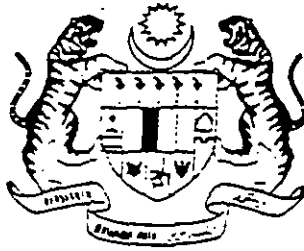


Note Verbale dated 19 June 1995 from the Embassy of Malaysia, together
with Written Statement of the Government of Malaysia



BOE 30/95

The Embassy of Malaysia presents its compliments to the Registry of the International Court of Justice and with reference to the United Nations General Assembly (UNGA) Resolution 49/75K requesting the International Court of Justice to provide an advisory opinion on the question of the legality of the use of threat of use of nuclear weapons, has the honour to submit the faxed statement by the Government of Malaysia in support of the application by the UNGA.

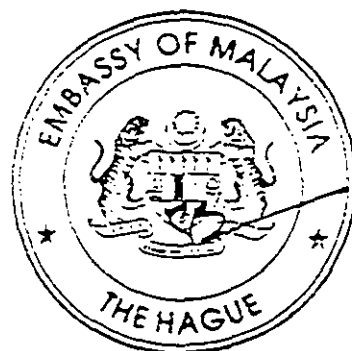
The Embassy has further the honour to inform that it will be submitting the original copy to the Registry in due course.

The Embassy of Malaysia avails itself of this opportunity to renew to the Registry of the International Court of Justice the assurances of its highest consideration.

The Hague,

19th June, 1995

Office of the Registrar
International Court of Justice
Peace Palace
2517 KJ THE HAGUE.



STATEMENT

by

THE GOVERNMENT OF MALAYSIA

in support of the

APPLICATION BY THE UNITED NATIONS GENERAL ASSEMBLY

for an

ADVISORY OPINION BY THE INTERNATIONAL COURT OF JUSTICE

on

THE LEGALITY OF THE THREAT OR USE OF NUCLEAR WEAPONS

QUESTION PRESENTED TO THE INTERNATIONAL COURT OF JUSTICE

Is the threat or use of nuclear weapons in any circumstance permitted under international law?

BACKGROUND

On 14 May 1993, the World Health Assembly adopted Resolution WHA 46.40, requesting the International Court of Justice to give an advisory opinion on the following question:

In view of the health and environmental effects, would the use of nuclear weapons by a State in war or other armed conflict be a breach of its obligations under international law including the WHO Constitution?

Upon receipt of this request from the Director-General of WHO, the Court set a term of 20 June 1994, later extended to 20 September 1994, for the submission of statements by member governments. Thirty-five states submitted statements, the majority arguing for an affirmative answer to the question asked. In accordance with the Court's Rules, all submissions were transmitted to all states which made submissions. The Court has set a term of 20 June 1995 for states to comment on each other's submissions.

On 15 December 1994, the General Assembly of the United Nations (UNGA), by resolution 49/75/K, requested the Court to give an advisory opinion on the following question:

Is the threat or use of nuclear weapons in any circumstance permitted under international law?

The Court has set a term of 20 June 1995 for the submission of statements relative to the question posed by the General Assembly, and 20 September 1995 as the deadline for responses to these statements.

It is expected that the Court will eventually consolidate the two questions, but it has not yet done so.

SUMMARY

This Statement endorses the arguments already before the Court supporting the thesis that any use of nuclear weapons is illegal under international law. In focusing on the question of threat, this Statement will argue that the threat of use of nuclear weapons is illegal because the law of peace and security, as it has evolved since the adoption of the

United Nations Charter , treats "threat or use" as a single, indivisible concept and because it is a general principle of law that the illegality of a particularly serious offence encompasses as well the illegality of the threat to commit such an offence.

I. INTRODUCTION

The possession of nuclear weapons by some states and not others, and the genocidal nature of these weapons, has created an unprecedented disparity of power between the nuclear "haves" and the nuclear "have-nots". As long as the nuclear weapon powers do not fulfil their solemn obligation under Article VI of the Nuclear Non-Proliferation Treaty "to pursue negotiations in good faith on effective measures relating to cessation of the nuclear arms race at an early date", this disparity will continue to exist and to lead eventually to the spread of nuclear weapons and nuclear war, which will constitute a threat to the survival of civilisation.

This threat is reinforced by the declared intention of the nuclear weapon states to base their security and national interest on nuclear deterrence and to reserve to themselves the right to use nuclear weapons in response to a perceived or actual threat of an attack. The very concept of deterrence is meaningless without a credible willingness to use nuclear weapons - hence, "deterrence" equals "threat to use".

Thus, the question posed by the General Assembly goes beyond the *jus in bello* query of the World Health Assembly and impinges on the area of *jus ad bellum*. But the doctrine of *jus ad bellum*, as elaborated since the enactment of Article 2(4) of the United Nations Charter, leaves no room for the legality of the threat of force under international law. Article 2(4) categorically prohibits the threat or use of force by one state against another. The only exception to this prohibition is Article 51, which preserves "the inherent right of individual or collective self-defence if an armed attack occurs against a Member of the United Nations". But nothing in Article 51 sanctions a standing threat - a threat *in futuro* - by one state against another, named or unnamed. It sanctions only the use of retaliatory force once an armed attack occurs. Its application is limited to the very brief time span following an attack. It cannot therefore sanction the threat of the use of force as a hypothetical matter inherent in the military doctrine of any state.

Furthermore, the use of force in self-defence is subject to the rules of *jus in bello*. Hence, if the use of nuclear

weapons is prohibited under the rubric of *jus in bello*, the threat to use nuclear weapons can never be sanctioned under the rubric of *jus ad bellum*.

II. THE LAW OF PEACE AND SECURITY (*JUS AD BELLUM*)

All States must avoid the threat or use of force in their relations with one another.

A. UNITED NATIONS CHARTER

The United Nations Charter specifically prohibits the threat or use of force. Under the UN Charter, Article 2(4):

All members 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.(1)

The prohibition on the threat or use of force under Article 2(4) has the status of *jus cogens*, a peremptory rule of international law.(2) Moreover, this prohibition extends to non-member States.(3)

The United Nations Charter permits the threat or use of force only in individual or collective self-defence, including Security Council enforcement measures. Under Article 51:

Nothing in the present Charter shall impair the inherent right of individual or 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....(4)

The Charter's prohibition on the threat or use of force, with the limited exception of self-defence, reflects a change in the development of international law. Historically, *Jus ad Bellum*, or the law of "just war", recognised the right of a state to resort to war for "just" reasons. In 1919, the Covenant of the League of Nations further limited a State's right to "resort to war".(5)

In 1928, the General Treaty for the Renunciation of War (Kellogg-Briand Pact, also known as the Paris Peace Pact of 27 August 1928) prohibited aggressive war "as an instrument of national policy" and "for the solution of international controversies".(6)

The language of the Charter prohibits the "threat or use of

force" rather than "resort to war", as the Covenant of the League of Nations did. The change in terminology reflects the recognition that a State might resort to the threat or use of force which does not rise to the level of war or resort to armed conflict without an open declaration of war.(7)

The League of Nations Covenant did, nevertheless, recognise the danger of threats in international relations. The Covenant declared "any war or threat of war" a matter of concern to the entire League and grounds for the League to take action to "safeguard the peace of nations".(8)

The principles behind the Kellogg-Briand Pact and the League of Nations Covenant provided a foundation for the United Nations Charter.(9) Thus, Article 2(3), which requires States to settle disputes peacefully, complements the prohibition on the threat or use of force.(10) Moreover, the Charter's preamble calls on States "to practise tolerance and live together in peace with one another as good neighbours". These affirmative obligations to cooperate peacefully would clearly be inconsistent with a legal regime that tolerates threats between States.

The Opening Statement by Mr Hans Corell, Under-Secretary-General for Legal Affairs at the United Nations, during the Congress on Public International Law in March 1995, reaffirmed the principles that law should govern the relations between States and that disputes should be resolved peacefully:

...let this Congress also be a resounding appeal to those who ultimately make the decisions that affect our destiny. To them, our message should be:

Yours is the responsibility to ensure that international law is applied and that legal advice is sought before important decisions are made in foreign policy matters...

And, if disputes occur, yours is the responsibility to refrain from the use of force and to make sure that these disputes are resolved by peaceful means.(11)

The preparatory work of the United States in anticipation of the creation of the United Nations reflects a concern with threats of force. A Memorandum containing "basic ideas which might be embodied in a constitution of an international organisation for the maintenance of peace and security" listed as the first among the functions and purposes of the organisation "to prevent the use of force or of threats to use force".(12) As the first of the principal obligations of a member state, the Memorandum listed "To refrain from the

use of force or threat to use force..."(13)

The proposals which emerged from the Dumbarton Oaks Conference, in preparation for the United Nations Conference in San Francisco, formed the basis of the UN Charter. At Dumbarton Oaks, the United States proposals were accepted as the basis for discussion and the structure they established was generally accepted.(14) The Dumbarton Oaks draft of the principle which became Article 2(4) read:

All members of the Organisation shall refrain in their international relations from the threat or use of force in any manner inconsistent with the purpose of the Organisation.(15)

Australia's amendment added the prohibition on threats or use of force "against the territorial integrity or political independence of any member or State."(16)

B. UNITED NATIONS RESOLUTIONS AND DECLARATIONS

Numerous United Nations resolutions and declarations have confirmed the principle that States shall refrain from the threat or use of force in their international relations.

The Declaration on Principles of International Law Concerning Friendly Relations and Cooperation Among States in Accordance with the Charter of the United Nations(17) reiterates the language of Article 2(4) and adds:

Such a threat or use of force constitutes a violation of international law and the Charter of the United Nations and shall never be employed as a means of settling international issues.(18)

The Declaration of the Inadmissibility of Intervention in the Domestic Affairs of States and the Protection of Their Independence and Sovereignty(19) states: "No state has the right to intervene ... in the internal or external affairs of any other . Consequently, armed intervention and all other forms of interference or attempted threats ... are condemned." The Declaration notes that intervention is not admissible "for any reason whatever."

