



**General Conference**

XXVI Regular Session  
7 November 2019  
Agenda Item 7

CG/08/2019  
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**Interpretative declarations made by States Party to Additional Protocols I and II to  
the Treaty of Tlatelolco  
Report of the Secretary-General**

**I. Introduction**

1. The Treaty for the Prohibition of Nuclear Weapons in Latin America and the Caribbean - Treaty of Tlatelolco, contains two additional legal instruments annexed to it: Additional Protocols I and II. Both Protocols are inseparable from the Treaty of Tlatelolco.
2. The legal commitments of the States Party to the Additional Protocols I and II represent essential guarantees for the Nuclear-Weapon-Free Zone in Latin America and the Caribbean. However, interpretative declarations made by some States Party to the Protocols at the time of signing and/or ratifying the Protocols limit, in some cases, such commitments and, therefore, constitute reservations.
3. Only the following two aspects can be considered as reservations among the interpretative declarations made by States Party to the Additional Protocols I and II:
  - 1) **The non-recognition of the zone of application of the Treaty of Tlatelolco** - reservations submitted by France and Russia, which directly oppose a fundamental clause of the Treaty.
  - 2) **The hypothesis that a State Party to the Treaty of Tlatelolco commits military aggression with the support from a nuclear-weapon State or in support of a nuclear-weapon State** - reservations made by the United States of America, the United Kingdom and Russia, which limit the guarantee of not using or threatening to use nuclear weapons against the States Party to the Treaty of Tlatelolco.
4. Through Resolution CG/Res.03/2015 of 26 November 2015, the General Conference of OPANAL resolved:

*“To instruct the Council to make the necessary decisions for the implementation of the action plan presented by the Secretary-General in document CG/05/2015.”*

5. In accordance with the action plan presented by the Secretary-General (CG/05/2015Corr.) and in follow-up to the aforementioned Resolution CG/Res.03/2015, during the 300<sup>th</sup> Meeting of the Council, on 10 March 2016, the Secretary-General presented the document C/08/2016 “Interpretative declarations of the States Party to Additional Protocols I and II to the Treaty of Tlatelolco. Implementation of the General Conference Resolution CG/Res.03/2015.” Document C/08/2016 contains in annex 3 memoranda, one addressed to France (on the non-recognition of the zone of application of the Treaty of Tlatelolco), and the other two addressed to Russia (on the non-recognition of the zone of application of the Treaty of Tlatelolco and on the eventuality of an act of military aggression with the support of a nuclear-weapon State or in support of a nuclear-weapon State). Each of these three memoranda contains attached a proposal of Adjustment, a type of international instrument with effect of agreement between the signatory parties of a treaty or other international instrument in order to clarify any controversy over the text of such instrument. The intention is to eliminate the misunderstandings present in the interpretative declarations that constitute reservations.
6. At its 304<sup>th</sup> Meeting held on 28 September 2016, the Council approved the memoranda prepared by the Secretary-General on the interpretative declarations made by the Russian Federation and the French Republic.
7. At its 305<sup>th</sup> Meeting held on 27 October 2016<sup>1</sup>, the Council decided that “*the démarches with the Ministries of Foreign Affairs of France and Russia commence in the second or third week of December under the chairmanship of Brazil*”, which then served as President of the Council. This decision was ratified by the General Conference at its XXIV Special Session, on 10 November 2016, by Resolution CG/E/Res.03/2016 in which it instructed the Council the following:

*“to commence démarches with the Governments of the Russian Federation and the French Republic, according to the action plan proposed by the Secretary-General (Doc.CG/05/2015Corr.), in order to present the memoranda C/29/2016 and C/30/2016 to the Russian Federation and C/31/2016 to the French Republic.”*

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<sup>1</sup> Summary Record of the 305th Meeting of the Council held on 27 October 2016 (C/35/2016).

