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The Comprehensive Nuclear-Test-Ban Treaty is in danger: Here's how to save it

POLICY BRIEF

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About the author

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Executive Summary

This paper explores the Trump administration's policy on the Comprehensive Nuclear-Test-Ban Treaty (CTBT). It offers no judgement on the veracity of the recent US allegations against Russia for violating the treaty. Rather, it assesses how the accusations weaken the CTBT and fuel perceptions of brinkmanship, including speculation of US withdrawal of its signature from the treaty. It then lays out the repercussions of these recent actions and offers recommendations for supporters of the CTBT.

Washington's recent allegations against Russia for violating the CTBT—the first such allegations since Moscow ratified the treaty in 2000—mark a shift in Washington's rhetoric on the treaty. If President Trump formally 'unsigned' the CTBT, the consequences would be severe. At best, this development would severely damage the prospects of any other Annex II states ratifying (i.e. those states whose ratifications are necessary for the CTBT to enter-into-force).¹ At worst, it could result in the breakdown of the CTBT and, possibly, in a return to testing. Given that the halting of nuclear tests, enshrined in the CTBT, was a key factor in the indefinite extension of the Treaty on the Non-Proliferation of Nuclear Weapons (NPT) in 1995, a collapse of the CTBT and a return to testing could result in the breakdown of the NPT regime.

In addition to urging the US administration to cease undermining the CTBT, this policy brief offers the following specific recommendations to strengthen the international norm against testing:

- Strengthening normative pressure to maintain the moratorium on nuclear testing by making further progress on CTBT universalisation, especially amongst non-Annex II states. Several states in the South Pacific, for example, that have experienced first-hand the adverse effects of atmospheric nuclear testing have yet to sign and/or ratify the CTBT, despite having declared their support for the treaty in various statements.²
- Raising the profile of the CTBT in the 2020 NPT Review Conference by means of a dedicated session in the main plenary to highlight the important link between the CTBT and the NPT.
- Seeking coordinated unilateral declarations from the remaining non-signatory and non-ratifying states to re-consider signing and/or ratifying the CTBT. The European Union (EU), whose members have all ratified, should lead this process.
- Encouraging non-signatory states to become accredited observer states to the CTBTO's plenary body, the Preparatory Commission. Whilst falling short of signing and ratifying the CTBT, becoming an observer is a means of demonstrating support for the treaty.

Introduction

Arms control has become unfashionable. The US withdrawal from the Joint Comprehensive Plan of Action (JCPOA, the so-called Iran nuclear deal) as well as the recent termination of the Intermediate-Range Nuclear Forces Treaty (INF Treaty), represent the undermining of key elements of the multilateral nuclear arms control regime. The Comprehensive Nuclear-Test-Ban Treaty (CTBT) may become the next arms control victim as rumours circulate in Washington that National Security Advisor John Bolton is urging President Donald Trump to withdraw the US signature from the CTBT.³

Changes in US policy on the CTBT

Washington's position on the CTBT has oscillated between favourable during Democratic presidencies (Clinton, Obama) and sceptical under Republican ones (Bush, Trump). In line with this partisan divide, the latest Nuclear Posture Review (NPR) has once again changed Washington's policy on the CTBT. The Obama administration's NPR committed to 'pursuing ratification'⁴ and 'pursuing a sound Stockpile Management Program...[to] ensure a safe, secure, and effective deterrent without...further nuclear testing.'⁵ The Trump administration's NPR has pivoted to 'not seek[ing] Senate ratification'⁶ and 'remain[ing] ready to resume nuclear testing if necessary to meet severe technological or geopolitical challenges.'⁷

There is a striking similarity between President Trump's policy on the CTBT and that of President George W. Bush: to maintain the moratorium on nuclear testing without seeking CTBT ratification, whilst retaining the option to resume nuclear testing 'should the need arise.'⁸ Like Bush, the Trump administration's NPR was adamant that it would 'continue to support the Comprehensive Nuclear-Test-Ban Treaty Organization Preparatory Committee as well as the International

Monitoring System and the International Data Center.'⁹ The United States contributes 22.47% of the CTBTO's annual budget—the single largest contribution of any state.¹⁰

Funding the CTBTO maintains US access to the seismic, hydroacoustic, infrasound and radionuclide data from the organisation's 321 international monitoring stations around the world. These stations monitor the Earth for traces of a nuclear explosion. So far there has been no reduction in US funding, despite the Trump administration contemplating slashing funding for the organisation in its 2018 budget outline.¹¹ In contrast, the Bush administration pursued a more restricted approach to funding the CTBTO that excluded on-site inspection activities, paying, for instance, 'only \$14.4 million out of \$22 million requested by the CTBTO for fiscal year 2006.'¹²