The 1987 Declaration on the Enhancement of the Effectiveness of the Principle of Refraining from the Threat or Use of Force in International Relations affirms the principle of Article 2(4) and of the Declaration on Principles of International Law Concerning Friendly Relations, and adds:

The principle of refraining from the threat or use of force in international relations is universal in character and is binding, regardless of each State's political, economic, social or cultural system or relations of alliances.(20)

This Declaration provides further that "States have the duty to abstain from armed intervention and all other forms of interference or attempted threats against the personality of the State or against its political, economic and cultural elements."(21) In addition, neither acquisition nor occupation of territory resulting from the threat or use of force will be recognised as legal,(22) and a treaty procured by the threat or use of force is void.(23)

The Final Document of the First Special Session of the United Nations General Assembly on Disarmament stated that "[State members] stress the special importance of refraining from the threat or use of force against the sovereignty, territorial integrity or political independence of any State, or against peoples under colonial or foreign domination..."(24)

Additional Declarations, which affirm the principle of refraining from threat or use of force include: Essentials of Peace,(25) Declaration on the Strengthening of International Security,(26) Declaration on the Inadmissibility of Intervention and Interference in the Internal Affairs of States,(27) and Declaration on the Prevention and Removal of Disputes and Situations Which May Threaten International Peace and Security and on the Role of the United Nations in This Field.(28)

C. COLLECTIVE SECURITY TREATIES

A number of collective security treaties confirm the symbolic nature of threat or use of force. The North Atlantic Treaty (the NATO Treaty)(29) requires State Parties "to refrain in their international relations from the threat or use of force in any manner inconsistent with the purposes of the United Nations." Similarly, the now-lapsed Treaty of Friendship, Cooperation and Mutual Assistance (the Warsaw Pact)(30) requires Contracting Parties "to refrain in their international relations from the threat or use of force."

The Final Act of the Conference on Security and Cooperation in Europe(31) requires States participating to refrain from the threat or use of force, repeating the language of the Charter. Moreover, "no consideration may be invoked to serve to warrant resort to the threat or use of force in contravention of this principle" and "no such threat or use of force will be employed as a means of settling disputes, or

questions likely to give rise to disputes...."

The American Treaty on Pacific Settlement(32) requires the contracting parties to "...refrain from the threat or the use of force, or from any other means of coercion for the settlement of their controversies..."

The Convention on the Rights and Duties of States(33) holds that "No state has the right to intervene in the internal or external affairs of another."

In addition, the Charter of the Organisation of American States(34) provides:

No State or group of States has the right to intervene, directly or indirectly, for any reason whatever, in the internal or external affairs of any other States. The foregoing principle prohibits not only armed forces but also any other form of interference or attempted threat against the personality of the State or against its political, economic and cultural elements.

D. THE NUREMBERG PRINCIPLES

The General Assembly unanimously affirmed "the principles of international law recognised by the Charter of the Nuremberg Tribunal and the judgement of the Tribunal." (35) The principles "have since been universally considered to constitute an authoritative statement of the rules of customary international law." (36) The Nuremberg offences "correspond largely to the obligations imposed by certain rules of jus cogens". (37)

The principles as codified by the International Law Commission(38) define crimes against peace as:

- (i) Planning, preparation, initiation or waging of a war of aggression or a war in violation of international treaties, agreements or assurances.
- (ii) Participation in a common plan or conspiracy for the accomplishment of any of the acts mentioned under (i).

A crime against peace is "a culpable violation of the jus ad bellum". (39)

Planning and preparing for aggression are thus clearly proscribed. In addition, the Nuremberg principles support the proscription of planning and preparation for war crimes and crimes against humanity. A war involving such crimes would be

a "war in violation of international treaties, agreements or assurances".

E. OPINIO JURIS

The United Nations Charter and the treaties and resolutions cited above do not distinguish between the legal status of the threat to use force and that of the use of force itself. Both are equally prohibited. Indeed, "if the promise is to resort to force in conditions in which no justification for the use of force exists, the threat itself is illegal." (40)

The significance of the prohibition on threats of force becomes apparent when one considers the implications for previously accepted legal norms. Oppenheim's discussion of threats of force in relation to the obligation to issue an ultimatum before resorting to war suggests that the prohibition on the threat of force overrides previously accepted and codified legal standards:

In so far as the Charter of the United Nations prohibits not only acts of force but also threats of force, the question arises as to the operation, as between the Members of the United Nations, of the provisions of the Hague Convention in the matter of ultimatum and, to some extent, of declaration of war. If it is unlawful for Members of the United Nations to threaten another State with the use of force, how can they properly be in a position to comply with the obligation to issue an ultimatum prior to resorting to war? The correct answer is probably that, as between Members of the United Nations, these provisions of the Hague Convention, although not directly conflicting with the Charter, are substantially obsolete. (41)

The prohibition of the threat of force applies even where the threat is not carried out. As Professor Oscar Schachter notes:

The preponderance of military strength in some states and their political relations with potential target states may justifiably lead to an inference of a threat of force against the political independence of the target state....and the applicability of Article 2(4) in principle can hardly be denied. (42)

However, even though relative military strength and political relations can create situations of threat, "curiously Article 2(4) has not been invoked much as an explicit prohibition of such implied threats." (43) According to Schachter, this may be due to the "difficulty of demonstrating coercive intent"

or to the widespread, though not unlimited, tolerance for disparities of power.(44)

An alternative explanation for the underuse of the prohibition on threat in Article 2(4) is the difficulty of invoking it effectively. Since the authority to do so lies with the Security Council, the failure of the non-permanent members to exercise that authority does not so much indicate their tolerance of implied or actual threats by the permanent members (who are also the declared nuclear weapon states) but rather their recognition of the realities of power disparities and the veto power of the permanent members.

International legal scholars differ somewhat in their analyses of what constitutes a threat of force and what the role of threats is in international law. According to Ian Brownlie, a threat "consists in an express or implied promise by a government of a resort to force conditional on non-acceptance of certain demands of that government."(45) Romana Sadurska regards a threat in the international arena as "a message, explicit or implicit, formulated by a decision-maker and directed to the target audience, indicating that force will be used if a rule or demand is not complied with."(46) Both experts suggest that use of force is conditional on the target's response to the threat and that the threat might be "implicit" or "implied", as well as "explicit" or "express".

In the Fisheries Jurisdiction Case(47), a dissenting opinion by Judge Padilla Nervo examines the nature of threats:

A big power can use force and pressure against a small nation in many ways, even by the very fact of diplomatically insisting in having its views recognised and accepted. The Royal Navy did not need to use armed force, its mere presence on the seas inside the fishery limits of the coastal State could be enough pressure. It is well known by professors, jurists and diplomats acquainted with international relations and foreign policies that certain "Notes" delivered by the government of a strong power to the government of a small nation, may have the same purpose and the same effect as the threat or use of force.(48)

F. THREATS OF AGGRESSION

A threat of force alone does not constitute an "act of aggression" under the UN "Definition of Aggression" Resolution.(49) In fact, the Definition suggests that not all uses of force constitutes acts of aggression, noting in the Preamble that "aggression is the most serious and dangerous form of the illegal use of force."(50)

The International Law Commission incorporated the General Assembly's definition of aggression in the Draft Code of Crimes Against Peace and Security of Mankind.(51) Significantly, the Draft Code includes a separate article for the crime of the Threat of Aggression:(52)

1. An individual who, as leader or organiser, commits or orders the commission of a threat of aggression shall, on conviction thereof, be sentenced.....
2. Threat of aggression consists of declarations, communications, demonstrations of force or any other measures which would give good reason to the Government of a State to believe that aggression is being seriously contemplated against that State.

The International Law Commission Report on the Draft Code to the General Assembly notes that in the context of this article, "the word 'threat' denotes acts undertaken with a view to making a State believe that force will be used against it if certain demands are not met by that State."(53)

The Commission was careful to link the acts of an individual, who commits a crime against peace and security, with the State. Only individuals "vested with the authority of the State" have the potential to commit this offence.(54) However, the State is not exempted from responsibility for the crime. Thus, although the Draft Code places the liability directly on the individual,(55) it also provides that:

Prosecution of an individual for a crime against the peace and security of mankind does not relieve a State of any responsibility under international law for an act or omission attributable to it.(56)

The Commission also noted the importance of defining a crime of threat of aggression, particularly since powerful states have the potential to achieve improper objectives without committing an actual act of aggression.(57) Indeed, the Sixth Committee of the General Assembly, in its review of the Commission Report, noted that "there had been many cases of States that had lost their independence through threats and ultimatums."(58) The record went on to note:

Contemporary international law prohibited not only the use of force, but also the threat of use of force, and thus its inclusion in the code would affirm the position of the international community in that regard.(59)

The Draft Code of Crimes Against the Peace and Security of Mankind reflects the recent development of the concept of

crimes against peace.

III. SPECIFIC LAW REGARDING THE THREAT OF USE OF NUCLEAR WEAPONS

The Charter of the United Nations was adopted in San Francisco on 26 June 1945, six weeks before the first use of the atom bomb on 6 August 1945.(60) Had this time sequence been reversed, the Charter might well have contained a specific prohibition on the threat and use of nuclear weapons and other weapons of mass destruction.

The concern of the world community with the awesome, destructive power of the atom bomb was evidenced by the fact that the first resolution adopted by the United Nations dealt with the subject of atomic energy and called, *inter alia*, "for the elimination from national armaments of atomic weapons and all other weapons adaptable to mass destruction..."(61)

A. TREATIES

The preamble of the Treaty on the Non-Proliferation of Nuclear Weapons(62) calls for "the cessation of the manufacture of nuclear weapons, the liquidation of all their existing stockpiles, and the elimination from national arsenals of nuclear weapons and their means of delivery..." Specifically, the Treaty prohibits the manufacture or acquisition of nuclear weapons by non-nuclear weapon states,(63) and it requires nuclear weapon states to "pursue negotiations in good faith on effective measures relating to cessation of the nuclear arms race at an early date and to nuclear disarmament."(64) The threat of use of nuclear weapons is inconsistent with the general purpose and goal of the Treaty as well as the specific requirements of State parties.

