

Regions That Say No: Precedents and Precursors for Denuclearizing Northeast Asia

Recommended Citation

Michael Hamel-Green, "Regions That Say No: Precedents and Precursors for Denuclearizing Northeast Asia", NAPSNet Special Reports, June 05, 2012, <https://nautilus.org/napsnet/napsnet-special-reports/regions-that-say-no-precedents-and-precursors-for-denuclearizing-northeast-asia/>

by Michael Hamel-Green

June 5, 2012



This report was originally presented at the [East Asia Nuclear Security workshop](#) held on November 11, 2011 in Tokyo, Japan. All of the papers and presentations given at the workshop are available [here](#), along with the full agenda, participant list and a workshop photo gallery.

Nautilus invites your contributions to this forum, including any responses to this report.

CONTENTS

- [I. Introduction](#)
 - [II. Report by Michael Hamel-Green](#)
 - [III. References](#)
 - [IV. Nautilus invites your responses](#)
-

I. Introduction

In the following report Michael Hamel-Green reviews the historical and institutional precedents

supporting recent proposals to establish a nuclear weapons free zone both on the Korean Peninsula and in the wider Northeast Asian region. "Despite the fact that the Northeast Asian region has not yet progressed to government-to-government negotiations on a regional nuclear free zone concept, or even agreement in principle on such a concept (as has occurred in the case of the Middle East), the negotiation history and background of the six currently established [Nuclear Weapons Free] zones suggest that there is often a quite lengthy pre-negotiation phase in which civil society campaigns, Track 2 negotiations and proposals (involving a mix of non-government and government experts), and catalysing changes or crises in the regional or global political environment, can serve to concentrate the minds of regional governments and the wider international community."

Michael Hamel-Green is the Dean of and Professor in the Faculty of Arts, Education and Human Development at Victoria University, Melbourne.

The views expressed in this report do not necessarily reflect the official policy or position of the Nautilus Institute. Readers should note that Nautilus seeks a diversity of views and opinions on significant topics in order to identify common ground.

II. Report by Michael Hamel-Green

"Regions That Say No: Precedents and Precursors for Denuclearizing Northeast Asia"
by Michael Hamel Green

Regional nuclear-weapon-free zones (NWFZs) - groups of countries which have signed up to legally-binding, internationally-recognized, treaties prohibiting the development, acquisition, or stationing, of nuclear weapons within a designated geographic region or territory - are far from being novel approaches to non-proliferation and disarmament. Such zones have been in existence since the 1950s and 1960s after the concept was first advanced in a European context. Initial zones were established in Antarctica (1959 Antarctic Treaty) and Latin America (1967 Tlatelolco Treaty). Further zones were established in the mid-1980s (1985 South Pacific Rarotonga Treaty); the mid-1990s (1995 Southeast Asia Bangkok Treaty, 1996 African Pelindaba Treaty); and the mid-2000s (2006 Central Asian Semipalatinsk Treaty).

As a partial but very significant arms control measure, they have proved one of the more resilient and consistent strategies in the arms control and disarmament toolbox. Zonal initiatives have been successfully negotiated in both the previous 1945-1989 Cold War era, and the more complex and chaotic post-Cold War period.

As of late 2011, 138 out of 193 UN member states have entered into, and ratified, legally binding treaties to reduce or constrain nuclear weapon proliferation, development and basing in their own regions (or other regions over which they have territorial claims)[\[1\]](#). These include the 1959 Antarctic Treaty (47 states with interests in Antarctica), the 1967 Tlatelolco Treaty (33 Latin American states), the 1985 Rarotonga Treaty (13 South Pacific States), the 1995 Bangkok Treaty (10 Southeast Asian states), the 1996 Pelindaba Treaty (30 African states, with a further 21 signed but not yet ratified), and the 2006 Semipalatinsk Treaty (5 Central Asian States). NWFZs now cover almost the entire Southern Hemisphere, and wide swathes of the Northern Hemisphere, including the most recent Central Asian zone, which is entirely in the Northern Hemisphere.[\[2\]](#)

Recent NWFZ developments and initiatives

To no small degree, the progressive expansion of NWFZs is due to the fact that such zones do not

depend on prior nods of approval from the major nuclear weapon states (US, Britain, France, Russia and China) for their initiation, negotiation and implementation. Rather they rely on the sovereign right of regional groupings of states to develop their own policies and arrangements on denuclearization within their territories. This was clearly envisaged under Article VII of the 1968 Nonproliferation of Nuclear Weapons Treaty: “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”.^[3] Many other vital arms control approaches, including most notably the decade of deadlocked Fissile Materials Control (Fissban) treaty negotiations at the Geneva Conference on Disarmament, have been stymied by one or other of the official and/or aspirant nuclear powers (Pakistan, Iran and China in the case of Fissban) using their powers of veto in UN disarmament forums. By contrast, NWFZ negotiators have been freer in their various regional contexts to exercise a combination of leadership, foresight, astute diplomacy, effective negotiation strategies, and sovereign powers, to create binding nonproliferation and disarmament regional arrangements and contribute to wider efforts to move towards a safer nuclear-free world.

Until recently, the nuclear weapon states (NWS) had a somewhat ambivalent attitude to NWFZs. On the one hand, they acknowledged their importance in constraining horizontal proliferation – the spread of nuclear weapons to countries that did not previously possess them. On the other hand, no doubt under the influence and pressures of their respective militaries, NWS were often reluctant to accept constraints on vertical proliferation – the limiting of nuclear weapon states’ freedom to station, position, deploy and transit nuclear weapons wherever they chose, especially in maritime regions affected by or included within NWFZs. Instead, they favoured the NPT approach of obliging non-nuclear states to forego nuclear weapons but not preventing nuclear weapon states from stationing or deploying their own nuclear weapons in the territories of non-nuclear states, and not insisting that they provide negative security assurances (that is, binding assurances that they would not use or threaten to use nuclear weapons against the non-nuclear state). On both counts, the existing NWFZs go beyond the NPT. They prohibit stationing (but not necessarily transit) of nuclear weapons in zonal territory; and require nuclear weapon states to ratify associated protocols providing negative security assurances (and, where relevant, comply with the treaty in any territories within the zone that they administer or control).

This past ambivalence on the part of NWS is most exemplified in the relative slowness with which they have chosen to ratify the applicable NWFZ protocols. The United States, for example, has to date only fully signed and ratified the Antarctic and Latin American treaties, while signing but not yet ratifying the South Pacific and African NWFZs, and not yet signing the Southeast Asian and Central Asian zones. This is despite its in principle support for all these initiatives.

Whilst not disappearing, this past NWS ambivalence towards NWFZs is evolving into a more nuanced appreciation of the positive role such zones can play in fraught proliferation-prone regional contexts, especially the Middle East, Northeast Asia, and South Asia. What has especially concentrated the minds of NWS specialists and diplomats, if not their military echelons, is the distinct possibility that the non-proliferation regime underpinned by the central Nonproliferation Treaty may collapse if action is not also taken to establish complementary regional nuclear free zones that take into account specific regional conditions contributing to proliferation.

