Commencement: 22 January 1996

CHAPTER 237

SOUTH PACIFIC NUCLEAR FREE ZONE TREATY (RATIFICATION)

Act 16 of 1995

ARRANGEMENT OF SECTIONS

1. Ratification

SCHEDULE

SOUTH PACIFIC NUCLEAR FREE ZONE TREATY (RATIFICATION)

An Act to provide for the ratification of the South Pacific Nuclear Free Zone Treaty.

1. Ratification

(1) The South Pacific Nuclear Free Zone Treaty adopted by the South Pacific Forum Meeting in Raratonga on the on the 8th day of August, 1988 which is set out in the Schedule hereto is hereby ratified.

(2) The Treaty referred to in subsection (1) shall be binding on the Republic of Vanuatu in accordance with the terms thereof.

SCHEDULE

SOUTH PACIFIC NUCLEAR FREE ZONE TREATY

PREAMBLE

The Parties to this Treaty.

United in their commitment to a world at peace;

Gravely concerned that the continuing nuclear arms race presents the risk of nuclear war which would have devastating consequences for all people;

Convinced that all countries have an obligation to make every effort to achieve the goal of eliminating nuclear weapons, the terror which they hold for humankind and the threat which they pose to life on earth;

Believing that regional arms control measures can contribute to global efforts to reverse the nuclear arms race and promote the national security of each country in the region and the common security of all;

Determined to ensure, so far as lies within their power, that the bounty and beauty of the land and sea in their region shall remain the heritage of their peoples and their descendants in perpetuity to be enjoyed by all in peace;

Reaffirming the importance of the Treaty on the Non-Proliferation of Nuclear Weapons (NPT) in preventing the proliferation of nuclear weapons and in contributing to world security;

Noting, in particular, that Article VII of the NPT recognizes the right of any group of States to conclude regional treaties in order to assure the total absence of nuclear weapons in their respective territories;

Noting that the prohibitions of emplantation and emplacement of nuclear weapons on the seabed and the ocean floor and in the subsoil thereof contained in the Treaty on the Prohibition of the Emplacement of Nuclear Weapons and Other Weapons of Mass Destruction on the Seabed and the Ocean Floor and in the Subsoil Thereof apply in the South Pacific;

Noting also that the prohibition of testing of nuclear weapons in the atmosphere or under water, including territorial waters or high seas, contained in the Treaty Banning Nuclear Weapon Tests in the Atmosphere, in Outer Space and Under Water applies in the South Pacific;

Determined to keep the region free of environmental pollution by radioactive wastes and other radioactive matter;

Guided by the decision of the Fifteenth South Pacific Forum at Tuvalu that a nuclear free zone should be established in the region at the earliest opportunity in accordance with the principles set out in the communiqué of that meeting;

Have agreed as follows:

ARTICLE 1

USAGE OF TERMS

For the purposes of this Treaty and its Protocols:

(a) "South Pacific Nuclear Free Zone" means the areas described in Annex 1 as illustrated by the map attached to that Annex;

(b) "territory" means internal waters, territorial sea and archipelagic waters, the seabed and subsoil beneath, the land territory and the airspace above them;

(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 emplantation, emplacement, transportation on land or inland waters, stockpiling, storage, installation and deployment.

ARTICLE 2

APPLICATION OF THE TREATY

1. Except where otherwise specified, this Treaty and its Protocols shall apply to territory within the South Pacific Nuclear Free Zone.

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 manufacture or otherwise acquire, possess or have control over any nuclear explosive device by any means anywhere inside or outside the South Pacific Nuclear Free Zone;

(b) not to seek or receive any assistance in the manufacture or acquisition of any nuclear explosive device;

(c) not to take any action to assist or encourage the manufacture or acquisition of any nuclear explosive device by any State.

