



JAMES MARTIN CENTER FOR NONPROLIFERATION STUDIES

Monterey Institute of International Studies *An affiliate of Middlebury College*

Nuclear Weapon Free Zones and the Middle East
A Report of the Monterey Nonproliferation Strategy Group
August 2009

Nuclear Weapon Free Zones and the Middle East

A Report of the Monterey Nonproliferation Strategy Group August 2009

I. Introduction

The Monterey Nonproliferation Strategy Group is an international body of distinguished nonproliferation analysts and veteran policy practitioners working to craft responses to weapons of mass destruction (WMD) threats around the world. The Strategy Group has a focused and action-oriented agenda with a view to find and strengthen common ground in the nuclear nonproliferation sphere. The Strategy Group aims to identify the basis for forging consensus or near-consensus on creative but realistic approaches that address key nuclear proliferation challenges.

In late August 2009, the Monterey Nonproliferation Strategy Group and a number of other leading experts in the field met in Monterey specifically to discuss two issues of immediate importance in nuclear nonproliferation; the possibilities of a nuclear weapons free zone in the Middle East and the Verification of Nonproliferation and Disarmament Measures.

Nuclear Weapon Free Zones (NWFZ) are one of the few nonproliferation tools that have shown considerable success and retain promise for the future. With the entry into force of the Treaty of Pelindaba, creating a NWFZ in Africa, the entirety of the Southern Hemisphere is now covered by NWFZs. There are seven treaties creating zones now free of nuclear weapons, and well over 100 countries participating in these treaties, however, the Nuclear Weapon States (NWS) have too often failed to ratify many of the relevant protocols. The MNSG discussed the lessons that can be derived from the establishment of a range of NWFZs and implications from those negotiations for future zones, in particular the proposed nuclear weapons free zone in the Middle East.

This summary report reflects the MNSG discussions that took place in Monterey under the Chatham House rule; participants spoke on a not-for-attribution basis, in order to encourage lively discussion and debate. Care has been taken not to identify individuals with the views expressed, although a selection of the papers written for and presented at the meeting will be published at a later date.

The 2009 Meeting of the MNSG was funded by the generous contributions of Governments of Ireland and Norway, and the Carnegie Corporation of New York.

II. Survey, Comparisons, and Purposes of Nuclear Weapons Free Zones

Nuclear Weapon Free Zones reflect agreements or arrangements arrived at freely by the states in each zone, and respond to different circumstances in each region. As of August 2009, 112 States have joined such zones and Mongolia is also recognized as a NWFZ. In addition there are several uninhabited areas declared as either free of nuclear weapons or as demilitarized zones, including Antarctica, the seabed, the moon and other celestial bodies. In addition, the Outer Space Treaty outlaws the orbiting of nuclear weapons, while the Partial Nuclear Test Ban Treaty bans the testing of such weapons in the atmosphere, the oceans or outer space.

The purpose of such zones is to strengthen the international nonproliferation and disarmament regime on a regional basis. The basic objectives for negotiation zones have been outlined in guidelines adopted by the UN Disarmament Commission in 1999¹, as well as the Final Document of the General Assembly's first Special Session on Disarmament in 1978². The UN Disarmament Commission elaborated several key aims of NWFZs: to strengthen the security of all states in the zones; as important regional confidence-building measures; and to promote common values of disarmament, arms control, and non-proliferation. They are important complementary instruments in support of the Nuclear Non-Proliferation Treaty (NPT), as re-affirmed at the 1995 Review and Extension Conference and at the 2000 Review Conference. They strengthen nuclear non-proliferation commitments as well as the basic norm against the conduct of nuclear tests. Through their Protocols, they commit the nuclear-weapon-states to provide security assurances to members of such zones against the threat or use of nuclear weapons. They can work to promote peaceful uses of nuclear energy. And they can promote cooperation in addressing or preventing various forms of environmental pollution from radioactive substances.

