



AGENCY FOR THE PROHIBITION OF NUCLEAR WEAPONS
IN LATIN AMERICA AND THE CARIBBEAN

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**Status of Signatures and Ratifications of Additional Protocols I and II to
the Treaty for the Prohibition of Nuclear Weapons in Latin America and the
Caribbean (Treaty of Tlatelolco)**

Additional Protocol I		
United Kingdom	20-Dec-1967	11-Dec-1969
The Netherlands	15-Mar-1968	26-Jul-1971
United States	26-May-1977	23-Nov-1981
France	2-Mar-1979	24-Aug-1992

Additional Protocol II		
United Kingdom	20-Dec-1967	11-Dec-1969
United States	1-Apr-1968	12-May-1971
France	18-Jul-1973	22-Mar-1974
China	21-Aug-1973	12-Jun-1974
Soviet Union (Rusia)	18-May-1978	8-Jan-1979

United States

At the time of signing Additional Protocol II, on April 1, 1968, the United States of America issued a declaration (see enclosed the full version of the declaration), which states in paragraph 3:

“As regards the undertaking in Article 3 of Protocol II not to use or threaten to use nuclear weapons against the Contracting Parties, the United States would have to consider that an armed attack by a Contracting Party, in which it was assisted by a nuclear-weapon State, would be incompatible with the Contracting Party’s corresponding obligations under Article 1 of the Treaty.”

Paragraph 3 of the statement made by the United States is focused on the consideration that, an armed attack by a State Party to the Treaty of Tlatelolco, with the assistance of a nuclear-weapon State, would be incompatible with its obligations under Article 1 of the Treaty. In other words, for the United States, the fact that a State Party to the Treaty of Tlatelolco would engage in such an act of aggression would amount to a violation of Article 1 by that State Party.

- The wording of the United States declaration is not without caution. The phrase “*would be incompatible with the Contracting Party’s corresponding obligations under Article 1*” is not a clear-cut statement indicating an automatic cessation of the obligation undertaken with the ratification of Additional Protocol II.

- However, the eventual reconsideration of its commitment to Protocol II would be *erga omnes* and not only with regard to the Contracting Party having perpetrated the act of aggression.
- On the other hand, the assurance contained in Additional Protocol II refers to the use or the threat of use of nuclear weapons by any of the States Parties to Protocol II, that is to say, the nuclear-weapon States.
- The potential aggression scenario mentioned in the United States declaration would be perpetrated by a State Party to the Treaty, in other words, a non-nuclear-weapon State.
- Therefore, by withdrawing from the obligation undertaken in Protocol II, the United States would be free to use nuclear weapons against the aggressor State and against any other State Party to the Treaty of Tlatelolco.

The context in which paragraph 3 of the United States statement was created reflected, at the time, the possibility that the confrontation that existed during the context of the so-called “Cold War” could be projected or transferred to the Latin American and Caribbean region with the participation of its States through acts of aggression in said confrontation.

Since the completion of the Treaty of Tlatelolco, more than five decades ago, there has not been a single case of violation of the instrument by any of its Parties. Moreover, nothing in the current political and strategic environment of the Latin American and Caribbean region can justify maintaining paragraph 3 of the declaration issued by the United States at the time of signing and ratifying Additional Protocol II. On the contrary, this unilateral act weakens the Treaty and conditions the granting of negative security guarantees, which is the objective of this Protocol.

By its aim to “exclude or to modify the legal effect” of Protocol II, as clearly explained in Article 2(d) of the Vienna Convention on the Law of Treaties, paragraph 3 of this declaration constitutes a reservation, which goes against Article 28 of the Treaty of Tlatelolco and Article 4 of Protocol II.

Scheinman Note 2023

Regarding the letter addressed by the Special Representative of the President of the United States for Nuclear Nonproliferation, Ambassador Adam M. Scheinman, to the OPANAL Council, as a follow-up to the virtual meeting held on June 28, 2023, the following is highlighted in relation to paragraph 3 of his country's Declaration to Additional Protocol II:

- It notes that the United States are “*aware that reservations are not permitted, pursuant to Article 27(sic) of the Treaty and Article 4 of Additional Protocol II.*”

- It states that when considering and discussing the matter in the framework of the Committee on Foreign Relations of the Senate: “*Officials of the U.S. Government confirmed in testimony that the proposed U.S. statements would not be reservations.*”

- It emphasizes that given that the declaration was incorporated in the Senate resolution which grants consent to ratification and in the instrument of ratification under the heading “understandings and declarations”, “*any revision would [...] therefore require approval by the U.S. Senate, meaning a vote in favor by two thirds of the Senate’s 100 members.*”

Regarding the OPANAL Adjustment proposal, the missive states that:

*“[...] because the Treaty and Protocol are separate instruments, **any such subsequent agreement concerning Additional Protocol II would require agreements of its five parties (the United States, United Kingdom, France, Russia and China)**; so “such agreement is neither politically feasible under current nor foreseeable circumstances [...]”.*

The missive concludes by stating that:

*“[...] the extant U.S. statement on Additional Protocol II does not undermine the security of any Treaty party. Since the Treaty’s entry into force, no Treaty party has taken an action that is incompatible with its Article I obligations, and consequently **the applicability of the U.S. negative security assurance under Additional Protocol II has never been in question.**”*

Although the letter contains statements that had previously been forwarded to OPANAL, such as the fact that any revision or modification of the declaration would have to go through the United States Senate, and that it does not “question the applicability of negative security assurances” towards OPANAL Member States, it contains arguments that cannot be considered as valid.