ARTICLE 4

PEACEFUL NUCLEAR ACTIVITIES

Each Party undertakes:

(a) 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:

  (i) any non-nuclear-weapon State unless subject to the safeguards required by Article III.1 of the NPT, or

  (ii) any nuclear-weapon State unless subject to applicable safeguards agreements with the International Atomic Energy Agency (IAEA).

  Any such provision shall be in accordance with strict non-proliferation measures to provide assurance of exclusively peaceful non-explosive use;

(b) to support the continued effectiveness of the international non-proliferation system based on the NPT and the IAEA safeguards system.

ARTICLE 5

PREVENTION OF STATIONING OF NUCLEAR EXPLOSIVE DEVICES

1. Each Party undertakes to prevent in its territory the stationing of any nuclear explosive device.

2. 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 6

PREVENTION OF TESTING OF NUCLEAR EXPLOSIVE DEVICES

Each Party undertakes:

(a) to prevent in its territory the testing of any nuclear explosive device;

(b) not to take any action to assist or encourage the testing of any nuclear explosive device by any State.

ARTICLE 7

PREVENTION OF DUMPING

1. Each Party undertakes:

   (a) not to dump radioactive wastes and other radioactive matter at sea anywhere within the South Pacific Nuclear Free Zone;

   (b) to prevent the dumping of radioactive wastes and other radioactive matter by anyone in its territorial sea;

   (c) not to take any action to assist or encourage the dumping by anyone of radioactive wastes and other radioactive matter at sea anywhere within the South Pacific Nuclear Free Zone;

   (d) to support the conclusion as soon as possible at the proposed Convention relating to the protection of the natural resources and environment of the South Pacific region and its Protocol for the prevention of pollution of the South Pacific region by dumping, with the aim of precluding dumping at sea of radioactive wastes and other radioactive matter by anyone anywhere in the region.

2. Paragraphs 1(a) and 1(b) of this Article shall not apply to areas of the South Pacific Nuclear Free Zone in respect of which such a Convention and Protocol have entered into force.

ARTICLE 8

CONTROL SYSTEM

1. The Parties hereby establish a control system for the purpose of verifying compliance with their obligations under this Treaty.

2. The control system shall comprise:

   (a) reports and exchange of information as provided for in Article 9;

   (b) consultations as provided for in Article 10 and Annex 4(1);

   (c) the application to peaceful nuclear activities of safeguards by the IAEA as provided for in Annex 2;

   (d) a complaints procedure as provided for in Annex 4.

ARTICLE 9

REPORTS AND EXCHANGES OF INFORMATION

1. Each Party shall report to the Director of the South Pacific Bureau for Economic Co-operation (the Director) as soon as possible any significant event within its jurisdiction affecting the implementation of this Treaty. The Director shall circulate such reports promptly to all Parties.

2. The Parties shall endeavour to keep each other informed on matters arising under or in relation to this Treaty. They may exchange information by communicating it to the Director, who shall circulate it to all Parties.

3. The Director shall report annually to the South Pacific Forum on the status of this Treaty and matters arising under or in relation to it, incorporating reports and communications made under paragraphs 1 and 2 of this Article and matters arising under Articles 8(2)(d) and 10 and Annex 2(4).

ARTICLE 10

CONSULTATIONS AND REVIEW

Without prejudice to the conduct of consultations among Parties by other means, the Director, at the request of any Party, shall convene a meeting of the Consultative Committee established by Annex 3 for consultation and co-operation on any matter arising in relation to this Treaty or for reviewing its operation.

ARTICLE 11

AMENDMENT

The Consultative Committee shall consider proposals for amendment of the provisions of this Treaty proposed by any Party and circulated by the Director to all Parties not less than three months prior to the convening of the Consultative Committee for this Purpose. Any proposal agreed upon by consensus by the Consultative Committee shall be communicated to the Director who shall circulate it for acceptance to all Parties. An amendment shall enter into force thirty days after receipt by the depositary of acceptances from all Parties.

