

Towards A Nuclear Weapon-Free World: Entry Into Force Of The CTBT

NPT/CTBT Nexus

From the outset the Comprehensive Nuclear-Test-Ban Treaty has had a special link with the Nuclear Non-Proliferation Treaty.

One of the preambular paragraphs of the NPT reads:

'Recalling the determination expressed by the Parties to the 1963 Treaty banning nuclear weapon tests in the atmosphere, in outer space and under water in its preamble to seek to achieve the discontinuance of all test explosions of nuclear weapons for all time and to continue negotiations to this end'.

This was in 1968, twenty-eight years before the General Assembly passed the resolution adopting the CTBT.

In those twenty-eight years the need for the early conclusion of a comprehensive nuclear-test-ban treaty was a consistent call at NPT Review Conferences, usually in the context of debate on the implementation of Article VI of the Treaty on the cessation of the nuclear arms race and nuclear disarmament.

Indeed at the third Review Conference in 1985 the debate on article VI focussed largely on a comprehensive nuclear-test-ban treaty, with many speakers expressing disappointment that the trilateral negotiations which had begun between in 1977 between the Soviet Union, the United Kingdom and the United States had not continued after 1980. There were expressions of regret that work on the subject had not got underway in the Conference on Disarmament.

The question of a comprehensive nuclear-test-ban treaty was controversial in 1990 and again in 1995, when participants in the Review and Extension Conference endorsed the completion of negotiations on a comprehensive test-ban treaty no later than 1996 (as well I might add as negotiations on fissile material treaty). Pending entry into force of the CTBT the nuclear-weapon states were called on to exercise the utmost restraint.

The 1996 end-date was met, albeit with considerable difficulty.

A chairman's text of a treaty which had wide, but not complete, support in the Conference on Disarmament was duly introduced into the General Assembly where it received 158 votes in support, three votes against and five abstentions.

To quote from a recent publication (Nuclear test Ban: Converting Political Visions to Reality by O Dalman, S Mykkelveit and H Haak):

We had reached the end of a long journey. Few expected that we were at the start of another long journey, which has still to reach its destination.

The issue, of course, was Article XIV on Entry into Force.

Agreement on this article was extremely contentious. We now have to live with the decision reached back then that all 44 States appearing as hosts on the IAEA list of nuclear power and research reactors must ratify the CTBT before it can enter into force. With the benefit of hindsight it is not hard to see how this decision has meant that thirteen years down the track the Treaty is not in force. But in 1996, the choice appeared to be Article XIV or no Treaty at all.

The difficulty of the task has not dissuaded States Parties from pursuing entry into force of the CTBT. Although I will touch on global efforts a little later, I want to focus here on the important role of the NPT in this regard.

The first of the thirteen practical steps towards disarmament agreed at the successful 2000 NPT Review Conference related to the CTBT. States Parties agreed on the *'importance and urgency of signatures and ratifications, without delay and without conditions and in accordance with constitutional processes, to achieve the early entry into force of the CTBT'*.

And to spring forward to the last Preparatory Commission for the 2010 Review Conference the early entry into force of the CTBT featured in the Chair's draft recommendations. This reflected the many references as to the significance of the CTBT.

Why is the CTBT so important?

This brings us to the why. Why has the entry into force of the CTBT been accorded such significance in the NPT context and more widely?

I think there is little argument about the practical effects of entry into force of the Treaty. It would be a powerful disarmament and non-proliferation measure.

The final declaration of the last Entry into Force Conference for the Treaty held in New York in September sets this out explicitly:

We reiterate (Ratifying States and States Signatories) that the cessation of all nuclear test explosions and all other nuclear test explosions, by constraining the development and qualitative improvement of nuclear weapons and ending the development of advanced new types of nuclear weapons, constitutes an effective measure of nuclear disarmament and non-proliferation in all its aspects.

Further in the declaration the importance of signature and ratification of the Treaty is affirmed *as one of the practical steps for the systematic and progressive efforts towards nuclear disarmament and non-proliferation.*

So it is an arms control treaty that stops States Parties possessing nuclear weapons from testing new or old types of those weapons. And it acts equally as an effective measure preventing non-nuclear armed states parties from developing nuclear weapons.

The tardiness of some States, especially those in Annex 2, to ratify the Treaty suggests that they are cognisant of these practical implications.

I have heard it argued that the wide adherence to the Treaty means that an international norm against testing has already been established. Well perhaps. But it has not alas prevented certain States from testing and indeed in one case only a matter of months ago.

And a norm, however valuable, is not a binding legal commitment. How would we feel if the NPT were not yet in force? Only the entry into force of the CTBT would offer the prospect of a permanent and legally binding commitment to end nuclear testing.