Recent developments could signal a shift away from the Trump administration's declared policy on the CTBT. In late May, the US Defense Intelligence Agency claimed that Russia had conducted subcritical nuclear tests in violation of the CTBT.¹³ The allegations came just two months after four Republican Senators had written to President Trump, urging him to 'unsign' the treaty.¹⁴ (By signing the CTBT, Washington made a legally binding commitment not to take action that defeats the object and purpose of the treaty.) There have also been isolated calls from the US think tank community to 'unsign' the test ban by 'send[ing] a letter restating that the U.S. will not proceed to ratification to the U.N.'¹⁵ Although in 1997 a classified US document accused Russia of violating the CTBT, the United States publicly dismissed the leaked claims as false.¹⁶ This time, the accusations were made in public. It is also the first time that Washington is making such allegations after Moscow ratified the CTBT in 2000. These events mark a shift in Washington's rhetoric that could put the treaty in jeopardy. As a diplomat familiar with the issue put it, 'If you

want to undermine and, possibly, destroy the CTBT, this is exactly how you would do it.¹⁷

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Weakening the CTBT

The US allegations weaken the CTBT. These claims could dominate the Article XIV Conference this September. This bi-annual conference is a platform for states, in accordance with Article XIV of the treaty, to review progress towards, and promote, CTBT entry-into-force. The accusations could politicise the deliberations, impede progress on other issues and prevent a consensus final declaration for the first time in the history of these conferences. This would result in negative atmospherics around the CTBT and could negatively impact the Nuclear Non-Proliferation Treaty (NPT) Review Conference in 2020.

Furthermore, Washington’s claims weaken international confidence in the International Monitoring System (IMS). Consisting of 337 facilities around the world that monitor the planet for traces of a nuclear explosion, the IMS is the backbone of the CTBT’s verification regime. By accusing Russia of conducting nuclear tests that have produced yield but that have not been detected by the IMS, the US Defense Intelligence Agency’s allegations question the verifiability of this treaty and the effectiveness of the IMS. Although the IMS is designed to detect nuclear explosions of one kiloton or more, there is widespread recognition that the system ‘can now detect nuclear explosions well below [that] threshold.’¹⁸ For instance, the IMS detected all of North Korea’s nuclear weapons tests, the first of which had an estimated yield of 0.7 kiloton.¹⁹

Washington has hitherto signed but not ratified the CTBT. The United States Senate rejected CTBT ratification in 1999, with only 51 Senators voting in favour (67 ‘yes’ votes are needed for ratification). Concerns over the treaty’s verifiability played a major role. As Senator Richard G. Lugar put it, ‘The goal of the CTBT is to ban all nuclear explosions worldwide: I do not believe it can succeed. I have little confidence that the verification and enforcement provisions will dissuade other nations from nuclear testing.’²⁰ For critics of the CTBT, the recent allegations against Russia confirm this point.

If the rhetoric on the CTBT in Washington persuades President Trump to formally ‘unsign’ the CTBT, the consequences would be severe. The resultant loss of US funding alone would significantly restrict the CTBTO’s capacity to maintain the IMS. Currently, around 80% of the organisation’s budget is for maintaining the network of 297 certified IMS stations.²¹ Less funding for the IMS, along with the possible disconnection of the 37 certified US stations from the IMS, would mean a much weaker monitoring system: less capacity to verify the absence of nuclear testing is tantamount to less credibility. At best, this development would severely damage the prospects of any other Annex II states ratifying; at worst, we could see the breakdown of the CTBT regime and, possibly, a return to testing.²²

To be clear, a collapse of the CTBT is not in Washington’s strategic interest. Although upon entry-into-force the CTBT will restrain the United States, it will also restrain Washington’s adversaries. A de-facto freeze on vertical proliferation, the CTBT solidifies Washington’s quantitative testing advantage over all other nuclear-weapon states: the United States carried out 1,032 tests, the Soviet Union/Russia 715, France 210, the United Kingdom 45, and China 45.²³

But as Washington appears unwilling to accept constraints on American power under President Trump, it is plausible that

