



Nuclear Weapon Free Zones and the Nuclear Powers Lessons for a WMD/DVs Free Zone in the Middle East

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The proposal to create a zone free of weapons of mass destruction (WMD) and delivery vehicles (DVs) in the Middle East has been on the table of the international community for several decades now. Still, a substantial breakthrough on the issue has yet to materialize. In 1974, Egypt and Iran first introduced in the United Nations General Assembly a resolution to establish a nuclear weapon free zone (NWFZ) in the region. From that time, it has been discussed every year and since 1980 it has received approval by consensus. In 1990, the proposal was extended by then Egyptian President Hosni Mubarak who called for the elimination of all weapons of mass destruction. The Nuclear Non-Proliferation Treaty (NPT) has taken up the issue at its 1995 Review and Extension Conference, where the parties decided that progress should be made in the NPT context despite the absence of Israel. The country, now the only Middle Eastern state that is not a member to the treaty, endorses the objectives of a NWFZ, but only once regional peace has been established. This stance clashes with the positions of Egypt and other Middle Eastern states, which signed the NPT in the hope they could pressure Israel to join the treaty and to disarm.¹

The Middle East Conference as a Forum for a WMD/DVs Free Zone

Fifteen years after the 1995 resolution, the lack of progress on the Middle Eastern WMD/DVs Free Zone has led Arab countries to ask for implementation of concrete steps towards this goal at the 2010 NPT Review Conference. The meeting's Final Document,

approved by consensus, mandated for 2012 a regional conference to discuss the establishment of a zone free of nuclear, biological, and chemical weapons including their delivery systems. All countries of the Middle East together with the nuclear weapon states (NWS) are called upon to attend the Conference. As cosponsors of the 1995 resolution the United States, the United Kingdom, and Russia have a special role.² For example, they were responsible, together with the UN Secretary General and in consultation with regional states, for appointing a Facilitator and a host country. This was accomplished in October 2011, when it was made public that Ambassador Jaakko Laajava of Finland would take up that role and his government would host the 2012 Middle East Conference (MEC).

The Middle East is not only one of the most conflict-ridden regions of the world, but also a difficult case from an arms control perspective. It includes one state with a nuclear arsenal, as well as others that are believed to hold nuclear aspirations or to have held them in the past. Moreover, there is a strong belief that biological and chemical weapons are part of some regional arsenals and missile programs abound. In conjunction with the poor record of progress in the peace process, the situation seems intractable. Nonetheless, these difficulties point out the urgency to make progress on the elimination of such armaments.

To break the current impasse, the motivations of regional states need to be rethought and a framework in which all parties have a net gain in security needs to be developed. This task is even more urgent given the fast-approaching

Abstract

The proposal to establish a zone free of weapons of mass destruction and their delivery vehicles in the Middle East poses a variety of challenges. One is the attitude nuclear weapon states are likely to adopt towards the prospective zone. In the past these states played a crucial role in ensuring the success of nuclear weapon free zones (NWFZs) as they can provide the parties to those treaties with negative security assurances, i.e. legal guarantees against nuclear attacks.

An analysis of their behavior vis-à-vis existing NWFZs will help to identify a pattern of issues that have proved problematic in the past. The nuclear powers wanted to retain certain prerogatives in the NWFZs: freedom of the seas, transit rights, testing, bases, and security arrangements.

This POLICY BRIEF will show how these issues might apply to the Middle Eastern case. It aims at underscoring the importance and quandary of nuclear powers in the creation of a WMD/DVs Free Zone in the Middle East. Discussions on this topic are scheduled for 2012, as agreed by the last Review Conference of the Nuclear Non-Proliferation Treaty. Thus, clarifying concepts and presenting ideas which address this issue is a useful exercise. ■

Box No. 1: Map and Dates of Establishment of Nuclear Weapon Free Zones

NUCLEAR-WEAPON-FREE AREAS

Demarcation of nuclear-weapon-free zones, nuclear-weapon-free status and nuclear-weapon-free geographical regions

