

**Remarks by Randy Rydell Ph.D.¹ to
The Secretary-General's Advisory Board on Disarmament Matters**

Agenda Item 3: Challenges facing the NPT and its review process with a particular focus on the Middle East: lessons learned from non-UN and regional processes on arms control and disarmament
United Nations, 29 June 2016

The Middle East Zone Free of Nuclear Weapons and other Weapons of Mass Destruction

In words often attributed to former US President Eisenhower, “If a problem cannot be solved, enlarge it.”² This advice effectively explains 42 years of diplomatic efforts to establish a nuclear-weapons-free zone in the Middle East, and does so on many levels.

The expansion began in 1974 with the first proposal for a Middle East nuclear-weapon-free zone—the preamble of the first General Assembly resolution on this subject was quite clear that the zone’s significance extended far beyond the region.³ As was the case with each of the treaties establishing regional nuclear-weapon-free zones, all these initiatives were linked to nuclear disarmament and to general and complete disarmament. They belong to the family of “partial measures”—i.e., steps toward the ultimate goal of general and complete disarmament.

The next expansion came via the annual General Assembly resolutions over the decades that followed in support of the establishment of the zone—resolutions that have been adopted by consensus since 1980, and that have never received a single negative vote by any Member State. The concept was further expanded in 1990 when Egyptian President Mubarak proposed the creation of a zone free of nuclear weapons and other weapons of mass destruction (MEWMDFZ).

In 1995, another expansion was registered in the adoption of the Resolution on the Middle East at the NPT Review and Extension Conference; henceforth, all NPT States Parties had a stake in this zone. The future of the NPT regime is now linked to this goal, given that the Resolution was a key part of the “package deal” that enabled the indefinite extension of the treaty without a vote. The goal was reaffirmed at the 2000 and 2010 NPT Review Conferences.

In 2010, the General Assembly gave the UN Secretary-General (and the co-sponsors of the 1995 Resolution) several mandates to promote this zone, including the convening of a conference in 2012, the appointment of a facilitator, and the selection of a host government. If adopted, the President’s draft Final Document of the 2015 NPT Review Conference would have expanded the Secretary-General’s role even further, by giving him a mandate to convene the conference “no later than 1 May 2016” on his own authority, while the 1995 co-sponsors were asked to provide support for the preparatory process and follow-up steps. The draft also requested the Secretary-General to appoint a “special representative” to facilitate this process.⁴

¹ Dr. Rydell is an Executive Advisor with Mayors for Peace. He served as a Senior Political Affairs Officer in the UN Office for Disarmament Affairs from 1998 until his retirement in 2014.

² A typical source is https://en.wikiquote.org/wiki/Dwight_D._Eisenhower.

³ A/RES/3263 (XXIX), 9 December 1974.

⁴ NPT/CONF.2015/WP.58, 11 June 2015.

As for the results achieved by this systematic political strategy of expansion, they are of course mixed. The zone proposal may be facing huge obstacles, but it continues to have overwhelming support throughout the world and UN Member States continue to view it as an initiative of enormous importance not just for the global nuclear non-proliferation regime, but for international peace and security overall. Its success is that it has survived.

Its failure is that the zone remains to be established, due to political obstacles that remain largely unchanged over the 42-year pursuit of this initiative. The main hurdles have been the persisting disputes over whether peace must precede or follow disarmament, whether achieving an Israeli/Palestinian agreement is a precondition for establishing the zone, and differences over the implications of regional instability produced by chronic armed violence by non-State actors.

Other obstacles are subjects for future negotiations, including the modalities of verification, establishing a geographic boundary for the region, ensuring irreversibility, agreeing on transparency arrangements, and other such details. These are not insurmountable.

