WORKING GROUP ON A NUCLEAR FREE ZONE
IN THE REGION
FIRST MEETING
SPEC Headquarters, Suva
13-16 November, 1984

INFORMAL SUMMARY RECORD

South Pacific Bureau for Economic Co-operation
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INFORMAL SUMMARY RECORD

The First Meeting of the Working Group on a Nuclear Free Zone in the region was held at SPEC Headquarters, Suva from 13-16 November 1984. The following Governments were represented: Australia, Cook Islands, Fiji, Nauru, New Zealand, Niue, Papua New Guinea, Tuvalu, Vanuatu and Western Samoa. The Federated States of Micronesia, as an observer at the Forum, were also represented. A list of delegates is attached as Annex 1.

OPENING ADDRESS BY DIRECTOR OF SPEC

2. The Director of SPEC, Mr Mahe Tupcuniua, welcomed delegates on behalf of SPEC. He noted that serious consideration to the establishment of a Nuclear Free Zone in the region was first given at the 14th South Pacific Forum in Canberra, Australia, and subsequently advanced further at the recent 15th South Pacific Forum in Tuvalu in August this year. At that meeting it had been apparent that there was a consensus of opinion within the region that the time was right for a move towards a formal expression of the regional countries' opposition to the testing of nuclear weapons in the South Pacific. He invited delegates to give careful consideration to the proposals before them and commended the Australian Government for the preparation of discussion papers on the subject matter of the meeting. He urged delegates to work towards formulating a proposal that all countries could accept for the consideration of the Forum in 1985. A copy of his address is attached as Annex 2.
2.

AGENDA ITEM 1: ELECTION OF CHAIRMAN

3. In accordance with the decision of the 15th South Pacific Forum, the leader of the Australian delegation, Mr David Sadlier, was unanimously elected Chairman.

4. On assuming the chair Mr Sadlier addressed the meeting on the mandate and responsibilities of the Working Group. A copy of his address appears as Annex 3.

AGENDA ITEM 2: ADOPTION OF AGENDA AND WORKING PROCEDURES

5. Following a number of amendments to the proposed draft agenda, the meeting adopted agenda SPEC(84)SPNFZ.1(Rev.1) which appears at Annex 4. The working procedures outlined in SPEC(84)SPNFZ.3 were adopted.

6. The Chairman drew attention to the receipt by SPEC of correspondence and cables received from outside organisations regarding the meeting. The meeting requested that SPEC be asked to acknowledge them with thanks.

7. The Chairman also noted that there had been approaches made by non-governmental organisations to attend the Working Group. In particular, the Fiji Anti-Nuclear Group (FANG) had asked to present a submission. He proposed, and the meeting agreed that access to the Working Group be limited to its receiving written submissions from such groups or organisations.

8. The meeting, taking into account an expected high level of press interest in its work, agreed that a communiqué would be released at the end of the meeting. It was also agreed that the Chairman would have a discretion in dealing with the press at other times, after consultation with the meeting.

AGENDA ITEM 3: OPENING STATEMENTS

9. Under this agenda item the delegate from New Zealand made an opening statement.
AGENDA ITEM 4: CONSIDERATION OF ISSUES FOR A SOUTH PACIFIC NUCLEAR FREE ZONE

(a) Acquisition of Nuclear Weapons

10. The meeting considered working papers 1 and 2 prepared by the Government of Australia dealing with this sub-item. They began with a general overview and then outlined the legal powers of the Forum countries with regard to this matter and finally covered the question of verification procedures. These must satisfy the international community. The Non-Proliferation Treaty provided a guide as did the Seabed Treaty and the Law of the Sea Treaty. The Australian proposal was intended to cover so-called "peaceful" nuclear devices as well as weapons. The Australian Government's view was that the area of effect of the Treaty should not be limited and the prohibition should be absolute and unqualified geographically.

11. The meeting then discussed its approach to the complex technical matters on the agenda, bearing in mind the objective of preparing a draft treaty. The meeting agreed that the sub-items listed under Agenda Item 4 provided an opportunity for explanation and exploration of aspects which a draft treaty might be expected to cover. The working papers highlighted points for discussion. From those discussions the Chairman might be in a position to list areas for further discussion or action, even if a complete agreement had not been reached at this stage. Elements of a draft clause might emerge and then become the focus of a precise and detailed discussion. Before that, however, a discussion of broad issues would be needed. Following agreement on this approach, the meeting discussed a number of existing treaties including the Treaty of Tlatelolco, the Non-Proliferation Treaty and the Antarctic Treaty, which had an important bearing on the subject of a regional treaty.

12. The meeting was informed that the Non-Proliferation Treaty was essentially a compromise agreement between the five nuclear weapon states and the other states. The latter, in return for foregoing the right to manufacture nuclear weapons, obtained certain guarantees of access to peaceful nuclear technology. The Non-Proliferation Treaty contained certain control and verification procedures but allowed non-nuclear weapon states
to permit the stationing, transit and deployment of nuclear weapons on their territory if they so wished and in agreement with a nuclear weapon state. It was the Australian Government's intention that the proposed regional treaty would go beyond the Non-Proliferation Treaty's requirements in that it would not allow nuclear states to deploy their nuclear weapons in non-nuclear states in the region. The same would apply to so-called "peaceful" nuclear devices.

13. In response to a query regarding the support which might be forthcoming from countries not signatories to the Non-Proliferation Treaty, for example France, it was explained that France had agreed to act in all its international relations in this matter as if it were a signatory to the Non-Proliferation Treaty. Other nuclear weapon states had safeguards over their non-military nuclear installations and both the United States and the Soviet Union allowed verification procedures in at least some peaceful nuclear installations. However, there was nothing in the Non-Proliferation Treaty to help the region halt French nuclear tests. There was also nothing in the Non-Proliferation Treaty to prevent a regional non-nuclear country then inviting a nuclear weapon state to place weapons in it. This was the basis for the need for a new regional treaty.

14. In response to a query as to how the new treaty obligations would be reconciled with the Non-Proliferation Treaty, attention was drawn to the exemption in Article 7 of the Non-Proliferation Treaty which allowed for the sort of situation now envisaged, namely that a state or states by agreement could expand on their responsibilities and obligations under the Non-Proliferation Treaty by the execution of a further agreement as was now proposed in the South Pacific region.

15. Information was then provided on the Treaty of Tlatelolco which had grown out of an initiative by Mexico in the late 1960s. Following UN endorsement and subsequent discussion by the regional countries it was signed in 1967. This Treaty prevented and prohibited the manufacture acquisition and stationing of nuclear weapons only in the Latin American area. It did not proscribe in any way the peaceful use of nuclear power. The Treaty had complicated machinery to ensure verification and compliance. It also had two protocols. Protocol 1 invited non-Latin American countries
that have territories inside the zone to apply the Treaty to those territo-
ries (France, Netherlands, United Kingdom and USA). All but France had
signed and ratified this protocol. Protocol 2 invited the nuclear weapon
states to respect the denuclearised states of Latin America and not to
contribute in any way to a breach of Latin American states' responsibili-
ties under the Treaty and to agree not to use nuclear weapons against any
Latin American state. All five nuclear weapon states had signed this
protocol, subject to declarations by some.