## II. Démarches undertaken by the Representatives of the Member States of the Council before France and Russia (2016-2019)

8. On 16 December 2016, Representatives of the five Member States of the Council in Moscow were received at the Ministry of Foreign Affairs of Russia and presented the memoranda contained in documents C/29/2016 and C/30/2016 and their respective proposals of Adjustment attached.
9. On 20 December 2016, Representatives of the five Member States of the Council in Paris were received at the Ministry of Foreign Affairs of France and presented the memorandum contained in document C/31/2016 and their respective proposal of Adjustment attached.
10. During the 306<sup>th</sup> Council meeting, on 30 January 2017, Ambassador Enio Cordeiro, then Permanent Representative of Brazil to OPANAL presented a report on the démarches carried out by the Member States of the Council in Paris and Moscow on the interpretative declarations. This report was presented to the Council in document C/17/2017.
11. After eight months since the Council carried out démarches in Paris and Moscow, OPANAL had not received a response from France or Russia. At the 309<sup>th</sup> Meeting of the Council held on 23 August 2017, the Secretary-General submitted for consideration of the Members of the Council “to undertake a follow-up démarche in Paris and Moscow, which can be made through a joint note by the representatives of the five Member States of the Council, to express that OPANAL is awaiting for an answer.”<sup>2</sup> The Council approved the proposal of the Secretary-General.
12. At the 310<sup>th</sup> Meeting of the Council held on 12 September 2017, the Secretary-General presented a proposal of joint note containing the request for a response to the démarches undertaken in Moscow on 16 December 2016 and Paris on 20 December 2016.
13. Through note 82/2018, dated 15 March 2018, the Embassy of Brazil in Paris presented to the Ministry of Foreign Affairs of France a joint note signed by the Heads of Mission of the Member States of the Council of OPANAL in Paris. The note reminded the French Ministry that, on 20 December 2016, representatives of the Council in Paris undertook démarches to present the memorandum and proposal of Adjustment contained in document C/31/2016, on the interpretative declarations made by France regarding the zone of application of the Treaty of Tlatelolco. In this note, the Member States of the Council indicated that they would appreciate receiving a response from the French Ministry of Foreign Affairs.
14. On 19 March 2018, the Ministry of Foreign Affairs of Russia received a joint note signed by the Ambassadors of the Member States of the Council —Argentina, Brazil, Peru, Uruguay, and by the *Chargé d'affaires* of Guatemala in Moscow. This joint note was similar to that sent to France,

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<sup>2</sup> Report of the Secretariat on the démarches made by the French Republic and the Russian Federation on their interpretative declarations made when signing and/or ratifying the Additional Protocols I and II to the Treaty of Tlatelolco, presented to the Council at its 309<sup>th</sup> meeting on 23 August 2017 through document C/17/2017.

and requested a reaction to the démarches undertaken by the Member States of the Council on 16 December 2016, regarding the reservations presented by Russia in its interpretative declaration made upon signing the Additional Protocol II to the Treaty of Tlatelolco.

15. At the 315<sup>th</sup> Meeting of the Council held on 9 August 2018, through document C/15/2018, the Representative of Brazil informed that his Embassy in Moscow received on 13 July 2018 the note N. 6139-H/ ДНKB (see **annex I**) from the Russian Ministry of Foreign Affairs. In that note, the Russian Foreign Ministry communicated its response to the aforementioned joint note from the Council. A copy of that note was sent to all OPANAL Member States through notes S-442/2018 of 13 August and S-443/2018 of 14 August 2018.
16. In the note from the Russian Foreign Ministry (translated into Spanish by the Russian Foreign Ministry), they expressed affirmations such as:
  - *“The Ministry has the honor to underline that restrictions, made during the signing of the aforementioned document [Additional Protocol II to the Treaty of Tlatelolco], do not contravene the spirit and letter of the Treaty and correspond to the recognized rules of international law.”*
  - *“Russia does not intend to use them [nuclear weapons] hereinafter under rigorous observations of participating states of the Treaty of its region and with the absence of abuse Treaty positions by other nuclear powers.”*
17. Russia did not accept the proposals of Adjustment submitted by the Council. It maintains its position to condition the guarantees of non-use and non-threat of use of nuclear weapons against the States Party to the Treaty of Tlatelolco. Furthermore, it still does not recognize the delimitation of the zone of application of the Treaty of Tlatelolco contained in article 4, paragraph 2. That, rather than “restrictions”, as mentioned in the Russian response, is a rejection of fundamental clauses of the Treaty and Additional Protocol II.
18. At the 314<sup>th</sup> meeting of 11 October 2018, Ambassador Julio Garro, Permanent Representative of Peru to OPANAL, reported that his country's Embassy in Paris received a note (see **annex II**) with the French response to the follow-up démarches of the Council. A copy of that note from the French Foreign Ministry was circulated between the Member States of the Council and Observer States at the aforementioned Council meeting.
19. France also did not accept the proposal of Adjustment on its non-recognition of the delimitation of the zone of application of the Treaty of Tlatelolco. The French Foreign Ministry's note includes the following statements (unofficial English translation by OPANAL Secretariat):

