The 1921 Convention on the Non-Fortification and Neutralisation of the Åland Islands as an integral part of the Åland Solution

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Honourable Mr President, Excellencies, Ladies and Gentlemen,

To celebrate a centenarian is a unique opportunity. This is my first centennial party, so I take the chance to discuss with you the implications of the fact that the 1921 Convention on the Non-Fortification and Neutralisation of the Åland Islands is an integral part of the Åland Solution as a whole.

My main message is that the negotiation of the totality of the solution, which involved the issue of sovereignty over the islands, moderated through the demilitarisation and neutralisation of them and accompanied by territorial autonomy as well as language and cultural safeguards, was a comprehensive, multilevel process that involved some of the brightest minds of international diplomacy and law at the time. It was not an achievement by the Ålanders, it was not an achievement by Finland, it was not an achievement of Sweden nor of the League of Nations alone. It was a broad collective effort at local, national, regional and international levels.

In this, it shows how demanding conflict resolution was and still is.

Today's great opportunity gives me the chance to review some of the things I have learned working with international law and Åland matters in the past 30 years, including heading a three-year research project on the demilitarisation and neutralisation experiences, a project which involved several highly qualified researchers and a fantastic board of advisors from many countries.

The 1921 Convention on the Non-Fortification and Neutralisation of the Åland islands was signed in Geneva on this day, October 20th, exactly one hundred years ago. As all developments in international law, it did not pop up out of the blue. It was negotiated as a response to and continuation of the experiences before and during World War I and the civil war in Finland.

It was a true case of "learning by doing" in the early days of institutionalised multilateralism. The decision of June 24th 1921 by the League of Nations Council made clear what the components of the solution to the Åland dispute should be. So, in fact what we call the Åland Example also celebrates its centenary anniversary in 2021. A solution could only be complete if sealed by a convention, a multiparty agreement guaranteeing the demilitarisation and neutralisation of the islands, said the Council.

What was already in place at the time was the 1856 Convention between Russia, Great Britain and France. According to Johan Otto Söderhjelm, who wrote one of the first doctoral theses on the demilitarisation in 1928, the 1856 convention continued to be in force and was binding also for the other parties that had signed the Paris Peace Treaty of 1856, namely Austria, Prussia and Sardinia. The 1856 agreement included, however, only

one operative article, which spoke against fortifications, and did not distinguish between times of peace and times of war.

Our focus today, however, is rather the 1921 Convention, and what is of importance here is that both the Commission of Jurists and the Commission of Rapporteurs appointed by the League of Nations Council to explore and prepare a decision on the Åland dispute agreed upon the continued validity of the 1856 treaty, and moreover of the need for a new convention which would address the gaps revealed in the 1856 regime through the events prior to and during the First World War.

During the First World War things had changed, and Russia, Great Britain and France were now allies. They tolerated, along with Sweden, what were explained by Russia as temporary fortifications necessary during time of war against the aggressive policies of Germany in the Baltic Sea. After all, the 1856 Convention did not regulate the ramifications of the right to self-defence in time of war, by contrast to what was the case at that same time for instance in the Ionian islands.

The Russian fortifications were indeed demolished at the end of the war in 1918. The Commission of Jurists on the Åland dispute (between Finland and Sweden) had started its work already in summer 1920, and described the norms pertaining to the demilitarisation of the Åland Islands as "*un règlement d'intérêts européens*" – that is, as norms of European interest, thus acknowledging that the need for a security solution was not simply of local, but of European, interest.

The Commission of Jurists was composed of Ferdinand Larnaude from France, Antonius Struycken from the Netherlands, and Max Huber from Switzerland, with the lawyer Georges Kaeckenbeeck from Belgium as secretary. These four were all highly engaged and well-known jurists at the time, and most of them were also highly involved in making the League of Nations a workable tool controlling the use of force and regulating international affairs.

The Commission of Rapporteurs also discussed extensively the issue of the demilitarisation and neutralisation of the islands, and came to similar conclusions. In fact, the Commission of Rapporteurs said clearly "*moins il y aura d'appareil militaire à Aland, plus la tranquillité y sera ssure*", i.e. the less military presence the more guarantee of calm. This Commission was composed of Baron Beyens from Belgium, Felix Calonder from Switzerland, and Jewish-American lawyer Abram Elkus.

