# A Detour Strategy for the Test Ban Treaty

Arms control supporters are impatient with the Obama administration as it completes its third year in office. Neither the strength nor the pace of nuclear policy reform has been to their liking. In retrospect, the credit they gave the administration for the New START treaty with Russia appears somewhat tarnished. Once the U.S. Senate ratified the treaty in December 2010, the obvious next step on the agenda was to push for ratification of the Comprehensive Nuclear Test Ban Treaty (CTBT). But in spite of the promises made by the White House, the prospects for a swift CTBT approval process are grim. The administration traded away all its chips in exchange for New START support, and the political landscape for the rest of President Obama's term appears anything but promising. The road to success requires a new approach.

The U.S. Senate defeated the CTBT in October 1999 (it had been opened for signature in 1996 after many decades of negotiations). Although 154 states have ratified the treaty and 182 have signed it, the remaining nine "nuclearcapable"<sup>2</sup> countries— China, Egypt, India, Indonesia, Iran, Israel, North Korea, Pakistan, and the United States—whose consent is needed but still pending, wield a de facto veto over the treaty's future and impede its entry into force (EIF). Among them, the United States is often seen as a linchpin for further progress.3 As such, the CTBT is widely portrayed as a catalyst for further nonproliferation and disarmament measures.<sup>4</sup>

While both Democrats in the U.S. government and CTBT supporters outside of it want the treaty ratified, at this point there is no agreement on the best way to achieve that goal. Congress seems skeptical about the prospects for ratification.

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The Washington Quarterly • 34:4 pp. 87–99

DOI: 10.1080/0163660X.2011.610575

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Not wanting to close any potential doors, government policymakers remain unspecific. In the non-governmental world, opinions are also divided. While some, such as former President Mikhail Gorbachev, contended that "the priority now is to ratify the separate treaty banning nuclear testing,"<sup>5</sup> many others, such as former Secretary of Defense William Perry, immediately recognized that the CTBT does not stand a chance in the near future.<sup>6</sup>

A short-term approach toward CTBT ratification remains unrealistic. What is needed is a potentially more successful detour strategy that resets the agenda to get CTBT ratification. Test-ban supporters should work on parallel but mutually reinforcing fronts in three countries—the United States, China, and Israel—that have the potential to strengthen the chances of the treaty being ratified before 2015. In the United States, a strong campaign from both within and outside of government has to shape the public discourse about how a complete prohibition of nuclear testing can strengthen U.S. security. The technical prerequisites for ratification must be debated and clarified until they are no longer in question. In China, political leaders need to be convinced that ratification could bolster their country's position as a responsible global stakeholder. Finally, in Israel, test-ban supporters should explain why ratifying the CTBT would be a useful counter to criticism of Israel at nuclear conferences. All of these efforts need to be completed before the Review Conference of the Nuclear Nonproliferation Treaty (NPT) in 2015 in order to push countries with nuclear weapons into action. This approach is neither defeatist nor lacking ambition. It represents a concerted effort with a real chance of success.

## **Short-Term Mission Impossible**

In his April 2009 speech in Prague, President Obama pledged to "immediately and aggressively" pursue U.S. ratification of the CTBT. For a number of reasons, however, this appears to be an impossible task before the 2012 presidential election. The reduced Democratic caucus in the Senate after the 2010 midterm elections has made it more complicated to ratify the treaty. Before the 2010 elections, the Democratic caucus in the Senate only needed seven Republican votes to pass a treaty; now, 14 Republican votes are necessary. Only 13 Republican senators voted in favor of New START, a much less contentious treaty supported by the military leadership, the weapons laboratories, the entire national security elite on both sides of the aisle, and all of America's allies. And

three of those Republicans who voted in favor of New START were replaced by more conservative party colleagues when the 112th Congress opened in January.<sup>10</sup>

Furthermore, the current partisanship in the Senate is problematic. The White House used the backing of an influential Republican, long-time arms control supporter Richard Lugar (R-IN), to garner support for the treaty with Russia. While both Lugar and former presidential candidate John McCain (R-AZ) have indicated that they would consider revising their position on the CTBT (they both voted against the test ban in 1999), they are unlikely to pursue a conciliatory path before the 2012 presidential election.

