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# The Role of Extraregional States in the Middle East WMD-Free Zone

CHEN ZAK KANE • SARAH RUTH OPATOWSKI



MIDDLE EAST WEAPONS OF MASS DESTRUCTION FREE ZONE SERIES



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# List of Acronyms and Abbreviations

|                  |                                                          |
|------------------|----------------------------------------------------------|
| <b>ANZUS</b>     | Australia, New Zealand and United States Security Treaty |
| <b>ASEAN</b>     | Association of Southeast Asian Nations                   |
| <b>BIOT</b>      | British Indian Ocean Territory                           |
| <b>BWC</b>       | Biological Weapons Convention                            |
| <b>CANWFZ</b>    | Central Asian Nuclear-Weapon-Free Zone                   |
| <b>COFA</b>      | Compact of Free Association                              |
| <b>CWC</b>       | Chemical Weapons Convention                              |
| <b>EEZ</b>       | Exclusive economic zone                                  |
| <b>LAS</b>       | League of Arab States                                    |
| <b>ME WMD FZ</b> | Middle East Weapons of Mass Destruction-Free Zone        |
| <b>NNWS</b>      | Non-nuclear-weapon state(s)                              |
| <b>NPT</b>       | Treaty on the Non-Proliferation of Nuclear Weapons       |
| <b>NSA</b>       | Negative security assurance                              |
| <b>NWFZ</b>      | Nuclear-weapon-free zone                                 |
| <b>NWS</b>       | Nuclear-weapon state(s)                                  |
| <b>UNCLOS</b>    | United Nations Convention on the Law of the Sea          |
| <b>WMD</b>       | Weapons of mass destruction                              |



# Executive Summary

*Strait of Hormuz, 2018. Credit: The European Space Agency.*

The establishment of a Middle East WMD-Free Zone (ME WMDFZ) presents an opportunity to mitigate existing and future weapons of mass destruction (WMD) threats in the region, but it also faces significant challenges. This report examines the role of extraregional states in the future Zone by analysing the experiences of established nuclear-weapon-free zones (NWFZs). In particular the protocols attached to the NWFZ treaty for signature by extraregional states and by exploring their relevance to the Middle East, considering that region's unique characteristics.

There is a delicate balance between regional aspirations and the need for extraregional support, particularly from the five nuclear-weapon states (NWS) as defined under the Treaty on the Non-Proliferation of Nuclear Weapons (NPT), to ensure the adoption of future treaty protocols. In this context, three areas should be considered where established NWFZs have faced challenges regarding the ratification of protocols by NWS, or with reservations or interpretive statements they issued when adopting the protocols.

The first area lies in defining the scope and boundaries of the Zone itself. The existing NWFZs offer varied approaches to defining “territory” and “zone of application”, each with significant implications for treaty implementation. Defining these key terms in the Middle East context will require negotiators to consider potential sovereignty disputes involving external powers, maritime boundaries within the Zone, and the presence of foreign military bases.

The second area is the provision by NWS of negative security assurances (NSAs). They serve as critical guarantees against threats and use of nuclear weapons; they are thus central to the credibility of NWFZs, including a future ME WMDFZ. Notably, the NWS ratification of existing zones' protocols have at times been accompanied by reservations or interpretive statements that limit the circumstances under which the protocols may apply. In addition, the unique scope of the future ME WMDFZ – encompassing nuclear, chemical, and biological weapons – further warrants a discussion on the possible implications for NSAs.

The third major area for consideration is maritime-related issues. The inclusion of areas beyond the territorial sea of states parties in the zone of application of established NWFZs has often led to reservations, if not a lack of ratification of protocols. Negotiators face a complex array of issues, including maritime rights outlined by the 1982 United Nations Convention on the Law of the Sea (UNCLOS), NWS navigation and transit policies in strategically important waterways, and the national laws of coastal states concerning innocent passage and the required pre-notification or authorisation for nuclear-capable vessels.

Each of these three clusters of issues requires consideration and balancing between national policies and regional security objectives, alongside the strategic interests and policies of external parties. The successful establishment of an ME WMDFZ, with the adoption of the protocols by the NWS, hinges on early and sustained engagement with these states. Drawing on the experiences of established NWFZs, the states of the Middle East should proactively inform the NWS about progress in negotiation of the Zone treaty, invite feedback and input on its protocols, engage in dialogue – including discussions on possible reservations or interpretive statements – and focus on pragmatic treaty design to resolve outstanding issues.



# Introduction

*The Middle East at Night from Space. Credit: NASA Earth Observatory.*

The establishment of a Middle East Weapons of Mass Destruction Free Zone (ME WMDFZ) presents, first and foremost, a unique opportunity to address the threats posed by WMD in the region. However, it also poses significant challenges due to the region's complex geopolitical landscape, mistrust, and the diverse interests of regional and extraregional states. This report draws on the experiences of established nuclear-weapon-free zones (NWFZs) in relation to the protocols to the NWFZ treaties as well as the status of their ratification, reservations, as well as general concerns expressed by extraregional states. The report then examines how these principles may be applicable in the context of the Middle East, and in particular to the Middle East WMD-Free Zone. For the purpose of the study, an “extraregional” state is a state that lies outside the region but is expected to ratify the protocols as a result of being either one of the five nuclear-weapon states (NWS) as defined under the Treaty on the Non-Proliferation of Nuclear Weapons (NPT), or since it controls de facto or de jure a territory within the designated region.

The report is divided into four sections. Section 1 provides an overview of the established NWFZs, along with their protocols and the obligations that extraregional states, particularly the five NWS as defined under the NPT, are required to undertake. It also includes the status of protocol ratification and outlines several unique features of some of the protocols. Section 2 explores territorial issues through the definition and delineation of “territory” and “zone of application” of NWFZs, as well as issues arising from territories controlled by extraregional states and disputed territories. Section 3 discusses the provision of negative security assurances (NSAs) through NWFZs protocols and NWS concerns and reservations. Section 4

details maritime-related issues in the application of the NWFZs, including in territorial waters, exclusive economic zones (EEZs<sup>1</sup>), the high seas and international straits, with particular attention to how these areas interact with international maritime law. Finally, the conclusion outlines the topics relevant to the Middle East WMD-Free Zone and the considerations that negotiators may want to take into account when addressing these issues.

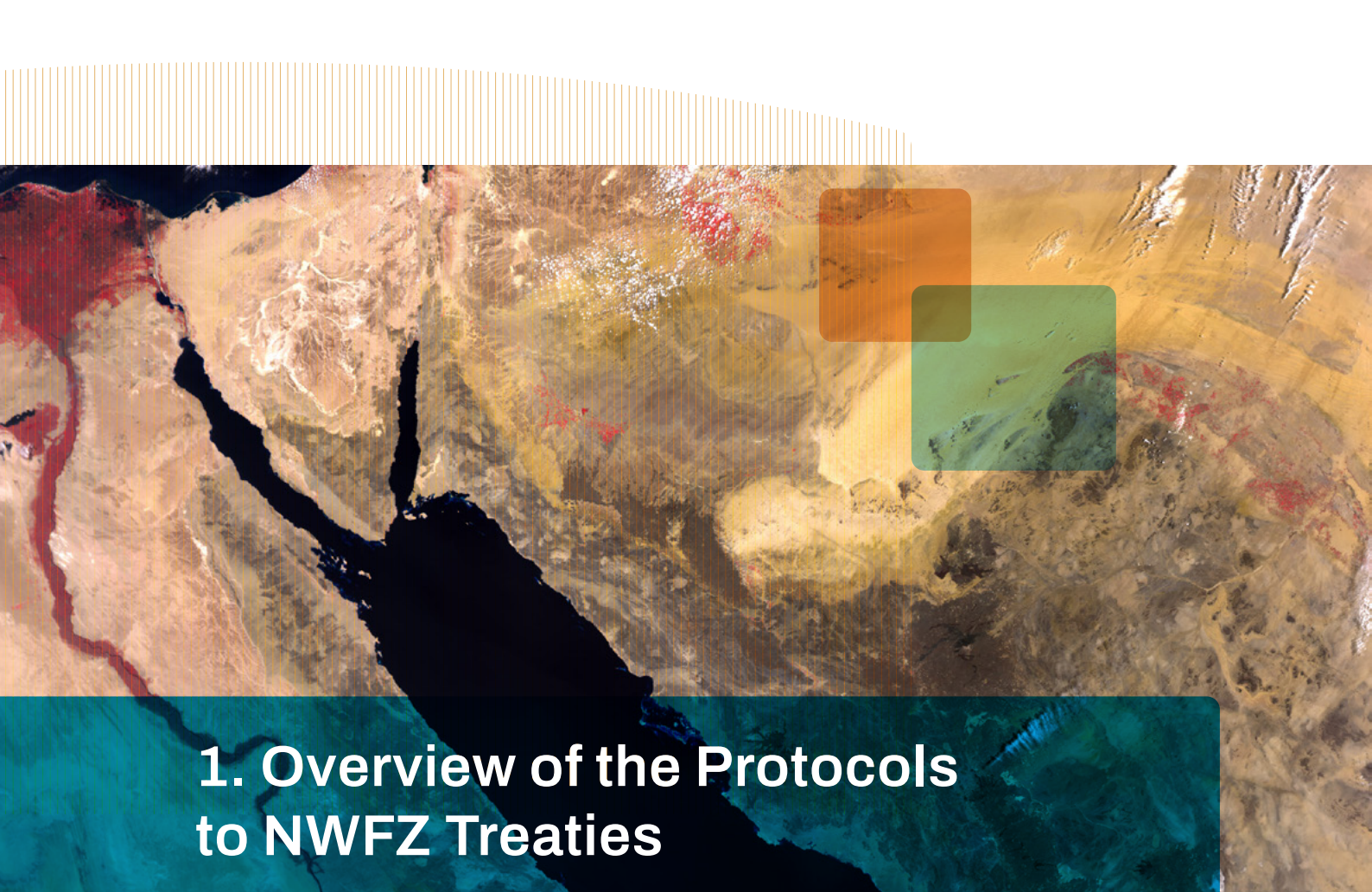
Overall, some of the issues experienced by established NWFZs are more acute than others in the context of the Middle East and NWS adherence to the future ME WMDFZ protocols. Most have yet to be considered or discussed in detail by officials from the Middle East. Importantly, the future ME WMDFZ will encompass all three types of WMD – nuclear, chemical, and biological – while the existing NWFZs cover only nuclear weapons. Throughout the paper, the other two types of weapons are also discussed where relevant. As it is important to be aware of potential outstanding issues and best practices for engaging with NWS on protocols to ensure their support, the report highlights certain questions that may require discussion among Middle Eastern states and between those states and the NWS.

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<sup>1</sup> The Exclusive economic zone (EEZ) as defined by UNCLOS is an area of the ocean, generally extending between 12 and 200 nautical miles (around 22 to 370 kilometres) beyond a state's territorial sea, within which a coastal nation state has sovereign rights and exercises jurisdiction over both living and non-living resources.



# 1. Overview of the Protocols to NWFZ Treaties

Red Sea from Sentinel-3B, 2018. Credit: The European Space Agency.

An NWFZ is a legally binding arrangements that aims to free an entire geographical area from nuclear weapons and associated risks, internal or external, to the region. To prevent external threats, NWFZ treaties include protocols that represent formal commitments from the five recognised nuclear powers under the NPT, as well as protocols for external states with jurisdiction over certain territories within the defined region. The commitments in these protocols – which are legally binding, formal and public – are intended to provide greater certainty and reliability to the NWFZ and to contribute to the goal of nuclear disarmament. They also add a degree of prestige and legitimacy to the Zone by showing that it was able to gain the

commitment and recognition of these extra-regional states (see Table 1 for the status of the protocols to the existing NWFZs). These protocols are also important incentives for states in the region to join the treaty, as they go beyond the existing commitments made by the NWS in other forums.

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The non-signature or non-ratification of protocols by an NWS can indicate unresolved issues regarding the terms of the treaty and its application, which could

ultimately undermine the effectiveness of an NWFZ as a regional security framework. This is particularly true for the NWFZs in which a key driver for their establishment was the threat posed by the actions of NWS external to their regions.

**Table 1. NWFZ Protocols Status of Ratifications<sup>2</sup>**

| NWFZ Treaty                                                             | Protocol                                            | China        | France       | Russia       | UK           | USA           | NNWS with territories or dependencies within the Zone |
|-------------------------------------------------------------------------|-----------------------------------------------------|--------------|--------------|--------------|--------------|---------------|-------------------------------------------------------|
| <b>1967 Treaty of Tlatelolco</b><br>(Latin America and the Caribbean)   | Additional Protocol I (Respect Status; Territories) | N/A          | 1992         | N/A          | 1969         | 1981          | Netherlands 1971                                      |
|                                                                         | Additional Protocol II (NSA)                        | 1974         | 1974         | 1979         | 1969         | 1971          | N/A                                                   |
| <b>1985 Treaty of Rarotonga</b> (South Pacific)                         | Protocol I (Respect Status; Territories)            | N/A          | 1996         | N/A          | 1997         | Signed (1996) | N/A                                                   |
|                                                                         | Protocol II (NSA)                                   | 1988         | 1996         | 1988         | 1997         | Signed (1996) | N/A                                                   |
|                                                                         | Protocol III (No Testing)                           | 1988         | 1996         | 1988         | 1997         | Signed (1996) | N/A                                                   |
| <b>1995 Treaty of Bangkok</b> (South-East Asia)                         | Protocol (NSA; Respect Status)                      | Did not sign | Did not sign | Did not sign | Did not sign | Did not sign  | N/A                                                   |
| <b>1996 Treaty of Pelindaba</b> (Africa)                                | Protocol I (NSA)                                    | 1997         | 1996         | 2011         | 2001         | Signed (1996) | N/A                                                   |
|                                                                         | Protocol II (No Testing; Territories)               | 1997         | 1996         | 2011         | 2001         | Signed (1996) | N/A                                                   |
|                                                                         | Protocol III (Respect Status)                       | N/A          | 1996         | N/A          | N/A          | N/A           | Did not sign (Spain)                                  |
| <b>2006 Treaty on a Central Asian Nuclear-Weapon-Free Zone (CANWFZ)</b> | Protocol (NSA; Respect Status)                      | 2015         | 2014         | 2015         | 2015         | Signed (2014) | N/A                                                   |

<sup>2</sup> United Nations Office for Disarmament Affairs, Treaties Database, <https://treaties.unoda.org/treaties>. Note: N/A is “non-applicable”. Year indicates year of ratification and date in parenthesis indicates date of signature.

Each of the established NWFZs have included the following commitments under their protocols (See Table 2 for a summary of NWS commitments under protocols of the established NWFZ treaties):

- ▶ A requirement of NWS to provide NSAs, committing them not to threaten or use nuclear weapons against states parties to the treaty.
- ▶ Where extraregional states have de jure or de facto responsibility for territories within the designated zone, they agree to respect the zone's denuclearised status.
- ▶ A requirement of NWS not to contribute to any act that violates the treaty's obligations.

Some NWFZs protocols also include:

- ▶ Prohibitions on NWS using nuclear weapons against territories within the zone under extra-regional control, including those controlled by another NWS.<sup>3</sup>
- ▶ Commitments not to test nuclear explosive devices within the zone.

**Table 2. NWS Commitments under the NWFZ Protocols**

| NWFZ Treaty                 | NSA: No Use/Threat Against Parties | NSA: No Use/Threat Within Zone | Testing Ban | Respect the NWFZ status | Geographic Scope of Assurances                                                                                                                                                                                                                                                    |
|-----------------------------|------------------------------------|--------------------------------|-------------|-------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>Treaty of Tlatelolco</b> | Yes                                | No                             | No          | Yes                     | States parties and territories within a coordinate-defined zone (incl. EEZs, parts of the high seas). Additional Protocol I applies to territories within the zone under extra-regional control; Additional Protocol II's assurances focus on states parties, not the entire zone |
| <b>Treaty of Rarotonga</b>  | Yes                                | No                             | Yes         | Yes                     | Territories within zone; Protocol I extends obligations also to extraregional states with territories in the zone                                                                                                                                                                 |
| <b>Treaty of Bangkok</b>    | Yes                                | Yes                            | No          | Yes                     | Entire zone (including territories, EEZs, continental shelves; excluding high seas)                                                                                                                                                                                               |

<sup>3</sup> See for example Rarotonga Treaty, Protocol II, and Pelindaba Treaty, Protocol I.

|                            |     |    |     |     |                                                                                                                                                                      |
|----------------------------|-----|----|-----|-----|----------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>Treaty of Pelindaba</b> | Yes | No | Yes | Yes | Territories within zone as defined by the treaty's map and list of countries. Protocol III extends obligations to extra-regional states with territories in the zone |
| <b>CANWFZ</b>              | Yes | No | No  | Yes | Territories within the zone                                                                                                                                          |

When comparing the language and obligations of the NWFZ protocols, several notable characteristics and features emerge.

First, the 1967 Treaty of Tlatelolco, which established the first NWFZ in an inhabited region, was finalised before both the NPT and the 1982 United Nations Convention on the Law of the Sea (UNCLOS) were open for signature. As a result, unlike the other NWFZs, Tlatelolco has some distinct features and does not reference these treaties or the statuses or laws they created.

Second, some NWFZ treaties do not allow reservations to the protocols, which remains a point of contention. The NWS, when adopting the protocols, have frequently issued either reservations (formal declarations that modify or limit a state's legal obligations) or interpretative statements (non-binding unilateral statements clarifying a state's understanding of the protocol's provisions). It is up to the states of the region to determine what they will and will not accept regarding these reservations or interpretive declarations. For example, even though the Tlatelolco Treaty includes a provision that prohibits reservations to the NSA protocol,<sup>4</sup> the NWS made clarifying statements when adopting the protocols that, in practice, may be considered tantamount to reservations as they limit these states' NSA obligations.<sup>5</sup> In contrast, while the Bangkok Treaty includes a provision that bans reservations to the treaty but not to its protocol, the protocol has not been opened for signature as some of the zone parties oppose anticipated NWS interpretative statements and reservations (despite reportedly agreeing on a revised protocol language that addressed the other sticking points).<sup>6</sup> The Bangkok states parties have also yet to decide whether NWS can sign the revised protocol text individually or as a group. Notably, while the issue of NWS reservations or clarifying statements remains a sticking point in

<sup>4</sup> Tlatelolco Treaty, Additional Protocol II.

<sup>5</sup> Héctor Espiell, "Reservations and Declarations in the Additional Protocols to the Treaty of Tlatelolco", *Dalhousie Law Journal* 12, no. 2 (October 1989): 228, 231.

<sup>6</sup> To address the outstanding issues, the Bangkok Treaty states parties and the NWS are reportedly negotiated a revised protocol to the effect that: (a) in the EEZ and continental shelf of the Bangkok Treaty states parties, the NWS shall adhere to only Article 3.3, which bans the dumping of radioactive material/waste; (b) the Bangkok Treaty states parties shall retain the prerogative to allow port visits and transit of foreign ships or aircraft pursuant to Article 7; and (c) the NWS NSA commitment shall be limited to not using or threatening to use nuclear weapons against the treaty's states parties. In addition, an MoU between one of the NWS and Bangkok Treaty states parties will state that the treaty and its protocol shall not affect their territories, EEZ, and continental shelf. See Gaukhar Mukhatzhanova, 2015 NPT Monitoring Report (Monterey, CA: James Martin Center for Nonproliferation Studies, April 2015), 4, 64–67, <https://nonproliferation.org/2015-npt-monitoring-report-disarmament/>, and Hoang Thi Ha, "Why China Supports the Southeast Asia Nuclear Weapon-Free Zone", Yusof Ishak Institute, 5 June 2023, <https://www.iseas.edu.sg/articles-commentaries/iseas-perspective/2023-45-why-china-supports-the-southeast-asia-nuclear-weapon-free-zone-by-hoang-thi-ha/>.

the Bangkok treaty, some NWS and South-East Asian states have engaged to identify ways to address both sides' concerns. They have also engaged with members of other NWFZs to share their experiences in handling reservations from NWS.<sup>7</sup>

Third, amendments made to treaties after the protocols' adoption may be a contentious issue. For example, some NWS issued reservations noting that amendments to the Tlatelolco Treaty adopted after their ratification of the protocol cannot be regarded as binding on the NWS without their express consent.