TREATIES ESTABLISHING NUCLEAR-WEAPON-FREE AREAS

Nuclear-weapon-free zones	Nuclear-weapon-free geographical regions
<ol style="list-style-type: none"> 1 The 1967 Treaty for the Prohibition of Nuclear Weapons in Latin America and the Caribbean 2 The 1985 South Pacific Nuclear Free Zone Treaty 3 The 1995 Southeast Asia Nuclear-Weapon-Free Zone Treaty 4 The 1996 African Nuclear Weapon-Free Zone Treaty 5 The 2006 Treaty on a Nuclear-Weapon-Free Zone in Central Asia <p><i>The treaties establishing the nuclear-weapon-free zones, inter alia, ban nuclear weapons within the respective territories of the zones, including the acquisition, possession, placement, testing and use of such weapons.</i></p>	<ol style="list-style-type: none"> 7 The 1959 Antarctic Treaty, inter alia, prohibits any measures of military nature on the continent of Antarctica, including any testing of nuclear weapons. 8 The 1967 Treaty on Principles Governing the Activities of States in the Exploration and Use of Outer Space including the Moon and Other Celestial Bodies, inter alia, prohibits placing nuclear weapons in orbit around Earth, installing or testing these weapons on the Moon and other celestial bodies as well as stationing these weapons in outer space in any other manner. 9 The 1971 Treaty on the Prohibition of the Emplacement of Nuclear Weapons and Other Weapons of Mass Destruction on the Sea-Bed and the Ocean Floor and in the Subsoil Thereof, inter alia, prohibits the emplacement of nuclear weapons on the bottom of the ocean and in the subsoil thereof. <p><i>As of 2010, the above nine nuclear-weapon-free zones are in effect. Some of the treaties related to these zones are at different stages with regard to the signature, ratification and entry into force, as well as with regard to the signature and ratification of their associated protocols containing security assurances from the nuclear-weapon States.</i></p>

Nuclear-weapon-free status

- 6 In 1992, Mongolia declared its nuclear-weapon-free status, which is internationally recognized and prohibits, inter alia, the acquisition, possession, placement, testing and use of nuclear weapons on its territory.

The delineation of the nuclear-weapon-free areas presented on this map is indicative only.

On the web — www.un.org/disarmament/WMD/Nuclear/NWFZ

UNODA
United Nations Office for Disarmament Affairs

Source: <http://www.un.org/disarmament/WMD/Nuclear/pdf/NWFZ-postcard-2010.pdf> (December 1, 2011).

nuclear powers are required to play a special role in the creation of any NWFZ. A similar dynamic will most likely also be in place for a WMD/DVs Free Zone and might influence the Middle East Conference process. After briefly describing nuclear weapon free zones and the positions of the NWS, this POLICY BRIEF will focus on their attitude towards existing NWFZs, highlighting delicate points that could be instructive for the Middle Eastern case.

The NWFZ Approach as a Useful Tool for Non-Proliferation

The NWFZ treaties achieved in the past deserve to be better understood in order to learn lessons which could prove useful for the upcoming Middle East Conference. The MEC will have to deal with a more comprehensive agenda. Nevertheless, as will be discussed, much can be learned from existing nuclear weapon free zones, considering that they proved an effective tool for building regional security by adopting non-proliferation norms rather than by reinforcing existing security dilemmas. A similar approach is promising for the Middle East, where nuclear proliferation has not been adequately dealt with by the NPT and where other categories of weapons have spread. The MEC's agenda is arguably more challenging than previous processes due to the inclusion of WMD and delivery vehicles and to the actual presence of such arsenals in the region. On the contrary, this approach presents opportunities for progress and might provide the impetus for action. In fact, treating a wider array of armaments as a block could allow for trade-offs and reciprocities, on the assumption that each state has an equal interest in the disarmament of its opponent(s).

