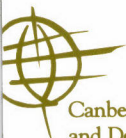


ASEAN
the Southeast Asia
Nuclear-Weapon-Free Zone
and the Challenge of Denuclearisation
in Southeast Asia

Bilveer Singh



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**ASEAN, THE SOUTHEAST ASIA
NUCLEAR-WEAPON-FREE ZONE
AND THE CHALLENGE OF
DENUCLEARISATION IN SOUTHEAST
ASIA**

PROBLEMS AND PROSPECTS

Bilveer Singh

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ABSTRACT

Since the Tlatelolco Treaty was signed in Mexico City in 1967, there has been much interest in the concept of a nuclear-weapon-free zone as a device to contain the spread of nuclear weapons as well as a confidence-building measure at a regional level. Following this, especially in association with the Nuclear Non-Proliferation Treaty that sanctioned regional denuclearisation, more and more areas in the Third World have been covered by such zones. Today, all the geographical areas of the southern hemisphere (Latin America, Africa, the South Pacific and Southeast Asia) have declared themselves to be non-nuclear geographical zones. Against this backdrop, this study examines the course, causes and consequences of the Southeast Asia Nuclear-Weapon-Free Zone (SEANWFZ), which - unlike all the other zones in the southern hemisphere - though in force, has not yet been endorsed by the nuclear-weapons states. In addition to analysing the essence and substance of the SEANWFZ treaty and protocol, the monograph examines the internal and external dynamics relating to the denuclearisation proposal and the prospects for its future. Notwithstanding various difficulties and obstacles, however, it is undisputed that the treaty and the accompanying protocol have greatly contributed to regional security and confidence building, especially in ensuring regional denuclearisation in Southeast Asia, as compared to Northeast or South Asia.

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ACRONYMS AND ABBREVIATIONS

ASEAN	Association of Southeast Asian Nations
ARF	ASEAN Regional Forum
ASEM	Asia-Europe Meeting
BATAN	<i>Badan Tenaga Atom Nasional</i> (National Atomic Energy Agency)
CAE	Council for Atomic Energy
CFE	Conventional Forces in Europe
CTBT	Comprehensive Test Ban Treaty
EEZ	Exclusive Economic Zone
IAE	Institute for Atomic Energy
IAEA	International Atomic Energy Agency
INF	Intermediate Nuclear Forces
NWFZ	Nuclear-Weapon-Free Zone
NNWS	Non-Nuclear-Weapons States
NPT	(Nuclear) Non-Proliferation Treaty
NSG	Nuclear Suppliers Group
NWS	Nuclear-Weapons States
PAEC	Philippines Atomic Energy Commission
PARC	Philippines Atomic Research Center
PKI	Indonesian Communist Party
PNPP	Philippines Nuclear Power Plant
PPBMI	Centre for Pure Substance and Instrumentation Research (Indonesia)
PRAR	Peace Research Atomic Reactor
PRR	Philippines Research Reactor
SALT	Strategic Arms Limitation Talks
SCRAE	State Commission of Radioactivity and Atomic Energy
SEANWFZ	Southeast Asia Nuclear-Weapon-Free Zone
START	Strategic Arms Reduction Talks
TAC	Treaty of Amity and Cooperation
ZOPFAN	Zone of Peace, Freedom and Neutrality

INTRODUCTION

The Treaty on the Non-Proliferation of Nuclear Weapons, commonly known as the Non-Proliferation Treaty or NPT, is at the centre of the nuclear non-proliferation regime that has been built since the late 1960s. The current regime can be directly traced to the Non-Proliferation Treaty of July 1968, signed in Washington, London and Moscow, which came into force in March 1970. The NPT divided the international community into a nuclear bipolarity - the Nuclear-Weapons States - NWS - (the United States, the Soviet Union, Great Britain, France and China) and the Non-Nuclear-Weapons States - NNWS - all the other states. Not satisfied with the NPT and International Atomic Energy Agency (IAEA) safeguards system (largely due to the Indian nuclear explosion in 1974), in May 1975 the Nuclear Suppliers Group (NSG) or the 'London Club' was created in London to prevent the supply to Third World states of fissile materials and critical equipment, which could cut their lead-time to acquire nuclear weapons. By August 2000, the NPT had 182 parties, including all the NWS - more than any other arms-control treaty. The treaty consists of a set of commitments and pledges which govern the nuclear behaviour of the signatories.

Despite various challenges to the regime, especially from a number of Third World countries which view the NPT as an incomplete and unequal treaty document, the regime has survived as a loose structure of treaty commitments, safeguards and inspections, nuclear-export-group controls, bilateral agreements, regional arrangements and individual nations' pledges. It also includes the IAEA, which is the monitoring arm of the non-proliferation regime. Under the treaty, the NWS would pledge not to give away nuclear weapons and not to assist other nations in producing them. In turn, the NNWS agree to accept safeguards by the IAEA on all their peaceful nuclear activities in order to ensure that facilities and materials are not diverted for the production of nuclear explosives. The primary object was to freeze the nuclear status quo so that a sixth nuclear-weapons

power would not emerge, something the NPT failed to achieve.¹ While checking horizontal proliferation was an important motive of the sponsors of the treaty, the NPT also created a mechanism for peaceful nuclear development among the 'have-nots' by imposing on them a set of safeguards and pledges. However, corresponding obligations to control vertical proliferation were not imposed on the nuclear 'haves'.

As the NPT was expected to involve most of the Third World states, the timely and successful negotiation of the Treaty of Tlatelolco in 1967, aimed at creating a nuclear-weapon-free zone in Latin America, gave great impetus to non-proliferation in the Third World as well as to the idea of a denuclearised geographical zone. While the NPT was seen as the primary approach to non-proliferation, the promotion of nuclear-weapon-free zones also came to be seen as an important, albeit secondary, means to this end.

In the First Nuclear Age, a country that wanted to manufacture a nuclear bomb had to mount an expensive and complex programme to achieve this. Five countries - the United States in 1945, the USSR in 1949, Britain in 1952, France in 1960 and China in 1964 - succeeded in doing so. In the Second Nuclear Age, a country was able to acquire the capability to produce a nuclear weapon with relative ease, largely as a by-product of developing nuclear power. With more than 40 countries in possession of nuclear energy programmes, concern had increased, especially following India's 18 May 1974 explosion of a so-called 'peaceful nuclear explosive experiment'. This event, together with the nuclear programmes of Israel, Pakistan and South Africa, ushered in the Second Nuclear Age, with all four countries believed by 2000 to have tested nuclear weapons in one way or another.

The problem and challenge of nuclear proliferation has gained urgency with the end of the Cold War. The obsession with managing the more dangerous superpower strategic arms race during the Cold War period had led to less energy being focused on other security issues, especially the threat of nuclear proliferation in the Third World. While the 1970s and 1980s were consumed with concerns to limit vertical proliferation by the two superpowers, horizontal proliferation,

¹ In a way, this problem has changed fundamentally with the implosion of the Soviet Union, which in its wake created three additional nuclear-weapons states, Ukraine, Belarus and Kazakhstan, with almost all the other 11 republics also possessing a high degree of nuclear skills and potential.

involving the spread of both sensitive nuclear technology and materials to non-nuclear states, was given lower priority due to four reasons:

- analysts had pointed to the exaggerated forecasts of nuclear growth which did not eventuate;
- the absence of overt weapons testing by non-nuclear-weapons states after the 1974 Indian test created a more sanguine attitude towards the risk of horizontal proliferation;
- the international security landscape looked less threatening following the NPT entering into force; and
- the unbridled transfer of sensitive nuclear technology to potential proliferators, both overtly and covertly, allowed the diffusion of sensitive information and material, including sensitive technologies on reprocessing of spent fuel, uranium enrichment and heavy water production, without creating suspicion.²

This past complacency has led to renewed concern that the number of near-nuclear states could vastly increase and the international community's focus on Iraq and North Korea, both signatories of the NPT, as well as India's and Pakistan's 'gate-crashing' the nuclear club, is symptomatic of the new security challenge confronting the world community. Linked to this is the all-important question of the importance, relevance and effectiveness of the NPT (that was extended indefinitely in 1995) in managing the problem of nuclear proliferation, especially in the Third World. Against this backdrop, this study examines the Association of Southeast Asian Nations (ASEAN)'s attitude towards the problem of nuclear proliferation and its attempt to undertake regional denuclearisation through the creation of a Southeast Asia Nuclear-Weapon-Free Zone (SEANWFZ).

² See Jed N. Snyder, 'The Non-Proliferation Regime : Managing the Impending Crisis' in Neil Joeck (ed.), *Strategic Consequences of Nuclear Proliferation in South Asia* (Frank Cass, London, 1986), pp. 7-9.

THE NPT REGIME

The first building block of the NPT regime was the Baruch Plan of 1946 when the United States, then holding the monopoly of nuclear weapons, proposed the creation of an international authority to conduct all phases of atomic energy development. The object of the Baruch Plan was to keep atomic bombs out of the hands of sovereign states by placing the means to make them under the supervision of a supranational body.¹ The plan was opposed by Moscow, then a non-nuclear state, which feared that such control would halt its efforts to challenge the US monopoly.

The next major development was President Eisenhower's announcement of his 'Atoms for Peace' proposal at the United Nations in 1953. This proposal called for the creation of an international agency that would distribute nuclear materials among countries for peaceful purposes. It led to the creation of the International Atomic Energy Agency, set up to promote peaceful nuclear energy programmes as well as to establish and administer the safeguards systems. This safeguards system came into operation in 1965 with three categories of agreements with national governments being envisaged: 'The Safeguards Transfer Agreements', by which parties to a bilateral agreement for cooperation in the nuclear field would transfer to the IAEA the right and obligation to apply the safeguards foreseen in such agreements; 'The Unilateral Submission Agreements', under which states would submit all or a defined part of their peaceful nuclear programmes to IAEA safeguards; and 'The Project Agreements', which involved assistance provided by the IAEA.²

The current regime came into being in July 1968. During the negotiation of the treaty, it was seen initially as being aimed at preventing the spread of nuclear weapons in Europe, with the key

¹ See Michael Mandelbaum, *The Nuclear Question: The United States and Nuclear Weapons, 1946-1976* (Cambridge University Press, Cambridge and London, 1979), pp. 23-7.

² See Snyder, 'The Non-Proliferation Regime' pp. 12-15. Also see Joseph S. Nye, 'Sustaining Non-Proliferation in the 1980s' in James A. Schear (ed.), *Nuclear Weapons Proliferation and Nuclear Risks* (St. Martin's Press, New York, 1984), pp. 104-13.

concern being a resurgent Germany, although Japan was also a concern to some extent. While it was accepted that countries in the Third World would become sufficiently technologically advanced to construct their own nuclear devices in the future, this did not become a major concern until the Indian explosion. For a long time, more than 60 per cent of the IAEA's safeguards budget was spent on only two states, Germany and Japan. That these two states were allies of the West, especially the United States, tended to downplay somewhat the issue of nuclear proliferation.

Supporters of the NPT have generally maintained that the NPT has helped to arrest the spread of nuclear weapons to countries and regions where they did not exist before. The world is said to have been made a much more safer place. The fact that almost all countries are parties to the treaty, with only a very small minority outside the regime, has given the NPT an important status in international politics. It represents part of the international norm as far as nuclear issues are concerned, making it difficult for any state to flout it with impunity. While the benefits of the NPT are obvious, these are not without controversy. Many Non-Nuclear-Weapons States have argued that the NPT is essentially discriminatory, with the NWS operating on the principle of 'do as we say, not as we do'. Donald L. Clark's description of how the NPT was viewed by some Third World states aptly captured this problem:

We [the nuclear powers] and our powerful friends have accumulated these super destructive weapons in numbers that can threaten the world. We need them, but of course you do not. In fact, in your hands they could be dangerous. For us they guarantee freedom from attack by any and all and near ultimate security but for you such a guarantee is not necessary. Sign the NPT and if anything goes wrong, we might decide to protect or punish you, depending on how we interpret the circumstances. You should forswear such weapons and even some of the energy related benefits some aspects of nuclear production capability might afford you, since they can lead to weaponry. We, on the other hand, will keep ours, even constantly

increasing the numbers and/or the capability of them to destroy efficiently.³

This highlighted some of the pitfalls and weaknesses contained in the NPT regime. These problems are important to analyse as the treaty was given an initial operating period of 25 years with a review conference held every five years since 1970 (in 1975, 1980, 1985 and 1990). The May 1995 conference decided to extend the NPT indefinitely even though the challenges facing nuclear non-proliferation have hardly been overcome. Indirectly, the NPT's extension has also given strong support and legitimacy to the idea of regional denuclearisation.

Critics of the NPT have argued that the treaty is linked with the alliance system of world politics, with alliance partners given special preference by supplier countries in the transfer of technology and critical materials. In contrast, Third World countries are viewed with suspicion due to their perceived dubious intentions. It is argued that, rather than being concerned with horizontal proliferation *per se*, the concern of the strategic managers was more to perpetuate the central strategic balance, with the fear that proliferation in 'out-of-alliance areas' would have a debilitating effect on East-West security relations.

Second, the NPT was seen to be discriminatory both in its structure and application. Article IX (3) of the treaty defined a NWS as one which had manufactured and exploded a nuclear weapon or other nuclear device prior to 1 January 1967. This granting of nuclear legitimacy to a few countries just because they became nuclear powers before a particular date was seen as unusual and discriminatory. Also, the treaty imposed serious restrictions on the sovereign rights of NNWS while allowing the NWS to continue their weapons build-up, as the safeguards were not applicable to them.

Third, many Third World countries argued that the real threat to world peace emanated from vertical proliferation and this was not fully appreciated by the NPT. Despite the conclusion of a number of arms control treaties, both the United States and Russia possessed enough capacity to destroy the world.

³ This argument was given a new twist when Kenneth N. Waltz argued for 'total peace through total deterrence when all countries have acquired nuclear weapons'. See Kenneth N. Waltz, 'The Spread of Nuclear Weapons: More May Be Better' in Schear (ed.), *Nuclear Weapons Proliferation and Nuclear Risks*, pp. 72-103.

Fourth, the NPT regime failed to provide the NNWS with the civilian benefits of nuclear technology on a non-discriminatory basis, as was promised by the NPT regime creators. Despite Article V of the NPT, many NNWS have argued that the NWS have not so far taken any step to create an international mechanism or shown any willingness to share the spin-offs of peaceful nuclear explosions. Thus, the promises made in the NPT remain unfulfilled. Also, if there were commercial benefits from peaceful nuclear explosives, the NWS have the most to gain, as the NNWS are not permitted to develop their 'explosive' capabilities.

In addition to these four arguments, a number of non-aligned countries have also stated that the NWS should undertake negotiations to end quickly all nuclear testing as well as provide explicit security assurances for protection against attack with nuclear weapons. As long as non-nuclear states felt threatened by nuclear states and were not given adequate assurances, there would always be the danger of horizontal proliferation looming over the horizon.