Fourth, some NWS also noted that they reserve the right to withdraw from the protocols if they consider that the threat, development and proliferation of other WMD make it necessary.<sup>8</sup> In addition, some NWS have reserved the right to reconsider their obligations if other NWS or parties violate the treaty in ways affecting their supreme interests.<sup>9</sup>

Fifth, states in the Middle East will have to consider when and how to engage with NWS regarding the protocols and provisions within the treaty that will affect their willingness to adopt the protocols. Notably, a 1999 report by the United Nations Disarmament Commission – building on the principles of the 1978 First Special Session of the United Nations General Assembly on Disarmament (SSOD-I) – outlines guidelines for establishing NWFZs. It states that NWS should be consulted during the negotiations of an NWFZ and its relevant protocols to facilitate their signature and ratification.<sup>10</sup>

The established NWFZs typically engaged the NWS during the treaty's early drafting phase. Early involvement was crucial in allowing the regions' states to address potential objections while the provisions are still discussed, thereby increasing the likelihood of NWS ratification.

For example, during Tlatelolco's negotiations, consultations with the United States clarified transit issues, just as the Rarotonga negotiations involved NWS, such as France, to clarify the status of the Pacific territories. The format of engagement with the NWS included informing the NWS about treaty progress to ensure awareness, inviting feedback and input on protocols, as well as negotiating compromises. For instance, the Pelindaba negotiations included discussions with the United Kingdom and the United States on disputed territories, such as

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<sup>7</sup> Mukhatzhanova, 2015 NPT Monitoring Report; Hoang, "Why China Supports the Southeast Asia Nuclear Weapon-Free Zone", and Maratee Nalita Andamo, "How the Bangkok Treaty Addresses Issues of Transit Passage and Regulation of Exclusive Economic Zones", Informal Workshop on Good Practices and Lessons Learned with Respect to the Existing Nuclear-Weapon-Free-Zones, 2020, <https://meetings.unoda.org/unoda-mezu-workshop/unoda-middle-east-zone-unit-workshop-2020>.

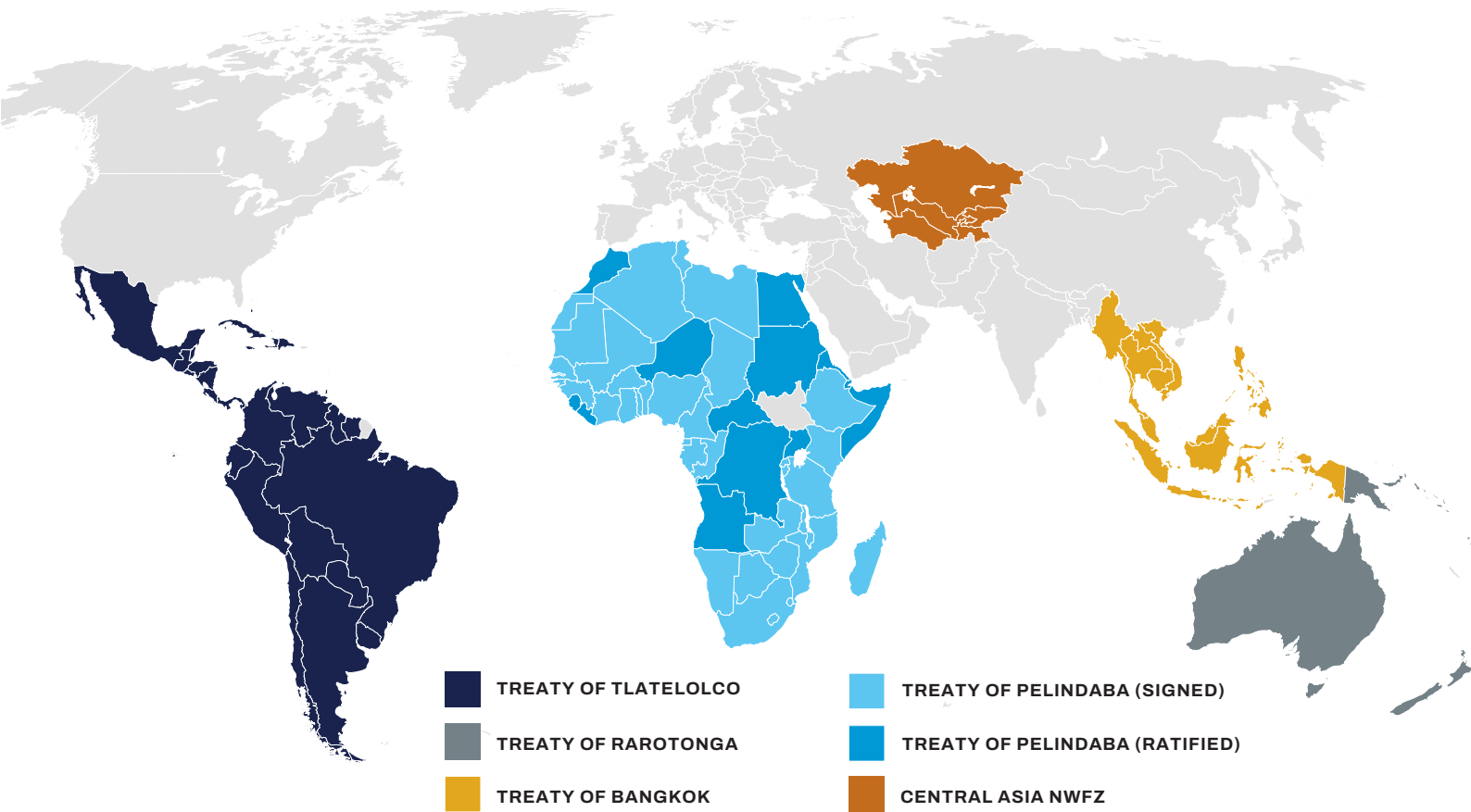
<sup>8</sup> The United Kingdom in the Pelindaba Treaty (Protocols I and II) and the CANWFZ.

<sup>9</sup> China and Russia in the Tlatelolco Treaty (Protocol II) and the Rarotonga Treaty (Protocols II and III).

<sup>10</sup> United Nations, General Assembly, "Comprehensive Study of the Question of Nuclear-Weapon-Free Zones in All Its Aspects", Special Report of the Conference of the Committee on Disarmament, A/10027/Add.1, 1976, [https://docs.un.org/A/10027/Add.1\(SUPP\)](https://docs.un.org/A/10027/Add.1(SUPP)), and United Nations, General Assembly, Report of the Disarmament Commission, A/54/42 (Supplement No. 42), 1999, [https://docs.un.org/A/54/42\(SUPP\)](https://docs.un.org/A/54/42(SUPP)).

Diego Garcia.<sup>11</sup> In some cases, NWFZ states held formal meetings or invited NWS as observers during the negotiations.

Figure 1. A Map of the Established NWFZs



<sup>11</sup> Notably, in May 2025, the United Kingdom signed a deal to hand over the Chagos Islands to Mauritius and lease back the military base on Diego Garcia for 99 years, with the option for an additional 40 years. This affirms Mauritius’s sovereignty over the Chagos Archipelago, including Diego Garcia, but allows the United States and the United Kingdom to continue to operate the Diego Garcia military base for an initial period of 99 years. See Sam Francis, Kate Whannel and Alice Cuddy, “UK Signs £101m-a-Year Deal to Hand over Chagos Islands and Lease Military Base”, BBC, 23 May 2025, <https://www.bbc.com/news/articles/c9914ndy82po>, and US Department of State, “U.S. Support for UK and Mauritius Agreement on Chagos Archipelago”, Press Statement, 22 May 2025, <https://www.state.gov/u-s-support-for-uk-and-mauritius-agreement-on-chagos-archipelago/>.



## 2. Territory and Sovereignty

Old Map and Binoculars. Credit: Matthew Henry / Burst.

Each of the existing NWFZ treaties is characterised by its own unique circumstances, resulting in variations in how they define “territory” and “zone of application”, as well as how they address disputed sovereignty within the treaty and its protocols. The geographical coverage of these treaties has caused several NWS to abstain from adopting the protocols or issuing reservations or interpretive statements during their adoption. This section examines various issues relating to the definitions and the inclusion of disputed territories within existing NWFZs, as well as their possible implications in the context of the ME WMDFZ.

### 2.1. Defining and Delineating “Territory” and “Zone of Application”

#### The Experiences of Established NWFZs

Most of the established NWFZs define “territory” to encompass land territory, internal waters, territorial sea, archipelagic waters, seabed, subsoil, and the airspace above them.<sup>12</sup> They cover the areas over which each state exercises sovereignty (see Appendix 1 for how the established NWFZs defined “territory”).

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<sup>12</sup> Tlatelolco Treaty, Article 3; Rarotonga Treaty, Article 1b; Bangkok Treaty, Article 1b; Pelindaba Treaty, Article 1b, and CANWFS, Article 2a.

The term “zone of application” generally refers to the geographical area to which states parties agree to apply the NWFZ’s obligations and prohibitions. As such, the zone of application can be the sum of the territories of the zone’s member states and can also extend beyond them. The existing NWFZs have defined “zone of application” in three different ways: (a) naming the specific states parties to the treaty, encompassing their entire sovereign territories (Bangkok and CANWFS treaties); (b) naming territories of states parties located within a geographically outlined area, as depicted on a treaty-provided map, emphasizing both political membership and spatial limits (Pelindaba and Rarotonga treaties); and (c) forming a fixed geographic region encompassing territories within coordinates of specific latitudes and longitudes (Tlatelolco and Rarotonga treaties).<sup>13</sup>

For some NWFZs, the designated application zone or geographic scope of certain provisions has raised concerns for NWS. These were addressed within the NWFZ treaties in four different ways: NWS reservations related to the zone of application coverage; applying certain treaty provisions to different zones of application; excluding specific territories from the zone of application; and leaving the door open for future expansion of the zone of application.

### Reservations Related to the “Zone of Application” Coverage

A point of contention between NWFZ members and NWS has been on obligations concerning EEZs and the high seas, particularly when these areas were incorporated into the application zones of an NWFZ. The obligations required from the NWS within each treaty vary and, accordingly, so does the response of the NWS. The Tlatelolco, Rarotonga and Pelindaba treaties – which utilise either maps or coordinate-based definitions for their zones – encompass high seas within those boundaries. This inclusion primarily affects NWS obligations (e.g., refraining from threatening or using nuclear weapons and refraining from testing), while the obligations of states parties remain confined to their respective sovereign territories. For these three treaties, some of the NWS noted that, notwithstanding the inclusion of territories beyond those under states’ sovereignty, the treaty does not restrict their rights under international law, including nuclear-related activities (e.g., transit of nuclear-armed vessels or submarines) in international waters within the coordinates, as long as they do not violate the treaty’s prohibitions within state territories. In the case of Tlatelolco, for example, some NWS stated that they reserve their rights to freedom of navigation and overflight in the high seas, ensuring compatibility with the UNCLOS.<sup>14</sup> The inclusion of the high seas, as well as the EEZ, in the zone of application of the Rarotonga Treaty prompted similar NWS reservations to safeguard maritime freedoms in the areas beyond the territorial sea. Although the Pelindaba Treaty does not explicitly include the EEZs and the high seas in its zone of application, the NWS still issued reservations to similarly protect navigation and overflight rights in adjacent international waters.

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<sup>13</sup> Tlatelolco Treaty, Article 4; Rarotonga Treaty, Article 2; Bangkok Treaty, Article 2; Pelindaba Treaty, Article 2, and CANWFS, Article 2a.

<sup>14</sup> Jorge Alberto López Lechuga, “The Obligations of the Nuclear-Weapon States in International Waters Included in Nuclear-Weapon-Free Zones”, *Anuario Mexicano de Derecho Internacional* (May 2022): 199, <https://doi.org/10.22201/ijj.24487872e.2023.23.17896>.

While the NWS ratified the additional protocols of Tlatelolco and Rarotonga – because the zone of application for most of their provisions is limited to the territories and territorial waters of the states parties, where each state exercises sovereignty – the NWS expressed concerns regarding the Bangkok Treaty protocol because, among other reasons, its zone of application includes the EEZs and continental shelves of states parties (high seas explicitly excluded) in addition to their territories. This raised concerns by the NWS about the compatibility with the international law of the sea, as formalized by the Convention of Montego Bay, including the freedom of navigation principle (see also Section 4).<sup>15</sup>

### Applying Different Treaty Provisions to Different Areas within the Zone

The various provisions within an NWFZ treaty and its protocols may apply to distinct geographic scopes and states (see Table 3). For example, Tlatelolco’s Additional Protocol I applies to

“Notably, within an NWFZ treaty, the various provisions within the treaty itself, as well as the protocols, may apply to distinct geographic scopes and states.

states parties and territories within a coordinate-defined zone, including EEZs and parts of the high seas, while Additional Protocol II’s negative security assurances apply only to states parties’ territories. Similarly, Pelindaba’s Protocol III requires extraregional states to uphold denuclearisation in their territories within the African zone. Protocol I, however, guarantees security assurances across the territories of member states that are party to the treaty.

**Table 3. Delineation of the Zone of Application and Related NWS Commitments in Established NWFZs**

| NWFZ Treaty          | Does the Zone of Application Include the EEZs and High Seas?                                                                                                                   | Do NWS Commitments Extend to the EEZs and High Seas?                                                                                                                                         |
|----------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Treaty of Tlatelolco | <b>Yes</b> <ul style="list-style-type: none"> <li>Zone includes states parties territories (Art. 4(1)) and extends to EEZs and high seas by coordinates (Art. 4(2))</li> </ul> | <b>Yes</b> <ul style="list-style-type: none"> <li>Protocol II obliges NWS not to threaten or use nuclear weapons across the coordinate-defined zone, including EEZs and high seas</li> </ul> |

<sup>15</sup> Of note, according to a US statement at the Conference on Disarmament in January 2012, “The Nuclear Weapon States and the states of ASEAN resolved long-standing differences related to the South East Asian Nuclear-Weapon-Free Zone’s Protocol language”, presumably to amend the protocol to clarify that it does not apply to the EEZs. However, the protocol was not opened for adoption due to concerns from some zone member states regarding NWS interpretative statements and reservations on other issues covered in the protocol. See Mukhatzhanova, 2015 NPT Monitoring Report, 66–67, and Surya P. Subedi, “Problems and Prospects for the Treaty on the Creation of a Nuclear-Weapon-Free Zone in Southeast Asia”, International Journal of Peace Studies 4, no. 1 (January 1999): 7, [https://www3.gmu.edu/programs/icar/ijps/vol4\\_1/subedi.htm](https://www3.gmu.edu/programs/icar/ijps/vol4_1/subedi.htm).

|                            |                                                                                                                                                                                                                                                |                                                                                                                                                                                                                                                               |
|----------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>Treaty of Rarotonga</b> | <b>Partially</b> <ul style="list-style-type: none"> <li>▶ Zone applies to states parties territories (Art. 1) and some prohibitions (e.g., testing) extends to EEZs and high seas within mapped coordinates (Art. 2(2) and Annex 1)</li> </ul> | <b>Partially</b> <ul style="list-style-type: none"> <li>▶ Protocol III bans NWS testing “anywhere within the zone” (mapped area, including EEZs and high seas); Protocol II to not threaten or use nuclear weapons is limited to state territories</li> </ul> |
| <b>Treaty of Bangkok</b>   | <b>Yes (EEZs Only)</b> <ul style="list-style-type: none"> <li>▶ Zone includes states parties territories, EEZs and continental shelves (Art. 2); high seas explicitly excluded</li> </ul>                                                      | <b>Yes (EEZs Only)</b> <ul style="list-style-type: none"> <li>▶ Protocol extends NWS commitment not to threaten or use nuclear weapons against states parties territories, EEZs and continental shelves; high seas not covered</li> </ul>                     |
| <b>Treaty of Pelindaba</b> | <b>No</b> <ul style="list-style-type: none"> <li>▶ Zone limited to states parties territories (land, internal waters, territorial sea) (Art. 1(a) and Annex I); EEZs and high seas not included</li> </ul>                                     | <b>No</b> <ul style="list-style-type: none"> <li>▶ Protocols I and II limit NWS commitment not to threaten or use nuclear weapons against states parties territories (treaty zone); EEZs and high seas not covered</li> </ul>                                 |
| <b>CANWFZ</b>              | <b>No</b> <ul style="list-style-type: none"> <li>▶ Zone limited to land territories of states parties (Art. 2); landlocked region, no EEZs or high seas applicable</li> </ul>                                                                  | <b>No</b> <ul style="list-style-type: none"> <li>▶ Protocol limits NWS commitment not to threaten or use nuclear weapons against states parties territories; landlocked region, no EEZs or high seas applicable</li> </ul>                                    |

## Exclusion of Certain Parts from the Region

One way to address disagreements over the zone of application has been to exclude adjacent territories over which the NWS have jurisdiction or have special security arrangements. This is the case with Rarotonga, which excludes most of the island states and territories to the north of the zone that are linked to the United States.<sup>16</sup> Although two US territories, Jarvis Island and American Samoa, are located within the treaty’s zone of application, two Micronesian members of the Pacific Islands Forum – the Federated States of Micronesia and Palau<sup>17</sup> – are not party to the NWFZ due to their unique security arrangements with the United States under the Compacts of Free Association (COFAs).<sup>18</sup> Palau’s COFA, for instance, grants the United States full responsibility for security and defence in Palau. Even though Palau is not included in the treaty, to address Palau’s anti-nuclear sentiments, the United States agreed not to use,

<sup>16</sup> Lynsey R. Parsons, “Obstacles to Denuclearization: Inconsistent U.S. Responses to Nuclear Weapons Free Zone Treaties”, Master’s Thesis, Oklahoma State University, 2009, 17.

<sup>17</sup> The Marshall Islands were not part of the NWFZ until March 2025, when it became a signatory to the Rarotonga Treaty. See Pacific Islands Forum, “Republic of the Marshall Islands Joins the Treaty of Rarotonga”, 5 March 2025, <https://forumsec.org/publications/release-republic-marshall-islands-joins-treaty-rarotonga>.

<sup>18</sup> Compact of Free Association Act of 1985, US Public Law no. 239, 99 US Statutes at Large 1770 (1985), <https://www.govinfo.gov/app/details/STATUTE-99/STATUTE-99-Pg1770>.

test, store or dispose nuclear, toxic chemical, gas or biological weapons intended for warfare in Palau. However, it maintains the right to operate nuclear-capable vessels and aircraft there without confirming or denying their armament status.<sup>19</sup> On the other hand, in the case of the Bangkok Treaty, contested territories with an NWS were included within the treaty's regional scope, which was reportedly resolved later on through a separate agreement in which claims to sovereignty remain unprejudiced.

While another NWS expressed concerns regarding the inclusion in the Bangkok Treaty of certain contested territories in the South China Sea, states of the region opted to incorporate these areas in the zone. An agreement was reportedly reached between the concerned NWS and the members of the Bangkok Treaty to address these issues as long as its claim to sovereignty remains unprejudiced.<sup>20</sup>

### Possible Future Expansion

Another way to address issues related to the zone of application is the possibility of future expansion of the zone. The treatment of defining which states are eligible to join an NWFZ and the potential for expansion varies across treaties. The Tlatelolco Treaty is open to all Latin American and Caribbean republics and sovereign states within specified latitudes. The Rarotonga Treaty allows for members of the Pacific Islands Forum to join the zone. Indeed, the Marshall Islands joined the Rarotonga Treaty in March 2025, exercising Article 12.3 of the treaty.

The Pelindaba Treaty includes the territory of the African continent, islands that are member states of the African Union, and all other territories within the geographical boundaries of the continent as defined by the African Union, allowing for future expansion if additional states join the union. Similarly, the Bangkok treaty is open to “all States in Southeast Asia”, following a list of these states, opening the door to additional states to join if recognised as part of the Southeast Asian region, particularly if they become a member state of the Association of Southeast Asian Nations (ASEAN). This allows for future ASEAN members, such as Timor-Leste (expected to join ASEAN in October 2025), to accede to the treaty. The CANWFZ treaty is restricted to specific named states, with no expansion provisions. During the negotiations of the treaty, the negotiators considered allowing for the possible future expansion of the zone to neighbouring states if those states applied to join the zone. The provision was not included, *inter alia*, since the United States objected to such a provision, arguing that the treaty's zone of application should be clearly defined and not open-ended, as such a provision would imply.<sup>21</sup>

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<sup>19</sup> Parsons, “Obstacles to Denuclearization”, 48–49.

<sup>20</sup> Ryan A. Musto, “China Wants to Join Southeast Asia’s Nuclear-Free Zone. Why Now?”, *Lawfare*, 9 December 2021, <https://www.lawfaremedia.org/article/china-wants-join-southeast-asias-nuclear-free-zone-why-now>.

