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# Ratifying Rarotonga & Pelindaba

A No-Brainer for the Biden Administration

Dr. Sizwe Mpofu-Walsh





## The Author



Dr Sizwe  
Mpofu-Walsh

Dr Sizwe Mpofu-Walsh is a Postdoctoral Fellow at the Wits Institute for Social and Economic Research (WiSER). He holds a DPhil in International Relations for the University of Oxford. His first book, *Democracy and Delusion: 10 Myths in South African Politics* (2017) won the City Press-Tafelberg Nonfiction Award. The book was accompanied by a rap album of the same name. His second book, *The New Apartheid*, was published in 2021 and has been one of the bestselling books in South Africa this year. Mpofu-Walsh has been described by author Mark Gevisser as “one of the finest writers of his generation”.

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## Abbreviations

<b>NWFZ</b>	Nuclear-Weapon-Free Zones
<b>NWS</b>	Nuclear-Weapon State(s)
<b>TPNW</b>	Treaty on the Prohibition of Nuclear Weapons
<b>CTBT</b>	Comprehensive Nuclear-Test-Ban Treaty
<b>NPT</b>	Treaty on the Non-proliferation of Nuclear Weapons
<b>UNGA</b>	United Nations General Assembly



# Introduction

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Nuclear-Weapon-Free Zones (NWFZs)—areas which ban nuclear weapons—have formed a cornerstone of nuclear order for over half a century. Today, these zones cover all of the Southern Hemisphere and encompass over one hundred states.

At a time when nuclear order appears increasingly vulnerable, and consensus surrounding non-proliferation is elusive, NWFZs thus hold lessons for global accord in the nuclear political realm. They also present opportunities to bolster nuclear order.

Yet, NWFZs' importance to nuclear politics is routinely under-emphasised, either because they are seen as fragile institutions or because of their predominance in the global South. These misgivings are ill-founded: they elide NWFZs' significance to nuclear order, and distract from the urgent task of strengthening the NWFZ regime.

To be effective, NWFZs require the support of the five nuclear-weapon states (NWS) recognised in the Treaty on the Non-Proliferation of Nuclear Weapons (NPT), also known as the 'P5'.<sup>1</sup> Most urgently, two NWFZs—the African NWFZ (the Treaty of Pelindaba) and the South Pacific NWFZ (the Treaty of Rarotonga)—require just a single further ratification to achieve universal support from the P5. In both cases, the US is the NWS still to ratify. Taking nuclear order as a whole, then, few areas present themselves more readily for urgent attention than US ratification of the treaties of Pelindaba and Rarotonga.

In recent years, the landmark Treaty on the Prohibition of Nuclear Weapons (TPNW) has enjoyed extensive media attention. And, while this treaty presents an important breakthrough in nuclear political history, it has failed to attract any NWS's support.<sup>2</sup> By contrast NWFZ, which have received less attention, have already secured wide NWS support, over decades of careful negotiation. Clearly, then, these regional agreements can shed light on successful international nuclear cooperation.

In this briefing paper, I confine my analysis to two NWFZ treaties which require US Senate approval.<sup>3</sup> I do this because these treaties require the least international coordination for the greatest international benefit. To be sure, Senate ratification will be difficult and time-consuming. But, I will maintain, merely starting the Senate approval process is important, even if it initially fails: even an unsuccessful try at Senate approval is preferable to the stagnancy of the last decade, which has frustrated African and South Pacific attempts at denuclearisation.

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<sup>1</sup> The US, UK, France, China, and Russia. Notably, this excludes states which possess nuclear weapons but are not recognised as NWS under the NPT: Israel, Pakistan, India and North Korea.

<sup>2</sup> See, for example, Nick Ritchie and Ambassador Alexander Kmentt, "Universalising the TPNW: Challenges and Opportunities," *Journal for Peace and Nuclear Disarmament* 4 no. 1, (2021): 1-24.

<sup>3</sup> I could well have considered the treaties of Bangkok and Semipalatinsk in this paper but will not do so for reasons of scope. Nevertheless, much of my analysis applies to these treaties, too.



