NUCLEAR WEAPONS-FREE ZONES IN ASIA



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FEBRUARY 8 2022

I. INTRODUCTION

In this essay, Nyamosor Tuya shows how these NWFZs emerged, compares their regulatory provisions, and gauges the near-term applicability of the NWFZ concept to Northeast Asia.

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Banner image: Nautilus composite image of NWFZ map

II. NAPSNET SPECIAL REPORT BY NYAMOSOR TUYA

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1. Introduction

As the world enters the third decade of the 21st century, multiple challenges are threatening the security and the well-being of nations, including the present great power competition. Fractured relations between nuclear-armed states are crippling the aspirations and efforts towards nuclear disarmament. Nuclear-weapon States, far from willing to pursue negotiations "in good faith" on cessation of the nuclear arms race and nuclear disarmament—as prescribed by the Treaty on the Non-Proliferation of Nuclear Weapons (NPT) —seem to be walking straight into that very arms race. They have also rejected the new Treaty on the Prohibition of Nuclear Weapons (TPNW) that would ban the use, threat of use, or possession of nuclear arms. Efforts towards nuclear nonproliferation are equally in poor shape with the Iran nuclear deal slowly but surely collapsing and the Democratic People's Republic of Korea (DPRK) continuing on its nuclear path. On the arms control front, the New START treaty—the last remaining legal instrument providing for the reduction of the strategic armaments of the two leading nuclear powers, Russia and the United States —is facing uncertain future. The long-term viability of the NPT itself also looks uncertain given the predicament described above. If and when nuclear testing is resumed, the crumbling of the Comprehensive Test Ban Treaty (CTBT), even before it enters into force, would seriously damage the entire treaty-based edifice of nuclear disarmament built over decades.

In this context, the upholding of the regional disarmament efforts, in particular the treaty-based Nuclear Weapons-Free Zones (NWFZs), appears more crucial than ever. Over one hundred countries the world over have come forward to create such zones, in a treaty form, to keep their regions free from developing, acquiring, manufacturing, controlling, possessing, testing, and stationing nuclear weapons. NWFZs also prohibit the stationing of any nuclear explosive devices by any external state in these zones.

Five such zones currently exist of which three are in Asia: the South Pacific NWFZ established by the Treaty of Rarotonga of 1985, the Southeast Asian NWFZ established by the 1995 Treaty of Bangkok, and the Central Asian NWFZ established by the Treaty of Semipalatinsk of 2006. The other two are in Latin America and the Caribbean (created by the Treaty of Tlatelolco of 1967 that preceded the NPT) and in Africa (created by the Treaty of Pelindaba of 1996). Mongolia enjoys a special nuclear-weapon-free status conferred to it by a UN General Assembly resolution 55/33S. The seabed, outer space, and the Antarctic, not governed by any state, are also nuclear-weapon-free according to international treaties.[1] As different from those countries that have chosen to rely on extended nuclear deterrence—that is on nuclear weapons of an allied nuclear power for their

protection—the states parties to NWFZs chose to ban nuclear weapons on their territories to protect themselves from nuclear threats.[2]

This essay proceeds in four parts. The first section introduces the principles and objectives of the NWFZs. This is followed by an overview of Asian NWFZs with an emphasis on their notable features. The next section discusses the ways in which NWFZs contribute to the goal of the total elimination of nuclear weapons and the last one discusses cooperation and coordination among the NWFZs.

2. NWFZs: Principles and Objectives

The concept of zones free of nuclear weapons preceded the conclusion, in 1968, of the NPT that created the global regime prohibiting the proliferation of nuclear weapons beyond those states that had acquired them prior to the conclusion of the treaty. According to the 1999 UN *Guidelines on the Establishment of Nuclear-Free-Zones*[3]—hereinafter referred to as the UN Guidelines—such zones are created on the basis of arrangements freely arrived at among countries of a region. A UN General Assembly resolution 3472 (XXX) B of 1975 had stressed not only the regional but also the legally-binding character of such arrangement by defining NWFZs as "any zone recognized as such by the General Assembly of the United Nations, which any group of states, in the free exercise of their sovereignty, has established by virtue of a treaty or convention."[4]

The UN Guidelines also state that nuclear-weapon-free zones do not prevent the use of nuclear science and technology for peaceful purposes, and that the countries party to them remain free to decide for themselves, without prejudice to the purposes and objectives of such zones, whether to allow visits by foreign ships and aircraft to their ports and airfields, transit of their airspace by foreign aircraft and navigation by foreign ships in or over their territorial sea, archipelagic waters or straits that are used for international navigation, while fully honoring the rights of innocent passage, archipelagic sea lane passage, or transit of passage in straits that are used for international navigation.

