

## NUCLEAR WEAPON FREE ZONES AND BANNING NUCLEAR WEAPONS

There are five Nuclear Weapon Free Zone treaties (NWFZs) covering the regions of Latin America and the Caribbean (the 1967 Treaty of Tlatelolco), the South Pacific (the 1985 Treaty of Rarotonga), South East Asia (the 1995 Treaty of Bangkok), Africa (the 1996 Treaty of Pelindaba) and Central Asia (the 2006 Treaty of Semipalatinsk). These zones combined comprise 115 states, accounting for 60% of all UN Member States, and cover the entire southern hemisphere.<sup>1</sup>

The NWFZ treaties are all structured and drafted slightly differently but they share many key characteristics. They all prohibit nuclear weapons in their respective regions. Globally, they provide important contributions towards the rejection and stigmatization of nuclear weapons and a strong basis for developing an international prohibition on nuclear weapons. Through their preambles these treaties envision a global prohibition on nuclear weapons, alongside all weapons of mass destruction, that provides a framework for their elimination.

This paper argues that NWFZ agreements are important building blocks that should be expanded upon through an international ban treaty. Just as groups of states within these regions worked together to develop regional agreements to prohibit nuclear weapons, so a group of likeminded states can work at the global level to achieve an international ban treaty.

### NUCLEAR WEAPON FREE ZONE AGREEMENTS – A SUMMARY OF OBLIGATIONS

#### **Prohibitions on States Parties**

In essence, the NWFZs prohibit nuclear weapons in their respective zones. This is done through a combination of prohibitions on certain acts by States Parties, and by prohibitions on certain acts being carried out in the territories of the treaty zones. In the Treaty of Semipalatinsk, the prohibitions also apply to individuals within the States Parties' jurisdiction.

A broad range of terms is used across the treaties to set out specific acts that are prohibited. These generally encompass bans on testing, production, acquisition, possession and use of nuclear weapons. The specific acts that are prohibited vary between the treaties, with some terms having the same or similar meanings to others such as 'manufacture' and 'production'. Some acts are explicitly prohibited in some treaties but not in others. For example, a prohibition on the use of nuclear weapons is enshrined in the treaties of Tlatelolco, Bangkok and Semipalatinsk, but not in the Treaties of Rarotonga or Pelindaba.

A global ban treaty should help to provide a comprehensive and clear set of prohibitions that would strengthen the NWFZs, and harmonise prohibitions across all of the regions that have zones in place. Furthermore, prohibited acts should be put in place to cover acts carried out by States Parties, their citizens, and all individuals under their jurisdiction, as well as acts carried out in their territories.

#### **Prohibitions on assistance with prohibited acts**

All of the NWFZs have obligations not to assist other states with acts prohibited under the treaty, but some of the NWFZs have more comprehensive prohibitions on assistance than others. The Bangkok treaty has a comprehensive prohibition on all assistance. The treaties of Tlatelolco, Pelindaba and Semipalatinsk encompass most of the acts prohibited by States Parties. The Rarotonga Treaty is the weakest in terms of prohibitions on assistance, as it only prohibits assistance with the manufacture or acquisition of nuclear weapons.

A global ban treaty should comprehensively prohibit the provision of assistance with any prohibited acts. This is of particular importance for establishing strong standards and exerting pressure on nuclear-armed states that may not adhere to such a treaty.

Australia's implementation of the Rarotonga Treaty has shown how its States Parties can participate in military alliances with partners whose security doctrines contain potential for the use of nuclear weapons. This suggests that mere membership of a military alliance with a nuclear-armed states does not have to be an automatic barrier to participation in a multilateral instrument prohibiting nuclear weapons.<sup>2</sup>

#### **Dismantling and destroying explosive devices**

The Treaty of Pelindaba contains a positive obligation for the destruction and dismantling of nuclear explosive devices, although by the time this treaty was drawn up, no African state possessed nuclear weapons.

Obligations to dismantle and destroy existing nuclear weapons within agreed timeframes would be of greater importance in a global ban treaty to help ensure that such a treaty provides an effective framework for the elimination of nuclear weapons. The precise provisions for the physical disarmament process could be developed with nuclear-armed states as part of the wider legal framework for the prohibition and elimination of nuclear weapons.

