Why New Thinking is Needed on Negative Security Assurances

Since the Cold War, nuclear powers have pledged not to use or threaten to use their nuclear weapons against countries that do not possess such weapons. These so-called negative security assurances (NSAs) were intended as incentives (or rewards) for adherence to the nuclear Nonproliferation Treaty (NPT).

The individual pledges, however, contained caveats and conditions. One was the exclusion of the assurance toward non-nuclear-weapon states taking part in conventional attacks in alliance with a nuclear-weapon state, such as the typical Cold War scenario of a war between NATO and the Warsaw Pact. Another exclusion logically targeted states not complying with NPT commitments, the states that secretly acquired or manufactured nuclear weapons. Further, there was some ambiguity with regard to deterring attacks with other types of weapons of mass destruction (WMD): chemical or biological weapons.

In recent years, the NSA exclusion related to conventional attacks by alliances has been dropped by the Western nuclear powers, given the demise of the Warsaw Pact. Yet, the condition linked to chemical and biological weapons use has re-emerged in a manner that may lead to a weakening of NSAs and result in a worrisome lowering of the threshold for use of nuclear weapons. For this reason, some new thinking on NSAs is needed.

Looking Back

In 1995, in order to facilitate the indefinite extension of the NPT, the UN Security Council passed Resolution 984, which took note of the unilateral declarations made by the five nuclear-weapon states (China, France, Russia, the United Kingdom, and the United States), which happened to be its five permanent members. China has consistently maintained a no-first-use policy regarding nuclear weapons, implying that it would use them only to deter a nuclear attack. For the other nuclear-weapon states, national doctrines have included various conditions similar to each other, albeit differently drafted. Those conditions have even been made legally binding in the protocols to the various nuclear-weapon-free-zone treaties.

One of those conditions, which reflected a Cold War strategic context, involved the case of conventional attack by a non-nuclear-weapon state against a nuclear-weapon state in alliance with another nuclear-weapon state. For instance, France reserved its right to use nuclear weapons against East Germany in a scenario of a massive conventional attack by the Warsaw Pact led by the Soviet Union, which enjoyed overwhelming conventional superiority over NATO. In 2010 the United States decided to take into consideration the dramatic changes since 1995, including the disappearance of the Soviet Union and the Warsaw Pact and the manifest technological and military superiority of NATO over Russia. Accordingly, it crafted a simpler NSA in the 2010 “Nuclear Posture Review [NPR] Report,” declaring that the United States would “not use or threaten to use nuclear weapons” against non-nuclear-weapon states “that are party to the NPT and in compliance with their nuclear nonproliferation obligations.”
In its “National Security Strategy and Strategic Defence and Security Review 2015,” the United Kingdom made a similar declaration, noting that “[t]his assurance does not apply to any state in material breach of those nonproliferation obligations.” On February 19, 2015, French President François Hollande stated that “France will not use nuclear weapons against non-nuclear-weapon states-parties to the [NPT] which comply with their international nonproliferation commitments in terms of weapons of mass destruction.”

Nuclear Weapons Against Conventional Weapons

The three Western nuclear-weapon states thus have renounced the traditional Cold War condition applying to non-nuclear-weapon states taking part in conventional attacks in alliance with a nuclear-weapon state. This is a realistic and welcome development that takes into account the changed strategic environment and contributes to lowering the risk of nuclear war.

Does this mean that the scenario of use of nuclear weapons in response to a conventional attack has completely disappeared? Not really, if one looks at Russia. Its 2010 military doctrine, reaffirmed in 2014, states that the Russian Federation “shall reserve the right to use nuclear weapons in response to the use of nuclear weapons or other types of weapons of mass destruction against it and/or its allies, as well as in the event of aggression against the Russian Federation with the use of conventional weapons when the very existence of the State is in jeopardy.”

