

# **THE TREATY OF PELINDABA**

**Towards the Full Implementation of the African Nuclear-Weapon-Free Zone Treaty**



**Noël Stott, Senior Research Fellow, Institute for Security Studies**

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**March 2011**



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## Introduction

This guide briefly outlines the African Nuclear-Weapon-Free Zone Treaty (Treaty of Pelindaba) and describes the procedures that most African States need to follow in order to ratify or accede to this treaty and to implement its provisions. The Guide also provides an update of developments in the implementation of the treaty as a whole since its entry-into-force in July 2009 and since the publication of “A Brief Guide to the Pelindaba Treaty: Towards Entry-Into-Force of the African Nuclear-Weapon-Free Zone Treaty”, ISS, October 2008 by Noël Stott, Amelia Du Rand And Jean Du Preez, & “The Treaty of Pelindaba: Beyond Entry-Into-Force of the African Nuclear-Weapon-Free Zone Treaty”, ISS, March 2010, also by Noël Stott, Amelia Du Rand & Jean Du Preez.

In July 1964, the then OAU adopted the Declaration on the Denuclearisation of Africa [AHG/Res.II(I)]. In June 1995, at the 31st Ordinary Session of the OAU held in Addis Ababa, the African Nuclear-Weapon-Free Zone Treaty was agreed to. The Treaty declares Africa a zone free of nuclear weapons, [as] an important step towards the strengthening of the non-proliferation regime, the promotion of co-operation in the peaceful uses of nuclear energy, complete disarmament, and the enhancement of regional peace and security. While the application of the African Nuclear-Weapon-Free Zone is without prejudice to the territorial integrity and sovereignty of AU Member States, through the Treaty, Africa seeks to ensure that nuclear weapons are not developed, produced, tested, or otherwise acquired or stationed in any of the countries on the continent.

According to Hans Blix , the then Director General of the International Atomic Energy Agency, speaking at the conference for the Signing of the African Nuclear-Weapon-Free Zone Treaty in Cairo, 11 April 1996:

*“Unlike the [Non-Proliferation Treaty] NPT, it prohibits the stationing and testing of any nuclear explosive device in the territories of its parties; it also commits its parties to apply the highest standards of security and physical protection of nuclear material, facilities and equipment to prevent theft and unauthorized use; it prohibits armed attack against nuclear installations in the zone; and it prohibits the dumping of any radioactive waste. These are important undertakings supplementary to those already assumed by the parties under the NPT. They will help to advance the cause of horizontal and vertical non-proliferation and to prevent illegal trafficking in or other unauthorized uses of nuclear material. They will help to shield nuclear facilities from possible armed attacks and consequent radiological releases during conflicts; and they will require management of radioactive waste to be in accordance with accepted international safety standards.”*

He ended his talk by stating that:

*“... In addition to the establishment of nuclear-weapon-free zones, other nuclear arms control measures need to be taken urgently to move the world progressively towards nuclear disarmament. High on the list are the conclusion of a comprehensive nuclear test ban treaty; a universal convention banning the production*

*of fissile material for nuclear weapons or other nuclear explosive devices, and most importantly, as provided for in the consensus decision of the NPT Review and Extension Conference, ‘a determined pursuit by the Nuclear Weapon States of systematic and progressive efforts to reduce nuclear weapons globally with the ultimate goal of eliminating those weapons’.*”

## Time-line of Relevant Dates

|                  |  |
|------------------|--|
| <b>1960</b>      | French nuclear testing in the Sahara causes several African states to consider denuclearising Africa.  |
| <b>1961</b>      | UNGA Resolution 1652(XVI) titled “Consideration of Africa as a denuclearised zone is approved.   |
| <b>1964</b>      | Declaration on the Denuclearization of Africa, adopted by the Summit of the Organisation of African Unity (OAU) at its first ordinary session, held in Cairo from 17-21 July.  |
| <b>1965</b>      | UNGA endorses the OAU Declaration in resolution 2033(XX).  |
| <b>1966</b>      | France ceases nuclear testing in Sahara.   |
| <b>1970</b>      | South Africa announces capability to enrich uranium.   |
| <b>1970-1990</b> | UNGA adopts annual resolutions focusing on obstacles to the achievement of an African NWFZ   |
| <b>1979</b>      | 1979 UNGA adopts Resolution 34/76 B mandating a group of experts from France, Nigeria, the Philippines, the former Soviet Union, Sweden and Venezuela to conduct a study on ‘South Africa’s plan and capability in the nuclear field’.   |
| <b>1989</b>      | UNGA Resolution 44/113 B commissions a study on ‘South Africa’s nuclear-tipped ballistic missile capability’.  |
| <b>1990</b>      | South Africa accedes to the NPT and destroys six nuclear devices.  |
| <b>1993</b>      | The 56th Ordinary Session of the Council of Ministers of the OAU held in Dakar, Senegal, from 22 to 29 June 1992, affirms that the international situation was conducive to the implementation of the Cairo Declaration.<br>UNGA Resolution 47/76 increased the mandate of the group of experts that was established in 1990 to include drafting a treaty or convention on the denuclearisation of Africa.   |
| <b>1994</b>      | Group of Experts held in Windhoek from 16 to 25 March works on draft treaty provisions. Group of Experts held in Addis Ababa from 16 to 25 March continues to work on draft treaty provisions.<br>United Nations General Assembly adopts resolution 49/138, which inter alia requests the Secretary-General of the United Nations, in consultation with the Organisation of African Unity (OAU), to take action to enable the Group of Experts to finalise the drafting of a treaty on a nuclear-weapon-free zone in Africa. |
| <b>1995</b>      | Group of Experts meet to finalise the draft treaty in Pelindaba, South Africa from 29 May to 2 June. The report of the Group of Experts and the draft treaty are considered by the meetings of the OAU Council of Ministers and of the African Heads of State, which took place in Addis Ababa from 21 June to 28 June. The draft treaty is submitted to the 31st Ordinary Session of the Assembly of Heads of State and Government and is adopted.  |
| <b>1996</b>      | The African Nuclear-Weapon-Free Zone Treaty (Treaty of Pelindaba) is signed in Cairo on 11 April.  |
| <b>2009</b>      | In line with Article 18, the Treaty enters into force on 15 July.  |
| <b>2010</b>      | First Conference of State Parties held in Addis Ababa on 4 November.   |

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The African Nuclear-Weapon-Free Zone (ANWFZ) covers the entire African continent as well as the following islands: Agalega Island, Bassas da India, Canary Islands, Cape Verde, Cardagos Carajos Shoals, Chagos Archipelago – Diego Garcia, Comoros, Europa, Juan de Nova, Madagascar, Mauritius, Mayotte, Prince Edward & Marion Islands, Sao Tome and Principe, Reunion, Rodrigues Island, Seychelles, Tromelin Island, and Zanzibar & Pemba Islands.

According to the African Union's Commissioner for Peace and Security, Ramtane Lamamra, the Treaty is part a wider strategy to implement the Common African Defence and Security Policy, as adopted by the Second Extraordinary Session of the Assembly of Head of States and Government, held in Sirte, Libya, on 28 February 2004 and is thus a key component of the overall peace and security architecture of the AU.

## **Signature**

The Treaty opened for signature on 11 April 1996 in Cairo, Egypt and remained open until its entry-into-force:

### **The Cairo Declaration: 11 April 1996**

The African States signatories of the African Nuclear-Weapon Free-Zone Treaty (the Treaty of Pelindaba), meeting at Cairo on 11 April 1996,

Recalling the Declaration on the Denuclearization of Africa adopted by the Assembly of Heads of State and Government of the Organization of African Unity at its first ordinary session, held at Cairo in 1964,

Recalling also the adoption by the Assembly of Heads of State and Government of the Organization of African Unity at its thirty-first ordinary session, held at Addis Ababa from 26 to 28 June 1995, of the final text of the Treaty,

Recalling further United Nations General Assembly resolution 50/78 of 12 December 1995, by which the Assembly welcomed the adoption of the African leaders of the final text of the Treaty,

Recognizing the valuable contribution that the establishment of nuclear-weapon-free zones in Latin America and the Caribbean, South Pacific and South-East Asia have made to the process of nuclear non-proliferation,

Stressing the importance of promoting regional and international cooperation for the development of nuclear energy for peaceful purposes in the interest of sustainable social and economic development of the African continent,

Solemnly declare that the signing of the Treaty further consolidates global efforts towards the non-proliferation of nuclear weapons including the objectives of the Treaty on the Non-Proliferation of Nuclear Weapons (NPT) and is a highly significant contribution to the enhancement of international peace and security;

Invite the African States to ratify the Treaty as soon as possible so that it can enter into force without delay;

Call upon the nuclear-weapon States as well as the States contemplated in Protocol III to sign and ratify the relevant protocols to the Treaty as soon as possible;

Emphasize that the establishment of nuclear-weapon-free zones, especially in regions of tension, such as the Middle East, on the basis of arrangements freely arrived at among the States of the regions concerned, enhances global and regional peace and security;

Call upon all those States who have not yet done so to adhere to the NPT;