In 1956 the Soviet Union first floated the idea to create a weapons limitation and inspection zone in Central Europe that would prohibit the stationing there of atomic and hydrogen bombs. The move came as the United States started deploying its tactical nuclear weapons in Europe as a counterweight to the Soviet conventional superiority. In 1957, Poland came up with the so-called Rapacki Plan, which proposed carving out a zone free of nuclear weapons in Central Europe. These proposals went nowhere given the underlying Cold War tensions in Europe but alerted many to a possibility of regional approaches to disarmament. Northern European countries took an interest. In 1961, Sweden tabled a proposal at the UN (the so-called Unden Plan) that called on states that did not possess nuclear weapons to "enter into specific undertakings" and commit to not producing, acquiring, and hosting nuclear weapons.[5] Stocker argues that the origins of NWFZs as a regional approach to nuclear nonproliferation ought to be traced back to this very Swedish proposal which was backed by the Soviet Union but rejected by the United States.[6] It goes without saying that during the Cold War, for any initiative—especially on disarmament matters—to get traction internationally it had to enjoy the support of both superpowers.

An Irish draft resolution submitted that same year, however, enjoyed much broader support. It called for an international agreement whereby nuclear possessor states would refrain from relinquishing control of their nuclear weapons and related technology and non-possessor states would refrain from acquiring them.[7] According to Stocker, this resolution, which passed unanimously, paved the way to the international, or global, approach to nuclear nonproliferation which resulted in the successful US- Soviet Union–led negotiations on the NPT.[8]

With the NPT negotiations still underway, another project that was quietly supported by the

superpowers but was of regional nature, came to fruition: in 1967 the first treaty establishing a NWFZ, the Treaty of Tlatelolco, was concluded among countries of Latin America and the Caribbean. The idea of such a zone was first proposed by Costa Rica in 1958 but it was the Cuban Missile Crisis of 1962 that caused the regional countries to more energetically pursue the plan. As opposed to the NPT negotiations that were primarily a US-Soviet undertaking, the Treaty of Tlatelolco (like the subsequent NWFZs treaties) saw a more engaged participation of regional countries in related negotiations and reflected their shared interest in instituting as strong a barrier as possible against nuclear plans of outside powers.

Both the NPT-making process and great power acceptance of a Latin American NWFZ in the 1960s illustrated the profound realization by major powers, in the aftermath of the Cuban Missile Crisis and the failure to achieve any progress on "general and complete disarmament," as well as the Chinese nuclear test in 1964, that nuclear weapons were here to stay and that agreed measures had to be pursued, wherever possible, to prevent proliferation of nuclear weapons and related technologies. As put by Serrano, "the focal point [then] shifted from measures designed either to remove nuclear weapons from world affairs or to maintain a nuclear monopoly, towards attempts to make their presence more tolerable. This latter approach enabled both superpowers to share responsibility for nuclear matters."[9] Thus the NWFZ came to complement, at the regional level, the major powers' effort to globally halt the spread of nuclear weapons. Their support for the Latin American zone did not, however, translate into a willingness to see NWFZs replicated in all regions of the world. As history has shown, and as Tago rightly notes, NWFZs were established in regions with "a relative absence of security concerns"[10] as opposed to regions where high security concerns led to reliance on a nuclear deterrent provided by a major allied nuclear power. Hamel-Green has also argued that the existence of conflict, rivalry, or overt hostility within a region presented a serious barrier to the establishment of an NWFZ. He wrote, "It might be argued that NWFZs are only feasible in regions where they are least needed."[11] Indeed, in regions such as Europe, the Middle East, South Asia, and North-East Asia, beset by internal and external security competition and/or alliance politics, initiatives on the creation of such zones did not get much traction.

According to Serrano, two views have been expressed to explain the emergence of NWFZs.[12] The first held that NWFZs were a first step towards general and complete disarmament. The second held that they were a wider arms control measure and served as a means to ensure one's security against a nuclear danger. The latter view prevailed with time. In a more structured way, Thakur argues that NWFZs constitute legal mechanisms for nuclear nonproliferation and political stepping stones towards nuclear disarmament.[13] Of course, they are these things in a complementary manner: since all countries party to treaties establishing NWFZs are party to the NPT they are legally bound by the treaty's non-proliferation clause anyway, and inasmuch as they are a disarmament steppingstone, NWFZs are 'disarmament before the fact,' as Thakur puts it, the 'real' nuclear disarmament being nuclear weapon states' compliance with Article XI of the NPT. NWFZs' complementarity vis-à-vis the NPT is noted by Fuhrmann and Li who state that "states are less likely to enter NWFZs if they have not already made nonproliferation commitments or if they have incentives to acquire, test, or possess nuclear weapons in the future."[14]

The UN General Assembly resolution of 1967 that welcomed the Tlatelolco Treaty established NWFZs as an international non-proliferation norm by stating that it "constitute[ed] an "event of historic significance in the efforts to prevent the proliferation of nuclear weapons and to promote international peace and security."[15] The NPT reaffirmed this norm by stating in its Article VII that nothing in that treaty affected 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. The "total absence" included the non-stationing there of nuclear weapons by outside powers, which constitutes a much

stronger proliferation commitment that is absent in the NPT. Verification mechanisms provided for in most NWFZs treaties are also of a more rigorous nature. So in general, NWFZs are a foundational building block of what is known as the international non-proliferation regime.