Nuclear weapon free zones are based on regional treaties which commit their parties to the total absence of nuclear weapons from their territories. Although they arise out of distinct contexts and differ in some provisions, all of these treaties share three prohibitions: non-possession, non-stationing, and non-use (or threat of use) of nuclear weapons within the zone. At the moment five NWFZs are in force in inhabited parts of the world, most of them in the Southern Hemisphere (see Box No. 1). They cover Latin America and the Caribbean (Treaty of Tlatelolco), the South Pacific (Treaty of Rarotonga), Southeast Asia (Treaty of Bangkok), Africa (Treaty of Pelindaba), and Central Asia (Treaty of Semipalatinsk). Also Mongolia has declared its non-nuclear

2012 deadline for the MEC. The elimination of nuclear, biological, and chemical weapons as well as their means of delivery would enhance security at the regional level. In fact, a WMD/DVs Free Zone is not an end in itself and the Middle East Conference could provide the stage for a more comprehensive regional peace strategy.

The involvement of nuclear powers in the MEC is explicitly stated in the mandate, which gives the United States, the United Kingdom, and Russia the responsibility to initiate the process. More broadly, the



weapon status and treaties have been established to sanction the denuclearization of the Antarctic, the sea-bed, and outer space.

Nuclear weapon free zones are generally regarded as a success story. These legal commitments allow regional states to fill areas left unregulated by the NPT or go beyond its provisions. First, NWFZs ban the deployment of nuclear weapons, which is permitted by the NPT. The zones also include safeguards and compliance mechanisms which are more extensive than those required by the Nuclear Non-Proliferation Treaty. Moreover, auxiliary clauses broaden the range of prohibited activities, with each zone going beyond the scope of the previous ones. Examples are the ban on nuclear testing, nuclear waste dumping, and attacks against nuclear facilities as well as requirements for physical protection and nuclear security regulations. Another merit of nuclear weapon free zones is their non-discriminatory character: contrary to the NPT, these treaties do not prohibit the possession of nuclear weapons by some countries while allowing it to others.

NWFZs have been considered effective ways to build security at the regional level. In fact, nuclear aspirations are often motivated by regional considerations. Through a mutual assurance not to possess or host nuclear weapons, the parties to NWFZ treaties have been able to override this dynamic.³ Aside from being a useful tool against proliferation, NWFZs have also been seen as political stepping stones towards nuclear disarmament.⁴ Indeed, excluding the treaties of Rarotonga and Bangkok, all other zones have been established among parties that held some nuclear aspirations or capabilities. The African zone includes South Africa, which for years had maintained a covert nuclear program and a small atomic arsenal. In Latin America both Brazil and Argentina were in possession of an extensive nuclear infrastructure and were not too far off from producing atomic weapons. Finally, in the most recent agreement of Central Asia, Kazakhstan hosted 1,410 deployed nuclear weapons when the Soviet Union collapsed but successfully eliminated them. These cases are success stories of effective denuclearization and it is significant that all these states are now part of NWFZs.

The Commitments of Nuclear Weapon States in NWFZs

All existing NWFZs include legally binding requirements for extra-regional states. Most prominent among them are the commitments

Box No. 2: Negative Security Assurances: A Brief Overview

Negative security assurances are a contentious issue in the disarmament arena, contributing to the never-ending disputes between non-nuclear and nuclear weapon states. Since the beginning of the nuclear era, the former have complained about their vulnerability and demanded a guarantee against nuclear attacks from the latter. The non-nuclear weapon states (NNWS), especially the Non Aligned Movement, have argued for global and legally binding assurances that they would not be threatened or attacked with nuclear weapons. However, the NWS have not been forthcoming, aiming to retain some leeway in their nuclear postures – only China has declared that these weapons can be used exclusively for in-kind retaliation in accord with its policy of no-first-use.

With the signature of the NPT the NWS promised to take action in defense of states threatened with nuclear weapons (positive security assurances) and the first step in granting negative security assurances was taken in 1978. The NWS issued unilateral, non-binding statements as a consequence of the UN General Assembly's First Special Session on Disarmament. The forum noted that "effective arrangements to assure non-nuclear-weapon States against the use or threat of use of nuclear weapons could strengthen the security of those States and international peace and security."¹ Most of the NWS also attached an exception to their assurances, which would allow a nuclear response to a NNWS attack if conducted in alliance or association with a NWS.

