ARMS CONTROL ASSOCIATION

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Prospects for the Comprehensive Test Ban Treaty

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It is truly a pleasure and honor to be here today to celebrate George Bunn and update you on the prospects for one of the causes he has worked so long for: the Comprehensive Test Ban Treaty.

As George knows better than anyone here, good things don't often come easily or quickly. Its has now been just over fifty years since the enormous March 1954 "Bravo" test series in the Marshall Islands led to widespread fallout and increasing international concern and Indian Prime Minister Nehru's April 1954 call for an end to further testing.

Secretary of State Albright put it well when, on the occasion of the 1996 U.S. signature of the agreement, she said that "the Comprehensive Nuclear Test Ban Treaty has been the longest sought and hardest fought prize in the history of arms control."

Then as now, the test moratorium and the CTBT is a sensible, practical and effective response to the nuclear threat. It is vital to:

- curbing the development of new and destabilizing types of nuclear warheads;
- preventing less-advanced nuclear weapon states and would-be nuclear weapon states from developing lighter and more easy to deliver nuclear warheads; and
- fulfilling the nuclear weapon states' disarmament obligations under the nuclear Nonproliferation Treaty and reinforcing the norm against nuclear weapons acquisition and use.

George Bunn has been in the middle of at nearly every step of the long path to the CTBT: from time of the Limited Test Ban Treaty when he was the first General Counsel of the Arms Control Disarmament Agency; to the present day efforts to maintain support for the effort to secure the ratifications necessary for the Comprehensive Test Ban Treaty's entry into force. Through it all, he has been someone who has sensible and insightful guidance and, perhaps more importantly, someone who has even under difficult conditions, always pressed forward so that the ideas like the CTBT might survive and thrive at some future point.

This was evident in 1999 when the Senate, after postponing any discussion of the treaty, moved rapidly and without thoughtful consideration to vote down the CTBT. Earlier that year I had recruited George to write a legal and policy analysis for the CTBT entry into force conference and to lobby key governments to implement the report's recommendations. As bad luck would have it, the conference took place only days before the Senate voted down the CTBT, but George was there anyway fulfilling his promise by delivering valuable recommendations that governments supportive of the CTBT are trying to implement today.

Prospects for the Test Ban

The 1996 CTBT has widespread international support. It has been signed by 171 states and ratified by 113, including three of the five nuclear weapon states and all but one member of NATO. However, the failure of the Senate to give its advice and consent for ratification in 1999, the current administration's opposition to the treaty, and the reluctance of 12 other key states to approve the treaty means that the formal entry into force of the treaty is still years away.

At the same time, the CTBT has helped sustain the 13 year-old U.S. test moratorium and bring about the *de facto* global nuclear test moratorium which exists today. In the absence of a requirement for a new nuclear warhead, a defect in an existing weapon that cannot be addressed without resuming testing, and the perception that clandestine nuclear testing has occurred, the seven states that have conducted nuclear test explosions are not likely going to do so again.

This is especially true given the significant domestic and international opposition to testing and the likelihood that additional states would resume testing in response. The results of a recent national public opinion poll which are described in an article in the June issue of *Arms Control Today* show that 87% of those surveyed support U.S. participation in the CTBT.

As a result of these opposing political pressures, the CTBT is in a state of limbo. While it might be possible to sustain the unilateral moratoria undertaken by the nuclear testing states for several years, without the full entry into force of the CTBT the uncertainties and the risk of a resumption of testing will only grow over time.

Until the United States ratifies the CTBT, it denies itself the benefits of the Treaty's extensive nuclear test monitoring and on-site inspection provisions, and it denies itself moral and legal authority to encourage other nations to join the treaty and refrain from testing. Given that the U.S. nuclear arsenal is certified as safe and reliable, and given that there is no military requirement for new weapons now or in the foreseeable future, it is self-defeating for the United States to further delay ratification and entry into force.

Improving the prospects for U.S. ratification and overall CTBT entry into force depend upon:

- Maintaining the U.S. test moratorium and improving the likelihood that the U.S. will reconsider the ratification of the CTBT;
- blocking new nuclear weapons research and development that could lead to the renewal of nuclear testing;
- effectively maintaining the U.S. nuclear arsenal in the absence of nuclear test explosions;
- maintaining political and financial support for the CTBT Organization Preparatory Commission work to complete the treaty's International Monitoring System and on-site inspection capabilities;
- increasing international pressure on key CTBT hold-out states to join the treaty regime;
- improving national and international monitoring and transparency measures to better detect and deter possible clandestine nuclear testing.

Let's briefly review where things stand in each area.

1. Maintaining the U.S. test moratorium and reconsideration of the CTBT

Shortly after taking office the senior Bush officials announced they would not ask the Senate to reconsider the CTBT. The administration has tried to deflect domestic and international criticism of this policy by insisting that there are no immediate plans to resume testing. But since then, the Bush team has considered or pursued a series of moves that could erode the technical and legal barriers blocking the resumption of testing.