As for their disarmament impulse, the UN Guidelines do make references to NWFZs' being "an important disarmament tool" but only inasmuch as they are "a means of expressing and promoting common values in the areas of nuclear disarmament, arms control, and non-proliferation." As has been noted above, since states parties to NWFZs are all non-nuclear-weapon-states and, by definition, do not possess nuclear weapons, the concept of nuclear disarmament cannot be applicable to them. But without a doubt, by legally committing to keeping their respective regions free of nuclear weapons, including by outlawing the stationing of foreign nuclear weapons, and by introducing legally binding regional protocols on negative security assurance (NSA), NWFZs have contributed to the global effort towards delegitimizing and eliminating nuclear weapons. It is in this sense that their establishment "contributes towards realizing the objectives of nuclear disarmament," as stated in the Final Document of the 2010 NPT Review Conference and in the Treaty on the Prohibition of Nuclear Weapons.

Further on NWFZs' disarmament role, the UN Guidelines note that "respect for such zones by Nuclear Weapon States constitute an important disarmament measure." Here disarmament seems to connote, in a more general sense, the fight for "a world without nuclear weapons." In a more specific and pragmatic way, the UN Guidelines stipulate that Nuclear-weapon States (NWS)[16] "should be consulted during the negotiations of each treaty and its relevant protocol(s) establishing a nuclear-weapon-free zone in order to facilitate their signature to and ratification of the relevant protocol(s)."

Therefore, cognizant of the importance of engaging the NWS to promote the NWFZ objectives, the NWFZs negotiators have sought negative security assurances (NSA) from NWS, that is, a legally-binding commitment not to use or threaten to use nuclear weapons against zonal states. These are specified in protocols to the treaties establishing NWFZs of which solely the one attached to the Treaty of Tlatelolco has so far been ratified by all NWS. These protocols also contain such obligations as 'respect' for the objectives of the zones and 'not contributing to any act that constitutes a violation of the treaty by states parties to it.' Protocol ratifications by NWS have routinely been accompanied by declarations, statements, and understandings that clarify individual NWS' stances vis-à-vis the protocol provisions.

Most prominently, these concern transit rights. The NWFZs' arrangements are ambiguous in this respect, and basically are such that individual states parties are free to decide for themselves on transit and navigation matters. Goldblat views this arrangement as one of the NWFZs' deficiencies.[17] The others being, among other things, conditionality of NSAs, impossibility to verify the obligation of NWS to respect the zones, silence on whether NWFZs are valid both in time of peace and in time of war, etc. As per the UN Guidelines, States-parties to NWFZs remain free to decide for themselves on foreign ships and aircraft visits and the transit thereof in or over their territorial sea, archipelagic waters or straits "while fully honoring the rights of innocent passage, archipelagic sea lane passage, or transit passage in straits that are used for international navigation."

Besides protocols on the granting of NSAs to zone parties, some of the NWFZ treaties contain protocols inviting outside powers to apply their denuclearization provisions in the territories for which they had become internationally responsible and which are located within NWFZs. France is the only country specified in the relevant protocol to the Pelindaba Treaty to sign and ratify it, while the United States has signed but not ratified the similar protocol to the Rarotonga Treaty.

Whatever these deficiencies, over the past decades NWFZs have been an important non-proliferation tool and a regional security enhancer whose objective of keeping entire regions free of nuclear

weapons and their testing has enjoyed broad international appeal and contributed to advancing the global debate on nuclear disarmament and to reducing nuclear threats.

3. Overview of the Asian NWFZs

Three nuclear-weapon-free zones are currently in place in Asia, ranging from the seas of the South Pacific via South-East Asia up to the landlocked landmass of Central Asia. In between, Mongolia enjoys an official nuclear-weapon-free status. There is an ongoing debate among the expert on prospects for a NWFZ in North-East Asia. The Asian NWFZs extend across a territory of over 19 million square kilometers, and the diversity in their geography, history, and political experiences explains the variances among them. Goldblat, Hamel-Green, Thakur, Fuhrmann and Li, Roscini, and others have extensively discussed various aspects of the NWFZs. This paper looks at the notable features and contributions associated with each one of these zones.

The South Pacific Nuclear Free Zone

The first among them, the South Pacific Nuclear Free Zone (SPNFZ), originated primarily from the desire of regional countries to put an end to nuclear testing by the United States, Britain, and France in the region and stop the dumping of nuclear waste at sea. In 1975, New Zealand tabled a resolution at the UN on a South Pacific NWFZ, which was met with abstentions by all NWS except China. Due to a conservative hiatus in New Zealand, Australia—which had by then started positioning itself as an activist middle-power with its own agenda on nuclear matters—took the lead in negotiating the Treaty of Rarotonga on a regional NWFZ, which was signed in 1985 and entered into force in 1986.

In a notable expansion of the Treaty of Tlatelolco, which bans specifically nuclear weapons "appropriate for use for warlike purposes," the Treaty of Rarotonga expanded the object of the ban, which is defined as "any nuclear weapon or other explosive device capable of releasing nuclear energy, irrespective of the purpose for which it could be used "and irrespective of whether it is in unassembled or partly assembled forms. The treaty negotiators deliberately omitted the word 'weapon' in its name and went on to ban peaceful nuclear explosions and the dumping of radioactive waste and other radioactive materials at sea anywhere within the zone, and to prevent and not to assist such dumping by non-parties anywhere in the zone. States parties also undertake not to provide source or special fissionable material, or equipment or material for peaceful purposes to non-Nuclear-weapon States (NNWS) unless subject to the safeguards required by the NPT, or any nuclear-weapon State unless subject to applicable safeguards agreements with the International Atomic Energy Agency (IAEA).