#### **Foreign transit**

All of the treaties except the Treaty of Tlatelolco have provisions that enable States Parties to decide whether to allow the foreign transit of nuclear weapons by nuclear-armed states through the territories of States Parties that have prohibited nuclear weapons. To strengthen these NWFZ agreements, the transit of nuclear weapons through the territories of States Parties could be comprehensively prohibited in a global ban treaty.

#### **Geographical scope**

In all of the NWFZ treaties the prohibitions apply across the territory of each State Party. In some treaties including Tlatelolco, Rarotonga and Bangkok, the provisions also cover areas of the sea around States Parties. The inclusion of continental sea shelves and the exclusive economic zone under the Bangkok treaty has been cited by the nuclear-armed states as a factor complicating their ratification of the treaty's additional protocol.<sup>3</sup>

#### **Compliance and verification**

All of the NWFZ agreements have developed treaty architecture and mechanisms for dealing with matters

related to implementation, including compliance and verification. Most zones establish a regional treaty monitoring body or otherwise appoint an existing body to handle such matters.

States Parties have also developed mechanisms to report to monitoring bodies and the International Atomic Energy Agency (IAEA) on treaty compliance and verification. This includes the adoption of bilateral and multilateral safeguards agreements with the IAEA.

Systems are also in place for dealing with allegations of non-compliance by States Parties and violations of the treaty. Most of the zone agreements require States Parties to these agreements to meet regularly to review progress and deal with any issues raised.

#### Negative security assurances

The NWFZ treaties each contain one or more protocols to be signed by the five Nuclear Non-Proliferation Treaty (NPT) nuclear-armed states. These protocols cover prohibitions on nuclear testing within the zone and so-called negative security assurances. Negative security assurances are essentially agreements that nuclear-armed states will not use or threaten to use nuclear weapons against States Parties in the region.

All five NPT nuclear-armed states have ratified the Tlatelolco treaty. Only the US has not ratified the Rarotonga and Pelindaba treaties, although it is a signatory to both. Problematically though, these states have put in place reservations to the protocols, reserving the right to use nuclear weapons in certain circumstances.

Whilst recognising the perceived value of such agreements for certain states, such arrangements would not be appropriate in a global ban treaty. An international ban treaty should set a common standard rejecting nuclear weapons and avoid giving any special status to nuclear-armed states.

## OTHER NUCLEAR-FREE ZONE INITIATIVES

In addition to the five NWFZs discussed here other nuclear weapon free zone initiatives and agreements include:

- Mongolia declared its territory to be a nuclear weapon free zone as set out in a letter circulated to the UN General Assembly in 2000.<sup>4</sup>
- National legislation has been passed in New Zealand (1987) and Austria (1999) outlawing nuclear weapons.
- Establishing NWFZs has also been discussed in South Asia, Northeast Asia, Central Europe and the Nordic region<sup>5</sup>, as well as in the Alpine Region and in the Arctic.
- Other treaties deal with denuclearisation of the Antarctic (Antarctic Treaty 1959), outer space (Outer Space Treaty 1967), the moon (Moon Agreement 1979) and the seabed (Seabed Treaty 1971).<sup>6</sup>
- There has been significant effort towards developing a Middle East Weapons of Mass Destruction Free Zone, which remains a key focus of discussions within the NPT.

## TOWARDS AN INTERNATIONAL BAN TREATY

#### A strong rejection of nuclear weapons

Each of the NWFZ treaties is framed slightly differently, but all of them share the same purpose and goal: a rejection of nuclear weapons, and an agreement to work towards their

elimination. Concerns over the unacceptable humanitarian impact of these weapons has provided considerable impetus for developing these regional prohibitions, but they have also been motivated by a firm belief that establishing and maintaining a nuclear weapon-free status enhances the security of individual countries and wider regions.

The stigmatisation of nuclear weapons has also been fostered by the development of distinct national identities of certain zone members as nuclear free countries. This is the case in New Zealand, enabling support for a nuclear-weapon free status across political party affiliations,<sup>7</sup> which has arguably helped the government stand firm in the face of pressure from allies that possess nuclear weapons. The recent initiative by the Marshall Islands to file legal proceedings against the nine nuclear-armed states for failure to implement their disarmament obligations under the NPT is another example of the way in which nuclear-free identities can provide space for states to take bold action even when it challenges their friends and allies.

