

Some Ideas for Accelerating the Entry into Force of the CTBT

by

Anastasia Shavrova and Sarah Bidgood
Original members, CTBT Youth Group

2016 marks the 20th anniversary of the opening for signature of the Comprehensive Nuclear Test Ban Treaty. This anniversary, however, is a time for reflection more than celebration. At the time of the Treaty's negotiation, many anticipated that the Annex 2 States, whose ratification was necessary for its Entry into Force, would be quick to do so. Instead, domestic politics and a host of regional tensions have stymied entry-into- force of this critical disarmament and nonproliferation instrument.

Nevertheless, the 20th anniversary of the Treaty's opening for signature should be seized upon as an opportunity to take stock of how the international landscape has changed and what new avenues may be available to secure ratification of the Treaty by Annex 2 and other states. With this goal in mind, this paper provides a series of recommendations that reflect new realities, resources, and approaches to facilitate the Treaty's Entry into Force. While a number of these depart significantly from traditional recommendations, most of which have focused on the United States, their originality may afford greater prospects for success.

US ratification is often regarded as the linchpin to the Entry into Force of the CTBT. While it is certainly the case that US ratification would significantly advance this process, challenges in US domestic politics and the prospects for Senate ratification mean that attention should also be devoted to achieving ratification in other Annex 2 states. As a result of these circumstances, the recommendations below focus on the potential for other Annex 2 states in key regions to ratify

the Treaty. Their ratification may, in turn, facilitate US ratification.

1. A key region in advancing CTBT Entry into Force is the Middle East, and representatives of the Israeli government have intimated to Executive Secretary Zerbo that Israel is in favor of ratifying the CTBT. Indeed, Dr. Zerbo has indicated that he believes Israeli ratification to be imminent--a matter of when rather than if.¹
2. Israel has made it clear publicly that it wants to support the ratification of the CTBT, a position that requires support and cooperation from fellow members of the Middle East and South Asia (MESA) group. MESA is one of six regional groups identified in Annex 1 of the Treaty in accordance with its Article 2 paragraph 28, and it is also recognized as a regional group by the IAEA Statute. Each regional group will be represented by a specified number of States on the Executive Council when the Treaty enters into force. Israel has faced opposition from some other members of this group in the past in other contexts, as not all MESA members recognize Israel as a state. Nevertheless, if Israel ratifies the Treaty, this will increase the likelihood that other States in the region, including Iran and Egypt, will follow suit owing to the powerful confidence-building measure this would constitute. Further, by demonstrating its confidence in the Treaty's verification and monitoring capabilities through ratification, Israel, as the United States' closest ally in the region, may be able to undermine arguments against ratification made by Republican Senators in US Congress.
3. Indeed, the moment is ripe for focus on CTBT ratification within the MESA group, as Iran has improved relations with the US and with the West following the conclusion of the JCPOA. Iran's support

¹ Tim Farnsworth. "Israeli Government Expresses Strong Support for CTBT," *Project for the Comprehensive Nuclear Test Ban Treaty*, April 8, 2014. <<http://projectforthectbt.org/Israeli-Government-Expresses-Strong-Support-for-CTBT>>

for the Treaty dates back to the first Article 14 Conference in 1999², and, while Iran suspended the transmission of seismic data to CTBTO's headquarters in Vienna in 2007, this could conceivably resume, especially now that a deal between the P5+1 has been concluded. The current climate should, at least, provide an opportunity in which to examine Iran's concerns with the CTBT and to give serious consideration to its role as a confidence building measure in the region.

4. Although the MESA group exists on paper, it has not yet convened any official meetings, and its capacity to influence nonproliferation initiatives in the region is, as yet, untested. Nevertheless, its potential as a body that can build support for CTBT ratification should be explored. Indeed, several of its key members have at various times expressed support privately for the "stand up" of MESA. While Iran's current opposition to the CTBT has impinged on the group's ability to speak out in favor of ratification, this problem may be more manageable now for the reasons highlighted above.
5. The GEM should commission a study of MESA and its potential role in jump-starting the ratification process in the region. This group's role in the Treaty's Entry into Force could coincide with the concept of a Middle East Zone Free of Nuclear Testing, which some stakeholders have proposed as a step toward a MEWMDFZ.
6. Additional attention should be focused on Pakistan, which has neither signed nor ratified the CTBT. Dr. Zerbo's recent meeting with senior Pakistani officials in Geneva (tweet, May 17, 2016) hinted at Minister Fatemi's interest in cooperating with the CTBT and working on IMS stations in the country; as an observer to the

² Daryl G. Kimball. "Political and Security Challenges and Opportunities to Achieve Progress." Statement, Framework Forum Roundtable. April 18, 2016. <<https://www.armscontrol.org/events/remarks/Civil-Society-Statement-Delivered-by-Daryl-G-Kimball-to-the-9th-CTBT-Article-XIV-Conference>>

Treaty, Pakistan is currently unable to access data from the International Data Center in Vienna. The country's ratification could be linked to its efforts to be admitted into the Nuclear Supplier's Group, to which it has applied. This may, in turn, put pressure on India to uphold its nonproliferation commitments as another applicant for entry into the group. Because applications must be accepted unanimously by all group members, there is ample opportunity to pressure both India and Pakistan in this regard.

7. There are also potential legal measures that could be contemplated with regard to the CTBT's entry into force. Indeed, it is possible that the provisional entry into force among those members who have already ratified the Treaty may be permissible under Article 25 of the Vienna Convention.
8. Additionally, the UNGA could seek an advisory opinion from the ICJ on the legal obligations of countries who have ratified the Treaty when the Treaty is not yet in force.
9. While some of the holdout Annex 2 States represent lower-hanging fruit in terms of their ratification of the Treaty, others will face more difficulty in ratifying for a host of reasons. With these challenges in mind, the UNGA could also seek to amend Article 14 of the Treaty so as to insert a so-called "Tlatelolco Provision," which would allow countries to waive the conditions for the Treaty's Entry into Force as States were able to do under Article 28 of that Treaty.
10. In addition to these measures, and in parallel with them, the UNSC and UNGA may wish to consider adopting a resolution that encompasses measures to reinforce the norm against nuclear testing and calls for action on the part of Annex 2 States who have yet to ratify, as members of civil society have suggested.³ The main risk of

³ Daryl Kimball. "Strengthening the Taboo Against Nuclear Testing," Prepared remarks, The State of the Comprehensive Test Ban and Nonproliferation Treaties, February 11, 2016. <<http://www.armscontrol.org/print/7328>>

such an approach is that it could reveal less support for the Treaty than might otherwise be assumed.

11. With regard to the Treaty's verification regime, 90% of 337 planned International Monitoring System facilities are currently in operation around the globe. The CTBT could consider installing monitoring systems in strategic areas close to those countries who oppose these facilities in order to improve its ability to detect suspicious activity in these regions absent the cooperation of these states. Doing so might, in turn, encourage ratification among those countries which have not yet done so owing to concerns over geographic gaps in the IMS network.

12. CELAC and CARICOM have already expressed their support for the CTBT; other regional groups should be encouraged to do the same.⁴

⁴ "NPT Review Conference: Support for the CTBT Voiced Over 100 Times." Highlights, Comprehensive Nuclear Test Ban Treaty Organization Information Center. <<https://www.ctbto.org/press-centre/highlights/2015/npt-%20review-conference-%20support-for-%20the-ctbt-%20voiced-over-%20100-times/>>