Call upon the nuclear-weapon States to actively pursue the goal of a nuclear-weapon-free



world as embodied in Article VI of the NPT, through the urgent negotiation of agreements with effective measures of verification towards the complete elimination of nuclear weapons at the earliest possible time;

Decide that the first session of the Conference of the States Parties to the Treaty shall be held not later than one year after its entry into force, and endorse the establishment of the headquarters of the African Commission on Nuclear Energy in South Africa;

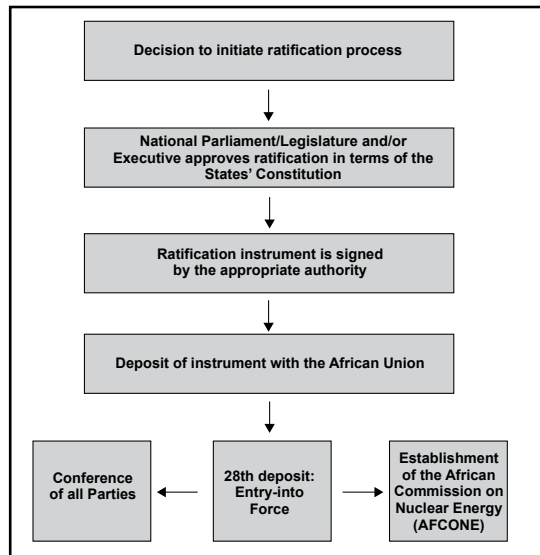
Request the Secretary-General of the United Nations, in accordance with resolution 50/78, adopted by the United Nations General Assembly on 12 December 1995, to provide the necessary assistance in 1996 in order to achieve the aims of the present declaration.

## Entry into Force

Thirteen years after it officially opened for signature, the Treaty of Pelindaba entered into force when Burundi deposited its ratification instrument on 15 July 2009, thus becoming the twenty-eighth African state to do so. The African Union issued the following note verbale in August 2009:

*“The Commission of the African Union presents its compliments to the Ministries of Foreign Affairs/External Relations of all Member States of the AU and has the honour to inform them that the Republic of Burundi has ratified the African Nuclear-Weapon-Free Zone Treaty (the Treaty of Pelindaba) on 22 June 2009 and deposited the instrument of ratification with the Commission on 15 July 2009. The Commission wishes to inform Member States that the Republic of Burundi is the twenty-eighth country to ratify the said Treaty. In accordance with the provisions of its Article 18(2), the Treaty “shall enter into force on the date of deposit of the twenty-eighth instrument of ratification”. Consequently, the Charter has entered into force on 15 July 2009. Furthermore, the conformity with Article 18(3) of the Treaty, “for a signatory that ratifies this Treaty after the date of the deposit of the twenty-eighth instrument of ratification, it shall enter into force for that signatory on the date of the deposit of its instrument of ratification”. The Commission of the African Union avails itself of this opportunity to renew to the Ministries of Foreign Affairs/ External Relations of all Member States of the AU the assurances of its highest consideration.” (Addis Ababa, 5 August 2009)*

As of 1 March 2011, all 53 members of the African Union (AU) have signed the Treaty (including the territory known as the Sahrawi



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Arab Democratic Republic) and 31 countries have deposited their instruments of ratification with the AU Commission. The following countries have however not yet ratified the Treaty: Angola, Central African Republic, Cape Verde, Chad, Comoros, Congo, Djibouti, Democratic Republic of Congo, Egypt, Eritrea, Ghana, Guinea-Bissau, Liberia, Namibia, Niger, Seychelles, Sierra Leone, Somalia, Sao Tome & Principe, Sudan and Uganda as well as the Sahrawi Arab Democratic Republic. Morocco, which left the AU's predecessor, the Organisation of African Unity (OAU), signed the Treaty on 11 April 1996, but is not included here as they are not a member of the African Union although they remain involved in African diplomacy and benefit from the services available to all AU states.

### **Ratification and Accession**

A State that has signed the Treaty must formally declare its consent to be bound by it in accordance with its national constitutional procedures for adherence to international agreements. This generally requires domestic action (ratification, acceptance or approval, depending on national practice) by the country's parliament or the executive of a State, or both.

Non-signatory States may also become bound by the Treaty, without signing it, through a one-step procedure known as accession. Similar to the process described above, accession usually also requires action by the national parliament.

The instrument of ratification must be signed either by the Head of State or Government or the Minister for Foreign Affairs or by an official with full powers to sign the instrument. This signature validates the instrument of ratification. The instrument of ratification must indicate the title of the person who has signed it and its date and place of issue as well as the name of the Treaty. It should contain an unambiguous expression of the will of the Government, acting on behalf of the State, to recognize itself as being bound by the Treaty and to implement its provisions.

Once the formal decision to be bound has been taken in accordance with national procedures, the State must deposit an instrument of ratification, acceptance, approval or accession with the Secretary-General of AU, who is designated as Depositary of the Treaty. The Depositary shall: Receive instruments of ratification; Register this Treaty and its Protocols pursuant to Article 102 of the Charter of the United Nations; Transmit certified copies of the Treaty and its Protocols to all States in the African nuclear-weapon-free zone and to all States eligible to become party to the Protocols to the Treaty, and shall notify them of signatures and ratification of the Treaty and its Protocols. The filing of this instrument is the action that gives legal force to the State's commitments under the Treaty. It also creates treaty relations, including rights and obligations, with respect to other parties.

### **Terms of the Treaty**

Under the terms of the Treaty, African States pledge the following:

- renunciation of nuclear explosive devices;
- prevention of the stationing of nuclear explosive devices;
- prohibition of the testing of nuclear explosive devices;

- 
- declaration, dismantling, destruction or conversion of nuclear explosive devices and the facilities for their manufacture;
  - prohibition of dumping of radioactive wastes;
  - promotion of peaceful nuclear activities and verification of their peaceful uses;
  - physical protection of nuclear materials and facilities and prohibition of armed attacks on nuclear installations;
  - establishment of an African Commission on Nuclear Energy as a mechanism for compliance;
  - reporting and exchanges of information on nuclear activities.

In terms of the Treaty, research into nuclear explosive devices by any means anywhere is banned. It also requires the destruction of any nuclear explosive device that a Party might possess. The Pelindaba Treaty prohibits the dumping of radioactive wastes and other radioactive matter anywhere within the African Nuclear-Weapon-Free Zone and prohibits armed attack by conventional or other means against nuclear installations in the African Nuclear-Weapon-Free Zone. The Treaty is of unlimited duration and withdrawal requires 12 months prior notification. It prohibits acquiring, manufacturing, testing or developing of nuclear weapons by state parties. Each state decides independently whether the transit of such weapons through its territories is allowed.

The Pelindaba Treaty supports the use of nuclear science and technology for peaceful purposes and in this respect 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 International Atomic Energy Agency (IAEA).

## **Protocols to the Treaty**

There are three Protocols attached to the Treaty to ensure respect of the Treaty by concerned non-African States:

- a) Protocol I calls on Nuclear Weapon States (NWS) not to use or threaten to use a nuclear weapon against any Party to the Treaty and against any territory within the zone. It has been signed by all the NWS and ratified by France, China and the UK.
- b) Protocol II calls on the NWS not to participate or assist in or encourage the testing of a nuclear explosive device on the continent. It has been signed by all the NWS and ratified by France, China and the UK.
- c) Protocol III calls upon parties which are de jure or de facto in control of territories situated within the zone (namely France and Spain) to apply the principles of the Treaty to the territories under their control. France has signed and ratified it but Spain has not signed.

Thus NWS are required to sign and ratify the Protocols concerning them and relevant states contemplated in Protocol III to the Treaty need to take all necessary measures

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to ensure the speedy application of the Treaty to territories for which they are, de jure or de facto, internationally responsible and that lie within the limits of the geographical zone established in the Treaty.

In her statement to the May 2010 NPT Review Conference, US Secretary of State Hilary Clinton announced that the US Administration would submit these protocols to the US Senate ‘to ratify our participation in the nuclear weapon-free zones that have been established in Africa... ‘upon ratification, parties to those agreements will have a legally binding assurance that the United States will not use or threaten to use nuclear weapons against them, and will fully respect the nuclear weapons-free status of the zones.’<sup>(1)</sup>

According to United Press International, in August 2010, Russian Federation President, Dmitry Medvedev submitted the two Protocols attached to the Treaty of Pelindaba to the lower house of the Federal Assembly of Russia (parliament or Duma) for ratification. The Duma ratified the relevant Protocols on 11 March 2011. However, according to Russian Deputy Foreign Minister, Sergei Ryabkov, “Russia signed (sic) the treaty with a number of reservations... they stipulate that we do not assume the obligation not to use nuclear weapons against states that are part of the zone free from nuclear weapons in Africa in situations where they have allied commitments to other nuclear states and may participate in military actions using nuclear weapons against Russia, or are members of the corresponding coalitions”. In addition, “in signing this treaty the reservation was made it does not apply to the U.S. base of Diego Garcia (an island of the Chagos Archipelago, the Indian Ocean)... this is an important reservation, which allows us to fully maintain our own security in hypothetical situations of the emergence [of] crises or conflicts in which the potential use of nuclear weapons is possible”.<sup>(2)</sup>

During the 2010 United Nations General Assembly’s First Committee, and speaking on behalf of the United Kingdom and the United States, France, on 27 October noted that France and the United Kingdom have committed themselves not to use or threaten to use nuclear weapons against any African State party to the treaty and that the US has announced that it has begun the process of ratification of the protocols annexed to the Treaty. India, although not a member of the Nuclear Non-Proliferation Treaty (NPT) and therefore not a recognised nuclear weapon state also conveyed its unambiguous assurance that it will respect the status of the African Nuclear weapon Free Zone.

