



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

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**Working paper submitted by the Secretariat of the Agency for the Prohibition of Nuclear Weapons in Latin America and the Caribbean (OPANAL) presented to the second session of the Open-ended Working Group taking forward multilateral disarmament negotiations (OEWG) established by the United Nations General Assembly Resolution 70/33.**

The Treaty for the Prohibition of Nuclear Weapons in Latin America and the Caribbean – Treaty of Tlatelolco – is the first multilateral legal instrument that prohibited nuclear weapons. Its negotiation, concluded on 14 February 1967, was long and difficult, taking a total of 27 months. States from outside the region participated in the negotiation. The last meeting was attended by 22 observer States and the International Atomic Energy Agency (IAEA).

The Treaty of Tlatelolco entered into force on 25 April 1969. However, only in 2002, it came into force for all the 33 States of Latin America and the Caribbean.

Some articles of the Treaty of Tlatelolco, being especially relevant for the discussions of the OEWG, are transcribed below with some comments.

***Article 1 (Obligations)***

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.*

Article 1 of the Treaty of Tlatelolco, contains the following fundamental elements:

- The undertaking to use nuclear energy exclusively for peaceful purposes. This is the starting point of the Treaty (paragraph 1),
- Five actions referring to nuclear weapons (testing, use, manufacture, production, acquisition) are prohibited to States Party to the Treaty (paragraph 1, *a*),
- States Party to the Treaty are prohibited to undertake five actions related to nuclear weapons pertaining to third States (receipt, storage, installation, deployment, possession) (paragraph 1, *b*),
- Such actions are prohibited to the States Party to the Treaty either in their territories or in the territories of third parties “in any way” (paragraph 2).

These prohibitions cover the actions of States Party directly or indirectly, by themselves or on behalf of anyone else. Such prohibitions apply to these States Party in their territories as well as anywhere else.

This article is the most complete legal provision to date on the prohibition of nuclear weapons since it includes all aspects, actors and possibilities.

#### **Article 5 (Definition of nuclear weapons)**

The Treaty of Tlatelolco defines “nuclear weapons”, whereas other treaties establishing nuclear-weapon-free zones, mention “nuclear explosive device”.

In this connection, the Treaty of Tlatelolco is especially useful since it contains one of the first and few definitions of nuclear weapons in an international legal instrument.

Article 5 of the Treaty of Tlatelolco provides that:

*For the purposes of this Treaty, a nuclear weapon is any device which is capable of releasing nuclear energy in an uncontrolled manner and which has a group of characteristics that are appropriate for use for warlike purposes. An instrument that may be used for the transport or propulsion of the device is not included in this definition if it is separable from the device and not an indivisible part thereof.*

### **Article 7 (Organization)**

Among the five treaties establishing nuclear-weapon-free zones, only the Treaties of Tlatelolco and Pelindaba, created institutions to ensure compliance with the obligations established by those treaties: OPANAL and the African Commission on Nuclear Energy – AFCONE – respectively. The main difference between those organizations is that OPANAL has been functioning continuously for almost 50 years. It should also be noted that, in accordance with the Treaty of Tlatelolco, OPANAL has as its ultimate goal the pursuit and achievement of general and complete nuclear disarmament.

The first three paragraphs of Article 7 stipulate:

- 1. In order to ensure compliance with the obligations of this Treaty, the Contracting Parties hereby establish an international organization to be known as the “Agency for the Prohibition of Nuclear Weapons in Latin America and the Caribbean”, hereinafter referred to as “the Agency”. Only the Contracting Parties shall be affected by its decisions.*
- 2. The Agency shall be responsible for the holding of periodic or extraordinary consultations among Member States on matters relating to the purposes, measures and procedures set forth in this Treaty and to the supervision of compliance with the obligations arising there from.*
- 3. The Contracting Parties agree to extend to the Agency full and prompt co-operation in accordance with the provisions of this Treaty, of any agreements they may conclude with the Agency and of any agreements the Agency may conclude with any other international organization or body.*

**Article 17 (use of nuclear energy for peaceful purposes)**

As mentioned above, the Contracting Parties undertake, according to Article 1 of the Treaty of Tlatelolco, to use nuclear energy and nuclear material under their jurisdiction exclusively for peaceful purposes. Article 17 of the Treaty recalls the inalienable right of the Parties to use nuclear energy for peaceful purposes. This article states:

*Nothing in the provisions of this Treaty shall prejudice the rights of the Contracting Parties, in conformity with this Treaty, to use nuclear energy for peaceful purposes, in particular for their economic development and social progress.*

**Article 29 (Entry into force)**

This Article lists four requirements for the entry into force of the Treaty, in its zone of application (as defined in Article 4). Paragraph 2 of Article 29, granted to ratifying States the faculty to waive those requirements.

From 2002, after all the States of Latin America and the Caribbean ratified the Treaty, the four requirements transcribed below, have been fulfilled:

- a. *Deposit of the instruments of ratification of this Treaty with the Depositary Government by the Governments of the States mentioned in Article 26 which are in existence on the date when this Treaty is opened for signature and which are not affected by the provisions of Article 26, paragraph 2;*
- b. *Signature and ratification of Additional Protocol I annexed to this Treaty by all extra-continental or continental States having de jure or de facto international responsibility for territories situated in the Zone of Application of the Treaty;*
- c. *Signature and ratification of the Additional Protocol II annexed to this Treaty by all powers possessing nuclear weapons;*
- d. *Conclusion of bilateral or multilateral agreements on the application of the Safeguards System of the International Atomic Energy Agency in accordance with Article 13 of this Treaty.*

The States mentioned in Article 29, paragraph 1, *b* and *c*, (China, France, the Netherlands, Russia, the United Kingdom and the United States) signed and ratified Additional Protocols I and II, fulfilling an essential part of those requirements.