NWFZ agreements have been encouraged and supported by the international community. The UN has passed resolutions encouraging the creation of nuclear weapon free zones.<sup>8</sup> In 2012, the US noted that such agreements reinforce commitment to the non-use of nuclear weapons, in addition to reinforcing non-proliferation.<sup>9</sup>

#### Building blocks for an international ban treaty

115 states belong to a nuclear weapon free zone. This amounts to 60% of UN Member States and includes virtually all of the countries in the southern hemisphere. NWFZs not only apply prohibitions within their respective zones, but they also envision a global prohibition on nuclear weapons, alongside all types of weapons of mass destruction.<sup>10</sup> As such, NFWZ agreements were not designed to be an end in themselves, but a proactive contribution to other efforts to prohibit and prevent the use of nuclear weapons around the world. The Treaty of Semipalatinsk, drawn up in 2006, calls for “continued systematic and consistent efforts to reduce nuclear weapons globally, with the ultimate goal of eliminating those weapons”.<sup>11</sup>

The treaties establishing NWFZs all prohibit nuclear weapons, albeit through a different formulation of prohibited acts. The language used in these agreements is very similar in formulation to that found in international treaty prohibitions on other weapons and could be a useful basis for developing treaty text for an international treaty banning nuclear weapons. That so many states have already accepted such obligations on themselves provides grounds for confidence that an international ban treaty could attract a substantial community of States Parties.

These agreements have also developed treaty architecture and mechanisms for dealing with matters related to compliance and verification and for other issues related to the effective implementation of the treaties, including holding regular meetings of States Parties. An international treaty to prohibit nuclear weapons could learn from and build on the experiences and architecture set out in NWFZs. Existing NWFZ meetings would be a useful forum for discussions on a ban treaty. Such mechanisms need not place an additional burden on states that have already prohibited nuclear weapons under a NWFZ. They could also be developed subsequently to the adoption of the ban treaty.

#### Benefits for states outside NWFZs

An important foundation to the NWFZ agreements is a shared belief that every state has an obligation to contribute in eliminating nuclear weapons. The NWFZs can

be seen as reflecting a decision by non-nuclear-armed states to take proactive steps in prohibiting and eliminating nuclear weapons.

The “Comprehensive study of the question of nuclear weapon free zones in all its aspects,” which reported to the UN General Assembly in 1975, noted that obligations of NWFZs may be assumed not only by large regions but also by small groups of states or individual countries.<sup>12</sup> Mongolia’s declaration of its territory as a single state nuclear weapon free zone is an example of a state’s determination to take action as an individual state, even though its neighbours were not in a position to join such a zone.

The NWFZs provide a strong foundation for an international treaty banning nuclear weapons, and an international treaty could provide an open architecture so that any state can join regardless of whether their neighbours support a prohibition on nuclear weapons or not.

An international agreement would not need to be formally dependent upon the established regional zones, or upon the participation of all members of those zones, but it should be recognised as a wider articulation of the goals and aspirations that the established NWFZs are working towards.

## CONCLUSIONS

The establishment of the first Nuclear Weapon Free Zone in Latin America and the Caribbean in 1967, the Treaty of Tlatelolco, was a bold and visionary undertaking, and provided inspiration for the other regions that followed suit through the establishment of subsequent regional ban treaties.

The successful establishment of the NWFZs and their broad geographical reach should continue to provide both the vision and confidence to likeminded states in undertaking efforts to achieve a global ban treaty.

NWFZs provide the essential building blocks for an international ban treaty that would build upon, strengthen and expand the norms that those instruments establish towards a common global standard to reject of nuclear weapons.

1. East Timor and the Maldives are in the southern hemisphere but are not part of a NWFZ. Oceanic islands in the Pacific owned by Britain, France, Norway, and Maldives are also in the southern hemisphere but are not bound by any NWFZ agreements.

