

EU Non-PROLIFERATION CONSORTIUM

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The Regional Security Environment and Basic Principles for the Relations of the Members of the Zone

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Background paper

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Abbreviations

BWC	Biological Weapons Convention
CBMs	Confidence-Building Measures
CSCE	Commission on Security and Cooperation in Europe
CWC	Chemical Weapons Convention
IAEA	International Atomic Energy Agency
MEW MDFZ	Middle East Weapons of Mass Destruction-Free Zone
MENWFZ	Middle East Nuclear Weapon-Free Zone
NPT	Treaty on the Non-Proliferation of Nuclear Weapons
NWFZ	Nuclear Weapon-Free Zone
UN	United Nations
WMD	Weapons of Mass Destruction
W MDFZ	Weapons of Mass Destruction-Free Zone

1. Introduction

The 1995 Review and Extension Conference on the NPT was able to adopt its decision to indefinitely extend the treaty without a vote only because it also adopted a parallel resolution on the Middle East region calling for, *inter alia*, “the adoption of practical measures towards the creation of a Nuclear Weapons and Weapons of Mass Destruction Free Zone (NW/WMDZFZ).” Consequently, one should not forget or ignore the salience of this resolution, which was sponsored by the three depositaries of the NPT: The United States, Russia, and the United Kingdom. Equally significant is that the Middle East was the only region in the world on which a resolution was adopted, which was testimony to the concern of the NPT state parties over nuclear proliferation developments in the region.

None of this is coincidental. The issue of non-proliferation of nuclear weapons has been a topic of great consequence in the Middle East since the 1950s. Several countries, including Egypt, Israel and Iran, have unilaterally planned or have run nuclear weapons programs. When the Nuclear Non-proliferation Treaty (NPT) was opened for signature in 1968, Israel declined to sign the treaty and Egypt signed but conditioned its ratification upon Israel’s full adherence to the treaty. Several other Arab countries did the same. Over the years, every state in the Middle East, except for Israel, ratified its adherence to the NPT but, nevertheless, concerns over nuclear non-proliferation and nuclear weapons in the Middle East remain paramount. Reports have emerged in the past about the non-compliance of Iraq and Iran to their non-proliferation obligations and of a rather bizarre attempt at producing weapons of mass destruction in Libya, over and above what may or may not have happened in Syria. While, in addition, it appears that Israel has continued to expand its nuclear weapons arsenal despite Egypt and Jordan signing a peace agreement with Israel, as well as the destruction of Iraq’s military infrastructure, both of which have negated any serious potential for a full-fledged Arab–Israeli war or existential threat. Israel, the country reported to have the largest nuclear arsenal in the region, still remains outside the NPT. Over the last few decades, while the number of adherents to the NPT has increased in the Middle East, the tensions caused by military asymmetries and regional conflicts have placed the commitments made by NPT members to their treaty obligations under considerable stress. This is particularly true given that the security concerns of Middle Eastern NPT parties have not been adequately addressed in the nuclear domain.

The proposal to free the Middle East from nuclear weapons was first introduced by Iran and Egypt at the 1974 United Nations General Assembly. Thirty-eight years have passed since the adoption of that proposal, which has frequently received the unanimous support of the international community, irrespective of some less than nuanced caveats about when it could enter into force. This foundational proposal was complemented but not replaced by another Egyptian proposal in 1990: to create a Weapons of Mass Destruction Free Zone in the Middle East (MEWMDZFZ). The longevity of these proposals indicates, I believe, that the international community overwhelmingly supports their objectives and is seriously concerned about the deterioration of non-proliferation efforts in the Middle East. The 2010 NPT Review Conference decision, which called upon the three depositaries and the Secretary-General of the United Nations to convene a conference by 2012 to discuss implementation of its 1995 resolution, constitutes a call for action if we, as a community, are truly interested in safeguarding the Middle East and the international community from the dangers of the proliferation of these weapons in the region. It also presents a valuable opportunity to address

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these core challenges to Middle Eastern security. Further procrastination in dealing with these issues will bring into question the credibility of the NPT itself.

It is rather ironic that, today, some argue for a delay in the process because of the political transformations occurring, most notably in the Arab Middle East. Many of the same protagonists of this opinion have, at one point, argued that they could not deal with this issue as long as existential threats existed – threats that were removed by the Egyptian and Jordanian peace agreements with Israel – or the existence of authoritarian regimes, which raised questions about the commitment of the peoples of the region to these international obligations. Yet now, they continue to object to even the beginning of a process that, while urgent, will most likely conclude well after stabilization of the domestic political situations in the Arab Middle East. Even if that is not the case, the example of the Tlateloco Treaty in Latin America, which was negotiated between states of different degrees of democratic development and which entered into force gradually as members of the region found it in their interests to do so, clearly demonstrates that a diplomatic path towards nuclear non-proliferation exists, despite domestic uncertainties.