The basic thesis put forward by India's representative at the Eighteen Nations Disarmament Committee on 15 February 1966, two years before the NPT was signed, thus remained valid:

One cannot have a spurious treaty, which heaps all the control, all the limitations and all the prohibition on non-nuclear countries, while at the same time giving a licence, even indirect encouragement, to the existing nuclear weapons powers themselves to proliferate and to continue with their manufacture of nuclear weapons and delivery vehicles. The non-aligned and non-nuclear nations do not insist on complete and comprehensive equality in this field, all they want is that at least some measures be taken which are fundamental and germane to this disease of proliferation.⁴

While the majority of countries are parties to the NPT, the few that are outside the regime are critical ones, and that really counts as far as the problem of proliferation is concerned. The continued refusals of Cuba, Israel, Pakistan and India to sign the NPT have weakened the

⁴ For details, see Taewoo Kim, *Nuclear Proliferation: Long Term Prospects and Strategy on the Basis of a Realist Evolution of the Indian Case* (UMI Dissertation Services, Ann Arbor, Michigan, 1991), pp. 84-111.

treaty as these are the countries that were expected to cross the nuclear Rubicon and against whom the treaty was primarily directed. Thus, while the membership of the NPT has been increasing, it is even more important to co-opt the near-nuclear states into the regime, in order to avoid a new chain of horizontal proliferation.

Also, as the experience of Iraq and North Korea has shown, countries were able to flout the NPT while being members, while in the case of South Africa, Israel, India and Pakistan, these countries were able to pursue their nuclear-weapons programmes regardless of the NPT. Clandestine programmes are not easily detectable. Once a country's nuclear weapons programme is detected, as was the case of North Korea, then it can easily renounce the NPT by giving three months' notice. This is simply too easy an exit from an international commitment. What the North Korean and Iraqi experience has shown is that the IAEA's regular inspections are not sufficient and what is really needed is special inspections, something that North Korea has so far been able to avoid.

For the NPT to become a moral force, it would need to address the issue of discrimination more effectively. As long as this is not undertaken, some will always use it as a pretext to stay out of the regime, as has been done by India so far. What the NPT has done is in effect to create classes of 'nuclear haves' and 'nuclear have-nots'. Also, the obligations to which the NWS had committed themselves have not been carried out, especially in the areas of nuclear armaments and cessation of nuclear testing. In effect, discrimination exists at two levels. The first involves the balance of rights and obligations and the second involves the implementation of these obligations. This will have to be addressed to make the NPT more effective.

As long as these positions and grievances are held by nuclear threshold states, the NPT will remain questionable. These criticisms also indicated the fault lines around which the 1995 and 2000 NPT Review Conferences would be divided, as would be future ones unless the NWS addressed the various problems associated with nuclear non-proliferation, especially in undertaking their share of the 'nuclear bargain'. This draws attention to the incentives that countries have to acquire nuclear technology, for both peaceful and non-peaceful purposes. This is because, for some states, the incentives would far

outweigh, and be more important and pressing compared to, the disincentives and pressures to abide by the NPT.

The incentives for nuclear energy in the Third World may stem from any one or more of the following: to generate energy; to build nuclear weapons; to create the option to pursue either the nuclear energy or weapon path in the future; to assuage problems relating to domestic politics; and to appease pressures from foreign governments or corporations. The increased technical capabilities, as well as the willingness of developed states to sell nuclear fuel technologies and other nuclear-related materials to the Third World, have also assisted in the spread of nuclear energy capabilities.⁵

While these are general factors influencing a country's decision to opt for nuclear energy, in fact the decision-making process is much more complicated and fraught with great controversies. When some in the West make it appear that the Third World countries are eagerly waiting to acquire nuclear power and simply cannot resist the temptation to 'have their fingers on a nuclear trigger', they are exaggerating the Third World's desire for nuclear power. Much more needs to be done to understand why some Third World states are prepared to opt for the nuclear weapons route and are prepared to challenge the NPT provisions. The fact that atomic energy can be used for both peaceful and military purposes has only sharpened the controversy. Even the measurement of a Third World country's nuclear capability can be problematic. When can a country be said to have 'gone nuclear'? Is the possession of nuclear research facilities or a nuclear power reactor sufficient, or does it need to go further up the ladder, say to have access to fissionable materials that could be diverted for weapons purposes?

Next, what are the real incentives for exploiting nuclear energy, especially for Third World states? Are these determined by strategic, military or security considerations; a wish for influence and prestige; bureaucratic and domestic political and economic considerations; or by other triggering events, such as involvement in a foreign crisis, reduction of alliance credibility, nuclearisation of other countries, weakening or breakdown of international constraints, domestic crisis, domestic political change, increased availability of necessary materials,

⁵ See George H. Quester, *Nuclear Diplomacy: The First Twenty Five Years* (Dunellen Publishing, New York, 1970).

components or knowledge and changed perceptions of nuclear weapons' utility?

While any of these elements may have acted as incentives, these very factors have also deterred many states from taking the nuclear route. The factors of cost, limited technological and industrial use, dependence upon foreign nuclear inputs, domestic public opposition, the risk of unauthorised seizure of nuclear weapons, the reaction of allies, the reaction of other nations and (after Chernobyl and Three Mile Island) the fear of accidents, have influenced many Third World states to adopt positions against the development of nuclear power.

In relation to the questions raised above, it would indeed be revealing to understand the ASEAN countries' approach to the NPT, nuclear programmes and the SEANWFZ initiative.

ASEAN'S NUCLEAR POLICIES AND PROGRAMMES

All the 10 member-states of ASEAN have signed the NPT. Malaysia and Laos became parties in 1970, the Philippines and Cambodia in 1972, Thailand and Singapore in 1976, Indonesia in 1979, Brunei in 1984, Vietnam in 1985 and Myanmar in 1992. Thus, technically, all the ASEAN member-states have eschewed nuclear weapons programmes for their countries. However, the peaceful use of nuclear power has not been rejected, especially for generating power. This is evident in the nuclear policies of Indonesia and the Philippines, as well as the projected construction of nuclear plants in Thailand. In the case of Thailand, due to opposition from environmentalists, the political leadership has delayed a decision on harnessing nuclear power by setting up six plants, which could have a combined capacity of nearly 6,000 megawatts, and could make up some 20 per cent of the country's total energy output by early next century. In 1992, there were reports of Japan being prepared to supply Thailand with a 5-megawatt research reactor, even though this is yet to materialise. Only Singapore, Brunei and Malaysia, as well as the newer members of ASEAN (Vietnam, Laos, Cambodia and Myanmar), have not ventured into this path, even though Malaysia has a small reactor for research purposes at the National University of Malaysia at Bangi.

Before detailing the nuclear programmes of the Philippines and Indonesia, it would be valuable to note that there has been a tremendous interest in, and generation of, nuclear energy in East Asia, a region with which Southeast Asian countries are closely linked. Japan has 42 power reactors and 12 more are under construction to reduce dependence on oil imports. Japan's interest in fast-breeder technology reflects its attempt to achieve 'energy security' over the long term. South Korea has 9 power reactors and 12 more are under construction. It plans to have at least 27 by 2006. Taiwan has 3, which give it around 26 per cent of its energy requirements; a fourth reactor has been stalled since the Chernobyl disaster in 1986 because of lobbying by environmentalists. China is going in for nuclear energy in a big way, with plans for 9 reactors by 2000 and 30 1000-megawatt

plants by 2020. It wants to ensure sustained economic growth. These developments, where the value of nuclear energy has a clear effect on economic growth, have not been lost on the ASEAN countries, and therein lies an important driving force for their nuclear programmes, not to mention the fact that ASEAN is located adjacent to various nuclear-weapon-capable countries, such as China, India and Pakistan.

The Philippines Nuclear Programme

The Philippines' nuclear programme dates back to 1955, when the Philippines government signed a bilateral agreement with the United States on the civil use of atomic power under the latter's Atoms for Peace programme. Among other benefits, this made available to the Philippines a one-megawatt nuclear research reactor (PRR-1), which was officially handed over in 1958. On 16 July 1955, the Philippines Atomic Energy Commission (PAEC) was founded with a broad agenda related to the use and research of atomic energy in the country.

The main activities of the PAEC centred around the conduct of applied and basic research, particularly in the use of radiation and radioisotopes for agricultural, medical and industrial studies; the training of Filipinos in various aspects of nuclear science and engineering at home and abroad; the promotion of the beneficial use of atomic energy by local industries; the regulation of the use of radioactive materials to ensure public safety; and the development of technical and public information services in atomic engineering for researchers, students and the public at large. The principal nuclear-related research activities were carried out at the Philippines Atomic Research Center (PARC), located on a nine-hectare site near the main campus of the University of the Philippines. The PRR-1, which is located at the PARC, became critical and operational on 26 August 1963.

The Philippines government's intention of going beyond small-scale nuclear research was manifested by its decision to invite an IAEA team to carry out a feasibility study on the possibility of extensive use of nuclear energy for peaceful purposes. The IAEA mission reported favourably and recommended that one 150-megawatt nuclear plant or two 100-megawatt reactors might compete favourably in cost with comparative thermal stations using imported fuel towards the end of the 1960s. From this was born the Philippines' determination to take the peaceful nuclear route.

The next major decision was taken in 1973, when the then Marcos government decided to build nuclear reactors in the Bataan peninsula, near the town of Morong. The facility chosen was a 620-megawatt Westinghouse Light Water Reactor, which was to be imported from the United States. In 1976, the US Export and Import Bank authorised a US\$644 million loan and in the following year excavation work began.

Since work began on the Philippines Nuclear Power Plant (PNPP-1), progress has been abysmally slow and a single watt of power is yet to be produced even though it started generation in 1982. Initially, the delay was caused by the PAEC's refusal to grant the National Power Corporation, the plant owners, a permit to operate the plant. The reason behind the PAEC's decision lay in its lack of confidence in the safety of the PNPP-1.

While it was clear that a complex convergence of strategic, political and economic factors underscored the construction of the nuclear power plant in the Philippines, the official rationale of the Marcos administration was that it wanted to supplement the other sources of power as well as to achieve immediate and lasting economic and scientific benefits, especially in agricultural production, industry and public health.

The Philippines nuclear programme remained controversial until Cory Aquino mothballed the PNPP-1. The PNPP-1 was plagued by many controversies, including financial irregularities, costs, safety and political considerations. In 1978, Westinghouse admitted paying Marcos' brother-in-law, who was appointed in 1970 as its agent in the Philippines, a 'lubricating fee' of US\$35 million, for the purchase of the reactors. Marcos' brother-in-law was the principal beneficiary of the reactor deal. However, a US court acquitted Westinghouse of any wrongdoing as far as the nuclear deal was concerned.

In addition to charges of corruption, impropriety and nepotism, its cost also called into question the whole nuclear programme. One of the major considerations behind the project was that it would lead to the availability of cheap energy. In its original proposal in 1974, the tender that clinched the contract for Westinghouse from its competitor, General Electric, showed a cost of US\$500 million for two 620-megawatt reactors. However, when the Letter of Intent was signed in June 1974, the cost had risen to US\$1.2 billion. This reached US\$1.9

billion when the Puno Commission ordered the resumption of construction work after safety measures had been included. By early 1985, the price had shot up to US\$2.1 billion, with the financial viability of the whole project being called into question.

However, what troubled most Filipinos was the safety of PNPP-1. Following the Three Mile Island accident in 1979, Marcos suspended work on the project with a commission appointed to review the safety of the plant. The Puno Commission stated categorically that Westinghouse had demonstrated a lack of concern for the safety of the plant. Recent studies have shown that the plant could have met the latest safety standards if a further investment of US\$400 million had been made.

The site of the reactor has been another source of public concern. The plant is sited on the coast of Bataan, on a slope of a dormant volcano, Mount Natib. In addition to the possibility of an eruption, Mount Natib also shares the lava bed with Mount Taal, an active volcano.

The combination of the issues of cost, financial irregularities and safety greatly politicised the nuclear question in the Philippines, with opposition to the PNPP-1 becoming an important symbol of resistance to the Marcos regime. As Marcos' political opponents, who rallied around Cory Aquino, were also among the staunchest critics of Marcos' nuclear programmes, it was not surprising that the new government adopted a policy of stalling the plant. This was also part of Cory's election pledge. Thus, in April 1986, the Aquino government decided to mothball the plant, which would cost the government US\$15 million immediately, with another US\$1 million annually thereafter. In the end, politics, supplemented by economic and ecological considerations, decided the fate of the Bataan plant even though the Ramos and Estrada governments have been thinking about what to do with the plant.

Indonesia's Nuclear Programme

It is revealing that Indonesia, a large oil producer and exporter, and the largest exporter of liquefied gas, has been engaged in a nuclear debate in the last decade or so, and if the course of action in the last few years is any guide, it is also clear that the country is bent on pursuing the nuclear energy route.

Indonesia's interest in nuclear energy was first manifested by the government's decision to establish the State Commission of Radioactivity and Atomic Energy (SCRAE) in 1954. Dr Gerritt Siwabessy, the father of Indonesia's nuclear programme, headed the commission. In many ways, the commission was established not to lead the country into the nuclear path but rather to discover whether the country was in any way negatively affected by the nuclear and radioactive fallouts from nuclear tests conducted by the United States and Britain in the Pacific. Even though the commission's *raison d'être* was to study this, rather than implement the country's nuclear programme, it was, nevertheless, the first step towards what was to become the country's nuclear infrastructure.

In 1958, the SCRAE was replaced by the Council for Atomic Energy (CAE), which was established to advise the Cabinet on nuclear matters. It thus led to the upgrading of interest as well as institutionalisation of the country's nuclear infrastructure to the highest levels of government. In December 1958, the government established the Institute of Atomic Energy (IAE) to assist the CAE to regulate and exploit nuclear energy, indicating clearly that the country was keen on opting for the nuclear route.

In 1959, an IAEA mission visited Indonesia to study the feasibility of the following nuclear-related projects:

- a project to introduce the use of radioisotopes in agricultural research at Bogor and Gadjah Mada University;
- a project to establish a radioisotope therapy unit at a cancer centre to be established in Jakarta;
- a project to develop a national centre to provide health physics services at Pasar Minggu.

The IAEA report was encouraging and the IAEA agreed to assist Indonesia in its peaceful exploitation of nuclear energy.

In May 1960, the possibility of developing a nuclear energy programme for the country was debated at an electrical energy technology seminar held in Bandung. As if to indicate the government's direction, two months later, in July 1960, prime minister Djuanda signed a nuclear cooperation agreement with the Soviet Union, whereby Moscow agreed to supply US\$5 million worth of nuclear equipment and radioactive isotopes for a 1 to 2-megawatt

research reactor. It also promised to supply a sub-critical mass assembly for research, which was later located at the Gadjah Mada Research Centre. In April 1961, President Sukarno laid the foundation stone for an atomic laboratory at Bandung.

A landmark development in the country's nuclear programme was the inauguration of the country's first research nuclear reactor, a TRIGA-Mark II, in 1964. It was built with the United States' assistance under its Atoms for Peace programme. It was called the Peace Research Atomic Reactor (PRAR) and located at the Bandung Reactor Centre, annexed to the Bandung Institute of Technology. It formed the nucleus of the country's nuclear programme and achieved criticality in October 1964. Initially, it had a capacity of 250 kilowatts but it was upgraded in 1971 to 1000 kilowatts. In 1980, Indonesia acquired its second research reactor from the United States.

