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First Session

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Memorandum for the High-Level Policy Seminar, EUI, June 14, 2013

Grégoire Mallard*

In a paper entitled “Can the Euratom Treaty Inspire the Middle East?” I argued that the Euratom Treaty provided an interesting template for countries of the Middle East for 3 reasons:

1) The Euratom Treaty provides an interesting template for the governance structure of a future regional agency in charge of regulating nuclear development
   a. The Treaty is based on the assumption that the governance of the atom requires a series of political (and not just commercial) choices. Thus, political appointees (like Ministers, and not just industry representatives) sit in a Council and vote on the proposals of a Commission in charge of presenting nuclear industrial plans to its member-states (ex ante political regulation of conflicts); a Parliament ensures the visibility of debates
   b. The Treaty assumes that conflicts of interpretation over the meaning of their treaty obligations will emerge and it plans that a Court (composed of judges appointed by each member-state) will litigate conflicts in a professional way (ex post judicial regulation of conflicts)

   ➢ Thus, the Treaty institutes the rule of law (political + judicial checks on industrial endeavors) at the international level, rather than the constant bickering about the right interpretation of treaty commitments (what the latter allow or not in terms of industrial development)

   ➢ In contrast, a WMD Free Zone without such a strong governance structure will not resist the first controversy between Israel and Arab states or Iran over future controversial nuclear projects characterized as dual-use or military by one party

2) Euratom Treaty provides an interesting template for a technical agency in charge of controlling the use of nuclear fuels and special fissionable materials in the Community
   a. The regional controls can nicely complement the IAEA controls by managing all the routine controls, by helping new (and sometimes un-experienced) national atomic energy commissions adopt good book-keeping practices, etc.
   b. The Treaty does not list “nonproliferation” as the goal of its controls (but rather, materials traceability), so it can start operating before non-NPT parties (like Israel) become full parties of the NPT
   c. The Treaty has its own scale of “sanctions” for each type of violations, and decisions to sanction observed violations are taken by the region’s governance structure (Commission + Council) (ex post political decision in case of violations)

   ➢ Regional controls can serve as a confidence-building measure to create trust before the issue of Israel’s access to the NPT as NNWS (non-nuclear weapon state) is solved

   ➢ The regional decision-making process regarding sanctions isolates (and protects) the region from the politics of the great powers in the UN Security Council (where sanctions against violations observed by the IAEA are decided)

3) Euratom Treaty provides an interesting template for a technical agency in charge of procuring nuclear fuels for members of the Community: the European supply agency
   a. It rationalizes the supply and demand of nuclear fuels in the region (by publicizing prices, examining fuel supply contracts, etc.)

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b. It provides an insurance mechanism to member-states (by allowing the agency to prioritize the allocation of nuclear fuels to one of its member-states in case the latter faces unfair unilateral political sanctions from nuclear fuel exporters)

- This insurance mechanism can decrease the need for new enrichment facilities in the region (helpful to address Iran’s ambitions and other countries’ future ones)

Here, I would like to develop another less known aspect in the story of Euratom that can be interesting for countries of the Middle East to observe, if they want to move toward greater regional cohesion and greater independence from the politics of great powers.

4) The Euratom Treaty gives international legal sovereignty to the Community, which can thus negotiate international agreements on behalf of its member-states

a. It provides an opportunity for nations of the region to negotiate among themselves a common position before they enter into international contracts and international organizations (like how they negotiate their IAEA safeguards obligation)

i. Article 3.4. of the NPT allows the IAEA to negotiate with NPT signatory-states “collectively” how the IAEA will verify the NPT obligation of NNWS

ii. All Euratom NNWS signed the NPT in 1969 (but not France, which was a NWS), but they did not ratify the NPT until 1975, after they bargained collectively the exact terms of the IAEA-Euratom safeguards agreement in 1973

b. The negotiating process allowed Euratom to have a strong say on how the IAEA would conduct its controls in Europe (the IAEA was forced to listen to Euratom, as the latter had legally the “property” of nuclear fuels in the Community)

i. As a result, there was some convergence or harmonization between the IAEA and Euratom system of controls rather than the subordination of one system of control over the other

- The IAEA and Euratom had to prove that their safeguards were “equivalent,” and it was the IAEA that modeled its post-NPT controls (the “full-scope” safeguards, which were material-based rather than facility-based) on Euratom controls rather than the other way around

- Still, new Euratom controls included some surveillance of facilities, and included the possibility of joint-visits with IAEA inspectors

ii. Even if there was some convergence, there were still some exceptional rights granted to Euratom by the IAEA, as Euratom member-states kept some of their contractual rights after the entry into force of the NPT in Europe in 1975

- All nuclear fuels circulating from one Euratom member-state to another (which would normally qualify as “exports”) were exempt of prior notification to the IAEA (the Euratom region was considered as one “internal space”)

- All nuclear fuels sold by the US directly to the Community (per US-Euratom Treaty of 1958) were exempted from IAEA controls

- The direct involvement of Euratom in the negotiation with the IAEA characterized the process as one of “harmonization” between regional and global treaty regimes (without such a process of collective bargaining, West Germany may not have ratified the NPT)

- This precedent can be helpful to delineate the process by which Israel might become one day a full-NPT signatory state (as NNWS)

  o As a sign of good will, Israel can sign the NPT when a new regional agency is operating and wait to ratify the NPT as a NNWS until a collective agreement between the IAEA and a new regional agency is signed

  o This two-steps process means in fact that 4 issues will need to be addressed:
1. If Israel signs the NPT as NNWS; in exchange, neighboring states need to agree to form with Israel a regional control agency in charge of checking the traceability of ALL nuclear fuels and special fissionable materials in their region
2. The regional agency must have worked for some time to prove its effectiveness in materials-traceability taking into account 2 requirements:
   a. “Normal” control procedures must be improved to control fuels in all civilian facilities until it reaches Israel’s level of satisfaction (as Israeli claims that the IAEA is still ineffective to check nonproliferation, as in the case of Iran)
   b. “Exceptional” control procedures must be invented to apply to special fissionable materials that Israel has placed in military devices (as Arab states and Iran will not want to leave a nuclear “black hole” in the future Community), and some regime of Community secrecy must be designed to prevent military secrets from being used by states/terrorists to replicate Israel’s designs (as long as the process of nuclear disarmament unfolds in Israel)
3. In parallel, the future regional Commission and Council must work to develop a common bargaining position to enter into a new safeguards agreement between the IAEA and their new regional organization (it will be a successor agreement to the existing individual safeguards agreements between IAEA and individual states); this agreement will have to specify which role the IAEA will play in the process of checking nuclear disarmament in Israel as well
4. After this collective agreement is signed with the IAEA, and implemented to the satisfaction of all parties, Israel can ratify the NPT as a NNWS

- The other case of harmonization that Israel has scrutinized is the deal by which India reintegrated the “international community” of nuclear exchanges (the “123 approach,” which was negotiated between India and the IAEA; India and the Nuclear Suppliers Group). But the process of re-integrating India was much more problematic than the proposed harmonization modeled after the Euratom-IAEA deal:
  - The India deal, started after President Bush’s direct proposal to India, eventually applies IAEA “full-scope safeguards” only to the range of nuclear activities that India declares as “peaceful”: it leaves a nuclear black hole in India, and thus does not work toward nuclear disarmament (at best, it crystallizes the status quo)
  - The India deal was largely a bargain between great powers, sitting in the Nuclear Suppliers Group, which granted a waiver to India after US pressure (the IAEA was initially not included in the process, and when it was, it gave “exceptional” conditions to India, without prior negotiation with India’s neighbors on what they found acceptable)
  - As a result, it is likely that regional actors like Pakistan, which hoped, in vain, to benefit from the same treatment as India, will be incensed by the great power politics at work in the India deal (at worst, it will encourage Pakistan to further subvert the IAEA rules)

- A similar deal as the Indian deal applied to Israel and bargained between Israel and the great powers (in the IAEA Board and NSG, with a lot of arms-twisting and without prior consultation with Israel’s direct neighbors which do not sit in the NSG) will likely block any progress in the discussion of a WMD Free Zone between Israel and its neighbors

- If Israel wants to emulate the India-deal, then, it must accept the same consequences that India brought onto herself since its 1974 nuclear test: since then, India lives in a region not characterized as a “WMD-Free Zone” but in a region characterized by the “balance of power” between inimical NWS (China, Pakistan and North Korea). Maintaining the public goal of forming a Middle East that will be a WMD Free Zone seems optimal for all parties.

In general, this policy proposal is based on the assumption that strong regional governance structures in the Middle East and North Africa (MENA) will allow states of the region to discuss common problems, test common solutions, and agree on common positions before they contract with the outside world. Such regional bargaining will protect them from the interference of the great powers whose interests often diverge from theirs (even from their allies’ interests). To develop such common
positions in the region, diplomatic inter-state recognition (and the re-opening of diplomatic channels) may not suffice, which is why regional structures are important.
Security of supply: The EURATOM Treaty Approach and its implementation

Stamatios Tsalas

1. The energy challenge for the future consists of the broadly accepted requirement for sufficient, affordable and environmental friendly energy (electricity) supplies. This is i.a. reflected in Article 194.1 of the Treaty on the Functioning of the European Union, where the aim of a Union policy on energy is expressed as:

• Ensuring the functioning of the energy market

• **Ensuring the security of energy supply in the Union**

• Promoting energy efficiency and energy saving and the development of new and renewable forms of energy, and

• Promoting the interconnection of energy networks.

Furthermore, Article 194.2 stipulates that the European Parliament and the Council, acting in accordance with the ordinary legislative procedure,

• shall establish the measures necessary to achieve these objectives and that

• these measures shall not affect a Member State’s right to determine the conditions for exploiting its energy resources, its choice between different energy sources and the general structure of its energy supply.

This was the first comprehensive attempt to establish a European energy policy, including the basic feature of the security of supply, that lead to the Council approved 2007 energy goals.

