

SESSION 3: NORTHEAST ASIA NUCLEAR WEAPON FREE ZONE PROPOSALS

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A Northeast Asian Nuclear Weapon Free Zone and the Korean Problem

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President John F. Kennedy truly believed that there was a serious risk that nuclear weapons were destined to sweep all over the world. In March of 1963 in response to a reporter's question at a news conference, he said, "Personally, I am haunted by the feeling that by 1970 . . . there may be 10 nuclear powers instead of 4 and by 1975, 15 or 20. . . . I would regard that as the greatest possible danger and hazard." He spent much of his presidency pursuing the cause of nonproliferation.

Not long after President John F. Kennedy's presidency the United Nations General Assembly took up the subject of nuclear weapon proliferation. A resolution was passed which over the next few years proved to be the blueprint of the Nuclear Nonproliferation Treaty, The NPT. Among other things this resolution called for "balanced obligations" between nuclear weapon and non-nuclear weapon states in the treaty to be negotiated. The NPT was signed in 1968 and entered into force in 1970, and came to be recognized as the principal reason- along with the parallel extended deterrence policies of the United States and the Soviet Union- that President Kennedy's darkest fears have at least thus far not been realized.

In addition to largely stopping what appeared to be the inevitable spread of nuclear weapons to additional countries the NPT preserves the right of NPT parties to negotiate separate regional arrangements prohibiting nuclear weapons, or nuclear weapon free zones. While the world wide nuclear weapon disarmament ultimately called for in the NPT appears far off in the future such regional arrangements can be an important substitute. States can band together in a regional treaty and keep nuclear weapons out of their part of the world. This is the nuclear weapon free zone idea. The first such treaty in a populated area, the Treaty of Tlatelolco, was signed in 1967 a year before the NPT. It prohibited nuclear weapons in Latin

America and was motivated by this idea of keeping nuclear weapons out of Latin America and also by the determination of Latin American States not to be caught in some future nuclear weapon crisis like the Cuban Missile Crisis. Beyond Tlatelolco, by means of legally binding nuclear weapon free zone arrangements, nuclear weapons today are kept out of large regions of the world. For example, under several treaties now in force the entire southern hemisphere is off limits to nuclear weapons.

However, one of the gravest threats to the integrity of the NPT and the world wide nonproliferation regime and as a result the peace of the world is the nuclear weapon program in the Democratic People's Republic of Korea, North Korea. In the years 2003-2008 North Korea, beginning with perhaps enough plutonium for two nuclear weapons, conducted two reprocessing campaigns and thereby acquired enough plutonium for 10-12 nuclear weapons. In this same time frame North Korea activated the potential uranium enrichment based nuclear weapon program that it had clandestinely acquired from A.Q. Khan and by 2010 appeared to have developed that capability, as well. In 2006 and 2009 two nuclear weapon tests were carried out, the first was a failure, the second was apparently somewhat successful. North Korea has also developed a medium range ballistic missile capable of delivering nuclear weapons onto the territories of all of its neighbors. Thus this program represents a serious threat to the states of the region and also as a result could cause nuclear proliferation in the region sufficient to break the NPT.

Would a nuclear weapon free zone arrangement in northeast Asia be a practical solution for the regional threat represented by the North Korean nuclear weapon program? In 1991 a short lived nuclear weapon free zone undertaking for the Korean peninsula was negotiated by North and South Korea but it collapsed within months. Let us examine one such arrangement, the free zone for Latin America, to determine whether it could represent a possible model to be followed here.

The Treaty for Prohibition of Nuclear Weapons in Latin America-also known as the Treaty of Tlatelolco-obligates parties not to acquire or possess nuclear weapons, or to permit the storage or deployment of nuclear weapons on their territories by other countries. Besides

the agreement among the parties themselves, two additional protocols address matters that concern countries that have territories outside of the region. Protocol I involves an undertaking by outside countries that have territories in the nuclear weapon free zone to adhere to the treaty's terms for those territories. Protocol II involves a negative security assurance undertaking pursuant to which the NPT nuclear weapon states pledge never to use or threaten to use nuclear weapons against a treaty party. The United States is a party to both protocols- which like the Treaty itself are legally binding.

