

ISSN 0145-8841



# THE LATIN AMERICAN NUCLEAR-WEAPON-FREE ZONE

Alfonso García Robles

OCCASIONAL PAPER **19**

THE STANLEY FOUNDATION  
MUSCATINE, IOWA 52761, USA

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## PREFACE

The Stanley Foundation\* publishes this Occasional Paper on the Latin American nuclear-weapon-free zone as part of a continuing effort to disseminate pertinent information about the vital issue of nuclear weapons proliferation. Several previous Occasional Papers have been published on the Non-Proliferation Treaty and on nuclear-weapon-free zones. In addition the Foundation has sponsored several Vantage Conferences on these topics and published the proceedings following each of them. The Foundation is pleased to present this essay by Ambassador García Robles, a revered statesman in the field of disarmament and, therefore, eminently qualified to address the subject.

Ambassador Alfonso García Robles is chairman of the Delegation of Mexico to the Committee on Disarmament and former Foreign Minister of Mexico. He received his Doctor of Law Degree *magna cum laude* from Paris University in 1936 and the Academy of International Law, The Hague, in 1938. Ambassador García Robles is widely considered the prime mover in events leading to the signing of the Treaty for the Prohibition of Nuclear Weapons in Latin America (Treaty of Tlatelolco) in 1967.

The Stanley Foundation Occasional Papers are policy-oriented essays concerning the improvement and development of international organization more adequate to manage international crises and global change or dealing with specific topical studies of US Foreign policy.

The views expressed in this paper are those of the author and are not necessarily the views of The Stanley Foundation.

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\*See inside back cover for description of Stanley Foundation activities designed to encourage study, research, and education in the field of foreign relations. Please note that The Stanley Foundation is not a grant-making organization.

## INTRODUCTION\*

We are pleased to include *The Latin American Nuclear-Weapon-Free Zone* in The Stanley Foundation Occasional Paper series. Its author, Alfonso García Robles, is rightfully called the "father of the Tlatelolco Treaty," being the individual most responsible for the successful negotiation of the agreement also known as the Treaty for the Prohibition of Nuclear Weapons in Latin America.

We believe and hope the author's narration of the lengthy and complex process leading to the Latin American treaty may prove helpful to those interested in negotiating other nuclear-weapon-free zones. Growing interest in this approach to controlling the spread of nuclear weapons can be seen in the resolutions of the 33rd UN General Assembly supporting the creation of nuclear-weapon-free zones in the Middle East, South Asia, and Africa, and in renewed calls for support of the Latin American Nuclear-Weapon-Free Zone.

Arms limitation and disarmament in the Latin American region (both nuclear and conventional) has been a subject of long interest to The Stanley Foundation. As early as 1966, the Foundation sponsored a conference on Proliferation Unlimited. One of the discussion groups focused on "Nuclear Proliferation in Latin America." In later years this was followed by a discussion group on "Conventional Arms Limitation in Latin America," a conference on "Nuclear-Weapon-Free Zones," a conference on "U.S. Nuclear Policy in Latin America," and a conference on "Energy and Nuclear Security in Latin America." Limitation of nuclear proliferation has also been considered at many of the Foundation's Conferences on the United Nations of the Next Decade and Strategy for Peace Conferences.

Publication of this paper is particularly timely, due to several recent and important events relative to the Tlatelolco Treaty. In April 1977, the Carter Administration decided to sign and seek the advice and consent of the US Senate for ratification of the Treaty's Protocol I (for states having territorial interests in the Americas). In late 1977 Argentina announced its intent to ratify, thereby placing itself in the same posture relative to the Treaty as that of Brazil. In May 1978, France announced it would sign and ratify Protocol I and the Soviet Union agreed to do the same with respect to Protocol II (designed for nuclear weapon states).\*\* These actions move the Treaty closer to full implementation applicable to the entire Latin America area, including Argentina, Brazil, and Chile, which have not ratified the Non-Proliferation Treaty of 1968 (NPT).

