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Kurzanalyse
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A Nuclear-Weapon-Free Zone in the Middle East

Heinz Gärtner

- What is the idea ?
- What is the rationale behind?
- What is the concept?
- What is the process?
- What could be the role of Austria?

Hinweis I: Beigeschlossen ist eine ausführliche Zusammenfassung in deutscher Sprache

Hinweis II: Soeben ist das von Heinz Gärtner herausgegebene Buch „*Obama and the Bomb: The Vision of a World Free of Nuclear Weapons*“ im Peter Lang Verlag, Frankfurt am Main erschienen.

The idea

The idea of a nuclear-weapon-free zone (NWFZ) in the Middle East¹ has been around for quite some time. Over the years, there have been several regional and multilateral initiatives. The first dates back to 1974, when the United Nations General Assembly adopted a resolution tabled by Egypt and Iran. Israel abstained. In 1980, Israel submitted its own proposal, but later withdrew it and said it would prefer direct negotiations with the states in the region. But since the late 1970s, almost every session of the General Assembly has called for negotiations on a nuclear-weapon-free zone in the Middle East. It is also enshrined in United Nations Security Council Resolution 687 (1991), which set out the terms for ending Iraq's occupation of Kuwait; the Resolution recalls "the objective of the establishment of a nuclear-weapons-free zone in the region of the Middle East" and the need to work towards the establishment of a zone free of all weapons of mass destruction.²

The Review Conferences to the Nuclear Non-Proliferation Treaty (NPT) of 1995³ and 2000 also called for negotiations on a nuclear-weapon-free zone in the Middle East, and the final document of the 2010 NPT Review Conference⁴ underscores the importance of establishing nuclear-weapon-free zones in general, and in the Middle East in particular. The final document also suggests organizing a conference in 2012 to consider "practical steps" toward these goals, but neither a location nor a facilitator for such a conference has yet been announced. In addition, on September 24, 2010, the General Conference of the International Atomic Energy Agency (IAEA) adopted a resolution⁵ welcoming the initiatives on the establishment of a zone free of weapons of mass destruction (WMD) in the Middle East; at the same time, however, the Conference rejected a resolution⁶ that expressed "concern about the Israeli nuclear capabilities."

The rationale

In March 2011, in response to Muammar el-Qaddafi's violent attacks on a popular uprising against his repressive regime, an international coalition enforced a no-fly zone over Libya and flew air raids to protect civilians and support opposition forces. Some observers have suggested that both North Korea and Iran might conclude that Qaddafi's fatal error was

¹ See also: "A Nuclear Free Zone in the Middle East: Realistic or Idealistic?" *Palestine-Israel Journal of Politics, Economics and Culture*, Vol. 16, No 3&4, March 2010.

² Resolution 687 (1991), Adopted by the Security Council at its 2981st meeting, on 3 April 1991.

³ NPT/CONF.1995/32, Part I, Annex Resolution on the Middle East.

⁴ NPT/CONF.2010/50 (Vol. I), 2010 Review Conference of the Parties to the Treaty on the Non-Proliferation of Nuclear Weapons, Final Document, May 2010.

⁵ General Conference, *Application of IAEA safeguards in the Middle East*, Resolution (GC(54)L.1) submitted by Egypt, 7 September 2010.

⁶ IAEA General Conference, GOV/2010/49-GC(54)/14, Date: 24 September 2010, (GOV/2010/38), Item 20 of the Conference's provisional agenda, (GC(54)/1), Israeli nuclear capabilities.

giving up Libya's nuclear program in 2004,⁷ leaving his regime open to attack by international forces. By this logic, the international community would not have intervened if Libya had a nuclear weapons program.

This interpretation is wrong for several reasons. First, possessing nuclear weapons does not prevent conventional war or international intervention. Nuclear powers took part in the Korean and Vietnam Wars, the Yom Kippur War, both the Soviet and U.S. wars in Afghanistan, and the Iraq War. Nuclear weapons did not deter India and Pakistan from waging armed conflict over Kargil. This is especially true if there is an asymmetric relationship between powers, when one side has a huge conventional and nuclear superiority and the other has only a tiny nuclear capability. Powers with overwhelming superiority would not be deterred from using force against weaker opponents. North Korea and Iran should not rely on their nuclear bombs! Small states are not deterred from fighting big nuclear powers - big states are even less deterred from fighting small nuclear powers!

