



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

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**Contribution of the Agency for the Prohibition of Nuclear Weapons in Latin America
and the Caribbean – OPANAL to the second part of the report of the
United Nations Secretary-General on oceans and the law of the sea,
pursuant to General Assembly resolution 71/257**

Introduction

1. The second part of the report of the Secretary-General on oceans and the law of the sea, pursuant to United Nations General Assembly resolution 71/257 adopted on 23 December 2016, entitled “Oceans and the law of the sea”, cover the main recent developments in oceans and the law of the sea.
2. The Agency for the Prohibition of Nuclear Weapons in Latin America and the Caribbean – OPANAL, created by Article 7 of the Treaty for the Prohibition of Nuclear Weapons in Latin America and the Caribbean – Treaty of Tlatelolco¹ presents its contribution to the second part of the report of the Secretary-General pursuant to paragraph 351 of resolution 71/257.

¹ United Nations, *Treaty Series*, vol. 634, No. 9068.

Contribution of OPANAL to the second part of the report of the Secretary-General on oceans and the law of the sea

3. The Latin American and Caribbean States concluded the Treaty of Tlatelolco on 14 February 1967, together with Additional Protocols I and II to said instrument.
4. The Treaty of Tlatelolco in its Article 4, paragraph 2, precisely outlines the “Zone of Application” in which nuclear weapons are prohibited for both, the States Party to the Treaty and for the States Party to Additional Protocols to said instrument. The Latin American and Caribbean States delineated the Zone of Application with full knowledge that it extends beyond the area under their sovereignty or jurisdiction and includes high seas areas.
5. Additional Protocol I was opened for signature and ratification to the extra regional States² possessing de jure or de facto territories within the Zone of Application of the Treaty of Tlatelolco. The States Party to Additional Protocol I undertake “to apply the statute of denuclearization in respect of warlike purposes as defined in Articles 1, 3, 5 and 13 of the Treaty for the Prohibition of Nuclear Weapons in Latin America and the Caribbean in territories for which, de jure or de facto, they are internationally responsible and which lie within the limits of the geographical Zone established in that Treaty.” (Article 1 of Additional Protocol I).
6. Additional Protocol II was opened for signature and ratification to the nuclear-weapon States.³ The States Party to this Protocol undertake “not to contribute in any way to the performance of acts involving a violation of the obligations of Article 1 of the Treaty in the territories to which the Treaty applies in accordance with Article 4 thereof” (Article 2 of Additional Protocol II).

² The French Republic; the Kingdom of the Netherlands; the United Kingdom of Great Britain and Northern Ireland; and the United States of America.

³ China, People’s Republic of; French Republic; Russian Federation; United Kingdom of Great Britain and Northern Ireland; and United States of America.

7. All five nuclear-weapon States have signed and ratified Additional Protocols I and II to the Treaty of Tlatelolco. All of them have made interpretative declarations upon signing and/or ratifying the Additional Protocols. Some of these interpretative declarations are related to the Zone of Application.
8. The French Republic states in its declaration upon signing Additional Protocol I, on 2 March 1979, that “article 4, paragraph 2, of the Treaty, cannot be considered as being established in conformity with international law, and consequently the French Government could not agree to the application of the Treaty therein.”⁴
9. For its part, the Russian Federation affirms in its declaration upon signing Additional Protocol II, on 18 May 1978, that the signing of Additional Protocol “does not in any way signify recognition of the possibility of the force of the Treaty as provided in Article 4(2)”.⁵
10. It must be kept in mind that neither Article 4, paragraph 2, of the Treaty of Tlatelolco nor Additional Protocols to the Treaty of Tlatelolco imply that the Zone of Application constitutes a declaration or claim of sovereignty or jurisdiction over the high seas areas which lie within said Zone.
11. In 1982, with the conclusion of the United Nations Convention on the Law of the Sea – UNCLOS,⁶ the international community defined the extent of waters under sovereignty or jurisdiction of coastal States and, consequently, the extent of the high seas. Although four States of Latin America are not Parties to the United Nations Convention on the Law of the Sea,⁷ no State Party to the Treaty of Tlatelolco issued any restrictive declaration in relation to provisions on the high seas contained in UNCLOS.

⁴ UNODA, *Treaties Database*, Declaration made by the French Republic upon signing and ratifying Additional Protocol I to the Treaty of Tlatelolco, retrieved from: http://disarmament.un.org/treaties/a/tlateloco_p1/france/rat/mexico+city

⁵ IAEA, “Communication received from the Union of Soviet Socialist Republics Regarding the Treaty for the Prohibition of Nuclear Weapons in Latin America and the Caribbean”, July 1978, document INFCIRC/262, retrieved from: http://www.iaea.org/inis/collection/NCLCollectionStore/_Public/44/117/44117779.pdf

⁶ United Nations, *Treaty Series*, vol. 1833, No. 31363.

⁷ Colombia and El Salvador signed the Convention but have not yet ratified it. Peru and Venezuela have neither signed nor ratified it.

12. The Zone of Application of the Treaty of Tlatelolco has the sole purpose of indicating the area within which nuclear weapons are prohibited. This delimitation is inherent to one of the objectives of the Treaty, namely to protect its Parties “against possible nuclear attacks” (17th preambular paragraph of the Treaty of Tlatelolco). This understanding is essential to the full respect of the status of nuclear-weapon-free zones in their whole extension from the part of all States.

13. There is nothing in the clause concerning the Zone of Application of the Treaty of Tlatelolco that could be construed as infringing upon international law, including the United Nations Convention on the Law of the Sea.