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A weapons of mass destruction-free zone in the Middle East: an incremental approach

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Background paper

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Abbreviations

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| ABACC | Argentine–Brazilian Agency for Accounting and Control of Nuclear Materials |
| ACRS | Arms Control and Regional Security Working Group |
| CWC | Chemical Weapons Convention |
| CTBT | Comprehensive Nuclear-Test-Ban Treaty |
| EURATOM | European Atomic Energy Community |
| IAEA | International Atomic Energy Agency |
| NPT | Non-Proliferation Treaty |
| UNSC | United National Security Council |
| WMD | Weapons of mass destruction |
| WMDFZ | Weapons of mass destruction-free zone |

I. Introduction

This paper looks for possible incremental steps that would bring forward the project of a regional zone free of nuclear weapons and all weapons of mass destruction (WMDFZ or 'zone') in the Middle East. It starts from the hypothesis that such steps are possible but at the same time dependent on the parallel improvement of political relations in the region. The paper argues that these initial steps can be taken by the parties without giving up vital national security interests. However they might be implemented selectively if some of them appear more feasible than others. As the next section will explain, the paper starts from the notion that dogmatic 'first A, then B'—approaches which stipulate certain prerequisites for any progress are not likely to bear fruit. It can hardly be expected that the one state with nuclear weapons capability in the region will scrap those capabilities as a precondition for a sustainable peace. Neither is it plausible that the other regional states will tolerate an unchanged nuclear asymmetry until such a peace has been established and is seen as dependable.

Rather, and drawing on the experiences from the end of the Cold War, political change and changes in military postures, nuclear capabilities and other weapons of mass destruction (WMD) included, go hand in hand. Changing military capabilities in the direction of less threatening postures is one of the most convincing ways to signal good intentions and build the necessary confidence to change political relations. Also, taking political steps away from hostility, towards more peaceful and cooperative relations, opens spaces and creates motivations to move towards less threatening military postures and to recalculate the needs for deterrence and defence. Such significant steps in the realm of security can be complemented by increased economic, cultural and communicative relations. Rather than the 'first A, then B'—dogma, we envisage an incremental process in which both elements are mutually dependent.

Some of the suggestions below might be seen as pedestrian and trivial, while others might be dismissed as too bold and utopian, for these result from the authors' philosophy to combine the art of the possible with thinking outside of the box. After all, the idea of a WMDFZ has been in the world for almost forty years with little progress to show for it, and the region still remains in a deplorable state of tension, distrust, mutual threat and recrimination. Conventional and unimaginative thinking has been the norm for decades, but perhaps the recent changes that are visible in the region should encourage governments to envisage new ways in their mutual relations as well.

The article does not try to lay out a full roadmap from here to a functioning zone. That would be surely overambitious given from where we start. Rather, it tries to identify measures that could be taken right away or in a relatively short time frame of up to five years, goodwill provided. There is no truly organic interrelationship between the measures so that the paper should be read as a menu from which parties might decide to choose.

II. The relationship to the overall peace process

Given the state of conflict, violence and mutual distrust in the region, it is highly improbable that a WMDFZ can ever be established without a considerable change in the overall relationship between the states in the region that makes war between them highly unlikely.¹

¹ cf. Shai Feldman, *Nuclear Weapons and Arms Control in the Middle East* (MIT University Press: Cambridge, 1997).

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Only such a profound and lasting change appears conducive to regional states relinquishing the degree of security that, in their perception, emerges from the various WMD deterrents in their hands. Moreover, states and peoples must have the firm impression that these changes are most probably and largely irreversible.

Such a change would require the mutual recognition of all states in the region by all states in the region, within regionally agreed borders. To dispute the right of existence of a regional neighbour makes any process of disarmament a non-starter as such an attitude projects an impression of high risk and dangers to security to the target. Being recognized is one of the most basic foundations of security for both individuals and collectives. The present position of the Iranian Government to deny existential rights of Israel is thus counterproductive and profoundly unhelpful for moving towards a WMDFZ. The requirement of mutual recognition includes, in addition, relations between Israel and Lebanon, Israel and Syria, and Israel and a Palestinian state. It makes no sense to dispute the necessary starting point: All states in the region must accept, explicitly and credibly, the existence of Israel and abstain from supporting terrorist acts against its territory. Israel must accept withdrawal, within some time frame, from the occupied territories in order to permit the Palestinians to live in a viable state of their own, with possible equitable and agreed territorial exchanges in the process.

