



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

**Secretariat**

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**SUMMER SCHOOL ON NON-PROLIFERATION AND NUCLEAR  
DISARMAMENT  
FOR DIPLOMATS IN LATIN AMERICA AND THE CARIBBEAN**

**MODULE 7. The role Nuclear Weapons Free Zones (11:15-12:30)**

*First Part of the Presentation*

SLIDE 1

*The importance of the Treaty of Tlatelolco as the first NWFZ, and its continued relevance for the nuclear nonproliferation and disarmament regime.*

*Thank you, Mr. Du Preez.*

You have already presented a very insightful overview about the existing nuclear-weapon-free zones and how, to some extent, they were inspired by the efforts carried out more than fifty years ago by a group of Latin American countries concerned by the risk of a nuclear confrontation at the height of the Cold War.

Now, it is my turn to address the relevance of the Treaty of Tlatelolco and the nuclear-weapon-free zone established in Latin America and the Caribbean.

### SLIDE 2: Content

I will start my presentation by recalling some important historical aspects of the Treaty and then, I will briefly mention the main provisions of the Treaty and move on to highlighting the continued relevance of the nuclear-weapon-free zone, as an essential element of the nuclear non-proliferation regime. In the second part of my presentation, I will share some perspectives on the future of the nuclear weapon free zones that, in my opinion, are the most relevant.

### SLIDE 3: Historical Background (I)

On the historical part, I would like to recall that, in 1962, nuclear tests reached their peak with approximately 120 atmospheric and 60 underground detonations. On 15 November 1962 -one month after the Missile Crisis in the Caribbean- Brazil, Bolivia, Chile and Ecuador, submitted the draft resolution **A/C.1/L.312/Rev.2** to the UN General Assembly containing a proposal for the denuclearization of Latin America.

A year later, in 1963, the five Presidents of Latin American States -Bolivia, Brazil, Chile, Ecuador and Mexico- issued the “Declaration on the denuclearization of Latin America”. By means of said Declaration, the five Presidents announced:

“that their Governments are prepared to sign a multilateral Latin American agreement whereby their countries would undertake not to manufacture, receive, store or test nuclear weapons or nuclear launching devices.”

In November 1963, the United Nations General Assembly addressed this initiative by adopting resolution **1911 (XVIII)**, which expressed the hope that States of the region will initiate studies aimed at achieving that goal.

#### SLIDE 4: Historical Background (II)

This multilateral agreement, the Treaty for the Prohibition of Nuclear Weapons in Latin America and the Caribbean – Treaty of Tlatelolco was concluded on 14 February 1967 in Mexico City, only 4 years after resolution 1911 was adopted. The text of the Treaty, as I mentioned earlier, reflects the concern of our region about the risk of a nuclear confrontation at the height of the Cold War. And, as it is the case with all international instruments, the provisions of the Treaty of Tlatelolco should not be interpreted in isolation.

#### SLIDE 5: Treaty of Tlatelolco - Preamble

In the **Preamble of the Treaty**, which is neither rhetorical nor decorative, we will find the connection of the Treaty with the surrounding political conditions at the time of its inception or the “aims” of the Treaty:

- Ending the armaments race, especially in the field of nuclear weapons
- Strengthening a world at peace based on the sovereign equality of States
- Total prohibition of nuclear weapons and weapons of mass destruction of any type
- General and complete disarmament under effective international control
- Preventing the proliferation of nuclear weapons
- Keeping peace and security in the military denuclearized zones
- Use of nuclear energy exclusively for peaceful purposes
- Right to the greatest and most equitable possible access to this new source of energy in order to accelerate economic and social development.

Finally, and this is probably the most important **part of the preamble**, it clearly states that military denuclearized zones or nuclear-weapon-free zones “are not an end in themselves but rather a means for achieving general and complete

disarmament at a later stage”. These “aims” are “the route map” of the Tlatelolco Treaty and of its 33 States parties.

In regard to the body of the Treaty, I will briefly mention its more relevant provisions:

SLIDE 6: Treaty of Tlatelolco - Obligations

– **Obligations:**

The Treaty prohibits, in article 1 paragraph 1, the testing, use, manufacture, production or acquisition by any means whatsoever of any nuclear weapons, directly or indirectly, within the zone of application. And it also forbids the receipt, storage, installation, deployment and any form of possession of nuclear weapons.

Moreover, in the same paragraph, the Treaty commits its contracting parties “to use exclusively for peaceful purposes the nuclear material and facilities which are under their jurisdiction”.

SLIDE 7: Treaty of Tlatelolco – Zone of Application

– **Zone of application:**

Article 4, paragraph 1, defines the zone of application as “the whole of the territories for which the Treaty is in force”. And the territory is defined in article 3 as “the territorial sea, air space and any other space over which the State exercises sovereignty in accordance with its own legislation”.

