THE CTBT: PROSPECTS FOR ENTRY INTO FORCE

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After more than a decade in operation, with a staff of some 260 men and women, a budget of nearly 100m euros, a responsibility to maintain an International Data Centre and a vast International Monitoring System comprising of hundreds of seismic, hydro-acoustic, infrasound and radionuclide stations spread across the world, the Comprehensive Test Ban Treaty Organization (CTBTO) stands out—even among the top tier of international organizations. Yet for all its impressive accomplishments, including mock on-site inspections, the CTBTO remains a "Preparatory Commission" only: an institution preparing for the entry into force of the treaty it was created to administer.

Fourteen years after being opened for signature, and sixteen since negotiations began, the CTBT languishes in a kind of legal limbo created by its unusually stringent procedures for entry into force—namely, the need for 44 specific countries listed in Annex II of the treaty to ratify the accord before it can become operational. Still to do so are China, Egypt, India, Indonesia, Iran, Israel, North Korea, Pakistan and the United States.

With the announcement by President Obama in Prague of last year that the US would again seek to ratify the Comprehensive Test Ban Treaty, however, many are starting to wonder whether the CTBT's moment will at long last arrive.

Near-term prospects

The failure of the United States to ratify the CTBT in 1999, followed by the open hostility of the Bush administration toward it, left prospects for entry into force dim. The US was a major force in treaty negotiations and without Washington's diplomatic heft, efforts to secure the signature and ratification of other Annex II states waned. The renewed commitment to ratification by the United States appears to be reversing that trend. Already, Indonesia has announced its intention to begin the process of ratification.

The general belief is that US ratification of the CTBT would, in the near-term, produce a series of subsequent ratifications. As the final report of the International Commission on Nuclear Non-Proliferation and Disarmament put it last December, US ratification of the CTBT "would be a circuit-breaker, having an immediate impact on the other CTBT hold-out states, and creating much new momentum in itself for the broader non-proliferation and disarmament agenda." China, for example, has hinted that it would ratify the treaty in short order following such a move in the US, which would see all five NPT-recognised nuclear-weapon states—and, albeit coincidentally, all five permanent members of the UN Security Council—become full parties. Furthermore, ratification by the US would exert real pressure on both Israel and Egypt—both strong US allies—to follow suit, as it would on the leadership in Iran.

That said, prospects for ratification among the three Middle Eastern CTBT hold-outs are inexorably entwined with the complexities and nuances of their regional security situations. Although securing CTBT ratification of these three states will not be an easy task, the successful US effort to negotiate a compromise over the long-proposed Nuclear Weapons Free Zone in the Middle East at the 2010 NPT Review Conference was an encouraging precedent.

Interim steps

Last year, the Perry-Schlesinger Commission on the Strategic Posture of the United States—although divided on the CTBT issue—recommended that if the US Senate was to consent to ratification then the US "should secure agreement among the P-5 to implement CTBT verification provisions *without waiting for entry into force of the treaty* and to agree to an effective process among the P-5 to permit on-site inspections." Short of voluntary adherence to verification provisions, including on-site inspections, test-site transparency measures are another possible step that the P-5 could pursue. As part of the effort to secure Senate ratification of the Threshold Test Ban Treaty, for instance, the United States and the Soviet Union conducted a Joint Verification Experiment in 1988 to calibrate their monitoring systems.

Test site transparency measures would also assist in alleviating perennial concerns over "subcritical" nuclear experiments, which, while technically permitted under the treaty, are difficult to distinguish from prohibited low-yield testing. Currently, China, Russia and the US all appear to be conducting subcritical tests, leading to the accusations that each is secretly conducting prohibited nuclear tests. Russian officials have suggested that they would be open to test site transparency measures following the entry into force of the treaty. Measurements of neutron and gamma-ray radiation from subcritical tests is one method of on-site monitoring proposed.

Hard cases: India, Pakistan and North Korea

During the many months of negotiating, entry into force of the treaty became a more problematic issue than many at first anticipated. Whereas the Conference on Disarmament normally sends negotiated treaties to the UN General Assembly by consensus, Indian opposition to the absence of any language in the

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treaty setting a timeline for disarmament saw Australia take the unusual step of forwarding the treaty itself following the conclusion of negotiations in 1996.

India subsequently refused to sign the CTBT and in May 1998 conducted a round of nuclear tests—its first since 1974. Pakistan followed suit with tests of its own. Given their intense nuclear rivalry, these two countries are commonly assumed to be among the hardest of cases when it comes to ratification. But, as in the case of Egypt-Iran-Israel, India and Pakistan might yet consent to ratification. Indian officials have made it clear that they do not wish to be among the final states to bar the treaty's entry into force. For their part, Pakistani officials have made it clear that they will ratify once India does.

The United States, in negotiating a civil nuclear cooperation agreement with India and supporting an exception for India in the Nuclear Suppliers Group, may have lost a unique opportunity to secure India's signature and ratification of the CTBT. Nonetheless, officials in the US, India and the International Atomic Energy Agency have argued that, whether or not India's exemption is formally conditioned on non-testing, the effect of the deal will be to gradually draw India into the nuclear non-proliferation regime. A wave of ratifications leaving India among a handful of hold-outs will put this hypothesis to the test.

All of which leaves troublesome North Korea, which withdrew from the Nuclear Non-Proliferation Treaty seven years ago and conducted nuclear tests in 2006 and 2009. Today, North Korea's ratification of the CTBT looks highly unlikely. But as with Egypt, Iran and Israel in the Middle East and India and Pakistan in South Asia, North Korea's accession to the CTBT is hostage to the larger security dynamics of the Korean Peninsula. If the prospects for North Korea's signature and ratification look gloomy, it is only because North Korea's geopolitical isolation appears likely to continue for the indefinite future. A breakthrough in US-North Korean relations could rapidly result in North Korean acceptance of the CTBT.

Provisional application of the treaty

What happens, though, if the international community gets close to entry into force but still faces one or two obstinate hold-outs? One proposal—initially controversial, but slowly gaining traction—is the provisional application of the treaty pending its full ratification by all.

As noted previously, the CTBTO Preparatory Commission already functions much as a fully-fledged international organization, with a (provisional) technical secretariat, a functioning data centre and an established monitoring system. State parties could agree to an operational protocol that outlines the treaty's provisional application. And while it would be no substitute for actual entry into force of the treaty, such a protocol would enable the CTBTO to function more fully in the intervening period and help bolster the steadily growing norm against the detonation of nuclear devices.

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