



Nuclear-Weapon-Free Zone in Latin America and
the Caribbean

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

S/Inf.1114

Original: Spanish

Check against delivery

**Committee on Hemispheric Security
Permanent Council of the Organization of American States**

**Statement by
Ambassador Luiz Filipe de Macedo Soares
OPANAL Secretary-General**

Washington DC, 20 March 2013

Delivered via video-conference from Mexico City

Mr Chairman,

I would like to thank you for your kind invitation to participate in this meeting of the Permanent Council's Committee on Hemispheric Security of the Organization of American States. I bring greetings to the distinguished Ambassadors, Permanent Representatives, delegates, and to the members of the Secretariat on behalf of the Members of the different Organs and the Secretariat of the Agency for the Prohibition of Nuclear Weapons in Latin America and the Caribbean (OPANAL).

As stated in the invitation that was extended to me, my statement is based on Resolution AG/RES. 2624 (XLI-0/11) "Consolidation of the Regime established in the Treaty for the Prohibition of Nuclear Weapons in Latin America and the Caribbean (Treaty of Tlatelolco)."

"To consolidate" evokes a double meaning: on the one hand, to secure, that is to say, to guarantee, to affirm with certainty and; on the other hand, it means to strengthen, to solidify. Furthermore, "to consolidate" represents a process that progresses from the weakest to the most robust.

Certainly, the regime of Tlatelolco has been consolidating since its inception. First, through the gradual signing and deposit of the instruments of ratification by all States in the region. Then, amendments were adopted as Parties considered them necessary to consolidate the Treaty. All requirements regarding the procedural aspects of international law were met. However, the work is not finished yet, as three States Parties have not yet ratified the Amendments. There is also a Convention on Prerogatives and Immunities between the Agency and Member States, which has not yet been signed by eleven of them, and not yet ratified by three.

Nobody doubts that, for the consolidation of an agreement, it is essential that all parties are bound by the same terms and the same provisions. Those terms and their disposition in provisions are the essential structure in which the obligations are contained, the agreed properly. Hence the "sacred" nature of authentic texts, such as those deposited in Tlatelolco, currently printed on plain paper, but as solemn as antique scrolls or stone tablets.

Having mentioned the Treaty structure, so to say its bones, let's move on to the Agency itself that gives life to it. I will now address Treaty compliance.

This metaphor means that we do not consider a treaty to be a political declaration, or a recorded opinion, or a learning or a revelation. A treaty corresponds to legal substance, because it generates obligations and, therefore, constitutes law. Ideally, it is reached by common and unanimous consent, if not, by mutual concessions. Either way, the legitimacy is there, once the signature, ratification and deposit procedures are completed.

If there is a single legal essence for all formal international instruments containing obligations, it is obvious that their relative importance is related to their subject matter. For instance, a bilateral arrangement concerning passport visas would be of great importance for those people who need to cross the border of signatory States. However, its scope is clearly limited. I am not referring to the number of countries involved, or the number of people that would benefit from it, but to the very subject matter of the agreement. This is clear if we consider, for instance, the START treaties between the United States of America and the Russian Federation. They are very relevant not only to the citizens of both signatory States, but also to all of us in any country, in any continent.

The nuclear weapon is the greatest, most imminent and direct threat posed to all people of all countries, without exception, including the greatest and strongest states that possess nuclear weapons and those that prefer not to have any military forces. In terms of global scope and catastrophic consequences, we could compare it with climate change caused by global warming and other related phenomena. Yet, the latter is a process that started over two hundred years ago, that has been aggravated in recent decades and whose most serious consequences are expected to happen approximately by the end of this century.

The nuclear blast is instantaneous, irreversible and uncontrollable. To prevent it and eliminate the elements that make it possible is the highest and apparently the most unattainable task for diplomacy.

The Treaty of Tlatelolco is a significant part in such a desperate effort, and a part in the unflagging belief in the power of reason.

We then reach the indeed crucial point of compliance with the Treaty.

Before addressing the subject directly, I would rather seek a comparison with the Treaty on the Non-Proliferation of Nuclear Weapons (NPT). States Parties to the NPT were clear enough about compliance with article VI, as we can see in the relevant Final Document of the 2010 NPT Review Conference, its paragraph 79 highlights the obligation undertaken by nuclear weapon states in article VI of the NPT. It is worth mentioning this paragraph:

“The Conference notes the reaffirmation by the nuclear-weapon States of their unequivocal undertaking to accomplish, in accordance with the principle of irreversibility, the total elimination of their nuclear arsenals leading to nuclear disarmament, to which all States parties are committed under article VI of the Treaty.”

In contrast, paragraph 80 reads as follows:

“The Conference, while welcoming achievements in bilateral and unilateral reductions by some nuclear-weapon States, notes with concern that the total estimated number of nuclear weapons deployed and stockpiled still amounts to several thousands. The Conference expresses its deep concern at the continued risk for humanity represented by the possibility that these weapons could be used and the catastrophic humanitarian consequences that would result from the use of nuclear weapons.”

