U.S. military operations in Southeast Asia. In his message to Congress on August 5, 1964, he made these references:

"These latest actions of the North Vietnamese regime have given a new and grave turn to the already serious situation in southeast Asia. Our commitments in that area are well known to the Congress. They were first made in 1954 by President Eisenhower. They were further defined in the Southeast Asia Collective Defense Treaty approved by the Senate in February 1955.

"This treaty, with its accompanying protocol obligates the United States and other members to act in accordance with their constitutional processes to meet Communist aggression against any of the parties or protocol states.

"I recommend a resolution expressing the support of the Congress for all necessary action to protect our Armed Forces and to assist nations covered by the SEATO Treaty."

Congress passed the Southeast Asia Resolution (also known as the Tonkin Gulf Resolution, P.L. 88-408, H.J. Res. 1145) on August 10, 1964. The resolution stressed U.S. obligations under the SEATO pact:

"The United States regards as vital to its national interest and to world peace the maintenance of international peace and security in southeast Asia. Consonant with the Constitution of the United States and the Charter of the United Nations and in accordance with its obligations under the Southeast Asia Collective Defense Treaty, the United States, therefore, prepared, as the President determines, to take all necessary steps, including the use of armed force, to assist any member or protocol state or the Southeast Asia Collective Defense Treaty requesting assistance in defense of its freedom."

The Department of State released a statement of the official U.S. position on Vietnam in January 1966. It again repeated the American commitments under the Manila Treaty:

"The United States has a clear and direct commitment to the security of South Vietnam against external attack. This commitment is based upon bilateral agreements between the United States and South Vietnam, upon the SEATO (whose obligations are both joint and several), upon annual actions by the Congress in providing aid to South Vietnam, upon the policy expressed in such Congressional action as the August 1964 resolution, and upon the solemn declarations of three U.S. Presidents.

"The next month Secretary of State Rusk testified before the Senate-Foreign Relations Committee that it was the SEATO obligation that "has from the outset guided our actions in South Vietnam." He added:"

"The language of this treaty is worth careful attention. The obligation it imposes is not only joint but several. The finding that an armed attack has occurred does not have to be made by a collective determination before the obligation of each member becomes operative. Nor does the treaty require a collective decision on actions to be taken to meet the common danger. If the United States determines that an armed attack has occurred against any nation to whom the protection of the treaty applies, then it is obligated to 'act to meet the common danger' without regard to the views or actions of any other treaty member..."

"Our multinational engagement under the SEATO treaty has been reinforced and amplified by a series of bilateral commitments and assurances directed to the Government of South Vietnam...

"We have sent American forces to fight in the jungles of that beleaguered country because South Vietnam has, under the language of the SEATO treaty, been the victim of aggression by means of armed attack."

Prior to being elected President, Richard Nixon, in an article in Foreign Affairs magazine, declared that the Southeast Asia Collective Defense Treaty had been

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**Foot of Public Law 88-408. The Southeast Asia Resolution was later terminated by an amendment to the Foreign Military Sales Act (H.R. 15638) which was passed Jan. 12, 1971, and became Public Law 91-672.
**Ibid.
"little more than an institutional embodiment of an American commitment and a somewhat anachronistic relic of the days when France and Britain were active members." 86

Two years later, President Nixon described a new U.S. foreign policy for Asia. On June 25, 1969, he outlined the new doctrine while stopping on Guam at the beginning of a trip through the Far East. 87

"... he said he believed that the time had come when the United States, in its relations with all of its Asian friends, should be quite emphatic on two points: one, that we would keep our treaty commitments; our treaty commitments, for example, with Thailand under SEATO. And, two, that as far as the problems of international security are concerned, as far as the problems of military defense, except for the threat of a major power involving nuclear weapons, that the United States was going to encourage and had a right to expect that this problem would be increasingly handled by, and the responsibility for it taken by, the Asian nations themselves."

"He added that, when he talked about collective security for Asia, he realized that at this time it looks like a weak reed. It actually was. But looking down the road—he said he was speaking now of five years from now, 10 years from now—he thought collective security, insofar as it deals with internal threats to any one of the countries, or insofar as it deals with a threat other than that posed by a nuclear power, was an objective that free Asian nations could see and which the United States should support."

The president also said that the objective of any American administration would be to avoid another war like Vietnam anywhere in the world. He recalled that both he and his Democratic opponent in 1968, Senator Humphrey, had stated that objective in their campaigns. 88

The basic tenets of the Nixon doctrine, as explained in the summer of 1969 and repeated periodically thereafter, are: 89

"First, the United States will keep all its treaty commitments.

"Second, we shall provide a shield if a nuclear power threatens the freedom of a nation allied with us or of a nation whose survival we consider vital to our security.

"Third, in cases involving other types of aggression we shall furnish military and economic assistance when requested in accordance with our treaty commitments. But we shall look to the nation directly threatened to assume the primary responsibility for providing the manpower for its defense."

In his 1972 report to the Congress on foreign policy, the President indicated that the SEATO Treaty had been and will be honored and that SEATO had made valuable contributions to peace and had "helped provide the measure of strength that now enables us to move toward a dialogue with the Communist powers." 90 No specific mention of SEATO was made in the 1978 report.

Statements of the Secretaries of State indicate a gradual change in the U.S. approach toward SEATO. At the annual SEATO Council conference in July 1970, Secretary Rogers said "the United States will continue our strong support of SEATO and will continue to believe that our alliance, the alliance represented here, is of great importance to the security of the free world." At the 1972 SEATO meeting, Secretary Rogers countered those that charged SEATO was no longer appropriate because of the reduced level of tension in Asia. He said that it made no sense to cast aside the very alliances that had brought about the improved conditions. He also said, "It is the necessity of stability which makes an organization like SEATO of continuing importance." 91

At a news conference in February 1973, Secretary Rogers said the United States was planning to stay in SEATO but was considering some changes for it to reflect changing conditions in the area. 92

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87 Congressional Record, July 28, 1969, p. 88637-8640. The text of the President's statement was not made public, but the New York Times printed a lengthy summary account, later inserted in the Congressional Record.
During the hearings on his nomination to be Secretary of State, Dr. Henry Kissinger said he thought a U.S. withdrawal from SEATO "would be given a symbolic significance which might have consequences out of proportion to the problem."

He stated strong support for a shift in the "emphasis of SEATO away from some of the military to some of the humanitarian concerns."

Such a shift in emphasis was begun at the 18th annual SEATO Council meeting held in New York on September 28, 1973. A press statement issued after the meeting stated:

"In light of major changes which have occurred in Southeast Asia since the last Council meeting, the Council agreed to a reduction of SEATO's traditional military activities, with increased emphasis on supporting the national programs of the two regional members, the Philippines and Thailand, in promoting stability and development."

Changes in the organization of SEATO were also accomplished as indicated in section A.3. of this paper.

Several observers, in and out of the Government, have further amplified on the American interests in SEATO. Some cite as the primary reason for the United States to keep SEATO alive the desire to maintain a treaty commitment for the defense of Thailand, the only member nation not covered by a separate security treaty with the United States. Many cite regional stability as the primary American objective for Southeast Asia. Although according to this argument the United States has no crucial security interests in the region (very little trade, or investment to protect, no desire for control or exploitation of the region, in fact, no specific links with the fate of most Southeast Asians), it is still very interested in preventing the domination of the region by any single power. To avoid aggressive thrusts and rivalry by other major powers attempting to establish their hegemony over the area, many believe the United States must display a continuing interest in Southeast Asia and must encourage regional independence. Realpolitik and balance of power theorists predict that a vacuum of major power interest there would probably draw major power forays or even lead to conflict for control of the area. SEATO is said to help display U.S. interest in the area, whereas a U.S. withdrawal would strongly imply a lack of interest.

Military bases and alliances, while not ends in themselves, are seen as useful in helping to maintain stability in Southeast Asia especially in this period when U.S. troops strengths are being reduced in Japan, Vietnam, Taiwan, and Korea. Administration officials argue that a precipitate U.S. retirement from Southeast Asia could upset the current equilibrium and that SEATO has a psychological value in helping to instill confidence in the region's nations and to deter major power adventurism.

Many analysts have said that Southeast Asia now needs political, social and economic growth and stability more than a military alliance; noting that the United States is no longer trying to isolate or contain China, that the beginnings of detente have been established between the United States and both China and the Soviet Union, and that the Communist threat in Asia no longer appears to be monolithic.

Several U.S. Congressmen and Senators have found serious fault with SEATO. Congressman Bingham submitted legislation on March 15, 1973, (H. Res. 811) calling for the United States promptly to give notice of withdrawal from SEATO. Senators Robert Byrd, Church, Eagleton, Mansfield, and Mondale have expressed criticism of the alliance. In the Foreign Relations Committee, Senator Church sponsored an amendment to the Department of State Authorization Act of 1973 (S. 1248) that would terminate U.S. contributions to SEATO as of July 1, 1974. The provision was included in the bill reported by the committee, but when it reached the Senate floor Senator Allen proposed that it be dropped from the bill. He argued that as the United States was a member of SEATO it was obligated by the treaty to pay its dues, and that if it was in the interest of the country, the United States could withdraw its membership. Senators Church, Bingham, Allen, and others have argued that the United States can withdraw from the treaty, and that the treaty is not necessary to national security.

41 Ibid.
43 Gurtov, op. cit., p. 102.
44 Green, Marshall. Interview by Roy Macartney on December 26, 1972, for the Sydney Morning Herald (Australia).
45 Gurtov, op. cit., p. 8 and 9.
Humphrey, and Mondale voiced agreement and suggested that the Foreign Relations Committee should review the U.S. “commitment to SEATO to determine whether it accurately represents our national interest in Southeast Asia.” On September 25, 1973, Senators Church, Alken, and Robert Byrd introduced S. Res. 174 which directs the Foreign Relations Committee to conduct a full and complete review of U.S. participation in the Southeast Asia Collective Defense Treaty and Organization and to report the committee’s recommendations and findings to the Senate by March 31, 1974. The Senate agreed to the resolution by voice vote on November 2, 1973.

C. SEATO’S EFFECTIVENESS AT DETERING AGGRESSION THROUGH COLLECTIVE SECURITY

The first observation likely to be made about the last twenty years in Southeast Asia is that it has been a period of turmoil and conflict—not one of security and peace as hoped for by the founders of SEATO. No one knows what the period would have been like without the Southeast Asia Collective Defense Treaty, but a few specific comments can be made that will reflect on the treaty organization’s accomplishments and shortcomings.

1. Deterrence against Armed Attack

Monolithic Communist aggression, embodied by an expansionist Communist China in Asia, has not gained control of a single Southeast Asian government during the existence of SEATO. That threat, which was the primary reason for forming the coalition, was either deterred or was a false perception of the situation. The treaty’s drafters believed there was an ominous possibility of a Chinese sweep into the vulnerable states of Indochina and perhaps throughout Southeast Asia. The Communist victory in the Chinese civil war, the massive use of Chinese forces against U.N. troops in Korea, and the Communist attempts at insurgency in Vietnam, Malaya, and the Philippines fed this fear. In the minds of many observers, the threat perception was reinforced by the Formosa crisis of 1958, China’s takeover of Tibet in 1959, the Laos crisis of 1962, the Sino-Indian border war of 1962, and the violence and instability in China during the Cultural Revolution.

Others believe the People’s Republic of China never has had aspirations of expansion—that in Korea and in the brief war with India it was acting to preserve its own security or what it considered its rightful borders; in the conflict over Formosa (Taiwan) and the seizure of Tibet the PRC was trying to regain territory that was traditionally part of China; and the turmoil of the Cultural Revolution was typically inward looking.

Whatever the basic inclinations of the People’s Republic of China was in the 1950’s and 1960’s, John Foster Dulles once noted that since SEATO and the other U.S. military alliances in Asia were formed, “the communists made no advances in that area. And behind the protective shield we helped erect, the countries of the area have enjoyed considerable economic progress.”

Some observers feel that American strength in the Pacific deters open Communist aggression, and that “Nothing, in fact, will be lost to Southeast Asian security or to American policy should SEATO pass into history.” Detractors argue that the new improved U.S. relationship with China is based on an assumption that “China is not an expansionist threat because the regime is preoccupied with problems at home . . . [and] it is not a potential nuclear threat because the United States offers its nuclear deterrence to any U.S. ally or neutral in Asia that is the target of Chinese nuclear bluff or blackmail.” If these assumptions are basic to U.S. policy, and if America desires to draw the People’s Republic of China into the Asian community of nations and establish a lasting rapprochement, many critics believe SEATO is not only unnecessary but is an obstacle to progressive international relations.

This view is countered, however, by recent evidence that China’s attitude toward U.S. military presence in Southeast Asia has changed from hostility to acceptance if not support, because China fears that any precipitate American

withdrawal would create a vacuum that the Soviet Union would try to fill. China reportedly has indicated to the Thais that it has no objection to the American military presence in Thailand and, by inference, SEATO. SEATO claims to have been instrumental in improving the defense capabilities of countries in the region. The joint military and naval exercises it conducts, the advisory assistance it provides, and the defensive contingency plans which the SEATO staff in the past has prepared have improved the defense preparedness of the members and have enhanced their deterrence of open aggression. SEATO cites its psychological value as most important: "Its main purpose is to give the people of the SEATO countries the security they need to live in peace and freedom, which is necessary for economic and social development." It is argued that the continuing presence of the United States and other Western powers in the treaty organization and the occasional display of military strength and mobility through field exercises are especially important during this period of receding U.S. presence. Ambassador Marshall Green declared, "SEATO is essential for the security of Thailand [the core country of Southeast Asia] and for the confidence of peoples in the area." Green advises, "reshape it, reform it, but don't scrap it." Arguments favoring the continuation of SEATO are based on the premise that it is in the interest of the United States that Southeast Asia "should be enabled to develop and prosper," and that this process requires time and stability obtainable only through the application of external influence.

Of those who think SEATO should be modified or abolished, some hold that the United States has minimal interests in Southeast Asia, some believe American interests there are not seriously threatened by open Communist aggression, and others feel the threat is countered more effectively or more appropriately by other means (by U.S. bilateral agreements, or by Asian resources alone.) It is argued that events of recent history—the admission of the People's Republic of China to the United Nations, the U.S. President's visit to China, the involvement and ceasefire of U.S. troops in Southeast Asia, the continuing levels of troops and U.S. military assistance in the region—have a more profound effect on the region's psychology than do pledges of support or denunciations of SEATO.

2. Common Defense Against Externally Supported Subversion

While the actual effectiveness of SEATO in countering subversion and insurgency is a subject of controversy, the existence of an unconventional warfare threat in Southeast Asia is widely accepted. Secretary General Sunthorn has described the shifting environment: "When the Alliance was formed in 1954 its main objective was to deter massive military aggression. Today, the principal security problem that haunts the free countries of the region is the more subtle, but distinctly more dangerous threat of Communist subversion and insurgency."