The precipitating reason for worrying about such developments is the move by Egypt and other non-nuclear-states at the 2010 NPT Review Conference to insist that the US, Britain, Russia and the UN deliver on their earlier 1995 NPT Review Conference commitment to “exert their utmost efforts with a view to ensuring the early establishment by regional parties of a Middle East zone free of nuclear and all other weapons of mass destruction and their delivery systems”^[4], a commitment that was reaffirmed at the 2000 NPT Review Conference but then not pursued during the period of the US

George W. Bush Administration. In this context, the 2010 NPT Review Conference agreed on a Middle East resolution that called for the original US/UK/Russia sponsors of the 1995 Resolution, in conjunction with the UN Secretary-General, to convene a 2102 Conference on the proposed Middle East NWFZ/WMDNFZ. After some delay, steps are now being taken to convene this conference, to be hosted and facilitated by Finland. Progress on this has become a kind of line in the Arab sands as to whether the nuclear weapon states are serious about keeping their side of the “bargain” inherent in the NPT; that is, if non-nuclear states are to abjure from acquiring nuclear weapons, then nuclear states and their allies must show real progress towards nuclear elimination. In the case of the Middle East, Israel and the US cannot indefinitely rely on the NPT to prevent other regional states acquiring nuclear weapons while insisting on their own unconditional right to possess such weapons. Failure to move to new security arrangements in the Middle East, where many of the countries have the resources to develop or acquire nuclear weapons, can only be expected in the longer term to make a number of Middle East states reconsider their membership of the NPT.

Evidence of the somewhat more positive NWS approach to NWFZs may be found in recent US statements and actions both at the 2010 NPT Review Conference, and in the follow-up to the Conference. This is apparent not only in the US decision to agree to convening the above 2012 Middle East Conference on a NWFZ/WMDNFZ but also in Secretary of State, Hilary Clinton’s undertakings at the NPT Review Conference, and her subsequent referral of the South Pacific and African NWFZs to the US Congress for ratification of the relevant protocols:

I am announcing we will submit protocols to the United States Senate to ratify our participation in the nuclear-weapon-free zones that have been established in Africa and the South Pacific. Upon ratification, parties to those agreements will have a legally binding assurance that the United States will not use or threaten to use nuclear weapons against them, and will fully respect the nuclear-weapons-free status of the zones. And we are prepared to consult with the parties to the nuclear-weapons-free zones in Central and Southeast Asia, in an effort to reach agreement that would allow us to sign those protocols as well. We support efforts to realize the goal of a weapons of mass destruction-free zone in the Middle East, in accordance with the 1995 Middle East Resolution. The Middle East may present the greatest threat of nuclear proliferation in the world today. Adherence to the NPT is not universal, and a few countries that are parties to the NPT have violated their treaty obligations. But in spite of these difficulties, we want to reaffirm our commitment to the objective of a Middle East free of these weapons of mass destruction, and we are prepared to support practical measures that will move us toward achieving that objective.[5]

The Obama Administration followed up these 2010 commitments with its transmittal of the African and South Pacific Treaty protocols to the US Senate on 2/5/11. President Obama noted in his letter of transmittal: “Ratification of Protocols 1,2 and 3 by the United States would fully support U.S.nonproliferation policy and goals, and I am convinced that it is in the best interest of the United States to ratify these Protocols”. The accompanying advice from the State Department was that, while the U.S. had initially declined to sign and ratify the protocols:

The end of the Cold War, the dissolution of the Soviet Union, dramatic reductions in the number of nuclear weapons and their delivery systems, and the indefinite extension in 1995 of the NPT have created an environment in which adherence to the Protocols of the South Pacific Nuclear Free Zone (SPNFZ) Treaty has become advantageous to the United States...the cooperation of nuclear weapon States in nuclear-weapon-free zones

is important to many Parties of the NPT.[\[6\]](#)

The State Department made similar comments in relation to the African NWFZ, with the proviso that, in ratifying the negative security guarantees for Protocol 1, the guarantees only applied if treaty parties were also parties to the Nuclear Non-Proliferation Treaty (NPT) and in compliance with its nuclear non-proliferation obligations.[\[7\]](#)

In the case of all the NWS, including the United States, they have also been prepared to re-engage with ASEAN on signing and ratifying the protocols to the Southeast Asian NWFZ (Bangkok) Treaty. Representatives from all five NWS met with ASEAN representatives on August 8-12 2011 in Geneva. The President of Indonesia, Susilo Bambang Yudhoyono, described the resumption of dialogue on the zone as a “breakthrough” after a gap of over ten years since previous discussions. While not as yet concluded, the talks were resumed in Bali on November 14 2011. Following the talks, the Indonesian Foreign Ministry Chief for ASEAN Cooperation, Djauhari Oratmangun, stated that “Now that the P5 and ASEAN have the same draft to discuss, we hope we can move quickly to the signing stage”; and that ASEAN officials now expected that the P5 would sign the SEANWFZ protocols, which will be legally binding.[\[8\]](#) In other relatively recent statements by nuclear weapon states, the UK has emphasized its view that NWFZs are the principal way in which NWS can provide non-nuclear states with binding security guarantees on non-use and non-threat of use (as distinct from a separate convention on security guarantees, or non-binding assurances in the UN Security Council); while China, the only NWS at present that has unequivocally adopted a no-first-use policy, is on record as affirming that “nuclear weapon states should undertake...the obligation not to use nuclear weapons against non-nuclear weapon states, nor against nuclear free zones.”[\[9\]](#)

While there remains much unfinished business involving the responses of NWS to NWFZs, not least in the case of the Central Asian NWFZ (which none of the Western NWFZ have yet been prepared to ratify), there does seem a new window of opportunity to pursue further expansion of such zones. There is not only a new willingness on the part of major nuclear weapon states to acknowledge and provide support for such zones, but also widening interest in such zones in regions facing emerging nuclear threats and proliferation. As the recent 2010 Second Conference of government delegates from Nuclear-Weapon-Free Zones affirmed: “...the establishment of internationally recognized Nuclear-Weapon-Free Zones...strengthens world and regional peace and security, reinforces the nuclear non-proliferation regime, and contributes to the achievement of nuclear disarmament”.[\[10\]](#) The Conference went on to call for support for the establishment of new zones on the Korean Peninsula, in the Middle East, and in Central Asia, and appealed to the nuclear weapon states that have not yet done so to ratify the protocols for all of the established zones.[\[11\]](#)

The 2012 UN Middle East WMD/FZ conference to be hosted by Finland is a major and critically important initiative for addressing nuclear and WMD proliferation in that region and averting a potential collapse in the whole NPT non-proliferation regime. At the same time, it is also important to consider the potential value of applying the NWFZ approach to Northeast Asia, so far the only region in the world where nuclear weapons have actually been used in war (at Hiroshima and Nagasaki), where proliferation has already occurred in the form of North Korea’s nuclear weapon tests of 2006 and 2009, and where there have already been several NWFZ initiatives, both at a government and Track 2 civil society level.

Northeast Asia and Korean Peninsula Denuclearization Proposals and Initiatives

The more favourable international context for nuclear-free-zone concepts and initiatives suggests that it is timely to revisit denuclearization proposals for Northeast Asia, and to examine some of the precedents and precursors from previous successful NWFZ zone negotiations and treaties that could

inform both the negotiation and content of a Northeast Asian zone.

