

**32. THE PROPOSAL BY CHINA, FRANCE, THE RUSSIAN FEDERATION,
THE UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN
IRELAND AND THE UNITED STATES OF AMERICA ON SECURITY
ASSURANCES**

INITIAL PROCEEDINGS

By a letter¹ dated 6 April 1995, addressed to the President of the Security Council, the representative of the Russian Federation requested, as coordinator and on behalf of the permanent members of the Council, that the following item be inscribed on the Council's agenda: "Proposal by China, France, the Russian Federation, the United Kingdom of Great Britain and Northern Ireland and the United States of America on security assurances".

At its 3514th meeting, on 11 April 1995, the Council included in its agenda the letter from the Russian Federation. Following the adoption of the agenda, the Council invited the representatives of Algeria, Egypt, Hungary, India, the Islamic Republic of Iran, Malaysia, Pakistan, Romania and Ukraine, at their request, to participate in the discussion without the right to vote. At the same meeting, the President (Czech Republic) drew the attention of the members of the Council to a draft resolution² submitted by China, France, the Russian Federation, the United Kingdom and the United States. He also drew their attention to several letters³ dated 6 April 1995, addressed to the Secretary-General from, respectively, the representatives of China, France, the Russian Federation, the United Kingdom and the United States, transmitting these countries' respective national declaration on security assurances for non-nuclear-weapon States parties to the Treaty on the Non-Proliferation of Nuclear Weapons (NPT). France, the Russian Federation, the United Kingdom and the United States all affirmed or reaffirmed that they

¹ S/1995/271.

² S/1995/275.

³ S/1995/261-S/1995/265.

would not use nuclear weapons against non-nuclear weapons States Parties to the NPT except in the case of an invasion or any other attack on their country, their territory, their armed forces or other troops, or against their allies or a State towards which they had a security commitment, carried out or sustained by such a State in alliance or association with a nuclear-weapon State. China undertook not to use nuclear weapons against non-nuclear weapons States parties to the NPT or that have entered into any comparable international binding commitment, at any time or under any circumstances. They also provided non-nuclear weapons States Parties to the NPT with positive assurances.

The representative of India, at the outset, stated that while maintenance of peace and security was the primary responsibility of the Security Council, preservation of national security was the primary responsibility of all governments of States Members of the United Nations. He welcomed the debate on the question of security assurances but voiced scepticism about the motivation which had prompted the debate. Recalling Security Council resolution 255 (1968) of 19 June 1968, he affirmed that the nuclear-weapon Powers were then canvassing for signatures to the proposed NPT. Now, he said, they were canvassing for votes for indefinite extension of the NPT. Quoting the statement made at that time by his country, the representative of India said that “any security assurances that might be offered by nuclear-weapon States could not and should not be regarded as a *quid pro quo* for the signature of a non-proliferation treaty”. He further quoted that “the basis for any action by the Security Council for the maintenance of international peace and security is the Charter of the United Nations. Any linking of security assurances to the signature of a non-proliferation treaty would be contrary to its provisions, because the Charter does not discriminate between those who might adhere to a particular treaty and those who might not do so”. He also quoted that “while the permanent members of the Council have a special obligation and responsibility for the maintenance of international peace and security, they are precluded from adopting a discriminatory approach in situations involving the security of States, including that arising from the threat or the use of nuclear weapons against non-nuclear weapon States”.

In the speaker's view, it was the clear responsibility of the nuclear-weapon States that were also permanent members of the Security Council to go to the assistance of any State threatened with or victim of nuclear attack, and not merely those that might be signatories to the NPT. For these reasons, he believed that the draft resolution was discriminatory and felt short of the requirement for a binding international legal convention on the elimination of nuclear weapons which was the only security against the threat or use of nuclear weapons.