It is evident that article VI has not yet been complied with, despite the careful drafting imposed by the necessary consensus, of almost two hundred States, prior to adopting the Final Document of the Conference. Even more eloquent are the actions 3, 4, 5 included in the “Conclusions and recommendations for follow-on actions” under the section entitled “Disarmament of nuclear weapons”.

And, what is going on in Tlatelolco?

None of the States Parties have violated the fundamental article 1, which reads:

“1. The Contracting Parties hereby undertake to use exclusively for peaceful purposes the nuclear material and facilities which are under their jurisdiction, and to prohibit and prevent in their respective territories:

(a) The testing, use, manufacture, production or acquisition by any means whatsoever of any nuclear weapons, by the Parties themselves, directly or indirectly, on behalf of anyone else or in any other way, and

(b) The receipt, storage, installation, deployment and any form of possession of any nuclear weapons, directly or indirectly, by the Parties themselves, by anyone on their behalf or in any other way.

2. The Contracting Parties also undertake to refrain from engaging in, encouraging or authorizing, directly or indirectly, or in any way participating in the testing, use, manufacture, production, possession or control of any nuclear weapon.”

However, it would not be precise to affirm that compliance with the Treaty has been 100% met. By signing a treaty, States Parties undertake to comply with the obligations set out in it, both in its spirit and letter.

The negotiators of Tlatelolco did not balk at the difficult task of addressing the particularities that would guarantee compliance with the obligations contained in article 1. Thirty articles follow this single, central article; almost all of them address implementation in its various aspects.

Considering that the parties to trade agreements make efforts to include painstaking ways to guarantee compliance, it is natural that treaties addressing security matters are surrounded by safeguards. In the science of disarmament, which has been deepening over many decades, verification is precisely one of the most complicated disciplines.

The latter is the subject matter of the Control System described in article 12 of the Treaty, together with the subsequent four articles. In fact, the institutional structure established by the Treaty is also part of the compliance concern of the negotiators. If that would not have been the case, the creation of an organization provided with organs and officers would not make much sense; and I would not be here abusing the patience of the Committee.

In addition to complying with obligations, the Treaty clearly stipulates that the Parties must submit biannual reports on such compliance. They also have to notify of any agreement concluded on matters with which the Treaty is concerned. And why is that so? Because a treaty represents a contract, and not a simple exhortation. If – repeating the comparison – a visa arrangement requires a number of formalities, a fortiori a treaty aimed at eliminating the most serious danger confronting humankind could not be informal.

Observance of clauses on the submission of information is an integral part of compliance with the Treaty. With regard to article 14, the Agency requests Member States to submit biannual reports stating that no activity prohibited under the Treaty provisions has occurred. In 2013, 19 States met

this obligation; eight of them submitted their last report in December. On the other hand, 12 States did so between 2010 and 2012, while two States have not done so since the 1980s.

Regarding compliance with article 24, "Notification of other agreements", between 2010 to date, 22 Member States have submitted their reports. However, four Member States have never done so.

Mr Chairman, Distinguished Representatives,

Tlatelolco was conceived and achieved in an era in which the Cold War threatened to heat up in our part of the world. That was happening at different times around the world, such as in Central Europe around Berlin and in Asia. In those theatres, these menaces meant to be or could be interpreted as conventional confrontations. In our region, the two superpowers posed a direct threat to each other, which was more likely to take the form of a nuclear clash.

The negotiators then could not ignore the reality of the presence of extra-regional States in the region. This sentence is a paradox somewhat, but it is real. In a way, those States could not take part in the Treaty for that would represent the immediate fulfilment of the dream of a world without nuclear weapons.

The solution was the drafting of the two Protocols, which have been signed and ratified by the six States involved, five of them being nuclear powers. The dream was not fulfilled, but the reality of the nuclear-weapon-free zone was preserved. Nevertheless, the five Nuclear-Weapon-States (NWS) issued unilateral declarations that reduce the effectiveness of the Treaty. The modification or withdrawal of such declarations is essential for the consolidation of the regime established by the Treaty of Tlatelolco.

I will not expand on this matter for two main reasons: on the one hand, nothing relevant has happened since the last time that OPANAL addressed this Honourable Committee. On the other hand, the thoughts on this matter that I would like to bring before you are not mature enough, as I have only been serving as Secretary-General of OPANAL for a month. I have no doubts that previous efforts made by States Parties and by my predecessors at the Secretariat will have to be resumed. *Rebus sic stantibus*, it does not seem to me to be the case of simply repeating previous attempts. New avenues must be found and this task must be carried out not only by OPANAL, but also by the five States involved, since they obviously must also be interested in finding a solution.

With the Treaty of Tlatelolco, Latin America and the Caribbean gave a lesson to the world in terms of political greatness and legal sagacity. The region has changed, and for the better. Democracy was far to be the norm in our region at the time of Tlatelolco, our peoples had much less prospects than they do today. Tlatelolco is a gift from Latin America and the Caribbean to the world. Therefore, we must be and we are interested in finding a solution to the greatest problem that human ingenuity has ever created.

It is not enough to cultivate our garden. It is necessary to throw seeds further.

Thank you.