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## SOUTHEAST ASIA NUCLEAR-WEAPON-FREE ZONE TREATY (TREATY OF BANGKOK)

**Opened for Signature:** 15 December 1995.

**Entered into Force:** 28 March 1997.

**Number of Parties:** Ten full members — Brunei Darussalam, Cambodia, Indonesia, Laos, Malaysia, Myanmar, Philippines, Singapore, Thailand, and Vietnam.

None of the nuclear weapon states (NWS) has yet signed the protocols, largely due to U.S. and French objections regarding the unequivocal nature of security assurances and over the definitions of territory, including exclusive economic zones (EEZ).

**Duration:** The treaty is of a permanent nature and shall remain in force indefinitely.

**Organs:** Commission for the Southeast Asia Nuclear Weapon-Free Zone, Executive Committee.

### Treaty Text

**Background:** The notion of a Southeast Asia Nuclear-Weapon-Free Zone (SEANWFZ) dates back to 27 November 1971, when the original five members of the [Association of Southeast Asian Nations \(ASEAN\)](#) in Kuala Lumpur signed a Declaration on a [ASEAN] Zone of Peace, Freedom, and Neutrality (ZOPFAN). The first major component of the ZOPFAN pursued by ASEAN was the establishment of a SEANWFZ. However, due to the unfavorable political environment in the region, the formal proposal for the establishment of such a zone was tabled in the mid-1980s. After a decade of negotiating and drafting efforts by the ASEAN Working Group on a ZOPFAN, the SEANWFZ Treaty was signed by the heads of states/governments of all 10 regional states in Bangkok on 15 December 1995.

**Obligations:** States Parties are obliged not to develop, manufacture or otherwise acquire, possess or have control over nuclear weapons; station nuclear weapons; or test or use nuclear weapons anywhere inside or outside the treaty zone; not to seek or receive any assistance in this; not to take any action to assist or encourage the manufacture or acquisition of any nuclear explosive device by any state; not to provide source or special fissionable materials or equipment to any non-nuclear weapon state (NNWS), or any NWS unless subject to safeguards agreements with the [International Atomic Energy Agency](#)

([IAEA](#)); to prevent in the territory of States Parties the stationing of any nuclear explosive device; to prevent the testing of any nuclear explosive device; not to dump radioactive wastes and other radioactive matter at sea anywhere within the zone, and to prevent the dumping of radioactive wastes and other radioactive matter by anyone in the territorial sea of the States Parties.

**Treaty Zone:** The treaty zone covers the territories, continental shelves, and EEZ of the States Parties within the zone.

### **Verification and Compliance:**

*Verification:* Verification is to be achieved through reports by members and the exchange of information, and through the application of IAEA safeguards. States Parties have discretion over visits by foreign ships and aircraft to ports and airfields, transit of airspace by foreign aircraft, and navigation by foreign ships carrying nuclear weapons.

*Compliance:* The treaty provides for a Commission for the Southeast Asia Nuclear-weapons-free Zone to oversee the implementation of this treaty and ensure compliance with its provisions. The treaty also gives each State Party the right to ask another State Party for clarification or a fact-finding mission to resolve an ambiguous situation or one which may give rise to doubts about compliance. If there is a breach by a State Party, that State Party shall, within a reasonable time, take all steps necessary to bring itself into full compliance with this treaty. If this fails, the commission 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.

**The protocol** is open for signature by China, France, Russia, the United Kingdom, and the United States. These NWS would undertake to respect the treaty and not to contribute to any act, which constitutes a violation of the treaty or its protocol by States Parties. They would also undertake not to use or threaten to use nuclear weapons against any State Party to the treaty and not to use or threaten to use nuclear weapons within the SEANWFZ.

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The SEANWFZ Treaty includes two elements that go beyond other existing Nuclear-Weapon-Free Zone (NWFZ) agreements: 1) the zone of application also includes the continental shelves and EEZ of the contracting parties; and 2) the negative security assurance implies a commitment by the NWS not to use nuclear weapons against any contracting State or protocol Party within the zone of application. In other aspects, the SEANWFZ contains all the standard obligations, prohibitions, and verification and control measures found in previous zonal treaties.

