

CRS Report for Congress

Comprehensive Nuclear-Test-Ban Treaty: Background and Current Developments

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Summary

A comprehensive nuclear-test-ban treaty (CTBT) is the oldest item on the nuclear arms control agenda. Three treaties currently bar all but underground tests with a maximum force equal to 150,000 tons of TNT. The Natural Resources Defense Council states the United States conducted 1,030 nuclear tests, the Soviet Union 715, the United Kingdom 45, France 210, and China 45. The last U.S. test was held in 1992; Russia claims it has not tested since 1990. In 1998, India and Pakistan announced several nuclear tests. Each declared a test moratorium; neither has signed the CTBT. North Korea conducted a nuclear test in 2006.

Since 1997, the United States has held 23 “subcritical experiments” at the Nevada Test Site, most recently on August 30, 2006, to study how plutonium behaves under pressures generated by explosives. It asserts these experiments do not violate the CTBT because they cannot produce a self-sustaining chain reaction. Russia has reportedly held some since 1998, including several in 2000.

The U.N. General Assembly adopted the CTBT in 1996. As of March 4, 2008, 178 states had signed it; 144, including Russia, had ratified; and of the 44 that must ratify the treaty for it to enter into force, 41 had signed and 35 had ratified. Five conferences have been held to facilitate entry into force, most recently in 2007.

In 1997, President Clinton sent the CTBT to the Senate. In October 1999, the Senate rejected it, 48 for, 51 against, 1 present. It is on the Senate Foreign Relations Committee’s calendar. It would require a two-thirds Senate vote to send the treaty back to the President for disposal or to give advice and consent for ratification.

The Bush Administration opposes the CTBT, adheres to the test moratorium, has not ruled out resumed testing, and has no plans to test. It has reduced the time needed to conduct a nuclear test. Critics raised concerns about the implications of these policies for testing and new weapons.

At present, Congress addresses nuclear weapon issues in the annual National Defense Authorization Act and the Energy and Water Development Appropriations Act. Congress considers the Stockpile Stewardship Program (listed as Weapons Activities), which seeks to maintain nuclear weapons without testing. The FY2008 appropriation for it is \$6.356 billion; the FY2009 request is \$6.618 billion. Congress also considers a U.S. contribution to a global system to monitor events that might violate the CTBT. The FY2008 appropriation was \$23.8 million; the FY2009 request is \$9.9 million. U.S. voting rights in the CTBT Organization Preparatory Commission were suspended on January 1, 2008 for not paying enough dues. The United States paid \$23.8 million on February 25, restoring its voting rights.

This report will be updated. For a detailed analysis of pros and cons, see CRS Report RL34394, *Comprehensive Nuclear-Test-Ban Treaty: Issues and Arguments*, by Jonathan Medalia.

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Comprehensive Nuclear-Test-Ban Treaty: Background and Current Developments

Most Recent Developments

On February 25, 2008, the United States paid the Comprehensive Nuclear-Test-Ban Treaty Organization Preparatory Commission \$23.8 million, restoring its voting rights in the commission. In January, Barbados, Colombia, and Malaysia ratified the CTBT. On December 17, 2007, Representative Tauscher introduced H.Res. 882, “[e]xpressing the sense of the House of Representatives that the Senate should initiate a bipartisan process to give its advice and consent to ratification of the Comprehensive Nuclear-Test-Ban Treaty.” On December 6, the conference report on H.R. 1585, the FY2008 defense authorization bill, was ordered to be printed. The bill provided for biennial reports on U.S. nuclear test readiness and dropped a provision in the Senate bill expressing the sense of Congress that “the Senate should ratify” the CTBT. On December 5, by a vote of 176 for, 1 against (United States), and 4 abstentions, the U.N. General Assembly adopted resolution A/RES/62/59 stressing the importance of achieving the earliest entry into force of the CTBT. On November 19, former Secretary of Defense Harold Brown and former Director of Central Intelligence John Deutch suggested a five-year renewable CTBT in lieu of the current treaty.¹ On October 24, Senator Jon Kyl delivered a speech critical of the CTBT and of Section 3122 in H.R. 1585, the FY2008 National Defense Authorization Act, expressing the sense of Congress that the Senate should ratify the treaty. The speech was accompanied by a letter to the same effect with 41 signatures. On September 17 and 18, the U.N. held the fifth conference on facilitating the treaty’s entry into force, with 106 nations participating.²

History

A ban on nuclear testing is the oldest item on the arms control agenda. Efforts to curtail tests have been made since the 1940s. In the 1950s, the United States and Soviet Union conducted hundreds of hydrogen bomb tests. The radioactive fallout from these tests spurred worldwide protest. These pressures, plus a desire to reduce U.S.-Soviet confrontation after the Cuban Missile Crisis of 1962, led to the Limited Test Ban Treaty of 1963, which banned nuclear explosions in the atmosphere, in space, and under water. The Threshold Test Ban Treaty, signed in 1974, banned underground nuclear weapons tests having an explosive force of more than 150

¹ Harold Brown and John Deutch, “The Nuclear Disarmament Fantasy,” *Wall Street Journal*, November 19, 2007, p. 19.

² For details, see [<http://www.ctbto.org>].

kilotons, the equivalent of 150,000 tons of TNT, 10 times the force of the Hiroshima bomb. The Peaceful Nuclear Explosions Treaty, signed in 1976, extended the 150-kiloton limit to nuclear explosions for peaceful purposes. President Carter did not pursue ratification of these treaties, preferring to negotiate a comprehensive test ban treaty, or CTBT, a ban on all nuclear explosions. When agreement seemed near, however, he pulled back, bowing to arguments that continued testing was needed to maintain reliability of existing weapons, to develop new weapons, and for other purposes. President Reagan raised concerns about U.S. ability to monitor the two unratified treaties and late in his term started negotiations on new verification protocols. These two treaties were ratified in 1990.

With the end of the Cold War, the need for improved warheads dropped and pressures for a CTBT grew. The U.S.S.R. and France began nuclear test moratoria in October 1990 and April 1992, respectively. In early 1992, many in Congress favored a one-year test moratorium. The effort led to the Hatfield-Exon-Mitchell amendment to the FY1993 Energy and Water Development Appropriations Bill, which banned testing before July 1, 1993, set conditions on a resumption of testing, banned testing after September 1996 unless another nation tested, and required the President to report to Congress annually on a plan to achieve a CTBT by September 30, 1996. President George H.W. Bush signed the bill into law (P.L. 102-377) October 2, 1992. The CTBT was negotiated in the Conference on Disarmament. It was adopted by the U.N. General Assembly on September 10, 1996, and was opened for signature on September 24, 1996.³ As of March 4, 2008, 178 states had signed it and 144 had ratified.⁴

National Positions on Testing and the CTBT

United States: Under the Hatfield-Exon-Mitchell amendment, President Clinton had to decide whether to ask Congress to resume testing. On July 3, 1993, he said, “A test ban can strengthen our efforts worldwide to halt the spread of nuclear technology in weapons,” and “the nuclear weapons in the United States arsenal are safe and reliable.” While testing offered advantages for safety, reliability, and test ban readiness, “the price we would pay in conducting those tests now by undercutting our own nonproliferation goals and ensuring that other nations would resume testing outweighs these benefits.” Therefore, he (1) extended the moratorium at least through September 1994; (2) called on other nations to extend their moratoria; (3) said he would direct DOE to “prepare to conduct additional tests while seeking approval to do so from Congress” if another nation tested; (4) promised to “explore other means of maintaining our confidence in the safety, the reliability and the performance of our own weapons”; and (5) pledged to refocus the nuclear weapons laboratories toward technology for nuclear nonproliferation and arms control verification. He extended the moratorium twice more; on January 30, 1995, the

³ For treaty text and the State Department’s analysis, see [<http://www.state.gov/t/isn/trty/16411.htm>].

⁴ For a current list of signatures and ratifications, see the Comprehensive Nuclear Test-Ban-Treaty Organization website at [<http://www.ctbto.org>].

Administration announced his decision to extend the moratorium until a CTBT entered into force, assuming it was signed by September 30, 1996.

On September 22, 1997, President Clinton submitted the CTBT to the Senate. He asked the Senate to approve it in his State of the Union addresses of 1998 and 1999. Senate Foreign Relations Committee Chairman Helms rejected that request, saying that the treaty “from a non-proliferation standpoint, is scarcely more than a sham” and had low priority for the committee. In summer 1999, Senate Democrats pressed Senators Helms and Lott to permit consideration of the treaty. On September 30, 1999, Senator Lott offered a unanimous-consent request to discharge the Senate Foreign Relations Committee from considering the treaty and to have debate and a vote. The request, as modified, was agreed to. The Senate Armed Services Committee held hearings October 5-7; the Foreign Relations Committee held a hearing October 7. It quickly became clear that the treaty was far short of the votes for approval, leading many on both sides to seek to delay a vote. As the vote was scheduled by unanimous consent, and several Senators opposed a delay, the vote was held October 13, rejecting the treaty, 48 for, 51 against, and 1 present. At the end of the 106th Congress, pursuant to Senate Rule XXX, paragraph 2, the treaty moved to the Senate Foreign Relations Committee calendar, where it currently resides.

The Nuclear Posture Review and Nuclear Testing: In the FY2001 National Defense Authorization Act (P.L. 106-398, Sec. 1041), Congress directed the Secretary of Defense, in consultation with the Secretary of Energy, to review nuclear policy, strategy, arms control objectives, and the forces, stockpile, and nuclear weapons complex needed to implement U.S. strategy. Although the resulting Nuclear Posture Review is classified, J.D. Crouch, Assistant Secretary of Defense for International Security Policy, presented an unclassified briefing on it on January 9, 2002, dealing in part with the CTBT and nuclear testing.⁵ He stated there would be “no change in the Administration’s policy at this point on nuclear testing. We continue to oppose CTBT ratification. We also continue to adhere to a testing moratorium.” Further, “DOE is planning on accelerating its test-readiness program” to reduce the time needed between a decision to test and the conduct of a test, which was then 24 to 36 months. He discussed new weapons. “At this point, there are no recommendations in the report about developing new nuclear weapons ... we are trying to look at a number of initiatives. One would be to modify an existing weapon, to give it greater capability against ... hard targets and deeply-buried targets. And we’re also looking at non-nuclear ways that we might be able to deal with those problems.” A *Washington Post* article of January 10, 2002, quoted White House Press Secretary Ari Fleischer as saying that the President has not ruled out testing “to make sure the stockpile, particularly as it is reduced, is reliable and safe. So he has not ruled out testing in the future, but there are no plans to do so.”⁶

Critics expressed concern about the implications of these policies for testing and new weapons. A statement by Physicians for Social Responsibility said, “The

⁵ U.S. Department of Defense. News Transcript: “Special Briefing on the Nuclear Posture Review,” January 9, 2002; see [http://www.defenselink.mil/transcripts/2002/t01092002_t0109npr.html].

⁶ Walter Pincus, “U.S. Aims for 3,800 Nuclear Warheads,” *Washington Post*, January 10, 2002.

Administration's plan ... would streamline our nuclear arsenal into a war-fighting force, seek the opportunity to design and build new nuclear weapons, and abandon a ten-year-old moratorium on nuclear weapons testing."⁷ Another critic felt that increased funding for test readiness would in effect give prior approval for testing.

In July 2002 a National Academy of Sciences panel report on technical aspects of the CTBT concluded, in the words of a press release, "that verification capabilities for the treaty are better than generally supposed, U.S. adversaries could not significantly advance their nuclear weapons capabilities through tests below the threshold of detection, and the United States has the technical capabilities to maintain confidence in the safety and reliability of its existing weapons stockpile without periodic nuclear tests."⁸

A U.N. draft document of August 5, 2005, for signature by heads of government and heads of state at the U.N. General Assembly meeting of September 2005, contained a provision that the signers "resolve to ... [m]aintain a moratorium on nuclear test explosions pending the entry into force of the Comprehensive Nuclear-Test-Ban Treaty and call upon all States to sign and ratify the Treaty."⁹ John Bolton, the U.S. Ambassador to the U.N., reportedly called for major changes to the draft; the CTBT passage was one of many drawing his objection.¹⁰

On June 25, 2007, Secretary of State Condoleezza Rice stated:

the Administration does not support the Comprehensive Test Ban Treaty and does not intend to seek Senate advice and consent to its ratification. There has been no change in the Administration's policy on this matter. By reducing the likelihood of the need to return to underground nuclear testing, RRW [the Reliable Replacement Warhead] makes it more likely that the United States would be able to continue its voluntary nuclear testing moratorium. We cannot, however, provide guarantees regarding the voluntary moratorium. We may find at some future time that we cannot diagnose or remedy a problem in a warhead critical the U.S. nuclear deterrent without conducting a nuclear test.¹¹

Similarly, a Statement of Administration Policy on S. 1547, FY2008 National Defense Authorization Act, included the following:

⁷ Physicians for Social Responsibility, "PSR: Bush Nuclear Weapons Plan Sets Stage for new Bombs, Resumption of Testing; Plan Endangers National Security, Public Health," press release via U.S. Newswire, January 8, 2002.

⁸ The National Academies, "Academy Addresses Technical Issues in Nuclear Test Ban Treaty ...," press release, July 31, 2002. The full report, *Technical Issues Related to the Comprehensive Nuclear Test Ban Treaty*, is available at [http://www.nap.edu/catalog.php?record_id=10471#toc].

⁹ U.N. General Assembly. "Revised draft outcome document of the High-level Plenary Meeting of the General Assembly of September 2005 submitted by the President of the General Assembly," A/59/HLPM/CRP.1/Rev.2, advance unedited version, August 5, 2005.

¹⁰ Julian Borger, "Question Mark over the Summit," *Manila Bulletin*, August 27, 2005.

¹¹ Letter from Condoleezza Rice, Secretary of State, to Honorable Pete Domenici, United States Senate, June 25, 2007.

While supporting the continued voluntary moratorium on testing, the Administration strongly opposes a provision of section 3122 that calls for the ratification of the CTBT. It would be imprudent to tie the hands of a future administration that may have to conduct a test of an element of an aging, unmodernized stockpile in order to assure the reliability of the nuclear deterrent force. Absent such a test, the United States may not be able to diagnose or remedy a problem in a warhead critical to the Nation's deterrent strategy.¹²

United Kingdom: The United Kingdom cannot test because it held its nuclear tests for several decades at the Nevada Test Site and does not have its own test site. Its last test was held in 1991. Britain and France became the first of the original five nuclear weapon states to ratify the CTBT, depositing instruments of ratification with the United Nations on April 6, 1998. On February 14, 2002, and February 23, 2006, the United Kingdom conducted subcritical experiments jointly with the United States at the Nevada Test Site.

France: On June 13, 1995, President Jacques Chirac announced that France would conduct eight nuclear tests at its test site at Mururoa Atoll in the South Pacific, finishing by the end of May 1996. The armed services had reportedly wanted the tests to check existing warheads, validate a new warhead, and develop a computer system to simulate warheads to render further testing unneeded. Many nations criticized the decision. On August 10, 1995, France indicated it would halt all nuclear tests once the test series was finished and favored a CTBT that would ban "any nuclear weapon test or any other nuclear explosion."¹³ France conducted six tests from September 5, 1995, to January 27, 1996. On January 29, 1996, Chirac announced the end to French testing. On April 6, 1998, France and Britain deposited instruments of ratification of the CTBT with the United Nations.

