

36. Signature of the African Nuclear-Weapon-Free Zone Treaty (The Treaty of Pelindaba)

Initial proceedings

Decision of 12 April 1996 (3651st meeting): statement by the President

At its 3651st meeting, held on 12 April 1996 in accordance with the understanding reached in its prior consultations, the Security Council included the item "Signature of the African Nuclear-Weapon-Free Zone Treaty (The Treaty of Pelindaba)" in its agenda. The President (Chile) then drew the attention of the Council to a letter dated 12 April 1996 from the representative of Egypt addressed to the Secretary-General,¹ which transmitted the text of the Cairo Declaration, adopted on the occasion of the signature of the African Nuclear-Weapon-Free Zone Treaty (The Treaty of Pelindaba) by the Ministers for Foreign Affairs and heads of delegation attending the ceremony held in Cairo, Egypt, on 11 April 1996, on the occasion of the signing of the Treaty.

At the same meeting the President made the following statement on behalf of the Council:²

The Security Council notes with deep satisfaction the signature of the African Nuclear-Weapon-Free Zone Treaty (The Treaty of Pelindaba) on 11 April 1996 in Cairo and notes further the adoption of the Cairo Declaration on that occasion.

This historic event marks a successful formalization of the commitment undertaken thirty-two years ago when the leaders of Africa adopted in July 1964 in Cairo the pioneering resolution of the first ordinary session of the Assembly of the Heads of State and Government of the Organization of African Unity, which declared Africa a denuclearized zone.

The Council considers that the signing of the Treaty by more than forty African countries, as well as the signing of the relevant protocols to the Treaty by the majority of the nuclear-weapon States, constitute important steps towards the effective and early implementation of the Treaty. To that end it emphasizes the importance of early ratification of the Treaty with a view to securing its rapid entry into force.

The Council, reaffirming the statement made by its President on behalf of members of the Council at the meeting held at the level of heads of State and Government on 31 January 1992 that the proliferation of all weapons of mass destruction constitutes a threat to international peace and security, considers that the signature of the Treaty of Pelindaba constitutes an important contribution by the African countries to the maintenance of international peace and security.

The Council seizes this occasion to encourage such regional efforts, and stands ready to support efforts on the international and regional level aimed at achieving the universality of the nuclear non-proliferation regime.

¹ S/1996/276.

² S/PRST/1996/17.

37. Protection for humanitarian assistance to refugees and others in conflict situations

Initial proceedings

Deliberations of 21 May 1997 (3778th meeting)

At its 3778th meeting, held on 21 May 1997 in accordance with the understanding reached in its prior consultations, the Security Council included the item entitled "Protection for humanitarian assistance to refugees and others in conflict situations" in its agenda. Following the adoption of the agenda, the President (Republic of Korea), with the consent of the Council,

invited the representatives of Albania, Argentina, Armenia, Azerbaijan, Bosnia and Herzegovina, Brazil, Burundi, Canada, Cuba, Germany, India, Iraq, Italy, Malaysia, the Netherlands, Norway, Pakistan, Rwanda, Solomon Islands, Slovenia, Ukraine and Zimbabwe, at their request, to participate in the discussion without the right to vote. The Council also invited the Director of the Liaison Office of the United Nations High

Commissioner for Refugees (UNHCR), the Deputy Executive Director of the United Nations Children's Fund (UNICEF), the head of the delegation of the International Committee of the Red Cross (ICRC), and the Under-Secretary-General for Humanitarian Affairs and Emergency Relief Coordinator, under rule 39 of its provisional rules of procedure.