At the 1995 NPT Review and Extension Conference the five NWS reiterated their assurances in unilateral declarations to secure the successful extension of the treaty. These were subsequently endorsed by a unanimous resolution of the Security Council (S/RES/984)² and their exceptions were more qualified this time.

The unilateral declarations have been valued as a positive albeit insufficient step forward but they are political by nature and do not imply any legal obligation on the part of the NWS. The call for legally binding negative security assurances through a multilateral treaty remains unheeded, although the proposal has been routinely discussed at the Conference of Disarmament since 1980.

Meanwhile, legally binding NSA have been implemented in the context of the existing NWFZ treaties through their attached protocols. This regional approach has been recommended as a more promising way to extend NSA. Aside from being legally binding instead of providing just a political commitment, the protocols bear some validity even through mere signature without ratification. The Vienna Convention on the Law of the Treaties, in fact, compels the parties not to act in a manner that would "defeat the object and purpose" of that instrument.³

¹ United Nations General Assembly (1978) Final document of the tenth special session of the United Nations General Assembly (SSOD-I, Special Session on Disarmament I), New York: United Nations, here item 32.

² United Nations Security Council (1995) Resolution 984 on security assurances against the use of nuclear weapons to non-nuclear-weapon States that are Parties to the Treaty on the Non-Proliferation of Nuclear Weapons (S/RES/984), New York: United Nations, April 11, 1995.

³ Leonard S. Spector and Aubrie Ohlde (2005) 'Negative security assurances: Revisiting the nuclear-weapon-free zone option', *Arms Control Today*, 35(3): 13-19.

of the five nuclear weapon states recognized by the NPT, i.e. the United States, Russia, the United Kingdom, France, and China. The treaties demand that they respect the status of the zones, meaning NWS are banned from stationing nuclear armaments within the area of application. Furthermore, they are also obliged not to use or threaten to use their nuclear arsenals against zonal states. This non-use commitment is commonly referred to as negative security assurance (NSA, see Box No. 2) and is contained in attached protocols that are open for signature by the five NWS. Although each has its own specific

Table No. 1: Status of Signature and Ratification by Nuclear Weapon States of the NWFZs Protocols on Negative Security Assurances

		China	France	Russia	UK	U.S.
Treaty of Tlatelolco (Latin America and the Caribbean)	signed	1973	1973	1978	1967	1968
	ratified	1974	1974	1979	1969	1971
Treaty of Rarotonga (South Pacific)	signed	1987	1996	1986	1996	1996
	ratified	1988	1996	1988	1997	
Treaty of Bangkok (Southeast Asia)	signed					
	ratified					
Treaty of Pelindaba (Africa)	signed	1996	1996	1996	1996	1996
	ratified	1996	1997	2011	2001	
Treaty of Semipalatinsk (Central Asia)	signed					
	ratified					

wording, all the protocols contain the same basic provision against the use or threat to use of nuclear weapons.

The signature and ratification of the protocols by the NWS is an important act for the zone members, even though it presents problems for the nuclear powers. These states have had difficulties to constrain their military options and to weaken their commitment to allies. The NWS are not obliged to lend support to the NWFZ treaties, as all international agreements are subject to each state's willingness to accept any commitment. Nonetheless, at a time when the vision of a world without nuclear weapons receives support not only from experts and civil society but also by the NWS, it would be a contradiction to retain the ability to use nuclear weapons against states that refused to acquire this capability.

The non-nuclear weapon states (NNWS) have long insisted that a legally binding non-use commitment be extended to them all by the NWS. Becoming target of a nuclear attack for countries that gave up the nuclear option is not only considered immoral, but could also provide a rationale for greater proliferation. Yet, the nuclear powers have exclusively given non-binding guarantees to the NNWS as a whole, extending legally binding negative security assurances only in the context of NWFZs. Even in these cases, it has not always been easy and some sticking points prevented approval.

Major Obstacles to the Extension of Negative Security Assurances

Some elements can be identified as the root causes behind the refusal to grant NSA to the different zones.

