

# **NON-PROLIFERATION IN ASEAN PERSPECTIVE**

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**DECLARATION**

I declare that the dissertation entitled “**Non-Proliferation in ASEAN Perspective**” submitted by me for the award of the degree of **Master of Philosophy** of Jawaharlal Nehru University is my own work. The dissertation has not been submitted for any other degree of this university or any other university.

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*To*

*My*

*Parents.....*

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## LISTS OF ABBREVIATIONS

ABM	Anti-Ballistic Missile
ARF	ASEAN Regional Forum
ASEAN	Association of Southeast Asian Nations
BMD	Ballistic Missile Defense
CBM's	Confidence Building Measures
CONUS	Continental U.S.
CSCAP	Council for Security Co-operation in Asia-Pacific
CSI	Container Security Initiative
CTBT	Comprehensive Test Ban Treaty
CWC	Chemical Weapons Convention
DPRK	Democratic People's Republic of Korea
EEZ	Exclusive Economic Zones
HEU	Highly Enriched Uranium
IAEA	International Atomic Energy Agency
ICBM's	Inter-Continental Ballistic Missiles
LOSC	Law of the Sea Convention
MTCR	Missile Technology Control Regime
NAM	Non-Aligned Movement

NATO	North Atlantic Treaty Organization
NFU	No First Use
NMD	Nuclear Missile Defense
NNWS	Non Nuclear Weapon States
NPT	Nuclear Non-Proliferation Treaty
NSA	Negative Security Assurances
NSG	Nuclear Suppliers Group
NWFZ	Nuclear Weapon Free Zones
NWS	Nuclear Weapon States
OPWC	Organization for the Prohibition of Chemical Weapons
PRC	Peoples Republic of China
PSI	Proliferation Security Initiative
RMA	Revolution of Military Affairs
RMSI	Regional Maritime Security Initiative
SEANWFZ	Southeast Asian Nuclear Weapon Free Zone
SDI	Strategic Defense Initiative
SORT	Strategic Offensive Reduction Treaty
START	Strategic Arms Reduction Treaty
TMD	Theatre Missile Defense
UNSCR	United Nations Security Council Resolution

WMD

Weapons of Mass Destruction

ZOPFAN

Zone of Peace Freedom and Neutrality



## PREFACE

Since the beginning of the Cold War, the issue of proliferation of nuclear weapons has taken an important place in the security considerations of the entire global order. While it was the concern of 'vertical proliferation' of nuclear weapons that had dominated the policy circles of different states during the Cold war, in the present context it is the issue concern of spread of nuclear weapons to other non-nuclear states that has gained ground. Added to this has been the possibility of nuclear threats taking a non-state actor dimension with threats from nuclear terrorism assuming the most devastating and possible form. These present as well has potential concerns have led to the initiation of various mechanisms to deal with the threats. Along with the traditional non-proliferation mechanisms various new initiatives have also been added to deal with the changed dynamics of the threat.

Southeast Asian region have been concerned with the issue of proliferation ever since the days of the Cold War when the region has been transformed into a sort of an extended arena of the ideological conflict of the two superpowers. The fact that they were nuclear weapon states and were actively involved in the region is what made the regional concerns more profound. These external circumstances had a considerable impact on the regional efforts towards non-proliferation which started to take concrete shape since the mid 80's in the form of initiation of nuclear weapon free zones. However any analysis of the efforts undertaken by the region towards non-proliferation must take into consideration that there are certain norms and approaches towards security which are characteristic of the region itself. These norms and the way at looking at the issue of regional security considerably influences that way they deal with various security issues including that of non-proliferation. In this context this present study tries to highlight the aspects of the regional perspectives on non-proliferation while at the same time trying to analyze its relation with global efforts towards the same issue. The dissertation begins with an historical overview of how the issue attained prominence in the context of the Cold War. The second chapter discusses the external environment that affects the regional initiatives towards non-proliferation particularly with the issue of full implementation of the Southeast Asian Nuclear Weapon Free Zone (SEANWFZ) Treaty

which is regarded as the most important mechanism to keep the region free from nuclear weapons. The third chapter discusses the global non-proliferation initiatives while at the same time analyzing what perception the region is having towards these initiatives. The fourth chapter reflects on the potential threats that the region may face in light of the changed dynamics of proliferation and gives an analysis on the efforts undertaken at the regional level to deal with these as well as other issues of non-proliferation. What I have tried to look for at the dissertation is that how ASEAN deals with the issue of non-proliferation at the regional level and what place a nuclear weapon free zone holds in the current regional security calculations.

# **CHAPTER - I**

## **INTRODUCTION**

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The proliferation of nuclear weapons has emerged as one of the most pressing security issue having a considerable impact in the present day world order with the destructive capacity of these weapons ranging across territorial boundaries transforming the relations between states across the globe. Although there were only five states (China, France, Russia, the UK, and the United States) formally acknowledged by the Treaty on the Non-Proliferation of Nuclear Weapons (NPT) as possessing nuclear weapons, the May 1998 nuclear and ballistic missile tests by India and Pakistan and later on the North Korean nuclear tests in 2006 aptly demonstrated the fact that others have the capacity to construct nuclear devices if necessary thus bringing the issue of horizontal proliferation of nuclear weapons in the limelight (Daryll Howlett, 2005: 501). However, though states started viewing the proliferation of nuclear capabilities with greater concern since the end of the east-west Cold War, yet many of the factors that have made it such an important issue have been underway for several decades. Thus while the bombings of the Japanese cities Hiroshima and Nagasaki at the end of the second world war revealed the enormous destructive effects of nuclear weapons against human population, knowledge of the devastating effects of nuclear radiation came into fore with the destruction of the civilian nuclear power plant at Chernobyl in former Soviet Union in 1986.

The nuclear bombings in Hiroshima and Nagasaki added a new chapter in world politics - the emergence of two power blocs with the United States and the Soviet Union at the helm. The engagement of the two blocs into an ideological conflict where the military, political, economic, scientific as well as cultural forces were poised against each other led, in the 1940's, to the beginning of the Cold War era. One of the major dimensions that the era brought about with regard to relations between the two super powers was a heightened sense of insecurity that existed between them. This state of insecurity in turn gave rise to arms race in which nuclear weapons held considerable

sway. The belief of sophisticated nuclear arms acting as a deterrent resulted in a continuous drive to produce varied, accurate and effective nuclear weapons system. A step towards the further sophistication of nuclear arsenal by one super power was followed by similar response by the other giving rise to so called 'vertical proliferation' between them.

The disintegration of Soviet Union in the early 1990's was the only case where a previously acknowledged nuclear weapon state (NWS) has been subject to political and territorial disintegration. This was followed by a period of considerable uncertainty with 'little understanding of what the precise nuclear consequences from such a tumultuous state implosion would be' (Daryll Howlett, 2005: 501). The fact that in this changed strategic scenario cooperation between the previously hostile states of the Cold War was essential was never in doubt and had it not been for arms control and disarmament measures such as the NPT and the Strategic Arms Reduction Treaties (START) between the United States and Russia (signed initially between the US the former Soviet Union), nuclear stability during the period would have been more difficult to achieve. Later on however the nuclear tests by India and Pakistan in 1998 followed by North Korea eight years later rapidly altered the nuclear balance of power, thus undermining the global nuclear non proliferation regime on the one hand and increasing the threats of 'horizontal proliferation' on the other.<sup>1</sup>

### **Theorizing Nuclear Proliferation**

Along with concerns regarding the proliferation of nuclear weapons, post Cold War period was also characterized by various theoretical debates with scholars highlighting different dimensions in their explanations on nuclear proliferation as well as arguments as to whether future nuclear proliferation can be predicted or not. Aspects of the debate however was also evident in earlier texts written during the time of the Cold War as exemplified by Headley Bull's publication of *The Control of the Arms Race* in

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<sup>1</sup> Vertical nuclear proliferation refers to the accumulation of nuclear weapons within the nuclear weapon states (NWS), which occurred during the Cold War, as the US, Soviet Union, Britain, France and China built up their stockpile of nuclear weapons. Horizontal proliferation refers to the spread of nuclear weapons to the non- nuclear weapon states (NNWS).

1961, where he viewed the issue of nuclear proliferation as the 'Nth power problem'(Bull, 1961:147) or as he expressed it:

“the problem of preventing the expansion of the nuclear club, or of making adjustments to it, is a single one faced by international society as a whole (The Problem), and that this is one raised by any addition to the club’s membership (Nth power)” (Bull, 1961:147).<sup>2</sup>

Since then various theoretical approaches starting with realist/neo-realist approach along with organizational theories, cognitive and psychological approaches, historical sociology approach etc.<sup>3</sup> got involved in the debate focusing on finding solutions to what have been called the ‘proliferation puzzle’.<sup>4</sup> One major debate has been between those who actually welcomed the proliferation of nuclear weapons to other states and those who resisted it. On the former side were scholars like Kenneth Waltz who argued that the gradual spread of nuclear weapons to additional states (horizontal proliferation) is imminent and is to be welcomed rather than feared. It is the immensely destructive capability that the nuclear weapons possess that is going to make war between the nuclear armed states very unlikely and the more these weapons spread to other states the better it will be for international stability since it will induce ‘caution and restraint’ among the states. (Scott Sagan and Kenneth Waltz, 1990: 16). He further stated that the dismantling of the Soviet nuclear umbrella as a result of the disintegration of the USSR will heightened the level of insecurity among some states thus driving them to acquire nuclear weapons to make up for the loss. Eventually after states have acquired a nuclear weapon

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<sup>2</sup> An interesting aspect of Bull’s analysis is his reference to a US study that indicated 26 states, which to varying degrees depending on their economic and scientific resources could develop a nuclear weapon capability within a relative short period of time. What is interesting is the fact that even though the number of states in possession of nuclear weapons has not reached the estimated the US study, the number of states that could develop such a capability have increased since 1961. For details see, Bull, H. (1961), *The Control of the Arms Race: Disarmament and Arms Control in the Middle Age* (London: International Institute of Strategic Studies).

<sup>3</sup> For detailed analysis of various debates on nuclear proliferation see Ogilvie-White, Tania (1996), “Is There a Theory of Nuclear Proliferation? An Analysis of Contemporary Debate”, *The Nonproliferation Review*, 4 (1):p.43-60.

<sup>4</sup> The phrase was coined by Zachary S. Davis and Benjamin Frankel, eds., *The Proliferation Puzzle: Why Nuclear Weapons spread and what Results* (London: Frank Cass, 1993).

capability they will realize the constraints that the same impose due to its destructive nature and this will induce a sense of caution and responsibility in their use by these states (Scott Sagan and Kenneth Waltz, 1995: 17-18). On the other side scholars like Scott Sagan counters Waltz's thesis reaching the conclusion that nuclear weapons are likely to 'destabilize the world and create catastrophic consequences'. Criticizing the constraining mechanism of nuclear weapons that Waltz used in his argument, Sagan was pessimistic about the fact that the positive constraining mechanism of the future nuclear-armed states will not hold good as these states are likely to have military-run or weak civilian government (Sagan and Waltz, 1995: 31).<sup>5</sup>

### **Scope of the study**

The issue of nuclear proliferation also brought with it another major dimension – the relevance of these weapons in the strategic thinking of states thus evoking divergent responses from them. While for some states and regions these nuclear weapons have assumed a very low significance, there are other regions that are moving in a totally opposite direction. Thus while some regions such as Latin America, Southeast Asia, Africa and Central Asia have moved towards developing the region as a Nuclear Weapon Free Zone (NWFZ), in other regions such as South Asia and parts of North East Asia the opposite trend is visible. In this light my study will analyze the perception that the countries of Southeast Asia holds with regard to proliferation of nuclear weapons. The issue of nuclear proliferation has emerged as a major security concern in the Southeast Asian region due to its strategic geographical location surrounded by nuclear weapon states and this concern have been further intensified since the nuclear tests by North Korea. The study will attempt to address such concerns as well the regional reaction towards them.

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<sup>5</sup> Sagan challenged the central assumptions of classical realism and neo realism that states are unitary and rational actors that act in their own interest of the state. He argues that government leaders intend to behave rationally, but are influenced by powerful domestic organization whose decisions often conflict with the decisions taken by the political leaders. Professional military organization because of their common biases and inflexible routines display organizational behavior that is likely to lead to deterrence failure and deliberate or accidental wars. For a detailed analysis of the debate see Sagan, Scott D., and Kenneth N, Waltz (1995), *The Spread of Nuclear Weapons. A Debate* (New York and London: W.W. Norton).

The study will begin with an historical analysis of the de-nuclearization policy of Southeast Asia leading to the adoption of a Southeast Asian Nuclear Weapon Free Zone (SEANWFZ). It will particularly reflect the security situation in the region during the Cold War period by taking into consideration both the extra-regional as well as the intra regional threats which had had a substantial impact on the regions' policy towards de-nuclearization.

The second chapter will focus on the external environment and the impact that it holds with regard to ASEAN's quest for a Nuclear Weapon Free Zone. Three major countries and their respective policies towards nuclear weapons are highlighted in the study – China and its attitude towards nuclear weapons, US efforts towards installing a missile defense in Northeast Asia, and the recent nuclear tests by North Korea. The later part of the chapter will focus on the external dimension of the Southeast Asian Nuclear Weapon Free Zone in light of the reaction of the nuclear weapon states towards the Southeast Asian Nuclear Weapon Free Zone and the regional reaction towards this fact.

The third chapter of the study will analyze the major global non-proliferation initiatives which have emerged with the aim of controlling the complex issue of nuclear proliferation. Three such initiatives will be discussed – the Nuclear Non-proliferation Treaty (NPT), the Proliferation Security Initiative (PSI) and the United Nations Security Council Resolution 1540 (UNSC 1540). The chapter will also analyze the regional reaction towards such initiatives while highlighting the fact that regional response to such initiatives has not been positive throughout the entire region with adherence to principles of non-interference and informality creating a gap between the regional and the global perceptions towards non-proliferation which are more formal and action oriented.

The fourth chapter will focus on the initiatives that have been undertaken at the regional level to deal with the issue of non-proliferation. Efforts undertaken by the Association of Southeast Asian Nations (ASEAN) and the ASEAN Regional Forum (ARF) will constitute a major part of the study. The chapter will highlight how the region had undertaken the issue of non-proliferation with due emphasis on the principles of consensus, informality and non-interference which constitute the 'ASEAN Way' while at the same time highlighting how far they have succeeded in the same.

The fifth and the concluding chapter will analyze the relevance of the Nuclear Weapon Free Zones in general and Southeast Asian Nuclear Weapon Free Zone in particular in light of emerging proliferation threats in the present context. This issue is particularly significant in the Southeast Asian region in light of concerns regarding trafficking of nuclear weapon materials on the one hand associated with the possibility of terrorist groups acquiring weapons related materials on the other. Thus the fact that all the countries have signed the SEANWFZ Treaty is not sufficient as far as proliferation is concerned as the threats have also acquired a non-state dimension.

### **Security Situation in Southeast Asia: Internal and External Dimensions**

The security situation that was prevailing in the Southeast Asian region during the Cold War was a significant factor in its adoption of the denuclearization policy leading to the creation of the Zone of Peace, Freedom and Neutrality (ZOPFAN) and later on the Southeast Asian Nuclear Weapon-Free Zone (SEANWFZ). In fact it was a combination of both intra-regional as well as extra-regional security concerns that had a substantial impact on the regions' policy making apparatus including its approach towards denuclearization.

Due to critical geo-strategic position with vital sea lanes such as Malacca, Ombai, Welar, Sunda, etc. between the Indian and the Pacific Ocean and between Asia and Australia, the Southeast Asian region have been exposed to outside intervention for a long time. The fact that the Southeast Asian region itself was ideologically divided made it a perfect arena which reflected the conflicting global interest of the two superpowers (Seodjati Djwandono, 1994: 207) eventually making the conflict a prime factor for the intensification of outside interference in the region. Vietnam emerged as a core state in the conflict and its division along the 17<sup>th</sup> parallel made it virtually an extension of the Cold War. The great powers eventually expanded their sphere of influence in the state thus dividing it on ideological lines. The United States extended its influence over South Vietnam with 'containment of communism' becoming the governing policy towards the region. On the other side Soviet Union and China gained control over the north. Ideological divisions in fact led to different reactions from the countries of Southeast Asia towards the Indo-China conflict. Thus while on the one hand countries like Laos and



Cambodia maintained official neutrality towards the Vietnams, Malaysia and Singapore gave verbal support to the non-communist south. On the other hand Philippines and Thailand maintained strong alignment with the United States and its containment policies and were 'not only parties to the US-initiated Southeast Asian Treaty Organization (SEATO)<sup>6</sup> but also provided military bases to the US and were directly involved in the war'(Amba Pandey, 2002: 48).

The Indo-China conflict greatly aggravated the security concerns of the Southeast Asian region as far as nuclear weapons were concerned. The very fact that the major players that were involved in the conflict - US, USSR and China - were nuclear weapon states with relations between them reaching a critical stage, any major outbreak between them would have had grave consequences for the region. It was not only the external involvement of the nuclear weapon states among themselves that was a cause of concern for the region, it was the presence of military bases that aggravated the regional nuclear security scenario. While the US maintained two military bases in the Philippines - Subic Bay and Clark Air Base, Soviet Union had two bases in Cam Ranh Bay and Danang Air Base in Vietnam. Add to this the two superpowers maintained a certain amount of secrecy with regard to the stationing of nuclear weapons in these bases and there were situations where they came on the verge of using nuclear weapons against each other thus making the prospects of a major nuclear conflict virtually imminent. (Pandey, 2002:49).

Apart from concerns emanating from the possibility of a nuclear conflict between the two superpowers in the region, the second external security concern involved the other nuclear weapon state namely China, with the so called 'China Threat' emerging as another pressing challenge to the regional security of the Southeast Asian region (Alex J. Bellamy, 2004:160). China's policy of active interference in the domestic affairs of the Southeast Asian region on behalf of sizable ethnic Chinese communities that were present there was viewed with increasing concern by the region, more so since the 1966-69 'cultural revolution' when China actively encouraged and supported communist insurgencies over there. Most critical was the fact that it had important territorial disputes

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<sup>6</sup> SEATO was established in 1954 under the initiation of John Foster Dulles, the then US Secretary of The State, who put forward the 'United Action' approach resulting in the Manila Pact thus giving birth to the organization. With members US, UK, France, Australia, New Zealand, Pakistan, Thailand and Philippines, its major objective was to counter the expansion of communism.

with several countries of the region over the ownership of islands and reefs in the South China Sea as the islands were also claimed by Vietnam, the Philippines, Brunei and even Laos. Although there were no violent confrontations as such, the ‘Mischief Reef’ incident did highlight the potentials of conflict over the issue of ownership of the islands. The island disputes with China were more concerning to the region because of China’s status as a nuclear weapon state with an armed capability much greater than that of all the Southeast Asian states put together.

Like the divergent responses of the states in the region towards the Indo-China conflict, there were different perceptions even towards the so called China threat. However the issue did occasionally helped to galvanize cooperation between some states in the region. One classic case was the region’s response to the Vietnam invasion of Cambodia in 1978 and the perceived need to support the new state of Thailand. ASEAN reacted to the invasion by uniting behind Thailand and generating international opposition to the Vietnamese regime through the UN. In particular, ASEAN members acted in unison to ensure that the regime installed in Cambodia by the Vietnamese did not win international recognition (Bellamy, 2004:160).

Apart from the threats that emerged as a result of the involvement of external powers, the region also contained in itself seeds of potential conflict. As Amitav Acharya (2001: 4) stated:

“the weak socio-political cohesion of the regions new nation-states, the legitimacy problems of several of the region’s post colonial governments, interstate territorial disputes, intra-regional ideological polarization and intervention by external powers were marked features of the geopolitical landscape of Southeast Asia. These conflicts posed a threat not only to the survival of some of the region’s new states, but also to the prospects for regional order as a whole.”<sup>7</sup>

These internal conflicts related primarily to the existing disputes among the countries of the region. In fact even after the attainment of independence there existed a variety of challenges to the sovereignty and territorial integrity of several of the region’s states, most of which emanated from the regional countries’ itself. One classic example

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<sup>7</sup> For detail see, Acharya, Amitav (2001) *Constructing a Security Community in Southeast Asia: ASEAN and the Problem of Regional Order* (London: Routledge)

was Indonesia's policy of challenging the legitimacy of the new Malaysian federation by its so called *Konfrontasi* policy<sup>8</sup>. It was only after the attempted coup of October 1965 that Indonesia realized that the focus on Malaysia had drawn recourses away from state building and consolidation. Along with it the negative effects of the policy towards national economic development were also evident as it discouraged western investment and aid, with no substantial affect on the international legitimacy of the Malaysian state as such.

Another case in which the regional security of the Southeast Asian Region was affected by intra-regional conflict was Malaysia's fractious relationship with Singapore and Philippines. When Malaysian Federation was created, it consisted of a union between Malaya, Singapore, Sabah and Sarawak - the latter two bordering Indonesia. However the union between Malaysia and Singapore remained short-lived with a split taking place in 1965. However it was the conflict between Malaysia and Singapore over the possession of Sabah that assumed serious proportions. Sabah was included in the Malaysian federation when it was created but it had been formally claimed by the Philippines. In 1968 when Manila issued reports about a secret army that had been trained to attack Sabah by the Filipino armed forces on the island of Corregidor, relations between Philippines and Malaysia assumed serious proportions with possibility of a major conflict looming large. In fact through out much of the Cold War the Sabah issue, specifically the 'Corregidor Affair', was widely considered to be the most likely cause of future war in the region thus 'threatening the very existence of ASEAN barely six months into its existence' (Acharya, 2001: 49).

### **The Formation of ASEAN**

The Association of Southeast Asian Nations (ASEAN) was formally established at Bangkok on 8<sup>th</sup> August 1967 bringing together five countries – Indonesia, Malaysia, Thailand, Singapore and the Philippines – in one of the most remarkably divergent group of states. However against the background of both intra-regional as well as extra-regional

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<sup>8</sup> Konfrontasi was a policy initiated by Indonesian president Sukarno centered on denying the legitimacy of the Malaysian state through both diplomatic means-that included severing diplomatic links to Malaysian officials-and armed confrontation, which included armed incursions into Malaysia and indirect supply of arms to opponents of the Malaysian government.

security concerns which had engulfed the region as well as due to the polarization of the region into different ideologies, the establishment of the organization did not inspire much hope for peace and security in the region. The members were not only dissimilar in physical size, ethnic composition, socio-cultural heritage and identity, colonial experience and post colonial politics, they also lacked any significant previous experience in multilateral cooperation. In this light it was through a continuous process of interaction that the new organization sought to integrate regionalism among the member-states. A specified set of norms were adopted by the founding members of the organization that determined the intra-regional relations between them. These norms pertained to non-use of force and pacific settlement of disputes, regional autonomy and collective self-reliance, non-interference in each others internal affairs and rejection of any military pact among east other and a preference for bilateral cooperation (Acharya, 2001:48). In fact it was the specific norm of achieving regional solutions to regional problems that ultimately laid the basis for the formation of a Zone of Peace, Freedom and Neutrality (ZOPFAN) and subsequently the Southeast Asia Nuclear Weapon-Free Zone (SEANWFZ).

However the dependence of the regional countries on extra-regional security guarantees for both internal and external protection created a major hurdle in the process of regional integration among the member states. The strong security links of Thailand and the Philippines with the USA, and those of Malaysia and Singapore with Britain, made security through regional cooperation less urgent. The membership of the Philippines and Thailand in the Southeast Asian Treaty Organization (SEATO) also did not go down well with Indonesia who was a strong advocate of non-alignment, and even with the advent of a pro-western regime, opposed any security role for outside powers in the region. Against the background the emergence of a principle of regional autonomy was bound to be controversial.