In their statements, participants covered a number of general topics, including, *inter alia*, the changing character of armed conflicts; international security, humanitarian law and human rights; and the interrelationship between political and humanitarian action. Most delegations stressed that humanitarian crises could be solved only if the underlying political crises were also addressed. They noted the increasing number of intra-State conflicts, which generated large numbers of refugees and humanitarian issues, often as a result of deliberate actions. Speakers further stressed the importance of coordination between the political, military and humanitarian aspects of any intervention in a crisis and between different international agencies. Several delegations pointed out that the Council should insist on strict compliance with the international legal instruments regulating the issues of human rights and international humanitarian law. The Council should also ensure that the parties found in violation of their obligations under those instruments bore full responsibility for their acts. In that connection, many speakers pointed out that United Nations peacekeeping operations, which might be required to protect humanitarian assistance, needed to have a clear and appropriate mandate, under Chapter VII of the Charter, if needed, as well as the adequate resources for its fulfillment.¹ A number of speakers expressed the view that the 1994 International Convention on the Safety of United Nations and Associated Personnel should be expanded so as to cover all relief workers; otherwise additional international instruments to that effect should be adopted.²

¹ S/PV.3778, pp. 10-12 (Egypt); pp. 12-14 (France); pp. 14-15 (United Kingdom); pp. 16-18 (Poland); S/PV.3778 (Resumption 1) and Corr.1 and 2, pp. 5-7 (Portugal); pp. 8-9 (Ukraine); and pp. 10-11 (Norway).

² S/PV.3778, pp. 3-5 (Under-Secretary-General for Humanitarian Affairs); pp. 5-7 (Director of the New York Liaison Office of UNHCR); pp. 7-9 (Deputy Director of UNICEF); pp. 10-12 (Egypt); pp. 12-14 (France); pp. 15-16 (Russian Federation); pp. 18-19

Several delegations noted that invocation of Chapter VII or the use of armed forces often made the maintenance of political neutrality and impartiality very difficult.³

Several delegations, while noting the importance of sanctions, stressed that they should be clearly aimed at ending the conflicts and be well-coordinated, respected and monitored.⁴

The representative of China expressed the view that the invocation of Chapter VII or the authorization of the use of force would more often complicate problems in peacekeeping and humanitarian assistance. He also expressed the view, also repeated by Cuba, that the Council should be mainly involved with political and security-related issues and that humanitarian operations were outside its purview.⁵

**Decision of 19 June 1997 (3790th meeting):
statement by the President**

At its 3790th meeting, held on 19 June 1997 in accordance with the understanding reached in its prior consultations, the President (Russian Federation) made the following statement on behalf of the Council:⁶

The Security Council has considered the matter of protection for humanitarian assistance to refugees and others in conflict situations and has given careful consideration to the views expressed in the debate on the matter at its 3778th meeting on 21 May 1997.

(Sweden); pp. 19-21 (Republic of Korea); pp. 21-22 (Chile); pp. 25-27 (Japan); S/PV.3778 (Resumption 1) and Corr.1 and 2, pp. 2-4 (Costa Rica); pp. 9-10 (Armenia); pp. 12-13 (Canada); pp. 13-16 (Slovenia); pp. 16-18 (Netherlands); pp. 18-20 (Germany); pp. 20-22 (Pakistan); pp. 23-24 (Malaysia); pp. 25-26 (Italy); pp. 26-28 (Bosnia and Herzegovina); pp. 31-33 (Argentina); pp. 34-37 (Rwanda); p. 37 (Solomon Islands); pp. 37-38 (Albania); pp. 38-39 (Zimbabwe); and pp. 39-41 (Azerbaijan).

³ S/PV.3778, pp. 9-10 (Head of the delegation of ICRC); pp. 14-15 (United Kingdom); pp. 27-29 (United States); S/PV.3778 (Resumption 1) and Corr.1 and 2, pp. 29-31 (Brazil).

⁴ *Ibid.*, pp. 24-25 (Kenya); S/PV.3778 (Resumption 1) and Corr.1 and 2, pp. 28-29 (Iraq); and pp. 33-34 (India).

⁵ S/PV.3778, pp. 23-24 (China); S/PV.3778 (Resumption 1) and Corr.1 and 2, pp. 22-23 (Cuba).