In the treatment of the matter in the Council of the League of Nations one also finds names such as the Chinese president of the Council, Vi Kyuin Wellington Koo, who opened the demilitarisation and neutralisation negotiations in October 1921, and the Danish

diplomat *Herman Anke Bernhoft*, who was elected as chair of the conference, had earlier been involved in the negotiations concerning North Schleswig/Sønderjylland, and later became part of the Danish delegation in the East Greenland case before the Permanent Court of International Justice in the 1930s. The secretary of the demilitarisation and neutralisation conference was none other than Donisio Anzilotti, who later became a judge at the Permanent Court of International Justice. In the background we found the support of the Japanese diplomat Inazo Nitobe, Vice president of the Council, who said insightfully during a lecture in Brussels in September 1920:

> Certainly, a calm discussion of jurists has nothing in it to appeal to the lovers of the spectacular, to whom a war between Finland and Sweden would have afforded something spectacular.

Interestingly, Anzilotti and Kaeckenbeeck wrote a note for the conference about the position of the demilitarised and neutralised Åland Islands as part of collective security. So, both Commissions as well as the League of Nations Council emphasised the necessity and continuity of the demilitarisation of the islands, its broadening through rules applicable during armed conflict, as well as the international character of the matter.

However, the negotiations of the 1921 Convention did not involve only peacefully inclined lawyers and diplomats. In the conference negotiating the 1921 convention there was also a strong participation by and contacts with the military elites of the negotiating parties. In the Finnish delegation we find, for instance, General Oscar Paul Enckell, in the Danish delegation Captain Henri Wenck, Chief of Staff of the Danish Navy, and so on.

All in all, my point with all these names of distinguished men from around the world, engaged in the Åland Solution, is that the 1921 Convention on the Non-Fortification and Neutralisation of the Åland Islands was not a hasty or impulsive result done within a few weeks in October 1921, but a continuation of a deep and broad engagement and thorough examination by a range of political, diplomatic, legal and military voices from very many countries. I feel grateful for and impressed by the amount of intellectual and diplomatic activity invested in the Åland islands by all those international actors. I am also impressed, but not particularly surprised in view of the above, by the number of ambassadors present in this hall today, a fact which further underlines the relevance of the Åland solution in international affairs.

Needless to say that Finland, Sweden and the Ålanders – the last ones having no formal standing but who developed their own agency throughout the process – were the protagonists who also had to live with the outcomes on a day-to-day basis.

As it has been said many times before, this was a reasonably tolerable compromise. All sides were unhappy about some of its aspects, but all had received recognition of at least some of their claims and expectations. Finland was content with the sovereignty over the islands and wide international support for the newly established Republic. Sweden was happy mainly for the demilitarisation and neutralisation regime, and Hjalmar Branting, Swedish Prime Minister, received the Nobel Peace Prize in 1921 for accepting the Åland dispute settlement and for his support for the efforts of the League of Nations. The Ålanders were originally both unhappy and worried, but the solution had specified at least a list of guarantees concerning their territorial autonomy, as well as the cultural and language safeguards.

So, the Åland Solution consists of a number of interlocked elements addressing three core aspects:

- The issue of government (through the division of power between the state and the territorial autonomy, as well as the special appointment procedure for the Governor of Åland);
- The issue of language and culture (including the language of education and bilingual constitution of Finland);
- The issue of security, local and regional (through the demilitarisation and neutralisation regime, but also through provisions for an Ålandic Swedish-speaking police and the continued validity of the exemptions to conscription, which are not part of the demilitarisation but are often perceived by both outsiders and local laymen as being part of the demilitarisation and neutralisation regime).

In the period following the end of the First World War there were several other conventions signed, several of which are still in force. The Svalbard/Spitzbergen Treaty is an example that readily comes to mind, since it also includes a somewhat different system of confidence building and collective security adjoined by demilitarisation. In a similar vein, but a little later, also the Montreux Convention in 1936 concerning the Bosporus and Dardanelles. But I am thinking also of the numerous minority treaties and minority provisions in peace treaties affecting a large number of states and minorities, provisions remaining valid and of relevance still today.

In other words, the Åland solution is a wooden knot puzzle, as Finnish diplomat René Nyberg has aptly put it – easy to take apart but difficult to put together, both with regard to its own components and the web of relations created, as well as with regard to its place as a crucial element of the ideas of collective security and confidence building still valid and much needed today. It is this unique experience that functions as a source of hope and

inspiration for all those who visit Åland, and who enquire about better knowledge and understanding of what the Åland Example entails.

