

The Rarotonga Treaty: A regional approach to non-proliferation in the South Pacific

*The South Pacific nuclear-weapon-free zone
foresees an IAEA safeguards role*

by P. Papadimitropoulos

The first regional approach to non-proliferation was achieved well before any other efforts were made towards the establishment of a worldwide non-proliferation régime. This was by the adoption of the Antarctic Treaty, established in June 1961, which demilitarized that vast, but unpopulated area. This Treaty covers a region where little is at stake and agreement was easily reached thereon. It prohibits all military activities, including the explosion of any nuclear weapons.

However, the major example of a regional approach to non-proliferation is the Tlatelolco Treaty of 1967 in Latin America. It prohibits the testing, use, manufacture, production or acquisition, and the receipt, storage, installation, deployment, and any form of possession of any nuclear weapons. If three additional countries should agree to adhere to the Treaty, Latin America will become one of the most important regions of the world in which all military uses of nuclear energy are prohibited by treaty. In relation to the Tlatelolco Treaty, all nuclear-weapon States have undertaken to respect the status of the zone and to refrain from the use or threat of use of nuclear weapons against the States of the zone (so-called negative security assurances).

The Tlatelolco Treaty has encouraged other proposals at one time or another for the creation of nuclear-weapon-free zones in many important areas, including Africa, the Balkans, Central Europe, the Mediterranean, the Middle East, the Nordic countries, South Asia, and the South Pacific.

In 1975, a comprehensive study on the question of nuclear-weapon-free zones was carried out by an *ad hoc* group of governmental experts and transmitted to the 30th session of the United Nations General Assembly. Later attempts to update the earlier study have not yet been finalized.

Verification requirements have been taken into account in drafting treaties and on-site inspection has been considered as a major means to promote their objectives and to observe their implementation.

In recent years the United Nations General Assembly has considered agenda items concerning four particular zones — the full implementation of the nuclear-weapon-free zone in Latin America and the establishment of such zones in Africa, the Middle East, and South Asia.

The broad objective of a regional approach to non-proliferation is to promote détente in a particular region and to extend to that region confidence-building measures. These measures include mainly the non-deployment of nuclear weapons and the assumption by the nuclear-weapon States of a commitment not to use nuclear weapons against any country in the region. These commitments stand in parallel with the sovereign rights of the countries in the region to develop and use nuclear power and technology for peaceful purposes.

Such a regional non-proliferation approach often has special significance to a region with political tensions. It is, however, more easily achieved in regions where there are strong political and economic ties.

The Rarotonga Treaty

None of the aforementioned zones considered by the United Nations General Assembly has gone beyond the adoption of the relevant resolutions. The South Pacific zone, however, has now reached the stage of reality. In a communiqué, issued on 3 July 1975, the Heads of Governments of the independent and self-governing States, members (at that time) of the South Pacific Forum (Australia, Cook Islands, Fiji, Nauru, New Zealand, Niue, Papua New Guinea, Tonga, and Western Samoa) emphasized the importance of keeping the South Pacific region free from the risk of nuclear contamination and involvement in a nuclear conflict and commended the idea of establishing a nuclear-weapon-free zone in the South Pacific as a means of achieving that aim.

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In August 1975, Fiji and New Zealand addressed a letter to the Secretary-General of the United Nations, and requested that an item entitled "Establishment of a nuclear-weapon-free zone in the South Pacific" be included in the agenda of the 30th session of the General Assembly. The countries of the South Pacific, therefore, collectively believed that the proposed nuclear-weapon-free zone would contribute to their security and minimize risks to their health and environment.

On the basis of the initiative of Fiji and New Zealand, on 11 December 1975, the General Assembly adopted resolution 3477 (XXX) on the establishment of a nuclear-weapon-free zone in the South Pacific; invited the countries concerned to carry forward consultations about ways and means of realizing that objective; and expressed the hope that all States, in particular the nuclear-weapon States, would co-operate fully in achieving the objectives of the resolution.

Lengthy discussions and negotiations took place among the members of the South Pacific Forum and other countries. Opposition to testing of nuclear devices in the Pacific and to proposals for the storage or dumping of nuclear waste material in that ocean has been expressed by a number of delegations.

At the Forum's August 1983 session, the Australian Government proposed, for the first time, the concept of a nuclear-free zone in the South Pacific. The communiqué, issued at the end of the meeting, commended the Australian initiative, noted that there had been wide agreement on the general principles of the concept, and decided to consider further the proposal at the Forum's 1984 session. At that session, the Heads of Governments "agreed on the desirability of establishing a nuclear-free zone in the region at the earliest possible opportunity" and established a set of principles endorsed by the meeting. The Forum also appointed a working group of officials to undertake an examination of the substantive legal and other issues involved in establishing a nuclear-free zone in the region with a view to preparing a draft of a treaty for consideration by the Forum's next meeting, in August 1985.

In August 1985, at the Forum's session held in Rarotonga, Cook Islands, the Heads of State of the 13 independent and self-governing States in the South-west Pacific region finally adopted the Treaty as drafted by the working group and opened it for signature.

In August 1986, the Forum reiterated its view that the Treaty was a significant addition to the existing arms control and disarmament régime and would make an important contribution to protecting the region's favourable security, environment, and stability. At that meeting, the Forum also finalized the Protocols to the Treaty, which were open for signature by the five nuclear-weapon States to signify their binding acceptance not to use or threaten the use of nuclear weapons against parties to the Treaty nor to conduct nuclear testing in the South Pacific.