Nuclear-weapon-free zones deserve serious consideration during the next few years, along with other non-proliferation efforts, including the

completion of the International Nuclear Fuel Cycle Evaluation (INFCE), the NPT Review Conference, the safeguard activities of the International Atomic Energy Agency (IAEA), and perhaps a conference on international cooperation in the peaceful uses of nuclear energy sponsored by non-aligned nations.

Perhaps in the long run it is not unrealistic to hope that the Latin American Treaty can be instrumental in stimulating, in the words of our author, "a gradual broadening of the zones of the world from which nuclear weapons are prohibited to a point where the territories of powers which possess these terrible weapons of mass destruction will be something like contaminated islets subject to quarantine."\*\*\*\*

\*This introduction represents the views of the editor, John R. Redick.

\*\*Subsequently both countries ratified the Protocols.

\*\*\*Alfonso García Robles, Speech before the United Nations (A/C.1/PEV2018 November 13, 1974, page 32.)

## THE LATIN AMERICAN NUCLEAR-WEAPON-FREE ZONE

It seems advisable to point out from the outset that the Latin American nuclear-weapon-free zone has the privilege of being the only one in existence which covers densely inhabited territories. Outside it only in Antarctica and the Outer Space are similar prohibitions in force, based on treaties concluded in 1959 and 1967, respectively.

The official title of the treaty which established the Latin American zone and defined its statute is the "Treaty for the Prohibition of Nuclear Weapons in Latin America," but it is usually referred to as the "Treaty of Tlatelolco," employing the Aztec name for the district of the Mexican capital where the Ministry of Foreign Affairs of Mexico is located and where the treaty itself was opened to signature twelve years ago (1967).

The modest purpose of this study is to provide a synoptic view both of its genesis and of the most salient features which the analysis of its provisions may reveal.

### I. Genesis of the Treaty of Tlatelolco

The first international document in the history of the events directly related to the genesis of the Treaty of Tlatelolco was the Joint Declaration of 29 April 1963. In this declaration the presidents of Bolivia, Brazil, Chile, Ecuador, and Mexico announced that their governments were willing to sign a Latin American multilateral agreement by which they would undertake not "to manufacture, store, or test nuclear weapons or devices for launching nuclear weapons."

Seven months later, the United Nations General Assembly, taking as a basis a draft resolution submitted by eleven Latin American countries (the five previously mentioned, plus Costa Rica, El Salvador, Haiti, Honduras, Panama, and Uruguay), approved on 27 November 1963 resolution 1911 (XVIII). In this resolution *inter alia* the General Assembly welcomed the initiative of the five Presidents for the military denuclearization of Latin America; expressed the hope that the States of the region would initiate studies "concerning the measures that should be agreed upon with a view to achieving the aims" of the joint declaration, and requested the Secretary-General of the United Nations to extend to the States of Latin America, at their request, "such technical facilities as they may require in order to achieve the aims set forth in the present resolution."

Almost one year elapsed between the adoption of this General Assembly resolution and the next step worth mentioning in a review of the antecedents of the treaty. This interval was not wasted, however. The Mexican Government put it to good use with active diplomatic consultations which resulted in the convening of a Latin American conference known as the "Preliminary Session on the Denuclearization of Latin America" (or REUPRAL, its Spanish acronym). Meeting in Mexico City from 23 to 27 November 1964, REUPRAL adopted a measure which was later to prove decisive for the success of the Latin American enterprise—the creation of an *ad hoc* organ, the "Preparatory Commission for the Denuclearization of Latin America" (known also by its Spanish acronym, COPREDAL). The Preparatory Commission was specifically instructed (in the same resolution whereby it was established) "to prepare a preliminary draft of a multilateral treaty for the denuclearization of Latin America, and to this end, to conduct any prior studies and take any prior steps that it deems necessary."