Table 1 contains the dates of signature and ratification of the NSA protocols by the different nuclear powers for each of the NWFZ treaties. This helps to illustrate the pattern of approval of the zones. The Latin American treaty appears to be a singular success story: its NSA protocol was signed and ratified by all NWS as early as 1979. On the opposite side of the spectrum, the parties to both the treaty of Bangkok and of Semipalatinsk have yet to receive negative security assurances. For the South Pacific Zone, Beijing and Moscow accepted the protocol shortly after the treaty's conclusion, while the three Western NWS waited until the mid-1990s to sign, and Washington has yet to ratify the protocol. Finally, all nuclear powers signed the NSA protocol to the African zone in 1996, but Russia only ratified it in 2011 and the U.S. is still lagging behind.

An analysis of the reasons behind such different timing reveals a pattern of issues which prevented the nuclear weapon states from extending negative security assurances to the NWFZs. The elements that proved to be problematic are freedom of the seas, transit rights, testing, bases, and security arrangements.

Freedom of the Seas

Respecting freedom of the seas means maintaining the right to pass through international waters and airspace with vessels or aircraft that might be armed with nuclear weapons. In the case of the Tlatelolco Treaty, the area of application covered ample portions of the Atlantic and Pacific Oceans, which was considered unacceptable by the NWS. All nuclear powers stated that they would not agree to restrictions of their freedom of navigation in the high seas, thus demonstrating that they can modify the NWFZ provisions when they interpret them in accordance with international law.⁵ While all NWS ratified the protocol granting NSA to Latin America, the opposite happened with the Treaty of Bangkok. This stipulated that not only the land and territorial waters of Southeast Asia were to be denuclearized, but also the exclusive economic zone of the parties, corresponding to 200 miles from the coast. This was considered too restrictive by the NWS and the United States expressed concerns that signing the protocol would undermine the free passage of its vessels and interfere with the UN Law of the Seas Convention.



Transit Rights

The transit rights criterion refers to the right of states parties to NWFZs to grant or deny the transit to foreign ships and aircraft in their ports and airfields. Already a contentious issue in the Tlatelolco Treaty, transit rights caused disagreement between the United States on the one side, and China and the Soviet Union on the other. While the former pushed for retention of such rights, the latter argued that allowing transit would be contrary to the treaty's objectives. Despite this dissent, Beijing and Moscow upheld the NSA protocol. However, the drafting team of the Treaty of Rarotonga wanted a document that would have the greatest possible chance of being endorsed by the NWS and which expressly allowed zonal states to permit port calls by nuclear-armed vessels.

Their intention was to set a clear distinction between stationing (both by parties to the treaty and external actors) and the respect of sovereign rights to continue collective security arrangements with external powers.⁶ This ambiguity resulted from a lack of clarity about what constitutes nuclear stationing: under all present NWFZs, a NWS is allowed to visit the ports and airfields of allies and friends, subject to their agreement. Since the NWS refuse to deny or confirm the presence of nuclear weapons on their ships or aircraft, such armaments can actually be present on NWFZ territory. Yet, how these visits actually differ from stationing remains unclear, since the treaty puts no limits to their duration or frequency.

Testing

In the case of the South Pacific zone, the sticking point concerned the testing activities France intended to carry out in the region. In a show of solidarity with Paris, the United States and the United Kingdom withheld support of the South Pacific zone for over ten years. In fact, the three Western NWS only signed the protocol in 1996, after the French decision to stop testing nuclear weapons in the area and to abide by the Comprehensive Test Ban Treaty (CTBT).⁷

Bases

The Treaty of Pelindaba, which established the African nuclear weapon free zone, was opened for signature in 1996 but only entered into force in 2009. All NWS have signed the NSA protocol to the treaty, but the United States has not ratified it and Russia did so



