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Can ASEAN Sell Its Nuclear Free Zone to the Nuclear Club?

On November 13-14, Myanmar's President Thein Sein will host the East Asia Summit, the apex of his country's debut as chair of the Association of Southeast Asian Nations (ASEAN). Myanmar has inherited a daunting agenda, notably the need to move ASEAN toward completion of an economic community and to maintain dialogue with China on a Code of Conduct in the South China Sea, however slowly. At the beginning of the year, Myanmar had set as one goal for its chairmanship persuading the five permanent members (P-5) of the U.N. Security Council to sign the protocol to the Southeast Asia Nuclear Weapon Free Zone (SEANWFZ) Treaty, in which they would promise to uphold the treaty's principles. This has been a continuing but elusive goal for ASEAN since SEANWFZ went into force in 1997.

At this juncture, there is scant evidence that Myanmar will be able to meet its self-imposed goal this year – none of the P-5 has signed the protocol – but the prospects in the future are by no means dim.

The core of the SEANWFZ Treaty, also known as the Bangkok Treaty, is each member's agreement that it will not "develop, manufacture or otherwise acquire, possess or have control over nuclear weapons, station or transport nuclear weapons by any means; or test or use nuclear weapons." Dumping radioactive waste anywhere in the zone is also prohibited. Geographically, the Zone makes up the territories of the states and their continental shelves

and Exclusive Economic Zones (EEZ). It includes land territory, internal waters, territorial sea, archipelagic waters, seabeds, and the airspace above these features.

Signatories also pledge to maintain International Atomic Energy Agency (IAEA) safeguards over their nuclear facilities, an increasingly important provision as Southeast Asian countries debate the use of nuclear power in their energy portfolios. SEANWFZ was the fifth geographic area to form a nuclear weapon free zone.

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Each SEANWFZ member state can decide individually if it will allow foreign ships or aircraft, including those that are nuclear-powered or nuclear-armed, to visit or transit through their airspace or their territorial waters. This provision is critical if ASEAN is to draw the P-5 powers into the SEANWFZ protocol.

Pressure on the P-5

The core motivation for the treaty protocol is ensuring ASEAN's own security: external signatories would agree "not to use or threaten to use nuclear weapons against any State Party to the Treaty." However, a number of other factors drive Southeast Asia to continue pressing the P-5 to adopt the protocol:

- As the catalyst for Asian regional architecture by default – given profound tensions among the Northeast Asian powers – ASEAN views SEANWFZ as a mechanism to promote nuclear non-proliferation within the broader Asia-Pacific region. The ASEAN Regional Forum provides a venue for informal contact and dialogue (North Korea occasionally participates as an observer), but the great powers have otherwise rebuffed ASEAN's offers to assist the Six Party process on the Korean Peninsula.
- To date, seven Southeast Asian countries (Brunei, Cambodia, Malaysia, Philippines, Singapore, Thailand, and Vietnam) are participants in the U.S.-backed Proliferation Security Initiative (PSI). These countries view SEANWFZ as a regional counterpart to the PSI, one that will support the broader

initiative but under Southeast Asian management. Moreover, they believe that Washington in particular could strengthen Southeast Asian confidence in cooperation on non-proliferation by signing the protocol.

- Myanmar's diplomatic officials have been candid that they believe their championship of SEANWFZ and their attempts to persuade the P-5 to sign the treaty protocol will help assuage suspicions in the international community – particularly from the United States – that they have plans to acquire nuclear weapons. In reality, this is not likely to happen unless and until Myanmar severs all ties with North Korea, even if there is no direct evidence of nuclear cooperation between the two countries.

The P-5 Response

This last point raises the prospect that signing the SEANWFZ protocol would give external powers greater leverage with which to encourage Myanmar and the region to remain free of nuclear weapons, an objective that is clearly in the interests of the P-5 and the international community as a whole. It may be for this reason that in 2012 the P-5 appeared ready to sign the protocol but pulled back at the eleventh hour. One immediate reason was Moscow's expressed concerns about the freedom of its ships to pass through Southeast Asian territorial waters. However, it is also likely that Washington did not want to hand Cambodia, the 2012 ASEAN chair, a diplomatic victory after Prime Minister Hun Sen buckled under pressure from China and agreed to keep South China Sea issues off the ASEAN agenda.

At this point, only China has said that it is ready to sign the protocol, although Beijing has expressed some worry that SEANWFZ could complicate Chinese maritime claims in the South China Sea. U.S. officials informally maintain that the United States has no major objections to signing the protocol, but that they do not expect the P-5 to do so until Russia has removed its objections. France has episodically indicated interest in signing, but the United Kingdom has expressed little willingness to do so. Although there appear to be varying levels of intention and interest in signing among the nuclear powers, no one nation has been willing to break ranks with the whole group and be the first to accede to the protocol.