COPREDAL had its first session in Mexico City from 15 to 22 March 1965. In this session, the Commission adopted its rules of procedure and set up four subsidiary organs: a Coordination Committee and three working groups. Subsequently the Commission would create another subsidiary organ—the "Negotiating Committee."

The Preparatory Commission held a total of four sessions, the last of which took place just under two years after its creation, from 31 January to 14 February 1967. Contrary to what has generally happened with other disarmament treaties and conventions, the draft articles for the future treaty dealing with verification, inspection, and control were the first to be completed at the second session of the Commission (23 August—2 September 1965), at that time a full declaration of principles was also drafted to serve as a basis for the Preamble of the draft treaty.

During its third session, COPREDAL received from its coordinating committee a working paper which contained the complete text of a preliminary draft for the treaty that the Commission had received the mandate to prepare. This draft, together with other proposals submitted by member States, provided the basis for the deliberations of the session. Their result was the unanimous approval of a document entitled "Proposals for the Preparation of the Treaty for the Denuclearization of Latin America" which played as prominent a role in the history of the treaty as that of the Dumbarton Oaks proposals in the history of the United Nations. These "Proposals" included all provisions which might prove necessary for the treaty as a whole, although in some cases COPREDAL, not having been able to find solutions satisfactory to all, had been obliged to present to the Governments two parallel alternatives.

From those few pending questions which the Commission would be

called upon to solve at its fourth session, the most important one was the entry into force of the treaty. This issue probably provoked the greatest discussion in COPREDAL's proceedings. Because of this problem and due to the positive precedent established by COPREDAL's solution to the problem, it is worth examining the proceedings in somewhat greater detail.

When the Preparatory Commission considered this subject in April 1966, two distinct views became apparent. According to the first view, the treaty should come into force (between States which would ratify it) on the date of deposit of their respective instruments of ratification, in keeping with standard practice. The representative Latin American body (which would be) established by the treaty should begin to function as soon as eleven instruments of ratification were deposited, as this number constituted a majority of the twenty-one members of the Preparatory Commission. Those States supporting the alternative view argued that the treaty, although signed and ratified by all Member States of the Preparatory Commission, should enter into force only upon completion of four requirements, essentially those defined in article 28 of the treaty. These four requirements may be summarized as follows: the signature and ratification of the Treaty of Tlatelolco and its Additional Protocols I and II by all States to which they were opened, and the conclusion of bilateral or multilateral agreements concerning the application of the Safeguards System of the International Atomic Energy Agency by each party to the treaty.

As a result of these differing views COPREDAL was obliged to present, in its proposals, two parallel texts. These texts stated respectively the provisions that the treaty would contain, according to whether one accepted the first or second thesis. To solve the problem, the Coordinating Committee, in its report of 28 December 1966, suggested the adoption of a conciliatory formula, which could receive the approval of all Member States of the Commission without detriment to their respective positions on the alternative texts. It was this formula, with some modifications, which was finally adopted and incorporated into article 28 of the treaty. In keeping with it, the treaty would go into effect for all States that had ratified it upon completion of the four requirements specified in paragraph 1 of article 28. That notwithstanding, the second paragraph of the article states:

"All signatory States shall have the imprescriptible right to waive, wholly or in part, the requirements laid down in the preceding paragraph. They may do so by means of a declaration which shall be annexed to their respective instrument of ratification and which may be formulated at the time of deposit of the instrument or subsequently. For those States which exercise this right, this Treaty shall enter into force

upon deposit of the declaration, or as soon as those requirements have been met which have not been expressly waived.”

Moreover, the third paragraph of the same article stipulates:

“As soon as this Treaty has entered into force in accordance with the provisions of paragraph 2 for eleven states, the Depositary Government shall convene a preliminary meeting of those States in order that the Agency may be set up and commence its work.”