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only recently. In line with the Rarotonga Treaty, Pelindaba respects the freedom of the seas and transit rights criteria. In this case the contentious issue is the presence of a U.S. military base in the treaty area. The Diego Garcia island, where the base is located, belongs to the Chagos Archipelago whose sovereignty is contested by the United Kingdom and Mauritius. Although the treaty explicitly states that the issue should be solved outside the NWFZ framework, both the United Kingdom and the United States noted that they do not consider the application of the zone to include the island. As a result, Russia deemed that the treaty does not meet the requirement of nuclear weapon free territories and withheld ratification until 2011, when it did so with the reservation that its assurances do not apply to Diego Garcia.⁸

Security Arrangements

With regard to the Semipalatinsk Treaty, covering the five former Soviet Central Asian republics, the outstanding issue preventing approval of the NWS has been the continuation of existing security arrangements, i.e. alliances which might involve nuclear assistance. The United States, together with the other two Western NWS, objected to the draft and even tried to dissuade the Central Asian states from signing the treaty. In their view the problem is that the zone does not affect obligations under existing security agreements and thus endorses the continued operation of the 1992 Tashkent Treaty. This binds Russia to Kazakhstan, Kyrgyzstan, Tajikistan, and Uzbekistan and requires the parties to provide mutual assistance in case of aggression, including military action.⁹

In what appears to be a contradiction, the United States was opposed to respecting existing security arrangements in this case, while it had pushed for the opposite in the South Pacific NWFZ. It seems that such principle is upheld when it regards alliances involving Washington but not Moscow. So far, none of the NWS has signed the protocol to the Central Asian NWFZ.



Source: www.flickr.com/photos/iowahighways

Box No. 3: Remarks by Professor William C. Potter to the Second International Conference of States Parties and Signatories of Treaties that Establish Nuclear-Weapon-Free-Zones and Mongolia

"[I]t often appears as if NWS proclaim their support for the concept of NWFZs, but in practice have a hard time finding any zones that they actually like. [...] More generally, in order for the NWFZs to have the maximum positive impact, it is vital for the NWS to conclude the relevant protocols to the zones and to refrain from issuing signing statements that attach conditions to their Negative Security Assurances."

Source: http://cns.miis.edu/activities/pdfs/100503_potter_remarks_nwfz_conf.pdf (November 15, 2011).

These events illustrate a pattern of issues which prevented the endorsement of NWFZs by the nuclear powers: firstly, they all resisted efforts that would increase zonal states' sovereignty and limit the legally recognized freedom of the seas. Furthermore, testing used to be an issue which should be resolved by the increased acceptance of the CTBT. On another level, it should be noted that France, the United Kingdom, and the United States have usually made more objections than China and Russia. Washington, in particular, has not been very forthcoming in granting negative security assurances to NWFZs and holds the worst record for doing so among the nuclear powers.

Nonetheless, some movement on the ratification front has recently started to emerge. In March 2011, the Russian Duma ratified the protocol to the Pelindaba Treaty, extending NSA to the African continent. The United States has followed suit, submitting the instruments of ratification of the Treaties of Rarotonga and Pelindaba to the Senate. The move, announced at the 2010 NPT Review Conference, was made true in May 2011. Moreover, the NWS started talks with the parties to the Southeast Asian NWFZ in order to overcome the obstacles to their signature of the protocol.

The Middle East: Modest Approaches Win

It is understood that external states have a right to grant or withhold approval of NWFZs. However, extending legally binding negative security assurances to states that forswear the pursuit of nuclear weapons is a viable way to undermine the possible incentives to build nuclear weapons as well as to limit the role of existing atomic arsenals. Moreover, the fact that the Middle East Conference focuses not only on eliminating nuclear but also other weapons of mass destruction and their delivery vehicles could be a complicating factor. Nevertheless, the extension of the agenda may provide leeway for innovative solutions. Trade-offs could be envisaged among the different weapon categories, turning the present vicious cycle into a virtuous one. Putting negative security assurances on the table might prove to be a promising way to create incentives for engaging in such a change of course.

Given that the nuclear weapon states in some cases have not been willing to extend legally binding security guarantees, flexibility will be needed. The prospective zone negotiators should aim to ensure

approval of the NWS for the protocol on negative security assurance, rather than imperiling its acceptability by setting unachievable goals.