2. Article 36 and Reaching Critical Will (2014), A Treaty Banning Nuclear Weapons, <http://www.article36.org/nuclear-weapons/a-treaty-banning-nuclear-weapons/>

3. The Nuclear Threat Initiative, Southeast Asian Nuclear-Weapon-Free-Zone (SEANWFZ) Treaty (Bangkok Treaty), <http://www.nti.org/treaties-and-regimes/south-east-asian-nuclear-weapon-free-zone-seanwfz-treaty-bangkok-treaty/>

4. Mongolia's international security and nuclear-weapon-free status (20 November 2000), UN General Assembly resolution A/RES/55/33S, [http://www.un.org/ga/search/view\\_doc.asp?symbol=A/RES/55/33](http://www.un.org/ga/search/view_doc.asp?symbol=A/RES/55/33)

5. Reaching Critical Will, Nuclear Weapon Free Zones, <http://www.reachingcriticalwill.org/resources/fact-sheets/critical-issues/5447-nuclear-weapon-free-zones> [accessed 29 April 2014]

6. UN Office for Disarmament Affairs, Nuclear Weapon Free Zones, <http://www.un.org/disarmament/WMD/Nuclear/NWFZ.shtml>, [accessed 28 April 2014]

7. BBC, Lang's impact on NZ and world, (14 August 2005), <http://news.bbc.co.uk/1/hi/world/asia-pacific/4150550.stm>

8. Jozef Goldblat, Nuclear Weapon Free Zones: a history and an assessment (1997), The Nonproliferation Review/Spring/Summer-1997

9. US White House, Statement on Nuclear Free Zones in Asia and Africa, <http://www.whitehouse.gov/the-press-office/2011/05/02/statement-nuclear-free-zones-asia-and-africa> [accessed 28 April 2014]

10. See excerpted preamble sections in the table overleaf.

11.1. Treaty on a Nuclear-Weapon-Free Zone in Central Asia (CANWFZ), <http://disarmament.un.org/treaties/t/canwfz/text>

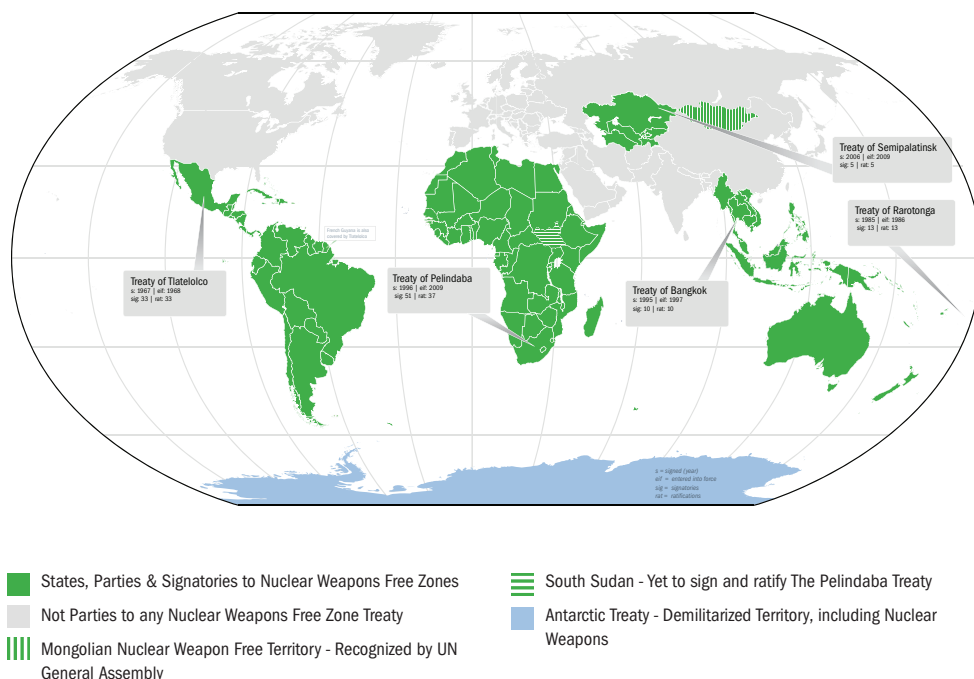
12. "Comprehensive study of the question of nuclear weapon free zones in all its aspects," Special report of the Conference of the Committee on Disarmament, A/10027/Add.1#, 8 October 1975.