The sentence *“[...] because the Treaty and Protocol are separate instruments, **any such subsequent agreement concerning Additional Protocol II would require agreements of its five parties [...]”*** is based on an incorrect supposition. Although they are supplementary instruments to the Treaty, the Additional Protocols were not the result of negotiation and/or consensus among the five nuclear-weapon States.

On the contrary, its creation and conception were the result of negotiation among the States Parties to the Treaty, along with consultations and exchange of information with the nuclear-weapon States, who in addition, participated as observers during the entire negotiation process of the Treaty of Tlatelolco.

Russian Federation

At the time of signing Additional Protocol II, on May 18, 1978, the Soviet Union (Russia) issued a declaration (the full version of the declaration is attached), paragraph 2 of which states:

“In signing Additional Protocol II, the Soviet Union proceeds from the premise that at the present time the zone of application of the Treaty includes the territories for which the Treaty is in force, as laid down in article 4, paragraph 1, of the Treaty. The signature by the Soviet Union of Additional Protocol II in no way signifies recognition of the possibility of application of the Treaty, as prescribed in article 4, paragraph 2, beyond the territories of States parties, including the air space and the territorial sea established in accordance with international law.”

Paragraph 2 of the Russian declaration states that the zone of application contained in Article 4, paragraph 2, of the Treaty of Tlatelolco is not established in accordance with international law, and therefore does not recognize such extension.

- None of the provisions of Article 4 of the Treaty of Tlatelolco seeks to claim sovereignty or jurisdiction to the Latin American and Caribbean States over that zone, nor does it extend or justify the extension of their territorial seas.
- The existence of the zone of application does not violate any rule of international law or any existing legal principle.
- The fact that areas of the high seas may be found within the limits of the zone of application of the Treaty does not indicate that said instrument or its States Parties seek to alter the provisions of the United Nations Convention on the Law of the Sea relating to the high seas.
- On the contrary, the extension envisaged in Article 4, paragraph 2, which includes areas of the high seas, responds to one of the objectives of the Treaty: to protect its parties "against possible nuclear attack on their territories" (paragraph 17 of the Preamble of the Treaty).
- Moreover, the Treaty on the Prohibition of the Emplacement of Nuclear Weapons and Other Weapons of Mass Destruction on the Sea-Bed and the Ocean Floor and in the Subsoil Thereof, of which Russia is one of the Depositary States, states in Articles 1 and 2 for the existence of a zone in which nuclear devices may not be placed that is much more extensive than that provided for in Article 4, paragraph 2, of the Treaty of Tlatelolco.

Regarding paragraph 6 of the Russian declaration, it states that:

“Any action taken by one or more States parties to the Treaty of Tlatelolco that is incompatible with its non-nuclear status, and the commission by one or more States parties to the Treaty of an act of aggression in support of a nuclear-weapon State or jointly with that State, will be considered by the Soviet Union as incompatible with the relevant obligations of those countries under the Treaty. In such cases the Soviet Union reserves the right to review its obligations under Additional Protocol II. The Soviet Union also reserves the right to

review its position with regard to Additional Protocol II in the event of any action on the part of other nuclear-weapon States that is incompatible with their obligations under the said Protocol.”

The Russian declaration speaks about the commission of an "act of aggression" by a Party "in support of a nuclear-weapon State or jointly with that State". It also reserves the right to review its position with respect to Protocol II if any of the other parties to the protocol commits any act inconsistent with its obligations. In other words, the Russian declaration is also addressed to the other nuclear-weapon states in the event of non-compliance with their obligations under Protocol II.

- The context in which paragraph 6 of the Russian declaration arose at the time reflected the possibility that the confrontation that existed during the context of the "Cold War" could be projected or transferred to the Latin American and the Caribbean region with the participation of its States through acts of aggression in that confrontation.
- Since the adoption of the Treaty of Tlatelolco, more than five decades ago, no case of violation of the instrument by any of its Parties has been reported. Moreover, nothing in the current political and strategic context of the Latin American and the Caribbean region justifies maintaining paragraph 6 of the declaration issued by Russia at the time of signing and ratifying Additional Protocol II. On the contrary, this unilateral act diminishes the Treaty and conditions the granting of negative security assurances, which is the objective of this Protocol.
- By its determination to "exclude or modify the legal effects" of Protocol II, as clearly explained in Article 2(d) of the Vienna Convention on the Law of Treaties, paragraph 6 of this declaration constitutes a reservation, which is contrary to Article 28 of the Treaty of Tlatelolco and Article 4 of Protocol II.

