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MEMORANDUM

NATIONAL SECURITY COUNCIL

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ACTION  
October 24, 1972



MEMORANDUM FOR MR. KISSINGER

FROM: Helmut Sonnenfeldt *HS*

SUBJECT: NSSM 162: Soviet UN Resolution: None-Use of Force, Prohibition of Nuclear Weapons

This is a rather straightforward issue: What posture should we adopt in the UN discussion on the Soviet proposal for renunciation of force and a permanent prohibition on the use of nuclear weapons? The debate starts on November 2 and will last about 4 days; voting may be delayed until mid-December.

This memorandum is for your use at the SRG, but if there is not time for an SRG meeting, we will need to provide some guidance well before the debate starts.

The conclusions of the NSSM, my recommendations, and some questions for your decision are at the end of this memorandum. The full study is at Tab A.

1. The Soviet Resolution

The operative paragraphs are:

"The General Assembly . . .

1. Solemnly declares on behalf of the State Members of the Organization, in accordance with the United Nations Charter, their renunciation of the use or threat of force in international relations and the permanent prohibition of the use of nuclear weapons.

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2. Recommends the Security Council take, as soon as possible, an appropriate decision whereby the present declaration of the General Assembly will acquire binding force under Article 25 of the United Nations Charter. "

What does it mean?

As explained privately in New York by Ambassador Roschin, the Soviet delegate to the CCD, the non-use of force and the prohibition of the use of nuclear weapons are "inseparable." If force is used by one country against another country, then the latter is freed from any obligation under the Soviet scheme and could use nuclear weapons, i. e., the whole agreement "does not exist."

Under this interpretation the Soviet resolution is as much a prescription for the use of nuclear weapons as a permanent prohibition. Moreover, there is a veiled implication that use of conventional weapons is slightly more legitimate than use of nuclear weapons.

2. The Major Factors

A. Whatever the Soviets may have in mind in advancing this in the UN, one aspect stands out clearly: it is directed against China. This item is the latest in a series of anti-Chinese initiatives. The Soviets have very deliberately taken the old Chinese disarmament position and have advanced it piece by piece in the UN and elsewhere, with the aim no doubt of creating a record of Chinese obstreperousness in opposing their own ideas. First, there was Brezhnev's Asian collective security scheme, which included a renunciation of the use of force; then a Five Power Conference of Nuclear States; a World Disarmament Conference; and a renunciation of force and prohibition of nuclear use.

The Chinese have seen this aspect but have counterattacked. Thus in New York, Chiao denounced the latest Soviet proposal as a "hoax," invalidated by Soviet support of India and designed to perpetuate the nuclear domination of the US and USSR. He characterized the proposal as one intended to make other countries submit to the Soviet nuclear (by legitimizing the use of nuclear weapons).

Thus, a Sino-Soviet clash is likely in New York. Whatever position we adopt will be read in light of this Sino-Soviet dispute.

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B. A second factor is our long record of opposition to this type of item in the UN and in other forums (Annex A to the Study). We have consistently opposed reiterating the Charter provision on the renunciation of force, on the grounds that this tends to undermine the Charter by casting doubt on its validity. Moreover, we have opposed special treatment of nuclear weapons because (a) it casts doubt on our willingness to use nuclear weapons in self-defense, and (b) it undermines "flexible response" in Europe. A broad prohibition on nuclear use but organically linked to non-use of force is different from the older idea of no-first-use, which tends to sanction conventional attack and defense. The difference between a "permanent prohibition" and no-first-use, however, is too Talmudic to cause a change in our position.

C. Third, there is the problem of Allied reaction. Our Allies assume that the Soviet initiative is largely propaganda and not to be taken seriously. They assume we will be passive or oppose the item. They argue that singling out a prohibition on the use of nuclear weapons impugns tactical use in self-defense, which could shake the credibility of our deterrent.

D. Finally, there is the factor of UN opinion. The Soviets can generate some support for their proposal. There is a record of UN resolutions banning force and nuclear use. They may be able to muster a majority, especially if they entertain amendments. Our opposition -- especially in light of the Soviet-American Principles -- may be a more difficult problem than in past years. After all, we have renounced force in bilateral relations in a 1970 UN resolution and will probably do so in the CSCE.