Indonesia's nuclear programme came into the international limelight in August 1965 when President Sukarno threatened to detonate a nuclear weapon before the year was out. At a World Congress Against Atomic and Hydrogen Bombs in Tokyo, Sukarno announced: 'Indonesia will make her own bomb shortly for the sake of peace and freedom'.¹ While there was not much substance in the threat, as Indonesia was not in a position to do this, speculation was rife that China, which had exploded its first atomic bomb in 1964, might have agreed to realise Sukarno's threat. The fact that Indonesia had not signed the IAEA nuclear safeguards agreement made the threat more credible. However, following the Indonesian Communist Party (PKI)'s abortive coup, the new leaders of the country accepted the IAEA safeguards in principle and in June 1987 the safeguards agreements were signed.

Under Suharto's leadership, the country's nuclear programme was given a renewed emphasis. This was clearly evident in the upgrading of the IAE, which was renamed the *Badan Tenaga Atom Nasional* (BATAN) or National Atomic Energy Agency, to a government department. Siwabessy was made its first director, with a cabinet ministerial rank. Since then, the country's nuclear programme has made much progress, even though Indonesia is a major oil and gas producer. In addition to renewed efforts to have skilled personnel to

¹ See Daniel Poneman, *Nuclear Power in the Developing World* (Allen & Unwin, London, 1982).

manage the country's nuclear programme, uranium exploration has been undertaken on a large scale. Joint operations have also been implemented with a French concern in Kalimantan and with a German concern in Sumatra.

Presently, BATAN administers the following nuclear facilities:

- The Bandung Reactor Centre, which was the first research nuclear reactor in the country of the TRIGA-Mark II model.
- The Pasar Jumat Research Centre (or the Atomic Energy Research Complex). This was established near Jakarta in 1966, and by 1983 it had become self-sufficient in certain areas, especially as a result of successes from the Centres for Radiation and Isotope Application, Nuclear Fuel Exploration and Processing Dosimetry and Standardisation of Calibration.
- The Gajah Mada Research Centre, where the Nuclear Engineering programme is located.
- The Centre for Pure Substance and Instrumentation Research (PPBMI) in Yogyakarta, also dubbed 'Kartini', which is a copy of TRIGA-Mark II and was built locally with a capacity of 100 kilowatts.
- The Serpong 'Siwabessy' Reactor located some 25 kilometres southwest of Jakarta. This has a capacity of 30 megawatts and has multipurpose functions. This large reactor, build with German assistance, is the country's mainstay facility for training and research in a wide range of areas. It was commissioned in 1990.

In the 1980s, the principal proponents of the nuclear energy route were within the government itself, with Professor B.J.Habibie, the then minister of research and technology, as the main driving force. As early as July 1980, supporters of the nuclear energy route argued that Indonesia needed to go nuclear primarily to prepare itself for the day when its traditional sources of energy dried up. More importantly, it was stressed that the traditional sources of energy would not be able to meet the country's needs in a decade and a half or two decades.

It was estimated that Indonesia would become a net oil importer in 15-20 years. Coal, which it has in abundance, is pollutive, and its natural gas could last another 70 years, if well managed. Nuclear

energy was part of long-term planning to avoid energy shortages, as economic and population growth would greatly increase the demand for electricity. Indonesia's present population of 220 million was expected to reach 300 million in 15 years.

Nuclear energy had been seen as an option not only out of necessity, but also due to its cost-effectiveness. According to Sudarsono, 'simple calculations, using reasonable assumptions, show that nuclear power is, indeed, competitive'. When President Suharto, himself a major supporter of the nuclear energy programme, unveiled the US\$150 million Serpong reactor in August 1987, he argued that the country's nuclear complex had important meaning for Indonesia's attempt to place itself in the league of developed and prosperous nations.

In the 1990s, especially during the late Suharto era (before May 1998), the Indonesian government was planning to construct a 600-megawatt atomic reactor on the Muria peninsula in Central Java. This was also to be the country's first nuclear-powered plant for the production of energy, with estimates ranging from 7,000 megawatts to 10,000 megawatts. In this connection, President Suharto told Djali Ahimsa, the director general of BATAN, that 'future generations of Indonesians would need to rely on the benefits of nuclear energy', with Habibie speaking more strongly of the need for sufficient power-generation capacity as well as linking the country's long-term development plans to it, as a shortage of energy could hamper economic growth.

However, proponents of nuclear energy had to contend with growing public opposition. While it might be easily rationalised as desirable, could the country afford the nuclear route, both economically and politically? Many questioned the economic rationale, arguing that nuclear energy would not necessarily be any cheaper. The projected energy needs of the country had also been disputed, with even the World Bank advising the government to delay undertaking the nuclear project until 1995. In view of the overcrowded nature of Java, many feared the consequences for the population in case of an accident. This concern was made stronger by the fact that the site chosen for the first nuclear power plant on the Muria peninsula was said to be dangerous. According to the Central Java Chapter of the Indonesian Environmental Forum (Walhi), the chosen site was

unsuitable as the 'unstable soil and high intensity of quakes can cause leaks on a plant, endangering people with its radioactive radiation'.

In view of this, many critics dismissed the government's nuclear programme as nothing more than a prestige project for the leadership that wanted to be perceived as a middle power in a strategic environment where a nuclear programme had come to be seen as one of the ingredients of such a power. When Indonesia ratified the NPT in November 1978 and in May 1979 communicated the instruments of ratification to the United Nations, it was clear that it had no plans to opt for a nuclear weapons programme. This was due to the various limitations, both vertical and horizontal, which the NPT places on a signatory country. At the same time, the nuclear lobby in the country was very strong and influential, with many of the 'top brains' and 'political heavyweights' pushing the country along the nuclear energy route, which could easily be diverted towards a weapons programme if the incentives were right. While the political consequences of Indonesia going nuclear were feared, at the same time, Jakarta was the leading proponent of establishing a Southeast Asia Nuclear-Weapon-Free Zone, which could be seen as an important regional and geographical means of tackling the problem of nuclear proliferation. Indonesia's nuclear programme died a natural death with the onset of the economic crisis, the fall of Suharto and the political and economic crisis the country has been in ever since.

THE SOUTHEAST ASIA NUCLEAR-WEAPON-FREE ZONE (SEANWFZ)

Proposal and Debate

With the intensification of the nuclear arms race, both vertically and horizontally, the concern for arms control and disarmament became a major preoccupation of statesmen, especially those in countries without similar weapons but who were caught geographically in the conflicts of the nuclear powers. One particular response, in addition to calls for arms control, has been for the non-deployment of nuclear weapons in certain geographical areas, or in other words, to create Nuclear-Weapon-Free Zones (NWFZs). Supporters of this policy argued that, in addition to being an instrument of confidence building, it would also reduce the likelihood of conflicts between the nuclear-weapons states. Its utility as an instrument of effective crisis prevention and crisis management was also argued to be high.

Proposals for the creation of NWFZs are not novel.¹ Nuclear-weapon-free zones have been proposed in many parts of the world: in central Europe in the 1960s (the Rapacki and Gomulka plans sponsored by Poland), rehashed in the 1980s; in Africa; in the Middle East; in South Asia; in the Balkans; in Scandinavia (the Nordic zone) and in the Arctic (including Canada, Greenland, US and Soviet territories as well as Scandinavia). None of these proposals have been implemented or are in the pipeline, except for the treaty to denuclearise Africa signed on 11 April 1996.

¹ See 'Nuclear-Free Zones (NFZ) And Peace Zones (Completely Demilitarised)', *Peace Research Reviews*, Vol. 9, No. 2 ('Approaches to a Nuclear-Free Future', Part I), 1982, pp.73-9; William Epstein, 'Nuclear-Free Zones', *Scientific American*, November 1975, pp.23-5; 'Nuclear-Weapon-Free Zones and Zones of Peace' in *The United Nations and Disarmament, 1945-85* (United Nations, New York, 1985), pp.89-106; and 'Nuclear-Weapon-Free Zones' in *The United Nations General Assembly and Disarmament, 1986* (United Nations, New York, 1987), pp.125-48.

There have been two international declarations on the subject - the Declaration on the De-nuclearization of Africa issued by the Assembly of Heads of State and Government of the Organisation of African Unity at its Lusaka meeting in 1964, and the 29th United Nations General Assembly resolutions on NWFZs in the Middle East and South Asia. Article 7 of the NPT established the right of states to create NWFZs. Added to this, there are three treaties on the subject involving uninhabited areas and four concerning inhabited regions. The conventions dealing with uninhabited areas are the Antarctic Treaty of 1959, the Outer Space Treaty of 1967 and the Seabed Treaty of 1972, all of which prohibit the emplacement of nuclear weapons and other weapons of mass destruction in these areas. The four treaties covering populated areas are the Treaty of Tlatelolco in 1967, the 1985 Rarotonga Treaty, the 1995 Southeast Asia Nuclear-Weapon-Free Zone Treaty and the Pelindaba Treaty of 1996, which prohibit nuclear weapons in Latin America, the South Pacific, Southeast Asia, and Africa, respectively. However, all these treaties have innumerable escape clauses that render them ineffective in creating totally nuclear-weapon-free zones. What has been significant in this regard has been the persistence of ASEAN (or rather, of some of its members) in moving to create a SEANWFZ since 1973. When the treaty was finally agreed upon, it was undertaken with little or no consultation with the IAEA and, not surprisingly, contained at least two novel provisions: those relating to negative security assurances and to territorial boundaries as far as the continental shelves and extended economic zones were concerned.²

Defining a NWFZ

Although it depends on who is proposing the concept, a fairly objective definition of a NWFZ was advanced by the United Nations General Assembly in 1975:

A nuclear-weapon-free zone shall, as a general rule, be deemed to be any zone, recognized as such by the United Nations General Assembly, which any groups of states, in the free exercise of their sovereignty, have established by virtue of a treaty or convention whereby:

² Author's interview with Mr M.C. Abad Jr, Head of Public Information, The ASEAN Secretariat, Jakarta, Indonesia on 24 August 2000.

a. The status of a total absence of nuclear weapons to which the zone shall be subject, including the procedure for the delimitation of the zone is defined.

b. An international system of verification and control is established to guarantee compliance with obligations derived from that status.³

From the above, certain principles can be extrapolated to understand the essentials of a NWFZ. This would include the willingness of states in the declared geographical zone to neither purchase nor produce nuclear weapons, and not to permit foreign powers armed with nuclear weapons to enter the zone. At the same time, nuclear-weapons states would be required to endorse and honour the NWFZ status and to refrain from threatening to use or using nuclear weapons against states situated in such a declared zone.

SEANWFZ: The Initial Proposal

While most writings on the subject have attributed Southeast Asian interest in a nuclear-weapon-free zone only to the 1980s, deeper research into the subject leads one to discover that there existed interest, though limited, in the concept of Southeast Asia as a nuclear-weapon-free zone from the mid-1960s onwards. G. P. King's brief work entitled 'A Nuclear-Free Zone in Southeast Asia' was probably the first to discuss the subject. This was presented at a conference on Nuclear Dispersal in Asia and the Indo-Pacific Region held in 1965 by the Australian Institute of International Affairs, at the Australian National University, Canberra. King argued that nuclear weapons could spread to Southeast Asia in three ways: by independent acquisition; by nuclear sharing, in which proliferation is promoted by existing nuclear powers; and by 'umbrellas' which spread, not just the threat of protective use, but the reality of foreign weapons being stationed on the territories of allies in the region. In view of this, a NWFZ would be useful, argued King, to check the spread of the scourge, be the weapons acquired independently, through assistance or as the result of foreign basing.

³ See UN General Assembly Resolution 347b(xxx) 1975. Cited in Muthiah Alagappa, 'Towards a Nuclear-Weapons-Free Zone in Southeast Asia', *ISIS Research Note* (Institute of Strategic and International Studies, Kuala Lumpur, 1987), p.1.

The region with the greatest potential of going nuclear in the 1960s was the Maphilindo-ANZAC region, consisting of Malaysia, Indonesia, the Philippines, Australia and New Zealand. King, however, identified the following impediments to establishment of a NWFZ in this region: the wish to develop nuclear deterrence; great-power ambitions; the wish for a 'last resort' weapon; the need to acquire the ultimate symbol of power - political independence; the impossibility of arms control agreements; and the policies of regional states favouring the nuclear road or nuclear cooperation with the great powers.

King argued that, in the 1960s, the spread of nuclear facilities in Southeast Asia arose from three factors: the inclination of the United States to station more nuclear facilities or weapons in countries allied to it; the fear of facing the existent and fast-growing Chinese nuclear threat with conventional forces or relying on Western guarantees; and the desire of neutral and expansive countries such as Indonesia to avoid the diplomatic paralysis which comes from facing a nuclear power, such as Britain.

In view of these circumstances, a proposal for a NWFZ in Southeast Asia would need to entail the following features:

- inviting the Philippines to eject American strategic bases from the country;
- convincing Malaysia to accept only that degree of undeclarable and distant British nuclear support which could be brought from afar in a crisis or kept in adjacent oceans;
- convincing Australia to forego its significant nuclear option and calling a halt to the trend in American policy which saw Australia as a major focus of a nuclear strategy in the Indian Ocean;
- forcing Indonesia to give up its doubtful nuclear option in return for a significant withdrawal of British nuclear power from Singapore; and
- New Zealand continuing non-nuclear, as it had always been.⁴

Realising the potential problems the proposal might face, King added:

⁴ Cited in S. Bilveer, 'Nuclear-Weapons-Free Zone in Southeast Asia: The Initial Idea', *Asian Defence Journal*, No. 12, December 1989, p.40.

If the proposal here outlined seems (a) to be not immediately essential (since no Power of the region faces a serious nuclear threat; (b) to run counter to current or emerging policies and ambitions; (c) to restrict America and Britain unduly and (d) to posit far more political cooperation in the area than now seems likely to be forthcoming, a more modest proposal may be useful.⁵

While realistic about the difficulties of achieving such a zone in the region, King's contribution to the study of NWFZ in the region stems from it being among the first to give thought to the subject and the problems associated with it. While the viewpoints, problems and concepts are largely those of an 'outsider' attempting to solve the problems of the 1960s, when China and Indonesia were viewed as the main destabilisers of the region, the problems of realising the NWFZ have not changed, even though the 'friend-enemy' designations may have done so. The proposals of the 1980s have emanated mainly from the region and are all attempts to solve the problems of the 1980s and 1990s, however the concept, problems and lack of success of King's proposal should be borne in mind in order to avoid the same pitfalls and failures. While King's proposal was made in 1965, at a time of a generally stable international environment, with the main threats to stability in Southeast Asia coming from Sukarno's *Konfrontasi* and Mao Tse-tung's 'Cultural Revolution', the challenges of the 1980s and 1990s have been more serious, complex and threatening. Today, simple zone declaration may or may not solve the problems of the region, as to sanitise Southeast Asia may require far more than a mere treaty or declaration of intent.

SEANWFZ: Realising the Dream

Since ASEAN's formation in 1967, the Southeast Asian states have had a particular attitude towards nuclear weapons. No country in the region possessed nuclear capabilities and the majority had registered their objections to nuclear weapons long before concrete proposals for a SEANWFZ were made. All have signed the 1968 NPT. The object of cordoning the region had definitely taken root and, by the late 1960s, countries in the region began thinking about ways of reducing the spread of the nuclear danger to Southeast Asia. The first

⁵ *ibid.*

country to put forward a security proposal that had denuclearisation as one of its aims, though not explicitly stated, was Malaysia.