*“France admits a zone of territorial application of the Treaty of Tlatelolco restricted to the territorial sea, airspace and any other place over which the State exercises its sovereignty in accordance with its legislation, pursuant to Article 3 of the Treaty of Tlatelolco. France thus refers to the territorial scope of a treaty as is commonly recognized in international law.”*

*“This interpretative declaration also aims to recall that, in accordance with Article 2 of the Convention on the High Seas, this is not subject to appropriation and is characterized by the*

*principle of freedom of navigation. These provisions have been confirmed by the Convention of the United Nations on the Law of the Sea in its articles 87.1 and 90.”*

*“The analysis done by France is, therefore, that an adaptation of its interpretative declaration concerning Article 4 of the Treaty of Tlatelolco would have the effect of restricting the principle of free navigation and overflight on the High Seas, in contradiction with the norms of international law.”*

20. The response from France not only rejects *“an adaptation of its interpretative declaration regarding Article 4 of the Treaty of Tlatelolco”*. It also mistakenly declares that such adaptation *“would have the effect of restricting the principle of free navigation and overflight on the high seas, in contradiction with the norms of international law.”*
21. As the Council clarified in the memorandum addressed to France on its interpretative declaration, the fact that the zone of application of the Treaty of Tlatelolco includes high seas areas, in no way constitutes a *“declaration of sovereignty or jurisdiction over high seas spaces included in that zone.”* The zone of application of the Treaty has the sole purpose of indicating the space where the placement of nuclear weapons is prohibited. On the other hand, as indicated in the document *“Contribution of the Agency for the Prohibition of Nuclear Weapons in Latin America and the Caribbean (OPANAL) to the report of the Secretary-General on oceans and the law of the sea, pursuant to United Nations General Assembly resolution 72/73 of 5 December 2017”*:

*“The zone of application of the Treaty of Tlatelolco implies no distortion, violation or incompatibility with the “freedom of the high seas” established in article 87 of the United Nations Convention on the Law of the Sea. Although four Latin American and Caribbean States are not yet Parties to that Convention, no State Party to the Treaty of Tlatelolco (the entirety of Latin America and Caribbean) has ever issued any restrictive declaration in relation to provisions on the high seas contained in the Convention on the Law of the Sea”.*<sup>3</sup>

22. In compliance with resolution CG/E/Res.01/2018 of the OPANAL General Conference, the Secretariat prepared responses to the two countries, which were considered by the Council during the 318<sup>th</sup> and 319<sup>th</sup> meetings; and finally approved at the 320<sup>th</sup> meeting of 27 June 2019. The five Member States of the Council - Argentina, Brazil, Guatemala, Peru and Uruguay - agreed that the notes would be delivered to the Russian Foreign Ministry (document **C/10/2019**) and France (document **C/10/2019**). On 25 July 2019, the OPANAL Secretariat requested the Foreign Ministers of the five Member States of the Council for their support to carry out joint démarches, similar to those carried out in December 2016, under the coordination of the State that holds the Presidency of the OPANAL Council.

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<sup>3</sup> Inf.14/2018, point 14, p. 5.

