

EU Non-PROLIFERATION CONSORTIUM

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A Top Down Approach to a Nuclear Weapons Free Zone in the Middle East

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Background paper

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Content

1. Introduction.....	3
2. Is Turkey In?	4
3. How to Assure Israel’s Security?.....	5
4. Is Egypt Helping or Harming the Process?.....	6
5. A Top-Down Approach	7
6. Conclusion	9

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Abbreviations

CTBT	Comprehensive Nuclear-Test-Ban Treaty
CTBTO	Comprehensive Nuclear-Test-Ban Treaty Organization
IAEA	International Atomic Energy Agency
MEWMDFZ	Middle East Weapons of Mass Destruction-Free Zone
NAM	Non-Aligned Movement
NATO	North Atlantic Treaty Organization
NNWS	Non-Nuclear-Weapon States
NPT	Treaty on the Non-Proliferation of Nuclear Weapons
NPR	Nuclear Posture Review
NTFZ	Nuclear Test-Free Zone
NWFZ	Nuclear Weapon-Free Zone
NWS	Nuclear Weapon States
WMD	Weapons of Mass Destruction
WMDFZ	Weapons of Mass Destruction-Free Zone

1. Introduction

Initiatives taken in favour of global nuclear disarmament deserve the full support of the international community. Key international actors generally accept that achieving a world without nuclear weapons, a desirable long-term goal, will require incremental steps over an extended period of time.

The creation of a Weapons of Mass Destruction Free Zone (WMDFZ) in the Middle East remains a fashionable topic of discussion when considering steps towards a world free of nuclear weapons. In fact, the Middle East remains the region of the world most frequently recommended for such a zone. However, the notable absence of favourable conditions for establishing a WMDFZ in the Middle East presents significant challenges.

Indeed, such as zone:

1. has never been established among states at war, as is formally the case between Israel and Syria;
2. has never been established between states that do not officially recognize each other as political entities and thus, share no diplomatic relations (as in the case of Israel); and
3. has never been established by states non-compliant with safeguard agreements (like Iran and Syria) or with a state that has repeatedly threatened to withdraw from the NPT (as does Iran).

In addition, it is doubtful that the much praised¹ Treaty of Tlatelolco, which established a nuclear weapons free zone (NWFZ) in Latin America, could serve as an acceptable precedent for the Middle East. Two of the provisions of that Treaty, for instance, allow parties to “carry out explosions of nuclear devices for peaceful purposes, including explosions which involve devices similar to those used in nuclear weapons,” and to withdraw from the treaty after 90 days-notice. It is hard to imagine such provisions would be acceptable in the Middle East.

The difficulty of establishing a WMDFZ in the Middle East forces the question of whether a focus on such a zone, in particular by states belonging to the Non-Aligned Movement (NAM) is just another illustration of the much-criticized double standard.² It also raises the question of why the NAM emphasizes the great importance of creating a WMDFZ in the Middle East while generally remaining silent about the lack of NPT membership, not to mention possession and testing of nuclear weapons, of two of its own members: India and Pakistan?

In any case, the political circumstances that characterize the Middle East render a WMDFZ unlikely in the foreseeable future. Harald Müller last year stated this quite succinctly:

Given the state of conflict, violence and mutual distrust in the region, it is highly improbable that a WMDFZ can ever be established without a considerable change in the overall relationship

¹ In particular because the negative security assurances protocol of the treaty of Tlatelolco is the only one which has been ratified (as early as 1979) by all NWS.

² Advocating non-NPT states to dismantle their nuclear arsenals before the five nuclear-weapon-states do so, as they committed to do under the NPT more than 40 years ago, represents another illustration of the double standard.

4 EU NON-PROLIFERATION CONSORTIUM

between the states in the region that makes war between them highly unlikely.

To dispute the right of existence of a regional neighbour makes any process of disarmament a non-starter.

All states in the region must accept, explicitly and credibly, the existence of Israel and abstain from supporting terrorist acts against its territory. Israel must accept withdrawal, within some time frame, from the occupied territories in order to permit the Palestinians to live in a viable state of their own, with possible equitable and agreed territorial exchanges in the process.³

Müller argues that the key to a WMDFZ in the Middle East is a sufficient degree of security, so that states no longer need WMD. This observation necessitates consideration of the specific security prerequisites in order to establish a WMDFZ in the Middle East.