In January 1968 the former Malaysian minister of the interior, Tun Dr Ismail (then a backbencher) proposed the neutralisation of Southeast Asia. This was later realised in the Zone of Peace, Freedom and Neutrality (ZOPFAN) declaration of ASEAN, signed in Kuala Lumpur in November 1971. While the establishment of the NWFZ was not stated as its immediate aim, the preamble of the 1971 declaration affirmed that the parties were:

cognizant of the significant trend towards establishing nuclear-free zones, as in the Treaty for the Prohibition of Nuclear Weapons in Latin America and the Lusaka Declaration proclaiming Africa as a nuclear-free zone, for the purpose of prompting world peace and security by reducing the areas of international conflicts and tensions.⁶

This declaration launched ZOPFAN, and all the ASEAN countries have publicly committed themselves to the achievement of this goal in the future. While there were very clear differences among the ASEAN states about the meaning of 'neutrality' and the proposal appeared unrealisable initially, ZOPFAN's importance must not be ignored. It provided the region with a new way of thinking about regional security and, possibly, an alternative security system for Southeast Asia. While it may have problems due to the multitude of differences among ASEAN states, especially different threat perceptions, ZOPFAN's importance cannot be dismissed.

In many ways, it was the ZOPFAN proposal which acted as 'midwife' for the eventual creation of a nuclear-free Southeast Asia. Following the ZOPFAN declaration, which mandated the establishment of a 'neutralised' Southeast Asia, an ASEAN Committee of Senior Officials was established to examine the feasibility and viability of such a proposal.⁷ In April 1973, the ASEAN Committee of Senior Officials produced a *Plan For Action* to realise ZOPFAN, referred to as the 'Guidelines' that would constitute a 'Code of

⁶ The Kuala Lumpur Declaration, 1971.

⁷ See M.C. Abad Jr, 'The Role of ASEAN In Security Multilateralism : ZOPFAN, TAC and SEANWFZ'. Paper presented at the ASEAN Regional Forum, Professional Development Programme for Foreign Affairs and Defence Officials, Bandar Seri Begawan, Brunei, 23-8 April 2000.

Conduct Governing Relations Among States Within ZOPFAN And With States Outside ZOPFAN'.⁸ Among other matters, it proposed a Treaty of Amity and Cooperation in Southeast Asia, a United Nations Resolution declaring Southeast Asia to be a Zone of Peace, Freedom and Neutrality, the denuclearisation of Southeast Asia, and non-aggression pacts with external countries. As far as denuclearisation was concerned, it stated a specific 'Prohibition of the use, storage, passage or testing of nuclear weapons and their components within the zone'.⁹ To date, all the proposals have been realised except for the last one. In its treaty form, denuclearisation of Southeast Asia was realised twenty-two years after it was first proposed in April 1973.

Despite the enunciation of ZOPFAN in April 1973, it was, however, only in July 1984 - at the ASEAN Foreign Ministers Meeting in Jakarta - that the idea of a Southeast Asia nuclear-weapon-free zone was first formally raised by Indonesia with Malaysia's support. Realising that the concept itself had problems, both Jakarta and Kuala Lumpur attempted to link the SEANWFZ with the ZOPFAN concept, which had already become an article of faith in the region. This made the SEANWFZ an important component of ZOPFAN, which to Ali Alatas, the Indonesian foreign minister, was ZOPFAN's key component.¹⁰ This co-option of the NWFZ was lucidly articulated by the then Malaysian foreign minister, Tengku Ahmad Rithauddeen, when he spoke at the ASEAN standing committee meeting in Kuala Lumpur on 10 September 1984:

We have together agreed in Jakarta [July 1984] to initiate measures in the implementation of ZOPFAN in our region beginning with the declaration of a nuclear-weapons-free zone in Southeast Asia. The concept of a nuclear-weapons-free zone ... is inherent in the ZOPFAN concept and would constitute one of the attributes or prerequisites of a Zone of Peace, Freedom and Neutrality in Southeast Asia. While the Kampuchean issue has hampered our efforts towards the realization of ZOPFAN, I think it would be a serious setback to the ZOPFAN concept if we were to await the final resolution of the Kampuchean problem

⁸ *ibid.*

⁹ *ibid.*

¹⁰ Cited in *Kompas*, 23 July 1994.

before we begin to exert the necessary steps towards the realization of the concept.¹¹

Thus, creating SEANWFZ came to be seen as part and parcel of the effort to create ZOPFAN, especially since the Kampuchean conflict and the intensification of Sino-Soviet rivalry had made the realisation of the latter largely impossible.

Since 1984, especially since the 19th ASEAN Foreign Ministers Meeting in Manila in June 1986, the Working Group on ZOPFAN, a formal ASEAN committee, had been studying ways and means of achieving the SEANWFZ. It was directed to draft a treaty, taking into consideration the views of all its members, including the nuclear powers. However, many obstacles impeded its progress. The concept was strongly promoted by Indonesia and Malaysia at the ASEAN Foreign Ministers Meeting in Singapore in June 1987, the first since 1979 not to be dominated by the Kampuchean issue. Shortly before the meeting, the Malaysian foreign minister, Abu Hassan Omar, visited Jakarta and raised the idea of an 'ASEAN nuclear-weapons-free zone'.¹² His Indonesian counterpart, Mochtar Kusumaadmadja, later clarified this to mean a 'SEANWFZ', including the states of Indochina and Burma.¹³ Some progress was made at the Singapore meeting with announcements made to the effect that 'drafting plans' for a SEANWFZ were in an 'advanced stage'.¹⁴ However, the joint communiqué issued on 16 June, when the foreign ministers ended their meeting, only indicated a willingness to pursue efforts to incorporate the NWFZ concept into the ZOPFAN proposal.¹⁵ In short, the proposal had met with strong criticism within ASEAN.

Following the failure to push for it as a treaty at the ASEAN Foreign Ministers Meeting in Singapore, the Indonesians were not discouraged to the point of inaction. Rather, they went ahead to prepare for the declaration of the Indonesian archipelago as a nuclear-free zone. Speaking before Committee One of the Indonesian

¹¹ See J. Soedjati Djiwandono, 'Southeast Asia as a Nuclear-Weapons-Free Zone', *ISIS Malaysia ASEAN Series*, No. 1, 1987, p.2.

¹² See Radio Republic Indonesia, News Bulletin, 4 June 1987. Cited in *Foreign Broadcast Monitor* (Singapore), No. 127/87, 5 June 1987, p. 5.

¹³ *ibid.*

¹⁴ *Bangkok Post*, 17 June 1987.

¹⁵ *Sunday Times*, 21 June 1987.

Parliament on 18 July 1987, the then foreign minister, Mochtar, revealed that the draft on a nuclear-free zone in Southeast Asia had been completed, and that it would cover a greater part of the Indonesian territory, consisting of wide areas of sea and a number of straits of strategic significance. However, instead of rationalising it as a consequence of regional consensus, Mochtar argued that it was essentially an application of the International Convention on the Law of the Sea and the archipelagic concept in the nuclear age, so that all ships with nuclear armaments or nuclear cargoes could pass through Indonesian straits, an important aspect that would become evident ten years later when the treaty was actually signed.¹⁶

Both Indonesia and Malaysia worked closely to press the idea of a SEANWFZ at the Third and Fourth Summits. During the Third Summit, President Suharto personally pushed his country's case for a NWFZ, arguing that 'the efforts of ASEAN to establish such a zone will be an important contribution to peace and security in our region ... must be continued, even if the Kampuchean issue has not been resolved'.¹⁷ While no treaty of any sort was signed, the Manila Declaration did endorse the need 'to strive for a nuclear-weapons-free zone'.¹⁸ A similar outcome was repeated at the Singapore Summit in January 1992 with the final communiqué stating that ASEAN would seek to realise 'a Southeast Asian Nuclear Weapons Free Zone in consultation with friendly countries, taking into account changing circumstances'.¹⁹ Indonesia's persistence in advancing the concept was best evident in its foreign minister's speech at the Conference on Disarmament in Geneva in February 1988. Mochtar argued that:

The establishment of ZOPFAN and a Southeast Asian nuclear-free-zone is particularly desirable in a region, which has a long history of endemic conflicts and interventions by extra-regional powers. We are convinced that their realization would diffuse tensions and foster conditions of stability conducive to

¹⁶ *ibid.*, 8 March 1985.

¹⁷ *ibid.*, 16 December 1987.

¹⁸ *Jakarta Post*, 9 February 1988.

¹⁹ Cited in Bilveer Singh, 'The Fourth ASEAN Summit - A New Milestone in Political Will' in Lee Lai-to and Arnold Wehmhoerner (eds), *ASEAN and the European Community in the 1990s* (Singapore Institute of International Affairs and Friedrich-Ebert-Stiftung, Singapore, 1993), p.9.

economic and social development. In pursuance of these objectives, it is hardly our intention to exclude the cooperation of states outside the region. Rather, our aim is to reduce the risk of renewed rivalry and strategic competition in Southeast Asia.²⁰

SEANWFZ: The Debate

The supporters of a Southeast Asian nuclear-free zone believed that its successful realisation would:

- give substance to the Kuala Lumpur Declaration of 1971, ZOPFAN;
- prevent horizontal proliferation of nuclear weapons in the region;
- ensure that the region did not become a nuclear target; and
- help to promote better relations between states of the region, hence ensuring peace and stability.

Equally strong in the Indonesian thinking was the belief that the great powers should not be given the sole right to decide the future of small and powerless non-nuclear states, especially since a nuclear conflict would engulf all states in the international system. In the words of the Indonesian foreign minister, 'there is so much concern about safe passage, about the need of these people [the superpowers] that want to strike at each other, that no thought is given to a country that might be a potential victim'.²¹

Pitted against the supporters of the proposal were those who believed that it was nothing more than a dangerous pipe dream. The problems involved were what areas the zone should cover, what countries should participate, and what means of enforcement should be employed. As with the ZOPFAN concept, there was no unanimity in ASEAN as to the advantages of the nuclear-free zone. There was concern that pursuit of it would divide rather than unite ASEAN. Within ASEAN, the most enthusiastic support for a nuclear-free zone came from Indonesia, largely because the concept reflected Jakarta's commitment to an independent and active foreign policy.

²⁰ Cited in the *Sunday Times*, 21 June 1987.

²¹ *Straits Times*, 8 March 1985.

The lack of consensus on the concept of a nuclear-free zone within ASEAN stemmed from differing national interests, perceptions and priorities. First, there was the problem of its feasibility. If ZOPFAN was difficult to realise, would not a nuclear-free zone be all the more so? To ensure a nuclear-free zone's success, the superpowers had to agree to recognise and respect it. The importance of the region in the superpowers' geostrategic thinking meant that this was wishful thinking. Second, the geographical delimitations of such a zone needed to be defined. Should it involve the whole of Southeast Asia or only part of it? Would it be possible to gain the agreement of the Indo-Chinese states with which the ASEAN countries were then in a 'cold war'? In the light of the Kampuchean problem, such an agreement was not easily achievable. It would be even more difficult to involve the Burmese in the scheme. Furthermore, even if such a zone was introduced, excluding the great powers, fears of Indonesian-Vietnamese domination of the region would be aroused, which would create new sources of regional tension, especially for the smaller states.

It was partly because of this latter aspect that Singapore's foreign minister, S. Dhanabalan, objected to a nuclear-free zone in Southeast Asia. He also expressed concern about developments in New Zealand. Wellington's decision to prevent American nuclear-powered or -armed warships from entering New Zealand waters was viewed as dangerous by Dhanabalan because any weakening of the arrangement between Australia, New Zealand and the United States would have ramifications for Southeast Asia. According to Dhanabalan, 'we see the security of this part of the world as being very closely interwoven and we cannot separate what happens in the south with what is happening in Southeast Asia'.²²

While Singapore subscribed to the ideal that all superpowers should withdraw from the area and allow the creation of a nuclear-free zone, the reality was that the Soviet Union had rapidly increased its military presence in the region. Since Singapore did not pretend that any state in the region could balance the Soviets by expanding its own forces, a balance of power in the region could only be maintained by calling upon the United States to increase its military strength. Hence the belief that the nuclear-free-zone concept was not feasible in the prevailing state of military realities in the region in the 1980s.

²² *Sunday Times*, 21 June 1987.

More importantly, in view of the various conflicts in and adjacent to the region, and especially the superpowers' involvement in them, very little support for the nuclear-free zone could be expected from these political rivals. Even if support were to come, especially from the Soviet Union, regional states would be suspicious about the motives involved. The ultimate argument against the concept related to its true value. What would it really achieve? Would it enhance peace and security? In the words of the Japanese foreign minister, Tadashi Kuranari, such a proposal should not be merely a 'sentimental exercise'; in a dangerous, conflict-prone world it was necessary 'to meet reality squarely, and take a pragmatic approach'. To Kuranari, such a proposal should not merely be 'sentimental', but one where 'all of the related parties have to be fully convinced, and it has to be a scheme that fully protects the security of that area'.²³ The last qualification, however, was something supporters of a nuclear-weapon-free zone in Southeast Asia had difficulty guaranteeing: practical studies indicated that the security benefits of such a zone were rather minimal.

Equally troubling were the direct implications of such a zone. The United States' ability to counter Soviet military expansion in the Asia-Pacific region would certainly be undermined. It would be placed in a very difficult and vulnerable position, especially in its negotiations with the Philippines over the bases there when the agreement permitting these expired in 1991. The Aquino government would also be placed in a quandary. Since there was a high probability that nuclear weapons were present at the American bases in the Philippines, Manila would have difficulties complying with such an accord. These considerations buttressed American opposition to a Southeast Asian nuclear-free zone, with secretary of state George Shultz arguing that 'peace depended on nuclear deterrence'.²⁴

Conversely, a nuclear-free zone would benefit the Soviet Union, which supported the broad concept advanced by the Malaysians and Indonesians. Indeed, policy-wise, because of the general weakness of the Soviet Union and, conversely, the emplacement of American military power worldwide since 1946, the Soviets had always

²³ See *Foreign Broadcast Monitor*, No. 139/87, 19 June 1987, p.6.

²⁴ *ibid.*

supported NWFZ concepts as long as they were not applied to the Soviet Union itself.

In this context, the NWFZ would have been a boon for the Kremlin, especially at a time when it had suffered a severe loss of political goodwill in Southeast Asia due to its support for the Vietnamese aggression and occupation of Democratic Kampuchea. It seemed that the zone, if realised, would not only assist in dividing and weakening ASEAN but would also play an important part in puncturing the United States' political and strategic roles in the region, with New Zealand's action already having partially weakened the American strategic position in the Asia-Pacific region. As the United States was more dependent on the free movement of sea-launched ballistic missiles for the strategic functions of its deterrent posture than was the Soviet Union, Washington's wariness of the NWFZ was understandable.

From the foregoing, it was obvious that, with the introduction of the NWFZ in Southeast Asia as a new security issue, there was an emerging coincidence of interests between the Soviet Union and both Malaysia and Indonesia, especially the latter. While the concept was intended to bring peace to the region, it had, indeed, caused new fissures in the political map of Southeast Asia, with some ASEAN member-states lining up with the Soviet Union and others with the United States.

In the context of the then-existing regional geostrategic realities, it was difficult not to agree with the argument of Muthiah Alagappa, then a researcher at the Malaysian Institute of Strategic and International Studies, that the advantages of a nuclear-weapon-free zone for regional security were rather marginal in the 1980s:

It is unlikely to make any significant impact on the resolution of security issues currently confronting the countries in the region. It could even, depending on the provisions of the treaty, have a negative effect if it has an unfavourable impact on the strategic balance in the region, if it creates dissension among countries in the region (especially in ASEAN), or if it alienates friendly powers like the US (witness the latter's reaction to the total nuclear ban by New Zealand).²⁵

²⁵ Muthiah Alagappa, 'Towards a Nuclear-Weapons-Free Zone in Southeast Asia', p.6.