2. Fifty years earlier, the founding States of the European Communities, anxious to provide the tools for a rapid industrial development of the European countries and a solid framework for international cooperation, established the European Atomic Energy Community (EURATOM)

The EURATOM Treaty, one of the founding Treaties of the European Communities, was signed together with the EEC (European Economic Community) Treaty, 25 March 1957 in Rome. The task of the Community was to “contribute to the raising of the standard of living in the Member States and to the development of relations with other countries by creating the conditions necessary for the speedy establishment and growth of nuclear industries”.

The particulars of the general task were described in detail in the ten Chapters of the Treaty. The most important were

• To promote research

• To establish safety standards to protect the health of workers and the general public and to ensure that they are applied

• To facilitate investment

• **To ensure regular and equitable supply of nuclear materials**

• To make certain that nuclear materials are not diverted from the declared purpose

• To create a common market in specialized materials and equipment

• To establish with other countries and international organisations such relations as will foster progress in the peaceful uses of nuclear energy.

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The implementation of the different chapters of the EURATOM Treaty was a great success, although the growth of the European Nuclear industry was not as speedy as the fathers of the Treaty had thought. This is particularly true for Chapter I, that allowed the establishment of the Joint Research Centers which played an important role at the beginning of the European Civil Nuclear energy development, Chapter III, basis of the European Basic Safety Standards and source of competence for the Community’s competence on matters of Nuclear Safety, Chapter VII, Safeguards, that allows a close control of the nuclear materials in the European civil fuel cycle, Chapter X, that enabled the Community the conclusion of cooperation agreements with third States as well as with international organizations, like the IAEA.

3. Chapter VI, Supplies, established a kind of “Supranational monopoly” for nuclear materials, including an organization, the Euratom Supply Agency (ESA), operating under the supervision of the Commission, endowed with legal personality and financial autonomy, to which it conferred exclusive rights in connection with the supply of nuclear materials. The most important rights assigned to ESA are:

- the right of option for all nuclear materials produced in the Community and
- the exclusive right to conclude contracts of supply.

All nuclear material users in the Community would submit their demands to the ESA and all the producers would make their offers. It would be the task of ESA to find the best prices for the users and to balance supply and demand applying a policy of equal access to sources of supply.

In 2008 new statutes were adopted for ESA. Therein, a new ask was formulated:

- to play a market-monitoring role by monitoring and identifying market trends that could affect security of European Union's supply of nuclear materials and services.

From the beginning, it appeared difficult to maintain the centralized supply system at its full width. It was hence decided to introduce a simplified procedure, allowing the users to organize their supplies on own responsibility and to submit their contracts for conclusion by the Agency. This practice, originally applied to source materials was later extended also to special fissile materials used for power reactors. For a long time the supply with uranium of higher enrichment such as it is used in research reactors remained in the hands of the Agency, that was concluding so called back to back contracts with the supplier on one side and the user on the other.

The role of the Euratom Supply Agency was reinforced a few years later, when the CIS States with their enormous capacity and with rather low prices became more and more active in the European market. Anxious that the “Russian” imports would jeopardize the viability of the European producers, the Council and the Commission issued a statement in 1993, the so called Corfu declaration, by which they demand that the share of the European producers remain at the same level also in the future, i.e. around 80%, and ESA would have to watch over that. This policy was challenged in the Court, in the so called KLE case in 1997, yet the court decided that ESA indeed had the right to refuse to sign a contract when it was of the opinion that a transaction would be affecting negatively the European nuclear fuel market and implicitly the security of supply for EU utilities.

Since the last two enlargements, the share of the Russian origin material has increased enormously due to the almost exclusively used Russian technology in the new Member States. Today, the key issue is the share of the Russian industry in the enrichment services that has increased to about 40%.

The ESA’s powers to restrict the Russian imports are limited mainly by two facts. On the one hand, another court decision, the INB judgment, in 2006 stipulated that enrichment is not production but a service. This means that enrichment contracts do not need to be submitted to the Agency for conclusion; they only have to be notified. On the other hand, the rules of WTO, to which both the EU
and the Russian Federation are now members, do not allow easily market restrictions like those introduced after the Corfu declaration.

The basic principles of the European nuclear fuel supply policy implemented by ESA, aiming at guaranteeing the security of supply are:

- Diversification of sources of supply, and
- Long term contracts and maintaining sufficient strategic stocks.

Diversification is important to avoid excessive dependence on one (external) source of supply. The EU utilities should not become technically or politically dependent on one supplier. Long term contracts and stocks are helping overcome shortcomings in the supply chain.

Developments in the Nuclear energy market are slow. Long term planning and securing resources are essential. The latest ESA findings (annual report 2012) suggest that EU nuclear reactors have sufficient stocks to run for close to 3 years without new supplies. However, long term supplies are subject to uncertainties. It is observed that the share of the EU purchases in the world fuel market is expected to drop from about 27% in 2012 to about 16% in 2030; it could mean that the EU market is less attractive for producers. It is also observed that low uranium prices, as they are today on the uranium market, are counterproductive to efforts of exploiting new uranium mining possibilities which is important for the long term securing of the supply.

4. A regional approach to supply, as conceived and applied through the EURATOM Treaty, could be of interest for other geographic areas in the world. It would be recommendable in any case but it would be most effective if the subject area would involve Non-Nuclear-Weapon-States that do not have and do not intend to develop a full fuel cycle, or large scale industries for the production of nuclear fuels. The volume of the combined needs of several countries/utilities would allow a better negotiating position in the nuclear fuel market. The international cooperation would add value as confidence building measure among the participating countries and, moreover, towards the world community.
EURATOM & ABACC: Recipes for a Middle East NWFZ?

Mustafa Kibaroglu*

One of the principal causes of instability in the Middle East has been the danger of proliferation of weapons of mass destruction. Though, there have been instances where chemical weapons are used already, luckily no explicit use or tests of nuclear devices happened to take place in the region. Nevertheless, Israel is strongly believed to have already stockpiled atomic bombs in the basement. Yet, the official stance of the Israeli authorities against such allegations is neither the denial nor the acknowledgement of the existence of nuclear weapons in their military arsenal. This strategy is called the policy of ambiguity or opaqueness. However, for building confidence among the states and promoting peace in the Middle East, transparency is essential.

Only then the removal of all weapons of mass destruction from the region is likely to be materialized. A study on the security considerations of the states in the Middle East reveals that a growing threat emanating from the existence and the danger of proliferation of weapons of mass destruction is being perceived by the authorities of the states concerned. This perception has been the subject of successive declarations by the officials of these states. Although, the modalities suggested for overcoming that threat exhibit differences, a common view is being shared by these authorities as regards the necessity to deal with it within the context of a Zone Free of Weapons of Mass Destruction in the Middle East (ZFWMD/ME).

Hence, on one side, the Arab states and Iran point out to the existence of universal conventions and treaties concerning the weapons of mass destruction. Consequently, they declare that Israel should a priori become a member state to the Nuclear Non-Proliferation Treaty (NPT). On the other side, the Israeli officials specifically point out to the inefficiency and insufficiency of the existing universal nuclear non-proliferation regime. Their principal argument is that, the universally standard safeguards procedures of the IAEA proved impotent to disclose the clandestine nuclear weapon program of Iraq in the 1980s. Moreover, not many Middle Eastern states adhered to the strengthened safeguards document, namely the Additional Protocol, especially Iran despite its advanced nuclear program, which has been subject to sanctions due to a lack of clarity of objective of the Iranian leadership. Thus, Israel's official stance vis-à-vis adherence to the NPT is definitely negative. Notwithstanding, they endorse the idea of a ZFWMD/ME by emphasizing the feasibility of a regional approach, provided the zonal agreement incorporates far-reaching verification provisions. In these circumstances, a middle ground between the parties to the dispute is expected to be found by the establishment of a nuclear-weapon-free zone (NWFZ/ME) as the first step towards the creation of a ZFWMD/ME. The NWFZ/ME agreement is thus suggested to be endowed with effective verification provisions, and also linked to the universal nuclear non-proliferation regime.

Two such regional co-operation and non-proliferation arrangements do exist, namely the European Atomic Energy Community (EURATOM) and the Argentine-Brazilian Agency for Accounting and Control of Nuclear Materials (ABACC), out of which one can draw lessons for the Middle East. To give a preliminary insight, it may be stated that the significance of EURATOM stems principally from its enduring safeguards procedures which were carefully designed to make them acceptable both to its member states, and to the United States and Canada. Yet, strong criticisms against EURATOM and its safeguards provisions were voiced, during the Cold War period, from the Eastern Bloc countries. The representatives of these states often declared that EURATOM safeguards were nothing but 'self-policing among the friends'. Nevertheless, one should remember that the 'friends' within the

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EURATOM alliance were previously 'bloody foes' for so long in history. Therefore, EURATOM was actually seen, both by its member states and their Western allies, as leverage for promoting cooperation and enhancing peace and security in Western Europe.

Similarly, in Latin America, two rival states both in nuclear research and nuclear market, namely Argentina and Brazil, have come to terms after decades of mutual suspicion. They opened their very secret nuclear facilities to mutual inspections as well as to universal inspections of the IAEA. There exists a high degree of confidence on both sides lately. This may give necessary hints about the confidence-building efforts and their favorable consequences for the Middle East. This regional arrangement in the nuclear field as well, has been considered as leverage for further cooperation between the two rival states.

Therefore, this paper covers those verification provisions of EURATOM and ABACC, which are thought to be relevant to a NWFZ/ME. To begin with, briefings about the emergence and evolution of EURATOM and ABACC is useful in order to give an idea about how the characteristics of these regions were embodied into reliable, effective and long-lasting regional agreements. Then, far-reaching and stringent safeguards procedures of these two institutions will be highlighted. Likewise, insights will be given about how peaceful uses of nuclear energy can become possible in environments reigned by mistrust and hostility, and can pave the way for further cooperation. The implications of the Western European and the Latin American experiences for a Middle Eastern NWFZ will then be analyzed. Upon this analysis, several proposals regarding the nuclear non-proliferation initiatives for the Middle East will follow the suit.
Session III: Discussion on Middle East Issues*

Sameh Aboul-Enein**

I would like to thank you for inviting me today to speak in my personal and academic capacity to reflect some of my views on how to move forward with the Helsinki conference on the establishment of a Middle East zone free of nuclear weapons and all other weapons of mass destruction. I believe that the topic of nuclear weapon free zones is of utmost importance, all the more so given the transformative changes underway in the political landscape of the Middle East. It is important that people do not underestimate the level of frustration that has built up around this issue, and that it is important to the health of the non-proliferation regime that confidence is restored in the process. This will require state representatives to approach the issue in a manner that respects the principle of equal commitment to regional and global security, and the creation of a regime that at root and in the longer term is unambiguously non-discriminatory. In my brief comments, I intend to address the three issues mentioned in the agenda namely how to move forward with establishing a nuclear weapon free zone in the Middle East; the Nuclear Non-Proliferation Treaty and the Middle East conference; and the Impact of current developments in the ME on the 2013 NPT PrepCom.