16. The area governed by the Treaty was the land territory, the
territorial sea and the air space of the signatory countries. Any signatory
could accept the binding nature of the Treaty conditionally if it so chose.
When all regional countries had signed and ratified the Treaty and all
the other conditions were met, the Treaty provided that the zone of its
effect would then extend into a large area of the high seas. This was
unlikely, at least in the foreseeable future, as some countries in the
region had not executed the Treaty; these were Argentina, Brazil, Chile,
Cuba and Guyana. It was arguable that the intended extension to the high
seas areas did not impinge on any existing law relevant to the high seas.
The Treaty did not attempt to deal in any way with the transit of nuclear
weapons; this matter was to be left to the individual states to decide.
An information paper on the Treaty of Tlatelolco was submitted and attached
at Annex 5.

17. It was noted, in the discussion which followed, that in some
respects the Treaty of Tlatelolco was excessively long and lacked
precision. Nor had it been as successful as hoped because of the non-
signature of some of the largest countries. Yet it had attracted specific
undertakings from the nuclear weapon states under Protocol 2; it was parti-
cularly significant that the United States had agreed to this Protocol.
With regard to high seas application, some Latin American states had
asserted, and indeed had legislated, that they had a 200-mile territorial
area. In signing Protocol 2 some of the nuclear weapon states had avoided
recognizing this claim by way of a declaration.

18. With regard to the Antarctic Treaty it was noted that it was
a very important measure of arms control as it demilitarised the whole
region south of 60 degrees south latitude, although it did not extend to
the high seas areas within that zone.
19. A comparison between the Tlatelolco Treaty and the NPT indicated that most South American countries were party to both although some, e.g. Columbia and Panama, were only party to Tlatelolco and not the NPT. The former Treaty also provided for verification in addition to the requirements of the NPT, in that a complaint or challenge inspection provision existed though it had never been used. The Tlatelolco Treaty also contained a definition of nuclear weapons that drew a distinction between the weapon and its means of delivery e.g. warhead and missile but did not include the transportation mechanism. The NPT did not contain this distinction nor define "weapon", simply referring to "any nuclear explosive device". In the Antarctic Treaty, the reference was to a "nuclear explosion". None of the Treaties provide a waiver of public international rights e.g. overflights.

20. The meeting also examined the 1971 Seabed Arms Control Treaty which had areas in common with the other Treaties. It prevented the introduction of nuclear weapons into an area where they did not exist before and beyond the territory of the states concerned. Article 1 required countries not to implant on the seabed or ocean floor, any nuclear weapons or structures or launching installations. The Treaty defined nuclear weapons. There was also a provision for observation and complaints settlement. Eighty-seven or so countries had signed and 57 had ratified the Treaty. Countries signing included: Japan, US, USSR, UK, Australia, and New Zealand. Countries which had not signed included: France, China and the rest of the Forum membership.

21. The meeting then received a report on developments in the negotiation of the SPREP Convention for the Protection and Development of the Natural Resources and Environment of the South Pacific Region. Draft provisions were under discussion covering testing, dumping and storage of nuclear materials and two protocols were being considered, one on pollution emergencies and one on dumping. Other protocols were likely to be considered in the future. The key articles in the Convention were Articles 10, 11 and 12 relating to testing, dumping and storage. The Pacific countries were seeking prohibition of nuclear testing, dumping and storage, whereas two metropolitan countries had difficulties. The Convention area was another issue under negotiation and various options were being considered. The question had been raised (and supported by the
two metropolitan countries) that, as the work of the present Working Group would overlap with the SPREP Convention, nuclear matters should not be covered by the SPREP Convention.

22. At the conclusion of its general examination of other relevant treaties the meeting noted the considerable areas of overlap. The Chairman suggested that elements of each of these Treaties could be seen as "building blocks" in the development of the current exercise.

23. The meeting then considered the Australian working paper on Agenda Item 4 (a). Its main proposal was that Forum countries would not manufacture such nuclear devices for themselves nor accept them from any other country. It did not at this stage address the question of deployment and stationing, i.e. the placement of devices under the control of another country. The paper also defined nuclear weapons to include so-called "peaceful" devices. The Australian Government's view was that the treaty should not be limited to the South Pacific and should not have any loop-holes. The way that acquisition had been considered in the Non-Proliferation Treaty and the Treaty of Tlatelolco differed and copies were attached to the Australian paper.

24. The meeting then addressed, among others, the following aspects of the issue:

- Whether the coverage should or should not include nuclear materials used for peaceful purposes. A proposal was made to include the words "the acquisition directly or indirectly of nuclear materials for other than peaceful purposes". In view of the difficulty in drawing the line between military and peaceful uses in some situations, among other reasons, the meeting left this matter aside for subsequent discussion.

- The need for verification procedures and safeguards, in view of the high level of confidence which existed between Pacific Island countries. It was suggested that adequate verification procedures would assist in gaining recognition for the treaty by other states.
The status of the treaty and whether in a nuclear conflict situation the obligations of some countries under other treaties would override the proposed treaty.

25. A draft elements paper was considered and revised by the meeting and appears as Annex 6.

(c) Stationing of Nuclear Weapons

26. The meeting then addressed sub-item 4(c) Stationing of Nuclear Weapons, in view of its logical relevance to sub-item 4(a) Acquisition of Nuclear Weapons. It had before it Australian working paper 7.

27. It was noted that the Non-Proliferation Treaty covered acquisition only. The Forum had gone further to address the issue of preventing stationing of nuclear devices controlled by another country in a Forum state. At the same time the Forum had agreed not to interfere with high seas freedoms and had left it to individual countries to make their own decisions whether or not to allow possibly nuclear-armed vessels and aircraft to call at their ports or airports or transit through their territory. A proposed form of words covering stationing was submitted for the meeting's consideration.

28. The meeting then addressed, among others, the following aspects of the issue:

- The importance of including a provision regarding stationing (or deployment) in the treaty, which would take it a step beyond the NPT.

- The requirement for careful drafting to avoid trespassing on rights of "innocent passage" and "transit" but at the same time to cover sufficiently the concepts of deployment and stationing.

- The need for a definition which would distinguish transit and stationing, which could be based on a stipulation of duration. The example of the Federated Republic of Germany was referred to, where there were a large number of United States weapons under US control, when at the same time the FRG was a signatory to the NPT. In that situation short duration appeared to be regarded as transit rather than stationing.
9.

- The need to address:

  (i) verification procedures;
  (ii) the existence of surveillance and communications facili-
       ties;
  (iii) the over-flying of national air space and port calls
       by possibly nuclear-armed aircraft and ships.

- With regard to surveillance and communications facilities, it
  had not so far been intended that they be included, as some such
  facilities in the region related to global warning capabilities
  rather than to the regional situation in particular.

- With regard to over-flights and airport and port visits, there
  were different views among participating countries as to whether
  or not these should be prohibited. Other treaties did not prevent
  such calls and the "non-disclosure" policies of some nuclear
  powers rendered it difficult to know whether visiting aircraft
  or vessels had nuclear weapons on board. The Forum had agreed
  that the question of whether such visits should be permitted
  was a matter for individual countries. In doing so, it had recog-
  nised that the matter was one of great sensitivity in terms of
  national sovereignty and would also affect whether the proposed
  treaty would attract the support of nuclear weapons states. The
  possibility of a protocol on this matter to which the 5 nuclear
  weapons states would be invited to adhere was mentioned.

- The question of whether protection would be desirable against
  nuclear weapons placed in outer space was adequately covered
  by the "Outer Space Treaty" to which most of the nuclear weapons
  states had adhered.