In sum, it appeared that the benefits of a nuclear-free zone in Southeast Asia were suspect. Even if there were benefits, these were far outweighed by the negative consequences. If anything, a nuclear-free zone, as a manifestation of the growth of pacifism in the region, would have been a further signal to ASEAN's adversaries, especially the Soviet Union and Vietnam, of the weakening of the association's resolve to counter them. It would also place the United States in a difficult position, compromising its ability to act as a counterweight to growing Soviet military power in the Asia-Pacific region. The establishment of a nuclear-free zone in Southeast Asia, by ensuring a rollback of American military power from the region, would have represented a Soviet strategic victory, leaving a dangerous void in the region. Competition between regional and extra-regional powers, nuclear and non-nuclear, could have been encouraged, increasing regional instability. In the process, the bedrock of capitalist economies of the ASEAN region could have been undermined. A likely result would have been the weakening and division of ASEAN. In short, in the 1980s a SEANWFZ did not appear attractive due to difficulties in realising it as well as the likely negative ramifications such a zone would have brought to the region and the interests of the dominant great powers therein, especially the United States.

THE 1995 SEANWFZ TREATY AND ITS POLITICS

The onset of the post-Cold War era, however, affected ASEAN's quest for a SEANWFZ. According to Marty Natalegawa, 'the US and Soviet unilateral decisions in 1991 to withdraw all tactical nuclear weapons from their surface ships, attack submarines and naval aircraft have already contributed to the denuclearisation of Southeast Asia'.¹ Thus, a rollback of nuclear weapons had already occurred as a consequence of the end of the Cold War. Notwithstanding this, the pursuit of SEANWFZ would still have its benefits:

- It would reconfirm Southeast Asia's commitment to nuclear non-proliferation.
- The creation of a regional verification system to ensure compliance with SEANWFZ would not only enhance transparency of nuclear activities but would also set a precedent for other defence- and security-related measures and cooperation.
- The process of SEANWFZ negotiation would engender a consultative precedent for the solution of regional problems.
- It would send a positive signal to adjacent countries not to pursue the nuclear option as well as have a demonstration effect on countries with nuclear-weapons potential both in South Asia and Northeast Asia.²

The January 1992 Fourth ASEAN Summit in Singapore reiterated the regional organisation's commitment to ZOPFAN and SEANWFZ, 'in consultations with friendly countries, taking into account changing circumstances'. The region was in a state of political flux following the end of the global Cold War, as could be seen from the ending of the Cambodian conflict as well as Vietnam's and Laos's accession to the Treaty of Amity and Cooperation in July 1992. The vastly improved relations between Washington and Moscow, as well

¹ See Marty Natalegawa, 'De-nuking Southeast Asia', *Pacific Research*, Vol. 6, No. 1, February 1993, p.9.

² *ibid.*

as the *de jure* and *de facto* closure of the American and Russian bases in the Philippines and Vietnam respectively, also provided the necessary conditions for SEANWFZ to be realised. Overcoming 'internal hurdles' within ASEAN was also crucial in realising SEANWFZ. As was argued by ambassador Agus Tarmidzi, Indonesia's Permanent Representative to the United Nations Office in Geneva and head of the Indonesian delegation to the Conference on Disarmament:

Internal problems [within ASEAN], however, posed formidable hurdles to the speedy conclusion of SEANWFZ. Political maturity, which indeed varied from one country to another, made it difficult to move ahead. It took years for the governments of Singapore, Thailand and the Philippines to accept that the conclusion of the treaty would constitute a significant contribution to the regional stability, which in turn, would also facilitate the achievement of the goals set out by the founding fathers of ASEAN.³

After the formal commitment to denuclearise the region in 1984, more than ten years later, in December 1995 (during the Fifth ASEAN Summit), the landmark treaty to turn Southeast Asia into a nuclear-weapon-free zone was signed by all countries in the region. In addition to the then seven ASEAN members, namely, Brunei, Indonesia, Malaysia, Philippines, Singapore, Thailand and Vietnam, the remaining three states of the region, Cambodia, Laos and Myanmar, also endorsed the treaty. In line with Article 16 of the SEANWFZ treaty, it came into force on 27 March 1997 when Vietnam, as the seventh signatory, deposited its instrument of ratification and accession. Consisting of 13 pages and 22 articles, the treaty was in various sections, including 'Use of Nuclear Energy for Peaceful Purposes', 'Early Notification of Nuclear Accidents' and 'Call by Foreign Ships and Aircraft' (see Appendix 1).

Essentially, the treaty declared that Southeast Asia, including its waters and airspace, would be free from nuclear weapons. Like the regional denuclearisation treaties of Latin America, Africa and the South Pacific, this meant that no country in the region should produce, store, test or allow the production of such weapons. As none of the signatories have nuclear weapons presently or have expressed a desire

³ See *Jakarta Post*, 30 September 1996.

to possess these weapons in the future, the ban was largely addressed to the nuclear-weapons states. The treaty allowed countries possessing nuclear weapons to use the region's waters and airspace for transit purposes subject to the approval of the Southeast Asian country concerned. However, it left each signatory the right to decide whether or not to allow the nuclear states to use its territory for transit purposes. As was stated by the Indonesian foreign minister, 'don't forget that ASEAN, despite being very close economically, still have political nuances in foreign policy ... there are a few countries amongst us which have a special relations with the United States'.⁴

In this connection, the Indonesian foreign minister stated publicly that there was also an 'internal debate' on whether ASEAN would attempt to restrict the access of nuclear-weapons ships into ASEAN territorial waters, but realism prevailed in the end. He argued that even if the ASEAN countries tried to ban the entrance of such weapons into the region, it would be impossible to operationalise this decision, especially if it involved the armada of a major power. He asked, 'Do we dare to stop them? Do we have the ability to face a superpower?' Since the answers to these questions were obvious, ASEAN desisted from making an ambitious declaration that could not be enforced, as this would only have amounted to 'blowing a lot of hot air'.⁵

However, what was different in the SEANWFZ, compared to other treaties of similar intent, was the delineation of the region to include the continental shelves and exclusive economic zones (EEZs) in accordance with the United Nations Convention on the Law of the Sea; the prohibition on nuclear-weapons states from using or threatening to use nuclear weapons, not only against states parties to the treaty but also anywhere within the zone; and the provision on dispute settlement where political dialogues through peaceful means would be used for settlement prior to legal procedures, with provision for a fact-finding mission serving as the only means to clarify and resolve questions regarding compliance.⁶

⁴ *Jakarta Post*, 12 December 1995.

⁵ *ibid.*

⁶ For details on these matters, see Ralph Cossa, 'Promoting Nuclear Disarmament: Nuclear Weapons-Free Zones and other Measures'. Paper presented at the Third United Nations Conference on Disarmament Affairs, Hiroshima, Japan, 17-20 July 1996.

The treaty signatories expressed great satisfaction, with the Thai premier and host of the Summit, Banharn, arguing, 'This treaty will guard against the scourge of nuclear weapons in the region and contribute towards the Nuclear Non-Proliferation Treaty regime at the global level'.⁷ Since 1995, ASEAN leaders have made use of every opportunity available, especially at international forums, to drum up support for the treaty, as seen in the inclusion of references to SEANWFZ in the key declarations of the Asia-Europe Meeting (ASEM) and the ASEAN Regional Forum (ARF). The Chairman's Statement of the Second ARF of 1 August 1995 stated:

they [the ministers] noted with satisfaction the progress towards the establishment of the Southeast Asia Nuclear-Weapons-Free-Zone and encouraged further consultations on this issue with those states that would be significantly affected by the establishment of the zone.

The Chairman's Statement of ASEM on 2 March 1996 noted that 'in their efforts to contribute to the NPT regime, the ten Southeast Asian countries have concluded the SEANWFZ Treaty in Bangkok in December 1995'. The Chairman's Statement of the Third ARF stated:

the signing of the SEANWFZ Treaty by all Heads of Government of Southeast Asia countries in Bangkok in December signifies another important contribution of the countries of Southeast Asia to the strength of the security in the region and to the maintenance of world peace and stability. This is consistent with the 1995 NPT Review welcoming the development of further nuclear-weapons-free zones.

Finally, the Chairman's Statement of the Fourth ARF stated:

the ministers welcomed the entry into force, on 27 March 1997, of the SEANWFZ Treaty which represents an important effort of Southeast Asian states towards strengthening the security of the region and towards the establishment of nuclear-weapons-free zones globally.

In this connection, the ministers welcomed 'the ongoing consultations between State Parties to the Treaty and the Nuclear Weapons States to

⁷ *Jakarta Post*, 16 December 1995.

facilitate accession by the latter to the Protocol of the SEANWFZ Treaty'.

The SEANWFZ Treaty also had a side document, the Protocol (see Appendix 2), which the nuclear-weapons states were expected to accede to by expressing support for the denuclearisation of the region. More importantly, the treaty could only be fully operationalised and actualised if it was honoured by the nuclear-weapons states. Even though most of the nuclear states, such as the United States and China, had supported the idea of a NWFZ in principle, they objected to the SEANWFZ on a number of grounds and withheld consent to sign the protocol attached to the treaty. The Indonesian foreign minister, in a speech in Singapore in October 1992, first made public the fact that the treaty was facing objections from the nuclear powers:

ASEAN's proposed SEANWFZ has encountered opposition from some nuclear powers that perceive it as undermining their doctrine of nuclear deterrence and as establishing an unacceptable precedent for other regions. It is a view that we do not share. In a post-Cold War political setting, such a view has become untenable and irrelevant, particularly because in the regime envisioned for the region, transit rights will remain unaffected.⁸

Indonesia was, however, hopeful that the differences could be overcome through 'consultations' with the nuclear states as the realisation of 'both ZOPFAN and SEANWFZ will not only be a major step forward to stable peace in the region but also a significant contribution on the part of ASEAN to global nuclear disarmament and non-proliferation'.⁹

Both the United States and China made their objections to SEANWFZ known before the treaty was signed in December 1995 and, despite the grievances of the nuclear states, the ASEAN heads of government decided to go ahead with its signing, in part rebuffing the objections of the nuclear states. At the same time, 'after extensive discussions, the Heads of Government of the states signatory to the treaty on SEANWFZ agreed that the protocol to the treaty would be further reviewed', in effect holding out an olive branch to the nuclear-

⁸ Ali Alatas, 'ZOPFAN Can Contribute to World Peace', *Jakarta Post*, 4 November 1992.

⁹ *ibid.*

weapons states, without whose support the treaty would be tantamount to nothing more than a meaningless declaration. The main requirement was that the signatories to the protocol would be bound to respect the treaty and not to contribute to its violation and to refrain from using or threatening to use nuclear weapons in the zone. The signatories were also expected to help achieve 'general and complete disarmament of nuclear weapons'.

Washington's policy position on SEANWFZ was that it was in agreement to the proliferation of NWFZs and thus supported the SEANWFZ in principle. However, it could not endorse specific elements contained in the treaty. Ambassador Thomas Graham, President Clinton's special representative for arms control, non-proliferation and disarmament, for instance, argued that:

We have stated that the United States is prepared to consider positively a SEANWFZ treaty, provided it conforms to our aforementioned long-standing criteria for supporting such zones. We have explained to the ASEAN states that the latest text of the Treaty and Protocol still raises problems for the US and does not meet all our fundamental concerns. We hope that these concerns will be adequately addressed, as the must be before the US will be in a position to sign any Protocol.¹⁰

More specifically, the US State Department expressed concern with two elements in the treaty:

One of the most significant issues preventing us from supporting the Treaty at this point is the inclusion of exclusive economic zones and continental shelves in the zone, which we believe is inconsistent with internationally recognised high seas freedom of navigation and over flight. We feel that, to the extent that the SEANWFZ Treaty imposes security obligations on non-treaty parties without their consent in areas where high seas freedom exists, the treaty is inconsistent with the UN Law of the Sea Convention and sets an unfortunate precedent.

Another major concern involves the precise nature of legally binding negative security assurances which the Protocol parties are expected to provide. We would like the protocol

¹⁰ See Cossa, 'Promoting Nuclear Disarmament'.

language to be clear that states should not be able to receive the benefits of a treaty without themselves joining the treaty, accepting its obligations, and acting in accordance with international law.¹¹

The United States' continued objections to SEANWFZ were put clearly by Winston Lord, assistant secretary of state, Bureau of East Asian and Pacific Affairs, on 30 May 1996:

The United States ... has significant concerns with the current text of the Southeast Asia Nuclear-Weapons-Free Zone ... and its accompanying protocol ... These concerns are also shared by the other four internationally recognised nuclear weapons states.

One of the most significant issues preventing us from supporting the treaty at this point is the inclusion of Exclusive Economic Zones (EEZs) and continental shelves in the zone, which raises questions about the consistency of the treaty with high seas freedoms and other principles embodied in UN Convention of the Law of the Seas.

Furthermore, continental shelves and EEZ's have never been clearly delimited in the South China Sea, which creates uncertainty over the scope of the treaty and protocol obligations and could be a source of conflict due to competing territorial claims in the region.

The U.S. other concerns with the treaty and protocol including the precise nature of the legally binding negative security assurances from protocol parties; ambiguity of language concerning the permissibility of port calls by ships which may carry nuclear weapons; and the procedural rights of protocol parties to be represented before the various executive bodies set up by the treaty to ensure its implementation.¹²

Thus, primarily, the United States viewed the SEANWFZ treaty as infringing upon its freedom of international air and maritime

¹¹ Cited in *ibid.*

¹² See Winston Lord, 'Southeast Asia Regional Security: Issues-Opportunities for Peace, Stability and Prosperity'. Statement before the House International Relations Committee, Asia and Pacific Subcommittee, 30 May 1996, as cited in the *Straits Times*, 12 June 1996.

navigation and this formed its principal objection against the treaty. Winston Lord was to reiterate later (in September 1996) that the United States viewed the SEANWFZ treaty as being 'too restrictive' and that Washington would only sign the protocol if it did not infringe upon the country's defence, navigation and security rights.¹³

A senior ASEAN official informed the author that, in addition to the negative security assurance and delimitation of the continental shelf and EEZ issues, the United States has also made it clear that it will not sign the treaty and protocol if the aforesaid issues are 'ironed out'. First, while the United States is prepared to provide negative security assurances to the ASEAN member-states, it is, however, unprepared to have its 'hands tied' as far as non-ASEAN members are concerned. This is because such a situation would negatively affect and impact upon its nuclear deterrence posture in the region. Second, in addition to various difficulties with the protocol, Washington also believes that Article 3 and Article 7 are in conflict and incompatible with American security interests in the region as a whole. In particular, Section 1.b of Article 3 states that the party to the treaty agrees not to 'station or transport nuclear weapons by any means'. Yet Article 7 states that a state party 'may 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 through its territorial sea or archipelagic waters and overflight of foreign aircraft above those waters'. What this would imply is that Washington is not only seeking alteration to the SEANWFZ protocol but also the treaty, that has been signed by all the ASEAN members and, more importantly, has already entered into force.¹⁴

China also withheld support for SEANWFZ, due primarily to the scope of the treaty. Here, Beijing's main concern was with regard to the South China Sea region, where it is involved in a dispute with a number of Southeast Asian countries over the ownership of the islands and reefs and their EEZs and continental shelves. On 7 December 1995, the Chinese foreign ministry spokesman, Chen Jian, stated that even though China has 'always respected and supported the effort of those non-nuclear countries to set up the nuclear-free zones', and China supported the idea of SEANWFZ, its position on the exact

¹³ See the *Jakarta Post*, 12 September 1996.