The most significant contribution of the SPNFZ to the cause of non-proliferation and disarmament lies, however, in its stand on nuclear testing. The promoters of the zone have embraced the thinking of the Australian government on the matter which, at the time, was pushing for a comprehensive test ban treaty at the international level. The Rarotonga Treaty prohibits the testing of any nuclear explosive device by states parties—not only of nuclear weapons as is the case in the Treaty of Tlatelolco—and, in the form of a separate legally-binding protocol, prohibits such testing by external powers anywhere within the zone. Thus the Treaty of Rarotonga became the first comprehensive test ban treaty albeit with jurisdiction confined to the SPNFZ only. The United States, however, has yet to ratify the treaty's non-testing protocol as well as its NSA protocol. A global Comprehensive Test Ban Treaty (CTBT) was concluded a decade later with active effort by the SPNFZ countries.

The successful conclusion of the Treaty of Rarotonga gave a much needed impetus to negotiations on an ASEAN NWFZ. For years, Australia and Indonesia had been wary of each other's intentions: the Australian military had for a while floated the idea of the country acquiring nuclear-weapon

capability while Indonesia had started its own nuclear energy capacity. As noted by Hamel-Green, the SPNFZ "created more conducive conditions for the ASEAN zone in the sense of promoting confidence that Australia would not seek nuclear weapons… and the South-East Asian and South Pacific regions can be said to have headed off at least one potential nuclear rivalry by putting in place additional regional zone mechanisms for demonstrating commitment to non-proliferation norms."[18]

Despite these achievements, the Treaty of Rarotonga has had its share of critics. First and foremost, criticism was leveled against its liberal approach towards port calls by nuclear-armed ships and the hosting of the US nuclear support installations on the territory of Australia (in fact, none of the NWFZ treaties prohibit the stationing of such facilities). The Treaty's stand on these matters largely stemmed from Australia's nuclear policy, which combined a bilateral military alliance with the United States and support for its nuclear deterrence policy with efforts towards enhancing regional security via multilateral actions.

With the general heightening of tensions in the broader region and the hardening of positions of various actors, it appears that the United States is not considering ratifying the Treaty's three protocols any time soon.

The Southeast Asia Nuclear Weapon-Free Zone

The Treaty establishing the Southeast Asia Nuclear Weapon-Free Zone (SEANWFZ), or the Bangkok Treaty, was signed in 1995 and entered into force in 1997. Its origins are traced back to the 1971 Zone of Peace, Freedom, and Neutrality Declaration (ZOPFAN) in which the ASEAN expressed its cognizance of the "significant trend towards establishing nuclear-free zones for the purpose of promoting peace and security." However, it took several years and the end of the Cold War, and the completion of the SPNFZ for actual negotiations to begin. Twenty five years on, the Bangkok Treaty remains the only NWFZ treaty whose NSA protocol has not been signed by any of the NWS, let alone ratified.

There are two issues of contention that have prevented the NWS from signing the protocol. The first concerns the expanded NSA that the NWS are invited to commit to: if all other NWFZ treaty protocols envisage NSAs granted to states parties to respective zones, the Bangkok Treaty adds to them all territory within the SEANWFZ. As Roscini notes, "this entails a commitment by the nuclear weapon states not to launch missiles with a nuclear warhead from ships, submarines, or aircraft located within the zone even if the target is situated outside, and also not to use nuclear weapons against means of transport (even if they belong to another nuclear weapon state) situated in the internal waters, territorial sea and, most importantly, exclusive economic zone of the state-parties to the Bangkok Treaty."[19]

The inclusion of continental shelves and Exclusive Economic Zones (EEZ) of the parties to the SEANWFZ in its zone of application is another departure from other NWFZs. The NWS, especially the United States, see this departure as an obstacle to their signing of the protocol. As put by Tong Zhao,[20] for the nuclear-weapon states, the giving of assurances not to use or threaten to use nuclear weapons in EEZs, where nuclear submarines of a NWS, or any nuclear-armed country, for that matter, could be staying, would be akin to offering such assurances to one another. At this moment, the only assurance the NWS have given to one another is that of a mutually assured destruction; needless to say that a certain effort towards building trust among those powers will have to be made to achieve progress in this area.

As it stands, for the NSA protocol to be signed, parties will have to work on devising mutually acceptable arrangements on a host of issues, including port calls and transit. For one thing, the

Bangkok Treaty's provision on notifying state-parties for them to take decisions on whether to allow port calls, transit by air and sea by foreign ships and aircraft, has not been to the liking of some of the countries in the region who are concerned that SEANWFZ parties could use this to challenge the freedom of navigation of US nuclear-capable vessels.[21] In the meantime, Russia had made known its position to the effect that it would deem itself not bound by its protocol commitments should any transit of nuclear weapons and nuclear explosive devices take place through the territory of states that are party to the Bangkok Treaty[22] prompting subsequent calls to remove that reservation. And the United States has applied a policy of calculated ambiguity regarding its nuclear-capable vessels known as "neither confirm, nor deny."

