The game of politics rarely produces clear winners or even final results. In the case of the Senate's 51-48 rejection of the Comprehensive Test Ban Treaty (CTBT) on October 13, 1999, both proponents and opponents lost, and national and international security were damaged. The highly partisan debate and vote placed the United States in a state of test ban policy limbo that is detrimental to U.S. security.

By rejecting the CTBT, the Senate deprived the United States of the moral and legal authority to encourage other nations not to conduct nuclear test explosions, and it denied the United States the benefits of the treaty's extensive nuclear test monitoring and on-site inspection provisions. It has increased the likelihood of a fractious NPT review conference this April, and it has multiplied the damage that could be done by a U.S. decision to deploy a limited national missile defense. The Senate vote has also put Russia and China on guard and has shaken U.S. allies' confidence in the United States' ability to deliver on its arms control commitments.

Though it is highly unlikely that the Senate will formally reconsider the CTBT in 2000, the debate over U.S. nuclear testing policy and the CTBT is far from over. The failure of the Senate to approve the CTBT is a severe blow that sets back-but does not kill-efforts to secure U.S. ratification and the other 15 ratifications necessary for global entry into force of the treaty. As Senator Pete Domenici (R-NM) wrote in a press release immediately following the vote: "Treaties never die, even when defeated and returned to the Executive Calendar of the Senate. Therefore, we will have another chance to debate the CTBT."

In the coming months, the Senate will continue to examine and "debate" the CTBT and related policies, and in doing so will shape the context in which the treaty will be considered in the future. Staunch CTBT opponents can be expected to try to compound the effect of rejecting CTBT ratification in a number of ways: by attempting to eliminate U.S. funding for the CTBT's international monitoring system; by disputing the legal basis of the United States' commitment as a signatory to the CTBT not to conduct nuclear test explosions; and by building their case for the resumption of U.S. nuclear testing. If such attacks on the test ban regime go unchecked, the chances for U.S. ratification and global entry into force will become more remote.

If the CTBT is to enter into force within the next few years, the president and treaty proponents must carefully examine the course of events leading to the 1999 Senate vote and adjust their approach, actively engage senators in an ongoing exchange of views on the CTBT, and reinforce the existing international norm against testing.

The Run-up to the Vote

The record of the CTBT in the Senate from 1997 to October 1999 suggests that the October 13 vote was not simply "about the substance of the treaty," as Majority Leader Trent Lott (R-MS) claimed in a press conference afterward. It was much more. The "no" vote was the consequence of the political miscalculations of treaty proponents; the failure of many senators to understand core issues; the deep, partisan divisions in the nation's capital; and the president's failure to organize a strong, focused and sustained campaign for what he called "the longest-sought, hardest-fought prize in nuclear arms control."

When the president submitted the CTBT to the Senate, treaty opponents initially pursued a blocking
strategy. In January 1998, Senate Foreign Relations Committee Chairman Jesse Helms (R-NC) wrote the president, announcing that he would not hold hearings on the CTBT "until the administration has submitted the ABM protocols and the Kyoto global-warming treaty." The delaying strategy stifled debate on the treaty and led many proponents and opponents to postpone preparations for the CTBT debate because they believed that the Republican Senate leadership would not agree to schedule time for debate and a vote.

In the early weeks of 1998, the Clinton administration made repeated statements supporting the CTBT and urging timely Senate consideration of the treaty. The administration also secured valuable support for the treaty from four former chairman of the Joint Chiefs of Staff, the nuclear weapons laboratory directors and the members of NATO, but it failed to build upon the strong base of expert and public support for the CTBT and take the case for the treaty directly to the Senate.