1. 18 years have elapsed, since the 1995 Treaty on the Non-Proliferation of Nuclear Weapons Review and Extension Conference adopted a resolution on the Middle East that called for the establishment of a nuclear weapons free zone (NWFZ) in the region. The resolution was an integral, inextricable part of the fundamental deal around the indefinite extension of the Treaty, and for many States constitutes the fourth pillar of the NPT regime, which is one reason why many states parties feel aggrieved with the lack of progress and the apparent low priority given to the matter prior to 2010. Unfortunately, to this day no practical ground steps have been taken to implement this resolution.

2. Even since the NPT Review Conference in 2010 presented a way forward towards adopting by consensus an action plan on the ME, and notwithstanding the facilitator’s efforts in trying to hold this conference, it is important to acknowledge that little progress has been achieved in the 3 years since and that there has been scant evidence of the conveners to place the required high-priority on the convening of the conference in accordance with the timeline and the mandate established by the 2010 NPT RevConf.

3. On the way forward, now that we are approaching the second session of the Preparatory Committee of the 2015 Review Process of the NPT, there is a need to enter directly into a phase of substantive and procedural preparation for the ME Free Zone Conference itself. After all, the 1995 Resolution and the 2010 action plan already provide guidance on the mandate of the conference, the Rules of Procedure can be adapted from the NPT review process or the UN General Assembly, the venue is already known – Helsinki, internationally agreed principles exist on the establishment of NWFZs, the States of the region of the Middle East are clearly identified hence the delimitation of a MENWFZ is well known, the nature of obligations also are quite clear – what is lacking is the requisite political will on the part of the conveners to deliver on their 1995 and 2010 commitments. NPT States, in particular the States of the region of the Middle East, have been awaiting such fulfillment of obligations since 1995 – how much longer must they wait?

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4. This effort should launch a sustained and serious process involving specific concrete steps and measures to be taken within specific time-frames, and linked to the successive sessions of the Preparatory Committee of the 2015 Review Process of the Treaty with a view to convening the conference at the earliest possible date.

5. While limited progress has been made, there is still need for intensified work in order to finalize the agenda, modalities, and the rules of procedure. There should be preparation for how the issues of verification and compliance should be addressed. What are the mechanisms? Which institutions will be entrusted with this responsibility? What are the implications for non-compliance? Other issues such as security guarantees, the peaceful uses of nuclear energy, and nuclear safety/security are issues which should be prepared as well.

6. A road map should be reviewed from now onwards by each of the successive sessions of the Preparatory Committee based on the reports presented by the facilitator. Evaluation of the views of States Parties to the NPT regarding the progress made towards establishing the zone should be an integral part of any outcome documents of the successive sessions of the Preparatory Committee. In this regard, the outcome document of the 2013 PrepCom must include a section on the implementation of the 1995 Resolution and the 2010 action on the convening of the conference.

7. The technical dimension of the Zone should be emphasized at this stage as well. The following technical provisions of the free zone in the ME should be addressed:
   - Dismantling and destroying existing or remaining nuclear weapons capabilities, facilities, and devices under international verification mechanisms.
   - Renouncing nuclear weapons through refraining from conducting indigenous development and activities related to nuclear weapons.
   - Prohibiting transit or stationing of any nuclear explosive devices in the zone.
   - Prohibiting nuclear explosive testing in the zone and the role of the CTBT in this regard.
   - Using nuclear materials and facilities for peaceful purposes only.
   - Placing all nuclear facilities under comprehensive IAEA safeguards.
   - Establishing the necessary relevant institutions and mechanisms/entities to uphold such a zone free of nuclear weapons and other weapons of mass destruction and address the issue of verification to identify the role of the IAEA and other relevant organizations within such a zone as the OPCW and CTBT and test bans.

8. The participation in the Middle East Conference should be inclusive. The conference should include Israel, Iran, and the members of the League of Arab States, as well as the nuclear weapon states and other relevant international organizations such as the IAEA, the OPCW, BTWC, CTBT, UN-ODA and the NPT Chair.

9. **On the NPT**, the 1995 resolution was and still remains part and parcel of the agreement to indefinitely extend the NPT and its lack of implementation is bound have some serious consequences not only on the future of proliferation within the region, but also on the credibility of the Non-Proliferation regime in its entirety, as nearly two decades have elapsed since the adoption of the 1995 Resolution without any progress on its implementation – this is now increasingly perceived as a breach of faith and commitment by the depositary States and the conveners of the conference.

10. The fundamental role of the NPT must be reinforced in order to achieve nuclear disarmament and re-enforce non-proliferation in the Middle East. This is why the issue of NPT universality is a pressing issue; it is simply unsustainable to expect NPT members to exercise indefinite restraint, and take on ever-increasing burdens expected of them to prove peaceful use, when their neighbors outside the NPT appear to be able to brandish nuclear weapons with impunity at the direct expense of regional security, and benefit from nuclear cooperation. Nuclear disarmament in the Middle
East should also take place within the global efforts made to implement the steps leading to nuclear disarmament as agreed in the 2000 and 2010 NPT Review Conferences.

11. The Middle East cannot be an exception in the Global Zero campaign. Israel remains the only state in the Middle East that has not yet become a party of the NPT and therefore Israel’s accession to the Treaty as a non-nuclear weapon state remains central in achieving the goal of universal adherence to the Treaty in the Middle East.

12. To minimize any negative impact on the NPT process, there is a special responsibility on the Depositary States that co-sponsored the 1995 Resolution, and the UN SecGen, to take visible concrete steps on implementation of the Resolution and the 2010 Action Plan on the Middle East. To maintain credibility, the conveners are urged to honor to their commitments and hold the conference without further delay. Regional states expect them to set a new date as early as possible and to have announced this before the start of the second session of the Preparatory Committee for the 2015 NPT Review Conference.

13. Perhaps it would be of added value at this stage to allocate another session on the Middle East in the second Preparatory Committee this coming April, with one of the sessions being held at the beginning of the Committee’s work as a high level segment and similar to what is done in the Human Rights Council. If necessary, a supplemental informal discussion under the auspices of the NPT Chair and the facilitator could be held during the weekend of 27-28 April, to prepare the required input for the outcome document of the PrepCom. In all respects, the second Preparatory Committee has a responsibility to adopt a plan of action on the way forward to holding the Middle East Conference during 2013. If nothing is done in this regard, it is safe to assume that the Arab stance on the 2015 Review Conference as a whole would be the subject of re-examination and re-evaluation. Whilst the League of Arab States has no desire or interest in undermining the health of nuclear non-proliferation in the region, member states cannot be expected by others who possess nuclear weapons or sit securely under their umbrella to sacrifice their security and standing indefinitely and idly stand by whilst the regime is undermined by other states.

14. A more constructive approach towards engaging with all the countries of the region is required in order to guarantee their full participation in the ME Free Zone Conference. I still believe that the ME Free Zone Conference and the process that follows should be inclusive to allow a more genuine, candid and necessary interaction about nuclear disarmament, dismantlement, nuclear roll-back, transparency, accountability, and verification. There has not been an interaction for many years and all opportunities that exist to make this happen should be utilized.

15. Finally, let me emphasize that the “Arab Spring” has without a doubt changed existing fundamental dynamics and has had significant implications on the political and security settings in the Middle East. Whilst in its birth throes it has undoubtedly affected the capacity of states to engage constructively on the non-proliferation and disarmament agenda, in the longer run it could be a positive game-changer. Public opinion is already playing a much more significant and prominent role in Arab societies and in this respect, will have a fundamental role in the formulation of disarmament and security issues. Arab governments are becoming more accountable to their people and foreign policy is falling more in line with domestic aspirations and a reflection of popular demands. Parliaments, with their foreign affairs, Arab affairs and National Security committees, are expected to play an increasing role in foreign policy issues in Egypt, in which nuclear issues will receive, without a doubt, considerable attention. In this context, public opinion in many Arab capitals is dismayed at the lack of progress with holding the conference on the Middle East to this date.

Thank You
Annex I

1. LAS was very keen to engage with other countries in the region, with the right terms of reference, as stipulated in the Arab ministerial meeting last January that called for what the Arab world believes as justified and equitable requirements that abide by the mandates both stipulated and adopted freely in the final document of the 2010 NPT review conference, and as adequately stated in the prerequisite guidelines for attending the proposed "Extended Consultations" in the Arab Ministerial Resolution 7580 on January 13th, 2013 which stipulated the following:

- Emphasized that the postponement of the 2012 conference on the establishment of a Middle East Zone free of Nuclear weapons and all other weapons of mass destruction constitutes a breach of the obligations of the organizers of the conference before the international community towards the implementation of the 1995 resolution on the Middle East, and the implementation of the 2010 NPT review conference final document.

- Any participation in “Extended consultations” will be according to the agreed terms of reference in the Action plan for the Middle East contained in the 2010 NPT final document, including the 1995 resolution on the Middle East which is the mandate for the 2012 ME conference.

- The importance of the establishment of a set date for the conference.

- Holding the consultations under the auspices of the United Nations and with a set agenda.

- Those countries that formally announce their participation in the conference are the ones to attend the consultations.
Iranian Nuclear Crisis, the Options and Consequences

Seyed Hossein Mousavian

Despite the fact about 190 countries have joined None Proliferation Treaty (NPT), after about four decades; the three main objectives of the treaty still have not been accomplished.

