoc committees. No effective measures were taken despite the consensus by member states in 1998.^{vii} However, Pakistan has introduced certain annual resolutions in General Assembly since 1990s. Strong negligence and lack of attention to this matter by European circle has drained the NSA framework.^{viii}

The UN Security Council Resolution 984 passed in 1995 called for PSA from NPT NWSs but neglected practical steps for ensuring NSA towards NNWSs.^{ix} Unilateral declarations by NPT *de jure* states are essentially pledges to affirm the NSAs at the UNSC.^x Nuclear posture reviews and other relevant official statements or documents of the Nuclear Weapon states reflect that the U.S., China, Russia, France and UK observe a policy of NSAs towards NNWSs. Except China, rest of the P5 states would respond if any non-state actor attempts a nuclear attack on themselves or any of their allied states. In addition, the U.S. also reserves the right to use its nuclear weapons in response to a chemical or biological weapon attack.^{xi}

In addition, at the NPT Preparatory Committees (PrepCom) and Review Conferences, (RevCon) there is no progress regarding the development of legal procedures for NSA so far.^{xii} Previously, in 2011, a draft resolution in United Nations General Assembly (UNGA) was circulated, calling for an effective arrangement for the NSA implementation and to abide by the legal obligations. 120 states voted in favour and 57 states including four nuclear weapon states, U.S., UK, Russia and France were absent from the voting.^{xiii} Hence, the draft resolution remained ineffective.

Also, the NPT PrepComs have reasserted the NPT NNWSs concerns for taking effective steps to conclude a treaty under the CD negotiations and for further strengthening of the existing provisions of NWFZs.^{xivxv} Despite all past efforts, it is quite clear that not all NWSs are genuinely willing to accept a legally binding NSA framework. The issue of NSA is still pending for

decades now. Throughout this entire period, no significant step has been taken so far to ensure that NNWSs progress towards fulfilling their NPT Commitment towards NSA. Various threats which are emerging within the international system have further reduced the prospects of NWSs to understand and respond to the concerns of NNWSs. Following are the five NPT Nuclear Weapon States have made the following unilateral declarations, formally announcing their political commitment not to attack any NPT Non-Nuclear Weapon State.

1.1 P5 States and Unilateral Declarations

Unilateral declarations announced by the P5 states in 1995 are based on the following commitments.

In a written statement presented at the UN General Assembly on April 6, 1995, China has fully committed to negative Security Assurances towards NNWSs and has encouraged the rest of the NWSs not to use nuclear weapons. It has committed that it will not attack or threaten to attack any NNWS with nuclear weapons that is a party to any international legally binding instrument of the non-proliferation regime. It is also ready to take necessary action to provide security assistance to any NNWS, which has come under nuclear attack and impose strict sanctions against the aggressor state, under the UN Charter.^{xvi}

France is consistent to its 1982 stance on the provision of NSA to NNWSs that are party to the NPT. It reserved the right of PSA in case of an attack on its allied states to respond with nuclear attack.^{xvii}

Russia has unambiguously expressed its nuclear policy for providing NSA to the NPT NNWSs.

"The Russian Federation will not use nuclear weapons against non-nuclear-weapon States parties to the Treaty on the Non-Proliferation of Nuclear Weapons, except in the case of an invasion or any other attack on the Russian Federation, its territory, 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."^{xviii}

The U.S. *and* UK also reserve the right to use nuclear weapons in response to an act of aggression against them by the NNWSs individually or with the support or help of any NWS.

Similarly, in case of an attack on its allies and troops, the political commitment not to use nuclear weapons against NPT NNWs would not be taken into consideration.^{xix}

2. Negative Security Assurances – Issues and Challenges

The hindrance in reaching legal commitments of NSA is the lack of will among NPT-NWSs for constructing common grounds first among themselves and then bridging the security commitment gap between themselves and the NNWs. The U.S. and its like-minded states are clearly not in favor of a treaty governing the NSA. However, China has given its consent to convert its NSA into a treaty.^{xx} U.S. and various other NWSs have yet to ratify the commitments which they have made related to the deployment, testing or use within the various NWFZs. These hurdles have further impeded the progress towards both regional and global nuclear disarmament.

The issue of non-state actors in relation to nuclear terrorism itself is a vague and contentious issue. Equating the Non-state actors with the role, capabilities and status accorded to a state, raises several serious challenges towards nuclear non-proliferation as well as the threat of nuclear attack against NNWSs. Moreover, the official documents of the U.S., France and U.K. clearly state that the possibility of nuclear terrorism could force them to retaliate with nuclear weapons against any state, in any part of the world.^{xxi}

The issue of NNWSs being vulnerable to the possibility of a nuclear attack is also an important one, particularly in the absence of NSA from the NWSs towards them. Such states, which are party to the NPT and obliged not to develop military nuclear capabilities could find themselves in trouble to secure themselves, in case any such states is involved in a conflict or crises against any NWS.