The South Pacific Nuclear Free Zone Treaty prohibits the manufacture, acquisition, possession or control of nuclear weapons.(65) The Treaty for the Prohibition of Nuclear Weapons in Latin America prohibits the testing, use, manufacture or acquisition of nuclear weapons, directly or indirectly, by parties to the treaty or within the region defined by the treaty.(66)

The pattern in international law regarding weapons of mass destruction is to prohibit not only the use but also the manufacture and acquisition of these weapons. The treaties discussed above seek to eliminate both the use and the threat

to use nuclear weapons, but in no instance do they prohibit the use of nuclear weapons. Similarly, treaties on other weapons of mass destruction, namely biological weapons(67) and chemical weapons(68), also link threat and use. The illegality of the threat to use these weapons is underscored by provisions calling for their destruction.(69)

B. SECURITY COUNCIL RESOLUTIONS

Resolution 984 (11 April 1995) gives non-nuclear states assurances from the nuclear states that nuclear weapons will not be threatened or used against them. All of the declared nuclear weapon states supported this resolution.

Resolution 225 of the Security Council provides that aggression or the threat of aggression with nuclear weapons against a non-nuclear weapon state would require the Security Council to act immediately.(70)

Resolutions 984 and 225 therefore implicitly recognise the illegality of the threat and use of nuclear weapons against a non-nuclear weapon state. A legal act would not require assurances against use nor require a Security Council response.(71)

C. UNITED NATIONS GENERAL ASSEMBLY, CONFERENCE ON DISARMAMENT, AND DISARMAMENT COMMISSION

As discussed above, the framers of the UN Charter could not be aware of the threat of nuclear weapons, but the first United Nations resolution addressed the elimination of these weapons.(72)

Another early resolution of the General Assembly(73) reaffirms the prohibition on the threat or use of force and, in this context, calls on the Disarmament Commission to develop comprehensive plans providing for the "elimination and prohibition of all major weapons...adaptable to mass destruction"(74) and, specifically, the "effective international control of atomic energy to ensure the prohibition of atomic weapons...."(75)

The issue of assurances for non-nuclear weapon states against the use or threat of use of nuclear weapons has received overwhelming support from the international community. The General Assembly has passed numerous resolutions affirming the urgency of reaching an early agreement on effective international measures to assure non-nuclear weapon states against the use or threat of use of nuclear weapons.(76)

Significantly, no state has opposed the conclusion of these assurances.

The conclusion of effective international arrangements to assure non-nuclear weapon states against the use or threat of use of nuclear weapons has been a key agenda item of the UN Conference on Disarmament, and the Ad Hoc Committee established to review this item has consistently been re-established at the start of each annual session. Most recently, the Committee's report, adopted by the Conference on Disarmament, noted as follows:

All delegations reiterated that they attach particular importance to the question of international arrangements to assure non-nuclear weapon states against the use or threat of use of nuclear weapons and expressed their readiness to engage in a search for a mutually acceptable solution of the issue.(77)

In addition, the Report of the Conference "stressed the necessity to recognise the right of non-nuclear weapon states not to be attacked nor threatened with these weapons."(78) It is significant that, in referring to this right, the Report called for its recognition rather than its creation.

The complete elimination of nuclear weapons has been a constant and recurring objective of the Disarmament Commission and the Conference on Disarmament.(79)

In addition, the General Assembly has passed over 100 resolutions stating nuclear disarmament or the elimination of nuclear weapons as a goal.(80) Thus, the majority of states do not accept the necessity argument for deterrence. A growing number of states have specifically prohibited nuclear weapons in their territory and have established, or are in the process of establishing, nuclear weapon-free zones.

D. THE NON-DEROGABLE RIGHT TO LIFE

The United Nations Human Rights Committee, which supervises the implementation of the International Covenant on Civil and Political Rights(81), has determined that nuclear weapons threaten the non-derogable right to life:

The designing, testing, manufacture, possession and deployment of nuclear weapons are among the greatest threats to the right to life which confront mankind today. The threat is compounded by the danger that the actual use of nuclear weapons may be brought about, not only in the event of a war, but even through human or mechanical error or failure.

Furthermore, the very existence and gravity of this threat generates a climate of fear and suspicion between states, which undermines the promotion of universal respect for and observance of human rights and fundamental freedoms in accordance with the Charter of the United Nations and the International Covenant of Human Rights.(82)

In other words, nuclear weapons both threaten the right to life and contribute to the spirit of mistrust among nations, compounding the likelihood of threats being carried out.. Moreover, the threat to use nuclear weapons conflicts with the commitment to provide children and families with the protection of society and the state(83,84)

The right to life is confirmed as well in the European Convention for the Protection of Human Rights and Fundamental Freedoms (85), and the American Convention on Human Rights(86). Under these Conventions, a derogation clause may be invoked in exceptional situations that threaten the life of the nation. However, the right to life is one of the four non-derogable rights which constitute the "irreducible core" of human rights(87). A non-derogable right is one that cannot be suspended by the State, even in times of public emergency.

Moreover, according to Judge Schwebel of the International Court of Justice, matters affecting international human rights obligations cannot be regarded as exclusively within the domestic jurisdiction of a particular state:

Once a state has undertaken obligations toward another state, or toward the international community, in a specified sphere of human rights, it may no longer maintain, vis-a-vis the other state or the international community, that matters in that sphere are exclusively or essentially within its domestic jurisdiction and outside the range of international concern.(88)

Therefore, the manufacture, possession, deployment and threat of use of nuclear weapons, which violate the right to life, cannot be defended by nuclear weapon states on grounds that they are essential for defence in times of public emergency or as matters of domestic jurisdiction.

IV. THE THREAT OF USE OF NUCLEAR WEAPONS IS PROHIBITED IN ANY CIRCUMSTANCE

A. CORRELATION BETWEEN THREAT AND USE OF FORCE: THREAT IS USE

For purposes of the following analysis, it will be useful to

examine briefly the meanings of the terms "threat" and "force", both generically and within the context of the legal instruments relevant to this discussion.

The common meaning of "force" is "strength, energy, power". The normal meaning of "the use of force", within the context of Article 2(4) of the UN Charter, is the application of physical force of a military nature by one member state against another, as in the invasion of Kuwait by Iraq.

Upon closer examination, however, it becomes apparent that more is involved here than a trans-border launch of troops, tanks and missiles. Article 2(4) forbids the use of force not only against the territorial integrity of a state, but also against its political independence, or "in any other manner inconsistent with the purposes of the United Nations." If Article 2(4) had been aimed only at cross-border military action, it would not have been necessary to add this further clause.

What kind of force, then, other than military force in action, can be used by one state against the political independence of another, without affecting its territorial integrity? Non-military force, to be sure, as for instance the erection of tariff barriers or other economic measures, but also the open or veiled promise of the use of force, including armed force, if certain demands are not met. This interpretation is consistent with the definitions of "force" as "power to influence, affect or control", "persuasive power, power to convince".(89)

"Threat", on the other hand, is defined as "a declaration of an intention or determination to inflict punishment, injury, death, or loss on some one in retaliation for, or conditionally upon, some action or course...".(90)

Even more relevant, for present purposes, is the definition of "threat" in Black's Law Dictionary: "In criminal law...any menace of such a nature as to unsettle the mind of the person on whom it operates, and to take away from his acts that free and voluntary action which alone constitutes consent."

The United Nations Secretary General, in considering what constitutes a threat to use force, noted that "the person who utters the threat may not intend to carry it out, and the threat is then only a form of intimidation and blackmail."(91)

As one philosopher has noted:

Nuclear weapons are being used today and can be expected to

be used in the future. Not that they are being detonated... but that it is not a requirement of their being used. A man uses a gun when he sticks it in your ribs and demands your money. He does not need to fire the gun. And a country uses nuclear weapons when it makes known that it may launch them unless certain conditions are met, as the United States did against the Soviet Union in the Cuban Missile Crisis, against China during the Korean War, and against North Vietnam during the Vietnam War. And the very threat of retaliation that is at the heart of nuclear deterrence is a use of nuclear weapons, even if it is not the actual exploding of them.(92)

Thus, the concepts of "threat" and "use" in Article 2(4) merge into each other in most circumstances. The threat of use is itself a kind of use.

B. THE CONDITIONAL THREAT OF FORCE IS PROHIBITED
IN ANY CIRCUMSTANCE

As has been shown above in Section II, the prohibition on the threat of force for the purpose of altering another state's political independence runs like a mantra through the entire post-World War II laws and treaties of peace and security. Whatever the form of these conditional threats, it is clear that they are unequivocally outlawed by the United Nations Charter, many other international instruments and, indeed, the customary law of peace and security.

This being so, and considering that nuclear weapons represent the greatest conceivable instrument of threat available to any nation, the conditional threat to use nuclear weapons is, a fortiori, a gross violation of the law of peace and security.

C. A RETALIATORY THREAT TO USE NUCLEAR WEAPONS IS ILLEGAL
IN ANY CIRCUMSTANCE

Although no person or state may be deprived of the right to retaliate as a means of self-defence, this right is not unlimited. In exercising this right, no person or state may commit or threaten to commit a crime or illegal act. Hence, if, as has already been argued, the use of nuclear weapons is illegal in any circumstance, even by way of self-defence or reprisal, the use or threat to use nuclear weapons must also be illegal in any circumstance.(93)

Although this general proposition is dispositive of the question of the legality of retaliatory threats of nuclear weapons, it may be useful to examine somewhat more closely the forms which such threats may take.

1. THE THREAT OF FIRST USE

A threat of first use could include a threatened preemptive nuclear strike against a perceived nuclear or conventional attack or a threatened nuclear response to an actual conventional attack. Moreover, a threat of first use could be directed against developments falling short of the perception of an immediate attack. The essence of the current doctrine of "counter-proliferation" is that the nuclear weapon states reserve to themselves the right to use nuclear weapons to discourage "rogue states" from developing, not necessarily using, weapons of mass destruction, whether nuclear, chemical biological or other. Of the declared nuclear powers, only China has an official no-first-use policy.(94) The United States and the United Kingdom have repeatedly used threats of first use of nuclear weapons against both nuclear and non-nuclear weapon states.(95)

A threat of first use of nuclear weapons is a direct violation of jus ad bellum. The prohibition on the threat of force under the United Nations Charter covers threats of both conventional and nuclear weapons. The threat of first use is inherently a threat against the political independence and territorial integrity of another state. This is true not only when the threat is imminent and aimed at exacting specific changes but also, because of the unique nature of the weapons, when it is a longstanding posture not directly linked to specific demands. Any state, in actual or potential conflict with a nuclear state that has a first-use policy, recognises that the nuclear state has the weapons and the will to use these weapons, should it be deemed necessary by the nuclear state. This inevitably influences the decision-making of that state.