Finally I would just comment on the effects on the Review Conference that the ratifications of the Treaty, especially by Annex 2 nuclear weapon-states and states possessing nuclear weapons, would have. They would constitute a milestone towards achieving the balance between the interlocking and mutually-reinforcing commitments of the NPT. They would also be a concrete demonstration of a determination to work towards a world free of nuclear weapons.

The present situation

While it is a matter of great regret that the Treaty has not yet entered into force, it has achieved near universal adherence with signature by 182 States and as of the date of the last Entry into Force Conference 150 ratifications.

The international monitoring system to verify that there are no violations of the Treaty with seismic, radionuclide, hydroacoustic and infrasound sensors located around the world – as far afield as New Zealand I might note - feeding their data into the international data centre in Vienna is about 85% complete. More than 70% of the 337 facilities are certified.

We know that the system already works. According to a press release from the Provisional Technical Secretariat of the CTBTO on 25 May the North Korean underground nuclear test was picked up by 23 primary systems and 16 auxiliary seismic stations.

The chances of cheating and not being found out will diminish even further once the Treaty enters into force, with for example the possibility for States to request on-site inspections in suspicious circumstances.

But when is this likely to be? How soon can we realistically expect this significant and widely supported international instrument to enter into force?

I'm not going to go there. I don't know of any reputable commentator who has.

But this year has been a good year for the Treaty. UN Security Council resolution 1887 calls in operative paragraph 7 for *all States to refrain from conducting a nuclear test explosion and sign and ratify the CTBT, thereby bringing the treaty into force at an early date.*

This follows the very welcome commitment by President Obama to work for US ratification and for similar commitments by China and Indonesia. Certainly even these three important ratifications would not bring the treaty into force. Three States in Annex 2 have yet even to sign. But it is tempting to think that there might be something of a domino effect that would bring the non-ratifiers amongst Annex 2 down to very small numbers indeed.

What is to be done meantime?

Continuing high-level support for the Treaty is of the essence.

I referred to the historic Security Council resolution. But for years now New Zealand, Australia and Mexico have taken turns in the UNGA to run a resolution which is always very strongly supported.

That resolution, broadly speaking, seeks to encourage and promote further movement towards entry into force of the CTBT, urges a continuation of the unilateral moratoriums on testing pending entry into force, and supports the work of the Provisional Technical Secretariat in ensuring the Treaty's verification regime will be operational on day one.

This can be, and often is, accompanied by demarches at the political level. Ambassador Jaap Ramaker of the Netherlands, who was closely involved in the negotiation of the Treaty, has just stood down as a special representative to promote the Treaty after some six years of service. His work will no doubt continue through the ongoing role of the new Special Coordinators of the biennial Article XIV Conference, France and Morocco.

At the national level the Treaty's supporters continue to take the opportunity in their bilateral diplomatic contacts to urge ratifications of the Treaty.

Continued strong support for the Provisional Technical Secretariat as it works to get the monitoring system and the data centre fully up and running is essential. In the absence of tangible progress on ratification by the nine remaining Annex II states, there is likely to be increasing scrutiny and pressure on the work of the Secretariat, particularly on the appropriateness of pursuing urgent completion of the IMS and other elements of the Treaty verification system. But I believe it is necessary for States Parties to stand by their commitment to the Treaty and to continue to build on what has already been achieved.

It is hard to maintain staff morale and commitment in an organisation that continues to be provisional, and with no end in sight as to how long this situation might obtain. They need to be left in no doubt that the international community recognises their efforts and values the contribution to the security of us all that they are making.

A concrete way of doing this of course is to ensure that contributions to the Preparatory Commission budget are made in full and on time; and that the budget is adequate for the purposes States Party require it to meet. Especially now at this time of global recession it is no easy matter to ensure that the budget is appropriately funded.

Of course, it is not only governments which can work for entry into force of the Treaty. Civil society has a real role to play. Activities can include academic

studies and outreach, workshops and scientific partnerships. Whether they focus on the Treaty's direct implications for nuclear disarmament, or whether they promote civil society applications like tsunami warnings, such activities are essential for maintaining and increasing the momentum towards entry into force of the Treaty. They can act as a persuasive force on policy makers.

Broader implications

One final, broader point: the CTBT's entry into force will not just bring an end to nuclear testing, as important as that milestone will be. By achieving the Treaty's entry into force we will also be sending an important signal; a signal that a practical, legally binding, multilateral instrument with a nuclear disarmament aim is possible. It's something that has never been achieved before and its importance should not be overlooked, particularly as we look towards the future and a world without nuclear weapons.