For either side, these might be hard bullets to bite, as sizable domestic constituencies will challenge these policies. Without such a bold move, however, the prospects not only for a nuclear weapon or WMDFZ, but for any successful peace process would remain moot. In the wake of the 'Arab spring' which has already resulted in the overthrow of two autocratic regimes in Tunisia and Egypt, the region enters into a new and largely unpredictable phase of political restructuring. It remains unknown how the upheavals in Libya, Syria and Yemen will change these states' systems of rule and leadership. Up to now, Israel's fear of hostile Islamist forces coming into power in nearby Arab states has not materialized. Therefore, the current situation might provide a window of opportunity for Israel to take matters into its hands and start diplomatic talks with the new emerging governments early on in order to actively shape the political developments in the region and gain recognition. This would, however, require Israel to be prepared to shift gears in the Israeli-Palestinian conflict and seriously consider both withdrawal from the West Bank and land-swaps with the Palestinian Authority as discussed in the post-Annapolis negotiations between Mahmud Abbas and Ehud Olmert.

It is also obvious that stable peace would require some rules for *conventional* armed forces and a strict, verifiable and enforceable prohibition of all types of WMD.² Relationships would have to warm up to mutually beneficial economic and cultural relations. Support for terrorism would have to come to a complete halt. This is essential as such support creates the impression in Israel that the governments supporting terrorism aim at destroying Israel by proxy. Non-state violence should then subside and, where it still occurs, be the subject of intense and effective collaboration between the security agencies of the regional states.

These demanding requirements give also a hint of the scope of the zone necessary to attract sufficient support by all parties.³ It should encompass all actors that could have a negative impact on the regional peace process. This might require extending the WMDFZ to all

² Prawitz, J. and Leonard, J. *A Zone Free of Weapons of Mass Destruction in the Middle East* (New York, Genf UNIDIR, 1996).

³ On the geographical scope issue, cf. Department of Disarmament Affairs, United Nations: *Effective and Verifiable Measures Which Would Facilitate the Establishment of a Nuclear-Weapon-Free Zone in the Middle East: Report of the Secretary-General, Study Series, No. 22, 1991.*

members of the Arab League, to Iran, and Israel. Some of the African members of the League such as Somalia and Mauritania might be dispensable, but this is certainly up for negotiations. It would be a considerable advantage to include Pakistan. Pakistani security and power concerns are very much focused on South Asia. Thus, while in the West the zone might end at the Atlantic Ocean, it should extend to the Eastern Iranian border in the East.

In such a changed, non-hostile environment, a WMDFZ appears possible as a building block for a peaceful order. It would be particularly helpful as an essential instrument for enhancing confidence and stability and creating a desirable degree of equality of security among the states in the region. It also means that the establishment of such a zone—the negotiation of its conditions, the meeting of the requirements for entry into force, and the implementation of the zonal conditions until they are fully realised—will be a long, protracted process that will develop in parallel to the overall peace process.

III. Process, end-state and first steps

All-or-nothing approaches make no sense as they lead to a dead end. The process has to work incrementally, step by step, as elaborated in the introduction. This means that to have the nuclear zone formally pushed upfront will never work given Israeli concerns. It also means that arms control will never start earnestly in the region—other than by brute force—without including the nuclear weapons issue on the agenda in some form early on. The corridor between these two contradictory exclusionary principles is, admittedly, narrow. The crucial question then is whether there are issues and formats that could provide a good start and not compromise the interests of any party.

Multilateral steps

The following steps would be ideally taken together by all prospective members of the potential zone. For some of them, it might make sense if a selected group of core states work together. To decide the necessary setting for each instance is up to the regional powers.

The expert group approach

It appears to us that a governmental expert group on transparency and verification elements in a WMDFZ Treaty would be a sensible way to open a new process. It would make sense to include in such a working group verification experts from the International Atomic Energy Agency (IAEA) and from regional organizations with verification mandates such as European Atomic Energy Community (EURATOM) and the Argentine–Brazilian Agency for Accounting and Control of Nuclear Materials (ABACC) in order to obtain their advice. In terms of substance, transparency and verification, as we have seen, are difficult issues; they are nevertheless indispensable ingredients of a zone. Without them, it will not come into being. Discussing this matter with a view to produce a consensus report to governments must thus be viewed as dealing with an important part for a future treaty.

In terms of procedure, an expert group is not yet a negotiation body. It is not endowed with a mandate to come up with specific text meant to be signed by governmental leaders. However, the mandate to produce a consensus report makes their effort serious enough and ensures that the views of all parties must be taken fully into account. It is also clear that such a report would provide material of direct use for future negotiations; the work of the expert

group can thus be seen as a ‘pre-negotiation’⁴ part of such negotiations, even if a specific negotiation mandate is not given.