The UNDC Guidelines also addressed several principles concerning the establishment of such zones. These included the need to prohibit development, manufacturing, control, possession, testing, stationing or transporting of any type of nuclear-explosive device, for any purpose within the zone. The zones must have effective verification including IAEA full-scope safeguards and they must also be in conformity with international law, including the law of the sea. The legal authority to create such zones derives from Article 52 of the UN Charter, which recognizes the roles of regional arrangements or agencies in the maintenance of international peace and security. Article VII of the NPT extends this recognition to regional treaties concluded to assure the total absence of nuclear weapons in their respective territories.

Although some have questioned the usefulness of NWFZs, it is generally agreed that they complement and reinforce the Non-Proliferation Treaty (NPT) in several ways, particularly by providing legally-binding security assurances, and explicitly prohibiting the basing of nuclear weapons in the zones. The next steps on NWFZ development present many challenges, which include gaining ratifications by the NWS to the protocols of the existing treaties, determining how non-NPT states can respect such zones without being recognized as nuclear-weapon-state, and increasing efforts to establish new zones, particularly in the Middle East. Addressing these issues will require sustained and dedicated efforts at all political levels—from grassroots to global and in both regards NWFZs have a powerful role.

¹ Report of the UN Disarmament Commission, A/54/42, Annex I, 6 May 1999.

² Final Document, Tenth Special Session of the General Assembly, S-10/2, para. 33, 30 June 1978.

III. Status and Prospects for a Middle East NWFZ (MENWFZ)

Iran made the first proposal for a Middle East NWFZ in 1974, and the issue has remained highly salient for the intervening 35 years. Nonetheless, although there have been decades of discussions and initiatives, there has been very little tangible progress. Israel still maintains its nuclear ambiguity and it is widely assumed that it has a nuclear weapons capability, and Iran has been moving forward with a nuclear program that gives serious cause for concern in terms of compliance with IAEA safeguards and long-term intentions. Moving forward with the proposal for a zone in the Middle East will require finding resolution on a host of seemingly intransigent issues, including questions ranging from maritime passage and security assurances, to the difficulty of facilitating engagement between Arab states, Iran and Israel. Breaking the impasse on all of these matters will require positive momentum internationally, and now that the new United States administration has placed a number of issues back on the table, countries in the Middle East will need to re-determine their positions.

The “road map” approach to the ME NWFZ, outlines a number of sequential steps to be taken by states in the region, whereas a “framework” approach would entail similar steps in the framework of a wider set of goals. It would be thus less linear and have a number of dimensions for progress. Thus a framework approach could provide for greater flexibility. There was recognition that the Middle East zone process will require incremental steps and confidence building measures (CBMs), which in combinations can act as a set of practical measures to the ultimate goal of zone. There is a strong sense in the international debates that regional actors would be well advised to take advantage of the current favorable situation before it is too late to act. CBMs may well provide the opportunity to capitalize on the current positive political atmosphere created by the new U.S. administration’s emphasis on multilateralism and may open up a space for discussion. On the other hand there is deep mistrust of CBMs in the region as they can be seen as meager substitutes for, and distractions from, the goal of a zone.

However, it was also argued that the timing is not yet right to pursue a MENWFZ. There is little demonstrated commitment among the parties to begin serious negotiations and it is hard to see how negotiations could begin and reach a successful conclusion if there is no mutual recognition of all interested parties. Questions on the establishment of a MENWFZ, as well as a nuclear-free world, were raised as to whether they would provide a distraction from other easier more achievable objectives. Is it productive to focus on long-term, politically contentious goals? Furthermore, how do we approach the conventional imbalances in the region, especially with extra-regional actors involved? Participants noted the paradox of what seems to be a consensus in favor of establishing a MENWFZ, but absolutely no demonstrated action in this regard.

In addition, much to the frustration of key regional states, the focus from outside the zone is now on preventing additional states from acquiring nuclear weapons rather than on disarmament in the region. However, the link between disarmament and nonproliferation is well understood and so all of this could change if it were perceived that nuclear disarmament measures could assist nonproliferation efforts in the Middle East.

