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IV. A. 1. NATO AND SEATO: A COMPARISON

SUMMARY

Because the SEATO Treaty has been used by the Eisenhower, Kennedy, and Johnson Administrations to justify U.S. policy, aid, and presence in Vietnam, and because many have questioned this justification, the treaty has become a center of controversy. The issue is whether by intent of the parties and by treaty terminology the U.S. was obligated to use force to help defend the territorial independence and integrity of South Vietnam. No one seriously challenges U.S. military and economic aid provisions under the SEATO Treaty; the thrust of the criticism is the use of U.S. ground combat forces.

There are plentiful statements over time by the U.S. Government on the importance of SEATO.

President Eisenhower stated: "We gave military and economic assistance to the Republic of Vietnam. We entered into a treaty -- the Southeast Asia Security Treaty -- which plainly warned that an armed attack against this area would endanger our own peace and safety and that we would act accordingly."

President Kennedy stated: "...The SEATO Pact...approved by the Senate with only, I think, two against it, under Article 4, stated that the United States recognized that aggression by means of armed attack against Vietnam would threaten our own peace and security. So since that time the United States has been assisting the government of Vietnam to maintain its independence...The attack on the government by communist forces, with assistance from the north, became of greater and greater concern to the Government of Vietnam and the Government of the United States."

Secretary Rusk, speaking for the Johnson Administration, made the strongest statement of all: "We have sent American forces to fight in the jungles...because South Viet-Nam has, under the language of the SEATO Treaty, been the victim of 'aggression by means of armed attack.' Those who challenge this rationale contend that unlike the NATO Treaty which specifically included the 'use of armed force' and unambiguously intended such action, the SEATO Treaty was not meant by its U.S. framers as an umbrella for American military intervention."

(1) This is the kind of issue that can readily be argued either way. It is obvious the language of the SEATO Treaty allows the signatories the choice of military means. And, a respectable argument can be made for the further step of obligation. For example, the Senate Foreign Relations Committee Report on the treaty in 1954 stated:

> "The committee is not impervious to the risks which this treaty entails. It fully appreciates that acceptance of these additional obligations commits the United States to a cause of action over a vast expanse of the Pacific. Yet these risks

are consistent with our own highest interests. There are greater hazards in not advising a potential enemy of what he can expect of us, and in failing to disabuse him of assumptions which might lead to a miscalculation of our intentions."

(2) To the contrary, a statement before the Foreign Relations Committee by Secretary Dulles himself can be cited to demonstrate more modest, less obligatory designs:

"I might say in this connection, departing somewhat from order of my presentation, that it is not the policy of the United States to attempt to deter attack in this area by building up a local force capable itself of defense against an all-out attack by the Chinese Communists if it should occur. We do not expect to duplicate in this area the pattern of the North Atlantic Treaty Organization and its significant standing forces. That would require a diversion and commitment of strength which we do not think is either practical or desirable or necessary from the standpoint of the United States.

"We believe that our posture in that area should be one of having mobile striking power, and the ability to use that against the sources of aggression if it occurs. We believe that is more effective than if we tried to pin down American forces at the many points around the circumference of the Communist world in that area.

"It may very well be that other countries of the area will want to dedicate particular forces for the protection of the area under this treaty. But we made clear at Manila that it was not the intention of the United States to build up a large local force including, for example, United States ground troops for that area, but that we rely upon the deterrent power of our mobile striking force."

Conclusion

By looking into the words of the treaty in the light of its origins and the interests of the U.S. as perceived in 1954, and by comparing these with NATO language, origins, and development, it is possible to make a tentative judgment on the issue of obligation. Whereas it is clear that NATO was intended for deterrence against aggression and defense with U.S. forces should deterrence fail, SEATO seems to have been designed with a view only toward deterrence. Defense, especially with U.S. ground forces, was not seriously contemplated.

There are three pieces of evidence in support of this contentious conclusion: (1) the stringent preconditions which the U.S. delegation to the Manila Conference to establish SEATO were instructed to insist upon; (2) the lack of institutional and force structure development in SEATO as compared to NATO; and (3) the fact that SEATO and NATO treaty terminology differ in respect to the use of force and other matters.

(1) Unlike the guidance under which U.S. negotiators helped to frame NATO, U.S. representatives to the conference establishing SEATO were given four uncompromisable pre-conditions:

(a) The U.S. would refuse to commit any U.S. forces unilaterally;

(b) Were military action to be required, one or more of the European signatories would have to participate;

(c) The U.S. intended to contribute only sea and air power, expecting that other signatories would provide ground forces;

(d) The U.S. would act only against communist aggression.

These instructions not only clearly exempt the use of U.S. ground forces, but presuppose multilateral action before the U.S. would act in any capacity.

(2) With respect to the comparative development of SEATO and NATO, U.S. behavior also indicates great restraint and avoidance of commitment. NATO was formed in 1949, and within two years it was well institutionalized -- combined command forces in-being and a Standing Group for policy guidance. The U.S. consistently resisted the efforts of its SEATO partners for comparable institutions. Secretary Dulles, in fact, sought to discourage public identification of SEATO with NATO. Only in 1959, did the U.S. accede to the formation of a modest SEATO secretariat. Moreover, SEATO had to wait until 1960 before the U.S. would participate in the development of a series of SEATO contingency plans. Most important, no U.S. troops have ever been designated specifically for SEATO.

Comparing the specific terminology of the operative sections of the SEATO and NATO treaties gives additional credence to the non-obligation argument. The key articles of both treaties are those calling for action against an enemy threat. Article 5 of the North Atlantic Treaty declares that the member nations "agree that an armed attack against one or more of them in Europe or North America shall be considered an attack against them all," and that in that event each will take "forthwith...such action as it deems necessary, including the use of armed force...." The correlative phraseology in the Southeast Asia Collective Defense Treaty Article IV declares that "each Party recognizes that aggression by means of armed attack against any of the Parties, or against any state or territory which the Parties by unanimous agreement may hereafter designate, would endanger its own peace and safety, and agrees that it will in that event act to meet the common danger in accordance with its constitutional process." The SEATO wording is thus intentionally ambiguous on the point of just what response would be made by the members in the event of an armed attack. Such an attack against one of the SEATO members would be viewed as a "common danger" rather than as an "attack

on all." Where NATO prescribes action "forthwith," SEATO requires only that the "common danger" be "met" in accordance with "constitutional processes." SEATO also forecloses action on the treaty of any threatened state without the consent of that state -- a qualification designed to reassure members that their independence was not threatened by neo-colonialism or other domination in a SEATO guise.

In some respects, however, the SEATO Pact is broader than its NATO counterparts. The nature of the threat is loosely defined in Article IV as "any fact or situation that might endanger the peace of the area" and provision is made to protect threatened member countries of the region. The area of applicability is left flexible. Moreover, Article II of the SEATO Treaty applies the pact against not only "armed attack" but also "subversive activities directed from without against /members/ territorial integrity and political stability." Also, unlike the North Atlantic Treaty, there is no clause in the SEATO Treaty implying a dependence on United Nations intervention to restore peace once the treaty were invoked.