“Why, then, should the US ratification of the treaties of Rarotonga and Pelindaba be prioritised now? Because the coincidence of the Biden presidency and a Democratic Senate majority—slim as it is—opens a rare window for executive and legislative coordination ... Better domestic conditions for these treaties’ prioritisation are unlikely to emerge in the near future.

The paper is divided into two sections. The first section sets the stage: it explores the importance of NWFZs and explains why US ratification of Pelindaba and Rarotonga requires urgent attention.

Next, and finally, I address obstacles and opportunities to US ratification. In this section, I assess the prospect of Senate approval. I do this by explaining the procedural requirements for such approval, then highlighting the strategic considerations at play. I then suggest that these procedural and strategic obstacles are surmountable. And, even if they are insurmountable, I claim that pursuing Senate ratification is still desirable.

In sum, then, I present a case for the urgency of US Senate approval for the African and South Pacific NWFZs. This paper should, therefore, attract the interest of policymakers in the NWSs and the global South alike.





# Background

## NWFZs at a glance

At their simplest, NWFZs are places where nuclear weapons are prohibited. All NWFZs' ban the use of nuclear weapons and often include other prohibitions, on nuclear testing, transportation, implantation and assembly. These prohibitions are codified in international treaties which apply to states inside a given zone but also—and perhaps more importantly—to the NWS. These constraints on the nuclear states are known as 'negative security assurances'.

To date, nine NWFZ treaties have entered into force, affecting territories from Central Asia to Latin America, and from the seabed to outer space. Not all attempts at establishing NWFZs have been successful, however. The prime example of an unsuccessful NWFZ is the Middle East. But several other NWFZs have failed to materialise, from Eastern Europe to Northeast Asia.<sup>4</sup>

Nuclear states, like the US, are invited to join NWFZ treaties by ratifying their 'additional protocols'. These protocols outline the duties of NWS insofar as a treaty's territory is concerned. At present, only the Treaty of Tlatelolco, which covers Latin America and the Caribbean, has secured ratification from all five NWS. But the two treaties under consideration here—which apply to Africa and the South Pacific—are just one US ratification away from receiving the full consent from all five NWSs.

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<sup>4</sup> See, Michael Hamel-Green, "Nuclear-weapon-free zone initiatives: challenges and opportunities for regional cooperation on non-proliferation", *Global Change, Peace & Security* 21, no. 3 (2009): 357–376.



The US has *signed* both treaties, but not yet ratified them, despite promising to do so.<sup>5</sup> The US is thus unique among the NWS in not ratifying these two treaties. In one swoop, then, US ratification of these treaties would advance the global non-proliferation agenda considerably.

**Table 1: Attempted NWFZs (Chronological, by Date of Opening for Signature)<sup>6</sup>**

Region	Treaty	Success /Failure	Signed	Number of Signatories	Entry into Force
Antarctic	Antarctic	S	1959	54	1959
Outer Space	Outer Space	S	1967	132	1967
Latin America	Tlatelolco	S	1967	33	1969
World	NPT	S	1968	188	1970
Seabed	Seabed	S	1971	115	1971
Pacific	Rarotonga	S	1985	13	1986
Mongolia	Mongolia	S	1992	1	2000
Southeast Asia	Bangkok	S	1995	10	1997
Africa	Pelindaba	S	1996	52	2009
Central Asia	Semipalatinsk	S	2006	5	2009
Middle East	Middle East	F	NA	NA	NA
Scandinavia	Nordic NWFZ	F	NA	NA	NA
Eastern Europe	Rapacki Plan	F	NA	NA	NA

The world's diverse NWFZs do not all prohibit nuclear weapons in the same way. Each zone constrains the nuclear powers differently, depending on the political dynamics of a given region—and this is a key advantage of the NWFZ regime. NWFZ treaties can thus account for regional political eccentricities, unlike universal treaties. In some ways, then, NWFZs present a more likely route to global denuclearisation than the TPNW which, by necessity, adopts a blanket approach to nuclear prohibition. This is not to undermine the importance of the TPNW. Ultimately, universal disarmament efforts, distant as they seem, require a blend of universal prohibitions 'from above', and regional prohibitions 'from below'. Nevertheless, NWFZs have proved far more effective at obtaining NWS support than the much-vaunted TPNW. Paradoxically, then, NWFZs have enjoyed relatively little scholarly and media attention, despite their relative success.<sup>7</sup>

<sup>5</sup> Thomas Graham, *The Alternate Route: Nuclear-Weapon-Free Zones*. (Oregon: Oregon State University Press, 2017).