Other relevant issues

While the Council mandated the Secretary General of OPANAL, in 2015, to elaborate respective memoranda with specific proposals for "Adjustments" to paragraph 2 (Article 4 of the Treaty) and paragraph 6 of the Russian Declaration¹, it is relevant to take into consideration other parts of the declaration that refer to issues on which Russia has repeatedly pronounced itself on different occasions.

Paragraph 1 of the Russian declaration states:

“The Soviet Union proceeds from the principle that article 1 of the Treaty applies, as laid down in article 5 of the Treaty, to any nuclear explosive device and that, consequently, the carrying out by any party to the Treaty of explosions of nuclear devices for peaceful purposes would constitute a violation of its obligations as defined in article 1, and would be incompatible with its non-nuclear status.”

¹ C/29/2016 and C/30/2016

Indeed paragraph 1, concerning peaceful nuclear explosions, was an issue raised by Deputy Foreign Minister Sergei Ryabkov, on March 28, 2023; by the Deputy Director of the Arms Control and Non-Proliferation Department, Mikhail Kondratenkov; in the margins of the First Session of the NPT Preparatory Committee held in Vienna (August 3, 2023); as well as by the Russian Ambassador to Mexico, Nikolay Sofinskiy, on his visit to OPANAL on February 2, 2024.

Russia insists that this is one of the main reasons for maintaining its interpretative declaration. The Russian argument is based on the fact that any peaceful nuclear explosion by a State Party to the Treaty of Tlatelolco would be a violation of Article 1 of the Treaty of Tlatelolco.

- Article 18 of the Treaty of Tlatelolco could be considered as a legal and technical archaism, as it contemplates the "possibility" of carrying out nuclear explosions for peaceful purposes.
- Considering the fact that it is not technically possible to distinguish between a nuclear explosion for peaceful purposes and one for war purposes, no State Party would have an interest in carrying out a nuclear explosion for peaceful purposes.
- In the historical context of the negotiation of the Treaty, this was a provision of broad interest to some States in the region, which no longer applies today.
- A similar provision is included in Article V of the Treaty on the Non-Proliferation of Nuclear Weapons (NPT), of which Russia is a Depositary State, and about which it has not expressed any problems.

All in all, this is an issue that has been overcome in practice and legally, thanks to the adoption in 1996 of the Comprehensive Nuclear-Test-Ban Treaty (CTBT), to which the 33 Member States of OPANAL are also States Parties, and therefore does not constitute a valid argument for Russia to maintain its declaration.

Another topic on which Russia has maintained a relatively consistent position and which it uses to challenge the denuclearized status of the region: the issue of the transit of nuclear weapons. In this regard, paragraphs 4 and 5 of Russia's statement regarding the transport and transit of nuclear weapons state:

“The Soviet Union takes into consideration the interpretation of the Treaty included in the Final Act adopted by the Preparatory Commission for the Denuclearization of Latin America, whereby transport of nuclear weapons by the parties to the Treaty is covered by the prohibitions laid down in article 1 of the Treaty.”

“In the Final Act adopted by the Preparatory Commission for the Denuclearization of Latin America, the Treaty is interpreted to mean that the granting of permission for the transit of nuclear weapons at the request of States not parties to the Treaty falls within the competence of each individual State party to the Treaty. In that connection the Soviet Union reaffirms its position to the effect that to grant permission for the transit of nuclear weapons in any form would violate the spirit of the Treaty which--as expressly stated in its preamble--is that Latin America should be wholly free from nuclear weapons; and would be incompatible with the non-nuclear status of States parties to the Treaty and with their obligations as defined in article 1 of the Treaty.”

The Treaty of Tlatelolco does not expressly refer to the issue of the transit of nuclear weapons in the zone of application, neither to authorize nor to prohibit it. This was not an omission, but something that was considered during the process of elaboration of the Treaty.

