

THE SOUTH PACIFIC NUCLEAR FREE ZONE TREATY:

A Critical Assessment

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Abbreviations

ABM	Anti-ballistic Missile
ACDA	US Arms Control and Disarmament Agency
AGPS	Australian Government Publishing Service
ALCM	Air-launched Cruise Missile
ALP	Australian Labor Party
ANZUS	Security Treaty Between Australia, New Zealand and the United States (1952)
ASAT	Anti-satellite
ASEAN	Association of Southeast Asian Nations
ASLP	French Long-range Air to Surface Missile
ASM	Air-to-surface Missile
ASMP	French Air to Surface Missile
ASROC	Anti-submarine Rocket
ASW	Anti-submarine Warfare
ATOM	Against Testing on Moruroa (Fiji anti-nuclear group)
BNWFZ	Battlefield Nuclear Weapon Free Zone
C ³ I	Command, Control, Communications and Intelligence
CHOGM	Commonwealth Heads of Government Meeting
CPD	Commonwealth Parliamentary Debates (Australia)
CTBT	Comprehensive Test Ban Treaty
EEC	European Economic Community
EEZ	Exclusive Economic Zone (up to 200 miles from coast)

ERP	US Pacific Command's Expanded Relations Program
FBM	Fleet Ballistic Missile
FPDA	Five Power Defence Arrangement (Britain, Australia, New Zealand, Malaysia, and Singapore)
FSM	Federated States of Micronesia
GLCM	Ground-launched Cruise Missile
IAEA	International Atomic Energy Agency
ICBM	Intercontinental Ballistic Missile
IISS	International Institute of Strategic Studies
IOZOP	Indian Ocean Zone of Peace
IRBM	Intermediate Range Ballistic Missile
Kt	Kiloton (measure of the explosive yield of a nuclear weapon equivalent to 1000 metric tons of TNT)
LANFZ	Latin American Nuclear-Free Zone
LCP	Liberal Party - Country Party
LOS	Law of the Sea
MAD	Mutual Assured Destruction
MFO	Multilateral Force in the Sinai
MIRV	Multiple Independently Targetable
MSBS	French Submarine Launched Ballistic Missile
Mt	Megaton (measure of the explosive yield of a nuclear weapon equivalent to one million metric tons of TNT)
NAVSTAR	Navigation system using time and ranging, US navigation satellite system
NCND	US and UK 'Neither Confirm Nor Deny' policy on the issue of disclosing the presence of nuclear weapons on board their military ships and aircraft
NFZ	Nuclear Free Zone

NNWS	Non-Nuclear-Weapon States
NPT	Nuclear Non-Proliferation Treaty
NWFZ	Nuclear Weapon Free Zone
NWFZ	Nuclear Weapon Free Zone
NWP	Nuclear-Weapon Power(s)
NWS	Nuclear-Weapon State(s)
NZLP	New Zealand Labour Party
NZPD	New Zealand Parliamentary Debates
OAS	Organisation of American States
OAU	Organisation of African Unity
OPANAL	Agency for the Prohibition of Nuclear Weapons in Latin America
PAMS	US Western Command Pacific Armies Management Seminars
PNE	Peaceful Nuclear Explosions
PNG	Papua New Guinea
PTBT	Partial Test Ban Treaty
SAC	US Strategic Air Command
SDI	US Strategic Defence Initiative ("Star Wars")
SHNFZ	Southern Hemisphere Nuclear Free Zone
SIGINT	Signals Intelligence
SLBM	Submarine-Launched Ballistic Missile
SLCM	Sea-launched Cruise Missile
SOSUS	Sound Surveillance System
SPC	South Pacific Commission
SPEC	South Pacific Bureau for Economic Co-operation (Secretariat to the South Pacific Forum)
SPNFZ	South Pacific Nuclear Free Zone

SPREP	South Pacific Regional Environment Programme Convention for the Protection of the Natural Resources and Environment of the South Pacific Region (Signed in 1986)
SRAM	Short-range Attack Missile
SSBN	Strategic Nuclear-Powered Ballistic Missile Submarine
SSN	Nuclear-powered Attack Submarine
SUBROC	Submarine Rocket
TTBT	Threshold Test Ban Treaty
TTPI	Trust Territory of the Pacific Islands
UKUSA	UK-USA Security Agreement (between US, UK, Australia, Canada and New Zealand)(1947)
UNCLOSIII	Third United Nations Conference on the Law of Sea (which adopted and opened for signature the UN Convention on the Law of the Sea)
UNGA	United Nations General Assembly
UNIFIL	United Nations Interim Force in Lebanon
UNSSDI	United Nations General Assembly First Special Session on Disarmament, 1978
UNSSDII	United Nations General Assembly Second Special Session on Disarmament, 1982
USGPO	US Government Printing Office
USIS	United States Information Service
VLF	Very Low Frequency
ZOP	Zone of Peace
ZOPFAN	Zone of Peace, Freedom, and Neutrality

CHAPTER 1

Introduction

On Hiroshima Day, August 6th 1985, eight South Pacific countries signed the South Pacific Nuclear Free Zone (SPNFZ) Treaty at a meeting of the South Pacific Forum in Rarotonga in the Cook Islands.

The Rarotonga Treaty, as it is known, was the fifth nuclear free zone treaty to be established internationally, and the first since the Outer Space Treaty was signed in 1971. The only previous Nuclear Free Zone (NFZ) in an inhabited region was the Latin American NWFZ (Tlatelolco Treaty).

The initiative represented the third of three waves of South Pacific regional interest in the nuclear free zone concept. The first occurred in 1962-1963 and involved proposals by the opposition Labour parties in Australia and New Zealand for a Southern Hemisphere Nuclear Free Zone (SHNFZ). The second occurred in 1974-75 when New Zealand and the South Pacific Forum island states gained UN support for establishing a South Pacific Nuclear Free Zone.

The first wave, emerging in the context of the international nuclear disarmament movement that arose in the late 1950s, was triggered by concerns over British and American testing at Christmas Island in the mid-Pacific and the announced American intention of establishing a submarine communications base at Northwest Cape in Western Australia.

The Australian Labor Party leader, Arthur Calwell, called for the establishment of a Southern Hemisphere NFZ in May 1962, based on an extension of the Antarctic Treaty boundaries as far as the equator.¹ The New Zealand Labour Party quickly took up the same proposal.² The idea was strongly opposed by the Menzies Liberal-Country Party government, the New Zealand Holyoake National government, and the Kennedy Administration at the 1963 ANZUS COUNCIL, on the grounds that it would not increase security against China, which was known to be seeking nuclear weapons, and because of concerns about the future impact on US installations in the region (see Chapter 7). Following the ALP's defeat in the 1963 election, the ALP did not actively pursue the concept after 1964.

The second major regional NFZ proposal was advanced a decade later by the New Zealand Labour government of 1972-75, and progressed much further than the first proposal. The New Zealand Labour government initiative called for a South Pacific Nuclear Free Zone extending from 60 degrees South (the Antarctic Treaty boundary) to the equator, with the eastern and western boundaries to be negotiated.³ The New Zealand government envisaged that the zone initially would be based on the Tlatelolco Treaty model and not seek to impede passage of nuclear armed vessels beyond the zone states' own territories; but, eventually, it was hoped the zone, with the nuclear weapon powers' cooperation, could be extended to the high seas as well.⁴ Prompted initially by New

Zealand and regional concern over French atmospheric testing from 1966-1974 at Moruroa in French Polynesia, the New Zealand government continued to pursue the proposal even after the 1974 French shift from atmospheric to underground testing. This was not only because of continued New Zealand opposition to underground testing, but also because of New Zealand Labour Party concern over superpower rivalry in the Indian Ocean and the potential spread of this rivalry into the South Pacific.⁵

The New Zealand Labour government SPNFZ initiative, while supported strongly by the island states at the July 1975 South Pacific Forum,⁶ and by the UN General Assembly (110 votes to 0, with 20 abstentions)⁷ in a joint resolution sponsored by New Zealand, Papua New Guinea and Fiji, was vigorously opposed by the United States and privately opposed by the Australian Whitlam Labor government (see Chapter 7 for discussion of the US attitude at the time). In the case of the United States, the primary concern was the zone's potential restriction of transit of nuclear-armed forces, both within territorial waters/airspace, and on/over the high seas. In the case of the Whitlam government, under considerable pressure from the United States and embattled at the time with domestic controversy over the raising of overseas loans, the primary concern was a wish to avoid electorally damaging controversy over the impact of the SPNFZ on ANZUS and Australia-US relations. Following the late 1975 election of conservative governments in both New Zealand and Australia the initiative lapsed.

While the concept died at the official South Pacific Forum level, peace movements and indigenous peoples' groups in many regional countries continued to promote the idea through national policies aimed at encouraging their respective governments to establish a regional nuclear free zone, and through the People's Charter for a Nuclear-Free and Independent Pacific, drafted and amended at successive international non-government conferences of Pacific region peace movements and indigenous groups in 1975, 1978 and 1980.⁸ The Charter called for the establishment of a comprehensive nuclear free zone, decolonization of remaining territories, and recognition of indigenous peoples' rights throughout the Pacific region.

Further, in the late 1970s and early 1980s, the New Zealand Labour Party and several Melanesian governments, including Papua New Guinea, Vanuatu and the Solomon Islands, began reviving and actively promoting the SPNFZ concept.

In August 1983, in the context of an upsurge of domestic and South Pacific-wide concern over international and regional developments in the nuclear arms race, Australia's newly-elected Hawke Labor government officially proposed the SPNFZ initiative at the annual South Pacific Forum, the meeting of heads of state of independent or self-governing South Pacific countries. The proposal was endorsed at the August 1984 Forum, negotiated in the ensuing year through a Forum Working Group chaired by Australia, signed at the 1985 Forum Meeting, and, following ratification by 8 Forum states, came into force in December 1986.

Despite a surface impression of continuity and consistency with earlier regional NFZ proposals, the following study of the Rarotonga Treaty suggests that the measure, far from representing an evolutionary consummation of earlier initiatives, could be considered more a reaction against earlier initiatives and emerging domestic and regional pressures for comprehensive denuclearization.

The close alliance relationship between Australia and the United States and extensive Australian involvement in US nuclear strategies, including hosting of major US communication, control, command and intelligence (C³I) bases, acceptance of frequent nuclear-armed warship visits, and cooperation in anti-submarine warfare (ASW) programmes in the Pacific and Indian Oceans, coupled with Australia's own direct nuclear interest in mining and exporting uranium, made Australia, even under a Labor government, a rather unlikely evangelist for a regional nuclear free zone concept that was actively opposed by the United States. The paradox is even more acute in the light of the Hawke government's pledges, soon after coming to office, of 'continuity in foreign policy', a commitment to maintaining all existing forms of Australian nuclear co-operation with the United States, and a commitment to continued uranium mining.

The following study argues that the apparent irony of the regional state with the closest links to a nuclear power actively initiating a regional nuclear free zone arrangement is explained by evidence that the Rarotonga Treaty was primarily motivated by the Australian government's wish to protect US, ANZUS and Australian nuclear policies against more comprehensive denuclearization arrangements sought by the domestic peace movement, the New Zealand Labour Party, and the Melanesian Alliance states (Papua New Guinea, Solomon Islands and Vanuatu). By advancing a limited-scope, limited-domain zone, primarily directed at channelling domestic and regional anti-nuclear sentiment against 'third-party' non-ANZUS nuclear activities in the form of French nuclear testing, while exempting and legitimizing all existing and contemplated US, ANZUS and Australian regional nuclear activities, the Australian government aimed to pre-empt more comprehensive zone arrangements and to secure ANZUS nuclear interests.

As against competing explanations of the principal motivation of the treaty, including explanations in terms of its ostensible objectives in preventing superpower rivalry, ending French testing, discouraging horizontal proliferation, contributing to regional security, or acting as a stepping stone to further regional or global disarmament, it is argued that the above thesis best fits: (a) the distinctive features of the treaty's scope, domain, control system and modes of implementation; (b) the domestic, regional and historical context in which the initiative emerged and was implemented; (c) Australia's negotiating strategy in securing island state endorsement of the treaty; (d) the Australian chief negotiator's presentation of the motivation for the treaty; and (e) the actual function of the treaty since regional negotiations commenced in late 1984.

The study commences with a brief analysis of the nuclear free zone concept as it has evolved internationally, particularly in the UN context. The historical development, internationally-perceived objectives, definition, and key attributes of the regional NFZ concept, are discussed with the aim of developing a systematic framework and departure point for analysing the provisions and features of the Rarotonga Treaty.

The Rarotonga Treaty is then analysed according to five key NFZ attributes: scope, domain, control system, implementation, and relation to collateral measures.

It is argued that the treaty is highly selective in its scope, limited in its geographical application, less stringent in its control system than the Tlatelolco Treaty, and rigid in its amendment provisions, and that the implementation process does not envisage follow-on stages or collateral measures oriented to further denuclearization of the region. The limited scope of the treaty provides little or no brake on superpower nuclear war preparations in

the region. The treaty avoids regulation of the principal manifestations of the nuclear arms race in the region, such as expansion of nuclear-armed transit, deployment of mobile nuclear weapon systems, and expansion of C³I infrastructure, and even serves to legitimize some aspects of this expanding nuclear presence, including strengthening of the claim for nuclear-armed vessels to be covered under the innocent passage clauses of the Law of the Sea, a reversal of the previous Tlatelolco precedent restraining nuclear powers from firing weapons from zone waters, and more general legitimization of nuclear activities permitted under the treaty.

The treaty's domain is arbitrarily restricted to boundaries that eliminate any possible effects on US nuclear activities in Micronesia. Nuclear-weapon state guarantees sought under the treaty's protocols are less rigorous than previous undertakings and security guarantees envisaged in the UN NFZ concept and embodied in the Tlatelolco Treaty.

The scope and domain of the treaty are consistent with a drafting aim of protecting and legitimizing all present or contemplated US, ANZUS and Australian nuclear activities in the region while prohibiting French nuclear weapon testing in the region.

The ensuing chapter examines the motivation of the Australian government in pursuing the initiative. It is concluded - on the basis of official statements, the preceding analysis of the actual scope of the treaty, and Australian negotiating strategy - that the prime concern of the Australian government was to avert any adverse effects on existing or contemplated US, ANZUS or Australian nuclear activities by advancing a measure that would channel rising domestic and regional denuclearization pressures against third party non-ANZUS nuclear activities while serving to safeguard and legitimize US and Australian nuclear policies.

If the Australian initiative can be explained primarily in terms of the pursuit of US and Australian nuclear policies, the question is raised as to why New Zealand and most of the South Pacific Forum island states should co-operate in the initiative. This and related questions are pursued in the ensuing chapters on New Zealand and island states' policies on the SPNFZ issue.

In New Zealand, the Lange government, while implementing a more comprehensive nuclear free policy within New Zealand itself, was reluctant, in the context of its dispute with the United States and Australia over its nuclear warship ban, to incur either additional US sanctions or to jeopardise its relations with Australia by appearing to seek the 'export' of its 'nuclear allergy' to the whole region. Given that the United States was particularly sensitive to the international repercussions of the New Zealand stand, the Lange government was concerned to prevent an escalation in US retaliatory moves from withdrawal of some forms of defence cooperation to economic sanctions. At the same time, in the context of the non-operation of the ANZUS relationship with the US, the need for maintaining its alliance relationship with Australia became even more important, particularly to reassure the more conservative sections of the New Zealand electorate that there was no defence vacuum and that New Zealand could still enjoy a measure of ANZUS protection through Australia and the latter's close links with the United States.

Support for the Australian-initiated Rarotonga Treaty allowed New Zealand to prove its 'responsible' policy of not seeking to export its nuclear policies while at the same time offering some symbolic legitimization of New Zealand's own nuclear free policies to the

extent that the treaty highlighted region-wide concerns over nuclear testing and waste-dumping.

For the Forum island states, as the official record of the treaty negotiations reveals, the treaty represented a compromise compared to the more comprehensive provisions preferred by a number of island states, especially the Melanesian Alliance states - Papua New Guinea, Solomons and Vanuatu. It also represented a retreat from the more comprehensive zone sought by the Forum in 1975 on the initiative of the New Zealand Rowling Labour government.

In part, the compromise was secured through the Australian negotiating strategy of promising US support for the treaty if compromises were agreed to - a development that would, at least, have added significantly to international pressure on France to cease testing. However, the principal factors affecting Forum island state support for - or acquiescence in - the Australian initiative were the heavy dependence of almost all island states on Australian, New Zealand, US and other Western sources of economic aid, trade, and military assistance, coupled with the long-standing pro-Western orientation of their foreign policies.

While the success of Australia in gaining New Zealand and island state support for the treaty demonstrated Australia's regional influence as the major diplomatic, economic and military power in the Southwest Pacific, the Hawke government was less successful in securing the support of the Western nuclear powers. French opposition was predictable enough in terms of the intention and scope of the treaty, but US and UK non-signature appears surprising in terms of the argument that the primary motive of the treaty was to protect US and ANZUS nuclear policies.

Chapters 7 and 8 examine the nature of the nuclear weapon power responses to the Rarotonga Treaty. For the United States, the principal motives for non-signature do not conflict with the thesis that the zone was aimed at protecting US strategic policies in the region since the zone's role in protecting US regional interests has been acknowledged by the United States itself. Rather the reasons for US non-signature lay in concerns over the symbolic role of the zone in fostering potentially more comprehensive zones in Europe, Southeast Asia and the Indian Ocean, and adverse effects on US-French relations and strategic co-operation. Further, non-signature of the treaty protocols allowed the United States to maximize its advantages by simultaneously benefiting from the regional protection afforded by the treaty - which came into force regardless of nuclear weapon state endorsement - and sending a signal to other regions that it would not condone the spread of NFZs to other American allies.

The Soviet Union, for its part, ratified the treaty protocols promptly as a means of improving its previously poor image in the South Pacific and because it viewed the treaty as opening up possibilities for further regional and pan-Pacific arms control measures.

The final chapter critically examines the various claims made for the treaty's contribution to regional and global security, argues that the treaty represented a regional consolidation of US and ANZUS nuclear interests at a time of strategic expansion in the Pacific, and considers some of the consequences and implications of the treaty, regionally and globally.

Given continued US rejection of the treaty compared to strong Soviet support, the treaty may ultimately prove counterproductive to ANZUS objectives in that it could contribute to island moves towards new and independent alignments with Eastern bloc countries. In terms of its global implications, it is argued that the treaty offers, at best, an ambiguous precedent that cannot be assumed to necessarily enhance the prospects of denuclearization globally or in other regions.

NOTES

- 1 *Commonwealth Parliamentary Debates*, House of Representatives, 15 May 1962, pp.2318-2329.
- 2 New Zealand Labour Party, *47th Annual Conference Report, 1963*, Wellington, New Zealand Labour Party, 1963, p.25.
- 3 See R. Alley, 'Nuclear-Weapon-Free Zones: The South Pacific Proposal', *Occasional Paper 14*, Muscatine, Iowa, The Stanley Foundation, 1977; R. Walsh and G. Munster, *Secrets of State*, Sydney, Walsh and Munster/Angus and Robertson, 1982; G.E. Fry, 'Australia, New Zealand and Arms Control in the Pacific Region', in D. Ball, ed., *The ANZAC Connection*, Sydney, Allen and Unwin, 1985, pp.91-118, at pp.101-103.
- 4 *New Zealand Foreign Affairs Review*, (hereafter NZFAR), v.25, n.10, October 1975, p.13.
- 5 NZFAR, v.25, n.9, September 1975, p.4 & v.25, n.10, October 1975, p.8.
- 6 NZFAR, v.25, n.7, July 1975, pp.60-61.
- 7 *UN Disarmament Yearbook 1975*, New York, United Nations, 1976, pp.43-44, 55-56.
- 8 Conference Report Committee, eds, *Nuclear Free Pacific Conference 1980*, Honolulu, Pacific Concerns Resource Center, July 1980.

CHAPTER 2

Nuclear Free Zones: Concept and Attributes

Concept

The concept of a regional nuclear free zone, a variant on the older disarmament concepts of demilitarization and neutralization,¹ first emerged in the European context during the late 1950s, following the 1953 American deployment of nuclear-capable artillery and 1956 deployment of Honest John tactical nuclear armed missiles in West Germany.² Concerned at these nuclear deployments and the possibility of West German acquisition of nuclear weapons, the Warsaw Pact countries sought the denuclearization of the two Germanies in a series of proposals during 1956-1957.³

The most significant and innovative of these proposals was the Rapacki Plan, proposed by Poland in 1957. This called for a nuclear free zone covering Poland, Czechoslovakia, and the two Germanies. The zone sought to prohibit the production, stockpiling, import, storage, and maintenance of (a) nuclear weapons, (b) nuclear delivery systems, and (c) any materials or equipment used in connection with nuclear weapons, including launch sites. The US, USSR, UK and France would have given undertakings not to equip forces stationed in the zone with nuclear weapons. All nuclear-weapon states would have guaranteed not to use nuclear weapons against any targets in the zone.⁴

The Rapacki Plan was the first NFZ proposal to define the essential features of a nuclear free zone as entailing: (a) the total absence of all nuclear weapons and delivery systems; (b) adequate multilateral inspection and verification systems; (c) a commitment by nuclear-weapon states not to use nuclear weapons against zone territory; and (d) implementation through a treaty or other legally binding instrument. It was also the first to propose the NFZ concept as a *partial* disarmament and security measure that could be taken independently of and prior to the establishment of more universal disarmament schemes.

The plan was rejected by West Germany, the United States and Britain on the grounds that it would adversely affect Western security since Western forward-deployed nuclear weapons were needed to balance numerically greater Soviet conventional forces stationed in or close to central Europe.⁵

Despite the Western rejection of this and subsequent versions of the Rapacki Plan, its essential features were to inspire and strongly influence many subsequent NFZ proposals and initiatives relating to inhabited areas. The concept found particular favour amongst neutral and non-aligned countries concerned at nuclear intrusions into new regions.

In 1959, soon after a US announcement that American nuclear-armed Jupiter IRBMs would be stationed in Italy and a June 1959 announcement that the United States would

deploy tactical Honest John and Nike nuclear missiles in Greece, Romania and Yugoslavia proposed a Balkans NFZ.⁶

Following the commencement of French nuclear testing in the Sahara in February 1960, eight African states proposed at the UN that Africa be declared a NFZ and respected as such by all states.⁷

In 1963, in the context of a US decision to deploy Polaris nuclear submarines in the Mediterranean, Algeria and the United Arab Republic supported a Soviet proposal for the denuclearization of the Mediterranean.⁸ In the same year, Finland proposed a Nordic NFZ covering Finland, Sweden, Norway and Denmark.⁹

It was in Latin America, however, that the feasibility of the Rapacki NFZ concept was first demonstrated.

The immediate stimulus for the Latin American NFZ was the Soviet move to deploy nuclear missiles in Cuba in 1962, but potential horizontal proliferation arising from regional states' acquisition of nuclear technology was also a matter of regional concern. Six months after the 1962 Cuban Missile Crisis, five Latin American States, Brazil, Mexico, Chile, Ecuador and Bolivia, called for a multilateral agreement to denuclearize Latin America. All regional states were asked to undertake not to 'manufacture, store, or test nuclear weapons or devices for launching weapons'.¹⁰ Following support for the idea at the UN, Mexico initiated a series of preparatory conferences between 1964 and 1967 to draft an agreement. The Tlatelolco Treaty was signed in 1967 by 21 Latin America countries, although three of the largest regional states, Chile, Argentina, and Brazil, while signing the treaty, subsequently failed to bring it into force for their territories.

Like the Rapacki Plan, its principal elements consisted of a prohibition on nuclear weapons, whether acquired by regional states or introduced by external states; an inspection and verification system; and undertakings by the nuclear-weapon states to respect the zone and not to use nuclear weapons against zone territory.

While incorporating the same broad features of the Rapacki Plan, the Tlatelolco Treaty introduced a number of major innovations to the NFZ concept, some representing a narrowing, others a widening, of the original Rapacki concept.

Whereas the Rapacki Plan sought to include not only nuclear weapons themselves, but also delivery systems, launch sites and all materials and equipment related to nuclear weapons, the Tlatelolco Treaty carefully distinguished between nuclear weapons and the means of transport or propulsion of nuclear weapons where such means were separable from the device, prohibiting only the former.

On the other hand, the negative security guarantees required by the Latin American treaty went significantly beyond those called for in the Rapacki Plan. The latter had referred simply to guaranteeing not to use nuclear weapons against the zone but the Tlatelolco Treaty's Protocol II required a further undertaking not to 'threaten to use' nuclear weapons, an important addition that addressed the possibility of 'nuclear blackmail'.

Further, while the Tlatelolco Treaty contained no provision against nuclear weapons transit by nuclear-weapon states through the zone, its Protocol II, ratified by all the nuclear

powers, required an undertaking, through its Article 2 reference to not violating Article 1 of the treaty itself, not to deploy or use nuclear weapons in any territory for which the zone is in force. This had the effect of **enjoining** the nuclear states not to deploy or use nuclear weapons from transiting vessels or aircraft. Since the treaty, once ratified by all Latin American states, will come into force for large areas of the high seas surrounding Latin America,¹¹ the nuclear powers would also be **enjoined** not to launch nuclear weapons from areas of the high seas as well, although their reservations to the protocol suggest that they would not accept any extension of the zone to high seas areas.

The principal contribution of the Tlatelolco Treaty was undoubtedly to demonstrate the viability and international credibility of the regional nuclear free treaty concept established through the exercise of regional states' sovereignty. It represented the first zone to be established in a populated area, and while not in force for all Latin American states, covered 150 million people in a total area of 8 million square kilometres. Although initially meeting with less than full support on the part of the Warsaw Pact countries, primarily because of its tolerance of nuclear weapon transit in territorial waters, it was eventually recognised and guaranteed by all the nuclear powers, with the exception of France in respect of Protocol 1 relating to French territories in the region. In the case of the United States, its 1971 ratification of the treaty's Protocol II was the first time that the US had entered into a legally binding agreement to restrict its use of nuclear weapons, an important precedent that paved the way for other nuclear powers to make similarly binding commitments.¹²

The 1967 signature of the Tlatelolco Treaty in turn helped inspire a variety of other NFZ and related initiatives during the 1970s and early 1980s, including NFZ proposals for the Middle East, South Asia, and Southeast Asia, revived proposals for the Nordic countries and Africa, and Zones of Peace in the Indian Ocean and Southeast Asia.

In the United Nations General Assembly, the number of NFZ and related resolutions rose steadily from an average of one or two a year in the early sixties to over five a year in the late 1970s and early 1980s. Indicative of the heightened international interest in the concept in the mid-1970s was the 1975 UN comprehensive study of NFZs.¹³

The UN NFZ study highlighted international agreement on a number of general principles for the establishment of NFZs and associated obligations. The most important included: NFZs 'would be, and would remain, effectively free of all nuclear weapons'; that zone members must assume obligations 'not to develop, test, produce, possess or acquire nuclear weapons' and 'not permit anybody to store, install, or deploy such weapons in their territories'; that transport of nuclear weapons by zone members should be prohibited since transport implies possession; that the NWFZ initiative should come from within the region concerned; that all militarily significant 'and preferably all States' within the region should participate in order to enhance the zone's effectiveness; that there must be 'an effective system of verification'; that zones should promote international cooperation on the peaceful uses of nuclear energy; and that zone treaties should be of unlimited duration.¹⁴

The government experts involved in the study failed to reach agreement on a number of other proposed elements in the NFZ concept. Most experts considered that if a zone state were a member of a security alliance, membership of such an alliance 'cannot justify any exceptions to the obligations deriving from the nuclear-weapon-free zone treaty'. Some, however, including the US and Australian experts, contended that a NFZ 'should not

interfere with existing security arrangements to the detriment of regional and international security'.¹⁵ Many experts thought that zone boundaries and provisions should respect principles of freedom of navigation on the high seas, in international straits, and in international air space, as well as rights of innocent passage through territorial seas; but some emphasized that a NFZ 'should prohibit the transit of nuclear weapons through the territory of the zone including entry into ports situated there of vessels having nuclear weapons on board'.¹⁶ Another area of disagreement was on the issue of military bases within a zone region: some experts viewed the existence of military bases involving nuclear weapon storage or visits by nuclear-armed vehicles as 'incompatible' with the zone concept; others did not.¹⁷

By the time of the first UN Special Session on Disarmament (UNSSDI) in 1978, the nuclear weapon free zone concept as developed in the Tlatelolco Treaty and in the 1975 UN study came to be widely recognised as an important partial element in UN disarmament strategy. The UNSSDI Final Document, on which consensus was reached by both nuclear-weapon and non-nuclear states, affirmed that:

The establishment of nuclear-weapon-free zones on the basis of agreements or arrangements freely arrived at among the States of the zone concerned, and the full compliance with those agreements or arrangements, thus ensuring that the zones are genuinely free from nuclear weapons, and respect for such zones by nuclear weapon States constitute an important disarmament measure.¹⁸

While there continued to be major differences between Western, Eastern and Third World approaches to the detailed content and provisions of NFZs, especially on questions of transit and inclusion of high seas, the UNSSDI Final Declaration and Programme of Action statements of NFZs represented a historic international consensus on the relevance, role, and broad principles of NFZs.

A further UN NFZ study conducted in 1983 to update the 1975 study, while not reaching the stage of final endorsement, did result in a Working Paper that clarified the principal anticipated security contributions of the regional NFZ concept.

In the view of the UN Working Paper, the immediate security objectives of NFZs were: the establishment of regional barriers against the outbreak of nuclear war, whether on a regional scale or globally; the prevention of nuclear attack or blackmail of regional states from outside the region; and the prevention of nuclear competition among zone states.¹⁹ Beyond these immediate objectives, the important global security contributions of NFZs lay in the step-by-step process towards the complete abolition of nuclear weapons and in strengthening the international non-proliferation regime.²⁰ Regional security was promoted through mutual guarantees between zonal states not to acquire nuclear weapons, and nuclear-weapon power guarantees to 'respect strictly the status of the nuclear-weapon-free zone' and to 'refrain from the use or threat of use of nuclear weapons against the States of the zone'.²¹

Following UNSSDI, the nuclear free zone concept remained alive both inside and outside the United Nations. This was evident in the continued high number of NFZ or related resolutions at UN General Assemblies, and the renewed interest of many governments in establishing NFZs in their regions.

In the Nordic region, the Swedish and Finnish governments, the Greenland and Faroe Islands Legislative Assemblies, and the Norwegian and Danish Social Democratic Parties, officially supported renewed efforts to establish a Nordic NWFZ.²²

In Central Europe, the Independent Commission on Disarmament and Security Issues (Palme Commission) and the Swedish government proposed a Battlefield Nuclear Weapon Free Zone (BNWFZ) extending 150 kilometres on both sides of the East-West border between West Germany on the one side and East Germany and Czechoslovakia on the other.²³ The Soviet Union endorsed the idea and suggested that the zone be extended to between 500 and 600 kilometres wide, but the idea was not supported by the Western NATO members.²⁴

In the Balkans, the Greek Papandreou government adopted a policy of working for the establishment of a Balkans NFZ and sought to revive earlier Romanian and Bulgarian proposals for such a zone by convening a conference of Balkan leaders on January 16-18 1984.²⁵

The above new initiatives did not result in international agreement on major departures from the UN-Tlatelolco NWFZ concept developed between 1967 and 1978, but did give rise to a number of proposed modifications and variations suited to specific regional geopolitical conditions.

The variations included: (a) more limited proposals involving less sweeping provisions and/or smaller geographic units than the UN-Tlatelolco NFZ concept; (b) proposals involving selective expansion of the UN-Tlatelolco concept; (c) proposals involving more comprehensive provisions, or phased introduction of more comprehensive provisions; (d) proposals for collateral measures in association with or in addition to the basic NFZ agreement; and (e) strengthening of, and refinements to, the basic obligations and guarantees undertaken by the nuclear weapon powers in the case of the Tlatelolco Treaty and offered more generally in 1978 during the UNSSDI.

An example of a zone concept involving more limited provisions and geographic units than the Tlatelolco-UN concept was the Palme Commission's 1982 BNWFZ proposal referred to above.

A second type of variation on the UN-Tlatelolco concept involved a selective expansion or addition to the scope of the NFZ provisions. An example was the Draft Treaty on the Establishment of Nuclear Weapon Free Zones in Europe advanced in 1982 by the Norwegian diplomat, Hens Evensen. Primarily focusing on the four Nordic countries of Denmark, Norway, Sweden and Finland but also allowing for the accession of other European countries, the proposal closely followed the Tlatelolco model. However, the Evensen Draft Treaty went beyond the Tlatelolco Treaty on the issue of transit. Whereas the Tlatelolco Treaty avoided reference to transit, Article I of Evensen's treaty explicitly prohibited 'the transport or transit of (nuclear) weapons or equipment through the zone countries' territories'.²⁶ In explaining this provision, Evensen noted that while it might prove difficult or impossible to prohibit the innocent passage of nuclear weapons through territorial waters in such areas as the Baltic Sound and Danish Straits, a NFZ should certainly aim to prohibit naval manoeuvres involving nuclear-armed vessels, regular portcalls by nuclear-armed ships (although an occasional courtesy call might conceivably be allowed), and nuclear-armed aircraft or cruise missile overflights of zone territory.²⁷

A related type of variation on the UN-Tlatelolco NFZ concept are proposals involving the extension of the Tlatelolco Treaty's scope to include provisions intended to make the zone more comprehensive in dealing with nuclear weapons, nuclear-weapon related activities, or nuclear activities more generally, either in the initial zone establishment or through a subsequent multi-phase process of zone establishment. Proposals of this type were, for the most part, advanced by non-government peace and disarmament movements, and represented a return to the original Rapacki concept of prohibiting not only nuclear weapons but also their means of delivery and associated equipment, installations, and launching facilities. Generally such proposals also included strict prohibitions on transit as well as nuclear-weapon-related delivery systems and installations. An example was the Peoples' Charter for a Nuclear Free Pacific.²⁸

Another type of variation from the Tlatelolco-UN NWFZ concept was the inclusion of collateral agreements as either an inherent or optional element of the basic NWFZ agreement. The general implications of collateral measures for NWFZs elsewhere were considered in the 1983 UN Working Paper, which noted that the need for collateral measures arose from threats posed to the zone region by nuclear activities in adjacent regions and from the need for nuclear-weapon states to implement their negative security guarantees to the zone by limitations on weapons exclusively targeted on the zone. Nuclear powers might unilaterally or reciprocally renounce nuclear weapon deployment or other nuclear-weapon-related activities in areas adjacent to the zone. In addition, the nuclear powers could greatly enhance NWFZs by agreeing on restrictions aimed at reducing the risk of the outbreak of nuclear war, including limitations on military manoeuvres involving nuclear weapons in close proximity to non-nuclear states; reduction and elimination of military bases in territories within the zone; and reduction of military manoeuvres within the zone. Finally, the report noted that a further collateral measure would be for nuclear powers, as part of their undertakings to a NWFZ, to incorporate additional specific pledges not to install:

... other various kinds of installations, inter alia, command, communication and control, directly or indirectly serving to facilitate the use of nuclear weapons. Such pledges could be made unilaterally even by a single nuclear power or they could be included in a multilateral agreement between several nuclear powers. Their purpose would be to reinforce the credibility and importance of the zone arrangement as a whole.²⁹

The concept of including collateral measures, while complex and necessarily dependent on the specific nature of nuclear-weapon and related activities both in and adjacent to a particular zone, may therefore be viewed as having general applicability to all zones.

A final variation on the UN-Tlatelolco NWFZ concept related to nuclear-weapon state guarantees and obligations towards NWFZs. Here it has been argued on both legal and theoretical grounds that negative security guarantees should be less conditional, and should extend to guarantees not to use zone territory for the delivery of nuclear warheads to targets outside the zone (as, for example, in the case of cruise missiles overflying zone territory to reach their targets). From a legal perspective, Rosas has noted the fact that the nuclear powers, with the exception of China, had so far only given conditional guarantees to the Tlatelolco Treaty. They had reserved the right to reconsider their obligations in cases where treaty members committed acts of aggression 'supported by a nuclear-weapon State'.³⁰ This released the nuclear powers from their NWFZ obligations even in cases where the aggression was conventional or of a non-military character.

Definitions

Having reviewed developments in the NFZ concept since its emergence in the late fifties, it is necessary to define the term 'nuclear free zone' in a way that allows for the variations on the Tlatelolco zone concept and yet enables the concept to be distinguished from other types of zoning arrangements, such as zones of peace, demilitarized zones, and disengagement zones.

A starting point for the definition of a NFZ is the internationally endorsed - in fact, the only internationally endorsed - definition of a NFZ that was advanced in a resolution endorsed by the 1975 UN General Assembly. The definition was proposed by Mexico, Argentina, Morocco, Nigeria, Peru and Zaire.

Adopted by 82 votes to 10, with 36 abstentions, the definition stated:

A 'nuclear-weapon-free zone' shall, as a general rule, be deemed to be any zone, recognised as such by the General Assembly of the United Nations, which any group of States in the free exercise of their sovereignty, has established by virtue of a treaty or convention whereby: (a) The statute of total absence of nuclear weapons to which the zone shall be subject, including the procedure for the delimitation of the zone, is defined; and (b) An international system of verification and control is established to guarantee compliance with the obligations deriving from that statute.³¹

It also specified nuclear-weapon state obligations:

In every case of a nuclear-weapon-free zone that has been recognised as such by the General Assembly, all nuclear-weapon States shall undertake or reaffirm, in a solemn international instrument having full legally binding force, such as a treaty, a convention or a protocol, the following obligations: (a) To respect in all its parts the statute of total absence of nuclear weapons defined in the treaty or convention which serves as the constitutive instrument of the zone; (b) To refrain from contributing in any way to the performance in the territories forming part of the zone of acts which involve a violation of the aforesaid treaty or convention; and (c) To refrain from using or threatening to use nuclear weapons against the States included in the zone.³²

This resolution embodied the Tlatelolco concept of an internationally recognised treaty focusing on the prohibition of nuclear weapons only (as distinct from delivery and ancillary systems) and requiring nuclear-weapon states to respect the zone and offer non-use and non-threat-of-use guarantees to the zone states.

While the large majority of states endorsed the definition, the Western nuclear powers and most NATO members opposed it, and the USSR and most Warsaw Pact countries abstained. Of the nuclear powers, only China supported the definition. Both the Western and Eastern objections centred primarily on an unwillingness to offer advance commitments to respect and guarantee future unspecified zone arrangements.

However, by the time of the 1978 UN Special Session the attitude of the nuclear-weapon powers changed sufficiently for them to agree in principle to almost the same obligations to NFZs as they refused to accept in 1975. Thus Article 62 of the UNSSDI Final Document stated that:

With respect to (nuclear-weapon-free) zones, the nuclear-weapon States in turn are called upon to give undertakings, the modalities of which are to be negotiated with the competent authority of each zone, in particular: (a) To respect strictly the status of the nuclear-weapon-free zone; (b) To refrain from the use or threat of use of nuclear weapons against the States of the zone.³³

The UNSSDI definition of obligations was less stringent both in the sense that it envisaged negotiation of the 'modalities' of nuclear-weapon state obligations with the zone countries and in that the obligation to strictly respect the zone did not incorporate references to the 'total absence of nuclear weapons'. Nevertheless, it involved the nuclear powers in giving the advance negative security assurances to future NWFZ proposals that they were reluctant to give in 1975. As such, it could be inferred that while there was no international consensus on a definition specifying the precise degree of denuclearization, there was at least a consensus on the broad obligations of nuclear powers to NWFZs.

However, in the light of proposed variations in the UN-Tlatelolco NWFZ concept since 1978, even a coupling of the 1975 and 1978 UN definitions would not serve to encompass the spectrum of existing and proposed zone concepts.

Thus the 1975 UN definition's emphasis on the total absence of nuclear weapons fails to take into account the possibility of zones that only ban some nuclear weapons, such as the tactical NWFZ proposed by the Palme Commission.

Secondly, the restriction of the definition to nuclear weapons fails to take into account the possibility of inclusion of either **non-nuclear** weapon related activities or systems (e.g. delivery systems, nuclear related C³I installations, dual capable systems) or **non-weapon** nuclear activities (e.g. radioactive waste dumping, uranium export and reprocessing). The Rarotonga South Pacific NFZ Treaty specifically includes certain non-weapon nuclear activities, and points to the need for the definition to be expanded to cover such activities.

Thirdly, the definition does not allow for international recognition of the zone through other means than the UN General Assembly when in fact a legally binding zone may be established without reference to the UN.

Fourthly, the definition of nuclear power assurances does not allow for the possibility of these assurances extending beyond strictly respecting the zone and offering non-use guarantees for it - that is, the possibility of including additional undertakings not to use zone territory for the overflight of nuclear weapons to targets outside the zone.

To overcome these difficulties, the present study will employ an amended version of the UNGA definition. A nuclear-free zone will be defined as:

Any internationally-recognised zone which a group of sovereign states or an individual state has established by virtue of a treaty, convention or other legally binding statute whereby: (a) nuclear weapons or specified types of nuclear weapons or other specified types of nuclear or nuclear-weapon related activity have been prohibited or limited within defined geographic boundaries; (b) an international system of verification and control is established to ensure compliance with the obligations deriving from the treaty or convention; and (c) nuclear-weapon states are required to enter into legally binding undertakings to strictly respect the zone and to refrain from the use or threat of use of nuclear weapons against the zone.

The closely-related concept of a **nuclear-weapon-free-zone** would be defined similarly except that it would be confined to nuclear weapons rather than additionally including 'other specified types of nuclear or nuclear-weapon-related activity'.

In the case of other arms control, disarmament and technical terms used in the present study, usage follows that of the SIPRI Glossary of Terms as published in the 1985 SIPRI handbook. A guide to abbreviations and acronyms used in the study is provided on p.i.

The term **South Pacific** will be used to refer to the whole region encompassed by the boundaries of the South Pacific Commission rather than the southern part of the Pacific below the equator. Thus the term includes not only the Pacific Islands south of the Equator as well as Australia and New Zealand, but also those Micronesian islands lying north of the equator. While there is no general consensus on this usage, it is a common one and reflects the historical, political, cultural and environmental affinities between the islands north of the Equator and those to the south. The alternative term 'Oceania' has the disadvantage that it is usually understood to cover the Pacific Basin islands only rather than also including Australia and New Zealand.

Attributes of nuclear free zones

Before proceeding to an analysis of the South Pacific Nuclear Free Zone Treaty, it is necessary to examine the attributes of NFZs. An understanding of these attributes will facilitate a systematic analysis of the SPNFZ Treaty.

Five major attributes of NFZs may be identified as subsuming the essential features of both the Tlatelolco-UN NFZ concept and potential variations on that concept as discussed above: (1) **scope**; (2) **domain**; (3) **control system**; (4) **implementation**; and (5) **collateral measures**.

The first two, **scope** and **domain**, are based on Johan Galtung's usage in his 1980 analysis of nuclear free zones as a component in strategies of demilitarization.³⁴ In Galtung's analysis, **scope** refers to the extent of disarmament achieved by a zone, necessarily involving both the kind of nuclear weapons controlled and the degree of control, while **domain** refers to the location and extension of the geographic area covered by the zone. As discussed below, these terms will be given a wider meaning than originally envisaged by Galtung, but the broad distinction between scope and domain remains a useful one, and has been implicitly used in most of the existing literature on NFZs.

The third attribute, **control system**, flows from the basic concept and definition of a NFZ as involving a need for verification, however perfunctory.

The fourth attribute, **implementation**, refers to the processes under which a NFZ is translated from a proposal into an actual treaty or convention; the mechanisms for putting the NFZ instrument into force; the securing of NWS and international recognition; and the processes for achieving wider disarmament and security objectives envisaged by the zone.

The fifth attribute, **collateral measures**, is not, like the other parameters, an inherent component of NFZs as such, but rather an additional feature aimed at enhancing the effectiveness of specific zone arrangements.

Scope

Galtung's 1980 concept of **scope** as a parameter of NFZs referred primarily to the zone's provisions for controlling nuclear weapon acquisition and deployment. However, in his more recent outline of a general theory of disarmament, Galtung proposed a broader range of disarmament goals than prohibitions on acquisition and deployment.

Relating disarmament goals to the weapon systems/war preparation process, Galtung identified eight distinct disarmament goals corresponding to the eight phases in the weapon systems/war preparation process: (1) doctrine; (2) military-bureaucratic-corporate-intelligentsia mobilization; (3) research; (4) development/testing; (5) production; (6) training/manoeuvres; (7) deployment; and (8) action.³⁵

He envisaged the role of NFZs as starting from the end point of the process in declaring certain regions off limits for the use of nuclear weapons either as target or source, yet at the same time extending backwards through the war preparation process to 'eliminate any deployment (preferably including communication, command, control), training/manoeuvres, production/stockpiling, and development/training'.³⁶ In Galtung's view, the further back in the weapon systems/war preparation process that a disarmament measure went, the more effective the measure. On this criterion, after measures concerned with doctrine (such as no-first-use guarantees), NFZs are the next most effective means for controlling the final five or six phases of the nuclear weapons/war preparation process - at least on a regional level.³⁷

As measures affecting both the zone countries and NWS operations within the zone, NFZs would seek to control the nuclear weapon preparation process within the zone. This process may be subdivided into: (a) measures affecting only the zone countries themselves; (b) measures affecting both the zone countries and the nuclear-weapon states; and (c) measures affecting only the nuclear-weapon states.

(a) Measures affecting zone countries only

In the case of the control of nuclear weapons preparations in the zone countries themselves, the primary aim of a NFZ is usually conceived as being the prevention of nuclear weapon acquisition.

There are eight distinct categories here of nuclear weapon activities that might be controlled or prohibited: (1) research; (2) development/testing; (3) production; (4) acquisition from external sources; (5) receipt of external assistance to acquire; (6) training/manoeuvres; (7) deployment; (8) use. The development/testing category is also considered below under measures affecting both zone countries and NWS.

(b) Measures affecting both zone and nuclear-weapon states

In this second group, the primary activity is the testing phase of the weapon system preparation process. Here there are two main categories: (1) nuclear warhead testing; and (2) delivery system testing.

(c) Measures affecting nuclear-weapon states only

In the third group, there are five main categories, each divisible into a number of distinct sub-categories.

The first category is that of nuclear weapon permanent stationing by a nuclear-weapon state. This could take five principle forms: (1) naval bases for nuclear-armed vessels; (2) air bases for nuclear-armed aircraft; (3) army bases for nuclear-armed land forces; (4) nuclear weapon land emplacement in storage depots or launch sites; and (5) nuclear weapon emplacement on the seabed.

The second category is that of nuclear weapon transit by nuclear-weapon states through the zone. This can be divided into four types of transit: (1) territorial sea transit and portcalls; (2) territorial airspace transit and landings; (3) high seas transit; and (4) international air space transit. Controls over transit were proposed in the case of the Nordic NFZ proposal discussed above.

The third category affecting nuclear-weapon state activities within a NFZ is nuclear-weapon-related support facilities and research programs. Four principal sub-categories may be distinguished: (1) command, control and communication (C³) facilities servicing nuclear weapon systems; (2) surveillance and intelligence facilities servicing nuclear weapon systems (e.g. through target acquisition, target monitoring, and retargeting); (3) navigational facilities essential to accurate nuclear weapon targeting; and (4) research facilities and programs related to nuclear weapon development, efficiency, and targeting.

