A Middle East free of nuclear weapons: possible, probable or pipe-dream?

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To date, no country in the Middle East has declared a nuclear weapons capability. In itself, that is a remarkable fact. Over recent years, a lay reader could be forgiven for thinking that no other region were proliferating nuclear weapons and that the only country of proliferation concern in the Middle East is Iran. Yet the most recent country to develop nuclear weapons capabilities is North Korea, which is also developing a long-range missile capability with some success. In the late 1990s, India and Pakistan declared their long-held nuclear weapons programmes through a series of nuclear weapons tests. And five states—China, France, Russia, the United Kingdom and the United States—retain and continue to develop their nuclear weapons stockpiles, despite the end of the Cold War and significant concerns about nuclear terrorism and proliferation.

It is widely believed that Israel has a fully fledged, deliverable nuclear weapons arsenal; but this cannot be confirmed because the Israeli programme is shrouded in secrecy and Israel's stated policy is that it will 'not be the first to introduce' nuclear weapons into the region.[1] Nonetheless, there are few who doubt the existence of Israeli nuclear weapons—particularly since the exposure of the programme by technician Mordechai Vanunu in 1986.[2]

Iraq came very close to constructing a workable nuclear weapon, but its haphazard military programme was halted by the consequences of the disastrous attack on Kuwait in 1990 and the subsequent ceasefire resolution in the UN Security Council,[3] which established the UN Special Commission (UNSCOM). The International Atomic Energy Agency (IAEA), working under UNSCOM's powers of investigation, uncovered a well-developed Iraqi nuclear weapons programme in 1991 and dismantled it completely. UNSCOM also destroyed almost all of Iraq's chemical capability, and Iraq itself performed the same task for its biological weapons programme in spring 1991.

Concerns about the long-term intentions of Iran and its technical and material capabilities have been growing over the last two decades. In recent years there

[1] Avner Cohen, *The worst-kept secret: Israel's bargain with the bomb* (New York: Columbia University Press, 2010).
[2] 'Revealed: the secrets of Israel's nuclear arsenal', *Sunday Times*, 5 Oct. 1986, pp. 1, 4–5; http://www.vanunu.com/uscampaign/photos.html, accessed 11 Feb. 2013.
[3] UNSC Resolution 687, adopted by the Security Council at its 2981st meeting on 3 April 1991, http://www.fas.org/news/un/iraq/sres/sres0687.htm, accessed 11 Feb. 2013.

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has been an increasing number of difficulties between the IAEA and Iran. In November 2012, the director general of the IAEA stated that 'the Agency is unable to provide credible assurance about the absence of undeclared nuclear material and activities in Iran, and therefore to conclude that all nuclear material in Iran is in peaceful activities'.[4] In 2006, the UN Security Council, mandated by Resolution 1737,[5] which prohibits all Iranian enrichment-related and reprocessing activities, and subsequent resolutions, established a committee to ensure the maintenance of an embargo on proliferation-sensitive nuclear and ballistic missile programmes technologies; a ban on the export/procurement of any arms and related materiel from Iran; a ban on the supply of seven specified categories of conventional weapons and related materiel to Iran; and a travel ban and assets freeze on designated persons and entities. The assets freeze also applies to any individuals or entities acting on behalf of, or at the direction of, the designated persons and entities, and to entities owned or controlled by them.[6]

There remain concerns over Syria's capabilities and intentions in both nuclear and chemical weaponry, and the civil war in Syria has exacerbated concerns about the potential use of chemical weapons. Fears over Libya have abated since the discovery in 2003 of an embryonic nuclear programme and a chemical weapons capability that has now been turned over to the Organization for the Prohibition of Chemical Weapons (OPCW). In 2004 the IAEA adopted a resolution on 'Implementation of the NPT Safeguards Agreement in Libya' following Libya's decision to eliminate 'all materials, equipment and programmes leading to the production of internationally proscribed weapons—including nuclear weapons' and signed the Additional Protocol on 10 March 2004.[7]

Other states in the region had, in the past, eschewed the nuclear weapons option, instead joining the Nuclear Non-Proliferation Treaty (NPT) with a view to establishing a regional security environment in the Middle East that was not based on nuclear weapons. Egypt in particular has led the intellectual and political thinking on this issue in the League of Arab States, and while it has two research reactors has hitherto not chosen the path of nuclear energy. However, that may be changing. In late 2012, Egypt's electricity and energy minister Saad Mahmoud Balbaa announced the preparation of a request for proposals (RFP), to be presented to potential investors, on the establishment of Egypt's first nuclear power plant, with the aim of establishing four power plants to produce a total of 4,000 MW by 2025.[8]

[4] IAEA, 'Report by the director general: implementation of the NPT Safeguards Agreement and relevant provisions of Security Council resolutions in the Islamic Republic of Iran', GOV/2012/55, 16 Nov. 2012, http://www.iaea.org/Publications/Documents/Board/2012/gov2012-55.pdf, accessed 11 Feb. 2013.

[5] UNSC Resolution 1737, adopted by the Security Council at its 5612th meeting on 23 Dec. 2006, http://www.un.org/ga/search/view_doc.asp?symbol=S/RES/1737(2006), accessed 11 Feb. 2013.

[6] http://www.un.org/sc/committees/1737/, accessed 11 Feb. 2013.

[7] 'Implementation of the NPT Safeguards Agreement of the Socialist People's Libyan Arab Jamahiriya, resolution adopted by the Board on 10 March 2004', GOV/2004/18, http://www.iaea.org/Publications/Documents/Board/2004/gov2004-18.pdf, accessed 11 Feb. 2013.

[8] 'Electricity minister: request for proposal ready for first nuclear plant', *Egypt Independent*, 31 Dec. 2012, http://www.egyptindependent.com/news/electricity-minister-request-proposal-ready-first-nuclear-plant, accessed 11 Feb. 2013.

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It is worth noting also that Turkey's interest in nuclear energy remains strong and that the country is a base for US nuclear weapons; and that, on the other side of the region, the highly unstable state of Pakistan has a fully fledged, declared and operationally deployed capability.