Thus far, the NWS have not signed the Protocol to the SEANWFZ Treaty because they object to the inclusion of continental shelves and EEZ; to the restriction not to use nuclear weapons within the zone; or from within the zone against targets outside the zone, and to the restriction on the passage of nuclear-powered ships through the zone *vis-à-vis* the issue of the high seas as embodied in the UN Convention on the Law of the Sea (UNCLOS). The NWS also raised the issue that the continental shelves and EEZ are not clearly defined in the South China Sea, which creates uncertainty over the scope of the treaty, as well as the treaty's protocol obligations. The United States also expressed concerns with the nature of the legally binding negative security assurances to be expected of the parties to the protocol, the alleged ambiguity of the treaty's language concerning the permissibility of port calls by ships, which may carry nuclear weapons, and the procedural rights of the parties to the protocol to be represented before the various executive bodies set up by the treaty to ensure its implementation.

**Secretariat:** The Bangkok Treaty does not have any designated Secretariat, given the informal style of ASEAN, but the Commission at the level of Foreign Ministers and the working group of Senior Officials will work to promote the full implementation of the zone.

### Developments:

**2012:** In January, Cambodia sent letters to the five Nuclear Weapon States urging them to sign the Protocol to the Treaty.

At the 20<sup>th</sup> ASEAN Summit, held from 3-4 April in Phnom Penh, the [Chairman's Statement](#) noted that ASEAN "looked forward to the signing of the ASEAN Statement on the Protocol to the Treaty on SEANWFZ, Memorandum of Understanding (MoU) between the Government of the People's Republic of China and the State Parties to the Treaty on SEANWFZ and the signing of the Protocol to the Treaty on SEANWFZ by the five Nuclear Weapon States in July 2012."

On 8 July, the SEANWFZ Commission of ASEAN met at the 45th ASEAN Foreign Ministers Meeting in Phnom Penh. The meeting was to end with the signing of the ASEAN Statement on the Protocol to the Treaty of Southeast Asia Nuclear Weapon-Free Zone (SEANWFZ) and adoption of a Joint Communiqué by the five NWS. However, the signing was postponed until November pending the review by the SEANWFZ Commission of the text and positions of the reservations of four NWS (France, Russia, the United Kingdom and the United States). China was supposed to sign a Memorandum of Understanding with ASEAN on the protocol and treaty to the SEANWFZ on 10 July, but ASEAN opted to postpone all NWS signings until the matter was resolved.

On 10 July, it was announced that the [P5 countries](#) are not ready to sign the SEANWFZ protocol, citing reservations about the protocol.

On 18 November, the 21<sup>st</sup> [ASEAN summit](#) took place in Phnom Penh Cambodia. The ten members who attended this meeting stressed the need for more solidarity and regional cooperation in matters for peace, security and in areas such as the SEANWFZ. Russia, France and Great Britain still did not sign the Treaty as expected at this summit.

**2011:** During the annual conference of ASEAN foreign ministers, held from 16-23 July, a working group on the SEANWFZ called for a meeting between ASEAN arms control specialists and representatives of the P-5 countries to be held in August. Participants in the meeting, which ASEAN representatives envisioned as a "direct, informal consultation," were charged with finding a solution to the 10-year stalemate between ASEAN and the P-5 countries over the SEANFWZ treaty's protocols.

From 7-8 May, the 18<sup>th</sup> ASEAN Summit was held in Jakarta, Indonesia. Dr. Susilo Bambang Yudhoyono, the Chair for the Summit, issued a [statement](#) noting that participants agreed to "continue pursuing international efforts to achieve a nuclear-weapons-free world," as well as a reiteration of "the early implementation of the Plan of Action on the implementation of the SEANWFZ Treaty." After mentioning the March 2011 Fukushima incident, Yudhoyono also emphasized that participants should "engage as appropriate in information-sharing and promote transparency on relevant nuclear related issues in the region."

