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Rethinking the Zone of Peace, Freedom and Neutrality (ZOPFAN) in the Post-Cold War Era

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Rethinking The ZOPFAN in the Post Cold War Era.

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I. ZOPFAN (1971)

Before **ZOPFAN** was adopted in 1971, **Bangkok Declaration** on August 8, 1967 establishing ASEAN already declared their aims to promote regional peace and stability through abiding peace and the rule of law in the relationship among countries of the region and adherence to the principles of the UN Charter, and that they will secure for their people and for posterity, the blessing of Peace, freedom, and prosperity.

The ZOPFAN Declaration was adopted by ASEAN in Kuala Lumpur on November 27, 1971, almost 40 years ago. The Declaration reiterated the commitment by ASEAN countries when they established ASEAN in 1967, to the effect that they share a primary responsibility for strengthening the economic and social stability of the region, ensuring their peaceful and progressive national development, and that they are determined to ensure their stability and security from external interference in any form or manifestation in order to preserve their national identities in accordance with the ideals and aspirations of their peoples. For these reasons, they agree that the Neutralization of Southeast Asia is a desirable objective. In order to achieve this, they are determined to exert the necessary efforts to secure the recognition of, and respect for, Southeast Asia as a Zone of Peace, Freedom and Neutrality (ZOPFAN), free from any form or manner of interference by outside powers. They also stated that Southeast Asian Countries should make concerted efforts to broaden the areas of cooperation which would contribute to their strength, solidarity and closer relationship.

These endeavors were repeated many times subsequently, including in the **Declaration of ASEAN Concord** in Bali on 24 February 1976. In the Bali Declaration they agreed to sign a **Treaty of Amity and Cooperation (TAC)** in Southeast Asia, to settle intraregional disputes by peaceful means as soon as

possible, to consider immediate steps toward the recognition of, and respect for, ZOPFAN, to improve ASEAN machinery to strengthen political cooperation, to study how to develop judicial cooperation, including the possibility of an ASEAN **Extradition** Treaty, and to strengthen political solidarity by promoting the harmonization of views, coordinating position, and where possible and desirable taking common action.

II. TAC (1976)

Although the ZOPFAN may have come out at the period of the cold war, ZOPFAN was not necessarily related to the cold war. The **Treaty of Amity and Cooperation in Southeast Asia (TAC)** that was adopted in Bali in February 1976 accepted the fundamental principles in the relationship among the ASEAN Countries which would be the basis for a Zone of Peace as follows:

- a. **Mutual respect** for the independent, sovereignty, equality, territorial integrity, and national identity of all nations;
- b. **The right of every state** to lead its national existence free from external interference, subversion or coercion;
- c. **Non interference** in the internal affairs of one another;
- d. **Settlement of differences or disputes by peaceful means;**
- e. **Renunciation of the use of force;**
- f. **Effective cooperation** among themselves.

The Treaty also prescribed mechanism for pacific settlement of disputes, namely by constituting a **High Council** comprising a representative at ministerial level from each of the high contracting parties, to take cognizance of the existence of disputes or situation likely to disturb regional peace and harmony. The High Council can also recommend to the parties in dispute appropriate means of settlement, such as **good offices, mediation, or conciliation**. Upon agreement of the parties in dispute, the High Council

could also constitute itself into committee of mediation, inquiry, or conciliations, and shall recommend appropriate measures for the prevention of deterioration of the dispute and the situation. It should be noted, however, that somehow the High Council mechanism has never been invoked as a dispute settlement mechanism by ASEAN countries, although Indonesia did try to involve it once.

It is also important to note that the **TAC 1976** has also enunciated 6 principles for the promotion of peace, amity, and cooperation in Southeast Asia. The Treaty has been ratified by the 10 ASEAN Members, and by July 2009 has also been adhered to by **17 non ASEAN Members: Papua New Guinea, People's Republic of China, India, Japan, Pakistan, South Korea, Russia, New Zealand, Mongolia, Australia, France, East Timor, Bangladesh, Sri Lanka, North Korea, European Union, and the United States.**

Although the situation of the cold war at that time may have caused some concerns to the countries in Southeast Asia, the establishment of ZOPFAN was motivated also, and perhaps mostly, by the desire to establish peace in Southeast Asia, and to strengthen cooperation and understanding among themselves for their own economic and social development as well as to protect their cultural identity. The external aspect of ZOPFAN appeared to be additional factors in expediting the process of discovering a "united or coordinated Southeast Asia", that would, expectedly, play central role in the affairs of the region, rather than simply subsidiary roles as in previous history.