Looking forward to 2012, it is hard to believe that the White House could gather the necessary resources to make a significant push on the CTBT. Even if

the political will to ratify the treaty were to exist, the price for New START was so high that the White House only has a few cards left it could play. Democrats, remembering the 1999 CTBT defeat in the Senate, will most likely be very cautious on the test ban during the rest of Obama's term. A second defeat would make clear that the treaty's entry into force would be postponed by at least another decade. Some countries might then reevaluate their stances on nuclear testing. Finally, but no

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less important, the organization tasked to prepare the treaty's entry into force would face significant staffing and funding problems.

Even if Democrats wanted to sacrifice for the CTBT, they learned in 1999 that arms control is not a difference-maker in domestic elections. While they accused Republicans of isolationism and pointed to the fact that the public favored the treaty, this probably had very little impact during the 2000 elections. Arms control, in particular, is a domain in which Republicans barely have a constituency to cater to, and Democrats are unlikely to advocate the test ban unless they are sure they have the required 67 votes.

## Dispelling Myths in Washington

Plenty has changed since the 1999 defeat in the Senate, but the debate over the CTBT is likely to revolve around the same concerns expressed by treaty opponents more than a decade ago: the proven ability to verify that cheating can be discovered, the reliability of the U.S. nuclear weapons stockpile in the absence of testing, and the CTBT's contribution to Washington's nonproliferation objectives.<sup>13</sup> While the last of these concerns is political in nature and thus subject to debate, the first two are technical. One would

therefore assume that they have been assessed objectively. However, the recent dispute around New START is a great reminder that, in arms control, the opposite tends to be the rule: the more complex a technical issue is, the easier it becomes for opponents to drag even the more uncontested details onto the front pages of national newspapers and question their validity. <sup>14</sup> During the next few years, there should be a national debate in the United States designed to preempt such a situation and frame a discourse in which it becomes much more difficult to distort the technical details. <sup>15</sup>

Over the last decade, considerable progress has been made both on monitoring technology, to help verify the treaty, and on stockpile stewardship programs, to assure the reliability of the U.S. arsenal in lieu of testing. <sup>16</sup> For example, the International Monitoring System (IMS)—a network of 337 planned stations to detect nuclear tests—has been almost fully developed in the last 10 years, going from having no monitoring stations certified in 1999 to 264 in January 2011. <sup>17</sup> It has also been thoroughly tested by two North Korean explosions. <sup>18</sup> Since the last U.S. nuclear test explosion 20 years ago, the United States has also invested large amounts of money and brainpower to make sure its nuclear arsenal can be maintained without testing. <sup>19</sup> Nevertheless, since 1999, most discussions on the CTBT have been confined to a narrow circle of nuclear policy specialists and technical experts.

The upcoming review by the National Academy of Sciences (NAS) of a 2002 report and an expected classified National Intelligence Estimate (NIE), both of which deal with the technical details of the CTBT, will deliver much-needed updates and infuse the debate on the CTBT with new information. <sup>20</sup> The 2002 report concluded that there were adequate detection capabilities, and that the United States had the technical ability to "maintain confidence in the safety and reliability of its existing nuclear-weapon stockpile under [a test ban], provided that adequate resources are made available to the Department of Energy's nuclear-weapons complex."<sup>21</sup>

CTBT opponents among the 2009 Congressional Commission on the Strategic Posture of the United States, however, reiterated many of the arguments refuted by the NAS seven years earlier, without drawing upon additional technical inquiries.<sup>22</sup> This incongruence illustrates once more that only a much broader discussion, involving both technical and policy specialists, as well as the wider NGO and think-tank communities, can eliminate some of the misconceptions from a decade ago. "A whole lot of educating has to go on [before Senate consideration]," summarized Senate Foreign Relations Committee chairman, John Kerry (D-MA).<sup>23</sup>

#### **Building Leadership in Beijing**

Numerous experts, including current and former diplomats, agree that if the United States ratified the CTBT, China would immediately follow suit.<sup>24</sup> Beijing has much to lose, however, from taking this "disciple" stance toward Washington's leadership. Ratifying the treaty before the United States does, and thus becoming the fourth nuclear weapons possessor (after France and the United Kingdom in 1998 and Russia in 2000) to ratify the CTBT, would allow Beijing to evade criticism that it is not living up to its responsibilities as a rising major power. In the realm of nuclear policy, Beijing's test-ban ratification could both silence a number of concerns at NPT meetings and grant China political influence to push forward its own agenda. Given Washington's significant investments in maintaining the U.S. arsenal in the absence of testing, its strategic interest in keeping the CTBT alive, and its approach toward treaties and regimes, the oft-cited argument that the United States could postpone its step and ultimately return to nuclear testing is obsolete. It will be up to governments, international organizations, and experts from civil society to highlight these potential advantages for the Chinese while assuaging their concerns.

