

# Preparatory Committee for the 2015 Review Conference of the Parties to the Treaty on the Non-Proliferation of Nuclear Weapons

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### Nuclear-weapon-free zones and negative security assurances

#### Working paper submitted by the members of the Non-Proliferation and Disarmament Initiative (Australia, Canada, Chile, Germany, Japan, Mexico, the Netherlands, Poland, Turkey and the United Arab Emirates)

1. Nuclear-weapon-free zones are not an end in themselves but rather a means for enhancing global and regional peace and security pending the total elimination of nuclear weapons. In accordance with the 1999 Guidelines of the United Nations Disarmament Commission as contained in document A/54/42, the establishment of internationally recognized nuclear-weapon-free zones on the basis of arrangements freely arrived at among the States of the region concerned, contributes to the implementation of the Treaty on the Non-Proliferation of Nuclear Weapons, as nuclear-weapon-free zones strengthen and increase the nuclear non-proliferation obligations of non-nuclear-weapon States to refrain from acquiring nuclear weapons, and to develop and use nuclear energy solely for peaceful purposes and in accordance with the safeguards established by the International Atomic Energy Agency (IAEA).
2. The nuclear-weapon-free zones created by the Treaty for the Prohibition of Nuclear Weapons in Latin America and the Caribbean (Treaty of Tlatelolco), the South Pacific Nuclear Free Zone Treaty (Treaty of Rarotonga), the Treaty on the South-East Asia Nuclear-Weapon-Free Zone (Treaty of Bangkok), the African Nuclear-Weapon-Free Zone Treaty (Treaty of Pelindaba) and the Treaty on a Nuclear-Weapon-Free Zone in Central Asia (Treaty of Semipalatinsk) gather 113 States parties to the Non-Proliferation Treaty, which have freely chosen to form these zones. Additionally, Mongolia has declared its nuclear-weapon-free status.
3. In the advisory opinion of the International Court of Justice on the *Legality of the Threat or Use of Nuclear Weapons*, of 1996, the Court decided unanimously, inter alia, that “there is in neither customary nor conventional international law any specific authorization of the threat or use of nuclear weapons”, and that “a threat or use of force by means of nuclear weapons that is contrary to Article 2, paragraph 4, of the United Nations Charter and that fails to meet all the requirements of Article 51, is unlawful”.
4. In this regard, while the only absolute guarantee against the use or threat of use of nuclear weapons is their total elimination, non-nuclear-weapon States have a legitimate interest in receiving unequivocal and legally binding security assurances



from nuclear-weapon States not to use or threaten to use nuclear weapons against them.

5. The action plan adopted at the 2010 Review Conference of the Parties to the Treaty on the Non-Proliferation of Nuclear Weapons stated that “the Conference on Disarmament should, within the context of an agreed, comprehensive and balanced programme of work, immediately begin discussion of effective international arrangements to assure non-nuclear-weapon States against the use or threat of use of nuclear weapons, to discuss substantively, without limitation, with a view to elaborating recommendations dealing with all aspects of this issue, not excluding an internationally legally binding instrument” (action 7).

6. Additionally, action 8 contained the commitment of all nuclear-weapon States “to fully respect their existing commitments with regard to security assurances”, and that “[t]hose nuclear-weapon States that have not yet done so are encouraged to extend security assurances to non-nuclear-weapon States parties to the Treaty”.

7. Action 9 encouraged “[t]he establishment of further nuclear-weapon-free zones, where appropriate, on the basis of arrangements freely arrived at among States of the region concerned, and in accordance with the 1999 Guidelines of the United Nations Disarmament Commission”. Further, “[a]ll concerned States are encouraged to ratify the nuclear-weapon-free zone treaties and their relevant protocols, and to constructively consult and cooperate to bring about the entry into force of the relevant legally binding protocols of all such nuclear-weapon free zones treaties, which include negative security assurances”, and to “review any related reservations”.

8. Even though the nuclear-weapon States have indicated they support the granting of negative security assurances to parties to treaties forming nuclear-weapon-free zones, to date, the respective protocols of the treaties of Rarotonga, Pelindaba, Bangkok and Semipalatinsk have not been signed or ratified by one or more nuclear-weapon States; while the protocols of the Treaty of Tlatelolco have been signed and ratified but with reservations and interpretative declarations by nuclear-weapon States.

9. In view of these issues, the Non-Proliferation and Disarmament Initiative considers that the 2015 Review Conference should:

(a) Reiterate that, while the total elimination of nuclear weapons is the only absolute guarantee against the use or threat of use of nuclear weapons, interim measures should be considered;

(b) Urge all nuclear-weapon States to recognize the value of nuclear-weapon-free zones by taking all necessary measures to bring into force the pending protocols to the nuclear-weapon-free zone treaties;

(c) Call upon all nuclear-weapon States to withdraw any reservations or interpretative declarations made to the nuclear-weapon-free zone treaties and their protocols contrary to the object and purpose of such treaties;

(d) Urge all nuclear-weapon States to respect fully their existing commitments with regard to security assurances;

(e) Encourage those nuclear-weapon States that have not yet done so to extend security assurances to non-nuclear-weapon States parties to the Treaty; and

(f) Continue the discussion of effective international arrangements to assure non-nuclear-weapon States against the use or threat of use of nuclear weapons.