Twenty-sixth session
Item 34 of the provisional agenda

STATUS OF THE IMPLEMENTATION OF GENERAL ASSEMBLY RESOLUTION 2666 (XXV)
CONCERNING THE SIGNATURE AND RATIFICATION OF ADDITIONAL PROTOCOL II OF
THE TREATY FOR THE PROHIBITION OF NUCLEAR WEAPONS IN LATIN AMERICA
(TREATY OF Tlatelolco)

Letter dated 22 July 1971 from the Permanent Representative of Mexico
to the United Nations addressed to the Secretary-General

With reference to the letters reproduced in documents A/8336 and S/10250 of
6 July 1971, I have the honour to send you herewith a memorandum summarizing some
basic facts concerning the Treaty for the Prohibition of Nuclear Weapons in
Latin America (Treaty of Tlatelolco) and Additional Protocol II thereof.

I should be grateful if you would arrange to circulate the text of this

(Signed) Alfonso GARCIÁ ROBLES
Permanent Representative of Mexico
to the United Nations

* Also issued under the symbol S/10275.
MEMORANDUM

Some basic facts concerning the Treaty for the Prohibition of Nuclear Weapons in Latin America (Treaty of Tlatelolco) and Additional Protocol II thereof

1. At the request of the Permanent Representative of the Union of Soviet Socialist Republics to the United Nations, the text of the reply, dated 4 January 1971, from the Supreme Soviet of the USSR to the Senate of the United Mexican States, "regarding the signature and ratification of Additional Protocol II of the Treaty for the Prohibition of Nuclear Weapons in Latin America", has been reproduced inter alia in document A/8336 (also issued under the symbol S/10250) of 6 July 1971. The document in question was distributed in connexion with an item for the twenty-sixth session entitled "Status of the implementation of General Assembly resolution 2666 (XXV) concerning the signature and ratification of additional Protocol II of the Treaty for the Prohibition of Nuclear Weapons in Latin America (Treaty of Tlatelolco").

2. Analysis of this document leads to the conclusion that in order to form a correct view of the question as a whole account must be taken of some basic facts concerning the Treaty of Tlatelolco and Additional Protocol II thereof. The purpose of this memorandum is to summarize the most important of those basic facts.

1. Position of the Mexican Senate

3. The reasons which led the Mexican Senate to address an appeal to the legislative bodies of all States for whose signature and ratification the Treaty of Tlatelolco or one of the additional protocols thereof are open are set out in the last paragraph of the appeal in the following words:

"From the foregoing it may be seen that the lofty purposes inspiring the Treaty of Tlatelolco have the fervent and total support of the countries of the world and that its provisions have become the expression not of mere aspirations but of a will which is asserting itself at an accelerating pace and with which, we are convinced, no country on earth can fail to associate itself. The ratification and implementation of this instrument by all the countries of Latin America, and of its additional protocols by all nuclear-weapon States or States having territories for which, de jure or de facto, they are internationally responsible - whether or not they are Members of the United Nations - constitute at this time in the world's history, we firmly believe, a moral imperative which mankind insists must be fulfilled in the
interests of a creative peace which will be conducive to further achievements on the path of progress and happiness for all peoples."

2. **Extent of obligations assumed under the Treaty of Tlatelolco**

4. The extent of the obligations assumed under the Treaty of Tlatelolco with a view to implementing the régime of total absence of nuclear weapons established in the Treaty is exactly the same for Mexico as for all other States Parties to the instrument.

5. Article 1 of the Treaty, in which these obligations are specified, reads as follows:

"1. The Contracting Parties hereby 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:

"(a) The testing, use, manufacture, production or acquisition by any means whatsoever of any nuclear weapons, by the Parties themselves, directly or indirectly, on behalf of anyone else or in any other way; and

"(b) The receipt, storage, installation, deployment and 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. The Contracting 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."

3. **Extent of obligations assumed under Additional Protocol II**

6. Nuclear-weapon States which, by signing and ratifying Additional Protocol II of the Treaty of Tlatelolco become Parties to it, assume the following obligations:

(a) To respect, "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;

(b) "Not to contribute 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"; and

(c) "Not to use or threaten to use nuclear weapons against the Contracting Parties of the Treaty".

/*...*/
7. After expressly mentioning these obligations, the General Assembly, in its resolution 2666 (XXV), adopted on 7 December 1970 by 104 votes to none, affirmed its conviction that they "are entirely in conformity with the general obligations assumed under the Charter of the United Nations, which every Member of the Organization has solemnly undertaken to fulfil in good faith, as set forth in Article 2 of the Charter".