ARTICLE 12

SIGNATURE AND RATIFICATION

1. This Treaty shall be open for signature by any Member of the South Pacific Forum.

2. This Treaty shall be subject to ratification. Instruments of ratification shall be deposited with the Director who is hereby designated depositary of this Treaty and its Protocols.

3. If a Member of the South Pacific Forum whose territory is outside the South Pacific Nuclear Free Zone becomes a Party to this Treaty, Annex 1 shall be deemed to be amended so far as is required to enclose at least the territory of that Party within the boundaries of the South Pacific Nuclear Free Zone. The delineation of any area added pursuant to this paragraph shall be approved by the South Pacific Forum.

ARTICLE 13

WITHDRAWAL

1. This Treaty is of a permanent nature and shall remain in force indefinitely, provided that in the event of a violation by any Party of a provision of this Treaty essential to the achievement of the objectives of the Treaty or of the spirit of the Treaty, every other Party shall have the right to withdraw from the Treaty.

2. Withdrawal shall be effected by giving notice twelve months in advance to the Director who shall circulate such notice to all other Parties.

ARTICLE 14

RESERVATIONS

This Treaty shall not be subject to reservations.

ARTICLE 15

ENTRY INTO FORCE

1. This Treaty shall enter into force on the date of deposit of the eighth instrument of ratification.

2. For a signatory which ratifies this Treaty after the date of deposit of the eighth instrument of ratification, the Treaty shall enter into force on the date of deposit of its instrument of ratification.

ARTICLE 16

DEPOSITARY FUNCTIONS

The depositary shall register this Treaty and its Protocols pursuant to Article 102 of the Charter of the United Nations and shall transmit certified copies of the Treaty and its Protocols to all Members of the South Pacific Forum and all States eligible to become Party to the Protocols to the Treaty and shall notify them of signatures and ratifications of the Treaty and its Protocols.

ANNEX 1

SOUTH PACIFIC NUCLEAR FREE ZONE

A. The area bounded by a line -

(1) commencing at the point of intersection of the Equator by the maritime boundary between Indonesia and Papua New Guinea;

(2) running thence northerly along that maritime boundary to its intersection by the outer limit of the exclusive economic zone of Papua New Guinea;

(3) thence generally north-easterly, easterly and south-easterly along that outer limit to its intersection by the Equator;

(4) thence east along the Equator to its intersection by the meridian of Longitude 163 degrees East;

(5) thence north along that meridian to its intersection by the parallel of Latitude 3 degrees North;

(6) thence east along that parallel to its intersection by the meridian of Longitude 171 degrees East;

(7) thence north along that meridian to its intersection by the parallel of Latitude 4 degrees North;

(8) thence east along that parallel to its intersection by the meridian of Longitude 180 degrees East;

(9) thence south along that meridian to its intersection by the Equator;

(10) thence east along the Equator to its intersection by the meridian of Longitude 165 degrees West;

(11) thence east along that parallel to its intersection by the meridian of Longitude 154 degrees West;

(12) thence east along that parallel to its intersection by the meridian of Longitude 154 degrees West;

(13) thence south along that meridian to its intersection by the Equator;

(14) thence east along the Equator to its intersection by the meridian of Longitude 115 degrees West;

(15) thence south along that meridian to its intersection by the parallel of Latitude 60 degrees South;

(16) thence west along that parallel to its intersection by the meridian of Longitude 115 degrees East;

(17) thence north along that meridian to its southernmost intersection by the outer limit of the territorial sea of Australia;

(18) thence generally northerly and easterly along the outer limit of the territorial sea of Australia to its intersection by the meridian of Longitude 136 degrees 45 minutes East;

