

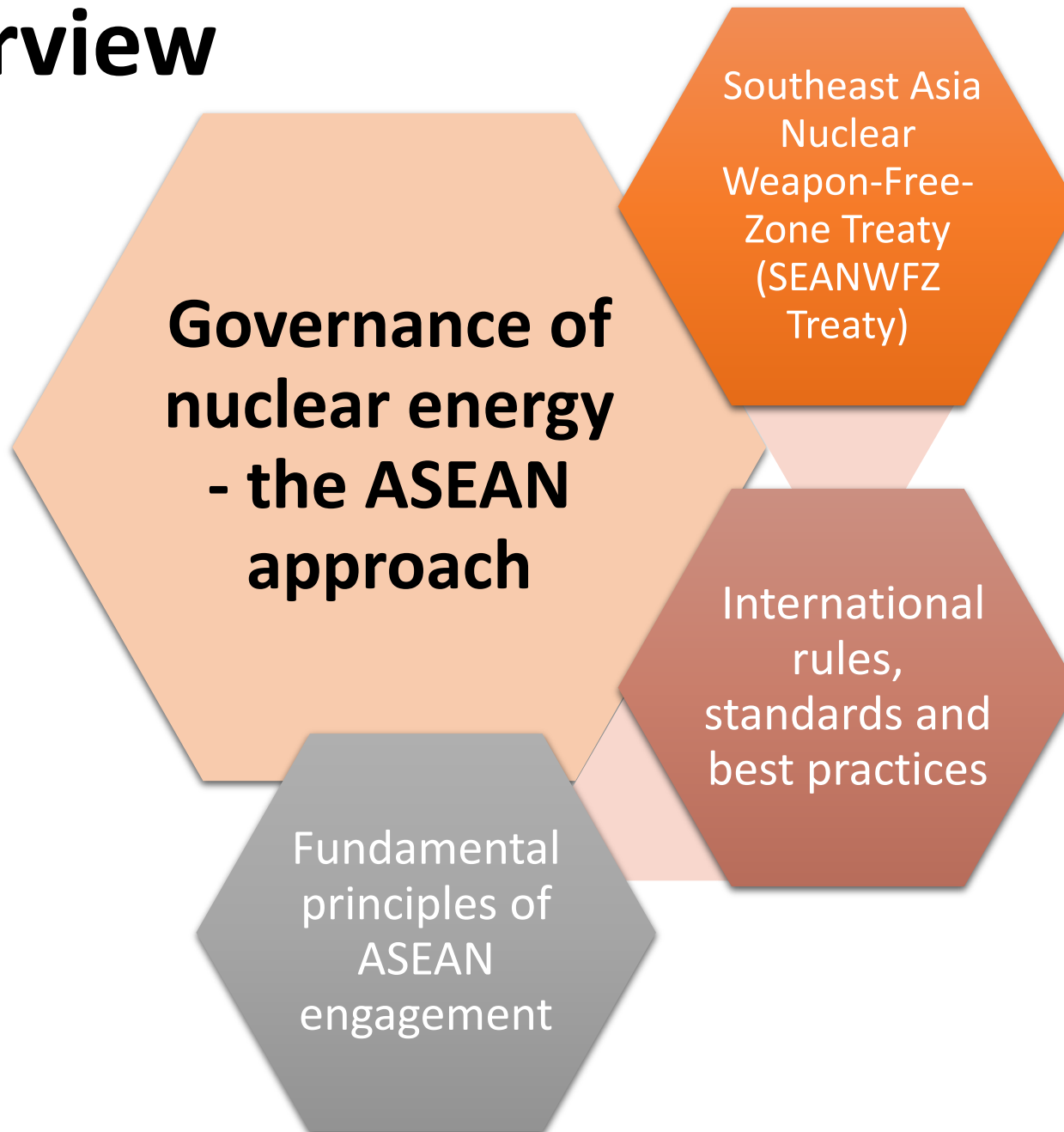
ESI-CIL Nuclear Governance Project

A multidisciplinary research project by the Energy Studies Institute & Centre for International Law