2. Is Turkey In?

First, one must determine which countries to include in a prospective WMD Free Zone. One approach is to follow the IAEA definition of the Middle East region, which includes the following 23 states: Algeria, Bahrain, Comoros, Djibouti, Egypt, Islamic Republic of Iran (Iran), Iraq, Israel, Jordan, Kuwait, Lebanon, Libyan Arab Jamahiriya (Libya), Mauritania, Morocco, Oman, Qatar, Saudi Arabia, Somalia, Sudan, Syrian Arab Republic, Tunisia, United Arab Emirates and Yemen.⁴

However, if the IAEA includes states such as Mauritania and the Comoros in its definition of the Middle East, wouldn't it be logical to also include Turkey? I would suggest so.⁵ A WMDFZ in the Middle East should include Turkey all the more so because of Turkish dedication to the idea of WMDFZ in the Middle East. Indeed, "in recent years, Ankara has been advocating the implementation of a regional nuclear-weapon-free zone, which officials see as part of an overall strategy to decrease tensions in the region."⁶

However, if a WMDFZ in the Middle East does include Turkey, it would require the withdrawal of NATO's tactical nuclear weapons from Turkish territory. Under what conditions could one envisage such a withdrawal?

Sinan Ülgen argues that the removal of NATO tactical nuclear weapons from Turkey could only take place if all other non-nuclear-weapon-states (NNWS) in the European Union (EU) also agreed to the removal of such weapons stationed on their territory.⁷ Ülgen asserts that Turkey would willingly remove nuclear weapons from its territory if NATO was operating in

³ Harald Müller and Claudia Baumgart-Ochse, *EU Seminar to promote confidence building and in support of a process aimed at establishing a zone free of WMD and means of delivery in the Middle East*, Brussels: (6–7 July 2011).

⁴ IAEA GOV/2011/55, Application of IAEA safeguards in the Middle East, (2 September 2011).

Three states included in the Middle East region have ratified the Pelindaba Treaty: Algeria (1997), Libya (2005) and Mauritania (1998).

⁵ It is noteworthy that most papers written by Egyptian experts on the MEWMDFZ never include Turkey in such a zone.

⁶ Sinan Ülgen, *Turkey and the Bomb*, Carnegie Nuclear Policy Paper, (February 2012). http://carnegieendowment.org/files/turkey_bomb.pdf

⁷ *Turkey and the Bomb*, *ibid.*

consensus. Ülgen claims that Ankara appears convinced NATO can rely on conventional forces or American nuclear forces for deterrence in lieu of NATO nuclear weapons stationed on Turkish territory.

Nevertheless, Ülgen indicates that Turkey “quietly supports maintaining the weapons on its territory and expects other NATO countries to continue their tactical nuclear weapon stewardship as part of the Alliance’s burden-sharing principle.”

NATO members have discussed the possibility of removing nuclear weapons from Europe. However, no consensus exists for unilateral withdrawal and any reciprocal agreement with Russia remains unlikely in the near future.

Moreover, limited security assurances would likely cause Turkey to hesitate to join a WMDFZ and prove to be a further obstacle to the development of such a zone in the Middle East. Not only would NATO have to withdraw nuclear weapons from Turkish territory but— if a WMDFZ in the Middle East requires the same negative security assurances that other nuclear-weapon-free zones require—NATO could only continue to offer nuclear guarantees to Turkey against threats arising from outside the zone. Only if a state within the zone violated its non-proliferation commitments or received assistance from a nuclear-weapon-state could NATO extend nuclear security assurances to Turkey under a WMDFZ.

Thus, if Turkey seriously considers joining a WMDFZ in the Middle East, NATO should define what kinds of credible non-nuclear extended security guarantees it can extend to Ankara. This process would seek to discourage Turkey from concluding that an independent nuclear capability would better assure its future security, which would be contradictory to the goals of a WMDFZ in the Middle East.

3. How to Assure Israel’s Security?

Israel poses its own set of challenges. As with Turkey, NATO could also play a role in encouraging Israel to join a WMDFZ in the Middle East. Perhaps NATO could offer membership in the alliance in order to encourage Israel to join the NPT as a Non-Nuclear-Weapon State.

But there are myriad of obstacles to an Israeli membership to NATO. Among them, NATO requires that all existing members of the alliance approve the admission of new members and it seems likely that Turkey would veto Israel’s accession so long as relations between the two countries remain do not improve.

More importantly, if membership meant Israel must rely on the international community for assuring its national security and survival it is doubtful that Israel would seek to join NATO under the present geostrategic environment.