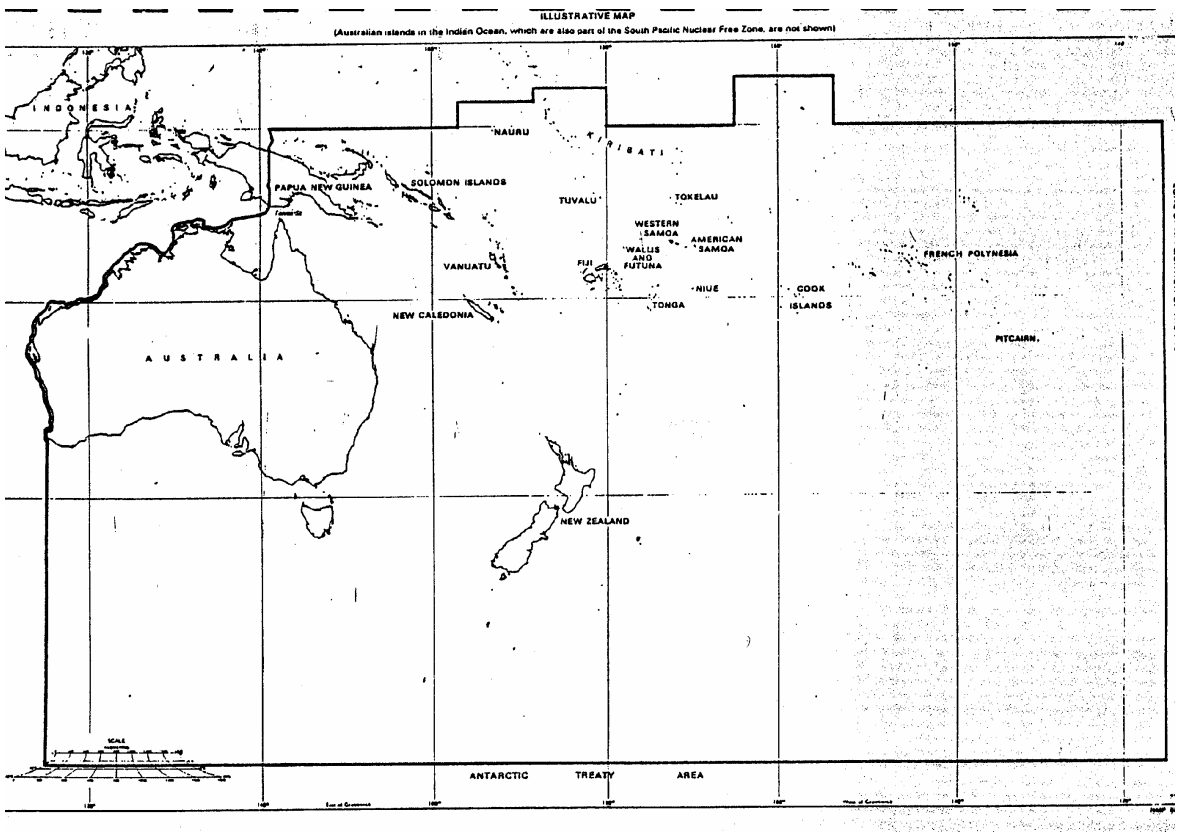
(19) thence north-easterly along the geodesic to the point of Latitude 10 degrees 50 minutes South, Longitude 139 degrees 12 minutes East;

(20) thence north-easterly along the maritime boundary between Indonesia and Papua New Guinea to where it joins the land border between those two countries;

(21) thence generally northerly along that land border to where it joins the maritime boundary between Indonesia and Papua New Guinea, on the northern coastline of Papua New Guinea; and

(22) thence generally northerly along that boundary to the point of commencement.

B. The areas within the outer limits of the territorial seas of all Australian islands lying westward of the area described in paragraph A and north of Latitude 60 degrees South, provided that any such areas shall cease to be part of the South Pacific Nuclear Free Zone upon receipt by the depositary of written notice from the Government of Australia stating that the areas have become subject to another treaty having an object and purpose substantially the same as that of this Treaty.