After playing an active role in the negotiations and achieving most of its core interests, China signed the CTBT in 1996 and appeared to be seriously committed

to its ratification.<sup>25</sup> While China remained hesitant to take the final step, its statements and actions have consistently indicated support for the treaty. It remains unclear whether Beijing decided to sign the CTBT because it had completed its testing program, or because it felt continued testing endangered its broader economic development aims.<sup>26</sup> However, 15 years into a moratorium, Beijing still seeks to be seen as a leader of the developing world, a responsible permanent member of the UN Security Council, and superior to its neighbor (and fellow CTBT outlier) India. The

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challenge, however, is to persuade China's leaders to lead by ratifying the CTBT, not simply to continue to observe the testing moratorium or to follow U.S. ratification.

For a long time, China's "peaceful rise" was well served by its non-intrusive approach to international affairs. However, economic growth, followed by an increased ability to project power, has given the Middle Kingdom significant clout. With the dispersion of power and leadership within the international system appearing unavoidable, Washington is likely to continue to steadily

increase its pressure on Beijing to assume the role of a "responsible stakeholder" and help alleviate the costs of keeping the system afloat. Although Beijing realizes that its low-profile approach to the responsibilities of being a great power is becoming detrimental, and it is attempting to increase its presence in the international arena, taking action in a number of areas of global governance bears a daunting price tag for a country focused on raising its relatively low per capita income. Thus, China's leadership is rather reluctant when it comes, for example, to constraining countries of proliferation concern or coercing states with dubious human rights records. In contrast, ratifying the CTBT before Washington does would only involve minimal costs and would send a powerful message that Beijing is taking its responsibilities seriously.

Two issues will affect China's nuclear weapons policy over the next few years. On one hand, Beijing is willing to internalize a select number of global practices and norms, but it increasingly wants its voice heard to rewrite some other rules, be it in the financial or environmental realm. On the other, its increasing military muscle raises nuclear-related concerns that need to be addressed and ameliorated. On numerous issues, however, Beijing is very likely to find it difficult to compromise. For example, in the aftermath of the New START ratification, Moscow called for Beijing's involvement in further nuclear reductions.<sup>30</sup> Given the huge qualitative and quantitative gap between China and both Russia and the United States, Beijing is and will be reluctant to accept such negotiations. Instead, it will continue to steadily modernize and expand its (still) limited nuclear forces, refrain from publicly declaring a moratorium on fissile material production, and avoid increasing the transparency of its arsenal.<sup>31</sup> Such reluctance to engage in weapons reductions should give Beijing even greater incentive to ratify the CTBT, providing China with some necessary breathing space, ability to counter critiques at NPT meetings, and focus the attention on Washington.

In ratifying the CTBT, China would not forfeit any option that the United States could still keep open. Pending the test ban's entry into force, President Bill Clinton's 1996 signature prohibits Washington from defeating the object and purpose of the treaty.<sup>32</sup> During the two terms of the George W. Bush administration, the United States voted against all CTBT resolutions at the United Nations, boycotted all meetings promoting the treaty's entry into force, considered withdrawing the treaty from the Senate floor, and even discussed repudiating the U.S. signature.<sup>33</sup> Even with its strong opposition, however, the Bush administration soon discovered that there was significant international pressure in support of the treaty, that other nations were able to step in, that a Senate majority was needed to discharge the test ban from the executive calendar, and that "unsigning" a treaty had a shaky legal basis with major international repercussions.<sup>34</sup> As noted above, given the massive investments

Washington is currently making to enable its nuclear weapons laboratories to certify their ability to maintain an arsenal absent nuclear testing, it appears highly unlikely that, even in the absence of CTBT ratification, the United States will decide to go back to testing in the midterm future. Finally, China has the right to abrogate its treaty membership under the treaty's "supreme national interest" withdrawal clause.