Russia: Several press reports between 1996 and 1999 claimed that Russia may have conducted low-yield nuclear tests at its Arctic test site at Novaya Zemlya; other reports stated that U.S. reviews of the data determined that these events were earthquakes. Several reports between 1998 and 2000 stated that Russia had conducted "subcritical" nuclear experiments, discussed below, which the CTBT does not bar. Russia ratified the treaty on June 30, 2000. In September 2005, Russia reportedly stated that it intends to continue to observe the moratorium on testing until the CTBT enters into force as long as other nuclear powers do likewise, and expressed its hope that the nations that must ratify the treaty for it to enter into force will do so as soon as possible.¹⁴ In November 2007, according to Itar-Tass, Russian Foreign Minister Sergei Lavrov "confirmed Russia's unchanging support for the

¹² U.S. Executive Office of the President. Office of Management and Budget. "Statement of Administration Policy: S. 1547 — National Defense Authorization Act for Fiscal Year 2008," p. 7, at [<http://www.whitehouse.gov/omb/legislative/sap/110-1/s1547sap-s.pdf>].

¹³ Craig Whitney, "France to Back Ban After Its Atom Tests," *New York Times*, August 11, 1995, p. 3.

¹⁴ "Russia Intends to Continue Moratorium on Nuclear Tests," *BBC Monitoring Former Soviet Union*, excerpt from a report by Russian News Agency ITAR-TASS, September 23, 2005.

treaty as one of the key elements of the nuclear non-proliferation regime and an effective nuclear arms limitation tool.”¹⁵

China: China did not participate in the moratorium. It conducted a nuclear test on October 5, 1993, that many nations condemned. It countered that it had conducted 39 tests, as opposed to the 1,054 that the United States had conducted, and needed a few more for safety and reliability. According to one report, “China will immediately stop nuclear testing once the treaty on the complete ban of nuclear tests takes effect, [Chinese Premier] Li Peng said.”¹⁶ It conducted other tests on June 10 and October 7, 1994, May 15 and August 17, 1995, and June 8 and July 29, 1996. It announced that the July 1996 test would be its last, as it would begin a moratorium on July 30, 1996. On February 29, 2000, the Chinese government submitted the CTBT to the National People’s Congress for ratification. In a white paper of December 2004, China stated its support of early entry into force and, until that happens, its commitment to the test moratorium. As of March 4, 2008, China had not ratified the treaty.

India: On May 11, 1998, Prime Minister Atal Behari Vajpayee announced that India had conducted three nuclear tests. The government stated, “The tests conducted today were with a fission device, a low yield device and a thermonuclear device.... These tests have established that India has a proven capability for a weaponised nuclear programme.”¹⁷ It announced two more tests May 13. An academic study concluded, based on seismic data, that India and Pakistan overstated the number and yields of their tests. India has conducted no tests since May 1998, but questioned whether the United States should expect India to sign a treaty that the United States views as flawed. In an Indian-Pakistani statement of June 20, 2004, “Each side reaffirmed its unilateral moratorium on conducting further nuclear test explosions” barring “extraordinary events.”¹⁸ On December 22, 2005, Shri Rao Inderjit Singh, Minister of State in the Ministry of External Affairs, said, “India has already stated that it will not stand in the way of the Entry into Force of the Treaty.”¹⁹ On August 16, 2007, India’s External Affairs Minister, Pranab Mukherjee, reportedly told Parliament, “India has the sovereign right to test and would do so if it is necessary in national interest.”²⁰ As of March 2008, India had not signed the CTBT.

¹⁵ “Russia Supports CTBT as Key Element of Nuclear Non-Proliferation — FM,” *Itar-Tass*, November 12, 2007.

¹⁶ “Li Peng: China’s Nuclear Tests Pose No Threat,” *Xinhua*, October 8, 1995, in FBIS-TAC-95-006, December 6, 1995, p. 13.

¹⁷ India. Ministry of External Affairs. Press statement, New Delhi, May 11, 1998, at [<http://nuclearweaponarchive.org/India/Indianofficial.txt>].

¹⁸ India. Ministry of External Affairs. “Joint Statement, India-Pakistan Expert-Level Talks on Nuclear CBMs [Confidence-Building Measures],” June 20, 2004.

¹⁹ India. Ministry of External Affairs. Rajya Sabha. Unstarred Question No. 3260, to be answered on December 12, 2005, by Rao Inderjit Singh, Minister of State in the Ministry of External Affairs. [<http://164.100.24.219/rsq/quest.asp?qref=108782>].

²⁰ “Pranab Mukherjee Says India Has Sovereign Right to Conduct Nuclear Test,” *AndhraNews.net*, August 16, 2007; available at [<http://www.andhranews.net/India/2007/>]

A statement on U.S.-Indian nuclear cooperation of July 18, 2005, by President Bush and Indian Prime Minister Manmohan Singh, said, “The Prime Minister conveyed that for his part, India would reciprocally agree that it would be ready to ... continu[e] India’s unilateral moratorium on nuclear testing.”²¹ In a Senate hearing of November 2, Robert Joseph, Under Secretary of State for Arms Control and International Security, stated, “India’s pledge to maintain its nuclear testing moratorium contributes to nonproliferation efforts by making its ending of nuclear explosive tests one of the conditions of full civil nuclear cooperation.”²² At that hearing, Michael Krepon, co-founder of the Stimson Center, argued that statements by Indian government officials that there are no current plans to test “do not carry equal weight, nor do they impose equal responsibility, to the obligations accepted by the 176 states that have signed the CTBT.”²³ Press reports of April 2006 said the sides were negotiating a detailed nuclear cooperation agreement. The reports indicated that the United States would insist that India maintain its moratorium on nuclear testing or else the United States would have the right to terminate the agreement. India responded that it had already pledged to maintain the moratorium, rendering this provision out of place in the final agreement. A press report of January 2007 quoted National Security Advisor M.K. Narayanan as saying, “There is no question of signing the Comprehensive Test Ban Treaty. We have our voluntary moratorium. That position remains.”²⁴ According to a report of November 2007, when some members of Parliament criticized the U.S.-Indian nuclear agreement on grounds it would bar Indian nuclear testing, Prime Minister Manmohan Singh responded, “If a necessity for carrying out a nuclear test arises in future, there is nothing in the agreement which prevents us from carrying out tests.”²⁵ (See CRS Report RL33529, *India-U.S. Relations*, by K. Alan Kronstadt.)

Pakistan: Pakistan announced on May 28, 1998, that it had conducted five nuclear tests, and announced a sixth on May 30. Reports placed the yields of the smallest devices between zero and a few kilotons, and between 2 and 45 kilotons for the largest. Some question the number of tests based on uncertain seismic evidence. Pakistan made no claims of testing fusion devices. Pakistan’s weapons program

²⁰ (...continued)

August/16-Pranab-Mukherjee-says-11996.asp].

²¹ U.S. White House. “Joint Statement Between President George W. Bush and Prime Minister Manmohan Singh,” July 18, 2005, at [<http://www.whitehouse.gov/news/releases/2005/07/20050718-6.html>].

²² U.S. Congress. Senate. Committee on Foreign Relations. Hearing, *Implications of U.S.-India Nuclear Energy Cooperation*, statement by Robert Joseph, Under Secretary of State for Arms Control and International Security, November 2, 2005. Transcript by CQ Transcriptions, Inc.

²³ U.S. Congress. Senate. Committee on Foreign Relations. Hearing, *Implications of U.S.-India Nuclear Energy Cooperation*, statement by Michael Krepon, Co-Founder, The Henry L. Stimson Center, November 2, 2005. Transcript by CQ Transcriptions, Inc.

²⁴ “India Not to Accept Any Legal Binding on N-Testing,” *Press Trust of India Limited*, January 13, 2007.

²⁵ “Indian Lawmakers Attack U.S. Nuclear Deal,” *Global Security Newswire*, November 29, 2007.

apparently relies heavily on foreign technology. Pakistan claimed that it tested “ready-to-fire warheads,” not experimental devices, and included a warhead for the Ghauri, a missile with a range of 900 miles, and low-yield tactical weapons. In response to the Indian and Pakistani tests, the United States imposed economic sanctions on the two nations. In November 1999, Foreign Minister Abdul Sattar said that his nation would not sign the CTBT unless sanctions were lifted, but that “[w]e will not be the first to conduct further nuclear tests.”²⁶ In August 2000, President Pervez Musharraf said the time was not ripe to sign the CTBT because so doing could destabilize Pakistan.²⁷ In September 2005, Pakistan reportedly said it would not be the first nation in the region to resume nuclear testing.²⁸ In April 2007, Pakistan’s Prime Minister, Shaukat Aziz, reportedly said that Pakistan would not unilaterally sign the CTBT since it shares a border with India.²⁹ Replying to the statement on nuclear testing by Pranab Mukherjee, India’s External Affairs Minister, Tasnim Aslam, a spokeswoman for Pakistan’s Foreign Office, reportedly said, “We take seriously the assertions by the Indian leadership about the possibility of renewing nuclear tests.... Resumption of nuclear tests by India would create a serious situation obliging Pakistan to review its position and to take action, appropriate, consistent to our supreme national interest.”³⁰ As of March 2008, Pakistan had not signed the CTBT.

The North Korean Nuclear Test

Negotiations to halt North Korea’s nuclear program have been underway for years, most recently between that nation, the United States, China, Japan, South Korea, and Russia (Six-Party Talks). A CIA report of late 2004 stated that during talks in April 2003, “North Korea privately threatened to ‘transfer’ or ‘demonstrate’ its nuclear weapons.”³¹ On February 10, 2005, North Korea declared, “We ... have manufactured nukes for self-defence to cope with the Bush administration’s

²⁶ Kathy Gannon, “New Pakistani Government Gives First Official Foreign Policy Statement,” newswire, Associated Press, November 8, 1999.

²⁷ Shahid-ur-Rehman Khan, “Signing CTBT Can Destabilize Pakistan, Says Musharraf,” newswire, Kyodo News International, Inc., August 17, 2000.

²⁸ “Pakistan Today Said It Will Abide by Its ‘Solemn Pledge’ That It Would Not Be the First Country in the Region to Resume Nuclear Tests ...,” newswire, *Press Trust of India Limited*, September 26, 2005.

²⁹ “Pak Says No to Signing NPT, CTBT Unilaterally,” *Press Trust of India Limited*, April 26, 2007.

³⁰ “Pakistan Would Consider Nuclear Test If India Tests,” *Reuters*, August 20, 2007, available at [<http://in.reuters.com/article/topNews/idINIndia-29063920070820>].

³¹ “Attachment A: Unclassified Report to Congress on the Acquisition of Technology Relating to Weapons of Mass Destruction and Advanced Conventional Munitions, 1 July Through 31 December 2003.” Note: “The Director of Central Intelligence (DCI) hereby submits this report in response to a congressionally directed action in Section 721 of the FY1997 Intelligence Authorization Act ...,” c. 2004, p. 5.

evermore undisguised policy to isolate and stifle North Korea,”³² and on June 9 it claimed it was building more such weapons. On May 15, 2005, the United States warned that it and other nations would take punitive action if North Korea conducted a nuclear test.³³ In a joint statement from the Six-Party Talks in September 2005, North Korea “committed to abandoning all nuclear weapons and existing nuclear programs and returning, at an early date, to the Treaty on the Non-Proliferation of Nuclear Weapons and to IAEA safeguards.”³⁴ In November 2005, North Korea began a boycott of the talks. On October 3, 2006, North Korea stated that it “will, in the future, be conducting a nuclear test.”³⁵ In response, Japan, the United Kingdom, and the United States warned of consequences if North Korea conducted a test; South Korea expressed “deep regret and concern.” For updates on the Six-Party Talks, see CRS Report RL33590, *North Korea’s Nuclear Weapons Development and Diplomacy*, by Larry A. Niksch.

On October 9, 2006, North Korea declared that it had conducted an underground nuclear test. One report placed the yield at as little as 0.2 kilotons.³⁶ According to other reports, South Korean geologists placed the explosive yield at 550 tons of TNT equivalent (0.55 kilotons),³⁷ the French Atomic Energy Commission’s estimate was 0.50 kilotons,³⁸ and Russian Minister of Defense Sergei Ivanov placed the yield at 5 to 15 kilotons.³⁹ For comparison, the Hiroshima bomb had a yield of 15 kilotons. A yield of less than a kiloton is well below the 9 or more kilotons of other nations’ first nuclear tests,⁴⁰ and below the 4 kilotons that North Korea reportedly told China that it expected.⁴¹ On October 16, the Office of the Director of National Intelligence released a statement on the test: “Analysis of air samples collected on October 11, 2006 detected radioactive debris which confirms that North Korea conducted an

³² “Korean Central News Agency North Korea February 10,” *The Guardian*, February 12, 2005.

³³ David Sanger, “U.S. in Warning to North Korea on Nuclear Test,” *New York Times*, May 16, 2005, p. 1.

³⁴ “Joint Statement of the Fourth Round of the Six-Party Talks,” Beijing, September 19, 2005, at [<http://www.state.gov/r/pa/prs/ps/2005/53490.htm>].

³⁵ Democratic People’s Republic of Korea, Foreign Ministry Statement, Pyongyang Korean Central Broadcasting Station, October 3, 2006.

³⁶ “White House Casts Doubt on N. Korean Nuclear Arms,” *Reuters* newswire, October 10, 2006.

³⁷ Evan Ramstad, Jay Solomon, and Gordon Fairclough, “Bomb Fallout: Explosion by North Koreans Imperils Nuclear-Control Effort,” *Wall Street Journal*, October 10, 2006, p. 1.

³⁸ Michael Abramowitz and Colum Lynch, “U.S. Urges Sanctions on North Korea,” *Washington Post*, October 10, 2006, in graphic, “North Korea’s Big Test,” p. 13.

³⁹ William Broad and Mark Mazzetti, “Blast May Be Only a Partial Success, Experts Say,” *New York Times*, October 10, 2006, p. 8.

⁴⁰ James Sterngold, “U.S. Urges Sanctions to Restrain North Korea,” *San Francisco Chronicle*, October 10, 2006, p. 1.

⁴¹ Broad and Mazzetti, “Blast May Be Only a Partial Success, Experts Say.”

underground nuclear explosion in the vicinity of P'unggye on October 9, 2006. The explosion yield was less than a kiloton."⁴²

Most U.S. observers cited in news reports believe that the event was a small nuclear explosion, but at most a partial success. One hypothesis is that, through poor design, the device did not implode properly, greatly reducing its yield.⁴³ Other hypotheses are that the device reduced the amount of plutonium used in order to conserve that material, or engineers sought to test the design rather than yield of the device, or the device was smaller and more sophisticated than anticipated.⁴⁴ On the latter point, Siegfried Hecker, former Director, Los Alamos National Laboratory, stated that the North Korean weapon designers most likely did not test a Nagasaki-type device (a basic implosion device) because they could have had high confidence, without testing, that such a device would work. Instead, his analysis is that the North Koreans most likely tested a more advanced design, even at the risk of partial failure, which is what the seismic signals appear to confirm. He considers it highly unlikely that they intentionally designed a mini-nuke. However, even if the test was not fully successful, he believes they learned much from the test.⁴⁵

A more advanced warhead would be of greater military value to North Korea than a Nagasaki bomb because a missile could carry it, but further tests might well be needed to make the warhead militarily usable. The press carried reports that North Korea said it would not conduct further tests, but according to another report, Secretary of State Condoleezza Rice said that Chinese officials, briefing her on the North Korean situation, said nothing about a North Korean test halt.⁴⁶ It would take some time to prepare for another test by determining the lessons of the first test, redesigning the device, and testing components of the new design. A moratorium during that time would have little if any impact on its test program.