For all these reasons and many more, I see no merit whatsoever in postponing further the commencement of a process of negotiations to free the Middle East from nuclear weapons and other weapons of mass destruction. Ultimately, states in the region, based on their appraisal of the political and security environment, will have to agree on the Entry into Force clauses when and if they decide to join the proposed treaty. Needless to say, however, these decisions will not even be considered if the actual content of the treaty has not been determined. This is yet another reason not to delay the commencement of a serious process of negotiations or, in fact, to disrupt it at any point due to changing political circumstances. In fact, the negotiating process itself is a vital confidence-building measure between states in the region. And I strongly caution that not embarking on it would, in fact, have negative ramifications on any attempt to generate confidence between the regional parties

In light of the above, I will focus on what principles should serve as guidelines for states in the region now and, when the zone is established, on what the upcoming 2012 NPT Review conference on creating a MENWFZ should conclude with, and will furthermore suggest different kinds of confidence-building measures that can be adopted by states in the region before, during, and after said conference.

2. Principles and Parameters

The question of principle and moral responsibility is one that often seems secondary in the fraught realpolitik of international relations. It is empty rhetoric, put there only to cushion the harder practicalities of negotiated compromise. However, the moral principle of an international agreement must, in fact, be its defining characteristic. If any security agreement aspires to lasting success, it must hold states to a clear ideal and it must ensure that the states themselves fully and honestly subscribe to that ideal. In the context of the Middle East and the creation of a NWFZ there, such adherence to a clear set of principles regarding arms control and collective security is doubly important to the project's success. Any state that is party to a NWFZ must take to heart the mandate to “maintain international peace and security” through “effective collective measures” enumerated in the first article of the UN Charter.¹ Similarly, all presumptive states should unwaveringly commit themselves to refrain

¹ The UN Charter, Chapter 1, Article 1, <http://www.un.org/en/documents/charter/chapter1.shtml>

from the acquisition, transfer, and use of nuclear weapons enshrined in the first article of the NPT. No nuclear weapons-free zone, or a zone restricting weapons of mass destruction, can function on a basis falling short of this fundamental commitment.

Today, the international community focuses most on Iran's suspect nuclear program, while the noncompliance of countries such as Iraq, Libya, and Syria with international arms control regimes has been similarly emphasized over the last few decades. Such noncompliance with treaty obligations cannot and should not be accepted. However, we must not forget the burden placed on any regional arms control effort by Israel's alleged nuclear arsenal, its refusal to submit to the NPT, and its insistence on quantitative and qualitative military superiority over its neighbours. In any non-proliferation agreement, whether it be the NPT, the Chemical Weapons Convention (CWC), the Biological Weapons Convention (BWC), etc. the clear objective is to prohibit and prevent use and acquisition of these weapons. If a country wants to be a part of the international community, then it must take action towards these provisions, even if it is not a member state of one or all of the agreements. In other words, we cannot hope to achieve any WMD-free zone in the Middle East if one or more of the vital partners are in moral or actual violation of the already existing concepts and principles that guide non-proliferation and arms control and today constitute basic international norms in this region.

Consequently, the basic set of foundational commitments for the negotiating process towards the creation of a MENWFZ or a MEWMDFZ should, *inter alia*, include, first, a commitment to the pursuit of security through collective security measures and, second, a commitment to equal security for all states of the region. Through these commitments, the states should be tacitly agreeing to the overarching objectives of a conference: increased security for the nations of the region and the assumption that security can only be achieved through peaceful relations, dialogue, and political arrangements; the logic of discarding the current imbalance for the establishment of a qualitative and quantitative balance between the military capabilities of regional players; and the conclusion of agreements on arms reduction and disarmament with effective monitoring measures enshrining equal rights and responsibilities between all party nations is imperative.

The long-term objectives suggested here must also be accompanied by the recognition of a set of short-term priority objectives. These are the banishment of all weapons of mass destruction from the Middle East, the prevention of an intensive arms race in the region, and achieving a high degree of military transparency in all weapons systems, particularly those utilizing advanced or devastating technologies.

Furthermore, for the negotiating process itself to have any potential for success, the parties should openly commit, a priori, as part of a NWFZ or WMDFZ to promise, at minimum, to:

- 1) The renouncement of the acquisition, transfer, and use of nuclear weapons and other weapons of mass destruction
- 2) Ensuring that the regional and provisional agreements would be consistent with the relevant international disarmament agreements, but complementing them when necessary.
- 3) Ensuring that the arrangements for ridding the region of these weapons would be achieved with the agreement of the respective states of the region.

