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#### THE MULTILATERAL COLLECTIVE GUARANTEES IN MODERN WORLD ORDER: INTERNATIONAL EXPERIENCE AND UKRAINIAN CONTEXT

*Political and legal history as well as geopolitical phenomenology of such thing as multilateral collective guarantees are studied. The contradictory nature of their political declarations and the impact of their existence on the reproduction of the rules of domination in world politics as well as on the maintenance of world order is analyzed. The existing state of multilateral security guarantees for Ukraine on the basis of the Budapest Memorandum after the annexation of Crimea and the occupation of Donbass territories is examined. The ways to reduce the negative effects of quasi-judicial status of the Budapest Memorandum for Ukraine is outlined.*

**Key words:** multilateral security guarantees, world order, nuclear nonproliferation, geopolitics, the Budapest Memorandum

**Крисенко О.В.**

#### БАГАТОСТОРОННІ ГАРАНТІЇ БЕЗПЕКИ В СУЧАСНОМУ СВІТОВОМУ ПОРЯДКУ: МІЖНАРОДНИЙ ДОСВІД ТА УКРАЇНСЬКИЙ КОНТЕКСТ

*Досліджено політико-правову історію та геополітичну феноменологію такого явища як багатосторонні гарантії безпеки. Проаналізовано суперечливий характер їх політичної декларативності та вплив їхнього існування на відтворення правил домінування в світовій політиці й підтримку міжнародного порядку. Розглянуто існуючий стан багатосторонніх гарантій безпеки Україні на основі Будапештського меморандуму після російської анексії Крима та окупації територій Донбасу. Окресно шляхи щодо зменшення негативних наслідків парарправового статусу Будапештського меморандуму для України.*

**Ключові слова:** багатосторонні гарантії безпеки, світовий порядок, нерозповсюдження ядерної зброї, геополітика, Будапештський меморандум.

Крысенко А.В.

**МНОГОСТОРОННИЕ ГАРАНТИИ БЕЗОПАСНОСТИ  
В СОВРЕМЕННОМ МИРОВОМ ПОРЯДКЕ:  
МЕЖДУНАРОДНЫЙ ОПЫТ И УКРАИНСКИЙ КОНТЕКСТ**

*Исследовано политико-правовую историю и геополитическую феноменологию такого явления как многосторонние гарантии безопасности. Проанализирован противоречивый характер их политической декларативности и влияние их существования на воспроизведение правил доминирования в мировой политике и поддержании мирового порядка. Рассмотрено существующее состояние многосторонних гарантий безопасности Украины на основе Будапештского меморандума после аннексии Крыма и оккупации территорий Донбасса. Очерчено пути уменьшения негативных последствий параправового статуса Будапештского меморандума для Украины.*

**Ключевые слова:** многосторонние гарантии безопасности, мировой порядок, нераспространение ядерного оружия, геополитика, Будапештский меморандум.

Russian military aggression against Ukraine, which resulted in the annexation of the Crimean peninsula and the occupation of part of Donbass territory and resulted in 1) creation of structural risks in the European security system and 2) acceleration of erosion of the modern world order. It is destructive changes in the world order as a result of the military aggression that are the long-term geopolitical effect, which is ultimately different from previous international crises, associated with geopolitical confrontation in the Balkans (1991-2001), the Caucasus (Russian-Georgian war in 2008) etc. The main difference of Ukrainian case in a number of military and geopolitical conflicts in the post-bipolar world is the status of Ukraine as a state that was the only country that renounced nuclear weapons in exchange for multilateral collective security guarantees. The existence of these guarantees led not only to nuclear disarmament of Ukraine, but also cemented in domestic policy the support for multipolar foreign policy doctrine (and in the expert community the perception of foreign policy neutrality as the best strategy) and inadequate perception of external military risks [1]. The key difference of this geopolitical crisis is the ratio of the following factors: Russia's military aggression, accompanied by occupation and annexation of the territories covered by international guarantees (of territorial integrity) and Russia as a permanent member of the State Security Council is also the part for their implementation. However, political and juristic dimension of this crisis is the phenomenology of multilateral collective guarantees, acting as a context for further perspective to understand the rules of dominance in world politics and world order reconstruction. So in order to understand the nature of geopolitical crisis there should be considered the political and legal specifics of system of guarantees that Ukraine has received

from own nuclear disarmament and which are acting de-facto as a context for development of geopolitical confrontation [2;3;4;5].