Despite improving relations between the United States and China, there is little indication that the People's Republic will soon abandon its policy of supporting wars of liberation. Although a Vietnam ceasefire has been signed and U.S. troops have been brought home, North Vietnamese troops remain in all countries of Indochina. The situation in Laos is still ominous, and Cambodia is under heavy Communist attack. There also is active Communist insurgency in northern, northeast, and southern Thailand; and Communist guerrillas continue to operate in the Philippines, in Malaysia and Indonesia, which are not covered by SEATO, communist insurgency is a constant issue of concern. Burma is confronted with a continuing threat from the pro-Peking Burmese Communist Party (White Flag). Additionally there is some potential for conflict between several of the regional nations (Philippines-Malaysia, Indonesia-Singapore, Malaysia-Indonesia, Thai-
land-Cambodia, Malaysia-Thailand) and between the ethnic, religious, and political groupings within several of the countries.

SEATO is now responding to the new priorities. Even a year before the recently approved organizational changes, the Secretary General announced a shift in SEATO efforts aimed at producing greater effectiveness in counterinsurgency operations. The structure primarily provides assistance to Thailand and the Philippines, is relatively inexpensive (the U.S. pays approximately $450,000 per year), and the counterinsurgency portion of the treaty only obligates the United States to consult with other member nations "in order to agree on the measures which should be taken for the common defense."

U.S. military actions in Indochina are, in fact, restricted by Public Law 93-50. (Second Supplemental Appropriations for FY 1973), Public Law 93-52 (Continuing Appropriations for FY 1974), and Public Law 93-126 (State Department Authorization for FY 1974). Those laws prohibit the use of funds therein or previously appropriated or authorized for military operations in Indochina. The War Powers Bill (P.L. 93-148) also limits the U.S. Government's ability to engage in warfare without the approval of Congress whether or not any treaty calls for a U.S. military response.

Critics of SEATO charge that the treaty organization has accomplished little in the security area, the United States has supplied the preponderant bulk of military assistance and troop support and not through SEATO. Some point to SEATO's total failure to deter unconventional warfare in Southeast Asia or to act collectively for the common defense. As stated previously, in the early 1960's U.S. planners frequently considered using SEATO forces to counter the indirect aggression being waged in Laos and Cambodia and South Vietnam, but the other members especially France and Britain, were unwilling to take decisive action. They clearly understood that the Southeast Asia Collective Defense Treaty does not obligate them to commit troops to defend other members or protocol states, unlike the NATO pact which asserts "an attack on one is an attack on all." One author has bluntly observed, "the sorry conclusion is that the United States may get some SEATO cooperation on an individual country basis if it pays for it."

During the Indochina war, the peak strength of U.S. forces in Vietnam was approximately 345,000. Several SEATO allies contributed troops—not as a SEATO contingent, but individually and with considerable U.S. economic assistance. The peak strength of Thailand's force in Vietnam was 12,000 men; that of Australia 8,000 men; a 2,000-man force came from the Philippines; and 550 men were supplied by New Zealand. This heavy use of American troops and relatively small contributions by other members appears to contradict the original intent of the collective defense treaty. Vietnam has been the most dramatic test of SEATO's ability and willingness to defend the region against insurgency and subversion. The fact that South Vietnam has not been vanquished can certainly not be credited to a collective SEATO effort but to the U.S. acting unilaterally and justifying such action under Article 4 of the treaty.

SEATO also did not take any decisive action to defend Laos against Communist aggression. Communist insurgency in Laos in 1955 was in fact, the first challenge to the Southeast Asia Collective Defense Treaty. Laos and its neighbor Thailand were anxious for a quick response from SEATO, but only resolutions were forthcoming. The United States unilaterally increased its aid to Laos for the development of its army. In 1962, when Communist forces gained control of large portions of Laos and posed a serious threat to the remainder of Laos and to Thailand, again the United States acted unilaterally. At the invitation of Thailand, 10,000 U.S. air and ground troops were moved into northern Thailand. The threat subsided and U.S. troops in Thailand were not committed to combat. Two months later (July 23, 1962) the declaration on the neutrality of Laos was signed and protection of Laos by any "alliance or military coalition" was renounced.

58 Eckel, op. cit., p. 110.
60 Eckel, op. cit., p. 107.
61 Compiled from data from the U.S. Department of Defense, foreign embassies, and news clippings.
62 The SEATO treaty did play a central role in justifying the early deployment of U.S. troops to Vietnam.
In 1955 Prince Sihanouk rejected the protection offered to Cambodia under the SEATO treaty. In 1956, while visiting China he declared Cambodia’s neutrality and stated:

> the SEATO has told us that we would be automatically protected. We reject such protection which can only bring us dishonor.

In 1964 and 1965 the Cambodian Government informed SEATO that it categorically refused the protection of SEATO. The SEATO protocol was never revised to exclude Cambodia or Laos, so Lon Nol, who took power from Sihanouk, is still authorized to request aid from SEATO. However, the new Cambodian Government immediately proclaimed it would continue its neutrality, refrain from any military pact, and that it had not changed its attitude toward SEATO.

The Lon Nol government did however turn to the neighboring countries of South Vietnam and Thailand and to the United States for assistance. Each country provided some aid beginning in mid-1970. Although some Thai officials encouraged Cambodia to ask for SEATO assistance, the beleaguered government did not make such a move. Lon Nol instead issued a worldwide appeal for help from any country of any bloc.

The Nixon Administration opposed any specific SEATO military role in Cambodia. Both Thailand and South Vietnam had pressed actively for a SEATO commitment of some kind at the July 1970 meeting of the SEATO council, but the council declined to act.

The Communist insurgency in Thailand, which receives assistance from both China and North Vietnam, is another case that falls within the scope of the SEATO treaty. Yet, only the United States provides substantial economic and military aid to help the Thais combat the guerrillas; the United States, in addition has nearly 500 military personnel advising the Thai armed forces on counter-insurgency. No other SEATO member has undertaken this kind of commitment.

D. SEATO AS A TOOL FOR REGIONAL DEVELOPMENT

SEATO has a fairly extensive group of programs to assist in the development of its two regional members—Thailand and the Philippines—and is currently expanding this aspect of its activities. Projects already initiated include the following:

- The Asian Institute of Technology—a graduate school of engineering in Bangkok partially supported by SEATO. Its two-year curriculum leads to Master’s Degrees in six areas of engineering.
- The Skilled Labor Project—a system of training centers established under the auspices of SEATO, but now managed by the respective governments.
- The Military Technical Training School—a joint Australian-Thai project to provide training for technical supervisors, foremen, skilled workmen, and instructors in the Thai Armed Forces.
- The Vehicle Rebuild Shop—another Australian-Thai program that handles repair and maintenance of Thai military and government vehicles.
- The Meteorological Telecommunications Project—a U.S. assisted program to support Thai and Philippine collection of meteorological and aeronautical information.


Niksch, Cambodia’s Relationship With SEATO, p. 9-10. In his appeal for action, Thai Foreign Minister Thanat Khoman declared that the Cambodian situation represented SEATO’s “third crisis” and “what this organization can or cannot do to discharge its functions will be the object of close scrutiny by the millions of people of this region.” The communiqué of the conference stated SEATO’s support of the Independence and neutrality of Cambodia and declared that it would honor the Cambodian Government’s desire to remain neutral. Thanat expressed dissatisfaction over the communiqué, and Lt. Gen. Jesus M. Vargas, SEATO’s Secretary General, gave a noncommittal “What can we do?” when asked what SEATO would do if the Communists took over Cambodia.


Previously Pakistan received assistance from some of the development programs.

The Medical Research Laboratory and the Clinical Research Laboratory—two SEATO sponsored facilities that investigate the principal diseases of Southeast Asia, conduct research, provide diagnostic services, and medical training.

The Agricultural Research Project—a study group that pooled the resources of several member nations and provided a report in 1969 which included numerous recommendations for improving the region’s agriculture.

Thailand’s Hill Tribe Research Center—a program designed to help the study of the social and economic aspects of the Meo, Tao, Karen and Red Lahu tribes and to find ways to help promote their welfare.

The Culture Program—designed to contribute to greater mutual awareness and understanding and to improve the economic and social wellbeing of the region’s citizens. It offers scholarships, fellowships, literary awards, helps with temple restoration, and sponsors lecture series.

The Economic Program—concentrates on projects that are expected to yield prompt and direct returns in promoting internal security. It also sponsors study groups and seminars.

Community Development—Technical Assistance—SEATO renders assistance in training teachers and workers in this field and operates a center in northeast Thailand which helps villages with the construction of roads, reservoirs, and water systems.

Cholera Research Laboratory—this facility in Pakistan (now Bangladesh) was the largest of its type in the world. It is now believed to be functioning under the control of the Bangladeshi Government.

Though SEATO members are now placing greater stress on the non-military aspects of the treaty, the danger from subversion and insurgency continues. New emphasis is being given to programs designed to reduce some of the causes of possible discontent in Thailand and the Philippines, Secretary General Sunthorn declared in late 1972: “We are now concentrating more manpower and finance on civic projects in Thailand and the Philippines, projects geared towards improving the ways of life in rural areas and encouraging cooperation between officials and the villagers themselves.”

Some SEATO members have said they believe the organization can continue to serve a useful purpose in contributing to the stability of the region through development assistance. In fact, it is widely felt that joint ventures in cultural, medical, educational, and economic ventures help develop habits of cooperation and help remove some of the basic problems that can lead to insurgency. But there are many unknowns in the field of national development, and the steps that will lead to regional development and stability are yet more complex. It is generally accepted that regional actors should do as much of the planning and implementing as possible with a minimum of foreign involvement. It also has been learned that development programs, which raise the Gross National Product and increase exposure to western living styles but do little to benefit the life of the average citizen can have a net destabilizing effect. If expectations of greater material wealth, a higher standard of justice or more responsive government are unfulfilled, frustration could result in a turn to violence.

How effective have development programs been in the Philippines and Thailand? Much progress has indeed been made in both countries, but each has recently displayed great instability. In September 1972 President Marcos proclaimed martial law claiming a vast insurgent threat to his government from various Communist groups, Huk, Muslim rebels, and common outlaws. In October 1973 the Thai Government was overthrown by frustrated and incensed students.

One author says the proper development goal should be to lift the standard of living of the indigenous population and to free the people from the bondage of poverty and backwardness. Some key steps toward that goal, he says, are to ease the regional movement of capital and technology and to remove the many obstacles to closer cooperation.

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70 SEATO Record, vol. 11, December 1972: 16.
72 Eckel, op. cit., p. 107.
E. ALTERNATIVE AND SUPPLEMENTARY REGIONAL ORGANIZATIONS

Since World War II many leaders in Southeast Asia and in countries interested in Southeast Asia have recognized the value of regional efforts toward security and development. To place the analysis of SEATO in proper perspective, other important organizations that have been instituted to provide cooperation in Southeast Asia are briefly discussed below.

1. Security Coalitions

The Five-Power Defense Arrangement commits Australia, New Zealand, the United Kingdom, Malaysia, and Singapore to immediately consult together in the event that Malaysia or Singapore is subjected to or threatened by an externally organized or supported armed attack. The agreement became effective on November 1, 1971, when the Anglo-Malaysian Defense Agreement lapsed. A small group of Australian, New Zealand, and United Kingdom military personnel operates in the area as an integrated ANZUK force. An integrated air defense system for Malaysia and Singapore has also been established.14 Despite the Five Power arrangement, the British drawdown of its forces in the Far East and U.S. moves to reduce its involvement in the area have contributed to continuing uneasiness on the part of Malaysia and Singapore.15

The future of the Five Power Defense Arrangement is uncertain. Australia now plans to withdraw most of its 3,400 man military contingent from Singapore (an air component will remain). Great Britain's present economic difficulties and political uncertainties could cause it to re-evaluate its participation (a 2,500 man contingent). Malaysia sees the Five Power Arrangement as only an interim measure pending the neutralization of Southeast Asia. In 1969, and periodically since then, the Soviet Union has proposed a collective security system for Asia based on the threat to the small Asian countries from Chinese and American power. The Russian proposal has been suggested with varying emphasis on military, political, and economic issues,16 but the Soviet Union apparently seeks security arrangements with Asian countries along the lines of its friendship and cooperation treaty with India.

The Thais attempted to form a defensive alliance between Thailand, Cambodia, and South Vietnam in 1970 when it became apparent that SEATO would not come to the defense of Cambodia. This effort also failed.

In 1972 a joint communique was issued by Indonesia and the Philippines stating their agreement to limited military cooperation and extending a welcome to other regional countries to participate. It included procedures for exchanging military information, training personnel, and conducting joint exercises, and was reportedly born out of fear of China in light of reduction of United States involvement.17

Similar bilateral arrangements exist between Indonesia and Malaysia and between Malaysia and Thailand. They provide for border crossing and joint operations against the Communist insurgents which operate along the common borders of these countries.

Over the years various countries have attempted with little success to expand the activities of the Association of South-East Asian Nations (ASEAN) and the Asian and Pacific Council (ASPAC) into the military field.

2. Political, Cultural, and Economic Coalitions

The five-member Association of South-East Asian Nations (ASEAN), founded in 1967 by Thailand, Malaysia, Singapore, Indonesia, and the Philippines, is the best known attempt at regional unity. Out of ASEAN has come a limited amount of economic cooperation among the members, (limited by national rivalries, separate economic planning, and the competitive economic relationships of the members) and bilateral military security arrangements among the members to combat the Communist insurgencies and upgrade their armed forces.18

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15 Gurtov. Southeast Asia Tomorrow, p. 18.
18 These arrangements are not formally a part of the ASEAN structure. They involve Thailand-Malaysia along their common border, Indonesia-Malaysia along the Sarawak-Indonesia border, and the Philippines-Indonesia with regards to training and joint planning.
ASEAN's major diplomatic initiative is the Kuala Lumpur Declaration of November 1971 calling for the neutralization of Southeast Asia as a "zone of peace, freedom and neutrality, free from any form or manner of interference by outside powers"—the neutrality to be recognized by the great powers.

ASEAN, however, has not become a major political force in Southeast Asia, and this fact has blocked real attempts to implement the Kuala Lumpur Declaration. ASEAN has failed to expand its membership to include all the states of the region. Similarly, the organization has been unable to influence events in Indochina, as evidenced by the abortive Jakarta Conference on Cambodia in 1970. North Vietnam, in particular, has shown unremitting hostility to ASEAN.