- The importance of the principles embodied in other relevant
  treaties, or adopted in other instances by individual countries,
  and the principles adopted by the Tuvalu Forum was emphasised.
  It was suggested that the immediate interest of Pacific countries
  was to impose an obligation on France to refrain from testing
  and for all countries to refrain from dumping in the region.
- Beyond those immediate circumstances there was a need to define carefully what was intended by the Nuclear Free Zone and, in particular, the concepts of acquisition, stationing, deployment, and transit. At the same time the need to draft to comply with the outer limits of the Working Group's mandate, as set by the Tuvalu Forum, to see what was possible, was recognised.

29. A draft paper on elements on stationing was considered and revised by the meeting and appears at Annex 7.

(b) Testing of Nuclear Weapons

30. In addressing this sub-item it was noted that there was a wide convergence of views among Forum countries against the testing of nuclear weapons in the South Pacific. It would therefore represent one of the major objectives of the treaty to address this issue as effectively as possible. A suggestion was made that other elements such as dumping and storage of nuclear waste or material might be considered in the context of the SPREP Convention rather than in the treaty.

31. The meeting then addressed, among others, the following aspects of the issue:

- As the countries drawing up the treaty did not possess sovereignty over all the territories in the region it would be necessary to invite nuclear weapons states to conform with its provisions on this issue. Further refinements of this approach would include countries undertaking not to allow explosions of nuclear devices in their territory, and agreeing to remove all facilitation to countries which persisted in testing.

- A provision relating to monitoring of explosions, to identify when tests take place, would be appropriate. An international facility for monitoring might need to be established. Most above-ground and underground tests could be monitored by instrumentation, though problems existed with identifying very small underground tests. It might also be desirable to make provision for checking of testing in countries within the region. It was
recognised that there was considerable difficulty in evolving provisions to ban or monitor the presence of delivery systems because of definitional problems.

Various aspects of the question of removing facilitation from countries undertaking nuclear testing in the region were addressed. At one end of the scale France could be invited to adhere to the treaty on its behalf and/or that of its territories. Another approach suggested was to use the threat of re-inscription of French territories in the Pacific on the United Nations list of non-self-governing territories to encourage France to abandon nuclear testing in French Polynesia. It was agreed that further consideration of steps such as these would be required.

There was a strong view that the major objective of the treaty was to bring about an end to nuclear testing and that its provisions should take that into account.

32. A draft paper on elements relating to the nuclear testing issue was considered and revised by the meeting and appears at Annex 8.

(d) Dumping of Radioactive Wastes

33. The meeting's discussions under this sub-item are recorded under Agenda Item 5.

AGENDA ITEM 5: NAURU GOVERNMENT PAPER ON LONDON DUMPING CONVENTION

34. The meeting had under consideration the paper submitted by the Government of Nauru to the 15th South Pacific Forum on the London Dumping Convention and Australian working paper 6. The former paper reported on the initiative by Nauru and Kiribati to amend the London Dumping Convention to strengthen its provisions against dumping. The result of that initiative had been a moratorium on nuclear waste dumping pending an expert review of the matter. The Forum had, with one amendment, referred the paper to the Working Group for consideration.
35. The meeting then addressed, among others, the following aspects of the issue:

- The scientific and technical review which had resulted from the Nauru initiative in the LDC was still continuing and would be itself reviewed in September 1985. Other related work was taking place in the IAEA and the IMO but the results were not yet available. The question of dumping was also being considered in the context of the SPREP Convention, where the need for co-ordination with the work of this Group had been identified. Difficulties had been encountered with the positions of France and the United States in the SPREP Convention negotiations and a 4th expert meeting, if one was to be held, was not scheduled to take place until this Working Group had reported to the 1985 Forum.

- The need for co-ordination with the SPREP Convention negotiations was recognised, particularly in respect of whether the SPREP zone and the treaty zone would be co-extensive or would differ, and whether the same issues, for example testing and dumping, would be addressed in both instruments. There was a case to be made for some rationalisation, though what form it should take would have to be decided.

36. A draft paper on elements relating to nuclear waste dumping was considered and revised by the meeting and, along with a synopsis of the Nauru paper, appears at Annex 9.

AGENDA ITEM 6: RESUMED CONSIDERATION OF ISSUES FOR A SPNZ

37. The meeting agreed to consider sub-items (e) Territories of non-Forum Members and (g) Nuclear Weapons State Guarantees at the end of this agenda item as they related to possible areas for protocols to the treaty rather than the treaty itself.

(f) Definition of Zone

38. The meeting had before it Australian working paper 3 on boundaries of a SPNZ. The paper proposed two broad approaches:
(i) a definition of the zone which would comprise the territories of countries which signed and ratified the treaty. This approach might be considered an evolutionary approach as the area covered by the zone would extend as parties adhered to the treaty. As long as most or all of the countries of the region adhered it would provide a reasonably comprehensive coverage of the region and have some value in putting pressure on other countries present in the region by setting a standard of good behaviour. A protocol could be devised asking metropolitan powers to apply the provisions of the treaty to their territories in the region;

(ii) a "picture frame" approach could be devised which would draw the outer boundaries of the zone in geographical terms. One possible boundary would be:

North: Along the equator but with extensions to include all the territory of Nauru and Kiribati.
East: The western boundary of the Latin American nuclear weapon free zone i.e. longitude 115 degrees west.
South: The edge of the Antarctic Treaty Zone, i.e. latitude 60 degrees south between 115 degrees west and the longitude of Southern Tasmania.
West: As far as the southern, western and northern coasts of Australia and the Australia-PNG and PNG-Indonesia border.

39. It was noted that the Treaty of Tlatelolco adopted the first approach but envisaged the second approach once all countries south of the equator in Latin America adhered to the treaty. Thus a mixture of the two approaches provided a further possibility. The meeting then addressed, among others, the following aspects of the issue:

- The need for sensitivity with regard to non-Forum Pacific countries if a picture frame approach was to be adopted which included their territories, and the desirability of keeping them informed of the Forum's aspirations and approach.
The distinction which needed to be drawn between obligations which the parties would undertake in respect of themselves whichever definition was adopted, and the legal impossibilities of imposing obligations on non-parties. Nevertheless the approach which was adopted to definition, depending on its scope, could have more or less political/moral force in encouraging states which undertook nuclear activities within the zone to refrain from doing so out of respect for the region's wishes. The second approach, by virtue of including the three French territories, American Samoa and Pitcairn Island within the boundaries of the zone, would seem to offer more scope for exerting such pressure.

Another tactic for exerting such pressure would be to include a second protocol inviting the 5 nuclear weapons states to respect the provisions of the treaty appropriately. In respect of discussions with those states, it might be better for the region to take its evolution of the treaty as far as possible before opening up a dialogue with states whose interests might be to see a less stringent treaty than the region wished.

An important distinction between the definition of the zone and whether each particular prohibition or obligation of the treaty would be undertaken with respect to the whole zone was made. The application of various provisions in the treaty might need to vary in geographical terms in order to ensure clarity and realism and therefore credibility for the treaty. Rights of innocent passage, transit and port calls were one particular area identified and where this distinction might need to be made.

The obligations of New Zealand and Australia in respect of their territories in Antarctica and, in the case of Australia, in the Indian Ocean would require consideration. The New Zealand Antarctic territory was presently regulated by the Antarctic Treaty, which was broader in scope than the proposed SPNFZ and therefore might be preferred. With respect to Christmas Island in the Indian Ocean, it had not been thought appropriate to contemplate extending the possible boundary of the SPNFZ to incorporate it, though the Australian Government would wish to apply the provisions of the treaty in the whole of its territory.
It was noted that where unsettled border issues existed between parties to the treaty and non-parties, problems could arise which might be more or less serious according to the situation.