The representative of India also recalled that the General Assembly at its forty-ninth session had sought an advisory opinion from the International Court of Justice on whether the threat or use of nuclear weapons was permissible under international law under any circumstances. He maintained that use of nuclear weapons would cause such indiscriminate suffering and destruction that it was contrary to the rules of international law and the Charter of the United Nations.⁴

The representative of Egypt stated that what was really at stake was the ability of the Security Council to discharge its primary responsibility in the maintenance of international peace and security. Article 26 of the Charter specifically conferred upon the Security Council the crucially important task of formulating plans for the establishment of a system for the regulation of armaments. The elaboration and adoption of credible security assurances would therefore fall squarely within the ambit of the Council's mandate. Turning to the draft resolution, the speaker, who was of the view that Article 1 (1) of the Charter addressed only conventional weapons, stated that whenever a State threatened another with such weapons, the Security Council was, as stipulated under Article 1 (1), duty-bound to take effective measures for the removal of the threat and the suppression of the aggression. Therefore, in a conventional threat situation, the response of the Council could be confined to "bringing the matter to the attention of the Council" and "seeking Council action to provide necessary assistance" whereas, in the case of a nuclear threat, this should trigger the collective security system set out in Chapter VII of

⁴ S/PV.3514; pp. 5-6

the Charter. He further stated that the fact that the Council's response to a nuclear threat was subject to the regular voting procedure provided for under the Charter, specifically in the provisions of Article 27(3), which pertains to the concurring votes of the five permanent members, constituted a most grave factor. The magnitude of the devastation that could be caused by nuclear weapons necessitated a degree of "automaticity" if credibility was to be conferred. In his view, the draft resolution should undoubtedly be beyond the scope of application of the veto in order to ensure credibility.

He pointed out that the draft resolution should contain an explicit reference to the fact that aggression with nuclear weapons, or the threat of such aggression against a non-nuclear State party to the NPT constituted a threat to international peace and security, and would automatically trigger an immediate response by the Security Council in conformity with Article 39 of the Charter and in a manner consistent with the substance and spirit of the relevant Articles of the Chapter VII.

He also said that the issue of protection should be clearly enunciated in the form of a mechanism for enforcement of the security assurances which would indicate the mandatory action to be adopted by the Security Council to redress a situation where a non-nuclear State was the object of a nuclear attack or threat of an attack. In this connection, the speaker stressed that the territorial integrity and the political independence of any non-nuclear-weapon State, as well as the survival of its population, will be guaranteed as a matter of right and not as recognition of an interest – whether or not we term them as legitimate – to receive security assurances.

The speaker summed up his arguments by stating that the draft resolution failed to determine that the use or threat of use of nuclear weapons constituted a threat to international peace and security and lacked a trigger mechanism to ensure Security Council response to threats or attacks by nuclear weapons. It also lacked a commitment by the Council, as stated in the Charter, to take effective collective measures for the

prevention and removal of threats to the peace, and for the suppression of acts of aggression or other breaches of the peace. The adoption by the Council, however, of a draft resolution which lacked credibility in those respects did not suggest that the Security Council was not the right forum to enunciate the question of security assurances. On the contrary, it was perhaps the course dictated by the Charter. In his view, the draft resolution contained, however, three positive elements: it was endorsed by all the permanent members; it addressed the element of technical assistance in a more comprehensive manner than resolution 255 (1968), albeit in voluntary language. Operative paragraphs 5 and 6 invited Member States of the United Nations to provide assistance to any State that was victim of an act of aggression by nuclear weapons and recognized the right of any such victim to compensation from the aggressor.⁵

The representative of Pakistan observed that linking security assurances to certain criteria would militate against the objective of providing assurances on a universal basis. Similarly, relying on a subjective decision-making process for extending security assurances could result in arbitrary and selective application of those assurances. In his view, security assurances should become operational whenever there was any use or threat of use of nuclear weapons. It needed to be ensured, therefore, that the provisions of security assurances were in full conformity with the United Nations Charter – especially Article 51 – which provided that the Security Council shall act without discrimination, whenever international peace and security is threatened.⁶