The NPT’s three core goals were: first, to guarantee complete disarmament of nuclear weapons by all the NPT nuclear-weapon states [China, Russia, United Kingdom, France and the United States]. Second, to prevent the spread of nuclear weapons and technologies related to nuclear weapons and third, to ensure cooperation in the peaceful uses of nuclear energy.

Disarmament: Although the five permanent members of United Nation Security Council (P5) all have signed and ratified the NPT, none has fulfilled its commitment under NPT to give up its nuclear weapons and collectively possess over 98% of the globe’s nuclear bombs.1 After more than 40 years, they still possess huge stockpile of nuclear warheads. Currently Russia and the United States have 8500 and 7700 nuclear warheads respectively, while France has about 300, the United Kingdom about 225 and China about 240 nuclear bombs. 2 While some of these nations have reduced their stockpiles, significant inventories remain and the goal of total nuclear disarmament as one of the main objectives of the treaty has not been realized.

Non-proliferation: To fulfill the goal of non-proliferation, the NPT established a safeguards system as a confidence-building measure and as an early warning mechanism to check compliance with the treaty through inspections conducted by the International Atomic Energy Agency (IAEA). A Comprehensive Safeguard Agreement with the IAEA is in force with 172 member non-weapon states.3

The IAEA has been responsible to verify that member states do not use their nuclear programs for nuclear-weapons purposes. To ensure nonproliferation, the agency carries out safeguards visits and ad hoc, routine, and special inspections.

Since the NPT came to force, India, Israel, Pakistan and North Korea, the latter member of NPT which later withdrew, have proliferated and tested nuclear bombs. Except in the case of North Korea, the world powers have established strategic relations with these proliferating nations, demonstrating that the second objective of NPT, non-proliferation, has also not been realized.

Cooperation: The third objective of NPT is to promote cooperation in the field of peaceful nuclear technology and equal access to this technology for all States parties. Article IV of the NPT confirms that all states party to the Treaty have right to benefit from the peaceful uses of the atom and urges the parties to cooperate with one another in the fullest possible exchange of nuclear equipment, materials, and information for peaceful purposes. Based on Article IV, research, development, and use nuclear energy for non-weapons purposes are the "inalienable right" of non-nuclear-weapon states. Based on this article several member states on NPT including Germany, the Netherlands, Japan and Brazil are doing enrichment for peaceful purposes.4

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1 http://www.fas.org/programs/ssp/nukes/nuclearweapons/nukestatus.html
2 http://www.ploughshares.org/world-nuclear-stockpile-report
4 http://www.armscontrol.org/factsheets/nptfact
Since Iran’s 1979 revolution, its "inalienable right" under NPT to enjoy peaceful nuclear technology has been challenged and is at the crux of the current nuclear standoff with the West.

Over a decade of nuclear negotiations between Iran and the P5+1 (Five permanent members of the UNSC and Germany) have failed to date. The window for a diplomatic resolution will be most opportune during the second term of President Obama, who in his 2013 State of the Union address, called on Iran’s leaders to "recognize that now is the time for a diplomatic solution" over Tehran’s nuclear program. There is, however, a risk that if the current US/Western policy of pressure politics continues, we will inch toward a military confrontation. In a broader sense, the outcome of the nuclear negotiations will have a profound impact on nuclear non-proliferation, Nuclear Weapons Free Zone (NWFZ) and Weapons of Mass Destruction Free Zone (WMDFZ) in the Middle East.

Understanding the evolution of the Iranian nuclear file and the core dispute with the West is a necessity to find solutions to the current stalemate. The Iranian nuclear program has progressed through four major stages:

**Nuclearization of Iran:** Iran owes its entrance into the nuclear field largely to the United States, which entered into negotiations with the young Shah Mohammad Reza Pahlavi in 1957 as part of President Eisenhower’s Atoms for Peace program. In the 1970s, the US proposal to Iran was for the country to build 23 nuclear power plants by 1994. The first Iranian nuclear facility, Tehran Research Reactor (TRR), was built by the US in 1967. During this period, the Americans and Europeans were competing to win lucrative projects to nuclearize Iran.

**No rights for civilian power plant:** After the 1979 Iranian Revolution, although Iran decided to cancel or shrink ambitious nuclear and military projects of the shah, the West withdrew from all nuclear agreements and contracts, costing Iran billions of dollars. The US and the West policy at the time was against Iran having a single civilian nuclear plant and pressed Germany to withdraw from its contractual agreement to build the only Iranian civilian nuclear plant at Bushehr.

**No access to international fuel market:** Following the 1979 revolution, Iran had no plans to have uranium-enrichment activities on its own soil. Particularly since Iran had paid $1.2 billion for a joint venture with French-based Eurodif, to enrich uranium on French soil and supply fuel to the TRR and Bushehr. The US pressured the French to pull out of the deal. At the time, Iran even paid the US to supply fuel for TRR. The US neither supplied the fuel nor return the money paid. Following such string of events, Iran was left with no choice but to proceed with efforts to reach self-sufficiency by completing unfinished and paid for projects—ensuring adequate supplies of reactor fuel in the future.

**No enrichment right for Iran:** In 2002, Iran mastered enrichment. Shortly after the International Atomic Energy Agency (IAEA) issued the first resolution on Iran’s nuclear program, the world powers began negotiations with Iran. Iran have submitted different proposals, covering all major transparency measures and objective guarantees for non-diversion of Iran’s nuclear program toward nuclear bomb. Talks have failed due to the US policy of denying the legitimate rights of Iran for

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5 http://www.whitehouse.gov/the-press-office/2013/02/12/remarks-president-state-union-address
6 http://iranprimer.usip.org/resource/timeline-irans-nuclear-activities
7 http://www.mti.org/facilities/184/
8 http://www.armscontrol.org/act/2006_01-02/JANFEB-IranEnrich
10 http://iranprimer.usip.org/resource/timeline-irans-nuclear-activities
enrichment under the NPT. Nevertheless the question is the Iranian nuclear dilemma is about the legitimate rights of Iran to enrichment under the nuclear Non-Proliferation Treaty (NPT) or building a nuclear bomb.

Options for Iran after June 2013 presidential election?

The first priority for the new Iranian president would be to manage the current dismal economic situation. The new administration will have five options to maneuver the country out of the nuclear dilemma as it is the primary reason for the economic hardship: 1) a peaceful solution, 2) Iran surrenders its nuclear program, 3) tolerate the current barrage of sanctions, 4) build a nuclear bomb and 5) for Iran to leave the NPT and all WMD treaties, while making domestic commitments to not build the bomb. For the world powers there would be three options: 1) a peaceful solution, 2) increasing the sanctions and pressures, 3) and attacking Iran. All these options would be discussed in length during the program and within a longer essay.

11 Article IV of the NPT states, “Nothing in this Treaty shall be interpreted as affecting the inalienable right of all the Parties to the Treaty to develop research, production and use of nuclear energy for peaceful purposes without discrimination and in conformity with Articles I and II of this Treaty.”
The EU’s role in relation to the Iranian nuclear issue
and the objective to establish a WMD free zone in the Middle East:
Challenges and opportunities*

Stephan Klement*

The European Union has been engaged into continuous efforts to strengthen its non-proliferation policy since the endorsement of a strategy against the proliferation of WMD endorsed by the European Council in December 2003. Since then, this strategy has been actively implemented in a far reaching spectrum of areas, including with regard to efforts aimed at addressing proliferation concerns in the region of the Middle East.

The ultimate objective to establish a zone free of WMD and their means of delivery has already been enshrined in the Barcelona Declaration in 1995, guiding the co-operation of the EU with third countries in the Mediterranean and in the Middle East. Since then, the EU has actively contributed to efforts aimed at implementing this ambitious objective. The EU continues to promote the convening of the diplomatic conference on a WMD free zone in the Middle East, as foreseen in the 2010 NPT outcome document, as soon as possible. Most recently, based on the understandings reached by the 2010 NPT Review Conference on the issue of a WMDFZ in the Middle East, the EU has organised two seminars in 2011 and 2012 in order to bring together government officials and academics to have constructive and open exchanges, also drawing from experiences gained within existing nuclear weapon free zones in other regions. These seminars have contributed to increase the understanding of the complexities involved in a process which could lead to the establishment of a WMD free zone in a region dominated by instability and insecurity.

A particular challenge to non-proliferation efforts in the region of the Middle East are the serious concerns on the exclusively peaceful nature of the Iranian nuclear programme which have persisted and increased over the past decade. The IAEA Board of Governors and the UNSC have adopted a series of resolutions aimed at remedying this situation, so far to no avail. Over the past decade, IAEA investigations aimed at clarifying outstanding issues, including those pointing to possible military dimensions to the Iranian nuclear programme, have also continued. Unfortunately, so far, little tangible progress has been made.

The European Union's approach aimed at finding a solution to the Iranian nuclear issue is based on a dual-track policy combining pressure, including sanctions, with incentives. Based on a mandate given by the UNSC, the E3/EU+3 framework, the EU High Representative continues to lead efforts aimed at achieving a diplomatic solution to the Iranian nuclear issue through negotiations. During several rounds of talks, attempts are being made to engage Iran into discussions on an initial confidence building step, the ultimate objective being to achieve a comprehensive solution, which would bring Iran in full compliance with all its international obligations, as well as to allow Iran to fully exercise its nuclear rights under Article IV of the NPT.

From a historical perspective, through the establishment of the European Atomic Energy Community (EURATOM) in 1957, the European Union has developed the first regional safeguards system, which allowed for joint research and development of nuclear energy, while ensuring that nuclear materials would remain accounted for and would only be used for designated purposes. At the origin, one of the primary objectives of the Euratom treaty was to build confidence and transparency, against the background of the devastating consequences experienced during and following World War II. A climate of mistrust had to be overcome in order to develop co-operative structures allowing for

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reaping the benefits originating from the use of nuclear energy. Today, European nuclear industry is the model case for multi-national nuclear co-operation and integration.