Aside from NATO, the current state of Israeli relations with Iran and Syria presents roadblocks to a WMDFZ in the Middle East. The credibility of a WMDFZ will rest on the establishment of a cross-inspections regime. Before one can hope to see Israeli inspectors in Iran and vice-versa, Iran would have to recognize the existence of Israel and the two countries would have to establish normal diplomatic relations. Also, Syria and Israel would have to conclude a peace treaty and end the formal state of war existing between the two nations.

All these obstacles do not necessarily mean that the Middle East and the international community cannot achieve progress on a WMDFZ, but they do represent the indispensable

need to move from grand visions and rhetorical declarations to concrete confidence-building measures. Without an effort to first establish a regional political and security order it is highly unlikely that the Middle East can effectively address arms control. International conferences alone are not sufficient to reach such a lofty goal.

4. Is Egypt Helping or Harming the Process?

Finland is scheduled to host a conference this December on establishing a WMDFZ in the Middle East.

Tamim Khallaf, who works on disarmament affairs at the Egyptian Ministry of Foreign Affairs, recently wrote:⁸

The Finnish conference is a valuable opportunity that must not be squandered. A failure by the conference to produce a meaningful outcome could have unpredictable consequences.

And he warns:

Attempts to undermine the 2012 conference or dilute its potential will unavoidably cast its shadow over the 2015 NPT Review Conference and its preparatory committee meetings, casting doubt about the prospects of success for the next Review Conference itself.

One must admit that the prevailing instability of the present situation in the Middle East could not be a less favourable environment for discussing the establishment of a WMDFZ in that region.

Holding discussions on a WMDFZ in the Middle East at the present time might actually produce results counterproductive to the stated goal, especially if some states favour an all-or-nothing approach and reject limited steps to implement confidence-building measures among the parties. Such states could then easily claim frustration over the lack of progress and use this excuse as a pretext to further escalate tension in the region, rendering any hope of progress even more remote.

While states in the Middle East usually blame Israel for the current impasse on arms control, other states have assumed very unhelpful positions and should share the burden of blame. For instance, Egypt, which has promoted the idea of a WMDFZ in the Middle East since 1974, has refused to sign the IAEA Additional Protocol and the Chemical Weapons Convention, or to ratify the Comprehensive Nuclear Test Ban Treaty, the African Nuclear Weapon-Free Zone (the Pelindaba Treaty), and the Biological and Toxin Weapons Convention, under the pretext of the non-universality of the NPT. Moreover, as previously indicated, some officials in Egypt are already threatening to block progress on strengthening the non-proliferation regime at the 2015 NPT Review Conference if the December Conference fails “to produce a meaningful outcome.” Of course, what might constitute a “meaningful outcome” remains an open question.

It is also worth noting the debate in Egypt about nuclear matters, which raises some important questions about the policies of the new government in Cairo. At the NAM

⁸ http://wmdjunction.com/120417_mideast_wmdfz.htm

conference last August in Tehran, President Morsi renewed Egypt's long-standing call for a Nuclear Weapons Free Zone in the Middle East. However, some prominent Egyptian military and political actors evince different objectives. Since at least 2006 the Muslim Brotherhood - an organization in which Mr. Morsi served as a major leader before his election⁹ - has called for Egypt to develop its own nuclear deterrent.¹⁰ And in an interview that aired August 6, 2012 on Tahrir TV, a retired Egyptian army general, Abdul-Hamid Umran said: "Egypt should obtain nuclear weapons to deter Israel"¹¹ and few days later he repeated the sentiment, stating: "We should follow the Iranian model and deceive the international community."¹²

None of the above statements calling for nuclear weapons reflect the official position of Egypt; nonetheless, such comments deteriorate an atmosphere already unfavourable to progress on a WMDFZ in the Middle East.

5. A Top-Down Approach

As many difficulties as these security conditions present, the broader political prerequisites are probably equally as difficult in their own right. This list includes recognition of the State of Israel by Iran and some Arab States; the conclusion of a peace treaty between Israel and Syria; the creation of a Palestinian State; and Israeli accession to the NPT. Despite these challenges, the international community can make progress toward a WMDFZ through steps to decrease tension in the region. The region can achieve such steps far more quickly than the full implementation of a WMDFZ.

Among such steps, the December Conference in Finland could focus on the establishment of a "nuclear-~~test~~-free zone" in the Middle East; and the development by the P5 of legally binding "negative security assurances" (NSA) to all states in the region that could be implemented promptly after the establishment of a WMDFZ.