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Washington might actually proceed with 'unsigned' the CTBT. It is not without precedent. In 2002, under President Bush, the United States took similar action with respect to the Rome Statue on the International Criminal Court. Although 'unsigned' the CTBT is not synonymous with a US revocation of its moratorium on nuclear testing, the international community will perceive it this way.²⁴ According to the Russian Ministry of Foreign Affairs, '[The US allegations] can be only considered as a cover-up for Washington's steps on leaving the CTBT and resuming full-fledged nuclear tests.'²⁵

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Any US brinkmanship around the CTBT weakens the international non-proliferation regime. 'Unsigned' the CTBT would pave the way for a new nuclear arms race. The moratoria on nuclear testing declared first by the Soviet Union in 1990, then by the United States in 1992, signalled not only a post-Cold War recognition that the nuclear arms race was over, but the halting of nuclear tests was also a key factor in the indefinite extension of the NPT in 1995. This link between the CTBT and the NPT predates both treaties. Since the negotiations of the NPT (i.e. prior to the NPT's signature and ratification), the non-nuclear-weapon states have regarded, 'a ban on nuclear testing...[as] the litmus test'²⁶ to gauge progress towards the NPT's disarmament objectives. Accordingly, the non-nuclear-weapon states will perceive a return to explosive nuclear testing as a violation of the NPT bargain. As one official put it, 'The CTBT and the NPT are inextricably linked, so it is difficult to see the NPT survive if explosive nuclear testing resumes.'²⁷

Recommendations

It need not come to this. If the Trump administration is convinced that Moscow violated the CTBT, it should provide substantiated evidence for such claims from national technical means and the CTBTO's IMS and International Data Center.²⁸ Washington could also seek reciprocal transparency measures at the Novaya Zemlya test site, where Russia allegedly violated the CTBT, and the US test site in Nevada.²⁹ Until such substantiated evidence is provided, the United States should refrain from making such allegations in public to avoid perceptions of brinkmanship around the CTBT, including speculation of impending US withdrawal.

Although Washington's ambassador to the Conference on Disarmament dismissed allegations that the United States seeks to resume explosive nuclear testing as 'crafty, Soviet-like propaganda'³⁰, reaffirming that 'we've made very clear that we will abide by our nuclear testing moratorium'³¹, the statement fell short of unequivocally dismissing claims that Washington might 'unsign' the CTBT. A clear statement to this effect would go a long way in countering speculation of US brinkmanship around the treaty.

In the meantime, the international community should strengthen the international norm against testing. Several effective measures to this end are possible. **First, the international community should seek to make further progress on the CTBT's universalisation.** With 184 signatures and 168 ratifications, there is overwhelming international support for the treaty. Most observers tend to focus on the remaining Annex II states, whose ratifications are required for the treaty to enter-into-force. But in the absence of imminent ratifications by those states, the international community should engage non-Annex II states to sustain a momentum of ratifications. With more ratifications, even amongst non-Annex II states, the CTBT

will get closer to universality, which will increase the normative pressure to keep the moratorium on nuclear testing.

In the South Pacific, for example, where states have experienced first-hand the adverse effects of atmospheric nuclear testing, Tonga has not signed the CTBT, whilst Papua New Guinea, the Solomon Islands, Timor-Leste and Tuvalu have all signed but not ratified the treaty. Given that Tuvalu and Timor-Leste have also signed the Treaty on the Prohibition of Nuclear Weapons (TPNW), whose language seems to subsume the CTBT, their ratification of the CTBT is both feasible and meaningful. All South Pacific states have already expressed their support for the CTBT in several United Nations General Assembly Resolutions and in the 2010 Pacific Islands Forum Statement.³² States in the South Pacific should be encouraged to follow through with CTBT ratification at this critical time for the treaty.

Second, proponents of the CTBT should raise the profile of the treaty in the 2020 NPT Review Conference. Although there is widespread recognition that the CTBT is a critical instrument to achieve the NPT aims, the CTBTO plays a minor role at review conferences. Its seat amongst NGOs at the back of the room at the 2019 Preparatory Committee demonstrates this. The CTBT and the CTBTO should be given greater visibility within the NPT framework that highlights the special link between both treaties and the CTBT's significance for the NPT. Not only was the promise of a CTBT a critical factor in the 1995 indefinite extension decision of the NPT but the 13 Practical Steps agreed at the 2000 Review Conference and the 2010 Action Plan illustrate that CTBT entry-into-force is considered necessary to achieving the goals of the NPT. Reaffirming previous statements is insufficient for strengthening the international norm against testing. Raising the profile of the CTBTO in the NPT review process should include a dedicated session in the main plenary for the CTBTO and NPT states to report on all aspects of the

test ban, from the implementation of the IMS to CTBT universalisation.