The multilateral collective security guarantees (Multilateral collective guarantees) are quite common military-political phenomenon in the process of historical evolution of international relations system and their political and legal dimension. Legally these guarantees are an integral part of international law and are a form of international instruments in the form of treaties, pacts, memoranda or additional protocols to international agreements. These acts include guarantees, assurances or surety (external patronage) of certain associations of states in relation to other participants of international relations (states, public associations, people, international organizations etc.) according to a certain course of action, providing adherence to the rights or status of any state (group of states), implementation of international obligations or maintaining a certain status (character) of international relations. The subject of multilateral guarantees is mostly the fulfillment of contractual obligations, the state neutrality, power or authorities sovereignty and inviolability of the territory as well as other (discussed) security guarantees [6;7].

Classic examples of guarantees of neutrality of the state are examples of Switzerland and Luxembourg. Thus, according to the Paris Peace Treaty dated November 20, 1815 („the second Paris peace”) made between Austria, Britain, Prussia, Russia and France, the state guaranteed the neutrality and integrity of the territory of Switzerland. Similarly, based on the results of the second peace conference in London („London Agreement”) dated May 11, 1867 which participants were Austria, Belgium, France, Great Britain, Italy, Luxembourg, the Netherlands, Prussia and Russia "Luxembourg

crisis" was solved, and the Luxembourg itself received neutrality guarantees. However, despite the similarity of political and legal algorithm of neutrality and territorial integrity guarantees of Switzerland and Luxembourg, guarantees provided to Luxembourg (unlike Switzerland) were twice violated by the German side in 1914 and 1941.

The most common type of multilateral guarantees granting in today's world process act multilateral treaties, which guarantees donors declare their readiness to act as participants of guarantees of the rights, status or security of participants in international relations, established in accordance with international legal act. The equivalent examples of such agreements are the Antarctic Treaty (1959), the Outer Space Treaty (1967), the Treaty on the Non-Proliferation of Nuclear Weapons (came into force in 1970), Budapest Memorandum (1994) [8], Dayton Agreement (1995), Agreement on Comprehensive Nuclear-Test-Ban Treaty (1996), Minsk Agreement (2014) and others.

A separate cluster of international collective guarantees are the agreements that combine guarantees of both – military and political issues, and also prevent the human loss of ecological environment. For example, along with concern for the ecology of the Antarctic (which represents about 10% of the earth's surface), the purpose of the Antarctic Treaty<sup>2</sup> is its political and military neutralization and demilitarization: „...it is according to interests of all mankind that Antarctica should be continually used exclusively for peace purposes and should not become the scene or object of international discord”<sup>3</sup>. Art. 1 of the Treaty states that Antarctica is used only for peaceful purposes, any measures of a military nature, such as military bases or fortifications, the carrying out of military maneuvers, as well as testing of any weapons are prohibited; Art. 5 of the Treaty states that any nuclear explosions and removal of radioactive materials are prohibited in the area. Thanks to demilitarization of the given region, it later became possible to secure these guarantees in the CCAMLR Convention (Convention on the Conservation of Antarctic Marine Living Resources, 1980)<sup>4</sup>. Similarly, the Outer Space