In January 1998, National Security Advisor Sandy Berger called the CTBT "one of the president's top priorities," but in truth the administration had other concerns to which it gave precedence. Domestically, the White House was keen to pursue several policy objectives in the run-up to the midterm elections, and Helms' "hostage-taking" strategy had raised the political cost of pushing for the CTBT.<refid>1</refid>

For its part, the administration's national security team was preoccupied with securing Senate approval for NATO expansion. Instead of appointing a coordinator to build CTBT support, national security officials relied upon the possibility that Russia would ratify START II, thus enabling them to send the ABM and START II protocols to the Senate for consideration and breaking Helms' stranglehold on the CTBT. But the Duma did not ratify START II, and other crises emerged. Through the first half of 1999, the CTBT remained on the political back-burner as the Clinton administration and the Congress were immobilized by the impeachment hearings and trial and, soon after, by NATO's airwar against Yugoslavia and charges of espionage at the nation's nuclear weapons laboratories.

Following the end of hostilities in the Balkans in the late spring of 1999, Senator Byron Dorgan (D-ND) and pro-treaty non-governmental organizations (NGOs) redoubled efforts to raise attention to the plight of the treaty and to press the Senate leadership to begin the process of considering the treaty. On July 20, a bipartisan group of nine senators held a press briefing, citing overwhelming public support for the treaty and calling for prompt Senate action. That same day, all 45 Democratic senators wrote to Senate Majority Leader Lott, asking for "all necessary hearings...to report the Comprehensive Nuclear Test Ban Treaty to the Senate for timely consideration before the [Article XIV] CTBT inaugural conference." In a separate letter, Republican Senators Arlen Specter (R-PA) and Jim Jeffords (R-VT) also urged the Senate leadership to begin the process of CTBT consideration.

As he had done for nearly two years, Helms rebuffed his Senate colleagues, sarcastically writing to Senator Dorgan, "Inasmuch as you are clearly concerned about the need for swift Senate action on treaties, perhaps I can enlist your support in respectfully suggesting that you write to the President urging that he submit the ABM Protocols and the Kyoto Protocol to the Senate? I will be very interested in any response you receive from him." The Raleigh (NC) News & Observer characterized Helms' letter as a "playful response to supporters of the treaty [that] underscores his failure to take any of those concerns seriously. That's a very unbecoming and dangerous attitude to have toward the serious problem of nuclear proliferation."<refid>2</refid> The exchange simply reinforced attitudes on both sides.

Non-governmental CTBT advocates accelerated their public education and Senate lobbying efforts. They encouraged concerned citizens to call their senators about the treaty, pushed newspapers to editorialize on the topic,<refid>3</refid> and collected support from former military and government officials, independent nuclear weapons scientists and hundreds of public interest organizations.<refid>4</refid>

By late August, news reports suggested that the White House and Senate Democrats were preparing for a pitched battle and were threatening to bring the Senate to a standstill unless Republicans agreed to hold hearings on the CTBT in 1999.<refid>5</refid> The renewed effort by CTBT proponents to jump-start Senate consideration of the treaty appeared to be all the more credible to CTBT opponents because of the appearance of White House-led coordination. But in reality, most in the Clinton
administration remained dubious about the prospect of real action on the treaty, and little more was done to build support.

Through August and September, treaty opponents responded by accelerating preparations for a possible vote on final passage. In consultation with Senator Lott, Senator Jon Kyl (R-AZ) and former Secretary of Defense and Energy James Schlesinger stepped up their lobbying efforts, which were aimed at uncommitted Republican senators. In addition, a number of prominent former national security officials were called upon to voice their opposition. At the same time, Lott continued to try to prevent the scheduling of a vote. He told Dorgan and other Senate treaty supporters that he would speak with Senator Helms about allowing hearings, but that "this is a dangerous time to rush to judgment on such an important issue.... If it is called up preemptively, without appropriate consideration and thought, it could be defeated." Lott would soon propose a schedule that allowed less than five working days for consideration of the treaty.

In late-September, without information about the opposition's quiet lobbying effort, Senator Joseph Biden (D-DE), along with other leading Senate CTBT proponents and the White House, decided to try to advance the issue by introducing a non-binding Senate resolution that called for beginning the process to consider the CTBT and scheduling a vote on the treaty by March 31, 2000. The plan to press for the resolution, which was never introduced, was agreed to at a meeting between Berger and the Senate Democratic leadership on the evening of September 22. At the meeting, participants weighed the possibility that Senator Lott might try to schedule a vote on the treaty at short notice, but they considered the possibility low and decided to press forward.