On top of these tricky issues, the longstanding territorial disputes in the South-China Sea also come into play, and the current worsening of the US-China competition writ large serves as a major discouraging factor for any action on the SEANWFZ. The NWS have on a number of occasions expressed their general support for a NWFZ in South-East Asia and held consultations to move the process forward (in late 2021, China even indicated its readiness to sign the treaty) but, at this point, there are few indications that any progress is forthcoming.

The Central Asia Nuclear-Weapon-Free Zone

The Central Asia Nuclear-Weapon-Free Zone (CANWFZ) is the first NWFZ established in the northern hemisphere "on the basis of arrangements freely arrived at among the States of the region concerned," as prescribed in the UN Guidelines. It is also the first NWFZ established in a region where nuclear weapons had previously been deployed. After the disintegration of the Soviet Union, one of the Central Asian nations, Kazakhstan, found itself overnight home to over a thousand nuclear weapons. These were later removed to Russia making it possible for Kazakhstan to join the NPT as a NNWS. The CANWFZ is also the only zone that borders on two NWS, Russia to the north and China to the south, and faces volatility emanating from Afghanistan, South Asia, and the Middle East.

The Treaty of Semipalatinsk, which established the CANWZ, was signed in 2006 and entered into force in 2009. Being the last, to date, internationally recognized NWFZ, it benefited a great deal from the previous experiences on establishing such zones and the thinking that went into them and from the expertise and resources accumulated in the United Nations on this matter. Mongolia's 1992 initiative that declared the country's territory a nuclear-weapon free zone has served both as an inspiration and a call for action for Central Asian countries.

The drafters of the Treaty were also able to take into account the substantive developments in the world of disarmament, such as the Additional Protocol, the conclusion of which is included in the Treaty as one of the undertakings by states parties. The site of the signing of the treaty, Semipalatinsk, used to be a major Soviet nuclear testing site with a heavy legacy of nuclear-related infrastructure and environmental degradation and contamination. Hence the treaty has strong provisions concerning environmental rehabilitation and prohibition of nuclear tests. The latter closely follows the prohibitions of the CTBT. Also, the Treaty prohibits both nuclear weapons and nuclear explosive devices irrespective of their purpose and in assembled or partly assembled forms thus emulating the Treaty of Rarotonga. The presence of large quantities of nuclear materials left behind by Soviet Union's nuclear activities in the region and the threat of their illicit trafficking explain the undertaking to follow physical protection standards "at least as effective" as the standards of the Convention on Physical Protection of Nuclear Materials. The Treaty also bans research on nuclear weapons.

The prospects for the establishment of the CANWFZ have looked rather dim because some of its parties are members, together with Russia, of a security agreement that provides for mutual military assistance in case of an aggression. Concerns have been expressed by the United States, France,

and the United Kingdom as to whether this was compatible with the objectives of a NWFZ. But an article entitled 'Other Agreements' still found its way into the treaty which marries the provision that it does not affect the parties' rights and obligations under other international treaties with the provision that parties shall take all necessary measures for effective implementation of the zone's purposes and objectives. This wording was deemed acceptable enough for all NWS to sign the treaty's NSA protocol. The United States, however, has yet to ratify it. The United States was also adamant that the CANWFZ limit its participation to the five Central Asian countries to prevent a possible move by Iran to join it.

Besides its contribution to strengthening NWFZs' non-proliferation and test ban norms, the CANWFZ clearly represents for the countries of the region, all of whom are former Soviet republics, an instrument for fostering a national security posture that seeks cooperative approaches in the face of the present and future security challenges.

Mongolia's Nuclear-Weapon-Free Status

East of the CANWFZ, Mongolia has labored hard to establish and strengthen its internationally recognized nuclear weapon free status.[23] It started early—just two years after the country shed its communist past in 1990 and a year after the demise of its former ally, the Soviet Union, by declaring its territory a NWFZ at the UN. However, since the established practice at the time was (and still remains) that to create such zones a group of regional states had to enter into a legally binding agreement, Mongolia could not join a region-wide NWFZ for the simple reason that its only neighbors are Russia and China, both NWS. Mongolia's attempts at the UN to gain acceptance of the concept of a single-state NWFZ were overruled by international custom and the NWS' disinclination to set a deviating precedent.

But, in the end, the country was able to secure international recognition of its unique status, called 'Mongolia's nuclear-weapon-free status (NWFS),' and formalized in the UN General Assembly Resolution 53/77 D of 1998. It was supported by the NWS via a joint statement by the five permanent members of the UN Security Council (the P5). The UN resolution (which is a recurrent resolution adopted every other year) welcomed Mongolia's declaration of its nuclear-weapon-free status and addressed some of the country's broader security concerns. The P5 joint statement entitled "Statement on Security Assurances in Connection With Mongolia's Nuclear-Weapon-Free Status" welcomed the declaration by Mongolia of its nuclear-weapon-free status and reaffirmed, in regard of Mongolia, the negative and positive security assurances that were individually stated by the nuclear-weapon states and were contained in the Security Council Resolution 984 adopted in 1995. Both the UN General Assembly resolution and the P5 joint statement raised considerably the international profile of Mongolia's nuclear-weapon-free status. Importantly, the NWS pledged cooperation with Mongolia on the implementation of the UN General Assembly resolution.