Furthermore, in both North-East Asia and the Middle East, the United States provides "extended deterrence" or a "nuclear umbrella" to protect its allies from a nuclear threat or attack. The U.S. has to demonstrate credibly that it would use overwhelming conventional and nuclear force if an ally were attacked with nuclear weapons. In general, major nuclear powers are more rather than less likely to use force against smaller states that develop nuclear weapons or are considered to be a risk.

This might well have been the chief reason Qaddafi abandoned his nuclear program in 2004; he may have believed that he was less secure with the bomb than without it. A similar fear may have persuaded Iran to suspend its own nuclear weapons program in 2003.

Based on this analysis, most of the parties to the NPT decided to sign and ratify the treaty, including European states like Germany and Sweden. They had both negative and positive incentives to do so. Parties to the NPT without nuclear weapons capabilities would be less likely to be a target of a nuclear attack, and they would also have better access to peaceful nuclear energy.

What does this mean for prospects for a nuclear-weapon-free zone in the Middle East? Several states in the region have the potential to achieve nuclear capabilities, and at the same time become targets for nuclear strikes. It has long been assumed that Israel has nuclear weapons capabilities. If Iran obtains them as well, it might become a potential target for Israel and the United States. It also could provoke a nuclear arms race in the region,

⁷ Curtis H. Martin, "Gauging Engagement: Obama's 'Open Hand' to North Korea and Iran" (paper presented at the annual meeting of the International Studies Association, Montreal, Canada, March 17-20, 2011). Rüdiger Frank, *New York Times*, March 22 and 25, 2011. Global Security Newswire, March 28, 2011.

which in turn would endanger Israel if it lost its regional nuclear monopoly.⁸ A recent Israeli study⁹ warned that Egyptian or Saudi procurement of nuclear weapons could also lead to decreased Jewish migration to Israel and a lower rate of investment. In this scenario, all states in the region would be losers. By the same token, they all would benefit from a nuclear-weapon-free zone. It would give Israel an incentive to abandon its nuclear weapons rather moving toward a painstaking policy of deterrence and a costly arms race. In this case, Israel would have to open up its nuclear program to make its deterrence goals explicit.

The concept

What would a Middle Eastern nuclear-weapon-free zone look like?

A number of nuclear-weapon-free zones already exist. Article 52 of the United Nations Charter allows “the existence of regional arrangements or agencies,” and Article VII of the NPT¹⁰ recognizes 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 most relevant examples for the Middle East of nuclear-weapon-free zones include the Treaties of Tlatelolco in Latin America, Pelindaba in Africa, Rarotonga in the Pacific, Bangkok in South East Asia, and Semei in Central Asia. They are all different, but they share some common features. For example, in each zone, members are not allowed to use, develop, or deploy nuclear weapons. A zone cannot be self-declared but must be recognized by the UN General Assembly.

Such zones are small models of a world free of nuclear weapons. Member States have to accept intrusive verification measures, such as implementing the additional protocol to the NPT, forfeiting any fissile material, banning nuclear weapons tests and implementing the Fissile Material Cutoff Treaty (FMCT) and the Comprehensive Nuclear Test Ban Treaty (CTBT).

It goes without saying that the main difference between a nuclear weapons-free world and a nuclear-weapon-free zone is that in the latter case, nuclear weapons states continue to exist. Thus another critical dimension of a nuclear-weapon-free zone is that nuclear weapons states must guarantee that they will not use nuclear weapons to threaten or attack members of the zone. Negative Security Assurances (NSA) are enshrined in the protocols of the

⁸ Israel officially maintains a policy known as “nuclear ambiguity”, however

⁹ The study was prepared by General Ephraim Sneh, head of the Centre for Strategic Dialogue, an affiliate of the Netanya Academic College. Ahran Online, December 12, 2010.

