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**PEACE AND SECURITY COUNCIL**  
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**INFORMATION NOTE ON THE**  
**AFRICAN NUCLEAR-WEAPON-FREE ZONE TREATY**  
**(TREATY OF PELINDABA)**

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**I. INTRODUCTION**

1. The present Note provides an overview of the African Nuclear-Weapon-Free Zone (Treaty of Pelindaba) and an update on the status of its signature and ratification. The submission of this Note to Council is in keeping with the provisions of Article 7(n) of the Peace and Security Council Protocol, which states that “*Council, in conjunction with the Chairperson of the Commission, shall promote and encourage the implementation of OAU/AU, UN and other relevant international Conventions and Treaties on arms control and disarmament*”, as well as decision EX.CL/276 (VIII) on the ratification of the Pelindaba Treaty, adopted by the Executive Council at its 8<sup>th</sup> Ordinary Session, held in Khartoum, The Sudan, from 16 to 21 January 2006, which, *inter alia*, requested the Commission to follow-up on the matter with Member States.

**II. BACKGROUND**

2. The 1<sup>st</sup> Ordinary Session of the Assembly of Heads of State and Government of the Organization of African Unity (OAU), held in Cairo, Egypt, from 17 to 21 July 1964, adopted the Declaration on the Denuclearization of Africa [AHG/Res.II(I)]. In that Declaration, Member States solemnly declared their readiness to undertake, through an international agreement to be concluded under United Nations auspices, not to manufacture or acquire control of nuclear weapons.

3. The 54<sup>th</sup> and 56<sup>th</sup> Ordinary Sessions of the Council of Ministers of the OAU, held in Abuja, Nigeria, from 27 May to 1<sup>st</sup> June 1991, and Dakar, Senegal, from 22 to 29 June 1992, respectively, adopted resolutions CM/Res. 1342 (LIV) and CM/Res.1395 (LVI), affirming that the evaluation of the international situation was conducive to the implementation of the Cairo Declaration, as well as the relevant provisions of the 1986 OAU Declaration on Security, Disarmament and Development.

4. At its 62<sup>nd</sup> Ordinary Session, held in Addis Ababa, Ethiopia, from 21 to 23 June 1995, the OAU Council of Ministers, by resolution CM/Res. 1592 (LXII) Rev. 1, decided to submit the draft Pelindaba Treaty, as formulated by the OAU/UN Group of Experts, which met in Johannesburg, South Africa, from 19 May to 2 June 1995, and as amended by the Council, to the 31<sup>st</sup> Ordinary Session of the Assembly of Heads of State and Government, for adoption. The Council considered that the establishment of Nuclear-Weapon-Free Zones, especially in the Middle East, would enhance the security of Africa and the viability of the African Nuclear-Weapon-Free Zone. Furthermore, the Council of Ministers endorsed the offer of the Egyptian Government to host the signing ceremony.

5. As planned, the African Nuclear-Weapon-Free Zone Treaty, also known as the Pelindaba Treaty as it was adopted at Pelindaba, South Africa, was approved by the 31<sup>st</sup> Ordinary Session of the OAU held in Addis Ababa in June 1995, and signed at Cairo, on 11 April 1996. The Treaty declares Africa a zone free of nuclear weapons, an

important step towards the strengthening of the non-proliferation regime, the promotion of cooperation in the peaceful uses of nuclear energy, complete disarmament, and the enhancement of regional peace and security.

### III. OVERVIEW OF THE PELINDABA TREATY

6. The Pelindaba Treaty contains a series of preambular paragraphs enunciating the guiding principles of the denuclearization of Africa, disarmament and the establishment of a nuclear-free zone, and 22 articles. It also comprises four (4) annexes and three (3) Protocols. Under the terms of the Treaty, the Parties pledge the following:

- a) renunciation of nuclear explosive devices;
- b) prevention of the stationing of nuclear explosive devices;
- c) prohibition of the testing of nuclear explosive devices;
- d) declaration, dismantling, destruction or conversion of nuclear explosive devices and the facilities for their manufacture;
- e) prohibition of dumping of radioactive wastes;
- f) promotion of peaceful nuclear activities and verification of their peaceful uses;
- g) physical protection of nuclear materials and facilities and prohibition of armed attacks on nuclear installations;
- h) establishment of an African Commission on Nuclear Energy as a mechanism for compliance;
- i) reporting and exchanges of information on nuclear activities.

7. The Treaty is open for signature by any State in the African Nuclear-Weapon-Free Zone. It shall enter into force on the date of deposit of the twenty-eighth instrument of ratification.

8. The Treaty comprises the following Annexes which form an integral part of it:

- a) Annex I - Map of an African Nuclear Weapon Free Zone;
- b) Annex II - Safeguards of the International Atomic Energy Agency (IAEA);
- c) Annex III - African Commission on Nuclear Energy; and
- d) Annex IV - Complaints, Procedure and Settlement and Disputes.

9. The Treaty also includes three (3) Protocols:

- Under Protocol I, which is open for signature by China, France, the Russian Federation, the United Kingdom of Great Britain and Northern Ireland, and the United States of America, each Protocol Party

undertakes, *inter alia*, (i) not to use or threaten to use a nuclear explosive device against any Party to the Treaty or any territory within the African Nuclear-Weapon-Free Zone for which a State that has become a Party to Protocol III is internationally responsible, and (ii) not to contribute to any act that constitutes a violation of the Treaty or of the Protocol.

