NB317

TREATY ON THE SOUTHEAST ASIA NUCLEAR WEAPON-FREE ZONE

The States Parties to this Treaty:

DESIRING to contribute to the realization of the purposes and principles of the Charter of the United Nations;

DETERMINED to take concrete action which will contribute to the progress towards general and complete disarmament of nuclear weapons, and to the promotion of international peace and security;

REAFFIRMING the desire of the Southeast Asian States to maintain peace and stability in the region in the spirit of peaceful coexistence and mutual understanding and cooperation as enunciated in various communiques, declarations and other legal instruments;

RECALLING the Declaration on the Zone of Peace, Freedom and Neutrality (ZOPFAN) signed in Kuala Lumpur on 27 November 1971 and the Programme of Action on ZOPFAN adopted at the 26th ASEAN Ministerial Meeting in Singapore in July 1993;

CONVINCED that the establishment of a Southeast Asia Nuclear Weapon-Free Zone, as an essential component of the ZOPFAN, will contribute towards strengthening the security of States within the Zone and towards enhancing international peace and security as a whole;

REAFFIRMING the importance of the Treaty on the Non-Proliferation of Nuclear Weapons (NPT) in preventing the proliferation of nuclear weapons and in contributing towards international peace and security;

RECALLING Article VII of the NPT which recognizes the right of any group of States to conclude regional treaties in order to assure the total absence of nuclear weapons in their respective territories;

RECALLING the Final Document of the Tenth Special Session of the United Nations General Assembly which encourages the establishment of nuclear weapon-free zones;

RECALLING the Principles and Objectives for Nuclear Non-Proliferation and Disarmament, adopted at the 1995 Review and Extension Conference of the Parties to the NPT, that the cooperation of all the nuclear-weapon States and their respect and support for the relevant protocols is important for the maximum effectiveness of this nuclear weapon-free zone treaty and its relevant protocols.

DETERMINED to protect the region from environmental pollution and the hazards posed by radioactive wastes and other radioactive material;

HAVE AGREED as follows:

Article 1
USE OF TERMS

For the purposes of this Treaty and its Protocol:

(a) "Southeast Asia Nuclear Weapon-Free Zone", hereinafter referred to as the "Zone", means the area comprising the territories of all States in Southeast Asia, namely, Brunei Darussalam, Cambodia, Indonesia, Laos, Malaysia, Myanmar, Philippines, Singapore, Thailand and Vietnam, and their respective continental shelves and Exclusive Economic Zones (EEZ);

(b) "territory" means the land territory, internal waters, territorial sea, archipelagic waters, the seabed and the sub-soil thereof and the airspace above them;

(c) "nuclear weapon" means any explosive device capable of releasing nuclear energy in an uncontrolled manner but does not include the means of transport or delivery of such device if separable from and not an indivisible part thereof;

(d) "station" means to deploy, emplace, implant, install, stockpile or store;

(e) "radioactive material" means material that contains radionuclides above clearance or exemption levels recommended by the International Atomic Energy Agency (IAEA);

(f) "radioactive wastes" means material that contains or is contaminated with radionuclides at concentrations or activities greater than clearance levels recommended by the IAEA and for which no use is foreseen; and

(g) "dumping" means

(i) any deliberate disposal at sea, including seabed and subsoil insertion, of radioactive wastes or other matter from vessels, aircraft, platforms or other man-made structures at sea, and

(ii) any deliberate disposal at sea, including seabed and subsoil insertion, of vessels, aircraft, platforms or other man-made structures at sea, containing radioactive material,

but does not include the disposal of wastes or other matter incidental to, or derived from the normal operations of vessels, aircraft, platforms or other man-made structures at sea and their equipment, other than wastes or other matter transported by or to vessels, aircraft, platforms or other man-made structures at sea, operating for the purpose of disposal of such matter or derived from the treatment of such wastes or other matter on such vessels, aircraft, platforms or structures.