## **Resolution and Decision of the 65th Session of the General Assembly (2010)**

*The General Assembly,*

*Recalling* its resolutions 51/53 of 10 December 1996 and 56/17 of 29 November 2001 and all its other relevant resolutions, as well as those of the Organisation of African Unity,

*Recalling* also the signing of the African Nuclear-Weapon-Free Zone Treaty (Treaty of Pelindaba) in Cairo on 11 April 1996,

*Recalling* further the Cairo Declaration adopted on that occasion, which emphasised that nuclear-weapon-free zones, especially in regions of tension, such as the Middle

(1) Statement by Secretary of State, Hillary Rodham Clinton to the 2010 Review Conference of the Treaty on the Non-Proliferation of Nuclear Weapons, General Debate, New York, 3 May 2010.

(2) Russia Ratifies African Nuke-Free Zone Pact, [http://www.globalsecuritynewswire.org/gsn/nw\\_20110314\\_6782.php](http://www.globalsecuritynewswire.org/gsn/nw_20110314_6782.php)

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East, enhance global and regional peace and security,

*Recalling* the statement made by the President of the Security Council on behalf of the members of the Council on 12 April 1996, affirming that the signature of the Treaty constituted an important contribution by the African countries to the maintenance of international peace and security,

*Considering* 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,

1. Recalls with satisfaction the entry into force of the African Nuclear-Weapon-Free Zone Treaty (Treaty of Pelindaba) on 15 July 2009;
2. Calls upon African States that have not yet done so to sign and ratify the Treaty as soon as possible;
3. Expresses its appreciation to the nuclear-weapon States that have signed the Protocols to the Treaty that concern them, and calls upon those that have not yet ratified the Protocols that concern them to do so as soon as possible;
4. Calls upon the States contemplated in Protocol III to the Treaty that have not yet done so to take all necessary measures to ensure the speedy application of the Treaty to territories for which they are, de jure or de facto, internationally responsible and which lie within the limits of the geographical zone established in the Treaty;
5. Calls upon the African States parties to the Treaty on the Non-Proliferation of Nuclear Weapons that have not yet done so to conclude comprehensive safeguards agreements with the International Atomic Energy Agency pursuant to the Treaty, thereby satisfying the requirements of article 9 (b) of and annex II to the Treaty of Pelindaba, and to conclude additional protocols to their safeguards agreements on the basis of the Model Protocol approved by the Board of Governors of the Agency on 15 May 1997;
6. Expresses its gratitude to the Secretary-General, the Chairperson of the African Union Commission and the Director General of the International Atomic Energy Agency for the diligence with which they have rendered effective assistance to the signatories to the Treaty;
7. Decides to include in the provisional agenda of its sixty-sixth session the item entitled “African Nuclear-Weapon-Free Zone Treaty”.

### **First Conference of States Parties**

Under Article 14, a Conference of Parties to the Treaty shall be convened by the Depositary as soon as possible after the entry into force of the Treaty in order to, inter alia, elect members of the AFCONE and determine its headquarters. Further conferences of State Parties shall be held as necessary and at least every two years, and convened in accordance with paragraph 2 (b) of article 12. The Conference of Parties to the Treaty will adopt the Commission’s budget and a scale of assessment to be paid by the State Parties.

The First Conference of Parties was held in Addis Ababa on 4 November 2010 and was attended by AU Member States Parties to the Treaty of Pelindaba: Algeria, Botswana, Burkina Faso, Burundi, Cameroon, Côte d’Ivoire, Equatorial Guinea, Ethiopia, Gabon, The Gambia, Kenya, Lesotho, Libya, Malawi, Mali, Mauritania, Mauritius, Mozambique,

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Nigeria, Rwanda, Senegal, South Africa, Swaziland, Tanzania, Togo, Tunisia, Zambia and Zimbabwe. In addition, representatives of countries not yet party were also present including Egypt, Republic of Congo, Djibouti, Ghana, Namibia, the Sahrawi Arab Democratic Republic, Sudan and Uganda as well as nuclear weapon states.

### **The African Commission on Nuclear Energy (AFCONE)**

Under Article 12 (Mechanism for compliance) and after entry-into-force the Parties agree to establish an African Commission on Nuclear Energy (AFCONE) in order to ensure compliance with their undertakings. The Commission will be responsible inter alia for:

- Collating reports and the exchange of information as provided for in Article 13;
- Arranging consultations as provided for in Annex IV, as well as convening conferences of Parties on the concurrence of simple majority of State Parties on any matter arising from the implementation of the Treaty;
- Reviewing the application to peaceful nuclear activities of safeguards by IAEA as elaborated in Annex II;
- Bringing into effect the complaints procedure elaborated in Annex IV;
- Encouraging regional and sub-regional programmes for cooperation in the peaceful uses of nuclear science and technology;
- Promoting international cooperation with extra-zonal States for the peaceful uses of nuclear science and technology.

The Commission will meet in ordinary session once a year, and may meet in extraordinary session as may be required by the complaints and settlement of disputes procedure in Annex IV and in a shared arrangement with the IAEA.

At the First Conference of States Parties the following countries were elected to designate the 12 Commissioners as provided for by the Treaty: Algeria, Burkina Faso, Cameroon, Ethiopia, Kenya, Libya, Mali, Mauritius, Senegal, South Africa, Togo and Tunisia. Participants also endorsed the decision taken in Cairo in 1996 to establish the headquarters of AFCONE in South Africa. On 4 May 2011, the First Ordinary Session (a meeting of the 12 Commissioners) of AFCONE was held to decide on the structure and budget of AFCONE and its rules of procedure, as well as to elect its chairman and vice-chairman and to establish a process to appoint an executive secretary.

### **National Implementation**

While not specifically provided for in the Treaty, States are, by definition, required to take appropriate legal, administrative and other measures to prevent and punish any prohibited activity (a) by persons under its jurisdiction or control and (b) on territory under its jurisdiction or control. Such measures may include the imposition of penal sanctions for such activities. Administrative measures, including changes in military doctrine and operating procedures and the notification of organisations involved in the development, production and transfer of arms may also be needed to ensure that violations do not occur.

Beyond the prevention and punishment of violations, States need to consider a range of positive measures to ensure implementation of the Treaty.

These include:

- Development and implementation of plans for the destruction of stockpiled nuclear weapon material;
- Action to prohibit in its territory the testing of any nuclear explosive device;
- To effectively implement or to use as guidelines the measures contained in the Bamako Convention on the Ban of the Import into Africa and Control of Transboundary Movement and Management of Hazardous Wastes within Africa in so far as it is relevant to radioactive waste;
- To discourage the dumping of radioactive wastes and other radioactive matter anywhere within the African nuclear-weapon-free zone;
- To maintain the highest standards of security and effective physical protection of nuclear materials, facilities and equipment to prevent theft or unauthorised use and handling and to conduct all activities for the peaceful use of nuclear energy under strict non-proliferation measures;
- To conclude a comprehensive safeguards agreement with IAEA for the purpose of verifying compliance;
- Preparation and submission of reports to the African Commission on Nuclear Energy [to be] established under Article 12 of the Treaty.

## **MODEL INSTRUMENTS OF RATIFICATION, ACCEPTANCE OR APPROVAL <sup>(3)</sup>**

### **MODEL A: For States Signatories**

Model Instrument of Ratification [acceptance or approval] of the African Nuclear-Weapon-Free Zone Treaty (Pelindaba Treaty)

WHEREAS the African Nuclear-Weapon-Free Zone Treaty (Pelindaba Treaty) was adopted in June 1995, at the 31st Ordinary Session of the OAU held in Addis Ababa, and opened for signature on 11 April 1996 in Cairo, Egypt,

WHEREAS the said Treaty has been signed on behalf of the Government of

\_\_\_\_\_ on \_\_\_\_\_,

NOW THEREFORE I, [name and title of the head of State, head of Government or minister of foreign affairs], declare that the Government of \_\_\_\_\_, having considered the above-mentioned Treaty, ratifies [accepts, approves] the same Treaty and undertakes faithfully to perform and carry out the stipulations therein contained.

IN WITNESS WHEREOF I have signed this instrument of [ratification, acceptance, approval] at

\_\_\_\_\_ on \_\_\_\_\_.  
[signature] + [seal]

<sup>(3)</sup> These have been compiled using various model instruments drafted by the International Committee of the Red Cross (ICRC) in relation to other international conventions.