Article 36 welcomes input on this paper, please send any views to [info@article36.org](mailto:info@article36.org).

# Article36

[www.article36.org](http://www.article36.org)

## NUCLEAR WEAPON FREE ZONES



### TREATY OF BANGKOK

#### The Southeast Asia Nuclear Weapon-Free Zone

Brunei Darussalam  
Cambodia  
Indonesia  
Lao People's Democratic Republic  
Malaysia  
Myanmar  
Philippines  
Singapore  
Thailand  
Viet Nam

### TREATY OF PELINDABA

#### African Nuclear Weapon Free Zone

Treaty  
Algeria  
Angola  
Benin  
Botswana  
Burkina Faso  
Burundi  
Cameroon  
Cape Verde  
Central African Republic  
Chad  
Comoros  
Congo  
Côte d'Ivoire  
Democratic Republic of the Congo  
Djibouti  
Egypt  
Equatorial Guinea  
Eritrea  
Ethiopia  
Gabon  
Gambia  
Ghana  
Guinea  
Guinea-Bissau  
Kenya  
Lesotho  
Liberia  
Libya  
Madagascar  
Malawi

Mali  
Mauritania  
Mauritius  
Morocco  
Mozambique  
Namibia  
Niger  
Nigeria  
Rwanda  
Sao Tome and Principe  
Senegal  
Seychelles  
Sierra Leone  
Somalia  
South Africa  
Sudan  
Swaziland  
Togo  
Tunisia  
Uganda  
United Republic of Tanzania  
Zambia  
Zimbabwe

### TREATY OF RAROTONGA

#### South Pacific Nuclear Free Zone

Treaty  
Australia  
Cook Islands  
Fiji  
Kiribati  
Nauru  
New Zealand  
Niue  
Papua New Guinea  
Samoa  
Solomon Islands  
Tonga  
Tuvalu  
Vanuatu

### TREATY OF SEMIPALATINSK

#### Treaty on a Nuclear-Weapon-Free Zone in Central Asia

Kazakhstan  
Kyrgyzstan  
Tajikistan  
Turkmenistan  
Uzbekistan

### TREATY OF TLATELOLCO

#### The Prohibition of Nuclear Weapons in Latin America and the Caribbean

Antigua and Barbuda  
Argentina  
Bahamas  
Barbados  
Belize  
Bolivia (Plurinational State of)  
Brazil  
Chile  
Colombia  
Costa Rica  
Cuba  
Dominica  
Dominican Republic  
Ecuador  
El Salvador  
Grenada  
Guatemala  
Guyana  
Haiti  
Honduras  
Jamaica  
Mexico  
Nicaragua  
Panama  
Paraguay  
Peru  
Saint Kitts and Nevis  
Saint Lucia  
Saint Vincent and the Grenadines  
Suriname  
Trinidad and Tobago  
Uruguay  
Venezuela (Bolivarian Rep. of)

#### Nuclear Weapon Free Territory

Mongolia



NUCLEAR  
WEAPON  
FREE ZONES  
(NWFZs)