Referring to the draft resolution, the representative of Malaysia reminded the Council that such obligations as coming to the assistance of non-nuclear-weapon States in the event of aggression were already stipulated in Articles 39, 41 and 42 of the Charter, regardless of the type of weapons used. Aggression was aggression, and to discriminate against States not parties to the Treaty in giving assistance on the basis of the type of weapons used was against the fundamental provisions of the Charter for the maintenance

⁵*Ibid*; pp. 8-12.

of international peace and security. His delegation could not support the inclusion of operative paragraph 9 since it sidestepped the question of the legality of the use of nuclear weapons and justified the use or threat of use of nuclear weapons in cases of “self-defence”. Given the fact that all the nuclear-weapon States were also permanent members of the Security Council, and that the Council had the power to determine whether or not a threat was an act of aggression or of self-defence, the assurance contained in the draft was at best questionable, if not hollow political expedience.⁷

Others speakers⁸ addressed the Council, repeating the arguments invoked by the above-mentioned speakers that the draft resolution lacked a prior determination that a threat or attack by nuclear weapons constituted a threat to international peace and security, as well as a trigger mechanism to ensure a Security Council response to such threats or attacks. In their view, the draft resolution should have been placed firmly under the framework of Chapter VII of the Charter. Still others⁹ were of the view that the draft resolution constituted an important step in a way that, for the first time, all non-nuclear-weapon members of the NPT were given positive and negative security assurances by all five permanent members. They also welcomed the fact that for the first time also, options for action to be taken by the Security Council with regard to the positive assurances were specified in detail. Attention was drawn by one of the speakers to the fact that procedures concerning compensation to victims of aggression as mentioned in the draft, should be extended to third countries that suffered as a result of actions by an aggressor and that additional security assurances could have been given such as the renunciation of the unanimity principle when dealing with issues in the Security Council on the use or threat of use of nuclear weapons.¹⁰

⁶ *Ibid*; pp. 13-14.

⁷ *Ibid*; pp. 15-16.

⁸ *Ibid*; Iran, pp.6-7; Algeria, pp. 12-13.

⁹ *Ibid*; Ukraine, pp.2-4; Hungary, pp. 4-5; Romania, pp. 7-8.

¹⁰ *Ibid*; Ukraine.

Before the vote, the representative of Indonesia, speaking on behalf of the States parties to the NPT that were members of the Movement of the Non-Aligned Countries, noted, *inter alia*, that the draft resolution recognized the legitimacy of the demand of the non-nuclear-weapon States for security assurances and called for appropriate measures to safeguard their security. It also contemplated the initiation of measures to counter aggression involving the use of nuclear weapons and sought to render necessary assistance to victims of such aggression. He regretted however that the draft had failed to acknowledge the right of the non-nuclear-weapons States to unconditional security assurances in an international convention. He also questioned how a veto-bound Council could conceivably stem aggression committed by a nuclear-weapon State and take appropriate measures against that State. Another lacuna was the failure to include the Non-Aligned Movement's proposal that nuclear aggression or the threat of such aggression against a non-nuclear weapon State party to the NPT constituted a threat to international peace and security and necessitated immediate measures on the part of the Council in conformity with Article 39 of the Charter and consistent with the substance and spirit of the relevant Articles of Chapter VII. This failure had rendered actions and measures envisaged in the draft insignificant. He concluded by recognizing that the draft resolution, none the less, constituted an initial step in the process of nuclear disarmament towards a legally binding international instrument.¹¹

The representative of Nigeria placed on record his disappointment that the draft resolution failed to prescribe clearly defined and specific action to be taken in the case of aggression with nuclear weapons, the specific obligations of nuclear-weapon States, the specific form of assistance to be provided by the Council as a duty, rather than as a request from a victim State, and the action to be taken by the Council should the aggressor be a nuclear-weapon State which is also a permanent member of the Council. The draft resolution also failed to commit all members of the Council to the necessity of adopting in the immediate future negative security assurances in a legally binding

¹¹ *Ibid*; pp. 16-17.

instrument. He stated, *inter alia*, that his delegation looked forward to a set of guarantees that would not be vulnerable to the use of the veto by the permanent members of the Security Council.¹²