Article 4, paragraph 2, expands the zone of application beyond the national territories notably the Exclusive Economic Zones and the High Seas. The interpretative declarations to Protocols I and II to the Treaty of Tlatelolco made

by France and Russia - concerned this maritime zone of application. However, the zone of application complies with the 1982 United Nations Convention on the Law of the Sea, as it does not claim sovereignty nor jurisdiction over these zones. The total zone of application covers more than 20 million square kilometers.

Regarding the *interpretative declarations to Additional Protocols I and II*, the five NWS maintain “interpretative declarations” that are in fact reservations according to Article 2, paragraph 1, section (d) of the Vienna Convention on the Law of Treaties, which reads “(d) "Reservation" means a unilateral statement, however phrased or named, made by a State, when signing, ratifying, accepting, approving or acceding to a treaty, whereby it purports to exclude or to modify the legal effect of certain provisions of the treaty in their application to that State”. Pursuant to Article 28, Tlatelolco does not allow reservations a clause expressly accepted in Article 4 of Protocol II whereas Protocol I deliberately omit this matter.

The reservations of France and Russia challenge the scope of the Zone of Application. As I mentioned, the second paragraph of Article 4 of the Treaty delimits the Zone of Application including areas of the high seas. The security of the States in the nuclear-weapon-free zone was the purpose of the negotiators, and thereby of the Treaty.

The III United Nations Conference on the Law of the Sea, which led to the United Nations Convention on the Law of the Sea (1982 UNCLOS) had not yet been convened when the negotiations, conclusion and entry into force of the

Treaty took place. The reservation therefore revealed the insecurity of those two States regarding the evolution of a negotiation that was coming. Yet, it was and still is mistaken. In Article 4 and everywhere else in Tlatelolco it is inexistent, both in the letter and in the spirit, the intention of sovereignty or jurisdiction in the high seas over which UNCLOS has basically kept the Grotian concept of “*mare liberum*”. What the Law of the Sea Convention did alter is the extension of the coastal State jurisdiction, which by the way has been accepted by France and Russia; but kept the nature and the ensuing regime of the high seas.

#### SLIDE 8: Treaty of Tlatelolco – Control System

##### – **Control System:**

The Treaty of Tlatelolco established the first international monitoring and verification system to ensure compliance with disarmament and non-proliferation obligation. As defined in article 12, paragraph 2, the Control System is verifying: a. “that devices, services and facilities intended for peaceful uses of nuclear energy are not used in the testing or manufacture of nuclear weapons”, b. “that none of the activities prohibited in article 1 of this Treaty are carried out in the territory of the Contracting Parties” and c. “that explosions for peaceful purposes are compatible with article 18 of this Treaty”. Under article 13: “Parties shall negotiate implementation of IAEA safeguards” after the ratification of the Treaty. Moreover, under article 14: “Parties shall submit to OPANAL and the IAEA semi-annual reports stating that no activity prohibited under the Treaty has occurred in their territories”. The Secretary General, with the approval of the Council, can request special reports under article 15. And article 16: The Council may request the IAEA to put into operation necessary mechanisms for a special inspection.

### SLIDE 9: Treaty of Tlatelolco – Organization

**Art. 7** establishes the creation of an organization to ensure the compliance with the obligations under the Treaty. The Agency for the Prohibition of Nuclear Weapons in Latin America and the Caribbean (OPANAL) is composed of the General Conference, the Council and the Secretariat. The General Conference is the supreme organ of the Agency and meets every two years and extraordinarily if it considers necessary. The Council is composed of five member states and meets every two months or extraordinarily as it considers necessary. Finally, the Secretariat is composed by a Secretary General and the staff.

### SLIDE 10: External relations of OPANAL

OPANAL is the oldest regional mechanism on nuclear disarmament and non-proliferation and, until recently, the only one to maintain permanent institutional relations with other multilateral organizations.

The Agency is always invited to participate at the First Committee of the UN General Assembly and is listed among the Organizations to be consulted for the submission of reports requested by the UN General Assembly to the UN Secretary-General. With regards to the IAEA, relations are expressly stated in the Treaty, and so is the case with the OAS, including, *inter alia*, an annual participation in the Committee on Hemispheric Security. The Agency has also participated, occasionally, in the Conference on Disarmament (CD).

SLIDE 11: Importance of the Treaty

*Why the Treaty of Tlatelolco is important?*

Well, there are several reasons of why the Treaty of Tlatelolco is important:

- First and foremost, the Treaty of Tlatelolco is the first legally binding instrument which also creates the first Nuclear-Weapon-Free Zone in a densely populated area.
- Second, the Treaty establishes a set of provisions which grant rights and obligations to its States party regarding the development of nuclear energy.
- It also represents the first practical expression on the prohibition of nuclear weapons in International Law (Art. 1).
- The Treaty of Tlatelolco is the first multilateral instrument including the definition of nuclear weapons (Art. 5), whereas other treaties establishing nuclear-weapon-free zones, refer to them as nuclear explosive devices.
- Even more, the Treaty of Tlatelolco precedes and goes beyond the Treaty on the Non-Proliferation of Nuclear Weapons (NPT), which -as you have heard throughout this week- is the cornerstone of the nuclear non-proliferation regime. The Treaty of Tlatelolco greatly influenced the inclusion of Article VII of the NPT that gives “the right of any group of States to conclude regional treaties in order to assure the total absence of nuclear weapons in their respective territories.”
- Moreover, the Treaty of Tlatelolco establishes an international organization, in order to ensure the compliance of the Treaty by its States Parties, which is fully operational, and it is completely devoted to the issues on nuclear disarmament and non-proliferation: the Agency for the Prohibition of Nuclear Weapons in Latin America and the Caribbean (OPANAL).