⁶ S/PRST/1997/34.

The Council notes that massive displacement of civilian populations in conflict situations may pose a serious challenge to international peace and security. The Council, in seeking protection for humanitarian assistance to refugees and others in conflict situations, underlines the importance of pursuing a coordinated and comprehensive approach in accordance with the purposes and principles of the Charter of the United Nations.

The Council expresses its grave concern at the recent increase in attacks or use of force in conflict situations against refugees and other civilians, in violation of the relevant rules of international law, including those of international humanitarian law. The Council reiterates its condemnation of such acts and once again calls upon all those concerned to comply strictly with the relevant rules of international law. In particular, it calls upon all parties concerned to ensure the safety of refugees, displaced persons and other civilians, and guarantee the unimpeded and safe access of United Nations and other humanitarian personnel to those in need.

The Council also expresses its grave concern at all attacks or use of force against United Nations and other personnel associated with United Nations operations, as well as personnel of humanitarian organizations, in violation of the relevant rules of international law, including those of international humanitarian law. In this context, the Council recalls its resolution 868 (1993) and the statement by its President of 12 March 1997. It also recalls the Convention on the Safety of United Nations and Associated Personnel adopted by the General Assembly on 9 December 1994. In this context, it calls upon all parties concerned to ensure the safety and security of these personnel as well as personnel of humanitarian organizations, and encourages all States to consider ways and means to strengthen the protection of such personnel.

The Council reminds all States and others concerned of the need to bring to justice those who violate international humanitarian law. In this context, it recalls the resolution on the establishment of an international criminal court adopted by the General Assembly on 17 December 1996.

The Council supports further exploration of ways and means by which the international community may enhance the compliance by parties concerned with the relevant rules of international law, including those of international humanitarian law.

The Council encourages States to consider acceding to the relevant international conventions designed to address the problems of refugees.

The Council underlines the importance of ensuring clear, appropriate and realistic mandates to be implemented in an impartial manner as well as adequate resources for United Nations peacekeeping operations. In this context, the Council, in establishing or authorizing an operation to protect humanitarian assistance to refugees and others in conflict situations, reaffirm the principles of full respect for the sovereignty, independence and territorial integrity of the States concerned. The Council

also underlines the importance of ensuring the proper discharge of the mandates conferred upon peacekeeping operations.

The Council stresses the importance of ensuring closer coordination between the relevant United Nations bodies and other international agencies, acting in accordance with their own mandates and status, with a view to effectively providing or protecting humanitarian assistance to those in need. In this context, the Council encourages an enhanced role for the Special Representatives of the Secretary-General in coordination to this end.

The Council stresses the importance of the activities of the relevant United Nations bodies, agencies and other international humanitarian organizations and the need for these activities to continue to be carried out in accordance with the principles of humanity, neutrality and impartiality of humanitarian assistance.

The Council also stresses the importance of crisis prevention, including by addressing the root causes of such crises. It therefore encourages the Secretary-General and all States to look further into practical ways to enhance the United Nations capacity and capability in this regard.

The Council encourages the Secretary-General to study further how to improve the protection for humanitarian assistance to refugees and others in conflict situations.

Decision of 29 September 1998 (3933rd meeting): statement by the President

On 22 September 1998, in response to the statement by the President of 19 June 1997, the Secretary-General submitted to the Council a report on protection for humanitarian assistance to refugees and others in conflict situations.⁷ In his report, the Secretary-General made recommendations on accession to international law instruments; dissemination and advocacy of humanitarian principles; mechanisms to ensure compliance with international law; international solidarity and support for host States; measures to improve security and access; safety of humanitarian personnel; Security Council involvement; and effective coordination.

At its 3932nd meeting, held on 29 September 1998 in accordance with the understanding reached in its prior consultations, the Security Council included the report of the Secretary-General in its agenda. Following the adoption of the agenda, the President (Sweden), with the consent of the Council, invited the representatives of Argentina, Austria, Azerbaijan,

⁷ S/1998/883.