Treaty is an example of multilateral collective guarantees on the use of space for peaceful purposes only and on prevention of the placing of nuclear weapons or any other weapons of mass destruction in near the Earth's orbit, placing them on the Moon or on the stations in outer space. An attempt to secure the implementation of this Agreement was the adoption of the Convention on International Liability for Damage Caused by Space Objects (1971)<sup>5</sup>. However, as a basic agreement in a given number of points of view of multilateral group guarantees there acts Treaty on the Non-Proliferation of Nuclear Weapons<sup>6</sup>, which is a certain political and legal matrix to form a model of international political guarantees of the sovereignty and territorial integrity in the world where military and technological access to nuclear weapons of some countries and the lack of this type of weaponry in other countries makes the international order fragile and international law too vulnerable [9].

The independence of Ukrainian state in 1991 put on the agenda the issue of providing of state sovereignty, security and external defense. The absence of effective state-building experience and the availability of significant problems related to the lack of institutions of political democracy, market economy, and national unity were complicated by military heritage received from the USSR. First of all we are talking about nuclear arsenal (of tactical and strategic brand), which was the third in the world according to its power and yielding only to the Russian and American power. Addressing challenges of Ukrainian state building was initially in a difficult international context – in the collapse of the bipolar system of international political and security order and aggravation of the military and political relations between the newly independent countries in the regions of South and Southeast Europe. Especially sharpened were the processes of dismantling of the communist state on Balans and the Caucasus. Ukraine with its highly complicated political and economic problems and ultra-powerful weapons' of mass destruction potential was at risk of civil and military destabilization as the central link of certain destabilization arc from the Western Balkans to the South Caucasus.

One of the main fuse of possible transregional destabilization is the plan for nuclear disarmament of Ukraine and strengthening of institutional control over

<sup>2</sup> [http://www.ats.aq/documents/ats/treaty\\_original.pdf](http://www.ats.aq/documents/ats/treaty_original.pdf)

<sup>3</sup> [http://www.ats.aq/index\\_r.htm](http://www.ats.aq/index_r.htm)

<sup>4</sup> <http://www.ccamlr.org/ru/organisation/%D1%82%D0%B5%D0%BA%D1%81%D1%82-%D0%BA%D0%BE%D0%BD%D0%B2%D0%B5%D0%BD%D1%86%D0%B8%D0%B8-%D0%B0%D0%BD%D1%82%D0%BA%D0%BE%D0%BC>

<sup>5</sup> [http://zakon2.rada.gov.ua/laws/show/995\\_126](http://zakon2.rada.gov.ua/laws/show/995_126)

<sup>6</sup> [http://www.un.org/ru/documents/decl\\_conv/conventions/npt.shtml](http://www.un.org/ru/documents/decl_conv/conventions/npt.shtml)

weapons of mass destruction, which had a certain trajectory on how to make military and political development of Ukraine a stable one<sup>7</sup>. Achieving of this goal was made possible through Ukraine's accession to the Treaty on the Non-Proliferation of Nuclear Weapons (1967) (Non-Proliferation Treaty, NPT). This Agreement is a multilateral international act developed by UN agencies in order to prevent the increase of the number of countries possessing nuclear weapons and to ensure international control over the implementation of obligations by states under the Treaty to prevent armed conflict using nuclear weapons. Along with the military mission, this Agreement was intended to finally legalize the possibilities of separate countries for the peaceful use of nuclear energy and relevant technologies circulation. Likewise, Treaty declared an integral right of all participating countries to non-discriminatory develop research and nuclear energy production. Institutional control on the nuclear weapons nonproliferation was assigned to the International Atomic Energy Agency (IAEA). In accordance with the Treaty, five countries possessing nuclear weapons declared commitment not to use it against states that do not possess this type of weapons. As an exception it can be considered only the case when nuclear weapons will be used in response. Such planning of nuclear weapons use was developed under the military doctrine of mutual assured destruction (Mutually Assured Destruction, MAD).