In the last phase of the work of the Preparatory Commission for Denuclearization in Latin America (COPREDAL), carried out in February 1967, shortly before the end of the review of the Treaty, a declaration was unanimously approved and included in the Final Act:

"The Commission deemed it unnecessary to include the term 'transport' in article 1 concerning 'Obligations' for the following reasons:

- 1. If the carrier is one of the Contracting Parties, the transport is covered by the prohibitions expressly laid down in the remaining provisions of article 1 and there is no need to mention it expressly, since the article prohibits 'any form of possession of any nuclear weapon, directly or indirectly, by the Parties themselves, by anyone on their behalf or in any other way'.*
- 2. If the carrier is a State not a Party to the Treaty, transport is identical with 'transit' which, in the absence of any provision in the Treaty, must be understood to be governed by the principles and rules of international law; according to these principles and rules it is for the territorial State, in the free exercise of its sovereignty, to grant or deny permission for such transit in each individual case, upon application by the State interested in effecting the transit, unless some other arrangement has been reached in a Treaty between such States".*

The interpretation over the issue of transport of nuclear weapons is clear, since as stated by COPREDAL in the case of the Contracting Parties, transport implies "possession". Therefore, the transport of nuclear weapons by a State Party to the Treaty is strictly prohibited under Article 1. In the case of States not party to the Treaty, including States Parties to Additional Protocols I and II, engaging in the transport of nuclear weapons², the term by which such action would be identified would be transit.

Although the Soviet Union, in its declaration at the time of signing Protocol II, took note of the prohibition of transport as stated by COPREDAL, in its view, if a Contracting

² Article 5 of the Treaty States: *“An instrument that may be used for the transport or propulsion of the device is not included in this definition [nuclear weapons] if it is separable from the device and not an indivisible part thereof.”*

Party grants permission for the transit of nuclear weapons through its territory, it would be in violation of Article 1 of the Treaty.

The problem with the Soviet Union's interpretation lies in the fact that it does not distinguish between the two terms and instead considers transport and transit as synonyms in all cases.

Although this interpretation does not constitute a restriction or opposition to the Treaty of Tlatelolco or its Additional Protocols, Russia has used this issue to question the denuclearized status of Latin America and the Caribbean, as well as the functioning of the Treaty bodies and OPANAL itself to determine cases of possible violation.³

United Kingdom

On 20 December 1967, upon signing Additional Protocols I and II, the United Kingdom of Great Britain and Northern Ireland issued a formal declaration (full version annexed), in which the following was outlined in paragraph *d*:

“in the event of any act of aggression by a Contracting Party to the Treaty in which that Party was supported by a nuclear-weapon State, the Government of the United Kingdom would be free to reconsider the extent to which they could be regarded as committed by the provisions of Additional Protocol II.”

Paragraph *d* of the declaration of the United Kingdom of Great Britain and Northern Ireland notes that an act of aggression by a State Party to the Treaty of Tlatelolco, with the support of a nuclear-weapon State, would be sufficient reason for the United Kingdom of Great Britain and Northern Ireland to reconsider its commitment to the provisions of Additional Protocol II. In other words, if a State Party to the Treaty of Tlatelolco took part in such act of aggression this would constitute a violation of Article 1 by such State Party.

- The wording of the declaration is very similar to that from the United States.
- The sentence “*would be free to reconsider the extent to which they could be regarded as committed*” does not clearly mean an automatic cessation of the obligation undertaken by the ratification of Additional Protocol II.
- However, the eventual reconsideration of its commitment to Protocol II would be *erga omnes*, not only with regard to the Contracting Party having perpetrated the act of aggression.
- On the other hand, the assurance contained in Additional Protocol II refers to the use or threat to use of nuclear weapons by States Party to Protocol II, that is to say, by nuclear-weapon States.
- The aggression referred to in the declaration by the United Kingdom would be perpetrated by a State Party to the Treaty, in other words, a non-nuclear weapon State.
- Therefore, by withdrawing from the obligation under Protocol II, the United Kingdom would be free to use nuclear weapons against the aggressor State and against any other State Party to the Treaty of Tlatelolco.

³ Article 21 of the Treaty contains the measures in case of noncompliance and violation foreseen by the General Conference.

The context in which paragraph d of the United Kingdom declaration was created, reflected, at the time, the possibility that the confrontation that existed during the context of the so-called “Cold War” could be projected or transferred to the Latin American and Caribbean region with the participation of its States through acts of aggression in said confrontation.

Since the completion of the Treaty of Tlatelolco, more than five decades ago, there has not been a single case of violation of the instrument by any of its Parties. Moreover, nothing in the current political and strategic environment of the Latin American and Caribbean region can justify maintaining paragraph d of the declaration issued by the United Kingdom at the time of signing and ratifying Additional Protocols I and II. On the contrary, this unilateral act weakens the Treaty and conditions the granting of negative security guarantees, which is the objective of Protocol II.

By its aim to “exclude or to modify the legal effect” of Protocol II, as clearly explained in Article 2(d) of the Vienna Convention on the Law of Treaties, paragraph d of the declaration by the United Kingdom constitutes a reservation, which goes against Article 28 of the Treaty of Tlatelolco and Article 4 of Protocol II.

On 1 August 2023, the Secretary-General and the Council met with the United Kingdom Delegation led by Ambassador Rebecca Sagar, Head of the Proliferation Security and Arms Control Centre (FCO).