<sup>21</sup> “Central Asian States Establish Nuclear-Weapon-Free-Zone Despite US Opposition”, James Martin Center for Nonproliferation Studies, 8 September 2006, <https://nonproliferation.org/central-asian-states-establish-nuclear-weapon-free-zone-despite-us-opposition-2/>.

## Application to the Middle East

Considering these various NWFZ experiences as well as the Middle East's unique circumstances, there are several issues to keep in mind in relation to the "territory" and "zone of application" of the future ME WMD FZ.

### Definition of the Middle East

Despite the lack of an agreed-upon definition of the "Middle East" and existing variations of United Nations delineations.<sup>22</sup> Based on the experience of existing NWFZ, the definition would probably be agreed upon as part of the treaty negotiations among all regional states. The current working assumption – as has been adopted in discussions on the establishment of the Zone over the past three decades – is that a future ME WMD FZ would include the current 22 members of the League of Arab States (LAS), the Islamic Republic of Iran and Israel. These are also the states that are currently invited to participate in the annual negotiations in the "Conference on the Establishment of a Middle East Zone Free of Nuclear Weapons and Other Weapons of Mass Destruction" in New York. The Conference's rules of procedure explicitly name these states, while also noting that the list does not constitute a definition of the region.<sup>23</sup>

During the Conference, very few states have expressed specific positions on the definition of "territory" or "zone of application". Regarding the geographical delineation of the Zone, Egypt has noted that the geographical scope for establishing the Zone should be based on the United Nations General Assembly decision 73/546, which includes the members of the LAS, Iran and Israel.<sup>24</sup> Iran has stated that, considering the complex historical and security issues in the

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Thus far, very few states from the region have expressed specific positions on the definition of "territory" or "zone of application" at the ongoing Conference in New York on establishing an ME WMD FZ.

<sup>22</sup> A 1989 study on the Zone by the International Atomic Energy Agency (IAEA) defines the region as including "the area extending from the Libyan Arab Jamahiriya in the west, to the Islamic Republic of Iran in the east, and from Syria in the north to the People's Democratic Republic of Yemen in the south". A 1990 United Nations study divided the region into core and peripheral states. Core states included the Middle Eastern states involved in the Arab-Israeli conflict plus Iran. The peripheral states were those states in the region that could be involved in the establishment of the Zone, but not necessarily from the beginning. The United Nations report included the member states of the LAS, Iran and Israel. See the International Atomic Energy Agency, General Conference, "Modalities of Application of Agency Safeguards in the Middle East", GC(XXXIII)/871, 29 August 1989, [https://www.iaea.org/sites/default/files/gc/gc33-887\\_en.pdf](https://www.iaea.org/sites/default/files/gc/gc33-887_en.pdf), and United Nations General Assembly, "Study on Effective and Verifiable Measures Which Would Facilitate the Establishment of a Nuclear-Weapon-Free Zone in the Middle East", Report of the Secretary-General, A/45/435, 10 October 1990, 20–22, <https://docs.un.org/A/45/435>.

<sup>23</sup> See Rule 2 in Conference on the Establishment of a Middle East Zone Free of Nuclear Weapons and Other Weapons of Mass Destruction, "Rules of Procedure", A/CONF.236/2021/3, 3 December 2021, <https://app.unidir.org/node/6586>.

<sup>24</sup> Conference on the Establishment of a Middle East Zone Free of Nuclear Weapons and Other Weapons of Mass Destruction, Working Paper Submitted by Egypt, A/CONF.236/2021/WP.1, 14 July 2021, <https://app.unidir.org/sites/default/files/2022-09/N2119118.pdf>.

Middle East alongside the lack of a universally recognised definition of the region, reaching a consensus on its definition in the near future appears quite challenging. In this context, Iran noted that a practical approach would be to list the states from the region invited to attend the Conference, as alternative proposals would offer a less reliable foundation.<sup>25</sup> The Syrian Arab Republic has repeatedly stated that the list of states does not constitute a definition of the region but is used only for the purposes of the Conference. Regarding the zone of application, Iran has stated that the treaty's prohibitions must apply within designated territories and under the jurisdiction of the regional parties.<sup>26</sup>

### Overlap with Other Established NWFZs

A unique aspect of the future Middle East WMD-Free Zone treaty is that it would geographically overlap with another NWFZ, the Pelindaba Treaty. In fact, 10 of the 24 LAS states are situated in the area covered by the Pelindaba Treaty and have signed or ratified the treaty. Middle Eastern negotiators would need to consider various aspects related to deconfliction and coordination with the Pelindaba Treaty that are beyond the scope of this paper. Yet, the reservations that NWS and other extraregional states have made regarding the territory and zone of application of the Pelindaba Treaty may be worth close examination, as in some cases, their concerns may overlap with those of the future Middle East treaty (see also the section below that discusses disputed territories).

### Inclusion of Maritime Territories

The Caspian Sea borders the Middle East, but its coastal states have not agreed on maritime boundaries. Additionally, UNCLOS does not govern the Caspian Sea because it is regarded as an international lake rather than a sea. If parts of the Caspian Sea are included in the ME WMDFZ, discussions would be needed to determine its status.

The CANWFZ Treaty addressed this issue by including a clause stating that “nothing in the treaty shall prejudice or in any way affect the rights of any Central Asian State in any dispute concerning the ownership of or sovereignty over lands or waters that may or may not be included or excluded within this zone”.<sup>27</sup> The negotiators for the ME WMDFZ treaty should also consider consulting with other Caspian Sea states, including Russia, due to the potential political, military, and legal implications of its inclusion.<sup>28</sup>

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<sup>25</sup> Conference on the Establishment of a Middle East Zone Free of Nuclear Weapons and Other Weapons of Mass Destruction, Statement by the Islamic Republic of Iran, 29 November–3 December 2021, <https://app.unidir.org/node/7190>.

<sup>26</sup> Conference on the Establishment of a Middle East Zone Free of Nuclear Weapons and Other Weapons of Mass Destruction, Statement by Iran, 13–17 November 2023, <https://app.unidir.org/node/7267>.

<sup>27</sup> Jan Prawitz and James F. Leonard, A Zone Free of Weapons of Mass Destruction in the Middle East (New York: United Nations Institute for Disarmament Research, 1996), 65, <http://digitallibrary.un.org/record/215880>.

<sup>28</sup> Marco Roscini, “The Proposed WMD-Free Zone in the Middle East – Part One: Law of the Sea Issues”, Arms Control Law, 6 July 2012, <https://armscontrolaw.com/2012/07/06/the-proposed-wmd-free-zone-in-the-middle-east-and-the-international-law-of-the-sea/>.

## Possible Future Expansion of the Zone

States in the future ME WMDFZ have, at times, expressed concerns regarding neighbouring countries' nuclear weapon capabilities, membership in military alliances that includes NWS, and the possibility of it transferring or stationing such weapons in the region or nearby. Options to address such concerns could include requesting that these neighbouring states adopt a specific, tailored protocol or considering the option to expand the zone in the future. On the latter, as noted, other NWFZs included such an option, and an earlier draft of the CANWFZ Treaty included a clause allowing the treaty to be open to "states with common borders" to the proposed zone, contingent upon an amendment that would require the consent of all states parties to incorporate the new state. To adopt such an option, the negotiators could also consider conditioning it on agreement by both states of the region and the NWS. With regards to states in military alliance with an NWS, during the negotiations of the CANWFZ Treaty, concerns arose with the 1992 Collective Security Treaty (also known as the Tashkent Treaty), a collective defence pact to which three of the five members of the zone are party. Article 4 of that treaty could potentially allow the Russian Federation to deploy nuclear weapons in Central Asia, conflicting with the CANWFZ's goals. France, the United Kingdom and the United States expressed concerns over this ambiguity, but consultations in 2013 clarified that the Tashkent Treaty does not permit such actions.<sup>29</sup> Russia and the CANWFZ states reaffirmed this, leading France and the United Kingdom to ratify the CANWFZ protocol in 2014, both issuing interpretive statements to that effect.<sup>30</sup>

## 2.2. Extraregional States and Sovereignty Concerns

In certain circumstances, extraregional states may have a significant interest in the way an NWFZ defines "territory" and "zone of application". One reason might be due to a scenario in which an extraregional state controls territory within the zone's defined geographical boundaries, where it is required to commit to respecting the treaty provisions. The second scenario arises when a sovereignty dispute exists between an extraregional state and a state within the region.<sup>31</sup> A third circumstance emerges when an extraregional state has de facto control over a territory within a zone for which a state in the region has or claims de jure control.

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The way NWFZ treaties define "territory" and "zone of application" could impact extraregional states' positions on the protocols.

<sup>29</sup> See the "Collective Security Treaty from May 15, 1992", [https://odkb-csto.org/documents/documents/dogovor\\_o\\_kollektivnoy\\_bezopasnosti/#loaded](https://odkb-csto.org/documents/documents/dogovor_o_kollektivnoy_bezopasnosti/#loaded).

<sup>30</sup> Galia Ibragimova, "Central Asian Nuclear Weapon Free Zone: Greater Security for the Region?", Russian International Affairs Council, 24 July 2015, <https://russiancouncil.ru/en/analitics-and-comments/analitics/central-asian-nuclear-weapon-free-zone-greater-security-for-/>.

<sup>31</sup> Prawitz and Leonard, "A Zone Free of Weapons of Mass Destruction in the Middle East", 44.

For example, in this scenario, if the extraregional state refuses to join the relevant protocol while the state in the region joins the treaty, the latter cannot ensure that no prohibited activity occurs in the disputed area.

## The Experiences of Established NWFZs

Sovereignty concerns have manifested across several established NWFZs where a state in the region and an extraregional state both claim sovereignty over a territory, the contested territory was included in the zone of application, and both states agreed to respect the treaty obligations. At other instances, an extraregional state decided not to ratify the protocol due to disagreements on the inclusion of a territory it controls within the zone of application. There have also been instance where the NWS adopted the protocol but issued reservations that excluded the contested territory, holding that it was not part of the “zone of application” as the state in the region does not have de facto control. Another option adopted by some NWFZs was the exclusion of disputed territories from the zone to ensure NWS adherence to the protocols.

### Inclusion of Territory under an Extraregional State's Jurisdiction or Control

The Treaty of Tlatelolco's Additional Protocol I calls on extraregional states to apply the denuclearisation provisions of the treaty to the territories in the zone “for which de jure or de facto they are internationally responsible”. All four countries with such territories – France, the Netherlands, the United Kingdom, and the United States – have ratified the protocol. Tlatelolco's zone of application includes two instances with de facto and de jure control between regional and extraregional states: Guantanamo Bay and the Falkland Islands (Malvinas).

The United States has leased Guantanamo, located on the territory of Cuba, and has used it as a military base since 1903. Cuba has attempted but failed to regain control of the area and cannot exercise any jurisdiction over the base. While Cuba asserted its support for the NWFZ during the negotiations, its accession was pre-conditioned on several requirements, including that Puerto Rico and the Panama Canal be included in the zone and that their opposition to foreign military bases and US control over Guantanamo Naval Base be resolved.<sup>32</sup> Cuba thus concluded that it could not apply the zone's commitments to its entire territory, especially given that the United States is an NWS. When Cuba signed the treaty in 1995, it declared that “in the future, the solution of this problem must be considered a precondition for our country's continued adherence to this Treaty” (Cuba ratified the treaty in 2002).<sup>33</sup> Notably, upon the United States' ratification of Additional Protocol I in 1981, it accepted its responsibilities in relation to all its territories, including Puerto Rico, the U.S. Virgin Islands, and the naval base at Guantanamo Bay.<sup>34</sup>

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<sup>32</sup> Agency for the Prohibition of Nuclear Weapons in Latin America and the Caribbean, statement by Amb. José Fernández Cossio Representative of the Republic of Cuba, Secretariat (General Conference), Twelfth Regular Session, S/Inf. 453, 9 May 1991, [http://www.opanal.org/wp-content/uploads/2018/05/S\\_Inf\\_0453\\_eng\\_1991.pdf](http://www.opanal.org/wp-content/uploads/2018/05/S_Inf_0453_eng_1991.pdf).

<sup>33</sup> See Cuba's declaration when it signed the Treaty of Tlatelolco, 25 March 1995, <https://treaties.unoda.org/t/tlatelolco/declarations>. Cuba ratified the treaty in 2002.

<sup>34</sup> US Department of State, “Treaty for the Prohibition of Nuclear Weapons in Latin America and the Caribbean (Treaty of Tlatelolco)”, <https://2009-2017.state.gov/t/isn/4796.htm>.



The other disputed territory in the context of Tlatelolco is the Falkland Islands (Malvinas), claimed by Argentina but controlled by the United Kingdom. Argentina successfully argued for the inclusion of the Falkland Islands (Malvinas) under the NWFZ despite British protest.<sup>35</sup> Regardless of the ongoing dispute over the islands, Argentina became a party to the Tlatelolco Treaty, and the United Kingdom ratified Additional Protocol I, both committing to treaty obligations concerning territories they de facto control.

In contrast, Spain has not signed Protocol III of the Pelindaba Treaty, which concerns territories for which extraregional states are de jure or de facto internationally responsible for, due to concerns about extending the treaty's obligations to its territories within the zone (Canary Islands, Ceuta and Melilla), which Spain considers to be integral parts of its sovereign territory. The inclusion of these areas raises questions about their legal status within the treaty and how Spain's international responsibilities might be affected.<sup>36</sup>

<sup>35</sup> Ryan A. Musto, "A Desire so Close to the Hearts of All Latin Americans': Utopian Ideals and Imperfections Behind Latin America's Nuclear Weapon Free Zone", *Bulletin of Latin American Research* 37, no. 2 (April 2018): 170, <https://doi.org/10.1111/blar.12557>.

<sup>36</sup> Liviu Horowitz, "African Nuclear-Weapon-Free Zone Enters into Force", James Martin Center for Nonproliferation Studies, 12 August 2009, <https://nonproliferation.org/african-nuclear-weapon-free-zone-enters-into-force/>.

## Exclusion of Territory by an NWS

When the Treaty of Pelindaba's protocols were signed and ratified by the extraregional states, some made reservations or interpretive statements regarding the zone of application, primarily concerning the inclusion of the British Indian Ocean Territory (BIOT), including Diego Garcia, in the geographic area delineated in the NWFZ.<sup>37</sup> At the time of negotiations, Diego Garcia was subject to a territorial claim by Mauritius, a party to the treaty, but was under the sovereign control of the United Kingdom as part of the BIOT and was included within the zone of application. In its declaration, the United Kingdom asserted its sovereignty over BIOT and rejected its inclusion within the NWFZ, holding that it was British territory and therefore not part of the "territory" of the zone as defined in the treaty.<sup>38</sup> The Organisation of African Unity's (OAU, precursor to the African Union) support for Mauritius's sovereignty claim over Diego Garcia was reflected in the inclusion of the contested territory in the zone of application application of the NWFZ<sup>39</sup> and in the fact that the United Kingdom was not invited to sign the treaty's Protocol III on its dependencies.<sup>40</sup> Nevertheless, African states did take into consideration concerns the United Kingdom's raised by including on the map of the treaty – which explicitly covers the "Chagos Archipelago– Diego Garcia" – a disclaimer stating that the territory concerned "appears without prejudice to the question of sovereignty".<sup>41</sup> Similarly to the United Kingdom, the United States held that since Diego Garcia is under the sovereign control of the United Kingdom as part of BIOT, it is not part of the "territory" of the NWFZ as defined in the treaty. The United States, which signed but did not ratify Protocols I and II to the treaty, leases and maintains a significant military base in certain areas of Diego Garcia. Based on its claim that Diego Garcia does not fall within the zone defined by the Pelindaba Treaty, the United States holds that ratifying Protocols I and II to the treaty would not apply to Diego Garcia or impede its operations there.<sup>42</sup>

The reservations made by the United States and the United Kingdom carried consequences for other NWS. Russia's declaration asserted that – because Diego Garcia houses a military base of an NWS, and given that the United Kingdom and the United States see themselves as exempt from the obligations outlined in the protocols concerning this territory – Russia is also not bound by Protocol I in relation to territories that have military bases of an NWS, as well as territories in respect of which another NWS consider itself not to be legally bound under Protocol I. Notably, the handover in May 2025 by the United Kingdom of the Chagos Islands to Mauritius, alongside

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<sup>37</sup> See the UK's declaration when it ratified Protocol I of the Pelindaba treaty, 12 March 2001, [https://treaties.unoda.org/t/pelindaba\\_1/declarations](https://treaties.unoda.org/t/pelindaba_1/declarations).

<sup>38</sup> Bereng Mtimkulu, "Africa Bans the Bomb", *Bulletin of the Atomic Scientists* 52, no. 4 (September 1996): 11, <https://doi.org/10.1080/00963402.1996.11456634>.

<sup>39</sup> Oluyemi Adeniji, *The Treaty of Pelindaba on the African Nuclear-Weapon-Free-Zone*, UNIDIR/2002/16 (Geneva: UNIDIR, 2002), 168, <https://unidir.org/files/publication/pdfs/the-treaty-of-pelindaba-on-the-african-nuclear-weapon-free-zone-297.pdf>.

<sup>40</sup> Prawitz and Leonard, "A Zone Free of Weapons of Mass Destruction in the Middle East", 50.

<sup>41</sup> Peter H. Sand, "The Shadow of Pelindaba: Chagos and the African Nuclear-Weapon-Free Zone", *South African Journal of International Affairs* 26, no. 3 (July 2019): 330–31, <https://doi.org/10.1080/10220461.2019.1658620>.

<sup>42</sup> US Department of State, "African Nuclear-Weapon-Free Zone Treaty and Protocols", <https://2009-2017.state.gov/t/isn/4699.htm>.

a leaseback of the military base for 99 years with the option for an additional 40 years, does not alter the previous arrangements.<sup>43</sup>

### Exclusion of Territories from the Zone of Application

During the Rarotonga Treaty negotiations, some of the island states and territories linked to the United States were excluded from the zone of application due to their unique security arrangements with the United States.

## Application to the Middle East

The NWS and any other extraregional states that maintain control over territories and dependencies in the Middle East will most likely be invited to sign the relevant protocols to the treaty establishing an ME WMDFFZ. Some aspects may influence these states' willingness to ratify the protocols, which should be taken into consideration.

### Disputed Territories

In the Middle East, there are at least two possible sovereignty disputes between regional and extraregional states. These involve France and the Comoros on the island of Mayotte, which is administered by France but claimed by the Comoros, and Ceuta and Melilla, which Spain considers as Spanish territory and Morocco claims sovereignty over.<sup>44</sup> Given that Comoros and Morocco are also signatories to the Pelindaba Treaty, certain conclusions can be drawn from the positions of France and Spain's during the African NWFZ negotiations, their adherence – or lack thereof, in the case of Spain to Protocol III of the Pelindaba treaty.

During the negotiations, France stated that it considered Mayotte to be an integral part of the French Republic and that the island could therefore not be included in the zone except with respect to the application of Protocol III.<sup>45</sup> Lately, France announced that it was prepared to demonstrate its support for the NWFZ. It stated that because the French territories located in the area of the Treaty of Pelindaba establishing a nuclear-weapon-free zone in Africa are an integral part of the French Republic, France can only sign Additional Protocol III as de jure responsible for these territories. It expects the Parties to this Treaty to take note that its participation in this Protocol is only in this capacity. France emphasised that the treaty's obligations do not affect its ability to transit nuclear explosive devices between its territories within the zone.<sup>46</sup> France's statement – agreeing to protocol obligations only for territories it deems integral – was a pathway to ensure its ratification.

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<sup>43</sup> See the NWS declarations for Protocol I of the Pelindaba Treaty, [https://treaties.unoda.org/t/pelindaba\\_1/declarations](https://treaties.unoda.org/t/pelindaba_1/declarations).

<sup>44</sup> For official Spanish statements regarding its position on Protocol III of the treaty, see UN General Assembly, "Total Elimination of Nuclear Weapons", GA/DIS/3311, 27 October 2005, <https://press.un.org/en/2005/gadis3311.doc.htm>, and Adeniji, The Treaty of Pelindaba, 148.

<sup>45</sup> Adeniji, The Treaty of Pelindaba, 109.

<sup>46</sup> France Declaration to Protocol III to the Pelindaba Treaty, 11 April 1996, [https://treaties.unoda.org/t/pelindaba\\_3/declarations](https://treaties.unoda.org/t/pelindaba_3/declarations).

## Military Bases

All five NWS have military bases in the Middle East, as do some extraregional non-nuclear-weapon states (NNWS). In the existing NWFZs, a base held by an NWS is covered through the sovereignty and NSA protocols. When an extraterritorial NNWS operates a military base, it is asked to adopt a zone's protocol only if it has territories within the region under its jurisdiction or control. For example, the Netherlands controls territory and maintains a military presence in the Caribbean (e.g., Curaçao), which falls under the Tlatelolco zone of application. Its ratification of Additional Protocol I ensures compliance with the zone's denuclearised status.