<sup>6</sup> "Nuclear-Weapon-Free Zones," UN News Centre, accessed July 1, 2021, <https://www.un.org/disarmament/wmd/nuclear/nwzf/>

<sup>7</sup> A useful article in the regard is: Sebastian Brixey-Williams, "The ban treaty: A big nuclear-weapon-free zone?" *Bulletin of the Atomic Scientists*, June 21, (2017). Accessed at: <https://thebulletin.org/2017/06/the-ban-treaty-a-big-nuclear-weapon-free-zone/>.



## Pelindaba and Rarotonga

On Hiroshima Day, on the 6th of August 1985, eight states signed the South Pacific NWFZ Treaty. It entered into force in 1986, after the eighth ratification.<sup>8</sup> On the 25th of March 1996—a decade after entry into force—the UK, US and France<sup>9</sup> signed Protocol I, which applies to territories within the zone under foreign control. France ratified the treaty in the same year, and Britain a year later. The USSR signed in 1986 and the China in 1987 and both ratified in 1988.<sup>10</sup> A decade after Rarotonga opened for signature, the Pelindaba Treaty was approved by African heads of state, on the 23rd of June 1995. The 1995 regular session of the United Nations General Assembly (UNGA) then approved the treaty on the 6th of November. The treaty was officially signed in Cairo by 47 of Africa's then-53 states, on the 11th of April 1996.<sup>11</sup>

On the same date, the UK, France, and China signed the Additional Protocol II. The UK, France and China also ratified soon thereafter, in 2001, 1996 and 1997, respectively. This left Russia and the US. By then, Russia had already sounded warnings over the US's failure to ratify Rarotonga, despite Russian ratification. So, initially, Russia refused to ratify Pelindaba, until the US did so. But, after long diplomatic efforts, Russia ratified Pelindaba in 2011, leaving only the US to ratify the treaty, as in the case of Rarotonga.<sup>12</sup>

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<sup>8</sup> Australia, Cook Islands, Kiribati, Fiji, New Zealand, Tuvalu, Western Samoa and Niue.

<sup>9</sup> France made a statement of reservation, saying that it could not be bound by Protocol II in the event of an invasion or attack, or if serious breaches of the NPT were committed concerning France.

<sup>10</sup> Andrew O'Neil, "Australia and the South Pacific nuclear free zone treaty: a reinterpretation," *Australian Journal of Political Science* 39, no. 3 (2004), 567–583.

<sup>11</sup> Oluyemi Adeniji, *The African Nuclear-Weapons-Free Zone*, (New York: UNODA, 2002).

<sup>12</sup> The full history of these treaties is recounted in great detail in: Sizwe Mpofu-Walsh, "Obedient Rebellion: Nuclear-Weapon-Free Zones and Global Nuclear Order," DPhil diss., (University of Oxford, 2020).



**Table 2: Treaty of Rarotonga, NWS ratification, chorological order**

Treaty	Rarotonga	
State	Signed	Ratified
USSR/Russia	Jun 1986	Apr 1988
China	Jun 1987	Oct 1988
France	Mar 1996	Sep 1996
UK	Mar 1996	Sep 1997
US	Mar 1996	Not yet ratified

**Table 3: Treaty of Pelindaba, NWS ratification, chorological order**

Treaty	Pelindaba	
State	Signed	Ratified
France	Apr-96	Sep-96
China	Apr-96	Jul-97
UK	Apr-96	Feb-01
Russia	Nov-96	Mar-11
US	Apr-96	Not yet ratified