There have been a number of proposals and initiatives from as early as the 1950s for denuclearizing Northeast Asia and the Korean Peninsula.^[12] Early proposals included: 1959 Soviet calls for a Korean denuclearized zone and a wider Asia Pacific NWFZ; a 1972 US Arms Control and Disarmament Agency-commissioned study calls for a Korean NWFZ based on the 1967 Latin American (Tlatelolco) NWFZ Treaty precedent; North Korea's 1980-81 calls for a Korean Peninsula NWFZ; and Soviet President, Mikhail Gorbachev's 1985 proposal for an all-Asian conference to discuss NWFZs on the Korean Peninsula and in Southeast Asia. These various proposals reached what appeared to be a successful culmination in the form of the *Joint Declaration on the Denuclearization of the Korean Peninsula* signed by the North Korean and South Korean governments in January 1992. The agreement was made possible by the 1991 US decision to withdraw all of its tactical and theatre nuclear weapons deployed in South Korea.

Unfortunately the Declaration, while demonstrating how closely the North and South came to conceptual and practical agreement on the need to denuclearize the Peninsula, fell victim to disagreements and distrust over inspection and verification issues, and was never implemented. In no small part, the failure of the Declaration was due to its inadequate provisions and procedures, indeed a failure to learn from, and be informed by, the successful precedents of previous NWFZs, especially the Latin American and South Pacific denuclearized zones already established by 1992. While it did include some of the essential features of previous NWFZs, such as the bans on testing, manufacture, production, receiving, possession, storing, deployment or use of nuclear weapons (and even went beyond the existing zones in its ban on uranium reprocessing and enrichment facilities), it lacked a number of the other key features of a fully-fledged NWFZ. A conspicuous omission was the absence of protocol mechanisms for binding external nuclear weapon states to provide non-use or threat-of-use negative security guarantees to the two countries, a key element that might well have provided greater incentives for North Korea to commit to the denuclearization treaty, given its level of intense concern about being encircled by nuclear weapons (if no longer in the form of land-based nuclear weapons, then in the form of such weapons on mobile platforms or missiles targeted on North Korea).

The Joint Declaration's verification and control system was also deficient, requiring, as it did, both parties to agree to inspections rather than inspections on request being an inherent right of each party; and failing to contain mechanisms for dealing with non-compliance or violations. Even in the case of the aspect in which it went beyond existing treaties, reprocessing, there was no control over acquisition of enriched uranium through overseas processing of spent fuel.

There were further efforts to achieve denuclearization on the Peninsula through the 1994-2001 bilateral *US-DPRK Agreed Framework* following North Korea's 1993 suspension of its NPT membership; and then, following the advent of the 2001 US Bush Administration, the 2003-2009 *Six Party Talks* process, involving the two Koreas, China, the US, Japan and Russia, with China acting as Chair. In both periods of negotiation, there were promising moments at which proposed denuclearization steps on the part of North Korea were commenced but not in the end successfully completed or implemented. Following the advent of the US Obama Administration in 2009, substantive denuclearization negotiations have yet to resume, although there have been recent indications from North Korea of its willingness to again participate in such negotiations. Over the whole period, the nuclear proliferation threat in the region has progressively worsened, with North Korea's 1993 suspension of its NPT membership, testing of nuclear weapons in 2006 and 2009, testing of long-range missiles, and development of a major uranium enrichment facility that could eventually give it the capacity to produce over 100 nuclear bombs. These proliferation developments have been accompanied by serious border conflicts between North and South, most notably the

March 2010 North Korean torpedoing of the South Korean naval vessel, *Cheonan*, and the November 2010 shelling of South Korea's Yeonpyeong Island, both with serious loss of life. On the south side of the border, South Korea and the UN have regularly conducted major military exercises aimed at deterring North Korean military attacks, although on some occasions they seem to have had the reverse effect of provoking such attacks, raising the question of whether such military exercises might be just as effective in their demonstration effects if conducted well away from the border zone (rather than risk precipitating border hostilities with an encircled paranoid regime inclined to misread such exercises as intending to attack or invade across the border).

While there has been a hiatus in government-to-government negotiations on denuclearization of Northeast Asia and the Korea Peninsula, civil society groups, scholars, former government and military experts, and peace and disarmament non-government organizations, have continued to advance proposals and initiatives for denuclearization of the region; and to engage in Track 2 discussions to develop policy options that might be pursued at a governmental level in regional and international forums. The most detailed and developed of these various proposals are those of: Hiro Umebayashi and the Peace Depot in the form of their draft Model Northeast Asia Nuclear Weapon Free Zone Treaty[13]; John Endicott who has led a series of annual Track 2 consultations on the concept of a Limited Northeast Asian Nuclear Weapon Free Zone[14]; and the Nautilus Institute, which has embarked on a detailed research project to examine the feasibility of a Korea-Japan Nuclear Weapon Free Zone Treaty[15].

The Peace Depot Model Treaty, now also strongly supported by IPPNW and PPND, envisages a Northeast Asian NWFZ that would embrace the two Koreas and Japan, with supportive commitments from China, the United States, and Russia. It builds on the potential regional negotiation framework already partially achieved through the Six Party Talks. The Model Treaty draws very closely and appropriately on the essential elements of the already established NWFZ treaties, but also goes beyond these precedents to explicitly ask zone parties to forego reliance on extended nuclear deterrence (the nuclear umbrella).

The Limited Northeast Asian Nuclear Weapon Free Zone consultations have focused on the more modest confidence-building objective of putting in place a tactical nuclear-weapon-free zone embracing both land and sea territories in a circular or elliptical zone covering the two Koreas, Japan, surrounding land territories of China and Russia, and sea areas within the zone. The zone would also require protocols for nuclear weapon states, including the US, to undertake not to deploy nuclear weapons anywhere in the zone, at sea or on land. Such a zone, while not initially involving all nuclear weapons, would serve to cement the present absence of tactical nuclear weapons as a result of the US decision to withdraw such weapons from South Korea in late 1991, and the wider US-Russian decisions to cease deploying such weapons on surface naval vessels.

The recent Nautilus Institute proposal for a Korea-Japan Nuclear Weapon Free Zone is a variant of the Peace Depot Model Treaty in that it involves the same three core countries, the two Koreas and Japan, and includes very similar core provisions, but does not assume that all three countries will necessarily join the zone at the outset. Rather it seeks to build on the negotiation precedents and experience of existing NWFZ treaties to envisage a process in which the non-nuclear-weapon countries of the region (Japan and South Korea) agree on, and establish, a legally binding framework to prohibit nuclear weapons in the region that creates mechanisms and incentives for North Korea to join at a later date, if, as seems likely, it is not yet ready to join such a zone immediately. The focus of the Nautilus proposal is to draw on the negotiation precedents of other successful NWFZ treaties and to offer immediate confidence-building incentives that will encourage North Korea to denuclearize, particularly in the area of negative security guarantees not to use or threaten to use nuclear weapons against zone members. In the longer term, the proposal also seeks to reduce or

prevent potential nuclear rivalry between Japan and either of the Koreas.

The ensuing sections of this paper will examine in greater depth the precedents and precursors for a Northeast Asian Nuclear-Weapon-Free Zone, focusing particularly on institutional structures and processes, treaty accession and entry into force precedents, and monitoring and verification precedents. The final section examines the Northeast Asian NWFZ proposal and negotiation opportunities in the context of the MENWFZ and other regional NWFZ developments.