ANNEX 2

IAEA SAFEGUARDS

1. The safeguards referred to in Article 8 shall in respect of each Party be applied by the IAEA as set forth in an agreement negotiated and concluded with the IAEA on all source or special fissionable material in all peaceful 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 shall be, or shall be equivalent in its scope and effect to, an agreement required in connection with the NPT on the basis of the material reproduced in document INFCIRC/153 (Corrected) of the IAEA. Each Party shall take all appropriate steps to ensure that such an agreement 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 purposes of this Treaty, the safeguards referred to in paragraph 1 shall have as their purpose the verification of the non-diversion of nuclear material from peaceful nuclear activities to nuclear explosive devices.

4. Each Party agrees upon the request of any other Party to transmit to that Party and to the Director for the information of all Parties a copy of the overall conclusions of the most recent report by the IAEA on its inspection activities in the territory of the Party concerned, and to advise the Director promptly of any subsequent findings of the Board of Governors of the IAEA in relation to those conclusions for the information of all Parties.

ANNEX 3

CONSULTATIVE COMMITTEE

1. There is hereby established a Consultative Committee which shall be convened by the Director from time to time pursuant to Articles 10 and 11 and Annex 4(2). The Consultative Committee shall be constituted of representatives of the Parties, each Party being entitled to appoint one representative who may be accompanied by advisers. Unless otherwise agreed, the Consultative Committee shall be chaired at any given meeting by the representative of the Party which last hosted the meeting of Heads of Government of Members of the South Pacific Forum. A quorum shall be constituted by representatives of half the Parties. Subject to the provisions of Article 11, decisions of the Consultative Committee shall be taken by consensus or, failing consensus, by a two-thirds majority of those present and voting. The Consultative Committee shall adopt such other rules of procedure as it sees fit.

2. The costs of the Consultative Committee, including the costs of special inspections pursuant to Annex 4, shall be borne by the South Pacific Bureau for Economic Co-operation. It may seek special funding should this be required.

ANNEX 4

COMPLAINTS PROCEDURE

1. A Party which considers that there are grounds for a complaint that another Party is in breach of its obligations under this Treaty shall, before bringing such a complaint to the Director, bring the subject matter of the complaint to the attention of the Party complained of and shall allow the latter reasonable opportunity to provide it with an explanation and to resolve the matter.

2. If the matter is not so resolved, the complainant Party may bring the complaint to the Director with a request that the Consultative Committee be convened to consider it. Complaints shall be supported by an account of evidence of breach of obligations known to the complainant Party. Upon receipt of a complaint the Director shall convene the Consultative Committee as quickly as possible to consider it.

3. The Consultative Committee taking account of efforts made under paragraph 1, shall afford the Party complained of a reasonable opportunity 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 Consultative Committee decides that there is sufficient substance in the complaint to warrant a special inspection in the territory of that Party or elsewhere, the Consultative Committee shall direct that such special inspection be made as quickly as possible by a special inspection team of three suitably qualified special inspectors appointed by the Consultative Committee in consultation with the complained of and complainant Parties, provided that no national of either Party shall serve on the special inspection team. If so requested by the Party complained of, the special inspection team shall be accompanied by representatives of that Party. Neither the right of consultation on the appointment of special inspectors, nor the right to accompany special inspectors, shall delay the work of the special inspection team.

5. In making a special inspection, special inspectors shall be subject to the direction only of the Consultative Committee and shall comply with such directives concerning tasks, objectives, confidentiality and procedures as may be decided upon by it. Directives shall take account of the legitimate interests of the Party complained of in complying with its other international obligations and commitments and shall not duplicate safeguards procedures to be undertaken by the IAEA pursuant to agreements referred to in Annex 2(1). The special inspectors shall discharge their duties with due respect for the laws of the Party complained of.

6. Each Party shall give to special inspectors full and free access to all information and place within its territory which may be relevant to enable the special inspectors to implement the directives given to them by the Consultative Committee.