Other countries in the region, including the United Arab Emirates, Jordan and Saudi Arabia, have been revisiting the possibilities of civil nuclear energy, encouraged to take this route by countries such as the United States, the Republic of Korea, France and Japan. There is no indication that these plans have any connection to future military programmes—indeed, all states in the region, with the exception of Israel, are states parties to the NPT—but civil nuclear energy capabilities do enable military options later on, should political calculations alter. It is worth noting that since the devastating tsunami in Japan in March 2011 and the subsequent nuclear catastrophe at the Fukushima Daiichi power plant, a number of states have put on hold or slowed down their plans for nuclear energy. These include Bahrain, Egypt, Kuwait and Oman.[9]

This article provides an overview of the attempts to organize an official regional conference on a zone free from weapons of mass destruction (WMD) in the Middle East, as mandated by the 2010 NPT review conference. The article attempts to describe the context of that process in terms of regional nuclear programmes, the evolution of nuclear weapon-free zones (NWFZs) and NPT politics. In addition, it outlines a set of recommendations for what might constitute a treaty, and proposes interim steps that would support the establishment of a Middle East WMD-free zone, drawing on historical precedents from relevant cases.

The NWFZ: prevention and prohibition

The initial proposal for an NWFZ in the Middle East was put forward in 1962, by the Committee for the Denuclearization of the Middle East—a group of highly regarded Israeli intellectuals under the leadership of Eliezer Livneh and Yeshayahu Leibowitz. The committee, judging the development of nuclear weapons 'to constitute a danger to Israel and to peace in the Middle East', urged the United Nations to intervene 'to prevent military nuclear production'. It was formed in the hope that Israel's acquisition of a nuclear weapons capability could be forestalled and that a non-proliferation regime could take hold in the Middle East. The committee was wound up following the Six Day War in 1967, but there remains a strong strand of thinking, including an official policy, within Israel supporting the notion of a NWF Middle East, as evidenced by Israel's annual UN General Assembly vote in favour of such a zone.

Conditions for establishing an NWFZ in the Middle East were put forward by Egypt at the UN General Assembly in 1963,[10] and picked up later that decade by

[9] Anton Khlopkov, 'Prospects for nuclear power in the Middle East after Fukushima and the Arab Spring', United Nations Institute for Disarmament Research (UNIDIR), Nov. 2012, http://www.unidir.org/pdf/ouvrages/pdf-1-92-9045-012-O-en.pdf, accessed 11 Feb. 2013.

[10] Mohammed Kadry Said, 'Middle East weapons of mass destruction free zone: regional security and non-proliferation issues', in V. Cserveny et al., *Building a weapons of mass destruction free zone in the Middle East: global non-proliferation regimes and regional experiences* (Geneva: UNIDIR, 2004), p. 127.

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Shah Mohammad Reza Shah Pahlavi of Iran.[11] In 1974, spurred on by improving Arab–Israeli relations and the Indian nuclear weapon test that year, Iran and Egypt formally tabled a joint UN General Assembly resolution calling for the establishment of an NWFZ in the Middle East.[12] The resolution was adopted by a majority of 138 votes, with only Israel and Burma abstaining.[13]

In its current form, the resolution invites all states in the region to adhere to the NPT, place all their nuclear activities under IAEA safeguards, and—pending the establishment of an NWFZ—not to produce, test, acquire or station nuclear weapons on their territories, and states that a Middle East NWFZ 'would greatly enhance international peace and security'.

The Egyptian–Iranian resolution is adopted each year; Israel joined the consensus on it from 1980, as a direct result of the Egypt–Israel peace treaty and the adoption of a regional rather than global approach to nuclear policy. In principle, therefore, all states in the Middle East express support for a verifiable regional NWFZ.

It is important to note, however, that there exists a major conceptual, strategic and tactical difference between Israel and the Arab states on what euphemistically is called 'sequencing'. What this means is that Israel believes that a WMD-free zone would follow on from a wider peace treaty that would include full recognition of Israel by its neighbours, the removal of any aggressive threat and the establishment of a stable security environment: 'peace first, zone second'. The Arab states, however, believe that peace cannot be achieved with a nuclear-armed Israel in the Middle East, and have to date taken the view that peace would follow the negotiation of a WMD-free zone: 'zone first, peace second'.[14] Obviously, these mirror images of security in the region quickly enforce an impasse within any regional security discussion and lie at the heart of why so many interlocutors despair of ever unravelling the tangled knots of security dilemmas in the region. Whether Alexander riding to the rescue, sword in hand, could represent the Arab Awakening remains to be seen. Certainly, changes in the region are altering relationships, perceptions, accountabilities and priorities, and all this will have an impact on the characterization of the WMD-free zone. It is quite possible that, as future thinking develops, the security concerns of the region may lead key Arab states to ascertain that a peace treaty should take priority over regional nuclear disarmament. On the other hand, pressures and concerns over Iran and the conflict in Syria could lead Israel to change its long-held policy and urgently demand a Middle East WMD-free zone ahead of any other treaty it may wish to see. Stranger things have happened.

[11] Kathleen Teltsch, 'Iran asks UN action to keep region free of nuclear arms', *New York Times*, 13 July 1974, http://www.iranaffairs.com/.shared/image.html?/photos/uncategorized/2007/08/20/irannuclearfreezone.jpg, accessed 11 Feb. 2013.

[12] UN General Assembly Resolution A/RES/3263 (XXIX), 29th session, 'Establishment of a nuclear weapon free zone in the region of the Middle East', http://daccess-dds-ny.un.org/doc/RESOLUTION/GEN/NR0/738/65/IMG/NR073865.pdf?OpenElement, accessed 11 Feb. 2013.

[13] Said, 'Middle East weapons of mass destruction free zone', p. 126.

[14] Kelsey Davenport, 'WMD-free Middle East proposal at a glance', Arms Control Association, Nov. 2012, http://www.armscontrol.org/factsheets/mewmdfz#4, accessed 11 Feb. 2013.

