

Possible lessons for other Nuclear-Weapon-Free Zones from Latin America and the Caribbean and potential avenues for cooperation between NWFZs

In 1962, the Brazilian Foreign Minister Afonso Arinos de Melo Franco, when addressing the United Nations General Assembly, first presented the idea of a nuclear weapon free zone in Latin America. The idea gained momentum against the backdrop of the Cuban Missile Crisis, which exposed the threat that nuclear sharing arrangements brought to the region.

Today, Brazil is a Party of the Treaty for the Prohibition of Nuclear Weapons in Latin America and the Caribbean, the Treaty of Tlatelolco - a landmark instrument that established the first Nuclear-Weapon-Free Zone (NWFZ) in a densely populated area. Negotiated amidst the geopolitical tensions of the Cold War, the Treaty opened for signature in 1967 and came into force in 1969. It has, since 2002, covered the entire region, with 33 States Parties. Today, the Treaty of Tlatelolco is well known, and it plays a fundamental role in the disarmament and non-proliferation regime. It is fully compatible with both the Treaty on the Non-Proliferation of Nuclear Weapons (NPT) and the Treaty on the Prohibition of Nuclear Weapons (TPNW), as well as other relevant treaties in the field.

In this submission, in response to OP5 of resolution 79/241, titled "Comprehensive study of the question of nuclear-weapon-free zones in all its aspects", Brazil will focus on some of the Tlatelolco's pioneering aspects that helped to make Latin America and the Caribbean a denuclearized zone and have laid the groundwork for other NWFZs. For their relevance, they can still serve as lessons for future NWFZs. These aspects are: (i) providing assurances of the exclusively peaceful use of nuclear energy; (ii) providing Negative Security Assurances; (iii) establishing a control system, which is committed to the International Atomic Energy Agency (IAEA) safeguards; (iv) furthering confidence-building by the establishment of a dedicated body to ensure compliance with the Treaty and (v) providing a flexible mechanism of entry into force. As a conclusion, it will also outline a few areas for possible cooperation between the existing NWFZs.

i) Exclusively peaceful use of nuclear energy

The Treaty of Tlatelolco precedes the NPT, and its States Parties are committed to non-proliferation, even in the absence of the Non-Proliferation Treaty - the Treaty of Tlatelolco provides assurances of the exclusively peaceful use of nuclear energy for an entire region. Furthermore, it is non-discriminatory, with the same rights and obligations for all Parties. The issue of explosions for peaceful purposes, though reflected in the instrument, as it was relevant at the time when the Treaty was negotiated, was superseded by the Comprehensive Nuclear-Test-Ban Treaty, which bans all nuclear explosions, whether for military or peaceful purposes.

Article 1 of the Treaty of Tlatelolco lays down an obligation to use nuclear material and facilities exclusively for peaceful purposes and it also binds Parties to prohibit and prevent testing, use, manufacture, production or acquisition by any means whatsoever of any nuclear weapons, as well as receipt, storage, installation, deployment and any form of possession of any nuclear weapons. In the case of Brazil, these binding provisions add to those made under the Brazilian Constitution and the NPT. They also paved the way for the 1991 Bilateral Agreement with Argentina, which created the Brazilian-Argentine Agency for Accounting and Control of Nuclear Materials (ABACC), and established the Common System for Accounting and Control of Nuclear Materials.

ii) Negative Security Assurances (NSAs)

The Tlatelolco Treaty includes two Additional Protocols, whose innovative provisions turned out to be references for other nuclear-weapon-free zones. Additional Protocol I demands all extra continental States with non-autonomous territories in the region under their rule to respect the statute of denuclearization. Additional Protocol II sets out the necessity of negative assurances from nuclear weapons states that they will refrain from using those weapons against Parties to the zone. There persists issues with declarations regarding these Protocols, but they were nonetheless pioneering instruments.

iii) Control system committed to the IAEA safeguards

Much like the NPT, the Treaty of Tlatelolco makes use of the IAEA safeguards regime. Articles 12-18 establish a control system for verifying the obligations entered into by the Contracting Parties, which is based on IAEA safeguards. Though amendments were later introduced, they did not alter core provisions such as Contracting Parties being required to conclude a safeguards agreement with the IAEA and also to report to it. OPANAL and ABACC play a distinctive role in providing assurances of the exclusively peaceful use of nuclear energy, but the semi-annual declarations provided by ABACC to OPANAL about compliance by both Brazil and Argentina with their 1991 Bilateral Agreement also serve as compliance statements under the Treaty of Tlatelolco.

iv) Confidence-building by the establishment of a dedicated body to ensure compliance with the Treaty

The structure established by the Treaty of Tlatelolco creates a solid base for the functioning of the treaty and might be a source of inspiration for other NWFZs. This structure comprises the Agency for the Prohibition of Nuclear Weapons in Latin America and the Caribbean - OPANAL - with the mandate of ensuring compliance with the obligations of the Treaty. The principle organs of OPANAL are a General Conference, a

Council and a Secretariat. OPANAL may, inter alia, with the authorization of the General Conference, conclude agreements with other international organizations and bodies.