On August 8-12, for the first time in almost ten years, representatives of the five recognized nuclear-weapon States (NWS), China, France, Russia, the United Kingdom, and the United States met with

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officials from ASEAN to discuss the ratification of the protocol to the Southeast Asian Nuclear-Weapons Free Zone (Bangkok Treaty), by the 5 NWS. The protocol stipulates that NWS must abide to articles of the Treaty and not to use or threaten to use nuclear weapons against States parties. China has previously expressed its willingness to ratify the protocol, but the other four NWS cite the geographical scope of the Treaty as an obstacle. Although no substantive agreements were reached, Indonesia, as current chair of the commission overseeing the implementation of the Treaty, has confirmed that parties will meet again in October to continue talks.

During [ASEAN summit meetings](#) in November, member states resolved substantive differences and concluded negotiations to enable the five Nuclear Weapons States to accede to the Treaty. ASEAN and the five NWS will continue to negotiate remaining procedural issues. [The United States expects to sign the SEANWFZ Protocol in 2012.](#)

**2010:** On April 30, the Second Conference of States Parties and Signatories of Treaties that Establish Nuclear-Weapon-Free Zones and Mongolia and Mongolia was held in New York. The conference adopted the [Outcome Document](#) which reiterated the final declaration of the 2005 Conference and welcomed the entry into force of the African and Central Asian NWFZs as well as the efforts of Mongolia to institutionalize its nuclear weapons free status.

The Conference welcomed the heightened commitment of the ASEAN to preserve South-East Asia as a NWFZ and recognized its efforts in promoting and strengthening the implementation of the Treaty as the region's contribution to achieving a nuclear-weapon-free world, also noting the progress made by the Treaty's Plan of Action (2007-2012) in sharpening the focus of regional collaboration against nuclear weapons. It further called on the nuclear-weapons states to sign all relevant protocols and withdraw existing reservations.

At the Eighth NPT Review Conference in May, U.S. Secretary of State Hillary Clinton [announced](#) that the United States is prepared to consult with SEANWFZ Parties in order to reach an agreement regarding the treaty protocol.

On 24 September at [the 2<sup>nd</sup> ASEAN-U.S. Leaders' Meeting](#) in New York, ASEAN welcomed an announcement by the United States at the NPT Review Conference that it is prepared to engage in consultations to resolve issues which have prevented it from acceding to the SEANWFZ Protocol.

On 28-31 October, the 17<sup>th</sup> ASEAN Summit was held in Hanoi, Vietnam, where participants recognized the SEANWFZ progress and reaffirmed its importance.

**2009:** In a joint communiqué of the 42nd ASEAN Foreign Ministers Meeting in 19-20 July reaffirmed the importance of SEANWFZ and resolved to engage NWS regarding protocol ratification.

**2008:** On 17-24 July, the 41st ASEAN Ministerial Meeting was held in Singapore. On 21 July, the Commission on SEANWFZ issued a [Joint Communiqué](#) which noted Thailand as the incoming commission chair, reaffirmed the importance of treaty implementation, and called upon the P5 to ratify the SEANWFZ protocol as soon as possible.

**2007:** On 29-30 July, the 40<sup>th</sup> ASEAN Ministerial Meeting was held in Manila, the Philippines. The meeting issued a [Joint Communiqué](#) which reviewed the progress of the treaty implementation and welcomed the Plan of Action that would prepare the treaty to respond to the evolving internal and external challenges and opportunities.

On 29 July, the foreign ministers of the State Parties to the SEANWFZ Treaty met in Manila, the Philippines to review the treaty implementation and a plan of action that would guide the future implementation of the treaty. The meeting issued a [Joint Statement](#) that noted the implementation of the treaty obligations by the state parties. The statement also contained measures that would be undertaken under the Plan of Action (2007-2012). These measures include fulfillment of commitments under the treaty and accession to the IAEA safeguards, pursuing consultations with the five nuclear weapon states for the ratification of the treaty protocols, seeking cooperation with international and regional bodies in developing legal framework to meet international standards on nuclear safety, establishing regional networks for early notification of nuclear accidents, developing a regional emergency preparedness and response plan, and strengthening capacity building in the region on nuclear safety issues.