In mid-1962, the Brazilian representatives to the UN General Assembly proposed making Latin America a nuclear-weapon-free zone. At the seventeenth regular session of the General Assembly in October, during the Cuban Missile Crisis, a draft resolution calling for such a zone was submitted by Brazil and supported by Bolivia, Chile, and Ecuador. While asserting support for the principle, Cuba stipulated certain conditions, including the requirement that Puerto Rico and the Panama Canal Zone be included in the NWFZ, and that foreign military bases, especially Guantanamo Naval Base, be eliminated. The draft resolution was not put to a vote at the General Assembly that year.

On April 29, 1963, at the initiative of the president of Mexico, the presidents of five Latin American countries- Bolivia, Brazil, Chile, Ecuador and Mexico- announced that they are prepared to sign a multilateral agreement that would make Latin America a nuclear-weapon-free zone. On November 27, 1963, this declaration received the support of the UN General Assembly, with the United States voting in the affirmative.

The Latin American Nations followed this initiative with extensive and detailed negotiations among themselves. They were determined to avoid being caught up again in another, future, superpower confrontation. At a conference in Mexico City held November 23-27, 1964, the Preparatory Commission for the Denuclearization of Latin America was created and instructed to prepare a draft treaty.

On February 14, 1967, the treaty was signed at a regional meeting of Latin American countries at Tlatelolco, a section of Mexico City, thus the Treaty became known as the Treaty of Tlatelolco. On December 5, 1967, the UN General Assembly endorsed the treaty by vote of 82 to 0, with twenty-eight nations abstaining. The United States voted in support of the treaty. The treaty has entered into force for all Latin American and Caribbean states. Cuba signed the treaty in 1995 and was the last to ratify in 2002. Initially Belize and Guyana were not invited to accede to the treaty, because a special regime was foreseen for those political entities whose territories are wholly or partially the subject of disputes or claims by an extra-continental state and one or more Latin American states. They have since become parties to the treaty.

The Treaty of Tlatelolco is designed to establish an NWFZ in Latin America. It has an elaborate structure for the application of its obligations. The full treaty NWFZ comes into full effect only after all Latin American States are parties to it, both protocols are fully subscribed, and all Latin American States agree to apply IAEA safeguards. Such safeguards are also required of all non-nuclear weapon state parties by Article III of the Nuclear Non-proliferation Treaty. For an individual Latin American state to be actually obligated (even if it is a party), it must not only sign and ratify, but also formally declare that it waives the above requirements and is prepared to assume the treaty's obligations. Several Latin American states still have not negotiated IAEA safeguards (for a small island state they may not seem practical) but all have ratified and waived. Thus, the treaty is in force for all Latin American states although the full treaty regime has not yet come into force. The full treaty regime includes ocean areas adjacent to the Latin American region.

So what could this mean for a nuclear weapon free zone in Northeast Asia to include North Korea? North Korea has highly valued a nuclear security assurance from the United States and insisted on such a commitment in the context of negotiating the now moribund Agreed Framework in 1994. Normally a nuclear weapon free zone treaty comes with a nuclear weapon security assurance which is legally binding. But there are other things that North Korea has wanted in the past that some of the potential nuclear weapon state security assurance signers may not be prepared to provide as yet such as diplomatic recognition. North Korea may not want to obligate itself at this time without that. The United States may not wish to

sign a security assurance protocol without commitment by North Korea to a comprehensive peace treaty; North Korea may not be ready for this. South Korea may not want to become party to a Northeast Asian nuclear weapon free zone treaty without a commitment by North Korea to withdraw its huge deployment of conventional forces from the border, North Korea may be opposed to that at this time. Japan may have issues with North Korea and vice-versa.

All of these major policy desiderata of the various treaty parties and security assurance protocol parties could be made conditions for the entry into force of the treaty but something like the waiver mechanism of Tlatelolco could be employed to permit the gradual entry into force of the treaty even if many of these conditions remain unfulfilled.

The achievement of a nuclear weapon free zone in northeast Asia could be a large step forward for peace. All avenues toward this laudable but seemingly very distant objective should be examined. The Treaty of Tlatelolco is a possible model that could be considered.