



# The Nuclear Weapons Ban Treaty: An African Perspective

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# Executive summary

This policy insight examines the entry into force of the Treaty on the Prohibition of Nuclear Weapons (TPNW, also known as the Ban Treaty) from an African perspective. It provides a historical overview of the role of nuclear weapons on the continent, and discusses the compatibility of the Ban Treaty and the continent's own African Nuclear Weapon-Free Zone Treaty (Pelindaba Treaty), with specific reference to the role and pronouncements made by the African Commission on Nuclear Energy (AFCON), the agency responsible for its implementation. It concludes that the normative congruence between the Pelindaba Treaty and the Ban Treaty is clear and that all African states need to sign and ratify both instruments.

## Introduction

With Honduras' ratification of the TPNW on 24 October 2020, it reached the required threshold of 50 signatories to enter into force.<sup>1</sup> When this happened, on 22 January 2021, a significant milestone in global nuclear disarmament and nuclear non-proliferation efforts was reached. Despite this positive achievement, however, the treaty's entry into force does not solve the global threat posed by nuclear weapons, given that many states remain outside the treaty.

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The objective of this policy insight is to outline Africa's position on the Ban Treaty, and the implications of the treaty for the continent. It is worth noting one important caveat at the onset: Africa defies generalisations and is no monolith. However, given its almost universal support for the Pelindaba Treaty – signed by 52 states and ratified by 42 – it would seem that the continent shares a normative framework regarding nuclear weapons, disarmament and non-proliferation. It is from this point of departure that this policy insight contextualises Africa's role in and position on the Ban Treaty, before offering insights into its implications for the continent.

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<sup>1</sup> United Nations, "Treaty on the Prohibition of Nuclear Weapons", 2017.

# Africa and nuclear weapons

For Africa, a major catalyst vis-à-vis nuclear weapons was France's nuclear tests in the Algerian Sahara Desert. Between 1960 and 1966 France conducted 17 nuclear tests in this area. Of these, the first four were atmospheric tests and the remainder underground.<sup>2</sup> African reaction oscillated between the 'abolitionists', led by Ghana's then president Kwame Nkrumah, and the 'proliferators', led by African scholar Ali Mazrui. The 'abolitionists' maintained that global peace was dependent on the total abolition of nuclear weapons, whereas Mazrui and his supporters advocated for the proliferation of nuclear weapons (ie, promoting African states' right to eventually acquire nuclear weapons).

Towards the end of 1961 the UN General Assembly adopted three significant resolutions: on the banning of nuclear weapon tests (Resolution 1649 (XVI)); on considering Africa as a 'denuclearised zone' (Resolution 1652 (XVI)); and on prohibiting the use of nuclear and thermo-nuclear weapons (Resolution 1653 (XVI)).<sup>3</sup>

A further milestone for the continent followed when the African Conference of Heads of State and Government in July 1963, barely two months after the establishment of the Organization of African Unity (OAU), adopted the General Resolution on Disarmament. A year later (1964) the OAU adopted the Cairo Declaration, or the OAU Resolution on the Denuclearization of Africa, endorsing the 1961 UN General Assembly resolutions. The significance of the Cairo Declaration lies in African states' commitment to an international treaty under UN auspices 'not to manufacture or acquire control of nuclear weapons'.<sup>4</sup> Moreover, with the Cairo Declaration African states called on states possessing nuclear weapons to 'respect and abide' with the declaration.<sup>5</sup> The Cairo Declaration was also a major African commitment to the idea of nuclear weapon-free zones. Yet despite these lofty ideals, it took another 45 years for the Pelindaba Treaty to enter into force on 15 July 2009.

Currently, 52 African states have signed the Pelindaba Treaty, with 42 states having ratified it and thus being states parties to it.<sup>6</sup> Non-signatory parties to the Pelindaba Treaty include

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2 International Atomic Energy Agency, *Radiological Conditions at the Former French Nuclear Test Sites in Algeria: Preliminary Assessment and Recommendations*, STI/PUB/1215 (Vienna: IAEA, 2005), 5.