At the same time, NWFZ treaties also recognize the sovereign rights of Parties to remain free to decide for itself whether to allow visits by foreign ships and aircraft to its ports and airfields, transit of its airspace by foreign aircraft, and navigation by foreign ships in its territorial sea or archipelagic waters in a manner not covered by the rights of innocent passage, archipelagic sea lane passage or transit passage of straits (e.g. Article 5 South Pacific Nuclear Free Zone Treaty).

The rights and obligations of both the base-operating country and the host country are established and governed by bilateral agreements that cover aspects such as access, basing, and overflights.<sup>47</sup> The military presence of extraregional states bolsters the strategies and interests of these states, but can also be perceived by some regional states at times as serving regional interests, such as ensuring safe passage in the waterways, preventing piracy,

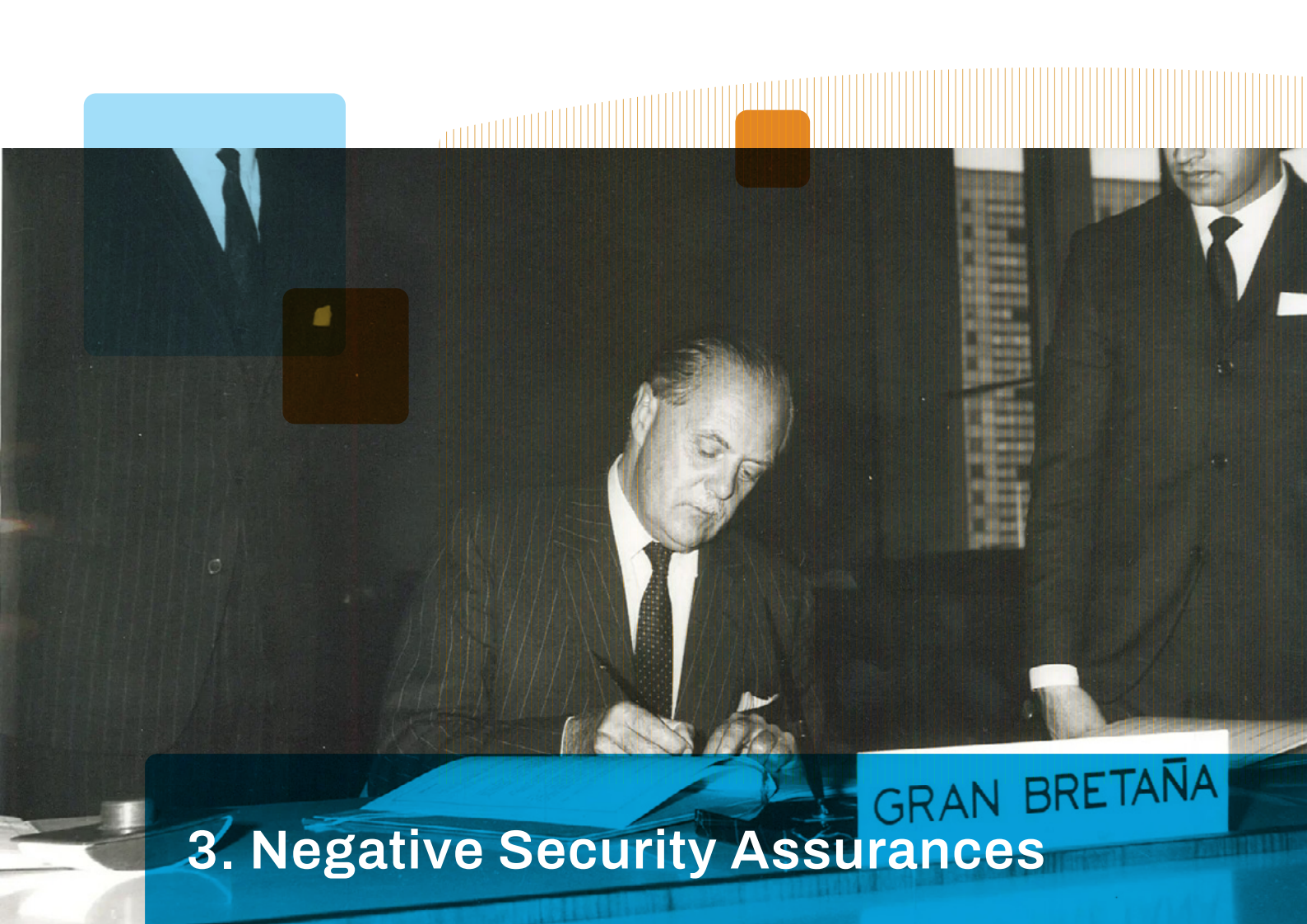
and maintaining security (for how various NWFZs have addressed the issue of foreign ships and aircraft visits, transit and navigation, see Section 4).

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Balancing the Zone's objectives, NWS interests, and existing security arrangements between regional and extraregional states would be paramount when considering how to secure the ratification of extraregional states to the protocols.

Balancing the Zone's objectives, NWS interests, and existing security arrangements between Middle Eastern states and extraregional states would be paramount when considering how to secure the ratification of extraregional states to the protocols.

<sup>47</sup> Luke A. Nicastro and Andrew Tilghman, “U.S. Overseas Basing: Background and Issues for Congress”, US Congressional Research Service, 10 July 2024, <https://crsreports.congress.gov/product/pdf/R/R48123/3>.



### 3. Negative Security Assurances

*Opening for Signing of the Treaty of Tlatelolco, 1967. Credit: OPANAL.*

Negative security assurances are included in the protocols of each established NWFZ. The NSA is a significant incentive for states within the region to join an NWFZ, as the assurance is typically more extensive than those provided by the NWS in other forums.<sup>48</sup>

It should also be recognised that NWS maintain different policies regarding the role of nuclear weapons in their security doctrines. While some envision the use of nuclear weapons across a wide range of scenarios, others advocate for limiting the role of nuclear weapons solely to deterring their use by others (i.e., sole purpose) or uphold a declared policy of no first use of nuclear weapons and non-use against NNWS under any circumstances. Consequently, the role of nuclear weapons in the security doctrines of NWS vary as well as the type of security assurances they provide, and which may also evolve over time as their nuclear weapons doctrine changes.<sup>49</sup>

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<sup>48</sup> See for example, United Nations Security Council Resolution 984 (1995), 1887 (2009), and 2310 (2016).

<sup>49</sup> Notes by the author on the basis of Michael Spies, “Overview of work within the Conference on Disarmament on Negative Security Assurances”, Presentation to the Working Committee of the United Nations Conference on the Establishment of a Middle East Zone Free of Nuclear Weapons and Other Weapons of Mass Destruction, 19 March 2025.

## 3.1. The Experiences of Established NWFZs

### What the NSAs Cover

The five NWFZ treaties include in their NSA protocols a prohibition on the threat or use of nuclear weapons against the states parties to the NWFZ. The NWS also commit not to assist states parties in violating the treaty. For each of the established NWFZs, the NSAs cover the states parties to the treaty; Rarotonga and Pelindaba also include territories for which extra-regional states are internationally responsible for.<sup>50</sup> The Bangkok Treaty presents a unique case as each NWS is to “further undertakes not to use or threaten to use nuclear weapons within the Southeast Asia Nuclear Weapon-Free Zone”, which extends beyond the territories of member states and extraregional states.



Negative security assurances are a significant incentive for regional states to join an NWFZ, as they are typically more extensive than those provided by the NWS in other forums.

### Who Can Grant NSAs

Most of the NWFZ treaties explicitly mention the five recognised NWS under the NPT as the states to provide NSAs. The Treaty of Tlatelolco presents a unique case in which the NSA protocol does not mention the five NPT-recognised NWS as it was concluded before the NPT was signed. Instead, the protocol refers to “The Governments represented by the undersigned Plenipotentiaries” and “the emergence of a new

power possessing nuclear weapons will suspend the execution of this Treaty...until the new power... ratifies the annexed Additional Protocol II”. Thus, at least in theory, under the Tlatelolco Treaty, the NSA protocol is open to all nuclear weapons-armed states; however, in practice, only the five states that possessed nuclear weapons at the time have been asked to adopt the protocols and the treaty implementation was not suspended even when other nuclear weapons possessors emerged.<sup>51</sup>

### NWS Reservations

The reservations or statements issued by the NWS when ratifying the NSA protocols generally fall within three categories. Depending on their content, NWFZ members could perceive them as undermining the granted NSA and the nuclear-free nature of the zone. The first type of reservation relates to the circumstances under which the provision of the NSA would prejudice the NWS right to self-defence as enshrined by Article 51 of the United Nations Charter. Each

<sup>50</sup> See Tlatelolco Treaty, Protocol II, Article 3; Rarotonga Treaty, Protocol II, Article 1; Bangkok Treaty, Protocol, Article 2; Pelindaba Treaty, Protocol II, Article 1, and CANWFZ, Protocol, Article 1.

<sup>51</sup> Marco Roscini, “Negative Security Assurances in the Protocols Additional to the Treaties Establishing Nuclear Weapon-Free Zones”, in *Obama and the Bomb*, ed. Heinz Gärtnner (Lausanne: Peter Lang, 2011), 129–147, <https://ssrn.com/abstract=1844145>.

NWS has made reservations allowing it to retain the right to self-defence in various cases: in case of an armed attack by a contracting party against it, or its territories or allies; and in case of an armed attack against it by a contracting party in alliance with or with the support of another NWS (see Appendix 2 for detailed language of the reservations).<sup>52</sup> It is important to note that some of these reservations pertain to terms without clear definitions, thereby creating opportunities for differing interpretations. For example, “supported by” an NWS could imply only direct military participation in an attack or might encompass more indirect means, such as logistical or financial support.

The second reservation type pertains to scenarios in which an NNWS in an NWFZ breaches its obligations under the zone or the NPT but does not formally leave either. In such cases, some NWS have claimed the right to use nuclear weapons in self-defence or to defend other states, particularly if a breach threatens the security of the region or undermines the zone’s integrity.<sup>53</sup>

The third kind of reservation is when a NWS does not consider a territory within the zone of application as being part of the zone and, therefore, exclude it from the NSA.<sup>54</sup> The Treaty of Tlatelolco’s NSA uniquely enjoys full NWS ratification, including by extension to disputed territories within the zone of application.<sup>55</sup> In contrast, in the Treaty of Pelindaba, although the United Kingdom has ratified the protocols, it also declared that it does not recognise the inclusion of Diego Garcia in the Indian Ocean within the zone and thus does not accept any legal obligations as stipulated in the protocols in relation to this territory.<sup>56</sup> In response, Russia stated that it reserves the right not to be bound by its protocol commitments regarding territories where other NWS consider themselves free of such obligations.<sup>57</sup> Another example is the Bangkok Treaty, where the NSA protocol extend throughout the whole Southeast Asia Nuclear Weapon-Free Zone, and not only the states parties of the treaty.<sup>58</sup> This could imply that the NSA could benefit de facto non-members of the zone, a concern raised by several NWS. The issue is more acute considering the disputed territories and NWS military installations within the zone to which the NSA may inadvertently extend.<sup>59</sup>

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<sup>52</sup> France under Tlatelolco Treaty Protocol II; Russia under Tlatelolco Treaty Protocol II, Rarotonga Treaty Protocol II, Pelindaba Treaty Protocol I; the United Kingdom under Tlatelolco Treaty Protocol II, Rarotonga Treaty Protocol II, Pelindaba Treaty Protocol I, and the United States under Tlatelolco Treaty Protocol II.

<sup>53</sup> China under Tlatelolco Treaty Protocol II, Rarotonga Treaty Protocols II and III; Russia under Tlatelolco Treaty Protocol II, Rarotonga Treaty Protocol II, and the United Kingdom under Rarotonga Treaty Protocol II, Pelindaba Treaty Protocol I, and the CANWFZ Protocol.

<sup>54</sup> Russia under Pelindaba Treaty Protocol I, and the United Kingdom under Pelindaba Treaty Protocols I and II.

<sup>55</sup> Roscini, “Negative Security Assurances”.

<sup>56</sup> See the United Kingdom’s declaration to Pelindaba Treaty Protocol I, [https://treaties.unoda.org/t/pelindaba\\_1/declarations](https://treaties.unoda.org/t/pelindaba_1/declarations).

<sup>57</sup> See Russia’s declaration to Pelindaba Treaty Protocol I, [https://treaties.unoda.org/t/pelindaba\\_1/declarations](https://treaties.unoda.org/t/pelindaba_1/declarations).

<sup>58</sup> Bangkok Treaty, Protocol, Article 2.

<sup>59</sup> See for example Karla Mae G. Pabeliña, “A Regional Effort Towards Nuclear Disarmament: The SEANWFZ Experience”, in *Charting a Roadmap for Multiparty Confidence and Security Building Measures, Risk Reduction, and Arms Control in the Indo-Pacific* (Honolulu, HI: Pacific Forum, 2023), 62–63, <https://pacforum.org/publications/issues-insights-charting-a-roadmap-for-multiparty-confidence-and-security-building-measures-risk-reduction-and-arms-control-in-the-indo-pacific/>.

## 3.2. Application to the Middle East

Within the context of the ME WMDFZ Conference, few states have made specific references to their preference for how NSAs should be treated in the future Zone. During the Conference deliberations, Iran has stated that the future treaty should provide unconditional, non-discriminatory, effective and irrevocable legal assurances from all NWS against the use or threat of use of nuclear weapons under any circumstances as an essential requirement for the establishment of the ME WMDFZ.<sup>60</sup> Kuwait proposed establishing a subsidiary committee to assess the best means of implementing NSAs.<sup>61</sup> The United Arab Emirates stated that the treaty should provide tangible security benefits by giving states of the region assurances against the use or threat of use of nuclear weapons.<sup>62</sup>

As for potential NWS positions in relation to NSAs in the Middle East WMD-Free Zone, several observations can already inform Middle Eastern states. During the Zone Conference, Russia reiterated that, when signing the NWFZ protocols, it made its standard reservations. This entailed that NSAs do not apply when states make their territory available for the transit and storage of nuclear weapons or for the launch of an attack in alliance with nuclear-armed states. It also noted that these reservations essentially serve as clarifications and do not affect the interests of states that faithfully uphold the “letter and spirit” of the NWFZ treaties.<sup>63</sup> China, during the Conference, highlighted its unique position as the only NWS to have committed explicitly and unconditionally to not using or threatening to use nuclear weapons against NNWS and states in NWFZs.<sup>64</sup> During a discussion at the Conference on Disarmament in 2024, the United States reaffirmed that, based on its 2022 Nuclear Posture Review, it offers a unilateral NSAs to all NNWS that are party to the NPT and in compliance with their nuclear non-proliferation obligations.<sup>65</sup> Accordingly, it noted that it provides legally binding NSAs to NWFZs when they conform to the principles and guidelines on the establishment of such zones adopted in 1999 by the

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<sup>60</sup> Conference on the Establishment of a Middle East Zone Free of Nuclear Weapons and Other Weapons of Mass Destruction, Statement by Iran, 29 November 2021, <https://app.unidir.org/node/7175>. A similar statement was also made in 2019.

<sup>61</sup> Conference on the Establishment of a Middle East Zone Free of Nuclear Weapons and Other Weapons of Mass Destruction, “Nuclear Disarmament, the Non-Proliferation of Nuclear Weapons, the Right to Peaceful Use of Nuclear Technology, and Establishing the Middle East as a Zone Free of Nuclear Weapons and Other Weapons of Mass Destruction”, Working Paper Submitted by Kuwait, A/CONF.236/2023/WP.1, 4 September 2023, <https://app.unidir.org/sites/default/files/2023-12/Working%20Paper%20Kuwait.pdf>.

<sup>62</sup> Conference on the Establishment of a Middle East Zone Free of Nuclear Weapons and Other Weapons of Mass Destruction, Statement by the United Arab Emirates, 13 November 2023, <https://app.unidir.org/node/7249>.

<sup>63</sup> Conference on the Establishment of a Middle East Zone Free of Nuclear Weapons and Other Weapons of Mass Destruction, “Towards the Establishment of a Middle East Zone Free of Nuclear Weapons and Other Weapons of Mass Destruction and Their Means of Delivery”, Working Paper by the Russian Federation, A/CONF.236/2021/WP.3, 15 July 2021, <https://app.unidir.org/sites/default/files/2022-09/N2119130.doc.pdf>.

<sup>64</sup> Conference on the Establishment of a Middle East Zone Free of Nuclear Weapons and Other Weapons of Mass Destruction, statement by China, 2021, <https://app.unidir.org/node/7187> (in Chinese). A similar statement was also made in 2019.

<sup>65</sup> Of note, during the statement, the US representative posed the question, “if a state failed to comply with its IAEA safeguards agreement, such that there was a widespread concern that this state could acquire and might have the intent to acquire nuclear weapons at short notice, would you want that state still to be entitled to continue to receive negative security assurances from others?”. See Conference on Disarmament, “Final Record of the 1711th Plenary Meeting”, CD/PV.1711, 14 March 2024, <https://docs.un.org/CD/PV.1711>.

United Nations Disarmament Commission, including the principle that their establishment be on the basis of arrangements freely arrived at among all states of the region concerned. The United Kingdom also noted in the same discussion that it strongly supports the principle of NWFZs, which contribute significantly to bolstering the NPT and enhancing regional and international security, and that the NSA protocols are a key benefit of the NWFZs. It further noted that, upon signing each protocol, it traditionally makes a statement aligning the legally binding NSAs provided under the NWFZ with its national policy on NSAs, and it will not consider itself bound to this commitment if any party to the treaty is in material breach of its own non-proliferation obligations under the NPT.<sup>66</sup> During the same meeting, France supported establishing an ME WMDFFZ per the 1995 resolution, based on arrangements freely agreed by all concerned states without compromising their security. Achieving this requires resolving proliferation crises and ensuring all regional states join relevant conventions through a consensus-based, inclusive process with verifiable outcomes. France also reaffirms that its nuclear deterrence is strictly defensive, and nuclear weapons would only be used in extreme self-defense cases, as recognized under the UN Charter.<sup>67</sup>

States from the Middle East have raised concerns that NWS may discard their NSAs during a crisis which the NWS consider involving its fundamental national interest. A prime example mentioned is the Budapest Memorandum, signed in 1994 after the Soviet Union's dissolution. The memorandum included guarantees/assurances<sup>68</sup> from the United States, the United Kingdom, and Russia of Ukraine's (as well as Belarus's and Kazakhstan's)

sovereignty, territorial integrity and independence in exchange for transferring the nuclear weapons stationed in Ukraine to Russia. Russia's invasion of Ukraine in 2014 was viewed as violating the memorandum. Russia noted that it did not share this view since the essence of the Budapest Memorandum is the provision of NSAs against the threat or use of nuclear weapons, which did not occur. Russia also noted that the territorial integrity – and, to a certain degree, the independence of Ukraine – was called into question by the Ukrainian authorities

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<sup>66</sup> Conference on Disarmament, CD/PV.1711.

<sup>67</sup> Conference on Disarmament, Final Record of the 1711th Plenary Meeting, CD/PV.1711, 14 March 2024, <https://docs.un.org/CD/PV.1711>.

<sup>68</sup> During the negotiation and drafting of the Budapest Memorandum, US officials deliberately chose the term “assurances” instead of the term “guarantees”, which appeared in the Russian text and statements, to avoid suggesting a legally binding commitment. The United States also issued a clarifying statement indicating that “guarantee” in the Ukrainian and Russian texts should be interpreted as “assurance” in the English version. This underscores a key ambiguity in the memorandum. See Robert Lawless, “Ukraine Symposium – The Budapest Memorandum’s History and Role in the Conflict”, Lieber Institute West Point, 15 January 2025, <https://lieber.westpoint.edu/budapest-memorandums-history-role-conflict/>.

themselves and by circumstances that arose within Ukrainian society.<sup>69</sup> When the United States and the United Kingdom were accused of breaching the memorandum by not providing military assistance to Ukraine, they countered that the memorandum pledged only non-military support to Ukraine, which they had provided.<sup>70</sup> While this response might have fulfilled the letter of the US and British commitments under the Budapest Memorandum, this example left the impression among some Middle Eastern states that Ukraine was left to fight against an NWS on its own. This example is mentioned alongside the Joint Comprehensive Plan of Action (JCPOA) on Iran's nuclear programme and the fate of Muammar Gaddafi after he decided to disarm Libya's WMD programmes as examples illustrating the lack of credibility behind NWS nuclear or other security assurances and political commitments.<sup>71</sup>

Regarding who can grant an NSA, Middle Eastern states may follow the example of NWFZs that were established after the NPT and request that the five recognised NWS adopt the NSA protocol. While the Treaty of Tlatelolco could be interpreted as being open to all nuclear weapons-armed states, its member states have also opened the protocols to only the five NPT-recognised NWS. Asking for NSAs beyond them, from non-NPT parties that possess nuclear weapons, could in turn effectively legitimise their possession of nuclear weapons and will require a discussion about possible wider implications beyond the Zone.