This suggestion follows the positive example of the group of scientific experts who worked for several years on the possible elements of a verification system for a future Comprehensive Nuclear-Test-Ban Treaty (CTBT) while the negotiations on the Treaty themselves were prevented by political reservations of several nuclear weapon states. The experts were tasked with exploring possibilities and doing work on the more difficult technical problems of such a system, but not to negotiate. When negotiations finally started earnestly in 1994, much of the work for the verification system—a technically complex and politically difficult issue—was already done. It is no exaggeration to maintain that the comparably quick conclusion of the CTBT negotiations by fall 1996 were made possible by this preparatory work of the group of scientific experts.

Starting again with the technical issues of verification of a regional zone and moving forward on this track, it might be possible to work at the expert level on each of the difficult and divisive issues which negotiations on a WMDFZ will entail. Notably, geographical scope and enforcement mechanisms could be explored in this way. Within a revived Arms Control and Regional Security Working Group (ACRS)⁵ process, or separately, parallel work could proceed on the other types of WMD and on conventional arms control as well. The confidence-building measures that had already been approved before the ACRS talks broke down could finally be practiced to foster a climate conducive for positive approaches to a zone.

Visits

Mutual visits have been considered in earlier deliberations on a nuclear weapons-free zone in the Middle East. The weakness of these proposals has been that they were purely symbolic actions without any tangible connection to practical progress towards such a zone. Nevertheless, visits can enhance useful knowledge, create contacts and communications, and contribute to confidence building. The crucial question is whether one can connect them to the path leading to a zone, and whether one can avoid visits being a one-way street directed towards one target state only.

Visits open to regional experts could be offered to biological, chemical and nuclear research facilities and industrial plants. Experts from neighbouring countries would gain knowledge about how these facilities are operated and what their military potential might or might not be. Insights gained from visits could be summarized in a record which would then be conveyed to the group of experts working about the possibilities to verify a zone free of WMD. For their work, visit records would provide a reality check which might be useful for their conceptual work on verification. Building on these mutual visits and the expert group’s work, a system of cooperative monitoring and verification could be designed which ‘can be defined as the collecting, analysing and sharing of agreed information among parties to an agreement’.⁶ Although existing universal verification systems such as the Additional Protocol to the Non-Proliferation Treaty (NPT) and the Chemical Weapons Convention’s (CWC)

⁴ Janice Gross Stein (ed.), *Getting to the Table. The Processes of International Pre-negotiations*, Baltimore/London, Johns Hopkins University Press 1989.

⁵ Cf. Hussein A. and Feldman, S. et al. *Track-II diplomacy. Lessons from the Middle East* (MIT Press: London, 2003).

⁶ Crowley, M. ‘Verification and National Implementation Measures for a WMDFZ in the Middle East’, in *International Relations*, vol. 22, no. 3, p. 341.

provisions for verification provide useful examples and guidance, it would be essential for the states in the Middle East to arrive at a regionally agreed upon arrangement.

Measures against non-state actor access to sensitive items

In our age, new zones free of WMD must also take into account the possibility that non-state actors might develop an interest in gaining access to sensitive materials, technologies or even weapons either for making profit from illicit trafficking or for terrorist purposes. The concept for a zone should thus include measures to prevent such access to non-state actors. Most states in the region have, in one way or another, been victim to terrorist attacks. Some have been involved in the illegal trade with sensitive items. All should thus share an interest in measures to prevent illegal non-state activity from happening.

United Nations Security Council Resolution 1540 and successor resolutions provide a minimum threshold for related activities. The resolution is legally binding on all UN member states, yet each state has leeway to decide on the national legal framework, on penalties and enforcement. Therefore, the future parties to a zone-treaty might seize the opportunity and coordinate their activities in this area. States might exchange reports they have delivered to the 1540 Commission and deliberate about possibilities to improve existing measures. Best practices could be discussed as far as they do not touch aspects of national security measures that remain classified. States could also install a working group to explore the extent to which measures against non-state actors' access should be included in a zone treaty.

Practical steps for Israel's consideration

As Israel is presently the only state in the region credited with nuclear weapons capabilities, it is natural that there are certain actions which only Israel could undertake. This is not meant to 'single out' or 'put on the spot' but addresses the facts of the matter. Such steps are discussed in the following sections.

Closing facilities

One of the most burning controversial issues is the ongoing operation of the facilities at Dimona in Israel. Consequently, Arab demands to shut down this nuclear complex have been numerous and frequent over the years. As a step of symbolic as well as physical movement to facilitate the future establishment of a zone, Israel might consider closing down the Dimona reactor and the associated facilities. Israel certainly has more than enough material for a sizable deterrent, and the reactor and its periphery must be close to the end of their useful operational 'life' anyway. This step might come in the context of a fissile material cut-off treaty, if negotiations would start in the foreseeable future, but it might be more advisable for fostering a cooperative climate to do it as an independent, unilateral act even before such a treaty would be finished.

