

The nuclear-weapon-free zone in Latin America

by J.R. Martínez Cobo*

The establishment of a nuclear-weapon-free zone in Latin America by means of the Tlatelolco Treaty is one of the finest contributions made by the countries of the region to the political ideal of peace and to international law as applied to disarmament. It is also an appropriate and effective step to realizing one of the greatest hopes of the international community — general and complete disarmament.

It was in the 1950s that the idea of nuclear-weapon-free zones originally arose. The first success was with the uninhabited expanses of Antarctica, whereby weapons, nuclear explosions, and the disposal of radioactive waste were banned from the region. The treaty did not of course affect any population. Another valuable instrument in this field is the treaty banning weapon tests in the atmosphere, in outer space, and underwater, known as the Moscow treaty as it was signed there in 1963. Reference should likewise be made to two other treaties: the treaty on principles governing the activities of states in the exploration and use of outer space, including the Moon and other celestial bodies; and the treaty on the prohibition of the emplacement of nuclear weapons and other weapons of mass-destruction on the seabed and the ocean floor and in the subsoil thereof. The former treaty has one drawback in that it does not define the limits of outer space.

None of these treaties directly affects the human population, but there was a hope that they would be followed up by the establishment of nuclear-weapon-free zones in various inhabited areas of the globe. (The different initiatives, such as the Rapacki plan for Europe, the Nordic proposal, the declaration of the Indian ocean as a zone of peace, etc., are all treated at length in the article by Mr Delcoigne on page 50 of this issue.) The great benefits that the establishment of nuclear-weapon-free zones would have for peace were pointed out by the United Nations in 1976 when the General Assembly reaffirmed, in summing up previous declarations, "its conviction that the establishment of nuclear-weapon-free zones can contribute to the security of members of such zones, to the prevention of proliferation of nuclear weapons and to the goals of general and complete disarmament".

In 1962, a highly dangerous situation arose on the American Continent when it was believed that Cuba was intending to install nuclear devices. The idea began to emerge that Latin America should be free of nuclear weapons, it being thought that a resolution denuclearizing the region could alleviate the tension created by the "missile-crisis". A year later, five Latin American Presidents — those of Bolivia, Brazil, Chile, Ecuador, and Mexico — sent a letter to the other Heads of State of the region in which they supported a nuclear-weapon-free zone.

In 1964, a preliminary meeting was held in Mexico by a group of representatives of the governments which accepted this idea; the outcome of the meeting was the formation of COPREDAL, the organization for preventing the presence of nuclear weapons in Latin America, by means of a treaty. This body was later converted into OPANAL*. Eminent members of the legal profession and international experts — among whom deserve mention the Mexican diplomat, Ambassador Alfonso García Robles (the real promoter of the treaty); the Brazilian Ambassador, José Sette Câmara, currently a judge of the International Court of Justice; the Uruguayan Ambassador, Carlos María Velázquez, and Licentiate Leopoldo Benites Vinuesa of Ecuador, who later became the first General Secretary of OPANAL — made up the commission which drafted the Treaty for the Prohibition of Nuclear Weapons in Latin America, better known as the Tlatelolco Treaty.

The Tlatelolco Treaty established the first nuclear-weapon-free zone in an inhabited region of the globe, under conditions which ensure the total absence of atomic weapons: the treaty goes much further than the Treaty on the Non-Proliferation of Nuclear Weapons (NPT). The scepticism that many people felt with regard to the future of the treaty and its Additional Protocols has proved, in the fifteen years since it was opened for signature, totally unfounded for it has in fact prevented the danger of a nuclear conflagration in the greater part of Latin America. It has been signed by 25 States: Argentina, Bahamas, Barbados, Bolivia, Brazil, Colombia, Costa Rica, Chile, Dominican Republic, Ecuador, El Salvador, Grenada, Guatemala, Haiti,