This should be viewed as "top-down approach" to the establishment of a WMDFZ in the Middle East. This approach has the advantage of first implementing win-win measures for all states in the region, rather than pursuing a course that might single out one state, and thus, have the potential to collapse and block progress. Establishing a "Nuclear-~~Test~~-Free Zone" (NTFZ) in the Middle East constitutes the most obvious top-down step in the direction of establishing a WMDFZ. The region can implement a NTFZ without waiting for a peace agreement between Israel and Syria, or for diplomatic relations to improve between Iran and Israel. An important first step would require that all Middle Eastern states—in particular Egypt, Iran, Israel, Saudi Arabia and Syria—ratify the CTBT in a coordinated way and within an agreed period of time.¹³

⁹ See Raymond Stock, *Egypt. The Muslim Brotherhood Bomb?* (September 7, 2012) <http://www.gatestoneinstitute.org/3333/egypt-muslim-brotherhood-bomb>.

¹⁰ Ibrahim Said, Visiting Scholar at the Technical Nonproliferation and Disarmament Project of the UK/Norway initiative hosted by the Center for Accelerator-based research and Energy Physics, University of Oslo, *The bomb and the beard. The Egyptian MB's views toward WMD*, (June 11, 2012).

¹¹ <http://www.memri.org/report/en/0/0/0/0/0/6633.htm>

¹² Egyptian army general (ret.) Abdul-Hamid Umran, interviewed by ON-TV (Egypt), (August 21, 2011). <http://www.memritv.org/clip/en/0/0/0/0/0/3098.htm>.

¹³ In order to become operational, the ratification will likely be subject to some conditions. The first might be that other states in the region also completed their ratification process. Another condition might be that all states commit to accept the installation of measuring devices as deemed appropriate by the CTBTO on their territory.

Except possibly for Iraq, it is unlikely to see Israel as well as other states in the Middle East join the CTBT as long as the United States has not ratified the treaty. The international community should therefore continue to strongly encourage the US to do so promptly.¹⁴

Avoiding nuclear weapons proliferation and thereby decreasing the risk of a nuclear weapons attack constitutes one of the main reasons for a non-nuclear-weapon state (NNWS) to join the NPT. It follows that NNWS will also seek legally binding “negative security assurances” from all NPT nuclear-weapon-states (NWS). As the Nuclear Threat Initiative notes:

*Although the five NPT NWS have made various pledges regarding NSAs, each has been either non-binding, limited in scope, or qualified in some way. The NPT NNWS have consistently pushed for NSAs in the form of a free-standing treaty or a protocol to the NPT. The demand for such a commitment has increased in recent years, particularly from the Non-Aligned Movement. These States seek assurances that are legally binding, unconditional, and apply to all NPT NNWS.*¹⁵

Considering the difficulty of reaching an agreement on achieving such assurances in the framework of the Conference on Disarmament (CD), it is worth recalling that:

*A 1999 UN Disarmament Commission report on establishing NWFZs noted that nuclear-weapon States should "...through the signing of relevant protocols, enter into binding legal commitments not to use or threaten to use nuclear weapons against the States that belong to the nuclear-weapon-free zone".*¹⁶

These commitments can, however, take a long time to materialize. It took more than 10 years before Russia ratified the Protocols to the Tlatelolco Treaty (Latin America).¹⁷ No NWS has yet signed the Protocols to the Bangkok Treaty (Southeast Asia) in force since 1997 and Semipalatinsk (Central Asia) in force since 2009. The United States has still not ratified the Protocols to the Treaty of Rarotonga (South Pacific) concluded in 1986 and the Treaty of Pelindaba (which was signed in 1996 and came into force in 2009).

¹⁴ For example, the “Joint Ministerial Statement on the CTBT” released in New York on 27 September 2012 encouraged the United States to ratify the treaty. (http://www.ctbto.org/fileadmin/user_upload/statements/CTBT_Joint_Ministerial_Statement_27_September_2012.pdf) UN Secretary General Ban Ki-moon has also said: “There is no good reason to avoid signing or ratifying this Treaty. Any country opposed to signing or ratifying it is simply failing to meet its responsibilities as a member of the international community.” <http://www.ctbto.org/press-centre/press-releases/2012/un-secretarygeneral-proud-of-15-years-of-successful-fight-against-nuclear-testing-urge-entry-into-force-of-the-ctbt/>

¹⁵ NTI, *Proposed Internationally Legally-Binding Negative Security Assurances*, <http://www.nti.org/treatiesand-regimes/proposed-internationally-legally-binding-negative-security-assurances/>

¹⁶ Ibid.