## The status quo

Both the Clinton and Obama Administrations have recognised the importance of the African and South Pacific NWFZs. For the Clinton Whitehouse, these treaties became tied to the goal of NPT indefinite extension in 1995 (until then, the NPT was renewed every five years). To achieve indefinite NPT extension, the Clinton White House sought African and South Pacific support. US diplomats promised to ratify Pelindaba and Rarotonga, if African and South Pacific states supported indefinite NPT extension.<sup>13</sup> Thomas Graham, lead US negotiator at the 1995 NPT Review Conference, explains:

*Speaking on behalf of the US government—without instructions but without any opposition—I promised the ten South Pacific Forum states that if they all supported permanent, or indefinite extension, of the NPT, the US would ratify the three protocols of the Rarotonga Treaty; a matter that gradually became a matter of considerable importance to these states.<sup>14</sup>*

Later, US Congressman Eli Faleomavaega—an avid proponent of the South Pacific NWFZ—argued: ‘at a time when it is crucial that the US utilise all resources to forge a majority for indefinite extension of the NPT, joining the South Pacific Nuclear-Free Zone Treaty would materially enhance US credibility’.<sup>15</sup> In a letter to Faleomavaega, Clinton concurred, declaring supporting the treaty.<sup>16</sup> But, having successfully signed both Rarotonga and Pelindaba, the Clinton administration did not ratify them.

The question re-emerged when, in 2009, President Barack Obama petitioned the Senate to approve Pelindaba and Rarotonga, which he claimed would be ‘an important further milestone in demonstrating our commitment to nuclear non-proliferation’.<sup>17</sup> Ratification would, he suggested, ‘fully support US non-proliferation policy and goals...and enhance US security by furthering our global non-proliferation and arms control objectives’.<sup>18</sup> The petition for Senate approval was supported by the Departments of State and Energy. But, after being referred to the Senate Foreign Relations Committee over a decade ago, the treaties remain unratified.

<sup>13</sup> Graham, *The Alternate Route: Nuclear Weapon-Free Zones*.

<sup>14</sup> Graham, 72.

<sup>15</sup> Nicola Horsburgh, *China and Global Nuclear Order: From Estrangement to Active Engagement* (Oxford: Oxford University Press, 2015).

<sup>16</sup> Bill Clinton, “Letter to Eni Faleomavaega” (The White House, 1996).

<sup>17</sup> Alfred Nurja, “Ratifying the Nuclear Weapons Free Zone Protocols,” *Arms Control Today*, Arms Control Association, February 18 2011, <https://www.armscontrol.org/blog/2011-02-18/ratifying-nuclear-weapons-free-zone-protocols>.

<sup>18</sup> Nurja, “Ratifying the Nuclear Weapons Free Zone Protocols”.

# Obstacles and Opportunities

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## Procedural obstacles

The US Senate approval process is often treated as a black box in the NWFZ literature. To appreciate whether approval is feasible, Senate procedure must be scrutinised. According to Article II, Section 2 of the US Constitution, the Senate must approve international treaties negotiated by the executive branch by a two-thirds majority.<sup>19</sup> Importantly, this is a two-thirds majority of the 'members present' at the relevant vote of the Senate, not two-thirds of *all* senators.<sup>20</sup>

Before a treaty arrives on the Senate floor for final approval, it must pass through a committee—in this case, the Senate Foreign Relations Committee. The committee stage usually involves hearings and debates, which can be held publicly or in secret. Before this, a committee chairperson must schedule these hearings. This means that the treaty must have, at the very least, a reasonable chance of passing the committee on the prediction of the committee chairperson. If the treaty passes the committee stage, then a resolution of ratification is moved in the Senate. The Senate either rejects or accepts this resolution, where the bar for acceptance is two-thirds of senators present.<sup>21</sup>

Pelindaba and Rarotonga have been assigned to the Senate Foreign Relations Committee, but none of the committee's chairs have yet scheduled the treaties for hearing. This happens when the Senate leadership does not foresee a resolution for ratification succeeding. In these cases, the treaty's status is: 'received in the Senate and referred to the Committee on Foreign Relations pursuant to removal of the injunction of secrecy'.<sup>22</sup> A treaty can remain in this state for years, as treaties pending before the Senate only need to be submitted once. The treaties of Pelindaba and Rarotonga, therefore, have many procedural hurdles to clear before Senate approval: first, they must clear the committee stage, then they must pass the Senate by a considerable majority.