We do not have the time to go through the specific provisions of the 1921 Convention in detail, but I would be more than happy to do so when an occasion arises.

The concept of demilitarisation (Articles 3-5) entails the basic restrictions on fortifications and military activities. The concept of neutralisation (Articles 6-7) outlines the specific exceptions permitted during wartime, thus recognising the right to self-defence but under limitations. The starting point is always the absence of fortifications and military activities, and limitations to this basic point should be interpreted restrictively.

I want to highlight for you especially the wording of Article 8:

> The provisions of this Convention shall remain in force in spite of any changes that may take place in the present status quo in the Baltic Sea.

I am very grateful that Minister Haavisto has already underlined this exact same provision in his speech.

What the Convention is saying is that it is valid irrespective of power relations, military alliances, or the prevailing security situation. Come rain or shine, for better or for worse, the non-fortification and neutralisation is to be respected. It is clear from the circumstances of its inception that its value is at the forefront especially during periods of crisis and conflict, and that the peacetime provisions give the foundation and provide the trust and communication necessary for it to function in times of crises.

In fact, this provision is fully in line with the core idea encapsulated much later in the Vienna Convention on the Law of Treaties (Article 62.2.a) which prohibits the possibility of invoking fundamental change of circumstances with regard to treaties that establish boundaries.

There are voices, also in Finland, also among Swedish-speakers, and also in Sweden, who say: "We cannot tolerate a situation of a so-called 'military vacuum'. It is dangerous."

The answer in the convention is that what such voices describe as a military vacuum is, in reality, filled with a dense web of legal rules and diplomatic tools. These voices who speak of a military vacuum are those that Nitobe described as "lovers of the spectacular", who show contempt vis-à-vis lawyers, diplomats, compromise and agreements – all such things which can be described as 'words'. The alternative to words is of course violence and war, and war means, unavoidably, death.

The 1921 Convention has been confirmed on a number of occasions, but I shall not go into the details. From an Ålandic perspective, the Convention came to the forefront

in October 1938, when demonstrations were held in Mariehamn against the proposals by certain circles in Sweden and Finland to limit the territorial scope of the Convention. This is perhaps the first example of an occasion when the Ålanders were involved in the upholding of the demilitarisation and neutralisation regime.

Of practical relevance in the Baltic Sea are the declarations made by Sweden, Finland and Denmark at the time of the ratification of the 1982 Convention on the Law of the Sea, which allowed for a more restricted right of passage through the Åland Sea, i.e. the strait between Åland and Sweden, as well as through Öresund. Sweden and Finland relied on the Åland demilitarisation and neutralisation as a long-standing regime to achieve such an exception.

But let us leave all such legal details, and death and war, aside! What do people who have already turned 100 years old give as advice to us 'youngsters'?

I found on the internet this fantastic 'Guide to Living your Best Life', where one hundred year old ladies share with us their thoughts on the matter. Here are some excerpts:

- Get yourself involved!
- Look for peace, because it is not always easy to find.
- Think for yourself!

Ladies and gentlemen,

I hope I have convinced you that setting aside, ignoring or undermining the demilitarisation and neutralisation of the Åland Islands would not only entail a great loss for Åland, for Finland and for Sweden, but in fact for international law and cooperation and peace. The international character of the regime is not altered by the fact that there are constitutional and domestic rules implementing some aspects of the international decisions and agreements.

I hope I have also convinced you that the international and the domestic aspects of the Åland solution are equally important, and need to be dealt with wisely and in a balanced way. This requires respecting the territorial integrity of Finland without obliterating the international obligations that have in fact become customary, and according to some experts even erga omnes, i.e. placing obligations on all states and international actors. This is fortunate at times when superpowers operate across the globe.

It is still conventional armed activity that kills people in conflicts around the world. It is weapons, bombs, mines, and drones that kill. While we continue discussing exactly how international law applies to cyberspace, we can therefore welcome the fact that the UN General Assembly confirmed in its resolution A/Res/73/266 of 22 December 2018 that

indeed international law applies to cyberspace too. Cyberspace could even incorporate rules of demilitarisation and neutralisation.

Let me, however, finish with more of the advice given by one of the grand centenarian ladies, advice which I think is spot on for the topics we discuss:

- If you give up on yourself, shame on you!

Thank you!