The concerns on the Iranian nuclear programme, the issue of a WMD free zone in the region of the Middle East, and the model case of Euratom are to be analysed as possible building blocks for a framework to develop a co-operative solution to the ever increasing risk of proliferation in the region.

While major challenges in the area of non-proliferation, in particular in a regional context, remain to be addressed in the Middle East, the European Union, with its longstanding experience in building confidence through the instruments of co-operation and integration, is particularly well placed to contribute to these endeavours.

Possible literature:

"Getting to Yes with Iran – The challenges of coercive diplomacy", R. Jervis, Foreign Affairs, Jan/Feb 2013, pp. 105-115
Confidence building process and nuclear transparency in the Middle East

Mahmoud Nasreddine*

The Arab countries which voted in 2002 the Arab Peace Process proposal between the Arab countries and Israel continue to believe that the nuclear warheads developed and built by Israel are a permanent danger for the peace in the Middle East and the world. The most important facilities (like Dimona site: reactor and spent fuel depository) are not under the IAEA safeguard system. This fact is of a great concern because they are not only suspected to host military activities but they are also the reason of serious concerns about their safety and security.

Since 1974 The Arab countries contributed or supported all the efforts during the UN and the IAEA General conferences or during the NPT review conferences, aiming to establish in the Middle East a WMD free zone. The most important events in the process to establish such a zone are:

- The 1995 Non Proliferation Treaty (NPT) review conference resolution on the Middle East
- The 2010 NPT review conference resolution which adopted five practical steps towards the establishing a WMDFZ in the Middle East. These steps include a regional conference to discuss the issue in 2012 and the appointment of a WMDFZ facilitator.

The League of Arab States secretariat considered the 1995 review conference resolution as an important event and started with a dedicated comity representing the 22 Arab member states, to prepare a documents to be presented in the future to any international or regional conference aiming to implement the 1995 resolution. A draft document of a MEWMDFZ treaty with some protocols concerning the three arms and the inspection and verification operations were prepared. This draft was never been finalized or adopted by the council of Arab Foreign affairs ministers. The years showed that there is no any progress in the implementation of the 1995 resolution because of the negative attitude of Israel toward the establishments of such a zone and the support of the Israeli position by the USA and most of the Western countries.

The Israeli position is based on the priority of the instauration of peace between the different Middle Eastern countries before discussing the WMD free zone when the Arabs consider the nuclear arms of Israel as a major obstacle toward the peace.

The peace process will take long time because of the Israeli refusal of the peace process proposed by the Arab Summit (Beirut 2002) and because of the position of Israel concerning the Palestinian rights and the Arab occupied territories.

A process of confidence building is needed. This necessity has been evoked in many occasions but there are no results in the ground. All the proposals in this matter are based on the possibility of civil or scientific cooperation between Israel and the Arab countries as a step toward the confidence building. The cooperation in agriculture or in water management for example will not help to solve the problem of territories or to build the confidence in the nuclear field where the Arab are convinced that Israel has a nuclear military program. We have to face the problem as it is and go directly to the nuclear, chemical and biological activities in all the Middle Eastern countries including Iran and Israel. A full transparency in these fields is a key element toward the confidence building between the parties.

The transparency in all the safety and non-proliferation issues may be the first step toward the confidence building process between the concerned parties. The situation in the MENA region shows some difference in the behavior of some states toward the safety issues or the non-proliferation:

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Former Scientific Adviser to the S.G.- League of Arab States.
The Arab States are fully transparent to the IAEA inspectors. Some minor problems have been discussed during the last few years but the IAEA is able to confirm that there is no any uranium enrichment or spent fuel reprocessing activity in the Arab countries.

Referring to the IAEA reports, Iran program needs to be more transparent to the IAEA and the International community. It is suspected to have a military component. Iran is Party to the NPT and has signed with the IAEA, a comprehensive safeguard agreement. The discussion with the 5+1 is about the enrichment program and the inspection by the IAEA of some sites or facilities which are not declared as nuclear facilities.

Israel is not party to the NPT. Some nuclear facilities, like Dimona site, are not inspected by the IAEA. This situation generates concerns about safety and non-proliferation threats. Many Experts report that Israel has already built more than 200 nuclear warheads.

The transparency in the MENA region is not complete. The confidence building process in the region is not possible without efforts from all the states including Iran and Israel. The inspection of all the nuclear and the suspicious sites and the full cooperation with the IAEA are essential elements in the transparency process.

The double standards policy and the will of some powers to deal with each country as a separate case are not helping to generate more transparency or to build additional confidence between the states of the region or between some states of the region and the international community.

Since the NPT review conference in 1995 and the resolution aiming to organize an international conference dedicated to establish a free zone of nuclear weapons in the Middle East, Many visits of the IAEA Director General to the states of the region, did not succeed to build confidence between these states. Many workshops were organized for the some objectives. They failed to rich any progress in the matter.

I believe that all the concerned parties have to review their paradigm and to look to the safety concerns and the proliferation threats as a whole in the whole region. The Arab states must stop to focus only on the Israeli nuclear warheads. Israel must understand the Arab concerns about its nuclear program and the 5+1 group has also to stop to focus only in the Iranian nuclear program.

Israel was always against the establishment of a Nuclear weapons free zone in the ME but we have to agree that the only peaceful way to stop the Iranian program is to stop the Israeli program too (and any other program in the region if there is any).

The experiences of EURATOM, established in Europe after the Second World War, and of ABACC established by Brazil and Argentina, may be very useful for the Middle East. If the free zone is difficult to establish in the near future in the Middle East, the paradigm review process may lead to create a regional agency able to inspect all the nuclear, chemical and biological facilities in the MENA region including Iran and Israel. Any other cooperation project without transparency is not possible and it is a waste of time.

This Agency (The CBRN Middle Eastern Inspection and Verification Agency) will hire inspectors from the regional states in order to make each inspection as a mutual inspection.

The Bush administration established the Proliferation Security Initiative (PSI) in May 2003 with the goal of fostering a greater worldwide capability to stop the illicit movement of materials that can be used to produce biological, chemical, and nuclear weapons. It is not clear how much the program has been successful: Many countries like Iran, North Korea and Israel, continue to advance their missile and nuclear capabilities.
The proposed Agency will contribute to the implementation of the PSI goals if the Agency member states agree to give it the needed tools for inspection, verification and illicit trafficking fighting.

The success of the Agency’s inspection and verification mission may lead to open new opportunities to establish peaceful cooperation projects between the ME countries in all the scientific and technical areas including nuclear, biological and chemical applications.
A WMD-Free Zone in the Middle East. Overcoming Challenges: Lessons from History and Theory

Paolo Foradori*

How can the Middle East states begin to create the political conditions under which they can achieve sustained progress toward the goal of establishing a WMDFZ?

For guidance on overcoming the formidable challenges to a MEWMDFZ, important lessons can be drawn from the experience of the existing nuclear weapon free zones (NWFZs), and from scholarship on proliferation and on the causes of cooperation in a

The challenges

The obstacles to a WMDFZ are formidable, numerous, and long-standing. They include:

- Regional conflicts and deficit of trust;
- The continued perceived utility of WMD and their delivery systems in key states across the region (especially Israel and Iran);
- Disagreement about scope and verification: there exist formidable technical challenges in designing verification mechanisms that simultaneously apply to all three WMD categories and their delivery systems;
- Uncertainty over internal transitions: the so-called Arab Spring might de-prioritize the WMDFZ project, and cause further uncertainty, political instability, diplomatic vacuum, and radicalization of domestic audiences toward hard-line positions.

Overcoming Challenges

The following set of observations can be made on the basis the experience of the existing NWFZs and the history and theory of non-proliferation:

The Middle East Is a Hard-Case, but Not a Case beyond Comparison

Conditions in other regions did not always appear conducive to progress on similar issues, and favorable and unexpected outcomes can occur even in highly unstable and complex situations. For example, the Latin American NWFZ, was not only originally conceived within the highly volatile period of the Cuban missile crisis, it also involved the two nuclear-capable and rival states of Argentina and Brazil. Further, the Central Asia NWFZ was considered a rather “hard case.”

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There Has Been Progress toward a WMDFZ

Contrary to diplomatic wisdom, dramatic changes have occurred, including peace agreements between Israel and Egypt, and between Israel and Jordan; mutual recognition between Israel and the PLO; the dismantling of WMD programs in Iraq and Libya; accession to the NPT, CTBT, CWC, and BTWC by several states; and the implementation of strengthened IAEA safeguards agreements, including the Additional Protocol in several states. These developments represent significant progress on the path to a WMDFZ.

Demand for WMD Is Not Constant

Even in the Middle East, demand for WMD fluctuates. States’ nuclear ambitions wax and wane depending on a variety of factors including the types of threats they face, the preferences of leaders and key members of the ruling coalition, perceived costs, technical capabilities, and normative and political constraints.

Paradoxically, the sense of urgency associated with present-day Middle East can create incentives for regional and extra-regional players to address WMD issues in good faith and with a renewed commitment.

Israel may come to see entering into negotiations on a MEWMDFZ as the last unpalatable options it has now that its nuclear monopoly is under threat due to Iran’s advancing nuclear capability, and over the long term, due, potentially, to the growth and spread of nuclear energy in the region and the new political forces shaping the region.

Also Iran may soon come to see the WMD-free zone discussion as an opportunity to advance its interests.

The Linkage of Democracy and Nonproliferation

The revolts sweeping through the Arab world create uncertainty, but they also create an opportunity. The experience from the existing NWFZs demonstrates how democratizing countries are more likely to enter into regional arms control processes. Moreover, democratization theory teaches that new-democracies tend to end their nascent or limited nuclear programs. Hence, democratization processes underway in the region would bode well for eventual establishment of a WMDFZ.

The Benefits of Regional Verification Methods

The experience in implementing NWFZs demonstrates that verification methods can be reinforced when mistrust is widespread, as is the case in the Middle East, and where, as was for the African zone, there is the need to verify the dismantling of nuclear devices manufactured by a party before the entry into force of the treaty, as would be true in the Israeli case.