The ASEAN countries, themselves, differ on the actual meaning of neutrality. Indonesia desires a formal guarantee of neutrality by the United States, Soviet Union, and China, and the reduction of foreign presence in the area, and an end to existing security agreements with outside powers. In particular, Prime Minister Tun Abdul Razak wants the United States eventually to end its military presence in Southeast Asia but to continue both military and economic assistance. Malaysia believes that a Chinese endorsement of neutralization would do much to stifle the Communist insurgencies and thus improve the stability of the ASEAN countries.

The other countries for various reasons are cautious about the Malaysian version of neutrality and are less anxious for an end to the U.S. military role. Thailand, while groping for new foreign policy directions in relation to its Communist neighbors, still considers the substantial American military presence on its soil crucial to its efforts against the Peking-Hanoi supported insurgency. The attitude of the new civilian government appears to differ little in this respect from its predecessor. Singapore, fearful of both Communist expansion from the north (especially Indochina) and its more powerful Malaysian and Indonesian neighbors, openly advocates closer relations with all the big powers and a retention of some form of American military presence in the region, especially in Thailand. The Philippines, too, favors continued military ties with the United States because of its need for continued U.S. economic assistance and private investment and concern over the Communist insurgency on Luzon. In short, while the other ASEAN countries support the ideal of neutralization, considerations of their own security lead them toward continued dependence on the United States.

Indonesia also has doubts about Malaysia's concept of neutrality, and appears to support, however temporarily, a U.S. military presence in Southeast Asia. Jakarta is interested in checking North Vietnamese expansion in Indochina, as evidenced by its role at the Jakarta Conference, its support of the Lon Nol government (including some military training), and its membership on the International Supervisory Commission for Vietnam (as one of the two "pro-Saigon" members). Indonesian leaders openly warn of China's subversive ambitions and are openly skeptical of the important role Malaysia envisions China playing in its neutralization plan. This matched by a determination to resist any Soviet incursions. President Suharto has advocated a strengthening and consolidation of ASEAN itself as the best way of guaranteeing the independence and neutrality and keeping the great powers out. While Indonesia opposes ASEAN becoming an outright military alliance, its promotion of security agreements with its neighbors indicates a substantial military security orientation to its foreign policy. There is also an unstated assumption in Jakarta that Indonesia would be the natural leader of an ASEAN bloc.

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The major powers have reacted cautiously toward neutralization, and none appears ready to take the lead in securing its implementation. President Nixon has praised the objective of Southeast Asian neutrality, but he noted that "much remains to be done before such an objective can be realized: the secure independence of sovereign Southeast Asian nations is its essential precondition." In the overall context of the Nixon Doctrine, the President appeared to suggest that before the U.S. treaty structure could be replaced by neutralizations, progress must be made toward stabilizing the balance of forces in Indochina, containment of the guerrilla threat throughout the region, and successful normalization of relations between the non-Communist countries of Southeast Asia and China and the Soviet Union (and probably also North Vietnam).

The Southeast Asia Treaty Organization (SEATO) is composed of Australia, Japan, New Zealand, the Philippines, Taiwan, Thailand, South Korea, and South Vietnam, with Laos holding observer status. It serves as a consultative association to foster political, economic, cultural and social cooperation and assists in the mutual development of national economies. Some regional leaders have expressed a preference for cooperation through a non-military organization with only Asian members, such as ASPAC rather than SEATO, Japan, however, has indicated it will become less active in ASPAC and let the organization die. The primary problem seems to be that by including Taiwan rather than the People's Republic of China, ASPAC assumes a stance that antagonizes some nations and limits the group's effectiveness. Malaysia recently withdrew from ASPAC, and there are indications that Australia, New Zealand, and Japan may also withdraw.

The Colombo Plan for Cooperative Economic Development in South and Southeast Asia was established in 1955 by the British Commonwealth and has subsequently been joined by the United States, Japan, and numerous Southeast Asian countries. The organization provides expert advice, technical training, and special equipment for training and research.

The United Nations. The primary UN group at work in Asia is the Economic Commission for Asia and the Far East (ECOSFA). It is one of four regional commissions of the Economic and Social Council (ECOSOC) and seeks to promote regional cooperation in all economic areas and to provide assistance in national development. The Asian Development Bank is sponsored by ECOSFA and fosters growth by promoting investment, financing development programs, coordinating plans and policies, and providing technical assistance. Many other UN organizations—such as Food and Agriculture Organization; International Labor Organization; United Nations Children's Fund; United Nations Educational, Scientific, and Cultural Organization; and World Health Organization—have active regional offices serving Southeast Asia.

3. Special Purpose Groups

Numerous organizations have been formed to coordinate inter-regional efforts in almost every economic, cultural and social field as well as some in governmental and political activities. Especially worth mentioning is the Mekong River Development Program. Thirty nations participate in this regional development project to collect data, construct dams and bridges, improve navigation and conduct experiments in the Mekong River environment. Some analysts believe additional specialized groupings are needed to coordinate regional economic activities in sectors such as the tourist industry, hotel building, coconut production, and pepper; logging, rubber, fish, and shipping industries. If the nations coordinate their efforts, they may achieve better management of their resources, make better deals with purchasing nations, speed development, and create the basis for more general cooperation.

85 U.S. President; U.S. Foreign Policy for the 1970's; the Emerging Structure of Peace, Pp. 94-95.
88 Ibid., pp. 91-96, 101.
89 For an extensive list, see Annex.
90 Lubis, op. cit., p. 22.
4. A Modified SEATO Alternative

While the above organizations can be considered potential substitutes for SEATO, they may also be considered as supplements to a restructured SEATO. The preponderant majority of those who have issued public comment on SEATO in recent years have recommended changing or terminating the Manila Treaty. Many called for a reduction of SEATO's military role and expansion of its activities aimed at the development of Southeast Asia, and such changes have been initiated.

Many critics also have said that SEATO, or an alternative organization, should consist of more regional nations and fewer nations from outside the region. The Prime Ministers of Australia and New Zealand said there should be a limit set on outside interference and they expressed agreement with the ASEAN goal for a zone of peace, freedom, and neutrality. 81

Prime Minister Kirk of New Zealand also commented that in the case of Indonesia, Singapore and Malaysia, “We need an organization which brings countries together rather than separates them as SEATO does.” 82

In President Nixon's description of a new foreign policy in Asia, he described the need for machinery to provide a collective defense effort by the threatened nations of the region. If that cooperative effort proved insufficient, a collective request should be made to the United States for assistance. 83 Even Secretary General Sunthorn has said it would be worthwhile encouraging the participation of additional regional members. 84

A gradual downgrading of SEATO by the United States, it is argued, would cause Thailand and others to seek security through ASEAN or some other coalition besides SEATO. 85 Others warn that a U.S. withdrawal, despite its promises and compensatory measures, would likely cause several Southeast Asian nations to seek accommodations with internal Communist parties and Communist neighbors, to turn to neutralism, all of which might “possibly undermine the whole structure of regional security.” 86

F. SUMMARY OF PRINCIPAL ARGUMENTS FOR AND AGAINST SEATO

Arguments favoring and opposing SEATO that may be derived from discussion and analysis of recent literature on this alliance are summarized below.

1. Arguments for maintaining the Southeast Asia Collective Defense Treaty

China is militarily stronger than ever; the political system remains in flux and Peking's current friendly attitudes could be reversed quickly and easily. The time to reduce or end U.S. involvement in Southeast Asia has not come. China's seizure of the Paracel Islands in January 1974 revives the question of Peking's extensive territorial claims in Southeast Asia.

If SEATO were terminated both friend and adversary would see it as a diminution of U.S. resolve to maintain peace and stability in Southeast Asia. This could provide a dangerous signal to the leadership or hardline elements of the leadership of expansionist Communist powers. It would also have a devastating effect on the confidence of the region's nations in the United States. Without confidence and security there is little hope for meaningful national development programs.

SEATO provides training programs and exercises that increase regional military capabilities and its maneuvers also serve as a display of military strength supporting allied and other friendly nations in Southeast Asia, especially useful in this period of U.S. reduction of forces.

Without a strong military presence, the United States will lose influence, prestige and trade advantages. Memberships in a multilateral organization is cheaper and politically safer than unilateral commitment.

SEATO membership helps the United States maintain necessary military bases in Thailand in this period when political attitudes in Asia are responsible for closing down forward bases in other Asian countries.

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83 Eckel, op. cit., p. 107.
84 ASEATO Record, v. 11, October 1972: 8.
85 Lyon, op. cit., p. 58.
A termination of SEATO and reduction of U.S. influence would create a power vacuum that would have a great impact on political alignments. Some nations might attempt to establish neutrality; some would probably try to reach an accommodation with China; others might look to the Soviet Union for security; Japan would probably come to dominate the economic sphere and might gain extensive political power; China and the Soviet Union could each become more active politically and militarily in the region; and destabilizing competition might well occur.

SEATO provides stability—a type of balance of political and military power. It helps maintain the status quo, helps secure U.S. assets in the region, and helps prevent the establishment of hegemony over the area by any one power.

Thailand depends on the SEATO treaty for its security. The treaty and the Rusk-Thanom reaffirmation are Thailand’s only guarantees of U.S. protection. In the current period of transition, Thailand needs the security and the bargaining power provided by SEATO while it seeks new relationships with neighboring countries. The rug should not be pulled from under Thailand until the situation has further stabilized. Loss of U.S. support could result in political turmoil and a less predictable foreign policy, and the direction of its future policies might have a significant influence on the entire region. Moreover, the new promise of democratic government in Thailand merits continued U.S. support if the democratic experiment is to succeed.

SEATO provides valuable services in helping promote stability and development in Thailand and the Philippines and assists those countries in their counterinsurgency programs. A very real insurgent threat hangs over Southeast Asia, and no protective effort should be spurned.

It is not necessary to terminate the SEATO treaty to prevent the United States from being drawn into another war like Vietnam; recent legislation prohibits military operations there and limits military operations everywhere without specific congressional approval.

2. Arguments for Changing or Terminating the Southeast Collective Defense Treaty

The tensions in Asia have been reduced by President Nixon’s trip to China, prospects for improved Sino-Southeast Asian ties, improving Sino-U.S. and Russo-U.S. relations, and the cessation of U.S. military involvement in Vietnam. With the reduced likelihood of open armed aggression, the need for military associations such as SEATO has declined. It is time to turn to positive relationships.

When SEATO was formed in 1954 as a reaction to the misfortunes besetting free world nations in Asia, regional military pacts seemed necessary. An examination of current needs and priorities indicates political and economic cooperation is now more appropriate. The military alliance tends to inhibit a more open, positive Chinese approach to the area, it causes a diversion of money and resources into defense expenditures, and it does not give necessary attention to raising the standard of living.

Organizations like SEATO designed to suppress subversion and insurgency have drawn the United States into wars that do not serve our national interests and may even entangle this country in a campaign against revolutionary causes that are in tune with U.S. interests. SEATO also is not necessary for low level support of counterinsurgency programs in Southeast Asia.

The SEATO treaty and other U.S. policies that stress stability are likely to postpone local accommodation between nations and between groups within nations. By supporting unpopular strong-man governments, we maintain a level of frustration and tension. Stability of individual nations is not a U.S. goal, but rather the general stability of the region.

SEATO has never responded collectively and effectively when needed. It has failed to deter insurgent warfare in Southeast Asia and has not produced a counter force.

SEATO members fully realize they are not obligated by the treaty to deploy military forces in defense of another member. Rather than being a confidence-builder, SEATO appears as a hollow bluff degrading the credibility of other U.S. military alliances.

SEATO is no longer needed because the monolithic Communist threat that inspired the treaty’s conception is no longer an accepted danger. The domino theory,
that foresaw a serious threat to Southeast Asia if Laos or South Vietnam fell to communism, is now considered to be a simplistic reaction to complex political, sociological and economic developments within the various Indochinese states.

The psychological effect produced by a United States withdrawal from SEATO would not be great compared to those created by the long U.S. involvement in Vietnam, the cease-fire arranged by the United States, President Nixon's trip to China, and the already adopted U.S. policy of moving toward a lower profile in Asia.

The United States has no security interests in Southeast Asia and has relatively small trade and investment interests there. Even in the unlikely event that our fellow SEATO member Thailand was invaded by China, it is doubtful that U.S. interests would be served by intervening unilaterally.

U.S. participation in SEATO is contradictory to the spirit of the Nixon Doctrine which emphasizes self-defense. More regional nations and fewer outside nations should be involved in regional defense pacts.

U.S. mutual defense treaties with Japan, South Korea, the Republic of China, the Philippines, Australia, and New Zealand are certainly sufficient for U.S. military and diplomatic needs. SEATO merely duplicates some of those treaties and adds a weak agreement concerning Thailand.

SEATO's development activities are relatively small and could be assumed by several of the international and regional groups specializing in development assistance, such as the Asian Development Bank, ASEAN, or ECAFE.

ANNEX

OTHER REGIONAL ORGANIZATIONS

These organizations are arranged under the following sub-headings:

Agriculture, Forestry and Fisheries
Aid and Development
The Arts
Education
Government, Politics and Economics
Labour
Law
Medicine
Press, Radio and Telecommunications
Religion
Science and Technology
Social Sciences and Humanistic Studies
Social Welfare and Housing
Trade and Industry
Transport
Tourism

AGRICULTURE, FORESTRY AND FISHERIES

Food and Agricultural Organization (FAO) Regional Office for Asia and the
Far East: Maliwan Mansion, Phra Atti Road, Bangkok, Thailand; f. 1945; functions through a variety of Commissions and Councils (see below); Regional Representative: Dr. D. L.UMALL.

Asia and Far East Commission on Agricultural Statistics: c/o FAO Regional Office, Maliwan Mansion, Phra Atti Rd., Bangkok, Thailand; f. 1966; to review the state of food and agricultural statistics in the region and to advise member countries on the development and standardization of agricultural statistics.


Chair, for 8th Session YOUNG-JIN KIM, Office of Forestry, Sam-Young Building, 50-2 Samsomoon-dong, Sudaemoon-ku, Seoul, Korea; Sec. J. TuRBANG.

FAO Regional Commission on Agricultural Extension for Asia and the Far East: c/o FAO Regional Office, Maliwan Mansion, Phra Atti Rd., Bangkok 2, Thailand; f. 1966 to study and report on questions relating to the development of agricultural extension within the Region with particular emphasis on rice production; first session, Bangkok, Oct. 1969.

Publ. Extension in Asia (2 times a year).

FAO Regional Commission on Farm Management for Asia and the Far East: c/o FAO Regional Office, Maliwan Mansion, Phra Atti Rd., Bangkok, Thailand; f. 1966 to stimulate and co-ordinate Farm Management Research and Extension

Activities and to serve as a clearing-house for the exchange of information and experience among the member countries in the region.