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Honduras, Jamaica, Mexico, Nicaragua, Panama, Paraguay, Peru, Suriname, Trinidad and Tobago, Uruguay and Venezuela. All 25 States except for Argentina have ratified the treaty though there are prospects that Argentina may do so in the near future, since spokesmen for that country have repeatedly expressed their support for the treaty at various international forums. Except for Brazil and Chile, the dispensation envisaged in Article 28 of the treaty has been complied with by all ratifying states, which accordingly are fully-fledged members of the Agency for the Prohibition of Nuclear Weapons in Latin America (OPANAL). Up to the present time the only signatures missing are those of Cuba, Guyana, and three new states of the Caribbean that obtained their independence a few years ago: Dominica; Santa Lucia; and St. Vincent and the Grenadines; which were covered by the treaty on the strength of the signature and ratification by the United Kingdom of Protocol I when they were British colonies. Two other Caribbean countries that have just become sovereign States — Belize, and Antigua and Barbuda — have not yet been invited by the General Conference of OPANAL to sign the Tlatelolco Treaty.

There can be no doubt that Cuba's signature would considerably strengthen the denuclearized zone. The Cuban Government has on various occasions stated that it will not sign the treaty until the United States ceases its aggression against the country and returns the Guantánamo base. The fact that the Government of the United States has recently ratified Protocol I may possibly induce Cuban leaders to reconsider the situation, since by joining the Tlatelolco Treaty system they would protect themselves against nuclear-weapon attack and put paid to one of the arguments advanced by groups advocating armed intervention — that Cuba is building up nuclear weapons which could be used against North America.

The obstacle in the way of Guyana's signature will, it is hoped, be overcome within a short time, and there are indications that the three new Caribbean states will soon accept the unanimous invitation to accede to the treaty extended to them by the General Conference of OPANAL.

If one accepts the interpretation that states that are not yet parties to the treaty but which have either ratified or signed it may not engage in any action running counter to its objectives and purpose (which therefore excludes the construction or use of nuclear weapons in any form), one can conclude that the denuclearized zone embraces virtually the whole of the geographical region running from the Rio Grande to Patagonia.

The four countries possessing *de jure* or *de facto* jurisdiction over territories which lie in the treaty zone — France, the Netherlands, the United Kingdom, and the United States — have signed Protocol I, under which they commit themselves to applying the status of

denuclearization established by the treaty to their territories in the zone. One country — France — has not yet ratified the protocol. President Mitterrand, like his predecessor, has expressed the wish that his country should as soon as possible complete the process by which all the territories of Latin America in the possession of non-Latin-American states will automatically be free of nuclear weapons. Nevertheless, the French Government has reservations with regard to the scope of the treaty, especially as regards the transport of nuclear material, which it made known when signing this protocol. It should be added that none of the signatory states objected at that time to the interpretations or reservations made by France, so it is to be hoped that, in the not too distant future, the ratification in question will take place.

On 23 November 1981, the United States Secretary of State, General Alexander Haig, personally deposited the instrument of ratification by the United States of Additional Protocol I at the Mexican Chancery. This fact is of extreme importance since it concerns the one nuclear power on the continent. In ratifying this protocol the United States undertakes not to test, use, produce or install nuclear weapons in any zone contained within the Tlatelolco Treaty. As the Secretary of State pointed out, this action, together with previous accession to Additional Protocol II, reflects a total commitment by the United States to the process of establishing a nuclear-weapon-free zone in the region as an effective contribution to peace.

Additional Protocol II, by which the countries in possession of nuclear weapons undertake to respect the denuclearization of Latin America, has already been signed and ratified by the five nuclear-weapon powers recognized as such today: China, France, the Soviet Union, the United Kingdom, and the United States. It can be said that this guarantee of respect for the sovereign decision of the Latin American peoples is a very great achievement: it gives the treaty genuine effectiveness, and dispels the concern that an agreement had been drawn up outwith the context of the powers possessing nuclear weapons.

