Treaties

In 1961, after years of difficult negotiations, the Presidents of the Pugnacious Confederation (PC), the Union of the Starving Republics (USR), the Republic of Responsible Citizens (RRC) and the Disintegrated Kingdom (DK) sign a treaty prohibiting the deployment of Anti-Ballistic Missile systems, the “Peace through Mutually Assured Destruction Treaty (MAD Treaty).” According to Article III of the MAD Treaty:

“Each Party undertakes not to deploy Anti-Ballistic Missile systems for a defence of the territory of its country and not to provide a base for such a defence, and not to deploy Anti-Ballistic Missile systems for defence of an individual region.”

During the press conference following the signature of the treaty, the four presidents highlight that the object and purpose of the MAD Treaty is to initiate an arms control process among their countries in order to ensure international stability and security. At that time, only these four military powers have the capacity to produce ballistic missiles and the components of an ABM system.

The MAD Treaty is of an unlimited duration and does not contain any provisions regarding denunciation or withdrawal of a state party.

In accordance with its provisions, the MAD Treaty enters into force on the thirtieth day after the deposit of the fourth instrument of ratification, i.e. on 20 September 1963. Scrupulously implemented by the state parties, the treaty ensures international stability and security during the following decades.

In November 1998, Mr. Buisson, head of the reactionary “Party for a Free and Secure Pugnacious Confederation” wins the elections in the PC and takes up the presidency on first January 1999. During his election campaign, he repeatedly criticised the MAD Treaty as an outdated instrument which was no longer adequate to guarantee international peace and security in general, and the security of the PC in particular. As a result of technological progress, other states, including states governed by irresponsible dictators, and even non-state actors had acquired long-range ballistic missiles and they could use them to attack the PC. Therefore, it is not surprising that he announces during his inaugural speech that his government will start to develop and deploy an ABM system in order to protect the PC’s population from a ballistic missile attack.

Despite the vigorous protests of the USR, the government of the PC immediately starts with developing a comprehensive ABM system. After three years of intense research, the first tests carried out in January 2001 are quite successful. The USR continues to protest against the PC’s plans throughout this period. On first January 2002, Mr. Buisson announces that the ABM system is now operational and protecting the population of the PC.

As soon as he learns the news, the President of the USR publicly condemns the ABM system as a flagrant and grave violation of Article III of the MAD Treaty. He contacts the two other state parties in order to take appropriate measures in conformity with international law. Both the RRC and the DK express their “concerns” over the ABM system but, mindful not to
endanger their profitable trade relations with the **PC**, declare that they refrain from taking any further action even though **PC** clearly violated the **MAD**.

Dismayed by this reaction, the president of the **USR** publicly reaffirms that the **PC**’s deployment of an ABM system is illegal. Claiming that the **PC** seriously breached the **MAD Treaty**, the President of the **USR** decides on the 21 April 2002 to terminate the treaty with immediate effect. He notifies the other state parties the same day through the ordinary diplomatic channels.

The **RRC** and the **DK** reply that this denunciation does not concern them. However, the **PC** replies on 27 April that the “irrational claims” of the **USR** “lack any basis in international law because the **MAD Treaty** is no longer a binding instrument for the following reasons: a) the **MAD Treaty** is void because the President of the **USR** had ratified the **MAD Treaty** without parliamentary approval as provided for in its constitution; b) In any event, the **MAD Treaty** terminated years ago because the circumstances leading to the conclusion of the treaty had changed radically; c) Finally, this kind of treaty can be unilaterally denounced at any moment and the **PC** exercised this right at the latest in January 2002.

**You are a young lawyer working at the Ministry of Foreign Affairs of the RRC. You are asked to write a legal opinion on the question whether the MAD is still in force.**

**The information available to you is:**
- The **PC**, the **USR**, the **DK** and the **RRC** are original members of the **UN**.
- The same four states are a party to the **VCLT** since its entry into force.
- According to Article 115 of the Constitution of the **USR**, every international treaty must be approved by the parliament. However, in practice, the president of the **USR** ratified many treaties on arms control without parliamentary approval.