Discussion focused on practical measures for moving forward. For example, facilities that produce weapons grade nuclear materials could be closed and the dismantled facilities be opened up to verification measures. As a form of confidence-building, states in the region could provide each other with negative security assurances, regardless of whether or not they possess nuclear weapons – these would be security assurances that were more general in nature than assurances not to attack with nuclear weapons. Another proposal that has gained significant is for the

appointment of a Shepherd for the Zone – a Special Representative of the UN Secretary General to promote a MENWFZ. The Special Representative would make visits to states in the region and discuss steps to be taken, objectives, obligations, verification measures, provisions for entry into force, and other matters related to the establishment of such a zone. Indeed, the Egyptian delegation at the 2009 NPT PrepCom made a proposal for the appointment of a High Representative to further the concept of a MENWFZ, as did a number of other key countries including the Russian Federation.

In terms of selecting a venue best suited for hosting talks, it was noted that the process should not be part of the NPT due to the non-universality of the Treaty. However, the forthcoming NPT review conference provides an opportunity for substantive discussion and for initiatives to be proposed. The Arms Control and Regional Security for the Middle East (ACRS) talks were also mentioned as a possible model to start negotiations on a MENWFZ. The ACRS process combined both conceptual and operational confidence building and arms control measures applicable to the Middle East. Although the difficulty of triggering such a process is clear, the model could provide a venue for states to negotiate even without mutual recognition.

One idea that seems to be gaining support is for the NPT States Parties to request the UN Secretary General to hold a series of meetings exploring next steps. All states in the region would be invited to attend and the discussions would remain open-ended for all those states for their duration. Details on what would comprise the proposed meetings could be worked out before and during the 2010 NPT Review Conference.

IV. Middle East Nuclear Weapon Free Zone: New Opportunities?

There are many reasons to be skeptical about the prospects of establishing a MENWFZ that include, inter-alia, the lack of progress over the years on the issue, the current volatile political-security circumstances in the region, and the worsening of key relationships. Although the commonly accepted view is that “the devil is in the details”, perhaps a more pertinent view would be that the devil is in the fundamentals. For example, there exists a complete lack of trust among interested parties, as well as continuing enmity, and the absence of confidence lies at the heart of the issue. Another obstacle to making progress is that although the United States has recently changed its position on many nuclear disarmament matters, the Non-Aligned Movement (NAM) has yet to reposition itself to reflect these changes. This may be due to the widely-held perception that promises in the past were made under false pretenses. Many states do not trust the process – even if they trust the intentions of the United States. The experience from the CTBT negotiations and the subsequent inability of the United States (among others) to ratify the Treaty, gives pause for thought. If states move quickly and engage in arms control and disarmament initiatives with the United States’ support, can they be sure that the enthusiasm will be sustained? Can they be sure that promises will be kept? However, if they wish to make progress, the window of opportunity that now exists will not stay open forever, which necessitates quick and decisive action from all interested parties.

In addition to the Israel-Arab relationship, any discussion on the Middle East Zone also involves Iran, Turkey, the United States, Russia and the European Union. The political crisis in Iran has created many problems that will greatly affect the discussion. How Iran will develop after it emerges from the chaos of the summer is a critical aspect for progress. If the reform movement is dead, and the government builds on additional power gained from the military, the paramilitary,

the Iranian Revolutionary Guard and the Basij, then prospects for progress become bleaker. If however, lessons are learned, the reform movement regroups and has a lasting impact, then there are possibilities for transformation. Isolation has not worked well, and the lack of agreement in the international community over how to address the issue exacerbates the problem and makes long-term progress seem even more distant³.

V. Scope of the Middle East Nuclear Weapon Free Zone

All of the existing treaties establishing NWFZs were negotiated within each respective region with direct negotiations among interested states; talks on a MENWFZ should follow the same model. Such direct discussions could equate to an important confidence building measure in itself. Interested parties must also decide upon the geographic delineation of the zone, taking into account past proposals and recognizing that there may be overlap with other NWFZs.