Furthermore, as a tool of unequalled intimidation and destruction, the first use of nuclear weapons can never satisfy the principle of proportionality, one of the foundations of the laws of war, since the magnitude of the event to which a preemptive strike is being made is necessarily a matter of speculation.

2. THE THREAT OF SECOND USE

The second use of nuclear weapons and therefore the threat of such use are not permitted under the law of reprisals, in which reprisals " must conform in all cases to the laws of humanity and morality".(96) "civilian populations...should not be the object of reprisals..."(97) Attacks against the civilian population or civilians by way of reprisals are prohibited".(98)

It is common ground that the laws of war apply equally to all weapons and tactics, including those of self-defence.(99) The use of genocide, torture or terrorist attacks by one state against another does not justify the use of genocide, torture or terrorist attacks in response. Hence, self-defence cannot justify the threat of use of nuclear weapons in self-defence.

3. DETERRENCE

The following statements appear in the US Joint Chiefs of Staff's 'Doctrine for Joint Nuclear Operations', published on 29 April 1993:

"The fundamental purpose of US nuclear forces is to deter the use of weapons of mass destruction, particularly nuclear weapons, and to serve as a hedge against the emergence of an overwhelming conventional threat."

"Deterrence is founded in real force capabilities and the national determination to use those forces if necessary."

"Deterrence is a defence posture that makes possible war outcomes so uncertain and dangerous, as calculated by potential enemies, as to remove all incentive for initiating attack under any circumstance."

"US forces and command and control systems must be viewed by enemy leadership as capable of inflicting such damage upon their military forces and means of support, or upon their country, as to deny them the military option."

Thus, the doctrine of deterrence implies a readiness and willingness:

- to use nuclear weapons;
- to inflict great damage on the enemy;
- if necessary, to inflict such damage on the enemy's country, not simply his military forces and means of support.

It is of the utmost importance to understand that the doctrine of deterrence cannot be seen as a purely defensive doctrine. As one analyst has noted:

The development of modern nuclear weapons and the systems needed to deliver them cannot be explained, if one insists on defining deterrence in an essentially defensive and reactive form. Instead, the modern concept of deterrence has evolved into something much closer to the traditional understanding of the role of military force in the pursuit of national objectives. Deterrence is now seen as "flexible" or "extended", and a "second-strike counterforce" capability is defended as part of a deterrent on the grounds that a credible (i.e. non-suicidal) response must be available if deterrence fails.(100)

Another analyst makes the following comment:

The theory of nuclear deterrence, far from being one of the great advances of our time....is so little understood in its conceptual foundations and so thoroughly confused in its implementation as to be practically useless from the standpoint of the rational, not to mention moral, guidance of policy. It may, in fact, ultimately prove disastrous.(101)

A recent United States Congressional study on the proliferation of weapons of mass destruction discussed the "potentially conflicting objectives" of nuclear non-proliferation and the nuclear powers' reliance on nuclear deterrence.(102) The study admits that "one way to reduce the appeal of nuclear weapons is to deemphasise the role that they play in international relations. But to do so would mean that the nuclear powers must rely on them less, weakening the credibility and utility of US nuclear deterrent threats.."(103).

V. THE ILLEGALITY OF THE THREAT TO COMMIT AN ILLEGAL ACT

International legal instruments, *opinio juris* and the general principles of law have recognised the principle that the threat to commit an illegal act is also illegal.

A. INTERNATIONAL LEGAL INSTRUMENTS

We have already seen that treaties on weapons of mass destruction prohibit possession, manufacture and use of these weapons.(104) Similarly, the Nuremberg Principles define as Crimes Against Peace the "planning" and "preparation" of war and the "initiation" or "waging of war".(105)

In addition, the Convention on the Prevention and Punishment of the Crime of Genocide(106) renders punishable not only genocide, but also conspiracy to commit genocide, direct and public incitement to commit genocide, attempt to commit genocide, and complicity in genocide, all of which might be perceived as the threat of genocide by the human targets of nuclear weapons.

CONCLUSION

The 1995 Review and Extension Conference of the Parties to the Treaty on Non-Proliferation of Nuclear Weapons has ended with two results which are significant for the consideration of the question before the Court:

1. The nuclear arsenals of both declared and undeclared nuclear weapon states remain intact, at a level variously estimated at 41,000 to 45,000 warheads.(107)
2. There is no unambiguous, binding commitment by the declared nuclear weapon states, much less the undeclared ones, to the ultimate abolition of all nuclear weapons, even in the distant future.

Thus, the subjective threat of use of nuclear weapons remains as an objective threat to the survival of all or part of the world's present population and of generations to come. If this threat were regarded as an epidemic of potentially incalculable proportions, like polio or small pox in bygone days and AIDS in the present, there would be no hesitation to mobilise all the medical and scientific resources of humanity to combat it. The only weapons available to combat the potential of a nuclear epidemic are common sense, our common code of morality, and the rule of law.

In the light of the arguments presented here and in the other Statements filed with the Court in support of both the World Health Organisation and UN General Assembly Advisory Opinion cases, this Court is respectfully requested to advise that the threat and use of nuclear weapons are not permitted under international law in any circumstance.

REFERENCES

- 1 United Nations Charter, Art 2, para 4.
- 2 According to the International Law Commission, "the great majority of international lawyers today unhesitatingly holds that Article 2(4) together with other provisions of the UN Charter, authoritatively declares the modern customary law regarding the threat or use of force." ILC Yearbook, 1966, vol. 2, p.247. The International Court of Justice affirmed this position in *Military and Paramilitary Activities In and Against Nicaragua (Nicaragua vs United States)*, Merits, 1986 ICJ Rep. 14, 98-101 (Judgement of June 27). In addition, the Restatement (Third) of Foreign Relations Law includes "the principles of the United Nations Charter prohibiting the use of force" among peremptory norms.
- 3 UN Charter art. 2, para 6 provides: The Organisation shall ensure that states which are not Members of the United Nations act in accordance with these Principles so far as may be necessary for the maintenance of international peace and security.
- 4 UN Charter art. 51. The Security Council, acting within the interests of collective security, has the authority to determine "the existence of any threat to the peace, breach of the peace, or act of aggression", UN Charter, art. 39. The Security Council is further authorised to determine and employ enforcement measures under Article 41 (not involving the use of armed force) and Article 42 (action involving the use of armed force).
- 5 League of Nations Covenant, art. 12, para 1, states: The Members of the League agree that if there should arise between them any dispute likely to lead to a rupture, they will submit the matter either to arbitration or judicial settlement or to inquiry by the Council, and they agree in no case to resort to war until three months after the award by the arbitrators or the judicial decision or the report by the Council.
- 6 46 Stat. 2343, T.S. No. 796, 2 Bevans 732, 99 L.N.T.S.57
- 7 N. Bentwich and A Martin, A COMMENTARY ON THE CHARTER OF THE UNITED NATIONS 13 (1950)
- 8 League of Nations Covenant, art. 11, para. 1.
- 9 J. Keegan, A HISTORY OF WARFARE 383 (1993); G Herczegh, The Prohibition of the Threat and Use of Force in Contemporary International Law, in QUESTIONS OF INTER-

NATIONAL LAW 70 (1964).

- 10 UN Charter, art. 2, para. 3, provides: All Members shall settle their international disputes by peaceful means in such a manner that international peace and security, and justice, are not endangered.
- 11 H. Corell, Opening Statement, United Nations Congress on Public International Law, New York, 13-17 March, 1995.
- 12 Memorandum for the President, Dec. 29, 1943, in US Dept of State, Postwar Foreign Policy Preparation, 1939-1945, Publication 3580 (February 195), Appendix 33, pp.376-81 (reproduced in R Russel, A HISTORY OF THE UNITED NATIONS CHARTER, App. F(1958))
- 13 Id.
- 14 E Luard, A HISTORY OF THE UNITED NATIONS, Vol. 1, 27 (1982). See also L. Goodrich & E. Hambro, CHARTER OF THE UNITED NATIONS: COMMENTARY AND DOCUMENTS 6 (2nd ed.1949)
- 15 Doc. 1 (English) G/1. UNCIO Documents, Vol.III, p.3.
- 16 Doc. 2 (English) G/14(1), May 5, 1945. UNCIO Documents, Vol.III , p. 543.
- 17 G.A. Res. 2625 (XXXV 1970)
- 18 Id., para. 1.
- 19 G.A. Res. 2131 (XX) (1965)
- 20 G.A. Res. 42/22 (XLII), para.2.
- 21 Id. para.7.
- 22 Id. para. 10.
- 23 Id. para. 11.
- 24 First Special Session of the General Assembly on Disarmament 1978, Final Document, para. 26.
- 25 G.A. Res. 290 (IV). Paragraph 3 calls upon every nation "to refrain from any threats or acts, direct or indirect, aimed at impairing the freedom, independence or integrity of any State..."
- 26 G.A. Res. 2734 (XXV). Paragraph 5 provides that the General Assembly: Solemnly reaffirms that every State has the duty to refrain from the threat or use of force against the territorial integrity and political independence of any other State...and that every State

Session, 31 U.N. GAOR Supp.(No.10) at 246, (1976) 2 Y.B. Int'l L. Comm'n (Pt. 2) at 104.

