



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

SG.10.2012

**MEMORANDUM OF THE COUNCIL AND THE SECRETARY-GENERAL
SUBMITTED TO THE GENERAL CONFERENCE ON THE FORMATION OF A
WORKING-GROUP TO ANALYZE AND PROPOSE MEASURES THAT COULD
STRENGTHEN THE CONTROL SYSTEM UNDER THE PROVISIONS OF THE
TREATY OF TLAHELCO**

I. Background

At its 267th Session, OPANAL Council adopted the proposal of the Secretary-General to establish an Academic and Informal Working Group to evaluate the Control System of the Treaty of Tlatelolco in order to strengthen and complement it; considering the possibility to establish a procedure to follow in the event of an alleged or apparent violation of the Treaty. This proposal was based on Article 9 paragraph 2(b) of the Treaty of Tlatelolco stating that the General Conference “*Shall establish procedures for the Control System to ensure observance of this Treaty...*” It was also considered that the Treaty gives the Council and the Secretary-General responsibility for ensuring the proper operation of the Control System, [under the Treaty itself](#) and the provisions of the General Conference.

The Group held three sessions with the participation of some Member States Representatives and the Secretary-General (please find attached the [Minutes](#) of these sessions, documents SG.09.2012; SG.08.2012 and SG.07.2012.) The nature of the Group was academic and informal, and was open to all Members States. It was decided from the outset to maintain the anonymity of participants to encourage free discussion and to avoid that all commentary and contributions were considered as overtaking criterion.

The analysis started with the following questions:

- What is the capacity of OPANAL and its Organs in order to be able to fulfil their powers and duties under the Treaty of Tlatelolco?
- Are they prepared to take action in the event of an evident or alleged violation of the Treaty?

How would OPANAL react in a situation like this?

- How would it proceed?
- Would the Treaty and its Additional Protocols be sufficient, or would it be necessary to interpret their norms and regulations?

II. Considerations on the Working Group Sessions

The Working Group instructed the Secretary-General to consult the verbatim records of the Preparatory Commission for the Denuclearization of Latin America (COPREDAL), documents that could provide background information for situations or procedures related to the Control System. The search was not successful, no records were found regarding the implementation of any procedure in the past.

The analysis of the Group was carried out with a detailed reading and a systemic interpretation of the articles of the Treaty of Tlatelolco and its Additional Protocols I and II. The purpose of the Working Group was to analyze the viability to establish a procedure to follow regarding the Control System, including the difference between the items that must be regulated, and those in which regulation is not advisable. Another purpose of the Group is to value the articles that should be interpreted for their implementation.

It was constantly noted that the existence of procedures would clarify the steps to be followed by OPANAL Organs in the event of an alleged violation of the Treaty of Tlatelolco.

It was stressed that any decision or procedural proposal must not undermine but strengthen the efficaciousness of the Control System. It was also clarified that certain processes cannot go beyond the Treaty, to which they belong. The question remains: what would be the appropriate procedure to be implemented? And what would be its scope?

Group members noted that it is necessary to systemically analyze not only the Treaty itself, but also the connection between the Control System under the Treaty of Tlatelolco and the international legal architecture; after all, the obligations of Member States, regarding the matter, are not limited only to the Treaty, but also to the obligations undertaken by them in the international arena.

It was also recalled that OPANAL has no technical capacity to carry out a verification or inspection procedure in the Zone; the Treaty does not give OPANAL such powers either. Rather, such powers were conferred to the IAEA. Therefore, the Group also noted the importance of the relationship between OPANAL and the IAEA. In this respect, it was very clear that the procedure would only address the elements related to the conduct of OPANAL and not the conduct of the International Atomic Energy Agency.

III. Conclusions and Proposal

After the holding of the three sessions, the Working Group concluded that it was necessary to continue to analyze and consolidate the discussions on the connection between the System of Tlatelolco and the international legal architecture in order to respond to some questions, for example: How are Member and Signatory States related to the Treaty with the IAEA, regarding the issue discussed? What is the scope of the obligations undertaken by Signatory States when signing the Treaty, regarding the Treaty's obligations? What are the conventions and/or agreements of the IAEA with Member States, and what is their scope? What

other international norms are related to the Treaty of Tlatelolco that should be considered in order to strengthen the Control System?

Considering that in Article 9 paragraph 2(b) the Treaty of Tlatelolco states that the General Conference shall establish procedures for the control System to ensure observance of the Treaty in accordance with its provisions; and based on the consultation made in the archives of the Agency, stating that no previous procedure has been adopted, the Council and the Secretary-General instruct the General Conference, having considered the progress and conclusions of the informal Working Group created to strengthen the Control System under the Treaty of Tlatelolco, to establish an Open Working Group constituted of Member States and the Secretary-General. The purpose of the Group shall be to design a procedural proposal for the implementation of the Control System established by the Treaty of Tlatelolco, under its own provisions and within the scope of OPANAL Organs.

This proposal is also based on Article 9 paragraph 2f of the Treaty, stating that “the General Conference shall initiate and consider studies designed to facilitate the optimum fulfilment of the aims of this Treaty, without prejudice to the power of the Secretary-General, independently, to carry out similar studies for submission to and consideration by the Conference.”

Mexico City, 27 September 2012.