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XIX Regular Session of the General Conference  
Santiago, Republic of Chile, 7-8 November, 2005.

**OPENING SESSION**  
**PRESENTATION BY ALYN WARE**  
**GLOBAL COORDINATOR OF THE PARLIAMENTARY NETWORK FOR**  
**NUCLEAR DISARMAMENT**  
**REPRESENTATIVE OF CIVIL SOCIETY**

Your Excellencies: the Secretary-General of OPANAL, the Representative of the United Nations Secretary General, the Representative of the Ministry of Foreign Relations, representatives of States Parties to OPANAL, other distinguished delegates, ladies and gentlemen.

I wish to thank OPANAL for the invitation to address you as a representative of key sectors in civil society that are actively promoting nuclear non-proliferation and disarmament.

At the first Conference of States Parties to Treaties that establish Nuclear Weapon Free Zones (NWFZs), which was held in Mexico from April 26-28 of this year, civil society representatives including mayors, parliamentarians, academics, scientists, government officials, media, nuclear survivors and various peace related organizations, held a concurrent forum to explore ways that civil society could support the establishment, implementation and strengthening of NWFZs.<sup>1</sup>

The forum indicated the strong support there is from civil society for NWFZs and also for the achievement of a nuclear weapons free world.

The Treaty of Tlatelolco and the work of OPANAL are celebrated by civil society for three major reasons:

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<sup>1</sup> Report from the Civil Society Forum of the Conference of States Parties and Signatories to the Treaties that Establish Nuclear-Weapon-Free-Zones, NPT/CONF.2005/WP.46. [www.reachingcriticalwill.org/legal/npt/RevCon05/wp/wp46.pdf](http://www.reachingcriticalwill.org/legal/npt/RevCon05/wp/wp46.pdf)

- a) As the establishment of the first inhabited region in which the possession and deployment of nuclear weapons is proscribed thus preventing nuclear proliferation in the region and protecting it from the threat of attack from nuclear weapons
- b) As an example to other regions of how to establish a NWFZ despite varying political realities and relationships between countries in the region and with the nuclear weapon States themselves
- c) As an active promoter of nuclear nonproliferation and disarmament initiatives such as the Comprehensive Test Ban Treaty, the 13 disarmament steps agreed at the 2000 NPT Review Conference, the consolidation of a Southern Hemisphere and Adjacent Areas NWFZ and the promotion of disarmament education

There is a problem however in the wider public regarding knowledge about both the current threats from nuclear weapons and the continuing importance of the work of OPANAL. When I arrived in Santiago last week I went walking around the city and talked to people about OPANAL and this conference. While there was pride that Chile was hosting an important inter-governmental meeting on nuclear disarmament, most people thought that the nuclear threat had disappeared and that environmental issues were now more important.

At the 60th session of the United Nations General Assembly in October, Mayors for Peace and the Parliamentary Network for Nuclear Disarmament released a joint statement signed by over 300 mayors and parliamentarians from around the world, which highlighted the fact that there remain 30,000 nuclear weapons, many of which are deployed and ready for use at short notice. The statement also noted that the risk of nuclear weapons use - by accident, design or miscalculation - is increasing due to the proliferation of nuclear weapons to new States, the possibility of non-State access to nuclear weapons and bomb-building materials, and the expanded nuclear weapons use doctrines of the nuclear weapon States.<sup>2</sup>

The work of OPANAL in support of nuclear disarmament and the positive example of the Treaty of Tlatelolco are thus more important than ever.

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<sup>2</sup> Joint statement of mayors and parliamentarians cooperating for a nuclear weapons free world. [www.pnnd.org](http://www.pnnd.org) (in English, Spanish and Portuguese)

There are many pessimists who will argue that nuclear disarmament is not possible – that nuclear weapons are required for security as a final deterrent and that those states with a nuclear capability will thus not willingly give them up. The example of Latin America and the Caribbean demolishes that argument. Countries in this region have managed to establish national and regional security and solve disputes without recourse to nuclear deterrence. In addition, two countries in the region that were developing nuclear weapons capabilities, have abandoned such programs and joined the treaty.

Tlatelolco and OPANAL have achieved a lot in the region. But unfortunately the wider goal of nuclear abolition and disarmament has not yet been achieved. In this respect there is a lot that can be done by States parties to Tlatelolco in collaboration with civil society to reach this goal.

Despite overwhelming international support for nuclear disarmament, progress has been blocked in key multilateral arenas – the Conference on Disarmament, the Non-Proliferation Treaty Review Conferences and the recent United Nations Summit – by a very small number of intransigent countries who have exploited the absolute consensus practice of these bodies, a practice which gives any one state the power to block even the start of deliberations.

However, the example of the NWFZs shows that it is possible for likeminded countries to take their own nuclear disarmament steps regardless of the current positions of the NWS, but with a view to bringing the NWS in when they are ready. In fact, such steps strengthen the norm against nuclear weapons thus increasing the political momentum for the NWS to join.

In October a group of six countries – Brazil, Canada, Kenya, Mexico, New Zealand and Sweden – suggested that the United Nations could establish, by a majority vote, sub-committees that could begin deliberations and negotiations on a fissile material treaty, nuclear disarmament, negative security assurances and prevention of an arms race in outer space.<sup>3</sup> Progress in such committees would be possible because they would not be subject to the absolute consensus practice of the Conference on Disarmament and the NPT Review Conferences. The six countries announced that if progress is not made in the Conference on Disarmament over the next year they would consider putting their proposal to the UN for a vote. Such an initiative should be supported.