However despite the dependence of the regional states on external powers they were still concerned about the future role of great powers in the region. The apprehension was particularly with regard to future great power rivalry founded by the Sino-Soviet rift at the end of the 1960's and a new competition for regional influence. In fact it was the prospect of China emerging as a dominant force in the region that was an important basis of ASEAN's collective apprehensions regarding the role of great powers in the region.

Concerns were also raised by Britain's announcement in 1967 of its decision to withdraw its forces from east of the Suez by the mid-1970s followed the decision of the then US President Nixon in 1969 of a new US doctrine ruling out future US military involvement in land war in Asia. Subsequently US withdrawal from Vietnam was a blow to the credibility to the western security guarantees thus raising concerns about the power vacuum that would be created and a need was felt to fill the vacuum through regional cooperation and collective effort rather than let the prospect of the vacuum being filled by any other outside power.

### **Creation of a Zone of Peace, Freedom and Neutrality (ZOPFAN)**

The Creation of a Zone of Peace, Freedom and Neutrality (ZOPFAN) was in fact a reaction to the regional apprehensions about great power rivalry on one hand and declining faith in external security guarantees on the other. In fact it was Malaysia's policy of possible 'neutralization' of Southeast Asia that laid the foundation of the formation of the zone. It is worth mentioning here that Malaysia's proposal for neutralization was inspired by its own security concerns. The May 1969 race riots, which had exposed the acute tensions between the Chinese and Malay communities, had increased the ruling Malay elite's perception of threat from China. They feared that Beijing might seek to exploit the pro-Chinese loyalties of Malaysia's Chinese, a fear aggravated by its assumption of China's seat to the UN. Thus one important aspect of the neutralization policy was to limit Chinese influence in the region.

Under the neutralization proposal the countries of Southeast Asia were required to respect one another's sovereignty and territorial integrity and not participate in any activities likely to directly or indirectly threaten the security of another. More importantly the external dimension of the proposal required the removal of all foreign bases from the region. Besides this a security guarantee was also taken from the major powers i.e. US, USSR and China to 'exclude the countries of the region from the power struggle among themselves as well as guarantee Southeast Asia's neutrality in the international power struggle' (G.V.C. Naidu, 1986: 360-61).

However, the strict proposal of neutralization initiated by Malaysia was seen of being unfeasible by the ASEAN members. It was the external dimension of the proposal which became a major stumbling block as neutralization under international law would require formal guarantees from the great powers. Secondly, and more importantly, in order to be credible, neutralization has to involve strict legalistic prohibition against foreign military bases and the existing alliance relationship. What was critical with regard to the later point was that while ASEAN countries were keen to espouse the principle of regional autonomy, they were also at the same time pragmatic enough to realize that complete self-reliance was not feasible under the present circumstances. In particular, countries such as Thailand, Philippines and Singapore saw their security links with western powers as vital to their national security as well as regional order.

The ZOPFAN declaration which emerged on 27<sup>th</sup> of November 1971 from a meeting of the ASEAN Foreign Ministers in Kuala Lumpur was a classic example of an emerging ASEAN way of compromise, consensus building, and ambiguity among the members on the one hand and rejection of legally binding obligations on the other. The declaration was far more 'soft and open ended' compared to the neutralization framework which was proposed by Malaysia (Naidu, 1986: 364). This could be gauged from the fact that the adoption of the objective of neutralization was only on 'desirable' rather than on essential terms. More importantly from a regional security point of view the declaration did not explicitly deal with foreign military bases and alliances, although these bases were understood to be temporary and only with the expressed agreement of the countries involved.<sup>9</sup>

However the tensions that were prevailing among the members of ASEAN members between issues of autonomy over regional security and the continued dependence of several of the countries on external security guarantees remained the principal stumbling block towards the realization of ZOPFAN. Thus Singapore and Thailand's stress on the need for an external security linkage with United States conflicted with the pro-autonomy views of Malaysia and Indonesia with Singapore reflecting its strong support for the US presence in the region went to the extent of saying

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<sup>9</sup> For a full text of the Zone of Peace, Freedom and Neutrality (ZOPFAN), see <http://www.aseansec.org/2068.htm>.

that the ZOPFAN concept made the continuation of the US presence even more necessary as a balance could be maintained in the event of one or more great power not abiding by the proposal. In addition to that there were differing threat perceptions among different members of ASEAN. For example, the ability of China to pose a threat to Southeast Asian regional security was viewed seriously by only Indonesia and Malaysia. Thailand and Singapore on their part was more concerned about Vietnam's post-war intentions towards its ASEAN neighbor.

### **Initiation of Southeast Asian Nuclear Weapon Free Zone Treaty**

The problems towards the realization of ZOPFAN turned more complex with the outbreak of Cambodian conflict in 1978, making ASEAN realize that ZOPFAN could not materialize until the resolution of the Cambodian conflict. This made the regional organization to shift its focus towards a more specific aspect of ZOPFAN i.e. to establish a Nuclear Weapon-Free Zone in Southeast Asia. Here it is important to mention that partial interest towards a nuclear weapon free zone by the region started way back in 1950's with G.P. King's brief work presented at a conference in 1965 entitled '*A Nuclear Weapon-Free Zone in Southeast Asia*' probably being the first work to discuss the issue. In his work King reflected the concerns of the Southeast Asian region when he argued that the presence of nuclear powers with their military bases could be detrimental for nuclear security in the region. In fact the inclination of the US to station more nuclear facilities in late 1960's from the fear of facing the fast growing Chinese nuclear threat was one of the principal factors why there could have been a spread of nuclear facilities in the region. In view of this fact it was felt that a Nuclear Weapon Free Zone would be a useful mechanism to check the spread of these weapons 'either acquired independently, through assistance or as a result of foreign basing (Muthaih Alagappa, 1987: 1).

However it was not before the 19<sup>th</sup> ASEAN Foreign Ministers meeting in Manila in June 1986 that proper initiation was undertaken with regard to the establishment of a nuclear weapon free zone in the region. A formal ASEAN committee had been established for studying actively the ways and means of achieving the SEANWFZ. However nothing concrete could emerge from the meeting with the issue remaining on the backburner.

At the ASEAN Foreign Ministers meeting in Singapore in June 1987 Indonesia and Malaysia once again brought the issue back to the table. Some progress was also made in the meeting with announcements that 'drafting plans' were in an 'advanced stage'. However the proposals met with strong criticism from ASEAN. Without getting discouraged Indonesia and Malaysia continued to work closely to press the idea of a SEANWFZ at the later meetings. Indonesia's persistence in advancing the concept was best evident in its Foreign Minister Mochter Kusumaadmadja's speech at the Conference on Disarmament in Geneva on February 1988 where he argued that:

"The establishment of ZOPFAN and a Southeast Asian nuclear free zone is particularly desirable in a region, which has a long history of endemic conflict and intervention by extra regional powers. We are convinced that their realization would diffuse tensions and foster condition of stability conducive to economic and social development of the region. In pursuance of these objectives, it is hardly our intention to exclude the cooperation of states out side the region. Rather our aim is to reduce the risk of renewed rivalry and strategic competition in Southeast Asia."<sup>10</sup>

However there was considerable debate in the regional level itself regarding the feasibility of the SEANWFZ. The supporters of the zone believe that its successful realization would give substance to ZOPFAN as well as prevent horizontal proliferation of nuclear weapons thus ensuring that the region did not become a nuclear target. Others showed considerable optimism while arguing that it is nothing more than a dangerous pipe dream. As was the case with the ZOPFAN concept, there was no unanimity amongst the ASEAN members as to the advantages of a regional nuclear weapon free zone. There was an increasing concern that this pursuit would in fact divide rather than unite ASEAN. It was the differing national interest, perception and priorities that became a major factor in the regional differential view of the nuclear weapon free zone. The first major problem was the linkage of the successful implementation of the zone with agreement and recognition by the superpowers. What was critical in this regard was the fact that the importance of the region in the superpowers geo-strategic thinking meant that it was too complicated a goal to achieve. Secondly was the problem of defining the geographical

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<sup>10</sup> Cited in S. Bilveer (2000), *ASEAN, The Southeast Asia Nuclear Weapon-Free Zone and the Challenge of Denuclearization of Southeast Asia*, Canberra : Strategic and Defense Studies Centre, p.32.



delimitation of the zone as to whether it should involve the whole of Southeast Asia or only a part of it. Furthermore, even if such a zone was introduced, excluding the great powers, there were fears that Indonesian-Vietnamese domination of the region would be aroused, which would create new sources of regional tension, especially for the United States. It was specifically for the later reason that Singapore's Foreign Minister, S Dhanabalan, objected to a nuclear free zone in Southeast Asia.

Equally troubling was the fact that the zone was having a direct implication on the superpowers strategic thinking with the reduction of the US ability to counter the Soviet threat, which was increasing its presence in the region. Conversely it was assumed that a nuclear weapon free zone in Southeast Asia would be more beneficial for the Soviet Union especially when it suffered a severe loss of political goodwill in Southeast Asia due to its support for the Vietnamese aggression and occupation of democratic Kampuchea. Thus it was widely believed that the zone if realized could be factor in reducing the political and strategic influence of the United States in the region thus affecting its strategic balance.

The onset of post cold war period was marked by a radical change in the security scenario in the region thus significantly affecting the quest for nuclear weapon free zone. Even though the US and Soviet unilateral decisions in 1991 to withdraw all technical nuclear weapons significantly contributed to the de nuclearization of Southeast Asia, it was felt that fresh pursuit for a SEANWFZ would still have its added benefits as it would reconfirm Southeast Asia's commitments towards nuclear non proliferation and send a positive signal to adjacent countries not to pursue the nuclear option in future (M. C. Abad, 2005:169)

In this light the January 1992 4<sup>th</sup> ASEAN summit in Singapore reflected ASEAN's commitment to ZOPFAN and SEANWFZ in consultation with friendly countries taking to account the changed circumstances. The vastly improved relations between Washington and Moscow as well as the closing of American and Russian basis in the Philippines and Vietnam paved the way for building of the necessary conditions for SEANWFZ to be realized (M. Natalegava, 1993:15). Thus in December 1995 during the 5<sup>th</sup> ASEAN Summit, ten years after the formal commitment to denuclearize the region, the land mark treaty to turn Southeast Asia into a nuclear weapon free zone was signed by

all the countries of the region and was brought into force on 27 March 1997.<sup>11</sup> In addition to the then seven ASEAN members, namely, Brunei, Indonesia, Malaysia, Philippines, Singapore, Thailand and Vietnam, the remaining three states of the region, Cambodia, Laos and Myanmar, also endorsed the treaty. In line with Article 16 of the SEANWFZ treaty, it came into force on 27 March 1997 when Vietnam, as the seventh signatory, deposited its instrument of ratification and accession.<sup>12</sup>

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<sup>12</sup> For full text of the Southeast Asia Nuclear Weapon Free Zone Treaty refer <http://www.aseansec.org/2082htm>.

## **CHAPTER II**

### **THE EXTERNAL ENVIRONMENT IN THE QUEST FOR AN ASEAN NUCLEAR WEAPON FREE ZONE**

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It has been almost a decade since the countries of Southeast Asia have signed the treaty establishing the region as nuclear weapon free zone. However one of the most critical aspect with regard to the Southeast Asian Nuclear Weapon Free Zone Treaty is the fact that its success is intrinsically linked with how the nuclear weapon states respond to the treaty. In this regard a significant step towards the full implementation of the treaty remains to be taken as barring China none of the nuclear weapon states have signed the protocols to the treaty. The issue has become more critical in light of significant developments that have taken place in the Asia-Pacific region in general which could have substantial impact on the regional security of Southeast Asia. This chapter focuses on some of these developments that have taken place in the Asia-Pacific region over the last decade. The first two parts discusses the Chinese attitude towards Nuclear Non-Proliferation (NNP) regime and US efforts towards installing a Missile Defense in North East Asia respectively. The next part deals with the North Korean nuclear tests and the subsequent impact it will have on the entire region. The last part highlights the regional reaction towards these developments at the same time presenting an analysis about the external dimension of the Southeast Asian Nuclear Weapon Free Zone Treaty highlighting the current dynamics between the treaty and the nuclear weapon states.

#### **CHINA AND THE NUCLEAR NON PROLIFERATION REGIME**

The Asian regional order is undergoing substantial change in the present context and in order to comprehend these changes it is essential to understand at them at multiple levels, as the so called ‘comfortable paradigms’ are insufficient to give a proper

explanation to these changes (David Shambaugh, 2006: 153). Realism, liberalism and constructivism - the three dominant I R paradigms - all offer useful insights into the trends that characterize the Asia-pacific region, but while each is valid and insightful to certain extent, none of these paradigms can explain the totality of regional interactions in Asia today<sup>13</sup>. However one of the most significant developments that had caught the attention of all these paradigms has been the rise of China in the present world order with scholars linking the future strategic behavior of China with its Asian neighbors as a determining factor on the question of how the evolving Asian regional order in the next few decades will look like. Within the issue of the rise of China there are a number of propositions which have been forwarded by the scholars as what shape the Chinese rise will take. Within such scholars are optimists like David Shabbaugh (2006: 155), who argues that China will pursue the policy of 'pro-active engagement' with the countries of its periphery as a result of which most Asian nations 'with the exception of Japan' is beginning to engage China as a 'good neighbor, constructive partner and a Status Quo regional power'. On the other hand among the realists' scholars, who holds a more pessimist view with regard to so called 'China rise', is John J. Mersheimer (2006: 162) who argues that 'China is likely to try to dominate Asia the way the U.S. dominates the western hemisphere' and this state of affairs would not be peaceful for the global order in general and the Asian regional order in particular. The continuous economic growth of China will likely engage US and China in an 'intense security competition'.<sup>14</sup>

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<sup>13</sup> With regard to the evolving regional order in Asia the three prominent IR paradigms offer different insights to the order. Realist perceives class power balancing and hedging between major states (US & China, Japan & China, India & China) and emphasized growing military capabilities and action oriented "Security Dilemmas". Liberals observe intensifying intra-regional, economic, social and technological interdependence among states and non-state actors that serve as a constraint on great power competition. Constructivists believe that common norms and pan-regional identity is taking root among many Asian societies.

<sup>14</sup> In his book *The Tragedy of Great Power Politics* (Norton, 2001), Mearsheimer argued that the greatest power doesn't merely strive to be the strongest great power, although this is a welcome outcome. Their ultimate aim is to be the Hegemon- i.e. the only great power in the system. States that gain regional hegemony have a further aim: to prevent great powers in other regions from duplicating their feat. It is on this basis that he predicts that since the US had worked hard for more than century to gain regional hegemony in the western hemisphere, they will not tolerate peer competitors. America is likely to behave towards China much the same way as it behaved towards Soviet Union during the Cold War.

## Attitude Towards Nuclear Weapons

When the Peoples' Republic of China (PRC) came into existence in 1949, it was confronted with a hostile external environment. In the period of less than 5 years, the United States threatened to use nuclear weapons against the PRC thrice: twice during the Korean War and again during the Taiwan straits crisis of 1958. Thus throughout the 1950's even though they verbally denigrated nuclear weapons as 'paper tigers', the leadership was very much aware about the need to acquire the status of a 'nuclear weapon state' in this hostile environment, and right from the beginning the leadership assigned an important role to nuclear weapons resisting any external attempts to restrict or control the development of its nuclear capability. (Gelber H, 1999: 446). Viewing the non-proliferation regime as discriminatory and an attempt by the superpowers to pursue their own nuclear interests, China underwent its first successful nuclear tests in 1964. Its opposition towards the non-proliferation regime was reflected when the NPT was signed by Washington, Moscow and London in 1968, with Premier Zhou Enlai attacking it as a 'big conspiracy and swindle' by the U.S. and the U.S.S.R in their attempt to turn the Non-Nuclear Weapon States (NNWS) into 'protectorates'.

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Thus till the 1970's it was the rational of increasing nuclear threat first posed by the US and then by the USSR that persuaded it to go nuclear. However since the 1970's the intensification of Soviet threats in its northern borders forced China to improve its relation with the U.S. Subsequently there was a significant change with which China viewed the non-proliferation regime. The hard line posture that China adopted in the 1960's was replaced by more diplomatic assertions that the regime was hampering the development of nuclear energy for peaceful purposes, thus 'setting the tone for the future Chinese commentaries on the NPT' (K. N. Ramachandran, 1980: 98). The softening of the Chinese attitude towards the NPT in the late 1970s also had a domestic dimension in that China's civilian nuclear power program made it imperative to seek agreements on nuclear cooperation with the suppliers of the nuclear technology such as U.S., Japan, the then West Germany, Britain and Italy- all of them pursuing nuclear non-proliferation.

China's support towards global nuclear non-proliferation regime gained momentum in the 1990s driven by the need to end its diplomatic isolation following the

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Tiananmen massacre of June 1989 and the collapse of the Soviet Union. The period was also marked by a shift in the international arms control agenda from a bilateral U.S.-Soviet nuclear arms control towards multilateral regimes in order to constrain the spread of WMD thus requiring Beijing to provide more tangible non-proliferation commitments (R. Sismanidis, 1996: 72). In February 1992, China pledged to abide by the original 1987 Missile Technology Control Regimes (MTCR)<sup>15</sup>; in March 1992, China signed the NPT<sup>16</sup>; in 1993 ratified the Chemical Weapons Convention (CWC); in 1994 it contributed to gaining North Korean acceptance of U.S.-DPRK Agreed Framework which led to freeze of the North Korean nuclear weapons program. In July 1996 Beijing instituted a moratorium on nuclear testing and signed the CTBT two months later. In 1997 it joined the Zangger committee on export controls and in 2004 entered the NSG following persistent calls by the U.S. to do so. It also participated in the 2000 NPT Review conference and the preparatory conference leading up to the 2005 Review conference thus emerging over the past decade an active member in the entire arena of nuclear non-proliferation regime (Sujit Dutta, 2005: 48).

### **Issues of Compliance**

Even though China has always claimed that it has adhered to its treaty obligations and commitments fully, the fact that it has been among the principal proliferators of nuclear and missile technology to Asian and Middle-east states could not be refuted. While much of these proliferations began before it had become a member of the non-proliferation regime, it clearly continued through the 1990s even as it began to actively engage itself with the nuclear non-proliferation regime. It had been argued that China was primarily responsible for nuclear proliferation in Asia, given the assistance it has provided to Pakistan<sup>17</sup> and North Korea's<sup>18</sup> nuclear and missile export over the years

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<sup>15</sup> Missile Technology Control Regime (MTCR) was established in 1987 by 7 missile technology exporters to cover the sale of nuclear-capable ballistic missile or cruise missiles. This supply arrangements seeks 'to limit the risks of nuclear proliferation by controlling transfers of technology which could make a contribution to nuclear weapons delivery system other than manned aircraft.

<sup>16</sup> Coming out from 'Irish Resolution ' which calls for measures to limit the possibility of additional states to acquire weapons and for all states to refrain from transfer or acquisition of such weapons, the NPT formerly entered into force on 5<sup>th</sup> March 1970 and extended indefinitely in 1995. Till now it has 189 parties.

(Mohan Malik, 1999: 31). It will also be no exaggeration to say that it was primarily with Chinese assistance that Pakistan got its nuclear bomb. Incidentally, between 1992 and 2000, proliferation of sensitive technologies led to Chinese entities being sanctioned quite a few times first by the Clinton administration and later by the Bush administration. However, despite the fact that there has been a marked change in recent US approach towards greater appreciation of China's efforts towards non-proliferation, suspicion still remained and it became more profound with the publication of a report by the U.S. State Department Bureau of Verification and Compliance in 2004 which stated that Chinese state-owned companies have engaged in transfer activities with Pakistan, Iran, North Korea and Libya that are clearly contrary to China's commitment to control missile proliferation (Bolton, 2005: 5).

It is China's pursuit of broader strategic objectives of limiting U.S. dominance worldwide that makes it undermine the non-proliferation regime (Mohan Mallik, 2000: 462). In fact its participation in various arms control measures in the post Cold War era is also to be viewed with the overall dynamics of its relations with the US (Sujit Dutta, 2006: 152). For example, China tied up its control on missile technology and components export to Pakistan and Iran with limits on U.S. arms export to Taiwan thus using its proliferation policy as a constant bargaining chip to limit the arms export to Taiwan.

### **Future of Chinese Non-Proliferation Commitments**

It is being increasingly argued that China's policy towards the nuclear non-proliferation regime will increasingly depend upon how the other major powers act particularly on the Asia-Pacific region. Already the overall military dominance of the US driven by the ongoing Revolution of Military Affairs (RMA) had led China to view

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<sup>17</sup> China and Pakistan signed a secret Sino-Pakistani Nuclear Technology Cooperation Agreement in 1976. according to some US Intelligence Report, one or two nuclear devices that Pakistan tested in 1998 were actually Chinese thus amounting to violation of the CTBT that Beijing signed but never ratified. China also assisted Pakistan with delivery systems: ready to launch M9, M-11 and a number of CSS-2/DF-21 (renamed Hadf, Shaheen and Ghauri respectively) ballistic systems.

<sup>18</sup> Several North Korea experts have been trained in plutonium separation and other nuclear technologies in China. North Korean Taepo-dong has their origins in Chinese CSS-2 missile technologies.

nuclear weapons with even more utility as a 'possible hedge against great power intervention' (T.V. Paul 1999: 384).

Despite recent tangible and positive cooperation between China and the US there remains evident suspicions and distrust of each other's motives and actions. As a result, the state of the Sino-American relations today may be characterized by David M. Lampton's term 'hedged engagement': where both sides are engaging to a significant extent, yet are hedging against the possibility of deterioration of ties. While China's military modernization is viewed suspiciously by Washington, U.S. security partnership and the military build up in East Asia and the Pacific are of increasing concern for Beijing.

What worries Beijing in particular is the possibility of U.S. deployment of Theatre Missile Defense (TMD)<sup>19</sup> in East Asia especially in Japan and Taiwan as well as concerns about the U.S. proposal to deploy nuclear missile defense (NMD) for the continental U.S. (CONUS). Beijing in fact stated officially that the deployment of TMD would spark a new global arms race with nightmarish scenario of nuclear weapons proliferation globally and in Asia-pacific region in particular.

It is the Taiwan factor which is the foremost reason for Chinese opposition to regional deployments of TMD. If extended to include Taiwan, TMD would eliminate the only credible option left to China to deter Taiwan from seeking independence. Some Chinese experts predicted that if U.S. and Japan decides to deploy the TMD system, China would have no choice but to reconsider its nuclear policy. Viewing such a system as a threat to its nuclear deterrent, China might feel forced to react by increasing the number of its nuclear warheads and reconsidering its 'No first Use' (NFU) pledges<sup>20</sup> which could be detrimental to the Asian security environment and non-proliferation efforts.

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<sup>19</sup> In August, 1999, the US and Japan formalized an agreement to conduct joint technology research on Theatre Missile Defense (TMD) which are intended to intercept and destroy ballistic missiles.

<sup>20</sup> A problematic aspect of the argument is raised by China's assertion that deployment of TMD would undermine its own deterrent capability- this invariably suggests that Chinese warheads are aimed at Japan. Incidentally Japanese official line is that the TMD will purely be a defensive measure intended to deter ballistic missile threats from North Korea. Thus, far from deterring Japan away from involving in the missile defense program, it in fact increases Japan's apprehension about Chinese intentions and fuel the Chinese threat theory in Japan.