3. 2012 Objectives of the Conference

With this in mind, the first objective of the 2012 NPT Review Conference should be to produce an unequivocal declaration in support of a MENWFZ without caveats or condition. The second objective should be to bolster rhetoric with the commencement of a negotiation process that is completely inclusive and leaves nothing that is directly relevant off the table, in terms of either topics or members. The conference, however, should remain focused on nuclear weapons for two reasons. The nuclear issue is the most pertinent and divisive topic in regional arms control, one which presents an urgent, and potentially devastating, threat to Middle Eastern security as a whole. Progress on a MENWFZ should, as a logical consequence, kick-start negotiating processes on the further regulation of chemical, biological, and other weapons of mass destruction. Many of the issues that stymie progress on these weapons touch on the same grievances that have blocked progress on a MENWFZ for nearly fifty years – for example, Egypt refuses to ratify the CWC until Israel ratifies the NPT – and, if those issues can be addressed by the nuclear process, then that should stimulate progress on the WMD front. It has also been argued that, since conventional weapons constitute the bulk of the weapons systems available in the Middle East, they should be dealt with first. However, it is for that very reason that it is unreasonable to expect any progress in the arms limitation process if conventional weapons are given priority because, as long as the Arab–Israeli conflict remains unresolved, neither side is likely to consider real change in such arsenals. Weapons of mass destruction on the other hand, especially nuclear weapons, pose a direct and imminent threat to regional security. For that reason, they must be our immediate concern at the upcoming conference.

4. Scope of Prohibition, Geographic Scope, a Verification System, the Relationship with International Systems

The conference should create something of a roadmap for the nuclear zone, and lay the groundwork for the requisite WMD treaties and arrangements. There are six questions in particular regarding which the conference will need to provide some clarity or create a process for clarity to be worked out afterwards. They can be best addressed through the establishment of parallel negotiating working groups to commence at, or immediately after, the 2012 conference.

First, clear guidelines for the scope of prohibition within the zone should be set. For instance, some suggest that the NWFZ should include prohibitions against peaceful nuclear testing, others do not. Another question is whether the treaty will cover research and development work related to nuclear weapons and whether certain portions of the fuel cycle will be prevented. A third question will relate to the issue of nuclear weapons in transit. Discussion on these basic components of the proposed zone will be needed to achieve progress in larger negotiations. Part and parcel of the scope of prohibition will be the question of geographic scope, namely, the geographical parameters of the zone. This will have both a regional and also an international effect and the United States and Russia in particular will be monitoring these definitions carefully. A fourth question of great importance will be the identity and scope of the verification regime encapsulated within the treaty. The Arab states and Iran have traditionally favoured oversight by the IAEA and an international safeguard system, which would require more diligence than the IAEA's traditional mandate, even with

the additional protocols, due to the nature of the Israeli nuclear programme and concerns about possible Iranian noncompliance. Israel also does not have faith in the IAEA's ability to effectively police compliance with the treaty and has posited the idea of separate bilateral verification procedures. The fifth question that will need to be addressed is the relationship of the proposed zone to international agreements and whether the zone will manifest as part of a commitment to international treaties or whether it will be a regional treaty between parties. Finally, a sixth question is whether to place all the obligations concerning the prohibition of different weapons of mass destruction under one umbrella or in stand-alone parallel agreements.

5. Confidence-building Measures and Entry into Force in the Negotiating Process That Should Emerge from the Conference

Beyond these considerations there are at least two further issues that will be under consideration. These are the complementary confidence-building measures (CBMs), which will be needed to pave the difficult road towards a final agreement, and when to initiate negotiations on the timing and implementation of entry-into-force agreements.

5.1 Confidence-building Measures (CBMs)

As we reaffirm the commitment to the establishment of a MENWFZ and a MEW MDFZ and establish approaches to bring this objective to fruition, there will no doubt be a legitimate call for confidence-building measures to be taken by the regional parties, and perhaps even the nuclear weapons states beyond the region. The objectives of these CBMs should be to give the process on which we are embarking some credibility after almost four decades of empty platitudes, and to give the respective parties confidence in the seriousness of their respective counterparts. In fact, CBMs would most likely serve both these objectives well. Here, the experiences of other regional NWFZs and the examples of the Conference of Security and Cooperation in Europe (CSCE) in Helsinki are informative, but it would be erroneous to ignore the fundamental differences that exist between these situations and that of the Middle East. The issues involved here concern existential matters and identity rather than ideology and, while confidence-building measures are traditionally the easiest part of negotiations, they are complicated by Israeli and Arab sensitivities in the Middle East. Israel supports confidence building in principle but handles the measures cautiously lest they become a slippery slope towards nuclear disarmament, while the Arabs see CBMs as a process of Arab–Israeli political normalization, on which they refuse to embark until Arab–Israeli peace is achieved. Thus, the singular nature of the process we are pursuing, and the particular characteristics of the Middle East conflict, underline the necessity of unwavering political commitments on the part of regional nations focusing on the mandate of the 2012 conference and spelling out their desire to establish a Middle East region free of nuclear weapons and other weapons of mass destruction.