**2006:** On 25 July, at the 39<sup>th</sup> ASEAN Ministerial Meeting in Kuala Lumpur, the ministers issued a Joint Communiqué wherein they reaffirmed the importance of strengthening cooperative efforts toward the implementation of the SEANWFZ Treaty. They urged the nuclear weapon states to become parties to the protocol of the treaty as soon as possible. The ministers further recalled Article 20 of the treaty, which states that "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". To this effect, they directed the Executive Committee of SEANWFZ to look into the implementation of Article 20.

**2005:** On 26-28 April, the First Conference of States Parties and Signatories of Treaties that establish Nuclear-Weapon-Free Zones was held in Tlatelolco, Mexico. The Conference adopted a [declaration](#), reaffirming that nuclear weapons constitute a threat to humanity, urging nuclear-weapon states to provide negative security assurances to non-nuclear-weapon states party to NWFZ, and stressing the importance of the right to peaceful uses of nuclear energy.

On 29 July, the 12th Meeting of the ASEAN Regional Forum (ARF) was held in Vientiane, Lao PDR. According to the [Chairman's Statement](#), the ministers reaffirmed their support for the concept of internationally recognized NWFZs and emphasized the contribution of such zones to enhancing global and regional peace and security. They further reaffirmed the importance of continued consultation on the Protocol of the Bangkok Treaty between the Nuclear Weapon States and the parties to the treaty.

**2004:** On 29-30 June, the 37<sup>th</sup> ASEAN Ministerial Meeting, held in Jakarta, adopted a [Joint Communiqué](#) reaffirming the importance of further strengthening the cooperation in support of the Bangkok Treaty. The Ministers welcomed China's readiness to sign the protocol and called on the NWS to show maximum flexibility and work together with ASEAN on outstanding issues.

**2002:** On 29-30 July, at the 35<sup>th</sup> ASEAN Ministerial Meeting ASEAN Ministers welcomed the ongoing consultations between ASEAN and the NWS and urged the NWS to sign the protocol of the treaty as soon as possible.

At the Ninth Meeting of the ASEAN Regional Forum (ARF) on 31 July, the ministers noted the ongoing consultations between ASEAN and the NWS regarding the latter's signing the protocol.

**2001:** On 25 July, at the Eighth Meeting of ARF ASEAN Foreign Ministers welcomed progress regarding treaty implementation as a contribution to global efforts to curb the proliferation of nuclear weapons, and noted with satisfaction the continued progress made in consultation between the States Parties to the treaty and the NWS regarding the latter's accession to the protocol to the treaty. In this regard, they welcomed the progress made at the recent direct dialogue between the States Parties and the NWS held in Hanoi on 19 May. The ministers

welcomed the participation for the first time of the Philippines as a full member of the SEANWFZ Commission, having recently deposited its instrument of ratification. They also welcomed the P-5 Joint Statement concerning security assurances for Mongolia and support for the [Nuclear-Weapon-Free Status of Mongolia](#).

Having resolved the differences with China regarding the implication of the treaty on the question of sovereignty in the South China Sea, the parties are undertaking further consultations with the remaining four NWS in order to address their concerns as a package, including the question of the formulation of negative security assurances. ASEAN hopes the remaining NWS, namely the United States, the United Kingdom, France, and Russia, will keep their commitment to nuclear disarmament by supporting the treaty, and ASEAN's contribution towards nuclear disarmament and nonproliferation, through signing the protocol that guarantees NNWS in legally binding form against the use or threat of use of nuclear weapons in this zone.