Chinese commitment to non-proliferation also has to be viewed in the context of its relation with Japan. In fact relations between the two neighbors have deteriorated in recent years, with each one viewing the other's military modernization as unnecessary and even threatening. This deteriorating Sino-Japanese relationship is not only to be confined as a bilateral matter as it has implications across the region as stability of east Asian region as a whole depends upon the stable relations between China and Japan (Shambugh, 2006: 157).

Thus, China may reverse its non-proliferation commitments if it comes to believe that its security is threatened by strategic developments in the neighborhood. Already, indications are that the repercussions of India's nuclearisation are retarding China's non-proliferation processes. China's powerful military constituency is now using India's declared nuclear capability as a justification for supplying further nuclear equipments and expertise to Pakistan. It is concerns emanating from the future status of arms control treaties that explain China's contradictory non-proliferation policy to a great extent. For example, amendment and/ or reinterpretation of the anti-ballistic missile (ABM) treaty to permit the deployment of NMD/ TMD would increase China's strategic inferiority spur another arms race between the U.S., China; force other nuclear weapon states such as India to expand the nuclear arsenal and cause threshold states and nuclear aspirants to pursue nuclear weapons program as was in the case of North Korea.

## **UNITED STATES POLICY TOWARDS ASIA: MOVING TOWARDS MISSILE DEFENSE**

The second major development that could have a considerable impact on the dynamics of Asia-Pacific security will be the fact as to how the United State's policy towards the region will shape up. A truism that the United States is a country like no other can be applied to any nation, but it does not obscure the fact that the country occupies a unique, historically unparallel place in the contemporary international system. In the aftermath of the Second World War, the United States emerged as one of only two 'superpowers' (Soviet Union being the other) with a capacity to influence events in any part of the globe. The subsequent demise of the Soviet Union as a strategic rival has further reinforced the dominant position of U.S.A (Buzan and Little, 1999: 41) in that it

can influence the behavior of the apparently powerful states like China and Japan, to say nothing of the less influential nations of Southeast Asia. (Buckley, 2002: 8).

Susan Strange (1988: 15) identifies four key components that determine the power and influence of a country in the international system. This 'structural power', as she calls it, stems from 'control over security, production, credit and knowledge'. Judging by the first component, U.S. undoubtedly enjoys an unprecedented dominance over all other nations which have been further reinforced by the 'revolution of military affairs' (RMA). What is important in the context of the study is the fact that in East-Asia, the U.S. presence has been seen by much of the region as pivotal to maintaining a stable balance of power, something that explains the continuing presence of American military forces in the region (William Tow, 2001: 387).

### **Installation of BMD/TMD in Asia**

Since the past decade the world has been witnessing a gradual power shift towards Asia as exemplified by the rise of China and subsequent so called 'hedged engagement'<sup>21</sup> in China-U.S. relations. As the geopolitical competition between the U.S. and China is intensifying, East-Asian policy makers are becoming more and more apprehensive about the future course of U.S. defense policy towards the Asia-pacific region, particularly with regard to its plan to develop a ballistic missile defense (BMD) and a Theatre Missile Defense (TMD).

Even though it was U.S. President Bill Clinton who actively initiated the prospects of deploying missile defense, it was Bush who adopted the hard-line campaign statements in support of NMD. At a major defense policy conference in Munich, his secretary of defense announced preliminary intentions by the administration to deploy a wide-ranging and integrating NMD/TMD system capable of global coverage. Similarly Theatre Missile Defense technology has also been discussed by the U.S. with its north-east Asian allies (Japan and South Korea) since the early 1980s when the strategic defense initiative (SDI) program was initiated. In fact through out the 1990s Japan

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<sup>21</sup> Formulating this term, Lampton argues that despite tangible and positive cooperation between US and china, there persist evident suspicions and distrusts of each others motives and actions. Thus Sino-US relations can be at present characterized as "hedged engagement": both sides are engaged to a significant extent, yet are hedging against the possibility of deteriorating of ties.

accelerated its TMD collaboration with the United States via working groups within the bilateral alliance framework. North Korea's taepedong-1 missile launch over Japan in August 1998 was seen by some observers as a catalyst that led to the intensification of the BMD debate in Asia. This was reflected in the Rumsfeld commission report released in 2001, which stated that "threat to the U.S. posed by (emerging) missile technologies is broader, more mature and evolving more rapidly" than previously estimated by the U.S. and allied intelligence committees.

US justifies the installation of the BMD in East Asia on the perception that in the current uncertain and dangerous strategic environment brought about by the intensification of WMD proliferation, 'Nuclear Deterrence' strategy can no longer be relied upon and expecting nations especially the so called 'rogue states' to exercise restraint and rationality in future crisis is historically misguided. It is aptly reflected in Donald Rumsfeld's testimony before the Armed Service Committee, U.S. Senate in 2001 where he stated that in an environment of increasing strategic uncertainty created by the expansion of potentially hostile WMD Proliferates, missile defense must be developed and deployed to defend the United States and its allies.<sup>22</sup>

On the other hand, opponents of BMD argue that it will significantly threaten what they regard as a still strategic nuclear balance between the U.S. and Russia and the strategic arms control agreement such as the 1972 Anti Ballistic Missile (ABM Treaty) that underwrite it. In particular, BMD will strengthen China's motivation to accelerate its nuclear force capabilities which will lead to nuclear arms proliferation in Asia and the Middle East. Most alarmingly BMD will blur the distinction between strategic offence and defense thus intensifying arms race and security dilemmas globally and in Asia-pacific in particular.

How US policy towards missile defense will impact the future shape of the Asia-Pacific security order rests, in large part, on how the Asian countries respond to future American defense deployment. Chinese have become increasingly vocal in their criticism of the missile defense concept as BMD would deny China's currently small strategic

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<sup>22</sup> For full text of the speech see Donald Rumsfeld, "Responding to unexpected dangers, New Threats top Agenda", Testimony before the Armed Service Committee, US Senate, 21 June 2001, as reprinted in the US Department of State, International Information Programmes at <http://unifostate.gov/cgi-bin/washfil...plt&t=/products/washgile/newsitem-htm>.

nuclear arsenal of 15 to 20 inter-continental ballistic missiles (ICBMs) the current status of a credible minimum strategic deterrence. In fact its enthusiasm for participating in arms control regimes would be severely dampened by the American BMD efforts which in turn will substantially effect Indian, Russian and eventually North Korean (which already conducted nuclear tests in 2006) strategic calculations and strategies (Tow and Coong, 2001: 386).

## **NUCLEAR NORTH KOREA**

Efforts to constrain the acquisition and use of nuclear weapons which reflected the prime objective of the Nuclear Non-Proliferation (NPT) treaty was further undermined on October 9 2006, when North Korea conducted the underground nuclear explosions. The nuclear tests sent shock waves across northeast Asia, upsetting the already precarious balance of power in the region and forced a rethinking of foreign policy strategies among its neighbors (The Hindu Nov.11, 2006: 10). Concerns were raised among the international community, particularly in the Asia-pacific region, not only because of a new entrant into the 'nuclear club' and the possibility of further proliferation, but also because of the possibility of transfer of weapons and fissionable materials to other countries or even worse to the terrorists (Graham Allison, 2006: 34).

### **Evolution of North Korean Nuclear Policy and the Crisis**

The utility of nuclear weapons was first realized by North Korea during the initial phase of the Cold War when both the superpowers used considerable caution in their nuclear policies motivated by the fear of total destruction. It was in 1958 during the Korean War that North Korea became involved with the nuclear politics of both the superpowers with the US deployment of nuclear weapons on South Korea.<sup>23</sup> Incidentally its own nuclear program also started in the 1950's with the construction of a 1000-kilowatt reactor in Yon Bong with some technical assistance from the Soviet Union. In fact throughout the 1980's it was due to Soviet Union assistance that North Korea

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<sup>23</sup> During the Korean War the United States deployed nuclear weapons in South Korea for the first time; there the weapons remained until president Bush ordered their withdrawal in 1991.

accelerated its nuclear program with great success and it was Soviet assurance to construct light water reactors that it signed the NPT in 1985.<sup>24</sup>

The North Korean nuclear crisis occurred in the 1990s when Kim Il Sung refused the inspection of the IAEA according to the safeguard agreement and instead threatened to withdraw from the NPT, thus taking the relations between the US and North Korea to a dangerously critical point (Robert Litwak, 2003: 60). In fact it was the assumption that Pyongyang could possess nuclear weapons is what successfully deterred the U.S. from using military force against the DPRK regime thus paving the way for the U.S.-DPRK Agreed Framework in 1994 with mediation of former U.S. president Jimmy Carter<sup>25</sup>. Thus it was the caution and fear of using military force against an assumed nuclear state by the US that helped North Korea to make a compromise and avert a war (Taiho Lin, 2004: 61)<sup>26</sup>. It can be argued that it was above rationale that prompted North Korea to intensify its efforts to develop a nuclear weapon even after the framework of 1994, as a deterrent force in the face of prevailing US military presence in South Korea.

Relations between U.S.-DPRK deteriorated further during Bush's presidency with the administration viewing its engagement policy as 'favoring North Korea to "blackmail" the U.S. and its allies'. (Wade Huntley, 2004: 90). U.S. government became very skeptical of its present policy and significantly reviewed its relationship with the North Korean regime. It was reflected in the termination of negotiations over North Korean missile program; inclusion of the country on the so called "Axis of Evil"; and in its military policy of pre-emption. Pyongyang reciprocated by cutting all seals and monitoring equipment from its nuclear facilities in 2001 and subsequently announcing its

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<sup>24</sup> Incidentally North Korea didn't conclude a safeguard agreement with the IAEA until jan.1992-an agreement which should have been signed within 18 months as per the NPT guidelines. Inspection of its military facilities started as late as 1992.

<sup>25</sup> According to an information of the CIA, North Korea has at least plutonium for one or two nuclear weapons that could be assembled with plutonium reprocessed between 1981-1991.however the CIA cannot be sure whether North Korea have the capabilities to weaponise its plutonium into an operational and deliverable warhead.

<sup>26</sup> Supporters of nuclear proliferation argue that it was North Korea's 'possible nuclear deterrent' that saved it from crisis. In contrast to North Korea, Iraq was attacked by the US air strikes in operation desert fox in 1998: Sudan also suffered us cruise missile attacks in the same year after been charged with links to terrorists and the production of chemical weapons.

withdrawal from the NPT on 2003, effective on January 11<sup>27</sup>, thus giving a death blow to the non-proliferation regime.

### **The Six-Party Talks**

To defuse the ensuing crisis and to end its weapons program, a multilateral dialogue at China's initiative began in Beijing in April 2003. Initially a trilateral forum comprising China, U.S. and North Korea it expanded into six-party talks with the inclusion of Russia, South Korea and Japan. Four rounds of the talks have subsequently taken place in February 2004, June 2004, July/August 2005, September 2005 and November 2005 respectively which significantly revealed the major differences between the two major parties - U.S. and DPRK. The mistrust both had towards each other was carried forward in the talks as no significant breakthrough could be achieved. In the talks Pyongyang's insisted on its right to use nuclear energy for peaceful purposes stressing it's will to give up its nuclear option in return of backup of U.S. hostility and adequate compensation for its sacrifice. It also called for a package deal to be implemented in stages where both sides should act simultaneously until the eventual objective of denuclearization is achieved. The U.S. for its part stressed that it would meet the request of DPRK, including providing security assurance, only when the DPRK first dismantle its entire nuclear program in a 'complete, verifiable and irreversible manner' (Pan Zhenqing, 2005: 23). The implementation of what appeared to be a highly promising 'statement of principles' signed by the six members ran into immediate obstacles and a renewed effort to restart the talks in April 2006 proved futile making North Korea to eventually go ahead with its nuclear weapons program.

### **REGIONAL PERSPECTIVE AND RESPONSES**

One important dimension that characterizes the Southeast Asian region is that interactions with other more powerful forces from outside have profoundly influenced its

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<sup>27</sup> Although article 10 of the NPT stipulates that a country give 3 months notice in advance of withdrawing, Pyongyang argued that it had satisfied with this requirement because it originally announced its decision to withdraw on march 12, 1993 and suspended the decision one day before it was legally effective. An IAEA spokesman says that the agency considers North Korea to have a safeguard agreement in place for the reminder of three months notice from Pyongyang's withdrawal announcement, suggesting the IAEA still considers North Korea to be a formal party to the NPT.

regional security scenario. This interaction has become even more profound in the present context because of the way the Asian region itself is significantly changing. Thus the major developments that have been discussed in the first part of the study do have a considerable influence in the shaping of the regional denuclearization policy in the near future.

As far as Southeast Asia relation with China is concerned, Leonard Sebastian (2000: 160) identified three important factors namely, 'past Chinese assumptions of suzerainty over Southeast Asia; issue of ethnic Chinese in the region; Maoist Chinese support for revolutionary movements in Southeast Asia' that have shaped the Southeast Asian perception of China. During the Cold War relations between the two have been profoundly influenced by ideological considerations that made some countries of the region to view China as a 'direct threat' (Mark Beeson, 2004: 209).

The end of the Cold War and the subsequent growth of Chinese economic as well as military capability led a significant change in the perception of the regional states towards it. Consequently different interpretations were put forward by scholars as to how the ASEAN states are responding to China. One such interpretation was put forward by Amitav Acharya, when he argued that ASEAN is pursuing a policy of 'double binding' by actively involving both US and China in its strategic calculations thus 'increasing the cost of Chinese use of force' (Amitav Acharya, 2003: 153). However concerns over China's long term intentions along with its rising economic power and consequent strengthening of its political and military influence, backed by the weapons of significant strategic leverage, did exist among the region and generated uncertainty among the Southeast Asian countries.

The most significant issue for the Southeast Asian countries in its relations with China is that of disputes over the South China Sea. In fact China's 'creeping assertiveness' in the South China Sea had indirectly led to the strengthening of bilateral defense and security ties between concerned ASEAN states and the western powers. However in the present millennium especially 2003 China has been more accommodating towards the views of ASEAN over the issue. It has been actively involved with the organization showing considerable willingness to evolve a common consensus which will be beneficial for both the parties. What has been most welcomed by ASEAN states was

that China has shown considerable admiration and support for the SEANWFZ. Incidentally it is first and the only nuclear weapon state to sign the protocols to the treaty. It has been a significant step towards ASEAN attempt to fully implement the SEANWFZ Treaty.

On the other hand ASEAN viewed its relation with the US in the context of it being a provider of external security guarantees to the countries of Southeast Asia during the Cold War as a 'regional Hegemonic power' (Mearsheimer, 2006: 163). However the collapse of the Soviet Union at the end of 1991 and the subsequent withdrawal of the U.S. military from naval and air bases in the Philippines created anxiety among some states in the region that these events were a prelude to the creation of a dangerous 'power vacuum'. Fearing that these vacuums could be filled by some middle powers in East Asia, ASEAN states responded to these developments through a bandwagon effort to ensure a continued U.S. military presence in Southeast Asia (Lam Lai Sing, 1994: 459). However after the end of the cold war the relation between the two became a little apprehensive following Clinton administration's 'strategy of enlargement' which they saw as a campaign for interference, cultural imperialism and an irritant to most Southeast Asian states' sensibilities (Sidney Jones, 1996: 425). Although they accepted the U.S. as a hegemon that provides almost unilateral security guarantees, the fact that it will impose states its own values of economic development, liberal-democratic political system and processes did not go down well with the countries of the region.

The ASEAN states' most significant response to this post-Cold War international environment was the creation of the ASEAN Regional Forum (ARF) in 1994. It had two manifest functions: fostering constructive engagement and initiating preventive diplomacy. It also had a tacit but more significant objective of the preservation of a regional balance of power based on the balancing of military and political engagement by the U.S. (Michael Liefler, 1996: 19). It came after the loose, informal and ad hoc multilateral forum whose primary aim is to preserve the immediate post-cold war regional order against the shifting regional power relations between an external major power (U.S.) and the key middle powers in East Asia.

The countries of Southeast Asia have increasingly used ASEAN and the ARF as a primary forum to discuss various security issues in the Asia-Pacific. The issue of US



installation of a missile defense shield also came up in some summit meetings with the ASEAN countries expressing considerable concerns that the development will have on the security situation on the Asia-Pacific in general and Southeast Asia in particular. Although discussions of how BMD applies to Southeast Asia are rare, nevertheless the issue raises certain security implications for this sub-region. Tow and Coong (2001: 396) believes the issue could affect the regional security scenario in two ways in the near future. Firstly, possibility of integration of Taiwan in the regional TMD network could initiate an assertive reaction from China. The second possibility could be the future propensity of the U.S. and selected security coalition partners to counter the proliferation of WMD in or near Southeast Asia with BMD and RMA systems.

The BMD issue has also become entwined within the larger Sino-American confrontation over the balance of power in the East China Sea. The outcome of this dispute is critical from the Southeast Asia's vantage point and will shape ASEAN's perception of U.S. strategic intentions and capabilities in the future. If China is able to overwhelm BMD, eventually compelling the U.S. to back down from its commitment to defend Taiwan against the Chinese use of force, it will severely call into question the U.S. extended deterrence strategy in the ASEAN region. Japan would also be prompted to expand its current modest step towards becoming a 'normal' military power in its own right. Any such development would intensify tensions in the Asian strategic environment particularly if Japan were to deploy its own version of TMD to contest the Chinese missiles in the east and South China Sea and to preserve its access to critical maritime lanes of communication.

With regard to North Korea there have been considerable concerns in the sub-region following the DPRK nuclear tests as was reflected in official statements denouncing the move and urging to bring North Korea into the negotiating table through the six party talks. Thailand deplored the tests arguing that it poses a serious threat to nuclear non proliferation as well as regional and international peace and security. It called upon DPRK to abide by the principles of NPT and IAEA safeguards and urged all parties concerned to exercise restraint and expressed hope that the issue will be solved peacefully. Warning that Philippines was "within striking distance" president Gloria Macapagal Arroyo called on North Korea anew to scrap its nuclear weapons program.

She expressed confidence that the United Nations Security Council would be able to convince North Korea to drop its nuclear arms program. In fact all the ASEAN states urged the need to denounce the use of force that could intensify the crisis in the region with devastating effects, and favored a policy of engagement with North Korea.

### **SEANWFZ Treaty: External Dimension**

One of the major ASEAN attempts towards achieving nuclear security for Southeast Asia was the Southeast Asian Nuclear Weapon Free Zone (SEANWFZ) Treaty, which came into force in 1997. In terms of the treaty the state parties are bound not to develop, acquire or have control over nuclear weapons. The nuclear weapon free zone however has more than just a regional significance. In the form of a supplementary protocol the nuclear weapon states were expected to accede to it by expressing support for the denuclearization of the region. This issue has assumed even more significance in the context of the current developments that have been occurring in the Asia-Pacific region.

Unfortunately, unlike the other three treaties on NWFZ's, this is yet to happen. Consequently there is an 'uncertain international dimension' (Muetzenich, 1997: 394) to the treaty which could be critical with shifting nuclear balance of power in the Asia-pacific region. It was Indonesian Foreign Minister who first made public the fact that the treaty was facing objections from the nuclear powers, in a speech in Singapore in October 1992 where he stated that:

“ASEAN’s proposed SEANWFZ has encountered opposition from some nuclear powers that perceive it as undermining their doctrine of nuclear deterrence and as establishing an unacceptable precedent for other regions. It is a view that we do not share. In a post cold war political setting, such a view has become untenable and irrelevant, particularly because in the regime envisioned for the region, transit rights will remain unaffected.”<sup>28</sup>

The United Nations expressed its support for a nuclear weapon free zone in Southeast Asia. On the occasion of the general assembly a large majority of members urged support on 10 December 1996 for the existing NWFZ in Southeast Asia. However

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<sup>28</sup> Cited in Pandey, Amba (2002), *Regional Security in Southeast Asia and the Southwest Pacific: Prospects of Nuclear Weapon Free Zones*, Delhi: Authors Press.

France, Britain and USA voted against the resolution. While China came out in favor, Russia abstained.

The coming into force of the SEANWFZ confronts the USA with a dilemma. While it has a lasting interest in non proliferation of nuclear weapons, it had not signed the treaty for strategic reasons. As a start the US administration observed the goal of establishing a nuclear weapon free zone in Southeast Asia with restraint. For them a NWFZ in the 80's would have run contrary to the strategic balance of power and military base interest. The then Secretary of the State Schultz claimed that agreement to something that restricted America's activities without restricting to any substantial degree the activities of others would amount to reducing US nuclear deterrence capabilities. Even after the cold war the statement of the major power remained contradictory. In the opinion of the administration it was the inclusion of EEZ and of the respective continental shelves constituted a violation of international agreements. Above all the US government was wary of being dragged into conflicts over un-clarified territorial claims of the South China Sea. More importantly it is the provision of negative security assurances among the NWS in article 2 of the protocol which most nuclear weapon states including US consider "the single most difficult" (M. C. Abad Jr., 2005: 183). Most of the NWS were against this supposedly unprecedented and unique provision of extending NSA to other NWS. The NWS have argued that they have already given security assurances against the use of nuclear weapons to NNWS that are parties to the NPT.<sup>29</sup> Another issue preventing USA from signing is the inclusion of EEZ and continental shelves in the zone which they believe is inconsistent with internationally recognized high seas freedom of navigation and over flight.

Some scholars argue that non endorsement of the treaty makes little sense in terms of security policy. With the removal of bases, nuclear weapons are no longer stored in the region and testing in the region is also unlikely. Besides, the fear of being dragged into territorial disputes in the South China Sea also remains relevant without the treaty, since the USA have concluded a number of support agreements with individual ASEAN

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<sup>29</sup> In its written comments, in response to the proposals of the ASEAN working group on SEANWFZ of October 1996, the US categorically stated that, "we will not be able to sign the protocol so long as the 2<sup>nd</sup> sentence of article 2 ( of the protocol)requires this expansive commitment because (1)the geographical boundaries of the zone are at present undefined and (2) it confers the sane NSA upon any state in the zone, regardless or not they have undertaken the solemn obligations to the treaty.

states and provides extensive military assistance. In so far as the innocent passage is intended no restriction can be derived from the SEANWFZ. Visits to ports and over flights are also possible, since the treaty states decide on these aspects autonomously. It is being argued that the US has already done some damage to its image in the region by its refusal to recognize the South Pacific Treaty and if it continues to ignore the SEANWFZ it will jeopardize its status as a decisive external player in the region (Muetzenich, 1997: 398).

As long as the USA refuses to sign the SEANWFZ, Britain and France will probably continue to do the same. The then French Ambassador, Barry Delong Champs stated in 1996 that his country harbored the same reservations – over the unequivocal nature of the security assurances to be offered and over the definitions of the territory, including the EEZ, to be encompassed. (Bilveer Singh, 2000: 45).

Why Russia is not signing the treaty is difficult to explain because a NWFZ in Southeast Asia does not restrict Russian maritime possibilities. The fact that the government of Moscow has not taken the step so far can only be understood if its relation with China can be taken into account. The government of Beijing has become one of the most important trading partner and arms buyer in Asia that partially explains why the Russian government currently refrains from doing anything that could upset partners in Beijing.

The SEANWFZ treaty also had China into an awkward position. The government of Beijing had reservations about the inclinations of EEZ and the continental shelves. However a NWFZ in the region is also of prime importance in Beijing's strategic calculations as it could limit the activities of other nuclear powers and strengthen its relative position in the region. In consideration of this fact it became the only nuclear weapon state to sign the protocols to the treaty.

