



OPANAL
Agency for the Prohibition of Nuclear Weapons in Latin America and the Caribbean
Secretariat

Inf.22/2021
Original:English

17 June 2021

**Contribution of the Agency for the Prohibition of Nuclear Weapons in Latin America
and the Caribbean to the report of the Secretary-General
United Nations General Assembly resolution 75/239 of 31 December 2020, entitled
“Oceans and the law of the sea”.¹**

The Agency for the Prohibition of Nuclear Weapons in Latin America and the Caribbean (OPANAL), established in accordance with article 7 of the Treaty for the Prohibition of Nuclear Weapons in Latin America and the Caribbean (Treaty of Tlatelolco)², presents herewith its contribution to the report of the United Nations Secretary-General pursuant to paragraph 364 of the resolution 75/239 of 31 December 2020. This report provides relevant information about the recent developments, since June 2019.

I. Introduction

The Treaty of Tlatelolco, which established the first nuclear-weapon-free zone in a densely populated region, was opened for signature on 14 february1967, and entered into force on 25 April 1969, has two Additional Protocols:

- *Additional Protocol I*³ is directed towards extra-regional States having *de jure* or *de facto* international responsibility for territories situated in the zone of application⁴ of the Treaty of Tlatelolco.

¹ This document was prepared by the Secretariat of the Agency for the Prohibition of Nuclear Weapons in Latin America and the Caribbean – OPANAL under the responsibility of its Secretary-General, Ambassador Flavio Roberto Bonzanini.

² United Nations, *Treaty Series*, vol.634, No. 9068.

³ http://disarmament.un.org/treaties/t/tlateloco_p1/text

- *Additional Protocol II*⁵ is directed towards the five nuclear-weapon states recognized by the Treaty on the Non-Proliferation of Nuclear Weapons.

At the time of signature and/or ratification of the Additional Protocols I and II, the States Party to such instruments issued declarations. Two of them issued declarations containing reservations to the zone of application of the Treaty of Tlatelolco: France and the Russian Federation.

The Member States of OPANAL, and the Agency itself, consider that the zone of application of the Treaty of Tlatelolco implies no distortion, violation or incompatibility with the freedom of the high seas established in article 87 of the Convention on the Law of the Sea. Moreover, the vast majority of Latin American and the Caribbean states are parties to this convention⁶ and have never issued any restrictive declaration on its provisions.

Additionally, OPANAL has reiterated its willingness to achieve a mutually agreed solution with the States Party of Protocols I and II, in accordance with article 88 of the UN Convention on the Law of the Sea, which states that “*The high seas shall be reserved for peaceful purposes*”, which is fully compatible with the zone of application of the Treaty of Tlatelolco and, in no way, it jeopardizes the maritime security of none of the States Party to the Protocols I and II of the Treaty of Tlatelolco.

The Resolution A/RES/74/27 of the United Nations General Assembly entitled “Treaty for the Prohibition of Nuclear Weapons in Latin America and the Caribbean (Treaty of Tlatelolco)”⁷ also encourages States Parties to Additional Protocols I and II to the Treaty of Tlatelolco to review their interpretative declarations thereto, in accordance

⁴ In accordance with article 4 of the Treaty of Tlatelolco the zone of application is “the whole of the *territories* for which the Treaty is in force”. The term *territory*, as defined in article 3, includes, “the territorial sea, air space and any other space over which the State exercises sovereignty in accordance with its own legislation”. Thus, the zone of application straddles areas defined in articles 55 (Specific legal regime of the exclusive economic zone) and 86 (Application of the provisions of high seas) of the 1982 Convention on the Law of the Sea (United Nations, *Treaty Series*, vol. 1833, No. 31363).

⁵ http://disarmament.un.org/treaties/t/tlateloco_p2/text

⁶ OPANAL Member States parties to UNCLOS: Antigua and Barbuda, Argentina, Bahamas, Barbados, Brazil, Chile, Costa Rica, Cuba, Dominica, Granada, Guatemala, Guyana, Haiti, Honduras, Jamaica, Mexico, Nicaragua, Panama, Saint Kitts and Nevis, Saint Vincent and the Grenadines, St. Lucia, Suriname, Trinidad and Tobago, Uruguay.