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## **MODEL B: For non-signatory States (after entry-into-force)**

Model Instrument of ACCESSION to the African Nuclear-Weapon-Free Zone Treaty (Treaty of Pelindaba)

WHEREAS the African Nuclear-Weapon-Free Zone Treaty (Treaty of Pelindaba) was adopted in June 1995, at the Ordinary Session of the OAU held in Addis Ababa, and opened for signature on 11 April 1996 in Cairo, Egypt,

WHEREAS the African Nuclear-Weapon-Free Zone Treaty (Treaty of Pelindaba) entered into force on 15 July 2009;

NOW THEREFORE, I, [name and title of the head of State, head of government or minister of foreign affairs], declare that the Government of \_\_\_\_\_

HEREBY ACCEDES to the same Treaty and undertakes faithfully to carry out all the stipulations therein contained.

IN WITNESS WHEREOF I have signed this instrument of accession at

\_\_\_\_\_ on \_\_\_\_\_  
[signature] + [seal]

### **How to Conclude a Comprehensive Safeguards Agreement with an Additional Protocol (based on INFCIRC/153 (Corr.) and INFCIRC/540 (Corr.))**

Concluding safeguards agreements with the IAEA generally requires two or three steps:

1. The State notifies the Agency of its intention to conclude a safeguards agreement and/or an additional protocol, and asks the Agency to submit the draft text(s) to the IAEA Board of Governors for the Board to authorise the Director General to sign and implement it. The notification should contain information on the applicable entry into force procedure (see step 3 below). The text(s) will then be submitted to the Board of Governors, which needs to authorise the Director General to sign, and subsequently implement the agreement or protocol. The Board meets five times per year, generally in March, June, September (twice) and November. After this, the documents are open for signature. Model letters are provided below.
2. A representative of the State and the Director General sign the text(s). This may be done by the Head of State, Head of Government or Minister for Foreign Affairs or by any other Government official — such as the Resident Representative to the Agency — with full powers to sign.
3. The State has two options to bring into force its safeguards agreement/protocol: either upon signature or on the date the Agency receives from the State written confirmation that its domestic requirements for entry into force have been met. If the latter option is applied, the third step required is for the State to provide such a notification to the Agency. Model letters are provided below.



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## **Model Notification Letter Concluding a Safeguards Agreement and an Additional Protocol**

**(date)**

I refer to your letter of (date), and have the honour to inform you that the Government of (State) has decided to conclude a safeguards agreement between (State) and the International Atomic Energy Agency for to the application of safeguards in connection with the NPT and an additional protocol on the basis of the model approved by the IAEA Board of Governors in May 1997.

Accordingly, I would request that the Secretariat submit the drafts, as contained in the letter of (date), to the Board of Governors for its consideration [at its (mm, yy) session].

Entry into force will take place [on the date on which the Agency receives from (State) written notification that (State)'s statutory and/or constitutions requirements for entry into force have been met]

[upon signature by the representatives of (State) and the Agency].

(Signed)

Government Representative

## **Model Notification Letter (Entry into force of a safeguards agreement and/or an additional protocol)**

**(date)**

The [Permanent Mission][Ministry for Foreign Affairs] of (State) presents its compliments to the Secretariat of the International Atomic Energy Agency and has the honour to notify it that the constitutional and statutory requirements for entry into force of the [protocol additional to the] comprehensive safeguards agreement between (State) and the International Atomic Energy Agency [and the protocol additional thereto] have been met.

The [Permanent Mission][Ministry for Foreign Affairs] of (State) avails itself of this opportunity to renew to the Secretariat of the International Atomic Energy Agency the assurances of its highest consideration.

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## ANNEXURE A:

### List of Countries Which Have Signed and Ratified the African Nuclear-Weapon-Free Zone Treaty (The Treaty of Pelindaba) as at 01/03/2011

Adopted and opened for signature in July 1995.

Enter into force on the date of deposit of the twenty-eighth (28th) instrument of Ratification: 15 July 2009.

First Conference of State Parties: 4 November 2010.

# of African States 53 – excluding Morocco (which is not a member of the African Union and including the territory known as the Sahrawi Arab Democratic Republic (SADR) or Western Sahara.

# of Signatures 51 (both Madagascar and Equatorial Guinea did not sign but have subsequently ratified and deposited their instruments).

# of Ratifications 31

# of Deposits 31

| Number | Country                  | Signature Date | Ratification Date | Deposit Date |
|--------|--------------------------|----------------|-------------------|--------------|
| 1      | Algeria                  | 11/04/1996     | 23/12/1997        | 11/02/1998   |
| 2      | Angola                   | 11/04/1996     |                   |              |
| 3      | Benin                    | 11/04/1996     | 17/07/2007        | 04/09/2007   |
| 4      | Botswana                 | 09/06/1998     | 04/02/1999        | 16/06/1999   |
| 5      | Burkina Faso             | 11/04/1996     | 12/05/1998        | 27/08/1998   |
| 6      | Burundi                  | 11/04/1996     | 22/06/2009        | 15/07/2009   |
| 7      | Cameroon                 | 11/04/1996     | 11/06/2010        | 28/09/2010   |
| 8      | Cape Verde               | 11/04/1996     |                   |              |
| 9      | Central African Rep.     | 11/04/1996     |                   |              |
| 10     | Chad                     | 11/04/1996     |                   |              |
| 11     | Comoros                  | 11/04/1996     |                   |              |
| 12     | Congo                    | 27/01/1997     |                   |              |
| 13     | Côte d'Ivoire            | 11/04/1996     | 20/05/1999        | 28/07/1999   |
| 14     | Democratic Rep. of Congo | 11/04/1996     |                   |              |
| 15     | Djibouti                 | 11/04/1996     |                   |              |
| 16     | Egypt                    | 11/04/1996     |                   |              |
| 17     | Equatorial Guinea        |                | 20/12/2002        | 19/02/2003   |
| 18     | Eritrea                  | 11/04/1996     |                   |              |
| 19     | Ethiopia                 | 11/04/1996     | 18/02/2008        | 13/03/2008   |

|    |                                  |            |            |            |
|----|----------------------------------|------------|------------|------------|
| 20 | Gabon                            | 11/04/1996 | 18/05/2007 | 12/06/2007 |
| 21 | Gambia                           | 11/04/1996 | 03/09/1996 | 16/10/1996 |
| 22 | Ghana                            | 11/04/1996 |            |            |
| 23 | Guinea                           | 11/04/1996 | 26/05/1999 | 21/01/2000 |
| 24 | Guinea-Bissau                    | 11/04/1996 |            |            |
| 25 | Kenya                            | 11/04/1996 | 15/11/2000 | 09/01/2001 |
| 26 | Lesotho                          | 11/04/1996 | 06/03/2002 | 14/03/2002 |
| 27 | Liberia                          | 09/07/1996 |            |            |
| 28 | Libya                            | 11/04/1996 | 12/02/2005 | 11/05/2005 |
| 29 | Madagascar                       |            | 12/12/2003 | 23/12/2003 |
| 30 | Malawi                           | 11/04/1996 | 06/03/2009 | 23/04/2009 |
| 31 | Mali                             | 11/04/1996 | 27/05/1999 | 22/07/1999 |
| 31 | Mauritania                       | 11/04/1996 | 10/01/1998 | 24/02/1998 |
| 33 | Mauritius                        | 11/04/1996 | 19/04/1996 | 24/04/1996 |
| 34 | Mozambique                       | 11/04/1996 | 29/07/2008 | 28/08/2008 |
| 35 | Namibia                          | 11/04/1996 |            |            |
| 36 | Niger                            | 11/04/1996 |            |            |
| 37 | Nigeria                          | 11/04/1996 | 20/04/2000 | 18/06/2001 |
| 38 | Rwanda                           | 11/04/1996 | 23/01/2007 | 01/02/2007 |
| 39 | Sahrawi Arab Democratic Republic | 20/06/2006 |            |            |
| 40 | Sao Tome & Principe              | 09/07/1996 |            |            |
| 41 | Senegal                          | 11/04/1996 | 20/09/2006 | 25/10/2006 |
| 42 | Seychelles                       | 09/07/1996 |            |            |
| 43 | Sierra Leone                     | 11/04/1996 |            |            |
| 44 | Somalia                          | 23/02/2006 |            |            |
| 45 | South Africa                     | 11/04/1996 | 13/03/1998 | 27/03/1998 |
| 46 | Sudan                            | 11/04/1996 |            |            |
| 47 | Swaziland                        | 11/04/1996 | 13/11/1996 | 17/07/2000 |
| 48 | Tanzania                         | 11/04/1996 | 27/05/1998 | 19/06/1998 |
| 49 | Togo                             | 11/04/1996 | 28/06/2000 | 18/07/2000 |
| 50 | Tunisia                          | 11/04/1996 | 14/09/2009 | 07/10/2009 |
| 51 | Uganda                           | 11/04/1996 |            |            |
| 52 | Zambia                           | 11/04/1996 | 28/06/2010 | 18/08/2010 |
| 53 | Zimbabwe                         | 11/04/1996 | 09/02/1998 | 06/04/1998 |

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## **ANNEXURE B:**

### **African Nuclear-Weapon-Free Zone Treaty (Treaty of Pelindaba)**

The Parties to this Treaty,

Guided by the Declaration on the Denuclearization of Africa, adopted by the Assembly of Heads of State and Government of the Organization of African Unity (hereinafter referred to as OAU) at its first ordinary session, held at Cairo from 17 to 21 July 1964 (AHG/Res. 11(I)), in which they 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,

Guided also, by the resolutions of the fifty-fourth and fifty-sixth ordinary sessions of the Council of Ministers of OAU, held at Abuja from 27 May to 1 June 1991 and at Dakar from 22 to 28 June 1992 respectively (CM/Res.1342 (LIV) and CM/Res.1395 (LVI)), which affirmed that the evolution 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,

Recalling United Nations General Assembly resolution 3472 B (XXX) of 11 December 1975, in which it considered nuclear-weapon-free zones one of the most effective means for preventing the proliferation, both horizontal and vertical, of nuclear weapons,

Convinced of the need to take all steps in achieving the ultimate goal of a world entirely free of nuclear weapons, as well as of the obligations of all States to contribute to this end,

Convinced also that the African nuclear-weapon-free zone will constitute an important step towards strengthening the non-proliferation regime, promoting cooperation in the peaceful uses of nuclear energy, promoting general and complete disarmament and enhancing regional and international peace and security.