As one can see, an eclectic system was adopted, which, while respecting the viewpoints of all signatory States, prevented nonetheless any particular State from precluding the enactment of the treaty for those which would voluntarily wish to accept the statute of military denuclearization defined therein.

The Treaty of Tlatelolco has thus contributed effectively to dispel the myth that for the establishment of a nuclear-weapon-free zone it would be an essential requirement that all States of the region concerned should become, from the very outset, parties to the treaty establishing the zone. The system adopted in the Latin American instrument proves that, although no State can obligate another to join such a zone, neither can one prevent others wishing to do so from adhering to a regime of total absence of nuclear weapons within their own territories.

Once the question of the entry into force of the treaty had been settled, at the fourth session of COPREDAL, the Preparatory Commission proceeded to settle, without major difficulties, the few other pending problems. On 12 February 1967, the Treaty for the Prohibition of Nuclear Weapons in Latin America was unanimously approved and two days later, at the solemn closing ceremony of the Commission's proceedings, it was opened to signature and subscribed to by the representatives of fourteen of its twenty-one members. As of November 1978, eleven and a half years later, the number of signatory states stands at twenty-five, of which twenty-two are already parties to the treaty.

Additional Protocol I which is open to the four States—United Kingdom, Netherlands, United States, and France—which are internationally responsible for territories lying within the limits of the geographical zone established in the treaty, has been signed and ratified by the United Kingdom and the Netherlands. The United States has also signed it and the ratification process is at present well advanced. As France, its President announced on 25 May 1978, in his statement before the General Assembly devoted to disarmament, that the French Government intends to adhere to it at an early date.

Four of the five nuclear-weapon States, the United Kingdom, the United States, France, and China, are already parties to Additional Protocol II which is destined for them. The fifth of those States, the

Soviet Union, has signed it on 16 May 1978, during the visit of the President of Mexico to the Soviet Union. In the light of the declarations made by the highest Soviet authorities on that occasion, it seems most probable that the ratification of the Protocol will be forthcoming.

As provided for in paragraph 3 of article 28 previously quoted, as soon as the treaty entered into force for eleven States, the Depositary Government convened a “preliminary meeting” of those States in order to set up the Agency for the Prohibition of Nuclear Weapons in Latin America, known by its Spanish acronym OPANAL. This preliminary meeting (REOPANAL) took place in late June 1969 and carried out successfully all the preparatory work necessary for the first session of the General Conference of OPANAL. The latter was inaugurated on 2 September 1969 in the presence of U Thant, the then Secretary-General of the United Nations, and Sigvard Eklund, the Director General of the International Atomic Energy Agency (IAEA). After seven working days the General Conference gave its approval to a series of basic juridical and administrative documents which provided the foundations for the Latin American Agency created by the treaty. To date the General Conference has held five regular sessions and two special sessions in accordance with the provisions of article 9.

## II. Analytical Summary of the Treaty of Tlatelolco

As a complement to the above brief survey of the preparatory work leading to the conclusion of the Tlatelolco Treaty, the following paragraphs are intended to give a general idea of its contents and to carry out a brief analytical summary of some of its main provisions.

The treaty comprises a preamble, thirty-one articles, one transitional article and two additional protocols.

The preamble defines the fundamental aims pursued by the States which drafted the treaty by stating their conviction that:

“The military denuclearization of Latin America—being understood to mean the undertaking entered into internationally in this Treaty to keep their territories forever free from nuclear weapons—will constitute a measure which will spare their peoples from the squandering of their limited resources on nuclear armaments and will protect them against possible nuclear attacks on their territories, and will also constitute a significant contribution towards preventing the proliferation of nuclear weapons and a powerful factor for general and complete disarmament.”