Notably, the scope of the ME WMDFZ is unique in including not only nuclear weapons, but also chemical and biological weapons, which can raise two issues vis-a-vis the NSA protocol. Some NWS incorporated reservations into their NSAs within existing NWFZs, specifically in response to chemical and biological weapon attacks. The complete prohibition on development and use of chemical and biological weapons under the ME WMDFZ and the verification of such commitments would thus have significance for the NSA protocol, which will require the Middle Eastern negotiators to consider in the context of NSAs.

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<sup>69</sup> Conference on Disarmament, "Final Record of the 1321st Plenary Meeting", CD/PV.1321, 24 June 2014, <https://docs.un.org/en/CD/PV.1321>.

<sup>70</sup> Steven Pifer, "Why Care about Ukraine and the Budapest Memorandum", Brookings, 5 December 2019, <https://www.brookings.edu/articles/why-care-about-ukraine-and-the-budapest-memorandum/>.

<sup>71</sup> See, for example, Ami Ruhkas Dumba, "Ukraine Gave Up Nuclear Weapons – and is Facing a Russian Occupation. So What Do We Expect from Iran?", Israel Defense, 9 December 2021, <https://www.israeldefense.co.il/node/52958>, and Sky News Arabia, "Ukraine's Catastrophic Mistake 27 Years Ago: 1,800 Nuclear Warheads Lost (in Arabic)", 2 March 2022, <https://www.skynewsarabia.com/world/1505515>.



## 4. Maritime Rights and Restrictions

*The Suez Gulf and the Southern Portion of the Suez Canal, 2023. Credit: NASA Johnson.*

The Middle East, beyond its key strategic location and importance to all the NWS, also encompasses some of the most significant waterways and international straits. These include two of the world's main waterways, namely the Persian Gulf and the Suez Canal, as well as the international straits of Bab el-Mandeb, Gibraltar, Hormuz and Tiran. A key question pending discussion among the region's states is whether the WMD-Free Zone should go beyond the land territories to include maritime areas, and if so, which areas would be covered.

While the Tlatelolco Treaty was concluded before UNCLOS<sup>72</sup> and the CANWFZ is landlocked,<sup>73</sup> the Rarotonga, Bangkok, and Pelindaba treaties contain clauses relating to the maritime areas within their territories or zones of application. These three NWFZs also include provisions acknowledging that nothing within their treaties prejudices the rights of states under international law with regard to freedom of the seas.<sup>74</sup> Although these zones acknowledge maritime rights under international law, many of the reservations and non-ratifications of protocols on behalf of the NWS stem from maritime concerns.

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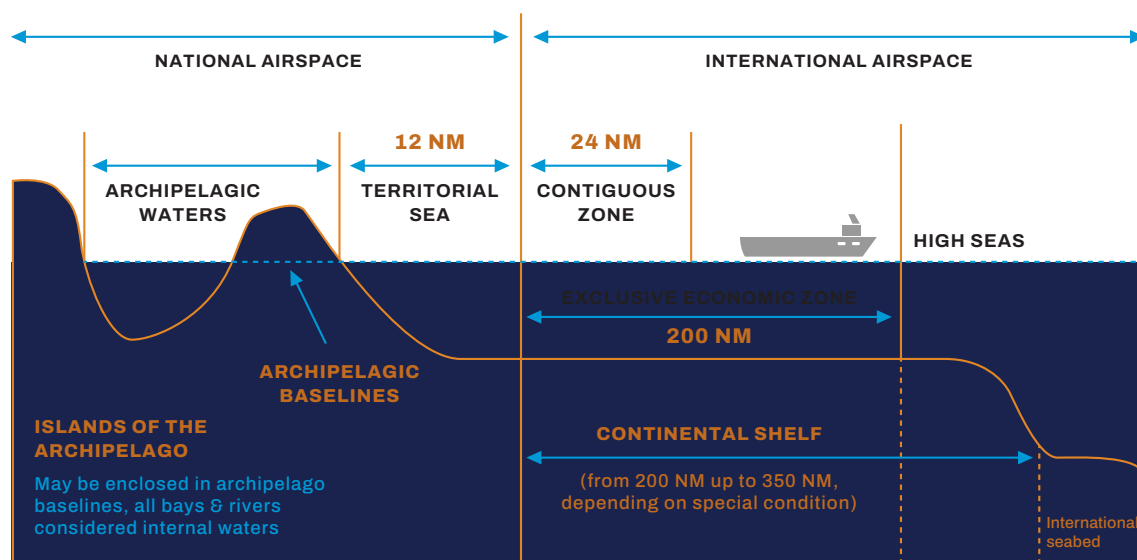
<sup>72</sup> The Tlatelolco Treaty, which predates UNCLOS, does not include a maritime nuclear transit ban due to disagreements among Latin American officials regarding its inclusion, definitions of maritime nuclear transit, boundary determinations for the territorial sea, and ensuring the enforceability of a ban. Additionally, because the US position that transit limits in the Panama Canal contradict the norms of innocent passage, and with UNCLOS negotiations beginning in 1973, Latin American states opted to postpone discussions on maritime transit in favour of other issues. See J. Luis Rodriguez and Elizabeth Mendenhall, "Nuclear Weapon-Free Zones and the Issue of Maritime Transit in Latin America", *International Affairs* 98, no. 3 (May 2022), <https://doi.org/10.1093/ia/iia055>.

<sup>73</sup> Being landlocked, the CANWFZ only discusses the waters of "harbors, lakes, rivers and streams" (Article 2(a)).

<sup>74</sup> See Pelindaba Treaty, Article 4(2). To that same or similar effect, see also Rarotonga Treaty, Article 5(2), and Bangkok Treaty, Article 7.

The concerns of the NWS primarily relate to the possible limitations the zones would impose on their rights of free passage and transit, as enshrined predominantly in UNCLOS. The convention represents a complex regulatory regime that balances the sovereign rights of coastal states with the freedoms that maritime states enjoy. While the coastal state holds sovereign rights over maritime areas close to its shores, these sovereign rights do not equate to an absolute sovereignty. The convention establishes different maritime zones with varying substantive regimes, where generally the farther the sea is from the coast, the lesser the coastal state's authority will be, and the greater the freedom of maritime states. The convention establishes three areas of maritime jurisdiction: the territorial sea (up to 12 nautical miles from shore), the EEZ (12–200 nautical miles from shore), and the high seas (beyond 200 nautical miles from shore; see Figure 2).

**Figure 2. UNCLOS Maritime and Airspace Zones<sup>75</sup>**



If maritime areas are included in the Zone, as in the other NWFZs, then the navigational rights of foreign vessels and aircraft with nuclear weapons on board will have to be considered. In particular, the negotiators will have to find a balance between the maritime laws and policies of the states of the region, bilateral agreements between states of the region and NWS, the maritime practices of extraregional states, including the NWS, and international and customary international law.

<sup>75</sup> Based on an illustration in Dhiana Puspitawati et al., “Reconstruction of State Territorial Management to Optimize National Resilience in Indonesia”, *Legality: Jurnal Ilmiah Hukum* 31, no. 1 (March 2023): 32, <https://doi.org/10.22219/ljih.v31i1.23636>.

In the Middle East, although most states have ratified UNCLOS, three – Iran, Libya, and the United Arab Emirates – have signed but not ratified,<sup>76</sup> and an additional two – Israel and Syria – have neither signed nor ratified (for the status of UNCLOS in the Middle East, see Appendix 3). Iran has not ratified the treaty due to opposition to provisions such as “innocent passage” and “transit passage”, which allow all foreign ships, including warships, to navigate through territorial waters and straits without prior authorisation.<sup>77</sup> Israel has not signed due to regional maritime disputes, particularly in the Eastern Mediterranean, where issues related to EEZs and natural gas exploration remain contentious. Libya has not ratified due to unresolved historical claims over the Gulf of Sidra, which it declared as internal waters, conflicting with UNCLOS provisions on territorial sea and EEZs. Syria has not signed due to maritime border disputes with its neighbours. The United Arab Emirates has not ratified the treaty due to territorial disputes in the Persian Gulf, particularly with Iran over islands such as Abu Musa and the Greater and Lesser Tunbs. Of the NWS, only the United States is not a party to UNCLOS, having never signed it. As such, these states are not bound by the treaty, although some of the non-members have followed it as codified customary international law.

Notably, the maritime transport of chemical and biological weapons – also to be covered by a future ME WMD-FZ – is already prohibited based on the bans on such weapons in the 1972 Biological Weapons Convention (BWC) and the 1993 Chemical Weapons Convention (CWC).<sup>78</sup> The expectation is that the future Zone will adopt, at a minimum, similar prohibitions to those in these treaties.

The following subsections highlight the primary rights, limitations, and ambiguities inherent in UNCLOS that are relevant to the NWFZs, explore the challenges faced by the established zones in relation to extraregional states, and consider potential implications in the context of the ME WMD-FZ.

## 4.1. The Territorial Sea

A coastal state has sovereignty over its territorial sea, which extends up to 12 nautical miles (about 22 kilometres) from the baseline. It has become customary for states to extend the same power that they exercise over their sovereign land to their territorial waters, even though, in practical terms, coastal states must make a declaration to establish the boundaries of their jurisdiction at sea.<sup>79</sup> Coastal state sovereignty in the territorial sea is subject to the concept of “innocent passage”, established first in international customary law and then endorsed in treaty law in UNCLOS.

<sup>76</sup> States that have signed but not ratified the Convention should not act in a manner that contradicts its objective and purpose.

<sup>77</sup> Iran, “Upon Signature: Interpretative Declaration on the Subject of Straits”, [https://treaties.un.org/Pages/ViewDetailsIII.aspx?src=TREATY&mtdsg\\_no=XXI-6&chapter=21&Temp=mtdsg3&clang=\\_en#EndDec](https://treaties.un.org/Pages/ViewDetailsIII.aspx?src=TREATY&mtdsg_no=XXI-6&chapter=21&Temp=mtdsg3&clang=_en#EndDec).

<sup>78</sup> Roscini, “The Proposed WMD-Free Zone in the Middle East – Part One”.

<sup>79</sup> Tamar Rahamimoff-Honig, “האמנת האיסור על נשק גרעיני: השלכותיה על הזירה הבינלאומית ומשמעויות לישראל” [The Treaty on the Prohibition of Nuclear Weapons: Implications for the International Arena and Significance for Israel] Master’s Thesis, University of Haifa (2020): 108.

Two key questions are particularly relevant to NWFZs in relation to the practice and applicability of maritime law in territorial sea. The first is whether nuclear-armed ships are capable of innocent passage. The second is whether requiring pre-notification or pre-authorisation of ships carrying nuclear weapons or materials entering territorial waters constitutes a violation of the right to innocent passage.<sup>80</sup>

## Innocent Passage

UNCLOS progressively builds the definition of innocent passage by identifying what may be considered a “passage” and what may be labelled as “innocent”. A passage is defined as “continuous and expeditious”<sup>81</sup> and is innocent “so long as it is not prejudicial to the peace, good order or security of the coastal state”.<sup>82</sup> It is important to note that the right of innocent passage through territorial sea only applies to foreign vessels. Aircraft in flight are not entitled to innocent passage; thus, the aircraft of aviation-capable vessels must remain onboard during innocent passage.<sup>83</sup> Submarines must surface and display their flag while transiting the territorial sea.<sup>84</sup>

Notably, a coastal state cannot obstruct the innocent passage of foreign ships through its territorial waters, including by enacting laws and prohibitions that effectively deny or impair the right of innocent passage<sup>85</sup> or that discriminate against a particular state either in form or in practice.<sup>86</sup> A foreign warship could not be prevented from entering territorial waters as long as it adheres to the principle of innocent passage. As such, the issue of innocent passage pertains not to the characteristics of the vessel (whether civilian or military, what it carries or its national flag) but to the manner in which the passage is conducted in a state’s territorial waters.<sup>87</sup>

Although a coastal state may “not hamper the innocent passage”,<sup>88</sup> UNCLOS grants it authority to establish laws and regulations concerning innocent passage under specific circumstances, such as navigation safety and the protection of navigational facilities.<sup>89</sup> For example, this could entail the requirement that foreign nuclear-armed ships and ships carrying nuclear or other inherently dangerous or noxious substances shall, when exercising the right of innocent passage through the territorial sea, carry documents and observe special precautionary measures established for such ships by international agreements.<sup>90</sup>

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<sup>80</sup> Thomas Windsor, “Innocent Passage of Warships in East Asian Territorial Seas”, *Australian Journal of Maritime & Ocean Affairs* 3, no. 3 (September 2011): 73, <https://doi.org/10.1080/18366503.2011.10815682>.

<sup>81</sup> UNCLOS, Article 18(2).

<sup>82</sup> UNCLOS, Article 19(1).

<sup>83</sup> “Chapter 3: Freedom of Navigation – Law of the Sea,” in *Law of the Sea: A Policy Primer* (Tufts University: Fletcher School of Law and Diplomacy, 2017), <https://sites.tufts.edu/lawofthesea/chapter-three/>.

<sup>84</sup> UNCLOS, Article 20.

<sup>85</sup> UNCLOS, Article 24(1).

<sup>86</sup> Windsor, “Innocent Passage of Warships in East Asian Territorial Seas”, 74.

<sup>87</sup> *Ibid.*, 75. It is worth noting that UNCLOS laws are applicable in times of peace. Yet, according to the laws of war at sea (as outlined, for example, in the 1994 San Remo Manual on International Law Applicable to Armed Conflicts at Sea), there is a right of innocent passage also during war times.

<sup>88</sup> UNCLOS, Article 24.

<sup>89</sup> UNCLOS, Article 21(1). It outlines eight specific scenarios in which coastal states can regulate innocent passage.

<sup>90</sup> UNCLOS, Article 23.

A coastal state cannot prevent any foreign ships (including warships) from exercising their right of innocent passage in the territorial waters, but it can temporarily suspend them in specific areas for security reasons, with the provision of a public notice to the international community without discrimination among ships.<sup>91</sup> If a warship disobeys local laws and requests, the coastal state may expel it immediately.<sup>92</sup> However, since warships are entitled to sovereign immunity, the flag state's consent is required for boarding or seizure. Coastal states can only use non-lethal measures when demanding departure.

Coastal states must permit, with the above qualifications, the innocent passage of foreign ships, including warships, through their territorial sea. Yet, UNCLOS considers 12 specific circumstances in which a ship's passage is deemed prejudicial and thus not innocent. The list effectively precludes a range of military operations, including "any threat or use of force against the sovereignty, territorial integrity or political independence of the coastal State";<sup>93</sup> practicing or exercising weapons; collecting information to the prejudice of the coastal state; launching, landing, or taking on board any aircraft or military device; and jamming a coastal state's communications.<sup>94</sup> Coastal and maritime states disagree about whether the list is exhaustive. Some maritime states argue that it is, stating that if the passage cannot be categorised as prejudicial under the mentioned activities, it may not be deemed prejudicial, and UNCLOS does not grant coastal states the right to agree on additional limits.<sup>95</sup> In contrast, some coastal states interpret "non-innocent passage" to also include several activities not explicitly listed in these 12 circumstances when they consider such activities to pose a threat to their sovereignty.<sup>96</sup>

While, as mentioned above, the three non-landlocked NWFZs concluded after UNCLOS was adopted include a reference that "nothing in this treaty shall prejudice the rights or the exercise of these rights by any state" under the provisions of UNCLOS, only the Bangkok Treaty explicitly mentions the right of maritime states to "innocent passage".

Several states in the Middle East have developed their own policies and interpretations of the concept of territorial water and "innocent passage". For example, Sudan claims as its territorial waters any portion of the high seas that is wholly surrounded by territorial waters and does not extend more than 12 nautical miles in any direction.<sup>97</sup> Saudi Arabia asserts that innocent passage does not apply to its territorial sea, as there is an equally suitable alternative route

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<sup>91</sup> UNCLOS, Article 25(3).

<sup>92</sup> UNCLOS, Article 30.

<sup>93</sup> UNCLOS, Article 19(2).

<sup>94</sup> "Freedom of Navigation", 20.

<sup>95</sup> Windsor, "Innocent Passage of Warships in East Asian Territorial Seas", 74.

<sup>96</sup> Rodriguez and Mendenhall, "Nuclear Weapon-Free Zones and the Issue of Maritime Transit in Latin America", 833; P. Robert Philp Jr., "The South Pacific Nuclear-Weapon-Free-Zone, the Law of the Sea, and the Anzus Alliance: An Exploration of Conflicts, a Step toward World Peace", California Western International Law Journal 16, no. 1 (Winter 1986), and Rodriguez and Mendenhall, "Arms Control at Sea", 7.

<sup>97</sup> Sudan's Territorial Waters and Continental Shelf Act, 1970, 6 (2), [https://www.un.org/depts/los/LEGISLATION-ANDTREATIES/PDFFILES/SDN\\_1970\\_Act.pdf](https://www.un.org/depts/los/LEGISLATION-ANDTREATIES/PDFFILES/SDN_1970_Act.pdf).

through the high seas or the EEZ.<sup>98</sup> Iran has not ratified UNCLOS and does not recognise the right of innocent passage under the treaty but its 1993 national maritime law permits it under specific conditions.<sup>99</sup> Iran claims that waters between islands, where the distance between such islands does not exceed 24 nautical miles, form part of its internal waters.<sup>100</sup> Yemen

specifies several activities by foreign ships, submarines or submerged vessels that shall not be deemed innocent, including any exercise or practice of any kind within its territorial sea.<sup>101</sup>

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Several Middle Eastern states have developed their own policies and interpretations of the concept of territorial waters and “innocent passage”.

Some NWS generally oppose coastal states’ territorial sea claims and practices that exceed those stipulated under UNCLOS and customary international law. For example, the United States articulates this position through its diplomatic commu-

nications and maritime activities. Central to this effort is its Freedom of Navigation Program, conducted in the Middle East as well as globally, which primarily consists of operational challenges to coastal states’ claims that the United States deems excessive under customary international law.<sup>102</sup> The United Kingdom and France also conduct such operations (although not as consistently or as frequently as the United States) in areas where they hold territories or have strategic interests in an effort to assert their freedom of navigation.

## Pre-Notification and Pre-Authorisation

UNCLOS does not explicitly articulate whether a coastal state can demand prior notification or consent to enter its territorial waters. During the convention’s negotiations, states were divided on whether warships in a state’s territorial waters should be subject to requirements such as prior notification or authorisation by the coastal state. Australia, the United Kingdom and the United States argued that such requirements contradict coastal states’ obligations “not [to] hamper the innocent passage of foreign ships”. The United States asserts that warships, like any other vessel, can engage in innocent passage, and it makes no difference if it is nuclear-capable or nuclear-armed. In addition, in 1989, the United States and the Soviet Union issued a joint statement noting that “warships, regardless of cargo, armament or means of propulsion, enjoy the right of innocent passage... for which neither prior notification nor authorisation is

<sup>98</sup> Saudi Arabia, “Declaration Made Upon Ratification, in United Nations Office of Legal Affairs, Division for Ocean Affairs and the Law of the Sea”, Bulletin no. 31, 1996: 10, [https://www.un.org/Depts/los/doalos\\_publications/LOSBulletins/bulletinpdf/bulletinE31.pdf](https://www.un.org/Depts/los/doalos_publications/LOSBulletins/bulletinpdf/bulletinE31.pdf).

<sup>99</sup> Iran’s Act on the Maritime Areas in the Persian Gulf and the Oman Sea, 1993, Article 9, [http://www.un.org/Depts/los/LEGISLATIONANDTREATIES/PDFFILES/IRN\\_1993\\_Act.pdf](http://www.un.org/Depts/los/LEGISLATIONANDTREATIES/PDFFILES/IRN_1993_Act.pdf).

<sup>100</sup> Ibid.

<sup>101</sup> See Yemen, “Republican Decree Law No. (37) of 1991 Regarding the Territorial Sea, the Contiguous Zone, the Exclusive Economic Zone and the Territorial Shelf” (In Arabic), <https://faolex.fao.org/docs/pdf/yem39356.pdf>.