3 UN, "Resolutions Adopted by the General Assembly at Its 16th Session", 1961.

4 Organization of African Unity, "Resolutions Adopted by the First Ordinary Session of the Assembly of the Heads of State and Government, held in Cairo, UAR, from 17-21 July 1964. AHG Res. 1(1) - AHG Res. 24(1)", 1964.

5 OAU, "Resolutions Adopted by the First".

6 AU, "List of Countries which Have Signed, Ratified/Acceded to the African Nuclear-Weapon-Free Zone Treaty (Treaty of Pelindaba)", June 18, 2020.

Equatorial Guinea, Madagascar and South Sudan.<sup>7</sup> The Central African Republic, the Democratic Republic of Congo, Djibouti, Egypt, Eritrea, Liberia, Morocco, São Tomé and Príncipe, Sierra Leone, Somalia, Sudan, South Sudan and Uganda have not ratified it.<sup>8</sup>

The Conference of Parties of the Pelindaba Treaty was scheduled to take place before the NPT Review Conference in 2020. Like many other events, both were subsequently moved to 2021. Despite this, African states have kept nuclear matters on their agendas. In 2020, for example, Botswana, Lesotho, Namibia and Nigeria ratified the Ban Treaty.

## Africa and the Ban Treaty

African involvement in the process that resulted in the Ban Treaty's entry into force has a long history. As outlined earlier, the normative framework of the Ban Treaty has some normative correspondence with the Pelindaba Treaty. In fact, the AU has referred to the TPNW as 'consistent with the goals of the Treaty of Pelindaba'.<sup>9</sup>

Besides this normative congruence, three African regional powerhouses – Egypt, South Africa and Nigeria – were involved in the diplomatic process that gained traction with the Humanitarian Initiative (2010), one of the precursors of the Ban Treaty. Several other African states signed on to the initiative and supported the notion of a total ban by the 2015 NPT Conference. Similar African support was seen at the UN with the adoption of a series of resolutions resulting in what became the Ban Treaty. Currently, 29 African states (ie, more than half) have signed the treaty.

What, then, is the significance of African involvement in the process resulting in the Ban Treaty?

## Significance of African involvement in the Ban Treaty

A reference was made earlier to the normative congruence between the Pelindaba and the Ban treaties. African support for the Ban Treaty reconfirms the continent's commitment to a world free of nuclear weapons.

African agency has been instrumental in this regard. Beside the early involvement of norm entrepreneurs Egypt, South Africa and Nigeria, more African states joined the process as it

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7 AU, "List of Countries".

8 AU, "List of Countries".

9 AU Peace and Security Council, "Communiqué of the 837 PSC Meeting on International Disarmament, with a Focus on the Anti-Personnel Mine Ban Convention (APMBC) and the Treaty on the Prohibition of Nuclear Weapons (TPNW)", April 10, 2019.

unfolded. In the UN context, the Africa Group (consisting of 54 AU members, excluding the 55th AU member, the Sahrawi Arab Democratic Republic, not recognised by the UN) is, besides the 120-member Non-Alignment Movement, the largest bloc at the UN. The Africa Group has been involved in the promotion of the Ban Treaty and its ratification. It has also continued to reiterate the continent's commitment to complete nuclear disarmament, while remaining concerned about the slow pace of disarmament by nuclear weapons states in terms of Article VI of the NPT.<sup>10</sup>

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More recently, in July 2020, in commemoration of the entry into force of the Pelindaba Treaty, AFCONE observed:<sup>11</sup>

AFCONE sees the TPNW as reinforcing to global disarmament and non-proliferation and calls upon African States to support the entry into force of the TPNW, by ratifying the Treaty. In March 2018, States Parties to the Pelindaba Treaty called on African Union Member States to 'speedily sign and ratify the treaty', emphasising that this 'advances international law in nuclear disarmament and is consistent with the goals of the Treaty of Pelindaba'.