The NPT was negotiated in 1968 and entered into force in 1970. Egypt was one of the first countries to sign the treaty when it opened for signature on 1 July 1968 and ratified in 1981, following the 1979 signing of the peace treaty with Israel. Other Arab states and Iran did likewise, although it was not until 1997, and thanks to tireless advocacy by Egypt, that all Arab states had joined the NPT, leaving Israel alone in the region to remain outside the treaty. Global membership of the NPT is nearly universal, with only India, Pakistan and Israel never having joined it. North Korea announced its withdrawal in 2003, although its legal status is in dispute. In the agreed review documents, the states parties invariably call for universalization of the treaty and plead with India, Israel and Pakistan to accede as non-nuclear weapon states.

Article VII of the NPT is specifically aimed at encouraging NWFZs, enshrining 'the right of any group of States to conclude regional treaties in order to assure the total absence of nuclear weapons in their respective territories'.[15] Indeed, the first NWFZ in Latin America—the 1967 Treaty of Tlatelolco—predates the NPT, as do the 1959 Antarctic Treaty, which prohibits nuclear explosions and the disposal of radioactive waste material in Antarctica, and the 1967 Outer Space Treaty, which prohibits any objects carrying nuclear weapons or any other kinds of WMD being placed in orbit around the Earth or installed on celestial bodies, or in outer space in any other manner.

Since 1968, several NWFZ treaties have been negotiated:[16] the 1971 Sea-bed Treaty; the 1986 Treaty of Rarotonga (South Pacific); the 1995 Treaty of Bangkok (South-East Asia); the 1996 Treaty of Pelindaba (Africa); and the 2006 Central Asian Nuclear-Weapon-Free Zone Treaty (sometimes called the Treaty of Semipalatinsk). In addition, Mongolia accorded itself nuclear weapon-free status under national law in 2000, notifying the United Nations by a formal communiqué.[17]

In April 1990, President Hosni Mubarak of Egypt suggested that the proposals for a NWFZ in the Middle East be extended to include all WMD (nuclear, chemical and biological weapons). The Mubarak proposal stressed that all states of the region should make equal and reciprocal commitments, and that verification measures and modalities should be established to ensure full compliance.[18]

Following Iraq's brutal use of chemical weapons against Iran in the eight-year war from 1980 to 1988, and also against the Kurds of both Iran and Iraq, and Iraq's invasion of Kuwait, the subsequent ceasefire resolution adopted in the UN Security Council (UNSCR 687) in 1991 specifically frames the actions to be taken by Iraq as representing 'steps towards the goal of establishing in the Middle East a zone free from weapons of mass destruction and all missiles for their delivery and

[15] Treaty on the Non-Proliferation of Nuclear Weapons, http://www.un.org/disarmament/WMD/Nuclear/NPTtext.shtml, accessed 11 Feb. 2013.

[16] Patricia Lewis and William C. Potter, 'The long journey toward a WMD-free Middle East', *Arms Control Today*, vol. 41, Sept. 2011, pp. 8–14.

[17] A/55/56, 29 Feb. 2000, http://www.un.org/documents/ga/docs/55/a5556.pdf, accessed 11 Feb. 2013.

[18] Fawzy H. Hammad and Adel M. Ali, 'Principles of establishing a Middle East weapons of mass destruction free zone: monitoring and verification system', in Cserveny et al., *Building a weapons of mass destruction free zone in the Middle East*, p. 89.

the objective of a global ban on chemical weapons' (in negotiation at the Conference on Disarmament at that time, now in force).[19]

Also in 1991, the Madrid peace process established a set of multilateral working groups on topics including arms control and regional security (ACRS). The Madrid peace process was established to address the interconnectedness of a set of intractable problems, while also serving as a vehicle for building confidence and positive relations among countries in the Middle East. The negotiations, which opened formally in Moscow in January 1992, led to the Oslo peace accord in 1993 and the Israel–Jordan peace treaty in 1994. The ACRS talks made significant headway before collapsing in 1995, in large part over the issue of the sequencing of when and how to negotiate an NWFZ in the Middle East, with Israel insisting that peace agreements should precede a zone and the Arabs insisting on the reverse.

Earlier in 1995, as part of the decision to extend the NPT indefinitely, the NPT review and extension conference adopted a resolution on the Middle East. The 1995 resolution was co-sponsored by the three depositary states—the Russian Federation, the United Kingdom and the United States. It is recognized that the indefinite extension of the NPT would not have been adopted without a vote if the Arab states—led by Egypt—plus Iran had not secured the support of the depositaries and the conference for the resolution.

The 1995 resolution:

> Calls upon all States in the Middle East to take practical steps in appropriate forums aimed at making progress towards, inter alia, the establishment of an effectively verifiable Middle East zone free of weapons of mass destruction, nuclear, chemical and biological, and their delivery systems, and to refrain from taking any measures that preclude the achievement of this objective;
>
> Calls upon all States party to the Treaty on the Non-Proliferation of Nuclear Weapons, and in particular the nuclear-weapon States, to extend their cooperation and to exert their utmost efforts with a view to ensuring the early establishment by regional parties of a Middle East zone free of nuclear and all other weapons of mass destruction and their delivery systems.

However, despite the significance of the resolution as a fundamental component of the legal decision to extend the NPT indefinitely, no progress had been made on the issue of a WMD-free zone in the Middle East by 2010. The NPT review conference in 2000 did not focus on the issue.[20] Egypt, as a key player in the New Agenda Coalition that negotiated the substantive component of the successful review document, had agreed to set aside its concerns on the promise that the matter of the zone would be addressed subsequently. However, by the 2005 NPT review conference no further official attention had been paid to the issue by the depositaries (a necessary condition for bringing the non-NPT state of Israel into the deliberations) and Egypt decided against compromise. The adoption of the

[19] UNSC Resolution 687, adopted by the Security Council at its 2981st meeting on 3 April 1991, S/RES/687 (1991), para. 14.

