



# **China's readiness to sign the Bangkok Treaty Protocol**

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The Southeast Asia Nuclear-Weapon-Free-Zone (SEANWFZ) Treaty, also known as Bangkok Treaty, aims to keep South East Asia as a Nuclear Weapon-Free Zone. It was opened for signature on December 15, 1995, and entered into force on March 28, 1997. The idea of SEANWFZ originated in Kuala Lumpur when in November 1971, Indonesia, Malaysia, Philippines, Singapore and Thailand signed the declaration of ASEAN Zone of Peace, Freedom and Neutrality (ZOPFAN). SEANWFZ establishment was the first goal of ZOPFAN, but it got delayed until the 1980s due to various political reasons. On December 15, 1995, the SEANWFZ treaty was signed by all ten member states.<sup>1</sup>

Amongst others, this treaty obligates state parties anywhere inside or outside the zone, not to “develop, manufacture or otherwise acquire, possess or have control over nuclear weapons, station or transport nuclear weapons by any means, test or use nuclear weapons” and “not to allow, in its territory, any other state” to do these activities.<sup>2</sup> Also, not to dump and not allow any other state to dump radioactive material or waste at sea and atmosphere anywhere within the zone. State parties also undertake “not to seek or receive any assistance” on this.<sup>3</sup> The treaty zone covers the “territories, continental shelves and EEZ of the State parties within the zone”.<sup>4</sup>

The Protocol to the SEANWFZ Treaty provides for “legally-binding security assurances from the nuclear-weapon States not to use or threaten to use nuclear weapons against any State Party to the Treaty”. Also, it further undertakes “not to use or threaten to use nuclear weapons within the Southeast Asia Nuclear Weapon-Free Zone”.<sup>5</sup> The treaty protocol is open for signature to the five nuclear weapons states (NWS), namely Russia, United States, United Kingdom, France and China. These NWS are expected “to respect the treaty and not to contribute to any act, which constitutes a violation of the treaty or its protocol by state parties to them”.<sup>6</sup>

Two elements of this treaty make it different from all other Nuclear Weapons Free Zones treaties. Firstly, the “zone of application also includes the continental shelves and exclusive economic zones (EEZ) of the contracting parties”; and secondly, “negative security assurance which implies a commitment by the NWS not to use nuclear weapons against any contracting State or protocol party within the zone of application”.<sup>7</sup>

No NWS has yet signed the protocol due to the objections on continental shelves and EEZ, which are not clearly defined in the South China Sea. US has also expressed concern over the legally-binding negative security assurances. There remains some “alleged ambiguity” on the treaty’s language, which has deterred the NWS from signing the treaty’s protocol.<sup>8</sup>

However, in a sudden development on November 11, 2021, at the special summit to commemorate the 30<sup>th</sup> Anniversary of China-ASEAN Dialogue Relations, China's President Xi Jinping stated that it "supports ASEAN's efforts to build a nuclear weapon free zone, and is prepared to sign the Protocol to the SEANWFZ Treaty as early as possible".<sup>9</sup> China's willingness in this regard has triggered speculations on its real intention given that it is increasing its own nuclear arsenal. If China really signs the protocol, it will become the first NWS to do so.

In the past, though China has supported the general objectives of the treaty, it has objected to its territorial scope, which covers some disputed areas. China's concerns have been that signing the Treaty may affect its territorial claims in the South China Sea which involve Malaysia, Brunei and the Philippines. Moreover, the strong support to treaty by Vietnam which had history of military confrontation with China aggravated China's concerns for military options in Southeast Asia. China also viewed it as an attempt by ASEAN to constrain its use of force in support of its claims because this treaty "called upon parties to the South China Sea dispute to renounce the use of force".<sup>10</sup> China has repeatedly expressed these concern to ASEAN and said that it needs to be convinced before signing the treaty.

Even today Philippines, Vietnam, Malaysia, Brunei have unresolved territorial disputes with China. Indonesia has EEZ overlaps. These unresolved maritime disputes remains a concern for China because its signature on treaty's protocol may be interpreted as a "tacit recognition of the sovereignty claims made by other ASEAN countries in South China Sea" which can "undermine its own "legal and political standing in the unresolves disputes".<sup>11</sup>

Despite these concerns, why is China showing this sudden interest in SEANFWZ? Among many reasons, perhaps the recently concluded AUKUS deal may be a primary driver. Under the AUKUS agreement, Australia will get eight nuclear-powered submarines. Interestingly, nuclear submarines are not defined as nuclear weapons in SEANWFZ Treaty. Article 1(c) of the treaty defines that "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".<sup>12</sup> However, according to Chinese Foreign Minister Wang Yi, AUKUS "may sabotage the building of a nuclear-free zone in Southeast Asia". He has criticised the US and UK for not only not signing the Bangkok treaty protocol but for having transferred "military nuclear technology to the region" which is in contradiction to the ASEAN efforts for NWFZ. In the same vein, Malaysia, Brunei and Indonesia argued that AUKUS can trigger a regional nuclear arms race.<sup>13</sup>

Also since 2016, the situation in South China sea has changed. New leaders of Philippines and Vietnam are striving for good relations with China. Signing the protocol can enhance China's image as a peacemaker in the region. Shelving the territorial disputes will lead to better relations between China and ASEAN which may also reduce the US presence in the region and thus will increase China's security interests. Decreased US maneuverability in South China Sea would be favourable for China. Therefore signing the protocol will also ensure this long term vision of China. In the white paper released on Asia-Pacific security cooperation ASEAN countries in 2017 China claimed that it has "solved all the remaining issues concerning the protocol with ASEAN and looks forward to sign the protocol at an early date".<sup>14</sup>

But, for other NWS, signing the protocol has become more difficult recently in the wake of China's aggressive behaviour and increase in nuclear arsenals. This treaty zones cover east of Indian Oceans to the western Pacific, which is strategically significant to the US and other powers. The treaty makes them unable "to use or threaten to use nuclear weapons against an enemy vessel within the zone and to use a nuclear-armed submarine within the zone to attack target elsewhere".<sup>15</sup> It may make "even the movement of nuclear-armed submarines through the zone" a violation of the treaty.<sup>16</sup>

Though ASEAN is relatively safe and there are no major interstate conflicts for now, but threats from outside the region such as ongoing military competition between China, Russia and US is worrisome. China is seeking to join the pact and using it to expand its own influence. Other NWS will have to weigh their options and security concerns too before signing the treaty's protocol.

## Notes:-

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14 Zhao, n. 11.

15 Ryan A Musto, "China wants to join Southeast Asia's Nuclear-Free Zone. Why Now?" *Lawfare*, December 9, 2021, <https://www.lawfareblog.com/china-wants-join-southeast-asias-nuclear-free-zone-why-now>

16 Ibid.