The seismic record of the North Korean test, when compared with recordings of a 2002 earthquake recorded at a seismic station in Wonju, Republic of Korea, shows differences in seismic wave patterns that are diagnostic of an explosive source.⁴⁷ For example, seismic waves from the earthquake build up over several

⁴² U.S. Office of the Director of National Intelligence. Public Affairs Office. "Statement by the Office of the Director of National Intelligence on the North Korea Nuclear Test," October 16, 2006, ODNI News Release No. 19-06, 1 p.

⁴³ Dafna Linzer and Thomas Ricks, "U.S. Waits for Firm Information on Nature and Success of Device," *Washington Post*, October 11, 2006, p. 14.

⁴⁴ Dafna Linzer, "Low Yield of Blast Surprises Analysts," *Washington Post*, October 10, 2006, p. 12.

⁴⁵ Personal communication, October 13, 2006.

⁴⁶ Burt Herman, "U.S. Says No Sign of NKorea Promise Not to Test; SKorea's Ex-President Warns of Backlash," *Associated Press Newswires*, October 21, 2006.

⁴⁷ For the two seismographs, see "The CTBT Verification Regime Put to the Test — The Event in the DPRK on 9 October 2006," Comprehensive Nuclear-Test-Ban Treaty Preparatory Commission, at [http://www.ctbto.org/press_centre/featured_articles/2007/2007_0409_dprk.htm]. For a detailed discussion of the seismic record of the North Korean

seconds, while waves from the explosion arrive suddenly. Once the amplitudes are measured, the yield may be estimated, but this is complicated by factors such as the local geology and the specifics of the burial. Arthur Lerner-Lam, Associate Director for Seismology, Geology, and Tectonophysics, Lamont-Doherty Earth Observatory, Columbia University, said that the seismic record is not useful for determining whether the event was a nuclear or conventional explosion without making additional assumptions or inferences.⁴⁸ Mining explosions are typically detonated over several seconds in order to break rock efficiently, so their seismological signature can be interpreted in terms of such “ripple firing.” However, if North Korea attempted to mimic the signature of a nuclear explosion by setting off all the explosive at the same time, Lerner-Lam said, it would be virtually impossible to discriminate between conventional and nuclear explosions using seismological data alone. Complementary observations provide more direct evidence. A nuclear explosion releases radioactive isotopes of certain gases. They may take days to reach the surface, but once they dissipate into the atmosphere, he said, they may be detected by specially-equipped aircraft or ground stations.⁴⁹

The ability of the seismic network to detect an explosion that most sources place at or below one kiloton, and in one case as low as one-fifth of a kiloton, may hold implications for the CTBT. The treaty’s supporters claim that the ability to detect subkiloton tests should negate arguments against the treaty on grounds of inadequate monitoring capability. The Comprehensive Nuclear-Test-Ban Treaty Organization Preparatory Commission, for example, states, “the CTBT verification regime proved that it was capable of meeting the expectations set for it,”⁵⁰ even though the test was low yield, the IMS was 60% completed, and the noble gas system was 25% completed.⁵¹ Critics respond that the test was not evasively conducted; that evasion scenarios, such as testing during an earthquake or in a large underground cavity, could defeat monitoring efforts; and that subkiloton tests could aid in developing nuclear weapons.

The CTBT: Negotiations and Key Provisions

The Conference on Disarmament, or CD, calls itself “the sole multilateral disarmament negotiating forum of the international community.” It is affiliated with and funded by the United Nations, yet is autonomous from the U.N. It operates by consensus; each member state can block a decision. On August 10, 1993, the CD

⁴⁷ (...continued)

test, see Paul Richards and Won-Young Kim, “Seismic Signature,” *Nature Physics*, January 2007, pp. 4-6.

⁴⁸ Personal communication, October 10, 2006.

⁴⁹ For a technical analysis of the North Korean test, see Richard Garwin and Frank von Hippel, “A Technical Analysis: Deconstructing North Korea’s October 9 Nuclear Test,” *Arms Control Today*, November 2006.

⁵⁰ “The CTBT Verification Regime Put to the Test — The Event in the DPRK on 9 October 2006.” This source also has links to many documents on the North Korean test.

⁵¹ Information provided by CTBTO PrepCom, personal communication, February 15, 2008.

gave its Ad Hoc Committee on a Nuclear Test Ban “a mandate to negotiate a CTB.” On November 19, 1993, the United Nations General Assembly unanimously approved a resolution calling for negotiation of a CTBT. The CD’s 1994 session opened in Geneva on January 25, with negotiation of a CTBT its top priority.

The priority had to do with extension of the Nuclear Non-Proliferation Treaty (NPT).⁵² That treaty entered into force in 1970. It divided the world into nuclear “haves” — the United States, Soviet Union, Britain, France, and China, the five⁵³ declared nuclear powers, which are also the permanent five (“P5”) members of the U.N. Security Council — and nuclear “have-nots.” The P5 would be the only States Party to the NPT to have nuclear weapons, but they (and others) would negotiate in good faith on halting the nuclear arms race soon, on nuclear disarmament, and on general and complete disarmament. Nonnuclear weapon states saw attainment of a CTBT as the touchstone of good faith on these matters. The NPT provided for reviews every five years; a review in 1995, 25 years after it entered into force, would determine whether to extend the treaty indefinitely or for one or more fixed periods. The Review and Extension Conference of April-May 1995 extended the treaty indefinitely. Extension was accompanied by certain measures, including a Decision on Principles and Objectives for Nuclear Non-Proliferation and Disarmament that set forth goals on universality of the NPT, nuclear weapon free zones, etc., and stressed the importance of completing “the negotiations on a universal and internationally and effectively verifiable Comprehensive Nuclear-Test-Ban Treaty no later than 1996.”

The extension decision, binding on States Party to the NPT, was contentious. Nonnuclear States Party argued that the P5 failed to meet their NPT obligations by not concluding a CTBT. They saw progress on winding down the arms race as inadequate. They assailed the NPT as discriminatory because it divides the world into nuclear and nonnuclear states, and argued for a regime in which no nation has nuclear weapons. The CTBT, in their view, symbolized this regime because, unlike the NPT, the P5 would give up something tangible, the ability to develop new sophisticated warheads. Some nonnuclear states saw NPT extension as their last source of leverage for a CTBT. Other nonnuclear states felt that the NPT was in the interests of all but would-be proliferators, that anything less than indefinite extension would undermine the security of most nations, and that the NPT was too important to put at risk as a means of pressuring the P5 for a CTBT. The explicit linkage finally drawn between CTBT and NPT lent urgency to negotiations on the former.

The CD reached a draft treaty in August 1996. India argued that the CTBT “should be securely anchored in the global disarmament context and be linked through treaty language to the elimination of all nuclear weapons in a time bound

⁵² For text of the treaty, see [<http://www.state.gov/t/isn/trty/16281.htm#treaty>].

⁵³ For detailed information on the CTBT negotiations, see Jaap Ramaker, Jenifer Mackby, Peter Marshall, and Robert Geil, *The Final Test: A History of the Comprehensive Nuclear-Test-Ban Treaty Negotiations*, Vienna, Austria, Provisional Technical Secretariat of the Preparatory Commission for the Comprehensive Nuclear-Test-Ban Treaty Organization, 2003, 291 p.

framework.”⁵⁴ India also wanted a treaty to bar weapons research not involving nuclear tests. The draft treaty did not meet these conditions, which the nuclear weapon states rejected, so India vetoed it at the CD on August 20, barring it from going to the U.N. General Assembly as a CD document. As an alternate way to open the treaty for signing, Australia on August 23 asked the General Assembly to consider a resolution to adopt the draft CTBT text and for the Secretary-General to open it for signing so it could be adopted by a simple majority, or by the two-thirds majority that India sought, avoiding the need for consensus. A potential pitfall was that the resolution (the treaty text) was subject to amendment, yet the nuclear weapon states viewed amendments as unacceptable. India did not raise obstacles to the vote, which was held September 10, with 158 nations in favor, 3 against (India, Bhutan, and Libya), 5 abstentions, and 19 not voting.

A sixth five-year NPT review conference was held April 24-May 19, 2000, in New York. U.S. rejection of the CTBT, lack of Chinese ratification, U.S. efforts to seek renegotiation of the ABM Treaty, and efforts to ban nuclear weapons in the Middle East led some to fear dire outcomes from the conference. However, some contentious issues were ironed out, some were avoided, and concessions were made. For example, a joint statement by the P5 to the conference on May 1 said, “No efforts should be spared to make sure that the CTBT is a universal and internationally and effectively verifiable treaty and to secure its earliest entry into force.”⁵⁵ As a result of effort by many nations, the final document of the conference was adopted by consensus. The document included a 13-step Nuclear Disarmament Plan of Action, the first two elements of which called for the early entry into force of the treaty and a moratorium on nuclear explosions pending entry into force.

At the NPT Review Conference of May 2005, the CTBT was a point of contention. For example, Alberto Romulo, Secretary of Foreign Affairs, Republic of the Philippines, said, “Plans to develop new nuclear weapons technology and failure to bring the Comprehensive Test Ban Treaty (CTBT) into force seriously erode the historic foundations of the NPT.”⁵⁶ Ihor Dolhov, Deputy Foreign Minister for Foreign Affairs of Ukraine, said, “Ukraine continues to underscore the importance and urgency of an early entry into force of the Treaty and calls upon all

⁵⁴ India. Embassy. “Statement by Ms. Arundhati Ghose, Ambassador/Permanent Representative of India to UN, Geneva, in the Plenary of the Conference on Disarmament on January 25, 1996,” at [[http://www.indianembassy.org/policy/Disarmament/cd\(jan2596\).htm](http://www.indianembassy.org/policy/Disarmament/cd(jan2596).htm)].

⁵⁵ France. Embassy of France in the United States. “2000 Review Conference of the Parties to the Treaty on the Non-Proliferation of Nuclear Weapons: Statement by the Delegations of France, The People’s Republic of China, The Russian Federation, The United Kingdom of Great Britain and Northern Ireland and The United States of America,” New York, May 1, 2000, at [<http://www.ambafrance-us.org/news/statmnts/2000/tnp5.asp>].

⁵⁶ Philippines. Mission to the United Nations. “Collective Action: Regional Responsibility and Global Accountability Towards a World Free of Nuclear Weapons, Statement by H.E. Dr. Alberto G. Romulo, Secretary of Foreign Affairs, Republic of the Philippines, at the General Debate of the 2005 Review Conference of the Nuclear Non-Proliferation Treaty, New York, 11 May 2005,” p. 2, at [<http://www.un.org/events/npt2005/statements/npt11philippines.pdf>].

States who have not yet done so to adhere to the Treaty without delay and unconditionally...”⁵⁷ Ambassador Ronaldo Sardenberg of Brazil said, “Brazil has consistently called for the universalization of the CTBT, which we consider to be an essential element of the disarmament and non-proliferation regime.”⁵⁸

The balance of this section summarizes key CTBT provisions.⁵⁹

Scope (Article I): The heart of the treaty is the obligation “not to carry out any nuclear weapon test explosion or any other nuclear explosion.” This formulation bars even very low yield tests that some in the nuclear weapon states had wanted, and bars peaceful nuclear explosions that China had wanted, but rejects India’s concern that a CTBT should “leave no loophole for activity, either explosive based or non-explosive based, aimed at the continued development and refinement of nuclear weapons.”⁶⁰ Views differ on whether the ban covers tests with the tiniest nuclear yield; unless cooperative monitoring measures were used, the yield of such tests would be below the threshold of detection.

Organization (Article II): The treaty establishes a Comprehensive Nuclear-Test-Ban Treaty Organization (CTBTO), composed of all member states, to implement the treaty.⁶¹ Three groups are under this Organization. The Conference of States Parties, composed of a representative from each member state, shall meet in annual and special sessions to consider and decide issues within the scope of the treaty and oversee the work of the other groups. An Executive Council with 51 member States shall, among other things, take action on requests for on-site inspection, and may request a special session of the Conference. A Technical Secretariat shall carry out verification functions, including operating an International Data Center (IDC), processing and reporting on data from an International Monitoring System, and receiving and processing requests for on-site inspections.

Verification (Article IV): The treaty establishes a verification regime. It provides for collection and dissemination of information, permits States Party to use national technical means of verification, and specifies verification responsibilities of the Technical Secretariat. It establishes an International Monitoring System (IMS) and provides for on-site inspections. The treaty calls for the IMS to have, when

⁵⁷ Ukraine. Permanent Mission of Ukraine to the United Nations. “Statement by H.E. Mr. Ihor Dolhov, Deputy Minister for Foreign Affairs of Ukraine, at the 2005 NPT Review Conference, New York, 5 May 2005,” p. 4, at [<http://www.un.org/events/npt2005/statements/npt05ukraine.pdf>].

⁵⁸ Brazil. “VII Review Conference of Treaty on the Non-Proliferation of Nuclear Weapons, Statement by the Head of the Delegation of Brazil, Ambassador Ronaldo Sardenberg, New York, 2 May 2005,” p. 4, at [<http://www.un.org/events/npt2005/statements/npt04brazil.pdf>].

⁵⁹ For treaty text and analysis, see U.S. Congress. Senate. *Comprehensive Nuclear Test-Ban Treaty: Message from the President of the United States Transmitting Comprehensive Nuclear Test-Ban Treaty...*, Treaty Doc. 105-28, September 23, 1997. Washington: GPO, 1997, xvi + 230 p, or [<http://www.state.gov/t/isn/trty/16411.htm>].

⁶⁰ India, “Statement by Ms. Arundhati Ghose, ... January 25, 1996.”

⁶¹ For further information on the CTBTO, see its website at [<http://www.ctbto.org>].

complete, 321 stations worldwide to monitor for signals that might indicate a nuclear explosion: 170 seismic stations to monitor seismic waves in the Earth; 11 hydroacoustic stations to monitor underwater sound waves; 60 arrays of infrasound detectors to monitor very low frequency sound waves in the atmosphere; and 80 radionuclide stations to detect radioactive particles and (for half the stations) gases that a nuclear explosion might produce, as well as 16 radionuclide laboratories to analyze radioactive samples. Of the seismic stations, 50 are to be primary stations to provide data to IDC continuously and in real time, while 120 are to be auxiliary stations to provide data when requested by the IDC. As of January 2008, 37 primary seismic stations, 79 auxiliary seismic stations, 10 hydroacoustic stations, 39 infrasound arrays, 50 radionuclide stations, and 10 radionuclide laboratories had been certified.⁶² That is, they are completed and meet the technical requirements of the Preparatory Commission. They transmit data automatically and continuously to the IDC, excepting for the auxiliary stations and the radionuclide laboratories, which transmit data as requested by the IDC.⁶³ The commission “plans to have 90% of the IMS network installed by 2008.”⁶⁴

Review of the Treaty (Article VIII): The treaty provides for a conference 10 years after entry into force (unless a majority of States Party decide not to hold such a conference) to review the treaty’s operation and effectiveness. Further review conferences may be held at subsequent intervals of 10 years or less.

Duration and Withdrawal (Article IX): “This treaty shall be of unlimited duration.” However, “Each State Party shall, in exercising its national sovereignty, have the right to withdraw from this Treaty if it decides that extraordinary events related to the subject matter of this Treaty have jeopardized its supreme interests.” President Clinton indicated his possible willingness to withdraw from the Treaty using this withdrawal provision, which is common to many arms control agreements, in his speech of August 11, 1995, discussed below, as one of several conditions under which the United States would enter the CTBT.