A fourth category is that of training exercises and manoeuvres involving nuclear weapon systems.

A fifth category of NWS activity is that of nuclear weapon use and threat of use of nuclear weapons, whether against the zone, from the zone, or through the zone. Two distinct subcategories may be identified: (1) the use or threat of use of nuclear weapons against the zone territory; and (2) the use or threat of use of nuclear weapons from or through the zone territory.

While the above discussion of the scope of NFZs has centred on their role in controlling or prohibiting the nuclear weapon system/nuclear war preparation process, some zone initiatives have sought to extend the scope of a NFZ to cover non-military nuclear activities perceived to contribute to nuclear proliferation or environmental damage. The Rarotonga Treaty, for instance, established a precedent for banning nuclear waste-dumping at sea, primarily on environmental grounds.³⁸ The Antarctic Treaty has, in addition, established a precedent for the prohibition of nuclear waste disposal on both land and sea.³⁹

Further, as discussed in Chapter 6, some Pacific island states have sought prohibition on uranium export to nuclear-weapon states as part of a NFZ arrangement.

It is readily apparent from the above summary that the range of activities feasibly coming under the scope of a NFZ is extensive. In practice, no single existing NFZ or treaty proposal encompasses all the individually proposed elements of NFZ scope. Specific zone treaties or proposals will vary in their degree of comprehensiveness from minimally-restrict-

tive schemes which contain the minimum number of features necessary to meet the internationally-accepted UN-Tlatelolco concept of a NFZ, through moderately-restrictive arrangements embracing a number of additional restrictions on zone and nuclear states, to relatively comprehensive proposals whose scope would cover most of the above designated activities.

Domain of NFZs

The 1975 UN NFZ Study noted that 'So far as the size of such zones is concerned, all possibilities could be explored, ranging from whole continents to small zones'; and cited the view of many experts that while larger zones would provide greater impetus towards nuclear disarmament, the establishment of medium or small zones 'could play a significant part in enhancing regional security'.⁴⁰

The 1983 UN Working Paper further noted that the Latin American NFZ has demonstrated that even part of a nuclear-weapon state can be part of a NFZ, since both the United States and Britain have agreed to their South American territories becoming part of the Tlatelolco zone.⁴¹

The usual concept of a NFZ's domain, as for instance outlined in the 1983 UN Working Paper, refers to the national territories, territorial waters and air space, of two or more neighbouring countries, together with the possible addition, through collateral or integral agreements with the nuclear-weapons states and other relevant states, of adjacent or regional territories not under the jurisdiction of the zone countries themselves.⁴²

In addition to a zone of application within or embracing nationally-controlled territories, there is also the possibility of applying the NFZ concept to international territories, whether on land, the high seas, the seabed beneath the high seas, international airspace, or outer space. In the case of international land areas, the Antarctic Treaty is the most obvious example.⁴³ In relation to the high seas, the Tlatelolco Treaty involves an application of the NFZ concept to high seas areas around Latin America. Other international environments to which the NFZ concept has been (partially) applied include the Seabed Treaty's regulation of nuclear activities on the ocean floor beneath international waters; and the Outer Space Treaty's regulation of nuclear activities in Outer Space.⁴⁴

While there has been general agreement on the right of states to impose a nuclear free zone within their own sovereign territories, there has been no similar agreement on the concept of including international territory within the domain of a NFZ.

As the 1975 UN Report noted, some government experts argued that:

States cannot establish nuclear-weapon-free zones in areas outside their jurisdiction, particularly on the high seas, the straits used for international navigation and in international air space, in contradiction to international law

while other experts contended that inclusion of:

... safety areas additional to the national territories of members of the zone would not contradict any principle of international law if established with the full consent of other States outside the zone.⁴⁵

In relation to the latter point of view, it should be noted that the PTBT, in its imposition of a nuclear weapon test ban in the atmosphere, outer space, or under water (including the high seas), established a legal precedent for regulating nuclear activities in international territory through international agreement. Further, the 1983 UN Working Paper noted that, while NWFZs should be established in accordance with principles of the freedom of navigation as provided for in the Law of the Sea convention,

Nuclear Weapon States could...waive their rights to such freedoms in order to contribute to and participate in arrangements of nuclear-weapon-free zones.⁴⁶

The possibility of including international territory in a NFZ cannot be reduced to whether existing international law permits or overrides NFZ arrangements but needs also to take account of nuclear weapon states' options in either negotiating new international laws or reciprocally waiving their rights under existing laws.

Control system

The attribute of verification and control has been recognised as integral to the nuclear free zone concept ever since the Rapacki Plan. The 1975 UN definition of a NWFZ explicitly included the requirement that an 'international system of verification and control' must be established to ensure compliance with zone obligations.⁴⁷

Verification and control is essential to maintaining confidence in the zone amongst zone members and ensuring that the zone is credible to extrazonal states, particularly the nuclear weapon powers. Obviously, it is important for those offering non-use guarantees to a NFZ to be assured that treaty parties and other nuclear powers are complying with treaty and protocol obligations. The United States, especially, placed stress on the verification dimension of NFZs, and has commissioned detailed studies of the technical possibilities for verifying NFZs.⁴⁸

The 1983 UN Working Paper envisaged that a control system for a NFZ would vary from region to region and depend upon the nature of obligations undertaken, but, generally, would require fact-finding machinery, a procedure for consultations between individual states, and a forum for multilateral consultations. Issues not resolved within the zone's own consultation machinery could be referred to the UN Security Council and General Assembly, or to other competent international bodies.⁴⁹

Implementation

The fourth attribute of the NFZ concept is that of implementation. From the limited historical experience of the five NFZs already negotiated, the following phases of the NFZ implementation may be distinguished, although it should be noted that some may overlap or be concurrent rather than following a strictly sequential order.

1. Initiation of NFZ proposals for the region by governments, NGOs, regional bodies, or international agencies.
2. Agreement in principle on the general desirability of establishing a zone amongst regional governments.

3. Preparatory negotiations on draft treaty or convention provisions through special *ad hoc* regional commissions or conferences or through existing regional or international bodies.
4. Signature of treaty by zone countries.
5. Ratification of treaty by zone countries.
6. Securing of international recognition, usually through resolutions endorsing the zone at the UN General Assembly.
7. Securing of non-use guarantees and other guarantees from NWS or non-zonal states under protocols to the treaty.
8. Establishment of the organisational and control institutions and procedures required under the treaty.
9. Negotiation of additional collateral measures to enhance the effectiveness of the treaty if such measures were not negotiated at the time of the original agreement.

In terms of the initiation of a zone, the 1983 UN Working Paper noted that while the initiative would usually originate with the governments of a group of states within a region, it was also possible that a single state could declare all or part of its territory a NFZ or that all nuclear-weapon states could agree amongst themselves on treating a specific area as a NFZ.⁵⁰

The UN Working Paper noted that the negotiation phase could either be conducted through special *ad hoc* arrangements, as was chosen in the case of the Tlatelolco Treaty, or through existing regional consultative bodies, and might additionally draw upon the assistance and good offices of the UN and IAEA.⁵¹

The possibility was also envisaged that a full agreement need not be negotiated at the very beginning, but could be done in stages:

... the States of a region could initially agree on a multilateral interim agreement which could be gradually elaborated and eventually transformed into a Treaty establishing a nuclear-weapon-free zone.⁵²

Further, it was possible that a 'core' or 'partial' NFZ treaty might be strengthened or extended either through amendment of the treaty itself or through collateral agreements.

Collateral measures

A final aspect of the NFZ concept is the possibility of associated collateral measures aimed at increasing the credibility and effectiveness of the zone. Collateral measures can be divided into two categories: measures to increase the comprehensiveness of the zone, and measures affecting geographic areas close to, but not actually within, the zone.

The need for collateral measures arises particularly in cases where the adjacent deployment of nuclear weapons poses a threat to the zone's integrity and where nuclear

weapon-related activities (such as C³I bases) not prohibited under the main NFZ treaty attract the risk of nuclear targeting. Collateral measures could conceivably be negotiated as a 'package' with the original core NFZ treaty, or be negotiated at a later date with a view to a progressive strengthening of the NFZ regime. The range of possible measures identified by the 1983 UN Working Paper included: deployment limitations in adjacent waters or airspace; limitations on military manoeuvres involving nuclear weapons in areas close to the zone; reduction or elimination of nuclear-weapon state military bases within the zone; and reduction or elimination of nuclear weapon related C³I installations within the zone.⁵³

Conclusion

The above review of the nuclear free zone concept since its inception in the early 1950s indicated that the Tlatelolco and UN concepts represented a substantive revision of the original Rapacki concept towards: (a) a more circumscribed and easily defined prohibition on nuclear weapons as distinct from delivery systems; and (b) broader and more stringent nuclear-weapon state obligations to respect and guarantee NFZs, including not only non-use or non-threat-of-use guarantees but also obligations not to deploy or use nuclear weapons within a zone (although transit as such is not excluded on the Tlatelolco model).

The primary security objectives involved in the Tlatelolco and UN NFZ concepts involved the creation of regional barriers to the outbreak of nuclear war, either as a result of regional states acquiring nuclear weapons and using them against each other or external states, or as a result of nuclear weapon state deployment or use of nuclear weapons in or against the zone. NFZs, on this model, were a constraint against both horizontal proliferation to non-nuclear states and vertical nuclear proliferation among nuclear-weapon states (to the extent that vertical proliferation is defined as including geographic expansion as well as quantitative expansion of nuclear arsenals). The NFZ role in relation to vertical nuclear proliferation contrasts with that of the Nuclear Non-Proliferation Treaty (NPT) which is confined to restraining horizontal proliferation.

The ratification of the Tlatelolco Treaty by most regional states, and its protocols by the nuclear powers (except France in the case of Protocol I), together with the UNSSDI Final Document statement on NFZs, implied a measure of international consensus on the UN-Tlatelolco NFZ concept.

Since the 1978 Special Session, new NFZ proposals advanced by governments, non-government organisations, and arms control analysts, suggested a number of variations in the concept aimed at making it more applicable to specific regions (particularly border regions) or at strengthening weaknesses in the original concept.

As a framework and departure point for the ensuing analysis of the Rarotonga Treaty, five principal attributes of the NFZ concept were identified: (1) scope; (2) domain; (3) control system; (4) implementation; and (5) collateral measures.

NOTES

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CHAPTER 3

The SPNFZ Treaty: Scope, Domain, Control System and Implementation

Official and academic commentaries on the Rarotonga Treaty have made a number of claims for the role of the treaty, both within the South Pacific region and in a global context.

The Australian Chairman of the South Pacific Forum's SPNFZ Working Group noted that the group believed that the treaty 'could succeed in substantially reducing the threat' embodied in three regional concerns: the possibility of the region becoming a theatre for superpower rivalry; the peace and security of the region; and protection of the region's natural resources.¹ The treaty's preamble reflected some of these aspirations, affirming that:

... regional arms control measures can contribute to global efforts to reverse the nuclear arms race and promote the national security of each country in the region and the common security of all.²

More obviously, the treaty's Protocol 2, requiring guarantees from nuclear-weapon powers that they would not use or threaten to use nuclear weapons against the zone, appeared aimed at increasing the security of the region against the threat of nuclear attack.³

The expectation that the treaty would reduce superpower rivalry was strongly emphasised by both the Government and academic commentators. In May 1987, for example, the Foreign Affairs Minister, Bill Hayden, noted that:

Given that they are on the verge of one of the most heavily armed regions in the world, South Pacific countries have the right to insulate themselves from the activities and mistakes of the nuclear powers ...

and contended that

This is the (SPNFZ) treaty's motivation and the Australian Government supports it totally.⁴

In support of its role in curbing superpower involvement in the region, several commentators emphasised the importance of the treaty in preventing future stationing of nuclear weapons in the region, either by the US or the Soviet Union.⁵

In relation to preventing regional non-proliferation, it was argued that the treaty would give added assurance to neighbouring Southeast Asian countries, particularly Indonesia, that Australia would not develop nuclear weapons, and further strengthen non-proliferation by encouraging the establishment of a similar zone in Southeast Asia.⁶

Many, on both the left and right of Australian politics, saw the treaty as a first step towards more embracing regional disarmament measures, with commentators on the left welcoming such a role and commentators on the right deploring the possibility. The New Zealand Prime Minister, David Lange, suggested that the treaty represented the first rung on a ladder - without, however, specifying the nature of successive rungs.⁷

Another common perception of the treaty was that it would present additional pressure on France to cease its underground nuclear test program, and reinforce constraints on other forms of nuclear contamination, such as sea-dumping of radioactive wastes.⁸

In the wider context of global security and disarmament strategies, it was hailed as an important step towards world disarmament, a contribution to strengthening the Non-Proliferation Treaty regime, and a valuable precedent for the establishment of NFZs in other regions. In the latter connection, the Australian government, while not explicitly advocating the treaty's applicability elsewhere, frequently stressed the view that it improved upon the precedent set by the Tlatelolco Treaty.

In contrast to some of the above claims and expectations, the following analysis of the treaty's detailed provisions argues that the treaty has more limited scope and outcomes than is claimed by either its government or non-government supporters.

In particular, it is argued:

- * that the scope of the treaty does little to regulate superpower nuclear weapons activities and competition within the region, including escalating mobile nuclear weapon deployment, expanding nuclear-weapon-related C³I infrastructure, and increasing research, testing and development of nuclear weapon systems;

- * that the deficiencies in the scope of the treaty are not marginal in nature but detract from one of the ostensible objectives of the treaty - increasing the security of the region against nuclear attack;

- * that, legally, the treaty is not necessarily an advance on the Tlatelolco Treaty, since the advances in some areas are outweighed by other provisions that seriously weaken the Tlatelolco precedent, particularly provisions that legitimize nuclear weapons transit and control of nuclear weapons by zone countries, and reduce the effectiveness of verification systems;

- * that the role of the treaty in providing a 'first step' towards more comprehensive regional arms control measures is constrained by the amendment procedure adopted in the treaty, and by the failure to specify or foreshadow collateral measures other than the SPREP treaty, itself a very limited measure.

- * that the positive aspects of the treaty in strengthening non-proliferation commitments in the South Pacific region are partially offset by provisions which permit export of fissionable material under NPT/IAEA safeguards and which allow future development of a commercial nuclear industry.

- * that, while one of the treaty's strongest features is its prohibition of nuclear explosive testing in the region, it is open to charges of selectivity and inconsistency

in seeking to prohibit one form of nuclear weapon system testing on the part of France while permitting another form of nuclear weapon system experimentation in the form of missile tests by other nuclear powers, including the US, USSR, and China.

Scope of the Rarotonga Treaty

Using the systematic categorization of nuclear activities developed in Chapter 2, the following table offers a summary overview of the scope of the Rarotonga Treaty as it affects a range of activities entailed in both the nuclear war preparation process and in nuclear fuel cycle activities with potential linkages to horizontal and vertical nuclear proliferation.

TABLE 1: PROHIBITED AND PERMITTED NUCLEAR ACTIVITIES UNDER THE SOUTH PACIFIC NUCLEAR FREE ZONE (RAROTONGA) TREATY

**Prohibited/Permitted
by SPNFZ (Rarotonga) Treaty**

(A) MEASURES AFFECTING ZONE COUNTRIES ONLY

Nuclear War Preparation Process

1. Research on nuclear explosives	Prohibited
2. Development of nuclear explosive	Prohibited
3. Manufacture, stockpiling of nuclear explosives	Prohibited
4. Assistance to acquire, or direct acquisition of, nuclear weapons from external source	Prohibited
5. Assistance to other countries to manufacture or acquire nuclear weapons	Prohibited
6. Participation in training and manoeuvres involving nuclear weapon systems	Permitted
7. Assistance to deploy nuclear weapon systems in either permanent or mobile basing modes	Permitted
8. Assistance in operation of control systems for nuclear weapons deployed by other countries	Permitted
9. Membership of military alliance involving possible use of nuclear weapons	Permitted

Nuclear Fuel Cycle Activities

10. Uranium mining	Permitted
11. Nuclear fuel exports under NPT/IAEA safeguards	Permitted
12. Nuclear fuel exports - no safeguards	Prohibited
13. Fissionable material processing	Permitted
14. Commercial nuclear reactors	Permitted
15. 'Peaceful' nuclear explosions (PNEs)	Prohibited

**(B) MEASURES AFFECTING ZONE COUNTRIES, NUCLEAR-WEAPON STATES,
AND STATES INVOLVED IN THE NUCLEAR FUEL CYCLE**

Nuclear War Preparation Process

- | | |
|--|-------------------|
| 16. Testing of nuclear explosive devices | Prohibited |
| 17. Testing of nuclear weapon delivery systems | Permitted |

Nuclear Fuel Cycle Activities

Nuclear waste management

- | | |
|----------------------------------|-------------------|
| 18. Reprocessing | Permitted |
| 19. Storage | Permitted |
| 20. Disposal in territorial seas | Prohibited |
| 21. Disposal in high seas | Prohibited |
| 22. Disposal on land | Permitted |

(C) MEASURES AFFECTING NUCLEAR-WEAPON STATES ONLY

Nuclear War Preparation Process

Deployment through land-based nuclear weapon stationing within zone

- | | |
|--|-------------------|
| 23. Permanent naval bases for N-armed vessels
(if weapons stored on land) | Prohibited |
| 24. Air bases for N-armed aircraft | Prohibited |
| 25. Army bases for N-armed land forces | Prohibited |
| 26. Nuclear weapon land emplacement | Prohibited |
| 27. Nuclear weapon seabed emplacement | Prohibited |

**Deployment through nuclear weapon transit, visits to ports and airfields within region,
and training exercises**

- | | |
|---|------------------|
| 28. Territorial sea transit and portcalls | Permitted |
| 29. Territorial airspace transit and landings | Permitted |
| 30. High seas transit | Permitted |
| 31. International airspace transit | Permitted |
| 32. Training exercises involving nuclear capable forces | Permitted |

Deployment through nuclear weapon storage

- | | |
|----------------|-------------------|
| 33. Land-based | Prohibited |
| 34. Sea-based | Permitted |

Nuclear-Powered Vessel Transit

- | | |
|---------------------------------------|------------------|
| 35. Territorial transit and portcalls | Permitted |
| 36. High seas transit | Permitted |

Nuclear-weapon-related support facilities and programs within the zone

37. Command, control and communication facilities	Permitted
38. Surveillance and intelligence facilities	Permitted
39. Navigational aid facilities	Permitted
40. Research facilities	Permitted

Nuclear Weapon Use or Threat of Use

41. Use/threat of use by NWS against territories of zone states	Prohibited
42. Use/threat of use by NWS from or through zone territory other than land territory or internal waters	Permitted

It is apparent from Table 1 that the Rarotonga Treaty is highly selective in the categories of nuclear activity that it seeks to regulate. Of 31 categories of nuclear activity related to the nuclear war preparation process or nuclear use, the treaty prohibits only 13. Of 11 categories of nuclear fuel cycle activities with potential proliferation or environmental implications, the treaty prohibits only 4.

The following analysis will consider the implications of the treaty's provisions in the three key areas of nuclearization: (1) the nuclear war preparation process; (2) the final outcome of that process, that is, the use or threat of use of nuclear weapons; and (3) the nuclear fuel cycle.

Nuclear war preparation process

Considering first the treaty's obligations on zone states themselves for disengaging from nuclear war preparation, Article 3 of the treaty appears quite rigorous in its prohibition of the major phases of the process: research, development, manufacturing, stockpiling and acquisition from foreign sources. In the case of Australia and New Zealand, commitments under this article have been strengthened by national legislation imposing criminal penalties on any individual who acquires, manufactures, or assists in the acquisition or manufacture of nuclear weapons.

The Australian legislation interprets assistance to manufacture Nuclear Weapons as specifically covering **research and development** 'for the purpose of' nuclear weapon manufacture or production, as well as any act which facilitates manufacture or production (inside or outside of Australia),⁹ while the New Zealand legislation relies on the more general formula of prohibiting persons from activities which 'aid, abet, or procure' nuclear weapon manufacture, acquisition, or control (inside or outside of New Zealand).¹⁰

The treaty's renunciation of nuclear weapons acquisition under Article 3 represents a reaffirmation of commitments already made under the NPT by Australia, New Zealand and most of the independent South Pacific countries.¹¹ As such, it does not represent a dramatic change in the existing non-proliferation regime in the region. There are, however, some small regional gains.

Firstly, Vanuatu and Kiribati are not members of the NPT. The treaty would, therefore, extend the non-proliferation obligations to cover these countries. Since small island countries do not have the technical capacity to acquire nuclear weapons, this would seem, at most, a marginal gain.

Secondly, the treaty seeks to extend non-proliferation obligations to non-sovereign South Pacific territories under the jurisdiction of, or in free association with, external metropolitan states.

Thirdly, in the case of the two South Pacific countries with the current technology and capacity to produce nuclear weapons, Australia and New Zealand, the treaty does represent a qualitative strengthening of the NPT in the sense that the withdrawal provisions of the NPT are less stringent than the Rarotonga Treaty. Whereas the NPT permits a party to withdraw on three months' notice on the grounds that 'extraordinary events have jeopardised (its) supreme interest', the Rarotonga Treaty requires a violation by other Parties to the Treaty and twelve months' notice.¹²

In a legal sense, Australia would not be able to withdraw from its non-proliferation commitment, even if countries in Southeast Asia or the North Pacific became nuclear-weapon states - except in the unlikely event that fellow South Pacific zone members were to acquire nuclear weapons.

Fourthly, in the event of a collapse of the NPT regime, a distinct possibility in the light of Third World perceptions that the nuclear-weapon states have failed to honour their side of the bargain as required under the NPT's Article VI, the Rarotonga Treaty might serve as a 'safety net' that contributed to insulating the region from horizontal proliferation.

The strengthening of non-proliferation commitments under the treaty has been interpreted as giving further assurance to ASEAN states that Australia and New Zealand would not develop or acquire nuclear weapons, and thereby encourage the establishment of a comparable nuclear free zone in Southeast Asia.¹³

These advantages, however, are offset by two aspects of the treaty's provisions.

The treaty confines its applicability to **nuclear explosive devices**, by definition excluding 'means of transport or delivery' if separable from the device.¹⁴ The absence of regulation of, say, verifiable **offensive** categories of **nuclear-capable delivery systems**, such as **long-range** missiles, bombers and submarines, means that a zone state could still research, develop, manufacture and produce all of the essential components of a nuclear weapons system minus the actual nuclear warhead, and then rapidly become a nuclear weapon power through a crash production program or through acquisition of nuclear warheads from a foreign source. In other words, the treaty buys only a relatively short period of grace before a determined proliferator could develop an operational nuclear weapons capability.

Secondly, the treaty does not prohibit all forms of nuclear systems that might result in nuclear proliferation. Like the NPT, it allows for countries to export fissionable materials 'under safeguards'.¹⁵ The Australian government has, indeed, argued that it is obliged under article 4(2) of the NPT to 'facilitate...the fullest possible exchange of...materials...for the peaceful uses of nuclear energy'.¹⁶ Further, the Australian Chairman of the Forum

SPNFZ Working Group interpreted the treaty's provision of not taking any action 'to assist or encourage the making or acquisition of any nuclear explosive device by any state' as excluding 'actions which have other intended purposes that might unintentionally and incidentally assist the nuclear activities mentioned'.¹⁷

However, the treaty's efforts to restrict nuclear exports to peaceful applications depend critically on the effectiveness of the IAEA and the NPT safeguard systems. The adequacy of these safeguards was questioned by the Australian government's inquiry into uranium mining, the Ranger Uranium Environmental Inquiry (Fox Report), which concluded that the defects in existing safeguards are so serious that they 'may provide only an illusion of protection'.¹⁸ Safeguard weaknesses identified by the Fox Report included: inability of safeguards to prevent transfer of nuclear technology from power production to acquisition of nuclear weapons competence; and re-transfer to third states; practical difficulties in auditing nuclear inventories; ease of withdrawal from the NPT and from most non-NPT safeguards agreements; deficiencies in accounting and warning procedures; and absence of reliable sanctions to deter diversion of safeguarded material. The subsequent ASTEC (Slatyer) Report (1984), while somewhat more optimistic about the potential effectiveness of safeguards, conceded that the IAEA was under-resourced and not fully able to achieve its inspection goals (p.155).

Even if non-nuclear-weapon states were deemed to have the right of access to nuclear materials for peaceful purposes in return for sacrificing the possibility of nuclear weapons acquisition, there would seem to be less of an obligation to supply nuclear materials to the nuclear-weapon states. The nuclear-weapon states have made no comparable sacrifice, nor achieved the substantive disarmament progress that was part of their NPT obligations.

In at least three other aspects of the nuclear war preparation process, the treaty does not provide regulatory controls.

The treaty does nothing to prevent member states from participating in training exercises and manoeuvres involving nuclear or nuclear capable weapon systems. Further, the treaty does not prevent assistance to nuclear-weapon states in deploying mobile sea or air-based nuclear weapons, for example, in the form of assistance in providing refuelling, rest and recreation for crews, and repairs. Nor does it prevent zone states from assisting in the conduct of the nuclear missile tests through provision of staging and logistical support services for vessels and aircraft involved in monitoring the tests.

The national policies of some Pacific states, such as New Zealand and Vanuatu, do serve to constrain some of these forms of assistance to nuclear-weapon states but the Rarotonga Treaty itself does not seek to impose controls or prohibitions on member states' assistance to nuclear-weapon states in these nuclear-weapon-related activities.

Another problem in the treaty, or at least in the Australian government's interpretation of the treaty, is the issue of operational assistance in the control systems of nuclear weapons deployed by other countries.

While Article 3 would seem, at first sight, to prohibit member states from participating in the control of nuclear weapons in its reference to each Party undertaking 'not to ... have actual control over any nuclear explosive device...inside or outside the South Pacific Nuclear Free Zone' (emphasis added),¹⁹ the Australian legislation to implement the terms

of the treaty within Australia explicitly exempted the act of controlling a foreign-owned nuclear weapon.²⁰ This places the Australian legislation in tension with the treaty itself, which makes no distinction between foreign-owned and locally-owned nuclear weapons, and explicitly covers nuclear weapons located outside the region.

The issue cannot be dismissed as relating to a remote hypothetical possibility. Australia is host to several joint US-Australian facilities which are reported to have control and other C³I functions in relation to nuclear weapon systems, including nuclear-armed submarines, surface ships and aircraft. During the 1973 Arab-Israeli War, the Northwest Cape installation was used to place US forces world wide on nuclear alert, and the base is acknowledged to be a major communication station for communicating with nuclear-armed submarines in the Pacific and Indian Oceans.²¹

According to the Explanatory Memorandum to the Australian legislation to implement the SPNFZ Treaty:

... the qualification to Clause 10 is intended to ensure that certain forms of 'control' of a nuclear explosive device are not prohibited - control by way of the transmission of instructions to a foreign force outside Australia, e.g. by a visiting US President or Cincpac Admiral, or control by way of interception of such transmission by an Australian stationed at the North West Cape Joint facility.²²

The result of the Australian legislation's exemption of certain forms of control of nuclear weapons is that it would not be an offence under the legislation if the Australian government were to permit the use of the joint US-Australian facilities for the above forms of control of nuclear weapons even though the result were to be the engulfment of the region in a limited or global nuclear war.

If the treaty can be interpreted as permitting some forms of control over nuclear weapons, then this would also detract from its ability to secure meaningful non-use guarantees from nuclear-weapon states under Protocol 2. A US C³I base could have the function of communicating firing orders to US nuclear forces targeting the Soviet Union or Soviet forces, yet the Soviet Union is asked under Protocol 2 to undertake not to use nuclear weapons against the territories of the zone, including the territory hosting the C³I base.

To the extent that the tension between the Australian legislation interpreting the treaty and the treaty wording itself, remains unchallenged or unresolved, the treaty represents a weakening of the Tlatelolco Treaty. The latter does not qualify its requirement that zone states undertake to refrain from 'participating...in the control of any nuclear weapons'.²³

A related issue is the question of member states' participation in a military alliance with nuclear weapon states. To the extent that the ANZUS Treaty is open to interpretation as to whether it entails regional defence through the use or threat of use of nuclear weapons, then a nuclear free zone might have either explicitly required that membership of a military alliance with a nuclear-weapon state not entail use or threat of use of nuclear weapons, or prohibited membership of a military alliance with a nuclear-weapon state altogether. Aside from the risk of nuclear weapons being used on behalf of zone states, membership of a military alliance with a nuclear-weapon power also incurs the obvious risk of participation in the global nuclear strategy and war preparations of the allied nuclear-weapon power.

However, the Rarotonga Treaty imposes no controls over zone states' participation in military alliances with nuclear powers.

Turning to treaty obligations that impose identical obligations on both zone states and nuclear-weapon states, the principal nuclear weapon activities affected are testing of nuclear weapons and testing of nuclear weapons delivery systems. Both are carried out extensively within the South Pacific Region: nuclear weapons testing by the French in French Polynesia, nuclear missile testing by the United States, Soviet Union and China.

The treaty's prohibition on nuclear weapons testing represents one of its most rigorous features. The treaty's prohibition on nuclear warhead testing covers both atmospheric and underground tests and seeks to establish a non-testing regime over the whole zone whether within territorial waters, exclusive economic zones or the high seas. It therefore represents a considerable advance on the Partial Test Ban Treaty (PTBT) and the Threshold Test Ban Treaty (TTBT), and could be considered a regional contribution toward a Comprehensive Test Ban Treaty (CTBT).

Article 6 of the treaty not only binds each party to 'prevent in its territory the testing of any nuclear explosive device' but also 'not to take any action to assist or encourage the testing of any nuclear explosive device by any state'.²⁴ In the case of metropolitan powers with territories in the region, France, Britain, and the United States, these powers are similarly enjoined under Protocol 1 to apply the same prohibition within these territories.²⁵ Finally, all nuclear-weapon states are enjoined under Protocol 3 to undertake 'not to test any nuclear explosive device anywhere within the South Pacific Nuclear Free Zone'.²⁶ France, as the only nuclear power continuing to test nuclear explosives in the South Pacific, is obviously the country most affected by the zone's anti-testing provisions.

The additional value of Protocol 3 would appear to be its reference to testing 'anywhere' within the zone, which presumably refers to international waters as well as national territories falling within the zone, and its circumvention of possible French legal arguments that Protocol 1 does not apply to France since French Polynesia has the same legal status as the French mainland. The emphasis on a ban on testing anywhere in the zone is consistent with strong regional support for a comprehensive test ban treaty which would involve a ban on testing in all environments and in both territorial and international spaces.

While, in the short term, the treaty is unlikely to gain French ratification of Protocols 1 and 3 since this would require an end to French testing in the region, it does provide a mechanism for additional international leverage on France to cease its test program. As in the case of the Tlatelolco Treaty, the treaty would enable annual resolutions at the United Nations General Assembly calling for French ratification of the relevant protocols. Through such international diplomatic pressure, France may eventually be induced to cease testing and ratify the two protocols, although reliance on the treaty could inhibit more forceful national and regional measures to the same end, such as the 1974 New Zealand and Australian naval 'sail-ins' to the test vicinity.

An inconsistency in the treaty, however, is that while it seeks to ban one key component in the nuclear war preparation process, the testing of nuclear explosives, it omits to control the testing of nuclear weapon delivery systems, despite the fact that such testing is an integral part of some of the most destabilising developments in the arms race - the

development of long-range, hard-target, counterforce and first strike weapons - and despite the fact that the increasing range of such missiles makes the relatively remote South Pacific region a useful splash-down area. Inclusion of a ban on missile testing would have been a major contribution to curtailing long-range missile testing by the nuclear powers. Since both the US and USSR test in the South Pacific, the treaty would have exerted a more balanced effect on restraining all nuclear powers rather than singling out the French testing program.

The Chairman of the Forum Working Group cited three reasons for not including missile testing. Firstly, he stated that the Forum members 'did not have the legal power to ban missile tests in the region since these were usually conducted over and into international waters'.²⁷

However, the Chairman did not offer any argument for declaring that Forum members had no legal power to ban missile testing. The new Law of the Sea, UNCLOSIII, which will come into force when 60 countries have ratified it, and to which many South Pacific states are already signatory (e.g. Australia, New Zealand, PNG, Vanuatu, Nauru, Solomons, Tuvalu, Samoa, and the Cook Islands), states that 'the high seas should be reserved for peaceful purposes'.²⁸ It is, at least, open to legal question whether missile testing that forms part of nuclear weapons programs can be regarded as a 'peaceful purpose'.

Secondly, irrespective of the legality of missile testing in high sea areas under UNCLOSIII, there is still the possibility of enjoining the nuclear powers to renounce their rights under international law, or to agree to a change in the law governing specific international regions. This in fact was the assumption of Protocol 3 in asking nuclear powers not to test nuclear explosive devices anywhere in the zone, and there seems no reason in principle why the nuclear-weapon states could not similarly have been enjoined not to test missile systems either under Protocol 3 or through a collateral convention.

The Chairman of the Working Group also argued that any attempt to include missile testing in the treaty would jeopardise acceptance of the treaty protocols by the nuclear powers, who 'were likely to regard (the inclusion of a ban on missile testing) as an attempt to restrict their rights in international law'.²⁹

This explanation, however, is unsatisfactory, firstly, because the question of the legal status of high seas activities cannot be left to the exclusive judgement of the nuclear states, and, secondly, because if the criteria of nuclear-weapon state acceptance of protocols were being consistently applied, then the treaty's anti-testing Protocols (1 and 3) would not have been included, since France had made it clear that it would not ratify such protocols. Further, application of such criteria removes the possibility of using protocols to apply international leverage at the United Nations aimed at encouraging the nuclear-weapon states to respect the zone.

A third proffered reason for permitting missile testing was that inclusion of delivery systems in the treaty prohibitions would have created difficulty for some Forum members who possessed dual capable weapons in their conventional forces. This was evidently a reference to the Harpoon missiles carried by both Australian and New Zealand naval forces. The argument was presumably directed only at the idea of including a ban on missile testing in Article 1 of the treaty, since a ban included in a separate protocol for signature only by

the nuclear-weapon states would not have raised this problem for Australia and New Zealand.

In the case of Australia, New Zealand or any other zone state possessing dual capable systems, the non-proliferation clauses already contained in the treaty would prevent any dual use systems from being armed in a nuclear mode.

If we turn to the treaty's provisions as they affect nuclear-weapon states (see parts B and C of Table 1), the absence of controls over the nuclear war preparation process becomes even more apparent.

Considering first the regulation of nuclear stationing, the treaty's prohibition on land-based nuclear weapon stationing - whether through military bases, land or seabed emplacement, or nuclear weapon storage depots - has been presented as one of the treaty's most important strengths. The prohibition on land-based nuclear weapon stationing reflects the current national policies in a number of South Pacific countries including Australia, New Zealand and Vanuatu. The anti-stationing provisions are found in Article 5 which states that each party 'undertakes to prevent in its territory the stationing of any nuclear explosive device' and Article 1(d) which defines 'stationing' as 'emplantation, emplacement, transportation on land or inland waters, stockpiling, storage, installation and deployment'.³⁰ In the Australian legislation to implement the Rarotonga Treaty, the act of **facilitating** the stationing of a nuclear explosive device is also prohibited.³¹

The prohibition on land-based stationing does not have any immediate disarmament consequences since at present there are currently no announced nuclear-weapon state plans to establish land-based nuclear bases for armed forces or nuclear storage depots within the designated boundaries of the zone. In the past, however, there were proposals within the US military establishment that the US acquire a military base in Western Australia to offset possible loss of existing US bases in the Philippines and Japan; and, in 1982, the Australian Fraser LCP government offered Stirling in Western Australia as a permanent naval base for US forces (the United States declined the offer).

Some observers have argued that, while there are no firm plans at present to establish permanent nuclear weapon bases in the region, the treaty does protect regions against future shifts in nuclear weapons basing policy. But even this proposed benefit is uncertain. The intent of the anti-stationing provision is potentially undermined by the treaty's explicit acceptance of nuclear weapon transit rights, and port/airfield visits by nuclear-armed forces at the discretion of the member states. The same Article 5 that prohibits stationing of any nuclear explosive device also affirms the freedom of each party to:

... decide for itself whether to allow visits by foreign ships and aircraft to its ports and airfields, transit of its airspace by foreign aircraft, and navigation by foreign ships in its territorial sea or archipelagic waters in a manner not covered by the rights of innocent passage, archipelagic sea lane passage or transit passage of straits.³²

This exclusion of transit and port calls by nuclear-armed forces from the concept of stationing embodied Australia's and others' concern from the outset that the treaty permit such transit.

In interpreting the anti-stationing provisions of the treaty, the Australian government's Explanatory Memorandum stated that:

... the presence of nuclear explosive devices on foreign ships visiting Australian ports or navigating in or through Australian waters or on foreign aircraft visiting Australian airfields, does not constitute stationing (which is prohibited under Clause 11) and cannot give rise to breaches of the Bill's provisions on possession, control, and stationing or the facilitation thereof.³³

If territorial transit and port calls are permitted, however, the possibility arises of *de facto* stationing of nuclear weapons in the form of weapon storage on munitions ships anchored for extended periods within territorial waters, or nuclear-armed vessels or planes using particular ports or airfields respectively to much the same degree as they would their own ports or airfields. In 1981, for example, there were US nuclear-powered and armed attack submarines visiting Stirling Naval Base in Western Australia some twenty to twenty five percent of the time.³⁴

The treaty's definition of 'stationing' not only avoided the question of duration or pattern of port visits, but also seemed to imply that transportation on coastal waters would be permitted. There seems little to prevent *de facto* stationing of anchored supply ships in coastal waters or quasi (unannounced) home-porting of nuclear-armed ships and planes, unless such activities could be deemed to be covered by the term 'deployment' in the definition of stationing. However, the term 'deployment' is itself left undefined in the treaty, and efforts by a complainant party to subsume *de facto* stationing or home-porting under the prohibition on deployment could prove difficult to sustain in a legal sense. From the viewpoint of an adversary nuclear state, *de facto* stationing could attract just as much targeting attention as more open forms of stationing.

Transit

Turning to the issue of nuclear weapon transit in itself, the problem may be divided into three sub-categories: transit in territorial seas or airspace; transit in exclusive economic zones (EEZ); and transit on the high seas.

Territorial transit

Article 5(2) may be construed as permitting territorial nuclear transit either (a) by agreement of a party 'in the exercise of its sovereign rights' or (b) under rights of innocent passage, archipelagic sea lane passage or transit passage of straits, **regardless** of sovereign state rights.³⁵ Significantly, Article 5(2) refers only to sovereign rights over transit where this transit is 'not covered by the rights of innocent passage'.³⁶ The Australian Minister assisting the Minister for Foreign Affairs, explicitly interpreted this clause as giving states sovereign rights over port access while protecting nuclear-weapon states' rights of innocent passage and rights to hold military exercises within territorial waters - presumably without the need to gain consent from the affected regional states.³⁷ It should be noted that, while states might have sovereign rights to accept or reject nuclear weapons transit within territorial waters, or visits by nuclear-armed forces to ports or airfields, they also have the option of ceding specific rights through international agreement.

The second paragraph of Article 5(2) implicitly suggests that rights of innocent passage can override sovereign decisions to exclude nuclear weapons transit within territorial waters. It would appear to conflict with rights of member states under UNCLOSIII, and could be interpreted as legitimizing unauthorized or un-notified nuclear weapon transit within zone states' territorial waters. The contentious nature of the exclusion of innocent passage from the sovereign rights of member states under UNCLOSIII was discussed in a recent legal analysis of the Rarotonga Treaty. Philp notes that, while it guarantees rights of innocent passage, UNCLOSIII defines innocent passage as passage which is 'not prejudicial to the peace, good order, or security of the coastal State', and specifically states that these requirements would be violated if a ship transiting within territorial waters engages in any of the following activities:

(a) any threat of use of force against the sovereignty, territorial integrity or political independence of the coastal State, or in any other manner in violation of the principles of international law embodied in the Charter of the United Nations; (b) any exercise or practice with weapons of any kind;... (f) the launching, landing or taking on board of any military device.³⁸

Under UNCLOSIII, it could not be assumed that nuclear-weapon states have an automatic right of innocent passage overriding sovereign state rights, or overriding the right of a group of states to establish a nuclear free zone that excludes nuclear transit through territorial waters. In fact, as Philp has argued, UNCLOSIII specifically provides for a coastal state to 'take necessary steps in its territorial sea to prevent a passage which is not innocent',³⁹ and the establishment of a regional nuclear free zone banning territorial nuclear weapons transit could be considered such a necessary step.

Even if a complete ban on nuclear weapons transit in territorial waters were not to be imposed, sovereign states would retain rights under the UNCLOSIII to regulate transit in a number of ways. These might include prior notification of transit, restriction of transiting vessels to defined sea lanes, prohibition of military exercises or manoeuvres, restriction in mode of transit (for example, submarines limited to surface rather than underwater transit), and limitation on the number of transiting vessels. Regulation of this kind would at least have served to prevent nuclear weapons transit from passing too close to population centres, with attendant nuclear risks, and might also have set limits on the escalation of nuclear transit in the region. The Rarotonga Treaty, by contrast, did not seek to embody any of these regulatory options.

The treaty not only does not prohibit or regulate transit in the territorial sea, it also does not regulate overflights and landings by nuclear-armed aircraft. Overflights by nuclear-armed aircraft incur just as much, if not more, risk of nuclear accident as port calls and transit of nuclear-armed vessels. Further, there is no customary right of innocent passage for aircraft overflights and almost all states reserve their right to prohibit territorial overflights. The Rarotonga Treaty's lack of regulation of aircraft transit and overflights through territorial airspace could well be taken by future regional governments as legitimising such transit and thereby contributing to a less regulated nuclear weapons transit regime than presently exists.

Nuclear transit through the EEZ

The EEZ is the area beyond and adjacent to the territorial seas but not extending more than 200 nautical miles from the base line from which the breadth of the territorial sea is measured. Under UNCLOSIII, states have sovereign rights for the purpose of exploring, conserving and managing the natural resources of the waters, seabed, and its sub-soil in that area. The Rarotonga Treaty, unlike the Tlatelolco Treaty, does not seek to extend the NFZ zone arrangements to the limit of the EEZ, although at least one nuclear power, China, has declared its willingness to respect NFZ's extending to the limit of the EEZ.

Extension of a regional nuclear free zone to the limit of the EEZ is more legally controversial than a zone confined to territorial waters and airspace. This is because, at first sight, it could be argued that it threatens the freedom of the high seas protected under UNCLOSIII Article 87. However, as Philp notes, Article 58 of UNCLOSIII requires that any usage of the EEZ by other states be 'internationally lawful'.⁴⁰ This raises the possibility that nuclear weapons transit could be prohibited in an EEZ simply because nuclear weapons themselves, as weapons of mass destruction, are illegal; or that, an internationally recognised NFZ could, in and of itself, establish nuclear weapons transit within an EEZ as illegal. Finally, and irrespective of whether a regional nuclear free zone can legally apply within the EEZ, it is always feasible to include a protocol, as in the case of Protocol 3 on nuclear testing, that enjoins the nuclear-weapon states to forgo their rights under international law and voluntarily (and reciprocally) cease to use the EEZ for nuclear transit purposes. None of these options were taken up by the Rarotonga Treaty.

Nuclear weapons transit on the high seas

The Chairman of the Forum Working Group justified the exclusion of nuclear weapon transit on the high seas or in the airspace above the high seas on the three grounds that: (a) banning transit would be legally impossible since all states had the right to the freedom of the high seas and international airspace; (2) that any ban would be beyond the capabilities of the Parties to verify; and (3) to include such a ban would be tactically unwise since 'few if any of the nuclear weapon states' would respect such a zone.⁴¹

While it may be true that under previous international law it was legally impossible to prohibit nuclear weapon transit on the high seas it is by no means clear that under UNCLOSIII, it would continue to be legally impossible. UNCLOSIII states that the 'high seas shall be reserved for peaceful purposes'.⁴² As Philp notes, the term 'peaceful purposes' may be construed as meaning 'non-military', a usage that is consistent with the use of the term 'peaceful purposes' in the Antarctic Treaty, Outer Space Treaty, and the Seabed Treaty.⁴³ On such a definition, the deployment of nuclear weapons on ships transiting on the high seas within a regional South Pacific Nuclear Free Zone could be construed as conflicting with the 'peaceful purposes' requirement of UNCLOSIII.

It should also be noted that there is ample precedent on the part of the nuclear-weapon states for establishing 'special regimes' on the high seas and in EEZs. The Soviet Union has declared the Sea of Okhotsk a 'closed sea' barred to warships of non-littoral countries.⁴⁴ During the Falklands War, the U.K declared a two hundred-mile maritime exclusion zone around the Falkland Islands.⁴⁵ France has regularly declared exclusion zones around its nuclear test facility at Moruroa.⁴⁶ The United States has frequently declared 'danger zones'

(over 100 to 1986), 'defensive seas areas' (over 50), and 'security zones' on the high seas for the purpose of military exercises as well as establishing a quarantine around Cuba during the 1962 Cuban missile crisis.⁴⁷

Further, as in the case of transit on the EEZs, even if a regional nuclear free zone cannot be legally reconciled with international rights of transit and freedom of navigation on the high seas, it is still feasible to enjoin the nuclear-weapon states to forgo their rights of transit under a treaty protocol or associated collateral convention. Nuclear-weapon states might be unlikely to initially respect such a zone in high seas areas, but if the treaty were to be internationally recognised, nuclear-weapon states would come under international pressure to accede to such a protocol or convention.

The question of verification on the high seas is not an insuperable one. The superpowers already have sophisticated national technical means of verification covering the high seas, using satellites and underwater sensors. The superpowers could be asked for information on any violations on a high seas nuclear free zone. It would be in their interest to comply with such a request, and, in fact, the United States already provides information to other states on the presence of Soviet warships in their vicinity. Secondly, the zone could seek to foster the establishment of an international satellite monitoring agency, as proposed by France, to assist in both regional and other arms control verification. Thirdly, it is feasible for ships entering the region to be inspected to determine whether they are carrying nuclear weapons for emplacement in the region. Fourthly, as Valencia has noted, verification does not have to be totally comprehensive, since random inspections, the threat of publicising violations, and the simple possibility of being detected, publicised and censured may deter violation of a zone extending to the high seas.⁴⁸

The treaty's omission of provisions to prohibit or at least regulate transit on the high seas cannot be assumed to be due to insuperable legal or verification difficulties.

Nuclear-weapon-related support facilities

A major aspect of the nuclear war preparation process is the presence of nuclear-weapon-related support facilities. These facilities can be sub-divided into four groups: command, control and communication facilities; surveillance and intelligence facilities; navigation facilities; and research facilities. In practice, the first two types frequently co-exist in the same installation. The important role of C³I installations in the nuclear war preparation process is explained in a number of studies, both globally and within the Pacific region. The same installations may also perform war prevention functions, including arms control verification and early warning systems.

Important nuclear-weapon-related facilities within the South Pacific nuclear free zone boundaries include: Northwest Cape, Pine Gap, Nurrungar, Watsonia and Omega (all located within Australia).