## Status of the Ban Treaty in Africa

As of 22 January 2021, 29 African states have signed the treaty (see Table 1). However, only seven African states (Botswana, Lesotho, Maldives, Namibia, Nigeria, South Africa and The Gambia) have ratified it.<sup>12</sup> Besides this, regional powerhouse Egypt is notably absent as a signatory state. What are the implications thereof? At least five concerns can be identified.

First, while Africa's normative commitment to the Ban Treaty is strong it is also insufficient. A greater normative commitment by individual African states is required to consolidate the continent's commitment. Ideally, it should be ratified by all African states.

Second, the ratification status of the treaty reveals other concerns of individual African states, some of them unresolved, regarding disarmament and non-proliferation. The outlier

10 "Africa Supports Goals of Comprehensive Nuke Test Ban Treaty", *CCTN Africa*, September 10, 2019.

11 African Commission on Nuclear Energy, "Press Statement", July 15, 2020.

12 UN Treaty Collection, "Treaty on the Prohibition of Nuclear Weapons", November 30, 2020.



## A greater normative commitment by individual African states is required to consolidate the continent's commitment

here is Egypt. Despite its nuclear credentials since the adoption of the Cairo Declaration in 1964, the country is not a state party to either the Pelindaba Treaty or the Ban Treaty. Within the context of the NPT, Egypt has been vocal on the proposed Weapons of Mass Destruction (WMD) Free Zone in the Middle East, Israel's nuclear weapons and US support thereof. Egypt's frustration with the slow pace of progress on the Middle East WMD Free Zone – and the lacklustre involvement of nuclear weapons states – has boiled over at several NPT conferences. This is also a concern for continental nuclear institutions. AFCONE has reiterated the importance of the Middle East WMD Free Zone. In fact, AFCONE's position is that a Middle East WMD Free Zone 'would enhance the security of States Parties to the African NWFZ [Nuclear-Weapon-Free Zone]'.<sup>13</sup>

Third, the Ban Treaty's entering into force reveals the agency of small and middle power states in the face of the absence of great states and superpower involvement. However, it also reveals the limits of African agency. Major African partners such as the US, France, the UK, Russia and China remain outside the Ban Treaty as non-signatory states. These states also operate a number of military bases on the continent; a matter of great concern for the AU Peace and Security Council.<sup>14</sup> At a time when these states are scrambling to invest in Africa and open additional military bases on the continent, one could have expected more African agency in exchange for nuclear weapons states' military expansionism on the continent.

## The Ban Treaty's entering into force reveals the agency of small and middle power states in the face of the absence of great states and superpower involvement

Fourth, the US is the only nuclear weapons state that did not ratify any of the protocols of the Pelindaba Treaty. China, the UK, France and Russia have all ratified protocols I and II, whereas only France has also ratified Protocol III.<sup>15</sup> Protocol I obliges states not to use

13 IAEA, "African Nuclear Weapon-Free-Zone Treaty (Pelindaba Treaty)".

14 AU PSC, "Communiqué of the 868th Meeting of the PSC on the State of Foreign Military Presence in Africa", August 14, 2019.

15 UN Office of Disarmament Affairs, "African Nuclear Weapon Free Zone Treaty (Pelindaba Treaty): Status of the Treaty", 2020.

or threaten to use a nuclear explosive device against a state party to the treaty, whereas Protocol II prohibits the testing of or assistance to testing a nuclear explosive device in the territory of the treaty. Protocol III calls on states to apply the treaty to territories under their de jure or de facto responsibility. The status of Diego Garcia, where the US, a nuclear weapons state, has a military base, remains unresolved.

Finally, and somewhat linked to the previous point, many African states are weak and have poor governance structures, with some in various stages of state collapse. Besides affecting their international relations, these issues also affect safety and security standards, treaty obligations and rights, and domestic political processes. This is merely an explanation and not a justification for the low number of ratifying states parties in Africa.

## Africa and the future of the Ban Treaty

Although the entry into force of the Ban Treaty is a fait accompli, the future of global nuclear disarmament is, sadly, not secured. What role, then, for Africa in this?