Governance of Nuclear Energy - the ASEAN Approach

An Analysis of ASEAN Instruments of Relevance

Overview



Role of the SEANWFZ Treaty

Art 4 Use of Nuclear Energy for Peaceful Use

1. *Nothing in this Treaty shall prejudice the right of the States Parties to use nuclear energy....*
2. *Each State Party therefore undertakes:*
 - a. *to use exclusively for peaceful purposes nuclear material and facilities....;*
 - b. *prior to embarking on its peaceful nuclear energy programme, to subject its programme to **rigorous nuclear safety assessment conforming to guidelines and standards recommended by the IAEA....;***
 - c. *upon request, to make available to another State Party the assessment except.....;*

Role of the SEANWFZ Treaty

Key Features:

- Exceptional for a NWFZ treaty
- Strong compliance mechanisms
 - Fact-finding (Art 13)
 - Remedial measures (Art 14)
 - Clarification (Art 12)
 - Report and Exchange of information (Art 11)

Role of the SEANWFZ Treaty

Scope of Article 4:

- Non-self-executing nature
 - Ambiguities
 - Role of the SEANWFZ Plan of Action
 - Role of SEANWFZ Commission; SEANWFZ Committee; ASEANTOM
- Limited to safety

Role of the SEANWFZ Plan of Action & Sectoral Bodies

Implementing role of POA 2018-2022

- Accession to (i) Early Notification Convention and (ii) Convention on Nuclear Safety
- Accession to list of other recommended instruments
- Strengthen ASEAN mechanisms to contribute to the eventual development of a regional nuclear safety regime to regulate and oversee the safety assessment requirements