Since the Rarotonga Treaty applies only to nuclear explosive devices as distinct from delivery or support systems, nuclear-weapon-related support facilities are permitted under the treaty. Major C³I installations are likely to be important targets in a nuclear war; and the likelihood of the American C³I installations in Australia being targeted has been acknowledged in recent government statements.⁴⁹ The absence of provisions against such

bases in the Rarotonga Treaty means that the zone will continue to host major components of the nuclear war preparation process that potentially threaten other countries, whether nuclear-weapon states or non-nuclear-weapon states. This exemption of nuclear-weapon-related facilities undermines the treaty's objective of reducing the threat of nuclear attack to populations in the zone countries.

Exercises and manoeuvres

One final aspect of the nuclear war preparation process as it involves the nuclear powers will be mentioned briefly: training exercises and manoeuvres. The complexity of nuclear war preparation requires constant training exercises in the use of high technology systems required for nuclear warfighting. The United States, with assistance from Australia, and France and in the past New Zealand, frequently engages in training exercises within the South Pacific, sometimes under ANZUS, sometimes on a bilateral or multilateral basis, including exercises and training in ASW warfare. It should be noted, however, that even though such exercises might be legitimized under ANZUS, they do not necessarily or exclusively serve regional security purposes as defined under ANZUS. They may also include global nuclear war fighting or nuclear war preparation training functions that do not necessarily coincide with regional needs and interests. ASW activities, for example, may well have destabilising implications since, if one superpower can track and target all of the other superpower's strategic submarines, then it opens the way to either (a) a first strike by the ASW-superior superpower, or (b) a pre-emptive 'use them or lose them' strategy by the ASW-inferior superpower. In continuing to permit nuclear training exercises and surveillance systems that underpin nuclear-weapon state global nuclear warfighting strategies, the Rarotonga Treaty is undermining its own claimed objectives of contributing to global security and reducing the risk of the region coming under nuclear attack. In the latter case, if the region continues to host nuclear warfighting exercises and manoeuvres perceived to threaten an adversary nuclear power, then it is likely to attract counter-measures and targeting by the adversary.

Nuclear use or threat of use

The final outcome of the nuclear war preparation process is the capacity to use or threaten the use of nuclear weapons, either for central deterrence purposes or for other purposes, including the use or threat of use of nuclear weapons against non-nuclear countries. The threat of use is frequently overlooked, although historically the United States is known to have threatened the use of nuclear weapons against a number of non-nuclear countries since 1945, including Vietnam, China, and North Korea.⁵⁰

One of the key objectives of nuclear free zone treaties in general, and the Rarotonga Treaty in particular, is to secure negative security guarantees, that is guarantees not to use or threaten to use nuclear weapons against the zone territory, thereby enhancing the security of zone states against nuclear attack. The implicit or explicit bargain struck in such guarantees is that the zone should not contain any nuclear threats to the nuclear-weapon states from which guarantees are sought. Posing no threat, a zone state could reasonably ask not to be threatened in return. The negative security guarantees sought by the Rarotonga Treaty as contained in Protocol 2 seek undertakings by the nuclear weapons states:

... not to use or threaten to use any nuclear explosive device against (a) Parties to the treaty, or (b) any territory within the South Pacific nuclear free zone for which a state that has become a Party to Protocol 2 is internationally responsible.⁵¹

How comprehensive are the guarantees sought by the Rarotonga Treaty?

Looking at the actual provisions of Protocol 2, a number of omissions are apparent. If we compare the Rarotonga Protocol 2 with the Tlatelolco Treaty's corresponding protocol, we find that the Rarotonga Treaty is less stringent in the undertakings sought from the nuclear-weapon states.

Firstly, the Rarotonga Treaty omits a comparable provision to that of the Tlatelolco Treaty's Protocol II Article 2, which requires a direct undertaking by the nuclear-weapon states not to contribute in any way to the performance of acts involving a violation of Article 1 in the Tlatelolco Treaty itself. Under this protocol, nuclear-weapon powers undertook, *inter alia*, not to contribute to the 'use' or 'deployment' of nuclear weapons in the Latin American region.

In the Rarotonga version, the direct commitment by nuclear-weapon states to respect the zone has been replaced by a less embracing Article 2 which requires only that nuclear-weapon states do not contribute to any act of a zonal state which constitutes a violation of the treaty, or to any act of a fellow nuclear-weapon state which constitutes a violation of a protocol. In other words, aside from the non-use commitment contained in Article 1 of the Protocol, there is nothing to directly enjoin nuclear-weapon states to respect all the key provisions of the treaty in their own direct involvement in the region - as distinct from indirect involvement in potentially contributing to a violation by a member state.

The Tlatelolco formula has the advantage that it requires the nuclear-weapon states to respect fully all the substantial nuclear denuclearisation provisions of the treaty as well as giving a non-use guarantee whereas the Rarotonga Treaty limits the additional obligations (beyond the non-use guarantee against zone territories) to not assisting other states in the violation of the key provisions.

In the case of the non-use clause, however, the Rarotonga Treaty's formulation does have one advantage over the Tlatelolco Treaty in that it includes territories of metropolitan states as well as the zonal states.

Secondly, we find that the Rarotonga Treaty's Protocol 2 has incorporated the same relatively short renunciation conditions as the Tlatelolco Treaty, three months' notice if a nuclear-weapon state considers its 'supreme interest' to be 'jeopardised', whereas in the treaty itself the Forum Working Group chose a more rigorous renunciation clause that requires both a violation by another party and twelve months' notice.

The withdrawal clause based on jeopardy of supreme interests, is a vague formula that could easily be used by a nuclear-weapon state to avoid its obligations. The 'extraordinary events' which might lead a nuclear-weapon state to decide to withdraw from the treaty could, for example, include the use of a C³I base in the region to communicate a nuclear alert to US global nuclear forces. As already noted, this has already happened in the case of Northwest Cape during the 1973 Arab-Israeli war.⁵² If such an event were to occur again, this might release the Soviet Union from its Protocol 2 obligations since the

Soviet Union could argue that such an event was 'jeopardising its supreme interests'. In this event, the Rarotonga Treaty's Protocol 2 would be least effective when it was most needed.

Another difficulty is that there is nothing in the Rarotonga Treaty's Protocol 2 that requires an undertaking from the nuclear-weapon states not to use nuclear weapons **from** or **across** the zone as distinct from **against** the zone.

Article 1 of the Protocol merely refers to an undertaking not to use or threaten to use nuclear weapons against Parties to the treaty or metropolitan territories within the zone boundaries, and does not address the issue of nuclear weapons being launched from within zone boundaries. By way of contrast, such an undertaking was contained in the Tlatelolco Treaty's Protocol II by virtue of the fact that the Protocol requires nuclear-weapon states not to violate Article 1 of the Tlatelolco Treaty which explicitly prohibits 'use' of nuclear weapons. The Rarotonga Treaty's Protocol 2, as we have seen, lacks a similarly broad commitment on the part of the nuclear-weapon powers - requiring them only to guarantee not to assist **zone states** or parties to the protocol in any violation of the treaty. The Rarotonga Treaty represents a retreat from the more stringent negative security precedent set by the Tlatelolco Treaty.

The issue is not hypothetical since already US mobile cruise-missile-armed naval and air forces in the zone region have the potential for targeting Soviet forces and bases in the Pacific and Indian Ocean regions, and Soviet naval forces have a similar cruise missile capacity. There is nothing in the SPNFZ Treaty that would prevent a nuclear-weapon state from launching a missile from a submarine or aircraft even if the launch platform were in the territorial waters or airspace of a consenting zone country. The Rarotonga Treaty prohibits a nuclear-weapon state from contributing to a member state's violation of the treaty and requires non-use guarantees **against** the zone countries but does not prevent the nuclear-weapon state from using nuclear weapons **from** within the zone.

Nor does the Rarotonga Treaty prohibit a zone state allied to a nuclear-weapon power calling on the allied power to use nuclear weapons in response to a conventional attack from outside the zone. Australia is allied to the United States, and has no policy against first use. Australia could, without violating the letter of the Rarotonga Treaty, call upon the United States to use or threaten to use nuclear weapons against any state outside the zone unless that state were itself protected by non-use guarantees under a nuclear free zone arrangement or general non-use convention. The Forum Working Group's reluctance to prohibit use of nuclear weapons **from** the zone was not explained in the Chairman's Report. In theory it is a distinct issue from that of transit since - even if transit were permitted - it is still feasible to bind nuclear-weapon states not to use or threaten to use nuclear weapons from transiting forces, at least while they are still within territorial waters or airspace within the zone. It is possible that such an obligation was not considered because it was opposed by the United States, or would have imposed an undesired legal constraint on an ANZUS nuclear response to external attack.

Yet another gap in the Rarotonga Treaty's negative security guarantees compared to the Tlatelolco formula is that, in contrast to the Tlatelolco requirement that the nuclear-weapon states make their undertakings under Protocol II '**without reservation**', there is no such comparable requirement in the Rarotonga Treaty. As noted in Chapter 2, it is

considered important that negative security guarantees be as unconditional as possible. The Tlatelolco Treaty at least sought (but failed to secure) unconditional undertakings.

These problems in the formal negative security provisions are compounded by the fact that the denuclearization entailed in the treaty is insufficient to remove all nuclear threats to potential nuclear adversaries. The lack of control over vital elements of the nuclear weapon preparation process means that the Soviet Union is asked to undertake not to use or threaten to use nuclear weapons against any zone state despite the fact that transiting US nuclear weapons carriers may be engaged in tracking and targeting of Soviet forces or territory beyond the region, that US C³I installations in the zone are engaged in target acquisition of Soviet naval and land targets, and that some installations could be used to give firing orders for nuclear strikes against Soviet forces.

Nuclear fuel cycle activities

An innovation of the Rarotonga Treaty compared to the Tlatelolco Treaty is that it also seeks to regulate some nuclear fuel cycle activities with either weapons proliferation or environmental consequences. The extension of the scope to include some nuclear fuel cycle activities was primarily at the insistence of island states, and was the officially claimed reason for designating the zone a nuclear free zone as distinct from a nuclear-weapon-free zone.⁵³

However, as in the case of the nuclear war preparation process, the treaty is highly selective in the activities that it seeks to regulate.

Like the Tlatelolco Treaty and the NPT, the treaty makes the assumption that it is possible to assist other countries to develop a peaceful nuclear industry while not at the same time contributing to the acquisition of nuclear weapons, despite evidence in some states of linkages between commercial and military programs.

In line with this assumption, the treaty, as already noted, permits the mining, processing, and export of uranium and other fissionable materials so long as the export of such materials is subject to safeguards under NPT Article 3(1) in the case of non-nuclear-weapon countries, or IAEA safeguard agreements in the case of nuclear-weapon states.

In line with its commitment to the concept of a peaceful nuclear industry, the Working Group did not include any prohibition of commercial or research nuclear reactors, despite the fact that acquisition of such reactors is an important initial step in the ability of a state to produce plutonium for nuclear weapons. Although at present no commercial reactors are contemplated within the South Pacific region, and some states such as New Zealand and Vanuatu have prohibited them, the fact that the treaty does not prohibit such reactors could be considered to detract from the treaty's long-term constraints on horizontal proliferation.

A special category is that of peaceful nuclear explosions for allegedly peaceful purposes. The Working Group decided to prohibit such explosions since 'technically and in non-proliferation terms it was impossible to distinguish between (PNEs and nuclear weapons)'.⁵⁴ This was covered in the treaty by simply defining 'nuclear explosive device' to mean 'any nuclear weapon or other explosive device capable of releasing nuclear energy,

irrespective of the purpose for which it could be used'.⁵⁵ This is an improvement over the Tlatelolco Treaty which (arguably) permits PNEs under certain conditions (in practice, no PNEs have so far been conducted within the Tlatelolco zone).

A final aspect of nuclear fuel cycle activity is nuclear waste management. There are five major sub-categories of nuclear waste management: (1) reprocessing; (2) storage; (3) disposal in territorial seas; (4) disposal in the high seas; (5) disposal on land.

South Pacific Island countries became particularly concerned over the hazards posed by nuclear waste dumping at sea as a result of recent Japanese, United States and North Korean expressions of interest in disposal of nuclear wastes in Pacific Ocean areas. Of the five categories of nuclear waste management, the Rarotonga Treaty seeks only to regulate the disposal aspect of nuclear waste management, and only disposal in one specific environment, the sea, rather than on land or in the atmosphere. A detailed analysis of the limitations of the treaty's environmental provisions and their relation to the South Pacific Regional Environment Program (SPREP) Convention is not pursued here because the present study is concerned primarily with the security and arms control aspects of the Rarotonga Treaty.

Domain of the SPNFZ

Turning to the geographic domain of the Rarotonga Treaty, it is apparent that there are also significant limitations on the boundaries of the zone.

The zone boundaries do not include all of the island states of the South Pacific Commission but only the South Pacific states and territories located south of (or on) the equator. Thus almost all of the South Pacific Forum states, the French territories of French Polynesia, New Caledonia, and Wallis and Futuna, the American territory of American Samoa, the British territory of Pitcairn Islands, are included, but the zone does not include the Micronesian states and territories north of the equator even though they are also members of the South Pacific Commission.

The Micronesian states and territories north of the equator include: Belau, Federated States of Micronesia, Marshall Islands, Northern Marianas, and Guam.

The formal boundaries of the zone not only include the land and territorial waters of the above states and territories but also the high seas within the zone.. These boundaries do not imply that the full scope of the treaty provisions apply to the high seas. Rather the 'diagrammatic approach' of including the high seas as well as the territorial spaces was adopted:

... because it was easier to visualise, clearly identified the regions to which the zone was intended to apply and would contribute to the development of a mosaic of present and planned nuclear weapon free zones.⁵⁶

In accordance with this aim, the southern boundary of the zone corresponds to the northern boundary of the Antarctic Treaty zone, while the eastern boundary corresponds to the western boundary of the Tlatelolco Treaty. Only in the case of waste dumping and nuclear weapons testing is there any attempt to impose treaty obligations within the international spaces falling within the zone. Article 7 requires members states not to dump

radioactive waste at sea 'anywhere within the South Pacific nuclear free zone';⁵⁷ and Protocol 3 enjoins nuclear powers 'not to test any nuclear explosive device anywhere within the South Pacific nuclear free zone'.⁵⁸ Apart from these two instances, the setting of zone boundaries to include international waters has no denuclearisation implications for international waters.

While Australian policy on the 'diagrammatic approach' coincided with that of other Forum members, there was disagreement on northern boundaries of the zone. Papua New Guinea, in particular, sought the inclusion of all South Pacific Commission members, thereby including Belau, Federated States of Micronesia, Marshall Islands, Northern Marianas and Guam.⁵⁹ The island countries seeking the inclusion of Micronesian states argued that there was a need to be consistent with respect to the island territories of France and the United States: if all the French territories in the South Pacific were to be included, so too should all the American territories.

Australia opposed the extension of the zone north of the EEZs of the northernmost Forum states (Nauru and Kiribati) on the grounds that:

... inclusion of the United States Trust Territory (sic) in the zone could complicate current negotiations on the constitutional future of those territories, especially since nuclear issues were a major element in these negotiations.⁶⁰

Somewhat obscurely, the Australian Chairman went on to contrast this with the situation in the French territories, arguing that:

... these considerations did not appear to apply to the French territories in the South Pacific where the issues facing the movements for independence were different.⁶¹

The latter statement appears to conflict with evidence that the independence movements in both French Polynesia and New Caledonia seek an end to the French nuclear presence in the Pacific in much the same way that some former UN trust territory islands are seeking an end to the American nuclear presence.⁶² Australian policy also seems inconsistent with the Federated States of Micronesia's expressed desire to join the zone, and its active participation in all of the Forum Working Group meetings on the zone; and the predictable subsequent entry of Micronesia states north of the equator to South Pacific Forum membership. It would seem apparent that the real purpose in excluding the Micronesian states and territories north of the Equator was Australia's pragmatic concern to avoid any possible tension with the United States over the inclusion of island states within the US sphere of influence and former territorial administration.

The issue of the boundaries of the zone was also raised in discussion of the name of the zone. Nauru, Papua New Guinea and Vanuatu preferred the zone to be named 'Pacific Nuclear Free Zone' rather than 'South Pacific Nuclear Free Zone', but Australia and others on the Working Group argued that:

... general international usage was to apply the term 'South Pacific' to the whole region, as reflected in the titles of the South Pacific Commission, South Pacific Bureau for Economic Co-operation and the South Pacific Forum.⁶³

While the treaty does not at present include Micronesian states north of the equator, the way is open for Micronesian states which become full members of the South Pacific

Forum to become parties to the treaty.⁶⁴ In this event, the boundary of the zone would be extended to include 'at least the territory' of the new party.⁶⁵ Because of the principle that only sovereign self-governing states may become full members of the South Pacific Forum, this means that Belau, Federated States of Micronesia and the Marshall Islands are possible Micronesian candidates for inclusion in the zone, but the American territories of Guam and the Northern Marianas would not be eligible for Forum membership or zone participation.

Since the signing of the treaty, the Federated States of Micronesia and Marshall Islands have become full members of the South Pacific Forum, and so are entitled to sign the Rarotonga Treaty. In practice, the substantive provisions of the treaty would not effect any existing nuclear-weapon-related activities in either of these states since there is no permanent stationing of nuclear weapons in either state, and the major nuclear missile testing and C³I facilities located at Kwajalein in the Marshalls would not be prohibited under the Rarotonga Treaty.

However, before the Federated States of Micronesia, Marshall Islands, or Belau could become Parties to the Rarotonga Treaty, two conditions would have to be met. The first condition would be the requirement under Article 12 (3) that any extension of the existing boundaries of the zone would need to be approved by the South Pacific Forum.⁶⁶ Since the Forum is based on a consensus principle, any Forum state, including in theory a non-member of the treaty - such as Tonga - could veto an extension of the zone boundaries.

The second requirement would be the successful legal reconciliation of the Micronesian States membership of the SPNFZ with their obligations under Compact of Free Association agreements with the United States.⁶⁷

The potential conflicts with the Compact of Free Association might either dissuade the Micronesian states from ever applying to join the Rarotonga Treaty, or, in the event of their joining the zone without regard to possible conflict with the Compact of Free Association, result in legal disputation and/or possible US action in withdrawing economic aid provided under the Compact of Free Association agreement.

In the case of the US Compact of Free Association with Belau - not yet ratified due to conflict with Belau's anti-nuclear constitution - US insistence on obtaining the right, under specified circumstances, of storing and testing nuclear weapons and disposing of radioactive waste, could be in conflict with the anti-testing and anti-stationing provisions of the Rarotonga Treaty and with the anti-dumping provisions as they apply to territorial waters, EEZs and high seas surrounding the Micronesian States.

In the case of the Compact of Free Association agreements with the Marshall Islands and Federated States of Micronesia, US reservation of the right to store nuclear weapons and dispose of nuclear waste, would appear to exclude these areas from SPNFZ membership. These two Micronesian states could only participate in the Rarotonga arrangements if the United States agreed to abrogate its legal entitlement to store nuclear weapons or test nuclear weapons within these countries.

Micronesian participation in a SPNFZ would still be feasible if the Compact of Free Association permitted the Micronesian states to terminate the Compact relationship at any time - a right enjoyed by the Cook Islands and Niue in their free association agreements with New Zealand - since they could terminate the relationship in order to take part in such

a zone. However, aside from the economic disruption this would cause to Micronesian economies, this option is legally not available under the Compact agreement. Section 453 (a) makes it clear that, in the event of termination of the Compact by any of the parties, the articles dealing with military and environmental issues, amendment, termination, and definition of terms, would stay in force for 15 years. Further, the subsidiary bilateral military land use agreements with Belau and the Marshall Islands have even longer periods of mandatory application. The Belau agreement gives the US basing rights for 50 years; and the Marshall Island agreement specifies that the US has the option of a 35-year extension of the agreement.

A final avenue under which the freely associated Micronesian states might seek inclusion in a SPNFZ - by disputing the interpretation of Compact clauses under which the United States might rule against NFZ membership - is also closed off, since Section 351 of the Compact provides that in the event of any dispute over the military provisions of the Compact, the dispute will be arbitrated by the US Secretary of Defense. Hence the final interpretation of whether the Compact military provisions would permit SPNFZ membership is in the hands of the US Defense Department.

The legal obstacles to extend the presently unnecessarily circumscribed domain of the treaty are therefore formidable. On the other hand, the limited scope of the treaty would mean that, even if the zone were extended to embrace the former TTPI Micronesian States, there would still be little or no restraint on existing nuclear war preparation activities north of the equator, although there would be some restraint on, or regulation of, possible future use of Micronesian States for permanent nuclear bases, nuclear storage, testing, and radioactive dumping in territorial waters.

Control and verification system of the Rarotonga Treaty

A third important attribute of regional nuclear free zones is the system of control and verification employed by the zone.

The verification and control features of the Rarotonga Treaty are detailed in articles 8, 9, and 10, and annexes 2 and 4 of the treaty.⁶⁸

Despite Australian government claims that the Rarotonga Treaty is 'stronger' than the Tlatelolco Treaty, an examination of the treaty's control provisions suggests that they are less stringent and comprehensive than the corresponding provisions in the Tlatelolco Treaty.

As set out in Article 8, the control system of the Rarotonga Treaty comprises four elements: (a) reports and exchange of information as provided for in Article 9; (b) consultations as provided for in Article 10 and Annex 4(1); (c) the application to peaceful nuclear activities of safeguards by the IAEA as provided for in Annex 2; and (d) a complaints procedure as provided for in Annex 4.

Reports under (a) are to be made to the Director of the South Pacific Bureau for Economic Co-operation, the secretariat for the South Pacific Forum. Article 9 specifies that parties are to report 'as soon as possible any significant event within its jurisdiction affecting the implementation of this Treaty' (Paragraph 1); that parties 'shall endeavour to

keep each other informed on matters arising under' the treaty (Paragraph 2); and that 'the Director shall report annually to the South Pacific Forum on the status of this treaty and matters arising under it' (Paragraph 3).

The consultation and review provisions of Article 10 require that on the request of any Party, the SPEC Director should convene a Consultative Committee 'for consultation and co-operation on any matter arising in relation to this treaty or for reviewing its operation'. Under Annex 3, this Consultative Committee would consist of one representative from each of the parties, with a quorum consisting of half the parties and decisions taken by consensus, or failing consensus, by a two-thirds majority.

Annex 2 sets out the application of IAEA safeguards to 'all source or special fissionable material in all peaceful nuclear activities' within the territory of a party, and requires each party on request to provide 'a copy of the overall conclusions of the most recent report by the IAEA on its inspection activities in the territory of the Party concerned' and to advise the Director of any subsequent IAEA findings on those conclusions.

Finally, Annex 4 sets out a Complaints Procedure under which any complainant party shall first bring the complaint to the attention of the party complained of and allow the latter 'reasonable opportunity to provide it with an explanation and to resolve the matter' (Paragraph 1). Assuming no resolution, the complainant may request the convening of the Consultative Committee and shall provide 'an account of evidence of breach of obligations' (Paragraph 2). If, after hearing the explanation of the Party complained of, the Consultative Committee decides there is sufficient basis to the complaint to warrant a special inspection, the Committee shall send an inspection team of three suitably qualified inspectors 'appointed...in consultation with the complained of and complainant Parties, provided that no national of either Party shall serve on the special inspection team' (Paragraph 4). Inspectors 'shall be subject to the direction only of the Consultative Committee'; however, the Committee's directives 'shall take account of the legitimate interests of the Party complained of in complying with its other international obligations and commitments' (Paragraph 5).

While all Parties are required to 'give full and free access to all information and places within its territory which may be relevant to enable the special inspectors to implement the directives given to them by the Consultative Committee' (Paragraph 6), and the Party complained of is additionally enjoined to 'take all appropriate steps to facilitate the special inspection, and shall grant to special inspectors privileges and immunities necessary for the performance of their functions', (Paragraph 7), the inspectors themselves are obligated to 'discharge their duties with due respect for the laws of the Party complained of' (Paragraph 5).

Following an inspection, the inspectors shall report in writing to the Consultative Committee, which in turn will decide whether or not a treaty breach has occurred and report accordingly to the South Pacific Forum (Paragraph 9). If the Committee has decided that a party has committed a breach, or that inspection obligations have not been met, or on the request of either the complainant or party complained of, the parties shall 'meet promptly at a meeting of the South Pacific Forum' (Paragraph 9).

Comparing this control system with the Latin American NFZ control system, a number of omissions are immediately evident. Whereas the Tlatelolco Treaty created a

specialist control and verification agency - the Agency for the Prohibition of Nuclear Weapons in Latin America (OPANAL) - involving a General Conference, a Council and a Secretariat, to implement the treaty, the Rarotonga Treaty relies on the existing regional conferences of the South Pacific Forum and the Forum secretariat, SPEC. Since the Forum and its secretariat is concerned with a wide range of regional political, social and economic issues, it might be anticipated that it would not be able to devote the same time and resources to implementing the treaty as a specialist agency; nor could it be expected to develop the same expertise and impartiality as a specialist agency. Such considerations may well have influenced the architects of the Tlatelolco Treaty in declining to invest the control system in the relevant regional organisation, the Organisation of American States, although in this case there was the additional problem of the membership of a nuclear power, the United States, in the regional body.

Secondly, while the Tlatelolco Treaty requires that all Parties shall submit semi-annual reports stating that no prohibited activity is occurring in their territories (Article 14, Paragraph 14), there is no similar obligation on the part of the South Pacific states. Only in the case of a complaint is the country complained of required to submit an explanation. Whereas an institutionalised regular report system is in itself an important source of continuing information on the implementation of the treaty, exclusive reliance on an *ad hoc* complaint procedure assumes constant vigilance and access to relevant information on the part of all parties to the treaty, and a willingness to lodge complaints despite political or economic problems that such action might entail for the complainant. In the South Pacific context, where most small island states are heavily dependent on Australian, New Zealand, and US economic aid, there could be disincentives for dependent island countries to lodge complaints even when they suspect that a treaty violation has occurred.

Thirdly, the Tlatelolco Treaty grants its enforcement agency the right not only to receive regular reports from each party but also to request, in its own right, 'complementary or supplementary information regarding any event or circumstance connected with compliance with this Treaty', whereas the Rarotonga Consultative Committee can only act after receipt of a complaint.

Fourthly, the complaints procedure under the Tlatelolco Treaty is significantly more rigorous than in the Rarotonga Treaty. Whereas a complainant under the SPNFZ Treaty can only lodge a complaint in a situation where it is suspected that a breach of treaty obligations has already occurred, the Tlatelolco Treaty additionally includes the belief that a prohibited activity 'is about to be carried out' (Article 16 1(a)(i)). Further, under the Tlatelolco Treaty, a complainant's request for a special inspection automatically obliges the Council to arrange the inspection (Article 16 1(a)(i)); by contrast, under the Rarotonga Treaty, a special inspection is only arranged if the Consultative Committee 'decides that there is sufficient substance in the complaint to warrant a special inspection' (Annex 4, Paragraph 4). Further, the Rarotonga Treaty specifies that inspectors must be guided by directives which 'take account of the legitimate interests of the Party complained of' and must 'discharge their duties with due respect for the laws of the Party complained of' (annex 4, paragraph 5), while the Tlatelolco Treaty contains no such restrictions. It is conceivable that member states of the SPNFZ have existing laws, or could introduce new laws, to prohibit access to sensitive installations (such as military bases) by foreign nationals or unauthorised persons. If this is the case, then inspectors who are obliged to respect the 'laws of the Party complained of' may not be able to carry out effective inspections of suspected violations.

Finally, the complaints procedure of the Tlatelolco Treaty can be taken much further than the comparable procedure for the Rarotonga Treaty. Whereas the final court of appeal for a validated complaint in the case of the Rarotonga Treaty is a meeting of the South Pacific Forum, the Tlatelolco Treaty allows for the convening of not only a special session of the General Conference of regional members but also referral of the case to the UN Security Council, General Assembly, OAS and IAEA (Articles 16 and 20).

It may be inferred from the above that, despite its stated concern for an effective control and verification system for a SPNFZ, the Australian government and other members of the Forum Working Group preferred to adopt a less stringent control and verification system than that employed in the Latin American NFZ. To a far greater degree than the Latin American zone, the Rarotonga Treaty control system relies on *ad hoc* rather than systematic and regularised verification procedures, places difficulties in the way of validating treaty violations, limits the final court of appeal to regional rather than international forums, and is susceptible to political pressure in a context where potential Pacific Island complainants are dependent on Australian, New Zealand and US economic aid.

In the case of the Australian legislation to implement the SPNFZ Treaty, a complicated system has been introduced whereby a treaty inspector cannot simply conduct an inspection irrespective of whether those in charge of a vessel, aircraft, vehicle or premises consent to the inspection. Rather the treaty inspector must be accompanied by another inspector appointed under Subsection 57 (1) of the Nuclear Non-Proliferation (Safeguards) Act 1986, who in turn must have obtained from a magistrate a warrant authorising entry and the exercise of relevant powers to facilitate the treaty inspection (with the magistrate entitled to refuse the application if the NPT inspector has not provided further information as required by the magistrate, or if the magistrate is not satisfied that there are reasonable grounds for issuing the warrant).⁶⁹

Implementation

Following agreement in principle on establishing a NFZ treaty, important aspects of the implementation process include: the mechanisms for putting the NFZ instrument into force; for maintaining it in force; for amending the treaty; for securing nuclear-weapon states guarantees and a respect for the zone; for securing international recognition of the zone; and for achieving the wider disarmament aims and goals of the treaty.

Ratification

The Forum Working Group opted for a simple ratification system under which the treaty would come into force as soon as 8 states of the South Pacific Forum ratified it.⁷⁰ This number represented three-quarters of the membership of the South Pacific Forum at the time.

Fortuitously, when the treaty was opened for signature at the 1985 South Pacific Forum, 8 South Pacific states were prepared to sign it immediately: Australia, New Zealand, Fiji, Western Samoa, Tuvalu, Kiribati, Niue, and the Cook Islands. By late 1986, the same eight states had ratified the treaty, and it came into force on December 11 1986. By comparison with the Tlatelolco Treaty, the Rarotonga Treaty came into force relatively

quickly, involving only one year of formal negotiation compared to four years for the Tlatelolco Treaty.

Maintenance in force

The maintenance of the treaty in force depends in part on the requirements of withdrawal or denunciation provisions. On this issue the Rarotonga Treaty is more stringent than the Tlatelolco Treaty. Whereas the latter permits withdrawal after only three months, the Rarotonga Treaty requires twelve months' notice.⁷¹

In the Latin American treaty, withdrawal may be permitted on the relatively general grounds of circumstances connected with the treaty which affect a members state's 'supreme interest or the peace and security of one or more Contracting Parties'.⁷² By contrast, the Rarotonga Treaty permits withdrawal only:

... in the event of a violation by any Party of a provision of this treaty essential to the achievement of the objectives of the treaty or of the spirit of the Treaty.⁷³

However, these relatively stringent withdrawal conditions only apply to the treaty itself, not to its protocols. In the case of the protocols, a nuclear-weapon state need only cite 'extraordinary events' related to the subject matter of the Protocols which have 'jeopardised its supreme interest', and need only give three months' notice.⁷⁴

The less stringent protocol withdrawal provisions, coupled with the already discussed limitations on nuclear power obligations under Protocol 2, detract from the ostensible treaty objective of improving the security of the region from attack or threat of attack.

Amendment provisions

Amendment of nuclear arms control treaties would seem vital if arms control treaties are to keep pace with technological innovations that were not present or not considered at the time a treaty was drafted. Many supporters of the Rarotonga Treaty concede its serious limitations but argue that it is possible to strengthen the treaty at a later date through amendment.

However, even if the political will existed among many, or even most, of the South Pacific members states to strengthen the treaty through amendment, the drafters have made this an exceptionally difficult process. The treaty imposes a more stringent process for amending the treaty than it did for establishing the treaty in the first place. Whereas the treaty came into force by a three-quarters majority of the existing Forum states, it can only be amended by a consensus of all of the treaty parties. The amendment by consensus requirement means that a single state favouring a particular nuclear activity can block an amendment sought by all of the other South Pacific states.

This requirement compares with the Tlatelolco Treaty's amendment provision requiring only a two-thirds majority of Parties.⁷⁵ The use of the consensus principle for amendments also contrasts with the much less stringent amendment by majority provisions of the NPT, the Outer Space, and Seabed Treaties, and the amendment by a three-quarters majority in the SPREP Convention. Although there is a precedent for the use of consensus

in the amendment provisions of the Antarctic Treaty, this contained a time limit of 30 years (up until 1989) after which the treaty can be amended by a simple majority.

Rarotonga Treaty provisions on amendment therefore depart from the practice adopted in other NFZ and related treaties. The Chairman of the Working Group offered no explanation for this departure. However, since the effect of adopting the consensus principle for amendment will mean that it is relatively more difficult to strengthen the treaty at a later date - for example, by extending its provisions to cover missile testing, nuclear weapons transit or C³I bases - then it is likely that Australia favoured a stricter amendment procedure as a means of offering reassurance to the United States that not only its current interests but also its future interests would be fully protected.

Nuclear-weapon power undertakings

One of the key aspects of implementation of a SPNFZ is the securing of nuclear-weapon state respect and guarantees for the zone through treaty protocols.

As already noted, the guarantees sought by the Rarotonga Treaty are not so comprehensive as the Tlatelolco Treaty in requiring nuclear-weapon states to respect all key provisions of the treaty but focus rather on: (a) the use or threat of use of nuclear weapons against (but not from) the zone states; and (b) non-assistance to any other parties to the treaty or its protocols in the violation of the treaty or its protocols.

Nevertheless, despite the less comprehensive undertakings required by the Rarotonga Treaty's Protocol 2, it has so far only been successful in gaining recognition from two nuclear-weapon states, the Soviet Union and China. The three Western nuclear powers have all formally announced decisions not to sign the treaty protocols. The factors underlying these varying nuclear-weapon power responses to the treaty will be taken up more fully in Chapters 7 and 8.

International recognition of the Treaty

The gaining of international recognition of the treaty, particularly in the United Nations and other international agencies, is a key element in implementing the treaty since it opens up the possibility of putting international pressure on the nuclear-weapon states to respect and guarantee the treaty. The Tlatelolco member states successfully used resolutions advanced at the UN General Assembly to encourage ratification of protocols by reluctant nuclear-weapon states. For many years, the Soviet Union refused to ratify Protocol II and the US and France refused to ratify Protocol I. However, continued pressure on nuclear-weapon states to ratify all protocols of the treaty led to US and Soviet ratification of the relevant protocols. France remains the only nuclear-weapon state not to have ratified all the relevant Tlatelolco protocols.

In the case of the Rarotonga Treaty, no immediate steps were taken to seek UN recognition and assistance in inducing the nuclear-weapon states to respect and guarantee the treaty. While the nuclear-weapon states were still contemplating their responses to the treaty, resort to UN resolutions may have been premature in the sense of forcing the nuclear-weapon states to vote on the issue before they had fully considered the treaty. Now that the nuclear-weapon states have made their formal responses, it could be anticipated that the treaty Parties would seek international recognition support for the treaty at the

United Nations. The Australian government did, in fact, sponsor a resolution at the 1989 UN General Assembly. This resolution achieved broad UN support, with 151 votes in favour, none against, and only 4 abstentions.⁷⁶ The abstentions included the three Western nuclear powers, the United States, United Kingdom, and France, and Vanuatu.

The Australian government previously secured international recognition and support for the treaty at both the Commonwealth Heads of government meeting in the Bahamas in October 1985 and at the third NPT review conference in September 1985. The Commonwealth meeting declared the Rarotonga Treaty 'an important step in global and regional efforts to promote nuclear non-proliferation'; and the NPT conference welcomed the treaty 'as consistent with Article 7 of the NPT'.⁷⁷

Collateral agreements

Another attribute of nuclear free zone arrangements is that of collateral agreements aimed at enhancing the effectiveness of a specific zone. Such agreements might either strengthen the effectiveness of the zone within zone boundaries, or serve to create a buffer in regions surrounding the zone. To the extent that Soviet and US nuclear bases and operations in the North Pacific region above the equator might pose a threat to the effectiveness of the treaty - and many conservative commentators have placed particular emphasis on the acquisition of Soviet naval and air facilities in Vietnam and the increased size of the Soviet fleet - collateral measures to enhance the effectiveness of the SPNFZ might include agreements on removal of nuclear-weapon-related bases in specific areas of the North Pacific, such as Southeast Asia, and agreements on naval arms limitation in the North Pacific.

However, Australia, New Zealand and the other parties to the treaty have so far not proposed any specific collateral agreements - either affecting the zone region or relating to adjoining regions - to make the treaty more effective, despite the fact that many supporters of the treaty describe it as a 'first step'.

The absence of a regional arms control agenda for developing a framework of collateral agreements to strengthen the effectiveness of the Rarotonga Treaty, even on an incremental or phased basis, coupled with the formidable obstacles to amending the treaty, are consistent with an aim of pre-empting more comprehensive regional arms control rather than viewing the treaty as a stepping stone to further denuclearisation.

NOTES

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CHAPTER 4

Australia's Initiation of the SPNFZ Treaty

Australia would seem to be the least likely regional state to initiate and develop a regional nuclear free zone treaty. It is the only South Pacific Forum state to host major nuclear-weapon-related C³I and navigation bases; the most frequent port of call for transiting US nuclear armed vessels in the Southwest Pacific; the only South Pacific State to permit nuclear-capable B52 staging operations; the only regional state involved in the mining and export of uranium; and closely allied to a nuclear-weapon state, the United States, through the ANZUS Treaty.

The advent of a Labor government in March 1983 does not, in itself, explain the new Australian interest in a regional nuclear free zone arrangement. In most of the key aspects of foreign policy, the new government maintained a high degree of continuity with previous conservative governments. In his 1983 election campaign speech, Prime Minister Hawke pledged that on the principal issues of foreign policy, there would be 'continuity, consistency and consensus'.¹ In the first year of his government this continuity was evident across a range of foreign policy issues.

On his first visit to Washington in April 1983, Prime Minister Hawke strongly reaffirmed the ANZUS alliance as reflecting 'a coincidence of strategic interest' between the two countries.² On a wide range of nuclear issues, the Hawke government maintained, with only minor modifications, the same policies as its predecessors. It continued to accept transit and port calls by US nuclear-powered or armed vessels, and the staging of USAF nuclear capable B52 training and surveillance flights from the RAAF base at Darwin. It continued to accept the presence of nuclear-related joint US-Australian C³I, scientific, and navigational facilities in Australian territory. It continued to permit uranium mining and export. It continued to participate in joint military exercises and ASW programs involving US nuclear capable forces. Finally, it continued to endorse the strategic doctrine of nuclear deterrence.

Given this high degree of continuity in Australia's nuclear and alliance policies, in some instances achieved at the price of tension with long standing ALP policies, it seems surprising that the Hawke government should have been the first Australian government to actively support and promote the concept of a regional nuclear free zone, an idea that was opposed not only by successive Liberal Country Party conservative governments but also by the previous Whitlam Labor government of 1972-75.³

The paradox is explained by the fact that the measure did not, either in motivation or practice, represent a major departure from previous government nuclear and alliance commitments but rather an instrument for protecting these commitments and channelling electoral, party and regional denuclearization pressures towards third party non-ANZUS nuclear activities.

In early 1983 when the Hawke government assumed office, it faced a dilemma in its arms control and disarmament policy. On the one hand, it was faced with growing domestic pressures for regional denuclearization within the Labor party and in the wider community, and increasing external pressures for regional denuclearization in New Zealand and the Melanesian Alliance states. On the other hand, as a government composed primarily of the right and centre groupings in the Labor Party, it was ideologically committed to preserving the alliance relationship with the United States, existing nuclear linkages under the alliance, and Australia's own nuclear industry. It was also sensitive to past US opposition to regional NFZ proposals, to continuing strong support for the ANZUS alliance in the Australian electorate, and to the electoral risks of any step that might be perceived to endanger the alliance.

The external regional pressures, in particular, presented a long-term risk for US and Australian nuclear policies because of the possibility of New Zealand, under a Labour government, joining with the Melanesian island states in pursuing a relatively comprehensive regional denuclearization arrangement that would potentially prohibit US, ANZUS or Australian nuclear activities, including nuclear weapons transit and uranium export. Even if Australia were to refuse to cooperate in such regional arrangements, there was still a risk that the island states would institute the zone without Australia, thereby reducing Australia's influence in the region.

The Australian government's resolution of the dilemma was to itself promote and pursue a regional SPNFZ that would pre-empt more comprehensive regional denuclearization moves by channelling domestic and regional anti-nuclear sentiment against third-party non-ANZUS nuclear activities, specifically French nuclear testing. By taking the SPNFZ initiative itself, the government was able to play a key role in controlling the negotiating process and ensuring that the zone concept remained compatible with Australian and US nuclear policies.

The argument for this interpretation of the government's primary motivation is based on: (a) an analysis of the regional nuclear dilemma facing the new government in 1983-1984 as a result of conflicting pressures for nuclearization and denuclearization; (b) evidence from official statements and the treaty's content that the treaty was designed to protect both existing and future US, ANZUS and Australian nuclear interests; (c) evidence from official statements and Australia's negotiating strategy that the government was seeking to channel domestic and regional anti-nuclear sentiment against non-ANZUS nuclear activities and to pre-empt more 'radical' denuclearization initiatives; and (d) the unlikelihood of competing explanations for the government's motivation in advancing the initiative.

The nuclear dilemma in 1983-1984

The nuclear dilemma facing the government in 1983-84 had four elements: domestic and internal party pressures for specific regional denuclearization initiatives along with other arms control measures; regional pressures for denuclearization in other South Pacific Forum states; US opposition to regional denuclearization; and government commitment to protecting US, ANZUS and Australian interests.

The late 1970s and early 1980s saw the emergence of a large-scale disarmament movement in Australia, precipitated by new anxieties over escalation in the nuclear arms race, and Australia's own nuclear linkages in the form of hosting C³I bases, acceptance of nuclear ship visits, and export of uranium.⁴ The new disarmament movement, through large rallies (100,000 in the 1983 and 250,000 in the 1984 Palm Sunday rallies), educational and lobbying activities, sought both an end to Australia's own nuclear linkages and the establishment of a regional South Pacific Nuclear Free Zone.

The concerns of the new disarmament movement and increasing ambivalence in the wider community about some forms of nuclear involvement (such as nuclear warship visits) - especially among ALP voters and members - were reflected in a new emphasis on disarmament policies in ALP policies and platforms from the late seventies onwards. In accord with this new emphasis, the 1979 Federal ALP Conference adopted a policy of support for 'a nuclear free zone proposal in the Southern Pacific area'.⁵ In July 1982, the year before the Hawke government won office, the Federal ALP Conference reaffirmed the 1979 SPNFZ proposal, stating:

Conference, noting Labor's platform commitment to 'support a nuclear free zone proposal in the Southern Pacific area': (1) condemns the dumping of nuclear waste in the environment of the region; (2) supports South Pacific states, trade unions and other organisations in opposing the testing of nuclear weapons, nuclear devices and also nuclear weapon systems in the region; (3) calls on the Australian government to request the United Nations to convene an international conference aimed at banning all nuclear activities in the South Pacific, to be attended by all the states of the region and all the nuclear weapon states plus those other states with an involvement in the nuclear fuel cycle.⁶

This policy, while not entirely satisfying left-wing conference delegates - who sought specific reference to the banning of nuclear warships, nuclear weapon-related bases and uranium mining - did suggest comprehensiveness in its reference to banning 'all nuclear activities' and appeared to commit the Party to opposing not only testing of nuclear devices but also 'nuclear weapon systems'.

It was evident at the Conference that, while the right and centre groupings of the ALP continued to insist upon the maintenance of a range of US and Australian nuclear activities, including the US bases, acceptance of nuclear ship visits, and uranium mining, they were sufficiently responsive to both party and wider community pressures to reach agreement on both the regional nuclear free zone proposal and a range of other disarmament policies and initiatives, including opposition to the permanent basing of foreign naval vessels in Australia during peacetime, opposition to the use of bases in Australia in ways which could derogate from Australian sovereignty or involve Australia in hostilities without Australia's consent, support for establishment of an Australian Arms Control and Disarmament Commission within the Foreign Affairs Department, and establishment of a Peace and Development Studies Institute.⁷

In the case of the SPNFZ proposal, support for the general concept extended across all factions, although left and right groupings differed greatly on its intended scope, with the left favouring more comprehensive arrangements and the right insisting that the zone must not limit nuclear transit or ban uranium mining. In July 1982, for example, the party's spokesperson on foreign affairs, Lionel Bowen, strongly emphasized the need for a regional NFZ and even a zone encompassing the whole Southern Hemisphere, but pointed out that such a zone 'would not preclude transit... of nuclear-powered or nuclear-armed vessels'.⁸

The fact that the SPNFZ policy was broadly supported - despite differing factional interpretations - coupled with the widely perceived need within the party to respond to party and electoral pressures for new disarmament initiatives, ensured that it would be among the foreign policy options actively considered by an incoming Labor government in the following year.

While it can be assumed to have been a major option on the new government's agenda, this does not necessarily explain its actual adoption. The Hawke government emphasised its right to determine policy timing and implementation, and, in some instances, departed from party policy altogether. In the case of the SPNFZ policy, however, the new government, in assessing its regional South Pacific policy, was confronted with regional trends and pressures for denuclearization that both presented a threat to US and Australian nuclear interests and had the potential of eroding Australian influence in the region.

In New Zealand, the Labour Party, while still in Opposition, had adopted strongly anti-nuclear policies both in relation to its own territory and to the region. The 1978 New Zealand Labour Election Manifesto pledged to 'take up the struggle...to promote a nuclear-free Pacific where Prime Ministers Kirk and Rowling left off', and the 1981 Labour Conference resolved that a Labour government would immediately declare New Zealand and its territorial waters a nuclear free zone, and then seek to extend the zone to cover the South Pacific. Further, from 1978 onwards, the Labour Party began explicitly linking a ban on nuclear warship access to its SPNFZ policy.

Following its substantial electoral gains at the 1981 general election, reducing the Muldoon National government to a majority of one, the New Zealand Labour Party's prospects of gaining power at the ensuing general election were considered good. From the Hawke government's perspective, there was a strong likelihood of an incoming Labour government seeking to revive the Rowling Labour government's 1975 SPNFZ initiative, already endorsed by both the South Pacific Forum and the United Nations. This had already disturbed both the United States and the previous Whitlam Labor government because it was feared that a New Zealand Labour government would seek a blanket prohibition on nuclear weapon transit in territorial waters and eventually seek to extend the zone to the high seas, thereby posing a threat to ANZUS interests. The Hawke government was just as concerned about the prospect of an incoming New Zealand Labour government seeking to revive its relatively comprehensive 1975 SPNFZ initiative at the South Pacific Forum.