Another important additional element on guarantees to countries that do not possess nuclear weapons is a resolution of the Security Council (dated June 19, 1968)<sup>8</sup> in accordance to which with the necessary security guarantees of member states of the Treaty that do not possess nuclear weapons, among other things it is stated that in case of aggression with use of nuclear

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<sup>7</sup> Another dimension of the issue of nuclear disarmament Ukraine was internal setting to achieve this goal. The idea of nuclear-free status of Ukraine was put by Verkhovna Rada of Ukraine in the Declaration of State Sovereignty of Ukraine (dated July 16, 1990). So, firstly, late Soviet Ukrainian elite tried to demarcate their separateness from general Soviet management device and enforcement in Moscow and, secondly, the nuclear status of Ukraine itself was considered by Ukrainian elite as a factor of further dependence from the central Soviet government, because there were certain problems with independent (sovereign) use and disposal of this type of armament by Ukrainian authorities.

<sup>8</sup> <http://daccess-dds-ny.un.org/doc/RESOLUTION/GEN/NR0248/72/IMG/NR024872.pdf?OpenElement>

weapons a permanent members of the UN Security Council must act in accordance to their obligations under the UN charter<sup>9</sup> [10;11].

The collapse of the Soviet Union created a certain conflict because the Russian Federation was recognized as the USSR right-follower/ imitator, while nuclear weapons were in territory of several newly independent countries, including Ukraine. According to the UN statute there are only 5 countries among its permanent members that possess nuclear weapons, so in order to cope with the present situation and to reduce the international military and political risks it is necessary to limit/decrease the „nuclear club” number to the number, preceding USSR collapse. That is the strategy on nuclear disarmament of Ukraine that international security key donors – the US, the Russian Federation and the United Kingdom have selected. For more holistic and guaranteed nuclear disarmament process and the accession of Ukraine to the Treaty on Non-Proliferation of Nuclear Weapons as a member state that does not have nuclear weapons „Memorandum on Security Assurances in connection with Ukraine's accession to the Treaty on Non-Proliferation of Nuclear Weapons” (dated December 5, 1994) was signed This Memorandum was signed by the leaders of Ukraine, the USA, the Russian Federation and the United Kingdom<sup>10</sup>.

According to the Memorandum, given Ukraine's commitments on nuclear disarmament, the US, Russia and the UK reaffirmed their commitments: to respect the independence, sovereignty and existing borders of Ukraine; to refrain from the threat or use of force against the territorial integrity or political independence of Ukraine (except for the use of force only in self-defense, according to the UN charter); to refrain from economic coercion directed to subordinate own interests on implementation of sovereign rights of Ukraine for the sake of any benefits; to seek immediate Security Council actions in order to help Ukraine as a member state, which does not possess nuclear weapons, of the Treaty on Non-nuclear-weapon proliferation, if it becomes a victim of an act of aggression or an object of a

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<sup>9</sup> <http://www.un.org/ru/documents/charter/index.shtml>

<sup>10</sup> France and China as permanent members of the UN Security Council declared similar guarantees to the ones, which were set out in the Memorandum on sovereignty guarantees and territorial integrity of Ukraine.

threat of aggression with nuclear weapons use; not to use nuclear weapons against Ukraine as a member state, which does not possess nuclear weapons, of the Treaty on Non-nuclear-weapon proliferation, except in cases of attacks on their territories or dependent territories, their armed forces or their allies by such state, acting with the state, possessing nuclear weapons or which is associated with it by union agreement; to consult in case of a situation that raises issues under these obligations.