If there is a will, there is a way, even on CBMs, which can be progressive and incremental both in terms of form and content. In order for these CBMs to be successful in their purpose, we must pursue wide-ranging and ambitious initiatives at three different levels: voluntary political CBMs, legally binding CBMs, and technical CBMs. At the political level, CBMs, which would be of a general declaratory nature, should entail commitments that the states of

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the region are ready to be bound by the principles of arms control and reduction. For example, one such measure might be a set of declarations from the major arms-producing and arms-acquiring states – particularly the permanent members of the Security Council, as well as Israel, Iran, and the Arab states – that clearly and unconditionally endorse the creation of a WMDFZ or NWFZ in the Middle East but also commit them to not take any action that would impede progress toward that objective.

However, while constructive, such political declarations cannot hope to spur change in the absence of real binding commitments. For this reason, a set of concrete and legally binding CBMs would provide the foundation for progress on a real program of action. In this regard, the immediate and unilateral submission of all nuclear facilities in NPT state parties to the IAEA safeguards system and the conclusion of a full-scope safeguards agreement by states that have not yet done so. Similarly, for any state that has not yet joined the NPT, urgent accession and the conclusion of relevant safeguards agreements should be a priority. On the supply side, exporting states outside the region should make their supply of nuclear materials conditional on full-scope safeguards agreements. In conjunction with these political and legally binding measures, technical CBMs should also be envisaged. These measures could include regional data-related measures such as the provision of information on the nuclear activities of states in the region to the Director General of the IAEA, but measures could also ultimately be widened to include the area of bilateral operational and peace-keeping activities. Activities such as the establishment of operational arrangements relating to force and weapons deployment, addressing options such as demilitarized buffer zones, early warning stations, aerial reconnaissance missions, and military liaison committees could all be envisaged, though much further down the road and probably after the conclusion of an Arab–Israeli peace.

Measures such as these, actively and judiciously applied, provide a set of practical steps that offer the prospect of real-world progress to bolster rhetorical commitments in the aftermath of a successful conference. However, there are several caveats to the efficacy of confidence building that we must remember from previous efforts. First, operational measures were always contingent on the political will and consent of the directly concerned parties and these measures were developed through a detailed step-by-step process. Second, previous peace-keeping measures reflected, and were governed by, the political as well as military situation that prevailed on parties' borders and a third party was nearly always necessary in developing and applying these measures. Finally, communications between the regional parties were directly related to the progress achieved towards the political resolution of the conflict between them. For all these reasons unilateral, voluntary, and binding CBMs should be our primary focus now.

5.2 Entry into Force

The last issue to be considered should be the issue of entry into force. Disagreement among parties is now largely political in nature regarding this issue, with a clearly wide range of positions among regional players. States such as Egypt believe a zone can be established even now, and that such a development would enhance security and limit the potential for damage if conflicts were to break out. Other Arab countries are supportive of establishing a zone quickly but are not ready to negotiate directly with Israel and prefer the creation of a zone through a multilateral, UN-based system. Israel has argued that a zone can be established only after both 'peace and reconciliation' have been achieved among the Middle Eastern

parties through direct negotiations. Iran's position is not clear. Formally supportive of the creation of a MENWFZ, Iran now rarely reiterates its previous commitment to regional arrangements, focusing most of all on the importance of achieving the universality of the NPT.

6. Conclusion

In short, the road to a nuclear or weapons of mass destruction-free zone in the Middle East will be arduous and intense. However, it is not a hopeless task, nor is it an effort that we can afford to delay at this crucial juncture. Through honest dialogue and a deliberate process of negotiation with complementary confidence-building measures, the concept of a Middle East Nuclear and other Weapons of Mass Destruction-free Zone is one that can be realized. The 2012 NPT Review Conference remains our next good opportunity to make progress towards this objective. The minimum threshold for success of the conference should be the adoption of an unequivocal declaration of support for freeing the Middle East of nuclear and other weapons of mass destruction and their means of delivery, as well as the initiation of a structured negotiating process on the different issues related to the fulfilment of these objectives. At the same time, an encouraging additional step would be to couple all of this with a series of confidence-building measures related to nuclear weapons and other weapons of mass destruction.