Article 2
APPLICATION OF THE TREATY

1. This Treaty and its Protocol shall apply to the territories, continental shelves, and EEZ of the States Parties within the Zone in which this Treaty is in force.

2. Nothing in this Treaty shall prejudice the rights or the exercise of these rights by any State under the provisions of the United Nations Convention on the Law of the Sea of 1982, in particular with regard to freedom of the high seas, rights of innocent passage, archipelagic sea lanes passage or transit passage of ships and aircraft, and consistent with the Charter of the United Nations.

Article 3
BASIC UNDERTAKINGS

1. Each State Party undertakes not to, anywhere inside or outside the Zone:

   (a) develop, manufacture or otherwise acquire, possess or have control over nuclear weapons;

   (b) station or transport nuclear weapons by any means; or

   (c) test or use nuclear weapons.

2. Each State Party also undertakes not to allow, in its territory, any other State to:

   (a) develop, manufacture or otherwise acquire, possess or have control over nuclear weapons;

   (b) station nuclear weapons; or

   (c) test or use nuclear weapons.

3. Each State Party also undertakes not to:

(a) dump at sea or discharge into the atmosphere anywhere within the Zone any radioactive material or wastes;

(b) dispose radioactive material or wastes on land in the territory of or under the jurisdiction of other States except as stipulated in Paragraph 2(e) of Article 4; or

(c) allow, within its territory, any other State to dump at sea or discharge into the atmosphere any radioactive material or wastes.

4. Each State Party undertakes not to:

(a) seek or receive any assistance in the commission of any act in violation of the provisions of Paragraphs 1, 2 and 3 of this Article; or

(b) take any action to assist or encourage the commission of any act in violation of the provisions of Paragraphs 1, 2 and 3 of this Article.

Article 4
USE OF NUCLEAR ENERGY FOR PEACEFUL PURPOSES

1. Nothing in this Treaty shall prejudice the right of the States Parties to use nuclear energy, in particular for their economic development and social progress.

2. Each State Party therefore undertakes:

(a) to use exclusively for peaceful purposes nuclear material and facilities which are within its territory and areas under its jurisdiction and control;

(b) prior to embarking on its peaceful nuclear energy programme, to subject its programme to rigorous nuclear safety assessment conforming to *guidelines and standards recommended* by the IAEA for the protection of health and minimization of danger to life and property in accordance with Paragraph 6 of Article III of the Statute of the IAEA;

(c) upon request, to make available to another State Party the assessment except information relating to personal data, information protected by intellectual property rights or by industrial or commercial confidentiality, and information relating to national security;

(d) to support the continued effectiveness of the international non-proliferation system based on the Treaty on the Non-Proliferation of Nuclear Weapons (NPT) and the IAEA safeguards system; and

(e) to dispose radioactive wastes and other radioactive material in accordance with IAEA standards and procedures on land within its territory or on land within the territory of another State which has consented to such disposal.

3. Each State Party further undertakes not to provide source or special fissionable material, or equipment or material especially designed or prepared for the processing, use or production of special fissionable material to:

(a) any non-nuclear-weapon State except under conditions subject to the safeguards required by Paragraph 1 of Article III of the NPT; or

(b) any nuclear-weapon State except in conformity with applicable safeguards agreements with the IAEA.

Article 5
IAEA SAFEGUARDS

Each State Party which has not done so shall conclude an agreement with the IAEA for the application of full-scope safeguards to its peaceful nuclear activities not later than eighteen months after the entry into force for that State Party of this Treaty.

Article 6
EARLY NOTIFICATION OF A NUCLEAR ACCIDENT

Each State Party which has not acceded to the Convention on Early Notification of a Nuclear Accident shall endeavour to do so.

Article 7
FOREIGN SHIPS AND AIRCRAFT

Each State Party, on being notified, may decide for itself whether to allow visits by foreign ships and aircraft to its ports and airfields, transit of its airspace by foreign aircraft, and navigation by foreign ships through its territorial sea or archipelagic waters and overflight of foreign aircraft above those waters in a manner not governed by the rights of innocent passage, archipelagic sea lanes passage or transit passage.