The relevance of Article 311 Section 2 of the Law of the Sea Convention was discussed, in particular whether it permitted the proposed treaty to devise rules affecting activities which did not derogate and were compatible with the LOS Convention but which involved obligations that were more stringent in terms, for example, of foregoing innocent passage in certain situations. It was noted that this could be done legally and both Article 7 of the NPT and Article 8 of the LDC envisaged such approaches for parties which wished to pursue them. There was no power to legislate for other parties. Whether they would be prepared to forego those rights was a matter of political judgement, but it would seem unlikely given the long standing and sensitive rights involved. Care would be needed in contemplating such an approach that the treaty did not lose credibility by being unrealistic. Nevertheless the possibility of inviting nuclear weapons states to forego certain rights which they possessed in international law, provided it did not derogate from other international legal instruments, could be contemplated by way of a third protocol.

40. A draft paper on elements relating to definition of the zone was considered and revised by the meeting and appears at Annex 10.

41. The meeting addressed the question of the title of the zone under this sub-item. The point was made that whatever title was adopted it should describe the zone properly and, in that respect, "South Pacific" might not be appropriate if the zone extended above the equator. It was also noted that other treaties often had long titles describing in a legal way their obligations and also shorter, informal titles which often took the name of the place of signature. It was subsequently suggested that whatever the title agreed upon, the Forum's name should be associated with it as the zone was on Forum initiative.

42. The meeting agreed that it would be premature to decide upon a title before all the elements of a zone had been properly discussed and
a clearer picture had emerged of the scope of the treaty both in geographical and content terms.

43. A draft paper on elements relating to the title of the zone was considered and revised by the meeting and appears at Annex 11.

(h) Institutional Items

44. The meeting had before it Australian working paper 4 on institutional arrangements. The paper examined the need for institutional arrangements to ensure effective verification and the opportunity for general consultation by the parties.

45. The meeting addressed, among others, the following aspects of the issue:

- Arms control and disarmament agreements generally included provisions for their effective verification and these provisions had tended to become more stringent in recent years. Their contribution was not entirely to catch parties which broke the provisions of any agreement but also to enable parties accused of doing so to prove their innocence, thus contributing to the respect in which properly verified agreements were regarded.

- Precedents existed in the Treaty of Tlatelolco which incorporated both IAEA safeguards which were generally held in high regard for their effectiveness internationally but only applied to verification that nuclear material was not being manufactured into weapons, and a separate organisation comprising a council and secretariat established under the treaty specifically to verify that weapons were not being stationed in the territories of parties.

- The desirability of evolving only so much machinery as was necessary for the purpose was emphasised. Reports of breaches could, for example, be effectively and credibly verified by procedures that would allow officials from Forum countries to inspect the site of an alleged breach in another party.
17.

Similarly, to meet the likely requirements for periodic consultations between parties on matters of interpretation or information, a consultative committee comprising representatives of all parties could be established, with procedures for calling it together quickly and other rules of procedure. SPEC might appropriately provide the facilities for such a committee and an annual report on the implementation of the treaty could be provided to the Forum by the Director of SPEC. It was noted that such responsibilities presently fell outside the economic co-operation role and mandate of SPEC and it would be a matter for the Forum to decide as to whether SPEC's responsibilities were to be extended into these areas.

46. A draft paper on elements relating to institutional arrangements was considered and revised by the meeting and appears at Annex 12.

(e) Territories of Non-Forum Members

47. The meeting had before it Australian working paper 5 and a draft elements paper prepared to assist discussions. The intention of the proposals contained therein was to ensure that the zone extended to all South Pacific territories and provided for inclusion for the entities of the TTPI in due course if that became possible. The meeting addressed, among others, the following aspects of the issue:

- The desirability, which had been flagged under the definition of the zone discussion, to communicate at the appropriate time with territories and their metropolitan, which were not a party to the negotiations but which would fall within the zone if a picture frame approach was adopted, to assist in gaining their understanding.

- The proposed northern boundary to the picture frame approach was extensively discussed in relation to whether the TTPI should be included in the zone or not at this stage. On the one hand it could be argued that the northern boundary might appropriately be drawn where the Forum region ceases, i.e. along the equator with northern deviations at certain points to include the territory of Forum members. The changing political status
in the TTPI might also suggest non-inclusion of that area in the zone at this stage, particularly as what might be taken as an effort to legislate on nuclear matters for that region could give rise to complications in the United States' internal consideration of the future political status of TTPI entities. These arguments would not, however, prevent the treaty offering the possibility of TTPI entities adhering to the treaty and being included in the zone when they were legally in a position to do so. On the other hand arguments were put forward that the zone should be as comprehensive as possible vis-à-vis the non-self-governing territories, in order to avoid distinctions being drawn by one or other metropolitan which could serve to discredit the treaty. An extension northwards could also strengthen the treaty vis-à-vis proposals by Japan to dump in areas close to the TTPI. More generally, bearing in mind the past history of nuclear testing in the TTPI and the overall objectives of the zone in a philosophical sense, the idea of a comprehensive zone should be firmly borne in mind. As a result of discussion on this point it was agreed that open differentiation between the territories in the region should be avoided.

- Differing views were expressed on whether it would be more effective in achieving the region's objectives to deal solely with testing and weapons related issues in the zone and leave the question of dumping for the SPREP Convention or whether both areas should be covered in the zone despite the difficulties which certain metropolitans might have. The balance between realism and evolving an effective statement of the region's objectives and commitments would require careful consideration.

48. A revised draft elements paper was produced as a result of the discussion and appears at Annex 13.

(g) Nuclear Weapon States Guarantees

49. The meeting had before it a draft elements paper on nuclear weapon states guarantees to assist discussions. The paper was modelled on the Tlatelolco Treaty Protocol 2 and proposed a number of undertakings that nuclear weapon states would be invited to make in respect of the zone.
The purpose of such an approach would be to strengthen the zone by committing not only the parties to it, but also those states which possessed nuclear weapons, to respect its provisions.

50. The meeting addressed, among others, the following aspects of the issue:

- Various aspects of guarantees by nuclear weapon states were covered including whether signature of the protocol by one nuclear weapon state would inhibit others in terms of threat or use of nuclear weapons; whether the protocol would apply to weapons within the zone but on the high seas or seabed; whether nuclear weapon states might try and exact a price in return for guarantees, and the best approach to adopt procedurally against this possibility.

- There was general agreement that the Forum members should evolve the treaty to as complete a stage as possible before entering into discussions with nuclear weapon states, in order to guard against the exertion of pressure by them for a price in return for guarantees sought in a protocol. There was also agreement that, while realism might expect a quid pro quo to be sought, the region should take the view that it was already offering a considerable contribution through the treaty by eliminating the possibility of bases belonging to nuclear weapon states being created in the region and therefore eliminating a major cause of rivalry between nuclear weapon states, which so threatened world peace. It was noted that the guarantees sought in the protocol could be extended to include areas of high seas and seabed in the zone, and nuclear testing, if thought appropriate. It was also noted that the value of guarantees would augment the obligations of parties by making it a breach of the treaty for any nuclear weapon state to encourage or assist a party to break the treaty's provisions.

51. A revised draft elements paper was produced as a result of the discussion and appears at Annex 14.
(i) Any Other Issues

52. On the proposal of the Chairman, the meeting agreed that initial drafting of the preamble and final clauses could proceed along with the initial drafting based on the elements papers which was to be undertaken by the legal drafting group.