Institutional precedents

The existing NWFZs differ significantly in their institutional arrangements for governance, monitoring and oversight. The Latin American (Tlatelolco), Southeast Asian (Bangkok) and African (Pelindaba) NWFZ Treaties have permanent secretariats or commissions responsible for organizing meetings between the parties, providing technical support and advice, and implementing verification and compliance processes.

In Latin America, the relevant body is the Agency for the Prohibition of Nuclear Weapons in Latin America based in Mexico. In Southeast Asia, the Southeast Asian NWFZ Commission is coordinated through the ASEAN Secretariat in Jakarta, Indonesia. In Africa, the recently established organization is the African Commission on Nuclear Energy (ACONE) based in Pretoria, South Africa.

By contrast, the South Pacific (Rarotonga) and Central Asian (Semipalatinsk) Treaties have relatively minimalist governance arrangements, relying solely on oversight by and reporting back to annual meetings of the regional organization in the South Pacific case (the Pacific Forum) or to specially convened consultative meetings hosted on a rotating basis by zone states in the Central Asia case.

In regions where proliferation is either a very real risk or has already occurred, then it would seem prudent to adopt institutional arrangements that will oversee the denuclearization arrangements in as rigorous way as possible, bringing to bear the necessary specialist expertise, and constantly communicating with parties on their treaty obligations. In the three zones that have established fully-fledged agencies or commissions, there have been very real experiences of proliferation, either in the form of nuclear weapon states stationing nuclear weapons within the zone (as in the case of Soviet nuclear weapon deployment in Cuba) or in the form of potential horizontal proliferation by regional states (as in the case of South Africa under Apartheid), or in the former hosting of nuclear weapon state military bases (as in the case of American bases in the Philippines and Soviet-era bases in Vietnam).

The fact that proliferation has already occurred in Northeast Asia in the form of North Korea's nuclear weapons program, and the previous land-based stationing of nuclear weapons in South Korea up until early 1992, argues for the strongest possible institutional arrangements as part of a regional Northeast Asia NWFZ treaty. The absence of such fully developed institutional arrangements was, in part, responsible for the failure of the 1991 Joint Declaration agreement. As the Peace Depot Model Treaty Article 7 envisages, a Northeast Asian NWFZ should most certainly include the requirement to establish a Commission "to oversee the implementation of this Treaty and to ensure compliance with its provisions". However, following the precedents established by both the Tlatelolco and Pelindaba treaties, it would also seem important that such a Commission be embedded in a wider governance structure that requires meetings of a governing council or general conference at least every two years, both to receive reports from the Commission and to ensure that the relevant resources are made available for the Commission to carry out its work. The Tlatelolco Treaty is particularly valuable as a precedent in specifying a range of powers and relationships that OPANAL can command or access in carrying out its role; and the African Pelindaba Treaty's recent establishment of the African Commission has served to further clarify the range of responsibilities

required under current and foreseeable proliferation contexts.

Detailed aspects of the African Commission role have been usefully summarized in a Joint ISS/CNS study for a 2010 International Expert Workshop on establishing the African Commission. The study noted that the Commission would be responsible, *inter alia*, for: receiving and collating annual reports and exchange of information on nuclear activities and other matters relating to the treaty; arranging and convening consultations under the Annex 4 complaints and disputes procedures; reviewing introduction and application of IAEA safeguards under Annex 2; encouraging regional and sub-regional cooperation on the peaceful uses of nuclear science and technology, and cooperation with extra-zonal states on such peaceful uses; monitoring compliance with all treaty denuclearization obligations; servicing the conferences of parties to the treaty; and assistance to individual states in establishing national nuclear legislation to support the treaty. As in the case of zones elsewhere, such a Commission can potentially provide avenues for addressing critical proliferation issues by enabling peaceful nuclear development through regionally or internationally managed mechanisms rather than individual states seeking their own nationally-controlled enrichment or fissile material production facilities. The ISS/CNS study notes further that the African Commission can play an important role in partnering with a range of relevant international bodies, including not only the IAEA but also the CTBTO and AFRA, and in implementing in the African context a number of conventions and UN Security Council resolutions (such as 1540) that do not have secretariats to monitor regional compliance.

Treaty accession and entry into force precedents

It is sometimes assumed that, for a regional nuclear-weapon-free zone to be successfully established, it is necessary for each and every state in a designated region agree to join such a zone at the very outset. This is not the case, either in principle or in practice and precedent, if we consider some of the negotiation history that led to the existing zones.

The 1999 UN Disarmament Commission guidelines on establishing NWFZs, with unanimous agreement by nuclear and non-nuclear states, included principles referring to the need for all such arrangements to be “freely arrived at”, for the initiative to come from states within the zone, for all states to be participate in negotiations on the establishment of a zone, and for nuclear weapon states to be consulted in relation to their obligations towards such zones. However, the guidelines did not require that all states within a region join such a zone at the very outset.

In practice, some of the most successful zones in terms of current universal adherence and universal recognition and ratification by nuclear weapon states did not, in fact, attract initial adherence by all parties.

The Latin American Tlatelolco Treaty, for example, has secured universal adherence from all Latin American states and universal ratification of its negative security protocols by the five recognized nuclear weapon states. However, at the time of negotiations, 1963-67, the political conditions did not make it feasible to expect all regional states to immediately ratify the zone. While five Latin American states, Brazil, Mexico, Chile, Bolivia and Ecuador initially proposed negotiations on the zone in 1963, following the 1962 Cuban Missile Crisis, other states were not so enthusiastic. As Redick notes, Argentina argued at the time that such a treaty might freeze Latin American states into a “permanent state of inferiority”, and, as itself a country seeking to develop the entire nuclear fuel cycle, might adversely affects its own options for developing nuclear weapon capability. The zone looked even less likely to be successfully established when a military coup in early 1964 replaced the civilian government in one of the main and most influential proponents of the zone, Brazil. The new Brazilian military regime of General Castelo Branco was much more ambivalent about the zone, and moved towards a closer alignment with the United States while expressing

reservations about aspects of the proposed zones, including the question of “peaceful” nuclear explosions. When the negotiations for the treaty concluded in 1967, both Brazil and Argentina (both now under military regimes following the 1966 Argentina military coup) declined to bring the treaty into force for their countries, and were not to do so for over two decades. Following a lengthy process of confidence-building on nuclear issues that was facilitated by the Tlatelolco Treaty framework, and by bilateral discussions that culminated in the 1991 Brazilian-Argentine Agency for Accounting and Control of Nuclear Materials (ABACC) agreement, both Brazil and Argentina finally brought the treaty into force for their territories in early 1994. Cuba was to be an even longer hold-out state, not bringing the treaty into force for its territory until 2002. In the case of the Treaty protocols, there was similarly no immediate ratification of the protocols by the relevant nuclear weapon states. Britain was the first to ratify these in 1969, the US followed in 1971, China and France in 1974, and Russia in 1979. In all it took over a decade to achieve universal recognition for the protocols, and over three decades to achieve universal adherence amongst all zonal states.

