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Senate CTBT Rejection Not The End

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The US Senate's rejection of the CTBT in October does not free the United States from the Treaty's norm against nuclear-weapon test explosions. Nor does it mean that the Senate will never approve the Treaty. But it does mean that the final US position on the Treaty almost certainly will not be known until after the next US presidential election in November 2000. Moreover, a debate to build domestic and international support for US adherence to the Treaty's norm could help to produce eventual Senate approval.

Many do not realize how hard it has been in this century to gain the required two-thirds vote in the US Senate for treaties dealing with international security. It is true that, until the Senate vote on the CTBT it had rejected no such treaty since the Versailles Treaty creating the League of Nations. Instead of rejection, however, voting on important arms control treaties was sometimes delayed until there were enough votes. For example, Senate action on the Geneva Protocol of 1925 prohibiting gas and germ warfare was postponed from the 1920s to the mid 1970s when, after careful reconsideration by the Republican administrations of presidents Nixon and Ford as well as by the Senate, there were enough votes to approve it. The 1968 NPT was negotiated during Democratic President Johnson's tenure and was at first opposed by Republican presidential candidate Nixon. Johnson therefore did not push for a Senate vote. After he became president in 1969, Nixon changed his mind, supported the Treaty and gained the votes to approve it.

Many important arms control treaties negotiated during Republican administrations have passed the Senate, most recently the CWC. But, after Senate consent in the 1940s to major post-World War II treaties such as the UN Charter and the Washington Treaty on NATO, we are not aware of any important international security treaty which, after negotiation in a Democratic administration, was approved by the Senate except the PTBT, negotiated during the Kennedy Administration. In 1963, that treaty lacked two-thirds support even in a Senate controlled by Democrats until two days before the final vote when the then Senate Minority Leader, Republican Everett Dirksen, announced his support.

Because of this history and because of the positions of important Republican senators, we predicted two years ago that the CTBT was unlikely to be approved by the Senate until after the election in 2000.¹ That conclusion was borne out by last October's Senate action. While ample blame for the failure can be placed on both President Clinton and Republican Senate leaders for the Senate's rejection, there was little hope for the CTBT until after the next US election in 2000.

What can be done? First, the United States has no present intent to test nuclear weapons. And, many of the 155 countries that have signed the CTBT, including Asian and European allies of the United States, are committed to bringing it into force.

Ratifiers will likely continue to push India and Pakistan to sign and ratify, as well as China, Russia and the United States. They will also push the many other treaty signers that have not yet ratified but intend to do so to get on with it. Fifty-one of the 155 signers have ratified. Continuing strong support for the treaty would be shown if 100 or so could complete the process before the next Special Conference to expedite entry into force takes place, probably in 2000 or 2001.

Second, the United States remains a strong and active supporter of the NPT. But its leadership has been weakened by Senates rejection of the CTBT. At the 1995 Review Conference, which made the NPT

permanent, the five NWS that are permanent members of the UN Security Council promised to conclude a CTBT by the end of 1996. This promise was made because the NPT requires its members to negotiate in good faith to halt the nuclear arms race, and a CTBT has for 40 years been accepted as one of the key measures to do that.² Non-nuclear-weapon NPT parties, already under an NPT obligation not to test, will see the Senate's action as a frustration of the longstanding obligation of the United States and four other NPT NWS to negotiate a CTBT. Any non-nuclear-weapon NPT members that want to withdraw from the NPT for other reasons now have a "tit-for-tat" excuse. Therefore, at the important five-year NPT Review Conference scheduled for April-May 2000, new countries will have to step forward and assume leadership roles.

Finally, it is more important than before that leaders in the international community make a concerted effort to teach the United States the importance they attach to treaties and the application of the rule of law in international affairs. While venomous domestic politics led to the Senate's rejection of the CTBT, only a dozen or so Senate Republicans are irreconcilably opposed to treaty limits on US military technology and weapons. It is worth remembering that 62 senators, including 24 Republicans, voted to delay consideration of the CTBT to another year. But given the unanimous consent requirement for a change in the Senate's voting schedule, they were not enough.

It is also worth remembering that, in 1997, the Senate approved the CWC. That was negotiated in the administrations of Republican presidents Reagan and Bush, and signed by President Bush, not by President Clinton. To obtain the necessary votes, the Clinton Administration negotiated (with Republican senators selected by Senate Majority Leader Lott) nearly 30 conditions dealing with interpretation and administration of the CWC by the United States. At an outdoor White House ceremony, former Senator Robert Dole (who had been the Republican candidate for president against Bill Clinton in 1996) spoke in favour of what many called the "Bush Treaty". Important members of the Bush Administration were present to support the CWC. This effort overcame the opposition of a small band of radical conservatives in the Senate, and the CWC was approved by more than the necessary two-thirds.

With the right effort, this could happen to the CTBT in 2001. But the moderate Republicans who would be likely to support the CTBT under appropriate circumstances will need help from the next administration and US friends and allies abroad to overcome the band of radical conservatives in the Senate. The target of these conservatives includes other treaty restraints on the United States such as the Kyoto Protocol on climate change, the treaty create an International Criminal Court and even an agreement that would recognise Russian succession to the Soviet Union as a party to the ABM Treaty.

Since World War II, at least five major treaties succeeded in the US Senate because of bipartisan leadership that overcame radical conservative or isolationist opposition: the UN Charter, the Washington Treaty on NATO, the NPT, the ABM Treaty and the CWC. These treaties would obviously not have come about without co-operation, indeed leadership, from other countries. Can these successes be replicated in the next century?

The United States will need leadership from both political parties at home and from friends and allies abroad. Its founders relied upon Grotius, Montesquieu and other "foreigners" in drafting its Constitution. Two hundred years later, it needs help again to teach it about the advantages of co-operation with other countries in dealing with international security. Americans must somehow cage the beast of unbridled sovereignty espoused by radical conservatives and accept once again the idea in their Constitution that treaties with other countries are the supreme law of the land.

The most challenging substantive debate in the United States must be focused on the future role of nuclear weapons. If Americans are not prepared to continue progress towards limiting nuclear weapons with the goal of nuclear disarmament, they must accept that many more countries will acquire nuclear weapons as time goes by. Other countries will simply not accept forever the discrimination the NPT now permits: five NPT members with nuclear weapons plus India, Israel and Pakistan that have not joined the NPT, and the rest of the world without. That dichotomy was foreseen and addressed in 1968 by Article VI of the NPT,

which requires all parties to negotiate in good faith towards nuclear disarmament. The Senate accepted that compromise in 1969 when it approved the NPT. While senators may welcome obligations that burden other countries more than the United States, they must be willing to accept the responsibility of reciprocal obligations looking towards eventual removal of such discriminations when they have agreed to that as the price for obtaining agreement of others to the Treaty.

Which way the United States will go should be the subject of a major debate, a debate for which Americans will need help from abroad. What is achievable in the next century will depend on the outcome of that debate.

Notes and references

1. "The Duma-Senate Logjam on Arms Control: What Can be Done?", Bunn and Rhinelanders, *Non-Proliferation Review*, p 72, Fall 1997.

2. See agenda agreed in 1968 after the NPT was signed. Report to the UN General Assembly, August 28, 1968, ENDC/236.

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