In 2000, Mongolia adopted a domestic Law on Nuclear-Weapon-Free Status that prohibits developing, manufacturing, or otherwise acquiring, possessing, or having control over nuclear weapons; stationing and transport of nuclear weapons by any mode of transport; testing nuclear weapons; dumping and disposing of weapons-grade radioactive material and nuclear waste. Violations of the provisions of the law constitute a criminal offence.

In 2012, Mongolia and the P-5 countries issued parallel political declarations in New York concerning Mongolia's status. Mongolia confirmed its commitments under the NPT and its domestic law, such as the non-stationing of foreign troops and weapons, nuclear and other WMD, whereas the NWS reaffirmed, in the case of Mongolia, their respective unilateral negative security assurances as stated in their declarations issued on April 5 and 6, 1995, and affirmed their intent, as long as Mongolia maintains its nuclear-weapon-free status, to respect that status and not to contribute to

any act that would violate it. The NWS also stated that their joint declaration was issued taking into account Mongolia's unique geographic status and that it constituted a political commitment only and did not create legal obligations.

But whatever the legal/procedural intricacies, Mongolia regards itself, by virtue of its domestic legislation and international recognition, as a full-blown single-state nuclear-weapon-free zone sharing the same goals and objectives as other NWFZs. Thus it has worked actively to promote closer coordination among, and cooperation with, the regional NWFZs. The Mongolian experience has shown the importance of the political will and the ability to compromise on the part of a smaller country and the importance of a cooperative dialogue between NNWS and NWS to promote their common interests.

A North-East Asia NWFZ?

Several experts on North-East Asia have advocated a NWFZ for North-East Asia (NEANWFZ), and more so after the end of the Cold War. A cursory look at the region where one finds a nuclear China, a nuclear Russia, a Japan and ROK allied with the United States and both falling under its extended nuclear deterrence, and a DPRK pursuing nuclear weapons and missiles programs—all entangled in rivalry—can give pause to observers. Even at the height of the Cold War, however, proposals were made on disarmament and reduction of tension involving even bitter adversaries. In 1959, the Soviet Union put forward the idea of general and complete disarmament; in 1972, a study was issued in the United States suggesting the establishment of a NEANWFZ which went ignored.[24] The DPRK had on a number of occasions proposed a NWFZ on the Korean peninsula albeit providing no details. In hindsight, the general distrust that reigned supreme during the Cold War may have nipped in the bud the possible follow-ups that could have prevented the dire outcome the region is facing now.

Proponents of a NEANWFZ have argued that such a zone would represent a cooperative institutional framework, achieved through peaceful, diplomatic means that can help resolve the DPRK's nuclear issues, denuclearize the Korean Peninsula, and bring about sustainable peace to the region. The reasoning goes that occasional cycles of lapsed negotiations and bursts of heavy-handed rhetoric hardly change anything in the situation on the Korean Peninsula where any conflict escalation, inadvertent or not, can threaten regional peace in unpredictable ways and undermine strategic stability there. An NWFZ is seen not only as a non-proliferation tool but also as a security enhancer. The NWFZs in other parts of the world, negotiated sometimes over decades and then recognized internationally both through the authority of the UN and political support by the NWS, are cited as an example that could be emulated.

Several formulas have been put forward for a NEANWFZ ranging from those focused solely on the Korean peninsula to those covering most of North-East Asia. Notably, the so-called '3+3 formula' has had some currency among the expert community.[25] It would have Japan, the ROK, and the DPRK establish a nuclear-weapon-free zone with China, Russia, and the US extending, via a protocol, negative security assurances to them. A revised 3+3 version suggested an unusual arrangement whereby the three NWS became direct parties to a comprehensive treaty on peace and security in North-East Asia that would contain a provision on a nuclear-weapon free zone.[26]

In a growing recognition of the impossibility of resolving the DPRK nuclear problem without addressing regional security issues, including peace on the peninsula, a more comprehensive and gradual approach has been suggested that would eventually lead to a NEANWFZ. In 2017, the Nautilus Institute proposed a comprehensive settlement in North-East Asia that would set up a six-party North-East Asia security council, end sanctions over time, declare non-hostility, end the armistice and sign a peace treaty, provide economic and energy aid to the DPRK, and establish a NWFZ.[27] Similarly, a report by Research Center for Nuclear Weapons Abolition in Nagasaki

(RECNA) identified a number of end-goals for the region that included peace settlement of the Korean War, conclusion of a Treaty of Amity and Cooperation, creation of a permanent North-East Asian regional security forum/organization, establishment of an NWFZ, and a regional energy security system.[28] Dalton has suggested agreeing on a "continuum of objective" that would include peace regime, denuclearization, diminished salience of nuclear weapons, adjustments to US extended deterrence, a new security order for the region, and an NWFZ.[29]

Given the DPRK's dislike of multilateral forums and its fear of possible attempts at regime change once denuclearization is achieved, the big question yet to be answered is about the ways and means in which such gradual cooperative process could be initiated and further sustained. The bigger question is can it be successfully navigated amid the troubled relations between the United States and China that are only set to deteriorate.