¹⁷ In May 1971 President Nixon endorsed the ratification of Protocol II to the Tlatelolco Treaty with the following qualification: “... the United States Government would have to consider that an armed attack by a Contracting Party, **in which it was assisted by a nuclear-weapon state**, would be incompatible with the Contracting Party’s corresponding obligations under Article I of the Treaty” (emphasis added).

<http://www.armscontrol.org/documents/tlatelolco>

However, on May 2, 2011, 15 years after the United States signed the protocols to the treaties of Rarotonga and Pelindaba, U.S. President Barack Obama submitted them to the Senate for ratification.¹⁸ Despite support from the Obama administration, the protocols have languished in the Senate and their ratification prospects remain dim.

The April 2010 Nuclear Posture Review (NPR) states that the United States “will not use or threaten to use nuclear weapons against non-nuclear weapons states that are party to the Nuclear Non-Proliferation Treaty and **in compliance with their nuclear non-proliferation obligations**”¹⁹ (emphasis added). Apparently today this covers all NNWS in the world except two countries in the Middle East: Iran and Syria.

Since Negative Security Assurances constitute a primary motivation of states in the Middle East to create a WMDFZ, it is necessary that they are promptly guaranteed of such assurances as soon as a WMDFZ is established. Thus, the P5 could draft without delay negative-assurance protocols to the treaty and commit to sign them.²⁰ This would enable the ratification process to start immediately as soon as the WMDFZ is in force in the Middle East without waiting for a global treaty on negative security assurances.

6. Conclusion

Achieving a WMDFZ in the Middle East is a noble and important goal on the road to attaining a world free of nuclear weapons. The international community should take every opportunity to get closer to that objective. In reality, both goals will take decades to achieve (President Obama said a world without nuclear weapons may not be achieved during his lifetime). If in the course of those years Iran or any other NNWS in the region develops a nuclear weapon capability or withdraws from the NPT, a WMDFZ in the Middle East will become even more elusive. It is therefore essential that the IAEA has the ability to confirm that all NNWS in the Middle East do not have undeclared nuclear material and activities. The IAEA must also have the authority to verify that NNWS declarations to the IAEA are correct and complete. It is also important that such conclusions are considered credible and reassuring by all states in the Middle East and by the international community. As is well known, the IAEA cannot draw such a conclusion for a state which has not ratified the Additional Protocol and doesn't cooperate fully with the Agency in its implementation. Thus, it is essential that all Middle Eastern states do so, thereby following the example of Iraq, Kuwait, Libya, Morocco, the UAE and Turkey.

Taking into account the current uncertainty about Egypt's future foreign and nuclear policies, the civil war in Syria, and Iran's progress towards a nuclear breakout capability, the timing for discussing the establishment of a WMDFZ in the Middle East could hardly be worse. If states use the lack of progress during those discussions as pretext to further undermine any attempt to improve the non-proliferation regime, the outcome will be worse than if such discussions in Finland had been postponed.

¹⁸ Gaukhar Mukhatzhanova and Miles Pomper, *Obama Seeks Senate OK for Protocols to Two Nuclear-Weapon-Free Zone Treaties*, (May 6, 2011) http://cns.miis.edu/stories/110506_obama_nwfz.htm.

¹⁹ NPR Report, p. 46., <http://www.defense.gov/npr/docs/2010%20nuclear%20posture%20review%20report.pdf>.

²⁰ The Vienna Convention on the Law of the Treaties compels the parties which have signed the Protocols not to act in a manner that would “defeat the object and purpose” of that instrument.

10 EU NON-PROLIFERATION CONSORTIUM

Notwithstanding the bleak geopolitical context currently prevailing, it is encouraging that an opinion poll conducted in Israel in December 2011 has indicated that more than 60% of Israeli citizens are favourable to the establishment of a NWFZ in the Middle East²¹

It is therefore important to move in the direction of a WMDFZ by adopting confidence-building measures--such as creating first a Nuclear-Test-Free Zone in the Middle East and having the P5 commit to grant legally binding negative security assurances to states in the region. Such actions will enhance the potential for the establishment of a WMDFZ in the Middle East in the future. States can take these actions immediately regardless of the unstable political situation prevailing in the Middle East, and they should.²²

²¹ <http://www.cisionwire.com/university-of-maryland--college-park/tr/israeli-public-supports-middle-eastnuclear-free-zone--umd-poll,c9195067> .

²² I would like to thank my colleagues at Carnegie Endowment for International Peace Toby Dalton, James Acton and Alexandra Francis for their most valuable comments and suggestions on this paper.