The Delegation of the United Kingdom was receptive to the request and proposal of OPANAL Member States. It stated the shared interest to continue dialogue and that it would seek to study the proposal in more detail in order to find possible ways for mutual understanding, although it was also noted that the United Kingdom was unlikely to consider amending or withdrawing its declaration.

On the contrary, the United Kingdom expressed its intention to seek to better reflect the priority that nuclear-weapon-free zones represent and the respect to its denuclearized status in its nuclear position and to reiterate that its nuclear weapons only serve for defensive purposes and do not threaten non-nuclear-weapon States belonging to free zones with their use, in particular, to the State Parties to the Treaty of Tlatelolco.

France

On 2 March 1979, upon signing Additional Protocols I, France issued a formal declaration (full version annexed), in which the following was outlined in paragraph 2 regarding the zone of application:

“Pursuant to article 4, paragraph 1, of the Treaty, the zone of application of the undertakings arising out of the Treaty consists of the totality of the territories defined in article 3 of the Treaty, it being understood that the legislation referred to in the said article 3 must conform to international law. For the French Government, any zone which is more extensive, specifically the one referred to in article 4, paragraph 2, of the Treaty, cannot be considered as being established in conformity with international law, and consequently the French Government could not agree to the application of the Treaty therein.”

At the time of the signing and ratification of Protocols I and II to the Treaty of Tlatelolco, the United Nations Convention on the Law of the Sea did not exist. Therefore, there was no general agreement on the extent of the territorial sea and the positions of the Latin American and Caribbean States were not uniform in this respect.

Today, practically all the States of the region are Parties to the United Nations Convention on the Law of the Sea of 1982⁴, therefore, they respect the legal provision on the breadth of the territorial sea:

“Every State has the right to establish the breadth of its territorial sea up to a limit not exceeding 12 nautical miles (...).”⁵

- This means that, within the text of the Treaty of Tlatelolco, the term “territory” is fully compatible with current international law.
- Taken in the present context, the declarations about territory are no longer in force, and therefore do not need to be modified or withdrawn.

On August 1, 2023, the Secretary General and the Member States of the Council met with the French Delegation headed by Ambassador Camille Petit, Permanent Representative to the Conference on Disarmament.

France expressed its appreciation for the interest of the OPANAL Member States in establishing a dialogue with France to address the issue of its interpretative declaration to Protocol I of the Treaty of Tlatelolco, which constitutes a reservation that conditions the zone of application of the Treaty that includes areas of the high seas and which in France's opinion represents a claim of sovereignty.

France stated that its position has not changed and that it was unlikely to undergo any change. In addition, France recalled that since 1992 its country has maintained a policy of non-use or threat of use of nuclear weapons, which was formulated within the framework of the Conference on Disarmament and reconfirmed through three different resolutions adopted by the United Nations Security Council in 1995, which are legally binding for all Member States.⁶

Nevertheless, France shares the interest in continuing the dialogue in future opportunities and forums.

⁴ Status on the Convention on the Law of the Sea <https://www.un.org/depts/los/LEGISLATIONANDTREATIES/latinamerica.htm>

⁵ Article 3, Section 2 of the Convention on the Law of the Sea.

⁶ S/RES/984 (1995) and S/1995/264.

ANNEX: Text of the Declarations

Declaration made by the United States of America upon signing the Additional Protocol II to the Treaty of Tlatelolco, 1 April 1968.

In signing Protocol II of the Treaty of Tlatelolco, the United States Government makes the following statement:

I

The United States understands that the Treaty and its Protocols have no effect upon the international status of territorial claims.

The United States takes note of the Preparatory Commission's interpretation of the Treaty, as set forth in the Final Act, that, governed by the principles and rules of international law, each of the Contracting Parties retains exclusive power and legal competence, unaffected by the terms of the Treaty, to grant or deny non-Contracting Parties transit and transport privileges.

As regards the undertaking in Article 3 of Protocol II not to use or threaten to use nuclear weapons against the Contracting Parties, the United States would have to consider that an armed attack by a Contracting Party, in which it was assisted by a nuclear-weapon State, would be incompatible with the Contracting Party's corresponding obligations under Article 1 of the Treaty.

II

The United States wishes to point out again the fact that the technology of making nuclear explosive devices for peaceful purposes is indistinguishable from the technology of making nuclear weapons and the fact that nuclear weapons and nuclear explosive devices for peaceful purposes are both capable of releasing nuclear energy in an uncontrolled manner and have the common group of characteristics of large amounts of energy generated instantaneously from a compact source. Therefore, we understand the definition contained in Article 5 of the Treaty as necessarily encompassing all nuclear explosive devices. It is our understanding that Articles 1 and 5 restrict accordingly the activities of the Contracting Parties under paragraph 1 of Article 18.