As compared with the traditional Cold War alliance-related condition, the exception of conventional attack is much broader, although it could trigger nuclear retaliation only in the extreme case of danger to the “very existence” of the state. Some commentators have dubbed this concept “escalate to de-escalate,” meaning an early use of nuclear weapons in case of conventional attack, although such an analysis does not rely on solid foundations and has been denied by several experts. In any case, the linkage between nuclear and conventional weapons remains a decisive part of a strong deterrent for Russia. This is not unrelated to its threat perception coming from the United States and NATO, including from anti-ballistic missile systems and long-range, conventional precision-guided weapons.

As a result, the risk of nuclear war may have become higher than during the Cold War, as assessed...
Why New Thinking is Needed on Negative Security Assurances
Published on Arms Control Association (https://www.armscontrol.org)

by former U.S. Secretary of Defense William Perry. The situation would appear even worse when looking at the other conditions introduced by the nuclear-weapon states into their NSAs—those related to chemical and biological weapons use.

Major Setback

In the past, the United States maintained deliberate “strategic ambiguity” on its possible use of nuclear weapons in retaliation for a chemical or a biological attack against its territory or forces. The 2002 NPR Report mentioned five states without nuclear weapons but with suspected biological or chemical programs (Iran, Iraq, Libya, North Korea, and Syria) that would be eligible for nuclear strikes. In National Security Presidential Directive 17 in 2002, President George W. Bush stated that “the United States [would] continue to make clear that it reserves the right to respond with overwhelming force—including potentially nuclear weapons—to the use of [weapons of mass destruction] against the United States, our forces abroad, and friends and allies.”

In a sense, the 2010 NPR Report introduced by President Barack Obama could appear as real progress toward raising the threshold of use of nuclear weapons. Indeed, regarding chemical weapons, the United States considered that “any state eligible for the [negative security] assurance that uses chemical or biological weapons against the United States or its allies and partners would face the prospect of a devastating conventional military response—and that any individuals responsible for the attack, whether national leaders or military commanders, would be held fully accountable.” Hence, the United States renounced any policy of nuclear retaliation against chemical attacks, which made a lot of sense strategically and militarily. This was consistent with the general premise of the NPR that the United States “would only consider the use of nuclear weapons in extreme circumstances to defend the vital interests of the United States or its allies and partners.”

This step forward, however, was undermined by two steps backward. First, the 2010 document added to the previous provision an important caveat:

“In the case of countries not covered by this assurance—states that possess nuclear weapons and states not in compliance with their nuclear nonproliferation obligations—there remains a narrow range of contingencies in which U.S. nuclear weapons may still play a role in deterring a conventional or [chemical or biological] attack against the United States or its allies and partners. The United States is therefore not prepared at the present time to adopt a universal policy that deterring nuclear attack is the sole purpose of nuclear weapons, but will work to establish conditions under which such a policy could be safely adopted.”

This statement considerably weakened the step forward made regarding the Cold War alliance-related condition, despite an attempt to be reassuring by stating, “That does not mean that our willingness to use nuclear weapons against countries not covered by the new assurance has in any way increased.” Although the United States officially did not exclude the use of nuclear weapons in a scenario involving a chemical attack by Iraq against U.S. forces during the 1991 Persian Gulf War, in the “redlines” mentioned by Obama in 2006 in case Syria used chemical weapons, there was no reference to nuclear weapons use but also no hypothesis of an attack against U.S. forces or interests.

Secondly, with regard more specifically to biological weapons, the same document stated that “[g]iven the catastrophic potential of biological weapons and the rapid pace of bio-technology development, the United States reserves the right to make any adjustment in the assurance that may be warranted by the evolution and proliferation of the biological weapons threat and U.S. capacities to counter that threat.”

This exception only applies in case of unpredicted developments. Even raised as a flag, however, it weakens the progress made in the new formulation. Moreover, it was unnecessary to state this exception explicitly because any nuclear-weapon state has the right to modify unilaterally its assurance, as shown by the changes made by the United States in 2010.