⁷ A/RES/74/27 <https://documents-dds-ny.un.org/doc/UNDOC/GEN/N19/409/93/PDF/N1940993.pdf?OpenElement>

with action 9 of the Final Document of the 2010 Review Conference of the Parties to the Treaty on the Non-Proliferation of Nuclear Weapons (NPT),⁸ reaffirming and recognizing the legitimate interests of the States that comprise the nuclear-weapon-free zone in Latin America and the Caribbean in receiving full and unequivocal security assurances from nuclear-weapon States.

In 2015, the General Conference of OPANAL accepted an action plan elaborated by the Secretary-General.⁹ This action consisted in proposing Adjustments, alongside with explanatory memoranda, to those States having made interpretative declarations to Additional Protocols I and II. On the reservations concerning the zone of application of the Treaty of Tlatelolco, the proposed Adjustments and memoranda were submitted to the Ministry for Europe and Foreign Affairs of France and to the Ministry of Foreign Affairs of the Russian Federation.¹⁰

OPANAL has insisted on the necessity to reach an agreement with France that -without eliminating the interpretative declaration made on March 2, 1979 when signing Additional Protocol I to the Treaty of Tlatelolco- could represent a mutual understanding that would provide a definite solution to this issue. Likewise, OPANAL is not proposing the Russian Federation to withdraw its declaration, but rather extending an invitation to negotiate with the Agency an explanatory text acceptable for both sides.

The Treaty of Tlatelolco is, thus, legally compatible with the 1958 Convention of the High Seas and the 1982 United Nations Convention on the Law of the Sea. In this sense, the Treaty of Tlatelolco does not represent a modification of the law of the sea but rather its States Parties undertake to comply with the obligations under the treaty, including in geographical areas of the high seas.

⁸ 2010 Review Conference of the Parties to the Treaty on the Non-Proliferation of Nuclear Weapons, Final Document, vols. I-III (NPT/CONF.2010/50 (Vols. I-III):

⁹ General Conference of OPANAL. Resolution CG/Res.03/2015 “Interpretative Declarations made by the States Party to the Additional Protocols I and II to the Treaty of Tlatelolco”, adopted on 26 November 2015. <http://www.opanal.org/wp-content/uploads/2015/11/CG-Res-03-2015.pdf>

¹⁰ On 16 and 20 December 2016, the aforementioned were submitted to the Russian and French Governments, respectively. On 15 and 19 March, respective démarches were carried out by the Council Member States representations in Paris and Moscow. Follow-up demarches were also carried out in December 2019.

II. Recent developments

The Secretariat of OPANAL has regularly submitted information regarding the zone of application¹¹ of the Treaty of Tlatelolco and its main challenges. Due to the SARS COV-2 pandemic, no relevant developments were reported in 2020. In spite of the aforementioned, the Member States of OPANAL have agreed to pursue a renewed strategy in order to revitalize this pending issue in 2021.

To that end, earlier this year, the Council of OPANAL established an open-ended technical group in charge of discussing and implement possible strategies for rapprochement and dialogue with all four nuclear armed states that made interpretative declarations to Protocols I and II to the Treaty of Tlatelolco, including France and the Russian Federation which declarations have a direct impact on the zone of application of the Treaty.

It is envisaged that the General Conference of OPANAL, to be held on 30 September 2021, will continue to revisiting the issue of interpretative declarations, in accordance with the resolutions CG/E/Res.02/2017¹², CG/E/Res.01/2018¹³ and CG/Res.12/2019¹⁴, and approve an action plan to engage in further discussions with all four armed states in order to reach an initial dialogue and understanding.

¹¹ In accordance with article 4 of the Treaty of Tlatelolco the zone of application is "the whole of the *territories* for which the Treaty is in force". The term *territory*, as defined in article 3, includes, "the territorial sea, air space and any other space over which the State exercises sovereignty in accordance with its own legislation". Thus, the zone of application straddles areas defined in articles 55 (Specific legal regime of the exclusive economic zone) and 86 (Application of the provisions of high seas) of the 1982 Convention on the Law of the Sea (United Nations, *Treaty Series*, vol. 1833, No. 31363).

¹² http://www.opanal.org/wp-content/uploads/2017/10/CG_E_Res.02_2017_Declaraciones_interpretativas.pdf

¹³ http://www.opanal.org/wp-content/uploads/2018/11/CG_E_Res.01_2018_Interpretative_declarations.pdf

¹⁴ http://www.opanal.org/wp-content/uploads/2019/12/CG_Res.12_2019_Interpretative-declarations-1.pdf