AGENDA ITEM 7 : PRELIMINARY DRAFTING

53. The meeting established a legal drafting group comprising Australia, Cook Islands, Fiji, Nauru, New Zealand, Papua New Guinea, and Vanuatu subject to confirmation by the Governments concerned and open to representation by any other Forum Government. It was agreed that, in principle, one representative from each participating Government on this group would suffice. Fiji was proposed as co-ordinator of the legal drafting group.

AGENDA ITEM 8 : SPEC PAPER ON THE PERMANENT COMMISSION FOR THE SOUTH PACIFIC

54. The meeting noted SPEC document SPEC(84)SPNFZ.5 and agreed that a copy of the press release should be transmitted to the Permanent Commission.

AGENDA ITEM 9 : ANY OTHER BUSINESS

55. There was no other business.

AGENDA ITEM 10 : DATES AND VENUE OF NEXT MEETING

56. The meeting agreed that the legal drafting group should hold its first meeting during the week beginning 17 December at SPEC Headquarters.

57. The meeting agreed to hold its second meeting in the week beginning 28 January 1985. Noting the desirability, from the point of view of raising public awareness regarding the Forum's objectives of concluding a SPNFZ treaty, of holding meetings in other Forum capitals, the meeting agreed that its second meeting would be held either in New Zealand or Australia, subject to any other offers being made.
AGENDA ITEM 11: CONSIDERATION OF RECORD AND PRESS RELEASE

58. The meeting approved the press release which appears at Annex 15.

59. On the Chairman's proposal the meeting agreed that the record prepared by the Secretariat, document SPEC(84)21, should be regarded as an informal summary record for the assistance of delegations, rather than as a record for full authentication and formal adoption by the meeting. It would be sent along with the complete set of annexes to all Forum and Forum observer countries as a confidential document.

60. Following closing statements and votes of thanks, the meeting adjourned.
LIST OF PARTICIPANTS

Australia

Mr David Sadlier  
Officer on Special Duties

Mr Robert Walker  
Disarmament Advisers

Mr Laurie Herron  
Assistant Secretary  
Department of Foreign Affairs

H E Mr Jeremy Hearder  
High Commissioner to Fiji

Cook Islands

Mr Jon Jonassen  
Permanent Secretary of Foreign Affairs  
Ministry of Foreign Affairs

Mr Fred Webb  
Desk Officer (International Affairs) Specialist  
Ministry of Foreign Affairs

Fiji

Mr Jioji Kotobalavu  
Permanent Secretary for Foreign Affairs,  
Tourism & Civil Aviation

Ms Gracie Fong  
Crown Solicitor (International)

FSM

Mr Lorin Robert  
Foreign Service Officer

Nauru

Mr Lagimot Harris  
Secretary for Island Development

Hon Anthony Andoa MP  
Legal Officer
New Zealand

Mr Chris Beeby
Assistant Secretary
Ministry of Foreign Affairs

Mr Alan Bracegirdle
United Nations Division
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Mr Ken Graham
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Mr Alec Matheson
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Mr Ikipa Tongatule
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H E Mr Naime Doko
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Mr Joseph Gabut
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Assistant Secretary (Pacific Europe & America)
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Tuvalu

Mr J Beith Atkinson
Attorney General

Vanuatu

Mr Nikenike Vurobaravu
Secretary for Foreign Affairs

Mr Kalkot Matas Kelekele
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Western Samoa

Mr Feturi Elisaia
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SPEC

Mr Mahe Tupouniuia
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Dr Peter Adams
Deputy Director

Mr Peter Moore
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Mr Paul McDonnell
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Mr Gerry Linge
Legal Officer

Mrs Andra Vilate
Conference Officer

Mrs Iona Whippy
Personal Assistant
WORKING GROUP ON A NUCLEAR FREE ZONE IN THE REGION
FIRST MEETING
SPEC Headquarters, Suva
13-16 November 1984

DIRECTOR'S OPENING ADDRESS

Distinguished Delegates

May I first of all welcome you to SPEC on this occasion, particularly those who may be attending a SPEC meeting for the first time. As you are all, of course, aware this meeting is one of particular significance.

Serious consideration to the establishment of Nuclear Free Zone in the region was first given at the 14th South Pacific Forum in Canberra, Australia. Discussion on that occasion focussed particularly on the question of nuclear testing on Mururoa Atoll in French Polynesia.

The continued testing by the French Government of nuclear weapons within the region, despite a long history of protest by regional countries, was perhaps the chief catalyst in stimulating the proposal by the Australian Government. Australia, together with other countries in the region has long opposed the testing of nuclear weapons in the South Pacific. Unfortunately the response from the country most active in this area has not been promising and, despite the invitation at that time for a number of regional countries to participate in a scientific mission to the testing site, it was apparent that little had been achieved in the preceding years towards a cessation of the testing of nuclear weapons in the South Pacific.

On that occasion other regional countries supported in principle the Australian proposal and reiterated their long term opposition to the nuclear weapon testing carried out by France in the South Pacific. There was some concern expressed, I recall, that the institution of a comprehensive nuclear free zone might impinge on the sovereignty of a number of states. However, on that occasion and subsequently these fears have been taken into account in evolving a Nuclear Free Zone in the South Pacific.
At the 15th South Pacific Forum in Tuvalu in August this year the progress that had taken place in the preceding year since the 14th Forum was reviewed. The Australian Prime Minister, the Hon. Bob Hawke, elaborated on the concept and reviewed the present situation. On the same occasion the President of Nauru, the Hon. Hammer DeRoburt, also referred to a paper tabled by Nauru with regard to amendment to the London Dumping Convention. This matter of course is also relevant to the concept of a nuclear free zone as it is expected that it would cover not only weapons testing and storage but the dumping and disposal of nuclear wastes within the region.

We saw in Tuvalu a move towards the establishment of a regional consensus on this matter, despite the differing individual positions of some of the regional countries. On this occasion we are gathered to progress this consensus some way towards formal expression. I am well aware that delegates from the regional countries fully understand the international implications of the proposed zone and I am sure that they will bear these and all other relevant considerations in mind in their discussions over the next several days.

We are fortunate to have papers prepared by the Australian Government for discussion and consideration about some of the most important aspects of this proposal. I am sure that they will prove most useful in establishing lines of discussion and providing food for thought for delegates.

I welcome delegates once again to SPEC and invite them to give the matters presently before them careful consideration. This proposal represents a major political step by the Forum as well as being an endeavour in which the people of the region have a vital concern and interest. I urge delegates to work towards formulating a proposal which all countries can accept, for the consideration of the Forum in 1985.

Our facilities are at your disposal and my staff and I stand ready to assist wherever we can.

Thank You.
27.

WORKING GROUP ON A NUCLEAR FREE ZONE IN THE REGION
FIRST MEETING
SPEC Headquarters, Suva
13-16 November 1984

CHAIRMAN'S INTRODUCTORY STATEMENT

Mr Tupouniua
Distinguished Delegates

May I, at the outset, thank you most deeply for the honour which the countries you represent have done Australia by appointing it to preside over this historic body: The Working Group on a South Pacific Nuclear Free Zone. May I thank you, too, for the confidence you have placed personally in me by electing me to the chair.

Fellow Delegates

I know that you would not wish these opening remarks to pass without me, as my first official act, thanking on your behalf, the Fiji Government, for their generosity and consideration in inviting us all to meet here at Suva, the lovely capital of a country so much respected around the world and notably in our own South Pacific Region as well as for the warmth and friendliness of the welcome we have been shown.