The United States further notes that paragraph 4 of Article 18 of the Treaty permits, and that United States adherence to Protocol II will not prevent, collaboration by the United States with Contracting Parties for the purpose of carrying out explosions of nuclear devices for peaceful purposes in a manner consistent with our policy of not contributing to the proliferation of nuclear weapons capabilities. In this connection, the United States reaffirms its willingness to make available nuclear explosion services for peaceful purposes on a non-discriminatory basis under appropriate international arrangements and to join other nuclear-weapon States in a commitment to do so.

III

The United States also wishes to state that, although not required by Protocol II, it will act with respect to such territories of Protocol I adherents as are within the geographical area defined in paragraph 2 of Article 4 of the Treaty in the same manner as Protocol II requires it to act with respect to the territories of Contracting Parties.

*Declaration made by **the United States of America** upon ratifying the Additional Protocol II to the Treaty of Tlatelolco, 12 May 1971:*

I

"That the United States Government understands the reference in Article 3 of the treaty to 'its own legislation' to relate only to such legislation as is compatible with the rules of international law and as involves an exercise of sovereignty consistent with those rules, and accordingly that ratification of Additional Protocol II by the United States Government could not be regarded as implying recognition, for the purpose of this treaty and its protocols, or for any other purpose, of any legislation which did not, in the view of the United States, comply with the relevant rules of international law.

"That the United States takes note of the Preparatory Commission's interpretation of the Treaty, as set forth in the Final Act, that, governed by the principles and rules of international law, each of the Contracting Parties retains exclusive power and legal competence, unaffected by the terms of the Treaty, to grant or deny non-Contracting Parties transit and transport privileges.

"That, as regards the undertaking in Article 3 of Protocol II not to use or threaten to use nuclear weapons against the Contracting Parties, the United States would have to consider that an armed attack by a Contracting Party, in which it was assisted by a nuclear-weapon State, would be incompatible with the Contracting Party's corresponding obligations under Article 1 of the Treaty.

II

"That the United States Government considers that the technology of making nuclear explosive devices for peaceful purposes is indistinguishable from the technology of making nuclear weapons, and that nuclear weapons and nuclear explosive devices for peaceful purposes are both capable of releasing nuclear energy in an uncontrolled manner and have the common group of characteristics of large amounts of energy generated instantaneously from a compact source. Therefore, the United States Government understands the definition contained in Article 5 of the Treaty as necessarily encompassing all nuclear explosive devices. It also understands that Articles 1 and 5 restrict accordingly the activities of the contracting parties under paragraph 1 of Article 18.

"That the United States Government understands that paragraph 4 of Article 18 of the Treaty permits, and that United States adherence to Protocol II will not prevent, collaboration by the United States with Contracting Parties for the purpose of carrying out explosions of nuclear devices for peaceful purposes in a manner consistent with our policy of not

contributing to the proliferation of nuclear weapons capabilities. In this connection, the United States Government notes Article V of the Treaty on the Non-Proliferation of Nuclear Weapons, under which it joined in an undertaking to take appropriate measures to ensure that potential benefits of peaceful applications of nuclear explosions would be made available to non-nuclear-weapon states party to that treaty, and reaffirms its willingness to extend such undertaking, on the same basis, to states precluded by the present treaty from manufacturing or acquiring any nuclear explosive device.

III

"That the United States Government also declares that, although not required by Protocol II, it will act with respect to such territories of Protocol I adherents as are within the geographical area defined in paragraph 2 of Article 4 of the Treaty in the same manner as Protocol II requires it to act with respect to the territories of Contracting Parties."

Declaration made by the Soviet Union (Russian Federation) upon signing the Additional Protocol II to the Treaty of Tlatelolco, 18 May 1978:

“In signing Additional Protocol II to the Treaty of Tlatelolco, the Government of the Union of Soviet Socialist Republics considers it necessary to state the following:”

1. The Soviet Union proceeds from the principle that article 1 of the Treaty applies, as laid down in article 5 of the Treaty, to any nuclear explosive device and that, consequently, the carrying out by any party to the Treaty of explosions of nuclear devices for peaceful purposes would constitute a violation of its obligations as defined in article 1, and would be incompatible with its non-nuclear status. A solution of the question of nuclear explosions for peaceful purposes for States parties to the Treaty may be found in the provisions of article V of the Treaty on the Non-Proliferation of Nuclear Weapons and in the context of the international procedures of the International Atomic Energy Agency.

2. In signing Additional Protocol II, the Soviet Union proceeds from the premise that at the present time the zone of application of the Treaty includes the territories for which the Treaty is in force, as laid down in article 4, paragraph 1, of the Treaty. The signature by the Soviet Union of Additional Protocol II in no way signifies recognition of the possibility of application of the Treaty, as prescribed in article 4, paragraph 2, beyond the territories of States parties, including the air space and the territorial sea established in accordance with international law.