4. Contribution of NWFZs Towards the Total Elimination of Nuclear Weapons

The Asian NWFZs and Mongolia's NWFS, as all other NWFZs, came into being as a result of the desire of the countries in different parts of Asia to enhance their security through halting the spread of nuclear weapons in their respective regions. This was done by banning through legally-binding arrangements, their development, acquisition, manufacturing, possession, testing, controlling, as well as the stationing of nuclear weapons by external powers. Due to their specific circumstances, these NWFZs do have some variations but by banning nuclear weapons on their respective territories they have served, and continue to serve, as an important non-proliferation tool complementing the NPT.

Over forty years of their existence each preceding NWFZ has enriched the next one to come into being and, along the way, they have all enriched approaches to disarmament. By their very emergence and existence NWFZs have considerably contributed to the delegitimization of nuclear weapons and to multilateral disarmament—as have a host of UN General Assembly resolutions, including its first one that established a commission to make proposals on the elimination of nuclear weapons and the 1996 Advisory Opinion of the International Court of Justice on the Legality of the Threat or Use of Nuclear Weapons, which advised that negotiating an instrument leading to nuclear disarmament was an obligation. By the year 2017 when the TPNW negotiations got under way there already existed a *regional foundation* on which to build this UN-supported global effort to stigmatize, prohibit, and eliminate nuclear weapons. That foundation was created to a large extent by countries inappropriately named the Global South.

The NWS, too, have had a role to play in the emergence of the phenomenon of NWFZs, supportive as they were of its non-proliferation potential. In fact, one lesson that can be drawn from the experience of the zonal approach is that to achieve tangible progress in disarmament there has to be some *confluence of interests between NNWS and NWS*. Without it, no "bargain," that is agreement of NNWS to forego nuclear weapons and of NWS to eventually disarm (a side of the bargain that has not been kept), could have emerged in the form of an NPT, and no NWFZs could have been established.

At this point in time, the traditional division between the NWS and NNWS on the priorities of the NPT where the former have stressed nonproliferation and the latter have given equal weight to disarmament is being paired with an emerging division between nuclear-allied NNWS and non-nuclear-allied NNWS (heavily represented in the NWFZs and the Non-Aligned Movement). This state of affairs does nothing to strengthen the NPT and is damaging to the NWFZs. By rejecting the TPNW the nuclear-allied NNWS undermine the appeal of the NPT for their non-nuclear-allied counterparts who have sought—in vain—nuclear disarmament since day one of the NPT and do the same with respect to the NWFZs, which basically came into being as an alternative to extended nuclear

deterrence as a means of protecting countries against nuclear threats. As it stands, reliance on nuclear deterrence, extended or otherwise, simply means an extended lifetime for nuclear weapons and a postponement of nuclear disarmament for an indefinite time. In Asia especially, and with an emphasis on North-East Asia, continued reliance on extended nuclear deterrence practically shuts down the prospects for a NEANWFZ.

It is common belief that, however imperfect, over the fifty years of its existence the NPT, with its authoritative number of 191 states parties, has helped prevent nuclear proliferation and preserve international peace and stability and remains the primary source of nuclear stability that needs to be preserved. And there is general agreement that, however deficient the NWFZs are (chiefly because of their basic reliance on the signing of their NSA protocols by NWS), they have served as an effective non-proliferation complement to the NPT and an essential building block that buttress the efforts towards eliminating nuclear weapons. Common sense would therefore dictate that these instruments be handled with care.

It may well be that what is needed, at this juncture, is "a gradual broadening of the zones of the world from which nuclear weapons are prohibited to a point where the territories of powers which possess these terrible weapons of mass destruction will be something like contaminated islets subject to quarantine."[30] These words by Mexican diplomat Alfonso Garcia Robles who won Nobel Peace Prize for his work on the Tlatelolco Treaty could serve as an inspiration to the advocates of the total elimination of nuclear weapons and of the establishment of NWFZs in other parts of the world. Given the somewhat encumbered field of disarmament-related initiatives and resolutions and coalitions, both NNWS and NWS as well as civil society actors could draw on the example of *seeking the synergy between the regional and the global* provided by NWFZs and apply synergetic and cooperative approaches to the global efforts towards advancing disarmament goals. Former UN Secretary-General Ban Ki-Moon has been quoted as telling the audience in his address to the 2010 Second Conference of NWFZs and Mongolia that his goal was "to make the whole world a nuclear-weapon-free zone"[31] envisaging a world where nuclear weapons will be prohibited. Views have been expressed that because of "the parallels in the language and objectives" such a reading may be of help in integrating the TPNW into the traditional non-proliferation frameworks and easing the TPNW/NPT tension.[32] As Thakur has noted, "If the global non-proliferation regime is to remain viable, the competing visions reflected in the NPT and the ban treaty must be reconciled" to preserve the integrity of the NPT.[33] Such reconciliation could indeed occur through gradual cooperative expansion of NWFZs to other regions that go hand-in-hand with some confidence building measures to improve mutual trust. As of today, it certainly appears as a distant prospect that countries in North-East Asia, South Asia, or the Middle East and Central Europe, for that matter, would come together and shed their reliance on nuclear weapons or nuclear deterrence. But a nuclear arms race, a possible disintegration of the NPT, weakened NWFZs and heightened global tensions leading to an inadvertent nuclear war do not certainly look like a brighter prospect.