4. Some responsible opinions on the Treaty of Tlatelolco

8. (a) In its resolution 2286 (XXII) of 5 December 1967, the United Nations General Assembly stated that it:

"Welcomes with special satisfaction the Treaty for the Prohibition of Nuclear Weapons in Latin America, which constitutes an event of historic significance in the efforts to prevent the proliferation of nuclear weapons and to promote international peace and security and which at the same time establishes the right of Latin American countries to use nuclear energy for demonstrated peaceful purposes in order to accelerate the economic and social development of their peoples."

(b) In its resolution B of 27 September 1968, the Conference of Non-Nuclear-Weapon States observed that:

"the Treaty for the Prohibition of Nuclear Weapons in Latin America, also known as the Treaty of Tlatelolco, has already established a nuclear-weapon-free zone comprising territories densely populated by man".

(c) In his address delivered at the opening meeting of the first session of the General Conference of the Organization for the Prohibition of Nuclear Weapons in Latin America (OPANAL), the Secretary-General of the United Nations said, inter alia, the following:

"In a world that all too often seems dark and foreboding, the Treaty of Tlatelolco will shine as a beacon light. It is a practical demonstration to all mankind of what can be achieved if sufficient dedication and the requisite political will exist.

"The Treaty of Tlatelolco is unique in several respects.... The Treaty of Tlatelolco is unique in that it applies to an important inhabited area of the earth. It is also unique in that the Agency which is being established at this session will have the advantage of a permanent and effective system of control with a number of novel features. In addition to applying the safeguards system of the International Atomic Energy Agency, the régime under the Treaty also makes provision for special reports and inquiries..."
and, in cases of suspicion, for special inspections. There is embodied in your Treaty a number of aspects of the system known as 'verification-by-
challenge', which is one of the more hopeful new concepts introduced into the complicated question of verification and control.

"The Treaty of Tlatelolco preceded the Treaty for the Non-Proliferation of Nuclear Weapons by more than a year and exceeds it in the scope of its prohibitions and its control features. Both Treaties have a similar goal, but the former Treaty goes beyond the latter in also prohibiting the use or threat of use of nuclear weapons in the area of the nuclear-free zone....

"Under the safeguards and guarantees provided by the Treaty of Tlatelolco and by the operations of the Agency, nuclear energy will be used for exclusively peaceful purposes in the countries within the zone and its benefits will be devoted solely towards the economic development and social progress of your people. Thus, the States members of OPANAL will take the lead in demonstrating to the world that nuclear energy will be, as it should be, a great boon to mankind and not the instrument of its doom.

"The States of Latin America, which also include the States of the Caribbean Sea, have laboured hard and built well in erecting the edifice of the Agency for the Prohibition of Nuclear Weapons in Latin America. Perhaps history will record that they, too, 'built better than they knew'. And now OPANAL has come to life. I am confident that it has the good wishes of the Members of the United Nations. As the Agency proceeds with its work for security, for peace and for progress, I feel sure it will continue to have the encouragement and support of the United Nations. Under the Agency's charter - the Treaty of Tlatelolco - you have provided for close links with the United Nations. It is my hope that in the years to come these links will be forged ever stronger for the mutual benefit of both organizations in their common cause."

(d) On the same occasion, the Director-General of the International Atomic Energy Agency said the following:

"I am honoured to be invited to be present on this important occasion, when for the first time an international body has been created specifically to ensure compliance with a Treaty under which parties to the Treaty solemnly pledge to use nuclear energy exclusively for peaceful purposes, and to keep an entire sub-continent free from nuclear weapons.

"It is also the first meeting of a regional grouping that has accepted the application of safeguards by another organization on their nuclear activities.

"Although the concept of establishing a nuclear-weapon-free zone is not new, the creation of the Agency for the Prohibition of Nuclear Weapons in Latin America is the first tangible realization of such an ideal. With it the aspirations of the people of Latin America for security and the prospect of wider and more productive applications of atomic energy for peaceful purposes has come nearer to fulfilment....
"The Treaty of Tlatelolco might be regarded as the first multilateral treaty in the field of nuclear disarmament which provides for the application of an institutionalized and international control system and as such represents a decisive step forward in the recognition and acceptance of international safeguards."