There are some relevant parallels here for the Northeast Asian region. Nuclear weapon proliferation had already occurred prior to the NWFZ negotiations in the form of the 1961-62 Soviet deployment of short and intermediate range nuclear weapons in Cuba. Following the 1964 and 1966 military coups in Brazil and Argentina respectively, potential horizontal nuclear proliferation was also a very real possibility given the emerging nuclear capabilities in both countries and their military regime aspirations to keep nuclear weapon options open. In Northeast Asia, nuclear weapon proliferation has already occurred in the form of North Korea’s testing of two nuclear weapons, and acquisition of enrichment facilities that could lead to production of over 100 nuclear warheads. Other countries in the region, such as South Korea, Taiwan, and Japan have nuclear industries that could provide future capacity for nuclear weapon production, with two, South Korea and Taiwan, already having in the past conducted nuclear weapons related research. As in the case of Brazil, Argentina, and Cuba, one could expect North Korean initial reluctance to join a nuclear free zone now that the North Korean regime has demonstrably acquired nuclear weapon capabilities; but equally, North Korea may well be encouraged to join such an arrangement through the initial establishment of such a zone and comparable Tlatelolco-style mechanisms for subsequently bringing the treaty into force. In the case of Brazil and Argentina, it is noteworthy that fellow regional states, led particularly by Mexico, did not abandon or despair of the NWFZ concept but engaged closely with the Brazilian and Argentinian military regimes, integrated some of their specific concerns into the Tlatelolco Treaty, and developed an innovative entry-into-force mechanism (Article 28 under the original treaty, Article 29 under the current amended treaty) that permitted each regional state to join at a later date.

It was not only the treaty legal mechanisms that contributed to the final positive nonproliferation outcome but the actual confidence-building processes involved in the negotiations on the Tlatelolco Treaty that led to this outcome. As a specialist on Latin American regionalism, John Redick, observes:

“The Tlatelolco negotiating process...had a subtle but important impact on Argentine-Brazilian relations in the nuclear policy area. For the first time, two suspicious rivals discussed fully and frankly the most sensitive issues of nuclear policy and reached common positions...The coordination of nuclear policy by Argentina and Brazil relative to the NPT and during the Tlatelolco negotiations was a first substantive step in a lengthy nuclear confidence-building process.”[\[16\]](#)

The nature of the Tlatelolco entry-into-force mechanism as contained in the original Article 28 (now 29 in the amended treaty) involves regional states being able to bring the treaty into force for their own territories ahead of the wider objective of having the treaty in force for the whole of Latin America. This is achieved by giving each state the right to waive the requirements that designate the treaty coming into force for the whole of Latin America and the Caribbean. In this way, each state

brings the treaty into force for their territory by lodging their Article 28 waiver declaration. States such as Brazil, Argentina and Cuba, could sign and even ratify the treaty, but decline to bring it into force by not lodging their waiver. In practice, this mechanism allowed the treaty to progressively come into force for the whole of the region over a span of three decades. As Redick notes, Brazil and Argentina argued at the time for “a very strict entry-into-force formula that required ratification by all Latin American states”, commenting:

Had the Argentine-Brazilian formula prevailed, the Tlatelolco Treaty would have been dead on arrival. Instead, the Mexican delegate, Alfonso Garcia Robles, engineered a compromise (advanced earlier by Chile) whereby states could waive the aforementioned provisions and allow the treaty to enter into force for their territory.^[17]

In the case of Cuba, it preferred to rely on the nuclear umbrella of the Soviet Union during the Cold War years but has, since 2002, opted instead for the non-nuclear umbrella of the Tlatelolco Treaty, under which it has now secured binding negative security guarantees from, inter alia, the United States.

For Northeast Asia, NWFZ-linked negative security guarantees from the US, long sought by North Korea, could well prove important in encouraging North Korea to join a regional NWFZ at a later date even it is unprepared to dismantle its nuclear facilities immediately. If such a zone were established by fellow regional states, especially Japan and South Korea, with internationally-recognized and binding negative security protocols already signed by the nuclear weapon states, this would be a significant part of the calculus for the North Korean regime, just as a similar calculus has been for the Cuban leadership.

While other NWFZs have not incorporated the same complex but ultimately efficacious entry into force mechanism adopted by the Tlatelolco negotiators, presumably on the assumption that there was greater regional consensus at the outset about bringing the treaty into force, they have in practice experienced delays in securing complete application across the designated zones. In the case of the South Pacific Rarotonga NWFZ, Vanuatu did not ratify the zone until over a decade after its establishment, while Tonga did not ratify it until fifteen years after opening for signature. Similarly, while all Southeast Asia states signed rapidly, the Philippines did not actually ratify the Bangkok Treaty until six years after it was opened for signature. The African Pelindaba NWFZ Treaty set a minimum of 28 ratifications for entry into force; in the event, this was not achieved until July 15 2009, thirteen years after the treaty was first opened for signature, while the 23 remaining African states, including Egypt, have still not ratified and brought the treaty into force. As in the case of the Latin American zone, the other zones, particularly, the African zone, similarly demonstrate how the NWFZ normative legal framework serves to encourage progressive, as distinct from instantaneous, denuclearization of a specific region.

The role of entry into force mechanisms is also important in relation to NWFZ treaty protocols requiring extra-regional states to guarantee the status of the zone in territories under their control within the zone, and, in the case of the recognized nuclear weapon states, negative security guarantees. In the case of the Rarotonga Treaty, a useful precedent was set by the zone negotiators in designating the zone boundaries to include not only the land territories but also high seas areas in relation to the prohibition on nuclear testing anywhere in the zone. This requirement was contained in a separate protocol (Protocol 3) that the five recognized nuclear weapon states were invited to sign and ratify. At the time of negotiation of the treaty, France was still testing weapons at its Moruroa test site in Polynesia, which was included in the designated boundaries of the zone. France declined to cease testing and sign this protocol at the time the treaty was established (1985) but

eventually signed and ratified in September 1996, eleven years later. The US has still not ratified the Rarotonga protocols but, as discussed earlier, has now put them forward to Congress for ratification. Assuming the US Congress ratifies the Protocols, it will have taken 26 years for the full entry into force of the Rarotonga Treaty protocols. In the case of a Northeast Asian NWFZ, there would obviously be a greater need for early nuclear weapon state (especially US) ratification of the relevant negative security guarantees if North Korea is to be persuaded to bring the zone into force for its territory.

Monitoring and Verification Precedents

All of the existing NWFZ treaties have required member states to sign up to IAEA safeguards, and the associated IAEA verification procedures. Most of the zones required the standard IAEA safeguards arrangements, but the newest zone, the 2006 Central Asian Semipalatinsk NWFZ Treaty, requires zone states to sign up to the IAEA Additional Protocol safeguards. As Roscini notes:

The Semipalatinsk Treaty is the first nuclear weapon-free zone treaty to refer to the 1997 Additional Protocol providing for more intrusive and comprehensive verification measures. Indeed, under the safeguards system based on INFCIRC/153, the possibility for the IAEA to detect clandestine nuclear activities is limited, as inspections focus on declared nuclear material and on strategic points in declared facilities. Under the Additional Protocol, instead, the IAEA is given the authority to inspect undeclared facilities and to access all parts of a State's nuclear fuel cycle, including uranium mines, as well as any other location where nuclear material is or may be present.[18]

The Additional Protocol was introduced in the context of suspicions that the Iraq Saddam Hussein regime had sought to evade its NPT obligations through covert nuclear weapon development programs that were not detected through the IAEA's standard safeguards arrangement. Given a history of distrust concerning, and evidence of, clandestine nuclear weapon development programs in North Korea, and the previous discontinued clandestine nuclear weapons research program in South Korea, it would seem prudent for a Northeast Asian NWFZ arrangement to follow the Semipalatinsk precedent and include an obligation to bring into force both the standard IAEA safeguards and the Additional Protocol safeguards, as in Article 8(b) of the Semipalatinsk Treaty.