III. Indonesian Position

For Indonesia, the Declaration of ZOPFAN was very significant. In fact one of the stipulations in the Indonesian Constitution was and is to participate in the implementation of world order based on Independence, Lasting Peace, and Social Justice. For this reason, Indonesia was very interested in the establishment of peace, stability, and cooperation in the world, particularly in Southeast Asia. Thus, the establishment of **ZOPFAN**, the Declaration of Southeast Asia Nuclear Weapons Free Zone (SEANWFZ)

and the Treaty of Amity and Cooperation (**TAC**) are some of the main pillars of ASEAN architecture. In fact the **Bangkok Declaration** establishing ASEAN in 1967 had already indicated that the countries in Southeast Asia have their primary responsibility and commitment to assure peace and stability in the region, free from foreign intervention, in order to protect their respective national identity and aspiration. In **Kuala Lumpur Declaration in 1971**, it was already indicated that the Nuclear Weapon Free Zone would be established in Southeast Asia. Yet, it took sometime before the Nuclear Weapon Free Zone could be established in Southeast Asia. The idea of **SEANWFZ** was only enshrined later in the Treaty on the SEANWFZ signed in Bangkok on 15 December 1995.

IV. Guidelines

The Senior Official Meeting of ASEAN in Kuala Lumpur in 1972 describing the notion of “**Peace**” as a situation where harmonious and orderly relations among the state in the region exists, “**Freedom**” means free from domination or interference from outside powers in matters of domestic as well as foreign policy of the states in the region, and “**Neutrality**” as an attitude not taking side in conflict or war between other nations as understood under International Law and the UN Charter.

The SOM meeting in Jakarta in 1972 agreed on guidelines for the relations between states in the region and with the states outside of the region, before and after ZOPFAN was recognized. Those guidelines, in my mind are still valid today, contained 14 points namely:

1. **Respect the UN Charter**, Bandung (Asian African) Declaration of 1955, Bangkok Declaration 1967, and Kuala Lumpur Declaration of 1971
2. **Mutual respect of independence, sovereignty, equality, territorial integrity and national identity** of all nations inside and outside of the region.
3. The right of every state to **protect its national existence** free from foreign interference, subversion, and coercion.

4. **Non interference** in the internal affairs of states in the region.
5. **Refrain from inviting or giving approval toward interference by foreign powers** in the internal or regional affairs of the states in the region.
6. **Settlement of dispute by peaceful means** in accordance of with the UN Charter.
7. Not to **threaten or use of force** in the relations between nations.
8. **Refrain from using armed forces in the international relations** except for self-defense, either individual or collective, in accordance with the UN Charter.
9. **Do not involve in the conflicts between powers outside of the region** or do not enter into agreements which are inconsistent with the objective of ZOPFAN.
10. The **absence of foreign military basis in territory** of the states in the region.
11. The **prohibition of the use, storage, transit, or testing nuclear weapons** and their components in the region.
12. Right **to trade freely with other country or international institutions**, free from political and social system differences.
13. The right to **accept aid freely to promote national resilience** except if such assistance is given with conditions that are not compatible with the objective of ZOPFAN
14. **Effective regional cooperation** among the states in the region.

V. SEANWFZ (1995)

Another important component of ZOPFAN is the creation of Southeast Asia Nuclear Weapon Free Zone (**SEANWFZ**). The Treaty on SEANWFZ was signed in Bangkok on December 15, 1995, including its Protocol to enable other nuclear powers to accede to the Treaty. **The TREATY has been ratified by all 10 ASEAN countries and has entered into force since March 27, 1997.** ASEAN has again repeted it commitment in the ASEAN Charter, adopted in Singapore on November 20, 2007, to “preserve Southeast Asia as a Nuclear Weapon Free Zone and free of all other Weapons of Mass Destruction.

Unfortunately however, **none of the 5 nuclear powers (USA, UK, France, Russia, PRC) has acceded to the Treaty**. Various efforts have been made to accommodate the interests and views of the nuclear powers, but apparently no understanding has been concluded as yet. The main problems for the acceptance of the SEANWFZ Treaty by the nuclear powers include:

- a. **Negative Securities Assurances (NSA) and Zone Application.** The ASEAN Countries would like to see commitments and assurances by the Nuclear powers not to use nuclear weapons in the region or against the country or countries in the region. The ASEAN countries also like to have the stipulation that the nuclear free zone would also apply to the Exclusive Economic Zone and Continental Shelf of the ASEAN Countries, while the nuclear powers are not happy with the inclusion of Exclusive Economic Zone and Continental Shelf within the Zone of application of the SEANWFZ.
- b. **The issue of transit rights and port visits.** The problem is that some countries considered that the transit rights of vessels carrying nuclear weapons and their port visits are within their sovereignty while some countries may consider that those activities also affect the integrity of the Nuclear Weapon Free Zone area
- c. **Problem of sovereignty** in the South China Sea. Some nuclear weapon states need classification of the issues of sovereignty in the region, including the issues of territorial sovereignty over disputed islands and futures in the area.

