

EU Non-PROLIFERATION CONSORTIUM

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Tiptoe, stride and leap: steps towards a WMD-free Middle East

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Background paper

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Abbreviations

ACRS	Arms Control and Regional Security
BW	Biological Weapons
BWC	Biological Weapons Convention
CBMs	Confidence Building Measures
CFE	Treaty on Conventional Armed Forces in Europe
CSCE	Conference for Security and Co-operation in Europe
CTBT	Comprehensive Testban Treaty
CW	Chemical Weapons
CWC	Chemical Weapons Convention
IAEA	International Atomic Energy Agency
ICNND	International Commission on Nuclear Non-Proliferation and Disarmament
NPT	Treaty on the Non-Proliferation of Nuclear Weapons
NWFZ	Nuclear Weapon-Free Zone
NWS	Nuclear Weapon State
OPCW	Organization for the Prohibition of Chemical Weapons
UNIDIR	United Nations Institute for Disarmament Research
VERTIC	Verification Research, Training and Information Centre
WMD	Weapons of Mass Destruction

1. “It is not necessary to change. Survival is not mandatory”¹

For the whole of the last century, humanity has been grappling with the self-created spectre of weapons of mass destruction. Poisonous gases used in the First World War to kill approximately 100,000 people and disable some 900,000 others, were put to even deadlier use in the Nazi gas vans and chambers of the Second World War, killing millions of people. The invention and devastating use of nuclear weapons by the US on Hiroshima and Nagasaki Japan in 1945 led to an arms race between the US and USSR resulting in the manufacture of over 50,000 nuclear warheads and several near-miss events that brought the world closer to a global nuclear war than is commonly acknowledged.² Bioweapons have also been developed and – for the most part – discarded thanks to the growing understanding of their lack of military utility and their inhumane, disproportionate consequences. Applications of humanitarian principles to weapons and armed conflict led to the adoption of the 1972 Biological and Toxin Weapons Convention and the 1992 Chemical Weapons Convention.

With the exception of Israel, all states in the Middle East are members of the NPT and are subject to full-scope IAEA safeguards and a growing number have adopted the Additional Protocol including most recently, Iraq. Israel has declared that it will “not be the first to introduce” nuclear weapons to the region³ although it is widely believed to possess a nuclear weapons capability. Despite such enthusiastic support for the NPT in the region, the majority of serious cases of non-compliance with NPT and IAEA safeguards have occurred in the Middle East.

A small but significant number of Middle East states are not members of the CWC and the BWC. Neither Egypt nor Syria have signed the CWC, and although both have signed neither has ratified the BWC. Israel has signed but not ratified the CWC whereas it is a non-signatory of the BWC. Syria is widely believed to have developed and deployed chemical weapons, including blister and nerve agents. The civil war in Syria has given rise to fears that the government may use chemical weapons against rebel forces and civilians and that non-state armed groups could obtain chemical and biological weapons in the aftermath.

Although subject to numerous arms control, reduction and non-proliferation agreements, nuclear weapons have not yet been the subject of a successful abolition approach in the same way as chemical and biological weapons. Regional nuclear weapon free zones however, have had an enormous positive impact, with the whole of the land mass of the southern hemisphere now covered by NWFZs, that also include significant parts of the northern hemisphere.⁴

¹ Attributed to W. Edwards Deming, October 14, 1900 – December 20, 1993.

² See Geoffrey Forden, False Alarms on the Nuclear Front, <http://www.pbs.org/wgbh/nova/missileers/falsealarms.html>; Alan F. Phillips, 20 Mishaps that Might Have Started Accidental Nuclear War, (January 1998), http://www.wagingpeace.org/articles/1998/01/00_phillips_20-mishaps.php; and Benjamin B. Fischer, A Cold War Conundrum. The 1983 Soviet War Scare, (Center for the Study of Intelligence, US Central Intelligence Agency), <https://www.cia.gov/library/center-for-the-study-of-intelligence/csi-publications/books-and-monographs/a-cold-war-conundrum/source.htm#HEADING1-13>.