**FAO/WHO Codes Alimentarius Commission:** c/o FAO Regional Office, Maliwan Mansion, Phra Athit Rd., Bangkok, Thailand; f. 1961 to make proposals for the co-ordination of all International food standards work and to publish a code of International food standards. Mem.: 74 states.

Chair: J. A. V. Davies.

**Indo-Pacific Fisheries Council:** c/o FAO Regional Office, Maliwan Mansion, Phra Athit Rd., Bangkok 2, Thailand; f. 1948 to develop fisheries, encourage and co-ordinate research, disseminate information, recommend projects to governments, propose standards in technique and nomenclature. Mem.: eighteen countries.

Chair: B. T. Cunningham (New Zealand); Vice-Chair. P. Karnasut (Thailand); Member C. G.


**International Rice Commission:** c/o FAO Regional Office, Maliwan Mansion, Phra Athit Rd., Bangkok, Thailand; f. 1948 to promote national and international action on production, conservation, distribution and consumption of rice, except matters relating to international trade. Mem.: 41 countries.

Exec. Sec. Dr. Ken-Ichi Hayashi. Publ. IRC Newsletter (quarterly).

**Plant Protection Committee for the South East Asia and Pacific Region:** c/o FAO Regional Office, Maliwan Mansion, Phra Athit Rd., Bangkok, Thailand; f. 1956 to act as an advisory body on the Plant Protection Agreement for the South-East Asia and Pacific Regions. Mem.: 17 countries.


**International Rice Research Institute:** P.O.B. 588, Manila, Philippines; f. 1960; conducts basic research on the rice plant and its cultural management with the objective of increasing the quantity and quality of rice available for human consumption; disseminates results of research and plant materials; operates a training programme for rice scientists, maintains an information centre on rice research, holds periodic conferences and symposia.


**AID AND DEVELOPMENT**

**Afro-Asian Rural Reconstruction Organization (AARRO):** C-117/118 Defence Colony, New Delhi 3, India; f. 1962 to launch concrete and wherever possible coordinated action to reconstruct the economy of the rural peoples of Afro-Asian countries and to revitalize their social and cultural life. Mem.: 28 African and Asian countries.

Pres. (vacant); Sec.-Gen. H. E. Krishnan Chand (India); Dlr. and Coordinator Programmes M. R. Kaushal. Publ. Rural Reconstruction (quarterly).

**THE ARTS**

**Afro-Asian Writers' Permanent Bureau:** c/o AAPSPO, 50 Abdel Aziz Al Saoud St., Mantal, Cairo, U.A.R.; f. 1958 by Afro-Asian People's Solidarity Organization; conferences of Asian and African writers have been held at Tashkent (1958), Cairo (1962), Beirut (1967). Mem.: 78 writers' organizations.


**EDUCATION**

**Asia Foundation, The:** 550 Kearny St., San Francisco, Calif. 94108, U.S.A.; to strengthen Asian educational, cultural and civic activities with American assistance; provides grants to educational, cultural, social and other projects. Representatives in 13 countries and assistance elsewhere in Asia.

Asian Institute of Educational Planning and Administration: Ring Rd., Indraprastha Estate, New Delhi 1, India; f. 1962 under the sponsorship of UNESCO in collaboration with the Indian Government. Aims: to provide in-service training courses for the officers of the Ministries and Departments of Education of the participating Member States and to undertake and promote research in the techniques of educational planning and administration for their benefit. Maintains a Library and Educational Documentation Centre. Mems.: 18 Asian states.

Dir. Prof. M. V. MATHUR, Co-ordinator of Studies S. N. MEHROTRA.

Asian Institute of Technology: P.O. Box 2754, Bangkok, Thailand. Located on a 400-acre campus at Rangsit, 42 kilometers north of Bangkok. An independent international postgraduate school of engineering and the allied sciences, with student body drawn from 21 countries and faculty from 11 countries. Controlled by an international Board of Trustees composed of individuals from 15 nations; no country dominates. Founded in 1959 as the SEATO Graduate School of Engineering, AIT became independent in 1967 and has since broadened its financial base, academic programs, faculty and student body. Currently the Institute offers postgraduate degrees (an eight-month postgraduate Diploma, a 21-month Master of Engineering degree, and a 24-month Doctor of Engineering degree) in the following academic areas: environmental engineering, soil mechanics, soil engineering, applied soil science, transportation, construction engineering and management, agricultural engineering, structural mechanics, systems engineering, industrial engineering and management, urban and regional development, hydraulic engineering, ocean engineering, and water resources engineering. Contract and grant research and internal and external scholarship support provide significant international postgraduate school of engineering and the allied sciences, with a Library and Educational Documentation Centre. Mems.: 19 Asian states.

Regional Office, Celacon, Jakarta, Indonesia, Khmer Republic, Laos, Malaysia, Philippines, Thailand, the United Kingdom, the United States, and the Federal Republic of Germany.

Pres. Dr. MILTON E. BENDER; Vice-Pres. (Academic Affairs) and Dean Dr. JOHN K. LUTZOCK; Vice-Pres. (Development) Dr. JERRY C. L. CHANG; Vice-Pres. (Administration) Dr. DAVID L. MCINTOCK.

Association of Southeast Asian Institutions of Higher Learning: f. 1956; to promote the economic, cultural and social welfare of the people of South-East Asia, by means of educational co-operation and research programmes. Mems.: 40 university institutions.

Pres. Dr. R. L. HUANG, Vice-Chancellor, University of Hong Kong, Hong Kong; Exec. Sec. Prof. Dr. PRACHOON CHOMCHAICASAI, Secretariat, Ratrasatra Bldg., Chulalongkorn University, Henri Dunant St., Bangkok 5, Thailand. Publ. Newsletter, Handbook of Southeast Asian Institutions of Higher Learning (annual), Reports.

South-East Asian Ministers of Education Organisation (SEAMEO): % SEAMEO, Darakarn Bldg., 920 Sukhumvit Rd., Bangkok II, Thailand; f. 1965. Aims: to promote co-operation among the South-East Asian nations through education, science and culture, and to advance the mutual knowledge and understanding of the people in South-East Asia. SEAMEO has a permanent secretariat (SEAMES) and regional project centres in Bogor (Indonesia), Singapore, Penang (Malaysia), Los Baños (Philippines) and Bangkok (Thailand). Mems.: Indonesia, Khmer Republic, Laos, Malaysia, the Philippines, Singapore, Thailand and Republic of Viet-Nam.

Pres. H. E. Kao MONE KAY (Khmer Republic); Dir. Dr. SUDJONO D. PUSPONRADO. Publ. Centres publish academic journals, reports of conferences and seminars, brochures, monthly or quarterly newsletters and occasional publications; SEAMES publishes reports of conferences and seminars, brochures and a quarterly.

GOVERNMENT, POLITICS AND ECONOMICS


Pres. ZAKAREYABEWA; Sec.-Gen. DR. AMIN A. AWADALLA. Publ. Afro-Asian Economic Review.

Afro-Asian Peoples' Solidarity Organization (AAPSO): 80 Abdel Aziz Al Saoud St., Manial, Cairo; f. 1967 as the Organization for Afro-Asian Peoples'
Solidarity; acts as a permanent liaison body between the peoples of Africa and Asia and aims to ensure their economic, social and cultural development. Board of Secretaries is composed of 14 members from Algeria, Angola (liberation movements), Ghana, Guinea, India, Iraq, Japan, Kenya, South Africa (liberation movements), Provisional Revolutionary Government of the Republic of South Viet-Nam, U.S.S.R., Tanzania, China, Indonesia. Mem.: 77 national committees and affiliated organizations in 42 countries.


Asian People's Anti-Communist League; B.P. 575, 122 Hong Thap Tu, Saigon, Republic of Viet-Nam; f. 1954 to unite all Asian peoples to form an anti-Communist front. Mem.: organizations in 22 countries.

Chair. Jose J. Roy (Philippines); Sec.-Gen. Do DANG CONGO, Publs. Free Front (monthly—English).

Asian Statistical Institute: 42 Honmura-cho, Ichigaya, Tokyo-102, Japan; f. 1970 as autonomous organization under the aegis of ECAFE. Trains professionals in statistics for the governments of countries within the geographical scope of ECAFE (see separate chapter), prepares teaching materials, provides facilities for special studies and research of a statistical nature, assists in the development of statistical education and training at all levels in national and sub-regional centres.

Acting Dir. Dr. K. R. NAIR (India).

Eastern Regional Organization for Public Administration (EROA): Rizal Hall, Padre Faura St., Manila, Philippines; f. 1960 to promote regional co-operation in improving knowledge, systems and practices of governmental administration, to help accelerate economic and social development; organizes regional conferences, seminars, special studies, surveys and training programmes. There are five regional centres: Research, Documentation and Diffusion Centre (Saigon, Training Centre (New Delhi), Local Government Centre (Tokyo), Organization and Management Centre (Seoul), The Asian Land Reform and Rural Development Centre (Taipei), Mem.: 11 countries, 04 organizations, 126 individuals.

Chair. Abelardo Sibido (Philippines); First Vice-Chair. Dr. Awaleedn Djamin (Indonesia); Second Vice-Chair. Dean Woon Tai Kim (Repub. of Korea); Sec.-Gen. Dean Carlos P. Ramos (Philippines), Publs. EROA Review (bi-annual), non-periodical publications.

Pacific Basin Economic Council; f. 1967 as Pacific Basin Economic Co-operation Council, present name adopted 1971: the Council is a businessmen's organization composed of the representatives of business circles of Australia, Canada, Japan, New Zealand and the U.S.A., which aims to co-operate with governments and international institutions in the overall economic development of the Area and the advancement of the livelihood of the population. The Council's activities are the promotion of economic collaboration among the member countries and co-operation with the developing countries in their efforts to achieve self-sustaining economic growth. Preparatory meeting: Tokyo, 1967; first meeting: Sydney, 1968; second meeting: San Francisco, 1969; third meeting: Kyoto, 1970; fourth meeting: Vancouver, 1971; fifth meeting: Wellington, 1972; sixth meeting to be held in Sydney, 1973.


Private Investment Company for Asia S.A. (PICA); Room 924, Kosukai Bldg., 1-1 Marumouchi, 8-chome Chiyodakyo, Tokyo 100, Japan; Southern Regional Office: REIC Bldg., 30 Orange Grove Rd., Singapore 10; Djakarta Office: Denmark House, Dj. Abdul Muls 84, Djakarta; f. 1969; multi-national corporation making and facilitating private capital investments in the developing nations of Asia; equity capital and medium- and long-term debt are provided both for the establishment of new enterprises and the expansion and diversification of existing companies; professional management and technical consultancy services; shareholders are 168 financial and industrial companies in Europe, Canada, Australi, Japan and the U.S.A.; auth. cap. U.S. $40 million, cap. p.u. U.S. $25.2 million.

**LAO**

_Afro-Asian Institute for Co-operative and Labour Studies_: P.O.B. 18201, Tel-Aviv; f. 1960 by Histadrut (General Federation of Labour in Israel). Aims: to train co-operators, union workers, government executives and teachers of labour and co-operative colleges from Asia, Africa, the Mediterranean and the Caribbean, in social and economic development problems, co-operation and labour economics, as related to conditions and needs of developing countries. French-speaking international courses: Dec.-April; English-speaking international courses: Aug.-Dec.; special courses on request at the Institute or abroad.

Chair. Dr. Eliahu Elath; Principal Akiva Eger.

_Brotherhood of Asian Trade Unionists (BATU)_ : P.O.B. 168, Manila, Philippines; f. 1953 as the regional body in Asia of the World Confederation of Labour, to develop mutual co-operation among Asian Trade Unionists through exchanges of information, conferences, and educational activities; 5 million mems. and 34 delegates from 9 countries.

Pres. THAN Quoo BUU (Pres., Federation Vietnamienne du Travail); Sec.-Gen. JUAN C. TAN (Pres., Federation of Free Workers). Publs. _The Asian Worker_ (quarterly), and workers education pamphlets and training manuals.

_111-International Confederation of Free Trade Unions—Asian Regional Organisation (IOFTU-ARO)_ : P-20 Green Park Extension, New Delhi 18, India.

**LAW**

_Asian-African Legal Consultative Committee_: 20 Ring Rd., Lajpat Nagar IV, New Delhi 24, India; f. 1956. Aims: places the Committee's views on legal issues before the International Law Commission of the United Nations; considers legal problems referred to it by member countries; acts as an advisory body of legal experts to the member countries and provides for an exchange of views and information on other legal matters of common concern. Reconstituted 1957 to enable participation by countries in the African continent. Present membership: Burma, Ghana, India, Indonesia, Iran, Iraq, Japan, Jordan, Kenya, Kuwait, Malaysia, Nigeria, Nepal, Pakistan, Philippines, Sierra Leone, Sri Lanka, Syria, Thailand and Egypt; Associate mems.: Republic of Korea and Mauritius.

Pres. T. S. FERNANDO, q.c. (Sri Lanka); Sec.-Gen. B. SEN (India).

_Law Association for Asia and the Western Pacific (LAWAPA)_ : c/o Law Faculty, University of New South Wales, P.O.B. 1, Kensington, N.S.W. 2033, Australia; f. Aug. 1966 to promote the administration of justice, the protection of human rights and the maintenance of the rule of law within the region, to advance the standard of legal education, to promote uniformity within the region in appropriate fields of law and to advance the interests of the legal profession. Mem.: 45 assns. in 21 countries; 1,800 individual mems.

Pres. S. H. SOELISTIO (Vice-Speaker, Indonesian House of Representatives); Sec.-Gen. Prof. J. H. WOOTEN, q.c.; Exec. Officer SELWYN HAUSSMAN, LL.B. (Solictor, Supreme Court of N.S.W.). Publs. _Lawaica_, (journal, three times a year), proceedings of conferences, research reports.

**MEDICINE**

_Asian-Pacific Dental Federation_: c/o Manila Doctors' Bhalubhai Desai Rd., Bombay-20, India; Next Congress to be held in Bangkok (Thailand) in 1975; Sec.-Gen. DR. ATHARAT VEJAJJAYA, c/o Neurology Div., Ramathibodi Hospital, Rama 6 Rd., Bangkok, Thailand.


Pres. Dr. YU KYUNG LEE (Republic of Korea); Sec.-Gen. Dr. B. B. EBANSA (Philippines). Publ. _Newsletter_.

_Federation of Asian Pharmaceutical Associations (FAPA)_ : 40 Soi. Santsuk, Sukhumvit Rd. 26, Bangkok Dhonburi Metropolis II, Thailand; f. 1964; aims to develop pharmacy as a profession and as an applied science; membership comprises national pharmaceutical associations in the following countries: Philippines, Japan, Pakistan, Republic of China (Taiwan), Thailand, Indonesia, Israel, Republic of Vietnam, Singapore and Hong Kong.