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<sup>3</sup> Draft elements of an UNGA60 First Committee Resolution: Initiating work on priority disarmament and non-proliferation issues. [www.reachingcriticalwill.org/political/1com/1com05/docs/draftelementsinitiating.pdf](http://www.reachingcriticalwill.org/political/1com/1com05/docs/draftelementsinitiating.pdf)

Also in October, the Middle Powers Initiative – an international non-governmental organization supporting disarmament efforts of influential non-nuclear weapon countries – established the Article VI Forum, a process for likeminded States to examine and develop the legal, technical and political elements and mechanisms for establishing a nuclear weapons free world. Some work on this has already been undertaken – including the Model Nuclear Weapons Convention<sup>4</sup> submitted to the United Nations by Costa Rica and circulated for consideration by all countries.

Practical work can be undertaken by likeminded States either through the Article VI Forum or in sub-committees of the United Nations. However, continued pressure will need to be placed on the NWS to reduce their reliance on nuclear weapons and implement their obligations for complete nuclear disarmament.

The 1996 International Court of Justice Advisory Opinion on the legality of nuclear weapons was instrumental in affirming the general illegality of the threat or use of nuclear weapons and in also affirming the obligation to achieve nuclear disarmament. However, the NWS have exploited the generality of the opinion, and the fact that no timeframe for implementation was set, to evade their responsibilities. As we approach the 10<sup>th</sup> anniversary of the nuclear weapons case, it is perhaps time to return to the Court to challenge the continuing policies and practices of the NWS and establish more specific actions required of them. The International Association of Lawyers Against Nuclear Arms, one of the pioneers of the 1996 case, is currently undertaking consultations on this proposal and would welcome contact with any other interested governments.<sup>5</sup>

One other initiative open to governments and worthy of note relates to the actions to implement UN Security Council Resolution 1540<sup>6</sup>. The resolution requires all countries to “adopt and enforce appropriate effective laws which prohibit any non-State actor to manufacture, acquire, possess, develop, transport, transfer or use nuclear, chemical or biological weapons and their means of delivery,” and also to “take and enforce effective measures to establish domestic controls to prevent the proliferation of nuclear, chemical, or biological weapons and their means of delivery.”

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<sup>4</sup> UN Document A/C.1/52/7. [www.inesap.org/publ\\_nwc.htm](http://www.inesap.org/publ_nwc.htm) (in English and Spanish)

<sup>5</sup> Time to Return to the World Court? IALANA News, January 2005. [www.lcnp.org/pubs/IALANA2005/IALANAnews-06.htm](http://www.lcnp.org/pubs/IALANA2005/IALANAnews-06.htm)

<sup>6</sup> UN Security Council Resolution 1540. Adopted April 28, 2004. [http://disarmament2.un.org/Committee1540/Res1540\(E\).pdf](http://disarmament2.un.org/Committee1540/Res1540(E).pdf) (English)  
[http://disarmament2.un.org/Committee1540/Res1540\(S\).pdf](http://disarmament2.un.org/Committee1540/Res1540(S).pdf) (Spanish)

New Zealand, in its report to the UN Security Council 1540 Committee<sup>7</sup>, has argued that such laws and measures should apply to both State and non-State actors, and that such laws and measures aim to both prevent proliferation and achieve nuclear disarmament. New Zealand has adopted legislation along these lines which prohibits nuclear weapons and makes it criminal for citizens and government agents to engage in any activities relating to the acquisition, possession, threat or use of such weapons. All member States of NWFZs, in implementing UN Resolution 1540, are encouraged to take a similar approach.

Actions by national governments and legislatures to prohibit and criminalize nuclear weapons would strengthen the global norm of illegality of these weapons. This would be true particularly if States included extra-territoriality (i.e. where it would be a crime for citizens of the country, including public officials, to engage in nuclear weapons activities regardless of where in the world they undertake such activities) and universality (i.e. where the State exercises jurisdiction over such activities regardless of where in the world the crime was committed and regardless of the citizenship of the perpetrator).<sup>8</sup>

Secretary-general, your excellencies, ladies and gentlemen. This year is the 60<sup>th</sup> anniversary of the nuclear bombing of Hiroshima and Nagasaki and the 60<sup>th</sup> anniversary of the founding of the United Nations. Let us use this occasion to heed the cry of the Hibakusha – the nuclear survivors, and to honour the very first resolution of the United Nations General Assembly to use our collective vision and energies to abolish and eliminate these devices of terror and mass extermination from the planet. OPANAL and its member States can lead the way and the rest of the world will join with you in this endeavour.

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<sup>7</sup> New Zealand Report to the UN Security Council 1540 Committee, October 2004. [www.gsinsitute.org/pnnd/NZUNSC1540.htm](http://www.gsinsitute.org/pnnd/NZUNSC1540.htm) For all national reports see <http://disarmament2.un.org/Committee1540/report.html>

<sup>8</sup> See International Ju-Jitsu: Using United Nations Security Council Resolution 1540 to Advance Nuclear Disarmament [www.lcnp.org/disarmament/Ju-Jitsu\\_UNSC1540.htm](http://www.lcnp.org/disarmament/Ju-Jitsu_UNSC1540.htm)