During the last meeting of the Executive Committee of the SEANWFZ in Jogjakarta last March 2011, some of the outstanding issues have also been discussed, including the issues of **transit right** and **port visit, zone of application**, and **sovereignty** issues. Indonesia had carried out informal discussions with nuclear weapon states to obtain their latest views on those issues. There was impression that the United States is now willing to continue dialogue on the Protocol to the Treaty of SEANWFZ.

VI. Conclusions

In conclusion it appears to me that the ZOPFAN:

1. has been very useful in forging and strengthening regional peace, stability and cooperation,
2. has been helpful in bringing about relaxation of regional and international tensions,
3. has been instrumental in achieving peace in Southeast Asia, inspired by the respect for the sovereignty and territorial integrity of all states, abstention from the threat and use of force, peaceful settlement of international dispute, equal right and self determination, and non interference in the internal affairs of states, and,
4. has been dedicated to the maintenance of peace, freedom or independence, and cooperation with all peoples and peace loving nations.

Unlike some ideas in the past which appeared to have been largely inspired by non regional forces, such as the SEATO and the FPDA, the **ZOPFAN** seemed to have been largely a “native idea”, coming and originating from the countries of the region itself. Inspired by their own experiences. Therefore, history has indicated that the rules and principles of ZOPFAN were acceptable to the people of Southeast Asia and could be considered as an important pillar of ASEAN security architecture. Hopefully, the **SEANWFZ** could also achieve this status and acceptance in the near future.

ZOPFAN has therefore exercised **three main** functions, mainly:

1. the arranging of the relations between Southeast Asia and the outside powers,
2. regulating the relations between the Southeast Asian countries themselves, and
3. encouraging the economic and social development of each ASEAN Countries.

Therefore, the ASEAN commitments to ZOPFAN, to me, is real and fundamental and should not dependent on the existence of the Cold War, although the cold war may have accelerated the process.

This is not to say, however, that relations among ASEAN Countries should be taken for granted. There are still a number of issues in the relations among ASEAN Countries that need to be taken care of and settled, particularly the **border and boundaries issues**. ASEAN countries should devote more attention and efforts to settle their respective boundaries delimitation and cross border cooperation, either on land or maritime. They should also continue and intensify economic cooperation to promote the welfare of the people. They should also develop common position as much as possible in dealing with non regional and other international issues to strengthen their regional identity and “personality”. These issues need to be constantly taken care of and continue to be relevant, even taking into account the current regional **strategic landscape**.

But, how is the current regional strategic landscape? It appears to me that the current regional strategic landscape would look more **economic centric** than military. For that matter, we have notice the rise of China and the Republic of Korea to the north of ASEAN, and India toward the west of ASEAN. The economic roles of Japan, the US, Australia and New Zealand would still be very significance to ASEAN economic growth. Equally, the role of Russia in this region would be more economic than military, although some ASEAN countries have also look to Russia for some military needs. The European Union roles in the region now look also to be more economic and trade than on military security issues. Equally, the prospect of developing relations with Africa, Middle East, and Latin American countries seems also more promising in economic areas. On the whole, however, it would appear that **ASEAN countries would and should be able to play a much more pivotal role in the Asia Pacific region and in the Indian Ocean** in the near future. In that context, **more emphasis on the ZOPFAN ideals and economic development would appear to be more relevant now than military alliances in the past**

The objective of achieving ASEAN integrity in the sense of “united” or “integrated” states in Southeast Asia and in global politics hopefully could be strengthened by the **continued adherence to the idea of**

ZOPFAN. It is hoped that ASEAN countries may hopefully strengthen their cooperation and integration so that **ASEAN**, as a group, **could really become an important and strategic factor in the new development in the Asia Pacific, Oceania, and Indian Ocean region** where ASEAN is so strategically located between the two oceans and the two continents. Thus, ASEAN endeavors hopefully could also become the model for other regional co-operations.