## **Conclusion**

The Southeast Asia Nuclear Weapon Free Zone remains strategically relevant because it conveys the message of peace and security as well as contributing to the global campaign against proliferation of nuclear weapons. The zone has assumed even more importance in the Asian security scenario due to the changing patterns of the nuclear

balance of power and heightened fears of a nuclear arms race particularly in Northeast Asia with ramifications over the entire Asia-Pacific. This zone considerably restricts the policy options of the NWS in terms of testing as well as planting nuclear devices. Post 9/11 concerns over the probable nexus between international terrorism and WMD had created a new urgency for international cooperation in nuclear disarmament and non-proliferation. In this sense the SEANWFZ have given Southeast Asia a framework for cooperation in preventing terrorists' organizations from acquiring materials to develop and use nuclear weapons. The challenge now is to remove the current impasse so as to ensure the accession and signing of the SEANWFZ by the rest of the nuclear weapon states particularly the US, which will go a long way in enhancing the security situation in the region.

## **CHAPTER III**

### **GLOBAL NUCLEAR NON-PROLIFERATION INITIATIVES AND REGIONAL RESPONSES**

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The change that had undergone in the Asia-Pacific region after the Cold War necessitates a more active response to deal with the issue of proliferation of nuclear weapons. In fact post Cold War period a number of new initiatives have come up which had tried to deal with the dynamics of proliferation along with the already existing traditional non-proliferation mechanisms. This chapter analyses some of these global nuclear non-proliferation initiatives that have emerged with the aim of controlling this complex dynamics. Particularly three such initiatives have been discussed – the Nuclear Non-proliferation Treaty (NPT), The Proliferation Security Initiative (PSI) and the United Nations Security Council Resolution 1540 (UNSCR 1540). The chapter also discusses the Southeast Asian response to these initiatives thus highlighting the perception it holds with regards to global nuclear non-proliferation efforts.

#### **TREATY ON THE NON-PROLIFERATION OF NUCLEAR WEAPONS (NPT)**

Endlessly cited as the “cornerstone of the nuclear non-proliferation regime” (Sharon Riggle, 2000:34), the Treaty on the Non-proliferation of Nuclear Weapons (NPT) was a result of growing concerns which started gaining ground from the 1960’s about increase in the number of countries acquiring nuclear weapons. The foundation of the treaty was laid down by the ‘Irish resolution’, adopted by the UN General Assembly in 1961, which called for measures to limit the possibilities for additional states to acquire nuclear weapons and from all states to refrain from the transfer or acquisition of such weapons. The breakthrough in the negotiation for the NPT came on 11<sup>th</sup> March 1968

when Soviet Union and the US tabled a joint draft treaty which opened for signature on 1<sup>st</sup> July 1968, with the treaty coming into force on 5<sup>th</sup> March 1969<sup>30</sup>.

The main objectives of NPT are to halt the further spread of nuclear weapons, to create a climate where co-operation on the peaceful use of nuclear energy can be fostered, and to encourage good faith arms control negotiations leading to the eventual elimination of nuclear weapons (Berhanykun Andimicael, Merle Opelz and Jan Priest, 2000: 15). Considering what is at stake the treaty is a rather simple document consisting of only 10 articles. The details of the verification of treaty obligations are left for negotiation in the framework of the International Atomic Energy Agency (IAEA). These safeguard agreement and subsidiary arrangements go into much detail and constitute the treaty's verification system.

With 188 sovereign states, the NPT is a treaty with the largest membership, second only to the UN charter. However two (India and Pakistan) out of eight confirmed nuclear power ( i.e. those who have openly tested nuclear weapons), and one presumed nuclear power ( Israel) neither signed nor ratified the treaty. One further nuclear power (North Korea)<sup>31</sup> ratified the treaty and later withdrew. Twenty five years after entry into force, at the 1995 Review and Extension Conference, the parties to the NPT decided by consensus to extend the treaty indefinitely and without condition.

### **Three pillars**

The treaty is often summarized as having 3 pillars: Non-proliferation, Disarmament and the Right to use peaceful nuclear energy.

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<sup>30</sup> The treaty was proposed by Ireland, Finland was the first country to sign it in 1968 and by 1992 all the five then declared nuclear powers (US, USSR, France, UK and China) had signed the treaty.

<sup>31</sup> The DPRK became the only state to announce its intention to withdraw from the NPT when it did so in 12 March 1993 based on its supreme national interest citing the treaty's withdrawal clause [Article X(ii)]. However on 11<sup>th</sup> June, one day before its withdrawal from the treaty was due to take effect, bilateral negotiations with the US resulted in DPRK suspending the "effectuation" of its withdrawal. On 10 January 2003, DPRK withdrew again announcing that its withdrawal will come into force immediately and automatically on the next day, claiming that it has suspended its 1994 withdrawal from the treaty on the last day of the required 3-months notice period and thus did not need to give additional notice to other NPT parties and the Security Council as required under Article X of the NPT.

## **Non proliferation**

The non-proliferation provision as reflected in Article 1 and II of the NPT constitutes one of the central pillars of the treaty and the nuclear non-proliferation regime as a whole. In accordance with Article 1 all five NPT-recognized nuclear weapon states agree not to transfer “nuclear weapons or other nuclear explosive devices” and “not in any way to assist, encourage or induce” a non-nuclear weapon state to acquire nuclear weapons. Non-nuclear weapon states on their part agree not to “receive”, “manufacture” or “acquire” nuclear weapons or “seek to receive any assistance in manufacture of nuclear weapons” (Article II). Besides this the Nuclear weapon states also agree to accept safeguard by the International Atomic Energy Agency (IAEA) to verify that they are not diverting nuclear energy from peaceful uses to nuclear weapons or other nuclear explosive devices (Article III). The five nuclear weapon states have made undertakings not to use their nuclear weapons against a non-nuclear weapon state party except in response to a nuclear attack, or a conventional attack in alliance with a nuclear weapon state. Widely viewed both as a incentive for states not to seek nuclear weapons as well as a concrete step towards disarmament, these negative security assurances create an advantageous climate of trust between the NPT-recognized nuclear-armed states. However these undertakings have not been incorporated formally into the treaty, as the nuclear weapon states for the most part remain opposed to codifying these commitments maintaining that existing, non-binding declarations are sufficient<sup>32</sup>.

## **Disarmament**

Article IV of the NPT commits state parties to “pursue negotiations in good faith on effective measures relating to cessation of nuclear arms race at an early date and to nuclear disarmament, and on a treaty on general and complete disarmament under strict and effective international control.” The responsibility of the nuclear weapon state to work towards disarmament constitutes one of the fundamental elements of the non-proliferation regime. In what is often referred to as the “core bargain” of the NPT, non-nuclear weapon states surrender the options of pursuing nuclear weapons in exchange of

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<sup>32</sup> The United States for instance has indicated that it may use nuclear weapons in response to a non-conventional attack by “rouge state”. In fact it had nuclear warheads targeted at North-Korea from 1959 to 1991, then a non-nuclear weapon state.



the commitment of the five NPT recognized nuclear weapon states to pursue complete elimination of nuclear weapons. Giving prime importance to the disarmament provision within the non-proliferation regime, states have often sought to update how disarmament principles and objectives should be defined at the review conferences – like the decision on “Principles and Objectives for Nuclear Non-proliferation and Disarmament” at the 1995 Review and Extension Conference and the adoption of “13 Practical Steps on Non-proliferation and Disarmament” at the 2000 NPT Review Conference. Both these agreements outlined further areas on progress on nuclear weapon state disarmament.

However significant differences exist between the nuclear ‘haves’ and ‘have-nots’ regarding implementation of article VI. Many non-nuclear weapon states note that the NPT was indefinitely extended on the basis of commitment made by the nuclear weapon states to fulfill the disarmament obligations and have expressed frustration with the pace of progress (Celso Amorim, 2004: 12). In fact this discontent had been a major justification given by the non-signatories to develop their own nuclear weapons. Many states, most notably NAM emphasize the need for specific articulations by the nuclear weapon states of a time frame needed for the complete elimination of nuclear arsenals, and at the 2004 Preparatory Committee called for the ‘conveying of a conference to conclude a time table for the phased elimination of nuclear weapons (Applegarth Claire and Rhianna Tyson, 2005: 14).

The nuclear weapon states on the other hand continue to claim that they are doing enough. The United States particularly cites the need for stricter compliance of the NPT by the nuclear weapon states as a prerequisite for further nuclear disarmament measures. And countries like France, UK and China conditions further cuts from the large arsenals of the US and Russia before reduction of their own arsenals take place<sup>33</sup>. The US and Russia typically approach disarmament through bilateral frameworks as evident by the signing of the Strategic Offence Reduction treaty (SORT) or Moscow treaty on May 2002 in which they are to reduce their operationally deployed strategic nuclear warheads

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<sup>33</sup> China had been particularly critical on the ongoing research on new and modified nuclear weapons arguing that research and development of new types of easy-to-use nuclear weapons...not only runs counter to international trend, but also do harm for international non-proliferation efforts. However the Bush Administration insists that nothing in the NPT prohibits the US from ‘carrying out nuclear weapons exploratory research or from developing and fielding new and modified nuclear warheads’ (Stephen G. Rademaker, 2004).

to between 1700 and 2200 by the end of 2012. However states of NAM and the New Agenda Coalition<sup>34</sup> view sort as a welcome but insignificant step towards fulfillment of Article VI obligations as it includes no provisions for verification or irreversibility and due to non-inclusion of tactical nuclear weapons. Highlighting the later aspect Kofi Annan in a March 2005 report “In Larger Freedom: Towards Development, Security and Human Rights for All”, calls for “further reduction in non-strategic nuclear weapons for arms control agreements that entail not just dismantlement but irreversibility” (Annan, 2005: 7).

### **Peaceful Use of Nuclear Energy**

The right to use nuclear energy for peaceful purposes constitutes the third important pillar of the NPT. Article IV (1) of the NPT guarantees “the inalienable right of all parties to the treaty to develop production and use of nuclear energy for peaceful purposes without discrimination and in conformity with Articles I and II of the treaty”. For many non-nuclear weapon states, many of them developing nations, the option to pursue nuclear energy is considered critical for the achievement of energy independence and economic subsistence (Claire Applegarth and Rhianna Tyson, 2005: 7).

However certain nuclear fuel cycle activities, such as uranium enrichment and plutonium reprocessing can not only be used to fuel nuclear reactors for energy production, but to produce the fissile materials necessary to make nuclear bombs. One of the significant loopholes in Article VI is that there are no local barriers distinguishing between a states capacity to enrich uranium for reactor fuel and the ability to enrich it to a level that can be used in nuclear weapons. Several states like North Korea and Iran have acquired nuclear weapons or related materials under the guise of civil uses. Currently 15 states have or are suspected of having a complete fuel cycle, meaning uranium enrichment of plutonium reprocessing facilities which would enable them to produce fissile materials for nuclear weapons (Daniel Dombey, 2006: 11). Mohammad Elbaradei, the Director General of International Atomic Energy Agency (IAEA) has called the

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<sup>34</sup> A coalition formed in 1998 and composed of Brazil, Egypt, Ireland, Mexico, New Zealand, South Africa and Sweden. These states typically called for enhanced nuclear weapon state commitment to practical and stepwise disarmament measures.

spread of enrichment and reprocessing, and capability the ‘Achilles heel’ of nuclear non-proliferation regime (El Baradei, 2004)<sup>35</sup>

It is due to the threat emanating from dual-use technology, that nuclear weapon states particularly the US have proposed that the Nuclear Supplier Group (NSG)<sup>36</sup> agree only to sell nuclear technology and equipment that can be used to enrich uranium and reprocess plutonium to countries already processing such facilities. Justifying the proposal President Bush in his address to the National Defense University in Feb. 2004 stated that “proliferators must not be allowed to clinically manipulate the NPT to acquire the materials and infrastructure necessary for manufacturing illegal weapons”. Elbaradai on the other hand questioned the viability of the proposal given that the NPT guarantees non-nuclear weapon states access to nuclear technology for peaceful purposes. He instead proposed a ‘5-year moratorium on building new uranium and plutonium-separation facilities while other solution to the fuel cycle dilemma are accessed’ (El Baradei, 2004). Elbaradei’s proposal also have its critics with states like Australia, Brazil, Canada and Japan which either supply of are seeking to build nuclear fuel facilities oppose the moratorium cautioning that “it could give rise to monopoly on the supply of nuclear fuel by countries that currently possess these technologies and are concerned that it could curtail the ability of non-nuclear weapon states to pursue peaceful nuclear power program (Appegarth and Tyson, 2005: 8). Thus significant differences of opinion still exists among the parties to the NPT particularly between the Nuclear weapon and the non-nuclear weapon states regarding the interpretations of the provisions of the treaty.

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<sup>35</sup> For details see, El Baradei (2004), “Nuclear Proliferation: Global Security in a Rapidly Changing World”, Keynote Address delivered on 21 June 2004 at the Carnegie International Non-Proliferation Conference: Washington, D.C.

<sup>36</sup> A group currently composed of 44 nuclear supplier states including China, Russia and the US, that have voluntarily agreed to coordinate their export controls governing transfer of civilian nuclear materials and nuclear related equipments and technology to non-nuclear weapon states.

## Future of NPT

The effort to constrain the acquisition and use of nuclear weapons is perhaps the most ambitious attempt ever made to extend peace over humankind's destructive capability. The NPT has traditionally provided a respectable level of security to protect against the massive proliferation of nuclear weapons (Sharon Riggle, 2000: 34). Over the years, its security framework, combined with effective diplomacy, has led several states to abandon their nuclear weapons ambitions (like Argentina, Brazil, Sweden and Libya) or to give them up (South Africa, Belarus, Kazakhstan and Ukraine)<sup>37</sup>. The treaty also makes it far more difficult for other non-nuclear weapon states to acquire the materials and technology needed to build such weapons and even if they do so, without detection. It also led the Nuclear weapon states to issue Negative Security Assurances (NSA) – pledge not to use nuclear weapons against non-nuclear weapon states of the NPT- there by reducing the incentives for others to seek nuclear arms (Applegarth and Tyson, 2005: 1).

Despite these very significant accomplishments, the NPT and the broader nuclear non-proliferation regime are under great stress. At the May 2005 NPT Review Conference; it became clear that global security and proliferation challenges are as politically and technically complex as they were in the 1960's when the treaty was conceived and created. The past few years have witnessed more deadly forms of terrorism, wars, and nuclear black markets as well as instances of state withdrawal from the treaty. North Korea's withdrawal from the NPT and its subsequent nuclear tests was a severe blow to the treaty as well as the broader non-proliferation regime, demonstrating the limits of diplomacy in dealing with the threat of non-proliferation (Leon V. Sigal, 2006: 363). Two other nuclear weapon states (India and Pakistan) in the critical South Asian region, remain outside the NPT with the latter's nuclear establishment spawning a black market nuclear supply network that had aided the nuclear weapons program of Libya, Iran, North Korea and perhaps others.

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<sup>37</sup> South Africa undertook a nuclear weapons program allegedly with the assistance of Israel in the 1970's and is reported to have conducted nuclear tests in the Atlantic Ocean in 1979, but has since then renounced its nuclear program and signed the NPT in 1991 after destroying its nuclear arsenals. The former Soviet republics of Belarus, Kazakhstan and Ukraine destroyed or transferred to Russia the nuclear weapons inherited from the Soviet Union.

George Perkovich (2006: 355-356) argues that the NPT as well as the overall non-proliferation regime suffers from a number of structural flaws. The first flaw is the problem of maintaining political legitimacy and the will to enforce rules build on a double standard - one standard, less restrictive for a few countries that possess nuclear weapons and another, more demanding for a vast majority that do not. A second flaw is that potential failure of the Security Council's permanent members to cooperate in enforcing rules in tough areas. Thirdly, the current rules for maintaining export and nuclear fuel cycle needs to be updated in the light of technical changes and experience. Finally, it is the failure of the nuclear weapon states to take seriously a 'core bargain' obliging them to move towards nuclear disarmament.

The failure of the 2005 Review Conference of the NPT to achieve any significant success in furthering the goals of disarmament and non-proliferation had led some scholars to propose that the NPT should be scrapped altogether and that it is time to accept the inevitability of nuclear weapons spread and learn to manage them. In this regard Michael Wesley (2005: 285) gave two possible conclusions – either that nuclear weapons can be retained indefinitely and never used, or that we must accept the inevitability of their use and all the attendant consequences. Scholars like Sue Wareham (2005: 440) however challenged both the proposition arguing instead that an 'increasingly nuclear armed world that Wesley sees as an alternative to holding the nuclear weapons states accountable to their legal obligations to disarm would render the world even more dangerous than our present precarious situation'. This is due to a number of factors including the distinct possibility of nuclear terrorism; emergence of new nuclear powers (India, Pakistan, North Korea) over the past decades; possible inclusion in the number of nuclear weapon states in the Middle East (Iran, as well as Israel); concerns regarding the US missile defense system and China's possible response to it; and the dangerous shift in US nuclear weapons policy under the current administration<sup>38</sup>.

Thus despite its shortcomings the NPT remains an important legally binding commitment on the part of its member states to nuclear weapons abolition. However in

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<sup>38</sup> for a detailed study of the debate about the utility of the NPT see, Michael Wesley (2005), "Its time to Scrap the NPT", *Australian Journal of International Affairs*, Vol.59(3) and also Sue Wareham(2005), "Its time to Abolish Nuclear Weapons", *Australian Journal of International Affairs*, Vol.59(4).

order to salvage and strengthen the regime, steps will need to be taken in the near future which allows for collective actions to address pressing global non-proliferation issues. Such an approach might encompass: attempts to resolve disputes and build confidence at the bilateral and the regional level; innovation in ideas such as compliance, verification, safeguards, intelligence, and fissile and radiological material production, security and disposal; universality by involvement of non-parties to the NPT; ongoing efforts aimed at nuclear disarmament; and continuing commitment by all parties to the treaty's objectives.

### **ASEAN and the NPT**

All the 10 member-states of ASEAN have signed the NPT. Malaysia and Laos became parties to the treaty in 1970, Philippines and Cambodia in 1972, Thailand and Singapore in 1976, Indonesia in 1979, Brunei in 1984, Vietnam in 1985 and Myanmar in 1992. Thus technically all the ASEAN member states have eschewed nuclear weapons program for their countries (Bilveer Singh, 2000: 13). However the peaceful use of nuclear power, in accordance with article IV (1) of the NPT, has not been rejected by the states, especially for generating power. This is evident in the nuclear policies of Indonesia and the Philippines, as well as the projected construction of nuclear power plants in Thailand.

The establishment of Nuclear Weapon-Free Zones as stated in Article VII is a significant step in strengthening the nuclear disarmament process, as well as the effectiveness of the NPT. In this regard the establishment of the Southeast Asia Nuclear Weapon-Free Zone, with the signing of the Bangkok Treaty, symbolizes the attempts of the ASEAN countries to advance the cause of peace and stability in the region and the nuclear non-proliferation regime as a whole. It is thus consistent with the long-standing program to ensure that the region becomes a Zone of Peace, Freedom and Neutrality (ZOPFAN) (G.V.C Naidu, 1986: 357). It is also in line with the objectives enunciated on Nuclear Weapon-Free Zones, contained in the decisions on "Principles and Objectives for Nuclear Non-proliferation and Disarmament" taken by the NPT 1995 Review and Extension Conference.

Since the entry into force of the Bangkok Treaty, the parties have been proceeding on two tracks. Firstly, to implement the treaty provisions and secondly, to obtain support for the treaty and its protocol from the five nuclear weapon states. On the first track, an important step forward in the implementation of the treaty was the conveying of the inaugural meeting of the commission for the SEANWFZ, comprising the ASEAN Foreign Ministers, in Singapore on 24 July 1999. At the meeting, the Commission directed its Executive Committee to initiate all necessary actions to ensure compliance to the treaty. Recognizing that the IAEA has an important role to play in assisting the treaty parties to fulfill their obligations under the treaty, a dialogue between the treaty parties and the IAEA was established. Issues being discussed included the question of IAEA support in implementing the provisions in respect to safeguard and handling of nuclear wastes, as well as possible assistance in terms of technical cooperation 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 V of the treaty.

With regard to the second track, the ASEAN states have been engaged in an ongoing process of consultations with the five nuclear weapon states in the hope that they could accede to the protocol as early as possible. Each of the five nuclear weapon states has indicated reservations with various parts of the protocol some of which are common to most of the nuclear weapon states particularly with regard to the question of the zone of application of the treaty and its implications for their respective nuclear deterrent policies (Muetzenich, 1997: 394).

ASEAN is now actively undertaking further consultations with the nuclear weapon states in order to address their concern in package, including the question of the formulation of Negative Security Assurances. ASEAN hopes that the nuclear weapon states will ensure sincerity to their commitment on nuclear disarmament by supporting the SEANWFZ, ASEAN's contribution towards nuclear disarmament and non-proliferation by signing the protocol for guaranteeing non-nuclear weapon states, in legally binding form, against the use or threat of use of nuclear weapons in this zone.

## THE PROLIFERATION SECURITY INITIATIVE

The profound change that the context of nuclear proliferation had undergone by the turn of the new millennium, led to a greater urgency to find ways that would be responsive to the complexities of globalization of the phenomena. This inevitably led to new measures like the Proliferation Security Initiative (PSI). First announced by US President George W. Bush in Krakow, Poland on May 31<sup>st</sup> 2003, PSI turned out to be a bold and a decisive approach to deal with the threat posed by the trafficking of Weapons of Mass Destruction (WMD), their delivery systems and related materials to and from state and non-state actors of proliferation concern, and seeks to deter, detect and disrupt the flow of these items through interdiction at sea, in the air and on land (Mark Esper and Charles Allen, 2004: 2). Various being described as a ‘political arrangement’, an ‘activity’, and a new form of ‘mix and match multilateralism’<sup>39</sup> (David A Simon, 2005: 3), PSI is intended to help overcome the inability of the existing national and multilateral export controls to stop a thriving black market in WMD components, technology and production materials. At present the initiative consists of 15 core countries and 2 non-core members (Denmark and Turkey) besides 75 states which expressed support for active participation.<sup>40</sup>

### Origin

PSI owes its existence to the Bush administrations National Strategy for WMD published in December 2002, which laid out a 3 pillar strategy to combat WMD: counter proliferation to combat WMD use, strengthen non-proliferation to combat WMD proliferation and consequence management to respond to WMD use.<sup>41</sup> <sup>42</sup> On the

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<sup>39</sup> The term is basically used not to identify the PSI from as a multilateral institution in the conventional sense as it has no secretariat of formal organization that serves as a coordinating body. PSI through its so called ‘mix and match multilateralism’ enforce global norms in the age of proliferating WMD in which different countries participate in different ways depending on the need at hand and on individual nation’s capabilities.

<sup>40</sup> Ten nations (France, Germany, Italy, Netherlands, Poland, Portugal, Spain, UK, Australia and Japan) initially joined the US to form the initiative. Six other nations (Canada, Norway, Russia, Singapore, Denmark and Turkey) joined subsequently with the later two being non-core members.