It is worth realizing that NWSs are reluctant to accept any legally binding international or regional obligations regarding the issue of NSA against the NNWS due to their own national security interests, particularly the role of nuclear weapons in providing deterrence against non-nuclear attack from other states. This further reduces the prospects of their willingness in the foreseeable future to accept internationally verifiable legally binding commitment regarding NSAs.

Interestingly, an analysis of the above-mentioned literature suggests that the NWS are more willing to offer the PSA to the NNWSs instead of supporting the NSA in legal form. These two

concepts are inherently contradictory and while the former emphasizes the possibility of the use of nuclear weapons, the latter reduces the prospects of the use of nuclear weapons by the NWSs. The U.S. extended deterrence towards its key allies, could be viewed in this context.

Following is a brief case study that evaluates the positions of South Asian states towards the NSA.

3. Negative Security Assurances: A Case Study of South Asia

Pakistan and India, two South Asian states possessing nuclear weapons are in favor of universal, non-discriminatory and multilateral disarmament. India and Pakistan are not signatory to either the NPT or the CTBT.^{xxii} However, other smaller states in the region such as Nepal, Maldives, Bangladesh, Bhutan, Afghanistan and Sri Lanka are party to the NPT as NNWSs have ratified the NPT.^{xxiii}

The second important international forum for disarmament is CD. It has 65 member-states. It also includes Pakistan, India, Bangladesh, and Sri Lanka from South Asia. CD member states are divided into four categories of Western Group, Group of 21, Eastern European Group and Group of one. The Group of 21 has India, Pakistan, Sri Lanka and Bangladesh. Decision making is based on the principle of consensus and all member states enjoy the right to veto.^{xxiv} CD negotiations at various subjects are usually held every year with division of three sessions.^{xxv} Particularly, on the issue of NSA, following are the positions of South Asian state parties.

- **Pakistan**

Pakistan's Permanent representative at the CD, Ambassador Zamir Akram in 2009 has highlighted the Pakistani stance on NSA in the following words:

"Pakistan, as a responsible nuclear weapon state, has consistently extended the assurance that its nuclear weapons will never be used against a non-nuclear weapon state and we stand ready to transform our commitment into a legally binding instrument".^{xxvi}

However, the former Director General of the Strategic Plans Division (SPD) Lt. Gen (Retd.) Khalid Kidwai stated a slightly more caution view towards the NSA at the International Institute for Strategic Studies (IISS), London in May 2013. He said that "no use or threat to use nuclear weapons against any non-nuclear weapons state – unless that state joins a hostile military coalition and nuclear-armed state(s)".^{xxvii}

Pakistan's Deputy Permanent Representative at the CD, Mr. Shafqat Ali Khan at the CD plenary session on 11 June, 2013 stated that:

"We are convinced that a treaty on NSA is eminently ripe for negotiations because such a treaty would not undermine the security interests of any state and would promote our common security in a substantive way... In view of the largest group of states in the CD, i.e. G-21 nuclear disarmament is ripe for negotiation. If there is no progress on nuclear disarmament, then negotiations for NSA and/or PAROS can be taken up. CD's inability to undertake negotiations on any of these core issues is of course attributable to opposition from some CD members."^{xxviii}

However, in view of the dynamic regional security environment, the statement by the former DG SPD can be interpreted as identifying and highlighting the possibility that in case Pakistan faces a serious threat to its national security from a NNWS, which is backed by a NWS, then such a NNWS state may not enjoy the privilege of NSA from Pakistan.

- **India**

Indian Ambassador at the CD, Mr. Jayant Prasad's 2007 statement seem to reflect the Indian strategic considerations based on its Indian nuclear doctrine in the following words:

"While maintaining a credible minimum nuclear deterrent, India continues to be committed to the goal of nuclear weapon free world, through global, verifiable and non-discriminatory nuclear disarmament. India's responsible nuclear doctrine is based on no first use and non-use of nuclear weapons against non-nuclear weapons States."^{xxix}

Similarly, Indian position was highlighted at the CD plenary session on 26 March, 2013 by re-affirming that:

"Non-nuclear weapon states have a legitimate right to be assured against the use or threat of use of nuclear weapons... In the absence of global nuclear disarmament, as part of our doctrine of credible minimum nuclear deterrence, we have espoused the policy of "No First Use" against nuclear weapon states and non-use against non-nuclear weapon states. We are prepared to convert these undertakings into multilateral legal arrangements."^{xxx}

- **Bangladesh**

Dr. Momen, the Permanent Representative of Bangladesh to the UN, has stressed while addressing the NSA issue in UNGA session on Oct, 2012 that:

"Commitments of negative security assurances made by nuclear weapon states had not been adequate to dispel the security concerns of non-nuclear weapon states, mainly due to the non-binding nature of such commitments. We, therefore, underscore the need for the conclusion of a universal legally binding instrument on unconditional negative security assurances to all NNWs, as a matter of high priority."^{xxxix}