International Congress on Tropical Medicine and Malaria (Congrès International de Médecine Tropicale et de Paludisme); Secretariat: c/o P.O.B. 1378, Athens, Greece; to work towards the solution of the problems concerning malaria and tropical diseases. Next Congress: Athens, 1973.

Pres. of the Ninth Congress to be held in 1973 Prof. G. Merikas (Greece); Sec.-Gen. Prof. J. Papavassiliou (Greece).

Pan-Pacific Surgical Association: Room 236, Alexander Young Building, Honolulu, Hawaii; f. 1929 to bring together surgeons to exchange scientific knowledge relating to surgery and medicine. Memrs.: 2,052 regular, associate and senior mems. from 44 countries. Next meeting to be held in Honolulu, 1975.

Sec.-Gen. Robert A. Rose, M.D. (Hawaii); Chair. of the Board John R. Watson, M.D., F.B.C.S. (Hawaii).

PRESS, RADIO AND TELECOMMUNICATIONS

Asian Broadcasting Union: Headquarters: NHK Bldg., Uchitsui-clio, 2-chome, Tokyo 100, Japan; f. 1964 to assist in the development of radio and television in the Asian/Pacific area, particularly in its use for educational purposes; Sixth General Assembly, Oct. 1969, Auckland, New Zealand. Memrs.: 22 full and 29 associate mems. in 31 countries.

Pres. Yoshinoki Maeda (Japan); Vice-Pres. Gilbert H. Stringer (New Zealand), Dol. Bin Ramli (Malaysia); Sec.-Gen. Sir Charles Moses (Australia), Box 3036, G.P.O., Sydney, N.S.W., Australia. Publs. ABU Newsletter (monthly in English), ABU Technical Review (bi-monthly in English).

Asian-Oceanic Postal Union: Room 312, Post Office Building, Manila, Philippines; f. 1962; to extend, facilitate and improve the postal relations between the member countries and to promote co-operation in the field of postal services. Memrs.: Australia, Republic of China, Indonesia, Japan, Korea, Laos, New Zealand, Philippines, Thailand.


Pres. Brig.-Gen. Harsono (Indonesia); Sec.-Gen. S. Iwanoa (Japan).

Press Foundation of Asia: P.O.B. 1843, Manila, Philippines; f. 1967; an independent, non-profit-making organization governed by its newspaper members; acts as a professional forum for about 300 newspapers in Asia; alma to reduce cost of newspapers to potential readers, to improve editorial and management techniques through research and training programmes and to encourage the growth of the Asian press. Memrs.: 300 newspapers.

Chair. Joaquin P. Rooses (Philippines); Chief Exec. Amitabha Chowdhury (India); Joint Chief Exec. Juan L. Mercado (Philippines).

South East Asia Press Centre, The: 57 3rd. Mle, Jalan-Klang, Kuala Lumpur; f. 1967; first institution devoted exclusively to the training of journalists in South-East Asia; Board of Governors—representatives from Malaysia, Thailand, South Viet-Nam, Laos, Singapore and Indonesia—determines general policy, and a working committee assumes day-to-day responsibility for the Centre's activity.

Chair. of Board Melan Bin Abdullah; Exec. Dir. Ong Kin Hoe; Ed. Dir. Howard Coats.

RELIGION

East Asia Christian Conference; 14/2 Pruanun Rd., Bangkok, Thailand; f. 1959; to promote consultation on issues of common concern among Churches and missionary societies in Asia; to support participation in the programme and activities of the World Council of Churches; to encourage closer contact and co-operation between churches through conferences and international and interdenominational exchanges. Memrs.: National Christian Councils (15) and Churches (72) in 16 countries as follows: Bangladesh, Burma, Hong Kong, India, Indonesia, Japan, South Koréa, Malaysia, Pakistan, Philippines, Singapore, Sri Lanka, Taiwan, Thailand, Australia and New Zealand.
Chair: Dr. D. Moses (India); Gen. Sec. U Kyaw Thant (Thailand). Publs. EACO Directory (annual), EACO News (fortnightly), AOS Newsletter (fortnightly), Asia Focus (quarterly), and various others.

World Fellowship of Buddhists, The, 41 Thra Att Rd., Bangkok, Thailand; f. 1960 to promote among members strict observance and practice of the teachings of the Buddha; to secure unity, solidarity and brotherhood among Buddhists; to promote the sublime doctrine of the Buddha; to organize and carry out activities in the field of social, educational, cultural and other humanitarian services; to work for securing peace, harmony among men and happiness for all beings and to collaborate with other organizations working to the same ends. Regional centres in 34 countries.


SCIENCE AND TECHNOLOGY

Pacific Science Association: Bernice P. Bishop Museum, P.O.B. 6037, Honolulu, Hawaii 96818; f. 1920 to promote co-operation in the study of scientific problems relating to the Pacific region, more particularly those affecting the prosperity and well-being of Pacific peoples; sponsors Pacific Science Conferences and Inter-Congresses; next (second) Inter-Congress, Guam, U.S.A., May 1973; next (thirteenth) Congress, Vancouver, Canada, Aug. 1975. Mem.: institutional representatives from 53 areas.

Pres. Dr. I. McT. Cowan (Canada); Sec. Brenda Bishop. Publs. Information Bulletin (six issues a year).

SOCIAL SCIENCES

Institute of Economic Growth, Research Centre on Social and Economic Development in Asia: University Enclave, New Delhi 7, India; f. 1956 to bring the resources of social science to bear upon the solution of problems connected with social and economic development in South and South-East Asia; studies made by the Centre or in co-operation with universities or research institutes; specialized library and documentation services; biennial training programming in sociology of development. Mem.: 18 member states.

Dir. of Institute Prof. P. N. Dhan; Head of Centre Dr. T. N. Madan. Publs. Asian Social Science Bibliography (annual).


Chair. Dr. D. Arella (Philippines); Sec.-Gen. Dr. Soemartri (Indonesia). Publ. Journal of the South-East Asian Archives (annually).

SOCIAL WELFARE AND HOUSING

Afro-Asian Housing Organization (AAHO): 28 Rameses St., Cairo, Egypt; f. 1965 to promote co-operation between African and Asian countries in housing, reconstruction, physical planning and related matters. Next Congress, Syria, 1972.

Sec.-Gen. Abdel Hamid El Zanfaly (Egypt).

Asian Regional Institute for School Building Research: P.O.B. 1368, Colombo, Ceylon; f. 1966; sponsored by UNESCO, to make design and cost studies of school building with special reference to Asia, and to collect and disseminate technical information. Mem.: 18 Asian member states of UNESCO.


Eastern Regional Organization for Planning and Housing: 44 Ring Rd., Indraprastha Estate, New Delhi-1, India; f. 1965 to promote and co-ordinate the study and practice of housing and regional town and country planning. Mem.: 71 organizations and 112 individuals in 18 countries; regional offices at Tokyo and Bandung.


Federation of Asian Women's Association (FAWA): Escoda Memorial Bldg., 1501 San Marcelino St., Ermita, Manila, Philippines; f. 1969 to promote better understanding and co-operation among the women of Asia, to enhance the role of Asian women in the economic, cultural, social and spiritual development of the Asian region and to increase their participation in world affairs, to make possible
the access of all Asian women to educational and cultural activities, to promote human welfare and to defend human rights. Mems.: 416,000.

Pres. Mrs. JHMITA C. BENEDICTO (Philippines); First Vice-Pres. Mrs. PHUNG NGOK-DUY (South Viet-Nam); Sec. Mrs. DOLLY Ho (Singapore). Publ. FAWA News Bulletin (every three months).

International Planned Parenthood Federation: South-East Asia and Oceania Region, 246 Jalan Ampang, Kuala Lumpur, Malaysia; work in a wide variety of aspects of family planning.

Exec. Sec. G. R. GAUNTLETT, Publs. International Planned Parenthood News (monthly), Medical Bulletin (quarterly), Research in Reproduction (quarterly), Calendar of International Meetings (quarterly), Regional Bulletin (quarterly) and quarterly library bulletins.

Pan-Pacific and South East Asia Women's Association (PFSEAWA): International P.O. Box 1834, Seoul, Republic of Korea; f. 1928 (Hawaii) to strengthen the bonds of peace by fostering better understanding and friendship among women of all Pacific and South-East Asia areas, and to promote co-operation among women of these regions for the study and improvement of social conditions; international projects include a PFSEAWA Scholarship Fund and Education Aids Abroad; affiliated countries include Australia, India, Japan, Republic of Korea, Malaysia, New Zealand, Philippines, Taiwan, Thailand and the U.S.A.; also has consultative status with UN and UNESCO.

Pres. Dr. MARY LEE (Korea); First Vice-Pres. Dr. GRACE STUART NUTLEY (U.S.A.). PubIs. Conference Reports.

TRADE AND INDUSTRY

Asian Productivity Organization: Aoyama Daiei Mansions, 4-14 Akasaka, 8-chome, Minato-ku, Tokyo, Japan; f. 1961 to strengthen the productivity movement in the Asian region and disseminate technical knowledge. Mems.: 14 countries.

Sec.-Gen. MORISABURO SEKI. Publs. A.P.O. News (monthly), various technical titles.

Association of Natural Rubber Producing Countries (ANRPC): Natural Rubber Bldg., 150 Jalan Ampang, Kuala Lumpur, Malaysia; f. 1970; the association aims to bring about co-ordination in the production and marketing of natural rubber, to promote technical cooperation amongst members and to bring about fair and stable prices for natural rubber. A Joint Regional Marketing System for Natural Rubber has been agreed in principle. First Assembly held Oct. 1970. Next Assembly Indonesia, 1971. Mems.: Sri Lanka, Indonesia, Malaysia, Singapore, Thailand and Viet-Nam.

Sec.-Gen ENCHE JAMIL JAN (Malaysia).

Commission on Asian and Far Eastern Affairs of the International Chamber of Commerce: c/o The Board of Trade, 150 Rajpeepat Rd., Bangkok, Thailand; f. 1962 to act as spokesman of businessmen of Asia, the Far East and the Pacific region. Meets every two years. Mems.: 110 national committees in 11 countries and associate mems. without voting rights in 7 countries.

Chair. CHEN FU Koo; Exec. Sec. A. C. Powell; Director, External Action Dept., ICC, THIERRE JONNET.

Confederation of Asia Chambers of Commerce and Industry: c/o Japan Chamber of Commerce and Industry, 2-2 Marunouchi 8-chome, Chiyoda-ku, Tokyo 100, Japan; f. 1966; composed of the national chambers of commerce and industry covering Asia and Australasia; 11 full and 8 affiliate mems.

Pres. TAKASHI RINOUR (Japan); Vice-Pres. P. R. G. STRICKLAND (Australia), D. C. KOTHARI (India), LIMIN LAMSIAM (Thailand); Sec.-Gen. BANZO TEZUKA (Japan).

International Co-operative Alliance: Regional Office and Education Centre for South-East Asia: 48 Friends Colony (East), New Delhi 110014, India; f. 1960; to develop the general activities of the ICA in South-East Asia; to act as a link with its affiliated national movements; to represent the ICA in its consultative relations at regional establishments of the UN Specialized Agencies and other regional organizations; to promote economic relations among member Co-operative Movements and to assist in the supply of technical assistance from developed to developing Co-operative Movements. The Regional Office includes the Education Centre, which facilitates the interchange of knowledge and experience between Co-operative organizations in the region. It arranges courses, seminars and conferences, undertakes surveys and research, brings out publications on Co-operative and allied subjects and supports and supplements the educational activities
of national Co-operative Movements. The Regional Office and Education Centre now operates on behalf of 14 countries, i.e. Australia, Bangladesh, India, Indonesia, Iran, Japan, Republic of Korea, Malaysia, Nepal, Pakistan, Philippines, Singapore, Sri Lanka and Thailand.

Regional Officer P. E. WEERAMAN; Dir. Education Centre J. M. RANA. Publs. ICA Regional Bulletin (quarterly), ICA Trade News (monthly).

International Rubber Study Group: Brettenham House, 6-8 Lancaster Place, London, WC2E 7ET; founded to provide a forum for the discussion of problems affecting rubber and to provide statistical and other general information on rubber, 31 member countries.


International Tea Committee: 5 Queen St., London, E.C.4; founded to provide a forum for the discussion of problems affecting rubber and to provide statistical and other general information on rubber, 31 member countries.


International Tin Council: Haymarket House, 28 Haymarket, London, W1Y 4BT; f. July 1956; now operates the Fourth International Tin Agreement, which is intended to regulate the international tin market by the prevention of excessive fluctuation in prices, the alleviation of difficulties arising from maladjustment between demand and supply and the ensuring of an adequate supply of tin at reasonable prices at all times. Maximum and minimum prices are laid down and all producing countries must contribute to a buffer stock of tin, which is controlled by a manager in accordance with the provision of the agreement. The Council meets at least four times a year. Membership: the governments of Australia, Austria, Belgium, Bolivia, Bulgaria, Canada, Czechoslovakia, Denmark, France, Federal Republic of Germany, Hungary, India Indonesia, Italy, Japan, Korea (Republic), Luxembourg, Malaysia, Netherlands, Nigeria, Poland, Spain, Thailand, the United Kingdom, U.S.S.R., Yugoslavia and Zaire. First Council operative 1956-61; Second Council 1961-66; Third Council 1966-71; Fourth Council from July 1st, 1971.


TRANSPORT

Orient Airlines Association: Manila; f. 1967; enables members to exchange information and plan the development of the industry within the region by means of research, technical and marketing committees. Membs.: Air Viet-Nam, China Air Lines, Korean Air Lines, Malaysia-Singapore Airlines, PAL, Thai International, JAL, Garuda Indonesia Airlines Quantas and Cathay Pacific.

Sec.-Gen. Capt. S. Quimbo.

TOURISM

East Asia Travel Association: c/o Japan National Tourist Organization, 2–13 Yurakuchou, Chiyoda-ku, Tokyo, Japan; f. 1960 to promote tourism in the East Asian region, encourage and facilitate the flow of tourists to that region from other parts of the world, and to develop regional tourist industries by close collaboration among members. Membs.: 8 tourist organizations, 5 airlines, 4 hotel associations, and 3 travel agent associations.

Pres. Lt.-Gen. Han Lim Lee (Republic of Korea); Sec.-Gen. Kenji Sakuma (Japan).

Pacific Area Travel Association (FATA): 228 Grant Ave., San Francisco, Calif. 94108; f. 1952 for the promotion of travel to and between the countries and islands of the Pacific. Membs.: 1,202 in 47 countries.