Getting it Right Through Regional Engagement and Extra-Regional Incentives

International organizations and extra-regional powers have played a key facilitating role in all other NWFZs. The same should be applied to a WMDFZ in the Middle East. External actors must be proactive and provide carrots and sticks. The implementation of negative security guarantees from the NWSs will be particularly important to the Arab states and Iran.
Conclusion

The Middle East is too volatile and problematic for the proposed WMDFZ to be successfully established any time soon. The creation of a zone is a long-term prospect. However, progress toward that end can be made through incremental steps and multiple tracks.
Rethinking MENA Regional Stability in Terms of Nuclear Governance Improvement

Hassan Rahmouni*

The idea of capitalizing on an already existing and well functioning mechanism appears to be perfectly fine and worth considering for the MENA region WMDFZ prospects. In this respect, it sounds perfectly justifiable to consider building on the strengths of the multiple-decades long EURATOM process rather than venturing in a much uncertain reinvention of the wheel mechanism. Yet, it may also be very valuable and worth considering if all positive conditions are presently met in the target region.

When, in the aftermaths of World War II, the “Founding Peacemakers” of the European Union to be set the path for EURATOM, they had in parallel launched a multitude of initiatives covering economic, social, and technological as well as various forms of political/diplomatic integration. How much of these conditions may be easily met among within the context of apparently unsolvable conflict situations that have been poisoning MENA region interstate relationships during the recent decades? Not only have these non-stability concerns been harmful to the much sought peaceful coexistence between the local populations; but, they have also sensibly harmed potential economic development and cooperation perspectives.

It is in light of this reality that will be attempted an approach to examine the “applicability of the EURATOM equation in the MENA context” (III), after a thorough analyses of the “main regional security concerns” (I) along with the much “dwindling regional cooperation perspectives” (II).

I. The Main Regional Security Concerns:
1. The lack of reciprocal trust in bilateral relations
2. The Arab Spring related ongoing domestic uncertainties
3. The alarming impact of the Israeli/Palestinian nurtured conflict
4. The emergence of new conflicting religious divides, i.e. “sunna” vs “shyia”, “Copt” issues, etc.
5. The multifaceted and widespread terror threat

II. The Dwindling Cooperation Perspectives:
1. A “Moribund Oslo process
2. A growing inefficiency of the Arab League
3. A blocked UMA process
4. Conflicting global interests
5. The hidden agenda of “Doha” maneuvering

III. The Applicability of the EURATOM Equation:
1. The potential initiator? (Local initiatives, UN mechanisms, track II pressures, etc..?)
2. The potential partners? (Geographic MENA or Mediterranean basin?)
3. Seeking parallel institutional transnational unity? (generating new cooperation initiatives?)
4. Re-defining and adapting the EURATOM pattern (Learning from success stories,)
5. Transcending the “Vœux Pieux” appearances! (How to overcome the conflicting attitudes?)

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Verification of a WMD-Free Zone in the Middle East

Mohamed I. Shaker*

In a recent paper on the “Main elements of a WMD-Free Zone in the Middle East” circulated to the participants in the present Executive Training Seminar, as well as to the following High-Level Policy Seminar, I have suggested the establishment of a regional verification organization for the zone apart from but linked both to the Organization for the Prohibition of Chemical Weapons (OPCW) which is doing very well and the International Atomic Energy Agency (IAEA) that needs no introduction.

Because of the lack of verification system under the Biological Toxin Weapons Convention, it is hoped that a WMD-Free Zone in the Middle East Conference will be successful in devising a verification system for the Zone that would later on help in building up a global system under the said Convention.

In the nuclear field, a regional organization could be similar to and inspired by Euratom and ABACC in Argentine and Brazil, hopefully ending up with a system benefiting from a mixture of the two set ups if possible.

With regard to Euratom, we must distinguish between its role as a channel of cooperation and its role as an inspectorate.

As a channel of cooperation, Euratom came into existence on January 1958, along with the European Coal and Steel Community, the Common Market and now the European Union. It contributed to the European integration as a political objective and aimed specifically at creating the “conditions necessary for the speedy establishment and growth of nuclear industries” in the members of the EU. Euratom not only coordinates national nuclear research but also has its own research programme.

Euratom’s long experience in fostering cooperation in peaceful nuclear activities should be a source of inspiration to the Arab World. In 2007 at Riyadh Saudi Arabia, the Arab summit requested that the Secretary General of the League of Arab States form groups of experts and specialists, with the participation of the Arab Atomic Energy Agency, located in Tunisia, to consider ways and means for such cooperation to take place within an integrated Arab framework.

As a number of Arab States, are embarking on investing in nuclear power, it is high time to start implementing the Riyadh Declaration, especially in bolstering and restructuring the Arab Atomic Energy Agency in Tunisia in order to perform the task expected of it as a center of gravity and integration.

Euratom and the Arab Atomic Energy Agency should liaise and establish orderly and regular contacts.

If such links were to be strengthened, they may have a positive impact on developing an Arab nuclear fuel cycle that this participant has been advocating since the Riyadh Summit 2007.

As an inspectorate, the safeguards system of Euratom of which the commission of the EU is responsible, are mandatory and directly applicable on the territory of each state. In other words, no safeguards agreements are required to be concluded between Euratom and the Member States, since a

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sufficient basis is established in the Euratom Treaty, and the regulations made the procedures established by the commission.

The Commission which is responsible for exercising supervision is placed in a direct relationship with the holders of materials subjected to control, and this enables the commission, and more particularly its duly authorized inspectors, to have direct access to the enterprises.

The essential elements of the safeguards system of Euratom are on the one hand declarations made by the firms to the Commission and on the other hand the spot checks carried out by the inspectors.

The system is essentially concerned with the nuclear material. It does not cover equipment and facilities unless Euratom undertakes an international commitment to this effect.

The focus on nuclear material has greatly influenced the making of the Blue Book, i.e. the NPT safeguards system. The NPT system had to adapt to the European concerns. It is rather a nuclear material oriented system.

European concerns had also their impact on making sure that the IAEA would simply verify the Euratom system of safeguards, which in the view of its members is doing well.

The Euratom members postponed their ratification of the NPT until the safeguards agreement between the IAEA and Euratom and between the IAEA and each individual European State member of the enlarged European Community then were concluded (1972).

Now that all the Arab States are party to the NPT and most of them have concluded the safeguards agreements with the IAEA and adopted the “Additional Protocol”, they may aspire one day to emulate the Euratom experience, especially if they were up to the challenge created by the Riyadh Declaration of 2007 for an integrated effort.

A regionalization of the nuclear fuel cycle, even if it were to be a partial one, will be a step in the right direction.

With regard to the ABACC involving mutual inspections between Argentina and Brazil, and under the umbrella of the IAEA and OPANAL, the control arms of the Tlatelolco Treaty, it might be a particularly convenient experience in the Middle East to emulate, where nuclear activities in Israel and Iran have been shrouded in secrecy for a long duration to the extent that it would be rather a difficult task to account for the accumulated nuclear material over many years.

A few years ago at Davos, exchanged visits and inspections of nuclear facilities between Egypt and Israel came up in the discussions between Amr Moussa, the then Foreign Minister of Egypt, and Shimon Perez, now the President of Israel. They lead to nowhere, as Perez refused to open up Dimona. This incident is a vivid example that the task ahead for a nuclear-weapon free Middle East is rather difficult and remote. However, as of now, we have to lay the foundations of a Nuclear Weapon Free Zone in the Middle East.
Making Empathy and Reciprocity work? Lessons from the Nuclear File

Nicholas J. Wheeler,* Scott Lucas** and Josh Baker***

A common refrain in explaining the nuclear stand-off between Iran and the United States, and its key Western allies France and the United Kingdom, has been the claim that no progress will be made in building cooperation – even small steps - in the absence of trust. Yet, at the same time, it is widely accepted that trust will only grow if such steps can be agreed since these hold out the possibility of building confidence that each side is committed to a genuine accommodation on the nuclear issue. The challenge of squaring this particular circle, so the argument goes, has bedeviled all previous negotiations between the two sides, and will continue to do so leading to continuing deadlock. We sympathize with this position, but in this short memorandum, and the larger paper that will provide the detailed theoretical and empirical support for our argument, we want to argue that initiating cooperation between Iran and Western governments does not necessarily require the prior growth of trust. We recognize that no lasting settlement of the nuclear issue is possible without trust. However, what such an observation misses is that limited cooperative moves are possible in the absence of trust, provided that key policy-makers on both sides are able to exercise empathy for each other’s legitimate security concerns, and as a consequence, fashion policies that are based on promoting mutual security. At the same time, such steps might lead to increased trust, thereby encouraging both sides to make bolder moves that might finally lead to a lasting settlement.

To make good on this proposition, we identify five key lessons that emerge from the history of interactions between the two sides over the nuclear issue which will have to be factored into any future policies on both sides if cooperation is to develop in the future.

Remember the importance of Security Dilemma sensibility

The first lesson in achieving cooperation is for decision-makers to exercise what Ken Booth and Nicholas Wheeler have called ‘security dilemma sensibility.’ The security dilemma is the inescapable condition of uncertainty that confronts governments as to the motives and intentions of those who hold the capacity (or potential capacity) to inflict harm. The most important insight of security dilemma theory is that a conflict might be generated between states with defensive motives because each fails to understand that the other is acting out of fear and insecurity and not aggressive intent. Crucially, what drives conflict in such cases is each side failing to appreciate how its own actions have contributed to the other side feeling insecure. Actors exercise security dilemma sensibility when they recognize how their own actions have contributed to a spiral of mutual fear and insecurity, and devise policies that promote mutual reassurance.

Signaling your peaceful motives and intent

How might decision-makers, exercising security dilemma sensibility, signal that they are genuinely committed to an accommodation? How can they move towards co-operation, encouraging the other party to reciprocate? A cooperative move has to be convincing enough to be treated by the other side

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as a step worthy of consideration and response, whilst not being so costly that it leaves the proposer exposed if the other side has aggressive intentions.