I also extend your thanks and mine to the distinguished Director of SPEC for his considerable help in making available to us these excellent facilities and the help he and his staff have given us with arrangements for this gathering.

Fellow Delegates

The goal at which we aim has been given to us by our Heads of Government collectively and in clear and thorough terms. In the Communiqué which the Heads of Government issued following the Fifteenth South Pacific Forum at Tuvalu on 27 and 28 August, this year, they directed this Working Group "to meet as often as may be required 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 Meeting in 1985". Our Heads of Government also stated that "the Working Group is to be chaired by Australia and would be convened in consultation with the Director of SPEC. All members of the Forum would be entitled to attend".

Heads of Government appointed this Working Group, moreover, after having agreed "on the desirability of establishing a Nuclear Free Zone in the region at the earliest possible opportunity in accordance with the principles set out in the Australian working papers. These principles were that:

- South Pacific countries should be free to live in peace and independence and to run their own affairs in accordance with the wishes and traditions of their people
- South Pacific countries should enjoy peaceful social and economic development free from the threat of environmental pollution
- South Pacific countries acknowledge existing international treaties, organisations and regional arrangements, such as the Charter of the United Nations, the Nuclear Non-Proliferation Treaty and the Law of the Sea Convention, which contribute to their objectives
- There should be no use, testing or stationing of nuclear explosive devices in the South Pacific
- No South Pacific country would develop or manufacture, or receive from others, or acquire or test any nuclear explosive device
- Nuclear activities of South Pacific countries should be in accordance with applicable international principles and treaties, notably the NPT and take into account regional arrangements
- South Pacific countries retain their unqualified sovereign rights to decide for themselves, consistent with their support for these objectives, their security arrangements, and such questions as the access to their ports and airfields by vessels and aircraft of other countries."
29.

The Heads of Government as members of the Forum agreed, in addition "that the proposals by Nauru to strengthen the London Dumping Convention would also be examined by (this) Group". In doing so the Heads of Government remarked that "the dumping and disposal of nuclear waste in the region was intolerable and unacceptable and Forum Governments were strongly committed to this aspect of the Convention and Protocols being negotiated under the auspices of the South Pacific Regional Environmental Programme (SPREP)".

In short, Distinguished Delegates, the task we have been commissioned by our Heads of Government to discharge is one of working together, in the well established Pacific way, within clear and comprehensive guidelines, with a view to preparing a draft of a Treaty for consideration by the Forum in 1985.

How are we going to discharge that task? Firstly, if I may, a word about the chair. On that I should stress that as Chairman I am less the Head of the Australian Delegation and certainly neither judge nor dictatorial figure but, in the important task we have been set, no more than the coordinator of your discussion, your servant and, to the extent you choose to make me so, the exponent of your collective view. Should you look to me for guidance I shall offer you that but only on the basis that I have some hint from you of the direction in which you wish to go.

Thus, before I can guide you, there must be full discussion and not by one or two delegations only, but involving several and preferably all delegations. The waters on which we are about to sail are of great significance to our region but they are uncharted waters and to ensure that our ship comes through in good shape and well trimmed, all hands will need to play a full part. I am delighted for that reason that, looking round this room, I see a strong and widely representative crew. At the same time, however, I regret that one or two of our partners in this work we have been asked to do together have, for one reason or another been unable to join us at this first meeting. I hope they will be with us at the next. Meanwhile I suggest that as a Working Group we agree to ensure that all the papers and records of discussion in the Working Group are made available to them as members of the Forum.
AGENDA

Opening Address by Director of SPEC

1. Election of Chairman
2. Adoption of Agenda and Working Procedures
3. Opening Statements
4. Consideration of Issues for a SPNFZ
   (a) Acquisition of Nuclear Weapons
   (b) Testing of Nuclear Weapons
   (c) Stationing of Nuclear Weapons
   (d) Dumping of Radioactive Wastes
6. Resumed Consideration of Issues for a SPNFZ
   (e) Territories of non-Forum Members
   (f) Definition of Zone
   (g) Nuclear Weapon State Guarantees
   (h) Institutional Items
   (i) Any Other Issues
7. Preliminary Drafting
8. SPEC Paper on the Permanent Commission for the South Pacific
9. Any Other Business
10. Dates and Venue of Next Meeting
11. Consideration of Record and Press Release
1. Latin America is the only populated area of the world covered by a nuclear-weapons-free zone. Negotiations for its establishment began after the concept of the zone was endorsed by the General Assembly in 1963. They resulted in the adoption and opening for signature of the Treaty of Tlatelolco in 1967.

2. The Treaty is open for signature by all the countries of Latin America and the Caribbean. Twenty-two have now signed and ratified the Treaty. Cuba and Guyana have not signed, the latter because a question has been raised as to its eligibility to sign in view of its border dispute with Venezuela. Argentina has signed but not ratified, while Brazil and Chile have ratified but not given the waiver necessary to bring the Treaty into effect in their territories.

3. The basic obligations of countries adhering to the Treaty are set out in its first article:

"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 weapons, 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 authorising, directly or indirectly, or in any way participating in the testing, use, manufacturer, production, possession or control of any nuclear weapon."
It is made clear by a subsequent article that the reference to territories in Article I includes the territorial sea and the national air space of each of the Contracting Parties.

4. Important provisions of the Treaty deal with verification. The Parties undertake to negotiate agreements with the International Atomic Energy Agency for the application of its safeguards to their nuclear activities. In addition, the Treaty establishes an organisation to ensure compliance with the provisions of the Treaty, the Agency for the Prohibition of Nuclear Weapons in Latin America (OPANAL). The Council, one of the principal organs of the Agency, is empowered to request information from States Parties concerning their nuclear activities and to conduct special inspections at the request of any party which suspects that the provisions of the Treaty may have been violated.

5. In addition, the Contracting Parties are required to submit to the Agency semi-annual reports confirming compliance in their territories with the provisions of the Treaty.

6. The Treaty has two accompanying Protocols. Protocol I constitutes an invitation to nations outside the Treaty zone to apply the denuclearisation provisions of the Treaty to their territories in the zone. All four powers having such territories have signed - the United Kingdom, the Netherlands, France and the United States. The United Kingdom, the United States (very recently) and the Netherlands have ratified; France has indicated that it is considering ratification.

7. Protocol II constitutes an invitation to nuclear weapon states to undertake:

(i) that the statute of denuclearisation of Latin America as set forth in the Treaty shall be fully respected in all its express aims and provisions.

(ii) not to contribute in any way to acts involving a violation of the obligations of the parties in the territories to which the treaty applies.

(iii) not to use or threaten to use nuclear weapons against the parties to the Treaty.

France, the United Kingdom, the United States, China and the Soviet Union, i.e. all the nuclear weapon states, have signed and ratified Protocol II.

8. The Treaty expressly states that nothing in its provisions shall prejudice the rights of the Contracting Parties to use nuclear energy for peaceful purposes. As drafted it also allows for States Parties to detonate peaceful nuclear
explosions (PNEs) provided adequate IAEA and OPANAL safeguards are followed. However, the IAEA has now established that it is impossible to distinguish between testing a PNE and testing a nuclear weapon. All States which have so far ratified the Treaty have accepted the IAEA's recommendation that they should give up the option to conduct PNEs. Argentina, which has still to ratify, has reserved the right to experiment in this field.