Aware that regional disarmament measures contribute to global disarmament efforts,

Believing that the African nuclear-weapon-free zone will protect African States against possible nuclear attacks on their territories,

Noting with satisfaction existing NWFZs and recognizing that the establishment of other NWFZs, especially in the Middle East, would enhance the security of States Parties to the African NWFZ,

Reaffirming the importance of the Treaty on the Non-Proliferation of Nuclear Weapons (hereinafter referred to as the NPT) and the need for the implementation of all its provisions,

Desirous of taking advantage of article IV of the NPT, which recognizes the inalienable right of all States Parties to develop research on, production and use of nuclear energy for peaceful purposes without discrimination and to facilitate the fullest possible exchange of equipment, materials and scientific and technological information for such purposes,

Determined to promote regional cooperation for the development and practical ap-

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plication of nuclear energy for peaceful purposes in the interest of sustainable social and economic development of the African continent,

Determined to keep Africa free of environmental pollution by radioactive wastes and other radioactive matter,

Welcoming the cooperation of all States and governmental and non-governmental organizations for the attainment of these objectives,

Have decided by this treaty to establish the African NWFZ and hereby agree as follows:

## **ARTICLE 1: DEFINITION/USAGE OF TERMS**

For the purpose of this Treaty and its Protocols:

- (a) “African nuclear-weapon-free zone” means the territory of the continent of Africa, islands States members of OAU and all islands considered by the Organization of African Unity in its resolutions to be part of Africa;
- (b) “Territory” means the land territory, internal waters, territorial seas and archipelagic waters and the airspace above them as well as the sea bed and subsoil beneath;
- (c) “Nuclear explosive device” means any nuclear weapon or other explosive device capable of releasing nuclear energy, irrespective of the purpose for which it could be used. The term includes such a weapon or device in unassembled and partly assembled forms, but does not include the means of transport or delivery of such a weapon or device if separable from and not an indivisible part of it;
- (d) “Stationing” means implantation, emplacement, transport on land or inland waters, stockpiling, storage, installation and deployment;
- (e) “Nuclear installation” means a nuclear-power reactor, a nuclear research reactor, a critical facility, a conversion plant, a fabrication plant, a reprocessing plant, an isotope separation plant, a separate storage installation and any other installation or location in or at which fresh or irradiated nuclear material or significant quantities of radioactive materials are present;
- (f) “Nuclear material” means any source material or special fissionable material as defined in Article XX of the Statute of the International Atomic Energy Agency (IAEA) and as amended from time to time by the IAEA.



International Symbol for Radiation

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## **ARTICLE 2: APPLICATION OF THE TREATY**

1. Except where otherwise specified, this Treaty and its Protocols shall apply to the territory within the African nuclear-weapon-free zone, as illustrated in the map in annex I.
2. Nothing in this Treaty shall prejudice or in any way affect the rights, or the exercise of the rights, of any State under international law with regard to freedom of the seas.

## **ARTICLE 3: RENUNCIATION OF NUCLEAR EXPLOSIVE DEVICES**

Each Party undertakes:

- (a) Not to conduct research on, develop, manufacture, stockpile or otherwise acquire, possess or have control over any nuclear explosive device by any means anywhere;
- (b) Not to seek or receive any assistance in the research on, development, manufacture, stockpiling or acquisition, or possession of any nuclear explosive device;
- (c) Not to take any action to assist or encourage the research on, development, manufacture, stockpiling or acquisition, or possession of any nuclear explosive device.

## **ARTICLE 4: PREVENTION OF STATIONING OF NUCLEAR EXPLOSIVE DEVICES**

1. Each Party undertakes to prohibit, in its territory, the stationing of any nuclear explosive device.
2. Without prejudice to the purposes and objectives of the treaty, each party in the exercise of its sovereign rights remains free to decide for itself whether to allow visits by foreign ships and aircraft to its ports and airfields, transit of its airspace by foreign aircraft, and navigation by foreign ships in its territorial sea or archipelagic waters in a manner not covered by the rights of innocent passage, archipelagic sea lane passage or transit passage of straits.

## **ARTICLE 5: PROHIBITION OF TESTING OF NUCLEAR EXPLOSIVE DEVICES**

Each Party undertakes:

- (a) Not to test any nuclear explosive device;
- (b) To prohibit in its territory the testing of any nuclear explosive device;
- (c) Not to assist or encourage the testing of any nuclear explosive device by any State anywhere.

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## **ARTICLE 6: DECLARATION, DISMANTLING, DESTRUCTION OR CONVERSION OF NUCLEAR EXPLOSIVE DEVICES AND THE FACILITIES FOR THEIR MANUFACTURE**

Each Party undertakes:

- (a) To declare any capability for the manufacture of nuclear explosive devices;
- (b) To dismantle and destroy any nuclear explosive device that it has manufactured prior to the coming into force of this Treaty;
- (c) To destroy facilities for the manufacture of nuclear explosive devices or, where possible, to convert them to peaceful uses;
- (d) To permit the International Atomic Energy Agency (hereinafter referred to as IAEA) and the Commission established in article 12 to verify the processes of dismantling and destruction of the nuclear explosive devices, as well as the destruction or conversion of the facilities for their production.

## **ARTICLE 7: PROHIBITION OF DUMPING OF RADIOACTIVE WASTES**

Each Party undertakes:

- (a) To effectively implement or to use as guidelines the measures contained in the Bamako Convention on the Ban of the Import into Africa and Control of Transboundary Movement and Management of Hazardous Wastes within Africa in so far as it is relevant to radioactive waste;
- (b) Not to take any action to assist or encourage the dumping of radioactive wastes and other radioactive matter anywhere within the African nuclear-weapon-free zone.

## **ARTICLE 8: PEACEFUL NUCLEAR ACTIVITIES**

1. Nothing in this Treaty shall be interpreted as to prevent the use of nuclear science and technology for peaceful purposes.
2. As part of their efforts to strengthen their security, stability and development, the Parties undertake to promote individually and collectively the use of nuclear science and technology for economic and social development. To this end they undertake to establish and strengthen mechanisms for cooperation at the bilateral, sub-regional and regional levels.
3. Parties are encouraged to make use of the programme of assistance available in IAEA and, in this connection, to strengthen cooperation under the African Regional Cooperation Agreement for Research, Training and Development Related to Nuclear Science and Technology (hereinafter referred to as AFRA).

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## ARTICLE 9: VERIFICATION OF PEACEFUL USES

Each Party undertakes:

- (a) To conduct all activities for the peaceful use of nuclear energy under strict non-proliferation measures to provide assurance of exclusively peaceful uses;
- (b) To conclude a comprehensive safeguards agreement with IAEA for the purpose of verifying compliance with the undertakings in subparagraph (a) of this article;
- (c) 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 of any non-nuclear-weapon State unless subject to a comprehensive safeguards agreement concluded with IAEA.



Nuclear Waste (Picture by PictureNET Africa)



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## **ARTICLE 10: PHYSICAL PROTECTION OF NUCLEAR MATERIALS AND FACILITIES**

Each Party undertakes to maintain the highest standards of security and effective physical protection of nuclear materials, facilities and equipment to prevent theft or unauthorized use and handling. To that end each Party, inter alia, undertakes to apply measures of physical protection equivalent to those provided for in the Convention on Physical Protection of Nuclear Material and in recommendations and guidelines developed by IAEA for that purpose.

## **ARTICLE 11: PROHIBITION OF ARMED ATTACK ON NUCLEAR INSTALLATIONS**

Each Party undertakes not to take, or assist, or encourage any action aimed at an armed attack by conventional or other means against nuclear installations in the African nuclear-weapon-free zone.