The trend evidenced by previous experience shows that the NWS will not accept a reduction of their *freedom of the seas* beyond the territorial waters of zonal countries. Consequently, the proposed Middle East zone would probably have to accept the right of navigation of foreign ships – possibly carrying nuclear weapons – in the sea beyond their jurisdiction as well as in the international straits (those of Gibraltar, Bab al Mandab, and Hormuz) and in the Suez Canal.¹⁰

Moreover, the issue of *transit rights* will also be a contentious one, as the NWS will probably insist on preserving their right to visit the ports and airfields of regional states, subject to their consent. Opposition is to be expected from some capitals of the Middle East, where concerns would remain over a WMD/DVs Free Zone with nuclear weapons actually present near their borders. A reconsideration of nuclear stationing is well overdue but, as problematic as the issue remains, it should be recognized that all treaties share the transit provision.

Closely related are the questions of *bases* and existing *security arrangements*. Unlike the Semipalatinsk Treaty, in the Middle Eastern case the three Western NWS should have no objection since they are the external actors holding security arrangements with countries included in the future zone. The United States is the most heavily involved in the security of the region, but also the United Kingdom and France have defense agreements with several Gulf states aside from providing arms, military training, and assistance.

Especially in the Gulf, the U.S. presence is not only virtual (alliance or friendship commitments) but actual (military bases and involvement in regional scenarios in Iraq and Afghanistan). In the 1990s Washington was able to extend a wide network of bases and forces to the Gulf. In Kuwait the United States holds major air and staging forces, while Bahrain hosts the Fifth Fleet of the U.S. Navy. The U.S. Central Command has forward headquarters in Qatar, which also hosts an important airbase. Other facilities are located in the United Arab Emirates and in Oman.¹¹

With its 150,000 troops stationed in the region, extensive arms sales, and a commitment to the security of Israel and



of the Gulf, the U.S. heavily influences the regional balance of power.¹² Washington has been a security partner of Saudi Arabia since 1945 and has assumed greater responsibility after the 1970s, as a consequence of the British withdrawal from the region. Since then Israel, Egypt, Jordan, Bahrain, and Kuwait have all been awarded the relevant status of major non-NATO allies. Nonetheless, to what extent these agreements imply the use or threat of nuclear weapons remains unclear, as this has been left ambiguous in an effort to preserve flexibility. Yet, any alliance with a nuclear power has a nuclear component, even when this is not spelled out clearly as in the case of the Middle East.¹³

The U.S. administration under President Barack Obama seems to be making a good faith effort to boost multilateral mechanisms, including the NPT. Its steps forward in supporting existing NWFZs are also welcome developments that should increase U.S. credibility at the Middle East Conference. Being crucial in the establishment and implementation of NWFZs, negative security assurances are a legitimate demand on the part of states assuming non-proliferation obligations that exceed the NPT. In the Middle East, given the strategic framework in place, it is inconceivable that regional countries would adhere to such a zone in the absence of clear assurances against the use or threat of use of nuclear weapons.

This is especially true for Iran which, even under the latest and more liberal U.S. Nuclear Posture Review, still remains a possible target of a nuclear attack even though it is a non-nuclear weapon state.¹⁴ That threat could well be a major motivation for Tehran's policy of nuclear hedging which is leading it to approach a near-nuclear capability. An inclusive framework (such as a WMD/DVs Free Zone) that guarantees extended verification and compliance provisions might be a good trade-off for taking the atomic threat off the table for Iran. However, it is questionable how the U.S. might reconcile such a possibility with the anxieties of Gulf states and Israel, which want to maintain the U.S. threat as a deterrent to Iran's nuclear ambitions.

As a consequence, agreement could actually be fostered by a more forthcoming position of all nuclear powers regarding NSA. Due to the extent of its regional involvement, the United States bears a special responsibility and can influence developments for ill as well as for good.