South Asia Travel Commission: New Delhi, India; permanent secretariat set up March 1960; charged with examination of the question of reducing air fares, introduction of concessional arrangements and encouragement of more liberal air charter policies; mems.: Afghanistan, Sri Lanka, India, Iran, Mongolia, Nepal, Pakistan.
In practice no settled rule or procedure has been followed in the termination of treaties. Abrogation has been effected in the following ways: by the President acting alone; on initiation by the President with the approval of the Senate; on initiation by the President with the approval of Congress; on initiation by the Senate with the acquiescence of the President; and on initiation by the Congress with the acquiescence of the President.

1. ABROGATION BY ACT OF CONGRESS

There is only one instance in which action by the Congress in the form of a public law has been deemed as having abrogated a treaty. This occurred in 1798 when Congress declared that the treaties entered into with France from 1778 to 1789 were no longer binding on the United States. Among the treaties which Congress thus declared void was a Treaty of Alliance. This also appears to be the only treaty abrogated by the United States which can be construed as a mutual defense treaty.

Serious differences about the interpretation and application of certain sections of the Franco-American treaties arose soon after the treaties came into effect. The signing of the Anglo-American Treaty (the Jay Treaty) in February, 1796 signalled the beginning of an open break between the two former allies. France regarded the Jay Treaty as incompatible with the earlier Franco-American treaties. The United States refused to accept this view and accused France of clear and repeated breaches of their treaties.

Finally on July 7, 1798 Congress annulled the treaties with France, declaring:

"Whereas the treaties concluded between the United States and France have been repeatedly violated on the part of the French government; and the just claims of the United States for reparation of the injuries so committed have been refused, and their attempts to negotiate an amicable adjustment of all complaints between the two nations, have been repelled with indignity: and whereas, under authority of the French government, there is yet pursued against the United States a system of predatory violence, infringing the said treaties, and hostile to the rights of a free and independent nation;

"Be it enacted by the Senate and House of Representatives of The United States of America in Congress assembled, That the United States are of right, freed and exonerated from the stipulations of the treaties and of the consular convention, heretofore concluded between the United States and France; and that the same shall not henceforth be regarded as legally obligatory on the Government of the United States."

The Act was signed by President Adams, but it does not appear that he took any steps to give France notice that the treaties had been denounced by the United States. The lack of a formal notice of the abrogation by the United States of the treaties in question led to considerable controversy as to whether the Act of 1798 did in fact, terminate the international obligations involved.

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During the debate on the Act Congressman Sewall argued that:

"It is certainly a novel doctrine to pass a law declaring a treaty void; but the necessity arose from the peculiar situation of this country. In most countries, it is in the Chief Magistrate to suspend a treaty whenever he thinks proper; here Congress only has that power." 5

An opposing position was taken by Congressman Harper who said that:

"It is the business of the Legislature to pass laws; if a manifesto is proper to be published on this occasion, it would more probably fall under the Executive Department. It is his business to issue State papers, and he could do it much better than it could be done in this House." 6

In *Bailey v. Tingy* 4 Dall. 87 (1800), some Supreme Court Justices viewed the Act as a partial declaration of war and therefore as having validity under the constitutional power of Congress to declare war. The statement that the United States was, in effect, in a situation amounting to a state of war with France came up repeatedly during the debates in the House on the bill abrogating the treaties. Congressman Gallatin felt that there was little difference between saying that the treaties were ended, and declaring war outright. He moved that a declaration of war be added as an amendment to the bill abrogating the treaties. 8 In 1846 during Senate debate on the merits of the 1798 action as a precedent for later treaty abrogation, the 1798 congressional act terminating the treaties with France was described as a "quasi war measure." It was pointed out moreover, that the 1798 bill as originally introduced was accompanied by a long preamble, in which were set forth acts of flagrant bad faith, if not of war, which France had perpetuated against the United States. 10

The action of Congress in 1798 was, moreover, described in the 1846 debate in Congress as having indeed terminated the Franco-American treaties. Thus in *Hooper v. the United States*, Justice Davis ruled:

"We are of the opinion that the circumstances justified the United States in annulling the treaties of 1778: that the act was a valid one, not only as a municipal statute but as between nations; and that thereafter the compacts were ended." 11

A similar decision was made in the case of *Ship James and William v. the United States*. In this case it was ruled that the United States abrogated the treaty in toto; and thereby relieved France from all obligation under it. 14

All other cases of U.S. abrogation of treaties involved action by the President, sometimes following, sometimes preceding a resolution by the Senate or the whole Congress, and sometime acting alone—purportedly on his own authority.

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6 Ibid., p. 316.
11 Ibid.
2. ABROGATION BY PRESIDENT FOLLOWING JOINT RESOLUTION OF CONGRESS

There are many instances of the President giving notice of the intention of the United States to terminate a treaty following a resolution to that effect passed by the whole Congress. In 1845 a bill to organize a territorial government in Oregon was passed by the House. The bill contained a provision stating:

"Sec. 48. And be it further enacted, That the President of the United States be, and he is hereby, required to cause due notice to be given to the British Government of the desire and intention of the Government of the United States to annul and abrogate the convention with Great Britain relative to territory on the northwest coast of America . . ." 16

At the beginning of the next session of Congress in his first annual message to Congress on December 2, 1845, President Polk stated that he felt notice should be given of the intention of the United States to terminate the 1827 Convention with Great Britain concerning the joint occupation of the Oregon territory. He recommended, therefore, that "provision be made by law for giving it [notice] accordingly." 16 To accompany his message President Polk also transmitted to Congress various documents from the Department of State relating to negotiations with Great Britain in an attempt to reach a compromise on the Oregon question. 17

There was much debate in Congress during the early months of 1846 concerning the termination of the treaty with Great Britain. Several congressmen expressed the view that a notice of treaty abrogation would be tantamount to a declaration of war. Others declared unequivocally that "war cannot be the direct and necessary result of the notice to abrogate this convention," 18 and "the notice is not per se, a declaration of war, but on the contrary was designed, when provided for, as a means of preventing it." 19

If, however, the notice of U.S. intention to terminate the treaty was not regarded as a war declaration, then the difficult question arose of who had the power to abrogate the treaty—the President, the Senate, the House of Representatives, or some combination of these agents? Many different answers to this question were expressed during the debate in both houses of Congress. Senator Magnum expressed the view that a notice of treaty abrogation should not be tantamount to a declaration of war. Others declared unequivocally that "war cannot be the direct and necessary result of the notice to abrogate this convention," 16 and "the notice is not per se, a declaration of war, but on the contrary was designed, when provided for, as a means of preventing it." 19

The minority report of the House Committee on Foreign Affairs ended with a resolution stating:

"That the question whether a notice to terminate the convention between the United States of America and Great Britain, of October, 1818, and continued in force by the Convention of August, 1827, ought to be given, is not a matter for the decision of Congress, and upon it this House, at the present, refrains from the expression of any opinion." 21

The minority report questioned the propriety of the President’s invitation to Congress to help him give notice. The report further questioned whether the House—which constitutionally has no Executive function whatever, could participate in the act of giving notice. It asked what warrant the House had to act in the abrogation of a treaty when the Constitution confines on it no more power or agency to terminate a treaty than to make one, except in the case of a declaration of war, which would dissolve all existing treaties:

20 Ibid., Jan. 5, 1846, p. 76.
22 U.S. Congress, House, Report No. 54, 29th Cong., 1st sess., Jan. 5, 1846, p. 8. The majority report was not printed, nor is it included in the debate in the Congressional Globe.
The House, by its resolution, might declare that it was expedient or inexpedient to give this notice; and if in the one form or the other, the President might or might not give heed to it. But it has no power to originate, or to concur in a legislative proceeding, whether in the form of joint resolution or bill to authorize this notice to be given. It can neither give nor withhold power to that end. 22

The majority of the speakers felt, however, that the President had acted properly in asking Congress to act on the question of terminating the treaty with Great Britain. These legislators pointed out that no President before had ever given notice without congressional action. Moreover, it was pointed out that the House of Representatives during the previous Congress had assumed that it had the necessary jurisdiction in the matter and had passed a provision directing the President to give notice. The Senate had also debated similar actions since that time. Thus both houses apparently felt that the question of notice was one involving legislative sanction and therefore within their jurisdiction. 23

It was argued, moreover, that giving the Executive exclusive powers in treaty abrogation would be tantamount to giving him exclusive power to declare war since the abrogation being debated was viewed by many as a measure, which might end in war, or which might be equivalent to a declaration of war. 24

The majority view expressed in Congress was that the power to make treaties clearly belonged to the President and the Senate jointly, the power to abrogate treaties belonged to the joint action of both houses of Congress:

"Our object, as expressed on all sides of the Houses, is, to abrogate the treaty of 1818, as renewed in 1827 between England and the United States, which is clearly a legislative duty, that cannot be performed constitutionally by any other power than the joint power of both Houses of Congress, as proposed by the resolution before us." 25

The rationale for regaining an act of Congress to abrogate treaties lay in the fact that a treaty is the supreme law of the land. The power to annul a treaty was, therefore, the power to annul a law. This clearly was not an Executive power, which is a power to execute the laws, but not to make or repeal them. It was clearly a legislative power "and therefore vested in Congress." 26

Once Congress decided to legislate on the matter of treaty termination, the only question which remained was the manner in which the President was to be authorized to give notice of termination. The original version of the joint resolution stated:

"Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the President of the United States forthwith cause notice to be given to the Government of Great Britain..." 27

Some members of Congress felt that the wording made the notice too absolute and left to the President no choice as to the time and manner in which notice was to be given. Congressman Hilliard proposed a change in the wording of the resolution which would "leave to the wisdom and discretion of the Executive the selection of the manner and time of giving the notice." 28 This change was accepted by both Houses of Congress and the final version of the resolution read:

"Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the President of the United States be, and he is hereby authorized, at his discretion, to give to the Government of Great Britain the notice required..." 29

Although the joint resolution was approved on April 27, 1846 and notice of the intention of the United States to terminate the treaty with Great Britain was duly given, the treaty was, in fact, superseded by a new treaty signed on June 15, 1846.

Another treaty which was terminated pursuant to notice given by the United States was in treaty with Great Britain was the Reciprocity Treaty as to Fisheries, Duties, and Navigation with Great Britain of June 5,
1864. A joint resolution introduced in the House of Representatives in the spring of 1864 declared:

"Be it resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the President of the United States be, and he is hereby, authorized and required to give notice to the Government of the United Kingdom of Great Britain and Ireland . . . "

Congressional debate on the abrogation of this treaty was extremely brief. Apparently Congress felt that because this treaty was concerned with commerce with a foreign nation as well as U.S. revenues both of which lie within the purview of congressional action, it had the power to abrogate a treaty which dealt with questions.

The only serious question which arose concerning the abrogation of this treaty was whether the treaty could be abrogated ten years after its ratification (on September 11, 1854) or the President's proclamation (March 16, 1855). "In either event this Congress would be called upon to give notice and the only question would be whether it should be done at this session or next." 32

A few members of Congress felt that the termination clause should be struck from the resolution and only the section providing for appointment of commissioners from both countries to meet and attempt to negotiate should be retained. If the negotiations were to fail then the treaty should be terminated. 33

By the beginning of the next year general agreement on the immediate need to terminate the treaty with Great Britain had been reached and a joint resolution to that effect was passed by both houses of Congress. In the final version of the bill the words relating to the action of the President were altered slightly so that it read:

"Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That notice be given of the termination of the reciprocity treaty according to the provision contained therein for the termination of the same; and the President of the United States is hereby charged with the communication of such notice to the Government of the United Kingdom of Great Britain and Ireland." 34

The treaty terminated by notice from the United States on March 7, 1866.

A joint resolution 35 authorizing the President to communicate notice of termination of the treaty of Commerce and Navigation of July 17, 1857 with Belgium 36 was passed by both houses of Congress without substantial debate in June, 1874. The treaty was duly terminated by notice from the United States on July 1, 1875.

A joint resolution was again used to direct the President to terminate Articles XVIII-XXV, inclusive, and Article XXX of the May 8, 1871 treaty with Great Britain. 37 During the brief congressional debate concerning the resolution no doubt was expressed about the propriety of such action. The general view expressed was that: "by law we can require the President to give notice under that treaty in accordance with its terms." 38

In later debate this position was made even clearer:

"so as to guard against any possible misapprehension or implication concerning the joint resolution, that the committee by reporting it does not mean to have the Senate understand that we think it is indispensable that the termination should be made by a joint resolution; and the question is open and under reserve. I mention this so that there shall be no implication that the President by and with the consent of the Senate alone cannot terminate it. I think he can; but to save all possible question we wish to pass the joint resolution if we can; but if we cannot we shall undoubtedly (although I only speak for myself now) ask the Senate in its constitutional capacity of an adviser in respect of the foreign affairs of the Government, 

31 Congressional Globe, v. 34, May 26, 1864, p. 2309.
32 Ibid., May 27, 1864, p. 2361.
33 Ibid., May 18, 1864, p. 2866.
34 Ibid., May 19, 1864, p. 2871.
to advise the President to put an end to the treaty whether we have time to get the measure through both Houses or not."

The final wording of the joint resolution left little doubt as to the position of Congress and the President in the termination of treaties:

"the President be, and he hereby is, directed to give and communicate to the government of Her Britannic Majesty such notice of such termination on the first day of July, A.D. 1883, or as soon thereafter as may be." 4

The treaty was duly terminated on July 1, 1885 after the United States had given its notice of termination. 4

Section 10 of the Seamen's Act, approved March 5, 1915, provided for termination of treaties which conflicted with it. The wording of the Congressional directive was stronger than usually found in most earlier resolutions advocating the desirability of abrogation of treaties. The Act stated:

"That in the judgment of Congress, articles in treaties and conventions of the United States insofar as they provide for the arrest and imprisonment of officers and seamen deserting . . . and any other treaty provisions in conflict with this Act, ought to be terminated, and to this end the President be, and he is hereby, requested and directed, within ninety days after the passage of the Act, to give notice to the several governments respectively that so much as hereinbefore described of all such treaties and conventions between the United States and foreign governments will terminate on the expiration of such periods after notices have been given as may be required in such treaties and conventions." 44

This provision did not, however, attempt to annul treaties directly; rather the President was directed to give the necessary notices. Within the stipulated ninety days, notices were duly given to the following states: Austria-Hungary, Belgium, Brazil, China, Colombia, Denmark, France, Great Britain, Greece, Italy, the Netherlands, Rumania, Spain, Sweden, Norway, the Congo, and Tonga. 45 Since the Seamen's Act contained provisions conflicting with treaty stipulations to which the United States was party, the President was placed under practical compulsion to give the required notices. Mathews observes that in such instances when Congress "... passes legislation in conflict with a treaty, the President is practically bound in the international sense, and legally bound in the municipal sense, to consider the treaty terminated and to notify the foreign governments accordingly." 46 This episode in treaty termination by the United States was described by Wallace McClure as "perhaps the outstanding example of congressional action looking definitely to the termination of treaties by unilateral action of the United States." 47

An even more far-reaching amendment of treaties was undertaken by Congress in section 84 of the Merchant Marine Act (Jones Act) of 1920:

"In the judgment of Congress, articles or provisions in treaties or conventions to which the United States is a party, which restrict the right of the United States to impose discriminating customs duties on imports entering the United States in foreign vessels and in vessels of the United States, and which also restrict the right of the United States to impose discriminatory tonnage dues on foreign vessels and on vessels of the United States entering the United States should be terminated, and the President is hereby authorized and directed within ninety days after this Act becomes law to give notice to the several governments, respectively, parties to such treaties or conventions, that so much thereof as imposes any such restriction on the United States will terminate on the expiration of such periods as may be required for the giving of such notice by the provisions of such treaties or conventions." 48

President Wilson signed the Jones Act, but declined to give notice of termination as directed; and none of his successors has complied with the directive.