On September 29, having been informed of the Democrats' intention to introduce their resolution, Senator Helms and Senator Lott abandoned their blocking strategy and proposed a vote on final passage of the treaty by October 7. Lott calculated that the Democrats might not agree to his terms for a truncated debate, and that even if they did, he could assemble the votes need to block ratification. According to Senator Kyl, 34 senators had been persuaded to vote against ratification by September 14.

Indeed, Lott's initial proposal for 10 hours of debate on the treaty with only six days notice was not accepted by the Democratic leadership. Some Senate supporters, the White House and the NGO community criticized the offer, calling it a "rush to judgment" because it did not provide sufficient time for hearings and a thorough and informed debate. In consultation with the White House, Senate Democratic leaders negotiated for more time and a more thorough series of hearings. But on the afternoon of Friday, October 1, they decided to accept Senator Lott's final "take it or leave it" counteroffer for a vote as soon as October 12.

The decision to accept the offer was motivated, in part, by the belief that the effect of continued inaction on the treaty could be as severe as outright defeat. It was very likely that if a vote were not scheduled before the end of 1999-and therefore before the 2000 election season-the treaty would not come before the Foreign Relations Committee and the Senate until the middle of 2001 or later. As Senator Biden said on October 2, "The question is: If you are going to die, do you want to die with no one knowing who shot you, or do you want to go at least with the world knowing who killed you?"

With the final vote on the CTBT just days away, President Clinton, the secretary of state and the secretary of defense finally launched a high-profile, high-powered effort to win Senate support for the treaty. The White House highlighted the fact that the treaty enjoyed the overwhelming support of America's senior military leadership, its leading weapons scientists and its seismological experts. The president met with several undecided senators at the White House, while Secretary of Defense William Cohen and Secretary of State Madeleine Albright also engaged in efforts to lobby undecided senators and communicate the importance of ratification of the treaty in the news media.

Treaty supporters had recognized from the beginning of their campaign that they would need the support of several influential "internationalist" Republicans to win over the large block of undecided votes. But over the course of 1998 and 1999 proponents made little headway, as most senators ignored the issue, and by late September 1999, with treaty opponents already working the hallways, a late effort from the White House and too little time for a thorough exchange of views, it was
What Went Wrong: Repairing Damage to the CTBT
Published on Arms Control Association (https://www.armscontrol.org)

already too late.

Before the administration's CTBT effort moved into high gear during the week of October 4 and before the conclusion of hearings on the treaty on October 7, most of the senators needed to secure the requisite two-thirds approval had committed to vote "no." By the end of the first day of Senate floor debate (October 8), the most crucial senators-John Warner (R-VA), Pete Domenici (R- NM), Richard Lugar (R-IN), Chuck Hagel (R-NE)-as well as other Republican moderates, had declared their intention to vote against the treaty.

But many Republicans were clearly disturbed by the politically charged nature of the debate and frustrated with the situation presented to them by the leadership. As Senator Hagel observed on the opening morning of the Senate floor debate: "We are trapped in a political swamp as we attempt to compress a very important debate on a very important issue. My goodness, is that any way to responsibly deal with what may, in fact, be the most critical and important vote any of us in this chamber ever make? It is not." Even as he outlined his reasons for voting against the treaty, an anguished Senator Lugar acknowledged that "under the current agreement, a process that normally would take many months has been reduced to a few days. Many senators know little about this treaty. Even for those of us on national security committees, this has been an issue floating on the periphery of our concerns."