A more serious shortcoming is that the strategy of expansion has not gone far enough. Many of the substantive differences could be overcome if there was some elaboration within the region of the meaning of “general and complete disarmament” as this phrase appears in existing initiatives to establish this zone. Since all UN Member States have long supported this as their “ultimate goal” (as agreed at the General Assembly’s first Special Session on disarmament in 1978), and since this has always been included as a goal of the zone, it would seem reasonable to elaborate a process for advancing general and complete disarmament within the region.

While the MEWMDZFZ will likely continue to focus on prohibiting all WMD and their delivery systems, parallel efforts could focus on spelling out how the goals of general and complete disarmament would be implemented, in particular those relating to conventional arms control, and the two primary Charter norms regarding the threat and use of force and the duty to resolve disputes peacefully. Unfortunately, while the General Assembly resolutions, NPT consensus texts at Review Conferences, and numerous statements and resolutions adopted within the region often make references to general and complete disarmament, they never address how to achieve it. A “general and complete disarmament” (GCD) arrangement in the Middle East would amount to a regional security regime, with zero WMD as its but not exclusive purpose.

If GCD is already viewed as a legitimate goal globally, why should it not also be a legitimate goal to pursue regionally? This case would be stronger still if progress in GCD were to produce spill-over effects improving the prospects for achieving zero WMD in the region, which would surely be a welcome alternative to the status quo alternative of zero disarmament.

Challenges Facing the NPT

The history of the NPT has evolved along the path of a rollercoaster—“successful” consensus review conferences have been followed by “disappointing failures”, with delegations often disagreeing even over the meaning of “success”. Over time, multilateral treaties adapt to changing circumstances through a kind of “life cycle”, in which treaties are concluded,

membership grows, and relations between States Parties reach a “steady state” maintenance pattern. Yet treaties also face their own risks of decline and possible collapse if their States Parties lose the political will needed to sustain it. They may also decide that something new is needed, and the life cycle starts again with a new agreement and possibly a new membership.

This is what is going on right now with the NPT. The treaty’s external challenges relate to factors that the States Parties cannot fully control, which include global trends in technology, trade, nationalism, militarism, and other such issues. Another type of external challenge relates to how NPT non-members are treated by the States Parties. The US/India nuclear deal and the proposal to bring India into the Nuclear Suppliers Group have been widely viewed as political rewards for non-membership. Some developing countries have contrasted such developments with restrictions on access by NPT States Parties to peaceful nuclear technology, which they view as contrary to Article IV of the treaty. They see a double standard on two dimensions: on one level, the treaty’s division of its parties into nuclear-weapon States and non-nuclear-weapon States; and on another level, the gradual emergence of special treatment for some non-parties. This perception of unequal obligations, uneven implementation (especially in nuclear disarmament), and favors for non-parties are symptoms of a treaty facing years of decline, due to concerns over the treaty’s legitimacy or fairness and the problem of shortcomings in compliance.

The nuclear-weapon States and their allies, meanwhile, have been voicing their own concerns about the need for enhanced non-proliferation controls, as seen in calls for controls over executing the right of withdrawal, the adoption of the Additional Protocol as the new global standard for nuclear safeguards, an emphasis on strict export controls, and other such measures. They also deny that there have been any shortcomings in the compliance with Article VI commitments on disarmament. They have put forward an incremental “step by step” approach for compliance with this Article, which includes a lengthy list of preconditions that must be satisfied before disarmament will be possible at some future uncertain date as an “ultimate goal”.

Opposition to this approach has led to some new challenges to the NPT. One focuses on the “humanitarian impact of nuclear weapons”, the subject of three international conferences in Oslo, Nayarit, and Vienna, and a theme that was reflected in the Final Document of the 2010 NPT Review Conference. Austria’s “humanitarian pledge”—a call to close the “legal gap” by pursuing a legal instrument to outlaw nuclear weapons—now has the support of a majority of UN Member States. In addition, a civil society movement is well underway—centered largely on the work of the International Campaign to Abolish Nuclear Weapons—in pursuit of a treaty to prohibit nuclear weapons (the “ban treaty”). These developments suggest a high level of dissatisfaction with both the NPT and the UN disarmament machinery (in particular the Conference on Disarmament). How the States Parties respond will go far in determining whether the NPT and the UN machinery will be strengthened or follow the path of decline.