### **III. Council démarches before the United States of America and the United Kingdom (2018)**

22. At the 311<sup>st</sup> Council meeting on 9 November 2017, the Council decided to begin the démarches before the governments of the United States of America and the United Kingdom. In that meeting, the Secretary-General reminded the members of the Council that the démarches before the aforementioned States Party to the Additional Protocols that submitted reservations to those instruments “*do not configure a claim or request by the Member States of OPANAL or any criticism or censorship in relation to the States that made such declarations.*”

#### **Council démarches before the United States of America (2018)**

23. At the 314<sup>th</sup> Council meeting on 7 June 2018, the delegation of Brazil informed that the Ministers-Counselor of the Embassies of the Member States of the Council - Argentina, Brazil, Guatemala, Peru and Uruguay - made on 6 April 2018 a joint démarche in the Department of State of the United States of America regarding the interpretative declarations made by the United States at the time of signing Additional Protocol II to the Treaty of Tlatelolco. The United States of America was represented by Ambassador C.S. Eliot Kang (Principal Deputy Assistant Secretary of the Bureau of International Security and Nonproliferation), the Legal Advisor of the Department of State and other officers.
24. The representatives of the Council presented the memorandum and the proposal of Adjustment (C/21/2017) on the interpretative declaration of the United States of America that configures a reservation. They emphasized that the proposal of Adjustment seeks to strengthen the Nuclear-Weapon-Free Zone of Latin America and the Caribbean and that does not constitute a claim or criticism in relation to the United States of America.
25. Ambassador Kang thanked the opportunity to exchange views on the subject and reiterated the “*strong support*” from the United States to the Treaty of Tlatelolco, which “*served as a model*” for other regions. Regarding his interpretative declaration, he argued that it is in line with international law. He said that the United States of America “*does not intend to review its declarations and understandings for now.*” He affirmed that the declarations to the Protocols of the Treaty of Tlatelolco have internal political implications since they enabled, at the time, the support from the Congress to sign the instruments.
26. The representatives of the Council asked the North American side to examine the OPANAL proposal with “*openness of spirit*” and indicated that the démarche would be communicated to the Agency. Elliot Kang said that the proposal would be appreciated in a constructive way.

### **Council démarches before the United Kingdom (2018)**

27. At the 314th Council Meeting on 7 June 2018, Brazil reported that the United Kingdom's Foreign Office had not received the Representatives of the Embassies of the Member States of the Council.
28. That request was initially made, in March 2018, by the Ambassador of Peru to the United Kingdom, Susana de la Puente. The Ambassadors of Brazil and Peru additionally asked the Director of the Americas of the British Foreign Ministry for her support to schedule a meeting.
29. On all occasions, the Foreign Office reported that the Representatives of the Member States of the Council could not be received due to “agenda difficulties”.
30. The Ambassadors of the Member States of the Council in London met on 12 July 2018 in order to establish a course of action to follow. The Ambassador of Brazil proposed to send immediately a joint note on the matter. The Council Representatives also decided to reiterate the request for a meeting, which was made by means of a note from the Embassy of Peru, in his capacity as President of the Council of OPANAL.
31. To date, the British Foreign Ministry has not responded to the Council's attempts and has not shown willingness to receive the Council Representatives.

### **IV. Conclusions and recommendations to the General Conference at its XXVI Regular Session**

32. After two years of the démarches made by the Representatives of the Member States of the Council in Paris and Moscow, the French and Russian Foreign Ministry sent negative response notes to the respective memoranda and adjustment projects.
33. In its response, France rejects “*an adaptation of its interpretative declaration regarding Article 4 of the Treaty of Tlatelolco.*” It mistakenly mentions that such adaptation “*would have the effect of restricting the principle of free navigation and overflight on the high seas, in contradiction with the norms of international law.*”
34. Russia maintains its position to condition the guarantees of non-use and non-threat of use of nuclear weapons against the States Party to the Treaty of Tlatelolco. In addition, it continues without recognizing the delimitation of the zone of application of the Treaty of Tlatelolco contained in article 4, paragraph 2.
35. The démarches of the Representatives of the Member States of the Council before the United States of America were carried out. However, the Council is still awaiting a response from the Department of State.