### **Advising Compromises in Tel Aviv**

Israel's nuclear deterrent is considered the world's worst-kept secret.  $^{35}$  With the exception of a never-confirmed 1979 "flash in the South Atlantic,"  $^{36}$  Tel Aviv

has developed a nuclear arsenal without testing. Even a public discussion of testing today, however, would demolish Israel's carefully constructed "nuclear ambiguity." Tel Aviv's signing of the CTBT, its declaratory support and active participation in the work of the preparatory commission in Vienna, and the fact that its objections to the treaty are merely technical are all good indicators that Israel does intend to ratify the treaty eventually. It is now up to test-ban supporters to make the case that

The challenge is to convince Israel to ratify the CTBT by the 2015 NPT Review Conference.

the 2015 NPT Review Conference is the best venue for Israel to ratify the CTBT and cash in this political trump card.

At the 2010 NPT Review Conference, the Egyptian delegation maneuvered its Non Aligned Movement (NAM) chairmanship and the U.S. administration's desire for a successful conference to win approval for both a 2012 conference to address Israel's nuclear arsenal and a reiteration of the 2000 conference concluding document, which singled out Israel as a country that should accede to the NPT.<sup>39</sup> Given the stalled peace process and the lack of progress toward resolving the Iranian nuclear file, however, the 2012 conference—if it takes place at all—is unlikely to change Tel Aviv's position.<sup>40</sup>

Nevertheless, the pressure on Israel is likely to accumulate in the lead up to the 2015 NPT Review Conference. The upheavals this past spring in the Arab world have created an unpredictable strategic environment. While many around the world view the events of the Jasmine Revolution and the so-called Arab Spring as improving the prospects for peace in the Middle East, Israel sees these events fraught with potential dangers and threats to its security. As a result, Israel increasingly appears to be the bad guy that cannot take steps to improve peace in the region. In the weapons of mass destruction field, Israel—not able to join the NPT as a weapons state, not being a member of the Chemical or of the

Biological Weapons Convention, and being a strong opponent of a potential treaty banning the production of fissile materials—is likely to face more pressure to give up its covert nuclear arsenal and join a regional WMD free zone. With neither Egypt, Iran, nor Syria having ratified the test ban, Israel's CTBT ratification might be the easiest (temporary) ticket out of the impasse to improve its regional and global image as well as its leadership, simultaneously putting the onus back on Iran to come into compliance with its NPT obligations.

#### Hitting the CTBT Snooze Button: toward a 2015 Deal

Obama's 2009 Prague Agenda was supposed to open the gates to a long road toward disarmament, with ratification of the U.S.—Russian New START treaty the first step on that path. Negotiations on a Fissile Material Cut-off Treaty (FMCT) would have kept the momentum going, and CTBT ratification given the agenda a strong supplementary push. These additional disarmament measures were to be traded for stronger inspections procedures to detect covert nuclear weapons programs and more severe enforcement measures to deter potential transgressors. The "open-hand-policy" toward Iran and negotiations with North Korea were supposed to resolve proliferation concerns, thus diminishing pressure from conservatives.

Unfortunately, the plan did not work, and nothing appears likely to change between now and 2015. "U.S. declaratory policy still seems to want to cover all the bases with its nuclear forces," wrote a disappointed Canadian diplomat after the release of the 2010 U.S. Nuclear Posture Review (NPR). <sup>42</sup> Geneva negotiations on further disarmament measures are once again deadlocked, with Pakistan unlikely to allow negotiations on the FMCT. NATO's unilateral withdrawal of tactical nuclear weapons from Europe appears off the table. U.S. negotiations with Russia are likely to be slow, making it improbable that there will be results before 2015. <sup>43</sup> Missile defense will remain the main topic of discussion, but the degree to which Moscow can be involved is still in question. <sup>44</sup> A solution to the problem of Iran's nuclear program seems out of reach, and North Korea remains as unpredictable as ever.

The 1990 NPT Review Conference failed because of disagreement over the test ban. In 1995, the weapons-possessing countries promised to negotiate the CTBT in order to obtain the indefinite extension of the NPT. Twenty years later, the CTBT is still likely to be the defining feature of the 2015 conference. Lack of progress on many fronts has destroyed the illusions on which President Obama assembled the Prague Agenda. The NAM will be hard pressed to agree to an additional compromise on inspections and enforcement with the CTBT still so far from entry into force.