3. With regard to the reference in article 3 of the Treaty to 'its own legislation' in connection with the territorial sea, air space and any other space over which the States parties to the Treaty exercise sovereignty, the signature by the Soviet Union of Protocol II does not signify recognition of their claims to exercise sovereignty which infringe the generally accepted principles of international law.

4. The Soviet Union takes into consideration the interpretation of the Treaty included in the Final Act adopted by the Preparatory Commission for the Denuclearization of Latin America, whereby transport of nuclear weapons by the parties to the Treaty is covered by the prohibitions laid down in article 1 of the Treaty.

5. In the Final Act adopted by the Preparatory Commission for the Denuclearization of Latin America, the Treaty is interpreted to mean that the granting of permission for the transit of nuclear weapons at the request of States not parties to the Treaty falls within the competence of each individual State party to the Treaty. In that connection the Soviet Union reaffirms its position to the effect that to grant permission for the transit of nuclear weapons in any form would violate the spirit of the Treaty which--as expressly stated in its preamble--is that Latin America should be wholly free from nuclear weapons; and would be incompatible with the non-nuclear status of States parties to the Treaty and with their obligations as defined in article 1 of the Treaty.

6. Any action taken by one or more States parties to the Treaty of Tlatelolco that is incompatible with its non-nuclear status, and the commission by one or more States parties to the Treaty of an act of aggression in support of a nuclear-weapon State or jointly with that State, will be considered by the Soviet Union as incompatible with the relevant obligations of those countries under the Treaty. In such cases the Soviet Union reserves the right to review its obligations under Additional Protocol II. "The Soviet Union also reserves the right to review its position with regard to Additional Protocol II in the event of any action on the part of other nuclear-weapon States that is incompatible with their obligations under the said Protocol.

7. The Soviet Government declares that the provisions of the articles of Additional Protocol II are applicable to the text of the Treaty for the Prohibition of Nuclear Weapons in Latin America in the version in which it was formulated up to the time of signature of the Protocol by the Government of the USSR, taking into account the position of the Soviet Union set forth in this declaration. In that connection, any amendment to that Treaty which enters into force in accordance with the provisions of articles 29 and 6 of the Treaty shall have no force in respect of the Soviet Union in the absence of clearly expressed agreement to that effect on the part of the USSR."

*Declaration made by the Soviet Union (Russian Federation) upon **ratifying the Additional Protocol II** to the Treaty of Tlatelolco, 8 January 1979:*

" 'The Soviet Union affirms that the obligations accepted by it in accordance with Protocol II of the Treaty of Tlatelolco also extend to those territories to which denuclearized zone status applies, in accordance with Additional Protocol I of the Treaty.

" 'Moreover, the Soviet Union reaffirms its position with respect to the granting of independence to colonial countries and peoples, in accordance with the United Nations Declaration on this question (General Assembly resolution 1415 (XV) of 14 December 1960.'

*Interpretation by the Soviet Union of the Ratification by the United States of America of **Additional Protocol II** to the Treaty of Tlatelolco on 12 May 1971:*

"The position set forth in the statements made by the Soviet Union during the signing and ratification of Additional Protocol II to the Treaty for the Prohibition of Nuclear Weapons in Latin America is hereby confirmed.

"The Soviet side considers it necessary again to emphasize that the transport of nuclear weapons is covered by the obligations of Article I of the Treaty and therefore to permit the transport of nuclear weapons in any form through the Zone of Application of the Treaty would contravene the objectives of the Treaty according to which, as stated in its preamble, Latin America must be completely free of nuclear weapons and would be incompatible with the denuclearized status of the signatory countries of the Treaty or with their obligations determined by Article I of the Treaty."

Declaration made by the United Kingdom of Great Britain and Northern Ireland upon signing the Additional Protocol I and II to the Treaty of Tlatelolco, 20 December 1967:

"(a) the reference in Article 3 of the Treaty to 'its own legislation' relates only to such legislation as is compatible with the rules of international law and as involves an exercise of sovereignty consistent with those rules, and accordingly that signature or ratification of either Additional Protocol by the Government of the United Kingdom could not be regarded as implying recognition of any legislation which did not, in their view, comply with the relevant rules of international law;

"(b) Article 18 of the Treaty, when read in conjunction with Articles 1 and 5 thereof, would not permit the Contracting Parties to the Treaty to carry out explosions of nuclear devices for peaceful purposes unless and until advances in technology have made possible the development of devices for such explosions which are not capable of being used for weapons purposes.

"(c) signature or ratification of either Additional Protocol by the Government of the United Kingdom could not be regarded as affecting in any way the legal status of any territory for the international relations of which they are responsible lying within the limits of the geographical zone established by the Treaty; and

"(d) the Government of the United Kingdom would, in the event of any act of aggression by a Contracting Party to the Treaty in which that Party was supported by a nuclear-weapon State, be free to reconsider the extent to which they could be regarded as committed by the provisions of Additional Protocol II.