Canada, Indonesia, Norway, Pakistan and the Republic of Korea, at their request, to participate in the discussion without the right to vote.⁸ The Council also invited the Deputy Executive Director of the United Nations Children's Fund, the Director of the Liaison Office of the United Nations High Commissioner for Refugees and the head of the delegation of the International Committee of the Red Cross, under rule 39 of its provisional rules of procedure.

Introducing the report of the Secretary-General, the Deputy Secretary-General noted that the phenomenon of the direct targeting of civilians and the use of scorched-earth policies were not new, but the scale of those atrocities and of human suffering had reached unprecedented levels. Citing the cases of Afghanistan, Kosovo⁸ and the Democratic Republic of the Congo, she underscored the fact that the effectiveness of humanitarian work was minimized when civilians were targeted and access to humanitarian assistance was denied. In that regard, the Deputy Secretary-General stated there was a dramatic need to rethink what was meant by humanitarian action in today's war zones and to reformulate what was required to protect the well-being of the civilian population. It was the responsibility of the Security Council, she said, to be "bold, committed and determined" when confronted by such crises. The best support the Council could lend to humanitarian agencies was through its own role of securing peace — there was no substitute for ending conflict, stopping the abuses and generating the conditions for lasting peace. The disrespect for basic humanitarian norms also imperiled relief workers, as was clear by the number of deaths this year of United Nations humanitarian peacekeepers. She drew attention to two of the recommendations suggested in the report of the Secretary-General to enhance protection of refugees and relief workers: holding perpetrators of crimes against humanity accountable, and in that regard the rapid establishment of the International Criminal Court; and holding combatants financially responsible when civilians were deliberately targeted, through a trust fund created for that purpose.⁹

⁸ For purposes of this Supplement, the term "Kosovo" is used as the abbreviation for "Kosovo, Federal Republic of Yugoslavia", without prejudice to issues of status.

⁹ S/PV.3932, pp. 2-3.

A number of speakers made statements generally supporting the recommendations of the Secretary-General. Most speakers stressed the importance of respect by all parties of international humanitarian law and the need to facilitate the provision of humanitarian assistance and to ensure the safety of those providing it. Regarding United Nations peacekeeping forces, many speakers stressed that the mandate needed to be clearly defined and appropriate to the situation and the operation equipped with the necessary resources to accomplish the mission. Several representatives also stressed the importance of better coordination between United Nations instruments.¹⁰

The representative of Brazil urged the application of Article 65 of the Charter, which established a basis for further cooperation between the Economic and Social Council and the Security Council.¹¹

At its 3933rd meeting, held on 29 September 1998 in accordance with the understanding reached in its prior consultations, the Security Council again included the report of the Secretary-General in its agenda.¹² Following the adoption of the agenda, the President (Sweden), with the consent of the Council, invited the representatives of Argentina, Austria, Azerbaijan, Canada, Indonesia, Norway, Pakistan and the Republic of Korea, at their request, to participate in the discussion without the right to vote.

At the same meeting, the President made the following statement on behalf of the Council:¹³

The Security Council recalls the statement by its President of 19 June 1997 concerning protection for humanitarian assistance to refugees and others in conflict situations.

¹⁰ *Ibid.*, pp. 4-5 (China); pp. 5-6 (Russian Federation); pp. 8-9 (Portugal); pp. 9-11 (Slovenia); pp. 11-12 (United Kingdom); p. 12 (Kenya); pp. 12-14 (Gambia); pp. 14-15 (Costa Rica); pp. 15-17 (Japan); pp. 17-19 (France); p. 19 (Gabon); p. 20 (Bahrain); pp. 20-21 (Sweden); pp. 21-23 (Republic of Korea); pp. 23-25 (Austria); pp. 25-26 (Argentina); pp. 26-28 (Canada); pp. 28-29 (Pakistan); pp. 29-30 (Indonesia); pp. 30-31 (Norway); pp. 31-33 (Deputy Director of UNICEF); head of the delegation of ICRC (pp. 33-35); and pp. 35-36 (Director of the Liaison Office of UNHCR).