In early 2001, Undersecretary of State John Bolton sought a legal analysis on whether the President could unilaterally withdraw the CTBT from the Senate, thus killing any chance it might be reconsidered. The brief he got judged that only the Senate has the authority to discharge the treaty from the executive calendar and that a majority vote was required to do so. Given that a majority of the Senate would have opposed such an action at that time the matter was dropped.

Later in 2001, the United States was the only state to vote "no" on a UN resolution supporting entry into force of the CTBT, and the White House decided to boycott the second international conference to promote the treaty's entry into force, which was held in November.

The next year, on the basis of recommendations from the congressionally-mandated "Foster Panel" and the 2002 Pentagon Nuclear Posture Review, the administration has sought and won funding from Congress to improve the "readiness" of the test site to reduce the amount of time it takes to carry out a technically significant nuclear test explosion from the current 24-36 months requirement established in 1993 to 18 months over a three year period. Some pro-testing members of Congress have suggested requirements to reduce the test readiness period even further – to 12 months or less.

Meanwhile, as reported by *The New York Times* in May 2002, officials from the Office of the Secretary of Defense circulated a memorandum in January 2002 that proposed that President Bush repudiate the United States 1996 signature on the CTBT, which, under a common understanding of international law, still bars it from conducting nuclear test explosions. Officials at the National Security Council, then preoccupied with the war in Afghanistan and other matters, chose not to schedule a meeting to consider the proposal.

2. New nuclear weapons research and development

The Bush administration has also initiated new nuclear weapons research on the basis of the erroneous notion that new nuclear weapons capabilities are useful and necessary to fulfill future U.S. military needs. If this research advances into the development phase, the next step could be a proposal to conduct a series of proof-tests to confirm the designs and induct them into the arsenal.

The Pentagon's January 2002 Nuclear Posture Review (NPR) calls for the development of new nuclear weapons capabilities to provide a wider range of options to defeat "hardened and deeply buried targets" and chemical and biological threats. That year, the President asked Congress for $15.5 million for fiscal 2003 for research on a robust nuclear earth penetrator, or RNEP.

The following year, the Bush administration proposed that Congress should repeal a ten-year old law prohibiting research leading to development of new, low-yield nuclear weapons. The administration requested another $15 million for research on the RNEP and an additional $6 million for research on new nuclear weapon designs. Congress narrowly approved the repeal and the research monies, but stipulated that work beyond the research phase for any new type or modified type of nuclear warhead would require explicit congressional authorization. The Bush administration narrowly won approval for these programs on the basis of the argument that they only wanted to conduct research these weapons.

This year, the administration has upped its budget request for funding for research on the Robust Nuclear Earth Penetrator (RNEP) to $27 million and has outlined a five year spending plan for research *and development* on RNEP that would cost at least $485 million. The FY05 budget request also seeks an additional $9 million to fund "advanced concepts" for new types of nuclear weapons.

The good news is that support for these proposals is steadily eroding and I would predict that Congress will not support or fund the development of a modified or new nuclear weapon. Last month, the House narrowly defeating an amendment to the defense authorization bill that would have cut and transferred monies for RNEP research to nonnuclear munitions research by a vote of 214-204.

In addition, the Republican House chairman of the energy and water appropriations subcommittee, David Hobson of Ohio, will likely succeed in cutting funding for new nuclear weapons research and for additional test site readiness from his committee's bill. Unfortunately, the Senate and its energy appropriations committee chairman Pete Domenici will likely fund the full request for new weapons research. The final outcome will likely be that the Congress will halve the president's original request for funding.

The Senate is also scheduled to act this week on the defense authorization bill and there will be an amendment offered by Senators Feinstein and Kennedy aimed at cutting funding for research on new or modified nuclear weapons. Though I expect the amendment to fail, the vote will likely be close, thus demonstrating that support for actual development of new nuclear weapons will be even more difficult to sustain.

3. Maintaining the U.S. nuclear arsenal in the absence of nuclear test explosions

Though the Energy Department has determined each year for the last decade that the U.S. nuclear arsenal remains safe and reliable without nuclear testing, critics of the test ban like Dale Klein, the executive chairman of the Nuclear Weapons Council, claim that "as time goes on there will likely have to be some tests performed beyond the small scale" to address possible aging problems in the nuclear stockpile.

In October 2002, the director of the Nuclear Weapons Council suggested in a memorandum that the nuclear weapons laboratories "readdress the value of a low-yield [nuclear explosive] testing program." They have. Last summer in a secret meeting in Omaha, dozens of executive branch officials debated this question and others related to the future of the nuclear weapons stockpile.

The good news is that the group decided there is no reason to resume nuclear testing for such purposes. The reason is simple. As the July 2002 National Academy of Sciences panel, reported, the U.S. "has the technical capabilities to maintain confidence in the safety and reliability of its existing nuclear-weapon stockpile under [a test ban], provided that adequate resources are made available to the Department of Energy's nuclear-weapon complex and are properly focused on this task."

According to the National Academy panel, which included three former lab directors, age-related defects mainly related to non-nuclear components can be expected, but nuclear test explosions "are not needed to discover these problems and is not likely to be needed to address them." Rather, the panel says, the key to the stewardship of the arsenal is a rigorous stockpile surveillance program, the ability to remanufacture nuclear components to original specifications, minimizing changes to existing warheads, and non-explosive testing and repair of non-nuclear components.