5. Cooperation and Coordination

In the meantime, with a view to strengthening cooperation and coordination among the NWFZs and raising their profile in the disarmament arena, the OPANAL (Agency for the Prohibition of Nuclear Weapons in Latin America and the Caribbean) took the lead in initiating regular conferences of Nuclear-Weapon-Free Zones and Mongolia, which are held in conjunction with the NPT Review Conferences. Three such conferences have been held starting in 2005, and since 2010 they have been held under the auspices of the UN. A UN General Assembly resolution on the matter states that the objective of these conferences is "to consider ways and means to enhance consultations and cooperation among nuclear-weapon-free zones and Mongolia, the treaty agencies and interested States, with the purpose of promoting coordination and convergence in the implementation of the

provisions of the treaties and in strengthening the regime of nuclear disarmament and non-proliferation."[34]

NWFZs' cooperation entails not only exchange of ideas and dissemination of information among themselves but also coordination on matters concerning multilateral disarmament. With the adoption of the TPNW, cooperation could also extend to stepped-up efforts towards the prohibition and elimination of nuclear weapons. The Outcome Document of the Second Conference of the NWFZs and Mongolia stated that that the mere existence of nuclear weapons constituted a threat to the survival of mankind and their use would have catastrophic consequences for life on Earth, and that the only guarantee against their use or threat of use was their total elimination. It further stated that their use or threat of use constituted a violation of international law and of the Charter of the United Nations, and a crime against humanity, echoing the Humanitarian Initiative.[35] The parties also reaffirmed the urgent need to advance towards the priority goal of nuclear disarmament and the achievement of the total elimination and legally binding prohibition of nuclear weapons.[36]

These positions taken in the Outcome Document as well as the practical experience of the NWFZs in prohibiting nuclear weapons in entire regions make them potentially a powerful voice in the global efforts towards the total elimination of nuclear weapons, especially as a partner in the promotion of the ratification and, eventually, implementation of the TPNW. However, beyond conferences, practical cooperation among the NWFZs has been limited. No regular mechanisms of sustaining inter-zonal dialogue and communication have yet been devised due, primarily, to the lack of resources, the necessary focus on socio-economic issues, poor institutionalization of respective NWFZs, and varying regional security dynamics. For instance, in Asia, the security issues looked at in the South Pacific and Central Asia can be very different whereas in South-East Asia the Bangkok Treaty still awaits the signing of its protocol by NWS. But since all NWFZs share a common interest not only in banning nuclear weapons in their respective regions but also in totally eliminating nuclear weapons, a clearly defined and feasible set of cooperative undertakings can help take forward these goals. This could include, among other initiatives, establishment of a global NWFZ website/portal that could serve both as a center for communication and information for and about the NWFZs and an aggregator of notable developments in the efforts towards the elimination of nuclear weapons.[37]

At this critical juncture, when nuclear-armed states, far from willing to pursue nuclear disarmament, are engaged in nuclear modernization and a nuclear arms race, states parties to NWFZ need a renewed commitment to promote the purposes and objectives of NWFZs. For one thing, NWFZs should continue to urge the NWS who have not done so to ratify the relevant protocols to NWFZ treaties and withdraw the reservations or unilateral interpretations that have accompanied the signing or ratification of these protocols. The failure to do so damages the NWFZ' effectiveness and serves as discouragement to other regions contemplating a zonal approach. It may well be that advances in technology may render less necessary the use of nuclear weapons in potential missions in NWFZ regions but as long as nuclear weapons exist NWFZs would want security guarantees extended by way of ratified NSA protocols.

6. Conclusion

Nuclear-weapon-free zones were established out of the shared conviction of their states' parties that their national security was enhanced, not reduced, if they banned nuclear weapons instead of introducing them. By establishing such zones they have turned entire regions in Southern and Northern hemispheres into lands where no nuclear weapon is allowed, thus making an important contribution to the global non-proliferation regime and towards the objectives of the elimination of nuclear weapons. The protocols to the treaties establishing NWFZs envisage a legally-binding commitment by NWS, albeit with attached reservations, not to use or threaten to use nuclear

weapons against states parties. In the absence of a universal instrument providing such a commitment, this has been a welcome development. In Asia, unfortunately, not a single treaty on a NWFZ has its protocols ratified by all NWS.

By banning and introducing the norm of non-possession of nuclear weapons the NWFZs have played an important role in delegitimizing nuclear weapons. Advocates of the total elimination of nuclear weapons could benefit from the NWFZs' example of seeking the synergy between the regional and the global and search for ways to reconcile the current misunderstanding between nuclear-armed states and non-nuclear-allied NNWS with regard to the TPNW.

III. ENDNOTES

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