[20] Rebecca Johnson, 'Successful conference: now words into actions', 6th NPT review conference, briefing no. 18, 20 May 2000, http://www.acronym.org.uk/articles-and-analyses/successful-conference-now-words-actions-briefing-no-18, accessed 11 Feb. 2013.

agenda for the review conference was delayed and the conference was unable to agree on a review document in the time remaining.[21]

As a result, Egypt finally got the world's attention and, in the lead-up to the next NPT review conference in 2010, the depositaries were fully aware that action would have to be taken. Academics and NGOs held track-two meetings and produced papers with a range of proposals. Russia, taking on the responsibility of an NPT depositary state, prepared a paper for the 2009 NPT preparatory committee that sketched out what it thought could be the makings of a deal.[22]

The final document of the 2010 review conference adopted a 64-point action plan for disarmament and non-proliferation, and an implementation plan for the 1995 resolution on the Middle East. The conference agreed a package of practical steps that required the UN secretary general and the co-sponsors of the 1995 resolution (the depositary states: Russia, the UK and the US), in consultation with the states of the region, to 'convene a conference in 2012, to be attended by all States of the Middle East, on the establishment of a Middle East zone free of nuclear weapons and all other weapons of mass destruction, on the basis of arrangements freely arrived at by the States of the region, and with the full support and engagement of the nuclear-weapon States'. States agreed on the appointment of a facilitator with a mandate to support implementation of the 1995 resolution by conducting consultations and undertaking preparations for the convening of the 2012 conference. The facilitator was also charged with assisting in implementing any follow-on steps agreed at the 2012 conference and reporting to the 2015 review conference and its preparatory committee meetings.

However, immediately following the conference, despite there being consensus in the room, the United States appeared to distance itself from the outcome,[23] primarily because Israel was openly annoyed by the fact that the documents contained a reference to Israel's nuclear programme but did not address Iran's compliance issues specifically by name. Iran is a member of the NPT and its agreement was required for the adoption of the outcome document. Israel, not being a member, can only have its interests represented by proxy, and so the need for agreement at the 2010 conference trumped Israeli sensitivities, causing Israel to fear that the current US administration might not be as supportive in the wider geopolitical setting as it once was.

Arab states took a negative view of the US backtracking that immediately followed the review conference, mainly because it seemed to be part of a pattern. From the viewpoint of Arab countries, agreements made over the issue of a zone within the context of the NPT had twice been treated lightly and not honoured

[21] Rebecca Johnson, 'Politics and protection: why the 2005 NPT review conference failed', 1 Nov. 2005, http://www.acronym.org.uk/dd/dd80/80npt.htm, accessed 11 Feb. 2013.

[22] Statement by the delegation of Russia on implementation of the resolution on the Middle East adopted by the 1995 NPT review and extension conference, 8 May 2009, http://www.reachingcriticalwill.org/images/documents/Disarmament-fora/npt/prepcom09/statements/8MayME_Russia.pdf, accessed 11 Feb. 2013.

[23] Office of the Press Secretary, The White House, 'Statement by the National Security Advisor, General James L. Jones, on the Non-Proliferation Treaty review conference', 28 May 2010, http://www.whitehouse.gov/the-press-office/statement-national-security-advisor-general-james-l-jones-non-proliferation-treaty-, accessed 11 Feb. 2013.

by the depositaries—first in respect of the 1995 resolution, and second in the case of the unofficial commitment made in 2000 to address the issue following the NPT review conference.

Arab fears were further compounded when the US in particular seemed to be dragging its feet over the appointment of a facilitator and host country. Despite strong pressure from many quarters, it was not until October 2011 that, following extensive consultations and preparations, Finland was chosen as the host country and a senior, highly respected ambassador, Jaakko Laajava, was appointed as facilitator.

In the meantime a political tempest was whipped up in Vienna over an IAEA resolution entitled 'Israeli nuclear capabilities' (INC). Since 1991 there had been a tacit agreement that this resolution, expressing concern about Israeli nuclear capabilities and calling upon Israel to accede to the NPT and place all its nuclear facilities under comprehensive IAEA safeguards, would not be tabled in Vienna at the IAEA General Conference.[24] That 'gentlemen's agreement' broke down in 2006, although procedural and political moves prevented the resolution from being tabled and voted on until 2009, when it was adopted by a narrow margin. In 2010 the INC resolution was tabled and defeated, following the successful 2010 NPT review conference. In 2011 and 2012 Arab states decided against tabling the resolution, in part perhaps because a repeat defeat was not so attractive, in part because of a desire to demonstrate willingness to hold off from so-called 'Israel-bashing', and in part because steps were, at long last, being taken towards the Middle East WMD-free zone.

For a full twelve months in 2011 and 2012, Ambassador Laajava and his quickly appointed expert team did everything humanly possible to consult in the region and with the depositaries and others to create the conditions for a successful conference. A venue in Helsinki was secured and, after much discussion, a tentative date was set for mid-December. The late 2012 date was selected in part because of the very full calendar for arms control and disarmament meetings, in part because the political upheaval caused by the 2011 Arab Awakening meant that states in the region needed more time for preparation, in part because the war in Syria created uncertainty over full Arab attendance and in part because of the November 2012 US presidential elections. The US presidency certainly did not want the meeting to become hostage to the heated election process in America (or indeed vice versa), and so was keen to hold off until after the outcome. It was not of course certain until the votes were counted that President Obama would be re-elected, and so another level of uncertainty prevailed.

In early November 2012, at a track-two conference in Brussels funded by the EU,[25] Iran announced, to the surprise of many present, that it would participate

[24] On the INC resolution, see 'What is the Israel Nuclear Capabilities (INC) resolution? Why is it controversial and how are some states trying to block it coming to a vote?', James Martin Center for Nonproliferation Studies / Vienna Center for Disarmament and Non-Proliferation, fact sheet no. 2, Sept. 2011, http://cns.miis.edu/stories/110914_iaea_factsheets/cns_iaea_factsheet_middle_east.pdf, accessed 11 Feb. 2013.

[25] Second EU Non-Proliferation Consortium seminar 'to promote confidence building and in support of a process aimed at establishing a zone free of weapons of mass destruction (WMD) and means of delivery in the Middle East', 5–6 Nov. 2012, http://www.nonproliferation.eu/middleEastSeminar2012/, accessed 11 Feb. 2013.

