



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

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Contribution of the Agency for the Prohibition of Nuclear Weapons in Latin America and the Caribbean (OPANAL) to the report of the United Nations Secretary-General on the law of the sea, pursuant to General Assembly resolution A/RES/69/245

(Extended version)

1. If the transporter is one of the Contracting Parties, transport is covered by the prohibitions expressly contained in the other provisions of article 1 not being necessary to explicitly mention it, since Article 1 prohibits “any form of possession of any nuclear weapons, directly or indirectly, by the Parties themselves, by anyone on their behalf or in any other way”.
2. If the transporter is a State non-party to the Treaty, transport would be identified as “transit”. In the absence of any Treaty provision related to “transit”, it must be understood to be governed by the principles and applicable rules of international law to this matter. According to those principles and rules it falls upon the territorial State, in the free exercise of its sovereignty, to grant or deny permission for such transit in a case by case manner, upon request by the interested State, unless something else has been agreed otherwise in a Treaty between such States”.¹

All five NWS have signed and ratified Additional Protocols I and II to the Treaty of Tlatelolco. All of them have made interpretative declarations to these instruments at the time of signing or ratifying. Some of these are related to the “transit” of nuclear weapons in the “Zone of

France

Declaration made with respect to Additional Protocols I and II:

“(…) 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 (…)”.³

“(…) 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 (…)”.⁴

Russia (the former Soviet Union)

Declaration made with respect to Additional Protocol II:

“(…) 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 connexion 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--

non-nuclear status of States parties to the Treaty and with their obligations as defined in article 1 of the Treaty (...).⁵

United States