Through OPANAL, it was possible to dispel uncertainty and insecurity, and to formalize dialogue. To this day, OPANAL serves as a permanent channel of communication and negotiation, as well as an instrument to mutually verify shared commitments. OPANAL was key to the embedded institutionalization of the Treaty of Tlatelolco and accorded the Latin American and the Caribbean NWFZ a crucial enabler in terms of confidence-building. Today, OPANAL also plays a pivotal role in facilitating cooperation between the Latin American and the Caribbean NWFZ and other NWFZs.

OPANAL also plays an important role in promoting education for disarmament and non-proliferation across the region, including through its summer school, annual courses, internship programmes, and academic awards. Thus, OPANAL not only upholds the legal framework that prohibits nuclear weapons in Latin America and the Caribbean, but also fosters a culture of peace through dialogue, capacity-building, and dissemination of knowledge. Its educational initiatives contribute to empowering future generations, policymakers, and civil society with the tools to advocate for a world free of nuclear weapons, reinforcing regional leadership in global disarmament efforts.

v) Entry into force

The Tlatelolco Treaty provided for a great deal of flexibility regarding the requirements for its entry into force. This was devised because some State Parties, despite their political commitments to the establishment of a zone free of nuclear weapons in Latin America and the Caribbean, were not in a position to forthwith implement some of the Treaty's provisions.

The general rule was that the Treaty would only go into effect for all States that had ratified it upon completion of four requirements: a) ratification by all States within the area of the application of the Treaty; b) ratification by all powers possessing nuclear weapons of an additional protocol addressed to them; c) ratification by all States having de jure or de facto international responsibility for territories situated in the area of application of the treaty of the additional protocol addressed to them; d) and conclusion of agreements on the application of the safeguards system of the IAEA.

To accommodate different levels of expectations concerning the conditions for the Treaty's entry into force, all signatories had the right to waive, wholly or in part, those requirements. For any State which exercised this right, the Treaty would enter into force upon deposit of the declaration, or as soon as they had met the requirements not waived. The arrangement thus adopted proved that a State could neither force another to join the zone nor prevent others from adhering to a regional regime of total absence of nuclear weapons.

Conclusions

The Treaty of Tlatelolco provides important lessons on how to devise creative ways to develop confidence-building mechanisms in the disarmament and non-proliferation regime. Many of its key aspects were replicated or served as inspiration for other NWFZs. Reminding the international community about the Treaty of Tlatelolco success is particularly useful, especially at a time of heightened political tensions and when we are discussing the establishment of new nuclear-weapon-free zones. In this respect, Brazil underlines that, through a resolution, the 1995 NPT Review Conference called for "the establishment of an effectively verifiable Middle East zone free of weapons of mass destruction, nuclear, chemical and biological, and their delivery systems", which must be implemented.

Although influenced by their own regional circumstances, nuclear-weapon-free zones are united in their commitment to a world without nuclear weapons. In this regard, Brazil believes it is desirable to enhance cooperation mechanisms among NWFZs and Mongolia. Enhanced cooperation need not imply standardization or adoption of a "one size fits all" model. Rather, it could take the form of regular information exchanges and sharing of best practices, in order to better understand how different Zones have tackled their own challenges and what could be learned from the experiences of other Zones. Enhanced cooperation between Zones could, in due course, contribute to the goal of a de facto Nuclear Weapon Free Zone covering the entire Southern Hemisphere, with significant benefits for global security and stability.

One area that may be especially conducive to information exchanges pertains to protocols and the interpretative declarations/statements/reservations made by Nuclear Weapon States (NWS). Brazil is of the view that protocols and their interpretative declarations should be fully in line with the spirit and objectives of treaties establishing NWFZs. In this sense, Brazil supports engagement with NWS in order to find ways to ensure that interpretative declarations do not contradict these objectives, including by withdrawing them, where they may be interpreted as running counter to the Treaties.

It must be underlined that Negative Security Assurances are in line with Article 2(4) of the UN Charter, about the non-use of force against territorial integrity or political independence of any State, which is why declarations that challenge the spirit of the Treaty of Tlatelolco should be withdrawn. The adoption of NSAs would be without detriment to the security of NWS and would greatly benefit the security of Non-Nuclear Weapon States, as well as the disarmament and non-proliferation regime as a whole. Today, more than a 100 countries belong to NWFZs, almost two thirds of the international community.

Brazil thus supports further engagement with Members of other NWFZs, particularly to discuss how best to engage NWS on the topic of protocols and declarations, in order to strengthen Negative Security Assurances while ensuring full compatibility with the principles and objectives of the Zones. This approach would have the added effect of

strengthening the norm against nuclear weapon use and enhancing the value of NWFZs to its Member States.