First, more African ratifications of the Ban Treaty, as well as the Pelindaba Treaty, should occur. Out of 55 African states, only nine are states parties to the former and 42 to the latter. This is not sufficient, especially at a time when the continent is hosting its largest number of foreign military bases of nuclear weapons states.

Second, the Africa Group at the UN (as outlined earlier), the AU, AFCONE and South Africa are on record lauding the Ban Treaty but also stating that it is 'reinforcing' – and thus not the only mechanism for global disarmament and non-proliferation.<sup>16</sup> The AU states that the NPT remains<sup>17</sup> a cornerstone in global efforts to eliminate nuclear weapons, and stresses that balanced and unconditional efforts should be made in implementing its pillars of disarmament, nuclear non-proliferation and peaceful applications of nuclear science and technology, and notes with deep concern that progress towards nuclear disarmament remains incommensurate with the spirit of the NPT.

For South Africa, the Ban Treaty 'complements'<sup>18</sup>

other international instruments by contributing towards fulfilling the nuclear disarmament obligations under the Nuclear Non-Proliferation Treaty (NPT), the objectives of the Comprehensive Nuclear Test-Ban Treaty (CTBT) and the various nuclear-weapon-free-zone treaties, such as the Pelindaba Treaty that already banned nuclear weapons in Africa.

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16 AFCONE, "Press Statement".

17 AU PSC, "Communiqué of the 837 PSC Meeting on International Disarmament, with a Focus on the Anti-Personnel Mine Ban Convention (APMBC) and the Treaty on the Prohibition of Nuclear Weapons (TPNW)", April 10, 2019.

18 Department of International Relations and Cooperation, "South Africa Welcomes the 50th Ratification of the UN Treaty on the Prohibition of Nuclear Weapons (TPNW)", Media Statement, October 26, 2020.

Clearly, Africa remains committed to all major multilateral agreements on nuclear disarmament preceding the Ban Treaty and does not regard it as the panacea for global disarmament. Seemingly, the continental leadership views the Ban Treaty as one of many instruments to achieve global nuclear disarmament. However, the question remains whether African states have the operational and diplomatic capacity to meet all these obligations.

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Third, African agency vis-à-vis the Ban Treaty should be enhanced. Besides calling on African states to ratify the Pelindaba Treaty, the AU has also repeatedly called on its member states to sign and ratify the Ban Treaty.<sup>19</sup> Apart from this, the AU remains concerned over 'the risk that non-state actors may acquire, develop, traffic in or use nuclear weapons and their means of delivery' and has urged its members to implement UN Security Council Resolution 1540 (2004), the International Convention for the Suppression of Acts of Nuclear Terrorism and the Convention on the Physical Protection of Nuclear Material.<sup>20</sup>

Apart from the AU's calling its member states to action, what can Africa and the AU practically do?

This policy insights' proposed solution is to empower AFCONE. Specifically, it proposes extending and enhancing the role and mandate of AFCONE to take responsibility for all of the continent's disarmament affairs, and not just those limited to the Pelindaba Treaty. In other words, AFCONE should be converted into an African equivalent of the International Atomic Energy Agency. Is this possible? It may well be. The AU has acknowledged the role that AFCONE is already playing and<sup>21</sup>

the partnerships [AFCONE has] developed with international organizations and other Nuclear Weapon Free Zones, aimed at consolidating and strengthening efforts in nuclear disarmament, non-proliferation and peaceful applications of nuclear science and technology, particularly through *enhanced* south-south cooperation, and encourages sustained efforts.

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19 AU PSC, "Communiqué of the 837 PSC Meeting".

20 AU PSC, "Communiqué of the 837 PSC Meeting".

21 AU PSC, "Communiqué of the 837 PSC Meeting".



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This is a lofty ideal, but one that could be considered at the present stage of AU reforms, and the need for a review conference of the Pelindaba Treaty.