To date, the United Kingdom Foreign Office has still agreed to receive the Ambassadors of the five Member States of the Council.

36. The Secretary-General proposes to continue with the joint efforts before France and Russia, in order to reiterate the interest of OPANAL and its Member States to engage in a constructive dialogue regarding the Memoranda and proposal of Adjustment, presented in 2016. He also proposes to follow up the démarche that seeks to obtain a response from the United States and a meeting with the United Kingdom to be held in accordance with diplomatic practice.
37. Taking into account these considerations, the Secretary-General submits draft resolution **CG/L.12/2019** to the General Conference.

Embaixada do Brasil  
em Moscou  
Correspondência Recebida em  
16 JUL 2018  
16-07-2018

№ 6139-19мв

Министерство Иностранных Дел Российской Федерации свидетельствует свое уважение Посольству Федеративной Республики Бразилия в Российской Федерации и, ссылаясь на ноту Посольства №47 от 19 марта 2018 года, которая препровождает совместную ноту Посольств Аргентины, Бразилии, Гватемалы, Перу и Уругвая в Москве относительно толкования заявления Советского Союза при подписании Дополнительного протокола II к Договору Тлателолко, имеет честь сообщить следующее.

Российская Федерация неизменно поддерживает процесс создания в мире зон, свободных от ядерного оружия (ЗСЯО), и содействует соответствующим усилиям государств. Создание таких зон способствует повышению уровня взаимного доверия, укреплению региональной и международной безопасности.

Россия высоко оценивает более чем полувековой опыт эффективного функционирования Договора о создании ЗСЯО в Латинской Америке и Карибском бассейне (Договор

ПОСОЛЬСТВУ  
ФЕДЕРАТИВНОЙ  
РЕСПУБЛИКИ БРАЗИЛИЯ В  
РОССИЙСКОЙ ФЕДЕРАЦИИ

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Тлателолко) и его весомый вклад в формирование ЗСЯО в других регионах мира. Во многом это стало возможным благодаря выверенному балансу интересов и обязательств участников зоны и ядерных государств, которые легли в основу Договора и Дополнительных протоколов к нему.

Министерство признательно Агентству по запрещению ядерного оружия в Латинской Америке и Карибском бассейне (ОПАНАЛ) за внимательное отношение к позиции Российской Федерации — продолжателю Советского Союза — по Дополнительному протоколу II к Договору Тлателолко. Предложения ОПАНАЛ относительно толкования заявления Советского Союза при подписании упомянутого документа внимательно изучены. В результате анализа сделан вывод о том, что оснований для пересмотра заявления не имеется.

Министерство одновременно подтверждает намерение Российской Федерации и впредь строго соблюдать ее обязательства по Дополнительному протоколу II к Договору Тлателолко. Министерство имеет честь при этом подчеркнуть, что оговорки, сделанные при подписании нами упомянутого документа, не противоречат букве и духу Договора и соответствуют общепризнанным нормам международного права.

Опыт функционирования Договора Тлателолко и Дополнительного протокола II к нему за прошедшие годы показал, что ситуаций, требовавших задействования оговорок с нашей стороны, на практике не возникало. Россия не намерена их использовать и впредь при строгом соблюдении государствами-участниками Договора безъядерного статуса

своего региона и отсутствии злоупотреблений положениями Договора со стороны других ядерных держав.

Министерство пользуется случаем, чтобы возобновить Посольству уверения в своем весьма высоком уважении.



Москва, « 13 » июля 2018 года

No.6139-Н/ДНКВ

El Ministerio de Relaciones Exteriores de la Federación de Rusia saluda muy atentamente a la Embajada de la República Federativa de Brasil en la Federación de Rusia y tomando en consideración la nota No.47 del 19 de marzo del 2018 que acompaña la nota de la Embajada de Argentina, Brasil, Guatemala, Perú y Uruguay en la ciudad de Moscú acerca de la interpretación de la declaración de la Unión Soviética durante la firma del Acta Adicional II al Tratado Tlatelolco, y tiene el honor de informar lo siguiente.

