



AGENCY FOR THE PROHIBITION OF NUCLEAR WEAPONS IN
LATIN AMERICA AND THE CARIBBEAN

14 June 2024

Inf.28/2024
Original: English

Contribution of the Agency for the Prohibition of Nuclear Weapons in Latin America and the Caribbean to the UN Secretary-General's report on "Oceans and the law of the sea".

The Agency for the Prohibition of Nuclear Weapons in Latin America and the Caribbean (OPANAL) presents herewith its contribution to the report of the United Nations Secretary-General pursuant to paragraph 365 of the resolution 78/69 of 5 December 2023, entitled "Oceans and the law of the sea".

The Secretariat of OPANAL has consistently provided updates on its activities related to ocean affairs and the law of the sea. These activities primarily concern the Zone of Application of the Treaty on the Prohibition of Nuclear Weapons in Latin America and the Caribbean (Treaty of Tlatelolco). One of its main challenges is the fact that some States Parties to Additional Protocols I and II do not recognize its extension as it encompasses some areas of the high seas. As previously reported, at the time of the signing and ratification of Protocols I and II to the Treaty of Tlatelolco, the United Nations Convention on the Law of the Sea (UNCLOS) did not exist. However, today, nearly all States in the region are Parties to the Convention, and thus, they adhere to the legal provision that the breadth of the territorial sea is "up to a limit not exceeding 12 nautical miles (...)." Beyond this limit, it is recognized that no state has sovereignty over the sea. The existence of the zone of application does not violate any rule of international law or any existing legal principle. It does not restrict free navigation and overflight on the high seas, as the transit of nuclear weapons is not prohibited by the Treaty of Tlatelolco. However, it prevents the testing, use, manufacture, production, acquisition, receipt, storage, installation, and deployment of nuclear weapons in the high seas included in the zone of application.

There is a clear lack of harmonization and convergence between the communities addressing the challenges of the UNCLOS and those of treaties establishing nuclear-weapon-free zones. These normative frameworks often interact with issues related to freedom of navigation, rights of transit passage, and innocent passage, in accordance with international law. Thus, there exists the need to adopt more comprehensive policies regarding its application and convergence.

The XXVIII Session of the General Conference of OPANAL, held on 3 November 2023, in Guatemala City, adopted its annual resolution CG/Res.01/2023 devoted to request the States Parties to Additional Protocols I and II to the Treaty of Tlatelolco to respect the militarily denuclearized status of Latin America and the Caribbean and to review or withdraw the Interpretative Declarations, including those sections related to the Zone of Application.

It entrusts the Council of OPANAL to take the necessary steps to continue the constructive dialogue with States Parties to the Additional Protocols I and II to the Treaty of Tlatelolco in order to advance on this matter. Currently, the Member States of OPANAL are working on the next steps in the dialogue within the framework of the Second Session for the Preparatory Committee for the Review Conference of the Treaty on the Non-Proliferation of Nuclear Weapons (NPT), to be held in Geneva from 22 July to 2 August 2024.