In the current negotiations, if the E3+3 were to offer a significant measure of sanctions relief --- going beyond the current offer of lifting restrictions on aircraft parts and transfers of gold and precious metals, perceived as derisory --- in return for constraints on 20 per cent enriched uranium, then both sides could be seen as signaling their commitment to a framework for mutual security.

However, if this offer is not on the table, then it will reinforce the Iranian belief that its Western interlocutors are not sincerely committed to the principle of mutual security, but are pursuing other malign purposes. Conversely, the belief of those who maintain that Tehran has not made a serious negotiating offer since the renewal of talks in early 2012 can only be tested after a viable plan linking sanctions relief and uranium enrichment is put on the table. Such proposals should also map out at the same time a clear endgame for the negotiations.

Avoid Bad Faith Thinking

One of the problems that has bedeviled past negotiations — and each round that fails deepens the collective memory here — is the belief that the other side is behaving dupliciously. The US political scientist, Ole Holsti, developed an idea first coined by Henry Kissinger of actors holding an ‘inherent bad faith model.’ The idea here is that a particular actor’s behavior is perceived as threatening and untrustworthy which, in turn, is seen as determined by certain inherent characteristics (e.g. its political identity, fundamental values etc). The implication of this way of thinking is that situational explanations of actions are discounted as unimportant, relative to the drivers of policy that are rooted in the dispositional characteristics of actors.

The problem here is that if one side makes what it sees as a genuine conciliatory move --- as the United States believed with President Obama’s overtures to Tehran at the beginning of his first term --- this may be discounted by an adversary as tokenistic, insincere, or even a deception aimed to lull the recipient into a false sense of security.

This reiterates the importance of effective and clear signaling. Decision-makers seeking to communicate through limited openings need to be aware of the high likelihood that, if the other side is operating with a bad faith model of an adversary, then stronger signals will be needed to break down the walls of mistrust. Stronger signals may also require repetition, as the psychologist Charles Osgood set out in the 1960s with his GRIT (Graduated Reciprocity in Tension Reduction) strategy. Osgood had argued that even if reciprocation was not immediately forthcoming (and Osgood never made reciprocation conditional on making a limited move aimed at initiating a virtuous circle of cooperation), then the state seeking to employ GRIT should continue to make limited unilateral moves aimed at communicating one’s defensive motives to an adversary.

Osgood’s critics were quick to point out that a GRIT strategy is politically naïve since the problem with continuing to make concessions when there is no positive reciprocation is that this becomes progressively harder to justify to domestic audiences. This is especially true in the case of the United States when it comes to Iran. Obama’s 2009 outreach suffered this fate, becoming a ‘single roll of the dice’ when it did not bring agreement after the October 2009 Geneva talks. As a result, the US administration switched to a strategy of increased coercive pressure through sanctions, rejecting the Tehran Declaration of spring 2010.

Avoid preconditions

A precondition to any negotiation, far from being a signal for reciprocation, elevates suspicion that an initiative is being made in ‘bad faith.’ In June 2006, the E3+3's precondition that Iran suspend its
enrichment activities before the beginning of discussions effectively halted any progress. Seven years later, the P5+1’s ‘stop, shut, and ship’ policy on Iran’s 20 per cent enrichment risks the same perception, condemning high-level discussions to a Groundhog’s Day of meetings with no progress. The precondition that Iran suspend its enrichment activities before negotiations was a major mistake because it offended against Iran’s sense of dignity and pride. Diplomacy at its best is a dialogue of mutual respect and we won’t reduce mistrust if we start out with preconditions.

Do not use threats

Our fifth point is that we should not expect people to negotiate seriously whilst they are being threatened with coercion if they do not comply with our wishes. Mohammed ElBaradei has pointed in his Memoir to the inevitable failure (in an Iranian political and cultural context) of applying both rewards and sanctions in order to compel changes in Tehran’s behavior. He argued, and we would agree, that no progress will be made if Iran’s government appears to be negotiating under threat. Coercion is the opposite of reciprocity because it does not recognize the legitimacy of the other party’s interests, values, and purposes. In the current context, Iran seeks recognition of its sovereign right to enrichment.

Conclusion

The clear theme that has run throughout each of these points has been the importance of what Ralph White called ‘realistic empathy’, and for the key players to act reciprocally towards each other. Cooperation of some kind is possible in the absence of trust, but only if there is empathy and reciprocation on both sides. Clearly, however, trust is necessary if bolder moves that might transform the adversarial character of the relationship are to become possible. Yet, empathy in the form of security dilemma sensibility can open up new possibilities for cooperation that are currently ruled out because each side is operating with a bad faith model of the other. If each side can take moves to inspire confidence in the bona fides of the other on the nuclear question, then the seed of trust will finally have been planted.
Conditions for Regional Nonproliferation Arrangements: Comparative Perspectives

Etel Solingen*

Why do (some) states go nuclear (but not others)?

A waning conventional wisdom: The conventional explanation for who goes nuclear—but less for who doesn’t-- has been some variant of neorealism, at least until recently. Most studies of nuclear postures of regional powers (beyond the original five) in the last few decades have emphasized balance of power, self-help, and survival in an anarchic world as the key drivers explaining why states opted for nuclear weapons. This approach provided a powerful analytical tool for explaining the pursuit of nuclear deterrents by some states who experienced existential fears. However, the approach also proved limited in many other respects, and at variance with empirical/historical evidence in too many other cases. Many states that faced acute vulnerabilities never developed nuclear weapons. Even states whose rivals acquired nuclear weapons did not always respond in kind, as was the case with Egypt, Taiwan, Vietnam, South Korea, Japan, Jordan and many others. Other states pursued nuclear weapons even where the logic of genuine existential threats to the state itself (as opposed to the regime) was weak or inexistent. Argentina, Brazil, South Africa, Libya in the 1970s, Algeria, and others are cases in point. The appeal of balance of power as the core driver is declining significantly in the expert community. In addition to the problem of empirical fit, fundamental conceptual problems afflict this theory: elastic and subjective definitions of vulnerability and of power itself; unclear thresholds that compel nuclearization; inconclusive, open-ended operational implications of power differentials, and concerns with whether the theory itself is falsifiable. Do threats derive from changes in relative capabilities; from “rival” states as abstract entities trapped in international anarchy; or from the particular leaders, regimes or ruling coalitions interpret and define them at a particular historical time? Prominent experts nowadays trace even the behavior of Iran and North Korea to regime survival, which is quite different from state insecurity and balance of power as an unchanging parameter of geopolitics.

Models of regime survival: Political leaders and their supportive coalitions embrace different domestic political-economy models to acquire and preserve power. These models have implications for the likelihood that leaders will opt for nuclear weapons or renounce them. I found systematic differences in nuclear choices between ruling coalitions advocating integration in the global economy (“internationalizers”) and those wary of such integration (“inward-looking”). Internationalizers have incentives to avoid the political, economic, reputational and other costs of acquiring nuclear weapons because such costs impair a domestic agenda favoring economic growth via integration in the global economy. Internationalizers are even more likely to undertake regional cooperation when they face similarly committed partners. By contrast, ruling coalitions rejecting internationalization incur fewer costs and have greater incentives to exploit nuclear weapons as tools in inward-looking nationalist platforms of political competition and survival in power. The greater the incidence of inward-looking models in a region, the stronger the probability that they will gravitate toward nuclear weapons. Whereas inward-looking models might have regarded nuclear weapons programs as assets in the arsenal of building regime legitimacy, internationalizing models built legitimacy on successful and competitive economies capable of providing goods to the population. This contrast is most evident when comparing the Middle East with East Asia. No state acquired nuclear weapons since China’s 1964 nuclear test in East Asia except for North Korea, the quintessential inward-looking autocracy.

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Since the inception of the NPT (1970), the connection between models of political survival and nuclear choices finds support from systematic observations across different regional security contexts, diverse associations with hegemonic powers, and over successive leaderships within the same state. First, every case of denuclearization entailed a domestic evolution toward internationalization. Of all nuclear aspirants in the last four decades, not one endorsed denuclearization—fully and effectively—under domestic regimes that shunned integration in the global political economy. Only leaders of nuclear aspirants who advanced their political survival through export-led industrialization undertook effective commitments to renounce nuclear weapons by signing on to the NPT (Egypt under Sadat, South Africa, Brazil and Argentina, Japan, Taiwan, South Korea, Spain on the eve of EU accession). Nuclear decisions were nested in a broader shift toward internationalization in economics and security. Second, where internationalizing regimes became stronger politically, the departure from nuclear claims was sustained even where the security context remained challenging, as has been the case for Japan, South Korea, and Taiwan. Third, where regimes favoring internationalization remained weaker, the more politically constrained they were in curbing nuclear programs, as in Iran, Pakistan, and Argentina and Brazil until the 1990s. Fourth, most defiant nuclear courses were tools of autarkic or inward-oriented models such as Perón’s Argentina (Liberación o Muerte), North Korea’s juche, India’s swadeshi, and equivalents in Nasser’s Egypt, Iraq, Iran, and pre-2003 Libya (possibly Indonesia’s Sukarno as well).

Fifth, and of particular relevance to the Middle East, even advocates of internationalizing models may have to contend with an unstable region where neighboring leaders endorse alternative economic and nuclear policies. Whether the center of gravity in a given region is internationalizing or inward looking has implications for the ability of leaders within that region to implement their favored model. An internationalizing East Asia presented different incentives and constraints than a rather resilient inward-looking Middle East. Thus, only autarkic North Korea pursued nuclear weapons in East Asia in contrast to several Middle East states, whose political-economy models emphasized import-substitution, nationalism or religious radicalism. This regional dominance of inward-looking models fueled inter-Arab, Arab-Israeli, and Arab-Iranian nuclear competitions, raising significant barriers for internationalizing models that might otherwise prefer denuclearization. Seventh, internationalizers’ receptivity to denuclearization was clearly made easier by US alliances in some cases, such as with Japan and South Korea. Internationalizing models and alliances were mutually enabling. At the same time, other internationalizers chose to denuclearize even in the absence of such alliances, and often even in the absence of security guarantees, as was the case with Egypt, South Africa, Argentina, and Brazil. Singapore, as others afflicted with security dilemmas, also avoided nuclear weapons even without hegemonic commitments. In sum, the association between models of political survival and nuclear choices is strong, although not deterministic or inevitable.