<sup>102</sup> US Department of Defense, Representative for Ocean Policy Affairs, “Maritime Claims Reference Manual”, Navy JAG Corps, <https://www.jag.navy.mil/national-security/mcrrm/>.

required”.<sup>103</sup> Other maritime states support this view and, to demonstrate their rights, regularly send warships through the territorial sea without prior authorisation or notification from the coastal state.<sup>104</sup> Yet, many coastal states (including some NWS) contend that requesting pre-notification or pre-authorisation does not breach the doctrine of innocent passage and can coexist with it.<sup>105</sup> They also hold that, in particular, foreign nuclear-armed ships and ships carrying nuclear materials or other inherently dangerous or noxious substances, which have the right of innocent passage like any other vessel,<sup>106</sup> can be required to provide prior notification of this passage to enable the coastal state to address potential risks of accidents.<sup>107</sup> In practice, all NWS have adopted a “neither confirm nor deny” policy regarding the location and transport of nuclear weapons, in which they refuse to announce if a ship carries nuclear weapons.<sup>108</sup>

Of the five established NWFZs, only the Bangkok Treaty explicitly notes that its states parties, “upon being notified”, may decide whether to allow foreign ships and aircraft port visits as well as navigation by foreign ships through its territorial sea in a manner not governed by the rights of innocent passage.<sup>109</sup> It also extends the obligation to aircraft above the waters. Many South-East Asian states argue that the notification requirement is consistent with the principle of innocent passage and freedom of navigation.<sup>110</sup> Similar to the Middle East, which also encompasses navigation routes that are both strategically and economically vital, most NWS assign strategic importance to freedom of navigation in the areas covered by the Bangkok Treaty. As such, they oppose the treaty’s pre-notification requirement and interpretation of UNCLOS. These NWS oppose the term “upon being notified”, which could suggest that an extraregional state must notify a coastal state in the zone if its warships pass through the latter’s territorial or archipelagic waters. These NWS hold that coastal states cannot require notification or prior approval for innocent passage under current international law.<sup>111</sup>

Several states in the Middle East, regardless of the ME WMDFZ context, already require pre-authorisation or pre-notification for innocent passage through their territorial waters. A

<sup>103</sup> Joint Statement by the United States of America and the Union of Soviet Socialist Republics on the Uniform Interpretation of Rules of International Law Governing Innocent Passage, 1989, <https://cil.nus.edu.sg/database/cil/1989-joint-statement-by-the-united-states-of-america-and-the-union-of-soviet-socialist-republics-on-the-uniform-interpretation-of-rules-of-international-law-governing-innocent-passage/>.

<sup>104</sup> Rodriguez and Mendenhall, “Nuclear Weapon-Free Zones and the Issue of Maritime Transit in Latin America”, 838.

<sup>105</sup> Windsor, “Innocent Passage of Warships in East Asian Territorial Seas”, 76–79, and China, “1996 Declaration Upon Ratifying the United Nations Convention on the Law of the Sea (UNCLOS)”, 25 August 2006, [https://treaties.un.org/Pages/ViewDetailsIII.aspx?src=TREATY&mtdsg\\_no=XXI-6&chapter=21&Temp=mtdsg3&clang=\\_en#EndDec](https://treaties.un.org/Pages/ViewDetailsIII.aspx?src=TREATY&mtdsg_no=XXI-6&chapter=21&Temp=mtdsg3&clang=_en#EndDec).

<sup>106</sup> UNCLOS, Article 23.

<sup>107</sup> Article 22 permits coastal states to require nuclear-powered ships and those carrying dangerous materials to use designated sea lanes for safety, without denying innocence passage rights or discrimination. Article 23 affirms innocent passage for vessels with nuclear materials if they have the necessary documents and follow international safety measures.

<sup>108</sup> Lisa Tabassi, “National Implementation and Enforcement of Nuclear-Weapon-Free Zone Treaties”, *Nuclear Law Bulletin*, no. 1 (July 2009): 29–57, [https://doi.org/10.1787/nuclear\\_law-v2009-art2-en](https://doi.org/10.1787/nuclear_law-v2009-art2-en).

<sup>109</sup> Bangkok Treaty, Article 7.

<sup>110</sup> Subedi, “Problems and Prospects”.

<sup>111</sup> Lionel Yee Woon Chin, “Nuclear Weapon-Free Zones – A Comparative Analysis of the Basic Undertakings in the SEANWFZ Treaty and Their Geographical Scope of Application”, *Singapore Journal of International & Comparative Law* 2, no. 1 (1988): 175–90, and Subedi, “Problems and Prospects”.

few examples include requiring foreign warships to obtain permission 15 days prior to entering territorial waters (required by Algeria);<sup>112</sup> prior authorisation for warships (required by Egypt, Iran, Libya, Oman, Qatar, Sudan, Syria, the United Arab Emirates and Yemen), and prior notification for nuclear-armed vessels (required by Djibouti, Egypt, Iran, Oman, Qatar, Somalia, Syria, the United Arab Emirates, and Yemen).<sup>113</sup>

## Transit, Stationing and Visits

Another point of debate within the existing NWFZs is the right of the NWS to transit, station, transfer, and visit within the territorial sea.

### Transit

Existing NWFZs do not include specific restrictions on nuclear-armed transit at sea. As a result, most coastal state restrictions on nuclear-armed transit are asserted and justified by reference to UNCLOS rather than NWFZs.<sup>114</sup> All existing post-UNCLOS NWFZ treaties grant states in the zone discretion over the transit of nuclear-armed ships and aircraft through their territories, when not already covered by international law (see Table 4).<sup>115</sup> Notably, when NWS have signed NWFZ protocols, they have often made declarations that reject any restrictions on freedom of navigation at sea.

In the context of existing NWFZs as well as the ME WMD-FZ, Russia has made statements opposing the transit of nuclear explosive devices through the zone and views it as a violation of the treaty. It has warned that, if any treaty member engages in nuclear-related violations – such as cooperating with nuclear-armed states in aggression or allowing nuclear-armed vessels or aircraft to use its territory, airspace, territorial sea or archipelago waters – it would consider itself free from its commitments under the applicable NSA protocol.<sup>116</sup>

### Stationing

The NPT does not prohibit an NWS from stationing weapons in the territory of an NNWS, as long as the NWS retains control over their use at all times. As a result, a region without an NWS could still host nuclear weapons.<sup>117</sup> To address this concern, all existing NWFZs prohibit stationing.

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<sup>112</sup> Algeria, “Decree No. 72-194 of 5 October 1972 for the Peacetime Regulation of the Passage of Foreign Warships through the Territorial Waters and of their Calls”, [http://www.un.org/Depts/los/LEGISLATIONANDTREATIES/PDFFILES/DZA\\_1972\\_Decree.pdf](http://www.un.org/Depts/los/LEGISLATIONANDTREATIES/PDFFILES/DZA_1972_Decree.pdf).

<sup>113</sup> See, for example, Djibouti, “Law No. 52/AN/78 Concerning the Territorial Sea, the Contiguous Zone, the Exclusive Economic Zone, the Maritime Frontiers and Fishing”, January 1979, [https://www.un.org/Depts/los/LEGISLATIONANDTREATIES/PDFFILES/DJI\\_1979\\_Law.pdf](https://www.un.org/Depts/los/LEGISLATIONANDTREATIES/PDFFILES/DJI_1979_Law.pdf); Egypt, “Declarations Upon Ratification”, August 1983, [https://treaties.un.org/Pages/ViewDetailsIII.aspx?src=TREATY&mtldsg\\_no=XXI-6&chapter=21&Temp=mtldsg3&clang=en#EndDec](https://treaties.un.org/Pages/ViewDetailsIII.aspx?src=TREATY&mtldsg_no=XXI-6&chapter=21&Temp=mtldsg3&clang=en#EndDec), and Iran, “Act on the Maritime Areas in the Persian Gulf and the Oman Sea”, May 1993, [http://www.un.org/Depts/los/LEGISLATIONANDTREATIES/PDFFILES/IRN\\_1993\\_Act.pdf](http://www.un.org/Depts/los/LEGISLATIONANDTREATIES/PDFFILES/IRN_1993_Act.pdf).

<sup>114</sup> Rodriguez and Mendenhall, “Arms Control at Sea”, 6.

<sup>115</sup> For example, Pelindaba Treaty, Article 4(2).

<sup>116</sup> Conference on the Establishment of a Middle East Zone Free of Nuclear Weapons and Other Weapons of Mass Destruction, A/CONF.236/2021/WP.3.

<sup>117</sup> Ernie Regehr, “A Nuclear-Weapon-Free Zone and Cooperative Security in the Arctic”, Disarming Arctic Security Briefing Paper, Simons Foundation (October 2014): 6, <https://www.thesimonsfoundation.ca/highlights/nuclear-weapon-free-zone-and-cooperative-security-arctic>.

“Stationing” is defined by most zones as the implantation, emplacement, transportation on land or inland water, stockpiling, storage, installation, and deployment of nuclear weapons.<sup>118</sup> However, as discussed above, NWS implement a “neither confirm nor deny” policy regarding the location and transport of nuclear weapons. Thus, if a state in a zone permits port visits or water transits by a NWS vessels, the NWS policy complicates the capacity of the coastal state to maintain the zone free from the presence of nuclear weapons, as it will remain unaware if a vessel is nuclear-armed.<sup>119</sup>

## Visits

The NWFZs concluded after UNCLOS give each member state the authority to decide whether foreign ships and aircraft can visit its ports and airfields, transit its airspace, navigate through its territorial or archipelagic waters, and overflight above those waters in a manner not governed already by the rights of innocent passage, archipelagic sea lanes passage or transit passage in international straits.

A source of disagreement among the states that negotiated NWFZ treaties, especially Rarotonga, was the distinction between a visit and stationing, and when a prolonged visit could be considered stationing. Some states voiced strong concerns that the Rarotonga Treaty’s lack of regulation regarding port visits, particularly time limits on the “duration and pattern of port visits” by nuclear-armed vessels, could lead to some form of de facto stationing.<sup>120</sup> During the negotiations and before a compromise formula was reached, the New Zealand government refused to allow a visit from a US warship. The United States then “unilaterally [withdraw] its security obligations” to New Zealand, as provided under the Australia, New Zealand and United States Security Treaty (ANZUS).<sup>121</sup>

Both issues – disagreements about whether visits would be allowed and the length of port visits by nuclear-armed vessels – were addressed, as with all other existing NWFZs, by allowing parties to the Rarotonga Treaty to make such decisions on a national basis. As such, the treaty does not prohibit port visits and overflights from nuclear-armed and nuclear-capable vessels. This permits Australia to continue such visits, while allowing New Zealand and some other Pacific states to prohibit them.<sup>122</sup>

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<sup>118</sup> See, for example, Pelindaba, Article 1(d).

<sup>119</sup> Tabassi, “National Implementation and Enforcement of Nuclear-Weapon-Free Zone Treaties”.

<sup>120</sup> South Pacific Bureau for Economic Cooperation, Report by the Chairman of the Working Group on a South Pacific Nuclear Free Zone to the South Pacific Forum, Rarotonga, 4–6 August 1985 (Suva: SPEC, 1985). See also Michael Hamel-Green, “Regional Arms Control in the South Pacific: Island State Responses to Australia’s Nuclear Free Zone Initiative, Contemporary Pacific 3 no. 1 (Spring 1991): pp. 59–84.

<sup>121</sup> Parsons, “Obstacles to Denuclearization”, 26–27, 49.

<sup>122</sup> Michael Hamel-Green, “The Experience of South Pacific States in Ensuring the Absence of Nuclear-Armed Vessels in Their National Waters and Ports”, Discussion Paper, Workshop on Good Practices and Lessons Learned with Respect to the Implementation of Treaties Establishing Nuclear-Weapon-Free Zones, 2020, <https://meetings.unoda.org/unoda-mezu-workshop/unoda-middle-east-zone-unit-workshop-2020>.

**Table 4. Provisions of Established NWFZs on Territorial Visits and Transit**

|                        | Treaty of Tlatelolco | Treaty of Rarotonga                                                                                                                                                                         | Treaty of Bangkok                                                                                                                                                                           | Treaty of Pelindaba                                                                                                                                                                                                                                    | CANWFZ                                                                                                                                               |
|------------------------|----------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>Scope</b>           | –                    | Visits by foreign ships and aircraft to its ports and airfields, transit of its airspace by foreign aircraft, and navigation by foreign ships in its territorial sea or archipelagic waters | Visits by foreign ships and aircraft to its ports and airfields, transit of its airspace by foreign aircraft, and navigation by foreign ships in its territorial sea or archipelagic waters | Visits by foreign ships and aircraft to its ports and airfields, transit of its airspace by foreign aircraft, and navigation by foreign ships through its territorial sea or archipelagic waters and overflight of foreign aircraft above those waters | Transit through its territory by air, land or water, including visits by foreign ships to its ports and landing of foreign aircraft at its airfields |
| <b>Decision Based</b>  | –                    | “Remains free to decide for itself”                                                                                                                                                         | “Remains free to decide for itself”                                                                                                                                                         | “On being notified, may decide for itself”                                                                                                                                                                                                             | “Is free to resolve issues”                                                                                                                          |
| <b>Passage Rights</b>  | –                    | Excludes innocent/ archipelagic sea lanes/ transit passage                                                                                                                                  | Excludes innocent/ archipelagic sea lanes/ transit passage                                                                                                                                  | Excludes innocent/ archipelagic sea lanes/ transit passage                                                                                                                                                                                             | N/A                                                                                                                                                  |
| <b>Unique Elements</b> | –                    | –                                                                                                                                                                                           | –                                                                                                                                                                                           | Notification requirement, over-flight                                                                                                                                                                                                                  | Land transit included                                                                                                                                |

In the Middle East, very few states have developed or publicly expressed specific positions on issues of transit, transfer, transport and visit in the ME WMDFZ context. Two states have stated that the treaty should prohibit transfer, transit and stationing.<sup>123</sup> Of the NWS, Russia has reiterated during the ME WMDFZ Conference its longstanding reservations when signing the NWFZ protocols that its security assurances do not apply when states make their territory available for the transit and storage of nuclear weapons.<sup>124</sup>

Another important element to consider in relation to the ME WMDFZ is the ongoing maritime military activities and bilateral agreements involving NWS and states in the region. The five

<sup>123</sup> “Statement by Iran During the Thematic Debate at the 3rd Session of the Conference on the Establishment of a Middle East Zone Free of Nuclear Weapons and Other WMD”, 15 November 2022, <https://app.unidir.org/node/6952>, and “Statements by Egypt During the Thematic Debate at the Third Session of the Conference on Establishing a Middle East Zone Free of Nuclear Weapons and other Weapons of Mass Destruction”, 15 November 2022, <https://app.unidir.org/node/6951>.

<sup>124</sup> Conference on the Establishment of a Middle East Zone Free of Nuclear Weapons and Other Weapons of Mass Destruction, A/CONF.236/2021/WP.3.

NWS have military bases in the Middle East and some regularly deploy warships or aircraft. While some are nuclear-capable, it is unknown if they actually carry nuclear weapons. The rights and responsibilities of both the NWS and the host state are established through bilateral agreements that cover, among other issues, access, basing and overflight. These deployed forces support the regional and global interests and strategies of the NWS but can also be perceived by some regional states at times as serving regional interests, such as ensuring safe passage through waterways, preventing piracy, and maintaining security. Changing existing arrangements or adding additional restrictions through the ME WMDfZ could have implications for the willingness of the NWS to sign the protocols and could also affect bilateral or coalition relations, as was the case with Rarotonga and ANZUS.

While NWS usually do not disclose whether a ship is nuclear-armed, at least four of the five NWS have rotated nuclear-capable ships in the region. Since the end of the Cold War, it has been the policy of the United States not to deploy nuclear weapons aboard US Navy surface ships, attack or guided-missile submarines, and aircraft. However, it does not discuss the presence or absence of nuclear weapons at any general or specific location.<sup>125</sup> The United States has deployed nuclear-powered submarines in the Middle East that do not carry nuclear weapons in their current configuration, such as the USS *Florida* and *Georgia*.<sup>126</sup> Russia has reportedly deployed the *Severodvinsk* (Yasen-class) nuclear-powered submarine (which also seems not to carry nuclear weapons in its current configuration) from its Northern Fleet to the Mediterranean.<sup>127</sup> The United Kingdom has reportedly deployed two nuclear submarines to the Arabian Sea,<sup>128</sup> and France has deployed the *Charles de Gaulle* nuclear-capable aircraft carrier.<sup>129</sup>

## 4.2. The Exclusive Economic Zone

As established under UNCLOS, the EEZ is an intermediate maritime zone between the territorial and high seas. It extends up to 200 nautical miles (about 370 kilometres) from a coastal state's baseline, beginning where the territorial sea ends (see Figure 2). The coastal state holds sovereign rights over the EEZ for the purposes of economic exploitation and exploration of natural resources, including energy production. However, other maritime states retain certain

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<sup>125</sup> US Department of the Navy, Command Visits, Naval Ceremonies, and Conferences, OPNAVINST 5721.1H (Washington, DC: Secretary of the Navy, 2019), [https://www.secnav.navy.mil/doni/Directives/05000\\_General\\_Management\\_Security\\_and\\_Safety\\_Services/05-700\\_General\\_External\\_and\\_Internal\\_Relations\\_Services/5721.1H.pdf](https://www.secnav.navy.mil/doni/Directives/05000_General_Management_Security_and_Safety_Services/05-700_General_External_and_Internal_Relations_Services/5721.1H.pdf).

<sup>126</sup> See, for example, George Petras and Jennifer Borresen, "As Israel–Iran Conflict Looms, US Sends Nuclear Sub, Strike Group to Middle East", USA Today, 13 August 2024, <https://www.usatoday.com/story/graphics/2024/08/13/pentagon-nuclear-sub-israel-defense/74764624007/>.

<sup>127</sup> Hans M. Kristensen et al., "Russian Nuclear Weapons, 2025", Bulletin of the Atomic Scientists, 13 May 2025, <https://thebulletin.org/premium/2025-05/russian-nuclear-weapons-2025/>, and H. I. Sutton, "New Intelligence: Russia Sends Nuclear Submarine to Mediterranean", Naval News, 2 September 2022, <https://www.navalnews.com/naval-news/2022/09/new-intelligence-russia-sends-nuclear-submarine-to-mediterranean/>.

<sup>128</sup> "Middle East: Deployment of British Armed Forces", British Parliament, House of Lords, 17 April 2024, <https://hansard.parliament.uk/Lords/2024-04-17/debates/E34D203F-0385-4386-8205-0053ACAFD6D8/MiddleEastDeploymentOfBritishArmedForces>.

<sup>129</sup> "France to Deploy Charles de Gaulle Aircraft Carrier to Support Operations in Middle East", France 24, 17 January 2020, <https://www.france24.com/en/20200117-france-iran-islamic-state-charles-de-gaulle-aircraft-carrier-middle-east-macron-atlantic-military-armed-forces-navy>.

freedoms in the EEZ, similar to those on the high seas, including navigation, overflight, hot pursuit, counter-piracy efforts, rescue missions and the suppression of drug trafficking. UNCLOS requires coastal states to exercise their rights in the EEZ with “due regard” for other states' rights and in a manner that aligns with the convention. In practice, “due regard” has been applied case-by-case on the basis of circumstances.<sup>130</sup> Foreign vessels may only be detained for violations related to resource exploitation and must be released promptly.

A key legal ambiguity in UNCLOS concerns the legality of peacetime military operations within a foreign EEZ.<sup>131</sup> The lack of clear legal definitions has led to competing interpretations.<sup>132</sup> While maritime states advocate for freedom of navigation, including military operations, coastal states are increasingly asserting control over their EEZs, citing national security and resource sovereignty. Maritime states note that UNCLOS includes a provision allowing them to engage in “other internationally lawful uses of the sea related to these freedoms”,<sup>133</sup> including activities associated with the operation of ships, aircraft, submarine cables, and pipelines.

Issues pertaining to the EEZs within the NWFZ treaties have been reflected most prominently in the case where the EEZ is included in the zone of application. Through coordinates, the zone of application of the Tlatelolco and Rarotonga treaties encompasses EEZs and the high seas. For example, Additional Protocol II of the Tlatelolco Treaty obliges NWS not to threaten or use nuclear weapons across a coordinate-defined zone that includes EEZs and the high seas. In response, France and Russia issued statements holding that the zone of application is too expansive and not compliant with international law, and they therefore do not recognise the treaty's applicability in those areas. Both states clarified that they interpret the treaty's scope as limited to the territorial sea and airspace where each state exercises sovereignty, emphasising that areas beyond state jurisdiction are not subject to appropriation and maintain freedom of navigation.<sup>134</sup>

No NWS presented reservations regarding the inclusion of the EEZ or high seas in the Rarotonga Treaty since the treaty stipulates that “except where otherwise specified, the Treaty and its Protocols shall apply to territory within the South Pacific Nuclear Free Zone”. The zone of application is thus limited to the territorial sea and archipelagic waters, but not the EEZ or high seas.<sup>135</sup> Protocol 3 includes an exception, with a prohibition on nuclear testing extending to the high seas.