<sup>41</sup> For a full text of the document see, The White House National Strategy to Combat Weapons of Mass Destruction Dec. 2002, URL: [http // www.whitehouse.gov/news/releases/2002/02/20021211-4.html](http://www.whitehouse.gov/news/releases/2002/02/20021211-4.html).



immediate level however it was the So San incident that led to a greater urgency in pushing forward the initiative. On Dec 10, 2002, Spanish forces acting in concert with the US seized a North Korean cargo ship called the So San in the Indian Ocean destined for Yemen. Upon boarding, the Spanish personnel discovered a concealed shipment of 15 complete scud missiles, 15 warheads and fuel underneath the cargo. However a day later US made a surprising decision, much to the annoyance of Spain, of letting the ship and its cargo sail to its destination. As a legal matter the decision to let go was a correct one because carrying weapons at sea doesn't violate international law unless the transporting state has agreed under treaty not to transport such goods. Since North Korea is not a party to the Missile Technology Control Regime (MTCR), it has the right to transport the scuds.<sup>43</sup> Beyond the legal rhetoric however, there was a strategic reason behind the US action. As reflected by US White House spokesman Ari Fleischer, Yemen's status as an ally in anti- terrorism efforts was an important factor in the decision, and preserving that cooperation was held to be more important than depriving Yemen of a small number of antiquated missiles (Andrew C winner, 2004: 24). More importantly, Washington extracted promise from the Yemeni government not to transfer missiles to a third party. In spite of the apparent let off, the multilateral effort that allowed the interception of the ship likely informed a policy formulation process – a process further hastened by possible dangers of terrorists acquiring nuclear weapons or related materials, that ultimately led to Bush's announcement of the PSI.<sup>44</sup>

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<sup>42</sup> in its December 2002 National Strategy to Combat WMD Proliferation, the Bush administration highlighting a more activist approach on countering proliferation placed interdiction at the top of the agenda, ahead of more traditional non-proliferation measures such as Diplomacy, Arms control and Export Control. Incidentally this approach was aptly reflected in the principles and objectives of the PSI which the administration announced a year later.

<sup>43</sup> Under the Law of the Sea Convention, vessels on the high seas can be stopped by ships of their flag state. A ship may also be stopped if it is without nationality i.e. it flies no flag and does not otherwise demonstrate its state of registration. In the case of *So San* it flew no flag. Besides this the poor choices made by the merchant ship's captain and crew related to the vessels registry and paperwork ensured the legality of the attempt to interdict the vessel. However the cargo was not illicit as North Korea is not a part of the Missile Technology Control Regime (MTCR).

<sup>44</sup> Even though the PSI was an initiative proposed by the current Bush Administration some trace its origin to a failed interdiction attempt of a Chinese ship *yanhe* during the first Clinton administration in August 1993. The US suspected that the ship was carrying thiodiglycol and treonyl chloride – chemicals that can be used to manufacture both mustard gas and sarin nerve gas, but after inspection as neither of these chemical was found the Chinese government demanded an apology. Failure to find illicit substance onboard made the *yanhi* interdiction case more public and put a damper on the future interdiction effort

## Statement of Interdiction Principles

The basic outline of the initiative is mentioned in the ‘Statement of Interdiction Principles’ promulgated in Paris on September 4, 2003 by the initial 11 participants. According to the US State Department any country who accepts the interdiction principles and has the necessary legal authority to implement them can become members of the PSI. For any state that doesn’t have all or any of the requisite legal authorities is encouraged to create the same. The interdiction principles commit members to:

- i. Undertake “effective measures, either alone or in concert with other states, for interdicting the transfer or transport of WMD, their delivery systems and related materials to and from state and non-state actors of proliferation concern”<sup>45</sup>;
- ii. Put in place “streamline procedures” and capabilities supporting the “rapid exchange of relevant information” among PSI members “concerning suspected proliferation activity”;
- iii. Review, and where need be, work to strengthen domestic and international legal frameworks justifying interdiction operations; and
- iv. Take “specific action in support of interdiction efforts regarding cargoes of WMD, their delivery systems or related materials to the extent that their national legal authorities permit and are consistent with their obligations under international law and frameworks” (Benjamin Friedman, 2003: 3).<sup>46</sup>

One significant aspect of the ‘Statement of Interdiction Principles’ is that no state is explicitly named as targets of the initiative. The wordings of the statement allow participants to decide at the time of an interdiction whether circumstances warrant considering the sender or the recipient ‘an actor of proliferation concern’ (Winner,

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during the administration. Later Bush came to office believing that more needs to be done to combat WMD proliferation and determined that interdiction was going to be a tool used more frequently and efficiently than it had been during the 1990’s.

<sup>45</sup> In the Statement “states or non-state actors of proliferation concerns” generally refer to those countries or entities that are engaged in proliferation through: (a) efforts to develop or acquire chemical, biological or nuclear weapons and associated delivery systems; or (b) transfer (either selling, receiving or facilitating) of WMD, their delivery systems or related materials.

<sup>46</sup> For the full text of The Statement of Interdiction Principles see, Office of the Press Secretary, White House, “Proliferation Security Initiative: Statement of Interdiction Principles”, September 4 2003, URL: <http://www.state.gov/t/np/rls/fs/23764.pdf.htm>.

2004: 30).<sup>47</sup> Regarding the final provision of the statement, participants immediately began interdiction operations; with the first PSI exercise ‘Pacific Protector’<sup>48</sup> taking place in the Coral Sea off the Australian coast within four months of the announcement of the initiative. As of the end of 2004, close to 20 multilateral exercises have been conducted.<sup>49</sup> There was also real-world interdiction of the *BBC China*<sup>50</sup> – a German owned ship carrying sophisticated centrifuges to Libya in 2003. The interdiction of *BBC China* was hailed as a major success story of the PSI as government officials of both US and UK agreed that interdiction and seizure help turn the tide and led to Libya’s much-sought-after agreement to relinquish its WMD program (Andrew C. Winner, 2005: 141).<sup>51</sup>

The multilateral exercises demonstrate 2 strategies of the PSI in combating proliferation: Deterrence and Denial. Although determined proliferators are unlikely to be deterred outright either by political declarations, exercises or even individual interdictions, chances are that less determined proliferators may be. At the very least they can be forced to change their pattern or increase the cost of transaction making them costly and difficult. The denial strategy involves the more difficult task of managing interdictions practicable from policy, legal and operational standpoint.

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<sup>47</sup> In a speech in Tokyo on October 2004, Undersecretary of State for Arms Control and International Security John Bolton indicated that North Korea, Iran and Syria are among others, clearly considered the states of proliferation concern.

<sup>48</sup> The exercise went on for three days with ships and aircrafts involving the US, Australia, France and Japan practicing operations aimed at tracking and boarding ships suspected of carrying WMD cargoes. Other PSI nations participated as observers.

<sup>49</sup> Maritime interdiction exercises have been hosted by Australia, France, Italy and the US; air interdiction exercises by Britain and Italy; and ground interdiction exercises by Germany and Poland. Other than that there was a 17-nation simulation exercises, involving new participants Canada, Denmark, Greece, Norway, Russia and Singapore, conducted at the naval war college in the US in 2003.

<sup>50</sup> The operation was executed almost in manner in which the PSI participants had envisioned. One or more PSI partners – in this case the US and the UK gathered intelligence, and a subset of PSI partners with the ability to contribute to an interdiction was involved in the operation. In the case of *BBC China*, this small group included Germany, because the vessel was German-owned and Italy because it had ports close to the vessels ultimate destination.

<sup>51</sup> Winner however doubt whether interdiction actually caused Tripoli’s decision. In his view any number of elements probably might have contributed to the decision such as the UN-imposed sanctions in the wake of the 1998 Lockerbie bombing, the 2003 war in Iraq and the ongoing quite diplomacy started during the Clinton administration by the US and UK in addition to the interdiction of the shipment.

Denial consists of a variety of efforts including improving information sharing, investigating various legal authorities available to support interdictions, diversions, searches and seizures (Mark R. Shulman, 2006: 12).

In addition to exercises, another capacity building activity undertaken under the aegis of the PSI is Washington's signing of Boarding Agreements with 3 of the largest Flags of Convenience States<sup>52</sup>: Liberia, Panama and the Marshall Islands. The agreements with the former two are especially important because both have the largest fleets of registered ocean-going vessels in the world. Modeled on the narcotics boarding agreements that US have negotiated with 23 flag states, the PSI boarding agreement provide that "if a vessel registered in US or a partner country is suspected of carrying proliferation related cargo, either one of the parties to this agreement can request the other to confirm the nationality of the ship in question and, if needed, authorize the boarding, search, and possible detention of the vessel and its cargo"<sup>53</sup>. These bilateral legal agreements are concrete manifestations of the PSI participants' commitment to strengthen international legal frameworks for political interdictions (Michael Byers, 2004: 528)

### **PSI and International Law**

The solidarity and 'coalition of the willing' that states have adopted under PSI have been shaken off late with countries particularly India, China and Russia questioning the legal basis of interdiction especially in territorial waters and high seas in which the legal authority of the national governments are incomplete. Truly, the most difficult part for the initiative will be finding a legal mechanism to interdict WMD and related materials in territorial waters and high seas, with the Law of the Sea Convention (LOSC) gives ships the right to innocent passage in consideration of global commerce, acting as a primary obstacle (Benjamin Friedman, 2003: 3). Even though the state has 'virtually complete jurisdiction' (Daniel D. Joyner, 2004: 16) to

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<sup>52</sup> They are the states which offer their maritime flag registration to owners from another country on relatively easy terms like low costs and few regulations.

<sup>53</sup> For detail see Bureau of Non-Proliferation, US Department of State, "Ship Boarding Agreements", February 10 2004, URL: <http://www.state.govt/np/c12886.htm>.

permit interdictions of suspect PSI-related shipment in land, water or air transit within its territory, the legitimacy of the scope of possible interdiction becomes complicated as it moves out beyond the area of the state's territorial jurisdiction to include interdiction within the territorial sea area (that area of sea extending approximately 12 miles from a states' coastline) and the high seas.<sup>54</sup>

In the territorial waters even though a state can, under its national legal authority and consistent with international law, set rules for what constitutes illegal cargo when ships are boarded, they have long allowed ships the right to innocent passage through their waters.<sup>55</sup> In fact states have recognized this right so widely that it became part of the customized international law and is codified in the law of the LOSC. According to Article 19 of the convention ships may pass through territorial waters as 'long as their intentions are innocent'. Passage is innocent under the convention if it is not prejudicial to the peace, good order and security of the coastal state. One critical aspect with the above article is that transporting missiles and WMD is not mentioned in the list of ways in which passage could be deemed to be prejudicial to peace, good order and security, and it is difficult to assert that such transport fits into any of the prohibited activities. Unless the suspected shipments is intended for terrorists, the right to innocent passage will give opponents of the PSI a powerful legal ammunition (Benjamin Friedman, 2004: 3).<sup>56</sup>

The legitimacy of interdiction ceases further when interdiction turns to the high seas, where interdiction of foreign-flagged vassals or aircraft contravenes international law unless sanctioned ex ante by the flag state. Even in the later case there is no clear legal authority under international law to seize WMD materials

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<sup>54</sup> Within its territory (land, internal waters and super-adjacent airspace) the state has complete jurisdiction both to legislate and enforce, extending to any vessel - foreign or domestic and to any state or foreign national involved in these transactions, subject only to sovereign and diplomatic immunity protections under International law.

<sup>55</sup> It should also be possible to construct national law principles that empower a coastal state to interdict both foreign and domestic aircraft transiting the airspace over its territorial sea, as contemplated under PSI framework, without violating international law.

<sup>56</sup> Violating the UN charter is one of the subjects in the lists in which passage could be deemed prejudicial to peace, good order and society according to article 19 of the Law of the Sea Convention. In this regard Benjamin asserts that Arms sale to terrorists might violate the UN charter given the many Security Council statement against abiding and the fact that the charter makes these resolutions binding law on all parties.

found on board in international waters. The only available means of legally exempting interdiction activities on the high seas from the relevant confines of the LOSC (article 110 which covers such activities<sup>57</sup>), would be an amendment by the LOSC signatories the right to interdiction itself by including shipping of WMD as a justification of interdiction.<sup>58</sup>

### **Issue of Self Defense**

Supporters of the PSI argues that ‘a wide range of acts of intervention not in response to a direct attack, such as those contemplated under the PSI, are legally justifiable by reference to a broad right to self defense’ (Ruth Wedgewood, 2003: 12).<sup>59</sup> Article 51 of the UN Charter in fact allows states under attack to take military action in self defense which ‘trumps other obligations, such as those under the law of the sea’ (Benjamin Friedman, 2004: 6). However using this rationale to interdict ships and aircrafts under PSI would create a dangerous precedent pushing the traditional definition of self defense to a point where it could justify about anything. The exact parameters of self defense is not defined in international law but it is generally agreed that self defense actions should respond to an armed attack or an imminent armed attack (anticipatory self defense) – neither of which can justify interdiction under the PSI. In fact proponents of the PSI themselves haven’t claimed that a particular foreign target vessel pose an imminent threat, which could trigger anticipatory self defense on the part of the interdicting states.

Thus in light of the principles of international law it is unclear how useful PSI would be to the efforts of the international community to limit the proliferation of WMD. For the time being its parameters are constrained by existing international law

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<sup>57</sup> Article 110 of the LOSC specifies that ships can be intercepted at sea for slavery, piracy, narcotics trafficking or unauthorized broadcasting (critically overlooking suspected engagement in terrorism or shipping of WMD as these are not mentioned).

<sup>58</sup> Article 110, however, arguably permits interdiction authorized and directed by the UN Security Council, acting under chapter 7 of the UN Charter. However, the members of the PSI have until now declined to seek support of the Council.

<sup>59</sup> Ruth Wedgewood and John Bolton are among those who think that North Korean ships could be legally interdicted using the right of self-defense.

especially on the high seas. Other than conflict with international law other factors also constrain PSI action. Significant among these are the problems of interdicting export of components, technologies and production materials associated with WMD - items which have both civilian and military end users and whose trade is not illegal. Nations pursuing WMD often use this dual-use advantage to import WMD components under the guise of civilian nuclear program or peaceful scientific and commercial activities.

At the 6<sup>th</sup> plenary meeting of the PSI on 23<sup>RD</sup> June, 2006 in Warsaw, more than 75 states have actively supported PSI interdiction activities, but the absence of several critical states like India, China and South Korea from the initiative looms as ‘potential obstacles to efforts to cut off the trade in dual-use equipment and material’ (Michael E. Beck, 2004: 45). China is committed to non proliferation and has repeatedly stated that it will not support, encourage, or assist any country in their efforts to develop WMD or their delivery means. However with a history of the *Yinhe* case it had expressed concerns about the legality of the PSI. As reflected in the remarks by the Chinese foreign ministry officials, China consistently holds the view that ‘proliferation issues should be resolved within the international legal frameworks by political and diplomatic means and that non-proliferation measures should serve to promote international and regional peace, security and stability (Ye Ruan and Zhao Qinghai, 2004: 66).<sup>60</sup> In addition both Beijing and Seoul have concerns about whether and under what conditions PSI might be used against North Korea. Given North Korea’s assurance in participation in the six-party talks and given the fact that both Beijing and Seoul are co-participants in the talks, they would not like to do anything to throw those discussions off-track. As far as India’s position is concerned, it has an active nuclear weapons and ballistic missiles program of its own and thus before coming into board it will likely want to ensure that it is not a target of the initiative.

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<sup>60</sup> China along with India and Russia has made clear that the PSI would be in violation of Law of the Sea Treaty (LOST). Specifically China had stated that article 110 which specifies that ships can be intercepted at sea for suspected slavery, piracy, narcotics trafficking or unauthorized broadcasting (but not for suspected engagement in terrorism or shipping of WMD) is what renders PSI impermissible.

## **Regional response to PSI**

The relevance of the PSI as an aggressive global strategy undoubtedly extends to the Asia-pacific, which is emerging as a critical region in the fight against proliferation of WMD. Its underlying objective of preventing WMD proliferation would resonate in large parts of the region where there are genuine fears of these weapons falling into the hands of terrorist organizations. But regional response to the initiative has not been very encouraging. Of the ASEAN states only Singapore is an active member of the PSI even though countries such as Philippines have extended support for the initiative. On the other hand Malaysia and Indonesia have publicly and vehemently opposed PSI arguing that it would infringe on littoral states sovereignty. Thus despite its intended objective, the PSI has received less than enthusiastic response from the region (Ralph Costa, 2003: 10).

Singapore became a participatory member of the PSI in March 2004. Indeed the country has increasingly displayed a willingness to cooperate with several US-initiatives in the context of the war against terror in recent times. It was the first Asian country to join the US-sponsored Container Security Initiative (CSI), which aims to prevent terrorists from using cargo containers to launch attacks mainly against US – possibly using WMD (Michael Richardson, 2004). It also agreed to assist the US in the Regional Maritime Security Initiative (RMSI) – ‘a part of PSI in the global war on terrorism’ (C.S.Kuppuswamy, 2004: 1).<sup>61</sup>

Connected to more than 600 ports in 123 countries, Singapore is the world’s largest trans-shipment hub and the principle centre of shipping activities. The scale of its activities makes the country a prime target of terrorists seeking to transport WMD or themselves worldwide by sea. Thus participation in PSI is a strategic policy adopted by the country to safeguard its regional waters. This was aptly reflected in a speech by the Defense minister Teo Chee Hean where he said that “it is an intense and a complex task to safeguard regional waters against maritime terrorism” and that “no single state has the recourses to effectively deal with the threat” (Ellen Nakashima and Allan sipress, 2004: 2).

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<sup>61</sup> An initiative proposed by Admiral Thomas B. Fargo, Commander of US Pacific Command, RMSI seeks to deploy marine and special operational forces on high speed vessels to combat transnational threats in the form of terrorism and trafficking of humans and drugs in the pirated-infected waters of the Malacca straits.



Participation in the PSI also neatly falls within the framework agreement for the promotion of strategic cooperation partnership in defense and security that President Bush and PM Goh agreed to negotiate during Bush's visit to Singapore in October 2003. As part of the PSI, Singapore was the host of a multi-national maritime interdiction exercise code named exercise 'Deep Sabre' in Aug. 2005. The exercise launched at the Chang Naval Base and conducted in the South China Sea, involved some 2000 personnel's from the military, coast guard, customs and other agencies of 13 countries including Singapore, Australia, Canada, France, Germany, Italy, Japan, Russia and the UK. Ships and maritime patrol aircrafts were also involved in the exercises that aimed to develop and practice effective procedures to prevent the proliferation of WMD.

Even though not a participating member, the Philippines is supportive of the PSI. In October 2004, Philippines along with Cambodia and Thailand participated as observers in the maritime interdiction exercise "Team Samurai" hosted by Japan. Philippines' receptivity to the initiative is indicative of its attempts to ally itself more closely with the US in the post-cold war environment. Laureano C. Santiago, Minister and Counsel General of the Philippines Embassy mentioned that "the PSI is an easy proposition for the Philippines government to support". Like Singapore its support for the initiative also stems from its security considerations. It is the only country in Southeast Asia where thousands of US troops are stationed to train local soldiers to battle Islamic insurgents in its troubled southern regions. It can be argued that the country's unsuccessful attempts to eliminate insurgency and by the subsequent fears generated by domestic groups such as Abu Sayyaf obtaining WMD is a contributory factor in its support for the US-led initiative.<sup>62</sup>

In light of accusations of a burgeoning trade in WMD, their delivery systems and related materials between North Korea and China, as well as between countries of South Asia and Middle East and the probability of these vessels passing through the Straits of Malacca, Malaysia as a littoral state has an important role in any counter-proliferation initiative. However it did not give a positive response to the PSI even

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<sup>62</sup> In March 2004, Philippines police arrested and suspected Abu Sayyaf militants and confiscated readings on nuclear, biological and chemical warfare.

opposing its operational variant RMSI. Malaysia is apprehensive about the presence of extra-regional forces for the purpose of securing the straits, fearing that it will impinge on the sovereignty of the country (C.S. Kuppuswamy, 2004: 3). Deputy Prime Minister Datul Seri Najib Rajak in an official statement made clear its position when he asserted that ‘it would be counter-productive to have a strong presence of foreign troops or assets in the region or interdiction operation in the straits’. At the same time however, he indicated that the country would support a plan in which the littoral states shared military and other intelligence with the US and other parties concerning Malacca straits but ‘the actual interdiction will be done by the littoral states’.<sup>63</sup> As a matter of fact this is a position that could be adopted as it will be fully consistent with the PSI interdiction principles while at the same time would reconcile the littoral states sovereignty concerns.

Another littoral state Indonesia also has an important role to play in any regional counter-proliferation initiative due to its strategic geographical location. In fact as a member of ASEAN it has acceded to several international disarmament and non-proliferation conventions, chief among which is its co-chairing with Australia the Bali ministerial meeting on counter-terrorism, which issued a recommendation that states adopt measures to prevent terrorists from acquiring WMD, their means of delivery and materials and technology related to their manufacture.<sup>64</sup> However in spite of displays of concern for WMD proliferation as well as witnessing high profile terrorists’ attacks in recent years, Indonesia is opposed to the PSI.

Jakarta’s resistance to the PSI is based on a perception that it is a unilateral (US-led) non-proliferation initiative that falls outside international norms. Indonesia traditionally had viewed an inherent hypocrisy on the US non-proliferation policy of demanding that the non-nuclear weapon states renounce their weapons while, at the same time, continuing its own nuclear weapons development, as well as denying developing countries the benefits derived from dual-use technology (Imron Cotan,

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<sup>63</sup> For details see “Malaysia, US to discuss security in Malacca straits soon”, Malaysian News Agency, June 6, 2004, URL://www.bernama.com/bernama/v3/id=71715.

<sup>64</sup> For details see Australian Department of Foreign Affairs and Trade, “Bali Ministerial Meeting on Counter-Terrorism: Co-chairs Statement”, February 5, 2004, URL: [http://www.dfat.gov.au/icat/2004-conference/co-chair\\_statement.html](http://www.dfat.gov.au/icat/2004-conference/co-chair_statement.html).

2004: 4).<sup>65</sup> The country's negative reception to the initiative came to the fore in March 2006 when it rejected a request made by the US Secretary of State Condoleezza Rice to join the PSI, stating that it contravenes provisions of the United Nations Convention on Law of the Sea (UNCLOS). However in June the same year, Indonesia's Defense Minister announced that his government was considering the possibility of Indonesia's partial and ad hoc adherence to the PSI on a case-to-case basis. Besides this like Malaysia, Indonesia also regards US intension and presence of foreign troops as a humiliation to Indonesia's sovereignty and equals foreign invention in domestic affairs (Sumathy Permal, 2004: 2). Admiral Bernard Kent Sondakh, Chief of the Indonesian navy stated in June 2004 that "Indonesia deems it not necessary to include troops from outside countries including the US to be involved in safeguarding the strategic highways (The Jakarta Post, 2004). In fact like Malaysia, Indonesia too concerns that the prospects of the US force operating in the Malacca straits would attract more terrorists and thus favors the littoral straits themselves managing the straits."<sup>66</sup>

With the North Korean nuclear tests and the identification of the A Q Khan network of Pakistan as a major sub-national proliferator, it had become apparent that a new global security landscape is emerging – one that has changed considerably since the end of the Cold War. And one of the basic elements of the new security landscape is the threat proffered by the non-state actors. In terms of the non-state threat the biggest one comes from the so-called "Arc of Crisis" one that extends from morocco in north Africa, through Egypt and continues through the Arabian peninsular to Pakistan. Besides this Francois Heisbourgh (2003: 52) refers to another 'Asian Nuclear Arc' extending from Israel to Northeast Asia (Francios Heisbourgh, 2003).

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<sup>65</sup> Coten however did not completely dismiss the possibility of Indonesia participating in PSI in future. He argued that it could be possible if the United Nations assumes control of the initiative. However on the immediate level reluctance on part of some of its members, including the US, to over-institutionalize the initiative is what makes UN control unlikely.