¹¹ *Ibid.*, pp. 6-8.

¹² S/1998/883.

¹³ S/PRST/1998/30.

The Council welcomes the report of the Secretary-General on protection for humanitarian assistance to refugees and others in conflict situations and notes the recommendations contained therein.

The Council notes that several of the recommendations contained in the report coincide with recommendations made in the report entitled 'The causes of conflict and the promotion of durable peace and sustainable development in Africa.

The Council reaffirms the importance of pursuing a coordinated and comprehensive approach, in accordance with the purposes and principles of the Charter of the United Nations and principles and provisions of international law, in improving protection for humanitarian assistance to refugees and others in conflict situations.

The Council condemns the attacks or use of force in conflict situations against refugees and other civilians, in violation of the relevant rules of international law, including those of international humanitarian law.

The Council likewise condemns all attacks or use of force against United Nations and other personnel associated with United Nations operations, as well as personnel of humanitarian organizations, in violation of international law, including international humanitarian law. In this context, the Council recalls the statement by its President of 12 March 1997 as well as other relevant statements and decisions. It also recalls the Convention on the Safety of United Nations and Associated Personnel adopted by the General Assembly on 9 December 1994.

The Council affirms its intention to review thoroughly and promptly the recommendations of the Secretary-General with a view to taking steps consistent with its responsibilities under the Charter and, in this context, notes the views expressed in the debate on the matter at its 3932nd meeting on 29 September 1998.

Deliberations of 10 November 1998 (3942nd meeting)

At its 3942nd meeting, held on 10 November 1998 in accordance with the understanding reached in its prior consultations, the President (United States) extended an invitation to the United Nations High Commissioner for Refugees under rule 39 of the Council's provisional rules of procedure.

The United Nations High Commissioner for Refugees highlighted the importance of political support for humanitarian action. On Africa, she expressed the view that given the complex interrelated

nature of the problems, the search for solutions must have a strong regional approach and address the issue of forced population movement. Outlining the areas on which joint efforts on conflict resolution and humanitarian action could be focused, she stressed that when dealing with potential conflicts, human displacement should not be overlooked; focus needed to be kept on the relation between security problems and humanitarian situations; and more attention needed to be paid to post-conflict situations.¹⁴

The representative of the Russian Federation noted that statements had been made that the humanitarian crisis in a given country in itself was already sufficient grounds for unilateral armed intervention. While stressing that this was a "totally unacceptable approach", he asked what the consequences might be for the humanitarian situation and for operations of humanitarian agencies.¹⁵

The representative of China stressed the need to take care not to politicize the question of refugees, which would hinder the settlement of the question.¹⁶

Other members of the Council made statements and asked questions, which included, inter alia, on how to bridge the gap between the traditional UNHCR mandate and the Council's responsibility for peace and security; whether there were sufficient assurances for the protection of humanitarian agencies as they delivered humanitarian assistance to refugees; and what measures were being taken to ensure that assistance meant for bona fide refugees benefited them and not armed elements.¹⁷

The United Nations High Commissioner for Refugees then responded to questions and points raised by the members of the Council.¹⁸

¹⁴ S/PV.3942, pp. 2-6.

¹⁵ Ibid., p. 7.

¹⁶ Ibid., pp. 8-9.

¹⁷ Ibid., pp. 7-8 (Brazil); p. 9 (Sweden); pp. 9-11 (Portugal); p. 11 (Bahrain); pp. 11-12 (Costa Rica); pp. 12-13 (Gambia); p. 13 (United Kingdom); pp. 13-14 (Slovenia); pp. 14-15 (Kenya); pp. 15-16 (France); and p. 16 (Gabon).

¹⁸ Ibid., pp. 17-20.