¹⁰ Treaty On the Non-Proliferation Of Nuclear Weapons, signed at Washington, London, and Moscow July 1, 1968, entered into force March 5, 1970.

nuclear-weapon-free-zone treaties, and if ratified, they are legally binding.¹¹ The 2010 NPT Review Conference also made an important link to Negative Security Assurances, stressing the legitimate interest of non-nuclear weapon states in receiving unequivocal, legally binding assurances from nuclear weapon states not to use nuclear weapons against these zones.

U.S. President Obama's Nuclear Posture Review¹² (NPR) of 2010 included such Negative Security Assurances with two exceptions: states have to be (a) party to the NPT and (b) in compliance with their nuclear non-proliferation obligations. When Russia ratified the Protocols to the Treaty of Pelindaba in March 2011, it made more sweeping exemptions. It excluded (with respect of the island of Diego Garcia) "the cases of invasion or any other armed attack on the Russian Federation, its territory, its armed forces or other troops, its allies or a State towards which it has a security commitment, carried out or sustained by a non-nuclear-weapons State party to the Treaty in association or alliance with a nuclear-weapon State." In the past, the United States applied similar exemptions to all Negative Security Assurances.

The 2010 NPR does not endorse no first use of nuclear weapons. It reserves the right of the United States to make any adjustment in its assurances that may be warranted by the evolution and proliferation of the threat from biological weapons and U.S. capacities to counter that threat.¹³ A no-first-use policy would facilitate the creation of nuclear-weapon-free zones since it would exclude a preemptive strike against any nuclear weapons installations.

In sum, there are two general concepts for regional security: one with nuclear weapons and one without. The concept of "extended deterrence" entails the promise, explicit or not, of big nuclear powers being willing to use nuclear weapons if a nuclear attack against an ally occurs or if one is imminent. This "nuclear umbrella" should protect allies of the United States in various regions, such as East Asia or the Middle East. In contrast, the concept of a nuclear-weapon-free zone with Negative Security Assurances entails the pledge *not* to use nuclear weapons against any member of the zone.

The NPT Review Conference of 2010 endorses not only a Middle East zone free of nuclear weapons but also one free of weapons of mass destruction altogether. Since several states in the region are supposed to have stocks of chemical or biological weapons, it makes sense to extend the concept of a nuclear-weapon-free zone in the Middle East to one free of all

¹¹ Marco Roscini, *Negative Security Assurances in the Protocols Additional to the Treaties Establishing Nuclear Weapon-Free Zones*, Heinz Gärtner (ed.), *Obama and the Bomb: The Vision of a World Free of Nuclear Weapons*, (Peter Lang: New York-Frankfurt/Main-Vienna, 2011).

¹² Department of Defense, United States of America, *Nuclear Posture Review, Report*, April 2010.

¹³ This appears to be an unnecessary exception since the origin of a biological weapons attack is hard to detect. Moreover, biological weapons would not be effective military or terrorist tools because they would be too slow for a successful attack. See also Michael S. Gerson, *No First Use: The Next Step for U.S. Nuclear Policy*, *International Security*, Vol 35, No. 2 (Fall 2010), pp. 7-47.

WMD. Neither Egypt nor Syria has signed or ratified the Chemical Weapons Convention, and they have signed but not ratified the Biological Weapons Convention.¹⁴ In this case, the Negative Security Assurances could be broadened into no first use of weapons of mass destruction.¹⁵ Then the rationale of the U.S. NPR to reserve its right to use nuclear weapons against biological weapons would lose relevance and the United States could apply a no-first-use policy to the region. A zone free of WMD in the Middle East would give Israel the opportunity to join the NPT and the Arab states to join the chemical and biological conventions. Steps toward such a zone could be seen as confidence-building measures and as part of the peace process. Israel also has to feel safe and its right to exist must be recognized in the region before it might agree to a zone free of all WMD.

