

# 2010 Review Conference of the Parties to the Treaty on the Non-Proliferation of Nuclear Weapons

17 May 2010  
English  
Original: Spanish

New York, 3-28 May 2010

## Security assurances

### Working paper submitted by Uruguay

#### I. Introduction

1. The issue of negative security assurances figured significantly in the negotiation of the Treaty on the Non-Proliferation of Nuclear Weapons in the 1960s, although they were not expressly included in the text of the Treaty.
2. During the Treaty negotiations, a number of non-nuclear-weapon States advocated for the inclusion of express and powerful assurances against the use or threat of use of nuclear weapons against non-nuclear-weapon States that did not have such weapons in their territory or under any other circumstance.
3. However, the position of the nuclear Powers that the issue of security assurances should be addressed outside the Treaty was ultimately the one that prevailed.
4. Legal, political and moral grounds for the justified interest and legitimate aspiration of non-nuclear-weapon States concerning security assurances are set out in Article 2, paragraph 4, of the Charter of the United Nations, which establishes that “members of the Organization 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”. The final preambular paragraph of the Treaty expressly incorporates the provisions of Article 2, paragraph 4, of the Charter of the United Nations.

#### II. Negative security assurances within the framework of the review conferences on the Treaty on the Non-Proliferation of Nuclear Weapons and the Security Council of the United Nations

5. Since the Treaty's entry into force in 1970, seven review conferences have been held and the issue of negative security assurances has consistently been one of the foremost topics of discussion at each of them.



6. At the first Review Conference (Geneva, 1975), States parties, in adopting the Final Declaration, merely took note of Security Council resolution 255 (1968), which “recognizes that aggression with nuclear weapons or the threat of such aggression against a non-nuclear-weapon State would create a situation in which the Security Council, and above all its nuclear-weapon State permanent members, would have to act immediately in accordance with their obligations under the United Nations Charter”.

7. That “positive” assurance, while it may have been a step forward in protecting non-nuclear-weapon States against the threat or use of nuclear weapons, also led them to demand “negative” security assurances, and to press for the negotiation of a legally binding instrument requiring nuclear-weapon States not to use nuclear weapons against non-nuclear-weapon States.

8. Failure to achieve the consensus needed to adopt a Final Declaration at the second Review Conference (Geneva, 1980) precluded any reference to negative security assurances as a legitimate aspiration of non-nuclear-weapon States.

9. At the third Review Conference (Geneva, 1985), a Final Declaration was adopted by consensus and again took note of Security Council resolution 255 (1968).

10. The fourth Review Conference (Geneva, 1990) was not able to adopt a Final Declaration and, once again, consideration of negative security assurances as well as other aspects of the disarmament and non-proliferation regime was deferred.

11. In 1995, the Security Council unanimously adopted resolution 984 (1995), taking note with appreciation of the unilateral statements made by each of the nuclear-weapon States (see S/1995/261, S/1995/262, S/1995/263, S/1995/264 and S/1995/265), in which they gave security assurances against the use of nuclear weapons to non-nuclear-weapon States that were parties to the Treaty.

12. Thus, the five permanent members of the Security Council, faced with ever more insistent demands by non-nuclear-weapon States for a legally binding instrument on negative security assurances, agreed to undertake, as a first step — albeit with some reservations and in non-binding form — not to use nuclear weapons against States parties to the Treaty or against any States that had ceased to manufacture or acquire such weapons.

13. While a Final Declaration could not be agreed upon at the fifth Review Conference (New York, 1995), Decision 2 on principles and objectives for nuclear non-proliferation and disarmament was adopted. In that decision, under the section entitled “Security assurances”, the Conference took note of Security Council resolution 984 (1995) as well as the unilateral declarations of the nuclear-weapon States concerning both negative and positive security assurances, and encouraged the consideration of further steps that “could take the form of an internationally legally binding instrument”.

14. In the Final Document of the sixth Review Conference (New York, 2000), the Conference agreed that legally binding security assurances by the five nuclear-weapon States to the non-nuclear-weapon States parties to the Treaty strengthen the nuclear non-proliferation regime.

15. The failure of the seventh Review Conference (New York, 2005) was a severe blow to the disarmament and non-proliferation regime governed by the Treaty on the

Non-Proliferation of Nuclear Weapons and meant that no decision could be taken with regard to negative security assurances.

16. Lastly, the Security Council, as a result of the negotiations conducted within the framework of the Summit of Heads of State and Government held on 24 September 2009, unanimously adopted resolution 1887 (2009), which, in paragraph 9, recalled the statements by each of the five nuclear-weapon States, noted by resolution 984 (1995), affirming that “[such] security assurances strengthen the nuclear non-proliferation regime”.

### **III. The eighth Review Conference on the Treaty on the Non-Proliferation of Nuclear Weapons: proposal for an additional protocol on negative security assurances**

17. Ever since the detonation of the first nuclear weapon, non-nuclear-weapon States have been plagued by insecurity and anxiety, aggravated by the fact that some Powers are undermining the objective of general and complete disarmament by continuing to possess nuclear weapons.

18. Thus, since the very beginning of the nuclear era, States have tried to find ways of protecting themselves against the possible use or threat of use of nuclear weapons.

19. As already indicated, at every review conference, an effort has been made to establish the legitimate interest and right of non-nuclear-weapon States to obtain legally binding security assurances from the five nuclear-weapon States on the understanding that such assurances would strengthen the nuclear non-proliferation regime itself.

20. Uruguay, like the vast majority of the international community, is of the view that until such time as all nuclear weapons are eliminated, greater priority must be given to negotiations leading to the adoption of a universal, unconditional and legally binding instrument on security assurances for non-nuclear-weapon States.

21. Uruguay therefore believes that the eighth Review Conference is the appropriate framework and occasion for transferring the issue of negative security assurances being called for by non-nuclear-weapon States from the political to the legal arena.

22. Accordingly, Uruguay is proposing, for consideration by the other States parties to the Treaty, that the Final Document to be adopted by the eighth Review Conference should recommend the negotiation of an additional protocol to the Treaty, encouraging nuclear-weapon States to agree to be legally bound under the protocol not to use nuclear weapons against a non-nuclear-weapon State that is a party to the Treaty and fulfils the obligations arising under it.

23. Uruguay is of the view that the appropriate framework for moving these negotiations forward is the framework of the Treaty on the Non-Proliferation of Nuclear Weapons itself, as it would enable States that are not represented in other negotiating forums to make a constructive contribution to the negotiation of a protocol while at the same time giving greater visibility to the Treaty’s role as the cornerstone of the nuclear non-proliferation regime and the essential foundation for promoting nuclear disarmament and the use of nuclear energy for peaceful purposes.

24. Uruguay also believes that beyond legally establishing negative security assurances, an additional protocol to the Treaty would not only be of considerable benefit to non-nuclear-weapon States parties to the Treaty but would also be a huge incentive for countries that have not yet acceded to the Treaty to decide to do so, as the Treaty regime would offer them protection they could not obtain by remaining outside it.

---