- 38 Report of the International Law Commission, 2nd Session, 5 U.N. GAOR Supp. (No. 12) 11, U.N. Doc.A/1316(1950), 2Y.B. Int'l L.Comm'n 374, U.N.Doc.A/Cn.4/SERA/1950/Add.1
- 39 H.McCoubrey and N.White, INTERNATIONAL LAW AND ARMED CONFLICT 334 (1992).
- 40 Brownlie, INTERNATIONAL LAW AND THE USE OF FORCE BY STATES (1963), p.364 (citing L.Oppenheim, INTERNATIONAL LAW: A TREATISE, Vol. II, 7th Ed (Ed.H. Lauterpacht, 1952); U.K. MANUAL OF MILITARY LAW, part iii (1958), para. 11).
- 41 L.Oppenheim, INTERNATIONAL LAW: A TREATISE, Vol. II, 297 (7th ed., H.Lauterpacht, ed. 1952).
- 42 O.Schachter, The Right of States to Use Armed Force, 82 MICH. L. REV. 1620, 1625 (1984).
- 43 Id.
- 44 Id. Schachter notes further that: A blatant and direct threat of force, used to compel another state to yield territory or make substantial political concessions (not required by law), would have to be seen as illegal under Article 2(4) if the words "threat of force" are to have any meaning.
- 45 Brownlie, supra note 40, at 364.
- 46 R.Sadurska, Threats of Force, 82 AM. J. INT'L L. 239,242 (1988). Sadurska argues that threats "may not be detrimental, indeed may even be beneficial, to the preservation of international order" but admits that "this is a precarious game" and that "an environment in which threats of force are regularly used is likely to be very unstable." Id., at 239-240,247,250,n.54.
- 47 United Kingdom v. Iceland, 1973 ICJ Rep. 3 (Judgement of 2 February).
- 48 Id. at 47.
- 49 G.A. Res. 3314 (XXIX 1974). Article 1 of the Definition states that: Aggression is the use of armed force by a State against the sovereignty, territorial integrity or political independence of another State, or in any other manner inconsistent with the Charter of the United Nations...
- 50 Id.

has the duty to refrain from organising, instigating, assisting or participating in acts of civil strife or terrorist acts in another State.

- 27 G.A. Res. 36/103. Paragraph 2 provides that: "The principle of non-intervention and non-interference in the internal and external affairs of States comprehends the following rights and duties...including, under II(a) the duty of States to refrain in their international relations from the threat or use of force in any form whatsoever...to disrupt the political, social or economic order of other States..."
- 28 G.A. Res. 43/51, Preamble:
Reaffirming the Declaration on Principles of International Law Concerning Friendly Relations and Cooperation Among States in Accordance with the Charter of the United Nations...and the Declaration on the Enhancement of the Effectiveness of the Principle of Refraining from the Threat or Use of Force in International Relations,

Recalling that it is the duty of States to refrain in their international relations from military, political, economic or any other form of coercion against the political independence or territorial integrity of any State...
- 29 63 Stat. 2241, T.I.A.S. No. 1964, 4 Bevans. 828, 34 V.A.T.S. 243 (1949) art.1.
- 30 219 U.N.T.S. 3 (1955) art.1.
- 31 14 I.L.M. 1292 (1975), also known as "the Helsinki Final Act", Section II, Refraining from the Threat or Use of Force.
- 32 Also known as the "Treaty of Bogota", 30 U.N.T.S. 55 (1948) Chapter 1, Art.I.
- 33 Also known as the "Treaty of Montevideo", 49 Stat.3097, T.S.No.881, Bevans 145, 165 L.N.T.S. 19 (1933) art. 8.
- 34 2 U.S.T. 2394, T.I.A.S. 2361, 119 U.N.T.S. 3 (1948) art.15.
- 35 G.A. Res. 95(I), 188 U.N. Doc. A/64/Add.1 (1946).
- 36 F.Boyle, The Relevance of International Law to the "Paradox" of Nuclear Deterrence, 80 Nw. U.L. Rev.1407, 1416 (1986) (citing I.Brownlie, INTERNATIONAL LAW AND THE USE OF FORCE BY STATES 154-213 (1963)).
37. Report of the International Law Commission, 28th

- 68 Convention on the Prohibition of the Development, Production, Stockpiling and Use of Chemical Weapons and on Their Destruction, opened for signature in Paris on 13 January 1993. A United Nations Treaty Series registration number will be assigned once it enters into force. Article I.1 provides: "Each State Party to this Convention undertakes never under any circumstances (a) to develop, produce, otherwise acquire, stockpile or retain chemical weapons ... (b) to use chemical weapons...."
- 69 Article II of the Biological Weapons Convention and Article I.2 of the Chemical Weapons Convention.
- 70 S.C. Res. 255 (1968). The relevant text reads as follows: The Security Council...recognises 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.
- 71 Supra note 5.
- 72 See supra notes 60 - 61 and accompanying text.
- 73 G.A. Res. 704 (VII) (1953).
- 74 Id. para. 2(a).
- 75 Id. para. 2(c).
- 76 E.g. G.A. Resolutions 49/73 (1994), 48/73 (1993), 47/50 (1992), 46/32 (1991), 45/54 (1990), 44/111 (1989), 43/69 (1988), 42/32 (1987), 41/52 (1986), 40/86 (1985), 39/58, 38/68 et al. All these resolutions bear the name "Conclusion of effective international arrangements to assure non-nuclear weapon states against the use or threat of use of nuclear weapons."
- 77 Report of the Conference on Disarmament, 49 U.N. GAOR Supp. (No.27) (Agenda Item 33) at 130-131, U.N. Doc. A/49/27 (1994).
- 78 Id.
- 79 E.g. Report of the Disarmament Commission, 49 U.N. GAOR Supp. (No. 42) (Agenda Item 4) at 4, U.N. Doc. A/49/42; Report of the Disarmament Commission, 48 U.N. GAOR Supp. (No.42) (Agenda Item 4) at 4 U.N. Doc. A/48/42; Report of the Conference on Disarmament, supra note 39, (Agenda Item 2) at 1; Report of the Conference on Disarmament, 47 U.N. GAOR Supp. (No.27)

- 51 Draft Code of Crimes Against the Peace and Security of Mankind, Report of the Commission of the General Assembly on the work of its 43rd session, 1991 Y.B. Int'l L. Comm'n vol II, part 2, art. 15, U.N. Doc. A/CN.4/SER.A/1991/Add.1(part 2).
- 52 Id. art. 16.
- 53 1989 Y.B. Int'l L. Comm'n, vol. 2, part 2, U.N. Doc. A/CN.4/SER.A/1989/Add.(part 2), p. 68.
- 54 1989 Y.B. Int'l L. Comm'n, vol. 1, U.N. Doc. A/CN.4/SER.A/1989, p. 296.
- 55 Article 3, Responsibility and Punishment.
- 56 Article 5.
- 57 1989 Y.B. Int'l L. Comm'n, vol. 1, supra note 51, at 294, para. 11 (statement of Mr Beesley).
- 58 U.N. GAOR Sixth Committee (31st mtg.) at 15, U.N. Doc. A/C.6/44/SR.31/ (1989) (statement of Mr Gondra).
- 59 Id.
- 60 Herczegh, supra note 9, at 88.
- 61 G.A. Res. 0101, Establishment of a Commission to Deal with the Problems Raised by the Discovery of Atomic Energy, adopted unanimously, para. 5(c) (1946).
- 62 21 U.S.T. 483, T.I.A.S. No. 6839, 729 U.N.T.S. 161, 7 I.L.M. 811 (1968).
- 63 Id. art. II.
- 64 Id. art. VI.
- 65 Also known as the Treaty of Rarotonga, 24 I.L.M. 1440, (1985), art.3.
- 66 Also known as the Treaty of Tlatelolco, 22 U.S.T. 762, T.I.A.S. No. 7137, 6 I.L.M. 521 (1967), art.1.
- 67 Convention on the Prohibition of the Development, Production, and Stockpiling of Bacteriological (Biological) and Toxin Weapons and on their Destruction, U.N. Res. 2826 (XXVI 1972), 26 U.S.T.583 T.I.A.S. No. 8062, 11 I.L.M. 309 (1972). Article 1 provides: "Each State Party to this Convention undertakes never in any circumstances to develop, produce, stockpile or otherwise acquire or retain" biological weapons.

(Agenda Item 2) at 2, U.N. Doc. A/47/27.

- 80 See Appendix A.
- 81 999 U.N.T.S. 171, 6 I.L.M. 368 (1967). Entered into force on March 23, 1976. Article 6, para. 1 reads: "Every human being has the inherent right to life. This right shall be protected by law. No one shall be arbitrarily deprived of his life."
- 82 Report of the Human Rights Committee, General Comment 14(23) on Article 6 of the Covenant, 2 November 1984: U.N. GAOR (40th Session) Supp. (No. 40), Annex VI, 162, U.N. Doc. A/40/40.
- 83 ICCPR, art.24.
- 84 ICCPR, art.23.
- 85 213 U.N.T.S. 221, E.T.S. 5 (1950), art. 2.
- 86 O.A.S. Official Records OEA/SER. K/XVI/1.1 Doc. 65, Rev. 1, Corr.1, 9 ILM 101 (1970), 65 A.J.I.L. 679 (1971), art. 4.
- 87 J.Oraa, HUMAN RIGHTS IN STATES OF EMERGENCY IN INTERNATIONAL LAW 96 (1992).
- 88 S.Schwebel, Human Rights in the World Court, 24 VAND. J. TRANSNAT'L L.945 (1991).
- 89 Random House Dictionary of the English Language, Third Unabridged Edition.
- 90 Id.
- 91 Secretary General of the United Nations, Report on the Question of Defining Aggression, U.N. Doc. A/2211 at 51 (Oct. 3, 1952) para. 368. (Reprinted in Henkin, Pugh et al., INTERNATIONAL LAW: CASES AND MATERIALS 894-896 (Third ed., 1993).
- 92 R.L.Holmes, ON WAR AND MORALITY 8 (1989).
- 93 Brownlie, supra note 40; Oppenheim, supra note 41.
- 94 NUCLEAR WEAPONS: A COMPREHENSIVE STUDY Appendix I, U.N. Sales No. E.91.IX.10 (1990).
- 95 Daniel Ellsberg, Call to Mutiny in THE DEADLY CONNECTION: NUCLEAR WAR AND US INTERVENTION, American Friends Services Committee, 1983.