La Federación de Rusia apoya invariablemente el proceso de creación en el mundo de zonas libres de armas nucleares y contribuye a los esfuerzos correspondientes de los estados. La creación de estas zonas contribuye al crecimiento del nivel de confianza mutua, al fortalecimiento de la seguridad regional e internacional.

Rusia valora altamente la experiencia de casi medio siglo del funcionamiento eficaz del Tratado de creación de zonas libres de armas nucleares en América Latina y el Caribe (Tratado Tlatelolco) y su aporte influyente en la creación de zonas libres de armas nucleares en otras regiones del mundo. Esto se hizo posible gracias al balance verificado de intereses y responsabilidades de los participantes de la zona y estados nucleares que formaron la base del Tratado y Actas adicionales.

El Ministerio agradece al Organismo para la Proscripción de Armas Nucleares en América Latina y el Caribe (OPANAL) la actitud muy atenta a la posición de la Federación de Rusia – seguidor de la Unión Soviética – sobre el Acta adicional II al Tratado Tlatelolco. Propuestas de OPANAL en relación a la explicación de la declaración de la Unión Soviética a la hora de firmar el documento mencionado se ha investigado detalladamente. Como resultado del análisis realizado se hizo la conclusión que no hay razones para una revisión de la declaración.

El Ministerio de una vez confirma la intención de la Federación de Rusia en adelante guardar rigurosamente sus compromisos según el Acta adicional II al Tratado Tlatelolco. El Ministerio tiene el honor de subrayar que restricciones, realizadas durante la firma del documento antes mencionado, no contradicen al espíritu y la letra del Tratado y corresponden a las normas reconocidas del derecho internacional.

La experiencia del funcionamiento del Tratado Tlatelolco y del Acta adicional II durante los años anteriores ha demostrado que en la práctica no han pasado situaciones que demanden restricciones de nuestra parte. Rusia no tiene intenciones para utilizarlas en adelante bajo observaciones rigurosas de estados-participantes del Tratado de estatus anucleado de su región y con ausencia del abuso de posiciones del Tratado por parte de otras potencias nucleares.

El Ministerio aprovecha la oportunidad para expresar a la Embajada las muestras de su más alta consideración.

Moscú, 13 de julio del 2018

N° 2018-1541492/ASD-QA

Le Ministère de l'Europe et des Affaires étrangères présente ses compliments à l'Ambassade de la République fédérative du Brésil et a l'honneur d'apporter une réponse à sa note verbale n°82 par laquelle elle a bien voulu lui transmettre une note conjointe des Etats membres du Conseil de l'OPANAL.

La France a toujours considéré qu'une des voies importantes du désarmement et de la non-prolifération nucléaires résidait dans l'approche régionale. En témoigne son soutien à la constitution de zones exemptes d'armes nucléaires et les engagements pris dans le cadre des protocoles aux traités instituant ces zones en Amérique latine et Caraïbes, en Afrique, en Asie centrale, en Océanie et dans le Pacifique. La France a donné des garanties de sécurité à plus d'une centaine d'Etats dans le cadre des protocoles aux traités instituant ces zones.

Le Ministère de l'Europe et des Affaires étrangères a étudié avec la plus grande attention le document C/31/2016 ou Mémoire de l'OPANAL sur les réserves françaises dans le Protocole I du Traité de Tlatelolco et la proposition d'ajustement de la déclaration interprétative faite par la France concernant l'article 4 du Traité de Tlatelolco.

La France a assorti sa ratification du Protocole I du traité d'une déclaration interprétative, pratique pleinement admise par le droit des traités (notamment par l'article 2.1. de la Convention de Vienne sur le droit des traités), qui vise à préciser que la France admet une zone d'application territoriale du Traité de Tlatelolco restreinte à la mer territoriale, à l'espace aérien et tout autre lieu sur lequel l'Etat exerce sa souveraineté conformément à sa législation, ceci dans le respect de l'article 3 du Traité de Tlatelolco. La France s'en remet ainsi au champ d'application territorial d'un traité tel que classiquement admis en droit international.

