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Southeast Asia Nuclear-Weapon-Free Zone and the Nuclear-Weapon States

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Following a decade-long impasse, the Southeast Asia Nuclear-Weapon-Free Zone (SEANWFZ) is finally on a path to being endorsed by the world's five recognized nuclear-weapon states—China, France, Russia, the United Kingdom, and the United States. Agreement by these nuclear powers to respect the prohibition of nuclear weapons in Southeast Asia and to provide legal assurances that they will not use such weapons against zone members helps to strengthen the commitment by regional states not to pursue nuclear weapons, and contributes more broadly to global nonproliferation and disarmament efforts.

Peter Crail, Nonproliferation Analyst at the Arms Control Association, and **Xiaodon Liang**, former Research Assistant at the Arms Control Association, explain that “The goal of a world free of nuclear weapons has long been recognized as an aspiration that will take time and considerable effort to achieve....Nuclear-weapon-free zones provide important building blocks towards this overarching goal and thus the SEANWFZ is another constructive step along this process.”

Over the past several months, the Association of Southeast Asian Nations (ASEAN) and the five nuclear-weapon states have held a series of discussions as part of a renewed effort to resolve long-standing issues preventing agreement on the protocol to the Treaty of Bangkok, which established the SEANFWZ zone in 1995. This protocol contains the pledge not to use nuclear weapons against zone members, called a “negative security assurance,” that would apply to the five nuclear-weapon states recognized under the 1968 nuclear Non-Proliferation Treaty (NPT). China, the only nuclear-weapon state that maintains a no-first-use policy, has had reservations about the protocol similar to those expressed by the other four nuclear powers, but it announced in 2004 that it reached agreement with ASEAN members and publicly supported signing it. On the eve of the November 19, 2011, ASEAN Summit, ASEAN members and the nuclear-weapon states reached agreement on the outstanding substantive issues related to the zone, paving the way for the nuclear powers to sign and ratify the updated protocol once some additional procedural arrangements have been concluded.

Consistent with the other four existing nuclear-weapon-free zones (NWFZ), the Bangkok Treaty obligates members not to manufacture, develop, acquire, station, control, or test nuclear weapons on their territories, or to allow other states to do so. What sets this treaty apart from similar accords, however, is its scope, as its prohibitions also apply to the Exclusive Economic Zones (EEZ) and continental shelves of zone members. Nuclear-weapon states have objected to the inclusion of these areas, arguing that their inclusion would be contrary to the principle of freedom of movement on the high seas, particularly in a region encompassing some of the world's key maritime corridors. Speaking to the *New Straits Times* in June 1997, then US Presidential Special Representative for Arms Control, Nonproliferation and Disarmament, Ambassador Thomas Graham said the treaty could create an “unfortunate precedent” that undermines the US interpretation of maritime law.

Aggravating this problem are the overlapping EEZs in the South China Sea variously claimed by Brunei, China, Indonesia, Malaysia, the Philippines, Singapore, Thailand, and Vietnam. Furthermore, nuclear-weapon states, particularly the United States, also raised concerns about the scope of application of the no-use pledge. Rather than negative security assurances being made only to the members of the zone, the nuclear powers



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would have to agree not to target any areas within the zone, including the EEZs, and from within the NWFZ. Although the details of the new agreement are still unclear, it appears that the no-use pledges addressed nuclear-weapon state concerns by focusing only on the zone members, rather than the entire zonal region.

The impetus behind the breakthrough can be attributed to the Indonesian government’s active ASEAN chairmanship and the Obama administration’s renewed commitment to multilateral nonproliferation and disarmament efforts. The timing of this effort also received a boost from the East Asia Summit and the announcement of the US strategic “pivot” towards Asia.

A key development allowing the United States to move forward in support of the Bangkok Treaty and other nuclear-weapon-free zones was a shift in US policy on negative security assurances in its 2010 Nuclear Posture Review (NPR). In line with recognition in the 2010 NPR that the “fundamental role” of nuclear weapons is to “deter a nuclear attack on the United States, its allies, and partners,” the United States made a political commitment not to use nuclear weapons against non-nuclear states that are party to the NPT and in good standing with their nonproliferation commitments. Previously, the United States had maintained an ambiguous exception for retaliation against chemical or biological attack.

Non-nuclear weapon states have long sought a legally binding commitment by the nuclear powers not to use nuclear weapons against them, but with the exception of China, nuclear-weapon states have resisted such a move. The United States, along with France and the United Kingdom, have instead voiced preference for offering negative security assurances through regional nuclear-weapon-free zones.

In spite of this preference, the United States has often had difficulty endorsing actual NWFZ treaties. The only negative security assurance zone protocol that the United States has both signed and ratified relates to the Treaty of Tlatelolco, which established a nuclear-weapon-free Latin America zone and effectively entered into force in 1968. However, in 2010 Secretary of State Hillary Clinton announced the US intention to make progress to endorse the protocols of other nuclear-weapon free zones. In May 2011, the administration submitted for Senate ratification protocols providing no-use assurances for the African and South Pacific NWFZs. China, France, Russia, and the United Kingdom have already ratified the protocols to the African, Latin American, and South Pacific zones. Another zone covering Central Asia has not been endorsed by any of the nuclear-weapon states. Countries in the Middle East are also to begin discussions on banning all weapons of mass destruction, including nuclear weapons, this year.

Eventual ratification of the Bangkok Treaty protocol would be an important stride for regional security. The formalization of regional negative security assurances would further entrench global norms to minimize the acquisition and use of nuclear weapons. In exchange for these assurances, parties to the NWFZs can provide nuclear weapon states with a strong bulwark against further proliferation. In addition, the treaty incorporates measures for the investigation of suspected violations and allows zone members to collectively establish fact-finding missions. Such a regional mechanism could be utilized to address Myanmar’s suspected illicit nuclear-related work. The SEANFWZ agreement also prohibits members from providing nuclear material to countries that do not have full-scope International Atomic Energy Agency safeguards in place, further promoting countries outside the region to adopt such inspection mechanisms.

The goal of a world free of nuclear weapons has long been recognized as an aspiration that will take time and considerable effort to achieve. It will be accomplished only by a series of steps rather than a singular sweeping agreement. Nuclear-weapon-free zones provide important building blocks towards this overarching goal and thus the SEANWFZ is another constructive step along this process.