It is also worth noting that the Final Document approved by the special session of the UN General Assembly devoted to disarmament, which met May-June 1978, contains several declaratory statements of a striking similarity to those included in the eleven year old preamble of the Treaty of Tlatelolco:

The Latin American States, for instance, declared themselves convinced:

“That the incalculable destructive power of nuclear weapons has made it imperative that the legal prohibition of war should be strictly observed in practice if the survival of civilization and of mankind itself is to be assured,

“That nuclear weapons, whose terrible effects are suffered, indiscriminately and inexorably, by military forces and civilian population alike, constitute, through the persistence of the radioactivity they release, an attack on the integrity of the human species and ultimately even render the whole earth uninhabitable.”

The United Nations, for its part, has just proclaimed:

“Mankind today is confronted with an unprecedented threat of self-extinction arising from the massive and competitive accumulation of the most destructive weapons ever produced. Existing arsenals of nuclear weapons alone are more than sufficient to destroy all life on earth...

“Unless its avenues are closed, the continued arms race means a growing threat to international peace and security and even to the very survival of mankind...

“Nuclear weapons pose the greatest danger to mankind and to the survival of civilization...

“Removing the threat of a world war—a nuclear war—is the most acute and urgent task of the present day. Mankind is confronted with a choice: we must halt the arms race and proceed to disarmament or face annihilation”.

As to the articles of the treaty, their contents may be described briefly as follows:

Article 1 defines the obligations of the parties. The four following articles (2-5) provide definitions of some terms employed in the treaty: contracting parties, territory, zone of application and nuclear weapons. Article 6 deals with the “meeting of signatories,” while articles 7-11 establish the structure and procedures of the “Agency for the Prohibition of Nuclear Weapons in Latin America” (OPANAL) created by the treaty, and state the functions and powers of its principal organs: the General Conference, the Council and the Secretariat. The five succeeding articles (12-16) and paragraphs 2 and 3 of article 18 describe the functioning of

the “control system,” also established by the treaty. Article 17 contains general provisions on the peaceful use of nuclear energy and article 18 deals with peaceful nuclear explosions.

Article 19 examines the relations of OPANAL with other international organizations, whereas article 20 outlines the measures that the General Conference shall take in cases of serious violations of the treaty, such measures mainly involving simultaneous transmission of reports to the Security Council and the General Assembly of the United Nations. Article 21 safeguards the rights and obligations of the Parties under the Charter of the United Nations and, in the case of States members of the Organization of American States, under existing regional treaties. Article 23 makes it binding for the contracting parties to notify the Secretariat of OPANAL of any international agreement concluded by any of them on matters with which the treaty is concerned.

The settlement of controversies concerning the interpretation or application of the treaty is covered by article 24. Articles 22, 25-27, and 29-31 contain what is generally known as “final clauses” dealing with questions such as privileges and immunities, signature, ratification and deposit, reservations (which the treaty does not admit), amendments, duration and denunciation, and authentic texts and registration. The transitional article specifies that “denunciation of the declaration referred to in article 28, paragraph 2, shall be subject to the same procedures as the denunciation” of the treaty, except that it will take effect on the date of delivery of the respective notification and not three months later as provided in article 30, paragraph 2, for denunciation of the treaty. In paragraph 2 of article 26, the Government of Mexico is designated the “Depositary Government” of the treaty, whereas article 7, paragraph 4, stipulates that the headquarters of OPANAL “shall be in Mexico City.” Finally, article 28 reflects in its text the compromise formula which, as already explained, overcame the most serious obstacle which confronted COPREDAL: the entry into force of the treaty.

As a complement to the preceding brief explanation of the contents of the treaty, it seems advisable to examine more closely a few of its most significant provisions: those dealing with the obligations of the parties, the zone of application of the treaty, the definition of “nuclear weapon,” the system of verification and control and the use of nuclear energy for peaceful purposes. Some comments will also be in order with regard to the two additional protocols to the treaty.

As regards the *obligations* of the parties to the treaty, the Latin American States have drawn up a definition which is undoubtedly one of the most comprehensive ever produced on a world or regional level.