- Under Protocol II, which is open for signature by China, France, the Russian Federation, the United Kingdom of Great Britain and Northern Ireland, and the United States of America, each Protocol Party undertakes, *inter alia*, (i) not to test or assist or encourage the testing of any nuclear explosive device anywhere within the African Nuclear-Weapon-Free Zone, and (ii) not to contribute to any act that constitutes a violation of the Treaty or of the Protocol.
  
- Under Protocol III, which is open for signature by France and Spain, each Protocol Party undertakes (i) to apply, in respect of the territories for which it is *de jure* or *de facto* internationally responsible situated within the African Nuclear-Weapon-Free Zone, the provisions contained in Articles 3, 4, 5, 6, 7, 8, 9 and 10 of the Treaty and to ensure the application of safeguards specified in Annex II of the Treaty, and (ii) not to contribute to any act that constitutes a violation of the Treaty or of the Protocol.

10. It should be noted that, in its resolution CM/Res.1592 (LXII) Rev.1, the OAU Council of Ministers launched an appeal to the international community and, in particular, the Nuclear Weapon States, to bring the necessary support to the Pelindaba Treaty, especially by their accession to the Protocols that concern them. The Council of Ministers also agreed that the application of the African Nuclear-Weapon-Free Zone should be without prejudice to the territorial integrity and sovereignty of the OAU Member States.

11. The Pelindaba Treaty was concluded after the Treaty for the Prohibition of Nuclear Weapons in Latin America and the Caribbean (Treaty of Tlatelolco) of 14 February 1967, the South Pacific-Nuclear-Free Zone Treaty (Treaty of Rarotonga) of 8 August 1968, and the Southeast Asia Nuclear-Weapon-Free Zone Treaty (Treaty of Bangkok) of 15 December 1995. It has some interesting innovations. First, it bans research into nuclear explosive devices by any means anywhere. Second, it requires the destruction of any nuclear explosive device that a Party might have had previous to the coming into force of the Treaty. Third, the Pelindaba Treaty prohibits the dumping of radioactive wastes and other radioactive matter anywhere within the African Nuclear-Weapon-Free Zone. Fourth, the Treaty prohibits armed attack by conventional or other means against nuclear installations in the African Nuclear-Weapon-Free Zone. Finally, the Pelindaba Treaty states support for the use of nuclear science and technology for peaceful purposes.

12. In this respect, it should be noted that, under the Treaty, each Party undertakes to conduct all activities for the peaceful use of nuclear energy under strict non-proliferation measures to provide assurance of exclusively peaceful use, to conclude a comprehensive safeguards agreement with IAEA for the purpose of verifying compliance, and not to provide source or special fissionable material, or equipment or material especially designed or prepared for the processing, use or production of special fissionable material for peaceful purposes to any non-nuclear weapon State unless subject to a comprehensive safeguards agreement concluded with IAEA.

#### **IV. STATUS OF SIGNATURE AND RATIFICATION OF THE PELINDABA TREATY**

13. As indicated above, twenty-eight deposits of instruments of ratification are required for the Treaty to enter into force. To date, fifty (50) countries have signed the Treaty and twenty (20) countries have deposited their instruments of ratification with the AU Commission [see *attached document on the Ratification of the Treaty of Pelindaba – Treaty Establishing Africa as Nuclear-Weapon-Free Zone, Assembly/AU/8(VI)Add.15*]. As a result, Africa is the only one of the regions that have concluded Treaties on Nuclear Weapons-Free-Zones where such an instrument has not yet come into force (the other regions are Latin America – the Treaty of Tlatelolco; the South Pacific Region – the Treaty of Rarotonga; and South East Asia – the Treaty of Bangkok).

14. This situation was highlighted during the Conference of State Parties and Signatories to the Treaties establishing Nuclear-Weapons-Free Zones, held in Tlatelolco, Mexico, from 26 to 28 April 2006. The delayed entry into force of the Pelindaba Treaty is seen as a weak link in the planned integrated approach to the Treaty Zones towards disarmament and nuclear non-proliferation.

15. It is against this background that Nigeria proposed an agenda item on the ratification of the Pelindaba Treaty during the 8<sup>th</sup> Ordinary Session of the Executive Council. In the decision adopted on the matter, the Executive Council:

- a) noted with concern that the Treaty of Pelindaba has not entered into force because enough Member States have not ratified it; and
- b) called upon Member States that have not yet ratified it, to do so for the Treaty to enter into force during this tenth year of its opening for signature.

#### **V. OBSERVATIONS**

16. It is a matter of concern that, 10 years after the Treaty was first opened for ratification, it has not yet come into force. The Pelindaba Treaty is an important part of the overall peace and security architecture of the African Union: is indeed one of the building blocks of the Common African Defense and Security Policy (CADSP) as articulated in the Solemn Declaration adopted by the Second Extraordinary Session of the Assembly of Head of States and Government, held in Sirte, Libya, on 28 February 2004. In a world that is threatened by nuclear proliferation and weapons of mass destruction, in which it is important that Africa play its part in strengthening the nuclear-weapon-free regime and contribute to disarmament and nuclear non-proliferation processes, the Treaty takes on an added global resonance. It is equally important to strengthen collective action and solidarity to protect the continent against the threat of dumping of radioactive wastes and other radioactive matter in the African Nuclear-Weapon-Free Zone. Thus, the continent should redouble its efforts to conclude the ratification process, in order to bring the Treaty into force.

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# Information Note on the African Nuclear-Weapon-Free Zone Treaty (Treaty of Pelindaba)

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