Without securing P-5 participation first, ASEAN is reluctant to approach other nuclear powers to sign the protocol. India has

occasionally expressed interest, but the Southeast Asian states view New Delhi as a second-tranche candidate, something to press for once the P-5 join. Pakistan's lack of interest in SEANWFZ and the potential for antagonizing Islamabad by encouraging New Delhi further motivates ASEAN to defer India's accession to the protocol.

At one time or another, all of the P-5 nations have raised issues with freedom of navigation under SEANWFZ as well as possible negation of a country's EEZ and other rights specified under the United Nations Law of the Sea treaty. They have also expressed

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nervousness about the lack of a dispute resolution mechanism. The Bangkok Treaty specifies that disputes between signatories should be resolved through "peaceful means." If, after one month, that vague entreaty fails, one member may then refer the case to the International Court of Justice. This lackluster approach to dispute resolution underscores fears about ASEAN's overall ability to enforce the Bangkok Treaty evenly and effectively.

Lastly, although this factor is seldom raised overtly, the Bangkok Treaty originated from the original [ASEAN Zone of Peace, Freedom, and Neutrality](#) (ZOPFAN), a declaration signed by the original five ASEAN members (Indonesia, Malaysia, the Philippines, Singapore, and Thailand) in Kuala Lumpur in 1971. Closely identified with then-Prime Minister Mahathir of Malaysia, ZOPFAN's intentions were broad and offensive to some external powers, particularly the United States: to keep Southeast Asia "free from any form or manner of interference by outside powers." With the Vietnam War in mind, Mahathir was not reticent in specifying [ZOPFAN's purpose in that regard](#): "It is...the withdrawal of the American and British from Southeast Asia that my government is advocating a policy of neutralization for Southeast Asia..."

The link between ZOPFAN and SEANWFZ is fading as new generations of leaders in the West and Southeast Asia come to power. Moreover, Southeast Asian leaders point out that it was not possible to conclude the Bangkok Treaty until 1995, after the

end of the Cold War, because political differences over SEANWFZ had divided ASEAN and was not fully effective until 2001 when the Philippines, a treaty ally of the United States, became the last ASEAN member to ratify the agreement. Thus, they maintain that SEANWFZ has an identity separate from ZOPFAN, whatever the earlier declaration had envisioned.

Prospects for Persuading the P-5

The nuclear powers have come close enough to signing the SEANWFZ protocol in recent years to give ASEAN reasonable hope that it is possible. Great power competition in Southeast Asia is increasing, particularly between China and the United States, and a decision to sign could be made simply to strengthen relations with ASEAN rather than for more specific reasons related to SEANWFZ. Moreover, with only three Southeast Asian states outside the PSI, the prospect of bringing the entire Southeast Asia region into the PSI could be an inducement for Washington to sign the SEANWFZ protocol. That assumes, of course, that Indonesia, Myanmar, and Laos would be willing to make that trade.

Two other factors may be in ASEAN's favor in persuading the P-5 to adopt the protocol. For the past three years, ASEAN's chairs have been among the smaller or weaker states: Cambodia, Brunei, and Myanmar. In 2015, the chair will rotate to Malaysia, one of the original five ASEAN member states. Kuala Lumpur will be charged with leading ASEAN in development of a new five-year vision statement in the three ASEAN "communities" (economic, security, and social/cultural). Inking the P-5's signatures on the SEANWFZ protocol will undoubtedly be one element of the vision statement for the ASEAN Security Community, and Malaysia will be better placed within ASEAN to mobilize group political will to press their external partners.

The most compelling new reason for the P-5 to reconsider their positions on the SEANWFZ protocol, however, may be a global concern rather than one centered in Southeast Asia. In 2013, ASEAN Secretary-General Le Luong Minh pointed out that ASEAN has been "thankfully nuclear-free" but cannot always count on being so. His scenario did not involve Southeast Asian governments adopting nuclear weapons, but rather nuclear arms entering the region through terrorist groups. Rather than evoking Cold War resentments of super power and great power domination, SEANWFZ could become a 21st century vehicle for counter-terrorism cooperation.

In the meantime, ASEAN will focus on strengthening its internal commitment to non-proliferation. All of the member states have

concluded IAEA safeguard agreements, and more than half have signed the IAEA Model Additional Protocol. ASEAN and the IAEA are beginning to explore possibilities of formal cooperation between the two institutions, rather than just the IAEA and individual ASEAN states. ASEAN has also added inter-sessional meetings on non-proliferation and disarmament to the ASEAN Regional Forum agenda.

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