Previously, Foreign Minister of Bangladesh, Dr. Moni, had taken a strong position on NSA's legality as a high priority agenda in the CD. Dr. Moni said that:

"Bangladesh attaches high priority to NSA. We believe that total elimination of nuclear weapons is the only absolute guarantee against the use or threat of use of nuclear weapons...Bangladesh supports the creation of NWFZs in various parts of the world. However, we believe that this solution may not be applicable to every region, including ours in South Asia. We therefore, consider the idea as an interim step, pending conclusions of a global instrument that would offer a comprehensive security assurance."^{xxxix}

- **Sri Lanka**

Ambassador R. Aryasinha at March 5th, 2013 restated the "urgent need to reach an early agreement on a universal, unconditional and legally binding instrument to assure non-nuclear weapon states against the use or threat of use of nuclear weapons."^{xxxix} The same stance was adopted in the CD session of 31 July, 2012. Additionally, it was said that:

"Pending realization of nuclear non-proliferation and nuclear disarmament, which is the ultimate objective of this Conference, it is NSAs which could provide confidence to States that are not in possession of nuclear weapons, that their survival and security will not be jeopardized by those which possess them. It is timely that the Conference moved forward in entrenching this concept as part of its agreed work programme."^{xxxix}

3.1 NSA in South Asia: Required or Not?

The above mentioned statements indicate strong political support from the South Asian States towards NSA at the CD. Various official statements have shown that Pakistan has repeatedly expressed its strong commitment and support for making further progress on the issue of NSA. It is important to realize that the CD negotiations on distinct core issues such as NSA, PAROS and nuclear disarmament can help timely reduce the mistrust among member states and also allow CD to actually make substantive progress towards non-proliferation and disarmament rather than remaining hostage to the discriminatory idea of FMCT. The issue of NSA and PAROS affect the security of a lot more states around the world than FMCT and therefore merits more attention and progress.

On the Indian side, although New Delhi has stated its Negative Security Commitment in its 2003 nuclear doctrine of 2003, based on the related caveats mentioned in the same official document, it is all but conditional and hardly imposes any serious restrictions of the use of Indian nuclear weapons against NNWSs. Despite mentioning No-first Use and massive retaliation, the document clearly considers the use of Indian nuclear weapons if its forces come under chem-bio attacks anywhere around the world and negates the true spirit of NSA.

Bangladesh, a NNWS, accords high priority to the NSA. It has also considered unilateral disarmament and expressed its strong support in order to make progress towards NSA. Pending a comprehensive solution, Bangladesh considers progress towards Nuclear Weapons Free Zone in South Asia as a possible interim means towards the eventual goal of NSA.

Lastly, Sri Lanka is also in favour of NSA legal instrument as a security incentive provided to the NNWs. It is important till the time disarmament at its various levels could be implemented globally.

Hence, it can be argued that at the political and diplomatic levels, the South Asian states have generally supported NSA but their security concerns viz a viz not only the NWSs but also their possible or future allies which may themselves be NNWS but in alliance with a NWS, has reduced the prospects of the regional NWS offering blanket and legally binding NSAs.

In addition, at the global level, the NSA and PSA are inherently conflicting and the latter reduces the prospects of any significant progress towards the former. PSA have encouraged the NWSs to consider the use of nuclear weapons in response to an attack towards its allied state and reduce the possibility of their willingness to give up the option of using or threatening to use nuclear weapons against

NNWSs, in order to secure their political or strategic interests in various regions such as Western Europe or East Asia.

The NSA essentially expects the NWSs to limit the use or threat to use nuclear weapons against NNWSs, which reduces both their global and regional influence. The same is the dilemma with the NWFZs that it reduces the possibility of NWSs to deploy, employ or test their nuclear weapons in the respective zones and expects them to exercise strategic restraint. The U.S. has signed various NWFZ treaties but not ratified it and China remains the only state which has given an unconditional commitment towards NWFZ in case of the South Pacific Treaty. In addition, since various states continue to maintain, develop and improve their nuclear weapons, both quantitatively and qualitatively, the likelihood that they will give up their political and strategic use and the right to physical use as well, seems a remote possibility.

Moreover, recent Post 9/11 trends indicate that various states in possession of nuclear weapons, consider nuclear use an option in order to protect themselves, not merely against the threat from other states but also from non-state actors. This has complicated the global and regional security environment, raised the issue of nuclear security, energized the lobby of nuclear terrorism and also reduced the prospects of progress towards NSA.

Lastly, in spite of strong diplomatic support, the lingering disputes, current security environment, growing role of non-state actors and the rising status of India make it unlikely that significant progress can be made in case of NSA in South Asia. Therefore, both the current and emerging security dynamics at the global and regional levels indicate that the prospects of progress towards NSA, despite its great need and consistency with the interests of the majority of the NNWSs, remain highly unlikely. However, the NNWSs need to continue stressing upon the need to make progress towards the NSA at various multilateral forums to ensure the effort to make the world a safer place continues, despite the desire by major powers to continue dominating the world both politically and strategically.

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