

February 28, 1967
**Telegram from Ambassador Trivedi on Eighteen
Nation Committee on Disarmament**

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Summary:

Discussion of the establishment of nuclear-weapon-free zones.

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FROM: V.C. Trivedi, Ambassador

TO: FS, MEA

DATE: Feb 28, 1967

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□...Roschin was the next speaker. (made particular reference to the issues in field of disarmament to which USSR places importance)...the need for progress in regard to general and complete disarmament, and the establishment of nuclear-free zones in various parts of the world.

□It is interesting to observe that Roschin's statement revealed that the Soviet attitude in regard to nuclear-free zones is becoming somewhat more cautious. While generally welcoming the establishment of such zones, he made the following points: I) The Soviet Union would adopt its final position in regard to a particular zone only after the countries concerned had reached agreement on its establishment and the position of other nuclear powers had been ascertained; and II) The Soviet Union would assume an obligation to respect a nuclear-free zone, if similar obligations were assumed by other nuclear powers as well.

□NON-ALIGNED MEETING

□The first meeting of the non-aligned group of this session was held on Wednesday the 22nd of February, with Khallaf of the UAR in the chair.

□

□There was an interesting discussion on the recently concluded treaty on the denuclearization of Latin America. I asked Garcia Robles of Mexico to comment the statement of Nicaragua, which had been included in the Final Act of the Fourth Session of the Denuclearization of Latin America Preparatory Commission Conference, and which stated:

□"The delegation of Nicaragua understands that the prohibitions laid down in this Treaty refer solely to the use of nuclear energy for warlike purposes. Consequently, Nicaragua in signing this Treaty, reserves its sovereign right to use nuclear energy as it sees fit for peaceful purposes, such as the large-scale removal of earth for the construction of inter-oceanic or other canals, irrigation works and electric power stations, and to permit transit of atomic materials through its territory." (ENDC/186, pg. 9)

□I said that since the signature of Nicaragua had been accepted as valid by the other members of the Preparatory Commission, it would appear that the understanding of Nicaragua regarding peaceful nuclear explosions for the construction of canals and the question of atomic materials through its territory were accepted by other signatories not to be in contradiction with the provisions of the treaty.

□Garcia Robles explained that the Final Act had been adopted unanimously by the Prep Comm on Feb 14, 1967, and that the denuclearization treaty under Article 27 is not subject to reservations and therefore what Nicaragua had said could not be considered a reservation. It was merely a statement of the Government of Nicaragua, which according to the procedures laid down for the work of the conference, had been included in the document. As regards the question of PNEs, Robles said that Article 18 of the Treaty dealt with this question had to be read with Articles I and 5 of the treaty. As for the question of the transit of atomic materials, Robles said that the statement of Nicaragua did not add anything new to what had been said on pg. 8 of the document that the principles and rules of international law continued to be valid

on this question, which meant that the state through which transit had to be made possessed the sovereign right to grant or deny permission in regard to such a transit in each individual case.

¶Robles then gave a background of the developments which had led to the change in the definition of nuclear weapons in the final text of the treaty from the earlier text drawn up at the third session. He said that the earlier definition was not considered to be fully exhaustive as it was felt that the criterion of "intention" whether a device was a weapon or not, was not a satisfactory one, for a country could have 100 devices and say that it did not intend to use them for warlike purposes. The earlier definition of nuclear weapons was, therefore, considered to be defective. In the new definition, it was decided to make the criterion more objective. It was first considered that the definition should cover any device which had either all or some particular characteristics of nuclear weapons. But then it was argued that even peaceful nuclear devices may have certain characteristics which were common to both nuclear weapons as well as peaceful devices. A compromise was, therefore, agreed upon, which defined the nuclear weapon as any device "which has a group of characteristics that are appropriate for warlike purposes."

¶I then drew the attention of the group to the editorial of the New York Herald Tribune in its issue of February 21, suggesting that the United States should drop references to peaceful nuclear explosions from the non-proliferation treaty, because a device needed to be "weaponized" before it can be used as a weapon. Thus a device without casing and fusing apparatus could well be merely a peaceful device.

¶Robles then gave a brief historical account of the developments, which led to the inclusion of an article on peaceful nuclear explosions in the Latin American Treaty. He said that in the working group meeting in 1965, this point was made for the first time by Panama and Nicaragua, which had asked for a specific provision for such peaceful explosions as they were interested in building new inter-oceanic canals. Therefore, in the draft proposals which were prepared, article 13 dealt with this question. In 1966, at the third session of the Prep Comm, this article was incorporated in the first draft of the treaty, which was called "Proposals for the preparation of the Treaty on the Denuclearization of Latin America." Then came the statement of the United States representative at the ENDC on August 9, 1966, in which he argued that such explosions by non-nuclear weapon states should be banned for non-nuclear weapon states under a non-proliferation treaty. A similar point of view was also expressed by Britain in its statement at the 21st session of the General Assembly. The fourth session of the Denuclearization of Latin America Conference, which followed, was held in two parts: The first part on Aug 30, 1966m and the second from Jan 31 to Feb 14, 1967. The Prep Comm was confronted with some difficulties relating to the question of PNEs and the definition of nuclear weapons. The original proposal for the definition of nuke weapons defined a nuclear weapon as any device i) which was capable of releasing nuclear energy in an uncontrolled manner and ii) which was intended to be used for military purposes. As this definition was alter considered as bringing in a subjective element in regard to "intention" or "destination" of a device, several alternatives were considered with a view to solving this difficult problem. In order to get rid of this problem, a number of representatives were in favor of omitting articles 5 and 18 altogether and wanted only article 17, which stated that nothing in the treaty should prejudice the use of nuclear energy for peaceful purposes. On the other hand, there were pressures from countries wanting specific references to peaceful nuclear explosions and pressures for banning them. The final versions of Articles 5 and 18 were, therefore, a compromise. At the same time, it was felt that there was some room for differing interpretations of these articles and that ultimately it was a question of faith among the countries of Latin America that they would not have anything to do with nuclear weapons in their territory.

¶I commented that the definition of a nuclear weapon in the final draft treaty had been enlarged in comparison to the earlier draft and that such a step would have wide

repercussions in the field of disarmament. I said that the treaty had adopted the procedure of ensuring the purposes of article 18 (peaceful explosions) by changing the definition of nuclear weapons in article 5. I said that although it was now a matter of academic interest, I wondered whether there was any discussion on adopting the other procedure, namely to keep the original definition of nuclear weapons but to draft 18 more carefully.

□Robles said that as far as the Latin Americans were concerned, only Panama and Nicaragua were interested in the matter. These countries were not expected to obtain the necessary technology for peaceful explosions in the foreseeable future.

□Silveira of Brazil observed that in regard to the question of peaceful nuclear explosions being brought within the ambit of a non-proliferation treaty, it should be clearly borne in mind that what was sought to be prevented was only the acquisition of nuclear weapons and not the acquisition of science and nuclear technology. It was neither possible to make people unlearn their technology which they have already acquired nor was it desirable to prevent countries from developing their science and technology.