The question that cannot be answered without classified knowledge is whether the Israeli deterrent needs continued Tritium replacement, which would hinder the closing of the Dimona facilities. If such a problem exists, several further questions follow. First, would nuclear warheads as they exist in the Israeli arsenal be operable, although at a lower and/or invariant yield than in a situation where a continued flow of Tritium would be accessible? If so, it would have little impact on the deterrent potential of the arsenal. A pure fission weapon, as Hiroshima and Nagasaki amply demonstrated, is horrible enough to act as a deterrent. In

addition, for the to-be-deterred target, there would be no knowledge about the particular character of the deterrent. As deterrent is in the eye of the beholder, different yield would make no difference. Secondly, if the warheads would be inoperable without the insertion of Tritium, the solution might be for Israel to create reserve stocks which would cover an extended period. At a half-life time of 12 years, a stock that would be eight times as large as the needs of the existing arsenal would last for close to a century. The concern that Israel's counterpart would only have to wait that time without giving concessions is moot since other parties would neither know whether the warheads are dependent on Tritium supply, nor how long existing stocks would last. Thus, negotiation pressure would not be tilted against Israel. On the other hand, Israel would certainly have an incentive to negotiate seriously.

Preparing for nuclear archaeology

Israel could also take steps to prepare for 'nuclear archaeology', that is, its future responsibility to account for nuclear material and nuclear weapons produced since the beginning of its nuclear programs. Such preparations would aim at facilitating the creation of a verifiable inventory once the process for establishing a nuclear weapons-free zone will have been completed. As a first step towards such end, a working party could be created including Israel, the International Atomic Energy Agency (IAEA), and South Africa, the only country with national experience in dismantling a nuclear weapons program. The work of such a group would be to elaborate the prerequisites for a future inventory and to consider steps Israel could take now and in the nearer future to make the creation of an inventory as smooth as possible, once the conditions are in place.

Depositing inventory data in escrow

Still another possibility is to deposit nuclear program data in escrow. For this purpose, Israel could take an inventory of fissile materials, put such data in a sealed envelope or on a secured disk and deposit it with the IAEA in a safe deposit that could only be opened by both partners inserting a code known only to themselves. From that moment on, Israel could announce inventory changes as a confidence-building and transparency measure without revealing the overall size of its stocks. When the zone would be formally established, the deposited data would be opened. Together with reported inventory changes, a starting inventory for the IAEA to verify could then be established.

Steps for other regional powers

Other regional states, namely Iran and Syria, while not being credited with a nuclear weapons capability, have been cited by the IAEA as harbouring suspect activities, including some possibly related to nuclear weapons. Not being fully cooperative as well, it would behove them also to take some steps to help create the necessary confidence for cooperation on a zone free of WMD.

Inspections in Iran and Syria

Establishing a WMDFZ, including a nuclear weapon-free zone, not the lone responsibility of Israel. Two other regional powers, Iran and Syria, are suspected to be in non-compliance with undertakings under their NPT-required safeguards agreements. Recent IAEA reports have

confirmed the seriousness of this matter. It behoves those two countries to take all necessary measures to come completely clean of the suspicions, confirmed through a report by the IAEA that all obligations are met and that there is full cooperation as requested by the IAEA. In addition, since the suspect behaviour has diminished whatever minimum mutual confidence might have existed in the region, both bear a duty to take additional steps to enhance confidence in the neighbourhood. Such steps must include the conclusion and entering into force of an Additional Protocol. Iran in particular should also discuss with the Agency the possible need to do nuclear archaeology if there are doubts in Vienna that all nuclear activity is for peaceful purposes.

Regional fuel cycle arrangements

Restoration of confidence should also include a policy of civilian nuclear restraint, including at least temporary constraints on sensitive nuclear activities; this requirement is of course particularly applicable for Iran. While restraint is observed—which would include ways and means to deal with current enrichment activities that could be accepted by the Security Council—efforts should be made to explore the possibility of multilateralization of fuel cycle activities as part of confidence-building in the region and of the incremental build up of peaceful relations in this area in the region as discussed in another background paper. Establishing a multilateral regional centre which would produce nuclear fuel for countries that forego the option of domestic uranium enrichment seems to be a promising way forward on how to pursue peaceful nuclear energy in the region. Since several Arab states have announced plans for civilian nuclear energy, those closer to this ambition should be included in such exploratory talks at an early stage if those plans withstand the consequences of the Fukushima accident. This issue is explored more in depth in another background paper (Franceschini/Daniel Mueller).