³ Avner Cohen, *Israel and the Bomb*, NYC: Colombia University Press, (1998), pp 207-15.

⁴ <http://www.un.org/disarmament/WMD/Nuclear/NWFZ.shtml>. In approaching the Middle East zone it will be possible for participating countries to build on the experiences of: the Antarctic Treaty; the Treaty of the Tlatelolco for Latin America and the Caribbean; the Sea-bed Treaty; the Treaty of Rarotonga for the South Pacific; the Treaty of Bangkok for South-East Asia; the Treaty of Pelindaba for Africa; and the Central Asian Nuclear-Weapon-Free Zone Treaty. Guidelines for establishing nuclear weapon free zones, drawn up by the UN

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Addressing regional security via regional processes, frameworks and discussions has proved to be a successful method. This is not surprising. Those in the region best understand regional security dilemmas and more effective solutions can be found if regional partners agree to seek one together.

Proposals for a nuclear weapons free zone in the Middle East were first made in the 1960s and 1970s in reaction to increasing instability in the region and growing technical capabilities in the nuclear and missile realms. In 1962, a group of highly respected Israeli academics, spearheaded by Eliezer Livneh, formed the Israeli Committee for the Denuclearization of the Middle East⁵ and proposed a zone stating that they viewed the development of nuclear weapons "to constitute a danger to Israel and to peace in the Middle East" urging the United Nations to intervene "to prevent military nuclear production". Iran and Egypt co-sponsored a 1974 UN General Assembly resolution calling for the establishment of such a zone. The Egyptian-Iranian resolution from 1974 has been adopted each year and, following the 1979 peace treaty with Egypt, Israel joined the consensus on the General Assembly resolution, which invites all states in the region to adhere to the NPT, place all their nuclear activities under IAEA safeguards, and—pending the establishment of an NWFZ—not to produce, test, acquire or station nuclear weapons on their territories and states that a Middle East NWFZ "would greatly enhance international peace and security". Israel's policy is indeed in favour of a regional approach and is linked to Israel's long-standing demand for full and mutual political recognition among all the states of the region and a resolution of the Arab-Israeli conflict; the Israeli nuclear capability being viewed as an existential issue.⁶

In 1990 Egypt proposed that the Middle East be made free from all weapons of mass destruction. In 1995, prior to the collapse of the Arms Control and Regional Security (ACRS) talks, the NPT Review and Extension Conference adopted the 1995 resolution on the Middle East, co-sponsored by the three depositary states—the Russian Federation, the United Kingdom and the United States— as a fundamental part of the deal to extend the NPT indefinitely.⁷

The final document of the 2010 NPT review conference stressed the importance of a process leading to full implementation of the 1995 resolution on the Middle East and made

Disarmament Commission in April 1999, outline principles that include: establishing zones on the basis of arrangements freely arrived at among the states of the region concerned; initiatives emanating exclusively from states within the region concerned and be pursued by all states of that region; consultation of the nuclear weapons states (NWS) during the negotiations; ensuring that the zones does not prevent the use of nuclear science and technology for peaceful purposes and could also promote bilateral, regional and international cooperation.

⁵ Cohen Avner, *The Worst-Kept Secret. Israel's Bargain With the Bomb*, NYC: Colombia University Press, (2010), p. 128.

⁶ Avner Cohen and Patricia Lewis, *Israel and the NWFZ in the Middle East: Tiptoeing down a 'long corridor'*, in: Bernd W. Kubbig and Sven-Eric Fikenscher (Eds.), *Arms Control and Missile Proliferation in the Middle East*, (Global Security Studies), London: Routledge, (2012).