Under article 1 of the treaty, the contracting parties undertake to “use exclusively for peaceful purposes the nuclear material and facilities which

are under their jurisdiction and to prohibit and prevent in their respective territories" both "the testing, use, manufacture, production or acquisition by any means whatsoever of any nuclear weapons" and "the receipt, storage, installation, deployment and any form of possession of any nuclear weapons," by the parties themselves, directly or indirectly, on behalf of anyone else, by anyone on their behalf or in any other way.

The parties also undertake "to refrain from engaging in, encouraging or authorizing, directly or indirectly, or in any way participating in the testing, use, manufacture, production, possession or control of any nuclear weapon."

The provisions of article 4 of the treaty concerning its *zone of application* resulted from the procedure adopted in article 28 for the entry into force of the treaty. This procedure had as a consequence two possible interpretations of the term "zone of application": one entailing a moveable zone, in constant progression, and the other a fixed, clearly defined zone. These two different concepts are outlined, respectively, in paragraphs 1 and 2 of article 4.

The first of these paragraphs [establishing that "the zone of application of the Treaty is the whole of the territories for which the Treaty is in force"] has been used up to the present, and according to what was therein contemplated, the extension and population of the zone has grown gradually as the number of contracting States has increased.

The second paragraph states that, "upon fulfillment of the requirements of article 28, paragraph 1, the zone of application of this Treaty shall also be that which is situated in the western hemisphere within the following limits." Such limits are defined according to a series of geographical co-ordinates that can be easily consulted in the Treaty. It suffices to say that a zone so defined includes considerable areas of the high seas which, in the western part of South America, extend to hundreds of kilometers from the coasts, without naturally implying some pretension of sovereignty or jurisdiction over these sectors.

Moreover, in light of the fact that the northern-most loxodromic line of the zone corresponds to 35 degrees north latitude, the paragraph in which it is explained expressly excepts the continental part of the territory of the United States and its territorial waters. Had this area not been so specified, it would have been included in the Latin American nuclear-weapon-free zone, since it reaches south of the parallel mentioned above.

The definition of the term *nuclear weapon*, which the Preparatory Commission finally approved after considering and rejecting several drafts, is included in article 5 of the Treaty of Tlatelolco. It has the merit of being objective, precise and in accordance with the most recent technological advances. For the purposes of the treaty, "a nuclear

weapon is any device which is capable of releasing nuclear energy in an uncontrolled manner and which has a group of characteristics that are appropriate for use for warlike purposes." In addition, the treaty provides that "an instrument that may be used for the transport or propulsion of the device is not included in this definition if it is separable from the device and not an indivisible part thereof."

As previously mentioned, the provisions on *verification and control* appear in articles 12-16 and article 18, paragraphs 2 and 3. As UN Secretary-General U Thant emphasized in his message to the Preparatory Commission on February 1967, when the treaty was approved, those provisions mark the first time that an international treaty dealing with disarmament measures includes an effective control system with its own permanent organs of supervision. The system calls for the full application of the IAEA safeguards, but its scope is much greater. On the one hand, it is to be used not only to verify "that devices, services and facilities intended for peaceful uses of nuclear energy are not used in the testing or manufacture of nuclear weapons," but also to prevent any of the activities prohibited in article 1 of the treaty from being carried out in the territory of the contracting parties with nuclear materials or weapons introduced from abroad, and to make sure any explosions for peaceful purposes that might be carried out are compatible with article 18 of the treaty. On the other hand, the treaty assigns important functions of control to the three main organs of the Agency for the Prohibition of Nuclear Weapons in Latin America. Moreover, it also provides for the submission by the parties of periodic and special reports, for special inspections under certain circumstances, and for the transmission of the reports on those inspections to the UN Security Council and General Assembly.