While the Semipalatinsk Treaty is stronger in respect of required IAEA safeguards, some of the other Treaties have complemented such safeguards with regional mechanisms of verification and compliance, and, in the case of Latin America, bilateral arrangements. Such regional and bilateral mechanisms are important both for confidence-building and for further strengthening verification in practice. While the new IAEA safeguards are more rigorous in nature, the IAEA faces resource constraints that can sometimes adversely affect its international inspection capabilities. Regional and bilateral verification mechanisms serve to not only enhance confidence-building and trust but also to complement and reinforce the effectiveness of central IAEA arrangements.

The Tlatelolco Treaty provides an important model and precedent for Northeast Asia in this key dimension of denuclearization. It requires all parties to: simultaneously submit to OPANAL (the treaty compliance organization) and IAEA semi-annual reports confirming the absence of prohibited activities (Amended Article 14); to provide supplementary information as requested by the OPANAL General Secretary (Amended Article 15); and to allow special inspections by the IAEA on the request of any member state (Amended Article 16). In addition the Treaty allows for the Treaty General Conference (on two-thirds majority procedures) to refer treaty violations to the UN Security Council, UN General Assembly, and Council of the Organization of American States (Article 21 in Amended

Treaty). The Tlatelolco Treaty has been reinforced by the bilateral ABACC agreement between Brazil and Argentina which conducts inspections and monitors nuclear materials and facilities in the two countries, and which shares some responsibilities with the IAEA, including conducting joint inspections.

The African Pelindaba Treaty has adopted similar regional mechanisms through its regional African Commission on Nuclear Energy. African member states are required to submit annual reports on their nuclear activities to the Commission (Article 13); and must allow inspections on the request of another state where the Commission has considered there is sufficient substance in a complaint to warrant an inspection. The Commission has the power to act on a two-thirds majority (Annex III) The inspections would be carried out by the IAEA on the request of the Commission, may be accompanied by representatives of both the complainant party and the Commission, and would be granted “full and free access to all information and places within each territory than may be deemed relevant by the inspectors” (Annex IV).

The Southeast Asian Treaty also has a parallel verification and compliance process through its Commission for the Southeast Asia Nuclear Weapon-Free Zone but does not have such rigorous specifications. It does not specify annual or semi-annual reporting but does envisage that the treaty Executive Committee has the right to conduct “fact-finding missions” if any party raises concerns about the compliance of another party. In the event of that the Executive Committee finds a breach of the treaty has occurred, it has the further power of convening a Commission special meeting, which then has a two-thirds majority power of referring violations to the UN Security Council and General Assembly, as well as taking any appropriate measures itself.

In the case a Northeast Asian NWFZ, it would seem prudent to similarly incorporate a complementary regional control and verification mechanism to that of the Tlatelolco and Pelindaba Treaties. As already noted, one reason for the failure of the 1992 Joint Declaration on the Denuclearization of the Korean Peninsula was the requirement that both parties agree to inspections rather than inspections being a mandatory right on the request of either party. Given the important of confidence-building mechanisms, it would seem necessary to both require annual reporting on each state’s compliance with the treaty, and to have processes, as in the Latin American and African treaties, for IAEA inspections to be conducted at the request of any party. Such confidence-building would be further enhanced if, as in the case of the Pelindaba Treaty, both the NEANWFZ Commission and representatives of the complainant party could accompany the IAEA inspections. The Bangkok Treaty formulation of a “fact-finding mission” separate from an IAEA inspection seems less rigorous both in terms of not having the necessary technical expertise and resources, and not specifying that such a fact-finding mission have full and free access to all information and sites.

It would also seem prudent to include powers of referral by a special meeting of a NEANWFZ Commission (on a two thirds vote basis) of any breach or violation of the treaty to the UN Security Council and UN General Assembly, as in the case of the Tlatelolco, Pelindaba and Bangkok NWFZ treaties, as well as providing the Commission with its own right to take appropriate measures.

The NEANWFZ proposal in the context of the Middle East WMDFZ and other current regional NWFZ developments

There are three regions facing critical stages in nuclear proliferation over the next two decades: the Middle East, Northeast Asia and South Asia.

In all three regions, proliferation has already occurred, and, in the absence of regional denuclearization measures, such proliferation is likely to extend further, and undermine the global NPT-based nonproliferation regime.

In the Middle East, Israel has possessed nuclear weapons since 1966, and is now believed to have up to 200 warheads; while Iran is rapidly acquiring uranium enrichment facilities that will give it nuclear weapon production capabilities within a few years.

In Northeast Asia, as we have discussed, North Korea has already tested two nuclear weapons, is believed to have up to 8 nuclear warheads, and is building uranium enrichment capacities that will give it the potential of producing over 100 warheads[19]; and South Korea, Japan and Taiwan have the nuclear industry and capacity to rapidly develop nuclear weapons if they chose to do so.

In South Asia, India and Pakistan have both tested nuclear weapons, India in 1974 and 1998, and Pakistan in 1998. India is estimated to have up to a 100 nuclear warheads[20]; while Pakistan is estimated to already have 110 nuclear warheads, and has recently been discovered to be rapidly expanding its plutonium-production and uranium enrichment facilities, with the potential of adding up to 27 nuclear warheads per year[21].

All three regions are locked in serious regional conflicts that could potentially escalate into nuclear war, whether by intent, miscalculation or accident: the Israel conflicts with Arab countries and Iran; the border clashes and lack of a final peace settlement between North and South Korea; and the India-Pakistan conflicts over Kashmir and cross-border terrorist attacks. Beyond the proliferation threats posed by existing or expanding proliferation within each region, there is the additional threat that Pakistan and North Korea will use their dramatically increasing nuclear weapon production capacity to clandestinely supply “off-the-shelf” nuclear weapons or radioactive dispersal weapons to other countries, or potentially even to non-state actors. Both of these countries have already demonstrated their preparedness to do this; and Pakistan intelligence agencies are already, according to some sources, assisting non-state actors.

In terms of progress on regional NWFZ arrangements to address these emerging proliferation threats, the present international focus is very much on the proposal for a Middle East NWFZ/WMD/FZ. As already noted, what is concentrating the minds of major powers such as the US and Russia, the international community, and arms control specialists, is the risk that failure to pursue an agreed zonal measure for the Middle East could lead to an unraveling of the whole Non-Proliferation Treaty. Egypt has already declined to bring into force its own membership of the African NWFZ treaty until a Middle East NWFZ is also in place.