Restoring the treaty’s legitimacy and credibility will not be easy, and it will not be possible at all without strong leadership from key States in the regime. Transparency reforms offer one of the best indicators of this type of political will. The *raison d’être* of the treaty review process is to maintain accountability for the implementation of treaty commitments, and in looking both backward and forward, the review process is fed by information provided by States Parties to document their actions. Action 21 of the 64-point Action Plan adopted at the

2010 NPT Review Conference asked the Secretary-General to establish a repository of this type of information, which the Office of Disarmament Affairs has now placed on its web site. As of June 2016, all the NPT nuclear-weapon States have submitted reports covering relevant issues in 2014.⁵ While the level of detail of these reports varies, a precedent has at least been set that can serve as a foundation for future progress in reporting. Several countries have proposed ways to enhance the quality of reporting in the review process, these include: Japan⁶; the 12-member Non-Proliferation and Disarmament Initiative⁷; and the six-member New Agenda Coalition.⁸

When the treaty was extended indefinitely in 1995, its parties spoke of “permanence with accountability” and “indefinite extension-plus”⁹ and both terms stressed the importance of transparency and regular reporting. As Jayantha Dhanapala—the Conference President—once asked, “So how can the states parties best prevent their hard-fought ‘bargain’ from deteriorating into a swindle? They will succeed,” he said, “only through steady, well-documented progress in achieving the goals of the treaty through its strengthened review process.”¹⁰

While no one can predict the next phase of the NPT’s life cycle—growth or further decline—it appears that developments in the review process will shape that future. The quality of the information generated by that process, and the quality of the substantive deliberations on the treaty’s implementation, will testify to the level of political will among the States Parties to sustain this treaty and bring it closer to universal membership. This suggests that the subject of the “strengthened review process” may itself deserve much closer attention during that review process, especially as it relates to the implementation of commitments related to the treaty’s three pillars, the actions agreed at the review conferences, and the Resolution on the Middle East. Transparency is indispensable in building the mutual trust and confidence required in a world seeking to achieve ambitious disarmament goals. To this extent, the fate of the NPT is very much dependent upon the fate of its review process, which requires transparency.

In conclusion, the future success of both the NPT and the MEWMDFZ is far from assured and both are facing risks of new failures and the possibility of being eclipsed by other initiatives. In terms of “lessons learned”, their prospects for success will grow with the confluence of political support on many levels, including from the nuclear-weapon States, key regional states, the wider diplomatic community, and civil society. Progress on both fronts will also require the congruence of national policies and priorities with international commitments, which is especially important in the fields of nuclear disarmament and establishing regional

⁵ <https://www.un.org/disarmament/wmd/nuclear/repository/submissions-2014/>.

⁶ http://www.un.org/en/ga/search/view_doc.asp?symbol=NPT/CONF.2015/WP.32.

⁷ Australia, Canada, Chile, Germany, Japan, Mexico, Nigeria, the Netherlands, the Philippines, Poland, Turkey and the United Arab Emirates; in: http://www.un.org/ga/search/view_doc.asp?symbol=NPT/CONF.2015/PC.III/WP.10.

⁸ Brazil, Egypt, Ireland, Mexico, New Zealand and South Africa; in: http://www.un.org/ga/search/view_doc.asp?symbol=NPT/CONF.2015/PC.II/WP.26.

⁹ Discussed in Jayantha Dhanapala and Randy Rydell, Multilateral Diplomacy and the NPT: An Insider’s Account (Geneva: UNIDIR, 2005), p. 49, 57.

¹⁰ *Ibid.*, p. 116.

WMD-free zones. The success of these two approaches to WMD threats will go far in leading the world to the achievement of their agreed common goal of general and complete disarmament.