From the beginning of the deliberations at the REUPRAL in November 1964, one of the fundamental concerns of the participating States was the use of nuclear energy for peaceful purposes. This was demonstrated by the fact that the first resolution adopted at that meeting applied to this question and spelled out that, "denuclearization" should be understood to mean the absence of nuclear weapons but not, of course, the rejection of the peaceful uses of the atom. On the contrary, in that very same resolution they emphasized the appropriateness of encouraging international co-operation in the peaceful uses of nuclear energy, particularly for the benefit of the developing countries.

Subsequently, the second and third sessions of the Preparatory Commission adopted similar texts which, with slight modifications, were to become one of the paragraphs in the preamble to the treaty, drafted in the following terms:

"...The foregoing reasons, together with the traditional peace-loving

outlook of Latin America, give rise to an inescapable necessity that nuclear energy should be used in that region exclusively for peaceful purposes, and that the Latin American countries should use their right to the greatest and most equitable possible access to this new source of energy in order to expedite the economic and social development of their peoples."

The treaty itself establishes the right, with no limitations other than those that may flow from the obligations assumed under the treaty, to use nuclear energy for peaceful purposes, and specifically provides, in article 17, that:

"Nothing in the provisions of this Treaty shall prejudice the rights of the Contracting Parties, in conformity with this Treaty, to use nuclear energy for peaceful purposes, in particular for their economic development and social progress."

It was precisely for the purpose of avoiding any misunderstanding concerning the scope of the treaty and to indicate clearly that what was intended was not civil denuclearization but only military denuclearization, that the Preparatory Commission decided, at its last session, to change the original name of the treaty from "Treaty for the Denuclearization of Latin America" to "Treaty for the Prohibition of Nuclear Weapons in Latin America."

The desire to encourage and promote the peaceful utilization of nuclear energy could not, however, have led the authors of the treaty to forget its primary object, which is set forth in clear, precise, and unambiguous terms in article 1 of the instrument, by which the contracting parties undertake, *inter alia*, "to refrain from engaging in, encouraging or authorizing, directly or indirectly, or in any way participating in the testing, use, manufacture, production, possession or control of any nuclear weapon."

Thus, when drafting the provisions which would later be included in article 18 dealing with nuclear explosions for peaceful purposes, special care was exercised to avoid any attempts to test or manufacture nuclear weapons under the pretext of carrying out such explosions for peaceful purposes, attempts which would completely negate the fundamental purpose involved, the very *raison d'être* of the treaty.

To this end, the first paragraph of article 18 contains the provision that the contracting parties may carry out explosions of nuclear devices for peaceful purposes, but only if they can show that such explosions are feasible without violation of "the provisions of this article and the other articles of the treaty, particularly articles 1 and 5." In the last analysis this means that the explosions in question may be carried out *directly* by the parties to the treaty only if they do not require the use of a nuclear weapon as defined in article 5 of the treaty.

An objective analysis of article 18 shows, therefore, that its paragraph 1, as the text reads, is clearly subordinated to articles 1 and 5 of the treaty. This means that for one of the contracting parties to carry out directly a peaceful nuclear explosion, it will have to show prior proof that a nuclear weapon will not be required for that explosion; that is to say, in accordance with the objective definition contained in article 5 of the treaty, it will not require "any device which is capable of releasing nuclear energy in an uncontrolled manner and which has a group of characteristics that are appropriate for use for warlike purposes."

Since the consensus of the experts is that this is at present impossible, it must obviously be concluded that the States parties to the treaty will not be able to manufacture or acquire nuclear explosive devices (even though they may be intended for peaceful purposes) unless and until technological progress has developed, for such explosions, devices which cannot be used as nuclear weapons.

There is nothing in the treaty, however, that prevents the States party to the treaty from accepting, as expressly provided in paragraph 4 of article 18, "the collaboration of third parties" (obviously meaning nuclear weapon States) in conducting explosions for peaceful purposes. Such collaboration is possible if States comply with the various obligations specified in paragraphs 2 and 3, which relate to advance information and acceptance of measures of observation, verification, and control to be carried out both by the General Secretary and the Council of OPANAL, and by the International Atomic Energy Agency.