The same analysis can be made regarding the UK and the French revised assurances. The UK stated
in its 2015 review that “[w]hile there is currently no direct threat to the UK or its vital interests from states developing weapons of mass destruction, such as chemical and biological capabilities, we reserve the right to review this assurance if the future threat, development or proliferation of these weapons make[s] it necessary.”14 The 2015 French presidential statement excluded from the French NSA the states that do not “comply with their international nonproliferation commitments in terms of weapons of mass destruction.”15 For instance, this means that Syria, having breached the Chemical Weapons Convention (CWC), could become a legitimate target for French nuclear weapons even if France was not attacked. Finally, as stated above, the Russian doctrine still considers that Russia could use nuclear weapons “in response to the use of...other types of weapons of mass destruction against it and/or its allies.”16

Unfortunate and Paradoxical

The linkage between nuclear weapons and biological or chemical weapons is quite unfortunate and paradoxical. It may be motivated as an incentive or pressure for all states to become party to and compliant with the existing multilateral disarmament instruments, the CWC and the Biological Weapons Convention (BWC). Yet, just a handful of states remain outside such treaties with practically only Egypt, Israel, North Korea, and Syria standing out as significant absentees because of their actual or potential capabilities.17

Not in the most far-fetched scenario could chemical attacks endanger the vital interests of nuclear-weapon states and justify the use of nuclear weapons in retaliation. During the Persian Gulf War, France then categorically excluded such a use of nuclear weapons18 while the United States and the UK maintained ambiguity. Since 1995, under Presidents Jacques Chirac and Nicolas Sarkozy, France also has maintained some ambiguity as to possible nuclear retaliation to a chemical or biological attack.19 Now, France explicitly adds noncompliance with the CWC or the BWC, not just chemical or biological attacks, as reasons justifying the use of nuclear weapons.

The case of biological weapons could be argued to be different and susceptible to unpredictable developments. Therefore, the United States and the UK reserve the right to review their nuclear posture in case such developments occurred that endangered their vital interests. Here again, even the most pessimistic scenarios of massive use of biological agents—by state or nonstate actors—could hardly be deemed as warranting the use of nuclear weapons. No state currently claims to possess biological weapons because they globally appear as “repugnant to the conscience of mankind,” as stated in the BWC. If such biological weapons were developed and used by state or nonstate actors, how conceivable would it be to identify the source and authors of an attack and target them with nuclear weapons and within what time frame, considering the slow spread of some pathogens?

If the nuclear doctrine of nuclear-weapon states understandably includes nonproliferation or even counterproliferation dimensions, establishing linkages between nuclear, conventional, chemical, and biological weapons can lead only to confusion, misunderstandings, or higher risks of nuclear catastrophe. The threshold for use of nuclear weapons is already being lowered by the maintenance of nuclear tactical weapons and the increasing resort to lower-yield warheads or means of delivery, such as cruise missiles, that can be conventional but easily mistaken for nuclear weapons. There is no need for making the situation worse.
All nuclear-armed states possess sufficiently powerful conventional military capabilities to handle conventional, chemical, or biological threats against themselves or their allies. Such challenges should be addressed only within existing multilateral frameworks. It is a paradox that the United States included biological threats as a possible reason for reviewing its nuclear posture while remaining, since 2001, opposed to any multilateral verification of the BWC that could help strengthen the international response to the risk of deliberate use of disease as a weapon.

In addition, a major hurdle in the condition regarding noncompliance with any nonproliferation commitment, whether in nuclear, chemical, or biological weapons, would be how and by whom such breaches would be determined. The issue of evidence of WMD programs has been a recurring nightmare in the case of Iraq, Iran, Libya, North Korea, and Syria. Even if a legitimate role can be assumed for the UN Security Council, what would happen if one of the permanent members were an ally of a suspected violator, as is currently the case with Russia and Syria? If determination is left to the individual nuclear-weapon state, is this opening the door to unilateral, uncontrollable actions? Moreover, what if a state has not made any “international nonproliferation commitments,” such as Israel, which is not a party to the NPT, the CWC, the BWC, or the Comprehensive Test Ban Treaty?