⁷ The 1995 resolution called on all States in the Middle East "to take practical steps in appropriate forums aimed at making progress towards, inter alia, the establishment of an effectively verifiable Middle East zone free of weapons of mass destruction, nuclear, chemical and biological, and their delivery systems, and to refrain from taking any measures that preclude the achievement of this objective" and on all States party to the NPT, and in particular the NWS, "to extend their cooperation and to exert their utmost efforts with a view to ensuring the early establishment by regional parties of a Middle East zone free of nuclear and all other weapons of mass destruction and their delivery systems".

the Secretary-General and the co-sponsors of the 1995 resolution responsible, in consultation with the states of the region, for the convening of a conference in 2012, to be attended by all states of the Middle East, on the establishment of a Middle East zone free of nuclear weapons and all other weapons of mass destruction. In 2011, Ambassador Jaakko Laajava of Finland was appointed facilitator and, following extensive consultations and preparations, the conference is scheduled to take place in Helsinki in December 2012.

2. Helsinki and beyond

Success at the Helsinki conference requires that all state participants will have to have a clear sense in advance of the meeting of what the likely outcome could be and, most importantly, what the boundaries of the possible outcomes would be. Success would likely take the form of a) a political declaration in which all parties confirm their commitment to the establishment of a Middle East free of weapons of mass destruction and b) an agreed follow-on process that deals with the technical aspects of a zone and scopes out a practical framework for the negotiation of the Zone. In addition, later if not immediately, a framework for higher political discussions encompassing a wider security dialogue for the region would be an important contribution to making speedy progress towards the zone.

Substantive work has been done by academics in regards to the content of a WMD-free zone treaty in advance of any future negotiations⁸, and much can be drawn from previously negotiated texts and work done in the past in ACRS. However, it is vital and practical that the regional states form their own issues for technical and political discussions and that they decide on the best process forward.

The technical track could, for example, consist of working groups dedicated to specific issues. These could be held in a staggered parallel formation, each track retaining a degree of independence from the other – although in reality there will be cross-pollination if only for the purposes of ensuring consistency in approach and terminology.

Judging from other similar processes, an umbrella committee that addresses scope, consistency guidelines and deals with overarching drafting issues could be established. This umbrella committee (a committee of the whole) would agree the mandates for the technical working groups and set their timetables, and function as the body to which all the technical working groups would report. The mandates and timetables would need to be addressed early on in the group and reconsidered periodically as progress was reported and monitored.

The umbrella committee could address issues of scope and determine how to apportion nuclear, chemical and biological weapons among the technical working groups. It has hitherto been widely accepted that chemical weapons and biological weapons would most likely be dealt with through the full regional application of the CWC and BWC respectively, incorporating an enhanced regional inspection and verification protocol, and the issue of nuclear testing prohibition would be done through the full regional application of the CTBT and its extensive verification regime. If states in the region can agree on this, then the technical groups on CW and BW could focus on those treaties, how to build trust and

⁸ See for example, N. Fahmy and P.M. Lewis, Possible elements of an NWFZ treaty in the Middle East, Nuclear-weapon-free-zones, in: Disarmament Forum, no. 2, UNIDIR (2011), and Lewis PM, Potter W, The Long Journey Toward a WMD-Free Middle East, in: Arms Control Today, (September 2011).

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confidence in their applications through accountability measures, including verification means and inspections.

The umbrella committee could also address the declaratory portions of a future treaty including renouncing nuclear, chemical and biological weapons through refraining from conducting related developments and activities or through receiving second party assistance in such activities, or providing support to second parties in this regard. The scope could also include: prohibitions on transit and transfer and stationing WMD on the territories of all states in the region; a prohibition on testing; and a prohibition on armed and cyber attacks on civil nuclear facilities. The peaceful uses of the technologies and the rights to peaceful applications could also be dealt with under the scope of the treaty as could such matters as prohibiting the dumping of radioactive waste and related materials and measures to support nuclear security and safety.

Legal matters such as the settlement of disputes arising from differing interpretations, on reservations and on the conditions for signature, right to withdraw, amendments, ratification, depositaries, entry into force and duration could be contained within a legal aspects working group.

Technical working groups could be established to address technical aspects of nuclear, chemical and biological weapons that require special attention. In addition, working groups could be established to address fissile material controls, missiles, and verification. A technical working group on doctrines could be established to investigate ways in which the role of WMD could be reduced, devalued and delegitimized in the region, paving the way for an effective zone.