Sorting Fact From Fiction

A lack of familiarity with the subject and the short time allowed for debate made the ratification process vulnerable to the dubious claims of a small but powerful nucleus of treaty opponents-claims that were legitimized by their association with prominent former national security officials, most of whom had not been involved in government since the end of the Cold War or the 1992 nuclear test moratorium. Hampered by the short 12-day schedule, treaty proponents were unable to effectively counter the decades-old arguments against the treaty and a few new questions and falsehoods that treaty opponents presented. The result was that many senators who voted "no" based their judgments on erroneous assumptions and distorted representations of the role and purpose of nuclear weapons test explosions; what constitutes an effective stockpile stewardship program; and whether other states can gain militarily significant advantages relative to the United States under the CTBT regime.

One incorrect assertion advanced by Senator Lott and other treaty opponents was that "testing is required to find problems [in nuclear warheads] and to assess the adequacy of the fixes that are implemented." Citing an outdated 1987 Lawrence Livermore report, Lott, Kyl and others claimed that "one-third of all the weapon designs introduced into the stockpile since 1958 have required and received post-deployment nuclear tests to resolve problems related to deterioration or aging or to correct a design that is found not to work properly under various conditions. In three-fourths of these cases, the problems were discovered only because of the ongoing nuclear testing."

Nuclear test explosions are actually a very poor way to detect defects in warheads arising from age-induced changes in nuclear-weapons components and materials. A nuclear test explosion cannot be used directly or indirectly to "detect" age-related flaws in warhead components or materials. Those findings have always been made through an extensive stockpile surveillance, disassembly, and component inspection program based on valid statistical random sampling techniques.

The most recent assessment on the subject, a 1996 tri-lab study of the stockpile surveillance program, reveals that of some 830 specific findings of defects in stockpile weapons from 1958 to 1993, less than 1 percent were "discovered" in nuclear tests, and all but one of these tests involved weapons that entered the stockpile before 1970 and have since been removed. Only one out of 387 tests—or 0.25 percent of the nuclear test explosions conducted since 1970—actually served to "detect" an age-related flaw in a nuclear weapon.

Another misleading assertion put forward by Senator Kyl was that "the CTBT eliminates the possibility of improving the safety of current weapons through the incorporation of existing, well-understood safety features." Kyl implied that the arsenal is not safe and that nuclear test explosions are needed to make nuclear warheads even safer than they are today. But in reality, the current
arsenal is "safe" in that it meets modern "one-point" safety standards against accidental nuclear detonation, and the benefits of marginal safety improvements have not been proven to outweigh the costs. In agreeing to the extension of the original nine-month test moratorium established by the 1992 Hatfield-Exon-Mitchell Amendment, the Joint Chiefs of Staff reviewed the option of conducting an additional 15 tests over four years in order to increase plutonium-dispersal safety in 400 W-88 warheads and incorporate fire-resistant pits in two other weapon types. These upgrades were rejected by the Department of Defense, the Navy and the Air Force as inefficient investments, particularly because post-Cold War changes in storage and alert procedures had reduced the likelihood of the very scenarios the proposed upgrades were designed to address.

In addition, many warhead parts relevant to safety or use control (such as detonators, fusing and arming systems and permissive action links) can be improved without modifying the nuclear explosive package design. If greater safety margins are deemed necessary, substandard weapons can be retired, safety improvements that do not involve major changes to the nuclear explosive package can be implemented and/or operational procedures can be adjusted to minimize the exposure to potential accident environments of those weapons with the greater plutonium dispersal risk.

Several treaty opponents seized on the October 7 testimony delivered by the lab directors, which implied that because the program will not be fully completed "until the middle of the next decade," confidence in the success of the program cannot be guaranteed. Without such a guarantee, concluded some senators, the United States must be able to resume a limited program of nuclear explosive testing. This assertion, however, incorrectly assumes that absolute guarantees against possible nuclear weapons safety or reliability problems are necessary to maintain the credibility of the U.S. nuclear deterrent.

As the three nuclear weapons laboratory directors clarified in a letter the day after their testimony, "While there can never be a guarantee that the stockpile will remain safe and reliable indefinitely without nuclear testing, we...are confident that a fully supported and sustained stockpile stewardship program will enable us to continue to maintain America's nuclear deterrent without nuclear testing." If that turns out not to be the case, the laboratory directors noted, "Safeguard F-which is a condition for entry into the Test Ban Treaty by the U.S.-provides for the President, in consultation with the Congress, to withdraw from the Treaty under the standard 'supreme national interest' clause in order to conduct whatever testing might be required."