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in the 2012 conference without preconditions and without waiting to see whether Israel would attend. The Brussels conference, however, had failed to secure the participation of several Arab states, including Egypt, and of the League of Arab States,[26] although Israeli officials and academics were present in force. An opportunity seemed to have been missed.

By November 2012, any enthusiasm the United States might have developed for the Helsinki meeting was waning. The forthcoming January 2013 elections in Israel were dominating the debate on this issue in Washington DC. As a non-member of the NPT, Israel resented being bumped into this conference against its will. Israeli interlocutors were stepping up the pressure against the conference being held under the auspices of the NPT and wanted its agenda broadened to take into account a wider set of security concerns. In Egypt, meanwhile, elections and the constitutional referendum meant that the champions of the 1995 resolution and the 2012 conference were not as engaged and forceful as they might otherwise have been. Indeed, late in 2012, thanks to solid institutional capacity, the League of Arab States had been persuaded to take the lead on the conference rather than be led by the governments themselves.

On 23 November the United States issued a statement regretting that 'the conference cannot be convened because of present conditions in the Middle East and the fact that states in the region have not reached agreement on acceptable conditions for a conference'.[27] In this lengthy statement, the US said that it believed a 'deep conceptual gap persists in the region on approaches toward regional security and arms control arrangements' and that these differences 'can only be bridged through direct engagement and agreement among the states in the region . . . We believe that this conference should discuss a broad agenda that covers regional security and all WMD issues, and that it must operate solely on the basis of consensus among regional parties.'

Russia and the UK also issued statements, which differed in tone and content from that of the US. The UK stated:

> The British Government supports the objective of a Weapons of Mass Destruction Free Zone in the Middle East. We regret that it will not be possible to convene a successful conference to be attended by all states of the region as planned in 2012. More preparation and direct engagement between states of the region will be necessary to secure arrangements that are satisfactory to all.[28]

Russia made clear through unofficial channels its frustration at the decision to postpone the meeting. The co-conveners (the depositaries, the UN and Finland)

[26] There are differing accounts and views as to why the LAS and some Arab states—notably Egypt—did not attend. There appears to have been a misunderstanding with regard to the status of the conference. It was an academic meeting held by the EU Non-Proliferation Consortium—a group of non-governmental organizations—and the EU financially sponsored it. Several Arab states believed that it was an official EU meeting and were then very upset by the agenda, which they said did not reflect their concerns, and by the fact that they were not consulted at senior levels over the agenda and their participation. The conference organizers refute these assertions vigorously, saying that they had made the status of the conference clear from the start.

[27] http://www.state.gov/r/pa/prs/ps/2012/11/200987.htm#.UK_99dE2RrU.facebook, accessed 11 Feb. 2013.

[28] https://www.gov.uk/government/news/middle-east-weapons-of-mass-destruction-free-zone-conference?view=News&id=838335782, accessed 11 Feb. 2013.

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were in disagreement as to (a) whether it was wise to postpone the meeting at all and (b) whether it was wise to do so without agreement on when, roughly, it could be reconvened.

As Russia stated:

> Unfortunately, not all of the States in the Middle East have so far agreed to participate in the Conference. In this regard, there are voices in favor of postponing the Conference for 2013. The Russian Federation, being strictly committed to its commitments and the 'conveners'' mandate, believes that in the given conditions a decision to postpone the Conference can be justified only if there is a clearly expressed consent of the countries of the Middle East and the dates for the Conference are fixed. Moscow presumes that in case of the expressed consent of the regional States to the postponement of the Conference, the new dates should be fixed right now in order to convene the Conference at the earliest possibility, but no later than April next year. We are convinced that these several extra months would be enough for proper preparation and success of the Helsinki Conference on the establishment of MEWMDFZ.[29]

The host country, Finland, said:

> We regret that the conference will not be convened this year. However, the conveners have reaffirmed their commitment to convene the conference and Finland as the host Government remains prepared to organize it once convened. We will continue our efforts to prepare the ground together with the conveners and the States of the region for the earliest possible convening of a successful conference, to be attended by all states of the region.

To that end, the facilitator, Ambassador Laajava, proposed that multilateral consultations be held as soon as possible. Such consultations would be a departure from the way in which preparations had hitherto been conducted, namely through bilateral discussions with the facilitator and discussions with the League of Arab States. The other co-conveners have held a variety of similar meetings; discussions alongside other international meetings have taken place, as have a wide range of track-two conferences in various parts of the world, including in the Middle East. However, multilateral discussions specifically on this subject, with all of the interlocutors, have not yet been held.

The postponement of the Helsinki conference may be a 'timing adjustment', as one wry observer has characterized it, or it may be an indefinite delay, which could drag on for years. The year's lag in progress to decide on a facilitator and venue, together with significant political change in the region, is prompting some experts to suggest that there was an intention to put off the conference from the start. Others are concerned that the delay signals a lack of commitment to the agreements made in 2010. They fear that further passage of time could seriously hamper progress towards a WMD-free zone in the Middle East and have strong negative repercussions for the NPT. However, it is important to note that at the 2010 NPT review conference a wide range of views were expressed on what would be the best timing for the conference. December 2012 was not a dearly

[29] http://www.nucleardiner.com/archive/item/conference-on-middle-east-wmd-free-zone-called-off, accessed 11 Feb. 2013.

held, hard-fought date that was set in stone long before the 2010 negotiations. Rather, it was a date that accommodated a wide range of timing considerations such as presidential elections and the NPT preparatory process. The date was set long before the Arab Awakening of 2011, long before the Syrian uprising and long before the Israeli elections for 2013 were called. In that sense, the date was never intended to become a fixture. However, the considerations with regard to the NPT preparatory process should not be underestimated. The next review conference, scheduled for 2015, will be on the doorstep before we know it, and because the facilitator and the co-conveners are required to report back to the conference, and because there will be much anger if no serious progress has been made by then, the prospects for success will be bleak.[30]

Creating the conditions for Helsinki 2013

Given the delay and the uncertainty over when, how and whether the Helsinki conference could take place, it is important to examine the conditions that could be set in place in order to increase the chances of its happening.