- 96 Art. 86, Manual Published by the Institute of International Law (Oxford Manual), 1880. Schindler and Toman, The Laws of Armed Conflict, p.48.
- 97 Par. 7, G.A. Res. 2675 (XXV), 1970, Basic Principles for the Protection of Civilian Populations in Armed Conflicts, adopted by 109 votes to none, with 18 states abstaining or absent.
- 98 Art. 51(6), Protocol I Additional to the Geneva Conventions, 1977. The Protocol also prohibits reprisals against civilian objects (Art. 52[1]), cultural objects and places of worship (Art. 53[c]), objects indispensable to the survival of the civilian population (Art. 54[4]), the natural environment (Art. 55[2]) and works and installations containing dangerous forces, namely dams, dykes, and nuclear generating stations (Art. 56[4]).
- 99 "Whatever may be the cause of a war that has broken out, and whether or no the cause may be a so-called just cause, the same rules of international law are valid as to what must not be done, may be done, and must be done by the belligerents themselves in making war against each other." U.S. v. Wilhelm List et al. (Hostage Case), 11 Trials of War Criminals 1247 (1950). The quoted statement was made by international lawyer L. Oppenheim and adopted by the tribunal.
- 100 A. Krass, Deterrence and Its Contradictions, in TOWARD NUCLEAR DISARMAMENT AND GLOBAL SECURITY 219 (B. Weston, ed., 1984).
- 101 Holmes, *supra* note 92, at 259.
- 102 U.S. Congress, Office of Technology Assessment, Proliferation of Weapons of Mass Destruction: Assessing the Risks, OTA-ISC-559 (Washington, D.C.: U.S. Government Printing Office, August 1993) pp. 25-29.
- 103 *Id.* at 28.
- 104 *Supra* Section III.A.
- 105 *Supra* Section II.D.
- 106 78 U.N.T.S. 277 (1948)
- 107 The Center for Defense Information, Nuclear Weapon Facts, 1995. If the Treaty on the Reduction and Limitation of Strategic Offensive Arms II (START II) is fully carried out, the estimated number of warheads in the year 2003 would be 20,000 to 22,000.

APPENDIX A

RESOLUTIONS STATING NUCLEAR DISARMAMENT OR THE ELIMINATION OF NUCLEAR WEAPONS AS A GOAL

(Listed in chronological order)

Establishment of a commission to deal with the problems raised by the discovery of atomic energy, G.A. Res. 1, 1(1) U.N. GAOR at 9, U.N. Doc. A/64 (1946) (unanimous).

Principles governing the general regulation and reduction of Armaments, G.A. Res. 41, 1(2) U.N. GAOR at 65, U.N. Doc A/64/Add.1 (1946) (unanimous).

Reports of the Atomic Energy Commission, G.A. Res. 191, 3(1) U.N. GAOR at 16, U.N. Doc. A/810 (1948) (40 in favor - 6 opposed - 4 abstention).

Prohibition of the atomic weapon and reduction by one-third of the armaments and armed forces of the permanent members of the Security Council, G.A. Res. 192, 3(1) U.N. GAOR at 17, U.N. Doc. A/810 (1948) (43 in favor - 6 opposed - 1 abstention).

Essentials of peace, G.A. Res. 290, 4 U.N. GAOR at 13, U.N. Doc. A/1251 (1949) (53 in favor - 5 opposed - 1 abstention).

Peace through deeds, G.A. Res. 380, 5 U.N. GAOR at 13, U.N. Doc. A/1775 (1950) (50 in favor - 5 opposed - 1 abstention).

International control of atomic energy, G.A. Res. 496, 5 U.N. GAOR Supp. (No. 20) at 80, U.N. Doc. A/1775 (1950) (47 in favor - 5 opposed - 3 abstentions).

Regulation, limitation and balanced reduction of all armed forces and all armaments; international control of atomic energy, G.A. Res. 502, 6 U.N. GAOR Supp. (No. 20) at 1, U.N. Doc. A/2119 (1952) (42 in favor - 5 opposed - 7 abstentions).

Regulation, limitation and balanced reduction of all armed forces and all armaments: report of the Disarmament Commission, G.A. Res. 704, 7 U.N. GAOR Supp. (No. 20A) at 3, U.N. Doc. A/2361/Add. 1 (1953) (52 in favor - 5 opposed - 3 abstentions).

Regulation, limitation and balanced reduction of all armed forces and all armaments: report of the Disarmament Commission, G.A. Res. 715, 8 U.N. GAOR Supp. (No. 17) at 3, U.N. Doc. A/2630 (1953) (54 in favor - none opposed - 5 abstentions).

Regulation, limitation and balanced reduction of all armed forces and all armaments: report of the Disarmament Commission; Conclusion of an international convention (treaty) on the reduction of armaments and the prohibition of atomic, hydrogen and other weapons of mass destruction, G.A. Res. 808, 9 U.N. GAOR Supp. (No. 21) at 119, U.N. Doc. A/2890 (1954) (unanimous).

Declaration on the prohibition of the use of nuclear and thermonuclear weapons, G.A. Res. 1653, 16 U.N. GAOR Supp. (No. 17) at 4, U.N. Doc. A/5100 (1961) (55 in favor - 20 opposed - 26 abstentions).

Non-proliferation of nuclear weapons, G.A. Res. 2028, 20 U.N. GAOR Supp. (No. 14) at 7, U.N. Doc. A/6014 (1965) (93 in favor - none opposed - 5 abstentions).

Question of convening a conference for the purpose of signing a convention on the prohibition of the use of nuclear and thermonuclear weapons, G.A. Res. 2164, 21 U.N. GAOR Supp. (No. 16) at 12, U.N. Doc. A/6316 (1966) (80 in favor - none opposed - 23 abstentions).

Conclusion of a convention on the prohibition of the use of nuclear weapons, G.A. Res. 2289, 22(1) U.N. GAOR Supp. (No. 16) at 14, U.N. Doc. A/6716 (1967) (77 in favor - none opposed - 29 abstentions).

Question of general and complete disarmament, G.A. Res. 2342, 22(1) U.N. GAOR Supp. (No. 16) at 15, U.N. Doc. A/6716 (1967) (113 in favor - none opposed - 1 abstention).

Treaty on the Non-Proliferation of Nuclear Weapons, G.A. Res. 2373, 22(2) U.N. GAOR Supp. (No. 16A) at 5, U.N. Doc. A/6716/Add. 1 (1968) (94 in favor - 4 opposed - 21 abstentions).

Question of general and complete disarmament, G.A. Res. 2454(B), 23 U.N. GAOR Supp. (No. 18) at 12, U.N. Doc. A/7218 (1968) (109 in favor - none opposed - 4 abstentions).

Conference of Non-Nuclear-Weapon States, G.A. Res. 2456(A), 23 U.N. GAOR Supp. (No. 18) at 13, U.N. Doc. A/7218 (1968) (103 in favor - 7 opposed - 5 abstentions).

Conference of Non-Nuclear-Weapon States, G.A. Res. 2456(B), 23 U.N. GAOR Supp. (No. 18) at 13, U.N. Doc. A/7218 (1968) (98 in favor - none opposed - 16 abstentions).

Question of general and complete disarmament, G.A. Res. 2602(E), 24 U.N. GAOR Supp. (No. 30) at 14, U.N. Doc. A/7630 (1969) (104 in favor - none opposed - 13 abstentions).

Declaration on the Strengthening of International Security, G.A. Res. 2734, 25 U.N. GAOR Supp. (No. 28) at 22, U.N. Doc. A/8028 (1970) (120 in favor - 1 opposed - 1 abstention).

Economic and social consequences of the armaments race and its extremely harmful effects on world peace and security, G.A. Res. 2831, 26 U.N. GAOR Supp. (No. 29) at 35, U.N. Doc. A/8429 (1971) (111 in favor - 1 opposed - 3 abstentions).

World Disarmament Conference, G.A. Res. 2833, 26 U.N. GAOR Supp. (No. 29) at 4, U.N. Doc. A/8429 (1971) (adopted by acclamation).

World Disarmament Conference, G.A. Res. 2930, 27 U.N. GAOR Supp. (No. 30) at 15, U.N. Doc. A/8730 (1972) (105 in favor - none opposed - 1 abstention).

Non-use of force in international relations and permanent prohibition of the use of nuclear weapons, G.A. Res. 2936, 27 U.N. GAOR Supp. (No. 30) at 5, U.N. Doc. A/8730 (1972) (73 in favor - 4 opposed - 46 abstentions).

Declaration and establishment of a nuclear-free zone in South Asia, G.A. Res. 3265(A), 29 U.N. GAOR Supp. (No. 31) at 29, U.N. Doc. A/9631 (1974) (104 in favor - 1 opposed - 27 abstentions).

Declaration and establishment of a nuclear-free zone in South Asia, G.A. Res. 3265(B), 29 U.N. GAOR Supp. (No. 31) at 30, U.N. Doc. A/9631 (1974) (96 in favor - 2 opposed - 36 abstentions).

Economic and social consequences of the armaments race and its extremely harmful effects on world peace and security, G.A. Res. 3462, 30 U.N. GAOR Supp. (No. 34) at 17, U.N. Doc. A/10034 (1975) (adopted without a vote).

General and complete disarmament, G.A. Res. 31/189 C, 31 U.N. GAOR Supp. (No. 39), Vol. I, at 45, U.N. Doc. A/31/39 (1976) (95 in favor - none opposed - 33 abstentions).

Review of the implementation of the recommendations and decisions adopted by the General Assembly at its tenth special session, G.A. Res. 33/71 B, 33 U.N. GAOR Supp. (No. 45) at 48, U.N. Doc. A/33/45 (1978) (103 in favor - 18 opposed - 18 abstentions).

General and complete disarmament, G.A. Res. 32/87 G, 32 U.N. GAOR Supp. (No. 45) at 55, U.N. Doc. A/32/45 (1977) (134 in favor - 2 opposed - no abstentions).

General and complete disarmament, G.A. Res. 33/91 C, 33 U.N. GAOR Supp. (No. 45) at 60, U.N. Doc. A/33/45 (1978) (127 in favor - 1 opposed - 10 abstentions).