¹⁴ Interview with a senior ASEAN diplomat in Jakarta, Indonesia in August 2000.

geographical area that should be covered by the treaty differed from that of the ASEAN countries. In particular, it objected to the inclusion of the EEZs and continental shelves of the region.¹⁵ In this connection, some have argued that an important motivation of ASEAN in framing the SEANWFZ the way it did was to ensure that China did not emplace or employ nuclear weapons in and around the contested islands in the South China Sea region.¹⁶

In the same vein, France has expressed reservations about the SEANWFZ treaty. France's ambassador to Singapore, Barry Delongchamps, stated on 13 April 1996 that his country was not ready yet to sign the protocol to the December 1995 SEANWFZ. He argued that no other nuclear-weapons state has thus far signed it, with the United States the most outspoken in its criticisms. He said that his country harboured the same reservations - over the unequivocal nature of the security assurances to be offered and over the definitions of the territory, including exclusive economic zones, to be encompassed.¹⁷

The Russian Federation, wary of China's growing influence and power in the Southeast Asian region, and wanting to find ways and means to contain this, while hoping to stall developments and recover from its own marginalisation in the region, has asked for the exact coordinates the SEANWFZ treaty would cover, something the treaty signatories had great difficulties providing due primarily to the territorial conflicts in the South China Sea region.

Without the support of the nuclear-weapons states, the SEANWFZ treaty cannot be rendered effective even though it represents an important moral and political commitment of the region to nuclear non-proliferation. This means that the long journey of SEANWFZ is yet to be completed and the full implementation of the treaty is still not possible. What has been achieved thus far is only half the journey, with the regional states agreeing to the treaty while the 'real target' of the treaty, the nuclear-weapons states, are yet to endorse it. The two main issues involving SEANWFZ, according to ambassador Agus Tarmidzi, are: the area to be covered by the treaty is considered by the nuclear-weapons states to be far too over-arching;

¹⁵ See the *Straits Times*, 8 December 1995.

¹⁶ Cited in Cossa, 'Promoting Nuclear Disarmament'.

¹⁷ Cited in *Disarmament Diplomacy*, No.4, April 1996, p.50.

and the legal interpretations of the contents of Article 2 of the protocol are considered to jeopardise the right of the nuclear-weapons states to use nuclear weapons.¹⁸

Article 2 (i) of the treaty reads 'This Treaty and its Protocol shall apply to the territories, continental shelves, and EEZ of the States Parties within the Zone in which the Treaty is in force'. By those not comfortable with this area of coverage, it has been argued that the treaty tries to do too much too soon. Also, in the light of the on-going bilateral and multilateral territorial disputes in the region, this article is said to be impractical. It is also seen as inadvisable as SEAWFZ is essentially a 'security treaty' and, it has been argued, should not be confused or linked up with political-economic-legal issues in the region; the inclusion of the continental shelves and EEZs has weakened the treaty by broadening its scope.

Similarly, Article 2 of the protocol reads as follows: 'Each State Party undertakes not to use or threaten to use nuclear weapons against any State Party to the Treaty. It further undertakes not to use or threaten to use nuclear weapons within the Southeast Asia Nuclear-Weapon-Free Zone'. The NWS have taken offence at this article, in particular the second sentence. This ties the hands of the NWS and, compared to the other NWFZ treaties, the inclusion of this particular clause is unprecedented. The Americans, the leading maritime power in the region, are also worried what the SEANWFZ treaty and its accompanying protocol would mean for its freedom of navigation and whether it would have any bearing for ships, nuclear and non-nuclear, transiting through the region. Some of the NWS have also enquired as to how a signatory to the protocol could withdraw from its obligations, something that was not mentioned in the protocol.

In the light of these questions and concerns, ASEAN leaders have been debating among themselves on how to break through the 'logjam'. There appear to be two main options. The first is to amend Article 2 of the protocol and totally drop the second sentence. This would remove the negative security assurance clause and would, to a large extent, please the NWS, especially the United States. However, not all states are for an amendment of the protocol, as this would, it is argued, amount to a loss of face. Instead, they have proposed a second alternative. The second option is to make a policy statement to allay all

¹⁸ *Jakarta Post*, 1 October 1996.

the fears and concerns of the NWS, be these about the negative security assurances, the outer limits of the zone, transit rights, or other matters. Both options are being looked into and this is being undertaken in consultation with the NWS - especially the United States, the most ardent opponent of the protocol. Even though to date there has not been any breakthrough, one is likely sooner rather than later.

A major cause for optimism has been the growing pressure within ASEAN to have the treaty lodged in the United Nations. This would give the treaty international recognition and legitimacy. However, until the NWS give their assent, the treaty will not be able to achieve the international recognition the ASEAN leaders are searching for. It is due to this pressure that the ASEAN Working Group on ZOPFAN and SEANWFZ has been busy trying to find an acceptable win-win solution, something which has defied them so far.

An equally important factor, which may give some hope, is the growing realisation that the 'China factor' is increasingly unifying the ASEAN countries and the NWS from outside the region. Among all the NWS, China commands a unique position in the Southeast Asian region as it shares land and maritime borders with a number of countries in the region. Thus, China would be able to utilise various arguments to justify the use of its nuclear weapons in the region, which the other NWS would not be able to use. Among the most prominent would be use in defence of its sovereignty in the region. Thus, even though all the NWS may agree not to use nuclear weapons in the region, China can also invoke the defence of its sovereignty in the region, say in the South China Sea area, to undertake a course of action that the other NWS would be forbidden from undertaking. It is this realisation, among others, which is also leading to a growing convergence of security interests among the ASEAN countries and the other NWS that has narrowed the differences on SEANWFZ somewhat, even though the final results are yet to be obtained.

In general, however, the nuclear-weapons states are supporters of nuclear-weapon-free zones, as is evident from their endorsement of the Rarotonga and Pelindaba treaties. At the same time, the nuclear-weapons states' opposition to SEANWFZ appears to be more technical-legal rather than political-strategic and, to that extent, there is hope that the differences between the SEANWFZ states and the

nuclear-weapons states can be narrowed and accommodated and that, once the gulf is narrowed, the treaty will be endorsed by these states, especially the United States and China, and only then will the southern hemisphere be completely a nuclear-weapon-free zone. Here, one particular concern of the United States with regard to SEANWFZ is how the strategic chokepoints controlled by Indonesia, now defined as archipelagic sealanes, will be affected by SEANWFZ. Indonesia has only allowed a limited number of north-south sealanes (three thus far), even though the United States and Australia have been pressing for additional north-south and east-west sealanes to be opened up to international traffic.

RECENT DEVELOPMENTS RELATING TO THE SEANWFZ TREATY AND PROTOCOL

By the time the 2000 NPT Review Conference was held in New York, from 14 April to 19 May 2000, the NWS had still not acceded to the SEANWFZ protocol, highlighting the difficulties that have continued to confront Southeast Asia's attempt to denuclearise the region. Despite this, 1999 was a significant year as it saw a number of new and important developments that would indicate that progress has been made as far as denuclearisation of the region is concerned. There were four critical developments in this direction.

First, was the general sense that the gap between the NWS and ASEAN has been narrowed, as far as the obstacles to signing the protocol were concerned. This was most clearly made public on 18 October 1999, when the secretary-general of the Malaysian foreign ministry, Abdul Kadir Mohamed, told reporters that ASEAN Senior Officials had agreed on proposals for revising the protocol of the SEANWFZ treaty and a new revised draft was to be prepared. The key reason for the growing confidence of ASEAN on this issue was the fact that Britain had played a key role in drafting the 'new' amendments to the protocol.¹ According to Abdul Kadir Mohamed:

We will consult them [the nuclear-weapons states] immediately because we want to get the answer as soon as possible ... we will say, 'since you have a problem with the protocol, how about tackling it this way or that way'. The formula is flexible and we have taken a decision to consult ... We have different forms of wording ... to take care of the legality problems ... May be our proposal will be modified ... we don't want to pre-empt that but we are serious about it.²

¹ Author's interview with a senior ASEAN diplomat in Jakarta, Indonesia in August 2000.

² Cited in 'ASEAN To Consult Big Powers Over Nuclear Ban', *Agence France Presse-International News*, 18 October 1999.

This highlighted ASEAN's preparedness to come to terms with the NWS as soon as possible so that the real business of denuclearising the region could proceed, a move in part made expeditious by the growing nuclear threat from South Asia.

Second, in view of the key concern of the United States with regard to negative security assurances in the SEANWFZ treaty, there has been a growing view internationally that some sort of an interim regime should be in place in order to assuage the fears of the non-nuclear states; otherwise, the non-proliferation pressure is likely to fail and more countries may be persuaded to cross the nuclear Rubicon. Laxanachantorn Laohaphan, the Thai delegate to the 2000 NPT Review Conference, has best highlighted this:

We ... fully subscribe to the proposal for an international legally-binding negative security assurance regime which is honoured by all NWS and covers all NNWS as an interim measure. In the light of the fact that the credibility and/or viability of the NPT regime is at the critical juncture, Thailand is convinced that the conclusion of such a security assurance arrangement is of vital importance as a confidence building measure for the NNWS.³

This development would place intense pressure on the United States, and in view of Washington's failure to ratify the Comprehensive Test Ban Treaty (CTBT), ASEAN's hand has been somewhat strengthened, with the Southeast Asian region appearing to be a stronger proponent of denuclearisation when compared to the United States.

Third, and probably the most important, as far as ASEAN's efforts to persuade the NWS to accede to the SEANWFZ protocol is concerned, was China's notification of intent, on 27 July 1999, during the 32nd ASEAN Foreign Ministers Meeting, to become the first nuclear power to do so. China's foreign minister, Tang Jiaxuan, indicated this during ASEAN-China dialogue and it was made public by the Malaysian foreign minister, Syed Hamid Albar. While Beijing indicated that it still had reservations on the manner ASEAN had defined the continental shelves and exclusive economic zones in the region, it would, nevertheless, go ahead with signing the SEANWFZ protocol and was also studying the possibility of acceding to ASEAN's

³ See <<http://www.acronym.org.uk/10nwfz.htm>> (October 1999).

Treaty of Amity and Cooperation (TAC).⁴ The 'China breakthrough' was made possible largely due to ASEAN's ability to reduce China's fears as far as what the treaty and protocol would mean for its territorial claims in the South China Sea region. While the United States was troubled by the negative security assurance clause in the protocol, China was more concerned with the implications of SEANWFZ for its territorial boundaries. The ASEAN Senior Officials notified Beijing that the SEANWFZ protocol would be modified somewhat, with a statement along the following lines added: 'nothing in the Treaty or Protocol would affect existing territorial boundaries', with China agreeable with the assurance. What this means in reality is that China will have upstaged the other nuclear powers in acceding to the protocol (once this is done) and the Western powers' efforts to highlight the 'China threat' in the region will be somewhat countered, particularly as Beijing's move could have a 'roller-coaster effect', with other NWS, especially Russia, also coming on board as far as SEANWFZ is concerned. Yet, whether China will be allowed to sign the SEANWFZ protocol unilaterally remains to be seen, especially in the light of the fact that further modifications to the treaty and protocol are likely in view of the objections raised by the other NWS, in particular the United States.

Fourth and finally, indicating the growing confidence of the ASEAN countries as far as their denuclearisation policies are concerned, was the decision to establish two new mechanisms to promote and actualise SEANWFZ regionally and internationally. On 24 July 1999, during the 32nd ASEAN Foreign Ministers Meeting in Singapore, it was announced that a SEANWFZ Commission had been established. This was to be the first step in translating the SEANWFZ into reality, representing the first concrete move towards implementing the treaty. The SEANWFZ Commission, being a ministerial-level body, would be made up of ASEAN ministers and would be responsible for policy directions on the matter. The SEANWFZ Commission was expected to interact with officials of the NWS with regard to nuclear policies. This was also in line with the Hanoi Plan of Action that was adopted by the ASEAN Heads of State and Government in Vietnam on 15 December 1998. Among other points, under the section on strengthening regional peace and security,

⁴See 'China to sign S.E. Asian nuclear treaty', *Nation* (Bangkok), 28 July 1999.

it agreed 'to convene the Commission for SEANWFZ Treaty to oversee the implementation of the Treaty and ensure compliance with its provisions'.⁵ In turn, the SEANWFZ Commission set up the SEANWFZ Executive Committee, which held its inaugural meeting in Bangkok on 12 October 1999. A second meeting was held following the second SEANWFZ Commission meeting during the July 2000 Annual Ministerial Meeting of ASEAN. The SEANWFZ Executive Committee was to be made up of senior ASEAN officials or their representatives, and they were directed to prepare draft rules of procedures and to initiate all necessary action to ensure compliance with the treaty (including consultations with the nuclear-weapons states); to interact with the IAEA and other multilateral bodies, with regard to nuclear security issues; and, most important of all, to ensure the denuclearisation of Southeast Asia.⁶ In line with the SEANWFZ treaty, it was also expected to undertake various actions, especially in case of complaints, as were provided for in the annex to the treaty (see Appendix 1).

The main reason for the establishment of the SEANWFZ Commission and Executive Committee was the fact that the SEANWFZ treaty and protocol had already come into force following Vietnam's ratification of the instruments and, by September 2000, nine of the ten ASEAN members (excepting the Philippines) had ratified it. Hence, in essence, the two bodies were established to oversee the operationalisation of SEANWFZ. In the two meetings that the two bodies had held up to July 2000, three main issues were discussed. First, was for the need to implement the various provisions of the treaty and protocol in accordance with the NPT as well as the various standards and guidelines put out by the IAEA. Second, was to discuss the status of consultations with the NWS, especially with regard to their accession to the protocol. Third, and finally, was to discuss the rules of procedures that were being drafted. Here, there were two main difficulties thus far. The first was the need to agree on a decision-making principle. There was no agreement on whether decisions

⁵ See *ASEAN Into the Next Millennium: ASEAN Vision 2020/Hanoi Plan of Action* (ASEAN Secretariat, Jakarta, 1999), p. 37.

⁶ See 'Nuke-free zone panel for Southeast Asia', *Hindu*, 22 July 1999; and 'SEANWFZ Executive Committee Holds Inaugural Meeting', at <<http://www.aseansec.org/news/prseanwfz.htm>> (October 1999).

should be based on two-thirds majority or consensus. The second was the level of participation. While some members believed that only ASEAN members should be on the Executive Committee, there were also some who believed that parties directly affected by SEANWFZ, especially the NWS as well as regional bodies such as the IAEA, should also become parties, in order to ensure the effective functioning of SEANWFZ. Those who opposed expanding the committee beyond ASEAN members argued that the various parties concerned could be approached on an ad hoc basis depending on the problem or complaint at hand.