'I have the honour further to declare that the Government of the United Kingdom are prepared to regard their undertaking under Article 3 of Additional Protocol II not to use or threaten to use nuclear weapons against the Contracting Parties to the Treaty as extending not only to those Parties but also to territories in respect of which the undertaking to apply the statute of denuclearisation, in accordance with Article I of Additional Protocol I, becomes effective.

On December 11, 1969, when ratifying Additional Protocols I and II, the Government of the United Kingdom of Great Britain and Northern Ireland reiterated the declaration made on the occasion of its signature, and informed the Depositary Government that Protocol I:

"[...]includes the Associated States of Antigua, Dominica, Grenada, St. Christopher-Nevis-Anguilla, St. Lucia and St. Vincent, and the territories of the Bahamas, British Honduras, British Virgin Islands, Cayman Islands, Falkland Islands, Montserrat and the Turks and Caicos Islands"

*Declaration made by **the French Republic** upon signing the Additional Protocol I to the Treaty of Tlatelolco, 2 March 1979:*

The French Government, by virtue of the fact that the French territories situated in the zone of the Treaty for the Prohibition of Nuclear Weapons in Latin America are an integral part of the French Republic, can sign Additional Protocol I of the Treaty only as the authority responsible de jure for those territories. It expects the signatory governments of the Treaty, convened in the Agency for the Prohibition of Nuclear Weapons in Latin America, to take note of the fact that it participates in the Protocol only in that capacity.

"The French Government, in signing Additional Protocol I of the Treaty for the Prohibition of Nuclear Weapons in Latin America and subject, for its entry into force in respect of France, to the reservation that the required constitutional procedures must be completed, expresses the following reservations and makes the following interpretive declarations:

"(1) No provision of this Protocol or of the articles of the Treaty to which it relates may detract from the full exercise of the right of self-defence confirmed by Article 51 of the Charter of the United Nations.

"(2) Pursuant to article 4, paragraph 1, of the Treaty, the zone of application of the undertakings arising out of the Treaty consists of the totality of the territories defined in article 3 of the Treaty, it being understood that the legislation referred to in the said article 3 must conform to international law. For the French Government, any zone which is more extensive, specifically the one referred to in article 4, paragraph 2, of the Treaty, cannot be considered as being established in conformity with international law, and consequently the French Government could not agree to the application of the Treaty therein.

"(3) The French Government does not agree that the obligations arising out of Protocol I, which relates to articles 1 and 13 of the Treaty, may be applied to the transit, through territories of the French Republic situated in the zone of the Treaty, of devices referred to in article 5 of the Treaty which are destined for other territories of the French Republic.

"(4) The French Government, while subscribing, by virtue of its acceptance of article 1 of Protocol I, to the obligations defined in article I of the Treaty, considers those obligations to apply solely to activities enumerated in that article which take place in the French territories on the basis of which Protocol I is signed. It cannot agree that those obligations may be interpreted as limiting in any way the participation of the populations of those territories in such activities taking place outside the zone or in the national defence effort of the French Republic.

"(5) The provisions of articles 1 and 2 of the Protocol apply to the text of the Treaty as it exists at the time of the signature of the Protocol by the French Government. Accordingly, any amendment to the Treaty which may enter into force pursuant to article 29

thereof cannot be regarded as binding on the French Government without that Government's express consent."

*Declaration by the Government of the **FRENCH REPUBLIC** on signing Additional Protocol II, July 18, 1973*

"1. The French Government interprets the undertaking made in article 3 of the Protocol as being without prejudice to the full exercise of the right of self-defence confirmed by Article 51 of the Charter of the United Nations.

"2. The French Government takes note of the interpretation of the Treaty given by the Preparatory Commission and reproduced in the Final Act, which states that the Treaty does not apply to transit, authorization or denial of which is within the exclusive competence of each State Party, in conformity with the relevant rules and principles of international law.

"3. The French Government considers the reference to the application of legislation in article 3 of the Treaty to imply legislation which is in conformity with international law.

"4. The provisions of articles 1 and 2 of the Protocol apply to the text of the Treaty of Tlatelolco as it existed at the time of the signature of the Protocol by the French Government. Accordingly, no amendment to the said Treaty that enters into force in conformity with the provisions of article 29 thereof can be regarded as binding on the French Government without that Government's express consent.

"If the interpretive declaration thus made by the French Government is contested in whole or in part by one or more Contracting Parties to the Treaty or to Protocol II, the said instruments shall be without effect in relations between the French Republic and the contesting State or States."

*Declaration of the Government of the French Republic upon **ratification of Additional Protocol II**, on March 22, 1974:*

"The French Government is ready to consider that the undertakings which it assumed under Protocol II annexed to the Treaty for the Prohibition of Nuclear Weapons in Latin America shall apply not only to the signatory States, but also to the territories for which the undertaking to apply the statute of denuclearization is in force, in accordance with Article 1 of Protocol I."