9. The provisions of the Treaty relating to its zone of application and its entry into force are both complex and unusual. In essence, however, it applies initially, to the land territory, territorial sea and national airspace of those Latin American and Carribean countries who wish to be bound by the Treaty. At such time as all the eligible states have bound themselves to it and concluded safeguards agreements with the IAEA and all eligible states have adhered to both Protocols I and II, the zone of application will be extended to cover substantial and defined areas of high seas surrounding Latin America. These conditions have not been met and are unlikely to be met in the foreseeable future. The essential problem is no longer the attitude of countries outside the region, since there seems a reasonable prospect that France will in due course ratify Protocol I. The major obstacle to the Treaty becoming fully effective and extending to the high seas in the manner envisaged arises from the attitude of some of the countries of Latin America. As noted above, five countries of the region have yet to commit themselves to the Treaty.

10. The significance of the fact that, under the conditions specified, the Latin American zone would encompass large expanses of high seas in the Atlantic and the Pacific oceans - larger, in fact, than any South Pacific nuclear weapon free zone would cover - has sometimes been misunderstood. That is not surprising since, while the intent was clear, the drafting of the Treaty is not. The consequence of the extension of the zone to defined high seas areas, should that ever become effective, is that the obligations of the zone states in relation to non-possession will then extend, not only to non-possession in their national territory, but also to non-possession on the high seas. The Treaty places no restraints of any kind on the pre-existing freedom of the nuclear weapon states in international territory. Their nuclear capable ships and aircraft are, and will remain, free to traverse for any purpose, the high seas encompassed by the zone.

11. It is for this reason that the United States, in particular, as the only regional nuclear weapons state, has been able to support the creation of the Latin American zone. It has judged that the zone does not threaten its security interests and that its existence is compatible with the 1947 Rio Pact. (This security treaty
between the United States and the countries of Latin America is comparable to ANZUS, but rather more far reaching in
the obligations it imposes.)

12. Because the Tlatelolco Treaty does not impose restraints
on the ability of the nuclear weapon states to exercise
their existing right to transit or deploy their nuclear capable
ships and aircraft on, over or under the high seas,
there is no problem about verification in respect of the high
seas. There are no rules binding on the nuclear weapon
states for which verification procedures are required to
ensure compliance. So far as concerns zone states, the safeguards
agreement that each has had to conclude with the International
Atomic Energy Agency, should ensure that there is no breach
anywhere, whether on national territory or the high seas, of
the basic prohibition against their acquisition of nuclear
weapons.

13. The obligations concerning non-deployment within the
zone, accepted by both zone states and nuclear weapon states,
relate exclusively to national territory. The deployment
of nuclear weapons on land, in the territorial sea or
in national airspace is prohibited. There are no technical
verification procedures established with respect to non-
deployment. Verification of non-deployment rests on semi-
annual statements by the zone states that their territories
remain free of nuclear weapons, and the OPANAL Council's
inspection rights outlined in paragraph 4 above.

14. Then there is the question of transit. The Treaty
does not attempt to deal with the transit of nuclear weapons
in the territory of the zone state. It was instead deliberately
left to each of the zone states to decide, as a matter of
policy and consistent with its rights under existing international
law, whether it would or would not allow transit of nuclear
weapons. In the opinion of one of the main architects of
the Treaty, Garcia Robles, it was understood, in the negotiations
leading up to the Treaty, that overland transit would, as a
matter of course, be prohibited. But other forms of
transit - port visits by nuclear-weapons-capable warships
and over-flight and landing in transit by nuclear-weapons-capable
aircraft - may be permitted.

15. In practice a number of the states bound by the Treaty
permit port visits. American warships have visited
Antigua, Argentina (3 ports), the Bahamas, Barbados,
Belize, Brazil (5 ports), Chile (9 ports), Colombia, Costa
Rica (2 ports), Curacao, Dominica, Dominican Republic,
Ecuador (3 ports), Grenada, Guadalupe, Guatemala, Honduras
(5 ports), Jamaica (4 ports), Martinique, Mexico, Panama (2
ports), Peru (3 ports), St Kitts and Nevis, St Lucia, St Martin,
St Vincent, Trinidad and Tobago, Uruguay and Venezuela (3 ports).
16. There are some practical difficulties associated with transit. Under what circumstances is a nuclear weapon in the national territory of a zone state in transit and when is it deployed? There is no clear-cut answer to this question; and, since it is silent on the question of transit, the Treaty does not attempt to provide one.
DRAFT ELEMENT 1

No Acquisition

South Pacific Forum countries would undertake not to acquire nuclear explosive devices directly or indirectly;

meaning - not to make them
- not to accept them from other countries.

"Nuclear explosive devices" should be referred to in such a way as to cover, besides nuclear weapons, all nuclear explosives, even those alleged to be "peaceful".

Possible additional point; not included in Tuvalu Forum decision and not foreseen in the NPT:-

The South Pacific Forum countries could undertake to use any nuclear material under their control solely for peaceful purposes.

These undertakings would be absolute, i.e. not limited to the South Pacific Region.
DRAFT ELEMENT 2

No Stationing

South Pacific countries would undertake to prohibit and prevent stationing by other countries of nuclear explosive devices on their territory. Areas of national territory which might be encompassed by such an undertaking are land, internal waters, archipelagic waters, territorial sea, and the seabed and subsoil of the territorial sea.

Stationing would have to be defined in such a way as to distinguish it clearly from:

- innocent passage, archipelagic sea lanes passage, and transit passage through international straits, which we are bound to respect under international law; and

- access to ports and airfields by vessels and aircraft of other countries, in respect of which the Forum has agreed that South Pacific countries should retain their unqualified sovereign rights to decide for themselves, consistent with their support for the other principles endorsed by the Forum.

Such a definition would of necessity include anything in the nature of storage and the installation and basing of nuclear weapons.

There might be a cross reference to the Seabed Treaty.

The obligation considered here would be a new one for Forum countries, although it would be in accordance with the NPT which, in Article VII, specifically recognises "the right of any group of States to conclude regional treaties in order to assure the total absence of nuclear weapons in their respective territories".

Marker for later elements

Verification would need to allow for some form of challenge inspection.
REVISED DRAFT ELEMENT 3

No Testing of Nuclear Weapons

The South Pacific Forum countries pledge to ban the testing of nuclear weapons in the zone.

That is to say -

- the ban would be a collective effort. This does not preclude countries from taking individual actions;
- nuclear weapons include nuclear explosive devices;
- testing can either be for peaceful or non-peaceful purposes;
- testing should not be done by non-Contracting Parties in the territories of the Contracting Parties.

Other Related Considerations

Should delivery systems be considered under the prohibition on the said testing, a "delivery system" can be defined as a device capable of transporting a nuclear weapon or a nuclear explosive device. The system could be included in a definition on nuclear weapons.

Also:

- Verification or monitoring mechanism.

- Undertakings of nuclear weapon stabs to recognise the provisions of the Treaty and not to test anywhere in the zone. (e.g. an additional Protocol).
No Dumping or Storage - Regional

South Pacific countries undertake to prohibit dumping and storage at sea or on the seabed or in the subsoil of radioactive nuclear wastes in their region.

The common objective is to

- achieve stricter standards than are presently required by the LDC by a regional agreement recognisable under Article 7 of the LDC
- gain acceptance of these stricter standards for South Pacific territories administered by Non Forum countries.

