

Nuclear-Weapon-Free Zones

SUMMARY

- Five nuclear-weapon-free zones (NWFZs) cover territory in most of the Southern Hemisphere and in Central Asia.
- Over 100 states have ratified the NWFZ treaty for their region; another twenty-four have signed but not ratified.
- Nuclear-weapon states recognized by the NPT have not fully ratified the protocols to most of the treaties. Nuclear-armed states that are outside the NPT are also outside the NWFZs.
- The key issues for NWFZs and for the NPT Review Conference are the extension of the geographic coverage of the zones, including to the Middle East, and the gaps in ratification of NWFZ treaties and their protocols.

BACKGROUND

Nuclear-weapon-free zones (NWFZs) represent important contributions to the achievements of the NPT's broader goals of nonproliferation and disarmament. The NPT discusses regional nuclear-weapon-free zones in Article VII, which states that "nothing in this Treaty affects 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."

There are now five zones in force, covering territories in most of the Southern Hemisphere and in Central Asia. Antarctica and Mongolia are also nuclear-weapon free. Discussions of NWFZs are a frequent part of the NPT review process.

Proposals for NWFZs pre-date negotiation of the NPT. In the late 1950s and early 1960s, such zones were proposed for Central and Northern Europe, and for Latin America. Zones in Europe never materialized, but the Latin American and Caribbean treaty (the *Treaty of Tlatelolco*) opened for signature in 1967—before the NPT was finally negotiated. The *Treaty of Tlatelolco* entered into force in April 1969. The process of negotiating that treaty made an important contribution to thinking about the NPT.

In subsequent years, treaties for zones in the South Pacific, Southeast Asia, Africa, and Central

Asia were created. By July 2009, all had entered into force (see Annex III).

The purpose of NWFZs

Although each zone has particular and sometimes unique characteristics, their purposes are similar. NWFZs attempt to achieve several goals:

1. To prevent the development of new nuclear-armed states or capabilities in their region, achieved through bans on production, testing, use, or other acquisition of nuclear weapons.
2. To keep nuclear weapons out of the zone (or, in some cases, to allow sovereign decisions by governments about whether foreign countries can ship nuclear materials through their territory).
3. To prevent nuclear-weapon states from using or threatening to use nuclear weapons against countries in the zone.

Governments in the region concerned can readily choose whether or not to join a NWFZ; thus the obligations that are adopted by states within the zone go into effect when these states ratify the NWFZ treaty and it enters into force. More complicated are the goals that require action by states outside of the region. These are embodied in protocols that are additional to the treaty—the treaty itself cannot require external states to sign the protocols and commit to the actions therein.

Relationship to the NPT

Although NWFZs are not formally organized to support the NPT, the full implementation of the treaties and their protocols would support nonproliferation and disarmament objectives in a number of ways. For example, NWFZs' compliance and verification obligations typically require that states negotiate safeguards agreements with the IAEA if they have not already done so; they prohibit testing within the zone, by states both in and outside the zone, thereby creating additional prohibitions on vertical and horizontal proliferation; and they strengthen norms in support of nonproliferation and disarmament. Moreover, the full implementation of NWFZs could have the more direct effect of requiring that the NPT nuclear-weapon states adjust doctrine and weapons deployments (notably by restricting the movement of weapons and related

materials through the zones), which would in turn support efforts toward broader nuclear disarmament.

KEY ISSUES

Geographic coverage

Nearly 100 states within existing zones have ratified a treaty establishing a NWFZ in their region; another twenty-four have signed but not ratified. Thus the first goal of NWFZs discussed above—to prohibit nuclear-weapon development or presence in the zonal area—has been achieved for a large number of states. States that are currently outside a NWFZ are the following:

- states in the Middle East that would be included in a Middle East Nuclear-Weapon-Free Zone were it to be negotiated;
- those that have nuclear weapons (the five NPT nuclear-weapon states, plus DPRK, India, Israel, and Pakistan);
- those in alliance relationships with a nuclear power that include an implicit or explicit assumption of extended deterrence; and
- a small number of states that are neither in a NWFZ nor in an alliance with a nuclear power.