Doing so will require that Congress and the Energy Department focus its stockpile stewardship program on these more important activities and not waste resources on other, less relevant projects. While other large-scale experimental facilities like the National Ignition Facility or the Dual Axis Hydro Test facility may be useful, their completion and operational success is not essential to the maintenance of the existing arsenal.

4. Support for the CTBT Organization Preparatory Commission and Entry Into Force

Most Bush administration officials, even those who do not support CTBT ratification, recognize that the United States benefits from monitoring capabilities that are currently only available through the IMS—including monitoring stations in Russia, China, and other sensitive locations that the United States would otherwise not be able to access. As a result, the U.S. has continued to pay the majority of its annual contribution to the CTBTO.

However, in 2001, the administration also decided to suspend U.S. technical and financial support for short-notice, on site inspections available only under the test ban treaty. The move has made it even more difficult for the Secretariat of the CTBTO Prep Com to collect annual dues owed to the organization by several key states, among them Italy, Colombia, and Brazil.

While support for the CTBT remains strong, continued financing for a verification system for a treaty that many fear may never formally enter into force will be a major challenge.

5. Securing Additional Signatures and Ratifications

As the United States has dithered on the CTBT, much of the rest of the world has been working to build the treaty's monitoring and verification system and accelerate the treaty's entry into force. The strong support for the treaty by U.S. allies and the ratification of the treaty by Russia and other states has moderated what might have been an even more damaging U.S. test ban policy and has increased pressure on other CTBT hold out states.

One of the most visible signs of this support came in as statement issued by18 foreign ministers in September 2002 at the United Nations. Reaffirming the hope for a treaty that "would

contribute to systematic and progressive reduction of nuclear weapons…as a major instrument in the field of nuclear disarmament and nonproliferation," they called on all states who are holding out on signing and/or ratifying to do so to ensure the treaty's timely entry into force. To date, the document has been endorsed by 50 governments.

One of the catalysts behind the statement, Ambassador Jaap Ramaker of The Netherlands, was named to be the special representative on securing entry into force by the states attending the most recent international conference on accelerating the CTBT's entry into force. He begins work this next month.

6. Improving monitoring and transparency measures

Ongoing activities at the U.S., Russian, and Chinese test sites, primarily in the form of subcritical nuclear experiments, may breed allegations that Russia or China are conducting surreptitious nuclear test explosions. In fact, in the spring of 2002, U.S. intelligence officials briefed Congress that they believe that Russia may have conducted supercritical nuclear experiments at the Novaya Zemlya test site.

New test site transparency initiatives could address future uncertainties and clear up erroneous allegations. In fact, in 2001, Russia proposed "additional verification measures for nuclear test ranges going far beyond treaty provisions," but neither the United States nor Russia have seriously pursued this concept.

Conclusion

The CTBT has been and remains a vital part of a comprehensive approach to global security dangers. Realizing the CTBT requires a substantial shift in attitudes about the value of the test ban and new nuclear weapons in the White House and the Senate, as well as effecting changes in government policy in India, Pakistan, China, and Israel. We must be patient and persevere.

In the meantime, measures must be undertaken to uphold nuclear testing moratoria and secure the ratifications necessary for CTBT entry into force:

- The international community should urge the 13 states preventing entry into force to sign or ratify the CTBT without conditions or reservations. States-parties to the CTBT should continue to work together systematically to send high-level groups of emissaries to key countries that have not yet signed or ratified the treaty in order to facilitate and encourage their support for the CTBT.
- The leaders and the governments of the 12 remaining CTBT hold-out states should reconsider and recommit themselves to the ratification of the CTBT. In the meantime, they should maintain their nuclear testing moratoria, fully support the work of the CTBTO Preparatory Commission, and announce that they will refrain from the pursuit of new types of nuclear weapons, which requires testing to validate the weapons' integrity.
- Each signatory should provide adequate financial, political, and technical support for the continued development and operation of the CTBTO so that the International Data Center, the International Monitoring System, and the executive secretariat are available

and ready to monitor and verify compliance when the CTBT enters into force. States should also support the timely establishment of an effective verification system, open access to data, and the development of procedures for effective and timely on-site inspections.

- Until the CTBT enters into force, the nuclear-weapon states with active test sites should voluntarily agree to periodic inspections of their test sites by observers on behalf of the CTBTO and signatory states to increase confidence that clandestine nuclear testing has not occurred. They should also agree to avoid activities at their test sites that might be mistaken for nuclear weapon test preparations, such as subcritical experiments.

Finally, there must be renewed leadership on Capitol Hill for the reconsideration and ratification of the CTBT. This leadership is not there at the moment. There is the outside chance that positive action on the test ban by China or by India and Pakistan might serve as a catalyst for action, but it is vital that key Senators help put the treaty back on the map through hearings, work with their colleagues, and through exchanges with technical experts and allied governments.

The CTBT alone will not stop proliferation, but further nuclear proliferation cannot be checked without the CTBT's entry into force.

Thank you.