

CBMs in Southeast Asia, by Mark Fitzpatrick

Five key points:

- 1) In southeast Asia, CBMs preceded the zone;
- 2) Peace was a condition; once it prevailed, agreeing to establish a zone wasn't hard.
- 3) Scope goes beyond nuclear weapons to other nuclear dangers
- 4) Can be faulted for giving priority to process over substance.
- 5) Persuading major powers to accept the protocols is not easy

1. Confidence building measures came first.

- The Southeast Asia Nuclear Weapons-Free Zone, (SEANWFZ, or Bangkok Treaty), was preceded by the establishment of a regional organisation, ASEAN, and a set of what might be called confidence-building measures, though that's not necessarily what they were called at the time.
- ASEAN was established in 1967, starting with 5 nations, later expanded to 10.
- They sought to isolate the region from great-power rivalry and intervention. The 'ASEAN Way' is based on the ideals of non-interference, consensus and peaceful settlement of disputes.
- ASEAN is extraordinary in creating a sense of community in a region so diverse in terms of ethnicity, religion, language, history, level of economic development and political systems. The ten members include a feudal monarchy, a military dictatorship, states led by communist parties, and various forms of democracy. These states have collectively developed the world's second most successful regional organisation.
- While primarily focused on promoting economic cooperation between its members ASEAN from the beginning had a security dimension, reflecting the uneasy regional circumstances engendered by the Second Indochina War (AKA Vietnam War).
- The key members wanted to isolate themselves from the effects of regional competition between the major powers. So in 1971 the ASEAN states declared the objective of establishing a **Zone of Peace, Freedom and Neutrality (ZOPFAN)** 'free from any form or manner of interference by outside Powers' in Southeast Asia.
- At the first ASEAN summit in 1976, members signed the **Treaty of Amity and Cooperation in Southeast Asia**, which set out principles intended to provide a basis on which member states might intensify cooperation and forge political accords with the aim of strengthening regional peace and security.
- To lend substance to the ZOPFAN ideal, an ASEAN summit meeting in Bangkok in 1995 signed a treaty establishing SEANWFZ.

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- The existence of the regional institution of ASEAN provided a forum for negotiations, fostered a sense of regional identity and helped in norm building.
- Cooperation among ASEAN member states has since become extraordinarily wide-ranging. In 2008, members committed themselves to the ASEAN Charter, a constitution that establishes binding principles for the association and makes it a legal entity.

2. Agreeing to establish a zone wasn't hard once the conditions were set.

- No state had a nuclear weapons program, or even suspicions thereof, Indonesia having abandoned its fledgling nuclear weapons aspirations in the 1960s.
- The Bangkok Treaty confirmed and consolidated the non-nuclear status of the countries.
- Negotiations couldn't move ahead, however, until Soviet forces had withdrawn from Vietnam, US bases closed in the Philippines in 1991 at the end of the Cold War and the Vietnam-Cambodian war and occupation had ended.
- By the time the treaty was signed in 1995, the most serious obstacles had been removed.
- The treaty bans the development, manufacture, and acquisition of nukes, and burial of radioactive substances by the states on their territory. Member states were obliged to sign an IAEA comprehensive safeguards agreement. Allowing the transit of foreign ships or aircraft for any purposes other than peaceful passage is left to the discretion of the member states.
- A number of politically divisive problems remained, but a decision was taken to put these aside to be addressed at a later date, once trust and confidence and institutions were more firmly established. Remaining sources of tension included territorial disputes in the South China Sea, which remain a major issue today.
- Complaints about the map we included in the IISS 2008 dossier, which came from the UN Office of Disarmament Affairs, exemplify the issues concerning sea coverage of the zone. ASEAN itself does not publish a map of the zone.

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3. Scope goes beyond nuclear weapons (to other nuclear dangers).

- Signatory states' obligations also cover the peaceful and safe use of nuclear energy and the disposal of radioactive waste.
- Members agree to subject any peaceful energy programmes to 'rigorous nuclear safety assessment conforming to guidelines and standards recommended by the IAEA' and to 'support the continued effectiveness of the international non-proliferation system based on the NPT and the IAEA safeguard system'.
- Other articles provide for a 'control system' that requires signatory states to report what is referred to as 'any significant event'. There has been no such reporting.

4. Priority to process over substance.

- ASEAN and all of its associated instruments operate on a voluntary basis, with no verification, enforcement or sanctions mechanisms. SEANFZ verification is left up to IAEA safeguards.
- The association has usually proved unable to play an active part in resolving either interstate or intra-state conflicts in its region.
- Neither ASEAN's Executive Committee nor any ASEAN member has ever invoked the provisions of the SEANWFZ Treaty to ensure compliance with its terms, including those relating to civilian nuclear energy and the disposal of radioactive waste.
- More specifically, no member has reported any 'significant event', despite – for example – Myanmar's decision in 2007 to purchase a research reactor from Russia.

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- The Russian reactor was never built and Myanmar has since abandoned its plan for civil nuclear technology and agreed to a path of greater openness and to drop military ties with North Korea.
- But even when nuclear suspicions were at their peak a few years ago, no ASEAN member ever sought to use the Bangkok Treaty provisions to clarify the concerns.

5. Problem persuading major powers to accept protocol.

- ASEAN governments had hoped that the nuclear-weapons states, would sign a protocol attached to the treaty undertaking to respect its provisions.
- But China objected to the treaty's inclusion of the Southeast Asian signatories' continental shelves and exclusive economic zones (EEZs), arguing that this prejudiced its own extensive claims in the South China Sea.
- The US and the other recognised nuclear-weapons states expressed concern that the treaty might impede the freedom of passage of their naval. The US also had concerns about the inclusion of EEZs and continental shelves, neither of which are included in the nuclear-weapon-free zone agreements covering Latin America and the South Pacific that the US has ratified, and about the nature of the legally binding assurances of non-use of nuclear weapons that the protocol entails.
- None of the five has signed the SEANWFZ protocol. In November 2011 they agreed with ASEAN states on steps that would enable them to do so.
- One way would be for the member states of the Treaty to make an interpretation statement making it clear that the clauses of the Treaty dealing with the continental shelf and special economic zones apply only to the member states themselves, but not to the countries that sign the Protocol, and that the language of the Protocol should be revised to allow NWSs to fire nuclear weapons from within the zone to targets outside it.

Conclusions

- The Bangkok Treaty was and still is just one part of a much bigger and more ambitious regional security-community-building effort that goes far deeper than WMD issues.
- It demonstrates the importance of regional institution-building.
- The case of Myanmar shows the importance of using treaty measures. Treaties should not just be for show."