All this would indicate that there is intense pressure developing within the region to finalise the SEANWFZ and it would appear that sooner rather than later the SEANWFZ ideal will be achieved. This would be the result of the initiatives from within the region itself as well as extraneous developments, including China's attempt to 'steal a march' from the other nuclear powers - especially the United States, which had suffered a credibility problem following its failure to ratify the CTBT. Yet, despite the fact that the SEANWFZ treaty and protocol are already in force, their effectiveness will depend upon how fast the NWS accede to them, something that is yet to be achieved. While negotiations have been conducted and the differences have been greatly narrowed, the actual, as compared to the declared, denuclearisation of the entire southern hemisphere remains to be achieved, depending essentially on the policies and interests of the NWS. While there are some, such as Malaysia, that have argued that regardless of accession by the NWS, the Southeast Asian countries have demonstrated their commitment to regional peace and security, to confidence- and trust-building activities as well as nuclear non-proliferation, thereby scoring points as far as political moral grounds are concerned, yet if the NWS do not endorse these measures, there will always be a danger that the global, regional and national objectives of these endeavours could be reversed, especially if new developments took place, threatening the security of countries in the region. While the Southeast Asian countries have decided to forego the nuclear option, as expressed through SEANWFZ, it is also imperative that the NWS, as quickly as possible, support and endorse these measures, thereby locking these countries into a new network of nuclear non-proliferation measures, to ensure that a 'roll-back' does

not take place, especially against the backdrop of worsening domestic situations in various countries as well as the intensification of the nuclear arms race in the neighbourhood of Southeast Asia, in particular in Northeast and South Asia.

CONCLUSION

ASEAN, SEANWFZ and the Future of the NPT Regime

For the ASEAN countries, the nuclear issue is not an academic one. During the Cold War, security in the region was maintained mainly by the United States as well as by the semblance of stability created by the bipolar Cold War rivalry. Countries in the region could rely on the alliance system and the West. This security comfort disappeared with the end of the Cold War. Even Japan, which continues to maintain its alliance relationship with the United States, is not fully convinced that its security can be guaranteed by the alliance structure of the post-Cold War era. The zero-sum game of the Cold War has been replaced by a variable-sum game of the post-Cold War era and, hence, the need to be more prudent and rely more on national efforts, including the possibility of adopting a nuclear option if forced to by circumstances, as was demonstrated by India and Pakistan. While this appears provocatively dangerous, it cannot be denied that as long as the NPT is not effective and countries believe that their security is being threatened by one or more NWS, or are concerned by threats arising from the nuclear capabilities and intentions of neighbouring states or from their overwhelming superiority in conventional weapons, the resort to the nuclear option cannot be dismissed.

The end of the Cold War has led to the rise of pessimism and isolationism in the West, especially to the United States being less keen on external engagements unless its vital interests are directly threatened. This has forced most Asian countries to become more autarkic as far as security matters are concerned. At least, the confidence which was assured and guaranteed by the Cold War alliance system is no longer in existence. It is in view of this situation that the North Korean issue has been of great concern. If North Korea cannot be persuaded to renounce its nuclear weapons programme, Japan could be forced to rethink its non-nuclear-weapons policy. This in turn could unsettle its neighbours, especially Russia, China and the

ASEAN countries. It could lead to a chain reaction, to the detriment of security in the Asia-Pacific region.

The ASEAN countries' concern with the nuclear weapons programmes of both India and Pakistan also stems from similar security implications. Geographically closer to Southeast Asia, the expansion of the nuclear capabilities of countries in South Asia, especially India, which has also developed short-, medium- and long-range ballistic missile delivery systems, could influence countries in Southeast Asia to rethink their non-nuclear-weapons programmes. The relentless drive of India and Pakistan to become the next major nuclear powers in Asia, showing no intention of renouncing their weapons option, will have serious security implications in the region, especially as far as Indonesia is concerned.

Hence the growing relevance of nuclear issues in the Southeast Asian region, where developments in the adjacent regions could have dire consequences for security. The Southeast Asian countries are no longer, as in the Cold War era, comparatively passive and disinterested bystanders and parties as far as nuclear proliferation is concerned.

While Southeast Asian countries, especially Indonesia, the Philippines and in future Thailand, are expected to develop their nuclear energy programmes, due to their NPT commitments and various agreements with the IAEA, the programmes of these countries would be subjected to IAEA full-scope safeguards. So if any of them wanted to 'go nuclear' in terms of weaponry, they would have to withdraw from the NPT, which would signal their intentions and thus give advance notice to others. The presence in these countries of environmentalist groups will also help to ensure that clandestine activity like North Korea engaged in would be found out or 'leaked'.

It is obvious that the stakes in the NPT are very great and, for the safety and wellbeing of the human race and countries in the region, its indefinite extension is a welcome relief. However, for its effectiveness to be enhanced, it must also address the various issues that have so far made the treaty less than perfect. While the Third World states have always raised issues about the implementation of various articles of the NPT, Article VI is particularly important with all parties, nuclear and non-nuclear committing themselves to faithful negotiations towards nuclear and complete and comprehensive disarmament. Past

review conferences of the NPT have been wrecked by the lack of implementation of this article. Most Third World states view Article VI as a primary concession by the NWS to compensate the Third World for being denied possession of the most powerful weapons the world has known. The failure to realise the promise has opened the question for many countries, especially those with nuclear facilities for energy programmes, as to whether the bargain is worth keeping. For many of the large Third World states, such as India, Argentina and even Pakistan, the substance of Article VI is often viewed as being identical to a ban on nuclear weapons tests.

It must, however, be said that the superpowers, both the United States and the then Soviet Union under Mikhail Gorbachev and, since then, the successor-state of Russia, have made much headway in this direction. Both the leading nuclear-weapons states have made much progress in measures to create confidence, improve crisis stability and prevent nuclear escalation. This can be seen in the 1972 US-Soviet Incidents at Sea Agreement; the Stockholm Document, which created in advance a calendar of major military exercises as well as providing for observation and ad hoc inspection; measures to remove the potential causes of armed conflicts, especially the various regional conflicts in the Third World; measures to reduce their respective nuclear arsenals, as seen in the 1987 INF Treaty and the CFE formula reached in Paris; measures to move towards complete and comprehensive disarmament - the INF and CFE can be seen as partial measures towards this end; and, finally, measures to stop nuclear testing, as seen in the 1974 Threshold Test Ban Treaty and the 1976 Peaceful Nuclear Explosions Treaty. The SALT and START processes were also important means to realise Article VI. While, on the whole, much progress have been made, with many nuclear weapons taken off alert status and many not being deployed in the high seas as they were during the Cold War, the issue of nuclear disarmament remains a pertinent one as there does not appear to be a move in this direction. The Test Ban Treaty is the closest countries have come, but nuclear disarmament appears, for the time being, a distant goal.

It is in view of this state of affairs that some Third World countries have claimed that, for the NPT's indefinite extension to be effective, the NWS must fulfill their part of the bargain more strongly. There may be a need to rebuild the non-proliferation regime to make it

more effective and fair. Otherwise, even though the NPT is the most widely adhered-to arms control agreement in the world, there could be demands for a more effective NPT to be established, or for a parallel NPT system (possibly on a regional level) to be established, so that the problem of nuclear proliferation can be more effectively managed.

APPENDIX 1

TREATY ON THE SOUTHEAST ASIA NUCLEAR-WEAPON-FREE ZONE

The States Parties to this Treaty:

DESIRING to contribute to the realization of the purposes and principles of the Charter of the United Nations;

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;

REAFFIRMING the desire of the Southeast Asian States to maintain peace and stability in the region in the spirit of peaceful coexistence and mutual understanding and cooperation as enunciated in various communiqués, declarations and other legal instruments;

RECALLING the Declaration on the Zone of Peace, Freedom and Neutrality (ZOPFAN) signed in Kuala Lumpur on 27 November 1971 and the Programme of Action on ZOPFAN adopted at the 26th ASEAN Ministerial Meeting in Singapore in July 1993;

CONVINCED that the establishment of a Southeast Asia Nuclear-Weapon-Free Zone, as an essential component of the ZOPFAN, will contribute towards strengthening the security of States within the Zone and towards enhancing international peace and security as a whole;

REAFFIRMING the importance of the Treaty on the Non-Proliferation of Nuclear Weapons (NPT) in preventing the proliferation of nuclear weapons and in contributing towards international peace and security;

RECALLING Article VII of the NPT which recognizes the right of any group of States to conclude regional treaties in order to assure the total absence of nuclear weapons in their respective territories;

RECALLING the Final Document of the Tenth Special Session of the United Nations General Assembly which encourages the establishment of nuclear-weapon-free zones;

RECALLING the Principles and Objectives for Nuclear Non-Proliferation and Disarmament, adopted at the 1995 Review and Extension Conference of the Parties to the NPT, that the cooperation of all the nuclear-weapon States and their respect and support for the relevant protocols is important for the maximum effectiveness of this nuclear-weapon-free zone treaty and its relevant protocols;

DETERMINED to protect the region from environmental pollution and the hazards posed by radioactive wastes and other radioactive material;

HAVE AGREED as follows:

Article 1

USE OF TERMS

For the purposes of this Treaty and its Protocol:

(a) "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);

(b) "territory" means the land territory, internal waters, territorial sea, archipelagic waters, the seabed and the sub-soil thereof and the airspace above them;

(c) "nuclear weapon" means any explosive device capable of releasing nuclear energy in an uncontrolled manner but does not include the means of transport or delivery of such device if separable from and not an indivisible part thereof;

(d) "station" means to deploy, emplace, implant, install, stockpile or store;

(e) "radioactive material" means material that contains radionuclides above clearance or Exemption levels recommended by the International Atomic Energy Agency (IAEA);

(f) "radioactive wastes" means material that contains or is contaminated with radionuclides at concentrations or activities greater than clearance levels recommended by the IAEA and for which no use is foreseen; and

(g) "dumping" means

(i) any deliberate disposal at sea, including seabed and subsoil insertion, of radioactive wastes or other matter from vessels, aircraft, platforms or other man-made structures at sea, and

(ii) any deliberate disposal at sea, including seabed and subsoil insertion, of vessels, aircraft, platforms or other man-made structures at sea, containing radioactive material, but does not include the disposal of wastes or other matter incidental to, or derived from the normal operations of vessels, aircraft, platforms or other man-made structures at sea and their equipment, other than wastes or other matter transported by or to vessels, aircraft, platforms or other man-made structures at sea, operating for the purpose of disposal of such matter or derived from the treatment of such wastes or other matter on such vessels, aircraft, platforms or structures.

Article 2

APPLICATION OF THE TREATY

1. This Treaty and its Protocol shall apply to the territories, continental shelves, and EEZ of the States Parties within the Zone in which the Treaty is in force.

2. 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.

Article 3

BASIC UNDERTAKINGS

1. Each State Party undertakes not to, anywhere inside or outside the Zone:
 - (a) develop, manufacture or otherwise acquire, possess or have control over nuclear weapons;
 - (b) station or transport nuclear weapons by any means; or
 - (c) test or use nuclear weapons.
2. Each State Party also undertakes not to allow, in its territory, any other State to:
 - (a) develop, manufacture or otherwise acquire, possess or have control over nuclear weapons;
 - (b) station nuclear weapons; or
 - (c) test or use nuclear weapons.
3. Each State Party also undertake not to:
 - (a) dump at sea or discharge into the atmosphere anywhere within the Zone any radioactive material or wastes;
 - (b) dispose radioactive material or wastes on land in the territory of or under the jurisdiction of other States except as stipulated in Paragraph 2 (e) of Article 4; or
 - (c) allow, within its territory, any other State to dump at sea or discharge into the atmosphere any radioactive material or wastes.
4. Each State Party undertakes not to:
 - (a) seek or receive any assistance in the Commission of any act in violation of the provisions of Paragraphs 1, 2 and 3 of this Article; or
 - (b) take any action to assist or encourage the Commission of any act in violation of the provisions of Paragraphs 1, 2 and 3 of this Article.

Article 4

USE OF NUCLEAR ENERGY FOR PEACEFUL PURPOSES

1. Nothing in this Treaty shall prejudice the right of the States Parties to use nuclear energy, in particular for their economic development and social progress.

2. Each State Party therefore undertakes:

- (a) to use exclusively for peaceful purposes nuclear material and facilities which are within its territory and areas under its jurisdiction and control;
- (b) prior to embarking on its peaceful nuclear energy programme, to subject its programme to rigorous nuclear safety assessment conforming to guidelines and standards recommended by the IAEA for the protection of health and minimization of danger to life and property in accordance with Paragraph 6 of Article III of the Statute of the IAEA;
- (c) upon request, to make available to another State Party the assessment except information relating to personal data, information protected by intellectual property rights or by industrial or commercial confidentiality, and information relating to national security;
- (d) to support the continued effectiveness of the international non-proliferation system based on the Treaty on the Non-Proliferation of Nuclear Weapons (NPT) and the IAEA safeguard system; and
- (e) to dispose radioactive wastes and other radioactive material in accordance with IAEA standards and procedures on land within its territory or on land within the territory of another State which has consented to such disposal.

3. Each State Party further undertakes not to provide source or special fissionable material, or equipment or material especially designed or prepared for the processing, use or production of special fissionable material to:

- (a) any non-nuclear-weapon State except under conditions subject to the safeguards required by Paragraph 1 of Article III of the NPT; or
- (b) any nuclear-weapon State except in conformity with applicable safeguards agreements with the IAEA.

Article 5

IAEA SAFEGUARDS

Each State Party which has not done so shall conclude an agreement with the IAEA for the application of full scope safeguards to its peaceful nuclear activities not later than eighteen months after the entry into force for that State Party of the Treaty.

Article 6

EARLY NOTIFICATION OF A NUCLEAR ACCIDENT

Each State Party which has not acceded to the Convention on Early Notification of a Nuclear Accident shall endeavour to do so.

Article 7

FOREIGN SHIPS AND AIRCRAFT

Each State Party, on being notified, may 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 through its territorial sea or archipelagic waters and overflight of foreign aircraft above those waters in a manner not governed by the rights of innocent passage, archipelagic sea lanes passage or transit passage.

Article 8

ESTABLISHMENT OF THE COMMISSION FOR THE SOUTHEAST ASIA NUCLEAR-WEAPON-FREE ZONE

1. There is hereby established a Commission for the Southeast Asia Nuclear-Weapon-Free Zone, hereinafter referred to as the "Commission".

2. All States Parties are ipso facto members of the Commission. Each State Party shall be represented by its Foreign Minister or his representative accompanied by alternates and advisers.
3. The function of the Commission shall be to oversee the implementation of this Treaty and ensure compliance with its provisions.
4. The Commission shall meet as and when necessary in accordance with the provisions of this Treaty including upon the request of any State Party. As far as possible, the Commission shall meet in conjunction with the ASEAN Ministerial Meeting.
5. At the beginning of each meeting, the Commission shall elect its Chairman and such other officers as may be required. They shall hold office until a new Chairman and other officers are elected at the next meeting.
6. Unless otherwise provided for in this Treaty, two-thirds of the members of the Commission shall be present to constitute a quorum.
7. Each member of the Commission shall have one vote.
8. Except as provided for in this Treaty, decisions of the Commission shall be taken by consensus or, failing consensus, by a two-thirds majority of the members present and voting.
9. The Commission shall, by consensus, agree upon and adopt rules of procedure for itself as well as financial rules governing its funding and that of its subsidiary organs.