## **ARTICLE 12: MECHANISM FOR COMPLIANCE**

1. For the purpose of ensuring compliance with their undertakings under this Treaty, the Parties agree to establish the African Commission on Nuclear Energy (hereafter referred to as the Commission) as set out in annex III.
2. The Commission shall be responsible inter alia for: **(a)** Collating the reports and the exchange of information as provided for in article 13; **(b)** Arranging consultations as provided for in annex IV, as well as convening conferences of Parties on the concurrence of simple majority of State Parties on any matter arising from the implementation of the Treaty; **(c)** Reviewing the application to peaceful nuclear activities of safeguards by IAEA as elaborated in annex II; **(d)** Bringing into effect the complaints procedure elaborated in annex IV; **(e)** Encouraging regional and subregional programmes for cooperation in the peaceful uses of nuclear science and technology; **(f)** Promoting international cooperation with extra-zonal States for the peaceful uses of nuclear science and technology.
3. The Commission shall meet in ordinary session once a year, and may meet in extraordinary session as may be required by the complaints and settlement of disputes procedure in annex IV.

## **ARTICLE 13: REPORT AND EXCHANGES OF INFORMATION**

1. Each Party shall submit an annual report to the Commission on its nuclear activities as well as other matters relating to the Treaty, in accordance with the format for reporting to be developed by the Commission.
2. Each Party shall promptly report to the Commission any significant event affecting the implementation of the Treaty.
3. The Commission shall request the IAEA to provide it with an annual report on the activities of AFRA.

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## **ARTICLE 14: CONFERENCE OF PARTIES**

1. A Conference of all Parties to the Treaty shall be convened by the Depositary as soon as possible after the entry into force of the Treaty to, *inter alia*, elect members of the commission and determine its headquarters. Further conferences of State Parties shall be held as necessary and at least every two years, and convened in accordance with paragraph 2 (b) of article 12.
2. The Conference of all Parties to the Treaty shall adopt the Commission's budget and a scale of assessment to be paid by the State Parties.

## **ARTICLE 15: INTERPRETATION OF THE TREATY**

Any dispute arising out of the interpretation of the Treaty shall be settled by negotiation, by recourse to the Commission or another procedure agreed to by the Parties, which may include recourse to an arbitral panel or to the International Court of Justice.

## **ARTICLE 16: RESERVATIONS**

This Treaty shall not be subject to reservations.

## **ARTICLE 17: DURATION**

This Treaty shall be of unlimited duration and shall remain in force indefinitely.

## **ARTICLE 18: SIGNATURE, RATIFICATION AND ENTRY INTO FORCE**

1. This Treaty shall be open for signature by any State in the African nuclear-weapon-free zone. It shall be subject to ratification.
2. It shall enter into force on the date of deposit of the twenty-eighth instrument of ratification.
3. For a signatory that ratifies this Treaty after the date of the deposit of the twenty-eighth instrument of ratification, it shall enter into force for that signatory on the date of deposit of its instrument of ratification.

## **ARTICLE 19: AMENDMENTS**

1. Any amendments to the Treaty proposed by a Party shall be submitted to the Commission, which shall circulate it to all Parties.
2. Decision on the adoption of such an amendment shall be taken by a two-thirds majority of the Parties either through written communication to the Commission or through a conference of Parties convened upon the concurrence of a simple majority.
3. An amendment so adopted shall enter into force for all Parties after receipt by the Depositary of the instrument of ratification by the majority of Parties.

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## **ARTICLE 20: WITHDRAWAL**

1. Each Party shall, in exercising its national sovereignty, have the right to withdraw from this Treaty if it decides that extraordinary events, related to the subject-matter of this Treaty, have jeopardized its supreme interests.
2. Withdrawal shall be effected by a Party giving notice, which includes a statement of the extraordinary events it regards as having jeopardized its supreme interest, twelve months in advance to the Depository. The Depository shall circulate such notice to all other Parties.

## **ARTICLE 21: DEPOSITARY FUNCTIONS**

1. This Treaty, of which the Arabic, English, French and Portuguese texts are equally authentic, shall be deposited with the Secretary-General of OAU, who is hereby designated as Depository of the Treaty.
2. The Depository shall: **(a)** Receive instruments of ratification; **(b)** Register this Treaty and its Protocols pursuant to Article 102 of the Charter of the United Nations; **(c)** Transmit certified copies of the Treaty and its Protocols to all States in the African nuclear-weapon-free zone and to all States eligible to become Party to the Protocols to the Treaty, and shall notify them of signatures and ratification of the Treaty and its Protocols.

## **ARTICLE 22: STATUS OF THE ANNEXES**

The annexes form an integral part of this Treaty. Any reference to this Treaty includes the annexes.

In witness whereof the undersigned, being duly authorized by their Governments, have signed this Treaty.



The Pelindaba Nuclear Research Facility, Pretoria, South Africa (Picture by Necsa)

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## ANNEX I:

### Map of an African Nuclear-Weapon-Free Zone

The African Nuclear-Weapon-Free Zone extends across the entire continent of mainland Africa, and the following islands: Agalega Island, Bassas da India, Canary Islands, Cape Verde, Cardagos Carajos Shoals, Chagos Archipelago - Diego Garcia, Comoros, Europa, Juan de Nova, Madagascar, Mauritius, Mayotte, Prince Edward & Marion Islands, Reunion, Rodrigues Island, Sao Tome and Principe, Seychelles, Tomelin Island, Zanzibar & Pemba Islands.



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## **ANNEX II:**

### **Safeguards of the International Atomic Energy Agency**

1. The safeguards referred to in subparagraph (b) of the article 9 shall in respect of each Party be applied by the International Atomic Energy Agency as set forth in an agreement negotiated and concluded with the Agency on all source or special fissionable material in all nuclear activities within the territory of the Party, under its jurisdiction or carried out under its control anywhere.
2. The Agreement referred to in paragraph 1 above shall be, or shall be equivalent in its scope and effect to, the agreement required in connection with the Treaty on the Non-Proliferation of Nuclear Weapons (INFCIRC/153 corrected). A Party that has already entered into a safeguards agreement with the IAEA is deemed to have already complied with the requirement. Each Party shall take all appropriate steps to ensure that the Agreement referred to in paragraph 1 is in force for it not later than eighteen months after the date of entry into force for that Party of this Treaty.
3. For the purpose of this Treaty, the safeguards referred to in paragraph 1 above shall have as their purpose the verification of the non-diversion of nuclear material from peaceful nuclear activities to nuclear explosive devices or for purposes unknown.
4. Each Party shall include in its annual report to the Commission, in conformity with article 13, for its information and review, a copy of the overall conclusions of the most recent report by the International Atomic Energy Agency on its inspection activities in the territory of the Party concerned, and advise the Commission promptly of any change in those conclusions. The information furnished by a Party shall not be, totally or partially, disclosed or transmitted to third parties, by the addressees of the reports, except when that Party gives its express consent.



**A Nuclear Research Laboratory (Picture by PictureNET Africa)**

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## ANNEX III:

### African Commission on Nuclear Energy

1. The Commission established in article 12 shall be composed of twelve Members elected by Parties to the Treaty for a three-year period, bearing in mind the need for equitable geographical distribution as well as to include Members with advanced nuclear programmes. Each Member shall have one representative nominated with particular regard for his/her expertise in the subject of the Treaty.
2. The Commission shall have a Bureau consisting of the Chairman, the Vice-Chairman and the Executive Secretary. It shall elect its Chairman and Vice-Chairman. The Secretary-General of the organization of African Unity, at the request of Parties to the Treaty and in consultation with the Chairman, shall designate the Executive Secretary of the Commission. For the first meeting a quorum shall be constituted by representatives of two thirds of the Members of the Commission. For that meeting decisions of the Commission shall be taken as far as possible by consensus or otherwise by a two-thirds majority of the Members of the Commission. The Commission shall adopt its rules of procedure at that meeting.
3. The Commission shall develop a format for reporting by States as required under articles 12 and 13.
4. (a) The budget of the Commission, including the costs of inspections pursuant to annex IV to this Treaty, shall be borne by the Parties to the Treaty in accordance with a scale of assessment to be determined by the Parties;  
(b) The Commission may also accept additional funds from other sources provided such donations are consistent with the purposes and objectives of the Treaty.