Missiles, other means of delivery and their proliferation, along with missile defences, would also need to be discussed in technical working group. It is not clear at all, how the full range of missiles could be addressed within the zone but it is possible to consider some types of measures to address and mitigate the fears they invoke, such as a regional flight test notifications mechanism and hotlines for crisis management.

Certain topics would be extraordinarily sensitive but will have to be addressed. In particular, these include declarations of existing to-be-prohibited weapons capabilities and the dismantling of any existing to-be-prohibited weapons capabilities. For chemical and biological weapons, this can be done through the extant treaties. However, unless a global Nuclear Weapons Convention is agreed in the intervening time period, the existing nuclear weapons capabilities will need to be dealt with.

There have been other examples of how to approach such difficulties. South Africa, for example, dismantled its nuclear weapons programme in 1989, subsequently inviting the IAEA to check and confirm that it was satisfied that the nuclear weapons capability had been dismantled and the remaining nuclear capability was solely for "commercial non-nuclear applications or peaceful nuclear usage".⁹ This is a workable option to consider for the Middle East WMD free zone. In principle, the approach could also apply to any other capabilities in the region, whether they are embryonic or more advanced, nuclear, chemical or biological. In practice, it would be best to engage the IAEA, the OPCW and specialized UN BW inspectors as early on as possible.

⁹ IAEA General Conference, The denuclearization of Africa: report to the Director General, document GC(XXXVII)/1075, (9 September 1993), p. 11.

Other topics such as declarations of existing facilities could be dealt with more easily in the working groups. Lists of declared facilities could be prepared for technical annexes with the provision for regular updates. A technical working group on negative assurances and support protocols could also be established that engages the NWS early on in that discussion, thus avoiding unnecessary confusion in the future.

A technical working group on verification and monitoring compliance could develop regional approaches to verification and compliance measures. Generally, NWFZs have included provisions for adherence to the full-scope safeguards agreement¹⁰ and more recent zones call for adherence to the Additional Protocol¹¹. Given the nuclear tensions and suspicions within the region, further, more revealing cooperative measures would likely be required. There are a number of models ranging from: extensive verification and compliance functions carried out by new standing institutions, as is the case in the Treaty of Tlatelco; or reliance on existing international verification instruments supplemented with added reporting requirements, as in the Treaty of Rarotonga; or establishing a commission for the purpose of ensuring compliance that would gather its own information, interact with and transmit reports to the IAEA, and be able to call independently of the IAEA for clarification, technical visits and inspections, reserving the right to establish its own inspection mechanisms should the need arise, as in the Treaty of Pelindaba.¹² In addition, states could also consider the possibility of joint inspections with the IAEA, as in the case of the Brazilian-Argentine Agency for Accounting and Control of Nuclear Materials.

3. Measures to support the zone

Many regions have had positive experiences of confidence-building measures (CBMs) that are steps taken to build trust and confidence between parties, tangential to the treaty negotiations. In the Middle East however, there persists a strong perception that CBMs are, at best, diversions and, at worst, deliberate attempts to derail and delay the negotiations. However, there are distinct adjunct measures that could be agreed in support of – not in lieu of – a zone. Such supportive measures, if agreed speedily, could help create the constructive atmosphere and play the role that CBMs have played whilst not diverting attention away from the main goal.

Measures to support the zone could include, for example, interim negative security assurances whereby the NWS declare their commitment not to use or threaten to use nuclear weapons against any country in the regions during the negotiations and until the treaty has entered into force and the protocols are signed and ratified. Similarly, states in the region and those outside, including the NWS could make a commitment not to attack – including cyber attacks – civil nuclear, chemical or biological facilities in any of the states during the negotiations, and until the treaty has entered into force. Other measures to support could include counter terrorism measures, agreed regionally or bilaterally, and measures to reduce

¹⁰ IAEA, The structure and content of agreements between the Agency and states required in connection with the Treaty on the Non-Proliferation of Nuclear Weapons, document INFCIRC/153 (Corrected), (June 1972).