5. **Attitude of the United Nations and the Conference of Non-Nuclear-Weapon States to signature and ratification of Additional Protocol II**


10. The relevant provisions of these resolutions, which were adopted without a single opposing vote, are:

(a) Operative paragraph 4 of resolution 2286 (XXII) of 5 December 1967, in which the General Assembly:

"Invites Powers possessing nuclear weapons to sign and ratify Additional Protocol II of the Treaty as soon as possible;"

(b) Paragraphs 1 and 2 of section II of resolution B of 27 September 1968, in which the Conference of Non-Nuclear-Weapon States:

"1. Regrets the fact that not all the nuclear-weapon States have yet signed Additional Protocol II of the Treaty of Tlatelolco;"

"2. Urges the nuclear-weapon Powers to comply fully with paragraph 4 of resolution 2286 (XXII), adopted by the United Nations General Assembly on 5 December 1967;"

(c) The operative paragraph of resolution 2456 B (XXIII) of 20 December 1968, in which the General Assembly:

"Reiterates the recommendation contained in resolution B of the Conference of Non-Nuclear-Weapon States, concerning the establishment of nuclear-weapon-free zones, and especially the urgent appeal for full compliance by the nuclear-weapon Powers with paragraph 4 of General Assembly resolution 2286 (XXII) of 5 December 1967, in which the Assembly invited Powers possessing nuclear weapons to sign and ratify as soon as possible Additional Protocol II of the Treaty for the Prohibition of Nuclear Weapons in Latin America;"

(d) Operative paragraphs 1, 2 and 3 of resolution 2666 (XXV) of 7 December 1970, in which the General Assembly:

/...
1. Reaffirms the appeals it has addressed to the nuclear-weapon States, in its resolutions 2286 (XXII) and 2456 B (XXIII), to sign and ratify Additional Protocol II of the Treaty for the Prohibition of Nuclear Weapons in Latin America (Treaty of Tlatelolco) as soon as possible and urges them to avoid further delay in the fulfilment of such appeals;

2. Notes with satisfaction that one of those States has already signed and ratified the Protocol and that another has signed it and is now actively engaged in the ratification process;

3. Deplores that not all nuclear-weapon States have as yet signed the Protocol.

6. Need for Additional Protocol II

11. With reference to the question whether the co-operation of the nuclear-weapon Powers in respect of the Treaty of Tlatelolco should take the form of formal acceptance of the commitments specified in Additional Protocol II or merely of unilateral declarations, the General Assembly's appeals mentioned in the previous section of this memorandum show clearly that the Assembly is categorically in favour of the first alternative.

12. To this should be added the fact that, as the General Assembly noted in its resolution 2666 (XXV) of 7 December 1970, the Conference of Non-Nuclear-Weapon States, after expressing the conviction in its resolution B that "for the maximum effectiveness of any treaty establishing a nuclear-weapon-free zone, the co-operation of the nuclear-weapon States is necessary", emphasized, in 1968, that "such co-operation should take the form of commitments likewise undertaken in a formal international instrument which is legally binding, such as a treaty, convention or protocol".

13. It is also pertinent in connexion with this point to quote the very recent statement, of 6 May 1971, made at the Conference of the Committee on Disarmament by the representative of the Soviet Union who, referring to the draft treaties which the Committee is considering in connexion with the item on the prohibition of chemical and biological weapons, said at the Committee's 514th meeting:

"On numerous occasions the Soviet delegation has stated that unilateral declarations cannot achieve the same purpose as international agreements. In this respect we fully support the statement made by the representative of Sweden, Mrs. Nyrdal, to the effect that --
'... unilateral decisions can be no substitute for internationally-binding agreements. ... And it is, of course, preferable to arrive at a state of affairs in which we shall have an international treaty so that all renunciations will have the same and, we hold, maximum coverage'.

7. Importance of the signature and ratification of Additional Protocol II

14. The importance which the United Nations attaches to compliance with the repeated appeals by the General Assembly that the nuclear Powers should sign and ratify Additional Protocol II "as soon as possible" is demonstrated both by the fact that in its latest resolution - resolution 2666 (XXV) - the Assembly, in words used in exceptional cases only, urged them "to avoid further delay in the fulfilment of such appeals" and, in particular, by the fact that the resolution itself contains two decisions, those in operative paragraphs 4 and 5, the texts of which read as follows:

"4. Decides to include in the provisional agenda of its twenty-sixth session an item entitled 'Status of the implementation of General Assembly resolution 2666 (XXV) concerning the signature and ratification of Additional Protocol II of the Treaty for the Prohibition of Nuclear Weapons in Latin America (Tlatelolco)';

"5. Requests the Secretary-General to arrange for transmittal of the present resolution to the nuclear-weapon States and to inform the General Assembly at its twenty-sixth session of any measure adopted by them in order to implement it."