Cette déclaration interprétative vise également à rappeler que, conformément à l'article 2 de la Convention sur la haute mer, celle-ci est insusceptible d'appropriation et caractérisée par le principe de liberté de navigation. Ces dispositions ont été confirmées par la Convention des Nations Unies sur le droit de la mer, dans ses articles 87.1 et 90.

L'analyse de la France est ainsi qu'une adaptation de sa déclaration interprétative concernant l'article 4 du Traité de Tlatelolco aurait pour effet de restreindre le principe de libre navigation et de survol en haute mer, en contradiction avec les règles de droit international./.

Le Ministère de l'Europe et des Affaires étrangères saisit cette occasion pour réitérer à l'Ambassade de la République fédérative du Brésil l'assurance de sa plus haute considération.

Fait à Paris, le 5 septembre 2018

AMBASSADE DE LA REPUBLIQUE  
FEDERATIVE DU BRESIL

RECEBIDO EM: 13/9/2018
DISTRIBUIÇÃO: Política
RESPONSÁVEL: _____

Nota N° 2018-1541492/ASD-QA

El Ministerio de Europa y Asuntos Exteriores saluda atentamente a la Embajada de la República Federativa del Brasil y tiene el honor de proporcionar una respuesta a su nota verbal n° 82 mediante la cual amablemente transmitió una nota conjunta de los Estados Miembros del Consejo del OPANAL.

Francia siempre ha considerado que una de las vías importantes del desarme y la no proliferación nucleares reside en el enfoque regional. Prueba de ello es su apoyo a la constitución de zonas libres de armas nucleares y los compromisos contraídos en virtud de los protocolos a los tratados que establecen dichas zonas en América Latina y el Caribe, África, Asia Central, Oceanía y el Pacífico. Francia ha otorgado garantías de seguridad a más de cien Estados bajo los protocolos a los tratados que establecen estas zonas.

El Ministerio de Europa y Asuntos Exteriores ha estudiado con la mayor atención el documento C/31/2016 o Memorandum del OPANAL sobre las reservas francesas al Protocolo I del Tratado de Tlatelolco y la propuesta de ajuste a la declaración interpretativa hecha por Francia sobre el artículo 4 del Tratado de Tlatelolco.

Francia acompañó su ratificación del Protocolo I del Tratado de una declaración interpretativa, práctica plenamente admitida por el derecho de los tratados (en particular, el artículo 2.1. de la Convención de Viena sobre el Derecho de los Tratados), destinada a precisar que Francia admite una zona de aplicación territorial del Tratado de Tlatelolco restringida al mar territorial, al espacio aéreo y a cualquier otro lugar sobre el cual el Estado ejerce su soberanía de conformidad con su legislación, esto de conformidad con el artículo 3 del Tratado de Tlatelolco. Francia se remite así al ámbito de aplicación territorial de un tratado como está habitualmente reconocido en el derecho internacional.

Esta declaración interpretativa tiene también por objeto recordar que, de conformidad con el artículo 2 de la Convención sobre la Alta Mar, ésta no es susceptible de apropiación y se caracteriza por el principio de libertad de navegación. Estas disposiciones han sido confirmadas por la Convención de Naciones Unidas sobre el Derecho del Mar en sus artículos 87.1 y 90.

El análisis de Francia es, por lo tanto, que una adaptación de su declaración interpretativa referente al artículo 4 del Tratado de Tlatelolco tendría el efecto de restringir el principio de libre navegación y de sobrevuelo en alta mar, en contradicción con las normas de derecho internacional.

El Ministerio de Europa y Asuntos Exteriores aprovecha esta oportunidad para reiterar a la Embajada de la República Federativa del Brasil las seguridades de su más alta consideración.

Hecha en París, el 5 de septiembre de 2018.

EMBAJADA DE LA REPÚBLICA FEDERATIVA DEL BRASIL