

Regional Issues: Middle East

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The issue of Nuclear Weapon free zones was envisaged as one of the principles guiding the drafting of the NPT during the 1960's. While a call had gone out from Cairo in 1964 to ensure that the African continent be spared the danger and threat of nuclear weapons, it was primarily the efforts of the Latin American states to banish the threat of nuclear weapons from their continent, efforts that ultimately culminated in the Treaty of Tlatelolco, which yielded Article VII of the NPT. Article VII 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."

As the threat of proliferation of nuclear weapons in the Middle East became more pronounced, primarily due to concern about the Israel's un-safeguarded nuclear activities, regional States began to address this issue in a resolution submitted to the UN General Assembly in 1974 calling for the establishment of a nuclear-weapon-free-zone in the Middle East and subsequently a study was conducted by the UN on the establishment of such a zone. This resolution is still considered annually by the GA and has been adopted by consensus since 1982. Efforts were also undertaken by several States of the Middle East to address this issue in the International Atomic Energy Agency through extending the application of IAEA Comprehensive Safeguards to all nuclear facilities in the Middle East. Ultimately, the legal principle underlying the establishment of a nuclear weapon free zone in any region of the world is consent; any NWFZ must be based upon the consent of all concerned parties.

Concurrently, the issue of establishing a NWFZ in the Middle east, in particular the necessity of Israel's accession to the NPT, was addressed in the outcome of the Review Conferences of the NPT in 1985 and 1995 and 2000 as well as in the negotiations at the 1990 Review Conference. While one can say that the issue of the Middle East was central to the NPT review process from 1985 onwards, the starting point for consideration of where we stand today is essentially the 1995 outcome.

In 1995 the NPT was not only to be reviewed but also its future duration was to be considered. The Middle East, essentially the risk and challenge posed by the continued presence of Israel beyond the scope of the NPT, was to become a central issue of the review and extension process. The 1995 outcome placed the Middle East on the agenda of the review process of the Treaty. Whereas the absence of a final declaration on the review of the treaty in 1995 was not without precedent, the decisions on principles and objectives, the strengthened review process and the resolution on the Middle East were a departure from previous modalities for review. This new format identified the Middle East as a central feature for future review through the following statements: the decision on Principles and Objectives identified universality of the Treaty as an urgent priority, specifically with regard to states operating un-safeguarded nuclear facilities and identified of nuclear-weapon-free-zones as a priority area for action especially in regions of tension such as the Middle East. The resolution on the Middle East focused on the necessity of placing un-safeguarded nuclear facilities in the region under IAEA full-scope safeguards and on universality of the Treaty. It also addressed the issue in terms of a zone free from nuclear weapons and of WMDs, an objective that had been articulated 5 years earlier in paragraph 14 of Security Council resolution 687 which envisaged the disarmament activities mandated by the Security Council in Iraq to be a step towards the broader objective of ridding the Middle East of all weapons of mass destruction.

I wish to highlight two points here: the first is that although neither the Resolution on the Middle East nor the Decision on Principles and Objectives referred explicitly to Israel, the political message of the Resolution was clear in recognizing the anomaly of Israel's status as an issue of concern in the context of the NPT. Second, the outcome of the 1995 Review and Extension Conference was an integrated package, each element of which was contingent upon the other elements not just for its integrity and legitimacy but for its being. Hence the decision on principles and objectives was a necessary element for the indefinite extension, and the decision on the indefinite extension in turn could not have been adopted in its final form if there had been no agreement on the resolution on the Middle East and so forth.

Regrettably, there was no progress towards fulfilling the 1995 outcome relevant to the Middle East during the years leading to the 2000 Review Conference of the NPT, neither in substance nor in process, and thus the Middle East was again destined to become a central issue at that conference. The 2000 NPT Review Conference was successful in conducting a review of the implementation of the Treaty and adopting a Final Document, to the surprise of many States Parties. The adoption of language on the Middle East was, by all accounts, a success. For the first time in over a decade the NPT explicitly addressed the importance of "Israel's" accession to the NPT and placement of all its nuclear facilities under comprehensive IAEA safeguards. This was a very significant achievement given the contentious nature of the debate over the Middle East that had permeated the three-year preparatory process leading to the 2000 Conference and threatened it with failure.

Where do we stand today?

Over the past three years the Middle East has witnessed significant developments that relate to the NPT. Institutionally, the Middle East has become part of the review process until universality is achieved. But looking back to the 2000 Final Document, one can highlight several major issues:

Universality: We are in reality no closer than we were in 2000 with regards to Israel's accession to the treaty, extension of full-scope safeguards to Israel's nuclear facilities, or establishment of a nuclear-weapon-free-zone in the Middle East, all of them objectives and priorities that were pronounced in 1995 and 2000.

Iraq:

In 2000 Iraq was a significant part of the reality of the situation on the Middle East. Well, as we stand today in preparation for the 2005 conference one can only draw the conclusion that Iraq is not an issue for the 2005 NPT RevCon.

Libya: Is the Libyan case one of non-compliance that was forgiven and therefore legitimized? Should it be seen as part of a much more complex political deal that goes back to the Lockerbie trial process and involves a political dynamic that is deeper and significantly more complex than a straightforward nexus with the NPT might suggest? I believe in the second proposition and therefore see a limited relevance of the Libyan case to the NPT 2005.

Regional Security: The regional debate on security has been dormant since the multilateral talks on arms control and regional security that flowed from the Madrid Peace conference came to a standstill in 1995. It is a straightforward and by no means a profound statement that the entire political atmosphere in the Middle East during the past three years has been dominated by the events Iraq and in the Palestinian territories.

These developments reflect the positive and negative sides of the ledger, but the most critical outstanding element that will be before the 2005 Review Conference relates to the lack of progress by Israel in acceding to the NPT and placing its nuclear facilities under comprehensive safeguards. A balanced assessment of the developments over the past five years would entail a

significant responsibility for the Review Conference with regard to pursuing the goals and objectives set by the 1995 Middle East Resolution and the 2000 Review Conference. The margin for manoeuvre with regard to substance is slim while the political challenges are significant. Therein lays the challenge before the 2005 Review Conference.

How can the Regime Help?

The most obvious manner in which it can help, given that it is the nuclear non-proliferation regime, is by addressing those security concerns of member states arising from nuclear proliferation. In the outcomes of the 1995 and 2000 conferences, member states identified universality of the Treaty in the Middle East as a constant concern. In addressing this question one must be cognizant that the issue at hand is one of gradual disarmament and not of total disarmament, and is therefore complimentary and not ancillary to peace efforts. It would be illogical for the regime to condone Israel's presence outside the NPT based on the comprehensive peace and security pretext yet at the same time condemn any other potential instances of proliferation in the region.

In sum, the status quo only serves to legitimize proliferation in the Middle East. The implication of this statement is the right of other states in the region to reconsider their position vis a vis the regime, especially given the analogy with the situation in East Asia. It would also imply that efforts at enforcing compliance and ensuring accountability will be open to questions of consistency and even-handedness.