The representative of China was of the view that the draft resolution was only one step towards the conclusion of a legally binding international instrument providing assurances for non-nuclear-weapon States and nuclear-weapon-free zones against the use or threat of use of nuclear weapons. He reiterated the position of his Government on security assurances for non-nuclear weapon: firstly, complete and thorough destruction of nuclear weapons to usher in a nuclear-weapon-free world; secondly, all nuclear-weapon States should undertake in a concerted way not to use or threaten to use such weapons against non-nuclear-weapon States; thirdly, an unconditional commitment by all nuclear-weapon States not to be the first to use nuclear weapons; fourthly, China fully understood and supported the demand of the vast numbers of non-nuclear-weapon States for security assurances.¹³

The representative of Oman, referring to his country's initiative to include, in the agenda of the 1995 Review and Extension Conference on the NPT, the issue of the transfer of nuclear technology for peaceful uses and its applications in the non-nuclear developing countries stated that the draft resolution would have been more integrated had this issue been better accommodated. Furthermore, the inclusion of that issue in the draft resolution would have encouraged other countries with peaceful nuclear programmes to adhere to the Treaty - not to mention the positive impact such an effort would have had on the developing countries, which would have led to believe that the preferential regime of the Treaty as currently established in the field of the transfer of technology for peaceful purposes was not an immediate threat to their security.¹⁴

¹² *Ibid*; pp. 19-20.

¹³ *Ibid*; pp. 23-24

¹⁴ *Ibid*; pp. 25-26

Decision of 11 April 1995 (3514th meeting): resolution 984 (1995)

The draft resolution was then put to the vote and adopted unanimously as resolution 984 (1995), which reads as follows:

The Security Council,

Convinced that every effort must be made to avoid and avert the danger of nuclear war, to prevent the spread of nuclear weapons, to facilitate international cooperation in the peaceful uses of nuclear energy with particular emphasis on the needs of developing countries, and reaffirming the crucial importance of the Treaty on the Non-Proliferation of Nuclear Weapons to these efforts,

Recognizing the legitimate interest of non-nuclear-weapon States parties to the Treaty to receive security assurances,

Welcoming the fact that more than 170 States have become parties to the Treaty, and stressing the desirability of universal adherence to it,

Reaffirming the need for all States parties to the Treaty to comply fully with all their obligations,

Taking into consideration the legitimate concern of non-nuclear-weapon States that, in conjunction with their adherence to the Treaty, further appropriate measures be undertaken to safeguard their security,

Considering that the present resolution constitutes a step in this direction,

Considering also that, in accordance with the relevant provisions of the Charter of the United Nations, any aggression with the use of nuclear weapons would endanger international peace and security,

1. *Takes note with appreciation* of the statements made by each of the nuclear-weapon States, 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;

2. *Recognizes* the legitimate interest of non-nuclear-weapon States parties to the Treaty 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 a State is the victim of an act of, or object of a threat of, aggression in which nuclear weapons are used;

3. *Recognizes also* that, in case of aggression with nuclear weapons or the threat of such aggression against a non-nuclear-weapon State party to the Treaty, any State may bring the matter immediately to the attention of the Security Council to enable the Council to take urgent action to provide assistance, in accordance with the Charter, to the State victim of an act of, or object of a threat of, such aggression, and recognizes further that the nuclear-weapon State permanent members of the Council will bring the matter immediately to the attention of the Council and seek Council action to provide, in accordance with the Charter, the necessary assistance to the State victim;

4. *Notes* the means available to it for assisting such a non-nuclear-weapon State party to the Treaty, including an investigation into the situation and appropriate measures to settle the dispute and restore international peace and security;

5. *Invites* Member States, individually or collectively, if any non-nuclear-weapon State party to the Treaty is a victim of an act of aggression with nuclear weapons, to take appropriate measures in response to a request from the victim for technical, medical, scientific or humanitarian assistance, and affirms its readiness to consider what measures are needed in this regard in the event of such an act of aggression;