The option of addressing dumping and storage in this Treaty should be left open until such time as:

- a decision is made on where this element would be best addressed to attract the widest support
- the likelihood of achieving the common objective under the SPREP Convention becomes more predictable.

To this end the possibility of bringing forward the next consideration of the SPREP Convention and speeding up its progress should be explored.

A possible step is the early convening of a workshop of negotiators for like-minded countries already involved in the SPREP Convention to work on this issue for this treaty and the negotiation strategies for the SPREP Convention.

The obligation considered here would be a new one for Forum countries

and the world, in relation to the dumping of low level radioactive wastes.

which are not parties to the LDC, in relation to the dumping of high level radioactive wastes.

It would however be in accordance with the LDC which in Article VII, specifically recognises stricter regional agreements and obliges respect by parties to the LDC.

Related Considerations

Zone of applicability of the prohibition; Institutional Arrangements - consultation, exchange of information, verification.
NAURU PAPER "NO DUMPING" - GLOBAL

The Nauru Paper was for the information of the Forum leaders meeting at Tuvalu on the progress of the Nauru-Kiribati-Nordic countries proposed amendments of Annex 1, Item 6 of LDC which, if successful, would have the effect of imposing a global prohibition on the dumping of all radioactive wastes.

The earliest this may be decided is September 1985 and the earliest coming into force is 1990.

A prohibition through the global LDC may remove the need to achieve stricter regional standards but may not remove the need for regional monitoring.

A number of developments have caused serious concern including

- consideration by some countries of possible sites for dumping high level radioactive waste
- the six power draft resolution in LDC seeking to legitimise seabed dumping of highlevel waste "as an operational activity"

and highlighted a continuing need for joint efforts by Forum countries towards a prohibition of all dumping of radioactive wastes

- through the LDC and all other relevant international fora
- through a more restrictive regional agreement recognisable under the LDC
ZONE OF APPLICATION

The Contracting Parties envisage that the picture frame approach would be the appropriate method of defining the zone.

A picture frame approach means the boundaries of the zone would be defined in the treaty. The zone would constitute the whole area so defined.

The boundary of the zone would be:

North: along the equator but with extensions to include all the territory of Nauru and Kiribati.

East: the Western boundary of the Latin American Nuclear-Weapon Free Zone.

South: the edge of the Antarctic Treaty zone.

West: as far as the Southern, West and the Northern coasts of Australia - Papua New Guinea and Indonesia border.

The possibility should also be left open of expanding the zone, should other countries be admitted to the Forum.

The parties are aware that they lack authority to regulate areas outside their territories but within the zone. Nor can they, by themselves, impose obligations on the nuclear weapon states. Draft elements 6(e) and 6(g) are intended to take account of these considerations.

The definition of the boundaries of the zone by the picture frame method would not itself determine the scope of the fundamental prohibitions contained in the treaty. That would be a separate issue for consideration in relation to each of these prohibitions. Non-stationing, for example, would apply to the territories of the zone states, i.e. land, internal waters, archipelagic waters, territorial sea, and the seabed and subsoil of the territorial sea. Non-acquisition, on the other hand, would not be limited in any way by reference to territory.
REVISED DRAFT ELEMENT 6 (h)  

Zone Name and Treaty Title  

An appropriate title for the Treaty establishing a Nuclear Free Zone for the region should be drawn up, the alternatives being a descriptive title which would be based on the scope of the zone, or a title based on the place name where the Treaty is signed, or both.
Institutional Arrangements

These would cover verification and consultative arrangements.

To verify that no nuclear material in Zone countries is made into nuclear weapons, reliance could be placed on the IAEA/NPT safeguards already established for most Forum countries.

To verify compliance with other prohibitions in the Treaty there should be arrangements for a team of officials from Forum countries to investigate any reports of breaches of Treaty obligations.

There would be no need for standing administrative body with permanent staff; instead there could be established rules and procedures whereby such an inspection could take place if any Zone country believed the Treaty was not being respected.

There should also be agreed procedures for calling together a Consultative Committee of representatives of countries of the Zone (or Forum) at short notice at the request of any one of them.

This Consultative Committee would issue directions to the inspectors and take any other appropriate action to inform itself about any complaints by Forum countries.

The Consultative Committee could also function as a body in which Forum members could seek and receive information and exchange views about any matters relevant to the purposes of the Treaty.

Arrangements and procedures for the inspections and Consultative Committee would have to be worked out carefully and in detail. They could be set out in an Annex to the Zone Treaty.

The Director of SPEC might be asked to act as convenor for the Consultative Committee and to provide to each Forum meeting an annual report as to any matters concerning the Zone drawn to his attention during the year by Forum members. There may be a need to revise SPEC's mandate and its staffing and financial resources.

Consideration might also be given to annual reports by zone member states and to bilateral contacts before triggering the complaints procedure described above.
REVISED DRAFT ELEMENT 6 (e)

Territories of Non-Forum Members

Provision would need to be made for the obligations established by the Treaty to be applied to the territories currently administered by metropolitan states outside the region.

A suitable vehicle for achieving this result is to be found in Protocol I of the Treaty of Tlatelolco. On the basis of that model, France, the United States and the United Kingdom would each be invited by a comparable Protocol to accept the obligations contained in the Treaty in respect of their territories.

This question needs to be considered in relation to element 5 and in particular to the question of the northern boundary of the zone.

It will be necessary to consider in due course the need for some consultation with the territories covered by this element.
REVISED DRAFT ELEMENT 6 (g)

Nuclear Weapon State Guarantees

It would be desirable to find a means of associating the nuclear weapon states with the Treaty and obtaining commitments from them, in view of the contribution of the zone to world peace and the benefits accruing from it to the nuclear weapon states. Once again the Treaty of Tlatelolco - Protocol II - provides a model.

Applying the model to our Treaty would mean that all nuclear weapon states would be invited:

(a) to respect the aims and provisions of the Treaty;

(b) not to contribute in any way to any violation of the obligations accepted by the zone states;

(c) not to use or threaten to use nuclear weapons against the zone states.

If it were decided (see the second of the "other related considerations" referred to in Draft Element 3, on testing of nuclear weapons) to invite the nuclear weapon states to accept an obligation not to conduct nuclear testing anywhere in the zone as defined, then this, too, would be an element in Protocol II.

It would be for consideration whether the scope of these commitments could be widened.
FORUM WORKING GROUP ON A NUCLEAR FREE ZONE IN THE REGION

A Working Group of Officials from the South Pacific Forum countries held its first meeting at SPEC Headquarters in Suva on 13 to 16 November, 1984.

In accordance with a decision by the Forum at its meeting in Tuvalu last August, the Working Group began its appointed task of examining 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 at the next Forum meeting. Also in accordance with the Forum decision, the Group considered as well proposals by Nauru to strengthen the London Dumping Convention.

The Forum had provided the Working Group with guidance in the form of a set of principles concerning the proposed Nuclear Free Zone and had decided that Australia would chair the Group.

Representatives of the following countries participated in the meeting of the Working Group: Australia, Cook Islands, Fiji, Nauru, New Zealand, Niue, Papua New Guinea, Tuvalu, Vanuatu and Western Samoa. The Federated States of Micronesia also attended in its status as an observer in the Forum.

The Working Group decided that Forum members who were not able to be represented at this meeting would be informed of its deliberations to facilitate their participation in future meetings of the Working Group.

The meeting made good progress towards the identification of elements of a Treaty and the Working Group set up a legal drafting sub-committee which is to start work in December and decided to hold a second meeting of the full Working Group in late January next year.