<sup>66</sup> In fact the 3 littoral states have signed various agreements for proper management of the Malacca straits. Primary among them were the establishment of the 'Tripartite Technical Expert Group (TTEG) in 1971; Joint Statement between the three governments in 1971, 1975 and 1977; Ship Reporting System for the Straits of Malacca (STRAITREP) which came into force in December 1998; bilateral coordinated patrols between Indonesia and Malaysia 'Optima Milando'; between Indonesia and Singapore 'Indosin'; as well as tri-lateral coordinated patrols between Indonesia, Malaysia and Singapore (Malsindo) launched in 2004.

PSI is a response to this new security landscape wherein with the growing number of states pursuing WMD and missile program and the threat emanating from the nexus between WMD and terrorism, 'current international non-proliferation architecture while necessary is no longer sufficient' (Esper and Allan, 2004: 1).

In the Southeast Asia region except for Singapore no other states are a member of the PSI although Philippines have expressed support for the initiative. Scholars such as Muthiah Alagappa had observed that Asian political elites aspire to build strong, sovereign nation state. International cooperation is a means to strengthen, rather than undermine sovereignty and 'they do not subscribe to a norm that would formally subject them to international scrutiny and legitimize intervention in their domestic affairs by the international community (Alagappa, 1998: 87). It is on this issue of sovereignty and domestic intervention that countries like Indonesia and Malaysia have given a negative reception to the initiative.

However in spite of shortcomings the PSI can prove to be an attractive counter-proliferation proposal in the Southeast Asian region because its informal structure offers an effective division of labor among both participants and supporters (Andrew Newman and Brad William, 2005: 315). In its Statement of Interdiction Principles, the PSI expressed its desire to involve 'in some capacity' all concerned states and looks forward to working on measures they are 'able and willing to take'. In this regard the resistance of the key regional players such as Indonesia and Malaysia will not be an impediment to achieving PSI goals. Their willingness to patrol the Malacca straits fits very much within the broad international PSI consensus while at the same time retaining their sovereignty.

#### **THE UNITED NATIONS SECURITY COUNCIL RESOLUTION 1540**

Like the Proliferation Security Initiative, the adaptation of the United Nations Security Council Resolution 1540 (UNSCR 1540) was also a reflection of the pragmatic change in multilateral efforts to combat the proliferation of weapons of mass destruction (WMD), brought about by the September 11, 2001 terrorists attacks. Before 9/11 these efforts have focused primarily on the *states* as proliferators, but

after the incident it became obvious that non-proliferation work also have to focus on the *non-state actors* due to the nexus between terrorism and WMD<sup>67</sup> on the one hand and the inability of the current global treaties (NPT, CWC, BTWC) to deal with the new focus on the non-state actors. The non-proliferation agenda was also significantly affected by the revelation in 2003 of the existence of network of private suppliers of sensitive nuclear technologies (A Q Khan). This signified a shift to focus not just on non-state actors as *recipients* of sensitive goods and technologies, but also as *suppliers* of such goods and technologies (Christer Ahlstorm, 2005: 1).

## Origin

Resolution 1540 is rooted in the Security Council's ground breaking 1992 presidential statement which constituted the council's first recognition that the proliferation of WMD is a threat to international peace and security (Andrew Semmel, 2004: 2). The beginning of the resolution first appeared in an address to the General Assembly by the US President George W Bush in 2003 where he called on "all members of the UN to criminalize the proliferation of weapons – weapons of mass destruction, to enact strict export controls consistent with international standards and to secure any and all sensitive materials within their national borders"<sup>68</sup>. After seven months of negotiations among the members of the Security Council, the resolution was adopted by consensus on 28<sup>th</sup> April 2004<sup>69</sup>. The resolution was adopted under chapter VII of the UN charter and is legally binding upon all the

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<sup>67</sup> According to the testimony of a former Al Qaida operative, the organization have not only declared its interest in obtaining WMD, but has made concerted efforts to acquire materials for this purpose; for details see Kimberly Mccloud and Mathew Osbourne, "WMD terrorism and Osama Bin Laden", Centre for Nonproliferation Studies Report, March 14, 2001.URL:<http://cns.miis.edu/pubs/reports/binladen.htm>.

<sup>68</sup> for the full text of the statement see, Statement by George W. Bush, President of The United States of America, to the United Nations General Assembly, September 23, 2003,URL:<http://www.un.org/webcart/ga/58/statements/onaeng030923.htm>.

<sup>69</sup> Early versions were initially discussed between the US and the UK which later-on involved three other permanent council members, and reached an agreement on the terms of a final draft that was presented to other council members. At the open council meeting on 22 April, council members and more than 30 non-members commented on the draft. The non-members were fairly representative of different regions. They included Ireland (speaking on behalf of the EU), Malaysia (speaking on behalf of the larger NAM grouping), South Africa, Japan, Argentina, Nigeria, South Korea, Jordan, Israel and India. Thereafter after a few changes the council voted on it on 28<sup>th</sup> April.

members of the organization<sup>70</sup>.thus the resolution is an attempt to plug the gaps in the existing WMD regimes, which have not achieved universality, and applies them more specifically to the non-state actor problem (Tania Ogilvie-White, 2006: 4).

### **The Resolution**

Under Resolution 1540 states are supposed to fulfill three major obligations:

1. To refrain from providing any support to non-state actors who are attempting to manufacture, possess, transport or use nuclear, chemical or biological weapons<sup>71</sup> and their means of delivery (Operative paragraph 1).
2. To prohibit in their domestic law any such activities by the non-state actors, particularly for terrorist purposes, and to prohibit any assistance of financing of such activities (Operative Para. 2).
3. To adopt domestic measures to prevent the proliferation of WMD, their means of delivery and related materials, including by accounting for and physically protecting such items; establishing and maintaining effective border controls and law enforcement measures; and reviewing and maintaining national export and transshipment controls with appropriate criminal or civil penalties (operative Para. 3) (Gabriel H.Oosthuizen and Elizabeth Wilmshurst, 2004: 2-3)<sup>72</sup>.

In order to access the domestic legal requirements of the resolution, a committee of the Security Council has been created to review national reports submitted by states on their efforts to implement 1540 (Operative Para.4). Comprising the 15 members of the UNSC and supported by a group of governmental experts, the 1540

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<sup>70</sup> Chapter VII is also referred to as the 'enforcement chapter', which grants powers to the Security Council to act in relation to 'threats to the peace, breaches of the peace and acts of aggression'. Decisions adopted under chapter VII are binding upon all member states. According to Article 103, they override other international obligations.

<sup>71</sup> The three types of weapons considered WMD are nuclear, biological and chemical weapons. However resolution 1540 doesn't use the term WMD, but explicitly specifies the three types of weapons due to the fact that there isn't any commonly agreed definition on what technically constitutes WMD.

<sup>72</sup> For a full text of the resolution see, United Nations Security Council Resolution 1540, Adopted by the Security Council at its 4956<sup>th</sup> Meeting, on 28<sup>th</sup> April 2004. URL:[http://www.un.org/docs/sc/unsc\\_resolutions04.html](http://www.un.org/docs/sc/unsc_resolutions04.html).

committee was established with a two-year mandate which expired in April 28, 2006. The member states were required to report to the committee before 28<sup>th</sup> October 2004 on steps they have taken, or intend to take, in order to implement the resolution. While the committee was not tasked with determining compliance with 1540, it has been responsible for evaluating states report to identify which measures each reporting state has fulfilled and indicate to states the obligations left to be carried out (Ogilvie White, 2006).

Proliferation of WMD is already a subject of international control through a variety of treaties and in this regard resolution 1540 in its provisions aptly indicated that it is intended to compliment and reinforce rather than replace or subvert the negotiated treaties<sup>73</sup>. It provides that none of its obligations are to be interpreted so as to conflict with or alter the rights and obligations of the state parties to the NPT, CWC and BTWC or to alter the responsibilities of the IAEA and OPCW<sup>74</sup> (Oosthuizen and Wilmshurst, 2004: 5).

#### **Challenges facing UNSCR 1540**

With the passing of the UNSCR 1540, for the first time, member states of the UN were required by international law to have laws and enforcement capacity for non-proliferation export controls and the protection and control of sensitive materials. Most observers seem to view UNSCR as an opportunity to promote the internationalization of norms and procedures concerning control over the trade in WMD and delivery system technologies.

Cascady Craft (2005: 1) have pointed out some of the potential benefits of the resolution. Firstly, the resulting implementation and the reporting process may serve to accentuate WMD proliferation as an international security issue, and there by to rally greater support for non-proliferation. Secondly, the reporting process of the resolution may result in much greater transparency concerning materials and export

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<sup>73</sup> See UNSCR 1540 Operative Paragraph 8, sub-paragraph (a), (b) and (c).

<sup>74</sup> The NPT and matters relevant to its implementation falls within the preview of the International Atomic Energy Agency (IAEA) whereas the verification of obligations under the Chemical Weapons Convention (CWC) falls within that of the Organization for the Prohibition of Chemical Weapons (OPCW).

controls around the world. Finally it could promote a strengthening of the non-proliferation regime by the creation of a new system of export and material controls in countries that previously had none.

Indeed with the inclusion of a regime based norms and because most states view terrorist access to NBC weapons a silent and urgent global concern, UNSCR 1540 has been generally well received (Merav Datan, 2005: 1). Participation in the universal reporting has been rather positive despite its complexity. The level of cooperation between states and between states and the 1540 committee has been high and states have begun to consider their own export control and how to improve them. If general international support for the resolution can be measured by the relatively high submission of national reports than the results had been encouraging as 112 national reports as well as reports by the European Union have been received by the 1540 committee.

Unfortunately there still exist many critical issues which remain unsolved concerning the implementation of UNSCR 1540. The first issue is in the context of reporting by the states. Operative Paragraph 4 of the Resolution 'calls upon states to present a first report no later than six months from the adoption of the resolution'. In this regard if some member state chooses to interpret OP 4 to mean that they are not obliged to report to the committee than any final report will be incomplete and thereby not represent the intended state of affairs. Added to this is the issue of the content of the report. On the one hand member states may submit a report that lists the full scope and contents of their efforts to comply with the first 3 operative paragraphs of the resolution. If they go for this route, governments will provide a through, detailed description of their entire export control process thus tremendously enhancing the transparency norm of the non-proliferation regime.<sup>75</sup> On the other hand member state may comply with 1540 resolution by merely listing the appropriate laws that are already in the books making such listing fairly predictable. As most member states of the UN are also members of the NPT they would merely list the laws passed upon their accession to the NPT. While this information may provide useful

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<sup>75</sup> Transparency is important in non-proliferation because efforts to control the WMD, their delivery systems and related materials require coordination between national governments in order to be effective.



indications of a states adherence to the resolution, it barely provides useful information about the efficacy of its export and material controls (Craft, 2005: 3). UNSCR 1540 was designed to fill gaps in the existing normative structures of the treaties and regime systems, using the binding authority of the UNSC's powers under chapter VII of the UN Charter. But therein lays the heart of the legitimacy deficit under which the implementation of the resolution currently suffers. In passing the resolution the Security Council appears to have undergone a fundamental change in understanding its proper institutional role and seems to have taken upon itself the mantle of a international legislative body (Peter Crail, 2006: 359). Daniel Joyner (2006: 3) argues that the problem of the Security Council assuming this role of institutional legislature are several and serious. Firstly, the council has no mandate to assume this role and that it has an unlimited power to produce such forward-looking, universalized, binding pronouncements is supported by neither the letter nor the spirit of UN Charter law. Secondly, even if it had a legitimate legal mandate arising out of the UN Charter, it is ill equipped in terms of its democratic representation of UN members to assume such a role of a law giver to the international community. As a matter of fact the representatives of the states participating in the council meetings voiced concerns about the "legislative nature of the resolution, binding upon all member sates but adopted by a council that consists only of 15 of them" (Gabriel H. Oosthuizen and Elizabeth Wilmshurst, 2004: 3)<sup>76</sup>.

### **Regional reports to the 1540 committee**

Two months after the adaptation of the UNSC 1540, an EU-US statement on non-proliferation of WMD lauded the resolution as "first among the joint actions to prevent, contain and reverse proliferation" and urged all states "to implement all of its provisions in full".<sup>77</sup> In fact the resolution received support in many statements to the UN General Assembly. General international support for UNSC 1540 can also be

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<sup>76</sup> This concern was well voiced by India in the council meetings where it argued that the recognition of the time imperative in seeking recourse of the Security Council does not obscure the more basic concern over the increasing tendency of the council in recent times to assume more and wider powers of legislation on behalf of the international community, with its resolution binding on all states.

<sup>77</sup> For detail see, US-EU Declaration on Non-proliferation of Weapons of Mass Destruction, Shanon, Ireland.June26,2004.URL:[http://www.europa.eu.int/comm/external\\_relations/us/sum26\\_2004/fact/wmd.pdf](http://www.europa.eu.int/comm/external_relations/us/sum26_2004/fact/wmd.pdf).

measured by a relatively high submission of national reports on implementation steps and plan (Merav Datan, 2005: 17).though many arrived after the initial October 28 2004 deadline, about 112 national reports as well as reports by the European union, have been received by the 1540 committee.

It is notable that all ten ASEAN member-states have submitted national reports to the 1540 committee, and even though most of the reports were given late, it does demonstrate a mutual willingness to be seen to be complying with international non-proliferation norms. Moreover none of the reports contain the political rhetoric that often dominates ASEAN statements in international non-proliferation and disarmament forums, which usually expresses the anti-western ideology of the NAM. Rather the reports were business like and straight forward reviews of domestic efforts to introduce non-proliferation regulations varying from comprehensive reports of Singapore, Indonesia, Thailand and the Philippines, to the scanty documents submitted by Cambodia, Laos and Myanmar (Ogilvie White, 2006: 6).

This seems to be a clear departure from perceived expectation given strong connections of the Southeast Asian region with the Non-Aligned Movement (NAM). With its reservations over the discriminatory nature of the non-proliferation regime and often stated suspicions regarding the role of export controls, one would expect some reluctance on part of the ASEAN members to fulfill their obligation under UNSCR 1540, particularly as it drew much of its inspiration from a series of G-8 and US-led initiatives. This combined with the cultural particularities of the region, such as the principle of non-interference and the custom associated with informal ASEAN diplomacy, might lead to predictions of deliberate non-compliance and obstruction by states in the region in response to instruments of global governance that are highly formalized, legalistic and intrusive in nature, and inspired by the most developed and powerful states in the world (Dominic Heller 2005: 5).<sup>78</sup>

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<sup>78</sup> Rather than formally legalistic approach to interaction and cooperation, ASEAN members have developed their institutional framework on a locally bred, informal, personalistic and private political culture, known as *Musyawarah* as a basis of settling differences among members. Largely reflecting this informal, consultative approach, all instruments of ASEAN/ARF work on a voluntary basis: there are no institutional enforcement structures, verification and mechanisms, or official sanctions for uncooperative behavior.

A careful reading of the reports of the countries of Southeast Asia exposes poor capacity as a significant problem hampering the implementation of UN non-proliferation measures. Significantly a number of reports contained requests for assistance, including the Philippines which requested outside help in issues of export controls and in compliance with international conventions and protocols. Specifically the Philippines requested assistance in the areas of training first responders, border control, the physical protection of the research reactor PRR-1, enhancement and upgrade of container and cargo security in several sea-ports, and drafting of appropriate laws governing border monitoring.<sup>79</sup> Cambodia on its part requested assistance from the Security Council and member states to help it perform its basic tasks, and put forward numerous proposals to help facilitate this. The report, for instance, requests that the Director General of Organization For the Prohibition of Chemical Weapons (OPCW) help Cambodian legislatures to “collect laws for establishing national authority, roles and authority, roles and duties.....for chemical weapons and help train Cambodian officials to build a database of hazardous chemicals and help monitor their use.”<sup>80</sup>

However lack of capacity doesn't always provide a convincing explanation as to why ASEAN states have not made significant efforts to fulfill their obligation over some of the provisions of the UNSCR1540, like operative paragraph 8 of the Resolution which require all states to “promote the universal adaptation and full implementation ....of multilateral treaties to which they are parties, whose aim is to prevent the proliferation of nuclear, chemical and biological weapons. Even though most have signed the NPT, CWC and BTWC little progress have been made since that time to achieving full ratification/accession to the relevant treaties, conventions and protocols.

Moreover several of the Southeast Asian reports to the 1540 committee suggests that compliancy is the key problem where the crucial issue of export control is

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<sup>79</sup> For detail see, Initial Report of the Republic of Philippines on Measures Taken in Implementation of Security Council 1540 (2004). URL:<http://www.disarmament2.un.org/committee1540/index.html>.

<sup>80</sup> For detail see, annex to the note verb ale from the permanent mission of Cambodia to the United Nations addressed to the Chairman of the Committee, 21 March 2005, URL:<http://www.disarmament2.un.org/Cambodia/committee1540/index.html>.

concerned. Although such controls are widely viewed by the non-proliferation experts as an essential element in any comprehensive non-proliferation framework, most ASEAN members have traditionally regarded them with suspicion, viewing them as barriers to economic development at best, and, at worst as part of the deliberate strategy on the part of the most developed states to maintain the status quo (Ogilvie White, 2006: 9-10). This attitude had hindered the introduction of appropriate controls in some of the most vulnerable regions of the world, including major transshipment and assembly points for critical strategic dual-use goods and technologies. Thus, even though free of the ideological rhetoric associated with some of the NAM statements, progress in the area had not been impressive to date.

### **Conclusion**

The issue of nuclear proliferation in the twenty first century has assumed greater complexity with the inclusion of the non-state actors and nuclear trafficking networks in the proliferation agenda. Over the years a complex non-proliferation regime has been created to deal with these diverse proliferation threats. With each 'layer' or non-proliferation initiative added, the overall non-proliferation regime have sought to adapt to new challenges presented by advances in technology, evolving security dynamics and other events. The first line of non proliferation defense was global non-proliferation treaties of which the NPT played a prominent part. It has served well for decades by creating widely-accepted norms against nuclear acquisition, stockpiling and proliferation and they continue to advance dialogue and cooperation among nations. However, in spite of establishing strong global norms, their ability to prevent nuclear acquisition is only as strong as state parties' willingness to comply with their treaty based obligations and the resolve of the complaint parties to hold on to their obligations as instance of North Korea have shown.

Events of September 11, 2001 and subsequent establishment of clandestine A. Q. Khan nuclear trafficking network have raised concerns about the involvement of non-state actors in the proliferation dynamics on the one hand and the dangerous nexus between terrorism and weapons of mass destruction on the other. This created an imperative to evaluate whether existing tools were sufficient to address the growing

threat. Subsequently new initiatives such as Proliferation Security Initiative (PSI) and United Security Council resolution 1540 were adopted to strengthen the non-proliferation regime in face of new security challenges.

It is without doubt that non-cooperation of Southeast Asian states with the global nuclear non-proliferation initiatives could be detrimental to the overall non-proliferation efforts, conceivably leading to spillover effects in any part of the world. All the countries of ASEAN have signed the NPT, and the adoption of the SEANWFZ Treaty is a reflection of region's commitment to the non-proliferation as well as disarmament efforts. But at the same time some of the states have expressed concerns about what they see as heavy handed imposition of western security agendas on them without any consideration for the specific security needs of different regions. This is particularly reflected in their concerns over the Proliferation Security Initiative which they view would erode their sovereignty. Thus any efforts should take into consideration the specific regional security dynamics on the one hand and at the same time strive towards greater universality.

## **CHAPTER - IV**

### **CHALLENGES AND REGIONAL APPROACHES TOWARDS NON-PROLIFERATION**

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Non-proliferation of nuclear weapons was one of the most critical issues faced by the countries of the Southeast Asian region since the beginning of the Cold War. In this regard ASEAN by becoming a member of the nuclear Non-Proliferation Treaty and later on by the adoption of the Southeast Asian Nuclear Weapon Free Zone (SEANWFZ) Treaty has shown an active willingness to promote global nuclear disarmament. In spite of this fact regional response to other global nuclear non proliferation initiatives have been slow to say the least. More over in the present context the emerging proliferation threats have taken various dimensions requiring responses taking into consideration the dynamics of each of these dimensions. The present chapter will give an analysis of the current proliferation challenges that is faced by region at the same time highlighting the various approaches they have undertaken at the regional level to deal with these challenges.

#### **Current regional proliferation challenges**

It has been a decade since the countries of Southeast Asia declared the region a nuclear weapon-free zone which was regarded as a milestone in its nuclear history. The zone covers the territory of all ten Southeast Asian states, their continental shelves and the Exclusive Economic Zones (EEZs). These territories include land, international waters, territorial sea, archipelagic waters, their seabed and subsoil, as well as the airspace above them. The parties to the treaty under Article 3 undertake not to develop, manufacture or otherwise acquire, test or use such weapons anywhere inside or outside the NWFZ. They also undertake to conclude safeguard agreement with the International Atomic Energy Agency (IAEA) not to allow any other state to develop, manufacture or

otherwise acquire, possess and have control over nuclear weapons, or station, test or use them in their territory. The treaty also prohibits the dumping of radioactive substance on land, at sea or in the atmosphere.

Many strategic developments have taken place considerably affecting the region since the protocols to the treaty have been signed by the ASEAN states. New patterns of relations among the major powers have also emerged replacing the security dynamics that have been created by the Cold War between the United States and the Soviet Union. Southeast Asia itself have been transformed from an arena of conflict of the Cold War period into a dynamic economic region with the regional divisions between communist and non-communist countries no longer a feature driving the relations between them. On the other hand, as a result of a series of agreements on nuclear weapons reduction and the inability to sustain the dangerous nuclear arms race, the world's nuclear arsenal has been considerably reduced.

However at the same time new sources of threats have surfaced with the emergence of new nuclear weapon states with serious strategic implications for global nuclear non-proliferation regime. While the nuclear tests by India, Pakistan and North Korean gave indications that nuclear weapons acquisition by states could become a commonplace in the strategic landscape, the September 11 terrorists attacks highlighted the non-state dimension of the threat with the possibility of a nexus between the outlaw regimes, weapons of mass destruction (WMD) and terrorism becoming 'the sum of all fears' (Graham Allison, 2004:12-13).

The Southeast Asian region too witnessed many developments giving rise to new forms of security concerns with regards to proliferation. One major concern is the possibility of terrorists groups, which are present in the region, getting access to a nuclear weapon or weapon related materials. In fact this issue of nuclear terrorism has been of increasing concern to states and organizations around the world for the past decade. The concern was adequately reflected in a June 2004 address, by Mohamed ElBaradei, Director General of the International Atomic Energy Agency (IAEA), who described the threat of nuclear terrorism as "real and imminent", and talked of a "race against time" to

prevent terrorists from obtaining nuclear and radioactive materials.<sup>81</sup> In this light certain developments in Southeast Asian region have focused international attention on the region's research reactors and future nuclear power plants as potential targets for terrorists' intent on acquiring nuclear and radioactive materials. These developments have been a combination of different issues - the expansion of nuclear energy and research undertaken by some of the countries of the region; poor reporting mechanism and inadequate procedures for protecting, controlling, and accounting for nuclear and radioactive materials; and mounting evidence that Southeast Asia has become a significant base for international terrorists (Zachary Abuza, 2002: 180-81). Added to this are reports revealing the involvement of key individuals from Southeast Asia in the nuclear black market and in Al Qaeda's attempts to acquire Chemical Biological Nuclear and Radiological (CNBR) weapons create the impression that Southeast Asia is becoming an increasingly significant supplier of WMD materials and expertise.<sup>82</sup>

Even though only patchy information is available, there are known to be 56 operating research reactors in Asia, and eight in Southeast Asia (Tania Ogilvie-White, 2004:7). These figures are set to increase in the near future, as Thailand's National Commission on Atomic Energy for Peace has approved the construction of the country's second research reactor, and Myanmar is known to be seeking assistance to construct its first. With respect to Thailand's plans, the construction of a 10-megawatt reactor at Onkharak, Nakhon Nayok, was approved by Deputy Prime Minister Suwit Khunkitti in September 2003, despite the fact that the project was rejected by a safety analysis report by Thailand's Nuclear Safety Sub-committee (NSS), and the US Nuclear Regulatory Commission.<sup>83</sup> In comparison, Nuclear developments in Myanmar are less transparent

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<sup>81</sup> For details see, Mohamed ElBaradei, "Nuclear Proliferation: Global Security in a Rapidly Changing World", Keynote Address, 2004 Carnegie International Non-Proliferation Conference, Washington, D.C., 21-22 June 2004.