To many, the detour strategy outlined here might appear to be too little, too late. Arms control experts George Bunn and John Rhinelander pointed out more than a decade ago that obtaining Senate consent to an arms control treaty was difficult throughout the entire 20th century. Most recently, the New START process proved once again that passing such legislation requires intense preparation and collaboration across governments, academia, and NGOs. Successfully pushing the CTBT one step forward will require a more international approach, additional coordination, and more thinking and strategizing. Suddenly, the window of opportunity leading up to 2015 appears all too small. Reprioritizing the agenda around these three national debates in the United States, China, and Israel can help prepare the ground for CTBT ratification by 2015.

Other countries have far more to gain by resuming nuclear testing than does the United States. Keeping the CTBT in limbo for much longer is the best way to enable those countries to pursue such plans. With a nuclear attack on the homeland being the most dangerous threat to the United States, Washington should have a strong interest in delegitimizing nuclear weapons and strengthening the NPT. China and Israel, on the other hand, could be persuaded to see CTBT ratification as an opportunity to evade criticism and build up their credentials.

Currently, neither the United States, China, nor Israel feels enough pressure to make a decisive move on the CTBT. While five of the other nine outlying nuclear-capable countries appear immovable as well (Egypt, India, Iran, North Korea, and Pakistan), there is a glimmer of hope: Indonesia pledged in 2010 to ratify the treaty. That should serve as a start for action on the three fronts outlined here.

After the CTBT vote more than a decade ago, Vice President Joe Biden, then a Democratic senator from Delaware, said "this is the most serious mistake the Senate has ever made." Assuming the Obama administration gets a second term, it might be more likely to take on a challenging issue such as the CTBT and repair what was broken in 1999. In 2013, pressured by the imminence of the 2015 Review Conference and the likely lack of any other progress, a recently-reelected Obama would have a strong case to make to Congress, particularly if that body is less divided.

Meanwhile, if China can be convinced to assume the role of a responsible stakeholder, the United States would be the last test-ban outlier in the UN Security Council, and Republican opposition to the treaty would most likely decrease. Steps in Israel toward ratification would also facilitate that process. Before 2015, if public debate in Washington can clarify the technical issues, the test ban could be advanced three steps at a time toward its entry into force, and

the Prague Agenda, with its improvements to revitalize the nonproliferation regime, might be back on the table again.

#### **Notes**

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- 38. For a more detailed analysis, see Liviu Horovitz and Robert Golan-Vilella, "Boosting the CTBT's Prospects in the Middle East," *The Bulletin of the Atomic Scientists* 66, no. 2 (March/April 2010): pp. 9–16. For a less positive view see Alon Bar, "Israel and the CTBT," *Strategic Assessment* 13, no. 2 (August 2010): pp. 29–38.
- 39. For a detailed but very diplomatic discussion of the process, see Alison Kelly, "NPT: Back on Track," *Arms Control Today* 40 (July/August 2010).
- 40. Elaine Grossman, "After a Year, Scant Progress Toward Conference on Mideast WMD-Free Zone," *Global Security Newswire*, May 20, 2011, http://gsn.nti.org/gsn/nw\_20 110520 6439.php.
- 41. See, for example, Daniel Byman, "Israel's Pessimistic View of the Arab Spring," *The Washington Quarterly* 34, no. 3 (Summer 2011): pp. 123–136, http://www.twq.com/11summer/docs/11summer\_Byman.pdf.
- 42. Paul Meyer, "Prague One Year Later: From Words to Deeds," Arms Control Today 40 (May 2010).
- 43. Sokov and Pomper, in "New START Ratification," argue that the Russian leadership will likely have little incentive to engage in difficult negotiations with Washington before knowing whether the Obama administration will remain in the White House after 2012. See also Nikolai Sokov, "New Start Ratification in Russia: Apparent Smooth Sailing Obscures Submerged Drama and Revelations," James Martin Center for Nonproliferation Studies, January 25, 2011, http://cns.miis.edu/stories/110125\_russia\_new\_start\_ratification.htm.
- 44. Dmitri Trenin, "After New START," Carnegie Endowment for International Peace, December 23, 2010, http://carnegieendowment.org/publications/index.cfm?fa=view&id=42187&solr\_hilite=.
- 45. For example, the Geneva Protocol of 1925 gained support only in the 1970s. George Bunn and John Rhinelander, "Senate CTBT Rejection Not the End," *Disarmament Diplomacy* 41 (November 1999).
- 46. Joseph Biden, Congressional Record, vol. 145, pt. 17, October 5, 1999 to October 13, 1999: p. 25136.