Photo by Bjorn Radner

The Koeberg Nuclear Power Station, near Cape Town, South Africa

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## **ANNEX IV:**

### **Complaints Procedure and Settlement of Disputes**

1. A Party which considers that there are grounds for a complaint that another Party or a Party to Protocol III is in breach of its obligations under this Treaty shall bring the subject-matter of the complaint to the attention of the Party complained of and shall allow the latter thirty days to provide it with an explanation and to resolve the matter. This may include technical visits agreed upon between the Parties.
2. If the matter is not so resolved, the complainant Party may bring this complaint to the Commission.
3. The Commission, taking account of efforts made under paragraph 1 above, shall afford the Party complained of forty-five days to provide it with an explanation of the matter.
4. If, after considering any explanation given to it by the representatives of the Party complained of, the Commission considers that there is sufficient substance in the complaint to warrant an inspection in the territory of that Party or territory of a Party to Protocol III, the Commission may request the International Atomic Energy Agency to conduct such inspection as soon as possible. The Commission may also designate its representatives to accompany the Agency's inspection team.
  - (a) The request shall indicate the tasks and objectives of such inspection, as well as any confidentiality requirements;
  - (b) If the Party complained of so requests, the inspection team shall be accompanied by representatives of that Party provided that the inspectors shall not be thereby delayed or otherwise impeded in the exercise of their functions;
  - (c) Each Party shall give the inspection team full and free access to all information and places within each territory that may be deemed relevant by the inspectors to the implementation of the inspection;
  - (d) The Party complained of shall take all appropriate steps to facilitate the work of the inspection team, and shall accord them the same privileges and immunities as those set forth in the relevant provisions of the Agreement on the Privileges and Immunities of the International Atomic Energy Agency;
  - (e) The International Atomic Energy Agency shall report its findings in writing as quickly as possible to the Commission, outlining its activities, setting out relevant facts and information as ascertained by it, with supporting evidence and documentation as appropriate, and stating its conclusions. The Commission shall report fully to all States Parties to the Treaty giving its decision as to whether the Party complained of is in breach of its obligations under this Treaty;
  - (f) If the Commission considers that the Party complained of is in breach of its obligations under this Treaty, or that the above provisions have not been complied with, States Parties to the Treaty shall meet in extraordinary session to discuss the matter;

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- (g) The States Parties convened in extraordinary session may as necessary, make recommendations to the Party held to be in breach of its obligations and to the organization of African Unity. The Organization of African Unity may, if necessary, refer the matter to the United Nations Security Council;
  - (h) The costs involved in the procedure outlined above shall be borne by the Commission. In the case of abuse, the Commission shall decide whether the requesting State Party should bear any of the financial implications.
5. The Commission may also establish its own inspection mechanisms.



The International Atomic Energy Agency in Vienna (Picture by PictureNET Africa)



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# PROTOCOL I

The Parties to this Protocol,

Convinced of the need to take all steps in achieving the ultimate goal of a world entirely free of nuclear weapons as well as the obligations of all States to contribute to this end,

Convinced also that the African Nuclear-Weapon-Free Zone Treaty, negotiated and signed in accordance with the Declaration on the Denuclearization of Africa (AHG/Res.11(I)) of 1964, resolutions CM/Res.1342 (LIV) of 1991 and CM/Res.1395 (LVI) Rev.1 of 1992 of the Council of Ministers of the organization of African Unity and United Nations General Assembly Resolution 48/86 of 16 December 1993, constitutes an important measure towards ensuring the non-proliferation of nuclear weapons, promoting cooperation in the peaceful uses of nuclear energy, promoting general and complete disarmament, and enhancing regional and international peace and security,

Desirous of contributing in all appropriate manners to the effectiveness of the Treaty,  
Have agreed as follows:

**ARTICLE 1:** Each Protocol Party undertakes not to use or threaten to use a nuclear explosive device against: (a) Any Party to the Treaty; or (b) Any territory within the African nuclear-weapon-free zone for which a State that has become a Party to Protocol III is internationally responsible as defined in annex 1.

**ARTICLE 2:** Each Protocol Party undertakes not to contribute to any act that constitutes a violation of the Treaty or of this Protocol.

**ARTICLE 3:** Each Protocol Party undertakes, by written notification to the Depositary, to indicate its acceptance or otherwise of any alteration to its obligation under this Protocol that may be brought about by the entry into force of an amendment to the Treaty pursuant to article 19 of the Treaty.

**ARTICLE 4:** This Protocol shall be open for signature by China, France, the Russian Federation, the United Kingdom of Great Britain and Northern Ireland and the United States of America.

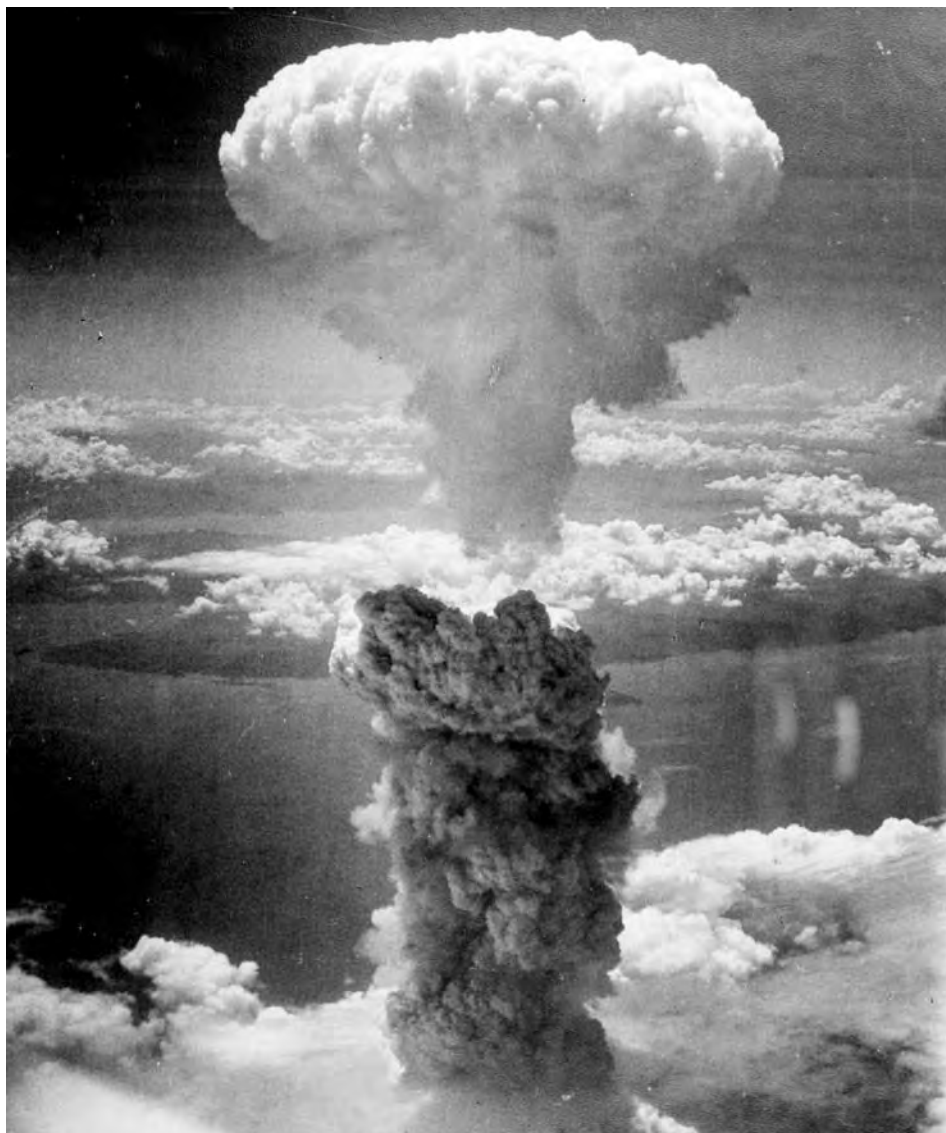
**ARTICLE 5:** This Protocol shall be subject to ratification.

**ARTICLE 6:** This Protocol is of a permanent nature and shall remain in force indefinitely, provided that each Party shall, in exercising its national sovereignty, have the right to withdraw from this Protocol if it decides that extraordinary events, related to the subject-matter of this Protocol, have jeopardized its supreme interests. It shall give notice of such withdrawal to the Depositary twelve months in advance. Such notice shall include a statement of the extraordinary events it regards as having jeopardized its supreme interests.

**ARTICLE 7:** This Protocol shall enter into force for each State on the date of its deposit with the Depositary of its instrument of ratification or the date of entry into force of the Treaty, whichever is later.

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In witness whereof the undersigned, being duly authorized by their Governments, have signed this Protocol.



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## PROTOCOL II

The Parties to this Protocol,

Convinced of the need to take all steps in achieving the ultimate goal of a world entirely free of nuclear weapons as well as the obligations of all States to contribute to this end,

Convinced also that the African Nuclear-Weapon-Free Zone Treaty, negotiated and signed in accordance with the Declaration on the Denuclearization of Africa (AHG/Res.11(I)) of 1964, resolutions CM/Res.1342 (LIV) of 1991 and CM/Res.1395(LVI)/Rev.1 of 1992 of the Council of Ministers of the organization of African Unity and United Nations General Assembly resolution 48/86 of 16 December 1993, constitutes an important measure towards ensuring the non-proliferation of nuclear weapons, promoting cooperation in the peaceful uses of nuclear energy, promoting general and complete disarmament, and enhancing regional and international peace and security,

Desirous of contributing in all appropriate manners to the effectiveness of the Treaty, Bearing in mind the objective of concluding a treaty banning all nuclear tests,

Have agreed as follows:

**ARTICLE 1:** Each Protocol Party undertakes not to test or assist or encourage the testing of any nuclear explosive device anywhere within the African nuclear-weapon-free zone.

**ARTICLE 2:** Each Protocol Party undertakes not to contribute to any act that constitutes a violation of the Treaty or of this Protocol.