General and complete disarmament, G.A. Res. 33/91 H, 33 U.N. GAOR Supp. (No. 45) at 62, U.N. Doc. A/33/45 (1978) (108 in favor - 10 opposed - 16 abstentions).

Review of the implementation of the recommendations and decisions adopted by the General Assembly at its tenth special session, G.A. Res. 34/83 J, 34 U.N. GAOR Supp. (No. 46) at 57, U.N. Doc. A/34/46 (1979) (120 in favor - 2 opposed - 19 abstentions).

Conclusion of an international convention to assure the non-nuclear-weapon States against the use or threat of use of nuclear weapons, G.A. Res. 34/85, 34 U.N. GAOR Supp. (No. 46) at 59, U.N. Doc. A/34/46 (1979) (120 in favor - none opposed - 22 abstentions).
G.A. Res. 35/152(D), 35 U.N. GAOR Supp. (No. 48) at 69, U.N. Doc. A/35/48 (1980) (112 in favor - 1 opposed - 14 abstentions).

Conclusion of an international convention to assure non-nuclear-weapon States against the use or threat of use of nuclear weapons, G.A. Res. 35/155, 35 U.N. GAOR Supp. (No. 48) at 74, U.N. Doc. A/35/48 (1980) (121 in favor - none opposed - 24 abstentions).

Review of the implementation of the recommendations and decisions adopted by the General Assembly at its tenth special session (NUCLEAR WEAPONS IN ALL ASPECTS), G.A. Res. 36/92 E, 36 U.N. GAOR Supp. (No. 51) at 62, U.N. Doc. A/36/51 (1981) (118 in favor - 18 opposed - 5 abstentions).

Review of the implementation of the recommendations and decisions adopted by the General Assembly at its tenth special session (NON-USE OF NUCLEAR WEAPONS AND PREVENTION OF NUCLEAR WEAPONS), G.A. Res. 36/92 I, 36 U.N. GAOR Supp. (No. 51) at 64, U.N. Doc. A/36/51 (1981) (121 in favor - 19 opposed - 6 abstentions).

Conclusion of effective international arrangements to assure non-nuclear-weapon States against the use or threat of use of nuclear weapons, G.A. Res. 36/95, 36 U.N. GAOR Supp. (No. 51) at 68, U.N. Doc. A/36/51 (1981) (145 in favor - none opposed - 3 abstentions).

Review of the implementation of the recommendations and decisions adopted by the General Assembly at its tenth special session (NUCLEAR WEAPONS IN ALL ASPECTS), G.A. Res. 37/78 C, 37 U.N. GAOR Supp. (No. 51) at 60, U.N. Doc. A/37/51 (1982) (118 in favor - 19 opposed - 9 abstentions).

Review of the implementation of the recommendations and decisions adopted by the General Assembly at its tenth special session (PROHIBITION OF THE NUCLEAR NEUTRON WEAPON), G.A. Res. 37/78 E, 37 U.N. GAOR Supp. (No. 51) at 61, U.N. Doc. A/37/51 (1982) (81 in favor - 14 opposed - 52 abstentions).

Review of the implementation of the recommendations and decisions adopted by the General Assembly at its tenth special session (IMPLEMENTATION OF THE RECOMMENDATIONS AND DECISIONS OF THE TENTH SPECIAL SESSION), G.A. Res. 37/78 F, 37 U.N. GAOR Supp. (No. 51) at 61, U.N. Doc. A/37/51 (1982) (134 in favor - none opposed - 12 abstentions).

Review of the implementation of the recommendations and decisions adopted by the General Assembly at its tenth special session (NON-USE OF NUCLEAR WEAPONS AND PREVENTION OF NUCLEAR WAR), G.A. Res. 37/78 J, 37 U.N. GAOR Supp. (No. 51) at 64, U.N. Doc. A/37/51 (1982) (112 in favor - 19 opposed - 15 abstentions).

Conclusion of effective international arrangements to assure non-nuclear-weapon States against the use or threat of use of nuclear weapons, G.A. Res. 37/81, 37 U.N. GAOR Supp. (No. 51) at 66, U.N. Doc. A/37/51 (1982) (144 in favor - none opposed - 3 abstentions).

General and complete disarmament (PROHIBITION OF THE DEVELOPMENT,

PRODUCTION, STOCKPILING AND USE OF RADIOLOGICAL WEAPONS), G.A. Res. 37/99 C, 37 U.N. GAOR Supp. (No. 51) at 77, U.N. Doc. A/37/51 (1982) (adopted without a vote).

General and complete disarmament (REVIEW OF AND SUPPLEMENT TO THE COMPREHENSIVE STUDY OF THE QUESTION OF NUCLEAR-WEAPON-FREE ZONES IN ALL ITS ASPECTS), G.A. Res. 37/99 F, 37 U.N. GAOR Supp. (No. 51) at 79, U.N. Doc. A/37/51 (1982) (141 in favor - 1 opposed - 2 abstentions).

Review and implementation of the Concluding Document of the Twelfth Special Session of the General Assembly (FREEZE ON NUCLEAR WEAPONS), G.A. Res. 37/100 A, 37 U.N. GAOR Supp. (No. 51) at 82, U.N. Doc. A/37/51 (1982) (122 in favor - 16 opposed - 6 abstentions).

Review and implementation of the Concluding Document of the Twelfth Special Session of the General Assembly (NUCLEAR-ARMS FREEZE), G.A. Res. 37/100 B, 37 U.N. GAOR Supp. (No. 51) at 83, U.N. Doc. A/37/51 (1982) (119 in favor - 17 opposed - 5 abstentions).

Review and implementation of the Concluding Document of the Twelfth Special Session of the General Assembly (CONVENTION ON THE PROHIBITION OF THE USE OF NUCLEAR WEAPONS), G.A. Res. 37/100 C, 37 U.N. GAOR Supp. (No. 51) at 83, U.N. Doc. A/37/51 (1982) (117 in favor - 17 opposed - 8 abstentions).

Conclusion of effective international arrangements to assure non-nuclear-weapon States against the use or threat of use of nuclear weapons, G.A. Res. 38/68, 38 U.N. GAOR Supp. (No. 47) at 59, U.N. Doc. A/38/47 (1983) (141 in favor - none opposed - 6 abstentions).

Review and implementation of the Concluding Document at the Twelfth Special Session of the General Assembly (FREEZE ON NUCLEAR WEAPONS), G.A. Res. 38/73 B, 38 U.N. GAOR Supp. (No. 47) at 64, U.N. Doc. A/38/47 (1983) (124 in favor - 15 opposed - 7 abstentions).

Review and implementation of the Concluding Document at the Twelfth Special Session of the General Assembly (CONVENTION ON THE PROHIBITION OF THE USE OF NUCLEAR WEAPONS), G.A. Res. 38/73 G, 38 U.N. GAOR Supp. (No. 47) at 67, U.N. Doc. A/38/47 (1983) (126 in favor - 17 opposed - 6 abstentions).

Condemnation of nuclear war, G.A. Res. 38/75, 38 U.N. GAOR Supp. (No. 47) at 69, U.N. Doc. A/38/47 (1983) (95 in favor - 19 opposed - 30 abstentions).

Review of the implementation of the recommendations and decisions adopted by the General Assembly at its tenth special session (NON-USE OF NUCLEAR WEAPONS AND PREVENTION OF NUCLEAR WAR), G.A. Res. 38/183 B, 38 U.N. GAOR Supp. (No. 47) at 73, U.N. Doc. A/38/4, (1983) (110 in favor - 19 opposed - 15 abstentions).

Review of the implementation of the recommendations and decisions adopted by the General Assembly at its tenth special session (NUCLEAR WEAPONS IN ALL ASPECTS), G.A. Res. 38/183 D, 38 U.N. GAOR Supp. (No. 47) at 73, U.N. Doc. A/38/47 (1983) (108 in favor - 19 opposed - 16 abstentions).

Review of the implementation of the recommendations and decisions adopted by the General Assembly at its tenth special session (IMPLEMENTATION OF THE RECOMMENDATIONS AND DECISIONS OF THE TENTH SPECIAL SESSION), G.A. Res. 38/183 M, 38 U.N. GAOR Supp. (No. 47) at 79, U.N. Doc. A/38/47 (1983) (133 in favor - 1 opposed - 14 abstentions).

Review and implementation of the Concluding Document of the Twelfth Special Session of the General Assembly (FREEZE ON NUCLEAR WEAPONS), G.A. Res. 39/63 G, 39 U.N. GAOR Supp. (No. 51) at 70, U.N. Doc. A/39/51 (1984) (127 in favor - 11 opposed - 11 abstentions).

Review and implementation of the Concluding Document of the Twelfth Special Session of the General Assembly (CONVENTION ON THE PROHIBITION OF THE USE OF NUCLEAR WEAPONS), G.A. Res. 39/63 H, 39 U.N. GAOR Supp. (No. 51) at 70, U.N. Doc. A/39/51 (1984) (128 in favor - 17 opposed - 5 abstentions).

Review of the implementation of the recommendations and decisions adopted by the General Assembly at its tenth special session (NUCLEAR WEAPONS IN ALL ASPECTS), G.A. Res. 39/148 C, 39 U.N. GAOR Supp. (No. 51) at 77, U.N. Doc. A/39/51 (1984) (102 in favor - 19 opposed - 13 abstentions).

Review of the implementation of the recommendations and decisions adopted by the General Assembly at its tenth special session (NON-USE OF NUCLEAR WEAPONS AND PREVENTION OF NUCLEAR WAR), G.A. Res. 39/148 D, 39 U.N. GAOR Supp. (No. 51) at 78, U.N. Doc. A/39/51 (1984) (101 in favor - 19 opposed - 17 abstentions).

Review of the implementation of the recommendations and decisions adopted by the General Assembly at its tenth special session (CESSATION OF THE NUCLEAR-ARMS RACE AND NUCLEAR DISARMAMENT), G.A. Res. 39/148 K, 39 U.N. GAOR Supp. (No. 51) at 83, U.N. Doc. A/39/51 (1984) (124 in favor - 13 opposed - 9 abstentions).