The two *Additional Protocols* to the treaty have identical preambles. Their texts recall UN resolution 1911 (XVIII) and state the conviction that the treaty "represents an important step towards ensuring the non-proliferation of nuclear weapons." The texts also point out that the treaty "is not an end in itself but, rather, a means of achieving general and complete disarmament at a later stage," and finally express the desire to contribute "towards ending the armaments race." The operative parts of the protocols are naturally different from one another, although they have identical duration (the same as that of the treaty) and entry into force for the States which ratify each Protocol (the date of the deposit of the respective instruments of ratification).

Under article 1 of *Additional Protocol I*, those extra-continental States which, *de jure* or *de facto*, are internationally responsible for territories lying within the limits of the geographical zone established by the treaty would, upon becoming parties to the protocol, agree "to undertake to apply the statute of denuclearization in respect to warlike purposes as defined in articles 1, 3, 5 and 13 of the Treaty" to such territories.

One aspect which should be borne in mind is that this protocol does not give those States the right to participate in the General Conference or in

the Council of the Latin American Agency. But neither does it impose on those states any of the obligations relating to the system of control established in article 14 (providing for semi-annual reports), in article 15 (providing for special reports), and in article 16 (providing for special inspections). In addition, the prohibition of reservations included in the treaty's article 27 is not applicable to the protocol. Thus, in the protocol the necessary balance has been preserved between rights and obligations: although the rights are less extensive, the obligations are also fewer.

With regard to *Additional Protocol II*, the obligations assumed by the nuclear powers parties to the protocol are stated in its articles 1 through 3 in the following terms:

—Respecting “in all its express aims and provisions” the “statute of denuclearization of Latin America in respect of warlike purposes, as defined, delimited and set forth” in the Treaty of Tlatelolco.

—Not contributing “in any way to the performance of acts involving a violation of the obligations of article 1 of the Treaty in the territories to which the Treaty applies.”

—Not using or threatening to use “nuclear weapons against the contracting parties of the Treaty.”

### III. Conclusions

The importance of nuclear-weapon-free zones has been emphasized several times by the United Nations. The General Assembly in its resolution 3472 B (XXX) of 11 December 1975 stated that “nuclear-weapon-free zones constitute one of the most effective means for preventing the proliferation, both horizontal and vertical, of nuclear weapons and for contributing to the elimination of the danger of a nuclear holocaust.”

Subsequently, on 30 June 1978 the General Assembly, in the Programme of Action adopted by consensus at its Special Session devoted to disarmament, stressed the significance of the establishment of nuclear-weapon-free zones as a disarmament measure and proclaimed that “the process of establishing such zones in different parts of the world should be encouraged with the ultimate objective of achieving a world entirely free of nuclear weapons.”

The weight which the international community attaches to the Latin American nuclear-weapon-free zone was manifest from the very moment the Treaty of Tlatelolco was presented to the General Assembly. In its resolution 2286 (XXII) of 5 December 1967, the General Assembly welcomed it “with particular satisfaction” and declared that it “constitutes an event of historic significance in the efforts to prevent the proliferation of nuclear weapons and to promote international peace and security.”

Such weight has been once again evidenced when, in the general debate of the special disarmament Assembly, no less than forty-five States had supportive comments for the treaty.

The Treaty of Tlatelolco has shown the crucial importance of *ad hoc* preparatory efforts, such as those carried out for two years by COP-REDAL, in attaining the desired goal. Furthermore, the Latin American nuclear-weapon-free zone which is now nearing completion has become in several respects an example which, notwithstanding the different characteristics of each region, is rich in inspiration. It provides profitable lessons for all States wishing to contribute to the broadening of the areas of the world from which those terrible instruments of mass destruction that are the nuclear weapons would be forever proscribed.