However, the pressure for regional denuclearization was by no means confined to New Zealand. In many other parts of the South Pacific during the early 1980s there were also mounting pressures for denuclearization, not only relating to the issues of French nuclear testing and nuclear waste-dumping but also extending to US and Australian nuclear activities. Examples of the regional anti-nuclear trend included: Vanuatu's regional advocacy of a comprehensive SPNFZ following its gaining of independence in 1980; Papua New Guinea's adoption in 1981 of a foreign policy that included the linked proposals of an islands-only regional organization and establishment of an islands-only SPNFZ; the 1981 anti-nuclear shift in Solomon Islands foreign policy under Mamaloni and Solomons support for Vanuatu in actively promoting the regional SPNFZ concept; the 1979-1980 Belauan adoption of a nuclear-free constitution effectively banning all nuclear activities, including transit; the Federated States of Micronesia's 1980 adoption of a constitution also

embodying anti-nuclear clauses; and the strong support of all island states for NFZ initiatives at the UN General Assembly during the late 1970s and early 1980s.

While US diplomacy resulted in the 1983 reversal of Fiji's previous ban on nuclear warships, the regional trend among island states still presented problems for US, ANZUS and Australian nuclear policies. The likelihood of the New Zealand Labour Party coming to power raised the possibility of New Zealand and the more anti-nuclear island states combining to establish a SPNFZ initiative that might constrain many US or Australian nuclear activities, such as nuclear weapons transit in territorial waters, missile testing or uranium export. As an American academic specialist on the South Pacific, Henry Albinski, observed in 1985:

... a combined New Zealand-South Pacific island nation boycott of American ship visits would make it more awkward for Australian governments, especially Australian Labor party governments, to maintain currently hospitable ship visit policies, and could carry over into the domain of existing American defense installations on Australian territory.⁹

While neither Australia nor the United States would have been obliged to recognize a comprehensive NFZ barring nuclear-armed ship visits, establishment of such a zone between New Zealand and the island states would have created a loss of Australian influence in the South Pacific, and would have involved the establishment of a regional organization in which Australia was not represented (since without Australia's consent, a New Zealand-island states-initiated SPNFZ could not have been formed through the South Pacific Forum (which is governed by a consensus rule). Since Australia, with US approval, viewed itself as having a regional responsibility for protecting Western security interests in the South Pacific, this possibility was disturbing.

Alternatively, even without New Zealand, the Melanesian Alliance states (Papua New Guinea, Vanuatu and the Solomons), in their moves to coordinate their regional and foreign policies, could have decided to establish a SPNFZ in their own right, or together with any other island states prepared to join them. In either event, Australia would not only have lost regional influence, but the establishment of a NFZ in part of the region would, given the strong domestic and ALP constituencies in favour of comprehensive denuclearization, have created ongoing pressure for Australia to participate in the zone, thereby creating tensions in its ANZUS relationship with the United States.

The Hawke government's dilemma was accentuated by two other factors. While there were strong pressures for denuclearization among regional states, and within the ALP's own constituency, there were also countervailing pressures on the new government for retention and protection of US and Australian nuclear policies from within the defence, foreign affairs and intelligence establishments, from the Liberal Opposition, and from the media. In view of these pressures, and the electorate's continuing support for ANZUS, any government retreat from nuclear activities legitimized under ANZUS would have elicited electorally damaging campaigns against the new government by both the Opposition and the media.

The other factor was US pressure on the new government. Even before it assumed office, the US Deputy Secretary of State, Walter Stoessel met with the then Leader of the Opposition, Bill Hayden, in June 1982 and outlined the US position that unless Australia and New Zealand accepted entry of US warships the United States would withdraw from

the alliance: 'no ships, no ANZUS'.¹⁰ The meeting, in part responsible for a reversal of Hayden's previous questioning of party policy on accepting nuclear ship visits, highlighted the high stakes involved in any regional NFZ move that affected US nuclear interests in the region. Further, US State Department officials during the late 1970s and early 1980s publicly emphasised their concern over the possibility of New Zealand or island states adopting any arrangements that infringed on US nuclear activities in the region. This concern was a major factor in the 1978 US decision to upgrade the US diplomatic presence and economic/military assistance role in the region (itself a reflection of reduced American confidence in Australia and New Zealand as guardians of Western security interests in the region).¹¹

The Hawke government's resolution of the dilemma of being, on the one hand, committed to protecting US, ANZUS and Australian nuclear and strategic denial policies within the region¹² and, on the other, faced by internal and regional pressures for regional nuclear free zone establishment, including pressures that posed a significant long-term threat to ANZUS nuclear interests, was to grasp the nettle posed by the ALP's own policy endorsement of the SPNFZ concept and itself initiate the zone's establishment in the region. This enabled it to devise a zone that protected US, ANZUS and Australian nuclear policies, maintained substantial control over the negotiation process, and effectively pre-empted possible moves by either an incoming New Zealand Labour government, or the Melanesian Alliance states, to initiate more comprehensive arrangements incompatible with US or Australian nuclear interests. By initiating the proposal even before a New Zealand Labour government came to office, the Hawke government could also anticipate support from the Muldoon National Party government for a zone that protected ANZUS interests.

However, to have credibility and gain support, both domestically and within the region, the initiative needed a specific non-ANZUS focus. Since most regional states were already committed to non-proliferation under the NPT, the major non-ANZUS focus for a credible zone was French nuclear testing in the Pacific, opposed both domestically and throughout the Forum states. By devising a treaty that included strong provisions against **nuclear warhead testing and promoting** the contribution of the treaty to ending French Pacific testing, the government succeeded in presenting the initiative as a response to the Party's call for new disarmament initiatives and gaining sufficient regional support for the treaty to be established.

The trigger for translating the SPNFZ foreign policy option into an actual government policy was not, as some have argued, the May 1983 start-up of the annual French nuclear test programme at Moruroa, but rather the government's sense of urgency that, if it did not itself initiate and mould a SPNFZ arrangement, the running would be made by a New Zealand Labour government and/or the Melanesian Alliance states, with adverse consequences for ANZUS nuclear policies and Australia's influence in the region.

The concern to end French testing would not, in itself, seem to explain the major step of establishing a SPNFZ given that the government had many other options available for bringing pressure to bear on France, such as resolutions at the UN specifically against French testing, further action in the International Court of Justice, or forms of economic sanction against France. The subsequent decision of the government, in acknowledged breach of party policy, to reverse the 1986 Federal ALP Conference decision not to sell uranium to France while French testing continued, suggested a relatively low priority to applying diplomatic pressure on the French testing issue. Similarly, government acceptance

of French warship visits did not seem consistent with a campaign of pressure on France. Rather the Hawke government's early emphasis on the treaty's role in applying pressure to end French testing - subsequently overshadowed in more recent statements by presentation of the treaty as primarily motivated by a wish to discourage superpower intrusion into the region - was more consistent with a wish to deflect regional and domestic anti-nuclear sentiment away from ANZUS and Australian nuclear interests and towards a third-party non-ANZUS nuclear activity. French testing was more plausibly the alibi than the trigger for the SPNFZ initiative.

That the government's motivation in advancing the initiative was primarily aimed at channelling regional anti-nuclear sentiment in a way that protected US and Australian nuclear interests was subsequently obliquely acknowledged by the Australian government's chief negotiator on the South Pacific Forum Working Group that drafted the treaty. According to the report of the private briefing given by David Sadleir, First Assistant Secretary in the Foreign Affairs Department and Chairman of the Working Group, to the 1986 US Congressional Delegation to the South Pacific:

Australia assumed a leadership role in the Forum in order to provide a rational and responsible guide in developing the South Pacific Nuclear Free Zone Treaty. It feared that some of the more emotional nations might take a more radical position in opposing French testing. The aim of Australia, according to Mr. Sadleir, was to channel the efforts of the Forum into a constructive program. He believes this approach has been successful, as some of the nations favored going much further than the treaty.¹³

Since the treaty provisions themselves included the strongest possible prohibitions against French testing, and there was no record in the negotiations of other Forum states seeking stronger provisions against French nuclear programs, Sadleir's reference to other Forum countries taking 'a more radical position' can only be interpreted as relating to non-French - presumably US and Australian - nuclear activities in the region.

The strategy of using the SPNFZ to pre-empt more radical regional denuclearization moves was also consistent with the advice that the government received from its senior defence advisers at the time. The 1983 Strategic Basis Paper, adopted by Cabinet in late 1983 as a guide to government policy (but not representing policy as such), expressed concern over 'influential elements in New Zealand opposed to the ANZUS relationship or supportive of objectives that could prejudice ANZUS interests', including opposition to ANZUS in some sections of the New Zealand Labour Party, and advised that the government should take account of this anti-ANZUS development in encouraging 'a sense of strategic community between the independent States in the area and the ANZUS allies'.¹⁴ The paper went on to argue that Australia could 'assist the island States to develop a more considered approach to nuclear questions': in regard to nuclear free zone proposals, Australia should take account of the implications for ANZUS and draw attention to the 'need to exempt vessels in transit'. The government's SPNFZ initiative both incorporated the concern to protect ANZUS interests and served to promote the 'more considered approach to nuclear questions' that the advisers were seeking to achieve in the South Pacific region.

The Treaty's protection of US and Australian nuclear interests

If the primary motivation of the treaty was to protect ANZUS nuclear policies, what is the evidence that the government intentionally and successfully designed the treaty to protect those policies?

Even before it formally advanced its SPNFZ initiative at the Forum, the government made efforts to set limits to the zone's scope. In his first visit to Washington, and in advance of any consultations with fellow South Pacific Forum countries, Prime Minister Hawke assured the United States that:

... the concept of a nuclear free zone is not intended to preclude the passage of nuclear powered and armed sea vessels or air transit in the region.¹⁵

This insistence that nuclear transit was to be exempted from the zone arrangements was also a feature of Australian presentations of the concept to the South Pacific Forum. At the August 1983 South Pacific Forum meeting at which it first raised the proposal, Australia sought agreement that the SPNFZ would:

... uphold the principles of freedom of navigation and overflight as provided in international law and the Treaty obligations of Forum members; and recognise the sovereign right of governments to make decisions on access to their ports and airfields by the vessels and aircraft of other countries.¹⁶

In the Forum meeting of the following year, the Australian government successfully sought the inclusion of the same principles in the initial guidelines for the drafting of the SPNFZ Treaty.

In subsequent statements of reassurance to the United States and to the conservative parliamentary Opposition, the government went even further in stating that the SPNFZ Treaty would not interfere with any US military activities, present or future.

Government representatives noted, for example, that the treaty would 'avoid any impediment to present or conceivable operational requirements of the US';¹⁷ that it in no way conflicts with ANZUS arrangements and does not run counter to 'stable nuclear deterrence';¹⁸ 'that it in no way impedes Australia's ability to compete militarily with its allies';¹⁹ 'that it provides all that the United States requires for its strategic mobility in the region' and 'in no way restricts any current or contemplated United States military activity in the region';²⁰ that the treaty was 'carefully drafted to take account of United States strategic interests and Australia's alliance obligations'; and that 'it helps to preserve a favourable security environment characterised by United States strategic pre-eminence in the Pacific theatre'.²¹

These assurances were by no means rhetoric since the government's concern to devise a treaty that permitted both present and future US nuclear activities was reflected in a number of features of the treaty.

Firstly, the Hawke government took care from the outset to insist on the principle that individual countries would retain 'unqualified sovereign rights' to decide for themselves whether to allow access to their ports and airfields by nuclear-armed vessels and

aircraft, and transit of their territorial airspace by nuclear-armed aircraft. This principle was explicitly incorporated into the Rarotonga Treaty in Article 5. While states currently have this sovereign right, it was feasible in principle for parties to a regional nuclear free zone to cede this right under a regional treaty in the common interest of establishing a more effective nuclear free zone in terms of the UN criterion of the 'complete absence of nuclear weapons'.

Secondly, the treaty's endorsement of the right of innocent passage in the territorial waters of zonal states without explicit requirements for the exercise of state sovereignty through prior authorization or notification seemed aimed at assuring the United States of the option of territorial transit of nuclear-armed ships despite national policies on acceptance or rejection of nuclear-armed ships and aircraft to ports and airfields.

There was legal scope under UNCLOSIII for individual states to exercise sovereign rights on territorial transit in much the same way as their exercise of sovereign rights in relation to ports and internal waters, for instance, by legislating to declare any passage of a nuclear-armed vessel through territorial waters as 'prejudicial to the peace, good order or security of the coastal State'²² but the Rarotonga Treaty's Article 5 (2) was silent on such sovereign rights. This silence could, and probably would, be interpreted as licence for military exercises conducted within territorial waters, even though military exercises in territorial waters were among the activities explicitly cited in UNCLOSIII Article 19 2 (b) as a basis for considering the passage of a foreign ship to be prejudicial to the peace, good order or security of the coastal state and therefore not 'innocent'.

A third feature of the treaty that seemed aimed at accommodating US interests was the absence of any controls over sea-based as distinct from land-based stationing of nuclear weapons in the region. In interpreting the treaty's anti-stationing provisions, the Australian government's Explanatory Memorandum stated that:

The presence of nuclear explosive devices on foreign ships visiting Australian ports or navigating in or through Australian waters or on foreign aircraft visiting Australian airfields, does not constitute stationing (which is prohibited under Clause 11) and cannot give rise to breaches of the Bill's provisions on possession, control, and stationing or the facilitation thereof.²³

This exclusion of nuclear weapons on board visiting or transiting ships and aircraft, coupled with the apparent relinquishment of sovereign rights over the territorial sea as already discussed, opened up the possibility of *de facto* stationing through storage of nuclear weapons on board supply vessels technically in transit or visiting South Pacific ports.

When island states sought to close off a perceived loophole by seeking regulation of the duration or pattern of port visits, the Australian government opposed such regulation on the grounds that 'the sovereign right of a country to decide on port access was unqualified' and that the 'utility' of imposing constraints on duration was doubtful because of the considerable variations in the circumstances of port visits.²⁴ The Rarotonga Treaty therefore does not prevent the United States - or other nuclear powers - from exercising the option of sea-based stationing of nuclear weapons in the region through storage on anchored or regularly patrolling supply vessels deployed in territorial waters of South Pacific states. While such an option might not be as economical as land-based stationing,

it has the advantage of presenting greater targeting difficulties for adversaries and is one that the United States has already adopted elsewhere, for example in Japan.

A fourth feature of the treaty that protected US strategic interests was the absence of any prohibition, either in the body of the treaty or in its protocols, on the firing of nuclear weapons from the zone as distinct from the firing of nuclear weapons at zone states and territories. There was nothing in the treaty that prevented strategic nuclear weapons from being launched either from territorial waters or from the high seas within the zone, or from aircraft overflying territorial waters or the high seas; nor was there any prohibition on the threat of such launching from the zone. As such, the treaty did not restrict US submarines from launching Trident II missiles at Soviet land targets from within South Pacific waters, nor did it prevent exchanges of ship or air-launched cruise missiles between US and Soviet forces in the zone so long as these exchanges were not directed at targets located within the territories of zone parties. The Australian government did not comment on the lack of prohibition on launching of weapons from the zone, despite the fact that this was a major departure from the Tlatelolco precedent.

A fifth feature of the treaty aimed at protecting United States interests was the absence of regulation of nuclear-weapon-related C³I installations, such as the joint US-Australian installations in Australia. In the government's interpretation, the treaty continued to permit the control of nuclear weapons through these installations, despite the seeming prohibition of control of nuclear weapons under Article 3(a). The treaty avoided any direct prohibition of C³I installations through its narrow application to nuclear explosive devices as distinct from delivery systems. Article 3(a) does, however, prohibit parties from having 'control over any nuclear explosive device by any means anywhere inside or outside the South Pacific Nuclear Free Zone'. In the Rarotonga Treaty this provision was not qualified in any way (for example, by limiting it to domestically-owned nuclear weapons or weapons located within the zone), but in the Australian legislation to implement the treaty, Clause 15 (3) explicitly exempted foreign-owned nuclear weapons located outside Australia.

Explaining this exemption, the government's Explanatory Memorandum noted that:

The qualification to clause 10 is intended to ensure that certain forms of 'control' of a nuclear explosive device are not prohibited - control by way of the transmission of instructions to a foreign force outside Australia, e.g. by a visiting US President or CINCPAC Admiral, or control by way of interception of such transmission by an Australian stationed at the North West Cape Joint Facility.²⁵

In the Australian view, then, the United States retained the right under the treaty to control the launching of nuclear weapons from SPNFZ territory, and Australians retained the right to permit the transmission of nuclear weapon launch orders through C³I installations jointly controlled by Australia and the United States. This exemption sat oddly with the ostensible purpose of the Rarotonga Treaty in reducing the risk of the region becoming involved in nuclear war, and compounded the problem of securing unconditional and credible non-use guarantees for the zone. It can only be explained by Australian concern that the treaty avoided any constraint on US strategic needs and interests.

The Australian government also opposed inclusion of a prohibition on missile testing, an activity that three of the nuclear powers, the United States, Soviet Union, and China had either already conducted, or envisaged conducting, in high seas areas within the

Rarotonga zone. The Australian Chairman of the Working Group, in rejecting island states' support for a treaty ban on missile testing argued that:

Forum members did not have the legal power to ban missile tests in the region since these were , usually conducted over and into international waters;

and that

... such a provision could jeopardise acceptance of the Protocols to the Treaty by the nuclear weapon states.²⁶

Australia rejected an island proposal of a fourth protocol that would ask the nuclear powers to relinquish their rights to missile testing within the zone. This would have been similar in principle to superpower undertakings under the PTBT not to test nuclear explosive devices on the high seas. It also, apparently, rejected the ALP's own policy commitment to incorporate a ban on missile testing into the treaty (assuming that the phrase 'nuclear weapon systems' in the ALP policy was intended to cover missiles). Since it could be assumed that the government was not seeking to protect Soviet and Chinese missile testing in the region, the opposition to including a fourth anti-missile testing protocol was presumably based on avoiding any constraint on US missile testing activities in the region.

Australia could also be regarded as protecting US future operational requirements by favouring amendment provisions that make it very difficult to strengthen or extend the treaty at a later date, by endorsing a control system that was likely to inhibit or dissuade small island states from making complaints and challenges, and by departing from the Tlatelolco Protocol II formula in relaxing nuclear-weapon state obligations to respect the full range of treaty provisions as distinct from simply non-use guarantees and undertakings not to contribute to zone members' violation of treaty provisions.

The relaxation of nuclear-weapon state protocol obligations meant that the treaty provided no restraint on US or other nuclear-weapon state forces from firing nuclear weapons from zone territorial waters (where zone states permit transit) or from the high seas within the zone.

The Hawke government, in brief, was successful in devising, and negotiating Forum support for, a zone that not only protected existing forms of US and Australian nuclear involvement in the South Pacific region, such as nuclear weapons transit, C³I bases, control over nuclear weapons, right to launch nuclear weapons from territorial waters or high seas, missile testing, and uranium export, but also potentially allowed such new activities as *de facto* stationing of nuclear weapons through sea-based nuclear weapon storage in territorial waters, assistance to nuclear-weapon state missile and other nuclear weapon research programmes (so long as the assistance was not related to actual nuclear explosive devices), and further stages in the nuclear fuel cycle, such as nuclear fuel processing and reprocessing and nuclear power plant construction. In its practical implications, too, the zone sought to disadvantage the Soviet Union strategically by seeking a guarantee that it would not attack zone land territory while permitting major C³I bases involved in US nuclear targeting of the Soviet Union; and was consistent with the strategic denial objective of preventing Soviet establishment of nuclear-capable land bases in the region (in a context where the United States was not seeking South Pacific nuclear land bases other than its existing and planned Micronesian bases just to the north of the zone boundaries).

As the Australian Ambassador to the United States noted, the treaty:

... helps to preserve a favourable security environment characterised by United States strategic pre-eminence in the Pacific theatre

and

... promotes interests shared by the United States and Australia.²⁷

The evidence suggests that in advancing the SPNFZ initiative the Hawke government was not only concerned to ensure that the zone would protect existing US and Australian nuclear activities, but also that it would actually promote and legitimize the two countries' regional nuclear interests.

Given the expansion of the US nuclear and strategic presence in the region, especially the major strategic developments associated with the deployment of cruise missiles, Ohio-class submarines, and Trident missiles in the Pacific, the initiative offered the promise of defusing regional opposition to Western nuclear expansion and pre-empting possible Forum state denuclearization moves that would have constrained such expansion. To take one development alone, the US deployment from 1984-1990 of over 350 Tomahawk sea-launched cruise missiles on a range of its Pacific fleet vessels regularly visiting South Pacific ports and transiting South Pacific waters may mean that the number of nuclear weapons deployed in the zone is higher than before the Treaty came into force.

Australia's SPNFZ negotiating strategy

Australia's strategy in negotiating the treaty with South Pacific Forum states supports the view that the government was seeking to channel regional anti-nuclear sentiment against French nuclear testing and avoid any constraint on US and Australian nuclear policies.

While it is evident, in retrospect, that the Australian government did not have firm assurances from the Reagan Administration of American willingness to support the zone, Australian negotiators held out the incentive of gaining nuclear-weapon state approval, including the United States, as a basis for excluding prohibitions that would have placed constraints on US nuclear policies in the region.

In his report on the treaty negotiations, the Australian Chairman of the Forum SPNFZ Working Group noted that it had to:

... weigh up the desirability of writing a draft treaty which stood a strong chance of securing for its substantial provisions the support of most if not all of the nuclear weapon States... against that of a treaty which few if any of the nuclear weapon States... would respect.²⁸

Since France could be expected to refuse to support the treaty because of its prohibition on French testing, and the Soviet Union and China were known to support relatively comprehensive NFZ arrangements (including bans on territorial nuclear weapons transit), the reference to securing the support of most of the nuclear powers evidently referred to the United States and Britain. In securing island state agreement to excluding provisions that might have adversely affected US policies - such as island state proposals

for bans on missile-testing, extension of the zone boundaries to Micronesian states, and more stringent regulation of the pattern and duration of portcalls by nuclear-armed vessels - the Australian negotiators held out the inducement of gaining American support for a zone that banned French testing and waste-dumping - arguing, for example, that missile-testing should be excluded from the treaty because any ban on such testing would 'jeopardise acceptance of the Protocols to the Treaty by the nuclear weapon states'.²⁹ The anticipation was that at least the United States could be enlisted in a campaign of diplomatic pressure on France to cease its Pacific testing.

As a close ally of the United States, and in continuous consultation with it over the development of the zone initiative, the Australian government's implied promise of US support for a limited zone arrangement was persuasive for many island states. The United States, for its part, despite the extensive consultation with Australia on the zone initiative from as early as June 1983, delayed announcing its policy on the zone initiative until well after it was signed, thereby lending credibility during the negotiations to the Australian implication that US support would be forthcoming. Given that the grounds for US difficulties in signing the treaty were predictable, based, *inter alia*, on the relatively higher priority assigned to US relations with France than with South Pacific states, it is likely that Australia and the United States colluded in holding out the promise of US support as a means of securing island support for treaty provisions that protected US nuclear activities. The possibility of US collusion is also suggested by the fact that just before the treaty negotiations commenced, the Director of the US Arms Control and Disarmament Agency, David Emery, on a visit to Australia to discuss the SPNFZ proposal, made a public statement indicating that the United States 'found no substantial problem with the proposal for a South Pacific Nuclear Free Zone so long as it followed certain guidelines', and that if the zone followed the Latin American NFZ lines, the United States was 'likely to agree to it' but that 'if it interferes with the ANZUS commitment or restricts the passage of US naval vessels, we would probably not endorse it'.³⁰

Since the treaty's coming into force was not contingent upon nuclear-weapon state ratification of the protocols, the subsequent US decision against ratification did not affect the already negotiated protection of US and ANZUS nuclear policies.

Alternative explanations of the government's SPNFZ initiative

Two alternative explanations for the government's motivation in advancing the SPNFZ initiative need to be considered: first, that it was primarily directed at containing ~~horizontal proliferation~~, secondly, that it was aimed at preventing superpower rivalry in the region.

The anti-proliferation features of the Rarotonga Treaty were featured in many government presentations of the proposal to domestic audiences. Further, the Australian Chairman of the Forum SPNFZ Working Group noted that the SPNFZ Treaty would 'contribute to strengthening global security and the international non-proliferation regime of which the NPT is the cornerstone'.³¹ Both Labor parliamentarians and academic analysts argued that the treaty would give additional reassurance to Southeast Asian neighbours that Australia would not acquire and develop nuclear weapons, and would thereby promote a similar treaty in Southeast Asia, with consequent improvement in regional security against horizontal proliferation. The fact that the treaty strengthened Australian and other parties'

NPT commitments by locking them into a requirement of 12 months' withdrawal notice (compared to 3 months for the NPT) and justification in terms of a prior violation by another treaty party would seem to support the view that strengthening non-proliferation was an important motivation of the treaty.

However, while it is feasible that the treaty may have a positive long-term effect in containing horizontal proliferation within the South Pacific and adjoining regions, it seems unlikely that this was the principal motivation for the treaty.

In the first place, no great concern over the threat of horizontal proliferation was evident either on the part of Australia or other Forum countries at the time that the zone was initiated. The major South Pacific countries, including the only regional states with an acknowledged capacity to produce nuclear weapons, Australia and New Zealand, were already bound under the NPT not to acquire nuclear weapons. Similarly, Indonesia and the other ASEAN states in the Southeast Asian region adjoining the South Pacific were also NPT signatories and had given undertakings not to acquire nuclear weapons. In its recent major defence review, the Australian government concluded that:

... no neighbouring country now has nuclear weapons, and their development or acquisition is not in prospect.³²

If Australia had been primarily concerned over the prospect of neighbouring Southeast Asian countries acquiring nuclear weapons, then it would have been logical to expect either an Australian diplomatic effort to negotiate a broader zone encompassing both the Forum and the ASEAN states, or at least to tie the establishment of a SPNFZ Treaty to the establishment of a similar treaty among the ASEAN states. While the establishment of the SPNFZ Treaty may possibly encourage the initiation of a comparable treaty amongst the ASEAN states, and the government has supported initial moves to this end by Indonesia, the uncertainty of ASEAN reciprocation, particularly in the context of reluctance on the part of Thailand and Singapore, argues against the government having placed great weight on this possibility as the basis for pursuing the initiative.

Secondly, the government's own defence advisers, in their 1983 Strategic Basis Paper, subsequently adopted by Cabinet as a basis for guidance of government policy but not government policy as such, noted that, while Australia has a legally-binding commitment under the NPT not to acquire nuclear weapons, this commitment 'assumes the efficacy of the non-proliferation regime'.³³ This suggested that the government's commitment to non-proliferation treaties, whether the NPT or the SPNFZ Treaty, was by no means unconditional, but would depend on continuing assessment of the 'efficacy' of the non-proliferation regime.

If concern over horizontal proliferation in or close to the region can be ruled out as the principal motivation for the zone, is it feasible that the zone was prompted by a concern to exclude superpower nuclear rivalry from the South Pacific?

While the government initially justified the zone both domestically and regionally in terms of its potential role in ending French testing, more recent government statements suggested that a concern to contain superpower rivalry was at the heart of the initiative. Citing the superpower military buildup in the North Pacific, Bill Hayden argued that:

... given that they are on the verge of one of the most heavily armed regions in the world, South Pacific countries have the right to try to insulate themselves from the activities and mistakes of the nuclear powers. This is the (Rarotonga) Treaty's motivation and the Australian government supports it totally.³⁴

However, while the exclusion of superpower nuclear rivalry in the region is undoubtedly a major concern of most of the island states, the likelihood of this concern being the principal Australian motivation for the zone is questionable since the government's own statements, and the nature of the treaty provisions, suggested that it was designed to avoid any interference with either present or future US strategic operations in the South Pacific. Since whatever the US is entitled to do under the treaty, the Soviet Union is also legally entitled to do, including nuclear weapons transit, *de facto* sea-based stationing of nuclear weapons, *de facto* homeporting, targeting of mobile forces in the high seas of the region, launching of nuclear weapons from either territorial waters or the high seas, and since the Soviet Union, following the US deployment of major new mobile strategic weapon systems, has every motivation to track and target US forces in the region, it is difficult to see how the treaty 'insulates' the region from the same pattern of nuclear rivalry observable in the North Pacific.

Certainly, the treaty does prevent the establishment of permanent landbased stationing of nuclear weapons or nuclear-armed forces, and this could be assumed to contribute to the strategic denial objective of preventing Soviet establishment of a nuclear-capable land base in the region - if it is assumed that this is the ulterior long-term motive of Soviet diplomatic and commercial initiatives in island countries - but this is easily circumvented by *de facto* forms of sea-based transit and stationing, based on the treaty's transit provisions. The existing precedent of US usage of Cockburn Sound in Western Australia, involving the presence of US nuclear-armed attack submarines 25% of the time already opens the way for the Soviet Union to seek similar arrangements with a South Pacific country without in any way violating the Rarotonga Treaty.

Conclusion

The Hawke government's SPNFZ initiative successfully resolved the complex dilemma it faced on assuming office: its need to respond to domestic and regional pressures for South Pacific denuclearization while simultaneously protecting and furthering US and Australian nuclear policies to which it was committed. By itself advancing a limited-scope limited-domain treaty that focused on a third-party non-ANZUS nuclear activity while safeguarding ANZUS nuclear policies, the government was able to maintain control over the regional arms control process and pre-empt possible moves by a New Zealand Labour government and Melanesian states to initiate more comprehensive SPNFZ arrangements.

Domestically, the treaty initiative could be presented as a positive response to the groundswell of concern both within the Labor Party and the growing Australian peace movement, and evidence of a willingness to implement at least some of the ALP's anti-nuclear policies in a context where the centre and right of the party had retreated from the party's former anti-uranium policy. Together with a number of other disarmament initiatives, including the appointment of a Disarmament Ambassador, the establishment of a Peace Research Centre, support for the 'nuclear freeze' resolution at the UN, and more vigorous efforts at the UN in support of a CTBT, the government frequently cited the SPNFZ initiative as a 'major disarmament contribution' that would help keep the region

free from nuclear testing and dumping, and ensure that it did not become a 'theatre for nuclear confrontation'. Confronted with both internal party pressure for disarmament initiatives, and the emergence of a non-ALP disarmament vote sufficient to elect a group of Democrat and independent anti-nuclear senators with the balance of power in the Senate, the SPNFZ initiative was one of the measures that the government could claim as evidence that it was seriously pursuing peace and disarmament objectives at the local as well as UN level. At the same time, the government was able to convincingly reassure the conservative and pro-ANZUS sections of the electorate - and the major opposition parties - that the treaty offered no threat to ANZUS or Australian interests but actually furthered those interests.

In the event, the government pre-emption strategy met with rapid success at the August 1984 South Pacific Forum meeting when the newly-elected New Zealand Labour government, anxious to limit possible retaliation from its ANZUS partners over its ban on nuclear warship entry, decided to support the Australian SPNFZ concept rather than seek a more comprehensive arrangement based on its own domestic anti-nuclear principles.

As a consequence, Australian diplomacy successfully headed off the prospect of a divisive split in regional disarmament and security policies that might have resulted in some of the Forum states forming a SPNFZ that excluded Australia, with consequent long-term loss of Australian influence in the region.

While Australia could have expected - and did in fact receive - US appreciation of an initiative aimed at protecting shared ANZUS nuclear interests, and would, no doubt, have welcomed American ratification of the Rarotonga protocols as evidence of Canberra's influence in Washington, the US decision against signature by no means undermined the intent and success of the government's SPNFZ initiative. Even before it officially came into force, the treaty initiative served to pre-empt more comprehensive initiatives likely to threaten ANZUS interests; and, as the Australian Foreign Affairs Department perceptively noted,³⁵ in no way depended on US approval of the protocols for its 'efficacy'.

NOTES

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CHAPTER 5

New Zealand's SPNFZ Policy

In the previous chapter it was argued that Australian government perceptions of anti-nuclear trends in New Zealand were a major factor in the 1983 Australian decision to proceed with the SPNFZ initiative. While the Muldoon National government in office from 1975 to mid-1984 shared the Australian government's commitment to ANZUS and to protecting ANZUS and US strategic interests in the South Pacific region, Australian officials became concerned over anti-nuclear developments in New Zealand Labour Party policy, prospects of Labour re-gaining office, and the likelihood of a Labour government pursuing policy at odds with ANZUS and Australian nuclear policies.

The Lange Labour government won power in July 1984, and did, indeed, pursue relatively comprehensive domestic anti-nuclear policies - most notably a ban on nuclear warship entry - that seemed to confirm the Australian and US fears. However, despite strong domestic and Labour Party support for comprehensive regional denuclearization, the new Lange government refrained from pursuing its domestic denuclearization policies at the regional level and instead supported the limited-scope pro-ANZUS Australian SPNFZ initiative. This development, which confirmed Australian hopes that the treaty would successfully channel and pre-empt more comprehensive denuclearization initiatives, was motivated by several factors, including the new government's concern to limit possible reprisals from its ANZUS partners, and, in particular, to maintain and even enhance the defence links with Australia as a reassurance to the more conservative and pro-ANZUS sections of the New Zealand electorate.

The following chapter first discusses the background to the Lange government's domestic and regional policies on nuclear issues, and then analyses the responses of the Lange government to the Rarotonga Treaty in the context of both its domestic anti-nuclear policies and its relations with Australia and the United States.

Background to the Lange government's policies on nuclear issues

The New Zealand Labour Party has a long tradition of support for regional and global disarmament initiatives.¹ As early as 1963, a leading member of the Labour Party, Norman Kirk, who subsequently led the party to victory at the 1972 General Election, noted that 'a useful first step to strive for would be to have the Southern Hemisphere created a nuclear-free-zone by international agreement'.² Kirk was influenced by the Australian Labour Party's earlier 1962 adoption of a Southern Hemisphere NFZ policy and the news in January 1963 that the French intended to establish a nuclear testing facility in the South Pacific. From that time on, the New Zealand Labour Party endorsed one variant or another of the NFZ concept.³

In 1972, following rising public controversy and concern over both fallout from French atmospheric nuclear tests and the possible military or strategic roles of US installations in New Zealand, the Labour Party Election Manifesto called for the convening of a regional Pacific conference to establish a nuclear weapon and test-free zone along the lines of the Antarctic Treaty.

The Kirk Labour government from 1972 to late 1974, and the Rowling government from Kirk's death to Labour's defeat in the November 1975 general election, actively pursued the party's election pledges, first by taking action against French testing in the World Court and by sending a naval vessel to the French test zone (both in conjunction with the Australian Whitlam Labor government) and secondly by advancing the concept of a regional South Pacific nuclear free zone at both the South Pacific Forum and the United Nations.⁴ Despite intense opposition from the United States and coolness and lack of active support from the Whitlam government,⁵ the Rowling Labour government succeeded in gaining the backing of the July 1975 South Pacific Forum meeting for the concept and subsequently gaining UNGA endorsement of the idea of establishing a South Pacific Nuclear Free Zone and carrying forward consultations on the proposal.

Under the 1975-1984 Muldoon National Party government, the 1975 SPNFZ initiative was allowed to lapse, although the government occasionally evinced in-principle support for the SPNFZ concept as a desirable but 'impractical' goal. As one New Zealand analyst noted, 'the Muldoon government's efforts (on the SPNFZ proposal) between 1975-84 were more an alibi than a proposal for actual implementation'.⁶ Like its Australian counterpart, the Muldoon government viewed SPNFZ proposals as likely to create complications for ANZUS and in relations with the United States. At the same time as abandoning the Labour SPNFZ initiative, the Muldoon government introduced a new element into the nuclear controversy by reversing a previous ban on nuclear-powered warship entry imposed by the Holyoake National government in 1971 and maintained during the 1972-75 Labour government.⁷ Between August 1976 and mid-1984, there were a total of 34 port visits by US vessels believed to have been fitted with nuclear-capable weapon systems.⁸ Most of these visits were vigorously protested by peace groups both on land and in the water (in the form of 'peace squadrons' of small protest craft).⁹

Responding to increasing public opposition to nuclear ship visits as manifest in both protests and opinion polls, the Labour Party from 1978 onwards included bans on nuclear warship entry within its existing policy of support for a regional SPNFZ.¹⁰ It was the linkage of these two concepts, coupled with the 1978 Labour Manifesto pledge to revive the 1975 SPNFZ initiative, that disturbed Australian and American officials.

In 1983, a year before it came to office, the Labour Party Annual Conference unanimously adopted a policy of supporting 'a total nuclear free zone in the Pacific', 'banning nuclear powered and armed craft in New Zealand's territorial area', and 'not permitting any communications system in New Zealand used for military benefit of any overseas country'.¹¹ The same conference also called for the renegotiation of ANZUS to ensure that New Zealand's non-nuclear status was respected. This Conference provided the broad policy recommendations for the Party's election campaign in the ensuing year, although party policy is finally decided by the Party's Policy Committee.

While there was consensus within the party leadership on the priority of denuclearization measures within New Zealand's own territory, there was less consensus among party

leaders on the policy of establishing a 'total nuclear free zone in the Pacific'. In late 1983, following the Australian government's presentation of its SPNFZ proposal at the August South Pacific Forum meeting, the party's spokesperson on foreign affairs, Sir Wallace Rowling, regarded the proposal as 'weak' because it failed to address the problem of nuclear transit and portcalls.¹²

On the other hand, the new leader of the Labour Party, David Lange, was inclined to be more sympathetic to the Australian SPNFZ proposal, indicating that 'we will be able to work with our Pacific neighbours to achieve a South Pacific nuclear weapon free zone', and that, while the Australian proposal did not go far enough, it would still be a valuable 'first step'.¹³

In the event, when Labour came to office, it was to be the more pragmatic approach of Lange that prevailed in the actual response of the Labour government during the Rarotonga Treaty's negotiation, contrasting sharply with the government's firm commitment to implementing most of the domestic elements of Labour Party anti-nuclear policy.

Domestically, the Lange government, quickly announced and pursued a policy of not admitting nuclear-armed ships or aircraft to New Zealand ports or airfields even if this entailed strain on the ANZUS alliance. It also affirmed a policy of not participating in any joint exercises or manoeuvres involving 'any use or simulated use of nuclear weapons or manoeuvres necessary for their use'.¹⁴ While the government supported ANZUS, it did so only on the basis that it was restricted to conventional defence of the parties. The Lange government explicitly renounced both recourse to a nuclear defence for New Zealand and New Zealand involvement in nuclear strategy.¹⁵

According to Lange, New Zealand policy was based on the view that 'nuclear weapons are themselves the greatest threat which exists to our future and that far from adding to our security they only put us more at risk'.¹⁶ Since the nuclear arms race can only be brought to an end 'by an act of political will', governments were obligated to refuse co-operation with nuclear escalation and commit themselves to the limitation of nuclear weapons. While New Zealand's denuclearization of its own territory was 'a small step indeed', unless that step were taken, it could not be taken anywhere.¹⁷ Other US allies, such as Denmark, Iceland, Norway, Spain and Japan, have policies that seek to discourage entry of nuclear weapons into their territories, but New Zealand's policy represented a more emphatic form of disengagement from American nuclear policies, although, in practice, as will be discussed more fully below, the government did not sever all of its nuclear and strategic links.

The government's decision to implement its policy of not accepting nuclear warship visits resulted in a major dispute with the United States and, to a lesser extent, with Australia.

Following the Lange government's refusal in February 1985 to accept a visit by the nuclear-capable USS *Buchanan*, the Reagan Administration cancelled joint ANZUS exercises, intelligence-sharing arrangements, defence personnel exchanges, and defence purchase concessions with New Zealand.¹⁸ In August 1986, after further negotiations failed to resolve the dispute and the Lange government proceeded with plans to entrench the nuclear ships ban in domestic legislation, the Reagan Administration declared that it was suspending its ANZUS security guarantees to New Zealand.¹⁹

From the US viewpoint, the New Zealand nuclear ships ban, while only marginally affecting US strategic deployments, nevertheless created a precedent that could lead to bans being placed by other Western allies on entry of US nuclear vessels. The Australian government also criticized the New Zealand stand, arguing that it 'could not accept as a permanent arrangement that the ANZUS alliance had a different meaning, and entailed different obligations for different members'.²⁰ Given the strong criticism from its ANZUS allies, the new Lange government faced potential electoral risks. While on firm ground in terms of the large majority of the electorate in support of the nuclear warship ban,²¹ the government was on less certain ground if the dispute with its ANZUS partners escalated to the point of imposition of economic sanctions or withdrawal or weakening of defence links with Australia. While the great majority of New Zealanders supported the nuclear warship ban, an equally large majority continued to support ANZUS and defence links with Australia.²²

It was in the context of the ANZUS tensions arising from its nuclear ships ban that the Lange government gave its support to the Australian SPNFZ concept rather than pursue the 'total nuclear free zone in the Pacific' recommended by the 1983 Labour Party Conference.

The Lange government's endorsement of the Rarotonga Treaty

Having first raised its SPNFZ initiative at the August 1983 meeting of the South Pacific Forum, the Hawke government took its initiative a stage further at the August 1984 South Pacific Forum by proposing a set of guiding principles and establishment of a Forum Working Group to draft a treaty. Taking place one month after the Lange government came to office, the 1984 Forum meeting forced the Lange government to make a rapid decision on whether to support the Australian initiative or to pursue variations of its own.

Lange chose to give full support to the Australian initiative and guidelines, including the principle of rights of nuclear weapon transit through the high seas of the region, emphasizing to fellow Forum heads of state that New Zealand remained a committed member of ANZUS and would not wish to create a zone which would put its major treaty partner, at a disadvantage *vis-a-vis* other powers; nor was New Zealand asking other countries to adopt its policy on port calls.²³ It was evident that this initial government support for the Australian SPNFZ concept was closely related to the government's wish to reassure the United States and Australia that it was not seeking either to support a regional measure that would adversely affect the strategic balance between the United States and the Soviet Union, or to 'export' New Zealand's anti-nuclear policies to the whole South Pacific region through advocacy of a regional zone banning nuclear warship access to ports or the high seas. This was a notable contrast to the SPNFZ policy of the 1975 Rowling Labour government.

New Zealand support for the Australian SPNFZ concept continued throughout the negotiations of the Rarotonga Treaty in 1984-85. New Zealand was one of the first eight signatories of the treaty at the August 1985 South Pacific Forum meeting and subsequently ratified the treaty in late 1986. Despite its own domestic anti-nuclear policies, and opposition to such regional nuclear activities as missile-testing, the New Zealand government carefully avoided supporting Melanesian island state negotiators in their efforts to

strengthen aspects of the treaty, including incorporation of bans on missile-testing and safeguards against use of transit provisions to circumvent the anti-stationing provisions. The New Zealand position during the negotiations bitterly disappointed the Melanesian states. According to one senior Vanuatu official:

It is hard to understand Lange; to us he is rather hypocritical. We wonder just what really is behind his nuclear-free rhetoric. Vanuatu is deeply committed to its role as a nuclear-free country. Our country would never sell out on our principles like New Zealand has over the treaty.²⁴

The government also appeared to ignore the strong domestic support for regional bans on missile-testing as indicated by the 1986 Defence Committee of Enquiry Poll which found 75% of New Zealanders opposed to the right of countries to test unarmed missiles in the South Pacific,²⁵ and representatives of domestic peace groups who enjoined the government to pursue a 'perfectible' SPNFZ treaty that allowed member states to move from a partial to a more comprehensive zone arrangement at their own pace.²⁶

Further, in its own legislation to implement the treaty, the Lange government accepted the treaty's qualification of sovereign state rights to determine the nature of innocent passage. In Clause 12's exemption of innocent passage, for example, New Zealand did not include any reservations aimed at retaining its sovereign rights under UNCLOSIII to determine whether a foreign warship or aircraft was in fact covered by the right of innocent passage, nor seek to build on the opportunities afforded under UNCLOSIII for the blanket denial of rights of innocent passage to certain classes of vessel or aircraft, such as nuclear-armed forces or forces engaged in military exercises.²⁷

The New Zealand legislative translation of the Rarotonga Treaty's provisions against control over nuclear explosive devices further suggested that the government was seeking to minimize all possible sources of friction with the United States. The legislation limited prohibitions to New Zealand nationals only.²⁸ A foreign national on board a transiting foreign nuclear-armed vessel could, for example, issue an order to fire a nuclear weapon from the vessel without in any way violating either New Zealand's own legislation or the Rarotonga Treaty itself (so long as the weapon was not targeted on any land territory within the zone). In effect, the New Zealand government accepted a substantial retreat from the Tlatelolco precedent which secured nuclear power undertakings not to fire nuclear weapons from the zone (in addition to the guarantees against using weapons against the zone).

Factors contributing to New Zealand support for the Rarotonga Treaty

The principal factor in the New Zealand decision to support the Rarotonga Treaty was the Lange government's concern to minimize the adverse consequences of its nuclear ships ban by reassuring both the United States and Australia that New Zealand would continue to support, in fact would increase its support, for ANZUS and Western interests in the South Pacific region. The government's concern to reassure its two traditional allies of its continuing commitment to ANZUS regional interests was evident in its first Defence Report (1985) and its Defence Review (1987).

In his 1985 report, the Defence Minister, Frank O'Flynn, summarised this commitment as follows:

New Zealand's adherence to broad Western interests has not changed as a result of our difficulties with the United States over ship visits. Nor have our fundamental security interests in our region been transformed. We do not intend to relax our policy of excluding nuclear weapons from New Zealand. Nevertheless we hope that the United States of America will find it possible to resume its military co-operation with us. Meanwhile, the suspension of traditional trilateral military activities requires us to adjust the ways and means by which New Zealand pursues and protects its security interests. This demands a more visible and effective New Zealand defence effort in the South Pacific and closer collaboration with Australia.²⁹

The New Zealand Ambassador to Australia, G.K. Ansell, was even more emphatic in designating the Lange government's policy of 'expanding New Zealand political, economic and defence activity in the South Pacific region' as 'Pro-Western Regionalism' and declaring that it was:

... in perfect harmony with the objectives of the ANZUS treaty. It will, in fact, bring our practice more in line with the thrust of the two most recent New Zealand defence reviews - those of 1978 and 1983 - both of which emphasised the need for greater self-reliance to deter any low-level direct threat in the South Pacific.³⁰

Ansell's assessment confirmed the consistency and continuity between the Lange government's regional South Pacific policy and that of its conservative pro-ANZUS National Party predecessor, which was responsible for preparing the 1978 and 1983 defence reviews.