<sup>82</sup> According to information extracted during interrogations of two key members of Jemaah Islamiyah, who were captured in Southeast Asia in 2001-2, an Al Qaeda plan to develop CNBR weapons was in the early conceptual stages when it was cut short by the US-led invasion of Afghanistan. Officials believe the CBW programme was being run by Yazid Sufaat, a former Malaysian army captain and US-trained bio-chemist, under the direction of Riduan Isamuddin, an Indonesian accused of heading Al Qaeda's operations in Southeast Asia.

<sup>83</sup> For details see, "Thailand Uses Argonne Blessing to Approve Research Reactor Construction," *Research Reactor News*, 30 September 2003.



and under military control. In late 2001 it was announced that the Russian Federation had agreed to supply Myanmar with a nuclear research reactor, leading some in the US Administration to warn that Myanmar would become a Southeast Asian nuclear rogue, and others voicing their more credible concerns over Rangoon's ability to secure these sensitive nuclear facilities (Michael Roston, 2002: 2). However failure to meet a payment demand in 2003 led to the termination of the agreement leading Myanmar to seek assistance from the DPRK. Frequent official communications between Myanmar and North Korea are believed to have resulted in a nuclear deal, where by Myanmar has agreed to pay \$2 million to North Korea to supply nuclear equipment.<sup>84</sup>

In addition to concerns over the security of materials at existing and planned research reactors in Southeast Asia, the regional expansion of nuclear energy is also beginning to attract the attention of security analysts concerned about future security threats. These concerns are not based on the suspicions that the countries are harboring ambitions to develop a clandestine nuclear weapons program at the back of peaceful civilian program, but on more rational calculations over the issue of nuclear security in an era of global terrorism.

The most ambitious of the Southeast Asian nuclear power projects is underway in Indonesia, where a program may eventually result in the construction of 12 nuclear power production facilities. From a nuclear terrorism perspective, these plans constitute a potentially serious challenge for the future, as they will be fuelled with highly enriched uranium (HEU). Indonesia's place on SIPRI's list of 'countries of strategic nuclear concern' is evidence of the unease amongst international security analysts over current and potential nuclear developments there.<sup>85</sup> Although, there is no suggestion that the current government intends to embark on a nuclear weapons program unlike its early phases of nuclear policy, it certainly heightened the security concerns in the region and

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<sup>84</sup> The current status of these negotiations is unclear - in response to requests from Western embassies for a briefing on the talks with Pyongyang, Myanmar's leaders have stated that they have always worked for the peaceful use of nuclear energy, and that they have no ambitions to develop nuclear weapons. See "Myanmar-North Korea Nuclear, Missile Cooperation Alleged", *Asian Export Control Observer*, 1 (April 2004), pp. 11-12; and Alan Boyd, "Myanmar Aims for Missiles and Misses", *Asia Times Online*, available at [http://www.atimes.com/atimes/Southeast\\_Asia/FE13Ae02.html](http://www.atimes.com/atimes/Southeast_Asia/FE13Ae02.html).

<sup>85</sup> The following states are listed in SIPRI's research project thus far: Libya, Taiwan, Serbia, Algeria, South Korea, Egypt and Indonesia.

had put Indonesia's nuclear activities on international watch lists.<sup>86</sup> Ambitious plans for the expansion of nuclear power in Southeast Asia are not limited to Indonesia. As the director of Vietnam's Atomic Energy Agency, Vuong Huu Tan, in 2004, unveiled Vietnam's plans to build its first nuclear power plant in either central Ninh province or Phu Yen between 2015 and 2020, driven by the rapid growth in electricity demands in the country.<sup>87</sup>

Other than proliferation threats emanating from the possibility of nuclear terrorism, there is also an increasing concern with regard to illicit trafficking of nuclear and other radioactive materials which are acquiring dangerous trends in the region. Even though concerns about the illicit trafficking of these materials have been traditionally directed towards the former Soviet Union states,<sup>88</sup> recently the phenomena have acquired new dimensions affecting over 50 countries all over the world including the Southeast Asian region which have seen illicit nuclear proliferation flourish (Andrew Prosser, 2004: 2). A prominent player with regard to the issue is the global network of Pakistani scientist Abdul Qadeer Khan which cleverly exploits for supply and transshipment of nuclear equipment, those countries both within and outside the international export control regimes whose non-proliferation records are not up to the mark. The long list of countries used by the network over the past two decades includes Pakistan and Malaysia, as well as

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<sup>86</sup> According to Robert Cornejo, who has researched the early history of Indonesia's nuclear ambitions under the Soekarno government, although Indonesia's original motivation for acquiring nuclear technology was driven by the country's energy needs, a parallel interest in developing nuclear weapons was triggered by China's first nuclear test in 1964. This event was interpreted by Indonesia as a signal that China would be willing to assist like-minded Socialist nations to develop weapons of their own. For details see, Robert M Cornejo, "When Sukarno Sought the Bomb: Indonesian Nuclear Aspirations in the Mid-1960s", *The Nonproliferation Review*, Summer 2000.

<sup>87</sup> This followed revelations that Vietnam and France had signed an agreement on nuclear cooperation for peaceful purposes. For details see, "Vietnam, France Sign Nuclear Power Deal", *Asia Times Online*, 28 May 2004. Available at [http://www.atimes.com/atimes/Southeast\\_Asia/FE28Ae01.htm](http://www.atimes.com/atimes/Southeast_Asia/FE28Ae01.htm).

<sup>88</sup> This geographical focus is reasonable, considering that since the end of the Cold War, these states have represented an abundant, often unsecured, and highly targeted source for traffickers of these materials which are the critical ingredients to a nuclear weapon or radiological dispersal device (RDD or "dirty bombs").

South Africa, Turkey, UAE, Japan and a number of west European countries, while it made contact with Iran, Iraq, North Korea, Libya, Syria and Saudi Arabia (Christopher Clay, 2004: 33-34). Existing international non-proliferation and export control measures, as well as cooperation on intelligence gathering were largely inadequate in detecting and putting an end to this illicit proliferation. Hence much of the networks nuclear trafficking went unhindered for many years with recent reports that the sea routes between Malaysia and Dubai is one of the most well traveled by Khan's agents (Prosser, 2004:3). Although entire weapons are essentially never trafficked on the black market their components are transferred as nuclear materials and expertise. Because of the dual civilian applications of many types of nuclear equipments, it becomes very difficult to determine whether the shipments will be used to make weapons thus making it harder to interdict. Moreover many states in the region do not have the capacity to monitor all trafficking thus making such undetected trafficking a genuine concern in view of the terrorist and criminal presence.

### **Regional approaches towards non-proliferation**

The changed regional security scenario witnessed in the Southeast Asian region due to emerging non-proliferation threats have led to the initiation of a number of measures in the regional forums like the ASEAN and the ARF in order to deal effectively with these threats. By active discussions and consultations both at the governmental as well as the non-governmental level, these forums have increasingly sought to address the traditional as well as the emerging security concerns emanating from non-proliferation. But before studying these regional approaches it is important to analyze how the perception towards issues of security in general and non-proliferation in particular both at the regional and global level took shape.

### **Shaping of the Regional Strategic Culture**

A concept that had made its way in the 1990's with 'varying degrees of rigor into reflections on Asia-pacific security' (Chin Kin Wah, 2000: 1) is the concept of "Strategic

Culture". Initially coined by Jack Snyder<sup>89</sup> in 1997, the Strategic Culture Approach was essentially a reaction to what was perceived as the dominant Structural Realist paradigm which seeks to explain a state's security and strategic behavior in terms of system structures or the distribution of states capabilities and recourses (Alastair Lian Johnson, 1995: 36). The term Strategic Culture suggests the relationship between culture and strategy, in particular how the culture or world-views of the political military decision makers influence their strategic choices at the highest political level and military options and doctrines at the operational and tactical level. What is important for the present study is the fact that different countries and regions holds different perspectives on various security issues of war, peace and strategy which is both distinctive and deeply rooted, reflecting their different geo-strategic situations, recourses, history, military experience and political beliefs. In fact it is these factors which play an important role in the way a country formulates its strategic interests over different issues.

In an article published in 1993, Desmond Ball (1993: 43-44) attempted a systematic comparative portrayal of the strategic cultures of the Asia-Pacific region, highlighting the different perceptions that are being held by the Asian states including those of Southeast Asia towards various security and strategic issues in comparison with the western powers particularly the US. He tended to view these differing perceptions in cultural terms arguing that the Asian states tended to have different culturally based approaches and preferences in their handling of security relations among themselves and with others.<sup>90</sup> Indeed, the Southeast Asian region constitutes a mix of large and small

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<sup>89</sup> Jack Snyder coined the concept in a 1977 Rand Corporation study which sought to explain a uniquely Soviet mode of Strategic thinking on the use of nuclear weapons. The concept was subsequently taken up by others like Colin Grey whose focus had been on American nuclear strategy and Ken Booth whose concern too was on Soviet Union. Ken Booth in particular found in the concept a useful warning against being trapped in an essentially American mode of thinking (i.e. seeing others in one's own cultural prism) on strategic issues. For a detailed discussion on the subject, see Michael J. Mazzar, "Culture and International Relations: A Review Essay", *Washington Quarterly* Vol. 19(2) (Spring 1996); Jack L. Snyder, *The Soviet Strategic Culture: Implications for Nuclear Options* (Santa Monica: Rand Corporation, 1977); Ken Booth, *Strategy and Ethno Centricism* (New York: Holms and Meier, 1979).

<sup>90</sup> For a detailed discussion on the subject see, Desmond Ball, "Strategic Culture in the Asia-Pacific Region", *Security Studies*, Vol. 3(1), Autumn 1993. Other attempts at understanding the strategic cultures of the region have also been pursued. An Australian Publication, deriving from a Canberra workshop held in late 1992 on "Comparative Perceptions on National Security" is worth mentioning; Anthony Milner and his team have jointly with the Japanese Institute of International Affairs, published a report under the title "Perceiving National Security: A Report on East-Asia and Australia", which attempted to explore the possibilities that security thinking operates within different conceptual frameworks in the Asian Region";

states with varying geographical circumstances, historical experiences and memories, political culture and domestic political system and different circumstances of their formal emergence into statehood, which produce unique characteristics in strategic mindset and worldviews.

These unique characteristics can be conceptualized if we take the example of Singapore and Malaysia, two countries of the region with different historical backgrounds, and their respective strategic culture. Singapore, the smallest territory in the region, with a predominantly Muslim neighborhood (Malaysia and Indonesia) and with memories of the circumstances of its formal attainment of independence (marked by the acrimony of separation from Malaysia and the threatening affects of Indonesia's policy of 'Konfrontasi' – two critically defining moments of its history ) deeply embedded in its national psyche, it is a high sense of vulnerability which can be otherwise referred to as the "small-state syndrome" that partly defines its strategic culture ( Chin Kin Wah, 2000: 6-7). Geo-strategic circumstances and the traditional fear of being alone in a potentially hostile environment had led Singapore to evolve a security policy that attempted towards balancing of external influence through a process of engagement and involvement of friends and allies.<sup>91</sup> This balance of power paradigm stands in contrast to, but is able to co-exist with, an alternative worldview exemplified in Malaysia's advocacy of regional neutralization as expressed in a declaratory policy on ZOPFAN (Zone of Peace, Freedom and Neutrality) with echoes calling for "Asian Solution to Asian Problems" (Wah, 2000: 8-9). In fact it was due to Malaysia's past major preoccupation with internal security and communist insurgency that has given the country's strategic culture an inwardly-directed nature, leading to an articulation of

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After Desmond Ball a further attempt to inject analytical rigor to the concept have been made by Alastiar Iian Johnston. For details see, Alaistar Lian Johnston, " Thinking about Strategic Culture", *International Security* Vol. 19(4), Spring 1995; For another attempt at strategic culture analysis in the Asia-Pacific region see, Ken Booth and Russel Trood, eds., *Strategic Culture in the Asia-Pacific Region* (London, Macmillan and St. Martin Press, 1999).

<sup>91</sup> The analogy that is often used with respect to which Singapore elites view the external strategic environment is that of "having extra strings to the bow". This balance of power paradigm had successfully facilitated defense networking not only with traditional commonwealth partners of the Five Power Defense Arrangements (FDPA) networks, but also with other ASEAN states, Taiwan, US, France and Sweden.

national security in a comprehensive context going beyond the conceptualization of national security only in terms of military power. (Chandran Jeshurun, 1999: 228-29).<sup>92</sup> These different strategic mindsets and world views explains the different responses that the regional countries give to global non-proliferation initiatives. Thus Singapore through a process of engagement has increasingly displayed a willingness to co-operate with several US-led initiatives like the Proliferation Security Initiative (PSI) by becoming its participatory member in 2004. In contrast Malaysia had given a negative reception to PSI in the ground that it could legitimize intervention in their domestic affairs which they believe would impinge on their sovereignty.

Different strategic outlook of individual countries of the Southeast Asian region notwithstanding, there exist certain common elements of strategic culture in the Asia-pacific region in general and Southeast Asia in particular:

- Longer time horizons and policy perspectives than those which characterizes western thinking and planning.
- Commitment to the principles of non-interference in the internal affairs of other countries.
- Styles of policy-making which favors informality of structures and modalities.
- Forms and processes as much as substance and outcome.
- Consensus rather than majority rule.
- Multidimensional or comprehensive approaches to security (Ball, 1993: 46-47).

In light of these elements of the regional strategic culture as well as the regions strong connections with the Non-Aligned Movement (NAM), with its reservations over the global non-proliferation agendas and export controls, there exists considerable reluctance on part of ASEAN to fully integrate itself with the global non-proliferation regime which they refute for being highly formalized, legalistic and intrusive as well as due to the fact that they have been basically propounded and is dominated by western powers especially

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<sup>92</sup> The country's preoccupation with domestic sources of insecurity is reflected in a speech by Prime Minister Mahatir Mohammad in 1986 where he pointed out that, "National Security is inseparable from political stability, economic success and social harmony. Without these, all the guns in the world cannot prevent a country from being overcome by its enemies, whose ambitions can be fulfilled without firing a single shot."

the US (Tania Ogilvie White, 2006: 5-6). In fact the region has shown increasing concern over the imposition of western security agenda through these global initiatives without any consideration of the specific security needs of these regions.

### **ASEAN and Non-proliferation Initiatives**

Since its establishment in 1967, ASEAN has continually sought the promotion of regional stability through political, economic and functional cooperation among its members on the one hand and between them and increasing number of dialogue partners on the other. Founded as a rather loose political organization, ASEAN gradually transformed itself into an important regional organization by providing the members of Southeast Asia a forum for dealing with a number of regional as well as international issues through an unique process of consultation and bargaining thus transforming a group of conflict prone states into a viable security community (Amitabh Acharya, 1991:159-65).<sup>93</sup> Keeping the sensitivities of the region in mind ASEAN has developed its own method of interaction that has helped alleviate tensions among its member states. Broadly referred to as the “ASEAN Way” or the “ASEAN Process”, it involves the use of extensive consultations (*Musyawarah*) and consensus building (*Mufakat*) in order to develop ‘intramural solidarity’ (Shaun Narine, 1997:961-62).

The significance of the norms of the “ASEAN Way” has been particularly stressed upon by the constructivist scholars while explaining the success of regional cooperation in Southeast Asia.<sup>94</sup> They provided an useful analysis about how a security community has been gradually evolved in the region as a result of the interplay of various

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<sup>93</sup> Acharya explained ‘security community’ as a group of states that has ruled out the use of force as a means of solving disputes. For an elaborate understanding on the concept of security community, see Karl W. Deutsh, “Security Communities”, in James N. Rossenau, ed., *International Politics and Foreign Policy: A Reader in Research and Theory* (New York: The Free Press, 1961).

<sup>94</sup> Constructivism had highlighted the role of non-material factors like cultural norms and identity as a basis for cooperation achieved by the ASEAN states since 1967. It believes that while material factors remain important, inter-subjective factors like ideas, culture, norms and identities play a determining rather than a peripheral role in shaping ASEAN’s role in managing regional security. For a detailed discussion on the subject refer Amitabh Acharya, *Constructing a Security Community in Southeast Asia* (London: Routledge, 2001), also see Acharya, “Ideas, Identity and Institution Building: From the ‘ASEAN Way’ to the Asia-Pacific Way?” *Pacific Review*, Vol.10(3), 1997; Hiro Katsumata, “Reconstruction of Diplomatic Norms in Southeast Asia: The Case for Strict Adherence to the ‘ASEAN Way’”, *Contemporary Southeast Asia*, Vol.25(1), April 2003.

norms, institutions and identities at the regional level. One unique feature of this security community is that despite the existing rivalries and serious differences among the states within the community, some special characteristics of these relationships prevents the quarrelling governments from adopting forms of behavior which involves threat or use of force as is typical in a conflict situation (Acharya, 2001: 16). This discreteness, informality, consensus building and non-confrontational bargaining styles that characterizes the process of regional integration and cooperation in the ASEAN Way stands in contrast with the adversarial posturing, majority vote and other legalistic decision-making procedures as is prevalent in western multilateral negotiations (Acharya, 1999: 56-57).<sup>95</sup> According to Michael leifer (1999: 7), this consultative process including frequent meeting and informality that characterizes the ASEAN region had led to the development of some sort of an 'Institutional Culture' that helps the organization to prevent conflicts.<sup>96</sup> This process have been affected by particular factors in the Southeast Asian region, which includes specific concerns of the regional countries in maintaining their state sovereignty on the one hand and domestic stability on the other even while dealing with issue which significantly affect their regional security (Hiro Katsumata, 2003:104-107). Incidentally these forms of conflict resolution that characterizes the ASEAN Way is closely associated with the modalities of strategic culture in the Asia-Pacific Region as mentioned by Allan Ball, thus exemplifying the regional reservations towards global non-proliferation regimes.

The construction of Nuclear Weapon-Free Zones (NWFZ) is considered as one of the most significant mechanisms to deal with the issue of preventing the spread of nuclear weapons. In this regard ASEAN's adoption of the Southeast Asian Nuclear Weapon-Free

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<sup>95</sup> For an elaborate and comprehensive understanding of the norms comprising the 'ASEAN Way', refer to Acharya, "Culture, Security, Multiculturalism: The 'ASEAN Way' and Regional Order", in Keith Krause, ed., *Culture and Security: Multiculturalism, Arms Control and Security Building* (London: Frankcass, 1999).

<sup>96</sup> This line of thinking is in contrast to the to the realist thinking who have argued that the role and survival of ASEAN is dependent on, and shaped by, a wider regional balance of power system underpinned by the US military power presence. For details, see Michael Liefler, *ASEAN and the Security of Southeast Asia* (London: Routledge, 1989) and also, Liefler "The ASEAN Peace Process: A Category Mistake", *Pacific Review*, Vol.12(1), 1999; Tim Huxley, "ASEAN 's Prospective Security Role: Moving Beyond the Indo-China Fixation", *Contemporary Southeast Asia*, Vol.9(3), Dec 1987 and also, Huxley, "Southeast Asia in the Study of International Relations: The Rise and Fall of the Region", *Pacific Review*, Vol.9(2), 1996.



Zone (SEANWFZ) Treaty or Bangkok Treaty in 1995 is regarded as a most significant milestone in its approach towards non-proliferation. It represents a regional vehicle that can enhance the protection against the dangers of nuclear weapons, their testing, radioactive containment and pollution. Moreover it represents the regional contribution to nuclear non-proliferation, denuclearization and disarmament as sought by the NPT. The importance of the SEANWFZ Treaty in the Southeast Asian context was aptly put forwarded by Carolina Hernandez (1998: 87) where she argued that the treaty was:

“shaped by the signatories’ desire to promote the realization of the principles of the UN Charter to take concrete action to contribute to the progress of disarmament of nuclear weapons, maintain regional peace and security, pursue the ASEAN declaration on ZOPFAN, the NPT, the final document of the tenth session of the General Assembly encouraging the establishment of NWFZs,<sup>97</sup> the 1995 Review and Extension Conference of the NPT on the cooperation of all nuclear weapon states and their recognition and support for relevant protocols as important for the effective implementation of the NWFZs,<sup>98</sup> and the determination to regional environmental protection from radioactive wastes and radioactive materials”.

However the ASEAN countries have expressed disappointment at the refusal of the nuclear weapon states (NWS) to accept the Bangkok Treaty in its present form. Realizing that without the support of the nuclear weapon states SEANWFZ would remain a pipe dream, ASEAN has given considerable importance towards direct consultations between itself and the nuclear weapon states towards accession of the later to the protocols to the treaty.

A beginning in this regard was made in December 1997 by the adoption of the “ASEAN Vision 2020” in Kuala Lumpur by the Head of The States of ASEAN. It envisioned a Southeast Asia free from nuclear weapons, with all the NWS committed to the purpose of the treaty through their adherence to the protocol. The adoption of Hanoi Declaration at the 6<sup>th</sup> ASEAN Summit in 1998 was another attempt initiated by the

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<sup>97</sup> For details see, Final Document of the 10<sup>th</sup> Special Session of the General Assembly, URL:<http://www.disarmament.un.org/gasspecialsession/10thsesproug.htm>.

<sup>98</sup> For details see, 1995 Review and Extension Conference of the Parties to the Treaty on The Non-Proliferation of Nuclear Weapons 17 April-12 May 1995, New York, URL:<http://www.disarmament.un.org/wmd/npt/1995nptrevconfdocs.html>.

organization to intensify consultations with the NWS with a view to their accession to the treaty. The ‘Hanoi Plan of Action’, which was adopted at the summit, called for convening of the Commission for the SEANWFZ to oversee implementation and ensure compliance to the treaty.<sup>99</sup> In the same year the Foreign Ministers of ASEAN issued a Joint Communiqué in which they retaliated that signature to the protocol by the NWS would equal to a pledge of support for nuclear disarmament and NWFZs.<sup>100</sup> The Commission was eventually convened at the 6<sup>th</sup> ASEAN Foreign Ministers meet in Singapore in July 1999, which ordered the preparation of draft rules of procedures as well as initiation of all necessary actions in compliance with the treaty including consultations with the NWS, the IAEA and other related bodies.