Assuming one sought greater coverage of NWFZs, achieving that would present different kinds of tasks:

- For states that have signed but not ratified a NWFZ treaty, the issue would be how to encourage them to ratify, an issue that comes up particularly in the Africa zone.
- For states in the Middle East, it would mean finding a way out of the longstanding deadlock on a Middle East NWFZ.
- And it would require supporting the development of NWFZs among states that are not formally protected by the extended deterrent of a nuclear power.

Effective coverage

The role of NPT nuclear-weapon states. To accomplish the full goals of NWFZs requires that nuclear-weapon states adopt protocols giving assurances that they will not attack states in the zone with nuclear weapons, nor threaten such an attack; and that they will not move nuclear-weapon-related materials through their territories without permission. As the attached charts discuss, in only one case (the *Treaty of Tlatelolco*) have all five nuclear-weapon states signed all protocols, and

even in that case, several have held out reservations. Although the depth of their reluctance to sign the protocols varies (both by state and by NWFZ), two situations are particularly problematic, and rapid progress is not certain:

- *The Southeast Asia NWFZ* has been ratified by all relevant states in the region but no weapon state has signed its protocol. The reason is that the Southeast Asia zone applies to the Exclusive Economic Zone of its states parties. A first problem is that, because of its wider coverage, the zone may include the territory of states to which a weapon state has alliance commitments. A second difficulty is the transport issue, and potential constraints on movements of ships with nuclear weapons or related materials.
- *The Central Asian NWFZ* has been ratified by all relevant states, but three weapon states (France, UK, and US) have objections to the treaty creating the zone. In particular, they object to its Article 12 which says that this treaty does not affect treaties that were concluded before its entry into force. Their concern has been that Russia would retain its rights to transport, and possibly deploy, nuclear weapons in the zone under the 1992 *Tashkent Collective Security Agreement*.

Negotiations among parties continue, although they are difficult and go to the heart of the issue: the point where NWFZ interests and the interests of weapon states do not converge.

The role of nuclear-armed states that are not parties to the NPT. All of the NWFZ treaty protocols concern only the five weapon states recognized by the NPT. This, too, has profound consequences for the approach taken by NWFZs, as long as non-NPT nuclear-armed states (India, Israel, and Pakistan) are also not requested to—and do not—sign protocols.

Verification and compliance

These issues are important and addressed in each NWFZ treaty. Several points are worth noting:

- The treaties typically mandate that states parties negotiate safeguards agreements with the IAEA, if they have not already done so, and it is expected that the IAEA will conduct ad hoc and routine inspections as normal. The Central Asian NWFZ, the most recently negotiated, also requires state parties to ratify an Additional Protocol with the IAEA.
- In addition, with the exception of the Central Asian NWFZ, treaties establish some verification

and/or compliance mechanisms of their own, ranging from the elaborate to the more perfunctory. There may be useful lessons in these more diverse approaches to verification and compliance, and particularly in the role of regional actors. Although the treaties rely on the IAEA for verification, they also sometimes go beyond the agency's prerogatives.

NWFZs AND THE NPT REVIEW CONFERENCE

Two issues are particularly salient, in both the preparatory committees and at the conferences themselves:

Negative security assurances

An important principle of the global nonproliferation and disarmament regime is that those states renouncing the nuclear option should know that nuclear-weapon states will not threaten to use, or actually use, nuclear weapons against their country. As discussed, this has been difficult to achieve fully in the NWFZs.

For many non-nuclear states, concerns about this only deepened over the past decade, as some weapon states articulated doctrine that did not rule out nuclear retaliation on states that were seen to have used weapons of mass destruction against them. Thus it is likely that the 2010 Review Conference will see continued attention put on the question of a legally binding instrument granting negative security assurances to NPT non-nuclear states. This will likely include discussion of the implications of the recently released US Nuclear Posture Review, in which the United States says that it will not use or threaten to use nuclear weapons against NPT non-nuclear states that are in compliance with nonproliferation commitments.⁴⁹

With agreement on the work program of the Conference of Disarmament, there can again be a working group to take up the question of negative security assurances—although actual agreement on a legally binding instrument seems remote. At the same time, to the extent that fuller implementation of NWFZs is possible, including the adoption of protocols by weapon states, this would have the effect of extending legally binding assurances to a larger number of states. Should states place greater

emphasis on achieving full implementation of NWFZs, as an additional, if not primary, route to realizing negative security assurances?