Success at the Helsinki conference—assuming that it now takes place in 2013 and is not delayed any longer—requires that all state participants have a clear sense in advance of the meeting of what the likely outcome could be and, most importantly, what the boundaries of the possible outcomes could be. Ambassador Laajava has proposed a set of multilateral regional consultations in advance of the conference. If these were clearly constructed as precursors to the conference and could not be used by any party to declare success or failure of the whole process, they could be very useful in preparing the ground and would form the basis of the conditions needed to move forward.

A successful Helsinki meeting would include a political declaration from the conference that confirms the commitment of all states in the region to a Middle East free of weapons of mass destruction. In addition, success requires a follow-on process addressing practical aspects, including a framework for the negotiation of the zone. A commitment to long-term political discussions addressing a broader regional security process is likely to be part of any outcome.

A set of technical track meetings comprising working groups focusing on specific, agreed issues, and taking place over a period of around two years, could be established, along with an 'umbrella committee' to discuss overarching issues such as scope and consistency guidelines. The umbrella committee (a committee of the whole) could agree the mandates for the technical working groups and set their timetables, and function as the body to which all the technical working groups would report. It could also deal with the declaratory aspects and the scope of a treaty in areas such as prohibitions on transit and transfer and stationing WMD on the territories of all states in the region; a prohibition on testing; and a prohibition on armed and cyber attacks on civil nuclear facilities. The peaceful uses of

[30] Mahmoud Karem, 'The US must explain its postponement of a crucial NPT conference', Open Democracy, 5 Jan. 2013, http://www.opendemocracy.net/mahmoud-karem/us-must-explain-its-postponement-of-crucial-npt-conference, accessed 11 Feb. 2013.

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the technologies and the right to peaceful applications could also be dealt with under the scope of the treaty, as could such matters as prohibiting the dumping of radioactive waste and related materials, and measures to support nuclear security and safety.

A legal matters working group could be set up to consider the settlement of disputes arising from differing interpretations, reservations and the conditions for signature; and issues such as the right to withdraw, amendments, ratification, depositaries, entry into force and duration. Working groups could be established to address the scientific and technical characteristics of nuclear, chemical and biological weapons. Subcommittees could address fissile material controls, verification, missiles and other means of delivery and their proliferation, and missile defences. Addressing the full range of missiles within the zone may prove too big a task, but it would be possible to agree measures to address and mitigate the fears they invoke, such as a regional flight test notifications mechanism and hotlines for crisis management.

A scientific and technical working group would also negotiate the verification regime, developing regional approaches to verification and compliance measures. Generally, NWFZs have included provisions for adherence to the full-scope safeguards agreement,[31] and more recent zones call for adherence to the Additional Protocol.[32] Given the tensions and suspicions surrounding the nuclear issue within the region, it is likely that further, more revealing cooperative measures would be required. There are a number of models, ranging from extensive verification and compliance functions carried out by new standing institutions (as in the Treaty of Tlatelolco) to or reliance on existing international verification instruments supplemented with added reporting requirements (as in the Treaty of Rarotonga) or the establishment of a new commission for the purpose of ensuring compliance that would gather its own information, interact with and transmit reports to the IAEA, and be able to call independently on the IAEA for clarification, technical visits and inspections, reserving the right to establish its own inspection mechanisms should the need arise (as in the Treaty of Pelindaba). In addition, states could also consider the possibility of joint inspections with the IAEA, as in the case of the Brazilian–Argentine Agency for Accounting and Control of Nuclear Materials.

A technical working group on doctrines could be established to explore ways in which the role of WMD could be reduced, devalued and delegitimized in the region, paving the way for an effective zone. How states in the region can discuss a zone free of nuclear weapons without some basic transparency from Israel is hard to imagine. South Africa's experience of dismantling its nuclear weapons programme in 1989 and enabling the IAEA to confirm in 1993 that it was satisfied that South Africa's nuclear programme was at that point solely for

[31] IAEA, 'The structure and content of agreements between the Agency and states required in connection with the Treaty on the Non-Proliferation of Nuclear Weapons', document INFCIRC/153 (corrected), June 1972.
[32] IAEA, 'Model protocol additional to the agreement(s) between states(s) and the International Atomic Energy Agency for the application of safeguards', document INFCIRC/540 (corrected), Sept. 1997.

'commercial non-nuclear applications or peaceful nuclear usage' could serve as a useful starting point.[33] Should the negotiations for a Middle East NWFZ bear fruit, this is a workable option for Israel to consider. This would also apply to any other capabilities in the region—whether they are embryonic or more advanced.

Confidence-building measures to support the zone

Confidence-building measures (CBMs) are steps taken to build trust and confidence between parties, in parallel with treaty negotiations. In the Middle East, however, CBMs have been used as diversions and are seen by many players as deliberate attempts to delay the negotiations. However, there are distinct measures that could be used to support a NWFZ. Such measures could help create a constructive atmosphere and further the negotiations.

Such measures could include, for example, interim negative security assurances whereby the nuclear weapon states (NWS) declare their commitment not to use or threaten to use nuclear weapons against any country in the region during the negotiations and until the treaty has entered into force and the protocols are signed and ratified. Similarly, states within and outside the region, including the NWS, could make a commitment not to mount attacks—including cyber attacks—on civil nuclear, chemical or biological facilities in any of the states during the negotiations, and until the treaty has entered into force. Other measures to support the process could include counterterrorism measures, agreed regionally or bilaterally, and measures to reduce the likelihood of surprise attack—including missile transparency measures such as notification of missile tests and deployments of new missile types, and the establishment of hotlines for crisis management. Nuclear safety and nuclear security assurance measures could be undertaken regionally, including early warning mechanisms for nuclear accidents and Interpol-supported alerts in the case of nuclear theft or sabotage. In addition, non-WMD measures could be included, such as the multilateral observation of large-scale military exercises, military-to-military exchanges and transparency measures in the conventional forces domain. Such measures were agreed and established in the Conference on Security Cooperation in Europe (CSCE) Helsinki process, leading to the Stockholm, Vienna and Paris Accords and the Conventional Forces in Europe (CFE) Treaty.[34]

The shape of a WMD-free zone in the Middle East

Thanks to the NWFZs already in existence, we have a number of experiences and templates on which to draw when considering what form a treaty for a zone free of WMD in the Middle East could take. Work carried out over the last few

[33] IAEA General Conference, 'The denuclearization of Africa: report to the director general', document GC(XXXVII)/1075, 9 Sept. 1993, p. 11.