|                                   |  |  |  |   |  |   |  |  |  |   |  |
|-----------------------------------|--|--|--|---|--|---|--|--|--|---|--|
| PREAMBLE                          |  | States Parties: 33   |  |   |  |   |  |  |  |   |  |
| Expressions of object and purpose |  | “Recalling that the United Nations General Assembly, in its Resolution 808 (IX) adopted unanimously as one of the three points of a coordinated programme of disarmament “the total prohibition of the use and manufacture of nuclear weapons and weapons of mass destruction of every type”.<br><br>“Recalling that militarily denuclearized zones are not an end in themselves but rather a means for achieving general and complete disarmament at a later stage”.  |  | “Convinced that all countries have an obligation to make every effort to achieve the goal of eliminating nuclear weapons...”.<br><br>“Believing that regional arms control measures can contribute to global efforts to reverse the nuclear arms race and promote the national security of each country in the region and the common security of all”.                            |  | “Determined to take concrete action which will contribute to the progress towards general and complete disarmament of nuclear weapons, and to the promotion of international peace and security”.   |  | “Convinced of the need to take all steps in achieving the ultimate goal of a world entirely free of nuclear weapons, as well as of the obligations of all States to contribute to this end”.<br><br>“Aware that regional disarmament measures contribute to global disarmament efforts”.   |  | “Stressing the need for continued systematic and consistent efforts to reduce nuclear weapons globally, with the ultimate goal of eliminating those weapons, and of general and complete disarmament under strict and effective international control, and convinced that all states are obliged to contribute to that end”.  |  |
| CORE OBLIGATIONS                  |  |  |  |   |  |   |  |  |  |   |  |
| Key prohibitions                  |  | The treaty requires States Parties to “prohibit and prevent in their respective territories” the “testing, use, manufacture, production or acquisition by any means whatsoever of any nuclear weapons, by the Parties themselves, directly or indirectly, on behalf of anyone else or in any other way” and the “receipt, storage, installation, deployment and any form of possession of any nuclear weapons, directly or indirectly, by the Parties themselves, by anyone on their behalf or in any other way”, and to “refrain from engaging in, encouraging, authorizing, directly or indirectly, or in any way participating in the testing use, manufacture, production, possession, or control of any nuclear weapons”. |  | The treaty requires States Parties “not to manufacture or otherwise acquire, possess or have control over any nuclear explosive device by any means anywhere inside or outside the South Pacific Nuclear Free Zone”, “to prevent in its territory the testing of any nuclear explosive device”, and to “prevent in its territory the stationing of any nuclear explosive device”. |  | The treaty requires States Parties “not to, anywhere inside or outside the Zone”, “develop, manufacture or otherwise acquire, possess or have control over nuclear weapons; station or transport nuclear weapons by any means; or test or use nuclear weapons”. |  | The treaty requires States Parties “not to conduct research on, develop, manufacture, stockpile or otherwise acquire, possess or have control over any nuclear explosive device by any means anywhere”, “not to test any nuclear explosive device”, “to prohibit, in its territory, the stationing of any nuclear explosive device” and ““to prohibit in its territory the testing of any nuclear explosive device”. |  | The treaty requires States Parties “not to conduct research on, develop, manufacture, stockpile or otherwise acquire, possess or have control over any nuclear weapon or other nuclear explosive device by any means anywhere”, “not to allow in its territory” “the production, acquisition, stationing, storage or use, of any nuclear weapon or other nuclear explosive device” or “the receipt, storage, stockpiling, installation or other form of possession of or control over any nuclear weapon or other nuclear explosive device”, “not to carry out any nuclear weapon test explosion or any other nuclear explosion”. |  |
| Assistance with prohibited acts   |  | States Parties “undertake to refrain from engaging in, encouraging or authorizing, directly or indirectly, or in any way participating in the testing, use, manufacture, production, possession, or control of any nuclear weapon”   |  | States Parties “undertake not to take any action to assist or encourage the manufacture or acquisition of any nuclear explosive device by any State”.   |  | States Parties “undertake not to take any action to assist or encourage the commission of any act in violation of the provisions 1, 2, and 3 of the article”.<br><br>Articles 1, 2 and 3 contain all prohibitions on States Parties.                            |  | States Parties undertake “not to take any action to assist or encourage, the research on, development, manufacture, stockpiling or acquisition, or possession of any nuclear device”.  |  | Each State Party undertakes “not to take any action to assist or encourage the conduct of research on, development, manufacture, stockpiling, acquisition, or possession of any nuclear weapons”.   |  |
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1 Treaty for the Prohibition of Nuclear Weapons in Latin America and the Caribbean (1967), <http://disarmament.un.org/treaties/t/tlatelolco>

2 South Pacific Nuclear Free Zone Treaty (1985), <http://disarmament.un.org/treaties/t/rarotonga>

3 Southeast Asia Nuclear Weapon Free Zone Treaty (1995), <http://disarmament.un.org/treaties/t/bangkok>

4 Africa Nuclear Weapon-Free Zone Treaty (1996), <http://disarmament.un.org/treaties/t/pelindaba>

5 Central Asian Nuclear Weapon-Free Zone Treaty (2006), <http://disarmament.un.org/treaties/t/canwzf>