Some progress was made in the consultation process in 1999 with China’s announcement of its willingness to accede to the protocol to the treaty. Welcoming this decision ASEAN called on other NWS to exercise greater flexibility in consultations on the protocol.<sup>101</sup> Some sort of a breakthrough was achieved with the convening of the first direct consultations between ASEAN and the NWS in Hanoi in May 2001, with ASEAN reaffirming its support for the process while at the same time calling for continuation of such consultations with the NWS in the future.<sup>102</sup>

In May 2004 Preparatory Committee for the 2005 Review Conference of the parties to the NPT, the ASEAN member states submitted a working paper regarding the status of the SEANWFZ. The paper addressed the establishment of the SEANWFZ as a means to “contribute towards general and complete nuclear disarmament”, and the creation of the SEANWFZ Commission and its Executive Committee to oversee compliance to the treaty.<sup>103</sup> The working paper once again stressed the importance of the

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<sup>99</sup> For details see, 6<sup>th</sup> ASEAN Summit Hanoi, Vietnam 15-16 Dec. URL:<http://www.aseansec.org/5028.htm>.

<sup>100</sup> For details see Joint Communiqué of the 31<sup>st</sup> ASEAN Ministerial Meeting (AMM), Manila, Philippines, 24-25 July 1998, URL:<http://www.aseansec.org/1687.htm>.

<sup>101</sup> For details see, Joint Communiqué of the 33<sup>rd</sup> ASEAN Ministerial Meeting (AMM), Bangkok, Thailand, 24-25 July 2000, URL:<http://www.aseansec.org/595.htm>.

<sup>102</sup> For details see, Joint Communiqué of the 34<sup>th</sup> ASEAN Ministerial Meeting (AMM), Hanoi, 23-24 July 2001, URL:<http://www.aseansec.org/3045.htm>., also see, Joint Communiqué of the 35<sup>th</sup> ASEAN Ministerial Meeting (AMM), Bander Seri Bagwan, 29-30 July 2002, URL:<http://www.aseansec.org/3045.htm>.

NWS acceding to the protocol while at the same time expressing disappointment over the fact that while consultations have been going on in this regard no concrete breakthrough have been achieved and only China has thus far reached an agreement with ASEAN regarding the protocol.<sup>104</sup>

Other than consultations with the NWS, ASEAN also highlighted the importance of global nuclear non-proliferation regimes. At the 33<sup>rd</sup> ASEAN Ministerial Meeting in Bangkok in 2000, the Foreign Ministers of the group under the chairmanship of Dr. Surin Pitswan noted the importance of achieving universal adherence to the CTBT and the NPT as well as affirmed the unanimous conclusion of the Advisory Opinion of the International Court of Justice in 1996 that ‘there exists an obligation to pursue in good faith and bring to a conclusion negotiations leading to nuclear disarmament in all its aspects under strict and effective international control’.<sup>105</sup> The grouping further called for the nuclear weapon states to continue dialogue to look for new ideas and approaches to address the issue of nuclear disarmament.<sup>106</sup>

Efforts to address proliferation issues remained crucial in 2004 and looking at the current security scenario an attempt was made by the grouping to link the issue of proliferation with international terrorism. In the Bali Regional Ministerial Meeting on Counter-Terrorism, co-hosted by Australia and Indonesia in February 2004, within the broad discussion on terrorism the ministers specifically noted the connection between international terrorism and the movement of nuclear, chemical and biological weapons materials and the need for cooperation in preventing it.<sup>107</sup>

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<sup>103</sup> In the 9<sup>th</sup> ASEAN Summit in Bali, Indonesia on 7-8 October 2003 the ASEAN leaders had the 7<sup>th</sup> ‘ASEAN plus 3’ Summit with leaders from China, Japan and the Republic of Korea. In the Summit Premier Wen Jiabao of China signed a Joint Declaration on Strategic Partnership for Peace and Prosperity, wherein the ASEAN countries and China agreed to continue consultations on China’s intentions to accede to the protocol to the SEANWFZ Treaty.

<sup>104</sup> For detail see, Preparatory Committee for the 2005 Review and Extension Conference of the Parties to the Treaty of the Non-Proliferation of Nuclear Weapons (NPT): Third Session 26 April – 7 May 2004, New York, URL:<http://disarmament.un.org/wmd/npt/2005/indexpcs%20rev.html>.

<sup>105</sup> For details see, Joint Communiqué of the 33<sup>rd</sup> ASEAN Ministerial Meeting (AMM), Bangkok, Thailand, 24-25 July 2000, URL:<http://www.aseansec.org/595.htm>. also see, Joint Communiqué of the 34<sup>th</sup> ASEAN Ministerial Meeting (AMM), Hanoi, 23-24 July 2001, URL:<http://www.aseansec.org/3045.htm>.

<sup>106</sup> For details see, Joint Communiqué of the 35<sup>th</sup> ASEAN Ministerial Meeting (AMM), Bander Seri Bagwan, 29-30 July 2002, URL:<http://www.aseansec.org/3045.htm>.

## **Emergence of Multilateral Security Mechanism in the Asia-Pacific: Birth of the ASEAN Regional Forum (ARF)**

Post-world war II security arrangements have been basically of two types – bilateral and multilateral. While multilateral security structures were more evident and well defined within Europe during the Cold War (where NATO and WARSAW pact remained opposed to one another for over a period of four decades), in the case of Asia-Pacific region the concept of multilateralism emerged only in the Post Cold-War period. This multilateral structure in the region emerged in the formation of the ASEAN Regional Forum (ARF) which is gradually evolving into a ‘platform for the promotion of regional security, stability and tranquility’ (Shankari Sundararaman, 1998:655-66).<sup>108</sup>

In the Southeast Asian region however some sort of dialogue process have become well established with the formation of ASEAN which led to the establishment of a limited security regime though the socialization of these countries in the norms of non-use or threat of force against each other that rendered inter-state armed conflict between the members of the group highly unlikely. Other features of this security regime included non-interference in each others domestic affairs and decision-making by consensus. Overall this dialogue process in the ASEAN region embodied certain approaches to security that can be characterized as more Asian than Western and attempts have been made to incorporate some of these approaches in the Asia-Pacific-wide ARF (Daljit Singh, 2000:39-40). Moreover the concept of multilateralism in the Asia-Pacific region is closely linked to the process of institution building wherein there exists considerable tension between the accepted universal ideas and norms that stands opposed to the inherent aspirations for the growth of regional ideas or character which makes such institutions distinct. The institution building in the Asia-Pacific provides a clear example

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<sup>107</sup> For details see, Bali Regional Ministerial Meeting on Counter-Terrorism Bali, Indonesia, 5 Feb. 2004: Co-Chairs Statement, URL:<http://www.aseansec.org/16001.htm>.

<sup>108</sup> Absence of multilateral security dialogue in the Asia-Pacific Region doesn't mean that there was no security multilateralism of any kind. However they were in the realist mould, relying on military power and deterrence and were initiated and dominated by the western powers. Chief among those were the Southeast Asian Collective Defense Treaty, signed in Manila in 1954, to contain the spread of communism, and its organizational structure the Southeast Asian Treaty Organization (SEATO), established in 1955; the Anglo-Malayan Defense Agreement (AMDA) which later on became the Anglo-Malaysian Defense Agreement with the establishment of Malaysia in 1963; the Five Power Defense Arrangements (FDPA) which replaced AMDA in 1970's.

of this kind of tension – wherein the universal, imported models of multilateralism contrasts with the need for a more regional character (Amitabh Acharya, 1997:321-22).

The ARF had followed a two-pronged policy. The 2<sup>nd</sup> ARF meeting held in Brunei in 1995 decided that the forum would move along two tracks – Track I activities to be carried on by the governments, while Track II to be carried out by the Institutes of Strategic Studies of member countries (Singh, 2000:46).<sup>109</sup> In the Track I approach the security platform was enhanced by the conduct of regular meetings and inter-sessionary seminars where the members of the ARF articulated their security concerns in a broader framework which ensured a common platform for such discussion. In this light the Brunei meeting also outlined a Three-staged approach for the ARF: Stage I would deal with confidence building measures (CBM's); Stage II with the development of preventive diplomacy; and Stage III would see 'elaboration of approaches to conflicts', meaning conflict management and resolution.<sup>110</sup>

#### **ARF and the issue of non-proliferation**

One of the major thrust of the ARF has been the issue of non-proliferation in the Asia-Pacific region, wherein the members of the forum sought to integrate the issue within the context of their own security concerns. The ARF seeks to address the issue firstly by strengthening the global instruments of non-proliferation such as the Nuclear Non-Proliferation Treaty (NPT), and secondly by promoting a Southeast Asia Nuclear Weapon-Free Zone (SEANWFZ) which would in turn strengthen the NPT. While the issue of SEANWFZ had earlier been part of the ASEAN program where it had been adequately discussed in the ASEAN meetings, it had been extended into the framework

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<sup>109</sup> For details see, Chairman's Statement on the 2<sup>nd</sup> ARF Brunei Darulsalam, 1 Aug 1995, URL:<http://www.aseansec.org/2106.htm>.

<sup>110</sup> The wordings 'elaboration of approaches to conflicts' have been chosen specifically to meet Chinese reservations, whose view is that conflicts should be resolved bilaterally by the parties directly involved in a conflict, outside the preview of the ARF. In fact after the birth of the ARF, whereas western states already made it clear that they expect ARF to address direct issues of contention in the region and produce concrete results, China had been a reluctant participant in multilateral bodies. The ASEAN countries therefore remain conscious of walking the line between keeping the impatient west interested in the ARF while not moving too quickly for the suspicious Chinese.

of the ARF in consideration of the emergence of a new security environment after the end of the Cold War. (Sundararaman, 1998:662).

However concrete action towards non-proliferation within the ARF was slow to emerge with statements emanating from the annual meetings more concerned with ‘holding the line rather than adopting new initiatives’ (Tania Ogilvie White, 2006:15). Rather than pressing for urgent implementation of national controls, statements at the initial ARF meetings merely ‘welcomed’ the coming into force the SEANWFZ Treaty and the ongoing consultations between the state parties to the treaty and the NWS;<sup>111</sup> and pointed to the pivotal role of the NPT while calling on all parties to accede to the same.<sup>112</sup> Beyond this, the ministers covered old grounds like reaffirming the importance of nuclear testing moratorium and reiterating the objective of total elimination of nuclear weapons.

The 11<sup>th</sup> meeting of the ARF held in Jakarta in 2004 marked some progress as the ministers reiterated the importance of addressing the issue of non-proliferation and disarmament in all its aspects, underlying the importance of close collaboration between participants to prevent proliferation of weapons of mass destruction (WMD) and their means of delivery. The ministers stressed on the need to strengthen technical cooperation in order to enhance the countries’ capabilities as well as national legal measures to address the issue of non-proliferation in all its aspects and in conformity with international law. The ministers also reaffirmed their support for the concept of internationally recognized NWFZs’ established on the basis of arrangements freely arrived at among the states in the region while reaffirming the accession of the nuclear weapon states to the protocol to the SEANWFZ Treaty.<sup>113</sup>

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<sup>111</sup> For details see, Chairman’s Statement of the 4<sup>TH</sup> Meeting of the ASEAN Regional Forum (ARF) Subang Jaya, Malaysia, 27 July 1997, URL:<http://www.aseansec.org/1837.htm>., also see, Chairman’s Statement of the 6<sup>th</sup> Meeting of the ASEAN Regional Forum (ARF) Singapore, 26 July 1999, URL:<http://www.aseansec.org/1837.htm>

<sup>112</sup> For details see, Chairman’s Statement of the 5<sup>th</sup> Meeting of the ASEAN Regional Forum (ARF) Singapore, 26 July 1999, URL:<http://www.aseansec.org/1837.htm>

<sup>113</sup> For details see, Chairman’s Statement of the 11<sup>th</sup> Meeting of the ASEAN Regional Forum (ARF) Jakarta, 2 July 2004, URL:<http://www.aseansec.org/17376.htm>.

However the most positive step to emerge from the meeting was the adoption, by the ministers, of the ASEAN Regional Forum Statement on Non-Proliferation that made more specific commitments in relation to nuclear security in the region. The statement recognized the importance of preventing the terrorists or those who harbor them from acquiring or developing WMD, their means of delivery, and related materials, and to continue efforts to reduce the threat. The statement also reaffirmed the need for the member states to adhere to and implement each of the operative paragraphs outlined in the UNSCR 1540, reiterating the need to address the issue of non-proliferation and disarmament in a wide and comprehensive manner taking into account the participants' resources and capabilities. More importantly for the first time the members stresses the importance of strengthening the export control system and enforcement measures of the member countries to control the transfer of material technology and expertise that can contribute to the design, development, production or use of WMD and their means of delivery. At the same time the participants emphasized that efforts to prevent proliferation should not hamper international cooperation in material, equipment and technology for peaceful purposes. Other than that, measures to increase regional assistance and to strengthen WMD mechanism, including a pledge to maximize the provision of technical expertise amongst ARF participants was also discussed upon.<sup>114</sup>

The issue of threat emanating from the linkage of terrorism with the proliferation of WMD was once again highlighted in the 12<sup>th</sup> meeting of the forum in 2005. Stating that the proliferation of WMD and their delivery vehicles remain a serious security challenge as well as the most dangerous one as they might fall into the terrorists' hands, the ministers urged all states to sign and conclude the International Convention for the Suppression of Acts of Nuclear Terrorism and to provide for its early entry into force.<sup>115</sup>

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<sup>114</sup> For details see, ASEAN Regional Forum Statement on Non-Proliferation, Jakarta, 2 July 2004, URL:<http://www.aseansec.org/16247.htm>.

<sup>115</sup> For details see, Chairman's Statement of the 12<sup>th</sup> Meeting of the ASEAN Regional Forum (ARF) Vientiane, 29 July 2005, URL:<http://www.aseansec.org/18125.htm>.

## **The Non-Official Dialogue Process**

While official dialogue (Track I) is confined to government officials, non-official dialogues even though in theory should be independent of government, in reality there are often varying degrees of government influence, representation or support. Referred to as the Track II dialogues, it is usually organized by non-governmental organizations like think tanks and involves scholars, journalists and others from the private sector who can make a contribution, as well as government officials taking part in their personal capacity (Daljit Singh, 2000:51-52). Using this model of Track II policy formulation the ARF set up the Council for Security Co-operation in Asia-Pacific (CSCAP). Consisting of 17 members, CSCAP is meant to provide a structured process for regional confidence building and security cooperation among countries in the Asia-Pacific region.<sup>116</sup> In fact cooperation of ASEAN with these non-governmental organizations like the CSCAP led to some extent an evolution of a process moving away from the conventional ASEAN way. More important is the fact these organizations have shown an increasing level of activism in different issues affecting the Asia-Pacific region thus helping the nature of inter-state relations (Mely Caballero- Anthony, 2005: 158).

One of the major initiatives CSCAP has undertaken with regard to proliferation issues is the formation of a study group for discussions and dialogues regarding non-proliferation of WMD. Attended by participants and members from different CSCAP member committees, the primary objective of the group were to further awareness about WMD proliferation challenges in the Asia-Pacific region while developing multilateral approaches to better understand these challenges and promote cooperative solutions.

In this regard the 2<sup>nd</sup> meeting of the CSCAP study group in 2005 discussed in detail the scope of the global non-proliferation regimes wherein Kusnanto Anggoro representing from Indonesia gave a Southeast Asian view of the global non-proliferation order noting that the Asia-Pacific region has a major obligation to tackle the non-proliferation problems. It noted that even though the ASEAN region does not lack declarations, the will and the ability to implement them is harder to come by thus endorsing efforts to improve the technical capacity to enforce these statements. Ta Minh

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<sup>116</sup> Members of the CSCAP are Australia, Canada, China, The EU, Indonesia, Japan, Malaysia, Mongolia, New Zealand, North Korea, the Philippines, Russia, Singapore, South Korea, Thailand, The US and Vietnam. The Indian Institute of Defense Studies and Analysis (IDSA) is an Associate Member.



Tuan of CSCAP Vietnam elaborated the issue by looking at the Southeast Asian efforts to support non-proliferation. While applauding the intent of the SEANWFZ Treaty, he argued that this is not enough and the region must go beyond declarations and outline a program, with concrete steps, to fight proliferation of WMD.<sup>117</sup>

The 3<sup>rd</sup> CSCAP meeting in 2006 turned attention towards nuclear energy and non-proliferation where CSCAP Indonesia gave the regional perspective on the issue. It noted that the rising demand for energy prompted many states in the region to explore the nuclear energy option. And while all such activities are consistent with the global nuclear non-proliferation regime the regional involvement in the A Q Khan nuclear black market is an area of serious regional concern.<sup>118</sup> This concern was taken a step further by CSCAP Singapore by linking the non-state actors with WMD arguing that the rise of religion as a motivating factor for terrorists acts along with the proliferation of advanced technologies and globalization of terrorist groups have altered the regional security scenario thus requiring new stringent measures to deal with the threat.

## **Conclusion**

Regional security institutions have an important role to play in helping the states meet the challenges posed by the proliferation of WMD and related materials. Equally significant is the role that these institutions play in bridging the divide between the so-called universalism of global governance and the cultural particularities of different regions. This later role of the institutions is particularly important in the Southeast Asian region where these institutions can potentially afford greater recognition to states that feel undermined by global institutions and western security agendas (Tania Ogilvie White, 2006: 20). This is one of the most important functions of ASEAN and ARF in that they promote a more holistic approach to regional security, encouraging security cooperation

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<sup>117</sup> For details see, Second Meeting of the CSCAP Study Group on Countering the Proliferation of Weapons of Mass Destruction in the Asia-Pacific, Manila, Philippines, Dec.2-3 2005: Chairman's Report. URL:<http://www.cscap.org/documnts/sg%20%wmd%20%201205.doc>.

<sup>118</sup> For details see, CSCAP Study Group on Countering the Proliferation of Weapons of Mass Destruction in the Asia-Pacific, Singapore, March 26-27 2006: Chairman's Report. URL:<http://www.cscap.org/documnts/sg%20%wmd%20%201376.doc>.

over issues of non-proliferation without tampering cultural and societal sensitivities to the degree that global mechanisms always do. The approach however is not without difficulties and frustration in that consideration of cultural norms slow the pace of institution building and places limits on the nature and scope of their activities, which at times might appear counter-productive at a time when urgent and drastic measures are needed to tackle genuine security threats. This has been the case with initial ARF meetings where concrete action towards non-proliferation and WMD terrorism were slow to emerge, with statements of the meeting generally holding the line already discussed in ASEAN rather than formulating new initiatives. Thus efforts are required that maintain a balance between consideration of the norms of the 'ASEAN Way' as well as take concrete steps to deal with the issue of non-proliferation.

## **CHAPTER – V**

### **CONCLUSION**

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The proliferation of nuclear weapons has emerged as one of the primary security concerns for nations around the globe. Since the bombings of the two Japanese cities of Hiroshima and Nagasaki the world has realized the immense destructive capability that these weapons possess thus initiating responses and measures on a global scale to prevent such events to happen again in the near future. Even as the dynamics of threats that emanate from nuclear weapons have had a considerable change from the days of the Cold War to the present context, most countries of the globe believe that ultimately it is the total disarmament of nuclear weapons that constitutes the most comprehensive approach to deal with the issue.

The issue of nuclear weapons has been on the agenda of the Southeast Asian region since the beginning of the Cold War. In fact during that period both intra as well as extra-regional threats that have been faced by the region made the overall regional security situation an area of prime concern for the states. While internally there were disputes among the countries of the region, externally the major involvement of the two superpowers – the USA and the USSR as well as China made the region an extended arena of the Cold War conflict. The ideological divisions between the countries of the region made the arena even more critical with Vietnam emerging as the core state in the conflict between the two super powers. The fact that all these external powers that were involved in the region were nuclear weapon states, with any major outbreak between them having detrimental effect in the region is what made the nuclear security issue critical during that time. The superpowers also maintained military bases in the region with certain amount of secrecy with regard to the stationing of nuclear weapons at these bases. It was in these contexts that the debate towards initiation of nuclear weapon free

zone in the region began to float around the academic circles even though it was only in the mid-80's that initiation towards the same was taken up formally.

The disintegration of the Soviet Union after the end of the Cold War led to a wide range of multilateral nuclear non-proliferation measures to prevent horizontal proliferation between USA and Russia. Although some amount of success was achieved by these measures as far as reduction of nuclear arsenals are concerned, new nuclear security issues emerged at the global arena. The nuclear tests conducted by India, Pakistan and more recently by North Korea severely challenged the global non proliferation regime laying concerns about nuclear proliferation at a 'horizontal' level. Besides this the security scenario at the Asia-Pacific region also underwent a radical change with potential for significant impact on the Southeast Asian region. The emerging dynamics in US-China relations in particular is viewed very closely by the region as it could have spill over effects on its regional security. While there is increasing suspicion about Chinese attitude towards nuclear weapons and proliferation, China is increasingly concerned with US plans to install a Ballistic Missile Defense (BMD) in East Asia. In this context any outbreak of conflict between them could have serious repercussions on the security of the Asia-Pacific in general and Southeast Asia in particular. Thus a full fledged nuclear weapon free zone would be the most effective mechanism the region can have in the present context to keep itself aloof from great power rivalry. What concerns the region most is the fact that even after a decade of the adoption of the Southeast Asia Nuclear Weapon Free Zone (SEANWFZ) Treaty only China has signed and ratified the protocols to the same. Even after constant consultations between the ASEAN countries and the nuclear weapon states in regional forums nothing concrete have been achieved so far.

The September 11, terrorists attacks on the United States was a significant event as it showed the level at which terrorists organization can work. The attacks also initiated new and potentially more dangerous concerns about the possible nexus between terrorism and weapons of mass destructions (WMD) with the issue of nuclear terrorism increasingly gaining ground on discussions about nuclear security. This issue has a significant relevance in the Southeast Asian context because of the fact that the region faces threats from organizations on the one hand and more critically due to the fact that

there have been an expansion of nuclear energy and research undertaken by some of the countries for civilian purpose. What is more concerning is the fact that these civilian research facilities are not adequately secured thus increasing the chances of terrorists acquiring them for making weapon related materials. Connected to this is the issue of trafficking of nuclear weapons or weapon related materials by A. Q. Khan network with reports that some of the countries are used as a stopping point by these networks.

Southeast Asian region had undertaken quite a few measures to deal with these emerging new issues of non-proliferation. Its participation in global non-proliferation measures like the United Nations Security Council Resolution (UNSC) 1540 and the Proliferation Security Initiative (PSI) is a case to the point. However comprehensive cooperation towards global norms has been undertaken by the region so far. In particular the regional perception towards these global mechanisms are based on their being highly formalized and legalistic without any concerns about the specificities of the different countries and regions and cooperation will lead to interference in their internal affairs. In fact their partial support to the PSI is a classic case to the point. On the other hand they have sought to respond to these issues through a process of informality and consensus at the ASEAN and the ARF meetings.

One of the important issues that have regularly come up in these meetings is with regard to the nuclear weapon states not signing the protocol. Even though none of the Southeast Asian countries possesses nuclear weapons, a Nuclear Weapon Free Zone is still relevant to the region as a worldwide campaign against nuclear weapons and adds pressure on the nuclear weapon states to pursue nuclear disarmament. However to be fully implemental all nuclear weapon states have to accede to the protocols to the treaty. This is particularly important because of the security scenario that is emerging in the Asia-Pacific region and the significance of US-China relations. Respect for the protocols to the treaty will prevent the Southeast Asian states unduly getting affected by these emerging dynamics. Moreover it is also important to note that ideas for nuclear weapon free zone were put forward particularly for preventing state to state proliferation of nuclear weapons. Thus additional and more stringent measures needs to be implemented by the regional forums to deal with the emerging dynamics of non-proliferation threat which is has the potential to take a non-state actor dimension in Southeast Asia.

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