7. The Party complained of shall take all appropriate steps to facilitate the special inspection, and shall grant to special inspectors privileges and immunities necessary for the performance of their functions, including inviolability for all papers and documents and immunity from arrest, detention and legal process for acts done and words spoken and written, for the purpose of the special inspection.

8. The special inspectors shall report in writing as quickly as possible to the Consultative Committee, outlining their activities, setting our relevant facts and information as ascertained by them, with supporting evidence and documentation as appropriate, and stating their conclusions. The Consultative Committee shall report fully to all Members of the South Pacific Forum, giving its decision as to whether the Party complained of is in breach of its obligations under this Treaty.

9. If the Consultative Committee has decided that the Party complained of is in breach of its obligations under this Treaty, or that the above provisions have not been complied with, or at any time at the request of either the complainant or complained of Party, the Parties shall meet promptly at a meeting of the South Pacific Forum.

PROTOCOL 1

The Parties to this Protocol.

Noting the South Pacific Nuclear Zone Treaty (the Treaty).

Have Agreed as follows:

ARTICLE 1

Each Party undertakes to apply, in respect of the territories for which it is internationally responsible situated within the South Pacific Nuclear Free Zone, the prohibitions contained in Articles 3, 5 and 6, insofar as they related to the manufacture, stationing and testing of any nuclear explosive device within those territories, and the safeguards specified in Article 8(2)(c) and Annex 2 of the Treaty.

ARTICLE 2

Each Party may, by written notification to the depositary, indicate its acceptance from the date of such notification of any alteration to its obligation under this Protocol brought about by the entry into force of an amendment to the Treaty pursuant to Article 11 of the Treaty.

ARTICLE 3

This Protocol shall be open for signature by the French Republic, the United Kingdom of Great Britain and Northern Ireland and the United States of America.

ARTICLE 4

This Protocol shall be subject to ratification.

ARTICLE 5

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 three months in advance. Such notice shall include a statement of the extraordinary events it regards has having jeopardized its supreme interests.

ARTICLE 6

This Protocol shall enter into force for each State on the date of its deposit with the depositary of its instrument of ratification.

PROTOCOL 2

The Parties to this Protocol.

Noting the South Pacific Nuclear Free Zone Treaty (the Treaty).

Have Agreed as follows:

ARTICLE 1

Each Party undertakes not to use or threaten to use any nuclear explosive device against:

(a) Parties to the Treaty; or

(b) any territory within the South Pacific Nuclear Free Zone for which a State that has become a Party to Protocol 1 is internationally responsible.

ARTICLE 2

Each Party undertakes not to contribute to any act of a Party to the Treaty which constitutes a violation of the Treaty, or to any act of another Party to a Protocol which constitutes a violation of a Protocol.

ARTICLE 3

Each Party may, by written notification to the depositary, indicate its acceptance from the date of such notification of any alteration to its obligation under this Protocol brought about by the entry into force of an amendment to the Treaty pursuant to Article 11 of the Treaty or by the extension of the South Pacific Nuclear Free Zone pursuant to Article 12(3) of the Treaty.

ARTICLE 4

This Protocol shall be open for signature by the French Republic, the People's Republic of China, the Union of Soviet Socialist Republics, 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

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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.

PROTOCOL 3

The Parties to this Protocol.

Noting the South Pacific Nuclear Free Zone Treaty (the Treaty).

Have Agreed as follows:

ARTICLE 1

Each Party undertakes not to test any nuclear explosive device anywhere within the South Pacific Nuclear Free Zone.

ARTICLE 2

Each Party may, by written notification to the depositary, indicate its acceptance from the date of such notification of any alteration to its obligation under this Protocol brought about the entry into force of an amendment to the Treaty pursuant to Article 11 of the Treaty or by the extension of the South Pacific Nuclear Free Zone pursuant to Article 12(3) of the Treaty.

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