## Conclusion

In conclusion, the normative congruence between Africa's premier nuclear disarmament treaty, the Pelindaba Treaty, and the Ban Treaty is clear. The entry into force of the Ban Treaty is an important milestone in global nuclear disarmament, as well as for African states that oppose proliferation of nuclear weapons and are in favour of having the option of using nuclear energy for peaceful developmental means. Yet, as argued throughout this policy insight, more needs to be done to ensure that the Ban Treaty becomes an effective international instrument for nuclear disarmament and non-proliferation. While much of the effort to strengthen it needs to take place at a global level, there are practical steps that African states can and should take to increase African agency and present a united position in discussions at the international level going forward.

First, Africa needs to ensure that all African states sign and ratify both the Pelindaba Treaty and the Ban Treaty. Second, the continent needs to bring Egypt into the fold. This will strengthen not only the AU, the Pelindaba Treaty and the NPT but also the Ban Treaty and the realisation of a WMD Zone in the Middle East. It is also important in the context of Egypt's realising its long-held nuclear ambitions and building a nuclear power plant to supply electricity for its growing population. Third, the continent needs to improve the implementation of its existing disarmament commitments by capacitating its governance structures – AFCONE, for example, is overperforming with an under-performing budget allocation. Finally, Africa should enhance its agency vis-à-vis global and multilateral nuclear disarmament efforts.

The entry into force of the Ban Treaty is an important milestone in global nuclear disarmament, as well as for African states that oppose proliferation of nuclear weapons and are in favour of having the option of using nuclear energy for peaceful developmental means

**TABLE 1 STATUS OF BAN TREATY IN AFRICA (AS AT 22 JANUARY 2021)**

State	Signature	Deposit	Deposit type
Algeria	20 Sep 2017		
Angola	27 Sep 2018		
Benin	26 Sep 2018	19 May 2020	Ratification
Botswana	26 Sep 2019	15 Jul 2020	Ratification
Cabo Verde	20 Sep 2017		
Central African Republic	20 Sep 2017	22 Jan 2021	Ratification
Comoros	20 Sep 2017	19 Feb 2021	Ratification
Congo	20 Sep 2017		
Côte d'Ivoire	20 Sep 2017		
Democratic Republic of Congo	20 Sep 2017		
The Gambia	20 Sep 2017	26 Sep 2018	Ratification
Ghana	20 Sep 2017		
Guinea-Bissau	26 Sep 2018		
Lesotho	26 Sep 2019	6 Jun 2020	Ratification
Libya	20 Sep 2017		
Madagascar	20 Sep 2017		
Malawi	20 Sep 2017		
Mozambique	18 Aug 2020		
Namibia	8 Dec 2017	20 Mar 2020	Ratification
Niger	9 Dec 2020		
Nigeria	20 Sep 2017	6 Aug 2020	Ratification
São Tomé and Príncipe	20 Sep 2017		
Seychelles	26 Sep 2018		
South Africa	20 Sep 2017	25 Feb 2019	Ratification
Sudan	22 Jul 2020		
Togo	20 Sep 2017		
United Republic of Tanzania	26 Sep 2019		
Zambia	26 Sept 2019		
Zimbabwe	4 December 2020		

Source: UN, "Treaty on the Prohibition of Nuclear Weapons: Status of the Treaty", January 22, 2021, <https://treaties.unoda.org/t/pelindaba>