In accord with the policy of increasing its defence effort in the South Pacific, the government announced that it would be purchasing an additional Orion maritime patrol aircraft and stepping up its air surveillance in the South Pacific region,³¹ a traditional ANZUS security responsibility deriving from the original 1951 Radford-Collins Agreement under which the United States, Australia and New Zealand agreed to divide naval control and surveillance responsibilities in the Pacific and Indian Oceans, with Australian responsibility lying in the area south of the Equator between the mid-Pacific and mid-Indian Ocean, and New Zealand's responsibility lying in the Southwest Pacific east of New Zealand.³²

Additional government activities or initiatives intended to implement ANZUS regional interests included increased defence co-operation and military exercises with Australia;³³ increased military assistance to South Pacific island states;³⁴ maintenance of New Zealand's Ready Reaction Force, which was capable of assisting either Australia or the US in power projection in the Pacific region;³⁵ continued participation in signals intelligence collection through the Tangimoana SIGINT facility, providing signals intelligence data both to Australian and US military intelligence networks;³⁶ and continued hosting of US facilities in New Zealand, including the Black Birch US Naval Observatory which is believed to provide data for missile stellar-inertial guidance systems and the US Air Force base at Christchurch which supports US Antarctic operations and military air supply roles for US forces in both the Pacific and Indian Oceans.³⁷ The government also expressed concern over Soviet oceanographic research and fishing agreements, and noted that Soviet interest in the region 'introduces uncertainties into New Zealand's strategic outlook'.³⁸

Finally, the Lange government repeatedly emphasized that its domestic anti-nuclear policies were not intended to be anti-ANZUS, anti-American or to be 'exported' to other countries, but were related to the relatively unique security environment of New Zealand.³⁹

In this context, the Lange government's support for the Australian government's SPNFZ initiative was consistent with its strategy of balancing its domestic anti-nuclear policy by a heightened commitment to ANZUS and Western interests at the regional South Pacific level, even if this meant endorsing arrangements benefiting ANZUS, US and Australian nuclear interests, such as nuclear weapons transit and launching rights from transiting forces, missile testing, and protection of options for *de facto* sea-based stationing of nuclear weapons. In particular, the government's non-support of Melanesian island states' efforts to strengthen the treaty signalled to Australia and the United States that it was keeping its word in refraining from 'exporting' its nuclear allergy.

It could be contended that New Zealand support for the Rarotonga Treaty was not really inconsistent with the government's declaratory policy of disengagement from nuclear strategies since the government freely acknowledged the limitations of the treaty, and perceived it rather as the 'first rung on a ladder' towards more comprehensive regional denuclearization. In other words, while the government supported a compromise that did not go as far as its own domestic denuclearization policy, this should not be construed as meaning that it had surrendered the longer term objective of comprehensive denuclearization of the region as envisaged in successive Labour Party conference resolutions.

However, this explanation of New Zealand readiness to support nuclear compromises inherent in the limited character of the treaty is not wholly convincing since the government also endorsed the extremely stringent amendment procedure under which any change to the treaty can be vetoed by a single country. If the government's intention was to support a treaty that could be strengthened at a later date, then it would have been logical to expect that it would insist on the more customary two-thirds amendment procedure found in the Tlatelolco Treaty and other arms control treaties. Further, the government has declined to specify what additional 'rungs' on the regional disarmament ladder might follow the Rarotonga Treaty. New Zealand's response on the issue of amendment would seem more consistent with the aim of reassuring Australia and the United States that it was not seeking the strengthening of the treaty, rather than the converse.

The Lange government's blend of principle and pragmatism - nuclear free policies at home but pro-ANZUS policies in the region - was dictated by a combination of internal and external pressures.

Externally, the US measures involving withdrawal of defence co-operation and suspension of security guarantees by no means exhausted the potential sanctions that could have been taken against New Zealand. As a country that depends heavily on trade exports to both the US and Australia, the possibility of economic sanctions arising from the ANZUS dispute was a major adverse outcome that the Lange government sought to avoid, or at least contain. While the US Administration officially ruled out the use of economic sanctions, some US congressional representatives called for economic reprisals. Conservative opponents of the government argued that the ANZUS dispute did produce adverse economic effects, and was likely to produce further damage in the form of withdrawal of positive trade discrimination in favour of New Zealand.⁴⁰ Irrespective of whether there were, indeed, adverse economic consequences, the possibility of such consequences was something that the government was at great pains to avoid, or at least contain. As Lange noted in May 1985:

It was the assessment of the New Zealand government...that a responsible measure of arms control (the nuclear ships ban) was in terms of our security an overwhelming imperative and that the economic impact could be contained.⁴¹

In this context, the government's sharp differentiation between its domestic anti-nuclear policies and its regional support for US and Australian interests - in the form of both the Rarotonga Treaty and increased contributions to traditional ANZUS surveillance and military programs in the South Pacific - were evidently intended to give maximum reassurance to both ANZUS allies as a way of containing any possible escalation of the dispute.

Further, the limited US measures that were taken against New Zealand made it all the more important for the Lange government to secure commitments of defence co-operation from Australia as a partial compensation for a perceived vacuum left by US withdrawal from military cooperation. Concern to secure increases in Australian defence cooperation, successfully implemented in the form of increased bilateral exercises, military personnel exchanges, joint purchase arrangements, increased coordination in defence communications networks, and collaboration in logistics, meant that New Zealand was constrained from pursuing any diplomatic challenge to the Australian government's SPNFZ initiative. To have sought more comprehensive denuclearization arrangements regionally would have risked forfeiting the valued Australian military assistance that partially compensated for US withdrawal of defence cooperation.⁴²

Both the concern over possible economic sanctions and the need to secure Australian defence support were reinforced by domestic electoral considerations. In a context of heavy dependence on overseas trade, balance of trade problems, and increasing unemployment, the Lange government was elected, in part, on the promise of economic recovery. Despite the high public support for its nuclear ships ban, the government would, no doubt, have anticipated a loss of some electoral support in the event of the bans being perceived to result in economic disadvantage. In the case of securing Australian support to fill the military vacuum left by US withdrawal of cooperation, there were again important electoral pressures. While two-thirds of the population supported the government on its domestic anti-nuclear policy, an equally large proportion continued to support participation in ANZUS. By emphasizing closer defence links with Australia, the government could reassure the more conservative and pro-ANZUS sections of the New Zealand electorate that there was in fact no vacuum since the ANZUS relationship with Australia continued to be fully operational.

Conclusion

Australian government concern over the New Zealand Labour Party's anti-nuclear and ANZUS policies was one of the key factors that prompted the Rarotonga Treaty. By initiating the zone prior to the advent of a New Zealand Labour government, the Australian government sought to pre-empt any New Zealand Labour regional initiative that would have threatened US or Australian interests at the regional level. While Australia could not prevent the establishment of comprehensive denuclearization within New Zealand's own borders, it could, through the Rarotonga Treaty, successfully contain the spread of the 'nuclear allergy' to other countries in the region - a development that would have adversely affected US nuclear deployment and strategies in the region, as well as Australia's own nuclear interests and regional influence.

In the event, New Zealand's vulnerability to potential economic pressure from its ANZUS partners, its continuing ambivalent support for ANZUS at both the government and community level, and its heavy reliance on Australia as a partial defence surrogate in the absence of US defence cooperation, served to guide New Zealand Labour government policy towards the treaty along the path of least resistance - avoiding any move either to directly strengthen the treaty in line with New Zealand's domestic anti-nuclear policies, or to join Melanesian island states in seeking the incorporation of more comprehensive treaty provisions. Rather the New Zealand response to the treaty was subordinated to a wider South Pacific strategy of reassuring its ANZUS partners that New Zealand was serious about supporting ANZUS and Western interests in the South Pacific region.

As such, the New Zealand response represented a successful example of the treaty's intended role as a measure to channel regional anti-nuclear responses in a pro-ANZUS direction and to prevent the emergence of regional anti-nuclear alliances that might have posed a threat to Australia's pivotal role in regional security arrangements.

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CHAPTER 6

The South Pacific Forum and Island States' SPNFZ Policies

Introduction

The Pacific island states and territories are usually divided into three groups according to ethnic affinity: **Micronesia**, the 'small' islands in the mid-Pacific located mainly between the equator and 20 degrees north, including Nauru, Kiribati, Federated States of Micronesia, Belau, Marshall Islands, Northern Marianas, and Guam; **Melanesia**, the 'black' islands, lying in the Southwest Pacific, including Papua New Guinea, Irian Jaya, Vanuatu, Solomon Islands, New Caledonia, and Fiji; and **Polynesia**, the 'many' islands, in the Southeast and Southwest Pacific between 130 and 170 degrees west longitude, including Cook Islands, French Polynesia, Western Samoa, American Samoa, Tokelau, Niue, Tonga, Tuvalu, Wallis and Futuna, Hawaii, and Easter Island.

The Pacific islands share a colonial history extending back to the 19th century or earlier when the major European powers and the United States progressively colonised the Pacific basin. The region was one of the last to be decolonized, with most of the islands achieving independence, or self-government in association with metropolitan states, during the last twenty-five years. The remaining externally-administered island groups include: New Caledonia, Wallis and Futuna and French Polynesia (France); American Samoa, Guam and the Northern Marianas (United States); Pitcairn Islands (UK); Norfolk Island (Australia); Irian Jaya (Indonesia); and Easter Island (Chile).

With the exception of Papua New Guinea and Fiji, all of the island countries are microstates with populations of less than 250,000. Papua New Guinea has a population of over 3 million and Fiji a population of over 600,000.

Regionally, most of the states and territories are members of the South Pacific Commission (SPC), established in 1947 as a regional non-political agency to promote economic and social development in the region. In 1971, frustration at not being able to address regional political issues - including French nuclear testing at Moruroa - within the framework of the SPC led some of the newly independent island states, together with Australia and New Zealand, to form a second regional body, the South Pacific Forum.

The initial group of Forum states included Fiji, Western Samoa, Tonga, Nauru, Cook Islands, Australia and New Zealand. By 1985, when the Rarotonga Treaty was opened for signature, additional Forum members included Papua New Guinea, Niue, Kiribati, Tuvalu, the Solomon Islands and Vanuatu. In 1987, Forum membership expanded again to include two Micronesian states north of the Equator, the Federated States of Micronesia and the Marshall Islands, following their gaining of self-government under Compact of Free Association agreements with the United States.

While the formal initiatives for regional nuclear free zone arrangements came from Australia and New Zealand, island countries have provided much of the impetus for regional denuclearization. Both the New Zealand 1975 and the Australian 1983 SPNFZ Forum initiatives were advanced in a context of long-standing island support for forms of regional denuclearization.

The following chapter argues that, while there is broad island state consensus on the Rarotonga Treaty's prohibitions on nuclear warhead testing and waste dumping as a result of past adverse experiences of nuclear testing and contamination, the wider nuclear concerns of the Melanesian Alliance states (Papua New Guinea, Solomons and Vanuatu) have led them to criticise the treaty as insufficiently comprehensive. On some issues, the Melanesian states have also been joined by two of the Micronesia states, Nauru and Kiribati. On the other hand, at least one Polynesian state, Tonga, has so far declined to ratify the treaty on the opposite grounds - that it goes too far in its anti-nuclear provisions, particularly its anti-stationing provisions.

The fact that most of the Forum island states have accepted the partial and selective denuclearization arrangements embodied in the Rarotonga Treaty rather than sought, or insisted upon, more comprehensive arrangements is an outcome of both the limited denuclearization gains offered by the treaty in terms of long-standing island nuclear concerns, and external factors, including the widespread economic dependence of island states on Australia, New Zealand and the United States, and close defence linkages between some island states and the ANZUS states. In the case of the new Micronesian members of the Forum - Federated States of Micronesia and the Marshall Islands - participation in even the limited-scope Rarotonga arrangements is constrained by the terms of their Compact of Free Association agreements with the United States and their exclusion from the existing boundaries of the zone (thereby requiring an amendment of the treaty).

Regional experience of nuclear activities

Remote from large centres of population and with no political power to veto the decisions of colonial powers, the Pacific islands offered convenient locations for the initial atmospheric nuclear testing programs of nuclear weapon states with colonial territories in the region. The United States from 1946-1963, Britain from 1957-1962, and France from 1966-1974 all used their respective Pacific island territories for atmospheric test programs, conducting more than 150 atmospheric tests up until 1974. Since then, France has continued to test underground at Moruroa Atoll in French Polynesia, conducting a further 99 underground tests to August 1989.¹ Further, while the United States ceased testing nuclear warheads in the Pacific after 1963, it continued to use the region for other forms of nuclear-weapon-related research, such as missile-testing (at Kwajalein in the Marshall Islands), and for deployment of strategic nuclear weapon systems, including permanent bases for nuclear-armed forces (Guam) and regular deployment and transit of mobile nuclear-armed forces.² The Soviet Union and China, while not possessing territories in the region, have also used the region for missile-testing.³

Environmental contamination and the onset of radiation-related illness among many islanders close to the testing, together with hardships and dispossession of land associated with the relocation of islanders from weapons test areas, left a legacy throughout the islands

of bitterness, distrust and anger over nuclear testing and nuclear-weapon-related programs in the region.⁴ Island concerns over regional nuclear activities were further reinforced in the late seventies by Japanese and American proposals for radioactive waste disposal in the Pacific, and by continuing expansion of a range of nuclear-weapon-related activities in the region.

Island states' nuclear policies: areas of consensus

As a result of these past nuclear experiences and concern about ongoing and future developments, island states developed broad consensus on a number of regional nuclear issues.

From its inception in 1971, the South Pacific Forum states took a strong collective stand against French testing, and repeatedly called for an end to the testing. It was this issue, and wider concern over potential regional involvement in superpower nuclear conflicts, that in 1975 first led the Forum states to support the New Zealand Labour government's proposal of establishing a regional SPNFZ.⁵ New Zealand, Fiji and Papua New Guinea then took the proposal to the United Nations and secured UNGA endorsement on 11 December 1975 of a resolution endorsing the idea of a South Pacific NFZ and inviting the countries concerned to carry forward consultations about ways and means of realizing the proposal.

This early Forum consensus on the desirability of establishing a SPNFZ did not reach the stage of detailed negotiation and drafting since the conservative governments that came to office in both New Zealand and Australia at the end of 1975 opposed implementation of the concept on the grounds that it was 'impractical' and likely to adversely affect ANZUS obligations. While Fiji, Western Samoa and Papua New Guinea indicated at the March 1976 Forum meeting that they wished to proceed with negotiations, the island states were bound by the Forum consensus principle and therefore could not proceed in the absence of support from Australia and New Zealand.

Over the next six years, the Forum states did not collectively pursue the concept of a regional nuclear free zone, but, as will be discussed, the Melanesian members of the Forum continued to promote the idea. The Forum did, however, from 1979 onwards, become concerned with the additional nuclear issue of regional waste-dumping as a collective response to both Japanese and American plans for nuclear waste-dumping in the region (see above). Forum communiques from 1979 on strongly condemned both waste storage and ocean waste-dumping in the region.⁶ This issue, keenly felt by the island states and receiving sympathetic support from both Australia and New Zealand, became, along with testing, one of the key concerns on which island states were collectively agreed on the need for a concerted regional response. This regional response was developed both through the 1982 regional conference on the South Pacific environment which led to the negotiation of the SPREP regional convention on the environment and through the subsequent SPNFZ initiative.

When the Australian Prime Minister, Bob Hawke, first proposed the new SPNFZ proposal at the 1983 Forum Meeting, seeking a draft declaration of a SPNFZ that would prohibit the acquisition, testing, receipt, storage, stationing and control of nuclear weapons within the region but permit both transit of nuclear weapons in international territory and

territorial transit and portcalls at the discretion of individual governments,⁷ he argued that the language of the previous 1975 SPNFZ proposal was 'considered by some to be too rigid and was seen as being in conflict with commitments under ANZUS' and that Australia felt that unless its allies could rely on port access, there would be 'little enthusiasm for the (SPNFZ) treaty'.⁸ The proposed declaration would pave the way for a Tlatololco-type treaty that 'could be taken up in the UN' and 'provide a rallying point for opposition to French testing'.⁹ Australia further emphasised that it did not envisage the zone as seeking to regulate uranium mining and export, or regulation of commercial nuclear power generation.¹⁰ The Australian initiative was, from the start, concerned to insulate both ANZUS and Australian nuclear interests from the scope of the SPNFZ proposal while holding out to island states the prospects of American backing for the zone and a more forceful campaign against French nuclear testing, particularly at the UN.

In the event, the island states responded cautiously, and, in some cases critically, to the proposal. Several of the Melanesian states, together with the Cook Islands, criticised the proposal as not going far enough, while others, notably Fiji and Tonga, supported the Australian concept of permitting transit. Many island states also criticised the proposal as not having been submitted to Forum members sufficiently well in advance to permit proper consideration. As a result of the reservations about both procedure and concept, the island states rejected the idea of a declaration. However, Australia was successful in gaining 'wide' Forum agreement on the general zone principles advanced in the Australian proposal and on Forum willingness to consider the idea again in the following year following circulation of information on the NFZ concept to all members.

As discussed in Chapter 4, the motivation for the Australian 1983 SPNFZ at the Forum derived from both domestic Australian pressures for regional arms control initiatives and Australian government concern to pre-empt more comprehensive zone initiatives on the part of a future New Zealand Labour government or the Melanesian alliance states. While not getting immediate island support for its proposed declaration, the Australian government did succeed in putting its initiative on the regional agenda and persuading some of the islands states, including Fiji and several of the Polynesian states, of the merits of a partial SPNFZ arrangement.

One year later, at the August 1984 Forum meeting at Tuvalu, Australia resubmitted its SPNFZ proposal in amended form. This time Australia was successful in gaining Forum agreement to establish a Working Group, chaired by Australia, to negotiate a treaty based on the Australian proposal. The Forum meeting, which included the newly elected Labour Prime Minister of New Zealand, David Lange, endorsed seven principles advanced by Australia:

(1) that South Pacific countries be free to 'run their own affairs in accordance with the wishes and traditions of their people';

(2) that South Pacific countries should be able to enjoy development 'free from the threat of environmental pollution';

(3) that existing treaties, organizations and regional arrangements, such as the UN Charter, NPT and LOS, be acknowledged;

(4) that 'there should be no use, testing or stationing of nuclear explosive devices in the South Pacific';

(5) that 'no South Pacific country would develop or manufacture or receive from others, or acquire or test any nuclear explosive device';

(6) that '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'; and

(7) that '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'.¹¹

These principles, adopted as guidelines by the Forum SPNFZ Working Group, embodied some of the generally opposed nuclear activities in the region, such as testing, stationing and environmental contamination but omitted others, such as missile testing, and sought to protect fundamental US and Australian concerns about protecting current and future nuclear weapons transit in the region.

While the Melanesian states continued to press for more comprehensive zone arrangements, the newly-elected New Zealand Labour government, for reasons discussed in Chapter 5 above, supported the limited-scope Australian SPNFZ initiative.

The mutually reinforcing support of Australia and New Zealand, and their success in winning over the support of Polynesian states and Fiji, was sufficient to gain agreement from the more reluctant Melanesian and Micronesian Forum members to the idea of immediately proceeding with regional Forum negotiations for the SPNFZ proposal. It should also be noted that Melanesian support for immediate negotiations on the basis of the Australian SPNFZ guidelines took place in the context of the simultaneously advanced Australian offer of patrol boats to help island states police their EEZs (see Chapter 4 above), which created considerable inducement, over and above Australia's normal aid programmes, to respond to Australian regional diplomacy.

Following the 1984 Tuvalu Forum's agreement to set up a SPNFZ Working Group chaired by Australia, there was a series of four Working Group meetings between November 1984 and May 1985 to develop a draft treaty. These were attended by all the Forum states with the exception of Tonga, and also included the Federated States of Micronesia (which then had observer status at the Forum but subsequently became a full member in 1987). In the course of the negotiations, as revealed in the Report of the Chairman of the Working Group, a number of island states took differing views on aspects of the Treaty. These differing views will be discussed below in discussion of individual island state SPNFZ policies.

The draft treaty was presented to, and endorsed at, the August 1985 Rarotonga Forum meeting, with eight Forum states (Australia, New Zealand, Fiji, Cook Islands, Tuvalu, Niue, Western Samoa, and Kiribati) signing the treaty at the meeting, and the same eight states eventually ratifying the treaty by late 1986.

The Melanesian states' SPNFZ policies

Of the Pacific island states, the Melanesian states, Papua New Guinea, Solomons, Vanuatu and Fiji, and the French-administered Melanesian territory of New Caledonia, are

the most populous and best endowed with natural resources. Together, they account for 84% of the total islander population and 98% of the land area.¹² Within the Forum, Papua New Guinea, Solomons and Vanuatu, have formed a caucus, the 'Melanesian Alliance', to coordinate their policies on issues of mutual concern, particularly on issues of Melanesian solidarity, such as the efforts of the Kanak population in New Caledonia to achieve independence from France. The Melanesian Alliance states convene informal meetings between Forum meetings to discuss and frame joint approaches to be taken at the Forum and other regional and international bodies. Fiji, while ethnically Melanesian, has historical and cultural links with Polynesia, including a hierarchical society with hereditary chiefs. Within the Forum, Fiji's policies have coincided more with Polynesian rather than Melanesian approaches to regional issues.

The Melanesian Alliance states have pursued the most anti-nuclear and anti-colonial policies of all the island countries. While sharing regional concerns about nuclear weapon testing, acquisition, and waste-dumping, as embodied in the Rarotonga Treaty, the three states have expressed concern about additional nuclear activities in the region and have voiced dissatisfaction with the Rarotonga Treaty on the grounds that it is insufficiently comprehensive.¹³ Papua New Guinea and the Solomons eventually ratified the treaty, but Vanuatu continues to withhold ratification as a result of dissatisfaction with the treaty.

Papua New Guinea

Papua New Guinea, together with Fiji, was one of the first island states to pursue the idea of a regional SPNFZ. Its support for the idea emerged even before the New Zealand Rowling Labour government sought support for a SPNFZ at the 1975 Forum meeting. As early as mid-1974, during the period of self-government prior to independence in 1975, the Minister for Defence, Foreign Affairs and Trade, Sir Albert Maori Kiki, declared support for zones of peace and neutrality in both the Pacific and Indian Oceans in accord with Papua New Guinea's universalist 'friends to all, enemies to none' foreign policy.¹⁴ Following independence in September 1975, the Somare Government demonstrated its active support for the regional NFZ concept by joining with New Zealand and Fiji in sponsoring the 1975 SPNFZ resolution at the UN.

During the late 1970s and early 1980s, PNG continued to actively promote the NFZ concept both regionally and internationally, despite the lack of support from the Australian Fraser government and New Zealand Muldoon government.¹⁵ In 1979 and 1980, PNG ambassadors to the UN made appeals for South Pacific countries to support the SPNFZ proposal;¹⁶ and in 1981 a major foreign policy review reaffirmed PNG's commitment to the concept. The 1981 Foreign Policy White Paper, endorsed by the government, recommended that PNG 'seek to have the islands region declared a nuclear-weapons-free zone', and proposed that a new regional organization of Pacific island states with control over their own foreign policy be established to provide a structure to negotiate a regional nuclear free zone treaty and other agreements aimed at excluding rivalries between external powers within the region.¹⁷ Specific policies included the protection of the regional environment from the effects of nuclear testing and nuclear waste-dumping, and refusal to host foreign bases with actual or potential military use since these could involve PNG in becoming a target in a conflict which did not directly involve it.¹⁸

The 1981 PNG proposal of establishing a new regional organization of independent island states to negotiate a SPNFZ Treaty carried the obvious implication that Australian and United States policies on regional nuclear free zones might be by-passed in a SPNFZ negotiated exclusively by independent island states. As already noted, both Australia and the United States were sensitive to the possibility that the island states might adopt a relatively comprehensive NFZ arrangement that adversely affected ANZUS interests. Coupled with the prospect of a strongly anti-nuclear Labour government coming to power in New Zealand, the PNG position added to the incentive during 1983 for the Australian government to proceed with a more limited SPNFZ initiative in order to pre-empt more radical measures. The incentive was reinforced by the likelihood that a new regional islands-only organization would permanently reduce Australian influence over regional foreign and security policies.

In the event, successive PNG governments under Chan, Somare and Wingti, did not pursue the idea of a separate islands-only SPNFZ but participated in the Forum negotiations for the Rarotonga Treaty, broadly endorsed and signed the treaty, and eventually ratified the treaty in 1989.¹⁹

However, PNG support for the Rarotonga Treaty was far from unreserved. As the Report of the Working Group and other public statements reveal, PNG sought, and continues to seek, the strengthening of key aspects of the treaty.

First, and consistent with PNG's own notion of a zone that would cover all island states with control over their own foreign policies, PNG challenged the idea that the northern boundaries of the Rarotonga Treaty should be fixed at the Equator (thereby excluding the three Micronesian states in free association with the United States). Rather PNG expressed 'its continued preference' for the treaty to be based on the South Pacific Commission boundary.²⁰ From the PNG point of view, there was no reason for excluding island states that are already regionally linked through the South Pacific Commission, and, with the entry of the Federated States of Micronesia and the Marshall Islands to the Forum, through the Forum itself.

Second, PNG was concerned over whether the treaty's lack of regulation of port visits by nuclear-armed vessels could lead to some form of *de facto* stationing. Together with Vanuatu, PNG proposed that the Rarotonga Treaty impose time limits on the 'duration and pattern of port-visits'.²¹ Despite the non-acceptance of this proposal by the Working Group, PNG noted its 'continued interest in the duration of ship visits'; and also sought a 'prior warning' requirement for nuclear ship visits.²²

PNG concern over transit and stationing was consistent with its national policies on these issues. As already noted, it rejected the idea of accepting foreign military bases as likely to make PNG a target in external conflicts in which PNG had no direct interest. It also adopted a policy of not allowing foreign warships into its waters if it was known or discovered beforehand that they were carrying nuclear weapons,²³ although it interpreted this policy more flexibly than New Zealand since it only refused permission to warships if it was definitely known beforehand that they were carrying nuclear weapons, thereby giving the benefit of the doubt to nuclear-capable vessels.²⁴ It also adopted a related policy of refusing overflights by nuclear-capable aircraft, declining a 1983 request from the United States for overflights by B52s originating from Guam and staging through Darwin.²⁵ While PNG was not as categorical in its opposition to nuclear-armed warship visits as either New

Zealand or Vanuatu, it nevertheless viewed the Rarotonga Treaty as providing insufficient regulatory control over *de facto* forms of sea-based nuclear weapon stationing in the region.

A third PNG reservation about the Rarotonga Treaty was the absence of any prohibition on missile-testing in the region. In the Working Group, PNG, together with several other island states, asked that 'their concern about missile-testing in the South Pacific be recorded'. This was consistent with PNG's diplomatic protest to China over its 1980 long-range ICBM tests into the South Pacific.²⁶

Finally, PNG was concerned that the anti-dumping provisions of the Rarotonga Treaty did not extend to external potential dumpers, and proposed a fourth protocol to the Treaty that would 'invite potential dumpers to undertake commitments against dumping in the zone'.²⁷ The proposal was rejected by Australia and other members of the group on the grounds that it would prejudice a successful outcome to the SPREP negotiations on a regional environment convention.²⁸

While PNG was a long-standing supporter of the SPNFZ concept, and sought the strengthening and extension of the Rarotonga Treaty along the above lines, it also has close links with both Australia and the United States that makes it reluctant to pursue its anti-nuclear policies to the point of risking existing or potential forms of economic or military assistance from these two countries.

In the case of Australia, PNG relies heavily on Australia for both economic aid and military support. From 1975 to 1983, Australia provided from \$A170 to \$A180 million dollars aid a year, representing approximately 30% of government revenue. Unlike most overseas aid, this aid was available for recurrent government expenses. While the aid is expected to be gradually reduced, Papua New Guinea will continue to rely on substantial Australian aid for some time to come.

In terms of defence, Papua New Guinea has a continuing source of friction with Indonesia in the form of refugee movements and military incursions along the Irian Jaya land border with Indonesia, and concerns about Indonesian military expansion as evidenced in its 1964 occupation of the Dutch colony of West Irian (ethnically and culturally related to PNG) and 1974 occupation of the former Portuguese colony of Timor.

In the context of these defence concerns, PNG sought close defence links with Australia and received substantial Australian defence assistance, growing from approximately \$A14 million per year in 1975/76 to nearly \$17 million a year in 1983/84. While Australia does not have a formal defence treaty with PNG, it has agreed to consult with PNG on common security interests 'should either government consider this necessary', stressed the geographical importance of PNG to Australia's own defence, and indicated its willingness to continue a close defence relationship.²⁹

In the case of the United States, PNG moved towards closer bilateral relationships from the early 1980s onwards. PNG was the first independent South Pacific country in which the United States established a resident embassy - in 1975, three years before the US established a resident embassy in Fiji.³⁰ In the ensuing years, the United States became one of the most important sources - after Australia - of investment, loans, economic aid and defense assistance, as well as becoming an important export market for PNG products. In 1977, US private investment in PNG was 6.7 million kina, over 29% of all foreign

investment.³¹ Between 1976 and 1980, PNG received some \$US139 million through the Bank of America and Chase Manhattan banks compared to only \$US5 million in commercial loans from other sources.³² In 1979, 13% of PNG's cocoa, 26% of its coffee, and 10% of its non-copper exports went to the US market;³³ and from 1984, sugar was added to the list of significant exports to the US.³⁴

In terms of military assistance, the United States instituted a regular program of visits by US personnel to PNG and recently involved PNG Defence Force personnel in its Western Command Pacific Armies Management Seminars (PAMS) and Expanded Relations Program (ERP).³⁵ In 1987, bilateral defence co-operation with the United States expanded to include an agreement on the deployment of a small US Special Forces 'Action Team' in military exercises close to the Irian Jaya border.³⁶

In the context of its wish to develop closer ties with the United States, PNG shifted in 1981 from its previous policy of universalism to a more pro-ANZUS position of 'selective engagement'. Interpreting this new policy, the PNG Foreign Minister, Noel Levi, identified the United States as one of the countries with which PNG would selectively engage in closer relations, and noted that the United States was the 'source of much of PNG's commercial borrowing'.³⁷ PNG's foreign policy has moved in the direction of taking more account of economic factors in its relationship with the ANZUS states.

Increasing PNG reliance on the United States and Australia for economic and military assistance, and implicit security guarantees, has, in effect, constrained PNG from pursuing its anti-nuclear policies to their logical conclusion.

Vanuatu

Formerly administered by a joint Anglo-French condominium, Vanuatu gained its independence on 30 July 1980. Unlike the other Forum states, it did not attain independence without violence. Faced with a secessionist rebellion on Santo Island, supported by private American and French interests, the new Vanuatu government was only able to defeat the rebel forces with assistance from Papua New Guinean troops.³⁸

This initial conflict during independence contributed to Vanuatu's strongly anti-colonialist foreign policy and advocacy of regional unity among Pacific island countries, particularly the Melanesian states and territories. It has been the most outspoken of all the island states on the need for total denuclearization of the region. It is also the only island country to belong to the non-aligned movement.

In the first year after independence, the Prime Minister, Walter Lini, sought support for Vanuatu's policy on a regional nuclear free zone at the October 1981 South Pacific Conference, arguing that:

It is a matter of life and death that our Pacific ocean be declared a nuclear-free zone. Testing of any kind must be outlawed, as must the dumping of nuclear waste, the firing of nuclear devices and the passage of submarines or overflying aircraft carrying them.³⁹

In both regional forums and the UN, Vanuatu representatives repeatedly emphasized both the need for a NFZ that would go beyond testing and dumping to ban nuclear transit and the need for opposition to all forms of 'nuclear colonialism'.⁴⁰

Vanuatu's active regional promotion of the concept of a full-scope comprehensive zone during 1981-83, coupled with PNG's policy of forming a regional islands-only organization to negotiate a regional proposal, added to the pressure on Australia to proceed with a more limited preemptive initiative at the 1983 Forum.

In 1982, the government party, the Vanuaaku Party, adopted a platform that included a number of resolutions seeking to implement Vanuatu's nuclear free policies both nationally and regionally. The Platform reaffirmed the party's commitment to 'establish Vanuatu as a nuclear-free-zone and continue to seek ways for the establishment of a nuclear-free-zone in the Pacific' (Aims 29.4b); stated that Vanuatu would 'oppose dumping of nuclear wastes and testing of nuclear weapons systems in the Pacific region' (29.4c), and 'refuse port entry in Vanuatu by nuclear powered or armed vessels' (29.4d); and 'support any positive denuclearization initiative in the region or internationally' (29.4e).⁴¹ In the following year, the Lini government moved to implement parts of this platform by introducing legislation into the Vanuatu Parliament declaring Vanuatu a nuclear-free state. The legislation, supported by the Opposition Union of Moderate Parties (UMP), duly became law in the same year. It prohibits all nuclear weapons, nuclear power, nuclear waste-dumping, and passage of nuclear-powered or armed ships, anywhere in Vanuatu's territory.⁴²

In accord with its policy of excluding nuclear-armed or powered warships, in February 1982, Vanuatu refused a US request for goodwill visits by the frigates, USS *Marvin Shields* and USS *Robert E. Peary*.⁴³

Both during the course of the Rarotonga Treaty negotiations and following the treaty's opening for signature and entry into force, Vanuatu took a consistently critical stand on the treaty, arguing that it was neither sufficiently comprehensive in scope, nor sufficiently extensive geographically. It refused to sign or ratify the treaty because of these concerns.

When Australia first raised the proposal at the 1983 South Pacific Forum meeting in Canberra, Prime Minister Walter Lini emphasised that, in Vanuatu's view, denuclearization could not become a reality until all colonial territories became independent and that for a nuclear weapons free zone to be meaningful there would have to be a total prohibition of all nuclear activities.⁴⁴ These initial concerns were followed up during the Forum Working Group's drafting of the treaty. As the Chairman's Report records, Vanuatu sought both the strengthening of key provisions of the treaty and a widening of its zone of application.

In accord with its policy that a nuclear free zone should extend into the North Pacific, Vanuatu, together with PNG, argued that the zone should be named 'Pacific Nuclear Free Zone' rather than 'South Pacific Nuclear Free Zone'.⁴⁵

On the issue of transfers of nuclear materials under safeguards to external states, Vanuatu sought a prohibition on transfers of materials to nuclear-weapon states.⁴⁶

On the issue of transit, Vanuatu joined with PNG in calling for regulation of the duration and pattern of nuclear warship portcalls to close off the possibility of *de facto* sea-based stationing.⁴⁷

Together with the other Melanesian Alliance states and Nauru, Vanuatu also wanted the treaty to prohibit missile testing in the region.⁴⁸

At a press conference at the 1985 Rarotonga Forum, Lini expanded on these reservations. In Vanuatu's view, the treaty would not be effective in keeping out the nuclear powers, the French, Russians and Americans; was too selective in including New Caledonia and Wallis and Futuna but not the American territories in Micronesia; was ineffective in the area of waste-dumping since it did not cover territorial waters; should have included bans on nuclear weapon delivery systems and uranium mining; and failed to consider the wishes of island peoples in keeping the region free of nuclear threats.⁴⁹ In Lini's view, the treaty would mean 'a failure to achieve a comprehensive nuclear free zone', and before Vanuatu could consider signing it, it would have to look at the problem of strengthening the zone's effectiveness.⁵⁰ Lini further noted that the Forum's consensus mode of operation had been abused in order to arrive at endorsement of the treaty: '... we were sorry to see that consensus is sometimes used to get something that only some members of the Forum want'.⁵¹ While Vanuatu did not rule out signing the treaty at a later date, and in early 1988 was reported to be considering signing the treaty,⁵² its policy was to seek a strengthening of the zone's scope and greater inclusiveness in its boundaries. 'It is the governments of the South Pacific that have difficulty in signing a comprehensive nuclear-free Pacific treaty, not the people', Lini subsequently observed in a documentary film on the Rarotonga Treaty.⁵³

While it has the most anti-nuclear and anti-colonial policies of the Melanesian states, Vanuatu nevertheless faced economic constraints and pressures that set limits on its policies. Like other small Pacific states, it is very dependent on Western sources of aid and trade, although its colonial history as a joint UK-French condominium has resulted in more diverse economic links than most island states. Of \$A47.7 million in official aid during 1980, the principal sources of aid were France (42%), the UK (37%), Australia (6%), the EEC (10%) and New Zealand (4%).⁵⁴ Economic links with Australia increased substantially after 1980, with Australia providing about one-third of Vanuatu's imports and 75% of tourists by 1986.⁵⁵

While it receives almost no official aid from the United States, one of Vanuatu's principal export industries, fish and seafood (with a value of \$A8 million in 1981) is heavily dependent on US markets.

In terms of defence assistance, Vanuatu received increasing levels of assistance under the Defence Co-operation Programme, rising from \$A0.89 million during 1980/81 to \$A0.92 million in 1983/84, and is participating in Australia's Pacific Patrol Boat project.⁵⁶

Although Vanuatu continues to be overwhelmingly dependent on Western aid and trade sources, in February 1987 it signed a fishing licence agreement with the Soviet Union for \$US1.5 million which provides for 8 Soviet fishing vessels to fish in Vanuatu's EEZ and have port access.⁵⁷ It also agreed in principle to sign the Forum's Multilateral Fisheries Agreement with the United States.⁵⁸

Acknowledging the pressures created by its economic relationships with metropolitan states, Lini noted that Vanuatu has 'to face the fact that there may be external pressures on us from both large companies and foreign governments to conform to their ideas rather than our own when the two differ' but has affirmed that Vanuatu will continue

to be 'bold' in resisting colonialism.⁵⁹ More recently, the Foreign Minister, Sela Molisa, has noted that Vanuatu was 'under pressure' as a result of its membership of the Non-Aligned Movement.⁶⁰ Vanuatu's continued heavy dependence on economic and defence assistance from Australia, the United States and other Western states, and concern to avoid jeopardizing those links, explain the fact that, while strongly criticizing the Rarotonga Treaty, Vanuatu has not sought to initiate an islands-only comprehensive SPNFZ arrangement based on the Melanesian states, and may, indeed, eventually sign the treaty.

Solomon Islands

The third member of the Melanesian Alliance group, the Solomon Islands, became independent in 1978, and is the third largest Forum state in terms of population (approx 225,000) and the second largest in terms of land area (28, 530 sq.km.). The first Kenilorea government of 1978-81 shared the same opposition to nuclear waste-dumping and nuclear testing in the Pacific as the other Melanesian states, but permitted nuclear-armed or powered ship visits, such as the visits by two US frigates in 1978 and the USS *Truxton* in 1980.⁶¹ The government during this period was strongly anti-communist and Western-aligned, and imposed bans on Soviet vessels entering Solomons waters in protest at the Soviet invasion of Afghanistan.⁶²

In 1981, there was a shift towards a more anti-nuclear and independent foreign policy under the Mamaloni government. In addition to indicating it would be seeking aid from non-traditional sources, including the Soviet Union, the Mamaloni government joined PNG and Vanuatu in actively promoting the concept of a Pacific nuclear free zone. The Foreign Minister in the Mamaloni government, Ezekial Alebua, warned about the 'increasing use made of the (Pacific) atmosphere, land and seas for nuclear experiments and storage' and called for renewed efforts to establish a nuclear free zone.⁶³ Solomon Island policy from 1981 onwards therefore contributed to Australian government concerns in 1983 about increasing island state advocacy of regional denuclearization.

In a major foreign policy statement in March 1983, the Mamaloni government reaffirmed its opposition to nuclear testing and the dumping of nuclear waste in the Pacific and adopted a new policy of 'restraint' towards visits by nuclear-powered or armed warships.⁶⁴ The new policy did not automatically exclude warship visits, as was demonstrated when the nuclear-capable frigate, USS *Bronstein*, was permitted to visit Honiara in February 1984. However, as a result of submissions and protests against the *Bronstein's* visit by the Solomon Islands Peace Committee - a coalition of church and union peace activists - and the Solomon Islands National Union of Workers, the Solomons Foreign Minister, Denis Lulei, declared that in future any foreign power whose warships planned to transit or berth in Solomons waters would have to give written assurances that the vessels were not nuclear-armed or powered.⁶⁵

The Mamaloni government lost office in October 1984, but the return of Sir Peter Kenilorea as Prime Minister did not result in a return to acceptance of nuclear ship visits or a less anti-nuclear policy. In a statement in early 1985, Kenilorea affirmed that 'in the present non-combative situation we will not allow nuclear-powered or armed ships the right of transit in our waters or harbors'.⁶⁶ The nuclear ship ban was confirmed in a July 1985 Ministry of Foreign Affairs statement on Solomon Islands Foreign Policy.⁶⁷

The Solomon Islands took a position on the Rarotonga Treaty similar to that of Vanuatu. It initially declined to sign the treaty, criticizing it as insufficiently comprehensive,⁶⁸ but eventually signed it at the May 1987 Forum Meeting in Apia⁶⁹ and subsequently ratified it.⁷⁰ Specific Solomons concerns placed on record in the drafting of the treaty included the lack of prohibition on missile testing in the region and nuclear waste-dumping on the high seas.⁷¹ In the case of the latter concern, the Solomons argued that, under the new Law of the Sea, the high seas are reserved for exclusively peaceful purposes and that the rights enjoyed there 'do not extend to activities which damage other countries, such as dumping radioactive wastes and other radioactive matter'.⁷²

After Vanuatu, the Solomons are the most anti-nuclear of the Melanesian Alliance group. One factor that contributed to a more anti-nuclear stance in recent years was the 1984 Jeanette Diana incident in which an American purse-seiner was arrested for illegally fishing in Solomons waters. The incident led to the imposition of US economic sanctions on the Solomons, and, although ultimately resolved, resulted in 'lingering resentment and suspicion of the United States'.⁷³ Despite the present anti-nuclear policy of the Solomons, the country's reliance on the UK, Australian, and, increasingly, United States, economic and defence aid,⁷⁴ coupled with the fact that the United States and US territories accounted for 26% of Solomons exports in 1980,⁷⁵ make the Solomons vulnerable to United States and Australian pressure, and limited its anti-nuclear policy to criticism rather than active negotiation of a more comprehensive NFZ in co-operation with other Melanesian states.

Fiji

The fourth Melanesian member of the Forum, Fiji, has the second largest population in Oceania, over 700,000 in 1986, and has an economy based on sugar, tourism and timber industries. Since gaining independence from the UK in 1970, Fiji played a pivotal role in regional policies and organizations, and was the prime mover in the establishment of the South Pacific Forum.⁷⁶

In the late 1960s and early 1970s, Fiji suffered direct consequences from French testing at Moruroa in the form of radioactive fallout, and domestic anti-nuclear groups began lobbying the government strongly for the establishment of a regional nuclear free zone.⁷⁷ In May 1975, the Fiji Prime Minister, Ratu Sir Kamisese Mara, publicly announced that Fiji strongly supported the New Zealand SPNFZ proposal. At the July 1975 Tonga South Pacific Forum meeting and in its subsequent joint sponsorship of the proposal at the UN, Fiji actively supported the SPNFZ concept, arguing that it would keep the region free from nuclear contamination and involvement in nuclear conflict.⁷⁸

This initial Fijian commitment to the SPNFZ concept continued in subsequent years despite the lack of interest on the part of the Australian and New Zealand governments during the period 1976 to 1983. In 1976, Fiji unsuccessfully sought the implementation of the 1975 UN resolution on a SPNFZ at the March 1976 Rotorua South Pacific Forum meeting;⁷⁹ and again sought negotiations on the concept in 1980.⁸⁰ When the Australian government revived the concept at the 1983 Canberra Forum meeting, Fiji again supported the idea, actively participated in the Forum drafting group, and was among the first eight states to sign and ratify the treaty.

Fijian policy on the Rarotonga Treaty was strongly influenced by changes in its own domestic policies on nuclear issues in the early 1980s.

During the period 1975-79, the government did not accept nuclear ship visits.⁸¹ This policy remained formally in place from 1980 to 1983, but during this period was not consistently applied. In 1980, for example, Fiji accepted one US nuclear warship, and in 1982, a further two such visits.⁸² In March 1983, following severe cyclone damage in the Lautaka and Nadi areas, Fiji accepted a further visit by an American naval support vessel, USS *Samuel Gompers*, to assist in relief work.⁸³ Several weeks later, it also accepted a visit to Suva by the USS *Hoel*, a guided-missile nuclear-capable Adams-class destroyer.⁸⁴

In July 1983, three months after the *Hoel* visit, the Fiji government removed confusion surrounding government policy on nuclear ship visits by issuing a statement declaring that it had reviewed its policy in the light of its legal obligations under both the Law of the Sea Convention and Fiji's Marine Spaces legislation, and decided that it was:

... obliged to give a guaranteed right of passage for all vessels including those which are nuclear-powered or which carry nuclear weapons, provided that these vessels traversed expeditiously through Fiji waters⁸⁵

and that, pending the designation of sea lanes for the passage of foreign ships through Fiji waters, foreign nuclear-armed or powered ships would be permitted to enter Fiji waters and ports 'on the basis of individual applications'.⁸⁶ The government's explanation of its change in declaratory policy on nuclear ship visits related more to transit than port-calls by nuclear-armed vessels, leaving the question of the government reversal on portcalls still unexplained.

The most likely explanation for the government shift lay in Fiji's increasingly close diplomatic, military and economic links with the United States.

Diplomatically, the United States established a permanent resident embassy in Fiji in 1978, and during the early 1980s, successive American ambassadors in Suva, William Bodde Jr and Fred Eckert, established close personal friendships with the Fiji Prime Minister, Ratu Mara.⁸⁷ The establishment of a resident diplomatic presence was followed by increased US economic aid to Fiji, which, in 1980, amounted to over half a million dollars, representing 39% of all US government aid to non-US Pacific island states.

Militarily, the United States played a major role in the establishment of Fiji's naval squadron by supplying it with three ex-minesweepers and a mobile naval training team. In the early 1980s, following Fiji's 1978 decision to participate in the UN Interim Force in Lebanon (UNIFIL) and subsequent 1982 decision to participate in the US-supported Multilateral Force and Observers (MFO) in the Sinai, the United States provided training at senior levels for Fijian military personnel at US Command Centres and military colleges.⁸⁸ In 1985, total US military assistance to Fiji was \$400,000, with funding assistance provided for re-equipping of the Fijian Army with a new standard rifle - the US M-16A2's; and a similar level of US military assistance anticipated for 1986.⁸⁹ Fijian military personnel have also participated in the US Army Western Command's Pacific Armies Management Seminars (PAMS) and Expanded Relations Program (ERP).⁹⁰ As evidenced following the cyclone damage of March 1983, the role of the US Navy in providing disaster relief was also a strong incentive for Fiji to relax its nuclear ships policy.

Some confirmation of the role of US economic incentives in the Fiji reversal on nuclear ship visits was evident in statements made during Ratu Mara's visit to Washington in November 1984. During the visit, Ratu Mara sought increases in American military and economic aid, including the provision of US bilateral aid, arguing that Fiji was ready to play its part in regional security and that US development aid was part of the overall US responsibility to the region.⁹¹ President Reagan thanked Fiji for weighing its opposition to nuclear weapons against the security needs of the region to give US naval ships access to Fiji ports, and expressed appreciation of Fiji's willingness to play a 'responsible role in world affairs'.⁹² Following a meeting between President Reagan and Ratu Mara - the first Pacific Island Prime Minister to be invited to the White House - US officials indicated that Fiji would receive a major boost in US aid, including the possibility of bilateral aid if Congress approved it, and that Fiji's decision to permit US nuclear vessels into its ports played a role in the discussions of increased aid.⁹³

Following the November 1984 Fiji-US discussions, US economic aid to Fiji increased to approximately \$1.5 million dollars annually in 1986-87, a threefold increase over the 1980 level. Commenting on the 1986 and 1987 US economic aid to Fiji, Charles Greenleaf, US Assistant Administrator, Bureau for Asia and the Near East, testified to a US Congressional Committee that:

Our program (comprising \$1.5 million in Economic Support Funds) delivers on the President's commitment to Prime Minister Ratu Mara in November 1984 and is intended to maintain Fiji's role as a moderate and influential pro-US force in the South Pacific.⁹⁴

The dramatic increase in US aid to Fiji during the early and mid-1980s, explicitly linked to Fiji's willingness to host nuclear-armed vessels, was therefore a major factor in changes in Fiji's policies on nuclear issues.