[34] Patricia Lewis and Karim Kamel, 'A Helsinki process for the Middle East? New discourse, new opportunities: climbing ladders, taming snakes', in Chen Kane, ed., *A Helsinki process for the Middle East* (Monterey, CA: Center for Nonproliferation Studies, Monterey Institute of International Studies, forthcoming 2013).

years has developed the concept of a zone into something more tangible with the intent of stimulating expert debate and taking the concept forward in a practical manner.[35]

Scope and area

Researchers have for the most part limited the framing to that of a nuclear weapon-free zone largely because it has been widely accepted that chemical and biological weapons would most likely be dealt with through the full regional application of the Chemical Weapons Convention and the Biological Weapons Convention respectively, and the incorporation of these weapons systems into an enhanced regional inspection and verification protocol. Chemical and biological weapons and their verification would be assigned to specific technical working groups. A commitment to disarm and refrain from acquiring chemical and biological weapons and their means of delivery could be made at any time during the negotiations or even left to the point of treaty signing. Such commitments have been publicly declared by most states in the region already, and the existing conventions eliminating biological and chemical weapons would serve well as the basis of the regional approach.

The Middle East does not form a distinct geographical unit bounded by oceans and clear land demarcations, such as the African continent or Latin America. There are states in the League of Arab States that are not in the Middle East geographical area. There are states such as Turkey that are generally considered to be in the geographical region, but politically would not be considered as part of a WMD-free zone. The coverage of a Middle East NWFZ has historically included Algeria, Bahrain, Djibouti, Egypt, Iran, Iraq, Israel, Jordan, Kuwait, Lebanon, Libyan Arab Jamahiriya, Mauritania, Morocco, Oman, the Palestinian Authority, Qatar, Saudi Arabia, Somalia, Sudan, Syria, Tunisia, the United Arab Emirates and Yemen. There are two useful approaches to dealing with the treaty's geographical application. The first approach, as employed in the Central Asian NWFZ treaty, explicitly names each of the parties.[36] The second approach applies the treaty to the territories of states parties within the zone, encompassing land territory, internal waters, territorial seas and the airspace above them all, as well as the seabed and subsoil beneath: this is used in, for example, the African NWFZ treaty, the Treaty of Pelindaba (in which a number of Middle East states already participate).[37]

[35] The work was carried out by the author and Dr Nabil Fahmy under the auspices of the Center for Nonproliferation Studies at the Monterey Institute of International Studies. The research was first reported in N. Fahmy and P. M. Lewis, 'Possible elements of an NWFZ treaty in the Middle East', in *Nuclear-weapon-free-zones*, Disarmament Forum no. 2 (Geneva: UNIDIR, 2011).

[36] The Treaty on a Nuclear-Weapon-Free Zone in Central Asia was signed on 8 Sept. 2006 and entered into force on 21 March 2009.

[37] The African Nuclear-Weapon-Free Zone Treaty was signed on 11 April 1996 and entered into force on 15 July 2009. Its signatories include Algeria, Egypt, Libyan Arab Jamahiriya and Morocco.

Defining nuclear weapons, materials and facilities

A nuclear weapon could be defined as a nuclear explosive device capable of releasing nuclear energy, including in unassembled or partly assembled forms. So-called peaceful nuclear explosions are explicitly banned under article I of the Comprehensive Nuclear Test Ban Treaty (CTBT) and would not be permitted in a NWFZ treaty for the Middle East region.

Nuclear materials include source materials and special fissionable materials as defined in article XX of the statute of the International Atomic Energy Agency and do not include naturally occurring source materials. Radioactive waste is defined as 'any substance containing radionuclides, that will be or has already been removed and is no longer utilized, at activities and activity concentrations of radionuclides greater than the exemption levels established in international standards issued by the IAEA'.[38]

Nuclear facilities are any location where nuclear material of a mass greater than 1 kilogram is customarily used, including nuclear reactors, critical facilities, conversion plants, fabrication plants, reprocessing plants, enrichment facilities, isotope separation plants or separate storage installations.[39]

Treaty obligations

All nuclear weapons activities would have to be proscribed by the treaty, whereas nuclear materials and facilities for peaceful purposes would be permitted. Nuclear explosive testing would be prohibited, and states parties would have to refrain from participating in or assisting such tests by any state—anywhere. The treaty could require membership of the CTBT as a basic obligation.

All nuclear facilities within the zone would be declared and placed under IAEA safeguards. The treaty would contain annexes for lists of facilities so declared, which would be updated regularly by the states parties in conjunction with the IAEA.

Any existing nuclear weapons capabilities obtained prior to the entry into force of the treaty would have to be declared. For chemical and biological weapons, this can be done through the extant treaties. However, unless a global nuclear weapons convention is agreed in the intervening period, existing nuclear weapons capabilities will need to be addressed. Given the severe political ramifications and the degree of technical difficulty in dismantling weapons capabilities, in addition to the potential for the spread of classified information, the dismantlement should be carried out in advance of the entry into force of the treaty, with the verification of the dismantlement being carried out by an international team of IAEA inspectors.

The stationing of any nuclear weapons within the zone would be prohibited. The questions of transit and transport could be left to each treaty member to resolve, as in the Treaty of Pelindaba, for example, where each state 'remains

[38] Treaty on a Nuclear-Weapon-Free Zone in Central Asia, http://disarmament.un.org/treaties/t/canwfz/text, accessed 21 Feb. 2013.
[39] Treaty on a Nuclear-Weapon-Free Zone in Central Asia.

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free to decide for itself whether to allow visits by foreign ships and aircraft to its ports and airfields, transit of its airspace by foreign aircraft, and navigation by foreign ships in its territorial sea or archipelagic waters in a manner not covered by the rights of innocent passage, archipelagic sea lane passage or transit passage of straits'.