Recognizing that the IAEA has an important role to play in assisting parties to fulfill their obligations under the treaty, a dialogue between the treaty parties and the IAEA was established. A number of issues being discussed in detailed consultations include the question of IAEA support in implementing the provisions with respect to safeguards and handling of nuclear wastes, as well as possible assistance in terms of technical cooperation programs for the treaty parties. In addition, all treaty parties have been encouraged to conclude a full-scope safeguards agreement with the IAEA in accordance with Article 5 of the treaty.

**2000:** On 27 July, at the Seventh Meeting of the ARF in Bangkok the ASEAN Foreign Ministers welcomed progress toward the implementation of the treaty, which contributed to the nonproliferation of nuclear weapons. They welcomed in particular the operation of the Commission for SEANWFZ and the Executive Committee for SEANWFZ, and the dialogue between the States Parties to the treaty and the IAEA, as provided for by the treaty. The ministers also expressed support for the continued consultations between the States Parties to the treaty and the NWS regarding the latter's accession to the protocol to the treaty.

**1999:** On 23-24 July, the ASEAN Foreign Ministers convened the Commission of the SEANWFZ Treaty for the first time. The commission ordered the preparation of the draft rules of procedure and initiation of all necessary actions in compliance with the treaty, including consultations with the NWS, the IAEA and other related bodies. The States Parties committed to

vigorously pursue consultations with the NWS so that they could eventually accede to the treaty's protocol.

The commission meeting was held in conjunction with the ARF meeting in Singapore. Reportedly, at this meeting, China agreed to sign the protocol, as did India. (Since India does not fall within the definition of a NWS as stipulated in the [Non-Proliferation Treaty \(NPT\)](#), if the contracting parties accept an Indian signature to the protocol, they might be in technical violation of both the NPT and the Bangkok Treaties.)

On 28 November, at the ASEAN+1 Informal Summit China stated that it would support ASEAN in its efforts to establish ZOPFAN and a SEANWFZ. At the inaugural meeting, the commission directed its executive committee to initiate all necessary actions to ensure compliance with the treaty.

On 12 October, the executive committee met for the first time in Bangkok and decided to launch a dialogue with the IAEA and to establish a Working Group to undertake discussions with the IAEA.

**1998:** On 25 July, at the 31<sup>st</sup> ASEAN Ministerial Meeting the ASEAN foreign ministers noted the report of the ASEAN senior officials on the progress made so far by the ASEAN Working Group on a ZOPFAN and SEANWFZ regarding its consultations with NWS in the context of enabling the latter to sign the protocol to the treaty. The foreign ministers reiterated that the signing of the protocol by the NWS would constitute a manifestation of their support for nuclear disarmament and nuclear-weapon-free zones. They expressed the view that the recent nuclear tests by India and Pakistan were not conducive to the full realization of the treaty.

**1997:** On 27 March, the treaty entered into force upon the deposit of the instrument of ratification of the eighth ratifying state, Cambodia, and was registered with the UN on 26<sup>th</sup> June. On 25 July, the participants to the 30<sup>th</sup> ASEAN Ministerial Meeting recalled that the commission to be established by the treaty would oversee the implementation of the treaty and ensure compliance with its provisions. Nonetheless, pending the establishment of the commission, they accepted the recommendation of the ASEAN senior officials to extend the mandate of the ASEAN Senior Officials Meeting (SOM) Working Group on a ZOPFAN and SEANWFZ, to pursue consultations with NWS pertaining to the protocol to the treaty. The foreign ministers called upon NWS to demonstrate their support for nuclear-weapon-free zones by acceding to the protocol of the treaty.

In June, the United States maintained its opposition to signing the protocol to the treaty on the grounds that it contained an automatic provision of NSA to

the benefit of the non-SEANWFZ countries in the ocean area of the zone and the inclusion of EEZ in the treaty's scope of application.

No specific target date has been identified for the implementation of the SEANWFZ, although the ASEAN Vision 2020 adopted in December envisioned that all of the NWS would have adhered to the protocol, and that the region could be free of all nuclear weapons and other weapons of mass destruction by the year 2020.