Insights from the Southern Cone of Latin America

The Southern Cone of Latin America provides a good model but any effort to apply its lessons to the Middle East must come to terms with sharp differences in the overall conditions characterizing both regions. The two differ in the depth of security dilemmas (far deeper in the Middle East), the nature of polarity (far more multipolar in the Middle East), and military capabilities and doctrines (far more offensive in the Middle East). Most importantly, the two regions differ in their different models of

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2 Solingen, Ibid and “Domestic Sources of Nuclear Behavior in the Middle East,” in Mehran Kamrava, ed., The Nuclear Question in the Middle East, Columbia University Press 2012. Potter and Mukhatzhanova (2010) find the argument that competing models of political survival shape positions on nuclear weapons particularly convincing in accounting for much of the variation in nuclear restraint across and within states over time.
regime survival. Inward-looking autocracies in the Southern Cone could not arrive at stable arrangements for several decades. Brazil (and Chile) signed and ratified the Tlatelolco Treaty but did not waive the conditions required for its entering into force on their territories. Argentina signed it but failed to ratify it (and Cuba took no action until the mid-1990s). At this point neither Argentina nor Brazil were parties to the NPT either. Their defiant positions could hardly be conceived as stemming *primarily* from “security dilemmas” vis-à-vis each other. Militarized inward-looking autocracies set the tone.

The advent of internationalizing democracies enabled the breakthrough of the 1990s: joint Argentine-Brazilian accession and ratification of the NPT, Tlatelolco Treaty and other security regimes. Argentina’s president Carlos S. Menem incepted an internationalizing revolution aimed at attracting foreign investment, privatization, liberalizing trade, abandoning Argentina’s historical nationalist foreign policy, joining international regimes it had previously challenged such as the missile technology control regime (MTCR), discontinuing support for sensitive nuclear facilities, and imposing complete civilian control over the nuclear program, a chronic budgetary black hole. Brazil’s Collor de Mello launched major trade reform, rescinded protectionism, downsized the state bureaucracy, eliminated budget deficits, slashed military allocations, privatized 22 of 26 state enterprises—all with significant opposition from Congress and the military—and shut down presumed nuclear weapons test sites. These parallel domestic political and economic transformations enabled new modalities of inspection and verification (ABACC, Agência Brasileira-Argentina de Contabilidade e Controle de Materiais Nucleares and Quadripartite Agreement for the Application of Safeguards--IAEA, ABACC, Argentina, and Brazil). The Middle East, by contrast, remained largely populated by inward-looking autocracies for much of the last 5 decades. We are now witnessing transitions that are open ended both on the democracy side and political-economy model. The outcome of these transitions will be crucial for the possibility of a Middle East-NWFZ.

**Conclusion**

As a wide range of cases from East Asia, Latin America and the Middle East suggest, regions more highly integrated in the global economy enhance the prospects of internationalizing models that restrain nuclearization. By contrast, regions less integrated into the global economy posed more serious difficulties for denuclearization. It is difficult to imagine that binding bilateral (and subsequent multilateral) WMD commitments in the Southern Cone could have been negotiated and implemented in the absence of the domestic political conditions outlined above. Most experts consider the Argentine-Brazilian decision to discard long-held policies and enter the nonproliferation regime as primarily a result of domestic transformations and a bilateral process rather than direct responses to external pressure. Visionary leaders advancing internationalization and denuclearization understood that, at the end of the day, providing public goods and improving the lives of constituencies through engagement in the global economy would also improve their own political survival. This strategy entailed massive retrenchment from old patterns of statism and expansive military-industrial complexes that had strangled the development of dynamic economies and politics and perpetuated the political power of statist-military inward-looking elites. It also entailed complete civilian control over the military. Yet, it is important to remember than the absence of democracy did not preclude some incipient cooperation on WMD matters that laid the foundations for deeper and more stable arrangements down the road. But the road was not an easy one until the entire region transitioned to more open economies and polities. Brazil, Argentina and Chile also joined in regional and international agreements banning chemical and biological weapons, thus creating a zone free of *all* WMDs, another relevant lesson for the Middle East, where chemical weapons have been used repeatedly. Argentina and Brazil’s ratification of WMD agreements were also made easier by the fact that every other state in the region had already done so. Furthermore, even in a Latin American environment of dramatically lower security threats than that of the Middle East, a regionally-based
arrangement and mutual inspections was found more palatable initially. And Argentina and Brazil are yet to endorse Additional Protocols.
Israel’s Nuclear opacity Policy and Democratic Governance

Avner Cohen*

Israel is the sixth state in the world—and the first in the Middle East—to develop, acquire and ultimately possess nuclear weapons. It initiated its nuclear programme in earnest in the 1950s when it constructed its primary nuclear facility, the Negev Nuclear Research Center – also known by KAMAG, its Hebrew acronym – outside the town of Dimona. Within a decade, Israel had completed the initial research and development stage of its nuclear weapon programme. By the eve of the 1967 Six-Day War, Israel had secretly improvised the construction of two or three rudimentary, but operational nuclear devices.

By 1970 it became widely presumed that Israel had crossed the nuclear weapons threshold capability. Since 1986 – in the wake of the public disclosures made by Moredchai Vanunu, Israel’s infamous nuclear whistle-blower – Israel has been viewed as a mature nuclear weapon state, in both the quality and quantity of its arsenal.

However, Israel has distinguished itself as a radically different kind of nuclear weapons state than the first five (i.e. the recognized nuclear weapons states under the Non-Proliferation Treaty (NPT)), or even than the other two, India and Pakistan, that acquired nuclear weapons later. Unlike those seven states, Israel has never acknowledged its nuclear status, nor has its government denied it. As a matter of long-held policy, the Israeli government keeps the status of its nuclear capability deliberately veiled, and it has done so in a manner that has shaped the strategic perceptions and actions of others – friend and foe alike. This nuclear code of conduct has become known as Israel’s policy of “nuclear opacity” (some refer to it as “nuclear ambiguity”), or, in Hebrew, amimut.

This code of conduct has a profound—and negative—impact on the type of nuclear governance which Israel has created, developed and sustained and in return on Israeli democracy itself. Paradoxically, Israel pursues this non-democratic conduct with a tremendous level of (tacit) citizenry support as successive public surveys have clearly indicated. On the nuclear issue, Israeli citizens defer their democratic rights, particularly their right to know and debate national policies, by accepting – even endorsing – the amimut opacity, and they do so in a most democratic fashion. This conduct manifests a uniquely Israeli paradox about democratic control of nuclear weapons.

The absence of any meaningful nuclear legislation in Israel is a most indicative feature of its undemocratic governance of the atom. Specifically, Israel’s primary nuclear organization, the Israel Atomic Energy Commission (IAEC), was founded by a secret executive order issued by Prime Minister David Ben Gurion in 1952 and subsequently reorganized into its present governance form in 1966, but is not anchored in any act of parliamentary legislation. Notwithstanding the existence of some internal and external systems of governmental oversight as well as other governance provisions, no piece of legislation, which by definition is public, covers any of Israel’s nuclear activities. Israel’s nuclear activities are grounded in a virtually legal vacuum.

Israel’s opacity stands in contrast with the nuclear governance of other democratic nations, and highlights the problematic and exceptional nature of Israel’s judicial policy in this area. Indeed, as of 2013, more than sixty years after the United States initiated the first piece of nuclear legislation, nearly every democratic state has produced some sort of nuclear legislation. Israel stands in full contrast, even in defiance, to this contemporary democratic outlook. While the IAEC was reorganized afresh in 1966 — presumably through a set of highly classified government decisions — to this day Israel lacks a law that governs the management of its nuclear affairs, especially the IAEC. Nor is there any other public semi-legal document that regulates matters of responsibility, jurisdiction, and authority at the

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IAEC. The legal sphere is one example of how Israel’s commitment to nuclear opacity has made its bargain with the atom an exception among democracies.

Any future nuclear legislation in Israel must first grapple with important issues related to the IAEC. While any form of IAEC law would have great symbolic value, the practical benefits of the law would depend on its substance: how explicit and detailed the law would be. More specifically, much would depend on how clearly the law would address the IAEC mandate. At minimum, such legislation must address the legal status of the IAEC as the government’s nuclear agency: its overall mission, authority, subordination, oversight, and so on. Such a law should also define the statutory authority of the prime minister over nuclear affairs; the working relationship between the prime minister and the IAEC; the system of executive oversight that must be in place over the nation’s nuclear policies and activities; supervision principles through the Knesset; and issues of safety in the IAEC facilities.

At present, the notion of an IAEC law is an anathema to the Israeli nuclear establishment. Such a law is perceived as incompatible with the policy of opacity – this is an important and nontrivial concern. Nevertheless, opponents of nuclear legislation must confront three considerations which undermine their opposition:

6. Legislative deliberation, by its very nature, is a slow and highly deliberate process, as many individuals and agencies are involved.

7. There is nothing inherent in such legislation that would require a formal end to opacity. As long as the State of Israel is not politically ready to move beyond the policy of opacity, no act of legislation could do so.

8. Legislation on such a sensitive matter with implications for Israel’s nuclear policy would likely require consultation with outside parties, but an act of domestic legislation is normally not an occasion for foreign countries to intervene.

Serious public discussion of legislation on nuclear issues should no longer be postponed. The General Security Services Law passed in 2002 – which governs matters of domestic state security – can be a kind of core legislation in its regulation of matters of authority and supervision. It is incumbent on Israel to start deliberating the merits of an IAEC law. The nuclear issue is too important to be derived from the government’s residual power; this is a sensitive domain of governmental action that requires a legal standing of its own through Knesset legislation. The oddities and paradoxes involved in the relation between Israel’s policy of nuclear opacity policy and the principles of liberal democracy are both wide and deep. Only by marshaling Israel’s established democratic practices can its nuclear program assume a normal role in the political life of Israel and, only then, can the country enter into a normal relationship with other nuclear weapons states and the international nonproliferation regime.