**ARTICLE 3:** Each Protocol Party undertakes, by written notification to the Depositary, to indicate its acceptance or otherwise of any alteration to its obligation under this Protocol that may be brought about by the entry into force of an amendment to the Treaty pursuant to article 19 of the Treaty.

**ARTICLE 4:** This Protocol shall be open for signature by China, France, the Russian Federation, the United Kingdom of Great Britain and Northern Ireland and the United States of America.

**ARTICLE 5:** This Protocol shall be subject to ratification.

**ARTICLE 6:** This Protocol is of a permanent nature and shall remain in force indefinitely, provided that each Party shall, in exercising its national sovereignty, have the right to withdraw from this Protocol if it decides that extraordinary events, related to the subject-matter of this Protocol, have jeopardized its supreme interests. It shall give notice of such withdrawal to the Depositary twelve months in advance. Such notice shall include a statement of the extraordinary events it regards as having jeopardized its supreme interests.

**ARTICLE 7:** This Protocol shall enter into force for each State on the date of its deposit with the Depositary of its instrument of ratification or the date of entry into force of the Treaty, whichever is later.

In witness whereof the undersigned, being duly authorized by their Governments, have signed this Protocol.

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## PROTOCOL III

The Parties to this Protocol,

Convinced of the need to take all steps in achieving the ultimate goal of a world entirely free of nuclear weapons as well as the obligations of all States to contribute to this end,

Convinced also that the African Nuclear-Weapon-Free Zone Treaty, negotiated and signed in accordance with the Declaration on the Denuclearization of Africa (AHG/Res.11(I)) of 1964, resolutions CM/Res.1342(LIV) of 1991 and CM/Res.1395(LVI)/Rev.1 of 1992 of the Council of Ministers of the Organization of African Unity and United Nations General Assembly resolution 48/86 of 16 December 1993, constitutes an important measure towards ensuring the non-proliferation of nuclear weapons, promoting cooperation in the peaceful uses of nuclear energy, promoting general and complete disarmament, and enhancing regional and international peace and security,

Desirous of contributing in all appropriate manners to the effectiveness of the Treaty,  
Have agreed as follows:

- ARTICLE 1:** Each Protocol Party undertakes 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.
- ARTICLE 2:** Each Protocol Party undertakes not to contribute to any act that constitutes a violation of the Treaty or of this Protocol.
- ARTICLE 3:** Each Protocol Party undertakes, by written notification to the Depositary, to indicate its acceptance or otherwise of any alterations to its obligation under this Protocol that may be brought about by the entry into force of an amendment to the Treaty pursuant to article 19 of the Treaty.
- ARTICLE 4:** This Protocol shall be open for signature by France and Spain.
- ARTICLE 5:** This Protocol shall be subject to ratification.
- ARTICLE 6:** This Protocol is of a permanent nature and shall remain in force indefinitely provided that each Party shall, in exercising its national sovereignty have the right to withdraw from this Protocol if it decides that extraordinary events, related to the subject-matter of this Protocol, have jeopardized its supreme interests. It shall give notice of such withdrawal to the Depositary twelve months in advance. Such notice shall include a statement of the extraordinary events it regards as having jeopardized its supreme interests.
- ARTICLE 7:** This Protocol shall enter into force for each State on the date of its deposit with the Depositary of its instrument of ratification or the date of entry into force of the Treaty, whichever is later.

In witness whereof the undersigned, being duly authorized by their Governments have signed this Protocol.

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## **The Institute for Security Studies' Africa's Development and the Threat of Weapons of Mass Destruction Project**

The Institute for Security Studies' (ISS) "Africa's Development and the Threat of Weapons of Mass Destruction" project aims to identify and strengthen Africa's role in international efforts to strengthen disarmament and non-proliferation as they relate to WMD in the context of Africa's developmental imperatives.

Thematically the project engages the Treaty on the Non-Proliferation of Nuclear Weapons (NPT), and other related Conventions such as the 1980 Convention on the Physical Protection of Nuclear Material and the Comprehensive Nuclear Test Ban Treaty; the African Nuclear-Weapon-Free Zone Treaty (Treaty of Pelindaba); the Biological and Toxin Weapons Convention; the Chemical Weapons Convention; and relevant United Nations Security Council resolutions such as UNSCR 1540. The project is funded by the Royal Norwegian Government.

Project objectives include:

- To identify and report on African attitudes and interests in the international debate on nuclear, chemical and biological disarmament and non-proliferation.
- To build African capacity to engage positively and effectively in international disarmament and non-proliferation forums.
- To strengthen global security by reducing the risk of use, and preventing the spread of, nuclear, biological and chemical weapons in Africa.
- To increase the quality and accessibility of information about threats and dual-use concerns in relation to nuclear, biological and chemical weapons.
- To engage members of the scientific community and industry in discussion and debate about the risks, rules and their responsibilities in relation to dual-use issues.
- To stimulate discussion and dialogue about how Africa can positively balance its development needs with non-proliferation concerns.

### **Contact:**

Noël Stott  
ISS-WMD Project Leader  
Senior Research Fellow  
Arms Management  
Institute for Security Studies  
Po Box 1787, Brooklyn Square  
Tshwane (Pretoria), 0075,

### **South Africa**

**Tel:** +27 (0) 12 346 9500/2  
**Fax:** +27 (0) 12 460 0998  
**Email:** [nstott@issafrica.org](mailto:nstott@issafrica.org)  
**Web Site:** <http://wmdafricafiles.blogspot.com>  
**ISS Web Site:** [www.issafrica.org](http://www.issafrica.org)

In July 2009 the African Nuclear-Weapon-Free Zone Treaty (Treaty of Pelindaba) entered into force. Forty-five years previously, in July 1964, the then Organisation of African Unity (OAU) adopted the Declaration on the Denuclearisation of Africa [AHG/Res.II(1)]. In June 1995, at the 31st Ordinary Session of the OAU held in Addis Ababa, the Treaty of Pelindaba was agreed to. It opened for signature on 11 April 1996. The Treaty declares Africa, as well as its associated islands, a zone free of nuclear weapons, [as] an important step towards the strengthening of the non-proliferation regime, the promotion of co-operation in the peaceful uses of nuclear energy, complete disarmament, and the enhancement of regional peace and security. Through the Treaty, Africa seeks to ensure that nuclear weapons are not developed, produced, tested, or otherwise acquired or stationed in any of the countries on the continent.

This updated guide briefly outlines the Treaty of Pelindaba and describes the procedures that most African States need to follow in order to ratify or accede to this treaty and to implement its provisions. The guide also provides an update of developments in the implementation of the treaty as a whole since its entry-into-force, including the hosting of the First Conference of Parties in November 2010. It updates two previously published Guides: Noël Stott, Amelia du Rand, and Jean du Preez, "A Brief Guide to the Pelindaba Treaty: Towards Entry-into-Force of the African Nuclear-Weapon-Free Zone Treaty," Arms Management Program, Institute for Security Studies, October 2008; Noël Stott, Amelia du Rand, and Jean du Preez, "The Treaty of Pelindaba: Beyond Entry-Into-Force of the African Nuclear-Weapon-Free Zone Treaty", Arms Management Program, Institute for Security Studies, March 2010.

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#### **ISS Head Office**

Block C & D, Brooklyn Court, 361 Veale Street  
New Muckleneuk, Pretoria, South Africa

**Tel:** (27-12) 346 9500

**Fax:** (27-12) 346 9570

**E-mail:** [iss@issafrica.org](mailto:iss@issafrica.org)

#### **ISS Addis Ababa Office**

5th Floor, Get House Building  
Africa Avenue, Addis Ababa, Ethiopia

**Tel:** (251-11) 515 6320

**Fax:** (251-11) 515 6449

**E-mail:** [addisababa@issafrica.org](mailto:addisababa@issafrica.org)

#### **ISS Cape Town Office**

2nd Floor, The Armoury Building, Buchanan  
Square, 160 Sir Lowry Road, Woodstock, South  
Africa

**Tel:** (27-21) 461 7211

**Fax:** (27-21) 461 7213

**E-mail:** [capetown@issafrica.org](mailto:capetown@issafrica.org)

#### **ISS Dakar Office**

Stèle Mermoz, 100x Elhadji  
Ibrahima Niasse MZ83, Senegal

**Tel:** (221-33) 824 0918/21

**Fax:** (221-33) 824 2246

**E-mail:** [dakar@issafrica.org](mailto:dakar@issafrica.org)

#### **ISS Nairobi Office**

Braeside Gardens, off Muthangari Road  
Lavington, Nairobi, Kenya

**Tel:** (254-20) 386 1625

**Fax:** (254-20) 386 1639

**E-mail:** [nairobi@issafrica.org](mailto:nairobi@issafrica.org)

#### **ISS Pretoria Office**

Block C, Brooklyn Court, 361 Veale Street  
New Muckleneuk, Pretoria, South Africa

**Tel:** (27-12) 346 9500

**Fax:** (27-12) 460 0998

**E-mail:** [pretoria@issafrica.org](mailto:pretoria@issafrica.org)

[www.issafrica.org](http://www.issafrica.org)