**TABLE 2 STATUS OF THE PELINDABA TREATY (AS AT 18 JUNE 2020)**

State	Signature	Deposit	Deposit type
Algeria	11 Apr 1996	23 Dec 1997	11 Feb 1998
Angola	11 Apr 1996	8 May 2014	20 Jun 2014
Benin	11 Apr 1996	17 Jul 2007	4 Sep 2007
Botswana	9 Jun 1998	4 Feb 1999	16 Jun 1999
Burkina Faso	11 Apr 1996	12 May 1998	27 Aug 1998
Burundi	11 Apr 1996	22 Jun 2009	15 Jul 2009
Cabo Verde	11 Apr 1996	26 Aug 2019	7 Feb 2020
Cameroon	11 Apr 1996	11 Jun 2009	28 Sep 2010
Central African Republic	11 Apr 1996		
Chad	11 Apr 1996		
Comoros	11 Apr 1996	12 Jul 2012	24 Jul 2012
Côte d'Ivoire	11 Apr 1996	20 May 1999	28 Jul 1999
Democratic Republic of Congo	11 Apr 1996		
Djibouti	11 Apr 1996		
Egypt	11 Apr 1996		
Eswatini	11 Apr 1996	13 Nov 1996	17 Jul 2000
Equatorial Guinea		20 Dec 2002	19 Feb 2003
Eritrea	11 Apr 1996		
Ethiopia	11 Apr 1996		
Gabon	11 Apr 1996	18 May 2007	12 Jun 2007
Gambia, The	11 Apr 1996	3 Sep 1996	16 Oct 1996
Ghana	11 Apr 1996	11 May 2011	27 Jun 2011
Guinea-Bissau	11 Apr 1996	23 Dec 2011	4 Jan 2012
Guinea	11 Apr 1996	26 May 1999	21 Jan 2000
Kenya	11 Apr 1996	15 Nov 2000	9 Jan 2001
Lesotho	11 Apr 1996	6 Mar 2002	14 Mar 2002
Libya	11 Apr 1996	12 Feb 2005	11 May 2005
Liberia	9 Jul 1996		
Madagascar		12 Dec 2003	23 Dec 2003
Malawi	11 Apr 1996		
Mali	11 Apr 1996	27 May 1999	22 Jul 1999
Maldives			
Morocco	11 Apr 1996		
Mozambique	11 Apr 1996	29 Jul 2008	28 Aug 2008
Mauritania	11 Apr 1996	10 Jan 1998	24 Feb 1998
Mauritius	11 Apr 1996	19 Apr 1996	24 Apr 1996
Namibia	11 Apr 1996	6 Feb 2012	1 Mar 2012
Niger	11 Apr 1996	28 Jun 2016	22 Feb 2017

<b>Nigeria</b>	11 Apr 1996	20 Apr 2000	18 Jun 2001
<b>Republic of Congo</b>	27 Jan 1997	18 Aug 2013	26 Nov 2013
<b>Rwanda</b>	11 Apr 1996	23 Jan 2007	01 Feb 2007
<b>Sahrawi Arab Democratic Republic</b>	20 Jun 2006	27 Nov 2013	27 Jan 2014
<b>São Tomé and Príncipe</b>	9 Jul 1996		
<b>Senegal</b>	11 Apr 1996	20 Sep 2006	25 Oct 2006
<b>Seychelles</b>	9 Jul 1996	22 Apr 2014	23 May 2014
<b>Sierra Leone</b>	11 Apr 1996		
<b>Somalia</b>	23 Feb 2006		
<b>South Africa</b>	11 Apr 1996	13 Mar 1998	27 Mar 1998
<b>South Sudan</b>	Not signed		
<b>Sudan</b>	11 Apr 1996		
<b>Tunisia</b>	11 Apr 1996	14 Sep 2009	7 Oct 2009
<b>Togo</b>	11 Apr 1996	28 Jun 2000	18 Jul 2000
<b>Uganda</b>	11 Apr 1996		
<b>United Republic of Tanzania</b>	11 Apr 1996	27 May 1998	19 Jun 1998
<b>Zambia</b>	11 Apr 1996	28 Jun 2010	18 Aug 2010
<b>Zimbabwe</b>	11 Apr 1996	9 Feb 1998	6 Apr 1998

Source: AU, "List of Countries which Have Signed, Ratified/Acceded to the African Nuclear-Weapon-Free Zone Treaty (Treaty of Pelindaba)", June 18, 2020

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## Cover image

Hiroshima, Japan: People take part in an anti-nuclear power protest on the 66<sup>th</sup> anniversary of the Hiroshima atomic bombing on August 6, 2011 in Hiroshima. The world's first atomic bomb was dropped on Hiroshima on August 6, 1945 by the United States during World War II, killing an estimated 70,000 people instantly with many thousands more dying over the following years from the effects of radiation (Kiyoshi Ota/Getty Images)

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