The process

The creation of a zone free of weapons of mass destruction in the Middle East will not happen overnight. Rather, the process will take many years, with various preparatory meetings and follow-up conferences. It might be similar to the Helsinki process of the Conference on Security and Cooperation in Europe (CSCE), which went on for almost 20 years with both partial successes and backlashes until the collapse of communism in Europe. As it did in the Helsinki process, Austria as a neutral state could play a constructive role as host, facilitator, mediator and provider of good offices in the creation of a zone free of WMD in the Middle East. A first litmus test will be the 2012 conference proposed in the final document of the 2010 NPT Review Conference. So far neither a facilitator nor a location has been identified. Israel's participation is still uncertain and without Israel the conference would be a failure. If nothing happens in 2012, the 2015 NPT Review Conference would have to make a new attempt. Peace in the Middle East cannot and should not be a precondition for creating a zone free of WMD.

¹⁴ See also Anne Penketh, *Unrest Complicates 2012 Middle East Meeting*, Arms Control Association, March 29, 2011.

¹⁵ Vgl. auch David Friedman, Emily B. Landau, Ephraim Asculai, Tamar Malz-Ginzburg, and Yair Evron, *WMD no-first-use in the Middle East: A way to move forward in 2012?* *Bulletin of the Atomic Scientists*, 7 February 2011.

Eine nuklearwaffenfreie Zone im Mittleren Osten

Die Idee einer nuklearwaffenfreien Zone im Mittleren Osten gibt es seit Mitte der siebziger Jahre und taucht seither in verschiedenen Resolutionen der Vereinten Nationen auf. Die Überprüfungskonferenzen des Atomwaffensperrvertrages (NPT) 1995, 2000 und insbesondere 2010 unterstreichen die Wichtigkeit von nuklearwaffenfreien Zonen im Allgemeinen und einer im Mittleren Osten im Besonderen. 2012 soll eine Konferenz zu dem Thema organisiert werden.

Alle Mitglieder einer nuklearwaffenfreien Zone würden davon profitieren. Keines hätte einen Vorteil von einem nuklearen Rüstungswettlauf. Israel würde sein nukleares Monopol verlieren. Staaten mit Nuklearwaffen in der Region könnten zu potentiellen Zielen der großen Nuklearwaffenmächte werden, zumal die USA ihren Nuklearschirm im Sinne der erweiterten Abschreckung über verbündete Staaten aufspannen.

Nuklearwaffenfreie Zonen beinhalten negative Sicherheitsgarantien, mit denen die Nuklearwaffenmächte das rechtlich verbindliche Versprechen abgeben, gegen solche Zonen keine Nuklearwaffen einzusetzen. Hier steht also die Zusicherung, auf den Einsatz von Nuklearwaffen zu verzichten, gegen diejenige, mit ihrem Einsatz im Falle der erweiterten Abschreckung zu drohen.

Da einige Staaten der Region andere Massenvernichtungswaffenprogramme (chemische und biologische) betrieben haben, müsste eine nuklearwaffenfreie Zone auf eine Zone ohne Massenvernichtungswaffen ausgedehnt werden. Die USA behalten sich in ihrer nuklearen Sicherheitsstrategie vor, künftig in extremen Fällen Nuklearwaffen auch gegen andere Massenvernichtungswaffen einzusetzen. Eine Verwirklichung einer Zone ohne Massenvernichtungswaffen im Mittleren Osten würde es ermöglichen, dass nukleare negative Sicherheitsgarantien auf einen Verzicht auf den Ersteinsatz von Massenvernichtungswaffen ausgedehnt werden.

Die Umsetzung einer solchen Zone kann nicht von heute auf morgen geschehen. Sie wäre ein jahrelanger Prozess, während dessen Vorbereitungs- und Nachfolgekonzferenzen stattfinden. Vorbild kann der KSZE-Prozess der siebziger und achtziger Jahre sein, der nach fast 20 Jahren zum Erfolg führte. Österreich hatte damals im Rahmen der Gruppen der neutralen und nicht-paktgebundenen Staaten eine konstruktive Rolle gespielt. Es könnte als neutraler Vermittler oder Gastgeber bei der Schaffung einer Zone ohne Massenvernichtungswaffen eine ähnliche Rolle übernehmen. Ein Testfall könnte schon die Konferenz 2012 werden. Sollte sie scheitern, dann müsste die Überprüfungskonferenz des NPT 2015 wieder einmal einen neuen Anlauf nehmen.

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