Conclusions and Recommendations

What will be the fallout of recent events in the Middle East is yet unclear. Will autocracy give way to democracy and, if so, to increased proliferation-aversion? Or will freedom encourage further criticism of Israel's nuclear policy? Still, the proliferation clock keeps ticking in the Middle East, where Iran continues enriching uranium despite the Security Council resolutions and Syria is a growing non-proliferation concern. The current situation is untenable and progress in freeing the Middle East from nuclear and other WMD/DVs threats is long overdue.

Nuclear weapon free zones are not an end in themselves but can contribute to a regional security strategy through the elimination of armaments. Moreover, NWFZs are by no means perfect mechanisms. The doubt that nuclear weapons will be present in the zone remains and many other provisions could be

Endnotes

1. The Israeli government neither denies nor confirms its nuclear weapon possession. In this POLICY BRIEF I follow the widespread position that Israel does have a nuclear arsenal. See for example Gawdat Bahgat et al. (2012) 'Advancing the control of weapons of mass destruction: an incremental approach' in Bernd W. Kubbig and Sven-Eric Fikenscher (eds) *Arms Control and Missile Proliferation in the Middle East*, London: Routledge, 106-124.
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strengthened. Still, different elements of the NWFZ treaties make them an interesting platform for a WMD/DVs Free Zone in the Middle East: their enhanced safeguards and compliance provisions, the auxiliary clauses, and the possibility to receive legally binding NSA.

The analysis of past NWFZ experiments showed that some issues are likely to prevent the NWS from adhering to the negative security assurance protocols. Given the extreme importance for states parties to the NWFZs that they receive a legal commitment in this regard, it is imperative to craft treaties that will command support. As such, NWS should be included in the negotiation process from the very beginning. Yet, some sensitive points of disagreement need to be kept in mind in case of discussing a WMD/DVs Free Zone at the Middle East Conference.

Freedom of navigation is outside the boundaries of these agreements since states do not have the right to prevent others from using the high seas for their purposes, even carrying nuclear weapons. NWS will also most likely resist efforts to limit regional states' ability to award them *transit* of their

territories, including port visits and air flight landings.

Security arrangements between NWS and regional states are also a complicating factor, since they imply the possibility of resorting to nuclear weapons in defense of allies or partners. This seems to be the most delicate issue for the perspective Middle Eastern zone, but also one that could be used to find areas of agreement. Those states that are currently seen as the biggest proliferation concern are also the ones which would benefit the most from negative security assurances granted by the NWS, the U.S. in particular.

External security providers should come to realize that if states commit not to pursue nuclear weapons it is their right to be spared the risk of a nuclear attack. In the Middle East such a pledge could help building a framework that enhances the security of all through the mutual renunciation to the 'ultimate weapon'. A compromise on this issue will most likely be an important stepping stone in the process of establishing a WMD/DVs Free Zone in the Middle East and in achieving cooperative security solutions for the region. ■

About the ACADEMIC PEACE ORCHESTRA MIDDLE EAST (APOME)

The ORCHESTRA is the follow-up project of the "Multilateral Study Group (MSG) on the Establishment of a Missile Free Zone in the Middle East". The ACADEMIC PEACE ORCHESTRA MIDDLE EAST is a classical Track II initiative: It consists of some 70 experts – mainly from the Middle East/Gulf, one of the most conflict-ridden areas of the world. The ORCHESTRA is meeting regularly in working groups (CHAMBER ORCHESTRA UNITS) on specific topics in the context of a workshop cycle from 2011-2014. The main goal of this initiative is to shape the 2012 Middle East Conference on the establishment of a zone free of weapons of mass destruction and their delivery vehicles agreed upon by the international community in May 2010.

For this reason, these experts develop ideas, concepts, and background information in a series of POLICY BRIEFS which are the results of intense discussions within the CHAMBER ORCHESTRA UNITS. In this framework, the broader normative Cooperative Security Concept will be further developed, embedded, and institutionalized in the region. At the same time, the ORCHESTRA meetings serve as venues for confidence-building among the experts. The networking activities of PRIF's Project Group are documented by the ATLAS on Track II research activities in or about the Middle East/Gulf region.

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