Why, then, should these two treaties be prioritised now? First, because the coincidence of the Biden presidency and a Democratic Senate majority—slim as it is—opens a rare window for executive and legislative coordination. President Biden has already been part of one administration that supported ratifying Pelindaba and Rarotonga. So, the hurdle of presidential approval—that would have been insurmountable in the Trump administration, for instance—is already cleared. Further, with a narrow first Democratic Senate majority in six years, the committee agenda is now firmly in Democratic control.<sup>23</sup> So, Democrats have a rare chance to

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19 Technically, the Senate does not itself ratify treaties but rather empowers the president to ratify treaties through its advice and consent.

20 Sometimes, all senators do vote, as was the case with the Chemical Weapons Convention which was approved by the Senate in 1997. But not all senators voted to approve the Latin American NWFZ.

21 See, for instance, Michael Glennon "The Constitutional Power of the United States Senate to Condition Its Consent to Treaties." *Chi.-Kent L. Rev* 67 no. 2 (1991), 533.

22 "The removal of the injunction of secrecy" is a vote by the Senate to lift the secrecy of proceedings on a treaty. This is routine for most treaties.

23 At the time of writing, the US Senate is split evenly between Democrats and Republicans, with Democratic Vice President Kamala Harris casting the deciding vote.





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control the schedule, witnesses and timeline of the potential hearings on these treaties. Better domestic conditions for these treaties' prioritisation are, therefore, unlikely to emerge in the near future.

Doubtless, the treaties will not automatically gain approval just because Democrats control the government. My claim here is a moderate one. Merely starting the Senate approval process—just moving it one stage forward within the Senate Foreign Relations Committee—would mark progress. The mere commencement of hearings on these treaties would raise their status in US foreign policy debates, even if these hearings ultimately fail.

For instance, the Chemical Weapons Convention faced grave Senatorial opposition in 1996. But, through decisive and wide-ranging executive-legislative coordination, the treaty was ratified in the Senate by 1997. Even the Comprehensive Nuclear Test Ban Treaty (CTBT), which is yet to be ratified, has gone through more stages than Pelindaba and Rarotonga. Yet, Rarotonga and Pelindaba would curtail US power less than any of these two treaties. Rarotonga and Pelindaba thus present an opportunity for a clear non-proliferation victory for the Biden Administration.

Since President Obama first submitted the treaties' protocols for approval, new conditions also militate for ratification. The rise of the TPNW has placed NWS like the US on the diplomatic back-foot. Their promises of disarmament under the NPT are reaching new lows of credibility in the capitals of the global South. And pressure for NWS to honour their Article VI commitments is mounting in global fora.<sup>24</sup>

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<sup>24</sup> See, for instance, Aditi Lalbahadur, "Positioning South Africa in 21st Century Global Nuclear Security Debates," Policy Brief: South African Institute of International Affairs, <https://saiia.org.za/research/positioning-south-africa-in-21st-century-global-nuclear-security-debates/>.



NWFZ treaties present a chance for compromise. While NWS may balk at a universal ban treaty, they can signal a commitment to non-proliferation by ratifying NWFZ treaties. In this way, the TPNW has ironically opened the door for NWFZs, which can now balance between universal disarmament, on the one hand, and the realities of nuclear power politics, on the other. Ratifying Pelindaba and Rarotonga would demonstrate US progress on its NPT commitments, even if this progress is moderate. Failing to ratify them, on the contrary, tarnishes the US's reputation as a nuclear power that can be trusted to live up to its responsibilities, especially from the perspective of Africa and the South Pacific. In sum, the US has much to gain, and little to lose, by ratifying these treaties—or at least starting the process for their ratification in earnest.

## Strategic obstacles

The prime strategic obstacle to US ratification of the treaties of Pelindaba and Rarotonga is a perceived threat to US 'operational flexibility'.<sup>25</sup> The US does not wish to use or test nuclear weapons in these territories but wants the 'flexibility' to transport nuclear weapons around the world, and this sometimes means transporting them within the 'territory' defined under the Pelindaba and Rarotonga treaties.