Fiji's decisive switch in policy on nuclear ship visits during 1982-83 brought Fiji into closer alignment with the Australian Hawke Labor government's regional SPNFZ policy than with the policies of the Melanesian Alliance states. This was evident at the 1984 Forum meeting which established the SPNFZ Working Group. At that meeting, Mara warned that his government could not support a regional SPNFZ Treaty if it imposed bans on nuclear ships calling into Fijian ports.⁹⁵ Unlike several other island countries, Fiji recorded no dissent in the Working Group on any aspect of the Rarotonga Treaty, despite strong domestic pressures for more comprehensive regional denuclearization.⁹⁶ Fijian support for the Australian initiative reflected both the conservative pro-Western attitudes of the Fijian leadership and the government's increasingly close alignment with the United States.

During the brief one month life of the Bavadra coalition government, elected on April 12 1987, the Fiji government again adopted a policy of discouraging nuclear ship visits. Following the May 14 and October 7 military coups, however, the re-emergence of Ratu Mara as prime minister, and the conservative Alliance Party/Fijian Military composition of the new government, ensured continuity with pre-Bavadra nuclear policies.

The Polynesian states' SPNFZ policies

The Polynesian members of the South Pacific Forum are all microstates in terms of population and resources. Western Samoa is the largest, with a population of over 156,000, followed by Tonga with 97,000, Cook Islands with 18,000, Tuvalu with 8,000 and Niue with 3,400. Politically, Tonga is a monarchy; Western Samoa a limited democracy (with franchise restricted to the *matai*, the traditional chiefs); and the three other states are full democracies. The Cook Islands and Niue are self-governing states in free association with New Zealand, which has ultimate responsibility for their defence and foreign policies. The other states are fully independent. Tuvalu has a Treaty of Friendship with the United States granting strategic denial rights to the latter in the event of any third party request to use Tuvaluan territory for military purposes. With only limited natural resources, principally copra and coconut products, the Polynesian microstates have become heavily dependent on Western states, mainly Australia, New Zealand, Japan, the EEC and the United States, for economic aid.

In general, the Polynesian states have conservative Western-oriented foreign policies, and align themselves closely with the ANZUS states. In the case of the Cook Islands and Western Samoa, both countries moved from a position of refusing entry to nuclear warships in the mid to late 1970s to accepting nuclear warship visits in the 1980s. The Polynesian states generally supported the Rarotonga Treaty, and did not join the Melanesian states in seeking changes to its provisions. Four of the five Polynesian Forum states, Western Samoa, Tuvalu, Niue and Cook Islands, were among the first to sign the treaty.

The one Polynesian Forum state to have expressed dissatisfaction with the treaty, and to have refused to sign or ratify it, is Tonga. The Tongan King, HRH Taufa'Ahau Tupou IV, and his Minister for Foreign Affairs and Defence, HRH Prince Tupouto'a, have long been strong supporters of ANZUS security objectives in the region, and have received substantial increases in economic and military aid from Australia, New Zealand and the United States during the late 1970s and early 1980s. In 1978, Tonga became the first independent Pacific island state to accept visits by nuclear-armed warships. As early as 1978, Tonga approved a visit to Nuka'alofa of the nuclear-powered guided-missile cruiser, USS *Bainbridge*, despite the fact that the same ship had been refused entry by Western Samoa and Fiji.⁹⁷ Since then, Tongan representatives have both stated their willingness to host nuclear ship visits, and approved visits by particular US nuclear warships, including a nuclear-powered guided-missile cruiser and a nuclear-capable destroyer in 1983.⁹⁸ Stressing the 'blanket protection' offered to island states by ANZUS, even though island states are not formally party to ANZUS, Tonga criticised New Zealand's nuclear ships ban on the grounds that it was likely to cause regional instability.⁹⁹

While supporting moves against nuclear testing and waste-dumping, Tonga took exception to the anti-storage and anti-stationing features of the Rarotonga Treaty.¹⁰⁰ In the Tongan government's view, the United States should have the right both to store and station nuclear weapons in South Pacific countries, especially in a wartime context. As a result of these specific concerns, and the related concern that the Rarotonga Treaty would adversely affect the United States' ability to protect the security of the region, Tonga declined to participate in the treaty's negotiation or to sign and ratify the treaty.¹⁰¹ Tonga also endorsed the US decision not to sign the Rarotonga protocols.¹⁰²

The heavy dependence of the Polynesian Forum states on the ANZUS states for economic assistance and expatriate worker remittances, and the traditionally conservative nature of their governments, ensured that there would be little Polynesian opposition to a limited-scope NFZ arrangement initiated by Australia and supported by New Zealand (which traditionally has closer links with the Polynesian states than Australia).

The Micronesian states' SPNFZ policies

Two Micronesian states, Nauru and Kiribati, were members of the South Pacific Forum at the time the Rarotonga Treaty was negotiated. Two others, the Federated States of Micronesia (FSM) and the Marshall Islands became members in 1987, but are currently excluded from the geographic boundaries of the zone, which would need to be amended to permit their membership.

All are microstates in terms of population and resources: Federated States of Micronesia have a population of approximately 75,000; Kiribati, 59,000; Marshalls, 30,000; and Nauru, 7,300. A fifth Micronesian state, Belau, population 15,000, is not a Forum member. Nauru and Kiribati are fully independent states, while FSM and the Marshalls are self-governing states linked to the United States through Compacts of Free Association under which the US retains defence responsibility, strategic denial rights, and military access rights. Kiribati, like Tuvalu, has a Treaty of Friendship with the United States under which the United States has strategic denial rights in the event of any third party requesting to use former US-controlled islands for military purposes. All the Micronesian states are full democracies.

Nauru and Kiribati participated actively in the Forum SPNFZ Working Group and FSM participated as an observer. While Nauru and Kiribati both signed and ratified the Rarotonga Treaty, Nauru voiced concern over two principal aspects of the treaty. Nauru, like the three Melanesian Alliance states, sought the inclusion of a prohibition on missile testing in the region, and asked that its concern about missile testing be recorded.¹⁰³ Secondly, Nauru sought stronger controls over radioactive waste-dumping on the high seas, and cited the UNCLOSIII principle that the high seas should be reserved for exclusively peaceful purposes.¹⁰⁴

The issues and barriers associated with the potential participation of FSM, the Marshall Islands and Belau in the SPNFZ are discussed in Chapter 3. Their attitudes to the zone are not examined here because, historically, their policies and attitudes towards the zone were not a factor in the zone's establishment - or rather, owing to the Australian decision to make the equator the northern boundary of the zone, were not permitted to become a factor. All three, it should be noted, have anti-nuclear policies and even legislation (most notably Belau's nuclear-free constitution and FSM's less rigorous constitutional anti-nuclear provisions) that make them close to the Melanesian states in their approach to regional denuclearization.

Conclusion

Despite the strong reservations expressed by a number of island states, especially the Melanesian Alliance states, Australia succeeded in gaining all states' endorsement of the

treaty at the 1985 Forum and in eventually securing the actual signature of almost all the eligible Forum states, with only Vanuatu and Tonga not having signed as at June 1990.

Further, there was no move by even the critical island states to seek to negotiate a more comprehensive arrangement, either as an alternative or a complement to the Rarotonga Treaty. The treaty, while obviously not to the satisfaction of many island states, successfully pre-empted the possibility of the island states allying with a New Zealand Labour government or forming an islands-only organization to negotiate more comprehensive denuclearization arrangements - options that the island states seemed to be moving towards in the early 1980s.

Island support for the treaty cannot be explained by simply assuming that island states share the same security perceptions and priorities as the ANZUS states. Even allowing for the traditionally pro-Western alignment of most of the island states, particularly the Polynesian states, there is evidence that island states see regional security priorities in very different terms than the ANZUS states.

Rather than viewing the principal threat to regional security as an external military threat by a major power, such as the Soviet Union, the island states perceive the greatest threat as economic insecurity. This was evident at the 1984 Wellington colloquium on the special problems of small island states where island states concluded that the principal security threat arose from economic insecurity. This economic vulnerability is usually seen as arising from a range of factors, including the small size and scale of island economies, transportation costs and problems associated with remoteness, dependence on a limited range of primary industries (most frequently coconut products, fishing, and minerals), limited natural resources (particularly in the Polynesian and Micronesian islands), and rising expectations of increases in living standards. Similarly, the former PNG Foreign Minister, Rabbie Namaliu, assessed the threat of unprovoked attack on an island country by an external power as 'slight', but noted that the threat of destabilization of an island state for 'profit or ideology', possibly associated with great power rivalry, was 'more likely'; the most likely security threats in Namaliu's judgement lay in 'domestic instability in New Caledonia' and 'domestic internal threats to individual states'. Namaliu's reference to destabilization associated with great power rivalry was not only concerned with potential Soviet activities but also with potential economic, political and military activities of Western governments or business interests. The example of Grenada, and the recent establishment of **rapid deployment forces** in all three ANZUS states, would not have encouraged island state confidence that destabilization would necessarily arise from Soviet rather than Western activities.

Island countries do not necessarily share the ANZUS states' fears about the Soviet Union exploiting commercial relations with island states as the thin end of the wedge to a Soviet military presence ashore. Rather both Melanesia and Micronesian states - including Vanuatu, Solomons and Kiribati - have viewed fishing agreements and other commercial relations with the Soviet Union as a means of become more self-reliant economically. As the former PNG Foreign Secretary, Tony Siaguru, commented:

Pacific Island leaders are certainly sufficiently aware of the dangers of allowing Russia a political foothold in their countries to take the necessary preventative measures. But it would be hard for anyone to deny that the presence of the Russians has brought and continues to bring, directly and vicariously, much economic benefit to the impoverished Pacific Island

states. Even if Russia is paying over the market price for facilities, we stand a little taller with this form of aid than we do with the usual tied hand-outs.¹⁰⁵

Given these marked differences in security priorities between the island states and ANZUS states, it could not be assumed that island states would automatically be enthusiastic about a treaty that aimed to accommodate ANZUS and US nuclear and strategic objectives in the region. The argument that the SPNFZ must permit US nuclear weapons transit in the region as a 'counter' to the Soviet military threat regionally and globally would have seemed somewhat remote from the island states' own assessment of the security threats facing them, and even possibly counterproductive in terms of the possibility of provoking great power military rivalry in the region.

The preceding analysis of island state responses to the treaty suggests that island state support - or acquiescence - in the treaty - and reluctance to proceed with negotiating a more comprehensive islands-only treaty - was more the outcome of a combination of incentives and constraints that derived not only from island states common nuclear concerns but also their economic dependence and vulnerability.

The first incentive was the promised potential of the zone for putting pressure on France to cease testing in the region - a long-standing concern on which all island states were united. This incentive was accentuated, as noted in Chapter 4, by Australia's implicit assurance that the United States would support the treaty - a new diplomatic development that would have significantly added to international pressure on France to relocate its Pacific testing programme. In the absence of comprehensive denuclearization, the treaty continued to have relevance to island states as a modest move towards putting renewed pressure on France to end testing in the region. Ironically, when the United States refused to sign, the treaty may also have acquired a new value for some island states, such as Vanuatu, which had previously declined to sign, as a gesture of island solidarity to apply pressure on the United States to acknowledge regional concerns, particularly island concerns over French testing.

The second incentive lay in new forms and levels of economic and military assistance offered by the ANZUS states at the time that the treaty was initiated and negotiated. While not directly linked in terms of their objectives to the treaty, these new aid and assistance programmes could be assumed to have promoted a positive climate for island responses to Australia's initiative. The most salient of these new forms of assistance was the Australian Pacific Patrol Boat initiative, advanced simultaneously with the SPNFZ initiative. This was taken advantage of by all the Melanesian Alliance states, as well as Fiji, Western Samoa, and the Cook Islands. With the exception of Australian assistance for PNG's recurrent government expenditure, ANZUS economic and military assistance to island states continued to rise in the early and mid-1980s. In the case of the United States, new aid, trade and military co-operation relationships were established with a number of island countries, especially with Fiji and Papua New Guinea. ANZUS states' assistance to island countries in relief operations following the frequent cyclone damage experienced in the region was also a factor in encouraging positive responses to Australian diplomacy, particularly in countries like Fiji, Vanuatu, Solomons and the Cook Islands, all of which sustained severe cyclone damage in the period 1984-87.

At the same time as these positive incentives to island support for the treaty, there were negative constraints affecting the freedom of island states to pursue more comprehensive NFZ arrangements.

At the economic level, the heavy dependence of the island states on ANZUS states' aid, trade and military assistance, particularly on Australia and New Zealand, could have led some states to feel exposed to possible reductions in economic aid if they had insisted on more comprehensive denuclearization. US withdrawal from military cooperation arrangements with New Zealand, coupled with open discussion of economic sanctions against New Zealand by US Congressional representatives, would have been interpreted by many island governments as an indication of what they, too, could face if they were to pursue comprehensive NFZ arrangements. In view of their present economic dependency on the ANZUS states, many island states would have been sensitive to the possibility of even minor reductions in aid flows, let alone economic sanctions.

Secondly, at a political level, island states were likely to have been constrained by a perceived threat of political destabilization. As already noted, Namaliu regarded the threat of destabilization as a result of great power rivalry in the region as a moderately likely threat. The events in Belau, where, in the course of a violent campaign during 1985-87 to reverse the nuclear-free constitution, supporters of the constitution were intimidated and even murdered,¹⁰⁶ suggest that island perceptions of possible destabilization supported directly or indirectly by a superpower could also have constrained the Forum island states from pursuing more comprehensive denuclearization.

NOTES

1 *Pacific Islands Monthly*, v.59, n.8, August 1989, p.25.

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CHAPTER 7

The United States' SPNFZ Policy

Introduction

Of the five nuclear powers, the United States has the largest and most diverse nuclear presence in the South Pacific region.

The American regional presence includes six broad categories of nuclear activity: (1) permanent bases for nuclear-armed forces and storage of nuclear weapons (Guam); (2) frequent transit of nuclear-armed or nuclear-capable naval and air forces across South Pacific waters on a variety of missions (including power projection into the Indian Ocean, Southeast Asia and the North Pacific, anti-submarine warfare activities, and deployment of strategic long-range sea-launched cruise missiles for counterforce purposes); (3) a complex network of nuclear-weapon-related C³I, navigation and scientific bases in Micronesia (Guam and Kwajalein), Australia and New Zealand; (4) missile, ASAT and SDI testing at various locations in the region (Kwajalein, Oeni); (5) disposal of nuclear waste (Marshall Islands); and (6) involvement in a military alliance with regional states - ANZUS - which could potentially be invoked either to defend regional states with nuclear weapons or to involve regional states in contributing to US nuclear warfighting activities external to the region.¹

This presence is expanding rather than contracting. In addition to Guam, the US is seeking new permanent basing rights in Belau and the Northern Marianas. Port visits to Australia by US warships have more than doubled from an average of 24 per year in 1974-78 to over 60 per year during the period 1979-86. Contrary to Australian government suggestions, there was no overall decline in numbers of US warship visits following the advent of the Hawke government compared to the previous Liberal-National Party coalition government. The average annual number of US warship visits for the first four years of the Hawke government was 61 compared to 60 for the previous four year period.² According to government estimates of the number of nuclear-capable warships visiting Australia during 1981-83 compared to the total number of US warships visiting in that period, at least 75% of all US warships visiting Australia were assessed by the government as nuclear-capable.³

The increases in visits by nuclear-powered vessels and nuclear-powered hunter-killer submarines were particularly dramatic. The number of nuclear-powered vessels increased five-fold from an average of 2 per year in 1974-78 to 10 per year in 1983-86 while visits by attack submarines have increased fifteen-fold from an average of 0.4 per year in 1974-78 to 6 per year in 1983-86.⁴

The number of ship visits is likely to increase again as a consequence of American plans to build up its total number of major US naval combatant vessels from 345 in 1982

to 600. Approximately half of the total American fleet is deployed in the Pacific and Indian Oceans.

Nuclear weapon deployment on US mobile forces regularly transiting the South Pacific is increasing both quantitatively and qualitatively. Some 400 Pacific-deployed naval tactical nuclear weapons (including ASROC and SUBROC ASW rockets and nuclear depth charges)⁵ will be supplemented over the period 1984-1990 with approximately 370 nuclear Tomahawk sea-launched cruise missiles deployed on submarines, destroyers, cruisers and battleships in the US Pacific fleets.⁶

Similarly, B-52G bombers, such as those based at Guam and transiting through the South Pacific, will have their former nuclear gravity bomb capacity complemented by the capacity to launch long-range nuclear cruise missiles.⁷ In the case of B-52 bombers engaged in navigation and training flights, staging operations, and military exercises in Australian airspace, the progressive increase in nuclear-capable US aircraft transit was just as dramatic as US naval transit. US B-52 overflights in Northern Australia increased four-fold between 1980 and 1984 from 23 flights in 1980 to an average of 48 per year in 1981-83 and to 94 in the first nine months of 1984.⁸

In terms of nuclear-weapon related C³I bases, there was a substantial increase in bases located within the region. In 1960, for example, there were only three US military programmes/facilities in Australia and New Zealand, but by 1984 there were more than 17 US or joint US-Australia or New Zealand installations.⁹

US missile testing of successive generations of ICBMs and SLBMs at Kwajalein not only continued unabated from the establishment of the range in 1966, but is expected to expand geographically to include splashdown areas in the South Pacific, such as Oeni Island near the Pitcairn Islands. This development is the result of the need to test missiles of ever-increasing range.¹⁰ At the same time, the Kwajalein Missile Range functions are being extended to include ASAT and SDI experiments as well as missile testing.¹¹

Finally, military exercises under ANZUS or bilateral arrangements have increased in frequency and scale, with US nuclear-capable forces being involved in at least five major annual or biannual exercises in the South Pacific.

Concern to protect this extensive and growing US nuclear presence in the South Pacific region was one of the principal reasons for US opposition to earlier South Pacific NFZ proposals in the 1960s and 1970s, and serves to explain why the United States has approached the South Pacific differently from other Southern Hemisphere regions, such as Latin America and Antarctica. In the latter areas, the United States was more willing to support NFZ proposals because its nuclear-weapon-related infrastructure and deployment there was less extensive than in the South Pacific and denuclearization therefore presented less potential threat to existing US nuclear practices.

Further, in Latin America, the Tlatelolco Treaty offered the positive benefit of seeking to prevent the stationing of Soviet nuclear weapons on America's 'back doorstep' (as the Soviet Union sought to do in Cuba during the 1962 Cuban Missile Crisis) while involving little cost to the United States, which neither stored nor permanently stationed nuclear weapons in the region.

The concern to protect the US nuclear presence in the region surfaced again in US responses to the new SPNFZ initiatives in the early 1980s. As already discussed in Chapter 3, Australian accommodation of US regional nuclear activities played a key role in shaping the Rarotonga Treaty's provisions.

Ironically, despite Australian government efforts to accommodate and safeguard both present and conceivable US nuclear practices and the fact that the treaty met most, if not all, of the criteria that the United States previously advanced as conditions for American support for regional NFZ arrangements, the Reagan Administration decided not to support the treaty or ratify the protocols. This decision was related more to US perceptions of adverse consequences for its global nuclear policies than to effects on US nuclear practices within the South Pacific itself - although the Administration did have concerns about the extension of the treaty to former US-administered Micronesian territories north of the equator (Belau, Federated States of Micronesia and the Marshall Islands).

The following chapter briefly describes US responses to earlier versions of the SPNFZ in the context of US nuclear and strategic policies and general NFZ policy; then discusses the influence of US policy on the drafting and provisions of the Rarotonga Treaty; and finally examines the reasons for US unwillingness to ratify the treaty's protocols.

American responses to SPNFZ proposals in the 1960s and 1970s

In contrast to its support for two other NFZs in the Southern Hemisphere - the Antarctic Treaty (1959) and the Tlatelolco Treaty (1967) - the United States strongly opposed earlier NFZ proposals relating to the South Pacific.

When both the Australian and New Zealand Labour parties proposed the concept of a Southern Hemisphere NFZ in 1962-63, the Kennedy Administration joined the conservative Australian Liberal-Country Party and New Zealand National Party governments at the 1963 ANZUS Council in condemning the idea as 'impractical', 'illusory', 'positively dangerous' and likely to 'disturb the existing strategic balance'.¹²

At a subsequent meeting between Australian Prime Minister Robert Menzies and President Kennedy in Washington on July 8 1963, US opposition to a South Pacific nuclear free zone was again evident. Briefing papers prepared for the meeting by US Secretary of State, Averell Harriman, clarify the basis of US opposition.

Harriman recommended to President Kennedy that he support Menzies in opposing a NFZ in the South Pacific because, while the United States was sympathetic to NFZs as 'a brake on further proliferation', such an arrangement:

... should not upset the military balance in the area, should be initiated by the countries concerned and freely acceptable to them, should include adequate inspection and verification provisions, and should include as many countries as possible in the area.¹³

The briefing paper concluded that:

... a zone in the Southern Hemisphere or South Pacific would, because of the reality of Red China, fail to meet any of these specifications.¹⁴

It was not clear how China - which acquired nuclear weapons in 1962 - would have affected a SPNFZ differently from the Latin American NFZ which extends to the eastern border of the South Pacific and which presumably met the US criteria. The briefing paper revealed, however, that the United States was also concerned about the effect of a SHNFZ or SPNFZ on US nuclear-weapon-related installations in Australia.

Harriman noted that the United States had reached agreement with Australia on establishing the Northwest Cape submarine communications station in Western Australia, and that the ALP had only narrowly defeated a federal party conference resolution that would have declared the base as incompatible with a SHNFZ, and was committed to re-negotiating the base agreement.¹⁵ It was evident, even at this early point, that the United States was not only concerned about China but also about the possible adverse effects of a SPNFZ on its regionally-based nuclear-weapon-related installations.

Over the next ten years, there is no record of the United States explicitly stating views on SPNFZ proposals, although the concept continued to be endorsed by the New Zealand Labour Party (see Chapter 5). In late 1972, however, Labour governments came to office in both New Zealand and Australia, and the New Zealand Labour government's election platform included a pledge to work towards establishing a SPNFZ. In mid-1974, at the annual ANZUS Council meeting, the New Zealand Prime Minister, Norman Kirk, sought United States and Australian support for its SPNFZ proposal. The idea was immediately rejected by the US Secretary of State, who indicated that if the matter were raised in the ANZUS final communique the United States would have to record its opposition.¹⁶

In June of the following year, when it became clear that the New Zealand Labour government was going to pursue its SPNFZ proposal at the South Pacific Forum meeting in July 1975, the United States again registered its opposition to the idea and sought, through an aide-memoire from the US Embassy in Canberra to the Department of Foreign Affairs, to persuade the Whitlam government to oppose the proposal.

The aide-memoire referred to four criteria for US support of NFZs. These included: the need for the initiative to come from the zonal states; the inclusion of all states 'whose participation is deemed important'; the non-disturbance of 'necessary security arrangements'; and adequate verification.¹⁷ The aide-memoire noted that the criterion of not disturbing existing security arrangements was 'highly relevant in the case of the SPNFZ'. In the US view, the South Pacific was an area in which the United States had territory (American Samoa), allies (under ANZUS), and where US naval vessels and aircraft had 'long been present' - whereas the USSR and China had no comparable presence.¹⁸ As a result, the SPNFZ could 'impact more heavily' on US strategic considerations 'than on potentially hostile nuclear powers'.¹⁹

Further, the United States 'could not agree to any proposal that restricted the right to transit the high seas, nor could it accept attempts by other states to establish a special regime over a portion of the high seas'; and opposed the idea of a SPNFZ excluding nuclear-weapon transit since this, as a consequence of the US policy of not confirming or denying the presence of nuclear weapons on US warships or military aircraft, would effectively 'exclude all US naval vessels and many US military aircraft'.²⁰ In the US view, questions of transit or transport privileges, including port calls and use of airports, should be regarded as bilateral issues not to be included in any NFZ treaty arrangement.²¹ The US response to the New Zealand proposal - an important influence on the Whitlam government, which

incorporated the American criteria and concerns into its own NFZ policy - represented a shift in emphasis in US opposition to regional NFZ proposals. While American concern over its installations undoubtedly remained, and concern over China was no longer a major factor following the advent of US-China rapprochement in 1971, the United States was now far more preoccupied with potential NFZ constraints on US mobile force deployment and transit of nuclear weapons.

The new emphasis on transit rights, also evident in US positions adopted in international negotiations on the Indian Ocean Zone of Peace proposal and the Law of the Sea, reflected changes in US strategic capabilities during the late sixties and early seventies. During the 1960s, the area of deployment of US mobile strategic forces began to expand as a result of the steady improvement in the range of Polaris SLBM's from 1,200 nautical miles in 1960 to 1,500 in 1961 and 2,500 in 1964. This allowed the United States to expand Polaris submarine deployment from the Barents Sea in 1960 to the Mediterranean in 1963 and the North Atlantic and Norwegian Sea after 1964.²² Even in the early 1960s, this trend was a factor in US rejection of Mediterranean and Nordic NFZ proposals advanced at that time. However, in 1971, the United States began development of a new SLBM, the Trident 1, with an even greater range of 4,000 nautical miles; this was deployed on Poseidon submarines from 1979 onwards.²³ More recently still, in 1980, advanced development began on an even longer range SLBM, the Trident II, with a range of 6,000 nautical miles, expected to be deployed on Ohio-class submarines from 1988 onwards.²⁴ The progressive improvement in the range of US SLBMs, together with plans for long-range cruise missiles, permitted a corresponding increase in the geographic zones in which the United States could operationally deploy long-range missile systems and still be within targeting range of the Soviet mainland.

Simultaneously with the increase in global reach of US submarine forces, US general purpose naval forces were becoming steadily more nuclearized in both their mode of propulsion and their weaponry. By the early 1980s, nearly half of the US fleet was nuclear-powered.²⁵ US major combatant vessels had long been equipped with tactical ASW and anti-ship nuclear weapons such as the ASROC and TERRIER missiles but in the early 1970s development also began on the Tomahawk long-range land-attack sea-launched nuclear capable cruise missile with a range of 2,500 km.²⁶

Deployment of nuclear-armed Tomahawk cruise missiles began in 1984 and involves a wide range of naval platforms, including battleships, cruisers, destroyers and attack submarines; 3,068 - including 1,000 nuclear-armed - SLCMs are scheduled for worldwide deployment on US naval forces.²⁷ Given the Tomahawk's 200-250 kiloton warhead, precision guidance system, and flexible role, the deployment of these missiles was described by Arkin *et al.* as 'the most significant post-war power projection development in tactical naval forces'.²⁸ An air-launched cruise missile of similar range is also being deployed on US B52G/H squadrons.²⁹ This large-scale cruise missile deployment, together with short-range tactical and ASW nuclear weapons, further extends the global deployment of US nuclear capabilities to wherever its general purpose forces are stationed or regularly transit.

The trend towards long-range nuclear weaponry deployed on mobile platforms, coupled with increasingly global ASW and electronic surveillance programs involving tactical ASW nuclear weapons, serves to explain the heightened US concern about transit and port access rights in its approach to NFZs from the early 1970s onwards. The

globalization of US nuclear weapon deployment on mobile naval and air platforms resulted in a limitation of the areas in which the United States was prepared to contemplate NFZ establishment.

Analysis of US voting patterns on NFZ and related initiatives at the UN³⁰ suggests that the United States was prepared to support NFZs only in land regions where it did not have major nuclear weapon deployment (Latin America, South Asia, Middle East, and Antarctica) and was opposed to all proposals perceived to constrain either its land-based nuclear deployments (European and Balkans NFZ proposals) or mobile nuclear forces (Indian Ocean ZOP, SPNFZ, Mediterranean NFZ).

US opposition to SPNFZ proposals in the 1970s was reinforced by specific regional US priorities that emerged in the late 1960s and early 1970s.

The most important of these US concerns lay in the Indian Ocean region. The Nixon and Ford Administrations became concerned at the British withdrawal east of Suez (conceived as leaving a power vacuum), the 1968 commencement of regular Soviet naval patrols in the Indian Ocean (initially 3 to 5 warships), the competition with the Soviet Union in sending naval task forces to the Bay of Bengal during the 1971 India-Pakistan War, the Soviet links with some newly-independent African states (including Angola, Mozambique and Somalia), and, perhaps most important of all, the threat to Western oil access presented by the 1973 Arab oil embargo and subsequent OPEC moves to increase the price of oil. Prompted by these multiple concerns, the United States substantially increased its naval and air presence in the Indian Ocean. The chief manifestations of the new priority which the United States attached to the Indian Ocean were the establishment of a military and naval base at Diego Garcia over the period 1971-75, the gaining of US port access in Bahrain, and the regular deployment of US carrier task forces to the Indian Ocean from 1973 onwards.³¹

As a result of its new Indian Ocean priorities, the United States became concerned with the maintenance and protection of sea-lanes of communication between US Pacific bases and the Indian Ocean, and with securing logistical and rest and recreation facilities for ships and planes transiting to and from the region. Many of these support functions were conveniently and economically served by port calls in the South Pacific, particularly by port calls to Australian ports. While the New Zealand 1975 SPNFZ proposal, if it had led to a regional ban on nuclear port access, would not have posed an insuperable obstacle to US Indian Ocean operations (since access was possible from the Atlantic and Mediterranean), it would certainly have imposed additional logistical and crew morale costs for US Indian Ocean operations.

Further, during the mid-1970s, several additional factors created a heightened US interest in the South Pacific region. These included the emergence of ten independent South Pacific small states, Soviet moves to establish a diplomatic presence and fishing agreements with new island states, concern over the implications of newly-declared 200 mile EEZ for US fishing interests in the region, and concern over the anti-nuclear stance of the New Zealand Labour government of 1972-75.³² In the case of the 1975 New Zealand Labour SPNFZ initiative, the US government was not only alarmed that it might interfere with nuclear weapons transit and port calls, but also that it might impose restrictions on nuclear-weapon-related installations, such as the joint US-Australian Northwest Cape Naval Communications Station.³³

Whereas before 1976, the United States was content to leave responsibility for the protection of United States and Western interests in the region to Australia and New Zealand, it now perceived the need to play a 'modest supportive role' while still acknowledging the 'lead role' of those countries.³⁴

This strengthened US role in the South Pacific involved the upgrading of diplomatic missions in the region, increased economic aid, more frequent 'good will' visits by US warships, increased hosting of visits by Pacific island leaders and military staff to Pacific Command HQ in Hawaii and to Washington, establishment of military cooperation programs involving seminars, training activities, personnel exchanges and joint exercises aimed at enlisting South Pacific states in an 'Asia-Pacific coalition strategy', and efforts to reverse restrictions on US nuclear warship access to South Pacific ports.³⁵ As already noted in Chapter 6, the latter objective was successfully achieved in the case of at least two island countries, Fiji and Western Samoa. It was also partially successful in Papua New Guinea to the extent that the PNG government did not challenge the US 'Neither Confirm Nor Deny' (NCND) policy but gave visiting US nuclear vessels the benefit of the doubt. In Fiji, US diplomats made particularly strenuous efforts to oppose moves for denuclearization, with the former US ambassador to Fiji, William Bodde Jr publicly stating in 1982 that:

A nuclear-free zone would be unacceptable to the US, given our strategic needs...the US must do everything possible to counter this movement. We must convince our friends in the region that a 'nuclear-free Pacific' could change the balance of power with the Soviets to our disadvantage and thereby endanger world peace.³⁶

Further, the US ambassador in Fiji during 1982-1983, Fred Eckert, was particularly influential in securing the formal 1983 reversal of Fiji's previous official ban on nuclear ship visits and in establishing closer US ties with Fiji.³⁷

In brief, by the early 1980s, there was a convergence of several factors contributing to an increased American nuclear presence in the South Pacific region: expanded global deployment of naval nuclear weaponry, increased need for transit to and from the Indian Ocean, increased need for portcalls for logistical, rest and recreation, and 'good will' reasons, and expansion and upgrading of C³I infrastructure in response to new strategic targeting and communication needs. As a consequence, US policy crystallized into firm opposition to any NFZ proposal perceived to adversely affect expanding US mobile nuclear deployment and nuclear-weapon-related infrastructure in the South Pacific. Further, US policy involved not merely the registering of diplomatic opposition to regional NFZ proposals but also diplomatic, economic and military inducements to remove barriers to the US nuclear presence.

US SPNFZ policy: its influence on the negotiation and provisions of the Rarotonga Treaty

The influence of US policy on the negotiation and provisions of the Rarotonga Treaty was acknowledged by both the Reagan Administration and the Australian government.

In its statement explaining US unwillingness to sign the Rarotonga Treaty protocols, the Reagan Administration noted that the US was:

... appreciative of the role of the government of Australia and other parties to the treaty in this matter, including their efforts to keep our and allied interests in mind as they managed the composition of the treaty and protocols.³⁸

On the Australian side, the Prime Minister, Bob Hawke, emphasized that the Australian government 'maintained communications with the US government throughout the development of the treaty' and that an effort was made to 'ensure that the language and intent of the SPNFZ Treaty were consistent with ANZUS Treaty obligations'.³⁹

Australian representatives also noted, as discussed in Chapter 4, that the treaty in no way interfered with either existing or 'contemplated' US strategic operations or mobility in the South Pacific region.

As analysed in Chapter 4, the Australian government was successful in securing treaty provisions that protected US nuclear transit rights through territorial waters, US port-access for nuclear armed vessels at the discretion of individual countries, US C³I, navigation and scientific bases located within the region, US rights to deploy and fire nuclear weapons from the zone (as distinct from using nuclear weapons against the zone), control of US nuclear weapons from South Pacific territory, continued right of US transit and nuclear deployment in the high seas and EEZs enclosed by the zone, and continued right of the United States to test missiles in the high seas within the zone. In the principal areas of US strategic expansion, notably mobile deployment of sea and air-launched nuclear weapons, expansion and upgrading of C³I infrastructure, and increased flexibility of nuclear weapon systems to support counterforce, nuclear warfighting and SDI roles, the treaty imposed no restriction either on present nuclear activities or the expansion of those activities.

At the same time, Australia succeeded in building into the treaty an amendment procedure that made the treaty difficult to strengthen at a later date, thereby giving additional reassurance to the United States that it would not serve as an anti-nuclear 'Trojan Horse' that would lead to the unravelling of the US strategic nuclear presence in the region.

While the treaty did provide a ban on stationing that would prevent permanent US land-based stationing of nuclear weapons in the region, the United States does not presently contemplate such stationing within the existing boundaries of the zone, and could easily circumvent this provision through *de facto* sea-based stationing of nuclear munitions on logistical support vessels.

Further, since the ban also applies to Soviet stationing of nuclear weapons in the region, any sacrifice of stationing rights by the US was balanced by a similar sacrifice on the part of the Soviet Union - not an insignificant trade-off given American fears of the possibility of the Soviet Union securing military basing facilities in island states.

In 1983, just prior to the commencement of negotiations on the Rarotonga Treaty, US State Department representatives explicitly identified some of the nuclear activities that the United States was concerned to protect in the context of pressures for regional denuclearization.

The State Department Director of Pacific Island Affairs, Richard Dols, cited increases in the size of the Soviet Pacific Fleet and the likelihood of increased Soviet submarine

activity in the South Pacific as requiring increased US submarine surveillance in the region, with associated needs for refuelling and replenishment of supplies and shore leave.⁴⁰ Dols also argued that US ability to support regional friends and allies 'in any contingency' depended on free movement through the Pacific islands. If island governments were to exclude US nuclear-propelled or armed ships and aircraft from their territories, the ability of US forces to respond to contingencies would be hampered.⁴¹

In the same period, John Dorrance, a State Department specialist on Oceania, stressed not only the need for US and ANZUS ASW tracking and surveillance operations in the South Pacific but also the need for regionally-deployed nuclear-armed US forces to counter Soviet nuclear capability in the Pacific and Indian Oceans as both a peace-time necessity to balance the political influence of Soviet nuclear capabilities and as a deterrent that would raise the threshold for conflict.⁴²

Dorrance noted that:

... unless carefully crafted, a South Pacific Nuclear Free Zone could cripple the ability of US forces to exercise in the South Pacific with our ANZUS allies and to transit the South Pacific to Australia, New Zealand and the Indian Ocean in war or peace.⁴³

To gain US support, any SPNFZ would not only have to protect US transit and port/airfield access rights but meet seven general criteria that the US had established for assessing regional NFZs.

These criteria included: (1) the need for the initiative to come from regional states; (2) the need for all states 'whose participation is deemed important' to participate in the zone; (3) adequate verification; (4) the non-disturbance of existing security arrangements to the detriment of regional and international security; (5) prohibition of all nuclear explosive devices, including 'PNES'; (6) the maintenance of existing rights of parties under international law to grant or deny to other states transit privileges within internal waters, including port calls and overflights; (7) no restriction on the exercise of rights recognized under international law, particularly the principle of freedom of navigation of the high seas, in international airspace, and through straits used for international navigation, and the right of innocent passage through territorial seas.⁴⁴

In late 1983, prior to the commencement of negotiations, Dorrance foresaw no problems in the Australian SPNFZ initiative complying with these criteria, with the possible exception of (2).⁴⁵ So far as the second criterion was concerned, Dorrance noted that US-French relations were an issue and that the United States might consider that this requirement was not met if France, as a state with regional South Pacific territories, did not support the proposal.

In the event, the treaty provisions closely reflected the US criteria, even to the extent of similarities in the wording of transit rights. The treaty's compatibility with existing US nuclear activities in the South Pacific region was, indeed, confirmed in the official Administration statement announcing that the United States would not sign the treaty protocols.

The statement acknowledged that US practices in the South Pacific were 'not inconsistent with the treaty or its protocols'.⁴⁶ The sticking points were not so much the

US criteria as they related to the US strategic presence within the South Pacific region but rather those relating to broader issues - the question of the treaty's implications for international security globally and the attitude of France (to the extent that the United States regarded France as covered by its second criterion).

Between the signing of the Rarotonga Treaty in August 1985 and early 1987, the United States remained non-committal on the measure. Following the signing of the treaty, a delegation of South Pacific Forum officials visited the United States, together with other nuclear powers, to discuss the proposed treaty protocols. As a result of these consultations, a further change was made to the draft protocols which reduced nuclear-weapon state obligations under the protocols.

In the case of Protocol 2, the original draft protocol included a clause similar to that in the comparable Tlatelolco Treaty, which required nuclear-weapon states to undertake 'not to contribute to any act which constitutes a violation of the Treaty or its Protocols by Parties to them'. Under this draft formula, nuclear-weapon states would have been prohibited from direct violations of the treaty as well as have an obligation not to contribute to violations by other parties (whether treaty or protocol signatories).

Under the revised clause, however, nuclear-weapon state obligations were confined to not contributing to violations by treaty parties and did not cover direct violations by Protocol signatories apart from the non-use obligations against zone states' territories. Under the original draft, it might have been inferred, in relation to violations of Article 3, that there was an obligation on the nuclear powers not to have control over any nuclear explosive device within the zone area - clearly an unpalatable requirement for nuclear powers wishing to send nuclear-armed forces or operate C³I bases in the region.

A second revision of the original draft protocols, affecting not only Protocol 2 but also Protocols 1 and 3, was the inclusion of an additional article that granted nuclear-weapon states 3 months' withdrawal rights compared to 12 months' for signatories of the treaty itself. Article 3 of the new protocol permits nuclear-weapon state withdrawal if the state 'decides that extraordinary events, related to the subject matter of this Protocol, have jeopardised its supreme interests'. This vague formula provided a relatively simple escape route for any nuclear power seeking to avoid its obligations under the treaty, and represented a further concession to the United States to secure its approval of the protocols.

The US decision against signing the Protocols

Despite the careful crafting of the treaty to protect present and future US strategic interests and the revision of the protocols during 1986 to make them as acceptable as possible to the United States, the Reagan Administration announced in February 1987 that it would not sign the protocols. Stressing that the US decision was based on 'global considerations and not on bilateral or regional concerns', the State Department spokesman, Charles Redman, stated that the growing number of proposals for regional nuclear free zones had the 'potential to undermine the policy of deterrence which has been the cornerstone of Western security since World War Two' and that 'a proliferation of such zones in the free world, unmatched by disarmament in the Soviet bloc, is clearly detrimental to Western security'.⁴⁷ Redman further drew attention to the US criteria for assessing NFZs, and said that the criterion that a zone 'should not disturb existing security arrangements to

the detriment of regional or international security' was of 'particular importance' in the decision not to support the South Pacific treaty.⁴⁸ Having also acknowledged, as noted above, that the treaty drafters had kept US interests in mind and that US practices in the South Pacific were not affected by the treaty, it was evident that the primary motivation for US reluctance to sign the protocols lay in concern over legitimizing an arms control approach that might adversely affect its strategic interests elsewhere.

The same themes were reiterated in a subsequent statement by President Reagan on the issue. Noting that the NFZ approach was at its best in dealing with nuclear proliferation, as in Latin America or South Asia, President Reagan argued that proliferation was not an issue in the South Pacific and that:

... we have to be careful about encouraging the notion that writing a treaty that would wall off a portion of the world from nuclear weapons somehow makes a contribution to world peace...Anything that may weaken deterrence does a disservice to the cause of world peace...the spread of nuclear free zones can make the job of maintaining deterrence much harder.⁴⁹

While the reference to the walling off of portions of the world from nuclear weapons did not quite fit the Rarotonga Treaty's accommodation of nuclear transit and launching of nuclear weapons within the zone, and an Administration representative subsequently acknowledged that the treaty 'may not, as it is written, harm deterrence',⁵⁰ the Reagan Administration was evidently concerned with the less tangible psychological or precedent-setting role of the treaty in fostering zones elsewhere, whether of the same type or of a more comprehensive character.

This was made quite explicit in State Department testimony on the treaty before Congressional hearings in September 1986. The Deputy Assistant Secretary of East Asian and Pacific Affairs, James Lilley, indicated in testimony during the hearings:

There is a feeling that it would encourage other areas to adopt similar or more strict nuclear free zones. It would encourage people to sort of take sections of the Western world and opt out.⁵¹

The United States Ambassador to the UN, Vernon Walters, also explained that, while the treaty provisions may not actually affect deterrence, 'there is a perception that it does', and that the United States was worried that its support in this case could assist the worldwide spread of NFZ treaties to the detriment of global deterrence.⁵²

In a global context where NFZs were being actively considered by other governments within the US formal or informal alliance system, such as the Balkans NFZ concept under consideration by Greece (together with Romania, Bulgaria and Turkey), the Nordic NFZ concept under consideration by Norway and Denmark (together with Finland and Sweden), the Indian Ocean ZOP concept supported by Indian Ocean littoral and hinterland states, and the South East Asian NFZ concept under consideration by the ASEAN states, the United States was obviously concerned about possible ramifications for its nuclear-armed forces deployed in such regions as Europe, Southeast Asia and the Indian Ocean.

To have signed the Rarotonga protocols would have created an expectation that the United States would be prepared to support NFZ in these regions too. While the limited-scope Rarotonga Treaty imposed little or no impediment on US present or contemplated

nuclear activities within the South Pacific region, its anti-stationing provisions would have more radical implications for US strategy were such a treaty to be transposed to a European, Southeast Asian or Indian Ocean context. In all three regions the United States currently stations nuclear-armed forces or has plans for the stationing of nuclear weapons in the event of war. The promotion of comprehensive NFZs by social democratic parties and peace movements in many of these regions undoubtedly increased US fears that, in recognizing the Rarotonga Treaty, it would encourage NFZs elsewhere that would affect US strategic interests to a greater extent, such as excluding US nuclear transit and cruise missile launchers from regions deemed strategically important for ASW or targeting of Soviet land areas.

While concern over the domino effect of supporting the Rarotonga Treaty was the key factor in the US decision not to sign the protocols, it was by no means the only factor. As noted already, in 1983 Dorrance anticipated problems with US-French relations if the United States were to support the zone. In late 1985, when the United States first began considering the treaty, the Australian Embassy in Washington reported that State Department officials commented that the Department's European Bureau was particularly opposed to the treaty as a result of French reactions, and that Australian representatives would need to address US concerns about the French.⁵³

In the months preceding the US decision, the French government vigorously lobbied the Reagan Administration to oppose the treaty, sending its Pacific Ambassador, Gaston Flosse, to Washington to put the French view. While the Reagan Administration did not comment officially on concerns relating to French objections to the treaty and American-French relations, a senior US Defence Department official was reported at the time of the decision as saying that the strong opposition of France was a major element in the US decision not to sign the protocols.⁵⁴

French testing was viewed sympathetically by the Administration as a necessary part of France's contribution to the Western nuclear deterrent against the Soviet bloc (*ibid.*). Prior to the announcement of the decision, senior US officials also voiced concern about French reactions. The former US Deputy Assistant Secretary for International Security Policy, Richard Perle, testified that:

... signing the treaty would have been embarrassing to France and other US allies and would have put political pressure on the French.⁵⁵

Similarly, in testimony before Congressional hearings in September 1986, James Lilley, noted that US accession to the treaty could provoke strong protest from Paris.⁵⁶

Other factors that created US sympathy for French views included President Mitterrand's strong support for US strategic policies in Europe and the need for French cooperation in US global ASW programmes, including exchange of surveillance data and use of French overseas airfields for P3-Orion transit and refuelling needs. As the French historian, Jean Chesneaux, notes:

In many respects, France and the US stand side-by-side in the Pacific; they are the only two surviving colonial powers in the Pacific. Both control enormous stretches of ocean. Both are actively engaged in nuclear activities within the Pacific Basin in pursuit of 'globalist' security goals...France does not question US hegemony in the Pacific; the US in turn adopts an understanding attitude towards France's position.⁵⁷

In balancing the need for maintaining good relations with its ANZUS ally, Australia, and maintaining similar relations with a major European power, the Reagan Administration evidently concluded that it was more important to preserve good relations with France. The fact that the Australian government was firmly committed to ANZUS while the French government, as demonstrated historically by its 1966 withdrawal from the military organization of NATO, had shown itself to be willing to exercise independence within the Western alliance system, reinforced the view that Australian support for US global nuclear strategy could be taken for granted whereas French support needed to be nurtured.

A third factor in the US decision was linkage of the regional NFZ issue with the New Zealand refusal of access to US warships. Since New Zealand was a strong supporter of the zone's establishment, US refusal to sign the treaty could potentially function as a form of diplomatic retaliation for New Zealand's denial of warship access. The 1986 Congressional Armed Services Committee delegation to the South Pacific, fostered this linkage by arguing that:

At the very least these (Rarotonga Treaty) protocols encourage the other participants in the treaty to bar port visits of ships carrying nuclear weapons, as does New Zealand.⁵⁸

Individual members of the delegation also called for non-signature of the protocols while New Zealand maintained its ships ban. While the official Administration statement announcing the decision not to sign the protocols denied that New Zealand's anti-nuclear attitude was part of the criteria used by the United States in evaluating the treaty,⁵⁹ the Australian Embassy in Washington, according to press reports, believed that this was, indeed, an important element in the US decision. According to an Australian Embassy cable, the US State Department Director for Australia and New Zealand Affairs stated in consultations with Australian representatives that:

... his expectation was that the US approach to the treaty would probably be one of continuing to be open-minded about the treaty while being ready to be more positive if there were a shift on port access.⁶⁰

The Australian Embassy commented that:

... the problem of port access in New Zealand is complicating US considerations of the SPNFZ.⁶¹

While the treaty did not contain any clause that 'encouraged' the spread of port bans, it is likely, given the continuing dispute with New Zealand over port bans, that the Administration saw merit in applying additional diplomatic leverage on New Zealand both directly and through Australia by hinging its support of the treaty to lifting of the New Zealand bans.