Article 8
ESTABLISHMENT OF THE COMMISSION FOR THE SOUTHEAST ASIA NUCLEAR WEAPON-FREE ZONE

1. There is hereby established a Commission for the Southeast Asia Nuclear Weapon-Free Zone, hereinafter referred to as the "Commission".

2. All States Parties are *ipso facto* members of the Commission. Each State Party shall be represented by its Foreign Minister or his representative accompanied by alternates and advisers.

3. The function of the Commission shall be to oversee the implementation of this Treaty and ensure compliance with its provisions.

4. The Commission shall meet as and when necessary in accordance with the provisions of this Treaty including upon the request of any State Party. As far as possible, the Commission shall meet in conjunction with the ASEAN Ministerial Meeting.

5. At the beginning of each meeting, the Commission shall elect its Chairman and such other officers as may be required. They shall hold office until a new Chairman and other officers are elected at the next meeting.

6. Unless otherwise provided for in this Treaty, two-thirds of the members of the Commission shall be present to constitute a quorum.

7. Each member of the Commission shall have one vote.

8. Except as provided for in this Treaty, decisions of the Commission shall be taken by consensus or, failing consensus, by a two-thirds majority of the members present and voting.

9. The Commission shall, by consensus, agree upon and adopt rules of procedure for itself as well as financial rules governing its funding and that of its subsidiary organs.

Article 9
THE EXECUTIVE COMMITTEE

1. There is hereby established, as a subsidiary organ of the Commission, the Executive Committee.

2. The Executive Committee shall be composed of all States Parties to this Treaty. Each State Party shall be represented by one senior official as its representative, who may be accompanied by alternates and advisers.

3. The functions of the Executive Committee shall be to:

(a) ensure the proper operation of verification measures in accordance with the provisions on the Control System as stipulated in Article 10;

(b) consider and decide on requests for clarification and for a fact-finding mission;

(c) set up a fact-finding mission in accordance with the Annex of this Treaty;

(d) consider and decide on the findings of a fact-finding mission and report to the Commission;

(e) request the Commission to convene a meeting when appropriate and necessary;

(f) conclude such agreements with the IAEA or other international organizations as referred to in Article 18 on behalf of the Commission after being duly authorized to do so by the Commission; and

(g) carry out such other tasks as may, from time to time, be assigned by the Commission.

4. The Executive Committee shall meet as and when necessary for the efficient exercise of its functions. As far as possible, the Executive Committee shall meet in conjunction with the ASEAN Senior Officials Meeting.

5. The Chairman of the Executive Committee shall be the representative of the Chairman of the Commission. Any submission or communication made by a State Party to the Chairman of the Executive Committee shall be disseminated to the other members of the Executive Committee.

6. Two-thirds of the members of the Executive Committee shall be present to constitute a quorum.

7. Each member of the Executive Committee shall have one vote.

8. Decisions of the Executive Committee shall be taken by consensus or, failing consensus, by a two-thirds majority of the members present and voting.

Article 10
CONTROL SYSTEM

1. There is hereby established a control system for the purpose of verifying compliance with the obligations of the States Parties under this Treaty.

2. The Control System shall comprise:

   (a) the IAEA safeguards system as provided for in Article 5;

   (b) report and exchange of information as provided for in Article 11;

   (c) request for clarification as provided for in Article 12; and

   (d) request and procedures for a fact-finding mission as provided for in Article 13.

Article 11
REPORT AND EXCHANGE OF INFORMATION

1. Each State Party shall submit reports to the Executive Committee on any significant event within its territory and areas under its jurisdiction and control affecting the implementation of this Treaty.

2. The States Parties may exchange information on matters arising under or in relation to this Treaty.

Article 12
REQUEST FOR CLARIFICATION

1. Each State Party shall have the right to request another State Party for clarification concerning any situation which may be considered ambiguous or which may give rise to doubts about the compliance of that State Party with this Treaty. It shall inform the Executive Committee of such a request. The requested State Party shall duly respond by providing without delay the necessary information and inform the Executive Committee of its reply to the requesting State Party.