The Middle East as a nuclear-weapon-free zone

The possibility of creating a Middle East NWFZ has been a contentious issue at Review Conferences for many years.

The initial call for a Middle East NWFZ came in the form of a proposal from Iran, co-sponsored by Egypt, to the 1974 UN General Assembly. In December of that year, the General Assembly adopted a resolution commending the idea of such a zone, calling on all parties to “proclaim” their intention to refrain from developing nuclear weapons and to join the NPT. The resolution passed unanimously, with Israel and Burma abstaining. The resolution was regularly agreed upon in subsequent General Assembly sessions. In 1980, it was adopted without a vote for the first time.

In 1988, at the third special session on disarmament, Egypt offered a proposal that (1) called on all nations within and outside the region to commit to not introduce nuclear weapons into the region; (2) requested that the secretary-general appoint a representative to consult with all governments in the region on drafting a model treaty; and (3) suggested asking the IAEA to develop recommendations for compliance and verification. In 1990, President Hosni Mubarak proposed a zone free of weapons of mass destruction, to be considered along a parallel track. Thus the key elements of discussion and debate have been in place for over twenty years.

The question of a Middle East NWFZ was key to the 1995 extension decision, with an agreement reached only in the last days of the conference. The final statement of “Principles and Objectives for Nuclear Non-Proliferation and Disarmament,” included the following point: “The development of nuclear-weapon-free zones, especially in regions of tension, such as in the Middle East, as well as the establishment of zones free of all weapons of mass destruction, should be encouraged as a matter of priority, taking into account the specific character-

⁴⁹ US Department of Defense, “Nuclear Posture Review Report,” April 2010, available at www.defense.gov/npr/docs/2010%20Nuclear%20Posture%20Review%20Report.pdf.

istics of each region.”⁵⁰

In addition, conference parties adopted a resolution proposed by Russia, the UK, and the US, which stated that the conference “endorses the aims and objectives of the Middle East peace process and recognizes that efforts in this regard, as well as other efforts, contribute to inter alia, a Middle East zone free of nuclear weapons as well as other weapons of mass destruction...”⁵¹

Other language reaffirmed the need for non-NPT parties “that operate unsafeguarded nuclear facilities,”⁵² to put them under full-scope safeguards; and for all states in the region that had not acceded to the NPT to do so. The 2000 Review Conference reaffirmed and elaborated these commitments.

The question of a Middle East NWFZ has remained a contentious issue through the 2000’s, including at the 2005 Review Conference. There has been little progress and the question is expected to remain difficult and potentially divisive. The issues and points of disagreement—at least in the

public debate—are well known, essentially concerning whether a NWFZ, and broader peace measures, can be negotiated before or after all states in the region accede to the NPT.

Still, the underlying security conditions in the Middle East have changed substantially since the proposal for a Middle East NWFZ first emerged.⁵³ This perhaps could allow for more flexibility in states’ approaches, and there is now considerable discussion about ways to get beyond the stalemate of the past twenty-five years. This includes, for example, proposals to appoint an independent “coordinator” who could hold consultations, on a bilateral basis, with states in the region, about how to move forward and about the drafting of a model treaty; and/or to request the UN secretary-general to convene a conference of states in the region to explore new ways, including confidence-building measures to facilitate progress on the Middle East resolution.

50 1995 Review and Extension Conference of the Parties to the Treaty on the Non-Proliferation of Nuclear Weapons, doc. NPT/CONF.1995/32 (Part I), decision 2.6.

51 NPT Review Conference 1995, “Resolution on the Middle East,” NPT/CONF.1995/32/RES.1, 1995.

52 Ibid.

53 As discussed by Rebecca Johnson, “Rethinking Security Interests for a Nuclear Weapon-Free Zone in the Middle East,” *Disarmament Diplomacy* No. 86 (Autumn 2007).