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<sup>130</sup> See Agnes Chong, “The International Jurisprudence on ‘Due Regard’”, in *International Law for Freshwater Protection* (Leiden: Brill Nijhoff, 2022), 180–246, <https://doi.org/10.1163/9789004511835>.

<sup>131</sup> Jing Geng, “The Legality of Foreign Military Activities in the Exclusive Economic Zone under UNCLOS”, *Utrecht Journal of International and European Law* 28, no. 74 (2012): 22, <https://utrechtjournal.org/articles/10.5334/ujiel.v28i74.24>.

<sup>132</sup> Geng, “The Legality of Foreign Military Activities”.

<sup>133</sup> UNCLOS, Article 58.

<sup>134</sup> López Lechuga, “The Obligations of the Nuclear-Weapon States in International Waters Included in Nuclear-Weapon-Free Zones”, 199.

<sup>135</sup> Rarotonga Treaty, Article 1.

Of the established NWFZs, only the Bangkok Treaty explicitly notes that the zone of application of “this Treaty and its Protocol shall apply to the territories, continental shelves, and EEZ of the States Parties within the Zone”.<sup>136</sup> This covers some of the busiest and strategically important international straits, such as the Strait of Malacca.<sup>137</sup> The inclusion of EEZ and continental shelves originated in the region’s unique geographical characteristics, encompassing the world’s largest and second largest archipelagic states, Indonesia and the Philippines.<sup>138</sup> The Bangkok Treaty also acknowledges that states have the right to innocent passage, as enshrined in UNCLOS.<sup>139</sup> Yet, some of the NWS expressed concerns that the extension of its prohibitions to the EEZ and continental shelves is not clearly defined.<sup>140</sup> For example, several prohibitions, including the transport of nuclear weapons, are included in the treaty under “each State Party undertakes not to, anywhere inside or outside the Zone”,<sup>141</sup> while other prohibitions fall under “each State Party also undertakes not to allow, in its territory, any other State”.<sup>142</sup> Some experts have argued that parties to the Bangkok Treaty are not required to prohibit the transport of nuclear weapons, as long as such transportation is permissible under international law, and that the treaty does not deviate much from UNCLOS. The NWS are also concerned that South-East Asian states could deny free passage of nuclear-capable vessels in contradiction to the principle of freedom of navigation. Additionally, the expansive zone of application could also mean that an NWS cannot use nuclear weapons against another NWS within the zone, nor can it launch nuclear weapons from within this zone against targets outside the zone.<sup>143</sup>

So far, no Middle Eastern state has made a specific statement about the status of the EEZ in the future ME WMDFFZ. However, some of their policies in their respective EEZs are in conflict with UNCLOS and with NWS positions. For example, Djibouti claims sovereign and exclusive rights over certain activities in their EEZ;<sup>144</sup> Iran claims that foreign militaries are prohibited from “activities and practices, collection of information and any other activity inconsistent with [Iranian] rights and interests” in the EEZ (and the continental shelf);<sup>145</sup> and Qatar claims that “foreign ships may not undertake any military activities, hydrographic surveys or maritime scientific research or any work related to underwater cultural heritage” in the EEZ without prior permission.<sup>146</sup> Yemen includes the potential for imprisonment for violators of national fishery

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<sup>136</sup> Bangkok Treaty, Article 2(1).

<sup>137</sup> Subedi, “Problems and Prospects”.

<sup>138</sup> Andamo, “How the Bangkok Treaty Addresses Issues of Transit Passage and Regulation of Exclusive Economic Zones”.

<sup>139</sup> See Bangkok Treaty, Article 2(2).

<sup>140</sup> As noted above, these disagreements were reportedly addressed in the new protocol language. See Hoang, “Why China Supports the Southeast Asia Nuclear Weapon-Free Zone”.

<sup>141</sup> Bangkok Treaty, Article 3(1).

<sup>142</sup> Bangkok Treaty, Article 3(2).

<sup>143</sup> Pabeliña, “A Regional Effort Towards Nuclear Disarmament”, and Hoang, “Why China Supports the Southeast Asia Nuclear Weapon-Free Zone”.

<sup>144</sup> Djibouti, “Law No. 52/AN/78 Concerning the Territorial Sea, the Contiguous Zone, the Exclusive Economic Zone, the Maritime Frontiers and Fishing”.

<sup>145</sup> Iran, “Act on the Maritime Areas in the Persian Gulf and the Oman Sea”.

<sup>146</sup> Qatar, Law No.12 of 2019 on the Maritime Zones of the State of Qatar (in Arabic), 16 May 2019, <https://faolex.fao.org/docs/pdf/qat193191.pdf>.

regulations in its EEZ (UNCLOS Article 73 prohibits the coastal State from imprisoning unless agreed upon between the concerned states).<sup>147</sup> The United Nations has received communications from Bahrain, Qatar and the United Arab Emirates on flight restrictions in the airspace above their EEZs.<sup>148</sup> Most, if not all, NWS oppose these claims, which they consider excessive in accordance with UNCLOS. France, the United Kingdom and the United States have also conducted military activities at times in EEZs in these contested areas to assert their positions.

### 4.3. The High Seas

All states equally enjoy freedom of navigation and overflight in the high seas, an area beyond national jurisdiction. UNCLOS notes that the high seas are open for navigation by all states and that they “shall be reserved for peaceful purposes”.<sup>149</sup> The convention maintains that states should refrain from the threat or use of force and any other action inconsistent with the

United Nations Charter.<sup>150</sup> As with the other bodies of water, what constitutes “peaceful purposes” has not been defined.



As with the other bodies of water, what constitutes “peaceful purposes” has not been defined.

As noted in the EEZ subsection, both the Tlatelolco and Rarotonga treaties include the high seas within their zones of application, and several NWS have made protocol reservations regarding their inclusion, which they perceive as not aligning with international law. Notably,

UNCLOS establishes that a state’s jurisdiction cannot limit the passage of warships on the high seas.

So far, no Middle Eastern state has made a specific statement about the status of the high seas in the future ME WMD-FZ. It appears that no conflict currently exists between the policies of specific states in the region or NWS regarding the high seas.

<sup>147</sup> Yemen, “Republican Decree Law No. (37) of 1991 Regarding the Territorial Sea, the Contiguous Zone, the Exclusive Economic Zone and the Territorial Shelf”.

<sup>148</sup> UN Security Council, “Identical Letters Dated 5 March 2018 from the Permanent Representative of Qatar to the United Nations Addressed to the Secretary-General and the President of the Security Council”, S/2018/185, 8 March 2018, <http://undocs.org/S/2018/185>.

<sup>149</sup> UNCLOS, Article 88.

<sup>150</sup> UNCLOS, Article 301.

## 4.4. International Straits: Transit Passage

UNCLOS grants ships and aircraft the right of transit passage through international straits. This right allows ships to freely navigate straits connecting two parts of the high seas or EEZs based on the “right of transit passage”.

The concept of “transit passage” was adopted in UNCLOS when coastal states agreed to extend their territorial sea to a maximum of 12 nautical miles, thereby removing most of the passages through international straits from the high seas.<sup>151</sup> For navigation and overflight through international straits that connect parts of the high seas or EEZs to qualify as transit passage, it is required to be “continuous and expeditious”. The requirement of continuous and expeditious transit does not preclude passage through the strait to enter, leave, or return from a state bordering the strait, subject to the conditions of entry to that state. The transit passage may be exercised regardless of the nationality (flag) of the ship, its form of ownership, the merchant or government status of a ship or warship, or the private or government status of an aircraft (under the 1944 Convention on International Civil Aviation).

Coastal states cannot suspend or hinder this right in peacetime or during armed conflict, although belligerents cannot use neutral waters for offensive operations or sanctuary. Unlike innocent passage, transit passage imposes fewer restrictions: aircraft cannot be denied passage, submarines may transit submerged, and the coastal state cannot suspend these rights. However, an exception exists if a strait is formed by an island and the mainland of a state, and an equally convenient alternative route is available.<sup>152</sup>

None of the existing NWFZs explicitly address transit passage through straits. While some treaties extend their prohibitions to EEZs, which could theoretically affect maritime activities, transit passage applies specifically to straits. It is safeguarded by UNCLOS, which takes precedence in navigational matters for states parties. If straits exist in these zones, the straits are either governed by UNCLOS or specific regimes. For example, the Strait of Magellan, which lies within the zone of the Tlatelolco Treaty, is governed by specific long-standing international agreements rather than the UNCLOS transit passage regime. The Rarotonga Treaty does not cover globally significant straits subject to the UNCLOS transit passage regime, but a bilateral agreement exists between Australia and Papua New Guinea that governs the Torres Strait. The Pelindaba Treaty includes key straits such as Bab el-Mandeb and Gibraltar, which will probably also be included under the ME WMDFZ (see below) and are subject to the UNCLOS transit passage regime. The NWS have conditioned their support for NWFZs on the zone not infringing navigational rights, including transit passage.

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<sup>151</sup> Andrea Caligiuri, “Clarifying Freedom of Navigation through Straits Used for International Navigation: A Study on the Major Straits in Asia”, *Questions of International Law* (December 2020), <https://www.qil-qdi.org/clarifying-freedom-of-navigation-through-straits-used-for-international-navigation-a-study-on-the-major-straits-in-asia/>.

<sup>152</sup> “Chapter 3: Freedom of Navigation - Law of the Sea”, in *Law of the Sea: A Policy Primer*.

The Strait of Malacca, a critical chokepoint for international navigation, falls within the scope of the Bangkok Treaty and is subject to the UNCLOS transit passage regime. Although the treaty does not explicitly restrict transit passage through straits, there is some ambiguity because the treaty applies to EEZs, where transit passage does not typically apply (it only applies in straits connecting high seas or EEZs). The NWS expressed concerns over the treaty's protocol, partly due to concerns over potential misinterpretation affecting navigational rights; however, the treaty text itself does not impose a direct restriction on transit passage.

Regarding transit passage in the Middle East, Oman claims sovereignty over the territorial sea “in harmony with the principle of innocent passage... through international straits” (as opposed to transit passage).<sup>153</sup>

Within the zone of application of the ME WMDFZ, there are several international straits, including Bab el-Mandeb, Gibraltar, Hormuz, and Tiran (see Figure 3).

**Bab el-Mandeb Strait** is a crucial maritime chokepoint that connects the Red Sea to the Gulf of Aden and the Indian Ocean. Its strategic importance stems from its role as a vital shipping lane for global trade, energy transportation, and global supply chains, as well as geopolitical competition. The route via the Bab el-Mandeb and the Suez Canal is 8–9 days shorter than the alternative route south of Africa. The strait's narrow passage limits the amount of tanker traffic that goes through, making it a critical and sensitive strategic point for the flow of oil and goods between Asia, Africa, and Europe. The strait faces significant challenges, such as terrorism and piracy, Houthi attacks on ships, hybrid naval warfare and a protracted humanitarian crisis. The strait connects the EEZs of Djibouti, Somalia, and Yemen in the Gulf of Aden to the EEZs of Egypt, Eritrea, Saudi Arabia, Sudan, and Yemen in the Red Sea. All these states, other than Eritrea, are parties to UNCLOS; hence, the transit passage regime applies in Bab el-Mandeb.<sup>154</sup> Djibouti has stated that it maintains international rules of navigation in the Bab el-Mandeb Strait.<sup>155</sup> Yemen requires prior permission for innocent passage of foreign military ships in its territorial sea, including the Bab el-Mandeb, which the NWS oppose.<sup>156</sup>

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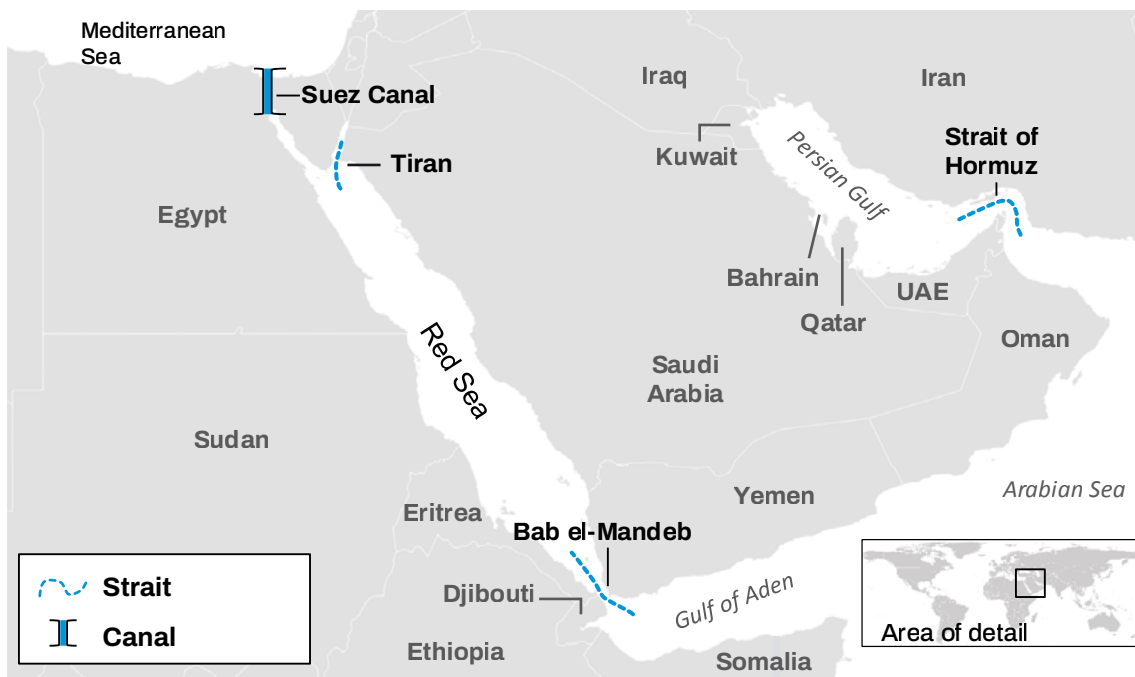
<sup>153</sup> Oman, “Royal Decree Concerning the Territorial Sea, Continental Shelf and Exclusive Economic Zone”, 10 February 1981, [http://www.un.org/Depts/los/LEGISLATIONANDTREATIES/PDFFILES/OMN\\_1981\\_Decree.pdf](http://www.un.org/Depts/los/LEGISLATIONANDTREATIES/PDFFILES/OMN_1981_Decree.pdf).

<sup>154</sup> Alexander Lott, “Maritime Security Threats and the Passage Regime in the Bab El-Mandeb”, NCLOS Blog, 21 June 2021, <https://site.uit.no/nclos/2021/06/21/maritime-security-threats-and-the-passage-regime-in-the-bab-el-mandeb/>. See also UNCLOS, Article 37.

<sup>155</sup> Djibouti, “Law No. 52/AN/78 Concerning the Territorial Sea, the Contiguous Zone, the Exclusive Economic Zone, the Maritime Frontiers and Fishing”.

<sup>156</sup> Yemen, “Republican Decree Law No. (37) of 1991 Regarding the Territorial Sea, the Contiguous Zone, the Exclusive Economic Zone and the Territorial Shelf”.

**Figure 3. Significant Maritime Points in the Middle East<sup>157</sup>**



The **Strait of Hormuz** connects the Persian Gulf with the Gulf of Oman and the Indian Ocean. It is of considerable importance since over 80 per cent of the oil and liquified natural gas extracted in the region – which accounts for 40 per cent of all oil transported by sea and one-third of the world’s liquified natural gas – flows through its waters.<sup>158</sup> The strait falls in the territorial waters of Iran, which has signed but not ratified UNCLOS, and of Oman, which has ratified the convention. Both states maintain that the extension of the territorial sea to 12 nautical miles under UNCLOS has not altered the status of the strait, which remains subject to the rule of innocent passage and their requirement for pre-authorisation for the transit of military ships.<sup>159</sup> When it signed UNCLOS, Iran stated that it applies the right of transit passage in the Strait of Hormuz only to UNCLOS members and it requires prior authorisation for warships.<sup>160</sup> According to customary international law – as codified in the 1958 Geneva Convention on the Continental Shelf and the general practice in the Strait of Hormuz – the right of the coastal state to prevent transit would remain limited only to the case of ships threatening or using force against the sovereignty, political independence or territorial integrity of coastal states, or otherwise in violation of the principles of international law incorporated in the United Nations Charter.

<sup>157</sup> Based on an illustration in US Energy Information Administration, “Red Sea Chokepoints are Critical for International Oil and Natural Gas Flows”, 4 December 2023, <https://www.eia.gov/todayinenergy/detail.php?id=61025>.

<sup>158</sup> Institute for Energy Research, “Persian Gulf Oil Exports and the Strait of Hormuz”, 30 June 2025, <https://www.instituteeforenergyresearch.org/fossil-fuels/gas-and-oil/persian-gulf-oil-exports-and-the-strait-of-hormuz/>.

<sup>159</sup> Giuseppe Cataldi, “The Strait of Hormuz”, Questions in International Law (December 2020): 12–14, <https://www.qil-qdi.org/the-strait-of-hormuz/>.

<sup>160</sup> Iran’s interpretative declaration on the subject of straits upon signature, [https://treaties.un.org/Pages/ViewDetail-sIII.aspx?src=TREATY&mtdsg\\_no=XXI-6&chapter=21&Temp=mtdsg3&clang=\\_en](https://treaties.un.org/Pages/ViewDetail-sIII.aspx?src=TREATY&mtdsg_no=XXI-6&chapter=21&Temp=mtdsg3&clang=_en).

This rule applies to warships and merchant vessels, and no authorisation or notification of passage can be demanded in advance by the coastal state as a mandatory requirement for transit since it is the activity, not the type of vessel, that is decisive.<sup>161</sup> It is more difficult to argue that the right of transit passage governed by UNCLOS applies to the Strait of Hormuz, given that both Iran and Oman opposed this from the outset, and since Iran has not ratified UNCLOS.<sup>162</sup> Some NWS do not recognise, and have to varying degrees publicly opposed, Iran's and Oman's

claims to restrictions on transit passage or preconditions for innocent passage in the strait.

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The right of transit passage has been contested at times by some of the regional states that govern the Strait of Hormuz.

**The Strait of Gibraltar** is a vital waterway that acts as the only natural passage between the Atlantic Ocean and the Mediterranean Sea, governed by UNCLOS transit passage. Some parts of the strait are controlled or claimed by Morocco, Spain and the United Kingdom.

**The Suez Canal**, which falls within Egypt's internal waters, is governed by the 1888 Constantinople Convention, which established it as an international waterway. While Egypt oversees its operation, the convention stipulates that the canal remains open to ships of all states without discrimination in both peacetime and wartime. It stipulates that the canal should not be blocked, even during conflicts, and guarantees the free passage of vessels. When France adopted the Pelindaba protocols, it stated that the treaty shall in no way modify the legal regime governing the Suez Canal prior to the treaty's entry into force.<sup>163</sup>

<sup>161</sup> Cataldi, “The Strait of Hormuz”, 16–18.

<sup>162</sup> Ibid., 18–19. Notably, as a signatory, Iran is also committed not to act in a manner that contradicts the objective and purpose of the treaty.

<sup>163</sup> France's declaration upon adoption, [https://treaties.unoda.org/t/pelindaba\\_3/declarations](https://treaties.unoda.org/t/pelindaba_3/declarations).



# Conclusion

*Top of Antique Globe Photo. Credit: Matthew Henry / Burst.*

The establishment of the ME WMDFZ presents a unique opportunity to address the threats of WMD in the region, but it also poses significant challenges due to the region's complex geopolitical landscape, mistrust, and the diverse interests of states within and outside the region. Drawing on the experiences of the five established NWFZ – Tlatelolco, Rarotonga, Bangkok, Pelindaba and CANWFZ – this report identifies critical issues that Middle Eastern negotiators should consider among themselves and with extraregional states, particularly the NWS, to secure their adoption of the future treaty's protocols. This concluding section synthesises the lessons and outlines key topics detailed in this report for states of the region to consider.