Article 9

THE EXECUTIVE COMMITTEE

1. There is hereby established, as a subsidiary organ of the Commission, the Executive Committee.
2. The Executive Committee shall be composed of all States Parties to this Treaty. Each State Party shall be represented by one senior official as its representative, who may be accompanied by alternates and advisers.
3. The functions of the Executive Committee shall be to:

- (a) ensure the proper operation of verification measures in accordance with the provisions on the control system as stipulated in Article 10;
- (b) consider and decide on requests for clarification and for a fact-finding mission;
- (c) set up a fact-finding mission in accordance with the Annex of this Treaty;
- (d) consider and decide on the findings of a fact-finding mission and report to the Commission;
- (e) request the Commission to convene a meeting when appropriate and necessary;
- (f) conclude such agreements with the IAEA or other international organizations as referred to in Article 18 on behalf of the Commission after being duly authorized to do so by the Commission; and
- (g) carry out such other tasks as may, from time to time, be assigned by the Commission.

4. The Executive Committee shall meet as and when necessary for the efficient exercise of its functions. As far as possible, the Executive Committee shall meet in conjunction with the ASEAN Senior Officials Meeting.

5. The Chairman of the Executive Committee shall be the representative of the Chairman of the Commission. Any submission or communication made by a State Party to the Chairman of the Executive Committee shall be disseminated to the other members of the Executive Committee.

6. Two-thirds of the members of the Executive Committee shall be present to constitute a quorum.

7. Each member of the Executive Committee shall have one vote.

8. Decisions of the Executive Committee shall be taken by consensus or, failing consensus, by a two-thirds majority of the members present and voting.

Article 10

CONTROL SYSTEM

1. There is hereby established a control system for the purpose of verifying compliance with the obligations of the States Parties under this Treaty.
2. The Control System shall comprise:
 - (a) the IAEA safeguards system as provided for in Article 5;
 - (b) report and exchange of information as provided for in Article 11;
 - (c) request for clarification as provided for in Article 12; and
 - (d) request and procedures for a fact-finding mission as provided for in Article 13.

Article 11

REPORT AND EXCHANGE OF INFORMATION

1. Each State Party shall submit reports to the Executive Committee on any significant event within its territory and areas under its jurisdiction and control affecting the implementation of this Treaty.
2. The States Parties may exchange information on matters arising under or in relation to this Treaty.

Article 12

REQUEST FOR CLARIFICATION

1. Each State Party shall have the right to request another State Party for clarification concerning any situation which may be considered ambiguous or which may give rise to doubts about the compliance of that State Party with this Treaty. It shall inform the Executive Committee of such a request. The requested State Party shall duly respond by providing without delay the necessary information and inform the Executive Committee of its reply to the requesting State Party.
2. Each State Party shall have the right to request the Executive Committee to seek clarification for another State Party concerning any

situation which may be considered ambiguous or which may give rise to doubts about compliance of that State Party with this Treaty. Upon receipt of such a request, the Executive Committee shall consult the State Party from which clarification is sought for the purpose of obtaining the clarification requested.

Article 13

REQUEST FOR A FACT-FINDING MISSION

A State Party shall have the right to request the Executive Committee to send a fact-finding mission to another State Party in order to clarify and resolve a situation which may be considered ambiguous or which may give rise to doubts about compliance with the provisions of this Treaty, in accordance with the procedure contained in the Annex to this Treaty.

Article 14

REMEDIAL MEASURES

1. In case the Executive Committee decide in accordance with the Annex that there is a breach of this Treaty by a State Party, that State Party shall, within a reasonable time, take all steps necessary to bring itself in full compliance with this Treaty and shall promptly inform the Executive Committee of the action taken or proposed to be taken by it.
2. Where a State Party fails or refuses to comply with the provisions of Paragraph 1 of this Article, the Executive Committee shall request the Commission to convene a meeting in accordance with the provisions of Paragraph 3(e) of Article 9.
3. At the meeting convened pursuant to Paragraph 2 of this Article, the Commission shall consider the emergent situation and shall decide on any measure it deems appropriate to cope with the situation, including the submission of the matter to the IAEA and, where the situation might endanger international peace and security, the Security Council and the General Assembly of the United Nations.
4. In the event of breach of the Protocol attached to this Treaty by a State Party to the Protocol, the Executive Committee shall convene a special meeting of the Commission to decide on appropriate measures to be taken.

Article 15

SIGNATURE, RATIFICATION, ACCESSION, DEPOSIT AND REGISTRATION

1. This Treaty shall be open for signature by all States in Southeast Asia, namely, Brunei Darussalam, Cambodia, Indonesia, Laos, Malaysia, Myanmar, Philippines, Singapore, Thailand and Vietnam.
2. This Treaty shall be subject to ratification in accordance with the constitutional procedure of the signatory states. The instruments of ratification shall be deposited with the Government of the Kingdom of Thailand which is hereby designated as the Depositary State.
3. This Treaty shall be open for accession. The instruments of accession shall be deposited with the Depositary State.
4. The Depositary State shall inform the other States Parties to this Treaty on the deposit of instruments of ratification or accession.
5. The Depositary State shall register this Treaty and its Protocol pursuant to Article 102 of the Charter of the United Nations.

Article 16

ENTRY INTO FORCE

1. This Treaty shall enter into force on the date of the deposit of the seventh instrument of ratification and/or accession.
2. For States which ratify or accede to this Treaty after the date of the seventh instrument of ratification or accession, the Treaty shall enter into force on the date of deposit of its instrument of ratification or accession.

Article 17

RESERVATIONS

This Treaty shall not be subject to reservations.

Article 18

RELATIONS WITH OTHER INTERNATIONAL ORGANIZATIONS

The Commission may conclude such agreements with the IAEA or other international organizations as it considers likely to facilitate the efficient operation of the control system established by this Treaty.

Article 19

AMENDMENTS

1. Any State Party may propose amendments to this Treaty and its Protocol and shall submit its proposals to the Executive Committee, which shall transmit them to all the other States Parties. The Executive Committee shall immediately request the Commission to convene a meeting to examine the proposed amendments. The quorum required for such a meeting shall be all the members of the Commission. Any amendment shall be adopted by a consensus decision of the Commission.

2. Amendments adopted shall enter into force 30 days after the receipt by the Depository State of the seventh instrument of acceptance from the States Parties.

Article 20

REVIEW

Ten years after this Treaty enters into force, a meeting of the Commission shall be convened for the purpose of reviewing the operation of the Treaty. A meeting of the Commission for the same purpose may also be convened at anytime thereafter if there is consensus among all its members.

Article 21

SETTLEMENT OF DISPUTES

Any dispute arising from the interpretation of the provisions of this Treaty shall be settled by peaceful means as may be agreed upon by the States Parties to the dispute. If within one month, the parties to the dispute are unable to achieve a peaceful settlement of the dispute by negotiation, mediation, enquiry or conciliation, any of the parties concerned shall, with the prior consent of the other parties concerned, refer the dispute to arbitration or to the International Court of Justice.

Article 22

DURATION AND WITHDRAWAL

1. This Treaty shall remain in force indefinitely.
2. In the event of a breach by any State Party of this Treaty essential to the achievement of the objectives of the Treaty, every other State Party shall have the right to withdraw from the Treaty.
3. Withdrawal under Paragraph 2 of Article 22, shall be effected by giving notice twelve months in advance to the members of the Commission.

IN WITNESS WHEREOF, the undersigned have signed this Treaty.

DONE at Bangkok, this fifteenth day of December, one thousand nine hundred and ninety-five, in one original in the English language.

FOR BRUNEI DARUSSALAM
HAJI HASSANAL BOLKIAH
Sultan of Brunei Darussalam

FOR THE REPUBLIC OF INDONESIA
SOEHARTO
President

FOR THE KINGDOM OF CAMBODIA
Samdech Krom Preah NORODOM RANARIDH
First Prime Minister

Samdech HUN SEN
Second Prime Minister

**FOR THE LAO PEOPLE'S DEMOCRATIC
REPUBLIC**
KHAMTAY SIPHANDONE
Prime Minister

FOR MALAYSIA
DR MAHATHIR MOHAMAD
Prime Minister

FOR THE UNION OF MYANMAR
SENIOR GENERAL THAN SHWE
Chairman of the State Law and
Order Restoration Council and
Prime Minister

**FOR THE REPUBLIC OF THE
PHILIPPINES**
FIDEL V. RAMOS
President

FOR THE REPUBLIC OF SINGAPORE
GOH CHOK TONG
Prime Minister

**FOR THE KINGDOM OF
THAILAND**
BANHARN SILPA-ARCHA
Prime Minister

FOR THE SOCIALIST REPUBLIC OF VIETNAM
VO VAN KIET
Prime Minister

ANNEX TO THE SEANWFZ TREATY

PROCEDURE FOR A FACT-FINDING MISSION

1. The State Party requesting a fact-finding mission as provided in Article 13, hereinafter referred to as the "requesting State", shall submit the request to the Executive Committee specifying the following:

- (a) the doubts or concerns and the reasons for such doubts or concerns;
- (b) the location in which the situation which gives rise to doubts has allegedly occurred;
- (c) the relevant provisions of this Treaty about which doubts of compliance have arisen; and
- (d) any other relevant information.

2. Upon receipt of a request for a fact-finding mission, the Executive Committee shall:

- (a) immediately inform the State Party to which the fact-finding mission is requested to be sent, hereafter referred to as the "receiving State", about the receipt of the request; and
- (b) not later than 3 weeks after receiving the request, decide if the request complies with the provisions of Paragraph 1 and whether or not it is frivolous, abusive or clearly beyond the scope of the Treaty. Neither the requesting nor receiving State Party shall participate in such decisions.

3. In case the Executive Committee decides that the request does not comply with the provisions of Paragraph 1, or that it is frivolous, abusive or clearly beyond the scope of this Treaty, it shall take no further action on the request and inform the requesting State and the receiving State accordingly.

4. In the event that the Executive Committee decides that the request complies with the provisions of Paragraph 1, and that it is not frivolous, abusive or clearly beyond the scope of this Treaty, it shall immediately forward the request for a fact-finding mission to the receiving State, indicating, inter alia, the proposed date for sending the mission. The proposed date shall not be later than 3 weeks from the

time the receiving State receives the request for a fact-finding mission. The Executive Committee shall also immediately set up a fact-finding mission consisting of 3 inspectors from the IAEA who are neither nationals of the requesting nor receiving State.

5. The receiving State shall comply with the request for a fact-finding mission referred to in Paragraph 4. It shall cooperate with the Executive Committee in order to facilitate the effective functioning of the fact-finding mission, inter alia, by promptly providing unimpeded access of the fact-finding mission to the location in question. The receiving State shall accord to the members of the fact-finding mission such privileges and immunities as are necessary for them to exercise their functions effectively, including inviolability of all papers and documents and immunity from arrest, detention and legal process for acts done and words spoken for the purpose of the mission.

6. The receiving State shall have the right to take measures to protect sensitive installations and to prevent disclosures of confidential information and data not related to this Treaty.

7. The fact-finding mission, in the discharge of its functions, shall :

- (a) respect the laws and regulations of the receiving State;
- (b) refrain from activities inconsistent with the objectives and purposes of this Treaty;
- (c) submit preliminary or interim reports to the Executive Committee; and
- (d) complete its tasks without undue delay and shall submit its final report to the Executive Committee within a reasonable time upon completion of its work.

8. The Executive Committee shall :

- (a) consider the reports submitted by the fact-finding mission and reach a decision on whether or not there is a breach of this Treaty;
- (b) immediately communicate its decision to the requesting State and the receiving State; and
- (c) present a full report on its decision to the Commission.

9. In the event that the receiving State refuses to comply with the request for a fact-finding mission in accordance with Paragraph 4, the requesting State through the Executive Committee shall have the right to request for a meeting of the Commission. The Executive Committee shall immediately request the Commission to convene a meeting in accordance with Paragraph 3(e) of Article 9.

APPENDIX 2

PROTOCOL TO THE TREATY ON THE SOUTHEAST ASIA NUCLEAR-WEAPON-FREE ZONE

The States Parties to this Protocol,

DESIRING to contribute to efforts towards achieving general and complete disarmament of nuclear weapons, and thereby ensuring international peace and security, including in Southeast Asia;

NOTING the Treaty on the Southeast Asia Nuclear-Weapon-Free Zone;

HAVE AGREED as follows:

Article 1

Each State Party undertake to respect the Treaty on the Southeast Asia Nuclear-Weapon-Free Zone, hereinafter referred to as the "Treaty", and not to contribute to any act which constitutes a violation of the Treaty or its Protocol by State Parties to them.

Article 2

Each State Party undertakes not to use or threaten to use nuclear weapons against any State Party to the Treaty. It further undertakes not to use or threaten to use nuclear weapons within the Southeast Asia Nuclear-Weapon-Free Zone.

Article 3

This Protocol shall be open for signature by the People's Republic of China, France, the Russian Federation, the United Kingdom of Great Britain and Northern Ireland and the United States of America.

Article 4

Each State Party undertakes, by written notification to the Depository State, to indicate its acceptance or otherwise of any alteration to its

obligation under the Protocol that may be brought about by the entry into force of an amendment to the Treaty pursuant to Article 19 thereof.

Article 5

This Protocol is of a permanent nature and shall remain in force indefinitely, provided that each State Party shall, in exercising its national sovereignty, have the right to withdraw from this Protocol if it decides that extraordinary events, related to the subject matter of this Protocol, have jeopardized its supreme national interests. It shall give notice of such withdrawal to the Depositary State twelve months in advance. Such notice shall include a statement of the extraordinary events it regards as having jeopardized its supreme national interests.

Article 6

This Protocol shall be subject to ratification.

Article 7

This Protocol shall enter into force for each State Party on the date of its deposit of its instrument of ratification with the Depositary State. The Depositary State shall inform the other States Parties to the Treaty and to this Protocol on the deposit of instruments of ratification.

IN WITNESS WHEREOF the undersigned, being duly authorized by their Governments, have signed this Protocol.

DONE at Bangkok this fifteenth day of December, one thousand nine hundred and ninety-five, in one original in the English language.

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ASEAN, the Southeast Asia Nuclear-Weapon-Free Zone and the Challenge of Denuclearisation in Southeast Asia

SINCE the Tlatelolco Treaty was signed in Mexico City in 1967, there has been much interest in the concept of a nuclear-weapon-free zone as a device to contain the spread of nuclear weapons as well as a confidence-building measure at a regional level. Following this, especially in association with the Nuclear Non-Proliferation Treaty that sanctioned regional denuclearisation, more and more areas in the Third World have been covered by such zones. Today, all the geographical areas of the southern hemisphere (Latin America, Africa, the South Pacific and Southeast Asia) have declared themselves to be non-nuclear geographical zones. Against this backdrop, this study examines the course, causes and consequences of the Southeast Asia Nuclear-Weapon-Free Zone (SEANWFZ), which – unlike all the other zones in the southern hemisphere – though in force, has not yet been endorsed by the nuclear-weapons states. In addition to analysing the essence and substance of the SEANWFZ treaty and protocol, the monograph examines the internal and external dynamics relating to the denuclearisation proposal and the prospects for its future. Notwithstanding various difficulties and obstacles, however, it is undisputed that the treaty and the accompanying protocol have greatly contributed to regional security and confidence building, especially in ensuring regional denuclearisation in Southeast Asia, as compared to Northeast or South Asia.