40 Ibid., Feb. 9, 1883, p. 2883.
41 Ibid., Feb. 26, 1883, p. 3293.
42 U.S. Treaties with the Hawaiian Islands were terminated after thecession of the Islands to the United States was accepted by a joint resolution and approved by the President on July 7, 1898, 30 Stat. 76; Malloy, Treaties, vol. 1, p. 908.
43 33 Stat. 1164.
45 Mathews, Conduct, p. 282.
46 International Executive Agreement, p. 22.
47 41 Stat. 1007; for detailed discussion see Reeves, the Jones Act, 88–88; Hackworth, Digest of International Law, v. 5, pp. 322–339.
Although the language of Sec. 84 of the Jones Act closely parallels that of Sec. 16 of the Seamen’s Act, the circumstances surrounding the two directives are not comparable. Whereas provisions of the Seamen’s Act conflicted with treaty obligations, no provisions of the Merchant Marine Act were inconsistent with treaty obligations. The Act merely called upon the President to terminate those obligations which served as a deterrent to future Congressional action of a discriminatory character; it did not specifically indicate Congressional intention to impose discretionary duties, an action which would have conflicted with existing treaties. Since no treaties were violated by federal law, President Wilson, and subsequently President Harding, took the position that Sec. 34 was an unconstitutional interference with the Executive’s power to carry on the international relations of the United States, by which the Congress in effect attempted to compel the Executive to renegotiate treaties with other countries. Wilson also noted that he did not consider that his approval of the act required him to carry out any provisions which he deemed outside the powers of Congress.

3. ABROGATION BY CONCURRENT RESOLUTION

No precedents were found for the termination of treaties by concurrent resolution, i.e. by joint action of the Senate and House without Presidential signature. However, such procedure was proposed in the first reservation to the Versailles Treaty and was approved by a majority of the Senate. The reservation provided that notice of withdrawal from the League of Nations by the United States could be given by a concurrent resolution of the Congress of the United States. As the Treaty was never ratified by the Senate, the provisions of the reservation were never put into force.

Debate in the Senate on the reservation centered on the issue of whether a concurrent resolution was a proper instrument for conveying U.S. notice of withdrawal. Those Senators in favor of the reservation argued two essential points. First, they claimed that notice of withdrawal from the League would not have the character of law and would therefore be exempt from provisions of Article I, Sec. 7 of the Constitution, which requires Presidential signature on all matters of law. The supporters of the reservation did not attempt to claim that Congress had the authority to abrogate any treaty by passage of concurrent resolution. Rather, they claimed that withdrawal from the League would not represent abrogation of the treaty, but would be the exercise of a right authorized by provision of the treaty and would recognize the continuing validity of the treaty. Secondly, proponents of the reservation argued that treaty law could be considered the supreme law of the land, equal, in effect, with the Constitution, and that therefore provisions of a treaty could establish the method for withdrawal from all or part of that treaty.

Several amendments to the reservation were proposed which would either have eliminated reference to the means by which the United States could give a notice of withdrawal—apparently implicitly assuming that a joint resolution would be necessary, or have substituted specification of joint resolution for concurrent resolution in the wording of the reservation. It was argued that the purpose of the concurrent resolution proposal was simply to exclude the President of the United States from participation in a withdrawal decision. The Senators supporting the amendments, and/or including those opposed to the reservation altogether, argued that a U.S. notice of withdrawal would have the character of law. It was pointed out that no precedent existed for terminating a treaty by concurrent resolution. Further, the Executive is the sole channel of communication between the United States and other countries or international groups; if the President chose to disregard a concurrent resolution, the Congress would lack even the recourse of overriding his position by a two-thirds majority, as it could do if a joint resolution were voted. Opponents of the concurrent resolution procedure generally agreed that the Executive acting alone would lack the necessary authority to give notice of U.S. withdrawal from the League, but that without the concurrence of the Executive the Congress also lacked necessary authority.

Had the Versailles Treaty and this reservation been ratified, Mathews con-

48 Hackworth, Digest of International Law, v. 5, p. 324.
49 Congressional Record, v. 58, part 8, Nov. 7-8, 1919, pp. 8057-8080, 8122-8140.
cludes that the concurrent resolution procedure would have had little effect on the relative powers of the Congress and the Executive:

"The President could certainly not thus be stripped, even with his consent, of any constitutional power that he may have of effecting the termination of a treaty, and such a concurrent resolution would have not international validity if he were opposed to the policy involved. It would merely inform him of the wishes of Congress, which he could not be compelled against his will to carry out. Otherwise, hopeless confusion would result from divergent views of the two authorities upon such questions as the termination of the treaty or our withdrawal from the League." 42

Finally, the circumstances of the Senate debate on the entire treaty, namely, the opposition of Republican majority to the Democratic President, must be noted. Holt observes that:

"the constitutional struggle of the Senate against the President was subordinated to politics. Only Republicans entered the battle in defense of the Senate’s prerogatives. The Democrats, with the exception of the very few who fought Wilson, saw no invasion of the rights of the Senate. This division proved the supremacy of political considerations. A Republican senator gave evidence to the same effect. In speaking of the first reservation McCumber said, ‘I am satisfied that if we had a Republican President today we would not be insisting that he should be eliminated from any voice in the matter of any future action that we might take in respect to staying in or getting out of this league of nations.’" 43

4. ABRROGATION BY PRESIDENT FOLLOWING APPROVAL BY SENATE

Only two instances were found in which the President terminated a treaty after obtaining the approval of the Senate alone. On December 4, 1854, President Pierce in his annual message to Congress declared it expedient that the required notice for termination of the Treaty of Friendship, Commerce, and Navigation with Denmark 42 of April 28, 1826, be given. The question was discussed at some length in the Senate and a resolution authorizing such action was unanimously passed by the Senate on March 3, 1855. 44

The following year Senator Charles Sumner questioned the legality of the Senate resolution on the following grounds:

First. In the absence of any express words in the Constitution, the power to abrogate treaties should not be attributed to any mere fraction of the Government, as to the President, or to the President and Senate, nor to any branches short of the whole Government embodied in an act of Congress. In view of the magnitude of the power, I am at a loss to see how any other conclusion can be adopted at this point.

Secondly. The Constitution has expressly lodged the war-making power in Congress, and in doing so seems, by implication, to have placed the treaty-abrogating power in the same body; for the latter seems to be an incident of the former. The abrogation of a treaty may be the prelude of war; indeed, it may practically amount to a declaration of war. The powers, though differing in degree, are kinds in character; and should go together.

Thirdly. The Constitution has stopped forward, and expressly declared that treaties shall be the “supreme-law of the land”; and I know no way in which these words can have complete efficacy, unless they are held to impress upon treaties the character of law, so that they will not only be recognized as such by the courts, but also be irrepealable except by act of Congress. 45

In addition to this Senator Sumner introduced a resolution which directed the Committee on Foreign Relations to consider enactment of legislation in which both houses of Congress would participate to “effectively” abrogate the treaty with Denmark “in conformity with the requirements of the Constitution, under

42 Mathews, Conduct, p. 229.
43 Holt, W. Scull. Treaties Deated by the Senate. Baltimore, The Johns Hopkins Press, 1923, p. 147. The treaty provided for most-favored nation treatment to dues payable by American ships passing through the narrows between the North and Baltic Seas. There was much dissatisfaction with the operation of this part of the treaty. See McClure, International Executive Agreements, p. 21. For text of the annual message of President Pierce, see Richardson, Message and Papers, v. 5, p. 279.
45 Congressional Globe, v. 29, May 8, 1858, p. 1147.
which every treaty is a part of the 'supreme law of the land,' and in conformity
with the practice of the government in such cases." 55

The Senate Committee on Foreign Relations, to which the matter referred,
made a full report on April 7, 1956.68 The report refused to yield to the precedents
of 1798 and 1846 in which termination was effected by joint action of both houses
and maintained that the right to give notice of treaty abrogation resides in the
making power that is—the President with the advice and consent of the
Senate." The report concluded, moreover, that the notice which was given by the
President to Denmark, pursuant to the Senate resolution:
"is sufficient to cause such treaty to terminate and be annulled, to all in-
tents whatsoever, pursuant to the eleventh article thereof; and that no other
or further act or legislation is necessary to put an end to said treaty, as part
of the law of the land." 64

The treaty was considered terminated on April 15, 1856, pursuant to notice.
The following year, however, the treaty was renewed except for one article. 59

The other instance in which the President sent notice of the intention of the
United States to terminate a treaty after obtaining the approval of the Senate
alone occurred many years later. In 1920 President Wilson requested and later
received Senate advice and consent to termination of United States adherence
to the International Sanitary Convention of 1903. 60

5. ABROGATION BY PRESIDENT PRECEDING CONGRESSIONAL APPROVAL

Apparently the first President to give notice of termination of a treaty without
prior congressional endorsement was President Lincoln. On November 23, 1864,
he gave notice of the intention of the United States to terminate the agreement
of 1817 with Great Britain (Rush-Bagot Convention) concerning naval forces in
the Great Lakes.64 In the preceding session of Congress, a resolution to that ef-
tect had passed the House, but failed in the Senate. After the notice had been
communicated to the British government, a joint resolution, approved on Febru-
ary 9, 1865, "adopted and ratified" the notice "as if the same had been authorized
by Congress." 65 This congressional action, however, had no effect on the ultimate
fate of the treaty; the notice of termination was subsequently withdrawn by the
President and the treaty continued in force. 66

Another case in which the President gave notice without prior congressional
direction or approval occurred on December 17, 1911, when President Taft gave
notice of the intention of the United States to terminate the Treaty of Commerce
and Navigation of December 18, 1832 with Russia.67

The action was taken by Taft to forestall passage by Congress of an "inflam-
matory" resolution calling for abrogation of the treaty. The preamble to the joint
resolution originally submitted to the House stated that:
"the people of the United States assert as a fundamental principle that the
rights of its citizens shall not be impaired because of race or religion; that
the Government of the United States concludes its treaties for the equal
protection of all classes of its citizens, without regard to race or religion;
that the Government of the United States will not be a party to any treaty
which discriminates, or which by one of the parties thereto is so construed
as to discriminate, between American citizens on the ground of race or
religion." 68

55 U.S. Congress, Senate, Report No. 97, 34th Cong., 1st sess., Apr. 7, 1856, p. 1. Also
reprinted in Congressional Record, v. 66, Nov. 8, 1919, p. 8738.
57 Ibid., pp. 6-7.
59 Malloy, Treaties, p. 466.
60 Malloy, Treaties, p. 2, 1908; for the President's message to the Senate and the text
of the Senate Resolution of May 20, 1921, see Congressional Record, v. 61, pt. 2, May 26,
1921, pp. 1708-1784; Redmond, C. F., comp., Treaties, Conventions, International Acts,
Protocols and Agreements Between the United States of America and Other Powers, 1910-
2879.
61 Malloy, Treaties, v. 1, pp. 628-630.
63 Ibid., pp. 628-630.
64 Malloy, Treaties, p. 17; Wright, Quincy, The Control of American Foreign Relations, New York, Macmillan, 1925, p. 268; Mattox, Digest, v. 6, p. 293.
65 Malloy, Treaties, v. 2, pp. 1614-1619; for discussion of the differences on various pro-
visions of the treaty see Shnita, Unilateral Denunciation, pp. 135-134.
On December 18, 1911 President Taft sent a message to the Senate advising that body "as part of the treaty-making power," of his actions in giving notice "with a view to its ratification and approval." A joint resolution was passed by both houses, and approved December 21, 1911, which adopted and ratified the notice already given by the President, omitting the earlier "offensive" preamble. Wallace McClure contends that the termination would have taken place, however, regardless of the legislative approval of Congress.

6. ABROGATION BY PRESIDENT ALONE

On March 28, 1899, notice was given to the Swiss government by the Secretary of State of the intention of the United States to terminate Articles VIII-XII of the 1850 Convention of Friendship, Commerce, and Extradition. This notice appears to have been given on authority of the Executive alone without any congressional authorization. Although the action was in line with the policy of Congress as legislated in the Tariff Act of 1897.

The President acted without prior or subsequent congressional approval in terminating the 1925 Convention for the Prevention of Smuggling with Mexico. The Secretary of State directed that official notification of termination be given, and on March 28, 1927, the Convention was terminated.

In 1933 without prior congressional action Franklin Roosevelt gave notice of termination of the newly in force extradition treaty with Greece. An understanding was, however, reached with the Greek government and notice of termination was withdrawn.

During the same year the President concluded that the Multilateral Convention for the Abolition of Import and Export Prohibitions and Restrictions of 1927 might have a restrictive effect of the National-Industrial Recovery Act of 1933. Thus on June 28, 1933 without prior congressional approval he gave notice of immediate withdrawal by the United States from the Convention.

Again on July 26, 1939 President Roosevelt gave notice to Japan of the termination of the existing Commercial Treaty. There were at that time resolutions pending in both houses of Congress expressing the opinion that the government of the United States should give Japan the required six months notice for abrogation of the treaty. Neither House had acted on the resolutions when a formal notice expressing the intention of the U.S. to terminate the treaty was given to Japan.
The International Load Line Convention was temporarily suspended with respect to the United States by President Roosevelt. Accepting the view of his Attorney General that the Convention was a peacetime agreement, he suspended it for the duration of World War II by presidential proclamation, August 9, 1941.