A second US strategic concern relates to the island of Diego Garcia, part of the Chagos Archipelago situated in the Indian Ocean, due east of Africa. After Mauritius' decolonisation in 1968, Britain retained control over Diego Garcia. Before Britain eventually ratified Pelindaba in 2001, it called for a clause effectively excluding Diego Garcia from Pelindaba's remit. This was rejected by African states in favour of a compromise clause, which states that the treaty's territory—which includes Diego Garcia—'appears without prejudice to the question of sovereignty'.<sup>26</sup>

This clause has caused confusion: African countries agree that the Chagos Archipelago is within the treaty's 'territory', but the UK refuses 'to accept the inclusion of that Territory within the African NWFZ'.<sup>27</sup> Washington sides with Whitehall: 'Diego Garcia is under the sovereign control of the United Kingdom of Great Britain and Northern Ireland as part of the British Indian Ocean Territories and is not part of the 'territory' of the Zone as defined in the Treaty; therefore neither the Treaty nor its Protocols applies to US operations there'.<sup>28</sup>

Threats to 'operational flexibility' and worries about Diego Garcia are overstated, however. On the first question, the two treaties already permit nuclear transportation, in most circumstances. For example, Rarotonga states in Article 5(2) that:

*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.*<sup>29</sup>

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25 This phrase comes from US Secretary for Defense Warren M. Christopher at a hearing before the House Foreign Affairs Committee on 18 May in 1992, at which he said that signing the Rarotonga treaty may 'impact in the US's operational flexibility and freedom in the South Pacific'. See, Eni Faleomavaega, "Letter to Warren M. Christopher", United States House of Representatives, 1993.

26 Adeniji, *The African Nuclear-Weapon-Free Zone*.

27 "House Congressional Record H329: Commemorating the Accession of the United States of America to the Protocols of the South Pacific Nuclear-Free Zone Treaty", United States House of Representatives, 1996.

28 Peter Sand, "Fortress Conservation Trumps Human Rights? The "Marine Protected Area" in the Chagos Archipelago." *The Journal of Environment & Development* 21, no. 1 (2012): 36-39. It is also worth noting that, in January 2021, the UN's International Tribunal for the Law of the Sea (ITLS) confirmed an International Court of Justice ruling rejecting the UK's claims over Chagos.

29 "South Pacific Nuclear-Free Zone Treaty (Treaty of Rarotonga)", opened for signature 6 August 1985, [https://media.nti.org/documents/treaty\\_of\\_rarotonga.pdf](https://media.nti.org/documents/treaty_of_rarotonga.pdf).



NWFZs present a rare opportunity for consensus in nuclear politics. At a crucial moment in nuclear order's history—when quick wins are scarce—US ratification of Pelindaba and Rarotonga is a unique chance for progress.

Borrowing from Rarotonga, Article 4(2) of the Pelindaba Treaty contains identical language.<sup>30</sup> These provisions cannot be construed to severely limit US power, or even nuclear power. Further, the US can, like other NWSs, enter reservations upon ratification that could further ease fears over 'operational flexibility'.<sup>31</sup> Indeed, such reservations have already been drafted. In 2009, the Obama administration suggested the following reservation upon US ratification:

*The United States of America understands the term "in-land waters" as used in the African Nuclear-Weapon-Free Zone Treaty to exclude waters used in connection with maritime navigation . . . The United States of America understands the term "stationing" as used in the African Nuclear-Weapon-Free Zone Treaty not to include the temporary off-load or trans-shipment of nuclear weapons.*<sup>32</sup>

Furthermore, under both treaties, the US can suspend its obligations immediately if another party violates treaty provisions. This means that the US would have full 'operational flexibility' in the unlikely case of another NWS's violation. For these reasons, the State Department and the Department of Energy contend that the treaties 'are consistent with US military practices and require no changes in US military operations, strategy, or policy'.<sup>33</sup>

Fears that Pelindaba would curtail US interests at Diego Garcia are also overstated. The zone, in itself, would not limit US military activity on Diego Garcia.<sup>34</sup> It would only limit US ability to transport nuclear weapons to, from, and around Diego Garcia insofar as they conflict with the freedoms of transport envisaged in the treaty mentioned above. The State Department has, again, already acknowledged this: 'The activities of the US Armed Forces on Diego Garcia would not be impeded by US ratification of Protocols I and II to the Treaty'.<sup>35</sup>

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<sup>30</sup> The only difference is that the section begins with the phrase "Without prejudice to the purpose and objectives of the treaty . . ."