Further considerations

To embed the negotiation and exploration work in a broader process, working groups on combating terrorism could be established—after all terrorism can present a threat to all governments in the region, regardless of their present policies, forms of government, and regional positions. In addition, governments should consider the daring possibility of joining forces in the peaceful uses of nuclear energy. It might be too early to take up the challenge of multilateral fuel cycle facilities, as presently explored by an expert group mandated by the IAEA Director General. But joint power stations may offer something of common interest: a source of electricity where cooperation, given close distances, narrow spaces and different levels of technological achievement, can offer distinct advantages for all willing to collaborate.

IV. The role of external actors

External actors can and should encourage states to take a positive attitude towards exploring and eventually negotiating the specifics of a zone. They can give economic and technological incentives for joining and maintaining it. They can help with providing information to the verification system, e.g. information arising from satellite observation that might not be accessible at all, or to the same degree, to states in the region. It should be noted that the three

depository powers of the NPT—Russia as successor of the Soviet Union, the United Kingdom and the United States—bear a particular responsibility in this regard which they have accepted explicitly in their co-sponsorship of the Middle East Resolution adopted by the 1995 NPT Review and Extension Conference.

For external actors to function in this role, however, regional states must have some confidence in their reliability and impartiality. It goes without saying that the USA still has to play a pivotal role in this process. It is all the more regrettable that members of the US Congress, especially Republicans, demonstrate time and again a rather one-sided attitude towards the Israel–Palestine conflict, as recently shown during the visit of Prime Minister Netanyahu. Welcome as this attitude might be to the present Israeli Government, such display of partisanship diminishes the appreciation of the USA as an honest broker and thus damages the prospects of stabilisation of the regional situation. With a view to the establishment of a WMDFZ, the USA should certainly keep up its commitment to Israel’s security in order to make it easier for the Israeli Government to gradually abandon its WMD capabilities. Yet at the same time, the USA should demand that Israel move forward with regard to the peace process. Given the scale of settlement expansion in the West Bank and East-Jerusalem in recent years as well as the reluctance to make concessions to the Palestinians (as became obvious in the *Palestine Papers*, published by Al-Jazeera and the *Guardian*), it is doubtful whether Israel is willing to move on its own.

The strongest and most crucial role for external actors would be that of mediators or arbiters in compliance disputes and/or, ultimately, as enforcer of the zone. Regional states might choose to entrust this role in the United National Security Council (UNSC), or in specific states that would be chosen as ‘guarantors’ of the zone. Such a transfer of enforcement duties could appear reasonable given that external actors, such as the USA and their allies dispose of military and other capabilities not available to regional actors. It goes without saying that these roles require even more trust by regional states in the reliability and impartiality of the external actors; it is doubtful that the necessary degree of trust exists currently, and it would certainly require major changes in some relationships – the one between Iran and the USA comes to mind—to make such an arrangement palatable.

V. Conclusions

The present nuclear situation in the Middle East is neither stable nor tenable. Israel’s deterrent policy is not conducive to maintaining a lasting, sustainable order of peace, and the efforts of other states to acquire nuclear or other WMD has made the region less, not more, stable. The periodic escalation of violence documents that neither the status quo nor currently dominating strategies to deal with it are in the security and welfare interests of either side of the conflict. Under these circumstances, the proposal for a zone free of WMD, utopian as it may sound for the moment, deserves a fresh, serious look.

The fate of a WMDFZ in the Middle East is closely coupled to the peace process at large. To get a new start, quite fundamental shifts in basic positions of either side will be required. An end of terrorism and an end of occupation are probably the two key elements to push both processes forward in tandem. But even a good start leaves the parties with many difficult issues to grapple, and not for each and every of them is an obvious solution at hands; enforcement is a case in point. In other areas, multiple solutions are on the table on which, because of their different qualities, agreement will not be easy. One striking example is verification.

Even if a fundamental shift in basic political positions—probably under some strong outside prodding—would happen, such a zone would not appear overnight. It will be a long and protracted process which would take the path of small, incremental steps. This applies for procedure, substance and practice.

The actors in the region are at an impasse, and they suffer from it. Despite the domestic quarrelling about the right strategy, and despite the deep distrust that the failure of the past peace process has added to the long history of mutual misgivings, they will come to a point where they see, and are willing to commit to, a new start. The nuclear and broader WMD issue is certainly a problem that cannot be excluded, but can as well not be resolved upfront before all the other major issues. But it should be on the agenda. The parties should do better than last time.