The creation of other denuclearized zones in other parts of the world continues to be a hypothetical case which would be extremely difficult to realize adequately, since the political circumstances that have prevented or made difficult such a creation have not disappeared from view. When the Tlatelolco Treaty was drafted, the belief was that it would co-exist with other nuclear-weapon-free zones, with which it would be possible to establish a co-operative relationship and joint efforts aimed at universal disarmament. Unfortunately, this has not been the case. There is every reason to believe that for the coming years the Latin American zone will continue to be the only example of practical implementation of this visionary idea by the international community. This fact reduces the universal protection it could afford, and the contribution it could make to international peace

and security had it co-existed with other zones covering a large part of the earth's surface, as has long been the aspiration of the United Nations.

The existence of different nuclear-free-weapon zones, by reducing the number of regions in which there might be nuclear devices, and consequently limiting the geographical areas where a nuclear confrontation could occur, would significantly diminish the chances of a nuclear war between the super-powers or between the states parties to the military alliances which depend on them. Such denuclearized zones, besides providing complete security for the majority of the population inhabiting them against the chance of a nuclear conflict, could prevent a large number of countries, particularly those belonging to the Third World wasting their scant resources, so vital to them for development, in a costly and absurd nuclear arms race.

It is clear that, of those existing in the world, Latin America is the most homogeneous region with the greatest number of similarities and it is likewise certain that the Tlatelolco Treaty meets better than any other legal instrument the aspirations of the founders of these nations, namely to eliminate the possibility of aggression by forming a united and fraternal front enabling peoples of the same origin and similar destiny to live in peace and without fear. This communality of interests has definitely furthered the creation of the denuclearized zone. But there were other favourable circumstances. Despite the great difference in the systems and political regimes existing in Latin America, between the years 1963 and 1967 when the initiative was taken and the treaty was drafted, there were none of the tensions and conflicts that blighted and still blight other parts of the globe. Similarly, no Latin American country possessed or was in a position to manufacture nuclear weapons.

This situation does not apply to any other geographical region: either nuclear powers are present; or there are countries that can manufacture and use such weapons within a short time; or there are states with the technological capacity to do so, but which for different legal reasons are not entitled to construct, possess, or use them. The very fact that some of these states

are still not parties to the Treaty on the Non-Proliferation of Nuclear Weapons is a clear enough indication that they are not prepared to accept international safeguards, nor even to form part of nuclear-weapon-free zones. Although the prospects are not too rosy, the idea of establishing other zones is still alive, and it is essential for the United Nations and other international or regional bodies to continue their efforts to overcome the obstacles that have so far stood in the way of creating such zones. The Latin American denuclearized zone can offer them its unique and valuable experience.

Special mention should be made of the long-lasting and intimate relations maintained by OPANAL and the International Atomic Energy Agency. Under Article 13 of the Tlatelolco Treaty, the parties undertake to negotiate and conclude safeguards agreements with the IAEA. The institution which I head has taken an active part in the negotiation of these agreements by providing advice to the states desiring it. Eighteen of the Latin American States party to the Tlatelolco Treaty have already signed safeguards agreements with the IAEA. The Bahamas and Grenada are still negotiating them, and only in the case of Barbados, and Trinidad and Tobago have the relevant actions not been initiated.

One field in which there are enormous possibilities and where OPANAL has not yet taken action is in the co-ordination and preparatory work enabling all Member States to benefit as soon as possible from the enormous potential offered by the use of nuclear energy for peaceful purposes. This is a sovereign attribute of all states expressly recognized by the treaty itself.

Technological advances and major scientific achievements should be placed at the service of mankind without distinction of race or economic or social conditions. The tremendous imbalance existing today between the rich and the poor, the industrialized and the underdeveloped, must not be further weighted by the addition of atomic energy. We believe that international action on a joint and inter-institutional scale is urgently needed to harness the forces of death and destruction for the benefit of life, peace, and prosperity.