6. *Expresses its intention* to recommend appropriate procedures, in response to any request from a non-nuclear-weapon State party to the Treaty that is the victim of such an act of aggression, regarding compensation under international law from the aggressor for loss, damage or injury sustained as a result of the aggression;

7. *Welcomes* the intention expressed by certain States to provide or support immediate assistance, in accordance with the Charter, to any non-nuclear-weapon State

Party to the Treaty that is a victim of an act of, or an object of a threat of, aggression in which nuclear weapons are used;

8. *Urges* all States, as provided for in Article VI of the Treaty, to pursue negotiations in good faith on effective measures relating to nuclear disarmament and on a treaty on general and complete disarmament under strict and effective international control which remains a universal goal;

9. *Reaffirms* the inherent right, recognized under Article 51 of the Charter, of individual and collective self-defence 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;

10. *Underlines* the fact that the issues raised in the present resolution remain of continuing concern to the Council.

Speaking after the vote, the representatives of the United States, United Kingdom, France and the Russian Federation pointed out that for the first time the five veto powers had acted together to provide a common positive security assurance and by setting out through the resolution some of the Council's measures which might be taken in response to a request from the victim of an act of nuclear aggression.¹⁵

The representative of the United States pointed out that, under the resolution, although any State could bring the matter of a threat or use of nuclear forces to the Council's attention, the nuclear-weapon States – which were also permanent members of the Security Council – promised that they would do so. He stressed that the coordinated sponsorship of this resolution by all permanent members and the positive and negative security assurances were significant advances over the Council's effort 25 years ago, when resolution 255 (1968) had not been co-sponsored or voted for by all nuclear

¹⁵ *Ibid*; United States, pp. 26-27; United Kingdom; pp.27-28; France; pp. 28-29; Russian Federation, pp. 29-30.

weapon States parties to the NPT, nor had it incorporated both positive and negative security assurances.¹⁶

Emphasizing the historic importance of the resolution, the representative of the United Kingdom stated that it made a significant step forward beyond the terms of the Council's resolution 225 (1968). For the first time, the five nuclear Powers had acted together to provide both positive and negative assurances as reflected in the resolution.¹⁷

The representative of France indicated that in the course of the numerous consultations in the preparation of the draft resolution, concern had been expressed as to whether the joint commitments made by the nuclear Powers concerning the so-called positive assurances could ensure the matter's being brought before the Council. France's declaration left no doubt about that. It stated that France considered that any aggression accompanied by the use of nuclear weapons would threaten international peace and security and that as a permanent member of the Security Council, it would immediately inform the Security Council of such an aggression and act within the Council to ensure that the latter took immediate steps to provide, in accordance with the Charter, necessary assistance to any State victim of such an act or threat of aggression. It also stated the inherent right, recognized in Article 51 of the Charter, of individual or collective self-defence if an armed attack, including an attack with use of nuclear weapons, occurred against any Member of the United Nations until the Security Council had taken measures necessary to maintain international peace and security.¹⁸

The representative of the Russian Federation stated that the Security Council was, for the first time since 1968, considering the question of security assurances for non-nuclear-weapon States. He stressed that the unanimously adopted resolution 984 (1995) went significantly further than resolution 255 (1968) since, for the first time, all five

¹⁶ *Ibid*; pp.26-27

¹⁷ *Ibid*; pp. 27-28.

¹⁸ *Ibid*; pp. 28-29.

nuclear-weapon States had joined in sponsoring a draft resolution providing both positive and negative security assurances.¹⁹

The President, speaking in his capacity as representative of the Czech Republic, welcomed that, in the event of aggression or threat of aggression with nuclear weapons, the matter would be brought immediately to the attention of the Council in order to provide the necessary assistance to the State in question. He also welcomed the Council's mandate to investigate the situation and adopt appropriate measures to settle the core dispute and restore international peace and security.²⁰

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¹⁹ *Ibid*; pp. 29-30.

²⁰ *Ibid*; p. 31.