Comparing the two regions of the Middle East and Northeast Asia, there are both common and distinguishing factors that are affecting progress on regional denuclearization. Common to both regions is the absence of a permanent regional organization and architecture that can provide regular ongoing forums for regional states to better comprehend and negotiate their security needs and resolve regional conflicts. Also common is the existence of close alliances between one or other of the nuclear powers with specific regional states. The US has particularly close relationships with Israel and Saudi Arabia in the Middle East; and alliances with South Korea and Japan in Northeast Asia. Russia has a close relationship with Syria in the Middle East; and China with North Korea in Northeast Asia. These external alliances or relationships have complex influences on regional denuclearization. On the one hand, these bilateral relationships have sometimes served to restrain proliferation, as in the case of US dissuasion of South Korea from a nuclear weapons research program. On the other hand, they have led to reliance on bilateral relationships rather than regional organizations and forums for addressing regional security problems. It is significant that the regions where regional denuclearization has progressed most over the past four decades are ones where regional states work closely together through regional organizations: the OAS, Pacific Forum, ASEAN, and the African Union.

One significant difference between the Middle East and Northeast Asia has been the lengthy

diplomatic efforts of Middle Eastern states to engage the UN, NPT forums (such as the five yearly Review Conferences), and the nuclear weapon states in regional initiatives to address the Middle Eastern proliferation problem. Israel, in its early acquisition of nuclear weapons as a “last resort” deterrence measure perceived to ensure its very survival in a context where many Arab states and Iran deny its very right to exist, has simultaneously relied on the NPT to restrain the Arab states and Iran from themselves acquiring nuclear weapons. Unfortunately for Israel, this policy of refusing itself to accede to the NPT while relying on the NPT to restrain its fellow regional states is now becoming unsustainable: other regional states, like Iran, are moving to acquire nuclear weapon capability through either indigenous production or off-the-shelf transactions from Pakistan or North Korea; and are frustrated by the lack of progress towards the nuclear disarmament obligations that underpin the NPT treaty regionally and globally.

The diplomatic efforts of Middle Eastern states, such as Egypt and Iran, achieved some success from 1974 onwards in the form of an annual UN General Assembly resolution calling for establishment of a Middle East NWFZ. From 1980, this became unanimously endorsed, when Israel began supporting the resolution in principle while indicating that it would not participate in negotiations on such a zone until the conclusion of peace settlements with its Arab neighbours. As discussed, the diplomatic stakes escalated at the 2010 NPT Review Conference when Egypt and other states were successful in gaining the US Obama Administration’s and Russia’s support for a 2012 conference on the MEWMDFZ proposal.

By comparison, the Northeast Asian governments have so far not chosen to pursue the concept of a region-wide NWFZ either in UN or NPT forums, nor collectively agreed on a region-wide zone. Rather they have preferred in the past to pursue more circumscribed denuclearization arrangements on the Korean Peninsula through the bilateral North-South negotiations of 1991-92 that culminated in the Joint Declaration denuclearization agreement signed but not implemented; and to rely on their respective external nuclear weapon states alliance partners, the US, China and Russia, to convene the on-again, off-again Six Party Talks as a denuclearization negotiation forum. In the latter case, there was some promise of a possible forum for discussing wider Northeast Asian denuclearization in the form of the 2007 Six Party Talks working group on a “Northeast Asia Peace and Security Mechanism” but this became a casualty of North Korea’s subsequent withdrawal from the talks. While, as previously discussed, North Korea has in the past expressed support in principle for a regional nuclear free zone, neither Japan nor South Korea have called at a governmental level for moving towards negotiation of a regional NWFZ, despite their strong support for such zones in other parts of the world. As a result, there is not the same diplomatic energy oriented towards such a zone at the government level as there is in the case of the Middle East zone, despite comparable urgency in the risks associated with proliferation in Northeast Asia and despite the appeals from civil society groups and influential media on the need for such a zone.

There are also some inherent differences in regional security structures that make a Northeast Asian zone more of a diplomatic challenge. In the case of the Middle East, Israel, while having strong military and economic assistance from the United States has chosen to develop its own nuclear deterrent rather than rely on extended deterrence from the United States. The United States, for its part, has multiple, sometimes competing interests in the region, not least the question of access to Middle East oil resources. Given the proliferation threat posed by Iranian enrichment programs, and the perceived potential threat that this might engender not only to Israel but also to Arab states in the region, there is the potential for further proliferation in the region. There is also need to show progress on the Middle East WDMDFZ proposal in time for the next NPT Review Conference, scheduled for early 2015. For these reasons, the need to make progress on both the Palestinian issue and the wider denuclearization issues has become a high priority for the US, other nuclear powers, and the wider international community.

In Northeast Asia, by contrast, South Korea and Japan have preferred to rely on the perceived extended deterrence arrangements under their respective alliances with the United States rather than pursue the regional nuclear free zone concept advocated strongly by a number of academics and disarmament groups in the region. Over the last two years, in part due to the recent border conflicts with North Korea, denuclearization talks have not resumed, even on the more circumscribed Korean Peninsula denuclearization concept. There are, however, some recent small signs that North Korea is willing to return to talks, either bilaterally with the United States or through the wider Six Party Talks mechanism, although the US and South Korea are formally requiring more evidence of North Korean seriousness before returning to talks. There may also be lingering wish-fulfilling hopes in some quarters that the North Korean regime will implode and the regional proliferation problem suddenly disappear, despite little evidence that this is about to happen in the near future and abundant worrying evidence that the regime is proceeding apace with a nuclear weapon program that goes well beyond its own deterrence needs (raising questions about North Korean aspirations to export nuclear-weapon-related materials or even warheads to interested state or non-state actors willing to pay for them). Despite the recent developments following the death of Kim Jong-il and the accession of his son Kim Jong-un to the leadership, hopes for major changes in North Korean policies and attitudes have been tempered by recent announcements from the regime that the international community should not “expect any change” in the wake of Kim Jong-il’s death.[\[22\]](#)

Despite the fact that the Northeast Asian region has not yet progressed to government-t-government negotiations on a regional nuclear free zone concept, or even agreement in principle on such a concept (as has occurred in the case of the Middle East), the negotiation history and background of the six established zones suggest that there is often a quite lengthy pre-negotiation phase in which civil society campaigns, Track 2 negotiations and proposals (involving a mix of non-government and government experts), and catalysing changes or crises in the regional or global political environment, can serve to concentrate the minds of regional governments and the wider international community.

For the five existing NWFZ treaties in populated regions, there were mobilizing or catalytic events or crises in each : for the Tlatelolco Treaty, the 1962 Cuban Missile Crisis; for the Rarotonga Treaty, French nuclear testing in the Pacific; for the Bangkok Treaty, the withdrawal of both Russia and the US from their respective military bases in Vietnam and the Philippines; for the Pelindaba Treaty, the end of the Apartheid regime in South Africa and the dismantling of its nuclear weapons; and for the Central Asian Semipalatinsk Treaty, the collapse of the Soviet Union and the end of Soviet nuclear weapons programs in that region.

In the case of some of these treaties, especially the Rarotonga, Pelindaba and Semipalatinsk, non-government disarmament groups, and UN and academic experts, played key roles in both the pre-negotiation and even negotiation phases of the treaties, both in developing zone concepts adapted to the special needs of the region, advancing model provisions, and acting as advisors during the negotiation process.