## Engaging Extraregional States

Middle Eastern states will have to determine how and when to engage with NWS and other relevant extraregional states on the treaty's protocols and provisions, which will influence their willingness to adopt these protocols. The existing NWFZs involved NWS during the treaty's initial drafting phase. This early engagement was crucial in addressing potential objections before the treaty's finalisation, thereby increasing the likelihood of NWS ratification.

Such an exchange can take place by ensuring awareness and informing the NWS about treaty progress, by inviting feedback and input on protocols and other relevant treaty provisions, and by negotiating compromise language. Formal and informal meetings can also be held with the NWS, and they can be invited to participate as observers throughout the negotiations.

## Reservations under the Protocols

A state declares reservations in order to exclude or modify the legal effects of certain provisions of a treaty to which it is a party.<sup>164</sup> While some existing NWFZ treaties do not allow reservations, in practice, the NWS have made clarifying statements that rise to the level of reservations. Since the interpretation of clarifying statements made by NWS and their impact on the implementation of the treaties vary, further discussion between NWS and the regional states is often needed. Negotiators of a ME WMDFZ will have to decide whether to permit reservations to the protocols – potentially weakening the treaty but increasing NWS participation – or insist on prohibiting them – risking delays or abstention.

The topic has not been discussed at length during the ME WMDFZ New York Conference, but one Middle Eastern state has noted that, due to its sensitive nature and implications, the treaty cannot be subject to any conditions or reservations by the participating states or the NWS.<sup>165</sup> Whether the states of the region decide to include such an option or not, they should consider how extraregional states have treated similar restrictions in the past.

## Definition of Territory and Zone of Application

Middle Eastern negotiators will need to determine the geographical scope of the ME WMDFZ, including its “territory” and “zone of application”. Existing NWFZs offer varied approaches – some define the Zone by listing states parties, while others use maps or coordinates – and these choices have had significant implications for treaty implementation and NWS ratification.

It is safe to assume that, at a minimum, the zone of application in the Middle East will encompass the land and territorial sea of member states. Negotiators will have to decide whether the zone of application will extend beyond these to EEZs and adjacent high seas, and consider the potential implications for extraregional states’ positions on the protocols under such circumstances.

Including maritime areas beyond territorial waters could broaden the Zone’s scope, but would risk alienating NWS, particularly given the region’s strategic waterways, such as Bab el Mandeb, Gibraltar, the Strait of Hormuz, and the Suez Canal. The inclusion of maritime areas such as EEZs and the high seas in the zone of application of an NWFZ has often led to reservations or non-ratification by NWS due to concerns over freedom of navigation, sovereignty disputes, and extending NSAs beyond member states’ territories.

## Sovereignty Disputes

Middle Eastern states will have to determine how to address territories within the region that are involved in sovereignty disputes with external powers. The willingness of extraregional states having de jure or de facto international responsibility for territories situated in the zone

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<sup>164</sup> Vienna Convention on the Law of Treaties, Article 2d.

<sup>165</sup> Conference on the Establishment of a Middle East Zone Free of Nuclear Weapons and Other Weapons of Mass Destruction, statement by Iran, 1 December 2021, <https://app.unidir.org/node/7194>.

of application to sign protocols has depended on how sovereignty was addressed. Negotiators sometimes included disclaimers regarding sovereignty and disputed territories to secure NWS participation, or have entirely excluded these territories from the zone.

## **Foreign Military Bases**

The region hosts military bases of numerous NWS and other extraregional states. The presence of military bases and the activities of NWS in the Middle East could have an impact on the effectiveness of the ME WMDFZ. At the same time, bilateral agreements between states in the region and NWS related to basing, access and overflights may need to be taken into consideration in the negotiation and implementation of the treaty.

Negotiators will need to discuss whether the existing arrangements can coexist with Zone prohibitions; whether to allow host states to regulate these via bilateral agreements; or whether these arrangements require renegotiation. Each of these options has possible implications for the NWS NSA commitments.

## **Negative Security Assurances**

NSAs from NWS are critical to the ME WMDFZ's credibility, providing assurances against nuclear threats and use. However, NWS reservations in existing zones highlight important issues that Middle Eastern states will need to consider. All NWFZs include NSAs that prohibit NWS from using or threatening to use nuclear weapons against zone members, but reservations – citing self-defence, treaty breaches, alliances with NWS or disputed territories – often affect these commitments.

Middle Eastern states will have to balance calls for unconditional NSAs with the NSA policies and previous practices of NWS. They will also have to consider from whom to request to adopt the protocols. Opening the protocols to all nuclear weapons-armed states, not only NWS based on the NPT, could address regional concerns regarding neighbouring states that are nuclear-armed or that station nuclear weapons on their territories. Yet, no other NWFZ has adopted such a policy, and it may imply legitimisation of their nuclear status – a trade-off that requires careful deliberation with potential implications beyond the Middle East. In addition, unlike other NWFZs, the ME WMDFZ aims to cover nuclear, chemical and biological weapons. While the CWC and the BWC ban chemical and biological weapons for all NWS, discussion of whether it is possible and desirable to expand NSAs beyond nuclear to cover all WMD may be warranted, including possible implications.

## **Maritime Issues**

In all the various bodies of water, UNCLOS does not allow a state to completely block the passage of vessels, even in the most explicit cases of nuclear-armed or nuclear-powered vessels seeking to pass through a state's territorial waters. Although there are certain requirements regarding the manner of transit in territorial waters, a state cannot prevent or impair the right of innocent passage of vessels, including warships, even if they carry nuclear weapons.

Coastal states are also prohibited from discriminating against states or cargoes from different states. The Middle East's strategic waterways – Bab el Mandeb, Gibraltar, the Strait of Hormuz, and the Suez Canal – amplify maritime considerations, particularly regarding NWS navigation rights under UNCLOS.

The ME WMDFZ negotiators will have to carefully consider how to balance the sovereignty and national laws of coastal states, the freedoms of navigation under UNCLOS, NWS transit policies in strategically important waterways, and the requirements of the Zone. Topics to be clarified include the right of innocent passage through territorial waters and pre-notification and authorisation requirements for warships and other vessels carrying nuclear weapons; the application of UNCLOS concerning transit passage through international straits; whether to reserve state discretion over port visits and transit; and whether to include EEZs and the high seas in the zone of application and, if yes, which provisions to apply.

To conclude, the establishment of an ME WMDFZ presents unique challenges due to the Middle East's complex geopolitical landscape and the diverse views of states in and beyond the region. Middle Eastern negotiators face a delicate balancing act: crafting a treaty that deters future proliferation and resolves WMD threats while satisfying regional aspirations and securing extraregional support. Learning from the experiences of existing NWFZs can inform the ME WMDFZ process. Success relies on creative diplomacy, building consensus among regional actors, and involving NWS in a manner that aligns their strategic interests with the Zone's goals. Effectively addressing these challenges will necessitate early engagement with the NWS, innovative diplomacy, and a focus on collaboration and identifying bridging ideas.

## Appendix 1. NWFZs Definitions of “Territory”

| Treaty                                                           | Definition of Territory                                                                                                                                                                                                                                                                                                                                         | Reference to International Law and UNCLOS                                                                                                                                                                                                                                                                                                                                                             |
|------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>Treaty of Tlatelolco</b><br>(Latin America and the Caribbean) | The term “territory” shall include the territorial sea, air space and any other space over which the State exercises sovereignty in accordance with its own legislation                                                                                                                                                                                         | –                                                                                                                                                                                                                                                                                                                                                                                                     |
| <b>Treaty of Rarotonga</b><br>(South Pacific)                    | “Territory” means the land territory, internal waters, territorial sea, archipelagic waters/ the seabed and the sub-soil thereof and the airspace above them                                                                                                                                                                                                    | Nothing in this Treaty shall prejudice or in any way affect the rights, or the exercise of the rights, of any State under international law with regard to freedom of the seas                                                                                                                                                                                                                        |
| <b>Treaty of Bangkok</b><br>(South-East Asia)                    | “Southeast Asia Nuclear Weapon-Free Zone”, hereinafter referred to as the “Zone”, means the area comprising the territories of all states in Southeast Asia, namely, Brunei Darussalam, Cambodia, Indonesia, Laos, Malaysia, Myanmar, Philippines, Singapore, Thailand and Vietnam, and their respective continental shelves and Exclusive Economic Zones (EEZ) | Nothing in this Treaty shall prejudice the rights or the exercise of these rights by any State under the provisions of the United Nations Convention on the Law of the Sea of 1982, in particular with regard to freedom of the high seas, rights of innocent passage, archipelagic sea lanes passage or transit passage of ships and aircraft, and consistent with the Charter of the United Nations |
| <b>Treaty of Pelindaba</b><br>(Africa)                           | “Territory” means the land territory, internal waters, territorial seas and archipelagic waters and the airspace above them as well as the sea bed and subsoil beneath                                                                                                                                                                                          | Nothing in this Treaty shall prejudice or in any way affect the rights, or the exercise of the rights, of any state under international law with regards to freedom of the seas                                                                                                                                                                                                                       |
| <b>CANWFZ</b><br>(Central Asia)                                  | For the purposes of this Treaty as the land territory, all waters (harbors, lakes, rivers and streams) and the air space above them, which belong to the Republic of Kazakhstan, the Kyrgyz Republic, the Republic of Tajikistan, Turkmenistan and the Republic of Uzbekistan                                                                                   | –                                                                                                                                                                                                                                                                                                                                                                                                     |

## Appendix 2. NWS Reservations Related to NSAs

| Type of Reservation | NWFZ       | NWS            | Reservation                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              |
|---------------------|------------|----------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| NSA: Self-defence   | Tlatelolco | France         | <p>“No provision of this Protocol or of the articles of the Treaty to which it relates may detract from the full exercise of the right of said defense confirmed by Article 51 of the Charter of the United Nations” (Protocol I, 1992)</p> <p>“The French Government interprets the undertaking made in Article 3 of the Protocol as being without prejudice to the full exercise of the right of self-defence confirmed by Article 51 of the Charter of the United Nations” (Protocol II, 1974)</p>                                                                                                                                                                                                                                                                    |
|                     |            | Russia (USSR)  | <p>“Any action taken by one or more States parties to the Treaty of Tlatelolco that is incompatible with its non-nuclear status, and the commission by one or more States parties to the Treaty of an act of aggression in support of a nuclear-weapon State or jointly with that State, will be considered by the Soviet Union as incompatible with the relevant obligations of those countries under the Treaty. In such cases the Soviet Union reserves the right to review its obligations under Additional Protocol II” (Protocol II, 1979)</p>                                                                                                                                                                                                                     |
|                     |            | United Kingdom | <p>“The Government of the United Kingdom would, in the event of any act of aggression by a Contracting Party to the Treaty in which that Party was supported by a nuclear-weapon State, be free to reconsider the extent to which they could be regarded as committed by the provisions of Additional Protocol II” (Protocol II, 1969)</p>                                                                                                                                                                                                                                                                                                                                                                                                                               |
|                     |            | United States  | <p>“As regards the undertaking in Article 3 of Protocol II not to use or threaten to use nuclear weapons against the Contracting Parties, the United States would have to consider that an armed attack by a Contracting Party, in which it was assisted by a nuclear-weapon State, would be incompatible with the Contracting Party’s corresponding obligations under Article 1 of the Treaty” (Protocol II, 1971)</p>                                                                                                                                                                                                                                                                                                                                                  |
|                     | Rarotonga  | France         | <p>“No provision of the Protocols or the articles of the Treaty to which the Protocols refer shall impair the full exercise of the inherent right of self-defence provided for in Article 51 of the United Nations Charter” (Protocols I, II, III, 1996)</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |
|                     |            | Russia (USSR)  | <p>“In the event of any actions undertaken by the state or states, which are parties to the Rarotonga Treaty, in violation of their main commitments under the Treaty connected with the non-nuclear status of the zone and perpetration by one or several states parties to the Treaty of an act of aggression with the support of a state having nuclear weapons or jointly with it with the use by such a state of the territory, air space, territorial sea or archipelago waters of those countries for calls by naval ships and flying vehicles with nuclear weapons on board or transit of nuclear weapons, the Soviet Union will have the right to consider itself free from the commitments undertaken under Protocol II to the Treaty” (Protocol II, 1988)</p> |

|                   |           |                |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |
|-------------------|-----------|----------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| NSA: Self-defence | Rarotonga | United Kingdom | “The Government of the United Kingdom will not be bound by their undertaking under Article 1 of Protocol 2... in the case of an invasion or any other attack on the United Kingdom, its dependent territories, its armed forces or other troops, its allies or a State towards which it has a security commitment, carried out or sustained by a party to the Treaty in association or alliance with a nuclear-weapon State” (Protocol II, 1997)                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 |
|                   | CANWFZ    | France         | “The undertaking will not apply if France faces an armed attack, per its self-defence rights under Article 51” (Protocol, 2014)                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |
|                   |           | Russia         | “In ratifying the Protocol Russia specified what territory it covers to prevent a different interpretation of this provision. Russia also made a traditional stipulation that it will not consider itself bound by the Protocol's obligations if an attack is launched against it, its Armed Forces or other troops, its allies or a state toward which it has security commitments. Russia made another traditional stipulation that it will not consider the Protocol binding if a participating state allows warships to enter its ports or aircraft to land on its airfields if they are carrying nuclear weapons or other nuclear devices.” <sup>166</sup>                                                                                                                                                                                                                                                                                                                                                                  |
|                   | Pelindaba | France         | <p>“No provision of the Protocols or of the articles of the Treaty to which they refer may impair the full exercise of the inherent right of self-defence provided for in Article 51 of the Charter of the United Nations” (Protocols I, II, III, 1996)</p> <p>“Nothing in the Protocols or the articles of the Treaty to which they refer shall impair the full exercise of the right of self-defence as provided for in Article 51 of the Charter of the United Nations” (Alternate phrasing, Protocols II, III, 1996)</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     |
|                   |           | Russia         | <p>“The Russian Federation will not consider itself legally bound under Article I of Protocol I in case of an aggression against the Russian Federation, the Armed Forces of the Russian Federation or its other forces, against its allies or a state it is bound with by security obligations, when such an aggression is made or assisted by a non-nuclear state jointly with a nuclear state, or if the non-nuclear state is under interallied obligations to the nuclear state” (Protocols I, II, 2011)</p> <p>“The Russian Federation will not use nuclear weapons against a State which is a party to the African Nuclear-Weapon-Free Zone Treaty excluding the cases of invasion or any other armed attack on the Russian Federation, its territory, its armed forces or other troops, its allies or a State towards which it has a security commitment, carried out or sustained by a non-nuclear weapons State party to the Treaty in association or alliance with a nuclear-weapon State” (Protocols I, II, 1996)</p> |

<sup>166</sup> The Ministry of Foreign Affairs of the Russian Federation, “Comment by the Information and Press Department on Russia’s ratification of the Protocol to the Treaty on a Nuclear-Weapon-Free Zone in Central Asia”, 27 April 2015, [https://www.mid.ru/en/foreign\\_policy/news/1507867/](https://www.mid.ru/en/foreign_policy/news/1507867/).

|                                    |           |                |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |
|------------------------------------|-----------|----------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
|                                    | Pelindaba | United Kingdom | “The Government of the United Kingdom will not be bound by their undertaking under Article 1 of Protocol I... in the case of an invasion or any other attack on the United Kingdom, its dependent territories, its armed forces or other troops, its allies or a State towards which it has a security commitment, carried out or sustained by a party to the Treaty in association or alliance with a nuclear-weapon State” (Protocols I, II, 1996, 2001)                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |
| NSA: Violation of NPT or NWIFZ     | Rarotonga | China          | “China will fulfill its obligations assumed under Protocols No. 2 and No. 3 attached to the South Pacific Nuclear Free Zone Treaty. However, the Chinese Government reserves its right to reconsider these obligations if other nuclear weapon States or the contracting parties to the Treaty take any action in gross violation of the Treaty and its attached Protocols, thus changing the status of the nuclear free zone and endangering the security interests of China” (Protocols II, III, 1988)                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |
|                                    |           | Russia (USSR)  | “In the event of any actions undertaken by the state or states, which are parties to the Rarotonga Treaty, in violation of their main commitments under the Treaty connected with the non-nuclear status of the zone and perpetration by one or several states parties to the Treaty of an act of aggression with the support of a state having nuclear weapons or jointly with it with the use by such a state of the territory, air space, territorial sea or archipelago waters of those countries for calls by naval ships and flying vehicles with nuclear weapons on board or transit of nuclear weapons, the Soviet Union will have the right to consider itself free from the commitments undertaken under Protocol Two to the Treaty. In the event of any other actions by the parties to the Treaty incompatible with their non-nuclear status, the USSR reserves for itself the right to reconsider the commitments undertaken under the said Protocol”                                                                                                                     |
| NSA: Territory Exclusion from Zone | Pelindaba | United Kingdom | “The Government of the United Kingdom have no doubt as to their sovereignty over the British Indian Ocean Territory and do not accept the inclusion of that Territory within the African nuclear-weapon-free zone without their consent. The Government of the United Kingdom do not accept any legal obligations in respect of that Territory by their adherence to Protocols I and II” (Protocols I, II, 1996, 2001)                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 |
|                                    |           | Russia         | <p>“The Russian Federation assuming that in accordance with Article I of the Treaty ‘African nuclear-weapon-free zone’ means the territory of the continent of Africa, insular Member States of the African Union and other adjoining islands considered by the African Union in its resolutions as a part of Africa, does not however consider itself legally bound under Protocol I in respect of such territories, provided (as long as) these territories have military bases of nuclear powers, as well as of territories in respect of which other nuclear states consider themselves legally unbound under Protocol I” (Protocols I, II, 2011)</p> <p>“Meanwhile until the military base of the nuclear State is situated on the Chagos archipelago islands they cannot be regarded [as] meeting the requirements put forward by the Treaty for the nuclear-weapon-free territories... Proceeding from this, the Russian Federation cannot consider itself to be bound by the obligations under Protocol I in respect of the aforesaid territories” (Protocols I, II, 1996)</p> |

## Appendix 3. Status of UNCLOS in the Middle East<sup>167</sup>

(as of June 2025)

| Participant                | Signature        | Accession (*) or Ratification |
|----------------------------|------------------|-------------------------------|
| Algeria                    | 10 December 1982 | 11 June 1996                  |
| Bahrain                    | 10 December 1982 | 30 May 1985                   |
| Comoros                    | 6 December 1984  | 21 June 1994                  |
| Djibouti                   | 10 December 1982 | 8 October 1991                |
| Egypt                      | 10 December 1982 | 26 August 1983                |
| Iran (Islamic Republic of) | 10 December 1982 | –                             |
| Iraq                       | 10 December 1982 | 30 July 1985                  |
| Israel                     | –                | –                             |
| Jordan                     | –                | 27 November 1995*             |
| Kuwait                     | 10 December 1982 | 2 May 1986                    |
| Lebanon                    | 7 December 1984  | 5 January 1995                |
| Libya                      | 3 December 1984  | –                             |
| Mauritania                 | 10 December 1982 | 17 July 1996                  |
| Morocco                    | 10 December 1982 | 31 May 2007                   |
| Oman                       | 1 July 1983      | 17 August 1989                |
| State of Palestine         | –                | 2 January 2015*               |
| Qatar                      | 27 November 1984 | 9 December 2002               |
| Saudi Arabia               | 7 December 1984  | 24 April 1996                 |
| Somalia                    | 10 December 1982 | 24 July 1989                  |
| Sudan                      | 10 December 1982 | 23 January 1985               |
| Syrian Arab Republic       | –                | –                             |
| Tunisia                    | 10 December 1982 | 24 April 1985                 |
| United Arab Emirates       | 10 December 1982 | –                             |
| Yemen                      | 10 December 1982 | 21 July 1987                  |

<sup>167</sup> United Nations Convention on the Law of the Sea, Montego Bay, 10 December 1982, [https://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtsg\\_no=XXI-6-a&chapter=21&clang=\\_en](https://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtsg_no=XXI-6-a&chapter=21&clang=_en).



# The Role of Extra-regional States in the Middle East WMD-Free Zone

This report analyses the role of extraregional states, particularly the five nuclear-weapon states (NWS) under the Non-Proliferation Treaty, in establishing a future Middle East Weapons of Mass Destruction-Free Zone. It examines the protocols and relevant implications to the Middle East from established nuclear-weapon-free zones, and explores three key areas: defining the zone of application, securing negative security assurances, and addressing maritime-related issues. These challenges involve navigating sovereignty disputes, foreign military bases, maritime boundaries, and NWS reservations or interpretive statements to the protocols. The report emphasizes the need for early and sustained engagement through proactive dialogue, and balancing regional security objectives with NWS strategic interests.



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