A fourth factor, not explicitly referred to in any of the official US or Australian statements relating to the US decision not to sign the protocols but, quite feasibly, the basis of reported misgivings on the part of the International Strategic Policy Division of the US Defence Department,⁶² was the potential future difficulties for US military and strategic planning in Micronesia if the three Compact of Free Association states, Belau, Marshall Islands and Federated States of Micronesia, were to seek membership of the zone.

Despite its limited scope, the treaty provisions would prohibit land-based stationing or storage of nuclear weapons in these countries, thereby creating constraints on planned contingency bases in Belau and contingency rights of nuclear storage under the Compact of Free Association. If the United States were to lose its bases in the Philippines or Japan, these constraints could become even more onerous for US strategic planning in the Pacific. As one American analyst noted, US strategic stakes in Micronesia meant that the United States would be:

... likely .. to work against any developments that seek to include North Pacific entities within the South Pacific (nuclear)-free-zone.⁶³

US misgivings about the possible extension of the zone to include the Micronesian freely-associated states would have been increased by the participation of the Federated States of Micronesia in the drafting group that negotiated the treaty, and the recent accession to full South Pacific Forum membership of both FSM and the Marshall Islands, thereby qualifying them for entry under Article 12 of the Treaty (subject to the approval of the South Pacific Forum).

While the concern about Micronesia was undoubtedly present, it would not necessarily have been an insuperable obstacle to US ratification of the protocols, since the United States would retain veto powers under the Compact of Free Association over FSM, Marshall Islands or Belau becoming parties of the treaty (see Chapter 6). In deference to US sensitivities on this issue, the Australian government was careful to draw the current zone boundaries so as not to include the three Micronesian Compact states, and would have emphasised to the United States that any inclusion of these states would depend both on Australian approval under the treaty and US approval under the Compact.

A final factor in the US decision to oppose signature was a concern that the treaty might eventually be strengthened through amendment. In Congressional testimony, James Lilley noted that 'over time perhaps ... the South Pacific Nuclear Free Zone would be tightened. There are Melanesian states that feel it should be'.⁶⁴ However, in view of the exceptionally stringent amendment procedure incorporated into the treaty - requiring unanimous agreement and therefore Australian approval for any amendment - Administration concerns over this issue were probably less salient than for the other four factors.

Conclusion

The scale and diversity of US strategic nuclear activities and interests in the South Pacific ensured that the United States would be categorically opposed to any comprehensive regional NFZ proposal. Any measure that threatened such aspects of its regional nuclear presence as nuclear-weapon transit and port calls, C³I infrastructure, missile testing, and nuclear-weapon-related navigational and scientific installations would be particularly likely to provoke American opposition. Historically, the United States has made great efforts to discourage regional South Pacific NFZ initiatives since the early 1960s.

It is less obvious why the United States would oppose a zone arrangement that, on the argument developed in Chapters 3 and 4, was designed to protect expanding US strategic interests in the face of increasing regional pressures for denuclearization, and did

in fact accommodate - as acknowledged by the Reagan Administration itself - all present and contemplated US operational requirements within the zone.

Prior to the negotiation of the treaty, the public statements of the Reagan Administration and the close alliance relationship between Australia and the US gave grounds for thinking that the Administration would sign the treaty. In late 1984, for example, during the drafting of the treaty, the Director of the US Arms Control and Disarmament Agency, David Emery, visited Canberra for discussions on the treaty and other arms control issues, and publicly stated that the United States 'was likely to agree to such a zone if it did not restrict the passage of its warships and planes' and that the United States saw:

... no substantial problem with the proposal for a South Pacific nuclear free zone so long as it follows certain guidelines.⁶⁵

Factors conducive to US signature included the Administration's strong support for the NPT - which explicitly endorses NFZs - at the 1985 Third NPT Conference;⁶⁶ the fact that the Reagan Administration was prepared to ratify Protocol I of the Tlatelolco Treaty;⁶⁷ and the US efforts from the late 1970s onwards to improve relations with South Pacific states, including the upgrading of diplomatic representation, increased economic and military aid, and, most recently, efforts to resolve fishing disputes with South Pacific countries.

In the event, as freely acknowledged by officials,⁶⁸ there was considerable internal debate within the Administration as to how to respond to the initiative, with some agencies, ACDA and the International Security Affairs Division of the Defence Department sympathetic to the treaty and others, notably the International Strategic Policy Division of the Defence Department, the State Department European Bureau, and the State Department East Asian and Pacific Affairs desk opposed to signature.

The debate brought to the surface a number of US reservations that, while predictable enough, were not previously emphasized in US public statements on NFZs.

The American grounds for opposition, for the most part, did not deny that the treaty had adequately secured US strategic interests in the region, nor denied the validity of the Australian strategy of safeguarding US regional interests through a partial treaty aimed at preempting more radical denuclearization initiatives. Rather, the opposition centred primarily on global considerations beyond the direct scope of the treaty provisions, notably: fears about the domino effect of the treaty in encouraging more radical denuclearization moves elsewhere - to the detriment of US strategies for the nuclear encirclement of the Soviet Union through forward-deployed nuclear forces in Europe, Southeast Asia and the Indian Ocean; concern about its relations and military cooperation programs with a major European nuclear power, France, whose nuclear 'force de frappe' was viewed by the Reagan Administration as an integral part of the Western nuclear deterrent; and the tactical need to exert leverage on New Zealand to reverse its nuclear ships ban, again dictated by a wish to discourage a falling-domino spread of nuclear warship bans among other US allies.

Non-signature of the Rarotonga Treaty protocols, while incurring an acknowledged cost in producing strains in US relations with South Pacific countries, allowed the United

States to achieve the best of all possible outcomes from the viewpoint of US strategic interests, both regionally and globally.

Even without US ratification, the treaty will still serve the function intended by its Australian initiators - the safeguarding and legitimization of US nuclear and strategic practices in the region by deflecting regional anti-nuclear sentiment from a more comprehensive denuclearization arrangement towards non-ANZUS 'third party' nuclear activities - since the treaty does not depend on US ratification for its entry into force.

Non-signature of the protocols thereby enabled the United States to take advantage of the regional strategic benefits afforded by the treaty while simultaneously avoiding the appearance of encouraging or fostering more comprehensive NFZs elsewhere - or jeopardizing productive strategic cooperation with an independently inclined European power, France, whose relations with the United States could not be taken as much for granted as the ANZUS relationship with Australia.

NOTES

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CHAPTER 8

Responses of the other Nuclear Powers: France, Britain, the Soviet Union and China

Introduction

The Rarotonga Treaty requires France, Britain and the United States, as metropolitan states with territories in the South Pacific, to sign Protocol 1 (involving an obligation to observe the terms of the treaty in their Pacific territories), and all the nuclear powers to sign the non-use and related guarantees under Protocol 2 and the non-testing guarantees under Protocol 3.

In the event, the treaty elicited widely varying responses from the remaining nuclear powers. France and Britain refused to sign any of the protocols while the Soviet Union and China expressed strong general support for the treaty and signed the relevant protocols soon after they were opened for signature. In January 1988, the Soviet Union took the further step of ratifying the protocols.

The French response is relatively easy to explain since France is the only Western power whose existing nuclear practices and interests in the Pacific are substantially affected by the treaty. Britain, despite historical bonds with South Pacific states, has advanced similar arguments to those of its close ally, the United States. Chinese support is understandable both in terms of its general support for the NFZ concept and since its nuclear interests are not affected by the treaty. Soviet willingness to ratify the relevant protocols might appear surprising given the pro-ANZUS character of the treaty, but becomes explicable in the context of the limited strategic concessions entailed, the regional political gains anticipated, and Soviet perceptions of the possibility of the treaty becoming an element of a wider arms control process in the Asia-Pacific region.

French responses to the SPNFZ

After the United States, France is the nuclear power with the largest nuclear presence in the South Pacific. Since 1963, it has established and maintained a nuclear-weapon test centre at Moruroa in the French-controlled territory of French Polynesia, colonized by France in the mid-nineteenth century. France also maintains naval and air bases at its other major Pacific territory, New Caledonia, through which nuclear-capable or nuclear-material-carrying vessels or aircraft occasionally transit; and, using its permanently deployed Pacific-based naval group comprising 4 frigates, 3 landing-ships and several patrol boats and support vessels, carries out surveillance activities in the French-controlled regions of the Pacific.¹

Between 1966 and 1974, France conducted a total of 41 atmospheric tests of varying yields, ranging from 5 kilotons to as large as 1 megaton. Following widespread opposition

to the testing, culminating in Australia and New Zealand taking the case to the International Court of Justice in 1973, and both countries sending naval vessels close to the test zone to monitor the tests, France shifted to underground testing in 1975. Between 1975 and 1984, France conducted 67 underground tests at an average rate of 8 tests per year, with yields ranging in size from 1 to 150 kilotons.

The French government has frequently stated that there is no intention of ceasing its Pacific test programme, although rumours have circulated in recent years of a possible relocation to Kerguelen Island in the Indian Ocean, or to the Marquesas Islands (also in French Polynesia). Continued French testing, as discussed in Chapter 6, is a major source of concern among South Pacific countries. The regional unpopularity of the French Pacific test programme was further intensified by the *Rainbow Warrior* incident of July 1985.

French reluctance to accede to appeals to end its test programme may be explained by France's evolving nuclear posture and strategies. While De Gaulle's initial decision to test and deploy nuclear weapons was taken primarily for the political reason of preserving France's status as a world power, French military strategists quickly elaborated a strategic rationale for the 'force de frappe'. This was the concept of 'proportional deterrence', first advanced by General Pierre Gallois in 1960 and subsequently embraced by successive French governments.

The doctrine argues that a relatively small nuclear striking force with the aim of massive retaliation can act as a deterrent against a superpower attack since the consequences of such retaliation would exceed the value to the superpower of invading or controlling a small or medium-sized state.² In the view of some French strategists, the doctrine depends on the small power's nuclear strike force remaining invulnerable to first strike attack by the superpower. Some analysts have argued that the first generation of French land and air-based nuclear forces are already vulnerable to Soviet first strike attack, and that even second generation submarine-based weapons may be vulnerable to increasing Soviet ASW capabilities. As a result of the continual superpower competition to modernise their nuclear arsenals, and increasing superpower counterforce capabilities, the proportional deterrence doctrine provides a rationale for the government to continually modernize its nuclear forces to minimize vulnerability to first strike attack.

The French nuclear testing programme is a major element in this modernization process. From 1975 to the present, it permitted the deployment of a range of second generation warheads and the development of new third generation weapons proposed for deployment in the late 1980s and 1990s. Second generation warheads already deployed include the 1-megaton S3 warheads for IRBMs on the Plateau D'Albion; the warheads for the M-20 SLBM deployed in 1977; and the AN-22 warhead. Third generation warheads tested at Moruroa include neutron bombs, warheads for new ground to air medium range missiles, and warheads for new SLBMs.³

The continuing role of the French nuclear test programme in the 1980s and 1990s is related to the nuclear modernization programme announced by the Mitterrand government in June 1983. This envisages: the addition of two SSBNs to the existing fleet of 5 SSBNs and the retrofitting of MIRVed M4 SLBMs to all SSBNs, each M4 equipped with 6 150-kt warheads; the deployment of a mobile land-based IRBM, the SX missile, to replace the Mirage IV force by 1996; the replacement of the Pluton force with Hades ground-launched missiles with warheads in the 20-60 kt range and a capability of carrying neutron warheads;

the deployment of ASMP short-range attack missiles with 100-300 kt. range warheads on three airborne platforms (Mirage IV, Mirage 2000N, and carrier-based Super Etendards); and plans for a follow-on air-launched missile, the ASLP, with improved range and targeting features. The new modernization programme, summarized in Appendix E, is expected to yield a five-fold increase in potential target coverage for strategic forces and an increase of 100 targets for tactical forces.

To emphasise the role of the Pacific test site in this modernization process and French determination to keep on testing, President Mitterrand personally visited Moruroa in September 1986 and publicly defended the test programme. He argued that:

You cannot have nuclear arms and not maintain and adapt them, for these arms must be competitive. That would amount to asking France to give up its nuclear force, and in so doing, its deterrence capability, that is, its strategy.⁴

While acknowledging regional concerns about the safety of the tests, and permitting a number of visits by scientists to the test site in an effort to reassure regional states about the tests' safety, the French government contended that it was unfair to single out one nuclear power for an aspect of its weapons modernization process when the major nuclear powers were engaged in unconstrained modernization programmes that potentially called into question the credibility of France's own nuclear deterrent.

Under Protocol 1 of the SPNFZ Treaty France is required to undertake, *inter alia*, not to test nuclear explosive devices in any of its Pacific territories. Under Protocol 3, it is additionally enjoined not to test nuclear explosive devices anywhere within the South Pacific Nuclear Free Zone, thereby extending the prohibition to the EEZs and high seas enclosed by the zone. These protocols therefore entail a French commitment to cease its current Pacific nuclear test programme or at least relocate it to another region.

Following the visit to Paris of a South Pacific Forum delegation led by David Sadleir in February 1986, the French Ministry for External Relations issued a statement that set out the broad basis of French opposition to signing the Protocols while at the same time foreshadowing further dialogue on the issues. According to the statement:

France considers that these propositions arouse problems concerning regional security and French interests in this part of the world...However, France restates her belief that a nuclear test ban treaty can only be envisaged in the context of a longer term process for the reduction of nuclear arms paving the way for a new balance of forces to be struck at the lowest possible level. An end to nuclear testing cannot, for France, be a condition of, or even a prerequisite to, global reduction in nuclear arsenals.⁵

The emphasis of the statement reflected the French government's perception of the Rarotonga Treaty as primarily a regional move towards a comprehensive test ban that - in the absence of prior deep cuts in superpower nuclear forces - would unfairly discriminate against the smaller nuclear powers.

A subsequent paper on the Rarotonga Treaty by the French Ambassador in Washington, H.E. Emmanuel de Margerie, expanded on the reasons for French refusal to sign the protocols. In the French view, the treaty represented a regional approach to a global problem, nuclear testing. In the absence of a global agreement on nuclear testing, a regional ban affecting only a lesser nuclear power rather than the superpowers was discriminatory

and unacceptable.⁶ However, even if regional states were to confine themselves to seeking a comprehensive test ban treaty at a global level, France would also oppose this as a discriminatory measure since the superpowers would 'enjoy an advantage over France in terms of data accumulated since the dawn of the nuclear era, having conducted a vastly greater number of tests than France'. Only if the test ban were preceded by 'a process of arms cuts so deep as to alter fundamentally the role of these weapons in international testing' would France consider agreeing to a comprehensive test ban.⁷

To the rejoinder that the Rarotonga Treaty did not obligate France to cease testing *per se* but merely to cease testing in the South Pacific region, the French reply was that the South Pacific was required for its 'space and sparsely populated areas'. Since France regarded French Polynesia as an integral part of its own territory there was no difference in principle between other nuclear powers which test on their own mainland and the French choice of test site.⁸ Further, the basaltic rock nature of Moruroa Atoll provided 'inherent safety' and it 'would not have been cost effective to move to a different area'.⁹

Another factor in French reluctance to move the Pacific test site, unstated in French official statements but frequently claimed by regional opponents of Pacific testing, is that the relocation of testing to mainland France - despite claims of safety for underground testing - would be politically unacceptable because of perceived radiation hazards. Recent opinion polls in metropolitan France show growing anti-nuclear sentiment, especially in the wake of the Chernobyl accident. In August-September 1986, an opinion poll showed for the first time a majority of French people opposed to the construction of additional nuclear power stations.¹⁰ Even in the case of testing in the remote location of French Polynesia, an opinion poll in October 1985 found that almost one-third of French people disapproved of the tests.¹¹ Any move to relocate the tests to the French mainland could well encounter majority opposition.

The French government's unwillingness to sign the Rarotonga Treaty protocols, while primarily motivated by its firm commitment to continued testing, and reluctance - for whatever reason - to shift its test site out of the Pacific region, also share some common elements with American concerns about the zone.

In the French view, the proximity of Soviet naval and air forces in the North Pacific, with capacity to reach into the South Pacific, coupled with possibilities for pro-communist destabilization in Korea and the Philippines, requires the presence of Western nuclear fleets in the South Pacific.¹² French - and other Western powers' - signature of the Rarotonga protocols:

... could result in a virtual acknowledgment that the activity of Western nuclear fleets in the Southern Pacific zone has become a potentially more destabilizing factor for the countries of the region than the increase in the Soviet sea and land presence in the Northern Pacific.¹³

Since French representatives acknowledged that the treaty permits transit and portcalls by nuclear-armed vessels, this concern evidently related to the non-use guarantees against the zone as they apply to Western nuclear forces transiting the region. In other words, symbolically, the forces which, in the French view, were protecting the region against Soviet adversary forces, were being asked to refrain from nuclear attacks on the region as if they posed an equal or greater threat to the region than Soviet forces.

Further, like the Americans, France was concerned about the possibility that signing the protocols would set a precedent for other parts of the world: it would become accepted that one might be part of an alliance with the United States, ultimately underwritten by US military capability, and yet participate in a NFZ. France perceived this as inconsistent and likely to encourage current NFZ proposals - opposed by France - in Europe or Southeast Asia.¹⁴

Another French concern was with Article 6 of the Rarotonga Treaty. This commits treaty parties not to take any action to assist or encourage the testing of any nuclear explosive device by any State. While acknowledging that the treaty, *a priori*, permits stopovers, transit and navigation by nuclear-armed ships and aircraft, the French government believed this may 'call the right of innocent passage into question'.¹⁵ What French representatives evidently had in mind was that French vessels or aircraft involved in logistical support of the Moruroa test centre might be denied stopover or transit rights in Australian, New Zealand or other treaty parties' territorial waters and airspace. The possibility of a conflict between the treaty's endorsement of innocent passage and this clause was certainly present, if only because the treaty - as discussed in Chapter 3 - did not specify rights of treaty parties to determine the nature of innocent passage in accordance with the provisions of the Law of the Sea. However, Australian willingness to host French warship visits to Australian ports and transit through Australian waters, both before and after the signing of the treaty, suggested that France need not have been unduly alarmed that Australia would interpret these aspects of the treaty provisions to the detriment of French military transit and rights of innocent passage through the region.

French concern over the threat to French interests posed by the treaty was sufficiently strong for it to undertake active lobbying to dissuade its Atlantic allies, the United States and Britain, from signing the treaty. Not only did it voice strong disapproval to the US State Department's European Bureau but also dispatched its Pacific roving ambassador, Gaston Flosse, to Washington in late 1986 to put the case against US signature.

It also held out the additional incentive to the United States of offering the Pacific Test Centre airfield for US transit purposes, including space shuttle landings.¹⁶ As it transpired, concern over French reaction to the treaty and potential strains on current and future US-French military and strategic cooperation was, indeed, a major factor in the US decision not to sign the treaty protocols (see Chapter 7).

While the French government indicated that these objections to the treaty ruled out French signature of the protocols, it did, however, offer to confirm with South Pacific countries the French 1978 and 1982 negative security guarantees to non-nuclear states. The 1982 French assurance, given at UNSSDII, stated:

France will not use nuclear weapons against a State which does not possess these weapons and which has pledged not to acquire them, except in the case of aggression carried out in association or in alliance with a nuclear power against France or against a State with which France has entered into a security agreement.¹⁷

This was a similar formula to the non-use assurances offered by the United States, Soviet Union, and the UK. As Rosas notes, this formula still opened the way for a nuclear response to a conventional attack on French territories or French allies, and did not specify the degree and form of association or alliance with a nuclear power that would warrant a

nuclear riposte.¹⁸ In another sense, too, the 1982 French non-use undertaking is less constraining than the Rarotonga Protocol 2 since it does not include renunciation of the 'threat of use' as well as actual use of nuclear weapons. In view of the historical use of nuclear threats by nuclear-weapon states and international concern among non-nuclear states about the possibility of 'nuclear blackmail', the obligation to refrain from threat of use is an important element of the additional security provided by NFZs.

Since the principal factor in French opposition to the Rarotonga Treaty is its prohibitions of the French test programme, French willingness to accede to the treaty at a later date would hinge on either radical reductions in superpower nuclear capabilities - the French precondition for agreeing to a comprehensive test ban - or a new French assessment of the political-economic cost-benefits of maintaining their test programme in the Pacific compared to relocating it elsewhere. While rumours persist of a move to the French-controlled Kerguelin Islands in the southern Indian Ocean, such a move would not necessarily ease the regional diplomatic pressure on France since such a move would also be opposed by most Indian Ocean basin and littoral states, particularly in view of the United Nations moves to establish the Indian Ocean as a Zone of Peace.

In terms of relocation to mainland France, French sensitivity to radioactive hazards following the Chernobyl disaster increased the political obstacles to such a move. While the United States, evidently to offset the regional disaffection caused by its refusal to ratify the Rarotonga Treaty, reportedly offered France the use of its Nevada test facilities, the French government denied receiving the offer,¹⁹ and, in any case, would be unlikely to take it up given its long-standing concern to protect France's nuclear independence.

Even if France were to cease testing or relocate elsewhere, it would still have other reservations about the treaty that would militate against signature of the protocols. Given the French belief that the zone could act as a precedent for establishing NFZs in other regions, France could oppose signature on these grounds alone.

However, France was not so categorically opposed to NFZs - nor indifferent to international and regional pressures - as to have refused to sign the Tlatelolco Treaty protocols, although it is the only relevant nuclear power still to ratify the treaty's Protocol I. Since the Tlatelolco Treaty represents a zone established amongst traditional US allies - through the Rio treaty - and, on balance, is more stringent in its provisions (with the exception of PNEs) than the Rarotonga Treaty, France's own precedent in ratifying Protocol II of the Tlatelolco Treaty could be a future lever in encouraging France to ratify the Rarotonga protocols.

British responses to the Rarotonga Treaty

Britain was the second nuclear power after America to begin atmospheric nuclear testing in the South Pacific.

From 1952-1956 Britain conducted major atmospheric tests at Monte Bello and Maralinga in Australia, further atmospheric tests at Christmas Island (now part of Kiribati) in the mid-Pacific from 1956-1958, and minor nuclear dispersal tests in Australia until at least 1963.²⁰ Its nuclear test programme, however, was relocated to the American Nevada test facility in the early 1960s.

British strategic interest in the Pacific declined substantially as a result of its decision in the late 1960s to 'withdraw East of Suez'. Its remaining nuclear presence in the region is minor, consisting only of occasional transit of nuclear-armed vessels in the region, and involvement with Australia and New Zealand in joint exercises - potentially involving nuclear-capable forces - under the Five Power Defence Arrangements (FPDA).²¹ It also plays a minor supporting role to the US missile testing programme in cooperating with US missile launches into a splashdown area near Oeno Island close to Britain's last remaining Pacific territory, Pitcairn Island.²² It is conceivable that Britain may look towards the Pacific for missile-testing programmes of its own. While British nuclear strategic and tactical strike forces have so far relied on British aircraft and American missiles as delivery systems, British defence planners are considering other possible options in the context of modernizing British nuclear forces. These other options include the use of cruise missiles and the development of independent or Anglo-French missile delivery systems.²³ In this respect, it is possible that Britain might invoke the frequently renewed 1947 Memorandum of Arrangements with Australia for use of the Australian Woomera Rocket Range.²⁴

British general policy on NFZs has closely followed American policy in giving selective approval to NFZs such as the Latin American, Antarctic, Outer Space and Seabed zones, while opposing NFZs in Europe, Scandinavia, the Balkans and the Mediterranean.²⁵ British criteria and concerns in evaluating regional NFZ proposals are similar to those of the United States, especially on such issues as transit rights and port-access for nuclear-armed vessels.

The Thatcher government emphasised four main criteria in assessing the contribution of NFZs to regional security, non-proliferation and disarmament: (1) nuclear weapons should not 'already feature in the security of the region concerned'; (2) the balance of security should be maintained; (3) agreement by all regional states; and (4) non-interference with 'generally established principles of navigation on the high seas or the right of innocent passage in territorial seas'.²⁶ As in the case of the United States, the British government could deem that criteria (3) is not met in the South Pacific as a result of the opposition by France in relation to its South Pacific territories, although, like the United States, it overlooked the letter of this principle in its support and ratification of the Tlatelolco Treaty, which has yet to be fully ratified by three major South American countries, Brazil, Argentina, and Chile, and one nuclear power, France.

The British response to the Rarotonga Treaty was announced on March 20 1987, six weeks after the US response. The statement said that, having taken account of British and allied security interests in the South Pacific as well as regional views and Soviet policy on the treaty, the British government 'concluded that it would not serve our national interest to become party to the Protocols of the Treaty'.²⁷ The statement added that British policy on the treaty would be kept 'under review' and any decision on a new approach would depend, *inter alia*, on three factors.

The first factor was the 'signature and ratification of the treaty by all states eligible to become parties to it'.²⁸ This was evidently a reference to the non-ratification of four island states, Vanuatu, Solomons, Papua New Guinea and Tonga, and conceivably, France, too, as a state with major regional territories. The non-ratification by these states meant that criteria (3) of the British general policy was not met, although, as already noted, Britain was prepared to overlook this criterion in the case of the Tlatelolco Treaty.

The second factor was 'the status and implications of the Soviet declaration on signing the Protocols'.²⁹ Here the British government was concerned with the implications of the initial Soviet reservation that nuclear-weapon transit would be inconsistent with the nuclear-free-status of the zone. The subsequent Soviet withdrawal of its reservations on ratifying the protocols in early 1988 (see below) would presumably be grounds for reconsideration of the British position.

The third factor was 'outcome of discussion of nuclear weapon free zones at the Third UN Special Session on Disarmament' and 'the implications of this discussion and of any future extension of such Zones to other regions for the security interests of the UK and our allies'.³⁰ Reference to the implications of future extension of NFZs for Western security interests suggested that the Thatcher government had retreated somewhat from the marginally more sympathetic approach of the Callaghan Labour government in 1977-78 which indicated that the UK would view with sympathy attempts to establish further NFZs so long as they enhanced security for all participants and included 'all militarily significant states'.³¹

Comments by the British Foreign Secretary, Sir Geoffrey Howe, indicated that the principal factor in the negative decision was the possibility of encouraging NFZs elsewhere, particularly in Europe. Noting that Britain had to consider the treaty in the context of arguments about the possible denuclearization of Europe, Howe observed:

We think that by signing those protocols, we could have given impetus to a concept that might significantly prejudice Britain's and NATO's interests.³²

While Britain's direct nuclear interests are unaffected by the Rarotonga Treaty in that it would not limit British nuclear-weapons transit in the region, nor possible future use of the region for British missile-testing, and there was considerable political pressure on Britain to support an initiative of regional states with which it enjoyed historical and Commonwealth links, the British government's concern about the spread of NFZs to Europe, and sensitivity to the wishes of its NATO ally, the United States, not to mention its EEC partner, France, proved the decisive factors in the British decision not to sign the protocols. As Howe noted:

We have to take account of the views of our NATO allies, and in the end we decided not to sign it.³³

The strategic and economic importance to the UK of its two major Western allies, the US and France, evidently outweighed declining economic, military and sentimental ties with former British South Pacific dominions and colonies, despite the 1985 Commonwealth Heads of government Meeting endorsement of the treaty as 'an important step in global and regional efforts to promote nuclear proliferation'.³⁴

While Britain declined to sign the Rarotonga protocols, it did offer a number of compensatory assurances to South Pacific states.

In the case of Protocol 1, Britain offered to 'remain ready as a matter of policy to respect the intentions (of this protocol)' and stated that it had 'no intention of testing, manufacturing or basing nuclear weapons on Pitcairn, the only territory under our jurisdiction' within the zone.³⁵

In the case of Protocol 2, Britain reaffirmed its 1978 undertaking to non-nuclear-weapon states which are parties to the NPT or equivalent commitments:

... not to use nuclear weapons against such States except in the case of an attack upon the United Kingdom, its dependent territories, its armed forces or its Allies by such a State in association or alliance with a nuclear weapon State.³⁶

Finally, in relation to Protocol 3, it stated that it had 'no intention of conducting nuclear tests in the South Pacific'.³⁷

These undertakings confirmed that Britain found little difficulty with the treaty obligations as they directly affected British interests within the region and was more concerned with extra-regional issues arising from its NATO alliance relationships and the European strategic context.

It should be noted, however, that its assurance in relation to Protocol 2 was by no means an adequate substitute for the obligations required under this protocol since the UK 1978 undertaking does not extend to the 'threat of use' of nuclear weapons as distinct from use. It should also be noted that if Britain were to reverse its decision and sign Protocol 2 it could be expected to follow its practice in the case of the comparable Tlatelolco protocol and attach a reservation to its guarantee to the effect that Britain would reconsider its commitments under the protocol:

... in the event of any act of aggression by a Contracting Party to the treaty in which that Party was supported by a nuclear-weapon State.³⁸

As Rosas notes, this reservation releases Britain from its non-use obligations even if the aggression is only conventional, and does not specify the degree and nature of the offending NWP support.³⁹ For example, during the Falklands War, Britain could have claimed to be released from its obligations under Protocol II by virtue of the fact that Argentina was receiving conventional Exocet missiles from another nuclear power, France.

Soviet responses to the Rarotonga Treaty

The Soviet Union was the first nuclear power to sign and ratify the Rarotonga protocols. Protocols 2 and 3 were signed by the Soviet Ambassador to Australia, Dr E.M. Samoteikin, on December 15 1986 in Suva.⁴⁰ Ratification by the Presidium of the Supreme Soviet of the USSR followed in January 1988.⁴¹

The Soviet Union's early ratification of the Rarotonga Treaty contrasted with its lengthy delay of eleven years in signing and ratifying the Tlatelolco protocols. Its strong support for the treaty would seem, at first sight, somewhat surprising given Australia's motivation in advancing the treaty, and the protocol requirements of undertakings that would seem to conflict with Soviet strategic interests in the region. The apparent inconsistency, however, may be explained in terms of the positive political benefits to be gained from ratification, particularly in a context where the United States had refused to sign the treaty, together with the limited nature of the obligations entailed in the protocols, and Soviet perceptions of the treaty as a potential stepping stone to further regional disarmament.

Soviet nuclear practices as they affect the South Pacific region are of a different order to those of the United States and France. While the Soviet Union maintains large and increasing land, air and naval tactical and strategic forces in the North Pacific - primarily oriented to countering Chinese and US/allied forces encircling Soviet southern and Asian territories - and has access to air and naval bases at Cam Ranh Bay in Vietnam, it has no permanent bases or C³I infrastructure in the South Pacific and no regular military presence in the region.⁴² According to Dobb, 'no Soviet military aircraft or surface warships have been detected operating' in the Australian, New Zealand and Oceania region.⁴³ Nor does the United States Defense Department include the South Pacific as one of the Soviet Union's operating areas for deployed naval forces or strategic submarines.⁴⁴ Soviet 'research submarines' have, however, occasionally accompanied Soviet hydrographic ships operating in the region,⁴⁵ and the Soviet Union regularly conducts missile tests in the Pacific (these are generally north of the equator, but in 1975 there was one Soviet test into an area 600 km north of the Cook Islands).⁴⁶

The Soviet Union does, on the other hand, have both a substantial capability - and some motivation - for nuclear targeting of the region.

Soviet land-based nuclear forces capable of targeting the South Pacific include 260 SS-11 and 120 SS-18 ICBM's located in Siberian silos.⁴⁷ Relevant mobile nuclear forces in the Soviet Far Eastern Strategic Theatre include: 32 strategic SSBN/SSB submarines equipped with a total of 385 SLBMs; 76 attack submarines and 82 principal surface combatants equipped with short-range cruise missile systems (SS-N-3, SS-N-19 and SS-N-22); 280 medium and long-range nuclear-capable Backfire and Badger bombers based at Irkutsk and Sovetskaya Gora, and a further 6 Bear and 16 Badger maritime reconnaissance/ASW aircraft based at Cam Ranh Bay in Vietnam.⁴⁸ The Soviet Union is also likely to begin deploying in the Pacific long-range nuclear air and sea-launched cruise missiles similar to the US Tomahawk cruise missiles.⁴⁹ Its air-launched AS-15 cruise missile (range 3000 km) is already operational, and the sea-launched SS-NX-21 (range 3000 km) is expected to be deployed on some Victor and Yankee class attack submarines in the near future.⁵⁰

Most strategic analysts believe that the Soviet Union does engage in nuclear targeting of the South Pacific. In Dobb's view, Soviet nuclear targeting of the South Pacific is likely to consist primarily of: (a) Alekseyevka-based Backfire bomber-launched attacks on Guam; (b) Delta-submarine-launched SLBM attacks on US installations in the South Pacific, including Australia; and (c) SS-11 ICBM attacks on the same installations from Siberian missile silos.⁵¹ Ball argues that, in the event of nuclear hostilities between the superpowers, there would be a descending order of probability of possible targets being attacked:

The US facilities at Northwest Cape, Pine Gap and Nurrungar would certainly be targeted by the Soviet Union; the RAAF Base at Darwin and the naval base at Cockburn Sound could be targeted in some circumstances; and there must be a finite although very small chance that Australia's major urban-industrial areas could be targeted.⁵²

According to Ball, the Soviet Union would have important strategic benefits from attacks on C³I installations in Australia, including removing the existing US advantage in controlled, limited nuclear warfighting, reducing the accuracy of US systems, limiting damage to Soviet forces, preventing use of SLBMs against time urgent targets, and even, conceivably, in a situation short of all out war, demonstrating Soviet resolve and degrading

US ICBM-early warning systems without incurring the political and strategic consequences of an attack on the US mainland. Ball notes that US officials take for granted that its fixed C³I installations will be destroyed, cites evidence that Soviet military planners themselves stress the need for early destruction of US C³I systems, and that other specialists on Soviet strategy have concluded that Soviet forces would mount an intensive attack on US C³I systems.

Some strategic analysts have also concluded that the Soviet Union would target US mobile strategic forces in the region, and facilities which serve these forces. According to Ball,

... nuclear-powered submarines, including hunter-killer as well as FBM submarines, together with the bases which support them, must rank very high on Soviet nuclear target lists.⁵³

Warner, discussing Soviet policy in the context of a naval war, argues that the Soviet Union would seek to destroy any naval combatants 'capable of striking Soviet forward-deployed forces or targets on Soviet territory'.⁵⁴ The naval analyst, McGwire, notes that the Soviet Union is likely to respond to future US maritime long-range weapons systems by developing new techniques of satellite detection of submarines in the open ocean combined with targeting by both land and sea-based ballistic missiles.⁵⁵ It can be assumed that, in the foreseeable future, the Soviet Union could seek to monitor, track and target some of the US forces deployed in the region, such as aircraft-carriers with nuclear strike aircraft, submarines with ICBMs, and the wide variety of forces, including attack submarines, cruisers, battleships, destroyers and B-52s, being equipped with long-range cruise missiles.

This Soviet strategic need carries the implication that Soviet military transit in the region may well increase. Further, Dibb notes that the Soviet Union's large oceanographic research programme in the South Pacific may not only have a commercial function in terms of exploiting maritime resources but also be 'useful for future submarine operations' and conceivably be aimed at 'preparing for wartime contingencies for operations by hunter-killer submarines'.⁵⁶ Dibb also observes that in the long-term the Soviet Union 'will most likely deploy warships to the South Pacific', if only to gain familiarization with all ocean areas, and that Soviet attack submarines may enter the region 'looking for weaknesses in Western ASW defences'.⁵⁷

While not specifically identifying likely Soviet targets, the Soviet Foreign Minister, Shevardnadze, noted in March 1987 that the Soviet Union was concerned about the Asia-Pacific region because:

... it is potentially an area of military threat against us. That military threat results from American military presence in Japan, in South Korea, in the Philippines, in Micronesia, and also results from the policy of Japan itself which has recently stepped over the threshold of responsible moderation in increasing its military forces. Naturally, the expansion of the US Navy in the region, the fact that the US Navy now has long-range sea-launched cruise missiles there, and the basic policy of Washington in the region, all of this must be of concern to us.⁵⁸

While much of the Soviet military concern centres on US bases in the North Pacific, US naval cruise missile deployment also involves the South Pacific given current patterns of transit by US Tomahawk-capable naval vessels in the South Pacific.

In its December 1986 statement on signing Protocol 2 of the Rarotonga Treaty, the Soviet Union was evidently concerned to incorporate reservations that fully protected its strategic interests, present or future. In this statement, the Soviet Union insisted that if member states carried out activities 'inconsistent with the nuclear free status of the zone', for instance, by accepting port calls by nuclear-armed vessels or by committing 'an act of aggression supported by a state possessing nuclear weapons', then the Soviet Union would 'consider itself free from its (non-use) commitments'.⁵⁹ Since Australia's hosting of US nuclear ship visits and C³I installations could be considered to fall within the scope of these Soviet reservations, it was by no means clear that the Soviet non-use guarantees were operative.

At the same time as making these reservations, the Soviet Union declared its support for the zone, declaring that it 'will serve as an important contribution to the formation of an effective system of security in the Asia-Pacific region'.⁶⁰ However, this ambivalent Soviet stance met with sharp criticism from both the South Pacific Forum and the United States on the grounds that the Soviet move was a 'cost-free' move that did not involve it in any strategic concessions, yet gave it the appearance of supporting regional arms control aspirations. The South Pacific Forum meeting of June 1987:

... expressed disappointment that the Soviet Union had made an imprecise statement concerning its interpretation of the treaty. It called upon the USSR not to enter any reservations or statement of interpretation when it ratified the protocols.⁶¹

In the event, the South Pacific Forum appeal for Soviet unconditional ratification was quickly heeded. In January 1988, the Presidium of the Supreme Soviet ratified Protocols 2 and 3 without attaching any reservations at all, and indicated 'the intention of the USSR to observe completely its commitments assumed under these Protocols'.⁶² The statement also expressed the hope that all other nuclear powers would sign and ratify the protocols.

The Soviet unconditional ratification of the treaty represented a substantial departure not only from its previous position at the time of signing the protocols but also from its non-use guarantees in relation to the Latin American NFZ. Its Tlatelolco Protocol 2 ratification statement included the insistence that nuclear weapon transit in zone states' territories would be 'incompatible' with the non-nuclear status of the zone and that in the event of either acts incompatible with the zone status or acts of aggression with the support of a nuclear-weapon state would render Soviet guarantees invalid.⁶³

The Rarotonga ratification also represented a more unconditional and legally-binding guarantee than the Soviet Union's 1978 UNSSDI non-use assurance that it would 'never use nuclear weapons against those States which renounce the production and acquisition of such weapons and do not have them on their territories'.⁶⁴ In the case of this statement, there was uncertainty about whether nuclear weapons transit through territorial spaces would invalidate the Soviet guarantee.

Soviet willingness to offer unconditional ratification of the Rarotonga protocols - despite the tailoring of the treaty to accommodate US and Australian nuclear policies - is related to three factors: (1) its concern to improve relations with the island countries and take diplomatic advantage of the disaffection generated by US refusal to sign the protocols; (2) the less stringent requirements of the Rarotonga Protocol 2 compared to that of the

Tlatelolco Treaty; and (3) Soviet perceptions of the value of even a limited NFZ treaty as a step towards wider arms control initiatives for the Asia-Pacific region.

As a result of ANZUS strategic denial policies in Oceania, the Soviet Union has long been excluded from a residential diplomatic presence in South Pacific island states, and, until comparatively recently, had little commercial access to the region aside from fishing rights in New Zealand waters and passenger cruise ship visits. The Soviet 1976 efforts to secure a fishing base in Tonga and 1981 offer of hydrographic research assistance to island states were vigorously and successfully countered by ANZUS moves to increase economic aid and hydrographic assistance to the island states. Only with the 1985 fishing agreement with Kiribati (unrenewed) and the current 1987 fishing agreement with Vanuatu was the Soviet Union finally successful in developing substantive commercial links with island states. In July 1986, the Soviet General Secretary, Mikhail Gorbachev, foreshadowed Soviet efforts to expand ties with all island and other states in the Asia-Pacific region.⁶⁵

In a context where the Soviet Union faced a combination of long-standing island distrust arising from their traditional pro-Western and anti-communist foreign policies, vigorous ANZUS alliance opposition to any island state links with the Soviet Union, and similar opposition from Chinese diplomats in the region, the Soviet Union's sympathetic response to the Rarotonga Treaty offered a way of improving the Soviet image in the region, and showed Soviet willingness to respect regional nuclear-free aspirations. Further, following the US February 1987 decision not to ratify the protocols, ratification enabled the Soviet Union to favourably contrast Soviet support for regional concerns with US indifference - to the long-term detriment of US interests in the region. In terms of enhancing Soviet interests, the improved image arising from Soviet ratification could be assumed to enhance the prospects of eventual Soviet establishment of resident diplomatic missions in island states, improve Soviet trade and commercial relations with the islands, and possibly secure additional South Pacific fishing bases for the Soviet Union's large fishing fleet.

The second factor facilitating Soviet unconditional ratification of the Rarotonga protocols was the nature of the protocols themselves. As noted in Chapter 3, the Rarotonga Protocol 2 is considerably less stringent than the similar protocol of the Tlatelolco Treaty. The Rarotonga Protocol 2, unlike the Tlatelolco protocol, contains no prohibition on using nuclear weapons from the zone. Coupled with the zone's tolerance of nuclear transit on the high seas and in the territorial waters of consenting zone states, the treaty provides no obstacle to possible future Soviet moves to track and target mobile US nuclear-armed forces in the region. While the Soviet Union would undoubtedly have preferred a NFZ arrangement that excluded mobile nuclear weapon deployment in the region altogether, thereby obviating the need for Soviet counter-measures, its unconditional ratification of the treaty does not involve, as it would have involved in the case of the Latin American Treaty, a sacrifice of nuclear tracking, targeting and launch rights in zone waters (so long as the targets are not located in zone states' territories).

While this difference between Rarotonga and Tlatelolco obligations makes it easier for the Soviet Union to offer unconditional guarantees to the former, it does not mean to say that the Soviet Union is making no strategic concessions at all. An obvious concession would seem to lie in the implicit undertaking not to use nuclear weapons against the US C³I installations located in Australian territory. Again, the lack of stringency in the Rarotonga protocols means that the concession is not so great as it would first appear. Under the withdrawal provisions of the protocols - inserted largely to encourage US signature -

the Soviet Union could withdraw from its obligations on three months' notice if it considered that 'extraordinary events, related to the subject matter of this Protocol, have jeopardised its supreme interests'. As noted in Chapter 3, such events might include the use of C³I bases in Australia to put US forces on nuclear alert (as happened in 1973). If such an event were to happen again, the Soviet Union would have a legal basis - and the political motivation - to invoke this withdrawal clause. The Rarotonga Treaty's Protocol 2 would then be least effective when it was most needed.

It is also entirely feasible that in the event of nuclear hostilities involving the American C³I facilities in Australia, the Soviet Union would consider itself justified in ignoring its Rarotonga Treaty commitments. While the region continued to host major nuclear-weapon-related installations involved in nuclear targeting, there would always be strong inducements to disregard the treaty. On the other hand, in a peace-time context, the Soviet undertakings not to 'threaten' the use of nuclear weapons would seem to preclude any further Soviet statements implying that the C³I bases in Australia are targeted. Such statements have been interpreted as a conscious Soviet move to 'influence the denial of such facilities to America by frequently pointing out that it is only the presence of US military forces in Australia and New Zealand that would make them Soviet nuclear targets'.⁶⁶

The third key factor in the Soviet decision to unconditionally ratify the Rarotonga protocols was the Soviet hope that the treaty might prove a stepping stone towards the broader Asia-Pacific arms control process outlined in Gorbachev's July 1986 Vladivostock speech and subsequent statements.

The Soviet Presidium's message on ratifying the Rarotonga protocols noted that the Soviet Union considers NFZs:

... as one of the important measures of lessening the threat of nuclear war, of narrowing the geographical sphere of nuclear preparations, strengthening the regime of non-proliferation of nuclear weapons, and creating the climate of trust and security on a regional level that would contribute to the process of elimination of nuclear weapons from the face of the Earth...The USSR believes that the establishment of such zones is also important from the point of view of strengthening ecological security both regionally and globally. The decision of the states of the South Pacific Forum to establish the nuclear free zone in the South Pacific conforms to these basic objectives of the international activity of the Soviet Union.⁶⁷

Soviet enthusiasm for the Rarotonga Treaty arose less from its existing limited features than from the possibility of the zone becoming a focus or stepping stone for a wider regional debate on Asia-Pacific arms control and security issues.

While Soviet representatives acknowledged the Rarotonga Treaty's 'military deficiencies', the Soviet government believed that the treaty could nevertheless be strengthened both by the unilateral action of zone states in using their sovereign powers to exclude nuclear-weapon access and transit, and through multilateral negotiations that could yield collateral regional arms control agreements that would increase the effectiveness of the zone. Superpower or multilateral agreements on reductions in naval exercises, transit within declared zones, restrictions on ASW activity, and eliminations or reduction of such new weapon systems as cruise missiles, could all potentially increase the effectiveness of the Rarotonga Treaty in reducing superpower nuclear competition and deployment in the region.

In Gorbachev's view, the Rarotonga Treaty represented a step towards the broader objective of eliminating nuclear weapons in Asia and the Pacific.⁶⁸ It was a regional initiative that should be built on through additional regional bilateral, multilateral - and even unilateral - arms control measures covering the whole Asia-Pacific region.

Chinese responses to the Rarotonga Treaty

Chinese nuclear involvement in the South Pacific has so far been limited to two missile tests in a splashdown area east of the Solomons Islands in May 1980 from a launch point in northwest China, 10,000 km away.⁶⁹

Responding to island state protests over the tests, Chinese representatives stressed that the missiles did not carry warheads. While China sent 18 ships into the South Pacific to monitor these tests, its' navy is relatively small and it does not regularly deploy military vessels into the South Pacific. Of Chinese nuclear forces capable of targeting the South Pacific, only its 4 T-5 ICBM missiles with a range of 13,000 km and its single Xia-class SSBN armed with 12 CSS-NX-4 IRBMs are capable of reaching South Pacific targets, but these are believed to be targeted on Soviet areas rather than the South Pacific.⁷⁰

Of all the nuclear powers, China has been the most sympathetic to regional NFZs, supporting 84 (72%) of a total of 116 NFZ and related initiatives at the UN between 1956 and 1983 compared to 71 (61%) supported by the Soviet Union and 58 (50%) supported by the United States.⁷¹ This stance is motivated by its preference for supporting Third World and small state arms control measures rather than agreements negotiated by the superpowers. In the case of the latter, such as the PTBT, Outer Space and Seabed treaties, China continues to refuse to sign such treaties on the grounds that they reflect the interests and hegemonic aims of the superpowers.