Entry into force (Article XIV): The treaty shall enter into force 180 days after 44 states named in Annex 2 have deposited instruments of ratification, but not less than two years after the treaty is opened for signature. If the treaty has not entered into force three years after being opened for signature, and if a majority of states that have deposited instruments of ratification so desire, a conference of these states shall be held to decide how to accelerate ratification. Unless otherwise decided, subsequent conferences of this type shall be held annually until entry into force occurs. The 44

⁶² Information provided by Comprehensive Nuclear-Test-Ban Treaty Preparatory Commission, personal communication, February 15, 2008.

⁶³ Information provided by Annika Thunborg, Chief, Public Information, Comprehensive Nuclear-Test-Ban Treaty Preparatory Commission, personal communication, November 26, 2007.

⁶⁴ Comprehensive Test Ban Treaty Preparatory Commission, “Number of Certified IMS Facilities Passes 200 Mark,” press release PI/2007/03, March 29, 2007, available at [http://www.ctbto.org/press_centre/press_release.dhtml?item=292]. The Comprehensive Nuclear-Test-Ban Treaty Preparatory Commission reaffirmed the 90-percent figure in February 2008.

states are those with nuclear reactors that participated in the work of the CD's 1996 session and were CD members as of June 18, 1996. This formulation includes nuclear-capable states and nuclear threshold states (in particular Israel, which, along with other States, joined the CD on June 17, 1996), and excludes the former Yugoslavia. Of the 44, as of March 4, 2008, India, North Korea, and Pakistan had not signed the treaty and China, Egypt, Indonesia, Iran, Israel, and the United States had not ratified it.

Annexes: Annex 1 lists the regional groupings of states; Annex 2 lists the 44 states that must ratify the treaty, pursuant to Article XIV, for it to enter into force.

Protocol: The Protocol provides details on the IMS and on functions of the International Data Center (Part I); spells out on-site inspection procedures in great detail (Part II); and provides for certain confidence-building measures (Part III). Annex 1 to the Protocol lists International Monitoring System facilities: seismic stations, radionuclide stations and laboratories, hydroacoustic stations, and infrasound stations. Annex 2 provides a list of variables that, among others, may be used in analyzing data from these stations to screen for possible explosions.

Preparing for Entry into Force

States that had signed the CTBT established the Preparatory Commission (PrepCom) for the Comprehensive Nuclear-Test-Ban Treaty Organization (CTBTO) to prepare for entry into force of the treaty, such as by creating the structures and instruments of the CTBT. The PrepCom states that its main task "is to establish the global verification regime foreseen in the Treaty so that it will be operational by the time the Treaty enters into force." The PrepCom held 29 meetings from November 1996 through November 2007. The next is scheduled for June 23-26, 2008. Eleven meetings of working groups and advisory groups are scheduled for 2008. The PrepCom also holds training sessions, workshops, etc.⁶⁵

The United Nations conducted entry-into-force conferences under Article XIV in October 1999, November 2001, September 2003, September 2005, and September 2007. The final declaration of the 2007 conference called on all states to sign and ratify the treaty "without delay," especially those states required for entry into force, and adopted 11 measures to promote entry into force.⁶⁶ The Comprehensive Nuclear-Test-Ban Treaty Organization Preparatory Commission served as the secretariat of these conferences.

There have been other calls for entry into force. In September 2002, a statement by 18 foreign ministers, including those of Britain, France, and Russia, called for early entry into force. On November 22, 2002, the U.N. General Assembly adopted resolution

⁶⁵ For information on PrepCom and other meetings, see [<http://www.ctbto.org>]. For a complete calendar for 2007, see [<http://www.ctbto.org/prepcom/calendar2007.pdf>].

⁶⁶ Preparatory Commission for the Comprehensive Nuclear-Test-Ban Treaty Organization, "Ratifiers and States Signatories Urge Outstanding States to Sign and Ratify the Comprehensive Nuclear-Test-Ban Treaty," press release, September 18, 2007, available at [<http://www.ctbto.org/>].

57/100 (164 for, 1 against (U.S.A.), 5 abstentions) urging states to maintain their nuclear test moratoria and urging states that had not signed and ratified the CTBT to do so as soon as possible and to avoid actions that would defeat its object and purpose. In a message to the 2003 conference, U.N. Secretary-General Kofi Annan urged the nations that had to ratify the treaty for it to enter into force, and especially North Korea, to ratify, and urged continuing the moratorium: “No nuclear testing must be tolerated under any circumstances.”⁶⁷ A conference of the Non-Aligned Movement, which has 116 members, ended on February 25, 2003. Its Final Document stated that the heads of state or government “stressed the significance of achieving universal adherence to the Comprehensive Nuclear-Test-Ban Treaty (CTBT), including by all the Nuclear Weapons States.”⁶⁸ On September 23, 2004, foreign ministers from 42 nations called for prompt ratification of the CTBT, especially by nations whose ratification is required for entry into force.⁶⁹ A report by the Weapons of Mass Destruction Commission, an international commission organized by Sweden, issued a report in June 2006 that, among other things, urged all states that have not done so to sign and ratify the CTBT “unconditionally and without delay.” It recommended that the 2007 conference of CTBT signatories “should address the possibility of a provisional entry into force of the treaty.” It stated, “The Commission believes that a U.S. decision to ratify the CTBT would strongly influence other countries to follow suit. It would decisively improve the chances for entry into force of the treaty and would have more positive ramifications for arms control and disarmament than any other single measure.”⁷⁰ In September 2006, to mark the tenth anniversary of the CTBT’s opening for signature, 59 foreign ministers issued a joint statement on the treaty that “[calls] upon all States that have not yet done so to sign and ratify the Treaty without delay, in particular those whose ratification is needed for its entry into force.”⁷¹

In January 2007, George Shultz, William Perry, Henry Kissinger, and Sam Nunn urged the United States to work toward a world without nuclear weapons, with one step “Initiating a bipartisan process with the Senate, including understandings to increase confidence and provide for periodic review, to achieve ratification of the Comprehensive Test Ban Treaty, taking advantage of recent technical advances, and

⁶⁷ U.N. “No Nuclear Testing Must Be Tolerated under Any Circumstances.” Press Release SG/SM/8843, DC/2885, September 3, 2003, at [<http://www.un.org/News/Press/docs/2003/sgsm8843.doc.htm>].

⁶⁸ Non-Aligned Movement, Kuala Lumpur Summit, February 20-25, 2003, “Non-Aligned Movement Conference Stresses Importance of CTBT,” at [http://pws.ctbto.org/press_centre/featured_articles/250203_nam.html].

⁶⁹ Japan. Ministry of Foreign Affairs. “Joint Ministerial Statement on the CTBT,” New York, September 23, 2004, [<http://www.mofa.go.jp/policy/un/disarmament/ctbt/joint0409.html>].

⁷⁰ Weapons of Mass Destruction Commission, *Weapons of Terror: Freeing the World of Nuclear, Biological and Chemical Arms*. June 2006, p. 107, 108, at [http://www.wmdcommission.org/files/Weapons_of_Terror.pdf].

⁷¹ “Joint Ministerial Statement on the CTBT,” New York, September 20, 2006, at [http://www.armscontrol.org/pdf/20060920_CTBT_Joint_Ministerial_Statement.pdf#search=%22joint%20ministerial%20statement%20on%20the%20ctbt%22].

working to secure ratification by other key states.”⁷² In response, a few weeks later, Mikhail Gorbachev called on nuclear weapon states to ratify the CTBT, among other actions.⁷³ On November 19, former Secretary of Defense Harold Brown and former Director of Central Intelligence John Deutch suggested a five-year renewable CTBT in lieu of the current treaty.⁷⁴ In January 2008, Shultz, Perry, Kissinger, and Nunn renewed their call for, among other things, “a process for bringing the [CTBT] into effect” and called IMS “an effort the U.S. should urgently support even prior to [CTBT] ratification.”⁷⁵

The first Preparatory Committee meeting for the 2010 NPT Review Conference was held in Vienna, Austria, in April and May 2007. The chair of the committee released a paper that stated, “Strong support was expressed for the CTBT. The importance and urgency of its early entry into force was underscored. States which had not ratified the Treaty, especially those remaining 10 States whose ratification was necessary for its entry into force, were urged to do so without delay and without conditions.”⁷⁶ A representative of Germany, speaking on behalf of the European Union, said, “The EU reiterates its call on States, particularly those listed in Annex II, to sign and ratify the said Treaty without delay and without conditions and, pending its entry into force to abide by a moratorium on nuclear testing and to refrain from any action contrary to the obligations and provisions of the CTBT.”⁷⁷

U.S. funding for the PrepCom is: FY2002 actual, \$16.6 million; FY2003 actual, \$18.2 million; FY2004 actual, \$18.9 million; FY2005 actual, \$18.8 million; FY2006 actual, \$14.2 million; FY2007 actual, \$13.5 million; FY2008 requested, \$18.0 million; FY2008 appropriated, \$23.8 million (net of an across-the-board cut in the Consolidated Appropriations Act); and FY2009 requested, \$9.9 million. These funds are in the International Affairs budget under Nonproliferation, Antiterrorism, Demining, and Related Programs. The FY2007 budget justification stated that these funds “pay the U.S. share for the ongoing development and implementation of the International Monitoring System (IMS), which supplements U.S. capabilities to detect nuclear explosions. Since the United States does not seek ratification and

⁷² George Shultz, William Perry, Henry Kissinger, and Sam Nunn, “A World Free of Nuclear Weapons,” *Wall Street Journal*, January 4, 2007, p. 15.

⁷³ Mikhail Gorbachev, “The Nuclear Threat,” *Wall Street Journal*, January 31, 2007, p. 13.

⁷⁴ Harold Brown and John Deutch, “The Nuclear Disarmament Fantasy,” *Wall Street Journal*, November 19, 2007, p. 19.

⁷⁵ George Shultz, William Perry, Henry Kissinger, and Sam Nunn, “Toward a Nuclear-Free World,” *Wall Street Journal*, January 16, 2008, p. 13.

⁷⁶ “2007 NPT PrepCom Chair’s factual summary (now to be called a Chair’s Paper),” May 11, 2007, available at [<http://www.acronym.org.uk/npt/chair.pdf>].

⁷⁷ “First session of the Preparatory Committee for the 2010 Review Conference of the Parties to the Treaty on the Non-Proliferation of Nuclear Weapons, General Debate, Statement by Ambassador Rudiger Ludeking, Deputy Commissioner of the Federal Government [of Germany] for Arms Control and Disarmament on behalf of the European Union,” Vienna, April 30, 2007 p. 5, available at [<http://www.reachingcriticalwill.org/legal/npt/prepcom07/statements/30aprilEU.pdf>].

entry-into-force of the CTBT, none of the funds will support Preparatory Commission activities that are not related to the IMS.”⁷⁸

Suspension of U.S. Voting Rights in the Preparatory Commission.

U.S. voting rights in the CTBTO Preparatory Commission (PrepCom) were suspended in 2007 because of a shortfall in U.S. “assessed contributions” (i.e., dues). They were restored on October 1, 2007, when the PrepCom received an additional U.S. payment. The United States again lost its voting rights on January 1, 2008, but restored them with a payment on February 25. This section explains the basis for the suspensions, possible consequences, and the restoration of voting rights.

Article II of the treaty deals with the CTBTO. Section 11 provides,

A member of the Organization which is in arrears in the payment of its assessed contribution to the Organization shall have no vote in the Organization if the amount of its arrears equals or exceeds the amount of the contribution due from it for the preceding two full years. The Conference of the States Parties may, nevertheless, permit such a member to vote if it is satisfied that the failure to pay is due to conditions beyond the control of the member.

However, since the CTBT has not entered into force, the CTBTO has not come into existence. Instead, there is a PrepCom for the CTBTO. The annex to the resolution establishing the PrepCom states:

A State Signatory which has not discharged in full its financial obligations to the Commission within 365 days of receipt of the request for payment shall have no vote in the Commission, until such payment is received. The Commission may, nevertheless, permit such a member to vote if it is satisfied that the failure to pay is due to conditions beyond the control of the member.⁷⁹

While the treaty and the resolution form the legal basis for the operation of the PrepCom, the resolution governs decisions on voting rights.

The PrepCom’s budget is presented in dollars *plus* euros. Its 2007 budget was \$48.277 million plus €48.564 million, or \$114.622 million as of May 2007.⁸⁰ (The PrepCom uses the calendar year as its fiscal year.) The U.S. assessment is 22.3

⁷⁸ U.S. [no agency listed]. Summary and Highlights, *International Affairs Function 150, Fiscal Year 2007 Budget Request*, p. 40, at [<http://www.state.gov/documents/organization/60297.pdf>].

⁷⁹ Comprehensive Nuclear Test-ban Treaty. Meeting of States Signatories. Resolution establishing the Preparatory Commission for the Comprehensive Nuclear Test-Ban Treaty Organization. Adopted November 19, 1996. CTBT/MSS/RES/1, October 17, 1996. Annex: Text on the Establishment of a Preparatory Commission for the Comprehensive Nuclear Test-Ban Treaty Organization, Section 5(b), p. 2. Available at [http://www.ctbto.org/reference/legal_resources/prepcom_resolution.pdf].

⁸⁰ Of these amounts, \$47.077 million and €48.564 million are financed by contributions from states that have signed the treaty. The Preparatory Commission uses the U.N. operational exchange rate for May 2007 of \$1 = €0.732 (approximately €1 = \$1.3661).

percent of the total, or \$23.411 million, net of adjustments.⁸¹ In addition to this sum, the United States had an arrearage of \$14.912 million for prior years as of May 2007, for a total outstanding net amount payable of \$38.323 million.⁸² For comparison, U.S. funding for the IMS was \$14.207 million for FY2006 and \$10.0 million for FY2007; the FY2008 request was \$18.0 million.⁸³

U.S. voting rights in the PrepCom have been suspended each year beginning in 2003 because the United States did not pay its 2002 dues in full by December 31, 2002. These suspensions have lasted for a few months between the end of a calendar year and the date when the United States paid its contribution for that year. Because the United States has contributed less than the amount assessed for 2002 and each subsequent year, it paid fully the previous year's balance but contributed lesser amounts to the current year's assessment, so the arrearage has grown.

The arrearage results from U.S. policy. Since the United States does not seek entry into force of the CTBT but favors improving means of monitoring nuclear testing, the Administration requests only those funds for the PrepCom that directly support the IMS. These funds are in the International Affairs Function 150 budget in the Nonproliferation, Antiterrorism, Demining, and Related Programs (NADR) account. The FY2007 budget justification, for example, stated that the requested funds, \$19.8 million, would "pay the U.S. share for the ongoing development and implementation of the International Monitoring System (IMS), which supplements U.S. capabilities to detect nuclear explosions. Since the United States does not seek ratification and entry-into-force of the CTBT, none of the funds will support Preparatory Commission activities that are not related to the IMS."⁸⁴

On June 4, 2007, the United States made a payment of \$10.0 million, labeled "International Monitoring System for FY2007," to the CTBTO PrepCom.⁸⁵ This was less than the \$14.207 million provided for IMS for FY2006, and not enough to restore U.S. voting rights. When asked why the IMS payment was less than the FY2006 level, as might have been expected under a continuing resolution, a State Department staff member indicated that there were other priorities within the NADR

⁸¹ Information provided by Preparatory Commission for the CTBTO, personal communication, May 22, 2007. The adjustments are \$292,384 as the U.S. share of a cash surplus, and an assessment reduction of \$1,592,000 for services related to a seismic station in South Korea and a radionuclide station in Antarctica.

⁸² Ibid.

⁸³ FY2006 and FY2008 data are from U.S. [no agency listed]. *Congressional Budget Justification: Foreign Operations, Fiscal Year 2008*, p. 90, at [<http://www.state.gov/documents/organization/84462.pdf>]. FY2007 data provided by Comprehensive Nuclear-Test-Ban Treaty Preparatory Commission, personal communication, June 5, 2007.