In sum, the degree of opposition or support we provide the USSR must take account of the following:

-- our record of previous opposition to this sort of initiative, and the implications and consequences of shifting toward the Soviets;

-- the probability of a sharp Sino-Soviet exchange and how our stand will be interpreted by Moscow and Peking in terms of whether we seem to be siding with one or the other;

-- the possibility (or probability) of passage of an amended resolution which we might find difficult to oppose;

-- the dilemma that amending the Soviet text in the direction of legitimizing nuclear self-defense satisfies the Allies, but alarms the Chinese.

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### 3. OPTIONS

Our options are not very wideranging.

(1) Straightforward support for the resolution in its present form would range us squarely against China, and raise apprehensions in Allied capitals about our eagerness to accommodate Moscow.

(2) Vigorous (active) opposition on the other hand is probably not tenable since (a) we do not oppose the concept of non-use of force; (b) we cannot afford to align ourselves actively with China against Moscow.

(3) Pure neutralism is not viable in practice: we cannot really be mute, since we have to inform some of our Allies where we stand; and, more significant, adopting strict neutrality means we will not work against, and, therefore, the chances for passing the resolution automatically improve. This would probably be read as pro-Soviet and anti-Chinese.

Thus our Basic Options seem to be:

(1) Modest support for a suitably amended resolution:

-- We would either submit amendments, or encourage others to do so, with the aim of subsuming the nuclear prohibition within the renunciation of force.

-- In addition, we would seek the removal, on UN constitutional grounds, of the second paragraph, thus stripping the resolution of any unique, binding character.

-- In an altered form we would either vote for or abstain and submit an interpretation of our abstention.

(2) Passive opposition:

-- Under this option we would not actively oppose the resolution; if asked we would criticize its features in a fairly low key; we would abstain or oppose the resolution perhaps explaining our vote.

-- We would not encourage or offer amendments to make the resolution more palatable, but would not necessarily oppose them.

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-- We could hold open a shift to a more affirmative position if the resolution were amended to our satisfaction.

(3) Seek Amendment with Special Clause of Non-Use Against Non-Nuclear Powers:

-- Under this variant we would resurrect some of the NPT language as an amendment: a pledge by the nuclear states not to use nuclear weapons against non-nuclear states not engaged in aggression assisted by a nuclear power. This is close to the position advanced privately to the USSR in 1969, but subsequently withdrawn.

-- The Soviets opposed it in 1968 on the grounds that they differentiated between a state with nuclear weapons on its territory and other non-nuclear powers.

-- This is probably a non-starter, and opens an ugly mess of issues that had better remain closed.

CONCLUSIONS

The NSSM ends with the following recommendations:

-- initially we should be relatively inactive; we would not support the resolution or promote amendments;

-- privately and "quietly" we would point out the problems in the Soviet draft, especially the binding nature of paragraph 2 (a SC resolution) and the unacceptability of an explicit and separate prohibition on the use of nuclear weapons;

-- we would inform other delegations that we would not support the resolution in its present form;

-- we would consider, in light of developments, a more active posture and whether to move from relative inactive opposition to acceptance of a suitably amended resolution.

RECOMMENDATIONS

I have no major problems with this suggested tactical line. It is, however, rather general and loose, so that one does not know exactly what our position

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is going to be as the debate progresses. Moreover, given the disposition of our UN Desk in State to oppose this item, our negativism may be less restrained than suggested.

The main problem, however, is how far we can go in attacking the substance of a non-use of force/nuclear prohibition. I recommend that we play down this aspect and take the position that if there is wide support for the resolution, minus its binding SC provisions, we could support it. But, if there is major contention, the issues should not be pressed to a conclusion. In short, our position is mildly favorable to the substance, but opposition to forcing a clear split among the members.

### Next Steps

Time has about run out. Assuming there is no SRG and in view of the fact that corridor talk on the Soviet item is already starting in New York, State is preparing an instruction, for White House clearance, to implement the recommendations in the NSSM study.

I will forward this to you, with my comments as soon as possible, but in the interim I need to have your view on the following:

1. Do we start with an initial, passive position of low-keyed criticism?

Approve \_\_\_\_\_ Disapprove \_\_\_\_\_

2. Do we refrain from trying to amend the Soviet text?

Approve \_\_\_\_\_

Disapprove, amend to make more acceptable \_\_\_\_\_

3. Do we avoid a clear-cut stand by announcing our intention to abstain on the grounds that the issue has become divisive and too contentious?

Approve \_\_\_\_\_ Disapprove \_\_\_\_\_