So the object and the multilateral guarantee case is quite clearly defined, but the guarantee system did not take into account the situation when the aggressor is one of the guarantees parties. Thus, the status of the Russian Federation as a country with nuclear weapons makes it extremely protected from direct military intervention of other states-guarantors. The same way the hidden nature of military aggression (so-called hybrid war) creates a legal lacuna, according to which the fact of external military aggression is not conventionally fixed, if it does not actually accompanied by official recognition of the aggressor. This configuration of factors that determine the nature of the given geopolitical crisis allows reaching the following conclusions:

1. Obviously in 1994 as a final/end of nuclear disarmament, it was necessary for Ukrainian authorities instead of the Budapest Memorandum on Security Assurances of Ukraine to enter into full-fledged interstate agreement (with precise algorithms of providing of security guarantees in case of external aggression against Ukraine), which would receive legislative ratification in the parliaments of countries-guarantors [12].
2. Russia violated the political and legal foundation of bilateral Ukraine-Russian relations and the Budapest Memorandum in particular has contributed to speeding up the erosion of European and international security and international order system, as it was not only about the violation of the UN Charter and OSCE key principles, but also about more fundamental principles of modern European real policy - the inviolability of borders and national sovereignty.
3. The greatest guarantee against foreign aggression for a country that got rid of its nuclear arsenal could be the joining to the system of collective security of NATO. So, joining the institutionalized system of collective security would be radically more efficient as opposed to memorandum-

declaring of multilateral collective security guarantees.

4. Given that the Budapest Memorandum has become an unrealized legal document that existed only in declarative form of collective statement of intent to guarantee security, Ukraine should get the initiative making of a new treaty on post factum security guarantees of the country, which has become the only country that voluntarily renounced nuclear and arms as a result of disarmament has become the victim of military aggression of Russian Federation.
5. Inconsistency of multilateral collective security that Ukraine has received as a result of voluntary disarmament and the real situation is quite complex geopolitical configuration itself that affects directly the process of nuclear non-proliferation (one of the conclusions that one can make from Ukraine-Russian conflict observation is that the classic rules of real politic will continue to provide „rules of the game” in the world order) and requires fundamental reform of the system of international security as well as denial of the right of veto to permanent members of the UN Security Council.

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### **ПРОБЛЕМАТИКА НОВОГО ГЛОБАЛІЗМУ В УМОВАХ ТРАНСФОРМАЦІЇ НАЦІОНАЛЬНИХ ІДЕЙ ДЕРЖАВ СУЧАСНОСТІ**

*Трансформація глобалізму в умовах існування постіндустріальних суспільств та інформатизації інститутів влади в сучасному світі все більше стикається з опором свого розповсюдження, яким виступають національні ідеї. Унаслідок цього співіснування та взаємодії основних елементів глобалізм не використовуються на всю потужність. Це веде до виникнення антиглобалістських течій, котрі формуються з національних ідей сучасних країн.*

**Ключові слова:** глобалізація, трансформація, національна ідея, суспільство, демократія.

**Запорожченко Р.А.**

### **ПРОБЛЕМАТИКА НОВОГО ГЛОБАЛІЗМА В УСЛОВИЯХ ТРАНСФОРМАЦІЇ НАЦІОНАЛЬНИХ ІДЕЙ ГОСУДАРСТВ СОВРЕМЕННОСТИ**

*Трансформація глобалізму в умовах існування постіндустріальних суспільств та інформатизації інститутів влади в сучасному світі все більше стикається з опором свого розповсюдження, яким виступають національні ідеї. Унаслідок цього співіснування та взаємодії основних елементів глобалізм не використовуються на всю потужність. Це веде до виникнення антиглобалістських течій, котрі формуються з національних ідей сучасних країн.*

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**Zaporozhchenko R.**

### **THE ISSUES OF NEW GLOBALISM IN THE TRANSFORMATION OF MODERN STATES' NATIONAL IDEAS**

*Nowadays the transformation of globalization in terms of the appearance of post-industrial society and information-oriented institutions of power is being faced with the tough resistance to its distribution. This resistance comes from the national ideas. As a result of co-existence and interaction of this basic opposition the advantages of globalism cannot be used fully. This leads to the emergence of antiglobalism movements that utilize the national ideas of modern countries.*

**Key words:** globalization, transformation, national idea, society, democracy.