⁸⁴ U.S. [no agency listed]. *Summary and Highlights: International Affairs Function 150, Fiscal Year 2007 Budget Request*, p. 40, at [<http://www.state.gov/documents/organization/60297.pdf>].

⁸⁵ Information provided by CTBTO PrepCom, personal communication, June 5 and 6, 2007.

account.⁸⁶ However, on September 16, 2007, the United States paid the PrepCom another \$3.5 million, enough to restore its voting rights for calendar 2007.⁸⁷

In action on H.R. 2764, FY2008 Department of State, Foreign Operations, and Related Programs Appropriations Bill, the Senate Appropriations Committee recommended \$28.0 million for IMS vs. \$18.0 million requested, and the House passed H.R. 2764, with \$10.0 million for IMS. The final version of H.R. 2764 became the FY2008 Consolidated Appropriations Act, P.L. 110-161; it included \$23.8 million for IMS.

The PrepCom states that all its actions so far have been taken by consensus rather than by votes, and that the PrepCom has its first meeting of each year in June,⁸⁸ so the immediate consequences of the United States not having a vote are limited. CTBT supporters, though, see consequences for the IMS. That system represents a major investment: as of December 2007, \$274.9 million had been spent out of a total estimated investment cost of \$328 million.⁸⁹ (The annual cost to operate IMS, the International Data Center, and the Global Communications Infrastructure is over \$70 million, or nearly 70% of the total CTBTO PrepCom budget.⁹⁰) Its capacity for monitoring nuclear tests is of use to the United States as well as to other nations. Treaty supporters state that the United States gains the full benefit of the IMS but pays only a fifth of its cost. They note that IMS operates in conjunction with other monitoring systems. This combined system, in their view, is capable of detecting very low yield nuclear tests and defeating many evasion attempts.⁹¹ They maintain that the ability of the IMS, along with other networks, to detect the North Korean nuclear test of October 2006 argues for accelerating IMS deployment, yet the shortfall in dues precludes such acceleration. Indeed, the PrepCom states that the shortfall makes it difficult to build additional stations and to fund operation and maintenance of existing IMS stations adequately.⁹² Daryl Kimball, Executive Director of the Arms Control Association, said, “the U.S. failure to pay its share will hinder the CTBTO’s ability to complete construction and certify for use the remaining stations of the International Monitoring System. Many of these remaining stations are to be built in remote and/or strategic areas, such as Turkmenistan, which

⁸⁶ Personal communication, June 1, 2007.

⁸⁷ Information provided by CTBTO PrepCom, personal communication, February 15, 2008.

⁸⁸ Information provided by CTBTO PrepCom, personal communication, May 16 and 22, 2007.

⁸⁹ Information provided by CTBTO PrepCom, personal communication, February 15, 2008.

⁹⁰ Information provided by CTBTO PrepCom, personal communication, March 4, 2008.

⁹¹ See, for example, National Academy of Sciences, Committee on Technical Issues Related to Ratification of the Comprehensive Nuclear Test Ban Treaty, *Technical Issues Related to the Comprehensive Nuclear Test Ban Treaty*, Washington, National Academy Press, 2002, especially Chapter 2, “CTBT Monitoring Capability,” pp. 35-59; and Paul Richards and Won-Young Kim, “Seismic Signature,” *Nature Physics*, January 2007, pp. 4-6.

⁹² Information provided by Preparatory Commission for the CTBTO, personal communications, May 17, 2007, and February 15, 2008.

borders Iran.”⁹³ While many other nations are in arrears in their dues, U.S. dues far exceed those of any other nation that has its voting rights suspended, so its shortfall will have a correspondingly greater impact. For example, a statement by the Group of 77 plus China noted “the non-payment by a major contributor of its financial obligations to the PrepCom. The Group is very concerned that during the recent years nearly \$15 million has not been paid by a major contributor. Such a situation, if it continues, would create a serious challenge to the CTBT verification regime and jeopardize the future of the whole system.”⁹⁴ Supporters also express concern over potential political consequences. In this view, U.S. failure to meet its obligations weakens the incentive for other nations to pay their dues to the PrepCom, and undercuts support for other international organizations more generally.

Opponents of the CTBT see little value in being able to cast a vote in an organization that operates by consensus and that would implement a treaty the United States opposes. They feel that adverse consequences to U.S. security of ratifying the CTBT and having it enter into force outweigh immeasurably whatever beneficial consequences might accrue from having the right to vote in the PrepCom. They note that 87 nations had their voting rights in the PrepCom suspended as of May 16, 2007, because of failure to pay dues,⁹⁵ so the U.S. arrearage is far from unique. According to one report, “Most political appointees working on the issue appear unperturbed by the voting rights suspension and the Vienna group’s [i.e., the PrepCom’s] future.”⁹⁶ Opponents question the value of IMS on two grounds. First, they point to several scenarios for clandestine testing, such as decoupling⁹⁷ or conducting a test in a remote ocean area in a way that hides the identity of the testing nation. Second, since IMS data is available to all states party to the treaty, it would be available to states party seeking to test clandestinely as well as to states party seeking to detect such testing. In this view, detailed access to the data would show evaders weaknesses of the monitoring systems, enhancing the effectiveness of evasion techniques.

⁹³ “Congress Must Remedy Past U.S. Funding Shortfalls for Global Nuclear Test Monitoring System,” media advisory, Arms Control Association, May 21, 2007.

⁹⁴ “Statement by the Group of 77 and China Before the Joint Meeting of WGA [Working Group A] and WGB of the Preparatory Commission for the CTBTO, Delivered by H.E. Ambassador Sayed Galal E. Elamin, Permanent Representative of Sudan,” CTBT/WGB-29, WGB-31/SD/1, May 23, 2007, pp. 2-3. The Group of 77 is a group of 130 nations (originally 77) and is, in its words, “the largest intergovernmental organization of developing states in the United Nations.” Group of 77, “About the Group of 77,” available at [<http://www.g77.org/doc/>].

⁹⁵ Preparatory Commission for the Comprehensive Nuclear-Test-Ban Treaty. Table showing 2007 assessed contributions to the Preparatory Commission for the CTBTO, contributions payable after adjustments, payments in 2007, and 2007 outstanding balance, all as of May 8, 2007, 6 p. Available at [http://www.ctbto.org/prepcom/0507_collections.pdf].

⁹⁶ Nicholas Krlev, “Unpaid U.S. Dues Hit Nuke-Test Monitoring,” *Washington Times*, May 24, 2007, p. 13.

⁹⁷ “Decoupling” is an evasion technique first proposed around 1959 in which a nuclear explosion is conducted in a large underground cavity, thereby lowering the seismic signature resulting from the explosion.

With payments for the prior year due each January 1, U.S. voting rights for calendar year 2008 were suspended on January 1, 2008. The CTBTO PrepCom stated that the United States would need to pay \$23.8 million to restore its 2008 voting rights.⁹⁸ The FY2008 Consolidated Appropriations Act provided that amount for IMS, and the United States paid the PrepCom that amount on February 25.⁹⁹ As of February 26, 2008, the U.S. arrearage was \$12.1 million plus €9.7 million.¹⁰⁰

The Administration's FY2009 request for "CTBT International Monitoring System" is \$9.9 million.¹⁰¹ If this amount is appropriated, the United States would lose its voting rights in 2009. According to the CTBTO PrepCom,

If the United States pays \$24 million in calendar year 2008, it still owes the CTBTO PrepCom almost as much in past arrears as its assessed contributions (i.e., dues), which are about \$24 million per year. In practice, if the United States owes more than its annual assessed contributions, it will lose its voting rights. Since it is now so deeply in arrears at the CTBTO PrepCom, it will need to pay at least its assessed contributions each calendar year in 2009 and beyond in order to retain its voting rights.¹⁰²

Stockpile Stewardship

P5 states want to maintain their nuclear warheads under a CTBT and assert that they need computers and scientific facilities to do so. They also want to retain the ability to resume testing if other nations leave a CTBT, or if maintaining high confidence in key weapons requires testing. Nonnuclear nations fear that the P5 will continue to design new warheads under a CTBT, with computation and nonnuclear experiments replacing testing. Maintaining nuclear weapons, especially without testing, is termed "stockpile stewardship." This is a contentious issue. This section focuses on the U.S. debate.

Stewardship bears on Senate advice and consent to CTBT ratification. Beginning with the Nuclear Test Ban Treaty of 1963, the United States has implemented "safeguards," or unilateral steps to maintain its nuclear weapons capability consistent with treaty limitations. President Kennedy's agreement to safeguards was critical for obtaining Senate approval of the 1963 treaty. The

⁹⁸ Personal communication, February 6, 2008.

⁹⁹ Preparatory Commission for the Comprehensive Nuclear-Test-Ban Treaty Organization, "The United States Pays US\$ 23.8 Million to the CTBTO," press release, February 26, 2008.

¹⁰⁰ Arrearage figures are from a CTBTO PrepCom table of contributions and outstanding balances, at [http://www.ctbto.org/prepcom/0507_collections.pdf], updated February 26, 2008, p. 6. This table is updated from time to time.

¹⁰¹ U.S. [no agency listed]. Summary and Highlights, *International Affairs Function 150, Fiscal Year 2009 Budget Request*, p. 82, at [<http://www.state.gov/documents/organization/100014.pdf>].

¹⁰² Personal communication, February 6, 2008.

safeguards were modified most recently by President Clinton. In his August 11, 1995, speech announcing a zero-yield CTBT as a goal, he stated:

As a central part of this decision, I am establishing concrete, specific safeguards that define the conditions under which the United States will enter into a comprehensive test ban. These safeguards will strengthen our commitments in the areas of intelligence, monitoring and verification, stockpile stewardship, maintenance of our nuclear laboratories, and test readiness.¹⁰³

These safeguards are: Safeguard A: “conduct of a Science Based Stockpile Stewardship program to insure a high level of confidence in the safety and reliability of nuclear weapons in the active stockpile”; Safeguard B: “maintenance of modern nuclear laboratory facilities and programs”; Safeguard C: “maintenance of the basic capability to resume nuclear test activities prohibited by the CTBT”; Safeguard D: “a comprehensive research and development program to improve our treaty monitoring”; Safeguard E: intelligence programs for “information on worldwide nuclear arsenals, nuclear weapons development programs, and related nuclear programs”; and Safeguard F: the understanding that if the Secretaries of Defense and Energy inform the President “that a high level of confidence in the safety or reliability of a nuclear weapon type which the two Secretaries consider to be critical to our nuclear deterrent could no longer be certified, the President, in consultation with Congress, would be prepared to withdraw from the CTBT under the standard ‘supreme national interests’ clause in order to conduct whatever testing might be required.”¹⁰⁴

Regarding the stewardship program, President Clinton said that the Secretary of Energy and the directors of the nuclear weapons laboratories had assured him that the United States could maintain its nuclear deterrent under a CTBT through a science-based stockpile stewardship program. “In order for this program to succeed,” he said, “both the administration and the Congress must provide sustained bipartisan support for the stockpile stewardship program over the next decade and beyond.”¹⁰⁵

The ability of the stewardship program to maintain nuclear weapons without testing was a crucial issue in the Senate debate on the CTBT. The treaty’s opponents claimed that stewardship offered no guarantee of maintaining weapons, and that experiments, computer models, and other techniques might offer no clue to some problems that develop over time. They further argued that it could be perhaps a decade before the tools for the program were fully in place, and by that time many

¹⁰³ President William J. Clinton, “Remarks Announcing a Comprehensive Nuclear Weapons Test Ban,” August 11, 1995, in U.S. National Archives and Records Administration. Office of the Federal Register. *Weekly Compilation of Presidential Documents*, August 14, 1995, p. 1432.

¹⁰⁴ U.S. White House. Office of the Press Secretary. “Fact Sheet: Comprehensive Test Ban Treaty Safeguards,” August 11, 1995, 1 p.

¹⁰⁵ President William J. Clinton, “Statement on a Comprehensive Nuclear Weapons Test Ban,” August 11, 1995, in U.S. National Archives and Records Administration. Office of the Federal Register. *Weekly Compilation of Presidential Documents*, August 14, 1995, p. 1433.

weapon designers with test experience would have retired. Supporters held that the program was highly likely to work, having already certified the stockpile three times, and that safeguard “F” provided for U.S. withdrawal from the treaty in the event high confidence in a key weapon type could not be maintained without testing. By March 2005, DOD and DOE had completed the ninth stockpile certification.

The ability of the stewardship program to maintain nuclear weapons without testing is also at issue in the Reliable Replacement Warhead (RRW) program. Initiated in the FY2005 Consolidated Appropriations Act (P.L. 108-447), the program is developing a new warhead to replace W76 warheads currently used on Trident II submarine-launched ballistic missiles. Congress imposed many goals for RRW, some in legislation and some in committee reports. The FY2006 National Defense Authorization Act, P.L. 109-163, Section 3111, set as one objective for the program “To further reduce the likelihood of the resumption of underground nuclear weapons testing.” Most Democrats on the House Armed Services Committee signed a statement of additional views in the committee’s FY2006 report on defense authorizations that included seven goals on RRW, including:

Democrats are willing to explore the concept of the RRW program but do not yet embrace it. In our opinion, the RRW program is only worthy of support if it:

- Truly reduces or eliminates altogether the need for nuclear testing...
- Leads to ratification and entry into force of the Comprehensive Test Ban Treaty.¹⁰⁶

A concern expressed by RRW proponents is that current warheads, maintained through the Life Extension Program (a part of the stockpile stewardship program), would accumulate a series of small changes that, over time, could move warheads away from their original specifications, thereby reducing confidence in warhead safety and reliability and making nuclear testing more likely. Critics of RRW respond that changes can be carefully managed and that political and military leaders are likely to raise questions about RRWs because they would be untested, and may demand nuclear tests to resolve the matter. On March 2, 2007, the National Nuclear Security Administration (NNSA) selected the design by Lawrence Livermore National Laboratory and Sandia National Laboratories’ Livermore branch as the winner in a design competition.¹⁰⁷ (See CRS Report RL33748, *Nuclear Warheads: The Reliable Replacement Warhead Program and the Life Extension Program*, and CRS Report RL32929, *The Reliable Replacement Warhead Program: Background and Current Developments*, both by Jonathan Medalia.)

A report of July 2007 by the Secretaries of Energy, State, and Defense linked RRW with nuclear testing: “Delays on RRW also raise the prospect of having to

¹⁰⁶ U.S. Congress. House. Committee on Armed Services. *National Defense Authorization Act for Fiscal Year 2006*, H.Rept. 109-89 on H.R. 1815, 109th Congress, 1st Session, 2005, p. 512.

¹⁰⁷ U.S. Department of Energy. National Nuclear Security Administration. “Design Selected for Reliable Replacement Warhead,” press release, March 2, 2007.

return to underground nuclear testing to certify existing weapons.”¹⁰⁸ Commenting on that statement, Representatives Hobson and Visclosky stated, “It is irresponsible for the Administration to make such an assertion.... There is no record of congressional testimony or reports sent to Congress by the Administration claiming that the safety, security, or reliability of the existing legacy stockpile is on a performance cliff such that a resumption of testing to verify performance of the warheads would be a necessity.”¹⁰⁹ Representatives Skelton and Tauscher wrote, “it is too early to know whether RRW can deliver on the objectives that have been established for the program.”¹¹⁰

In early 2007, several current and former Members of Congress discussed linking CTBT and RRW.¹¹¹ Since then, RRW’s support in Congress has diminished: the House voted to eliminate RRW funding in two FY2008 appropriations bills, energy-water and Department of Defense, and to reduce RRW funding in the FY2008 National Defense Authorization Bill, while the Senate Appropriations and Armed Services Committees reported bills that recommended reducing RRW funding.