- Finally, but not least important, the Treaty is also respected by the six States Party to the Additional Protocols, those being China, France, the Netherlands, Russia, the United Kingdom and the United States.

SLIDE 12: Conclusion

In conclusion, OPANAL has been in continued operation for more than five decades. Moreover, in accordance with the Treaty of Tlatelolco, the ultimate goal of OPANAL it is the pursuit of general and complete nuclear disarmament. Both, the Treaty of Tlatelolco and OPANAL remain as benchmarks of good practices and lessons learned for the rest of the nuclear-weapon-free zones in the world, as well as for the processes aimed at creating new nuclear-weapon-free zones, such as the one in the Middle East. But this is something that I will later address when we talk about some of the perspectives about the future of nuclear-weapon-free zones.

## Second part of the Presentation

*Thank you, Mr. Du Preez.*

For the second part of my presentation on the perspectives on the future of nuclear-weapon-free zones, I would say that there is still much potential for further advancement in the strengthening and consolidation of the five nuclear weapon-free zones and Mongolia. In my opinion, there are four priority areas in which the existing nuclear-weapon-free zones could pursue further efforts:

- First, I would say that the ***strengthening and consolidation of the norm is critical***. Among the existing nuclear-weapon-free zones, Latin America and the Caribbean is the only one that has achieved its universalization and the Zone of Application became fully in force. Although it is not an easy quest -for instance, it took more than three decades with the ratification of Cuba, in 2002, to our region to achieve this goal- it is something that the other zones should continue promoting efforts. Another relevant aspect of this area is the issue of Additional Protocols to the treaties establishing nuclear-weapon-free zones. Contrary to the other nuclear-weapon-free zones, the two Additional Protocols to the Treaty of Tlatelolco have been signed and ratified by the five nuclear-weapon states and the Netherlands. These two areas represent windows of opportunity for collaboration and OPANAL could work with other nuclear-weapon-free zones in order to support their efforts in strengthening the norm in their regions.
- Second, there still is the need for ***institutional development*** of the nuclear-weapon-free zones. Currently, only three out of the four nuclear-weapon-free zones have some form of institutionalization, but a creation

of such follow-up mechanisms is still a great challenge for cooperation and coordination with other zones. Among the five treaties establishing NWFZ, only the Treaties of Tlatelolco and Pelindaba created institutions to ensure compliance with the obligations established by those treaties: OPANAL by the Treaty of Tlatelolco and the African Commission on Nuclear Energy – AFCONE – in the case of the African NWFZ. OPANAL can also share its experience regarding the creation and establishment of an entity or institution in charge of the compliance of their treaties.

- Third, is the issue of *information exchange and cooperation with other nuclear weapon free zones*: The geographic distance and particular political concerns of each of the five existing zones and Mongolia do not change the common goal of pursuing a world free of nuclear weapons. This situation, however, does not necessarily facilitate regular information sharing on past experiences and future perspectives of belonging to such international regimes. In 2005, by OPANAL initiative, it was held the first conference of nuclear-weapon-free zones. In 2009, the nuclear-weapon-free zone focal points held a meeting in Mongolia. In 2010, a second conference took place on the eve of the VIII NPT Review Conference. Both conferences were held by Latin American initiative, showing OPANAL leadership. These two conferences were followed by a third, in 2015, coordinated by Indonesia, and a fourth conference this year, coordinated by Mongolia, but postponed to 2021 due to the COVID-19 pandemic. These initiatives, although very hopeful, have not yet succeeded in generating a true dialogue among the nuclear-weapon-free zones. However, we try to maintain contact with our sister zones. We are currently discussing concrete ways to formalize

interregional cooperation with the African and Central Asian nuclear-weapon-free zones.

- Finally, is the *establishment of other nuclear-weapon-free zones*. It might be difficult, but it is worth to pursue efforts towards that end. The convening, on November 2019, of the First Session of the Conference on the Establishment of a Middle East Zone Free of Nuclear Weapons and Other Weapons of Mass Destruction is a step in the right direction. OPANAL was invited to participate at this first session and it will attend to the second session, if invited.

To sum up, nuclear-weapon-free zones are a dynamic reality. Since 1967, with the advent of the Treaty of Tlatelolco, five zones have been created. This means that it is possible to go further and creating others to include the Middle East and the Korean Peninsula, for instance. OPANAL would like to see the creation of further zones free of nuclear weapons.

*Thank you all for your kind attention.*