As noted earlier, there are already efforts at a civil society level in Northeast Asia to move towards a regional nuclear free zone before it is too late, and some carefully considered proposals for the scope, governance and provisions of such a zone. A positive aspect of the regional context is that there have been previous moments of in-principle governmental agreement on Korean Peninsula denuclearization (as evidenced in the limited and flawed 1992 Declaration on Denuclearization). The opportunity is there for Northeast Asian leaders to consider a phased introduction into force of a wider Northeast Asian NWFZ. North Korea could be encouraged to join a rigorously verified zone and dismantle its nuclear weapon program through a combination of NWFZ treaty incentives, such

as negative security guarantees from the US and other nuclear powers, a final peace settlement, and economic and energy assistance.

The precedent established in the Tlatelolco negotiations, where regional NWFZ negotiators were faced during the course of negotiations by military coups in two of Latin America's largest and most influential countries, Brazil and Argentina (and a sudden move in each towards keeping their nuclear options open), is instructive. The Tlatelolco negotiators, under Mexican diplomat Alfonso Garcia Robles' leadership, lost neither their nerve nor their vision in pursuing a safer, more secure, denuclearized Latin America. Instead, the negotiators created a normative nonproliferation NWFZ framework and mechanism for all regional states to embrace the treaty in principle while allowing hesitant states to bring the treaty into force for their own territories at the most appropriate juncture in terms of their own security calculus.

For Northeast Asia, the potential for the progressive bringing into force of a Northeast Asian NWFZ is similarly feasible on the Tlatelolco precedent since South Korea and Japan are already nuclear-free and could jointly negotiate such a zone with North Korea. The treaty would include initial acceptance in principle by North Korea, and provide every incentive for a subsequent North Korean decision to bring the treaty into force for its territory in return for binding US and other NWS security guarantees, especially if complemented by wider economic, energy and peace settlement agreements with North Korea.

III. References

[1] United Nations Office for Disarmament Affairs, "Status of Multilateral Arms Regulation and Disarmament Agreements", <http://unhq-appspub-01.un.org/UNODA/TreatyStatus.nsf>, accessed 3/9/11.

[2] For overviews of the established nuclear weapon free zones, see: James Martin Center for Nonproliferation Studies, *Nuclear-Weapon-Free-Zone (NWFZ) Clearinghouse*, cns.miis.edu/nwzf_clearinghouse, accessed 18/10/11; Goldblat, Jozef, *Arms Control: the New Guide to Negotiations and Agreements*, Chapter 13, Second Edition, SAGE, London, 2002; Hamel-Green, Michael, "Peeling the orange: regional paths to a nuclear-weapon-free world", *Disarmament Forum*, UNIDIR, no.2, 2011, pp.3-14.

[3] Viotti, Paul R., *Arms Control and Global Security: A Document Guide*, Praeger, Santa Barbara, CA., 2010, p.123.

[4] 1995 Review and Extension Conference of the Parties to the Treaty on the Non-Proliferation of Nuclear Weapons, *Final Document*, NPT/CONF.1995/32 (Part 1), June 1995, p.14; see also discussion and analysis of this document by Nabil Fahmy and Patricia Lewis, "Possible Elements of an NWFZ Treaty in the Middle East", *Disarmament Forum*, UNIDIR, v.2 2011, pp.39-40.

[5] US Secretary of State, Hilary Clinton, *Statement to the NPT Review Conference, May 3rd, 2010*, Reaching Critical Will website, <http://www.reachingcriticalwill.org/legal/npt/revcon2010/statements.html>, accessed 24/9/11.

[6] U.S. Senate, 112th Congress, *Message from the President of the United States transmitting Protocols 1,2 and 3 to the South Pacific Nuclear Free Zone Treaty, signed on behalf of the United States at Suva on March 25, 1996*, U.S. Government Printing Office, Washington, 2011, pp.III &.3.

- [7] U.S. Senate, 112th Congress, *Message from the President of the United States transmitting Protocols 1,2 and 3 to the African Nuclear Weapon Free Zone Treaty, signed on behalf of the United States at Cairo, Egypt, on April 11, 1996*, U.S. Government Printing Office, Washington, 2011, p.9.
- [8] *The Jakarta Post*, November 16 2011, www.thejakartapost.com/news/2011/11/16, accessed 9/1/2012.
- [9] Hui Zhang, "China's Perspective on a Nuclear-Free World", *The Washington Quarterly*, v.33 n.2, April 2010, p.145.
- [10] Outcome Document, *Second Conference of Nuclear-Weapon-Free Zones and Mongolia*, New York, 30 April 2010, clause 17.
- [11] *Ibid.*, clauses 18, 25-27.
- [12] Hamel-Green, Michael & Hayes, Peter, "The Path Not Taken, The Way Still Open: Denuclearizing the Korean Peninsula and Northeast Asia", *The Asia-Pacific Journal*, 50-1-09, December 2009, http://japanfocus.org/-Michael-Hamel_Green/3267
- [13] Umabayashi, Hiromichi, *A Model Treaty on the Northeast Asia Nuclear-Weapon-Free Zone*, Peace Depot, Yokohama, November 2005.
- [14] Endicott, John and Gorowitz, "Track-II Cooperative Regional Security Efforts: Lessons from the Limited-Nuclear-Weapons-Free Zone for Northeast Asia", *Pacifica Review*, 11, 3,1999, pp.3293-3324; Endicott, John, "Limited Nuclear-Weapon-Free Zones: The Time Has Come", *Korean Journal of Defense Analysis*, vol.20, no.1, March 2008, pp.13-26; also see following website for further details of this initiative:<http://www.cistp.gatech.edu/programs/nuclear-nonproliferation/weaponsfreezone.html>.
- [15] Nautilus Institute, *Korea-Japan Nuclear Weapon Free Zone (KJNWFZ) Concept Paper*, February 15, 2010. For a further analysis of this concept, see Hamel-Green, Michael, "Implementing a Korea-Japan Nuclear-Weapon-Free Zone: Precedents, Legal Forms, Governance, Scope, Domain, Verification, Compliance and Regional Benefits", *Pacific Focus*, vol.26, no.1, April 2011, pp.90-112..
- [16] Redick, John R., *Nuclear Illusions: Argentina and Brazil*, The Henry L. Stimson Center, Occasional Paper 25, December 1995, p.19.
- [17] *Ibid.*, p.18.
- [18] Roscini, Marco, "Something Old, Something New: The 2006 Semipalatinsk Treaty on a Nuclear Weapon-Free Zone in Central Asia", *Chinese Journal of International Law*, v.7 no.3, 2008, p.600.
- [19] Kile, Shannon N., Fedchenko, Vitaly, Gopaldaswamy, Bharath & Kristensen, Hans M., "World Nuclear Forces", *SIPRI Yearbook 2011*, Oxford University Press, 2011, p.351-2.
- [20] *Ibid.*, p.343.
- [21] *Ibid.*, pp.346-348.
- [22] BBC News Asia, 30 December 2011, www.bbc.co.uk/news/world-asia-16361378, accessed 9/1/12.

IV. Nautilus invites your responses

The Nautilus Peace and Security Network invites your responses to this report. Please leave a comment below or send your response to: napsnet@nautilus.org. Comments will only be posted if they include the author's name and affiliation.

View this online at: <https://nautilus.org/napsnet/napsnet-special-reports/regions-that-s-y-no-precedents-and-precursors-for-denuclearizing-northeast-asia/>

Nautilus Institute

2342 Shattuck Ave. #300, Berkeley, CA 94704 | Phone: (510) 423-0372 | Email:

nautilus@nautilus.org