Congress established NNSA in 1999 as a semiautonomous DOE agency to manage stewardship and related programs. In NNSA’s budget, stewardship is funded by the Weapons Activities account, the main elements of which are Directed Stockpile Work, activities directly supporting weapons in the stockpile; Campaigns, technical efforts to develop and maintain capabilities to certify the stockpile for the long term; and Readiness in Technical Base and Facilities, mainly infrastructure and operations for the weapons complex. Appropriations were: FY2001, \$5.006 billion; FY2002, \$5.429 billion; FY2003, \$5.954 billion; FY2004, \$6.447 billion; FY2005, \$6.626 billion; and FY2006, \$6.370 billion. The FY2007 operating plan contains

¹⁰⁸ U.S. Secretary of Energy, Secretary of Defense, and Secretary of State. “National Security and Nuclear Weapons: Maintaining Deterrence in the 21st Century.” July 2007, p. 4.

¹⁰⁹ Letter from Representative David Hobson, Ranking Minority Member, and Representative Peter J. Visclosky, Chairman, Subcommittee on Energy and Water Development, House Appropriations Committee, to The Honorable Robert Gates, Secretary of Defense, The Honorable Condoleezza Rice, Secretary of State, and The Honorable Samuel Bodman, Secretary of Energy, August 1, 2007.

¹¹⁰ Letter from Representative Ike Skelton, Chairman, House Armed Services Committee, and Representative Ellen Tauscher, Chairman, Subcommittee on Strategic Forces, House Armed Services Committee, to Secretary Samuel W. Bodman, Department of Energy, Secretary Robert M. Gates, Department of Defense, and Secretary Condoleezza Rice, Department of State, July 26, 2007.

¹¹¹ See, for example, Walter Pincus, “Congress Skeptical of Warhead Plan,” *Washington Post*, April 22, 2007, p. 5; letters from Senator Pete Domenici to Dr. Robert M. Gates, Secretary of Defense, Stephen J. Hadley, National Security Advisor, and Dr. Condoleezza Rice, Secretary of State, April 17, 2007, available at [http://www.abqjournal.com/abqnews/index.php?option=com_content&task=view&id=3267&Itemid=31]; Keith Costa, “Tauscher: Time to Make CTBT Ratification a Top National Security Goal,” *Inside the Pentagon*, February 1, 2007; and U.S. Congress. House. Committee on Appropriations. Subcommittee on Energy and Water Development. Hearing on nuclear weapon activities, March 29, 2007, testimony of former Senator Sam Nunn.

\$6.276 billion.¹¹² The FY2008 appropriation was \$6.297 billion; the FY2009 request is \$6.618 billion.¹¹³ (See CRS Report RL34009, *Energy and Water Development: FY2008 Appropriations*, coordinated by Carl Behrens.)

The conference version of H.R. 1585, the FY2008 defense authorization bill, removed from the Senate version a sense of Congress provision that the Senate should ratify the CTBT and replaced it with a provision that the United States should sustain the stockpile stewardship program (section 3126).

Subcritical experiments (SCEs): As part of the stockpile stewardship program, NNSA is conducting SCEs. CRS offers the following definition based on documents and on discussions with DOE and laboratory staff: “Subcritical experiments at Nevada Test Site involve chemical high explosives and fissile materials in configurations and quantities such that no self-sustaining nuclear fission chain reaction can result. In these experiments, the chemical high explosives are used to generate high pressures that are applied to the fissile materials.” The only fissile material that has been used in SCEs is plutonium. All SCEs to date have been conducted in a tunnel complex, about 1,000 feet underground at Nevada Test Site. The complex could contain explosions up to 500 pounds of explosive and associated plutonium. Another SCE, “Unicorn,” was conducted in a “down-hole” or vertical shaft configuration similar to an underground nuclear test, not in a tunnel, to exercise operational readiness.¹¹⁴ SCEs try to determine if radioactive decay of aged plutonium would degrade weapon performance. Several SCEs have been used to support certification of the W88 pit. (A pit is the “trigger” of a thermonuclear weapon.) In 1998, Secretary of Energy Bill Richardson called SCEs “a key part of our scientific program to provide new tools and data that assess age-related complications and maintain the reliability and safety of the nation’s nuclear deterrent.”¹¹⁵ As they produce no chain reaction, the Clinton Administration saw them as consistent with the CTBT. Critics counter that they would help design new weapons without testing; are unnecessary; may look like nuclear tests if not monitored intrusively; and are inconsistent with the spirit of a CTBT, which, critics believe, is aimed at halting nuclear weapons development, not just testing. NNSA stated that subcritical experiments cost between \$5 million and \$30 million.¹¹⁶ (For

¹¹² U.S. Department of Energy. *FY 2007 Operating Plan by Appropriation*. March 16, 2007, p. 2. Available at [<http://www.energy.gov/media/FY2007OperatingPlanForDOE.pdf>].

¹¹³ U.S. Department of Energy. Office of Chief Financial Officer. *FY2009 Congressional Budget Request*. Volume 1, National Nuclear Security Administration. DOE/CF-024, February 2008, p. 71, at [<http://www.cfo.doe.gov/budget/09budget/Content/Volumes/Volume1a.pdf>].

¹¹⁴ “Nanos Tours Nevada Test Site,” *Daily Newsbulletin*, Los Alamos National Laboratory, November 10, 2003, at [<http://www.lanl.gov/orgs/pa/newsbulletin/2003/11/10/text04.shtml>].

¹¹⁵ U.S. Department of Energy. “DOE to Conduct Fourth Subcritical Experiment; Scientific Data to Help Ensure the Safety and Reliability Of the Stockpile Without Nuclear Testing,” press release, September 23, 1998.

¹¹⁶ U.S. Department of Energy. Office of Management, Budget and Evaluation/CFO. *FY 2006 Congressional Budget Request*. Volume 1, National Nuclear Security Administration.

further information on subcritical experiments and test readiness, see CRS Report RL32130, *Nuclear Weapon Initiatives: Low-Yield R&D, Advanced Concepts, Earth Penetrators, Test Readiness*, by Jonathan Medalia.)

The 23 SCEs held so far are: 1997: Rebound, July 2; Holog, September 18; 1998: Stagecoach, March 25; Bagpipe, September 26; Cimarron, December 11; 1999: Clarinet, February 9; Oboe, September 30; Oboe 2, November 9; 2000: Oboe 3, February 3; Thoroughbred, March 22; Oboe 4, April 6; Oboe 5, August 18; Oboe 6, December 14; 2001: Oboe 8, September 26; Oboe 7 (held after Oboe 8), December 13; 2002: Vito (jointly with U.K.), February 14; Oboe 9, June 7; Mario, August 29; Rocco, September 26; 2003: Piano, September 19; 2004: Armando, May 25; 2006: Krakatau (jointly with U.K.), February 23; Unicorn, August 30. NNSA's FY2006 request stated that, for pit certification, "The major activities in FY2006 include the preparation and execution of subcritical experiments to confirm nuclear performance of the W88 warhead with a newly-manufactured pit."¹¹⁷ NNSA's FY2007 request states, "The Pit Campaign Support Activities at NTS provide support in fielding subcritical experiments essential to pit certification with completion of activities at the end of FY2006. There is no funding provided for these activities in FY2007. All subcritical experiment activities in support of the LANL-manufactured W88 pit certification effort will be completed in FY2006."¹¹⁸ NNSA stated to CRS in March 2006 that Unicorn is the last SCE supporting the W88 pit program, but SCEs for other purposes are anticipated. In March 2007, NNSA stated to CRS that "Subcritical experiments are not currently being scheduled by the laboratories until the FY2008 time frame."

The laboratories have conducted two other types of experiments involving plutonium at NTS. "Thermos" experiments are material property studies. NNSA stated in March 2007 that they do not use enough plutonium to sustain a chain reaction, and the plutonium "does not approximate any part of weapons design." Twelve such experiments were conducted between February and May 2007; as of September 2007, no more were planned.¹¹⁹ The Joint Actinide Shock Physics Experimental Research (JASPER) Facility is a gas gun that shoots a high-velocity projectile at a plutonium target to produce "high shock pressures, temperatures, and strain rates similar to that of a nuclear weapon" in the plutonium. According to NNSA, the resulting data help "refine the computer codes used to certify the U.S.

¹¹⁶ (...continued)

DOE/ME-0046, February 2005, p. 88, at [http://www.mbe.doe.gov/budget/06budget/Content/Programs/Vol_1_NNSA_2.pdf].

¹¹⁷ *Ibid.*, p. 177.

¹¹⁸ U.S. Department of Energy. Office of Chief Financial Officer. *FY 2007 Congressional Budget Request*. Volume 1, National Nuclear Security Administration. DOE/CF-002, February 2006, p. 192, at [http://www.mbe.doe.gov/budget/07budget/Content/Volumes/Vol_1_NNSA.pdf].

¹¹⁹ Information provided by National Nuclear Security Administration, September 19, 2007.

nuclear stockpile.¹²⁰ Seventy shots were conducted between March 2001 and July 2007, of which 27 used plutonium and 43 used surrogate materials.

Test Readiness: President Clinton directed DOE to be prepared to conduct a nuclear test within three years of a decision to do so. Yet a September 2002 report by DOE's Office of Inspector General found this ability "at risk."¹²¹ In January 2002 the Nuclear Posture Review briefing called for an unspecified acceleration of nuclear test readiness, and in March 2002 the Panel to Assess the Reliability, Safety, and Security of the United States Nuclear Stockpile assessed that "test readiness should be no more than three months to a year."¹²² The FY2003 National Defense Authorization Act, P.L. 107-314, sec. 3142, required the Secretary of Energy to report on alternative test readiness postures and recommend the optimal readiness posture. The resulting report argued that the three-year posture was increasingly at risk and recommended moving to an 18-month readiness posture by the end of FY2005.¹²³

The FY2004 Weapons Activities request included \$24.9 million to reduce the posture from 3 years to 18 months. The National Defense Authorization Act and the Energy and Water Development Appropriations Act provided the funds requested. Conferees on the latter expected NNSA to focus on a program that can meet the current 24-month requirement "before requesting significant additional funds to pursue a more aggressive goal of an 18-month readiness posture."¹²⁴ In contrast, the FY2004 National Defense Authorization Act (P.L. 108-136, sec. 3112) stated, "Commencing not later than October 1, 2006, the Secretary of Energy shall achieve, and thereafter maintain, a readiness posture of not more than 18 months for resumption by the United States of underground tests of nuclear weapons."

In testimony before the Senate Armed Services Committee on March 24, 2004, NNSA Administrator Linton Brooks said that NNSA's goal "is to achieve the 18-month test readiness posture called for in the Defense Authorization Act."¹²⁵ The

¹²⁰ U.S. Department of Energy. National Nuclear Security Administration. Nevada Site Office. "Joint Actinide Shock Physics Experimental Research (JASPER)," DOE/NV-1015, September 2004, at [http://www.nv.doe.gov/library/factsheets/DOENV_1015.pdf].

¹²¹ U.S. Department of Energy. Office of Inspector General. Office of Audit Services. *National Nuclear Security Administration's Test Readiness Program*, Audit Report, September 2002, p. 1.

¹²² Letter report from John Foster, Chairman, Panel to Assess the Reliability, Safety, and Security of the United States Nuclear Stockpile, to Senator Carl Levin, Chairman, Committee on Armed Services, U.S. Senate, March 15, 2002, p. ES-2, at [<http://www.fas.org/nuke/control/ctbt/text/foster01.doc>].

¹²³ U.S. Department of Energy. National Nuclear Security Administration. *Nuclear Test Readiness*. Report to Congress, April 2003, p. 5-8.

¹²⁴ U.S. Congress. Committee of Conference. *Making Appropriations for Energy and Water Development for the Fiscal Year Ending September 30, 2004, and for Other Purposes*, H.Rept. 108-357, to accompany H.R. 2754, 108th Congress, 1st Session, 2003, p. 159-160.

¹²⁵ U.S. Congress. Senate. Committee on Armed Services. Subcommittee on Strategic (continued...)

FY2005 National Defense Authorization Act provided the full \$30.0 million requested for test readiness. In the FY2005 energy and water bill, the House Appropriations Committee recommended reducing the Primary Assessment Technologies campaign request of \$81.5 million, which included \$30.0 million for test readiness, by \$15.0 million “to limit the enhanced test readiness initiative to the goal of achieving a 24-month test readiness posture. The Committee continues to oppose the 18-month test readiness posture.”¹²⁶ The FY2005 Consolidated Appropriations Act reduced this campaign by \$7.5 million.

NNSA’s FY2006 test readiness request was \$25.0 million “to continue improving the state of readiness to reach an 18-month test-readiness posture in FY2006.”¹²⁷ In a Senate Armed Services Committee hearing on February 15, 2005, Senator John Warner asked Secretary of Energy Samuel Bodman whether DOE would meet the 18-month test readiness requirement by October 1, 2006. Secretary Bodman replied, “We continue to be committed to that requirement of the law” and was informed that DOE is on track to meet the October 1 deadline.¹²⁸ In testimony before the Senate Appropriations Committee’s Energy and Water Development Subcommittee on April 14, 2005, Ambassador Brooks explained the rationale for the 18-month posture: “Shorter than that, and you were paying money for readiness you couldn’t use, because the experiment [the nuclear test] wouldn’t be ready. Longer than that, and you were running the risk of being ready to test to find out whether you had corrected an important problem, but the test site wasn’t ready.”¹²⁹ The House Appropriations Committee continued to favor a 24-month posture and stated that the Reliable Replacement Warhead program “obviates any reason to move to a provocative 18-month test readiness posture.”¹³⁰ The Energy and Water Development Appropriations Act reduced test readiness funding to \$20.0 million; conferees directed DOE to maintain the 24-month posture. The National Defense Authorization Act also provided \$20.0 million; the accompanying conference report did not address the readiness posture. (See Legislation, below.)

¹²⁵ (...continued)

Forces. Hearing on strategic forces, March 24, 2004, transcript by FDCH e-Media, Inc. Testimony of Ambassador Linton Brooks, Administrator, National Nuclear Security Administration.

¹²⁶ U.S. Congress. House. Committee on Appropriations. *Energy and Water Development Appropriations Bill, 2005*, H.Rept. 108-554, to accompany H.R. 4614, 108th Congress, 2nd Session, 2004, p. 116.

¹²⁷ Department of Energy, *FY 2006 Congressional Budget Request*, Volume 1, p. 93.

¹²⁸ U.S. Congress. Senate. Committee on Armed Services. Hearing on FY2006 budget request for Atomic Energy Defense Activities of DOE and NNSA, February 15, 2005, transcript by FDCH e-Media, Inc. Testimony of Samuel Bodman, Secretary of Energy.

¹²⁹ U.S. Congress. Senate. Committee on Appropriations. Subcommittee on Energy and Water Development. Hearing on FY2006 appropriations for NNSA, April 14, 2005, transcript by FDCH e-Media, Inc. Testimony of Ambassador Linton Brooks, Undersecretary, Nuclear Security, [and] Administrator, National Nuclear Security Administration.

¹³⁰ U.S. Congress. House. Committee on Appropriations. *Energy and Water Development Appropriations Bill, 2006*. H.Rept. 109-86, to accompany H.R. 2419, 109th Congress, 1st Session, 2005, p. 134.