2. Each State Party shall have the right to request the Executive Committee to seek clarification from another State Party concerning any situation which may be considered ambiguous or which may give rise to doubts about compliance of that State Party with this Treaty. Upon receipt of such a request, the Executive Committee shall consult the State Party from which clarification is sought for the purpose of obtaining the clarification requested.

Article 13
REQUEST FOR A FACT-FINDING MISSION

A State Party shall have the right to request the Executive Committee to send a fact-finding mission to another State Party in order to clarify and resolve a situation which may be considered ambiguous or which may give rise to doubts about compliance with the provisions of this Treaty, in accordance with the procedure contained in the Annex to this Treaty.

Article 14
REMEDIAL MEASURES

1. In case the Executive Committee decides in accordance with the Annex that there is a breach of this Treaty by a State Party, that State Party shall, within a reasonable time, take all steps necessary to bring itself in full compliance with this Treaty and shall promptly inform the Executive Committee of the action taken or proposed to be taken by it.

2. Where a State Party fails or refuses to comply with the provisions of Paragraph 1 of this Article, the Executive Committee shall request the Commission to convene a meeting in accordance with the provisions of Paragraph 3(e) of Article 9.

3. At the meeting convened pursuant to Paragraph 2 of this Article, the Commission shall consider the emergent situation and shall decide on any measure it deems appropriate to cope with the situation, including the submission of the matter to the IAEA and, where the situation might endanger international peace and security, the Security Council and the General Assembly of the United Nations.

4. In the event of breach of the Protocol attached to this Treaty by a State Party to the Protocol, the Executive Committee shall convene a special meeting of the Commission to decide on appropriate measures to be taken.

Article 15
SIGNATURE, RATIFICATION, ACCESSION, DEPOSIT AND REGISTRATION

1. This Treaty shall be open for signature by all States in Southeast Asia, namely, Brunei Darussalam, Cambodia, Indonesia, Laos, Malaysia, Myanmar, Philippines, Singapore, Thailand and Vietnam.

2. This Treaty shall be subject to ratification in accordance with the constitutional procedure of the signatory States. The instruments of ratification shall be deposited with the Government of the Kingdom of Thailand which is hereby designated as the Depositary State.

3. This Treaty shall be open for accession. The instruments of accession shall be deposited with the Depositary State.

4. The Depositary State shall inform the other States Parties to this Treaty on the deposit of instruments of ratification or accession.

5. The Depositary State shall register this Treaty and its Protocol pursuant to Article 102 of the Charter of the United Nations.

Article 16
ENTRY INTO FORCE

1. This Treaty shall enter into force on the date of the deposit of the seventh instrument of ratification and/or accession.

2. For States which ratify or accede to this Treaty after the date of this seventh instrument of ratification or accession, this Treaty shall enter into force on the date of deposit of its instrument of ratification or accession.

Article 17
RESERVATIONS

This Treaty shall not be subject to reservations.

Article 18
RELATIONS WITH OTHER INTERNATIONAL ORGANIZATIONS

The Commission may conclude such agreements with the IAEA or other international organizations as it considers likely to facilitate the efficient operation of the Control System established by this Treaty.

Article 19
AMENDMENTS

1. Any State Party may propose amendments to this Treaty and its Protocol and shall submit its proposals to the Executive Committee, which shall transmit them to all the other States Parties. The Executive Committee shall immediately request the Commission to convene a meeting to examine the proposed amendments. The quorum required for such a meeting shall be all the members of the Commission. Any amendment shall be adopted by a consensus decision of the Commission.

2. Amendments adopted shall enter into force 30 days after the receipt by the Depositary State of the seventh instrument of acceptance from the States Parties.

Article 20
REVIEW

Ten years after this Treaty enters into force, a meeting of the Commission shall be convened for the purpose of reviewing the operation of this Treaty. A meeting of the Commission for the same purpose may also be convened at anytime thereafter if there is consensus among all its members.