High standards will need to be provided for physical protection of nuclear materials and facilities, such as those contained within the 1987 Convention on the Physical Protection of Nuclear Material,[40] and those developed by the IAEA and by the Nuclear Security Summits in 2010, 2012 and 2014.[41] The dumping of radioactive waste and related material on land or in seas, rivers or inland waters would be prohibited by all regional and international states and relevant organizations.

The treaty would also prohibit the undertaking, assisting or encouraging of any attack on a civil nuclear facility in the Middle East, including cyber attacks. The history of such attacks in the Middle East highlights the need for a Middle East NWFZ treaty to address such threats and stabilize nuclear relations. A prohibition on armed attack is contained in the Treaty of Pelindaba, and a non-attack agreement has existed for India and Pakistan with respect to their nuclear facilities since 1988.[42]

Verification and compliance monitoring

Under NWFZ treaties, verification and compliance measures take one of two forms: either extensive verification and compliance functions carried out by a new standing institution, or reliance on existing international verification instruments supplemented with added reporting requirements. Another possibility is to build on the provisions of the Treaty of Pelindaba, of which a number of states in the Middle East are already signatories or states parties.[43]

Article 12 of the Treaty of Pelindaba establishes the African Commission on Nuclear Energy (AFCONE) for the purpose of ensuring compliance with the treaty. A Commission on Nuclear Energy on the Middle East (CONEME) could be established as a substantive body, gathering its own information, interacting with and transmitting reports to the IAEA, and able to call independently on the IAEA for clarification, technical visits and inspections when the need arises. For routine inspection, a Middle East NWFZ could depend primarily on IAEA safeguards. As in the Treaty of Pelindaba, CONEME could reserve the right to establish its own inspection mechanisms should the need arise.

Concluding a comprehensive safeguards agreement with the IAEA would also form a vital part of the compliance monitoring mechanism. Given the nuclear

[40] IAEA, Convention on the Physical Protection of Nuclear Material, document INFCIRC/274/Rev.1, May 1980. The convention opened for signature on 3 March 1980 and entered into force on 8 Feb. 1987.

[41] http://www.thenuclearsecuritysummit.org/eng_main/main.jsp, accessed 11 Feb. 2013.

[42] The Agreement between India and Pakistan on the Prohibition of Attack Against Nuclear Installations and Facilities (India-Pakistan Non-Attack Agreement), was signed on 31 Dec. 1988 and entered into force on 1 Jan. 1991.

[43] See note 37 above.

opacity within the region, a safeguards arrangement that is negotiated separately between the IAEA and the states of the region for the purposes of the treaty, based on the Additional Protocol, would enhance confidence in treaty compliance.

Protocols

Like all the other NWFZs, a Middle East NWFZ treaty would incorporate protocols to be signed by the five NPT NWS.[44] The protocols would commit the NWS to upholding the treaty and undertaking not to use or threaten to use nuclear weapons against any state party to the treaty or any territory within the zone and not to contribute to any act that constitutes a violation of the treaty or of the protocols.

Conclusion

Whatever the outcome of the Helsinki meeting now likely to take place in 2013, eliminating WMD in the Middle East is a vital issue that needs to be addressed. The very fact of the enormous effort being made to prevent an Iranian nuclear weapons capability being developed gives testament to that reality.

A WMDFZ in the Middle East addresses many pressing security issues. While it is certainly no panacea, it could be a useful complementary route, in addition to those being pursued in Vienna, New York and Brussels, to containing whatever nuclear ambitions are mounting in Iran. Dismantling Israel's nuclear programme would also be part of the solution, providing serious relief for what has become an unspoken regional threat for the majority of states in the region and a forbidden issue within Israel itself. The very process of negotiating a WMDFZ in the Middle East could present the opportunity to open up a new channel for addressing wider security concerns—something that is of great interest to Israel and ought to be of equal interest to all. In addition, the NPT, upon which so much depends in the region—for all states, whether they are members or not (Israel perhaps benefits most from the treaty that it declines to join)—will suffer greatly if this initiative is strangled at birth and would benefit significantly if it is allowed to flourish. There is indeed so strong a convergence of interests in favour of holding the Helsinki conference that it might seem to the uninitiated and naive somewhat foolish not to seize the opportunity with both hands. But the pathways of the Middle East are littered with the debris of human folly, and so it will surprise no student of history if this chance too is wasted.

If the Helsinki option cannot be made to work, the international community will have lost a significant opportunity to increase stability and prevent nuclear catastrophe in the Middle East. There could, of course, be other paths to explore, both inside and outside UN structures, but the risk of disillusionment is high. Rather than put their faith in peaceful approaches, including negotiations and multilateral discussions, states in the region may decide instead to go down the

[44] China, France, the Russian Federation, the United Kingdom and the United States.

same route as Israel and arm themselves outside the NPT. That is a situation leaders and populations wish to avoid at all costs. In the shorter term, pressure to make diplomatic progress is unlikely to abate. Decades of attempts to address this issue will not easily weaken and collapse because a single scheduled meeting does not bear fruit. In addition, there is no framework in the region where government representatives can meet and listen to each other and discuss their differences. Perhaps one spin-off from the debate over a nuclear weapon-free Middle East could be the establishment of a UN Regional Centre for Peace and Disarmament in the region to provide capacity-building resources and a framework for security and political dialogue.

Increasing instability and turmoil in the Middle East, coupled with expectations of new opportunities, have opened up possibilities for reframing the security dilemma in the region. Tensions between Israel and Iran over the nuclear issue continue to threaten to escalate into a full-blown regional conflict, but also serve to illustrate the significance of nuclear weapons within the region. Given that Israel's stated policy remains in favour of a regional approach and is linked to its long-standing demand for full and mutual political recognition among all the states of the region and a resolution of the Arab–Israeli conflict, and given that Iran's nuclear capabilities could be addressed by including the whole region in a negotiated solution, it would seem that a nuclear weapon-free Middle East would be in everyone's interest—and that now is not quite too late to seize the opportunity.