During the late 1970s and early 1980s, China actively cultivated diplomatic relations with South Pacific states. It now has residential diplomatic missions in Papua New Guinea, Fiji, Western Samoa, Canberra and Wellington. Within the South Pacific region, the Chinese government has been concerned about the competition for hegemony of both the superpowers.⁷² In recent years, China has tended to emphasize Soviet hegemonic aims in the Asia-Pacific more than US aims.

A recent analysis of security issues in the Pacific has concluded that China's principal objective in the region was to 'prevent the formation of an encircling coalition under Soviet leadership' and that China was prepared to tacitly endorse the US military presence in the Pacific as a counter to the Soviet presence.⁷³ China joined the Western nuclear powers in sharply criticising the Soviet Union for establishing military bases in Vietnam and claimed that it was deploying nuclear weapons at these bases.⁷⁴ China also entered into some minor forms of military cooperation with the United States, including military exchange visits, purchase of military equipment, and hosting of visits by US warships.⁷⁵

Chinese advocacy of NFZs as regional arms control measures with implications for mobilising the sovereignty of small or middle size states against the hegemonic objectives of the superpowers, coupled with the fact that the Rarotonga Treaty does not affect either current Chinese nuclear activities or American nuclear deployment in the South Pacific region (if this is, indeed, tacitly viewed by Beijing as a counter to the Soviet presence or

potential presence), suggest that China would welcome and fully support the Rarotonga Treaty.

In the event, China did give prompt support to the treaty, signing Protocols 2 and 3 in Suva on 10 February 1987.⁷⁶ In signing the protocols, the Chinese government noted that the treaty was:

... an important step taken by (South Pacific countries) to maintain peace and security in the region, which reflects the common aspirations and just demands of the people of the South Pacific countries in opposing nuclear arms race and nuclear war.⁷⁷

In a reference to the superpowers, the statement added that 'to make the South Pacific a real nuclear free zone, those states in possession of large nuclear arsenals have a special responsibility'.⁷⁸

The Chinese government did make one reservation:

The Chinese government reserves its right to reconsider these obligations if other nuclear weapon states or the contracting parties to the treaty take any action in gross violation of the treaty and its attached Protocols, thus changing the status of the nuclear free zone and endangering the security interests of China.⁷⁹

This reservation imposed substantially fewer conditions than were imposed by the other nuclear powers in the case of the Tlatelolco Protocol II since it confined itself to direct gross violations of the treaty rather than introducing additional considerations of transit or support for 'aggression' not directly covered by the treaty. In fact, the reservation would appear redundant given the Protocol 2 provision for withdrawal in the event of extraordinary events related to the protocol which have 'jeopardised' the nuclear weapon state's 'supreme interests'. It is conceivable that the Chinese reservation could be invoked already as a consequence of French violation of the treaty through its Pacific nuclear testing, but presumably, since the Chinese statement did not cite France in this connexion, the Chinese would not deem France to be legally capable of violating the treaty until it becomes a party to the treaty protocols. By comparison with the totally unconditional Soviet ratification of the treaty, however, the Chinese government is presently in the unusual position of being more conditional in its approach to NFZ guarantees than the Soviet Union.

It is significant that the Chinese government did not choose to reaffirm its view, contained in its statement on signing Protocol II of the Tlatelolco Treaty, that:

... in order that Latin America may truly become a nuclear weapon-free zone, all nuclear countries, and particularly the superpowers must (inter alia)...implement the following undertakings: (1) dismantle all foreign military bases in Latin America and refrain from establishing new bases there; and (2) prohibit the passage of any means of transportation and delivery carrying nuclear weapons through Latin American territory, territorial sea or airspace.⁸⁰

Nor did it repeat its own assurance in the case of the Latin American NFZ Treaty that it would never:

... send its means of transportation and delivery carrying nuclear weapons to cross the territory, territorial sea or airspace of Latin American countries.⁸¹

Chinese undertakings, and expectations of other nuclear powers, in relation to nuclear-weapon transit are less stringent, in fact absent, in its response to the Rarotonga Treaty compared to its response to the Tlatelolco Treaty.

The Chinese government's unwillingness to specify withdrawal of bases and prohibition of nuclear-weapon transit in territorial waters as necessary to make the Rarotonga Treaty 'become a truly nuclear weapon-free zone' is consistent with the hypothesis that China tacitly accepts the US nuclear presence in the region.

Conclusion

The preceding analysis of the responses of the two Western nuclear powers, France and Britain, and the two Eastern nuclear powers, the Soviet Union and China, explains the seeming paradox that an extremely limited and selective NFZ arrangement, conceived and designed by an American alliance-partner, Australia, as a device of enlightened self-interest aimed at protecting American and Australian strategic and nuclear interests in the face of domestic and regional pressures for more radical denuclearization in the South Pacific, should be opposed by the Western nuclear powers and embraced by the Eastern nuclear powers.

The Western nuclear powers have viewed the Rarotonga Treaty primarily through the lens of their global strategic and nuclear interests, while the Eastern nuclear powers, while not unmindful of their own strategic interests, have additionally viewed the treaty as a limited but useful measure that can potentially be strengthened through collateral arms control agreements and that can form an element in a broader arms control process in the Asia-Pacific region.

The analysis has shown that first, in the context of existing and potential nuclear-weapon state practices within the South Pacific region and the nature of the treaty and its protocol obligations, the only nuclear state fundamentally affected by the treaty is France, which would be required to dismantle its South Pacific nuclear test centre. None of the other nuclear powers would be greatly constrained in any of their current or contemplated nuclear activities in the region, including the deployment of mobile sea or air-based nuclear weapon systems and supporting C³I infrastructure. The *de facto* consequence of the treaty in affecting only the regional nuclear practices of one of the Western nuclear states - while the Eastern nuclear states, particularly the Soviet Union, are seen as being able to endorse the treaty 'cost-free' - was an important element in Western discontent with the treaty and an aspect that the French government frequently emphasised.

Second, French opposition to the treaty created political obstacles to the signing of the treaty by the two other Western nuclear powers as a result of the close formal and informal ties associated with the Atlantic Alliance. In effect, the United States and Britain were faced with a choice between the priority assigned to fostering their alliance and bilateral cooperation with France and with the parallel alliance and bilateral links with Australia and other South Pacific countries. In the event, the United States and Britain decided that the benefits of the former either outweighed the latter or could not be taken as much for granted.

Third, while the treaty was acknowledged by Western nuclear powers as not greatly affecting their strategic interests within the region, there was unanimity among the Western nuclear powers that it would have adverse effects on Western nuclear interests in other key regions - such as Europe, Southeast Asia and the Indian Ocean - by encouraging the establishment of similar or more comprehensive zones.

Finally, since the treaty will still come into force irrespective of whether the nuclear powers ratify its protocols, the non-signature of the Western nuclear powers permits them to optimise their strategic gains. They can secure both the immediate and long-term benefits of a treaty that steers regional anti-nuclear sentiment away from current and contemplated Western operational strategic deployment within the region (as distinct from nuclear weapons testing); and, at the same time, send a clear signal to other regional governments and publics in Europe, Southeast Asia and the Indian Ocean region that the Western powers will not tolerate the establishment of additional NFZs likely to constrain Western nuclear deployments.

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CHAPTER 9

Conclusion: The Relation of the Rarotonga Treaty to Regional and Global Security

The regional NFZ concept as developed at the UN envisages a number of possible roles in relation to regional and global security. As discussed in Chapter 2, the most important immediate security objectives of NFZs according to the UN concept are the establishment of regional barriers against the outbreak of nuclear war (regionally or globally), the prevention of nuclear attack or blackmail of regional states from outside the region, and the prevention of nuclear competition among regional states.¹

Beyond these immediate objectives, the most important global security objectives include the contribution of regional NFZs in a step-by-step process towards the complete abolition of nuclear weapons worldwide, and strengthening of the international non-proliferation regime.²

Regional security is strengthened both through the mutual guarantees of zonal states not to acquire nuclear weapons and through the gaining of guarantees from nuclear-weapon states to 'respect strictly the status of the nuclear-weapon-free zone' and 'to refrain from the use or threat of use of nuclear weapons against the States of the zone'.³

In the case of the Rarotonga Treaty, both the treaty's authors and some academic analysts of the treaty have claimed that it does, indeed, make substantial contributions to regional and global security in the above or related areas, and that these contributions motivated the establishment of the zone.

Claimed regional security benefits

The Australian Chairman of the Forum Working Group outlined the common concerns of the parties as including:

... the need to prevent the region from becoming a theatre for superpower rivalry; the need to preserve for all time, the peace and security the region now enjoys; and the need to protect the natural resources on which the wellbeing and livelihood of the people of the South Pacific depend.⁴

While the parties recognized that a NFZ could not 'fully meet' these concerns, they nevertheless believed that the treaty 'could succeed in substantially reducing the threat which the concerns embody'.⁵ The theme that the treaty 'insulates' the region from 'activities' of the nuclear powers and that 'this is the Treaty's motivation' was subsequently emphasized by the Australian Foreign Affairs Minister, Bill Hayden.⁶

Some regional specialists on the South Pacific interpreted the treaty along similar lines. In Herr's view, the treaty was developed in a context where the island states wished to share in the economic benefits of trade with the Soviet Union 'without jeopardising security through encouraging Great Power rivalry'. In this context, the treaty 'represents a move towards containing the prospects of Great Power rivalry despite wider economic contacts'.⁷ Presumably, on Herr's argument, the island states, having made guarantees to each other and secured similar guarantees from the Soviet Union that there would be no nuclear weapons stationing in the region, would feel more confident in opening up commercial relations with the Soviet Union without the possibility of the latter using commercial relations as an entree to eventually securing a nuclear military base. Fry similarly emphasized the anti-stationing provisions of the treaty as of particular importance in putting 'an obstacle in the way of competitive base development in the South Pacific'.⁸

However, interpretations which presuppose or argue that the treaty has a substantive role in enhancing the security of the region through prevention of superpower nuclear presence and rivalry, are unconvincing in the light of the detailed analysis of the treaty provisions contained in Chapter 3.

The treaty's scope was explicitly designed to avoid any constraints on existing or presently-contemplated US nuclear and strategic activities in the region. Since the treaty cannot be seen to be legally discriminating between nuclear powers, the freedom to engage in the same categories of present and future nuclear activity afforded to the United States is also afforded to the Soviet Union. As concluded in Chapter 3, the treaty provides little or no brake on increasing regional deployment of mobile nuclear weapon systems and C³I systems required for nuclear weapon deployment, targeting and nuclear warfighting purposes.

Nor does the treaty's much-emphasized prohibition on land-based stationing of nuclear weapons, prevent *de facto* forms of sea-based stationing utilising logistical support vessels.

There is nothing in the treaty that would prevent the emergence of regional super-power competition in the deployment of mobile nuclear weapon systems within the zone, either on the high seas, in international airspace falling within the zone, or in the territorial seas and airspaces of consenting zone states.

Soviet strategic interests in monitoring, tracking and targeting mobile US strategic nuclear weapons systems deployed in the South Pacific region, most notably sea and air launched long-range nuclear-armed cruise missiles, could result in a shift from the near absence of Soviet military transit in the region to regular transit of Soviet military surveillance vessels and aircraft and Soviet submarines. In the latter case, recent Soviet interest in oceanographic research in the region may be a prelude to increased Soviet military transit in the region.

As it stands, the Soviet Union could conceivably seek, without violating the terms of the treaty, the same pattern of access to a South Pacific island state port that the United States enjoys at Stirling in Western Australia - a pattern that is on a smaller scale but not dissimilar to Soviet naval use of Cam Ranh Bay. The very precedent of the US pattern of use of Stirling - tolerated by the Rarotonga Treaty despite its quasi-stationing character -

opens the way for a regional state to permit the same rights to the Soviet Union with little recourse by other Forum states under the treaty.

The treaty does almost nothing to prevent superpower rivalry either in the two-track sense of excluding both superpowers' regional nuclear deployment or in the one-track sense of excluding possible Soviet entry. There is certainly nothing in the treaty's provisions, nor in its relatively unburdensome Protocol 2 obligations, to justify the assessment that it 'insulates the region' from the future emergence of the same pattern of superpower nuclear rivalry evident in the North Pacific, nor that this was the principal Australian motivation in concluding the treaty.

The treaty was also interpreted as modifying - or at least creating ambivalence in the interpretation of - obligations under the ANZUS defence relationship between the United States and Australia. The American analyst, Paul Power, suggested that even if New Zealand were excluded from the analysis, the treaty created ambivalence in that, on the one hand, the 'nuclear shield could no longer be legitimately present to protect' Australia as a party to the Rarotonga Treaty, and, on the other hand, the military alliance between Australia and the United States persists 'though only on a non-nuclear basis'.⁹ This interpretation, however, misreads the actual provisions, possibly because it was assumed that US obligations under Protocol 2 were identical to those contained in the comparable protocol of the Tlatelolco Treaty. In fact, as discussed in Chapter 2, the Rarotonga Treaty differs from the Tlatelolco Treaty in that there is nothing in the treaty and its protocols that requires nuclear-weapon states not to fire nuclear weapons from territorial or non-territorial waters or airspace within the zone as distinct from launching nuclear weapons against zone national territories.

Certainly, nuclear-weapon states would be prevented from using land-based launching systems under the anti-stationing provisions but there is nothing in the treaty that prevents nuclear-weapon states from launching cruise or other missiles from mobile air, sea or underwater launch platforms, even if such launching occurs within territorial waters or airspace (assuming the zonal state grants access rights). Hence, there is nothing that would constrain the United States from responding to an Australian request under ANZUS to use nuclear weapons against an adversary inside or outside the zone so long as the targets were not in any land territory encompassed by the treaty. The US mobile forces inside or outside the zone would continue to be able to use nuclear cruise missiles against any Soviet mobile forces in transit either within the zone or outside it. Any nuclear guarantee sought by Australia under ANZUS would therefore be unaffected by the Rarotonga Treaty.

In this respect, it is significant that the Australian government, unlike New Zealand, has not repudiated recourse to use of American nuclear weapons under ANZUS. Given the Soviet Union's unconditional ratification of Protocol 2, Australia could be considered to have maximised its security advantages through the vehicle of the treaty: on the one hand, it secured guarantees from the Soviet Union not to use nuclear weapons against Australian territory; on the other hand, Australia reserved its rights to call upon the United States to use nuclear weapons against Soviet territory or mobile forces.

A further regional security aspect of the treaty - and sometimes proposed as its leading motivation - was its potential role in ending nuclear explosive testing in the South Pacific, particularly the ongoing French test programme.¹⁰ From the regional point of view this potential role of the treaty would primarily be a contribution to the environmental rather

than military security of the region - to be seen in the context of island states' fears about the long-term radioactive hazards of French underground testing at Moruroa (see Chapter 6). Globally, of course, it could also be seen - as the French so interpreted it - as a regional step towards a comprehensive test ban treaty.

This interpretation, while explaining the particular anti-testing emphasis of the treaty and protocol provisions, is also unconvincing.

Firstly, since it was predictable that France would not sign the protocols, the utility of the treaty in securing an end to French testing hinges on its role and value in exerting diplomatic pressure on France to cease testing, for example, through UN resolutions calling on France to heed the treaty.

While such action was certainly mentioned by Australia in arguing for the treaty at the South Pacific Forum, Australia and New Zealand did not, initially, make use of the treaty for enlisting international support at the UN General Assembly, presumably because of sensitivity to likely American opposition.

Secondly, it is questionable whether the prime concern of the treaty's initiator, the Australian Labor government, was, indeed, to put 'pressure on France'. Subsequent decisions by the Labor government to permit uranium sales (under safeguards) to France despite the fact that such sales were in acknowledged breach of an ALP policy and despite the strong criticism of the move by island states suggested that exerting political pressure on France was not a priority concern of the Australian government, or at least not such a priority as to warrant the loss of Australian export income.¹¹ The Australian government's acceptance of French warship visits was also consistent with a relatively low priority on exerting pressure on France. Nor can any special significance be attached to the commencement of the annual French testing programme in April 1983 since the first announcement of the Hawke government's intention to go ahead with the initiative was made well before French testing resumed.

Finally, if, for whatever reason, the Australian government was determined to increase pressure on France to cease testing, a NFZ initiative was by no means the only - or even the most effective - measure open to it. Other options included resolutions specifically on French testing at the UN, legal action in the International Court of Justice, and Australian sanctions in defence or other forms of cooperation with France.

As argued in Chapter 4, the Australian government's references to French testing in its initial statements explaining its SPNFZ proposal were more intended to provide a 'third party' focus for the zone as a way of developing a zone concept that would protect and legitimize the nuclear interests of both itself and the United States in the context of rising domestic and regional opposition to 'all things nuclear'. French testing served not so much as the prime motive for establishing the zone but rather as an alibi that gave a highly selective zone concept a degree of credibility, both for relevant domestic audiences (ALP voters and disarmament groups) and for Pacific island states with long-standing concerns about French testing.

A fourth regional security function postulated for the Rarotonga Treaty was the prevention of horizontal proliferation, particularly the possibility of nuclear competition between Australia and the neighbouring Southeast Asian region. If such a zone were

established along similar lines to the Rarotonga Treaty, both Australia and Indonesia would be strengthening existing NPT commitments not to acquire nuclear weapons, and would thereby 'be signalling to each other their intention to defuse any nuclear competition that could otherwise arise between them'.¹² While the Rarotonga Treaty does have the undeniable legal benefit of locking Australia into a firmer commitment not to acquire nuclear weapons (see the discussion in Chapter 3), and might well encourage Indonesia and other Southeast Asian countries to strengthen existing NPT commitments, this security benefit was unlikely to have constituted the driving motivation for the treaty.

The Australian government's assessment of the regional proliferation threat is that 'no neighbouring country now has nuclear weapons, and their development or acquisition is not in prospect'.¹³ This assessment, coupled with existing Indonesian NPT undertakings, suggests that it was unlikely that Australian concern over the threat of Indonesian acquisition of nuclear weapons was sufficiently strong to be the primary motivation for initiating the zone proposal. If it were, one would have anticipated Australian diplomatic efforts to tie the zone's establishment to the establishment of a similar zone in Southeast Asia. Uncertainty of ASEAN reciprocation would have militated against the Australian government placing great weight on the treaty's potential benefits in discouraging horizontal proliferation in the Southeast Asian region.

The major regional security intention and benefit of the treaty could, perhaps, be considered to lie in nuclear-weapon state undertakings not to use or threaten to use nuclear weapons against the territories of zone members.

This, indeed, is the security dimension of the Rarotonga Treaty that, together with prevention of regional proliferation, comes closest to the regional security functions envisaged in the established UN NFZ concept.

The treaty, through Protocol 2, certainly aims to secure such guarantees, although, as already noted, the guarantees of respect and non-use for the zone are not as comprehensive as the equivalent guarantees in the Tlatelolco Treaty. Nevertheless, unconditional ratification by the nuclear weapon powers, particularly by the Soviet Union as the nuclear power perceived to be the most likely source of nuclear attack on the region, will certainly be considered by regional governments as a positive step towards enhancing regional security, not only in the sense of seeking to preclude the possibility of nuclear blackmail but also, conceivably, in providing negotiating leverage for seeking the removal of any Soviet nuclear weapon systems believed to be specifically targeted on the South Pacific.

However, at the time that Australia first advanced the zone initiative, there was little reason to expect that the Soviet Union would unconditionally ratify the protocols given its substantial reservations to the Tlatelolco Treaty's Protocol II.

Secondly, the Australian government did not elect to revise its previous assessment that the C-1 bases in Australia were a nuclear target as a consequence of Soviet signature and ratification of Protocol 2. It could be assumed that the government was sceptical, both before and after Soviet ratification of the Rarotonga protocol, that the treaty would, indeed, secure a change in Soviet nuclear targeting policies.

In a recent statement, the Australian government noted that 'the efficacy of the Treaty in relation to South Pacific countries does not depend on the nuclear powers adhering to

the Protocols¹⁴ - a confirmation that the securing of negative security guarantees was not the principal *raison d'être* for the initiative.

While the above claimed regional security benefits or implications do not seem adequate as primary explanations for the Australian government's initiation and negotiation of the Rarotonga Treaty, it might still be contended, as some supporters of the treaty have argued and the Soviet Union evidently envisaged, that the treaty, limited as it is in both its scope and immediate security benefits, might nevertheless serve as a 'link', 'stepping stone', 'rung' or 'building block' towards more comprehensive denuclearization arrangements, whether through direct amendment of the treaty to improve its comprehensiveness, unilateral measures by zone states to improve its effectiveness and credibility, or collateral regional arms control arrangements involving the nuclear-weapon states.

While these are conceivable outcomes - and would serve to invest the treaty retrospectively with a regional arms control and security role more in accord with the established UN NFZ concept - they were certainly not what the Australian government had in mind in advancing the initiative.

The notion of a phased zone progressing from a limited to a more comprehensive arrangement was one of the features to which both the Australian Labor Whitlam government and the United States government objected strongly in the 1975 SPNFZ proposal advanced by the New Zealand Rowling Labour government. In the case of the Rarotonga Treaty, the Australian government was more concerned with utilising the measure to avoid regional adoption of more comprehensive denuclearization than facilitating such a development.

In the first place, Australian negotiators were evidently concerned to make the treaty difficult to strengthen through amendment since they departed from previous Tlatelolco and arms control precedents in incorporating an amendment procedure that required unanimous approval by all Forum states (see Chapter 3). This gave Australia itself a right of veto over any island state proposal for amendments aimed at increasing the comprehensiveness of the zone. It was likely that the exceptionally stringent amendment procedure was incorporated as a reassurance to the United States - which expressed concern about the possibility of the treaty being made 'tighter' through amendment (see Chapter 7).

Secondly, in assuring the United States that the treaty would not be employed to restrict either current or future US strategic activities in the region, the Australian government was evidently signalling to the US that the treaty was not intended to be the 'thin end of the wedge' to more comprehensive arrangements, and that Australia itself would use its veto rights to prevent such a development. Unlike the New Zealand Labour government, which has occasionally portrayed the Rarotonga Treaty as the first rung on a ladder (without, however, specifying successive rungs), the Australian government has avoided any characterization of the treaty as a bridge towards further regional South Pacific arms control initiatives (as distinct from viewing the treaty as a step towards such global or extra-regional measures as a CTBT or Southeast Asian NFZ).

Given the Australian government's reluctance to contemplate any move towards more comprehensive regional denuclearization, together with its insistence on the right to veto any amendment to the treaty, it may be concluded that concern to devise a stepping

stone towards more stringent or inclusive regional arms control arrangements was not the motivation for the Australian SPNFZ initiative.

If the Rarotonga Treaty's principal *raison d'être* from the viewpoint of its Australian initiators was not any of the immediate regional security objectives envisaged in the traditional UN NFZ concept, nor the claimed or hypothesised objectives of excluding superpower rivalry, opening up commerce with the Soviet Union while safeguarding against Soviet base establishment, ending French testing, and reducing horizontal proliferation risks, what was the most likely motivation for the zone's establishment?

The explanation that best fits the particular characteristics of the treaty, the domestic and regional context in which the initiative was decided upon and implemented, and the negotiating strategy adopted by Australia, is that the Hawke government was concerned at the potential threat to both American and Australian nuclear and strategic interests in the region posed by increasing domestic and regional (New Zealand and Melanesian) anti-nuclear sentiment, and sought to protect ANZUS and Australian regional nuclear interests through initiation of a limited-scope limited-domain zone arrangement that would simultaneously pre-empt more comprehensive zone arrangements initiated by other regional states (with or without Australian participation) and channel domestic and regional anti-nuclear sentiment against 'third party' rather than ANZUS nuclear interests.

The provisions of the treaty were drafted with the explicit Australian intention, as discussed in Chapter 4, of avoiding any interference with present or future US strategic nuclear operations and activities in the region, and, as acknowledged by the Reagan Administration, would require no change to US nuclear practices.

Wider US Pacific and global nuclear interests were also protected by the restriction of the domain of the treaty to the region south of the equator despite the existence of Micronesian countries north of the equator with natural political, regional and cultural affinities with South Pacific Forum countries (as subsequently evidenced by the admission of the Federated States of Micronesia and the Marshall Islands to the Forum).

Not only does the treaty not impede present or future US nuclear activities and Australian commercial nuclear activities, but it also operates to legally entrench the conduct of these nuclear activities. Despite the potential regional implications and nuclear war consequences of nuclear-weapon transit and port calls to any individual country in the South Pacific, the treaty legitimises the sovereign right of individual states to host such activities. It also serves to legitimise nuclear-weapon state interpretations of claimed rights of transit under the Law of the Sea, and to legitimise the principle that nuclear powers have the right to launch and exchange nuclear weapons within a NFZ so long as the attacks are not on zone land territories - a major reversal of principles established by the Tlatelolco Treaty. This reversal of NFZ precedent has obvious implications for removing constraints on US deployment of long-range Tomahawk cruise missiles on forces transiting the South Pacific and on corresponding Soviet developments.

Besides these specific roles in legitimising previously controversial nuclear weapon power activities in the context of international precedents and agreements on NFZs and the Law of the Sea, the Rarotonga Treaty also has a more general legitimising function in relation to all nuclear activities not covered under its prohibitions. National or regional legislative efforts to prevent further nuclear activities in the region will face the argument

that the principal regional arms control instrument permits such activities. A national attempt to prohibit missile-testing in territorial waters, for example, would encounter the argument that, under the Rarotonga Treaty, the region has chosen to accept missile testing and any individual state would be 'out of step' in moving against missile testing. Such legitimisation does not, of course, prevent further national legislative denuclearization moves; it simply serves to discourage them. Intentionally or otherwise, failure to prohibit activities under an arms control treaty is treated as licence to carry out the activities, as the increased rate of underground testing since the conclusion of the PTBT demonstrated.

The thesis that the Australian government was primarily seeking to protect and legitimize US and ANZUS nuclear activities and policies is also consistent with Australia's negotiating strategy in gaining island state agreement to specific treaty provisions. In retrospect, it appeared that the Australian government had no firm assurances from the Reagan Administration that it would support the zone as drafted, although some American representatives were publicly encouraging about the possibility of American endorsement. However, in negotiations on some specific issues as documented in the Australian Chairman's Report on the drafting of the treaty, it appeared that Australian negotiators held out the incentive of securing nuclear power endorsement of the treaty as the basis for excluding some nuclear activities. Australia's status as a close ally of the United States and public assurances that it was in close communication with the Reagan Administration throughout the negotiations could be assumed to have been strong inducements on island states to agree to limitations on the scope and domain of the treaty in the anticipation of gaining US support for the treaty - a development that would have helped mobilise US diplomatic pressure against French regional testing.

In the event, island state confidence in Australia to secure US support proved to be unfounded. The island states could have insisted on more comprehensive provisions of the treaty, such as regional bans on missile testing and launching of nuclear weapons from the zone, with the same or, even better results, since the Soviet Union and China might at least have been enjoined not to conduct further missile tests in the South Pacific. However, in the meantime, Australia successfully secured island state support for provisions aimed at protecting the full gamut of US, ANZUS and Australian regional nuclear activities with the exception of land-based nuclear bases.

Some of the American problems in signing the Rarotonga protocols were sufficiently predictable - such as the priority assigned to US-French relations - that the promise of securing US support for the treaty and the failure of the United States to provide earlier indications (before negotiations were completed) of its likely official attitude to the treaty, suggest that there was collusion between Australia and the United States in pursuing a negotiating strategy that sought to minimize the treaty's effects on US and ANZUS regional nuclear interests.

The Hawke government, committed to ANZUS and a range of nuclear practices legitimised under ANZUS, was concerned at the implications of the new pressures for denuclearization emerging in the region, both at governmental and non-governmental levels. There was mounting anti-nuclear pressure during the early 1980s in a number of countries.

Regional consequences and implications

In the brief period since the 1985 signing of the treaty any conclusions concerning the regional consequences and implications must necessarily be tentative.

In the short-term, it could be considered to have achieved its immediate objective of protecting major developments in American strategic utilization of the region, particularly the new deployment of long-range cruise missiles and the upgrading of C-I installations for new strategic missions (nuclear warfighting, SDI), against the possibility of a more comprehensive regional denuclearization process.

In achieving this objective, the Australian government successfully asserted its traditional ascendancy over regional security policy, in part through a negotiating strategy that held out the prospect of United States support for the measure, and in part through the push-pull inducements inherent in the island states' economic dependence on the ANZUS states.

Both during its negotiation and following its signature, the treaty served the pre-emptive and channelling role envisaged by Australian negotiators. Australia was successful in eventually securing island state endorsement of a treaty that did not go as far as some of the island states wished. By early 1988, ten of the eligible 12 Forum states had signed the treaty, with Vanuatu considering signature, and Tonga still refusing to sign. Even the island states most critical of the treaty did not move to establish a more comprehensive 'islands only' regional NFZ in preference to the Rarotonga Treaty. At present very dependent on Australia, New Zealand and the United States for aid, trade and military assistance, island acquiescence in Australia's limited SPNFZ initiative was encouraged both by new aid initiatives, such as Australia's patrol boat scheme (advanced concurrently with the SPNFZ initiative), and by perceptions of possible economic sanctions and/or political destabilization if island states were to pursue more comprehensive denuclearization.

The regional threat to US and ANZUS nuclear interests posed by New Zealand Labour's anti-nuclear stance, while an important element of the regional pressure for denuclearization that prompted Australia's pre-emptive SPNFZ initiative, was also successfully contained by the treaty. The New Zealand Labour government was reluctant to risk additional US or Australian sanctions by encouraging the 'export' of its 'nuclear allergy' to the remainder of the region, and therefore did not support island states' efforts to secure more comprehensive denuclearization during treaty negotiations. In the short-term at least, the Rarotonga Treaty successfully served to prevent the New Zealand 'disease' from spreading into a regional epidemic.

In terms of its ostensible rationale of ending French testing and protecting the region from nuclear attack, the treaty has so far achieved no major change. In the case of French testing, France has continued to declare its intention to go on testing in the Pacific,¹⁵ although there are persistent rumours that it is considering a shift to the Kerguelen Islands.¹⁶

In terms of protecting the region from nuclear attack, the treaty's tolerance of continued regional presence of US nuclear weapon systems likely to attract targeting (increasing deployment of cruise missiles and nuclear weaponry on transiting general

purpose and ASW forces, and C³I installations), suggests that the risk of nuclear attack is not diminished by the treaty.

If the Australian government were successful in its goal of protecting US and ANZUS nuclear and strategic objectives in the region, at least in the short term, this was not without significant political costs. In the longer terms, these costs could defeat the original aims of the exercise.

The US decision against endorsing the treaty caused major resentment and bitterness throughout most of the island states, both against the United States itself and against Australia.

Having agreed to treaty compromises to accommodate ANZUS nuclear concerns in the belief (encouraged by Australia and not contradicted by the Reagan Administration) that the treaty would be backed by the United States and thereby add to international pressure against French testing, island states felt somewhat betrayed by the ANZUS states, including New Zealand.

The United States was seen as once again (as in its 1983 decision not to sign UNCLOSIII and in its failure for many years to restrain its fishing fleet from illegal fishing in island waters) insensitive to even the most elementary island state aspirations to protecting their ocean environment from contamination and retaining control over their maritime EEZs resources. Australia was seen either as manipulating island consent to an arrangement that did not effectively exclude superpower nuclear rivalry and activities in the region, or as having less power than it purported to have in securing its powerful ally's recognition of regional interests.

Island state perceptions of the US decision not to sign the treaty protocols were summarized by the former PNG Foreign Affairs Department Secretary, Tony Siaguru, in a presentation to a seminar convened by the conservative Hoover Institute on the Soviet threat in the South Pacific. Acknowledging island state appreciation of recent US efforts to resolve its fishing disputes with island states through a generous multilateral fishing agreement, Siaguru noted that island leaders were 'abruptly dumped back to square one by the US's refusal to sign the protocols of the Treaty of Rarotonga', and 'complained bitterly' of American inconsistency in negotiating the fishing agreement and then rejecting the Rarotonga protocols.¹⁷ The ANZUS stress on the Soviet military threat to the region is not necessarily shared by many island states, especially in Melanesia. When the United States withdrew its security guarantees from New Zealand as a result of the nuclear ships ban, island states observed that:

... the Russians did not leap into the breach. New Zealand was not bombed ... The months passed and New Zealand still existed carefree enough outside the American umbrella without any devastating consequences for itself or the Region.¹⁸

Given this difference in perception of the salience of external and Soviet threats, United States and ANZUS policies of subordination of island interests to global nuclear strategies may well lead to eventual realignment of island states, particularly the Melanesian states. In Siaguru's view:

Unless the US can demonstrate that its policy in the South West Pacific is not simply residual to its global strategic concerns, then as the situation clarifies with time the appeal of some form of internationally sanctioned regional neutrality is going to grow.¹⁹

A recent report on the South Pacific by the conservative American-based Pacific Forum organization, similarly noted the 'deep disappointment' and 'resentment' in the region over the American decision on the protocols, and the island perception that the United States appeared to tilt towards France on nuclear and territorial issues using as an excuse its global interests.²⁰

Acknowledging the widespread island reaction against its decision, the Reagan Administration sought to counter the adverse responses through a regional tour by its UN Ambassador, Vernon Walters. The Administration also took up one of the Pacific Forum report's recommendations of seeking to facilitate (or at least being seen as seeking to facilitate) an end to French Pacific testing by reportedly offering France the use of its Nevada testing facility.²¹

These negative island reactions to the US non-signature of the protocols may well be dissipated by both diplomatic initiatives and increases in American and Australian economic assistance to the region. On the other hand, it is possible that the US response to the treaty could contribute to a re-orientation in island states' relations with the ANZUS states.

It may well reinforce the already evident trend for some island states, especially the Melanesian states, to seek to reduce their economic and political dependence on the ANZUS states by diversifying their relations with other countries, including Third World countries, Japan, the EEC, the Soviet Union and China. Already, Kiribati and Vanuatu have entered into commercial fishing agreements with the Soviet Union, Nauru is considering a Soviet offer of assistance in rehabilitation of the island following exhaustion of phosphate deposits, and PNG has sought membership of ASEAN. If the ANZUS states cannot be counted upon to protect their interests, then regional states may turn to new alignments perceived to be more responsive to island concerns.

In the case of the Soviet Union, which so far has no residential diplomatic missions in island states, the treaty provided a unique opportunity for the Soviet Union to show its sensitivity to island nuclear concerns and contrast its regional and arms control policies with those of its superpower rival. Together with its success in negotiating two fishing agreements with island states, Kiribati and Vanuatu, Soviet support for the Rarotonga Treaty could be expected to further reduce former island state hesitations in opening up diplomatic and commercial relations with the Soviet Union. Noting that the Soviet Union had already brought 'directly and vicariously, much economic benefit to the impoverished Pacific Island states', Siaguru observed that:

The US is now faced with an accelerated Russian commercial and diplomatic expansion in the Pacific Island countries at the very time the dilemma in her own policy-making (over the signing of the Rarotonga protocols) has broken the pro-US solidarity of the region.²²

Furthermore, given the Soviet approach of 'studiously avoiding any possible cause of confrontation with the US' within the region, and of providing 'every reassurance' to island countries, 'island sentiment might well side with the Russians' if the US were to 'manufacture an international incident in the region'.²³ While island states, because of their conservative Christian traditions and traditional ties with the West, would be extremely

cautious about any Soviet political or military access to their territories, their willingness to enter upon closer commercial and diplomatic ties is likely to increase as a result of Soviet efforts to demonstrate responsiveness to island concerns.

The regional backlash against the United States was so severe that both the American business-oriented Pacific Forum organization and the House of Representatives, subsequently urged the Administration to change its mind over signing the treaty.

The Pacific Forum group was so concerned over the island reaction that they recommended that the United States 'reconsider its position with respect to the nuclear free zone and separate itself more clearly from current French policies'.²⁴

The House of Representatives 'sense of the Congress' resolution followed hearings on the treaty conducted by the House Sub-Committee on Asian and Pacific Affairs (Chairman, Steven Solarz). The Congressional resolution, passed on 20 October 1987, noted that the Reagan Administration:

... has testified to the Congress that the protocols to the Treaty of Rarotonga do not prohibit any current or anticipated [US] activities in American territories in the South Pacific (American Samoa and Jarvis Island) or elsewhere in the region ...

and that the treaty

... is fully consistent with the Security Treaty between Australia, New Zealand and the United States (the ANZUS Treaty) and with United States security commitments in the South Pacific.²⁵

The House went on to declare that ratification of the protocols would be 'in the national interest of the United States' and that the US 'should sign and ratify the protocols'.²⁶

These domestic political pressures on the Administration, coupled with likely concern over the Soviet Union securing a major public relations victory in the region, may feasibly lead to an American reconsideration of the cost-benefits of withholding ratification. American ratification of the Rarotonga Protocols, while having complex implications globally, would eliminate the present contradiction between Australia's pursuit of 'enlightened ANZUS self-interest' at the regional level and the Reagan and Bush Administrations' subordination of regional issues to perceived global priorities.

The Rarotonga Treaty's role in the regional arms control process

Turning to the Rarotonga Treaty's consequences for the regional arms control process in the region, the evidence suggests that it will function more as a barrier than a bridge to further regional arms control, at least in the short-term.

In the first place, the motivation and actual provisions of the treaty, particularly the stringent amendment provisions giving right of veto to individual member states, suggest that the treaty would serve to prevent rather than encourage further moves towards regional denuclearization. Australia, for example, to the extent that it remained committed to

protecting and furthering ANZUS and US strategic objectives in the region, could be expected to block moves to strengthen the treaty through amendment.

Secondly, the domestic political uses of the treaty in enabling governments to reassure anti-nuclear electoral and party constituencies that the measure does serve to insulate the region from nuclear attack and superpower rivalry may serve to bring about a substantial lessening in electoral and ALP/NZLP pressures for further regional disarmament initiatives.

Both the Australian and New Zealand governments, in presentations to domestic audiences, have presented the treaty as making a greater contribution to regional security from nuclear attack than the provisions would seem to warrant.²⁷ Lessening of anti-nuclear pressures in domestic constituencies could in turn be expected to result in reduced incentive for regional governments to use the Rarotonga Treaty as a stepping stone to further regional disarmament.

The historical example of the effect of another partial arms control measure, the PTBT, in demobilizing the mass disarmament movements in the early sixties, both in Europe and in Australia and New Zealand, thereby paving the way for almost two decades of politically unconstrained escalation in the nuclear arms race, suggests that the demobilizing effect of partial arms control measures on the mainstream elements of mass disarmament movements cannot be discounted. In the case of the PTBT, Myrdal noted that:

The public was too easily satisfied with the ostrich-like solution of driving the tests underground - which had no effect on the major objective, to hamper and curtail nuclear-weapons development.²⁸

Similarly, the public in Australia and other South Pacific countries may be 'too easily satisfied' with the 'solution' presented by the SPNFZ.

In Australia, the large-scale peace movement that emerged in the early 1980s levelled out in the mid-1980s and disarmament issues were not so salient in the 1987 Federal Election as in the previous 1983 and 1984 elections. While a number of factors are likely to be involved, and while the anti-nuclear movements of the 1980s have far broader perspectives on the nature and dynamics of the arms race than the comparable movements of the early 1960s (which were largely focused on the environmental effects of atmospheric testing), the cresting of the disarmament movement may be due in part to the successful presentation of the Rarotonga initiative as a measure that reduces the nuclear threat in Australia's own region.

The third factor that suggests the treaty will be a barrier rather than a bridge to further regional disarmament is that even the most anti-nuclear states in the region did not seek to identify a further agenda of regional arms control. In effect, the treaty served to draw the line between what the two major ANZUS states, the United States and Australia, would tolerate and not tolerate by way of regional denuclearization. Given the American response to New Zealand's limited domestic nuclear free policy, any regional state seeking to go beyond the line set by the treaty could anticipate comparable or even more severe retaliation. While, as indicated above, ANZUS nuclear policies are likely to contribute to some island states seeking to reduce their economic and political dependency through non-traditional commercial and diplomatic relations, their present dependence on the

ANZUS states will serve to ensure that in the near term the treaty does not become the thin end of the wedge to further regional arms control.

While these three considerations would suggest that the treaty might slow the arms control process in the region, at least in the short-term, other factors may also be identified that could lead to the opposite result.

Firstly, the Soviet Union, in its response to the treaty, sought to link it to a broader Asia-Pacific arms control process in which the nuclear-weapon states would seek to reach agreement on a range of measures to limit or reduce their growing nuclear and military competition in the region. So far, there has been little interest on the part of either regional states or the other nuclear powers in responding to the Soviet proposals for an Asia-Pacific 'Helsinki'. If, on the other hand, as an outcome of mounting domestic anti-nuclear pressure or a new era of superpower detente, government interest were to develop in these proposals, then it is possible that regional states and the nuclear-weapon powers might reach agreement on collateral arms limitation measures that did serve to strengthen the Rarotonga Treaty, for instance, through agreements on naval, air and ASW limitations within the zone, or in adjoining areas.

Secondly, given the escalating pace of the nuclear arms race, it is feasible that some major nuclear crisis may develop in the Pacific or elsewhere, either in the form of another superpower confrontation similar to the Cuban missile crisis or as a result of an accident, that leads to renewed domestic pressure for regional denuclearization and disengagement, even at the cost of placing strains on military alliances with nuclear-weapon states. The increasing possibility of such a crisis in the Pacific region has been argued in a number of recent analyses of strategic developments in the region, particularly in the context of superpower military confrontation in Korea and in the North Pacific.²⁹

Global consequences and implications

The principal fear of the United States was that the zone would encourage the establishment of similar or more comprehensive zones elsewhere. In the relatively brief period since the signing of the treaty, there is some evidence that it has helped to foster consideration of a similar NFZ in the adjoining region of Southeast Asia, but little evidence that it has encouraged establishment of more comprehensive zones.

In the case of Southeast Asia, the negotiation of the Rarotonga Treaty is believed to have encouraged the ASEAN states during 1984-86 to consider and support in principle an Indonesian proposal for establishing a Southeast Asian NFZ as a further step in implementing the ZOPFAN Declaration of 1971.³⁰ Australian diplomacy directly sought to encourage such a development.³¹ Progress on the idea slowed down, principally because of opposition from Thailand, the Philippines and Singapore.³² As a region with a number of strategic straits and passages used regularly for nuclear-armed transit, and hosting US base facilities in the Philippines and Soviet facilities in Vietnam, establishment of a comprehensive Southeast Asian NFZ would impose major strategic constraints on both superpowers. ASEAN adoption of a comprehensive zone arrangement appears unlikely for several reasons. Even if the reluctant ASEAN states were to agree to proceed with a NFZ treaty, the fact that several member states have close ties with the United States, particularly the Philippines and Thailand, suggests that they would not cooperate in any arrangement

that restricted US nuclear-weapons transit. Secondly, the United States unwillingness to formally support even the limited Rarotonga Treaty, coupled with its expressed opposition to establishment of any NFZ in Southeast Asia, would further constrain some of the ASEAN states from moving in the direction of comprehensive denuclearization.

As for other regions, there is little indication as yet that the treaty has directly encouraged other governments to proceed with proposals or initiatives that were not already under active consideration, or accelerated such proposals. In Europe, there has been some academic interest in the treaty, but little or no direct government reference to it as an example to be emulated. While its provisions against land-based stationing of nuclear weapons would seem to be of relevance in the European context, its tolerance of a wide range of nuclear activities, including cruise missile launching and transit within and across the zone, and absence of collateral measures relating to superpower deployments in adjoining regions, does not address Scandinavian concerns over such issues frequently advanced in the case of the Nordic NFZ proposal.

The limited role of the treaty in triggering renewed interest in NFZs elsewhere may be attributed partly to its lack of substantive impact on the nuclear *status quo* within the region (by contrast, the New Zealand nuclear warship ban provoked world-wide publicity and interest), and partly to the major Western nuclear powers' lack of endorsement of the zone.

In terms of UN disarmament strategies, the Rarotonga Treaty has conflicting implications as a legal precedent for furthering global disarmament objectives.

While the Rarotonga Treaty has more stringent controls over some aspects of horizontal proliferation, such as its prohibition on nuclear explosions for allegedly peaceful purposes, it is, as already noted, less stringent than the Tlatelolco Treaty in restraining nuclear-weapon state activities. The failure to control nuclear-weapon state potential use of the zone for launching nuclear weapons not only detracts from the effectiveness of negative security guarantees sought under the treaty but also its relevance as a precedent in UN strategies to control vertical proliferation and competition between the nuclear-weapon states. The treaty's emphasis on land-based nuclear weapon deployment seems more relevant to an era when nuclear weapons were largely deployed in silos and other fixed locations than the present era of increasing deployment of mobile sea and air forces.

As a measure relating to an oceanic region, the treaty also has ambivalent implications as a precedent for developing the arms control dimensions of the new Law of the Sea. Rather than furthering the arms control possibilities of the UNCLOSIII designation of the high seas as 'reserved exclusively for peaceful purposes' and efforts to reserve sovereign state control over the determination of what constitutes innocent passage through territorial waters, the Rarotonga Treaty legitimizes nuclear-weapon power claims for the widest possible utilization of both the high seas and territorial waters for nuclear-weapons transit and even nuclear-weapon use. It is likely to set back, rather than advance, the hope of many signatories to UNCLOSIII that the new Law of the Sea would become the basis for steps towards denuclearization of the world's oceans.³³

If the role of the treaty is likely to be limited, and even counterproductive, in terms of control over nuclear-weapon state activities globally, it could be considered to have the effect of strengthening international controls over horizontal proliferation, at least under

some circumstances. If the NPT were to collapse as a result of non-nuclear states' disenchantment with the failure of the nuclear powers to keep their side of the NPT bargain, that is, to make progress towards nuclear disarmament agreements, the NFZ concept as represented both by the Tlatelolco Treaty and the Rarotonga Treaty, would serve as a regional safety net that enabled states within regions, and potentially between regions, to avoid nuclear competition between themselves and apply some pressure on the nuclear powers aimed at preventing nuclear targeting and blackmail of countries in the region (although, in the latter respect, the Rarotonga Treaty sets a poor precedent by its insufficient denuclearization of the region). On the other hand, if the NPT were to collapse as a result of horizontal proliferation, the spread of nuclear weapons to neighbouring states might undermine the mutual trust required for NFZ establishment.

It might finally be argued that the Rarotonga Treaty at least had the effect of reaffirming the sovereign right of small and medium sized non-nuclear states to implement arms control and disarmament initiatives within their own regional territories, without needing the prior approval of the major weapon powers.

Certainly, the Rarotonga Treaty came into force despite the formal lack of endorsement from the Western nuclear powers. As a gesture of sovereignty and independence by small and medium sized states, it could be considered to encourage similar assertions of sovereignty in regional arms control matters by other non-nuclear states.

However, the nature, motivation and reception of the treaty may result in very different international perceptions of the measure among non-nuclear states. The subordination of the treaty's provisions to the nuclear needs of a military alliance with a superpower, the reluctance of the Western nuclear powers to endorse even an extremely limited denuclearization initiative, and the vulnerability of small states to superpower and allied states' economic pressures and inducements, suggest that the treaty might equally be perceived as an example of the powerlessness of small or medium sized states to make substantive progress in regional disarmament in conditions where one or more of the larger zone states are committed to a military alliance with a superpower.

NOTES

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