Article 21
SETTLEMENT OF DISPUTES

Any dispute arising from the interpretation of the provisions of this Treaty shall be settled by peaceful means as may be agreed upon by the States Parties to the dispute. If within one month, the parties to the dispute are unable to achieve a peaceful settlement of the dispute by negotiation, mediation, enquiry or conciliation, any of the parties concerned shall, with the prior consent of the other parties concerned, refer the dispute to arbitration or to the International Court of Justice.

Article 22
DURATION AND WITHDRAWAL

1. This Treaty shall remain in force indefinitely.

2. In the event of a breach by any State Party of this Treaty essential to the achievement of the objectives of this Treaty, every other State Party shall have the right to withdraw from this Treaty.

3. Withdrawal under Paragraph 2 of Article 22, shall be effected by giving notice twelve months in advance to the members of the Commission.

IN WITNESS WHEREOF, the undersigned have signed this Treaty.

DONE at Bangkok, this fifteenth day of December, one thousand nine hundred and ninety-five, in one original in the English language.

FOR BRUNEI DARUSSALAM:

HAJI HASSANAL BOLKIAH
Sultan of Brunei Darussalam

FOR THE KINGDOM OF CAMBODIA:

Samdech Krom Preah NORODOM RANARIDDH
First Prime Minister

Samdech HUN SEN
Second Prime Minister

FOR THE REPUBLIC OF INDONESIA:

SOEHARTO
President

FOR THE LAO PEOPLE'S DEMOCRATIC REPUBLIC:

KHAMTAY SIPHANDONE
Prime Minister

FOR MALAYSIA:

DR MAHATHIR BIN MOHAMAD
Prime Minister

FOR THE UNION OF MYANMAR:

SENIOR GENERAL THAN SHWE
Chairman of the State Law and Order Restoration Council
and Prime Minister

FOR THE REPUBLIC OF THE PHILIPPINES:

FIDEL V. RAMOS
President

FOR THE REPUBLIC OF SINGAPORE:

GOH CHOK TONG
Prime Minister

FOR THE KINGDOM OF THAILAND:

BANHARN SILPA-ARCHA
Prime Minister

FOR THE SOCIALIST REPUBLIC OF VIETNAM:

VO VAN KIET
Prime Minister

A N N E X

PROCEDURE FOR A FACT-FINDING MISSION

1. The State Party requesting a fact-finding mission as provided in Article 13, hereinafter referred to as the "requesting State", shall submit the request to the Executive Committee specifying the following:

   (a) the doubts or concerns and the reasons for such doubts or concerns;

   (b) the location in which the situation which gives rise to doubts has allegedly occurred;

   (c) the relevant provisions of this Treaty about which doubts of compliance have arisen; and

   (d) any other relevant information.

2. Upon receipt of a request for a fact-finding mission, the Executive Committee shall:

   (a) immediately inform the State Party to which the fact-finding mission is requested to be sent, hereinafter referred to as the "receiving State", about the receipt of the request; and

   (b) not later than 3 weeks after receiving the request, decide if the request complies with the provisions of Paragraph 1 and whether or not it is frivolous, abusive or clearly beyond the scope of this Treaty. Neither the requesting nor receiving State Party shall participate in such decisions.

3. In case the Executive Committee decides that the request does not comply with the provisions of Paragraph 1, or that it is frivolous, abusive or clearly beyond the scope of this Treaty, it shall take no further action on the request and inform the requesting State and the receiving State accordingly.

4. In the event that the Executive Committee decides that the request complies with the provisions of Paragraph 1, and that it is not frivolous, abusive or clearly beyond the scope of this Treaty, it shall immediately forward the request for a fact-finding mission to the receiving State, indicating, *inter alia*, the proposed date for sending the mission. The proposed date shall not be later than 3 weeks from the time the receiving State receives the request for a fact-finding mission. The Executive Committee shall also immediately set up a fact-finding mission consisting of 3 inspectors from the IAEA who are neither nationals of the requesting nor receiving State.