General and complete disarmament (NUCLEAR-WEAPON FREEZE), G.A. Res. 39/151 D, 39 U.N. GAOR Supp. (No. 51) at 91, U.N. Doc. A/39/51 (1984) (104 in favor - 18 opposed - 8 abstentions).

Conclusion of effective international arrangements to assure non-nuclear-weapon States against the use or threat of use of nuclear weapons, G.A. Res. 40/86, 40 U.N. GAOR Supp. (No. 53) at 71, U.N. Doc. A/40/53 (1985) (142 in favor - none opposed - 6 abstentions).

Bilateral nuclear-arms negotiations, G.A. Res. 40/18, 40 U.N. GAOR

Supp. (No. 53) at 65, U.N. Doc. A/40/53 (1985) (76 in favor - none opposed - 12 abstentions).

Review of the implementation of the recommendations and decisions adopted by the General Assembly at its tenth special session (NON-USE OF NUCLEAR WEAPONS AND PREVENTION OF NUCLEAR WAR), G.A. Res. 40/152 A, 40 U.N. GAOR Supp. (No. 53) at 92, U.N. Doc. A/40/53 (1985) (123 in favor - 19 opposed - 7 abstentions).

Review of the implementation of the recommendations and decisions adopted by the General Assembly at its tenth special session (BILATERAL NUCLEAR-ARMS AND SPACE-ARMS NEGOTIATIONS), G.A. Res. 40/152 B, 40 U.N. GAOR Supp. (No. 53) at 93, U.N. Doc. A/40/53 (1985) (107 in favor - none opposed - 40 abstentions).

Review of the implementation of the recommendations and decisions adopted by the General Assembly at its tenth special session (NUCLEAR WEAPONS IN ALL ASPECTS), G.A. Res. 40/152 C, 40 U.N. GAOR Supp. (No. 53) at 93, U.N. Doc. A/40/53 (1985) (117 in favor - 19 opposed - 11 abstentions).

Review of the implementation of the recommendations and decisions adopted by the General Assembly at its tenth special session (CESSATION OF THE NUCLEAR ARMS RACE AND NUCLEAR DISARMAMENT), G.A. Res. 40/152 P, 40 U.N. GAOR Supp. (No. 53) at 102, U.N. Doc. A/40/53 (1985) (131 in favor - 16 opposed - 6 abstentions).

Conclusion of effective international arrangements to assure non-nuclear-weapon States against the use or threat of use of nuclear weapons, G.A. Res. 41/52, 41 U.N. GAOR Supp. (No. 53) at 67, U.N. Doc. A/41/53 (1986) (149 in favor - none opposed - 4 abstentions).

General and complete disarmament (NUCLEAR DISARMAMENT), G.A. Res. 41/59 F, 41 U.N. GAOR Supp. (No. 53) at --, U.N. Doc. A/41/53 (1986) (Adopted without a vote).

G.A. Res. 41/86 F, 41 U.N. GAOR Supp. (No. 53) at --, U.N. Doc. A/41/53 (1986) (130 in favor - 15 opposed - 5 abstentions).

Conclusion of effective international arrangements to assure non-nuclear-weapon States against the use or threat of use of nuclear weapons, G.A. Res. 42/32, 42 U.N. GAOR Supp. (No. 49) at 66, U.N. Doc. A/42/49 (1987) (151 in favor - none opposed - 3 abstentions).

General and complete disarmament (NUCLEAR DISARMAMENT), G.A. Res. 42/38 H, 42 U.N. GAOR Supp. (No. 49) at 77, U.N. Doc. A/42/49 (1987) (Adopted without a vote).

Conclusion of effective international arrangements on the strengthening of the security of non-nuclear-weapon States against the use or threat of use of nuclear weapons, G.A. Res. 43/68, 43 U.N. GAOR Supp. (No. 49) at 69, U.N. Doc. A/43/49 (1988) (117 in

favor - 17 opposed - 16 abstentions).

Conclusion of effective international arrangement to assure non-nuclear-weapon States against the use or threat of use of nuclear weapons, G.A. Res. 43/69, 43 U.N. GAOR Supp. (No. 49) at 69, U.N. Doc. A/43/49 (1988) (152 in favor - none opposed - 3 abstentions).

General and complete disarmament (NUCLEAR DISARMAMENT), G.A. Res. 43/75 E, 43 U.N. GAOR Supp. (No. 49) at --, U.N. Doc. A/43/49 (1988) (Adopted without a vote).

Review of the implementation of the recommendations and decisions adopted by the General Assembly at its tenth special session (CESSATION OF THE NUCLEAR-ARMS RACE AND NUCLEAR DISARMAMENT), G.A. Res. 43/78 E, 43 U.N. GAOR Supp. (No. 49) at 95, U.N. Doc. A/43/49 (1988) (135 in favor - 13 opposed - 5 abstentions).

General and complete disarmament (BILATERAL NUCLEAR-ARMS NEGOTIATIONS), G.A. Res. 45/58 B, 45 U.N. GAOR Supp. (No. 49A) at 63, U.N. Doc. A/45/49 (1990) (131 in favor - none opposed - 22 abstentions).

General and complete disarmament (CONVENTIONAL DISARMAMENT), G.A. Res. 45/58 C, 45 U.N. GAOR Supp. (No. 49A) at 63, U.N. Doc. A/45/49 (1990) (Adopted without a vote).

General and complete disarmament (NUCLEAR DISARMAMENT), G.A. Res. 45/58 D, 45 U.N. GAOR Supp. (No. 49A) at 64, U.N. Doc. A/45/49 (1990) (Adopted without a vote).

Review and implementation of the Concluding Document of the Twelfth Special Session of the General Assembly (CONVENTION ON THE PROHIBITION OF THE USE OF NUCLEAR WEAPONS), G.A. Res. 45/59 B, 45 U.N. GAOR Supp. (No. 49A) at 71, U.N. Doc. A/45/49 (1990) (125 in favor - 17 opposed - 10 abstentions).

Review and implementation of the Concluding Document of the Twelfth Special Session of the General Assembly (NUCLEAR ARMS FREEZE), G.A. Res. 45/59 D, 45 U.N. GAOR Supp. (No. 49A) at 72, U.N. Doc. A/45/49 (1990) (126 in favor - 14 opposed - 12 abstentions).

Conclusion of effective international arrangements to assure non-nuclear-weapon States against the use or threat of use of nuclear weapons, G.A. Res. 46/32, 46 U.N. GAOR Supp. (No. 49, Vol. I) at 63, U.N. Doc. A/46/49 (1991) (152 in favor - none opposed - 2 abstentions).

Review and implementation of the concluding Document of the Twelfth Special Session of the General Assembly (CONVENTION ON THE PROHIBITION OF THE USE OF NUCLEAR WEAPONS), G.A. Res. 46/37 D, 46 U.N. GAOR Supp. (No. 49, Vol. I) at 78, U.N. Doc. A/46/49 (1991) (119 in favor - 18 opposed - 23 abstentions).

Conclusion of effective international arrangements to assure non-nuclear-weapon States against the use or threat of use of nuclear weapons, G.A. Res. 47/50, 47 U.N. GAOR Supp. (No. 49, Vol. I) at 60, U.N. Doc. A/47/49 (1992) (162 in favor - none opposed - 2 abstentions).

Review and implementation of the Concluding Document of the Twelfth Special Session of the General Assembly (CONVENTION ON THE PROHIBITION OF THE USE OF NUCLEAR WEAPONS), G.A. Res. 47/53 C, 47 U.N. GAOR Supp. (No. 49, Vol. I) at 70, U.N. Doc. A/47/49 (1992) (Adopted without a vote).

Review and implementation of the Concluding Document of the Twelfth Special Session of the General Assembly (NUCLEAR ARMS FREEZE) G.A. Res. 47/53 E, 47 U.N. GAOR Supp. (No. 49, Vol. I) at 70, U.N. Doc. A/47/49 (1992) (Adopted without a vote).

Conclusion of effective international arrangements to assure non-nuclear-weapon States against the use or threat of use of nuclear weapons, G.A. Res. 48/73, 48 U.N. GAOR Supp. (No. --) at --, U.N. Doc. A/48/-- (1993) (166 in favor - none opposed - 4 abstentions).

(BILATERAL NUCLEAR-ARMS NEGOTIATIONS AND NUCLEAR DISARMAMENT), G.A. Res. 48/75 B, 48 U.N. GAOR Supp. (No. --) at --, U.N. Doc. A/48/-- (1993) (Adopted without a vote).

Review of the implementation of the recommendations and decisions adopted by the General Assembly at its tenth special session (REPORT OF THE DISARMAMENT COMMISSION), G.A. Res. 48/77 A, 48 U.N. GAOR Supp. (No. --) at --, U.N. Doc. A/48/-- (1993) (Adopted without a vote).

Amendment of the Treaty Banning Nuclear Weapon Tests in the Atmosphere, in Outer Space and Under Water, G.A. Res. 49/69

Establishment of a Nuclear-Weapon-Free Zone in South Asia, G.A. Res. 49/72

Conclusion of Effective International Arrangements to Assure non-Nuclear-Weapon States Against the Use of Threat of Use of Nuclear Weapons, G.A. Res. 49/73

Step-by-Step Reduction of the Nuclear Threat, G.A. Res. 49/75/E

Nuclear Disarmament With a View to the Ultimate Elimination of Nuclear Weapons, G.A. Res. 49/75/H

Request for an Advisory Opinion From the International Court of Justice on the Legality of the Threat or Use of Nuclear Weapons, G.A. Res. 49/75/K

Bilateral Nuclear Arms Negotiations and Nuclear Disarmament, G.A. Res. 49/75/L

Convention on the Prohibition of the Use of Nuclear Weapons, G.A. Res. 49/76/E

Consolidation of the Regime Established by the Treaty for the Prohibition of Nuclear Weapons in Latin America and the Caribbean (Treaty of Tlatelolco) G.A. Res. 49/83

The South Atlantic Region as a Nuclear-Weapon-Free Zone, G.A. Res. 49/84