¹¹ IAEA, Model protocol additional to the agreement(s) between states(s) and the International Atomic Energy Agency for the application of safeguards, document INFCIRC/540 (Corrected), (September 1997).

¹² A number of countries in the Pelindaba Treaty would form part of the Middle East WMD Free Zone, they include Algeria, Egypt, Libyan Arab Jamahiriya and Morocco.

the likelihood of surprise attack – including missile transparency measures such as notification of missile tests and deployments of new missile types and the establishment of hotlines for crisis management. Nuclear safety and nuclear security assurance measures could be undertaken regionally, including early warning mechanisms for nuclear accidents and Interpol-supported alerts in the case of nuclear theft or sabotage. In addition, non-WMD measures could be included such as the multilateral observation of large-scale military exercises, military-to-military exchanges and transparency measures in the conventional forces domain. Such measures were agreed and established in the CSCE Helsinki Process, leading to the Stockholm, Vienna and Paris Accords and the CFE Treaty.¹³

4. Leaping from the nuclear track

“Neither a wise man nor a brave man lies down on the tracks of history to wait for the train of the future to run over him”.¹⁴

Throughout history the Middle East has made history through human conflict and cooperation. In the last two years, there has been increasing instability and turmoil in the Middle East and, simultaneously, growing hopes and opportunities. The Arab Awakening has resulted in relatively peaceful political change in Tunisia and Egypt so far, whereas all-out violent conflict erupted in Libya and Syria. The tensions between Israel and Iran over the nuclear issue threaten to escalate out of control and into a full-blown regional conflict. There is no framework in the region for security dialogue. No place in the region where government representatives can meet and listen to each other and thrash out their differences. It has been proposed that the United Nations – currently the only venue where states from the Middle East can all sit together and talk – establish a UN Regional Centre for Peace and Disarmament in the Middle East (as they have in Lomé, Kathmandu and Lima) to provide capacity building and a framework for security and political dialogue in the region.

Whatever the outcome of the 2012 Helsinki meeting, eliminating WMD in the Middle East is a vital issue that needs to be addressed. If the NPT avenue turns out to be a dead-end, then there will be other paths to explore – inside and outside UN structures. Pressure to make progress is unlikely to reduce; indeed the reverse may be true. States that may be considering nonparticipation in the process would do well to contemplate that decades of attempts to address this issue will not easily weaken and collapse because a single scheduled meeting does not bear fruit. Refusing to participate at this stage could well increase the level of discomfort down the road, when things are likely to be more not less difficult to untangle.

Nuclear, chemical and biological weapons pose enormous risks to humanity in the Middle East and a strategy of not talking about them and not dealing with them will not make them go away. In order to make progress, steps have to be taken that will induce fear – fear of change, fear of a different future and fear of grave error. All this is natural, justified and needs to be acknowledged. There is no risk-free option. Doing nothing however, is not an option. Doing nothing will not bring about positive change and is likely – judging by trends – to be far more

¹³ Patricia Lewis and Karim Kamel, A Helsinki Process for the Middle East? New discourse, new opportunities: Climbing ladders, taming snakes, in: Chen Kane (Ed.), A Helsinki Process for the Middle East, (Center for Nonproliferation Studies, the Monterey Institute of International Studies), forthcoming 2013.

¹⁴ Dwight D. Eisenhower, TIME magazine, (October 1952).

risky than opening up a negotiation. As the great scientist Francis Bacon observed: “Things alter for the worse spontaneously, if they be not altered for the better designedly.”¹⁵ Indeed, as every successful peace negotiator will testify, in order to make progress, we first have to be vulnerable to the possibilities of change. The Middle East landscape is changing daily. Tiptoeing or taking baby steps in an attempt to reverse WMD developments while important is clearly inadequate. Whereas to use force and risk regional conflict could once more prove foolhardy by destroying people and things of great value in the name of security. A negotiation to remove all weapons of mass destruction, complete with an extensive and equitable verification regime could provide the stride we need to leap across the nuclear tracks of history, lest we be hit head-on by what is otherwise coming our way.

¹⁵ Sir Francis Bacon, 1561-1626.