5. The receiving State shall comply with the request for a fact-finding mission referred to in Paragraph 4. It shall cooperate with the Executive Committee in order to facilitate the effective functioning of the fact-finding mission, *inter alia*, by promptly providing unimpeded access of the fact-finding mission to the location in question. The receiving State shall accord to the members of the fact-finding mission such privileges and immunities as are necessary for them to exercise their functions effectively, including inviolability of all papers and documents and immunity from arrest, detention and legal process for acts done and words spoken for the purpose of the mission.

6. The receiving State shall have the right to take measures to protect sensitive installations and to prevent disclosures of confidential information and data not related to this Treaty.

7. The fact-finding mission, in the discharge of its functions, shall:

   (a) respect the laws and regulations of the receiving State;

   (b) refrain from activities inconsistent with the objectives and purposes of this Treaty;

   (c) submit preliminary or interim reports to the Executive Committee; and

(d) complete its task without undue delay and shall submit its final report to the Executive Committee within a reasonable time upon completion of its work.

8. The Executive Committee shall:

(a) consider the reports submitted by the fact-finding mission and reach a decision on whether or not there is a breach of this Treaty;

(b) immediately communicate its decision to the requesting State and the receiving State; and

(c) present a full report on its decision to the Commission.

9. In the event that the receiving State refuses to comply with the request for a fact-finding mission in accordance with Paragraph 4, the requesting State through the Executive Committee shall have the right to request for a meeting of the Commission. The Executive Committee shall immediately request the Commission to convene a meeting in accordance with Paragraph 3(e) of Article 9.

PROTOCOL TO
THE TREATY ON SOUTHEAST ASIA
NUCLEAR WEAPON-FREE ZONE

The States Parties to this Protocol,

DESIRING to contribute to efforts towards achieving general and complete disarmament of nuclear weapons, and thereby ensuring international peace and security, including in Southeast Asia;

NOTING the Treaty on the Southeast Asia Nuclear Weapon-Free Zone, signed at Bangkok on the fifteenth day of December, one thousand nine hundred and ninety-five;

HAVE AGREED as follows:

Article 1

Each State Party undertakes to respect the Treaty on the Southeast Asia Nuclear Weapon-Free Zone, hereinafter referred to as the "Treaty", and not to contribute to any act which constitutes a violation of the Treaty or its Protocol by States Parties to them.

Article 2

Each State Party undertakes not to use or threaten to use nuclear weapons against any State Party to the Treaty. It further undertakes not to use or threaten to use nuclear weapons within the Southeast Asia Nuclear Weapon-Free Zone.

Article 3

This Protocol shall be open for signature by the People's Republic of China, the French Republic, the Russian Federation, the United Kingdom of Great Britain and Northern Ireland and the United States of America.

Article 4

Each State Party undertakes, by written notification to the Depositary State, to indicate its acceptance or otherwise of any alteration to its obligation under this Protocol that may be brought about by the entry into force of an amendment to the Treaty pursuant to Article 19 thereof.

Article 5

This Protocol is of a permanent nature and shall remain in force indefinitely, provided that each State Party shall, in exercising its national sovereignty, have the right to withdraw from this Protocol if it decides that extraordinary events, related to the subject-matter of this Protocol, have jeopardized its supreme national interests. It shall give notice of such withdrawal to the Depositary State twelve months in advance. Such notice shall include a statement of the extraordinary events it regards as having jeopardized its supreme national interests.

Article 6

This Protocol shall be subject to ratification.

Article 7

This Protocol shall enter into force for each State Party on the date of its deposit of its instrument of ratification with the Depositary State. The Depositary State shall inform the other States Parties to the Treaty and to this Protocol on the deposit of instruments of ratification.

IN WITNESS WHEREOF the undersigned, being duly authorized by their Governments, have signed this Protocol.

DONE at Bangkok this fifteenth day of December, one thousand nine hundred and ninety-five, in one original in the English language.