The Treaty has now been ratified by nine States and entered into force on 11 December 1986. As of February 1988, it has been signed and ratified by Australia, Cook Islands, Fiji, Kiribati, Nauru, New Zealand, Niue, Tuvalu, and Western Samoa; it has been signed, but not yet ratified, by Papua New Guinea and the Solomon Islands.

Of the nine States party to the Treaty, two (Australia and New Zealand) are Agency Member States. Seven of these nine States (Australia, Fiji, Kiribati, Nauru, New Zealand, Tuvalu, and Western Samoa) are party to the Treaty on the Non-Proliferation of Nuclear Weapons (NPT), all but one of them (Kiribati) having concluded an NPT safeguards agreement with the Agency. The two signatory States which have not yet ratified the Treaty (Papua New Guinea and the Solomon Islands) are not Agency Member States, but they are party to the NPT and have concluded NPT safeguards agreements with the Agency.

Treaty objectives

The Rarotonga Treaty establishes a zone of vast dimensions. It is the second such zone established in a populated region of the world, the first being the zone covered by the Tlatelolco Treaty in Latin America. The Rarotonga Treaty extends in the west from the western coast of Australia to the boundary of the Tlatelolco Treaty in the east, from the equator in the north to 60 degrees south, where the Antarctic Treaty already establishes a completely demilitarized zone covering the entire, uninhabited continent. Under the Rarotonga Treaty, parties undertake:

- Not to acquire nuclear weapons, or assist any other country to acquire them
- Not to permit the stationing of nuclear weapons on their territory
- Not to permit the testing of nuclear explosive devices on their territory and not to assist any other country to test nuclear explosive devices
- To apply strict non-proliferation measures to all exports of nuclear materials to ensure exclusively peaceful, non-explosive use
- Not to dump radioactive waste at sea within the zone
- Not to assist anyone in dumping such waste at sea, and to support the conclusion of a regional convention which would preclude dumping at sea by anyone in the region.

The last two undertakings are unique in the case of the Rarotonga Treaty and distinguish its provisions from the provisions of other regional, multi-national, or international treaties. The Treaty also provides that:

- International law, with regard to freedom of the seas, is to be fully respected.
- The parties would retain their rights to decide such questions as access to their ports and airfields by vessels or aircraft of other countries.
- Performance of obligations of parties is to be verifiable by international safeguards.

Protocols to the Treaty

There are three additional Protocols:

Protocol 1 foresees that States outside the zone with jurisdiction over territories within the zone (France, UK, and USA) would apply the provision of the Treaty to those territories.

Protocol 2 provides that the five nuclear-weapon States (China, France, UK, USA, and USSR) undertake not to use or threaten to use nuclear weapons against the parties to the Treaty.

Protocol 3 provides that the above five nuclear-weapon States would refrain from any nuclear testing within the zone.

Protocols 1 and 2 have been signed by two nuclear-weapon States, China and the USSR. The Soviet Union, by decree of 29 January 1988, has ratified both Protocols. The other three nuclear-weapon States (France, UK, and USA) have shown no intention as yet of signing any of the protocols.

France has observed that the question of nuclear testing imposes a régime which discriminates against its rights over territories considered to be part of the Republic of France. It stresses, however, its wish to continue consultations through regular exchanges on security matters.

The United Kingdom has stated that after taking full account of its security interests in the region, it has concluded that it would not serve its national interests to become a party to the Protocols. It has observed, however, that it is not acting inconsistently with them.

The United States, although also noting that its activities in the region are not inconsistent with the Protocols, has announced that in view of its global security interests and responsibilities, it is not, under current circumstances, in a position to sign them. Proposals for such zones have the potential to undermine the policy of deterrence, and a proliferation of zones could limit US future ability to meet its security commitments worldwide.

Verification and safeguards

A system for verification and control is generally recognized as an essential part of the non-proliferation régime at the international or regional level. Considerable experience has been gained by the IAEA in the application of its safeguards in peaceful nuclear activities.

The IAEA began its safeguards operations in 1962. Since that time it has accumulated much experience in safeguards, stemming from its statutory responsibility for safeguards and from agreements concluded pursuant to the Tlatelolco Treaty and the NPT. The Agency's experience in implementing these agreements can be directly applicable to the general case of regional treaties.

As a result of the Agency's unique experience, in two Articles of the Rarotonga Treaty (Articles 4 and 8) and in Annex 2, the drafters of the Treaty foresaw that the Agency might be requested to perform safeguards functions. The parties to the Treaty agreed that the safeguards agreement to be concluded with the Agency should be equivalent in scope and effect to an NPT safeguards agreement based on document INFCIRC/153 (Corr.). What was realized by the Rarotonga Treaty was the value of the NPT and the safeguards principles set up in the safeguards document pursuant to the NPT. Thus, any draft safeguards agreements which might be requested under the Rarotonga Treaty must be negotiated in accordance with the terms of INFCIRC/153 (Corr.) and submitted to the IAEA Board of Governors for its approval, as in normal practice. It must be pointed out here, however, that existing nuclear activities in the countries of the region party to the Treaty are, in fact, already covered by safeguards agreements concluded pursuant to NPT. The Agency's role under the Rarotonga Treaty has been formally discussed and acknowledged by the IAEA Board of Governors in September 1987.