Third, coordinated unilateral declarations should be sought from the remaining non-signatory and non-ratifying states to (re-)consider signing and/or ratifying the CTBT. The European Union (EU), whose members have all ratified, should lead this process. Rather than simply supporting group statements on the CTBT, the EU should seek coordinated unilateral declarations to demonstrate continued support for the treaty. Though one of the more challenging recommendations given recent developments, unilateral declarations would send a very strong signal and facilitate constructive atmospherics in the NPT review process, especially if such unilateral declarations came from non-NPT Annex II states. Israel, which has indicated that CTBT ratification is a matter of 'when rather than if'³³, might be persuaded to issue such a declaration.

Further, such unilateral declarations could put the CTBT back on the agenda of national legislatures. A good number of non-ratifying states, like those in the South Pacific, signed the CTBT shortly after it opened for signature in 1996, but have hitherto not followed through with the domestic ratification process. Such a unilateral declaration, if issued in the specific context of the current polarisation in the NPT and the wider geopolitical climate, could provide the necessary impetus to finish the ratification process at long last. Similarly, if one non-signatory state issued such a unilateral declaration, it could encourage other outliers in its neighbourhood and, possibly, beyond to follow suit.

Fourth, non-signatory states should be encouraged to become accredited observer states to the CTBTO's plenary body, the Preparatory Commission. Whilst falling short of signing and ratifying the CTBT, becoming an observer is a means of demonstrating support for the treaty. Cuba and Pakistan have set the precedent in becoming observers,

which, in Pakistan's case, 'has also set a favourable backdrop for the establishment of the two monitoring stations to be hosted by Pakistan in accordance with the Treaty, and for progress in regional coverage by the CTBT's International Monitoring System.³⁴ Pakistan's observer status to the CTBTO is also significant in that it establishes a formal relationship between a non-NPT nuclear-weapon state and a crucial treaty of the international nuclear non-proliferation regime.

Given that Pakistan has become an accredited observer state, India might be persuaded to follow. The CTBTO and the EU should lead this process, highlighting that observer states can attend CTBTO meetings and obtain IMS data, which could be used for civil and scientific purposes. Examples of such civil applications include the detection of earthquakes, tsunamis, volcanic eruptions and radiation dispersal from nuclear accidents.³⁵ The IMS data is also relevant for research on climate change and meteors, to name but two examples.³⁶

Conclusion

Washington's policy on the CTBT has pivoted from favourable under President Obama to sceptical under President Trump. Recent developments mean that the CTBT is in danger of becoming the next arms control target. Calls from within Washington's political establishment to 'unsign' the CTBT, public allegations against Russia for violating the treaty without providing substantiated evidence, along with the US withdrawal from the JCPOA and the termination of the INF Treaty, suggest that Washington's withdrawal of its signature from the CTBT is plausible. Although the US ambassador to the Conference on Disarmament has clarified that the United States will retain its moratorium on nuclear testing, Washington has hitherto not unequivocally dismissed concerns that the Trump administration might withdraw the US signature from the CTBT. 'Unsigning' the CTBT would severely damage the NPT—possibly beyond repair—as non-nuclear-weapon states regard the CTBT as fundamental to achieving the aims of the NPT.

Even if Washington does not proceed with 'unsigning' the CTBT, the public manner in which the United States has communicated the allegations without providing substantiated evidence has undermined the treaty. The claims could dominate the Article XIV Conference this September and they weaken confidence in the CTBTO's capacity to verify the absence of nuclear testing.

This policy brief has offered several recommendations for safeguarding the CTBT from brinkmanship. If adopted, these measures would not only strengthen the CTBT, but could help bring the treaty closer to entry-into-force.

Endnotes

1 The 44 states listed in Annex II to the CTBT are those states that must deposit their instruments of ratification with the United Nations Secretary-General for the treaty to enter-into-force. These 44 states participated in the 1996 session of the Conference on Disarmament and possessed, at the time of the CTBT negotiations, nuclear research and/or power reactors. Of the eight remaining Annex II states that have yet to ratify for the CTBT to enter-into-force, China, Egypt, Iran, Israel and the United States have all signed, whereas North Korea, India and Pakistan have neither signed nor ratified at the time of writing.

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5 Ibid., p. 7.

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