Implementing role of sectoral bodies

- SEANWFZ Commission and Committee
- ASEANTOM, NEC-SSN

Opportunities and Challenges

Requires further
implementation for
enforceability

Does not cover
nuclear security and
liability

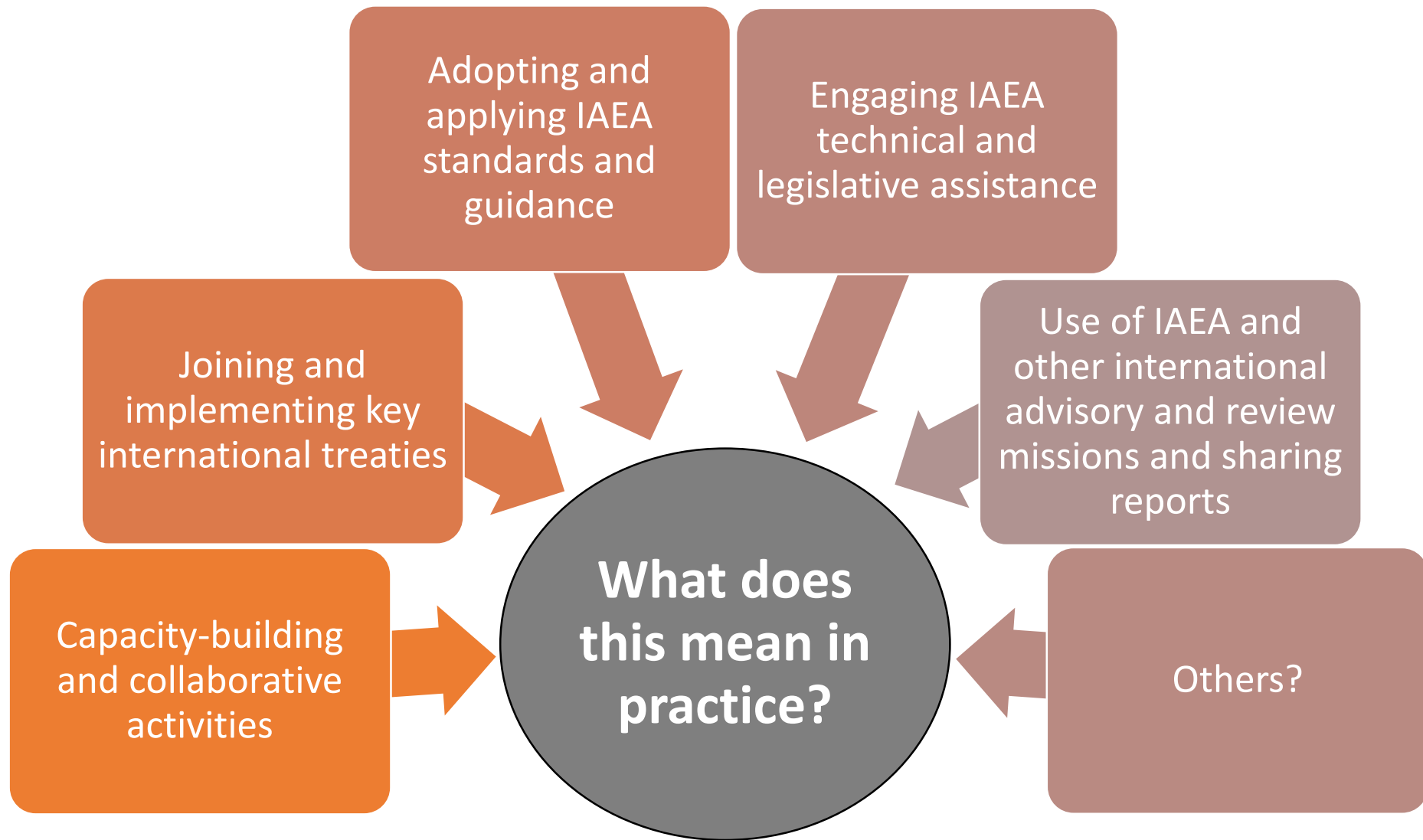
Potential to expand SEANWFZ legal and
institutional framework to encompass nuclear
security and liability for ASEAN and broader
region?

Relationship to International Rules, Standards and Best Practices

ASEAN approach to safety and security is to follow international rules, standards and best practices

- SEANWFZ Treaty and Plan of Action
- Chairman's Statement, 13th ASEAN Summit
- ASEAN Convention on Counter-Terrorism
- Bali Concord III & Phnom Penh Declaration on ASEAN: One Community, One Destiny
- ASEAN Charter & Blueprints

Relationship to International Rules, Standards and Best Practices



Opportunities and Challenges

Agree on practical measures and priority areas/issues and implement!

Coordinate activities and share information across sectors and pillars

Maximise capacity-building and networking opportunities

ASEAN common position to engage broader region?

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OTHERS



ASEAN

Brunei, Cambodia, Indonesia, Laos, Malaysia, Myanmar, Philippines, Singapore, Thailand, Vietnam



Fundamental Principles of ASEAN Engagement

Contribute to strength, solidarity and closer relationship

Strengthen good neighbourliness and cooperation

Adhere to rule of law and good governance

Uphold international law

Support regular consultations with view to coordinating views and actions

Key ASEAN instruments:

ASEAN Charter; Treaty of Amity and Cooperation in Southeast Asia; Declaration on ZOPFAN; Bangkok Declaration; Blueprints

Opportunities and Challenges

Need to apply to
decision making

- When faced with a governance gap

Basis for engaging
others in broader
region with
common values

- Treaty of Amity and Cooperation in Southeast Asia

Conclusion

- ❖ ASEAN approach is to follow international rules, standards and best practices for safety and security
- ❖ SEANWFZ Treaty offers a potentially robust legal framework but needs further implementation and focused only on safety
- ❖ Comprehensive institutional framework exists but requires coordination across sectors/pillars
- ❖ ASEAN common position(s) facilitate engagement with broader region over longer term

THE END

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