"Whereas the conditions envisaged by the Convention have been, for the time being, almost wholly destroyed, and the partial and imperfect enforcement of the convention can operate only to prejudice the victims of aggression, whom it is the avowed purpose of the United States of America to aid; and

"Whereas it is an implicit condition to the binding effect of the Convention that those conditions envisaged by it should continue without such material change as has in fact occurred; and

"Whereas under approved principles of international law it has become, by reason of such changed conditions, the right of the United States of America to declare the Convention suspended and inoperative:

"Now, Therefore, I, Franklin D. Roosevelt, President of the United States of America, exercising in behalf of the United States of America an unquestioned right and privilege under approved principles of international law, do proclaim and declare the aforesaid International Load Lines Convention suspended and inoperative in the ports and waters of the United States of America, and in so far as the United States of America is concerned, for the duration of the present emergency." 77

The President acted on the opinion of his Attorney General that:

"It is a well-established principle of international law, rebus sic stantibus, that a treaty ceases to be binding when the basic conditions upon which it was founded have essentially changed. Suspension of the convention in such circumstances is, the unquestioned right of a state adversely affected by such essential change." 78

On November 15, 1965 the United States announced its withdrawal from the Convention for the Unification of Certain Rules Relating to International Transportation by Air (Warsaw Convention). It was indicated that the reason for denunciation was the Convention's low limits on liability and that the notice of denunciation would be rescinded if before its effective date there was a "reasonable prospect" of an agreement on much higher limits of liability. This action was taken by the Executive before any formal congressional action agreeing to or advising such action. 79

One day before the effective date of the denunciation, the United States provisionally withdrew, its notice after agreement by the leading international air carriers to the setting of a new damages limit for all international flights originating, terminating or stopping-over in the United States. 80

77 Trethew, Treaties, vol. 4, pp. 5287-5290.
80 Herbert Eriges (The Attorney General invokes Rebus Sic Stantibus. American Journal of International Law, vol. 36, 1942, p. 90) wrote a scathing attack on the President's action in which he said: This surprising, and, indeed, reckless and unnecessary espousal by the United States of a much questioned doctrine by which Germany, Italy, Japan, and Soviet Russia might equally well justify the suspension, termination or even violation of inconvenient treaties renders desirable an examination of the conditions and legal principles set forth by the Attorney General in his opinion.
82 S. Res. 258 had been introduced in the Senate directing denunciation of the Convention, but it was pending in the Senate Committee on Foreign Relations at the time notice was given by the Department of State. Also the Report of the Senate Foreign Relations Committee after hearings on the question of ratification of The Hague Protocol to the Convention states in its conclusions that "If insurance legislation similar to that which has been proposed by the administration is not enacted within a reasonable time (i.e., prior to the adjournment of the 89th Congress), the Department of State should take immediate steps to terminate the Warsaw Convention and The Hague Protocol." (U.S. Congress. Senate, Committee on Foreign Relations, Hague-Protocol to Warsaw Convention, Washington, U.S. Govt. Print. Off., 1965, 10 p. [89th Cong., 1st sess. Senate, Executive Report No. 3]), p. 7.
The one thing which is clear from the precedents cited above is that no single procedure for treaty abrogation by the United States has been undisputably established:

"... An expression of Congressional will that a treaty be abrogated and a direction to the President to terminate a treaty would perhaps be the most effective and unquestionable method so far as this Government is concerned of terminating a treaty...

"It would seem to be clear that the power that makes the treaty can likewise revoke it; in other words, that the President, acting in conjunction with the Senate of the United States, would be authorized to terminate a treaty to which the United States is a party...

"A third method of terminating a treaty is by notice given by the President upon his own initiative without either a resolution of the Senate or the joint resolution of the Congress...

"It is thus seen that there are three methods of terminating a treaty, so far as the United States is concerned, and that the choice of method would seem to depend either upon the importance of the international question or upon the preference of the Executive." 84

The President, or any other agent acting under the President's orders, transmits notice of treaty termination, because the executive branch is the only one which carries on correspondence with foreign governments. The question which arises, however, is whether the President may act entirely on his own initiative and authority in giving such notice, or whether he needs the authorization of the Senate or the whole Congress.

Edward Corwin clearly asserts that "all in all, it appears that legislative precedent, which moreover is generally supported by the attitude of the Executive sanctions the proposition that the power of terminating the international compacts to which the United States is party belongs, as a prerogative of sovereignty, to Congress alone." 85 Most other scholars appear to disagree with this view and contend that it is within the power of the President to terminate treaties by giving notice on his own initiative without previous Congressional or Senatorial action. 86 Louis Henkin unequivocally states that "since the President acts for the United States internationally he can effectively terminate or violate treaties, and the Senate has not established its authority to join or veto him." 87 Randall Nelson argues that because the Constitution does not place express limits upon the President's power to abrogate treaties, no such limitation was meant to be placed upon him. 88

Neither practice nor opinion give the President exclusive power to terminate treaties, however. Most scholars agree that a strong case can be made in principle for the view that treaties should be terminated by the treaty-making power— that is, the President with the advice and consent of the Senate. 89 William Howard Taft was an especially strong spokesman for this method of treaty termination:

"The treaty-making power is in the President and two-thirds of the Senate, and not in Congress. The abrogation of a treaty involves the exercise of the same kind of power as the making of it." 90

In practice, however, this method of treaty termination has been used only twice.

84 Memorandum of the Solicitor for the Department of State (Scott), June 12, 1909, MS, Department of State, File 20158, cited in Hackworth Digest, v. 5, p. 319.
87 Foreign Affairs and the Constitution, p. 169.
88 Nelson Termination, p. 887.
Another strong argument can be made to deny to the President alone the power to abrogate a treaty since the provisions of a treaty are the supreme law of the land. Constitutionally only Congress has the power to repeal federal laws. Thus only Congress would appear to have the power to terminate the municipal law aspect of a treaty.

From the above discussion it is clear that any of the possible methods for terminating a treaty involve potential constitutional difficulties. There has never been a court decision which clearly held that any one procedure for treaty termination was the only constitutional method for effecting termination of a treaty.

The lack of a settled procedure may occasionally lead to political impasses, but this has been the exception rather than the rule in the case of past treaty abrogations. Where conflict arises between the President and the Senate or Congress over the question of abrogation of a treaty, and the Presidents acts contrary to the wishes of the Senate or Congress, there is no way for these bodies to stop him. He might be impeached. However, once notice of termination has been sent no other body has the power to recall it, and the other state has no right to question the constitutional validity of the President’s action.

Congress has, of course, the power to breach treaties by refusing to pass implementing legislation or by enacting legislation which is inconsistent with treaty obligations. Moreover, Congress can declare war and terminate or suspend treaty relations with other belligerents. Moreover, various precedents show that Congress, in one instance at least, has claimed to have the power to abrogate treaties for the United States. More often Congress has claimed to have the power to direct the President to give notice. In practice Presidents have usually chosen to comply with congressional desires concerning abrogation of treaties.

There are perhaps other meaningful remedies available to Congress or the Senate besides impeachment. Louis Henkin has indicated, for example, that the “President could not lightly disregard the sense of Congress especially if both Houses have joined, claimed constitutional power, and publicly proclaimed a call for radical action.” (Henkin, Louis, Foreign Affairs and the Constitution, p. 170.) Moreover, recent court cases which have upheld the standing of individual Members of Congress to sue the Executive are worth noting. See Mitchell v. Laird, No. 71-1510 (U.S.D.C.D.C. Mar. 20, 1973); Kennedy v. Sampson, 364 F. Supp. 1075 (1973); and Nader v. Bork, 366 F. Supp. 104 (1973).
Questions Submitted by Senator Javits to Assistant Secretary Ingersoll

and His Responses

Question 1. The SEATO Treaty grew out of the Korean War and the approach of our government at that time to the People's Republic of China. Now that relations are being normalized with the People's Republic of China, and now that history has given new light on the assumptions concerning Chinese military intentions and capabilities respecting Southeast Asia, what is the strategic rationale for continuing SEATO?

Answer. The concept of the Southeast Asia Collective Defense Treaty, more commonly called the Manila Pact, grew out of the success of NATO and the lessons learned from the Korean War and the French defeat at Dienbienphu. It was a treaty designed primarily as a tool to prevent armed communist aggression in Southeast Asia. The deterrence to a potential aggressor lay in making clear that it would have to reckon with the parties to the treaty.

While all members of SEATO recognize there have been shifts in the balance of power and changing relationships within the area over the twenty years since the Manila Pact was signed, the Manila Pact continues to play a stabilizing role and symbolize our presence in the region. It is a sharing of responsibilities with friends who are growing progressively stronger but who still look to the established defense relationships with the U.S. for their security.

Given the lack of an alternative security arrangement and the still uncertain future of Southeast Asia, we should steer a careful course of gradually shifting the burdens and responsibilities of security to the countries of the area, maintaining the Manila Pact as part of the equilibrium in the transition process.

Finally, the Manila Pact, and SEATO provide Thailand, a core country of Southeast Asia, with an undergirth of multinational support thereby helping it adjust to the future. Whatever our relationships with the People's Republic of China and the Soviet Union, Thailand still regards SEATO as strengthening its security while it works out its own relationship with the People's Republic of China and other neighbors. In addition, we believe other countries in the region which are not members of SEATO also draw comfort from the treaty's deterrent effect.

Question 2. The SEATO Treaty was invoked by the Johnson Administration as an ex post facto justification for intervening massively in Vietnam—probably the most damaging strategic blunder in our nation's history—what assurance would the Congress and the nation have that the SEATO Treaty might not be again invoked in a similar fashion by a future Administration?

Answer. With respect to your reference to the Southeast Asia Collective Defense Treaty in the context of Vietnam, the Treaty was, of course, not cited as the sole justification for our military involvement there but was cited in conjunction with the Gulf of Tonkin Resolution and the President's authority under the constitution as Chief Executive and Commander in Chief. With respect to any possible future situation in which the Treaty might be applicable, it seems to me the assurances you seek are to be found within the checks and balances of our constitutional system. The Treaty provides that action to meet aggression by armed attack will be taken in accordance with our constitutional processes and does not itself either add to or detract from the inherent constitutional authority of either the President or the Congress. Thus both the Executive and Legislative Branches are free to fully exercise their respective constitutional functions. In this connection, I would add the observation that the question of future military actions must, of course, be viewed in the prevailing legislative context which includes certain limitations on the use of American combat forces abroad.

Question 3. Since Pakistan, France and Britain have disengaged themselves from SEATO as a military treaty, what justification is there for continuing it?

Answer. Pakistan is the only country among the original members to have given official notice of its intention to withdraw from the Manila Pact as of November 8, 1973. Pakistan's preoccupation with India and later its own de-
veloping relationship with China set it apart from other SEATO members in the early sixties, and it has been some years since Pakistan has played an active role in SEATO deliberations. Bangladesh's declaration of independence took away the last justification for Pakistan's remaining in a Southeast Asian organization.

In contrast to Pakistan, France's recent announcement of withdrawal from SEATO applies only to the organization, not to the Manila Pact itself. France, objecting to SEATO activities in Viet-Nam, has not been active in SEATO high level deliberations or military exercises since the mid-sixties. It still attends, however, Council Representative meetings in Bangkok.

The United Kingdom remains an active member of the Manila Pact and SEATO including scheduled military exercises.

The justification for continuing our membership in the Manila Pact is explained in the response to Question 1. Pakistan's and France's decisions regarding SEATO have had little more than a budgetary impact on SEATO's current policies and activities and no impact on our own role in the Manila Pact and SEATO.

Also, we believe that the determination of SEATO's future should be on the basis of a consensus approach by its members rather than a unilateral U.S. action. The consensus approach worked very well during last year's effort to streamline the organization. Australia and New Zealand, two previous critics of the SEATO organization, indicated their satisfaction with the changes made by affirming in the ANZUS Communique of February 27, 1974 that the structure and role of SEATO was now better suited to today's conditions and that the commitment represented in the treaty remained important to the region.

Question 4. What civilian functions now being carried on under the SEATO rubric could not be pursued under some other proper auspices? If any, please explain which and why.

Answer. SEATO accords priority to granting economic and social assistance to projects at the grass roots level which contribute to improving living standards in rural areas of Thailand and the Philippines, especially those involving cooperative management and other forms of popular participation. SEATO has also provided a number of scholarships and fellowships in Thailand and the Philippines for university and post graduate study; in the future it plans to concentrate on educational assistance to primary and vocational education in rural areas. SEATO's grants are small ($1,000-20,000) but give SEATO the advantage of providing financial assistance to small scale projects and to education which other multilateral organizations find administratively too modest to consider. Such projects have a local impact far exceeding their dollar value.

Question 5. Does the Administration construe the SEATO Treaty as providing a U.S. security commitment to Thailand? If so, give particulars in detail as well as specific citations from the language of the Treaty in support of such a construction of the Treaty.

Answer. The Southeast Asia Collective Defense Treaty, to which the United States Senate gave its advice and consent, and to which Thailand is a party, is the only United States defense commitment to Thailand. Article IV(1) of that Treaty provides that "Each party recognizes that aggression by means of armed attack in the Treaty area against any of the Parties . . . 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 processes." Article IV(2) provides for consultation by the Parties in the event a party considers the inviolability, territorial integrity, sovereignty or political independence of any Party is threatened other than by armed attack. The United States executed the Treaty with the understanding that its recognition of the effect of aggression and armed attack and its agreement with reference thereto in Article IV(1) applied only to communist aggression; in the event of other aggression or armed attack, it will consult under the provisions of Article IV(2).

Question 6. Should the Congress direct the Administration to withdraw from SEATO in accordance with Article 10 of the Treaty, would the Administration propose a new, bilateral security treaty with Thailand? Would there by any proposal to enter into a security arrangement with Thailand other than as a treaty to be ratified by the Senate as provided by the Constitution or as an executive agreement under a resolution of approval by both Houses?
Answer. Thailand, under its new civilian government, continues to regard SEATO as necessary to the development and preservation of peace and stability in Southeast Asia. Thailand supports SEATO's adaptation to the changing situation in the area and in the world and does not consider SEATO an obstacle to its efforts to improve her relations with her neighbors including the People's Republic of China. A United States initiative to withdraw from SEATO would undermine the growing confidence with which Thailand and other countries in Southeast Asia are moving to develop friendly relations with their communist neighbors and to strengthen their ability to assure their own security. We believe that it is in the interest of the United States that these favorable trends continue and that the United States continue to be a party to the South East Asia Collective Defense Treaty. In view of the changing circumstances in Thailand and in Southeast Asia and the major unsettling effect which a U.S. withdrawal from SEATO would have, it is not possible to predict whether Thailand, which expects to have a new government later this year, would wish to seek a new bilateral security treaty with the United States.

We believe the effects of a U.S. withdrawal from SEATO would be detrimental to U.S. interests, but we are not able to say at this time how the United States should respond to such a contingency. We see no need to replace the SEATO Treaty and hope that we will not find ourselves in the position of having to consider the question of undertaking any new defense commitment to Thailand. With respect to your second question, however, we certainly regard defense commitments similar to that in SEATO as properly constituting defense treaties and would expect that any such new commitment which might be proposed would be submitted as a treaty for the advice and consent of the Senate.