For FY2007, NNSA requested \$14.8 million for test readiness and noted that the target test readiness posture for FY2006-FY2011, 24 months, was achieved in FY2005.¹³¹ The House Armed Services Committee's report on FY2007 defense authorization stated, "While the committee has no indication of the need to resume underground nuclear testing in the near future, it does believe that maintaining the 18 month readiness posture as directed by Congress is important to national security. The committee notes that funding shortfalls have precluded the Department of Energy from achieving the 18 month readiness posture as required by law."¹³² In the FY2007 Energy and Water Development Appropriations Bill (H.R. 5427), the House provided the requested amount, and the Senate Appropriations Committee (in S.Rept. 109-274) recommended providing that amount. NNSA requests no funds under test readiness for FY2008, noting that the program has achieved its goal of a 24-month readiness posture, current capabilities will be maintained through other parts of the budget, and "a more forward looking program is planned."¹³³ The House Armed Services Committee made no mention of test readiness in its report, while the Senate Armed Services Committee provided no funds, as requested. The House Appropriations Committee sharply criticized the decision not to request funds, and added funds:

The Committee supports the 24-month test readiness posture at the Nevada Test Site and provides an additional \$20,000,000 to restore the funding in the Administration's budget request which terminated the activity. The Committee is baffled by the Administration's decision to eliminate funding for nuclear test readiness after four budget cycles of insisting that shortening to an 18-month test readiness posture was required for national security reasons.... In the fiscal year 2008 budget request, the NNSA proposes what the Committee believes to be a wasteful investment by allowing the restored test readiness activities to be degraded.¹³⁴

Section 3112 of the conference version of H.R. 1585, the FY2008 defense authorization bill, repealed a provision (P.L. 108-136, section 3113; 50 U.S.C. 2528a) requiring an 18-month nuclear test posture, and required the Secretary of Energy to submit a report on nuclear test readiness every two years. For test readiness, the FY2008 estimate is \$4.9 million and the FY2009 request is \$10.4

¹³¹ Department of Energy, *FY 2007 Congressional Budget Request*. Volume 1, National Nuclear Security Administration, p. 97.

¹³² U.S. Congress. House. Committee on Armed Services. *National Defense Authorization Act for Fiscal Year 2007*, H.Rept. 109-452 to accompany H.R. 5122, 109th Congress, 2nd Session, 2006, p. 464.

¹³³ U.S. Department of Energy. Office of Chief Financial Officer. *FY 2008 Congressional Budget Request*. Volume 1, National Nuclear Security Administration. DOE/CF-014, February 2007, p. 101. Available at [http://www.mbe.doe.gov/budget/08budget/Content/Volumes/Vol_1_NNSA.pdf].

¹³⁴ U.S. Congress. House. Committee on Appropriations. *Energy and Water Development Appropriations Bill, 2008*, H.Rept. 110-185, to accompany H.R. 2641, 110th Congress, 1st Session, 2007, p. 102.

million.¹³⁵ NNSA stated that it had achieved a 24-month test readiness posture in FY2007, but that “forecasted budget levels resulted in a change in the test readiness posture target to 24 to 36 months.”¹³⁶

Table 1. U.S. Nuclear Tests by Calendar Year

1945-1949	6	1960-1964	202	1980-1984	92
1950-1954	43	1965-1969	231	1985-1989	75
1955-1959	145	1970-1974	137	1990-1992	23
		1975-1979	100	Total	1054

Source: U.S. Department of Energy.

Note: These figures include all U.S. nuclear tests, of which 24 were joint U.S.-U.K. tests conducted at the Nevada Test Site between 1962 and 1991. They reflect data on unannounced tests that DOE declassified on December 7, 1993. They exclude the two atomic bombs that the United States dropped on Japan in 1945. On June 27, 1994, Secretary O’Leary announced that DOE had redefined three nuclear detonations (one each in 1968, 1970, and 1972) as separate nuclear tests. This table reflects these figures. She also declassified the fact that 63 tests, conducted from 1963 through 1992, involved more than one nuclear explosive device.

CTBT Pros and Cons

The CTBT is contentious. For a detailed analysis of the case for and against the treaty, see CRS Report RL34394, *Comprehensive Nuclear-Test-Ban Treaty: Issues and Arguments*. Key arguments include the following:

Can the United States maintain deterrence without testing? The treaty’s supporters hold that U.S. programs can maintain existing, tested weapons without further testing, pointing to 12 annual assessments that these weapons remain safe and reliable, and claim that these weapons meet any deterrent needs. Opponents maintain that there can be no confidence in existing warheads, as many minor modifications will change them from tested versions, so testing is needed to restore and maintain confidence. They see deterrence as dynamic, requiring new weapons to counter new threats, and assert that these weapons must be tested.

Are monitoring and verification capability sufficient? “Monitoring” refers to technical capability; “verification” to its adequacy to maintain security. Supporters hold that advances in monitoring make it hard for an evader to conduct undetected tests. They claim that any such tests would be too small to affect the strategic balance. Opponents see many opportunities for evasion and believe that clandestine tests could put the United States at a serious disadvantage.

How might the treaty affect nuclear nonproliferation and disarmament? Supporters claim that the treaty makes technical contributions to nonproliferation,

¹³⁵ Department of Energy, *FY2009 Congressional Budget Request*, vol. 1, p. 133.

¹³⁶ *Ibid.*, p. 135.

such as limiting weapons programs; some supporters believe that nonproliferation requires progress toward nuclear disarmament, with the treaty a key step. Opponents believe that a strong nuclear deterrent is essential for nonproliferation, that nonproliferation and disarmament are unrelated, and that this nation has taken many nonproliferation and disarmament actions that the international community ignores.

Legislation

H.R. 1585 (Skelton). National Defense Authorization Act for Fiscal Year 2008. Reported by House Committee on Armed Services (H.Rept. 110-146) May 11. Passed House, 397-27, on May 17 (roll no. 373). In the Senate, in a floor speech of July 10, Senator Jon Kyl called a CTBT provision (see S. 1547, below) “an unprecedented attempt to preordain the ratification of a treaty — a treaty already overwhelmingly rejected by this body — the CTBT.” On October 1, the Senate passed the bill, including the CTBT provision, 92-3 (record vote 359), and appointed conferees. The conference report (H.Rept. 110-477) was ordered to be printed on December 6. The conference bill repealed a provision requiring an 18-month nuclear test posture, required the Secretary of Energy to report on nuclear test readiness every two years, and replaced the CTBT provision with one expressing the sense of Congress that the United States should sustain the stockpile stewardship program. On December 12, the House agreed to the conference report, 370-49.

S. 1547 (Levin). National Defense Authorization Act for Fiscal Year 2008. Reported by Senate Committee on Armed Services (S.Rept. 110-77) June 5. The Administration requested, and the bill included, no funds for FY2008 for nuclear test readiness. Section 3121 repealed a requirement (50 U.S.C. 2528a) for reports on nuclear test readiness, and instead required biennial reports on this topic that would include an estimate of the time needed to conduct a nuclear test following direction by the President to do so, a description of the level of test readiness that the Secretary of Energy deems appropriate, a list of skills, capabilities, and infrastructure needed to carry out a test, and an assessment of such skills, capabilities, and infrastructure. Section 3122, Sense of Congress on the Nuclear Nonproliferation Policy of the United States and the Reliable Replacement Warhead Program, included a provision, “the Senate should ratify the Comprehensive Nuclear-Test-Ban Treaty.” The Administration criticized Section 3122 in a Statement of Administration Policy. The text of this bill, as reported to Senate, was incorporated in H.R. 1585 as substitute amendment S.Amdt. 2011. See H.R. 1585 for further action.

H.R. 2641 (Visclosky). Energy and Water Development Appropriations Bill, 2008. Reported from House Committee on Appropriations (H.Rept. 110-185) June 11. The committee bill provided \$20.0 million for test readiness, although no funds were requested, as discussed under “Test Readiness,” above. The committee bill also provided \$484.3 million for nonproliferation and verification R&D, an increase of \$219.1 million over the request. Of this increase, the committee added \$120.0 million for proliferation detection and \$61.1 million for nuclear explosion monitoring, “reflect[ing] the urgent need to develop advanced proliferation detection technology

and nuclear explosion monitoring capability.”¹³⁷ On June 13, the House Committee on Rules reported (H.Rept. 110-190) the rule (H.Res. 481) for the bill. The House considered the bill on June 19 and 20. On July 17, the House passed the bill, 312-112 (roll no. 641), without change to the foregoing provisions. For further action, see H.R. 2764.

S. 1751 (Dorgan). Energy and Water Appropriations Bill, 2008. Reported from Senate Committee on Appropriations (S.Rept. 110-127) July 9. The committee recommended no funds for test readiness, as requested. It recommended \$322.3 million for nonproliferation and verification R&D, an increase of \$57.0 million over the request. For further action, see H.R. 2764.

S. 1977 (Obama). Nuclear Weapons Threat Reduction Act of 2008. Section 3, Sense of Congress, includes a provision that the United States should strengthen nuclear nonproliferation, prevent nuclear terrorism, and uphold all commitments of the Nuclear Non-Proliferation Treaty by, among other things, “continuing the United States moratorium on nuclear test explosions, initiating a bipartisan process to achieve ratification of the Comprehensive Test Ban Treaty, working to secure ratification by other key countries, and fully supporting United States commitments to fund the international monitoring system to help detect and deter possible nuclear explosions by other countries.” On August 2, 2007, the bill was introduced and referred to the Senate Committee on Foreign Relations. On September 6, parts of S. 1977, excluding among other things the CTBT provision, were passed as Senate Amendment 2692, as modified, part of an *en bloc* amendment to H.R. 2764, the State-Foreign Operations appropriations bill. The Senate passed H.R. 2764, 81-12, as amended, on September 6.

H.R. 2764 (Lowey). State, Foreign Operations, and Related Programs Appropriations Bill, 2008. Reported from House Committee on Appropriations (H.Rept. 110-197) June 18, 2007. The committee recommended \$10.0 million for the International Monitoring System (IMS), vs. \$18.0 million requested. In a colloquy with Representative Tauscher on June 21, Representative Lowey said, “I agree with you that the United States should show leadership and pay our full share of obligations that it owes to the CTBTO.... [I]t is my intention to continue to work with you as the bill moves through the process.” The House passed the bill without change to the IMS provision, 241-178, on June 22 (roll call 542).

House Amendment 1 to the Senate amendment to H.R. 2764 is the consolidated appropriations bill for FY2008, combining 11 appropriations bills (excepting that for the Department of Defense). (House Amendment 2 is for Emergency Supplemental Appropriations for Operation Enduring Freedom and for Other Purposes.) In Division C, Energy and Water, House Amendment 1 increased test readiness funds from \$0 requested to \$4.9 million and increased nuclear explosion monitoring funds from \$112.7 million requested to \$133.2 million. In Division J, State/Foreign Operations, House Amendment 1 increased funds for the International Monitoring System (IMS) from \$18.0 million requested to \$24.0 million. The House agreed to

¹³⁷ House Appropriations Committee, *Energy and Water Development Appropriations Bill, 2008*, pp. 109-110.

House Amendment 1, 253-154, on December 17 (roll call 1171). The Senate agreed to that amendment, 76-17, on December 18 (record vote 441). An across-the-board cut to this bill reduced IMS funding to \$23.8 million. The measure was signed into law as the Consolidated Appropriations Act, P.L. 110-161, on December 26.

H.R. 2764 (Leahy). Department of State, Foreign Operations, and Related Programs Appropriations Bill, 2008. On July 10, 2007, it was reported from the Senate Committee on Appropriations (S.Rept. 110-128) and placed on the Senate Legislative Calendar. The committee recommended \$28.0 million for IMS. On September 6, the Senate passed the bill, 81-12 (record vote no. 325), with no change to the IMS provision, and appointed conferees.

H.Res. 68 (Woolsey). Recognizing the dangers posed by nuclear weapons. Urges the President, among other things, to “reaffirm the moratorium on nuclear testing and work for ratification of the Comprehensive Test Ban Treaty at the earliest possible date.” Introduced January 16, 2007, and referred to the House Committees on Armed Services and Foreign Affairs. Referred to the Subcommittee on Terrorism, Nonproliferation, and Trade on February 5, 2007.

H.Res. 227 (Woolsey). “Calling for the adoption of a Sensible, Multilateral American Response Terrorism (SMART) security platform for the 21st century.” Calls for a U.S. security policy that, among other things, would reduce the spread of weapons of mass destruction by adhering to the CTBT. Referred to House Committee on Foreign Affairs, March 7, 2007.

H.Res. 882 (Tauscher). “Expressing the sense of the House of Representatives that the Senate should initiate a bipartisan process to give its advice and consent to ratification of the Comprehensive Nuclear-Test-Ban Treaty.” Introduced December 17, 2007, and referred to the House Committee on Foreign Affairs.

Chronology

- 02/25/08** — The United States paid \$23.8 to the Comprehensive Nuclear-Test-Ban Treaty Preparatory Commission, restoring its voting rights in the commission.
- 01/29/08** — Colombia, one of the Annex 2 states that must ratify the CTBT for it to enter into force, became the 144th nation to ratify the treaty.
- 12/17/07** — Representative Tauscher introduced H.Res. 882, expressing the sense of the House that the Senate should initiate a bipartisan process to give its advice and consent to ratification of the CTBT.
- 11/26/07** — The conference report on H.R. 1585, the FY2008 defense authorization bill, was ordered to be printed. The bill provided for biennial reports on U.S. nuclear test readiness and dropped a provision in the Senate bill expressing the sense of Congress that “the Senate should ratify” the CTBT.

- 12/05/07** — By a vote of 176 for, 1 against (United States), and 4 abstentions, the U.N. General Assembly adopted resolution A/RES/62/59 stressing the importance of achieving the earliest entry into force of the CTBT.
- 11/26/07** — Bahamas became the 141st nation to ratify the CTBT.
- 11/19/07** — Former Secretary of Defense Harold Brown and former Director of Central Intelligence John Deutch suggested a five-year renewable CTBT in lieu of the current treaty.
- 11/14/07** — The Preparatory Commission for the Comprehensive Nuclear-Test-Ban Treaty Organization concluded its 29th meeting.
- 10/24/07** — Senator Jon Kyl delivered a speech critical of the CTBT and of Section 3122 of H.R. 1585, the FY2008 National Defense Authorization Act, expressing the sense of Congress that the Senate should ratify the CTBT. Senator Kyl included a letter signed by 41 Senators opposing the treaty and Section 3122.
- 09/00/07** — The United Nations held the fifth conference on facilitating CTBT entry into force on September 17 and 18 in Vienna, Austria.
- 06/22/07** — The Preparatory Commission for the Comprehensive Nuclear-Test-Ban Treaty Organization concluded its 28th meeting.
- 06/04/07** — The Senate Armed Services Committee reported S. 1547, FY2008 National Defense Authorization Act. Section 3122, Sense of Congress on the Nuclear Nonproliferation Policy of the United States and the Reliable Replacement Warhead Program, included a provision, “the Senate should ratify the Comprehensive Nuclear-Test-Ban Treaty.”
- 06/04/07** — The United States paid \$10.0 million toward the International Monitoring System to the Comprehensive Test Ban Treaty Organization Preparatory Commission.
- 03/29/07** — The Comprehensive Nuclear-Test-Ban Treaty Organization Preparatory Commission certified the 200th and 201st International Monitoring System stations.
- 01/31/07** — Mikhail Gorbachev called on nuclear weapon states to ratify the CTBT.
- 01/04/07** — Four former government officials urged “[i]nitiating a bipartisan process with the Senate ... to achieve ratification of the Comprehensive Test Ban Treaty.”
- 11/17/06** — The Preparatory Commission for the Comprehensive Nuclear-Test-Ban Treaty Organization concluded its 27th meeting.