<sup>31</sup> See, for instance, David Auerswald, "Senate Reservations to Security Treaties," *Foreign Policy Analysis* 2 no. 1, 2006, 83–100.

<sup>32</sup> Barack Obama, "Letter of Transmittal for Protocols I and II to the African Nuclear Weapon-Free Zone Treaty," United States Senate, May 2 2011.

<sup>33</sup> Barack Obama, "Letter of Transmittal for Protocols I and II to the African Nuclear Weapon-Free Zone Treaty".

<sup>34</sup> One might note that US colonial control of this territory is controversial in the first place. See, for example, Kinnari Bhatt, "A Post-colonial Legal Approach to the Chagos Case and the (Dis)application of Land Rights Norms," *International Journal of Law in Context* 15, no. 1 (2019): 1-19.

<sup>35</sup> Barack Obama, "Letter of Transmittal for Protocols I and II to the African Nuclear Weapon-Free Zone Treaty".







The risks to the US of ratifying these two treaties should be weighed against the dangers of non-ratification. The primary danger is a further erosion in NPT credibility, and another stalemate at the looming NPT Review Conference. At a time when the NPT is suffering its greatest legitimacy crisis in a generation, further diluting both non-proliferation and disarmament promises would heighten NPT scepticism in the global South.

This risk of undermining trust in the NPT is particularly acute in this case because NWFZs are inextricably linked to the NPT, through the US's unfulfilled bargain of 1995. African and South Pacific states have kept their end of the bargain—agreeing to indefinite NPT extension—but the US has so far reneged on its end, by not ratifying Pelindaba and Rarotonga. By belatedly meeting its promise to ratify these treaties, the US would re-embolden African and South Pacific efforts at nuclear non-proliferation.

US non-ratification, on the other hand, imperils the fragile consent of the other NWS. Why should France, the UK, China, or Russia limit their nuclear potential in these regions, when the US refuses to? Great diplomatic effort has been spent in uniting the other four nuclear powers around ratification. If the US persists with non-ratification, that diplomatic work could be undone.

In its reservations to the Pelindaba treaty, Russia has already expressed concern over the US's failure to ratify reciprocally.<sup>36</sup> China, too, ratified the treaties at a different stage in its foreign policy ambitions. If Russia were to withdraw, that could also invite China to rethink its position, and that may affect France and the UK. US policymakers must, therefore, consider whether the risks of ratification outweigh the risks of inaction.

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<sup>36</sup> See, Jo-Ansie Van Wyk, "No nukes in Africa: South Africa, the denuclearisation of Africa and the Pelindaba Treaty," *Historia* 57, no. 2 (2012): 263-297.



# Conclusion

NWFZs present a rare opportunity for consensus in nuclear politics. At a crucial moment in nuclear order's history—when quick wins are scarce—US ratification of Pelindaba and Rarotonga is a unique chance for progress.

One body impedes this important milestone: the US Senate. And, at this opportune moment, the Biden Administration can seize the initiative by urging this question onto the Senatorial agenda. The US needs something to show at the impending NPT Review Conference: Pelindaba and Rarotonga present just such an opportunity.

The Senate might not ratify these treaties under Biden. But, even moving the agenda one step forward, will mark progress. If Senate hearings were to commence, or an unsuccessful Senate vote were to be held, this would advance the cause of global nuclear containment. Few nuclear treaties sail through the Senate, but this is no reason to keep the treaties of Rarotonga and Pelindaba off the agenda, and out of mind. Ratifying these two treaties, long as it may take, will assuage the mounting doubt over nuclear order's durability in the capitals of Africa and the South Pacific. The benefits of such ratification are abundant; the risks glaring.

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