In terms of what the scope of the treaty should be, there has been shared support among ME states for a WMD free zone, though the complexities of establishing such a zone are numerous and may present too ambitious a goal. Should the treaty combine existing treaties, such as the NPT, CTBT, CWC, and BWC, or should it be custom tailored for the region? Some have also suggested that participants in the zone should be prohibited from acquiring ballistic or cruise missiles beyond a predetermined range. Whether the treaty covers research and development work related to nuclear weapons, attempts to prohibit certain elements of the fuel cycle, or contains provisions against armed attacks on nuclear facilities are just a few examples of the many issues that must be factored into any substantive discussions.

Apart from the issue of geographical delineation and composition of the zone, the question of which actors will participate in the process must also be addressed. Whether Iran will attend these discussions and what role the outside powers will/ should play in this regard are important. Outside powers have played a limited role in negotiating NWFZs in the past, and the same is likely in the context of the MENWFZ. However, powerful extra regional parties could assist in outlining a framework for dialogue and provide continual support. The United States and Russia bear special responsibility in this regard. Negotiators must also answer the question of who will be the organization tasked with verifying the treaty. This will be difficult because the Arab states and Iran foresee the IAEA taking primary responsibility in this area, and Israel does not believe the IAEA has the ability to verify effectively compliance with any proposed treaty. States in the region could agree to both IAEA safeguards and regional verification measures. Although IAEA safeguards are indeed recognized as legitimate, even at the level of the Additional Protocol they alone would not be perceived to be sufficient in the Middle East region, given the history and sensitivities. A regional approach, in addition to the international safeguards regime could provide the confidence necessary for the implementation of a zone. Regional verification and monitoring approaches could be structured using the experiences of Euratom and ABACC.

Another issue in need of resolution is the sequencing of the peace process in relation to the negotiations of a NWFZ. Israel believes that an incremental approach best suits the situation, starting with confidence building measures that will lead to an improvement in relations, followed by reconciliation, mutual recognition, and conventional arms control measures. However, Arab states view this position as a means of permanently delaying substantive discussions on a MENWFZ.

³ Note: this discussion took place in advance of the talks in Geneva in October 2009.

Determining the provisions for entry into force will present a whole other set of difficulties. For example, requiring every state in the zone to ratify could allow one state to prevent its entry into force.

VI. Next Steps

Several developments give us cause for optimism regarding the 2010 NPT Review Conference, including President Obama's Prague speech, the convening of the UN Security Council summit to discuss disarmament⁴, and the overall positive atmosphere at the 2009 NPT PrepCom. For success in 2010 however, there must be genuine, not cosmetic, progress to fulfill the 1995 Resolution on the Middle East and the Middle East NWFZ.

We see two significant and connected opportunities. The first is for the appointment of a Shepherd for the Middle East Zone, who would consult in the region and with other parties on possible ways forward. The second is for the UN Secretary General to use his good offices to invite regional parties to a series of meetings to explore the next steps towards a NWFZ in the Middle East.

VII. Specific Recommendations

1. Promote confidence building measures in the region as a means to create an atmosphere conducive to furthering the goal of establishing a MENWFZ. For example, states could explore the possibility of placing all nuclear installations in the region under full scope IAEA safeguards, as provided by the 1995 resolution.
2. Work with national think-tanks and academic bodies to circulate a questionnaire to all states in the region. The objective of the questionnaire would be to gather information on states' positions in order to find common ground with which to begin promoting the aim of the NWFZ in the Middle East.
3. Study and report on the successful components of the current NWFZs for practical lessons on establishing future zones, particularly in the Middle East.
4. Appoint a "Special Coordinator" or "Shepherd" to travel to states in the region in order to identify points of mutual agreement and promote further dialogue between interested parties on the issue. The UN Secretary General could appoint a Special Representative (SRSG) or a Special Coordinator could be appointed by the States Parties to the NPT.
5. Request the UN Secretary-General to use his good offices to invite regional states to a series of official but informal meetings to discuss practical steps towards a NWFZ in the Middle East.

⁴ Resulting in UNSC Resolution 1887