- 10/16/06** — The United States confirmed that the North Korean event of October 9 was a nuclear test.
- 10/09/06** — North Korea claimed to have conducted its first nuclear test; most reports placed the explosive yield of the test at one kiloton or less.
- 10/03/06** — North Korea declared that it will conduct a nuclear test.
- 9/28/06** — Representative Tauscher introduced H.Res. 1059, calling on the Senate to give its advice and consent to CTBT ratification.
- 9/20/06** — Fifty-nine foreign ministers called on states that have not done so to ratify the treaty.
- 8/30/06** — The United States conducted its 23rd subcritical experiment, “Unicorn,” at the Nevada Test Site.
- 6/00/06** — The 26th meeting of the Preparatory Commission for the Comprehensive Nuclear Test Ban Treaty Organization was held June 20-23.
- 2/23/06** — The United States and United Kingdom conducted a subcritical experiment, “Krakatau,” at the Nevada Test Site.

For earlier chronology, see the **Appendix**.

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Appendix. Chronology, 1992-2005

- 09/23/92** — The United States conducted its most recent nuclear test, “Divider.”
- 10/02/92** — President Bush signed the FY1993 Energy and Water Development Appropriations Act, P.L. 102-377; sec. 507 restricted U.S. nuclear testing.
- 10/13/92** — Russia announced an extension of its test moratorium at least to mid-1993.
- 01/13/93** — President François Mitterrand said France would extend its test moratorium as long as the United States and Russia did.
- 04/24/93** — At the Vancouver summit, Presidents Clinton and Yeltsin agreed that negotiations on a multilateral test ban should begin soon.
- 07/03/93** — President Clinton announced his plan to continue the test moratorium through September 1994 as long as no other nation tests.
- 08/10/93** — The Conference on Disarmament (CD) gave its Ad Hoc Committee on a Nuclear Test Ban a mandate to negotiate a CTBT.
- 10/05/93** — China held the world’s first nuclear test since September 1992.
- 01/25/94** — The Conference on Disarmament opened its 1994 session in Geneva, with negotiation of a CTBT its top priority.
- 03/15/94** — The United States extended its test moratorium through September 1995.
- 06/10/94** — China conducted an underground nuclear test.
- 09/26/94** — President Yeltsin, in an address to the U.N. General Assembly, said, “Russia favors signing this treaty [the CTBT] next year.”
- 10/07/94** — China conducted an underground nuclear test.
- 01/24/95** — President Clinton said in his State of the Union address, “The United States will lead the charge to extend indefinitely the Nuclear Non-Proliferation Treaty [and] to enact a comprehensive nuclear test ban.”
- 01/30/95** — President Clinton continued the U.S. moratorium until a CTBT enters into force, assuming it is signed before September 30, 1996.
- 05/11/95** — The Nuclear Non-Proliferation Treaty Review and Extension Conference agreed to extend that treaty indefinitely, and by reference called for completing CTBT negotiations not later than 1996.
- 05/15/95** — China conducted a nuclear test, its fourth since September 1992.
- 06/13/95** — President Jacques Chirac announced that France would conduct eight nuclear tests in the South Pacific between September 1995 and May 1996.
- 08/04/95** — The Senate tabled, 56 to 44, an amendment by Senator Exon and others to delete \$50 million for conducting hydronuclear tests (those producing extremely low nuclear yield). The amendment was to S. 1026, the FY1996 National Defense Authorization Bill.
- 08/10/95** — France announced that once it completed its nuclear test program, it would support a CTBT that bans all nuclear tests of any yield.
- 08/11/95** — President Clinton announced his decision to pursue a “true zero yield” CTBT, banning all nuclear tests regardless of yield, accompanied by six “safeguards” to assure confidence in U.S. nuclear weapons under a CTBT.
- 08/17/95** — China conducted a nuclear test, its fifth since September 1992.
- 09/05/95** — France conducted a nuclear test, its first since 1991.

- 12/13/95** — A U.N. General Assembly resolution, passed 85-18, “strongly deplores” current nuclear testing and “strongly urges” an immediate end to testing.
- 01/23/96** — In his State of the Union Address, President Clinton stated, “We must end the race to create new nuclear weapons by signing a truly comprehensive nuclear test ban treaty — this year.”
- 01/27/96** — France held the sixth nuclear test in its test series.
- 01/29/96** — President Chirac announced “the final end to French nuclear tests.”
- 03/07/96** — The Washington *Times* reported U.S. intelligence agencies have ambiguous evidence that Russia may have conducted a nuclear test in January 1996.
- 04/19/96** — President Yeltsin formally endorsed a zero-yield CTBT and reserved the right to resume testing if Russia’s supreme interests are threatened. The next day, the Group of Seven plus Russia expressed their commitment to complete and sign a zero-yield CTBT by September 1996.
- 05/28/96** — Ambassador Jaap Ramaker of the Netherlands, Chairman of the CD’s Ad Hoc Committee on a Nuclear Test Ban, tabled a draft text of a CTBT incorporating compromises on key outstanding issues.
- 06/04/96** — France and the United States signed an agreement to share information relevant to maintaining nuclear weapons.
- 06/08/96** — China held a nuclear test and declared that after one more test it would join an international moratorium on nuclear explosions.
- 06/20/96** — India stated it would not sign a CTBT unless the five declared nuclear weapon states agreed to a timetable to give up their nuclear weapons.
- 06/26/96** — The Senate tabled, 53-45, an amendment by Senators Kyl and Reid to the FY1997 National Defense Authorization Bill to permit U.S. nuclear testing after September 30, 1996, under certain conditions if the Senate had not given its advice and consent to ratification of a CTBT.
- 07/23/96** — The United States and Russia announced their joint support for the existing draft CTBT. While this draft did not fully satisfy either nation, they saw it as acceptable and the only route to achieving a CTBT in 1996.
- 07/29/96** — China conducted what it said would be its last nuclear test, and pledged to begin a moratorium on testing on July 30.
- 08/07/96** — China and the United States reportedly reached an agreement on modifying the draft treaty so as to resolve China’s concerns over CTBT verification, clearing the way for China to support the treaty.
- 08/20/96** — India vetoed the draft CTBT in the CD, barring the treaty from going to the U.N. General Assembly as a CD document.
- 08/23/96** — Australia asked the U.N. General Assembly to begin consideration of the draft CTBT on September 9.
- 09/10/96** — The U.N. General Assembly adopted, 158 to 3 (with 5 abstentions and 19 nations not voting), the draft CTBT negotiated at the CD.
- 09/24/96** — The CTBT was opened for signing; President Clinton and others signed.
- 11/20/96** — The Preparatory Commission for the Comprehensive Test Ban Treaty Organization (CTBTO) began its first meeting.

- 07/02/97** — The Department of Energy conducted its first subcritical experiment, “Rebound,” at the Nevada Test Site. It conducted one more in 1997.
- 08/28/97** — The *Washington Times* reported Administration officials as saying Russia may have conducted a nuclear explosion on August 16.
- 09/22/97** — President Clinton submitted the CTBT to the Senate for its advice and consent to ratification.
- 11/04/97** — The *Washington Post* reported the Administration formally dropped its claim that a seismic event of August 16, 1997, was a Russian nuclear test.
- 01/21/98** — Senator Jesse Helms, in a letter to President Clinton, said “the CTBT is very low on the [Senate Foreign Relations] Committee’s list of priorities.”
- 01/27/98** — In his State of the Union address, President Clinton asked the Senate to approve the CTBT this year and announced that four former Chairmen of the Joint Chiefs of Staff had endorsed the treaty.
- 03/25/98** — The Department of Energy conducted its third subcritical experiment, “Stagecoach,” at the Nevada Test Site. It conducted two more in 1998.
- 04/06/98** — Britain and France became the first declared nuclear weapon states to ratify the CTBT, depositing instruments of ratification with the U.N.
- 05/11/98** — Prime Minister Vajpayee announced India conducted three nuclear tests.
- 05/13/98** — India announced that it conducted two nuclear tests.
- 05/28/98** — Pakistan announced that it conducted five nuclear tests.
- 05/30/98** — Pakistan announced that it conducted one nuclear test.
- 06/05/98** — The foreign ministers of China, France, Russia, the United Kingdom, and the United States, in a joint communique, condemned the Indian and Pakistani nuclear tests, urged India and Pakistan to refrain from weaponizing or deploying nuclear weapons, and called on them to adhere to the CTBT “immediately and unconditionally.”
- 09/23/98** — Pakistan’s Prime Minister, Nawaz Sharif, in an address to the U.N., said his nation would adhere to the CTBT if other nations lifted economic sanctions, as long as India refrained from testing.
- 12/00/98** — Secretary of Energy Bill Richardson and Secretary of Defense William Cohen submitted the third annual nuclear stockpile certification memorandum to the President stating, “The nuclear stockpile has no safety or reliability concerns that require underground testing at this time.”
- 02/09/99** — The Department of Energy conducted its sixth subcritical experiment, “Clarinet,” at the Nevada Test Site. It conducted two more in 1999.
- 05/25/99** — The Cox Committee, in its report, stated its belief that China may be continuing to conduct underground nuclear tests.
- 07/20/99** — In separate press conferences, President Clinton and nine Senators urged the Senate to consider the CTBT. A survey found 82% of Americans want the treaty approved. All 45 Democratic Senators wrote to Senator Helms urging him to hold hearings on the treaty and to report it to the Senate.
- 07/26/99** — Responding to the July 20 letter, Senator Helms stated that “I do not share your enthusiasm for this treaty” and that the Senate Foreign

- Relations Committee would consider it after amendments to the ABM Treaty and the Kyoto Protocol.
- 09/30/99** — Senator Lott proposed a unanimous-consent request that would bring the CTBT to the Senate floor for 10 hours of debate beginning October 6, and then to a vote.
- 10/08/99** — (1) States that had ratified the CTBT ended a three-day conference on expediting entry into force. (2) The Senate began debate on the treaty.
- 10/11/99** — President Clinton wrote to Senators Lott and Daschle to request that a vote on the CTBT be delayed.
- 10/13/99** — The Senate rejected the CTBT, 48 for, 51 against, 1 present.
- 01/28/00** — Secretary of State Albright announced that Gen. John Shalikashvili (ret.) would head the Administration's effort to achieve bipartisan support for CTBT ratification, but the State Department indicated the Administration did not expect to seek Senate approval of the treaty in 2000.
- 02/04/00** — DOE conducted the ninth U.S. subcritical experiment, "Oboe 3." It held four more in 2000.
- 02/04/00** — Russia announced that it conducted seven subcritical experiments between September 23, 1999, and January 8, 2000.
- 06/30/00** — Russia ratified the CTBT.
- 11/03/00** — Russia announced that it completed its fifth and final series of subcritical experiments for 2000 at Novaya Zemlya during the week of October 30.
- 01/17/01** — Colin Powell, as nominee for Secretary of State, said the Administration would not ask for CTBT ratification in this session of Congress.
- 03/04/01** — The *New York Times* reported U.S. intelligence experts were divided on whether Russia had conducted clandestine tests over the past several years.
- 06/26/01** — The House Appropriations Committee declined to add funds to the FY2002 Energy and Water Development Appropriations Bill to increase nuclear test readiness, arguing the Secretary of Defense, President, Armed Services Committees, and Congress must first request or approve these funds.
- 09/26/01** — The National Nuclear Security Agency (NNSA) held the 14th U.S. subcritical experiment, "Oboe 8." It conducted one more in 2001.
- 11/11/01** — The Conference on Facilitating the Entry into Force of the CTBT began on this date at U.N. headquarters in New York and ended November 13.
- 02/15/02** — NNSA held the 16th U.S. subcritical experiment, and the first with U.K. participation, "Vito." It conducted three more subcritical experiments, without U.K. participation, in 2002.
- 05/10/02** — The House passed H.R. 4546, the Bob Stump National Defense Authorization Act for FY2003; it called for DOE to achieve the ability to conduct a nuclear test within a year of a presidential direction to test.
- 07/31/02** — The National Academy of Sciences issued a report asserting that the main technical concerns raised in regard to the CTBT are manageable.

- 09/26/02** — NNSA held the 19th U.S. subcritical experiment, “Rocco.”
- 02/00/03** — A House Policy Committee report recommended “a test readiness program that could achieve an underground diagnostic [nuclear] test within 18 months”; the Bipartisan Congressional Task Force on Nonproliferation urged President Bush “not to resume nuclear weapons testing.”
- 05/22/03** — The Senate passed, 98-1, S. 1050, the FY2004 National Defense Authorization Bill. Sec. 3132 directed the Secretary of Energy to achieve by October 1, 2006, and to maintain thereafter, the ability to conduct a nuclear test within 18 months of a decision to test, unless the Secretary determines that a different number of months is preferable.
- 09/00/03** — A conference on facilitating the CTBT’s entry into force was held in Vienna, Austria, September 3-5.
- 09/19/03** — NNSA held the 20th U.S. subcritical experiment, “Piano.”
- 10/30/03** — The U.N. General Assembly’s First Committee (Disarmament and International Security) approved a draft resolution, “A Path to Total Elimination of Nuclear Weapons,” 146-2, with 16 abstentions. A provision stressed the importance of achieving early entry into force of the CTBT. The United States and India voted no; the U.S. representative stated that he did so because of U.S. opposition to the CTBT.
- 11/00/03** — The 21st meeting of the CTBTO Preparatory Commission was held November 10-13 in Vienna, Austria.
- 12/08/03** — The U.N. General Assembly adopted, 164-2, with 2 abstentions, a resolution, “A Path to Total Elimination of Nuclear Weapons.”
- 01/06/04** — Libya became the 109th nation to ratify the CTBT.
- 05/25/04** — NNSA held the 21st U.S. subcritical experiment, “Armando.”
- 06/20/04** — In a joint statement, India and Pakistan agreed to reaffirm their unilateral moratoria on nuclear testing, barring extraordinary events, and to establish a dedicated and secure hotline between the two foreign secretaries.
- 06/00/04** — The 22nd meeting of the CTBTO Preparatory Commission was held June 22-24 in Vienna, Austria.
- 09/24/04** — Foreign ministers from 42 nations issue a statement calling entry into force of the CTBT “more urgent today than ever before.”
- 12/03/04** — The U.N. General Assembly adopted, 177-2, with 4 abstentions, a resolution, “Comprehensive Nuclear-Test-Ban Treaty.”
- 2/10/05** — North Korea declared, “We ... have manufactured nukes for self-defense to cope with the Bush Administration’s evermore undisguised policy to isolate and stifle the DPRK.”
- 03/10/05** — The European Parliament passed a resolution that, among other things, “reiterates its call for the USA ... to sign and ratify the CTBT.”
- 05/00/05** — At the Nuclear Nonproliferation Treaty Review Conference, held May 2-27, some nations criticized the United States for not ratifying the CTBT.
- 05/16/05** — The *New York Times* reported that on May 15, National Security Advisor Stephen Hadley stated, “Action would have to be taken” if North Korea conducted a nuclear test.

- 08/29/05** — Egyptian Foreign Minister Ahmed Aboul Gheit reportedly stated that Egypt would not ratify the CTBT until Israel joins the NPT.
- 09/00/05** — A conference, Facilitating the Entry into Force of the Comprehensive Nuclear Test Ban Treaty, was held September 21 to 23 at U.N. Headquarters.
- 11/00/05** — The 25th session of the Preparatory Commission for the Comprehensive Nuclear-Test-Ban Treaty Organization was held November 14 to 18.
- 12/08/05** — The U.N. General Assembly adopted, 168-2, a resolution on nuclear disarmament that, among other things, urged nations to ratify the CTBT.