New Thinking Needed

Two major developments require new thinking on the issue of NSAs. One is the new NPR announced by the Trump administration. If the Obama administration took the opportunity of the 2010 NPR to shift the U.S. assurances, the new U.S. leadership would be wise to reconsider the existing doctrine, not in toughening the conditions for nonuse of nuclear weapons but to elevate the threshold for use to a higher level. One could count on the power of example to influence not only the assurances of the Western nuclear powers, as in 2010-2015, but also to encourage Russia to revisit its own assurance in a similar direction and discourage India to move away from its current no-first-use policy, as it seems tempted to do.20

The second major development will be the new five-year review cycle of the NPT, which has opened in May 2017 in Vienna and will culminate with the review conference in New York in 2020. By then, it is likely that the new treaty prohibiting nuclear weapons will have many signatories despite the
opposition of the nuclear-weapon states. Some NPT states-parties such as Germany, sharing the goal of a world without nuclear weapons but seeking the participation of the nuclear-weapon states in the negotiation process, can be expected to push for an expansion of existing NSAs as a mediation tool. Few options actually could rally the approval of the nuclear-weapon states and offer sufficient improvements to the non-nuclear-weapon states, at least to make them hesitate before joining the ban treaty, at the same time.

As proposed by Germany and a few other Western states at the 2016 UN open-ended working group on multilateral nuclear disarmament,21 one option could be to negotiate a legally binding instrument, as a protocol to the NPT or a separate treaty, limiting the conditions of NSAs to two: a beneficiary “must not be in material breach of the NPT and not attacking a [nuclear-weapon state] while itself acting in consort with another” nuclear-weapon state.

The other option for nuclear-weapon states would be to radically shift their nuclear doctrine to the “sole purpose” approach, tasking nuclear weapons only to deter nuclear attacks, thereby reinforcing global stability and the security of states that have foregone nuclear weapons. It would exclude any nuclear response to a conventional, chemical, or biological attack (presumably also a cyberattack). The threshold of use of nuclear weapons would be made more consistent with their historical purpose, and the whole world would obviously feel much safer in the interim period prior to the elimination of all nuclear weapons.

Endnotes


10. NPR Report, p. 16.

11. Ibid, p. 16.

12. Ibid, p. 16.
13. Ibid, p. 16.


15. French Embassy to the United Kingdom, “France Will Not Lower Its Nuclear Guard, Vows President.”


17. States not party to the Biological Weapons Convention are Central African Republic, Chad, Comoros, Djibouti, Egypt, Eritrea, Haiti, Israel, Kiribati, Micronesia, Namibia, Niue, Somalia, South Sudan, Syria, Tanzania, and Tuvalu. States not party to the Chemical Weapons Convention are Egypt, Israel, North Korea, Palestine, and South Sudan.


19. See President Chirac’s speech Jan. 19, 2006: “[t]he leaders of States who would use terrorist means against us, as well as those who would consider using, in one way or another, weapons of mass destruction, must understand that they would lay themselves open to a firm and adapted response on our part. And this response could be a conventional one. It could also be of a different kind.” See also Oliver Meier, “Chirac Outlines Expanded Nuclear Doctrine,” Arms Control Today, March 2006, https://www.armscontrol.org/act/2006_03/MARCH-Chirac


Marc Finaud, a former French diplomat, is a senior program adviser at the Geneva Centre for Security Policy. During his diplomatic career, his assignments included missions to the Conference on Security and Cooperation in Europe, the Conference on Disarmament, and the United Nations.

Source URL: https://www.armscontrol.org/act/2017-10/features/why-new-thinking-needed-negative-security-assurances