

Proclamation by President Nixon on Ratification of Additional Protocol II to the Treaty for the Prohibition of Nuclear Weapons in Latin America, June 11, 1971¹

The Senate of the United States of America by its resolution of 19 April 1971, two thirds of the Senators present concurring, gave its advice and consent to the ratification of Additional Protocol II, with the following understandings and declarations:

I

That the United States Government understands the reference in Article 3 of the treaty to "its own legislation" to relate only to such legislation as is compatible with the rules of international law and as involves an exercise of sovereignty consistent with those rules, and accordingly that ratification of Additional Protocol II by the United States Government could not be regarded as implying recognition, for the purposes of this treaty and its protocols or for any other purpose, of any legislation which did not, in the view of the United States, comply with the relevant rules of international law.

That the United States Government takes note of the Preparatory Commission's interpretation of the treaty, as set forth in the Final Act, that, governed by the principles and rules of international law, each of the Contracting Parties retains exclusive power and legal competence, unaffected by the terms of the treaty, to grant or deny non-Contracting Parties transit and transport privileges.

That as regards the undertaking in Article 3 of Protocol II not to use or threaten to use nuclear weapons against the Contracting Parties, the United States Government would have to consider that an armed attack by a Contracting Party, in which it was assisted by a nuclear-weapon State, would be incompatible with the Contracting Party's corresponding obligations under Article I of the treaty.

II

That the United States Government considers that the tech-

¹ A/8560, Dec. 8, 1971. The treaty appears in *Documents on Disarmament, 1967*, pp. 69 ff. For Additional Protocol II, see *ibid.*, p. 83.

nology of making nuclear explosive devices for peaceful purposes is indistinguishable from the technology of making nuclear weapons, and that nuclear weapons and nuclear explosive devices for peaceful purposes are both capable of releasing nuclear energy in an uncontrolled manner and have the common group of characteristics of large amounts of energy generated instantaneously from a compact source. Therefore the United States Government understands the definition contained in Article 5 of the treaty as necessarily encompassing all nuclear explosive devices. It is also understood that Articles 1 and 5 restrict accordingly the activities of the Contracting Parties under paragraph 1 of Article 18.

That the United States Government understands that paragraph 4 of Article 18 of the treaty permits, and that United States adherence to Protocol II will not prevent, collaboration by the United States with Contracting Parties for the purpose of carrying out explosions of nuclear devices for peaceful purposes in a manner consistent with a policy of not contributing to the proliferation of nuclear weapons capabilities. In this connection, the United States Government notes Article V of the Treaty on the Non-Proliferation of Nuclear Weapons under which it joined in an undertaking to take appropriate measures to ensure that potential benefits of peaceful applications of nuclear explosions would be made available to non-nuclear-weapon states party to that treaty and reaffirms its willingness to extend such undertaking, on the same basis, to states precluded by the present treaty from manufacturing or acquiring any nuclear explosive device.²

III

That the United States Government also declares that, although not required by Protocol II, it will act with respect to such territories of Protocol I adherents as are within the geographical area defined in paragraph 2 of Article 4 of the treaty in the same manner as Protocol II requires it to act with respect to the territories of Contracting Parties.

The President ratified Additional Protocol II on 8 May 1971, with the above-recited understandings and declarations, in pursuance of the advice and consent of the Senate.

It is provided in Article 5 of Additional Protocol II that the Protocol shall enter into force, for the States which have ratified it, on the date of the deposit of their respective instruments of ratification.

The instrument of ratification of the United Kingdom of Great Britain and Northern Ireland was deposited on 11 December 1969, with understandings and a declaration, and the instrument of ratification of the United States of America was deposited on May 12, 1971 with the above-recited understandings and declarations.

² *Ibid.*, 1968, pp. 461-465.

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In accordance with Article 5 of Additional Protocol II, the Protocol entered into force for the United States of America on 12 May 1971, subject to the above-recited understandings and declarations.

Now, *Therefore*, I, Richard Nixon, President of the United States of America, proclaim and make public Additional Protocol II to the Treaty for the Prohibition of Nuclear Weapons in Latin America to the end that it shall be observed and fulfilled with good faith, subject to the above-recited understandings and declarations, on and after 12 May 1971, by the United States of America and by the citizens of the United States of America and all other persons subject to the jurisdiction thereof.

In testimony whereof, I have signed this proclamation and caused the Seal of the United States of America to be affixed.

Done at the city of Washington this eleventh day of June in the year of our Lord one thousand nine hundred seventy-one and of the Independence of the United States of America the one hundred ninety-fifth.

[SEAL]

RICHARD NIXON

By the President:

WILLIAM P. ROGERS

Secretary of State