The assessment of the laboratory directors that the arsenal is safe and reliable and can be maintained without nuclear testing has been repeatedly confirmed. As early as 1995, a report by the JASON division, a group of senior nuclear weapons laboratory experts, concluded that "nuclear warhead device problems which occurred in the past...have been corrected and that weapon types in the enduring stockpile are safe and reliable." The report, which informed the president's decision to pursue a "zero-yield" test ban, examined the safety and reliability of the nuclear weapons stockpile and whether continued nuclear testing at various yields would add to "stockpile confidence." It concluded that the United States' abilities to maintain its nuclear arsenal without underground testing "are consistent with U.S. agreement to enter into a CTBT of unending duration."<12> These conclusions were reinforced by a Department of Energy review of the stockpile stewardship program released in December 1999, which found that "the program is working today, as evidenced by three [annual nuclear weapons] certification cycles, and is structured to sustain this success long into the future."<13>

Thus, the elements most helpful to maintaining the existing U.S. nuclear weapons stockpile are already in place. As Richard Garwin testified before the Senate Foreign Relations Committee, all warhead types in the U.S. nuclear arsenal have been thoroughly proven. To maintain high confidence in nuclear weapons performance, limited-life components in the weapons can be replaced at appropriate intervals, and a representative sample of the arsenal is inspected annually to check for signs of deterioration. When potential problems are detected, they can be repaired, replaced or, in the case of the warhead primary, remanufactured to the previous explosion-proven specifications. Garwin told the committee on October 7, "If they are remanufactured to the same specifications as they were initially produced, they will be as good as the day they were first made. This can be done any number of times, and is the basis for my confidence in the future stockpile."
A far greater risk to future stockpile confidence could result from the changes in the design or processes by which untestable items are fabricated. Such changes may result if a decision is made to introduce significantly modified warheads or new warhead types into the arsenal—an objective being pursued by the weapons laboratories and supported by some test ban opponents. <14>

The Senate's uncertainty about maintaining the nuclear arsenal in the absence of nuclear testing is due, in part, to the laboratory directors' emphasis on the importance of continued funding for uncompleted, cutting-edge stockpile stewardship projects like the National Ignition Facility and the Accelerated Strategic Computing Initiative, which will allow "virtual testing" of nuclear warheads and allow weapons scientists to experiment with advanced design concepts. This emphasis is due, in part, to the impulse of the nuclear weapons laboratories to emphasize the challenges the program faces in order to maximize their annual congressional budget appropriations. In the future, the White House, the Department of Energy and the nuclear weapons laboratories should make clear that the new three-dimensional nuclear explosion simulation capability that is a goal of the program can be useful, but is not essential for maintenance of a reliable U.S. nuclear weapons stockpile. The job of maintaining the arsenal without testing can continue to be achieved without nuclear explosive tests primarily through existing stockpile surveillance and remanufacturing facilities and processes.

In his October 7 testimony to the Senate Armed Services Committee, Paul Robinson, director of the Sandia National Laboratory, presented another misleading argument cited by opponents of the CTBT. Robinson testified that "nuclear testing in the subkiloton range could have utility for certain types of nuclear designs. However, it is very unlikely that the threshold for detection and yield measurement...will ever reach the level to identify these yields as nuclear tests...." However, this argument misses the point on verification and implies that low-yield tests are militarily significant. The key to effective verification is that a potential violator must believe that the risk of getting caught is greater than the benefit of the violation. Conversely, the verifier must be convinced that the security benefits of identifying (and thus deterring) tests of substantial yield exceeds the military threat posed by any small test that might escape detection. The combined capabilities of the CTBT's International Monitoring System, national intelligence tools and civilian seismic networks can monitor tests with a one-ton (TNT equivalent) yield or lower. But clearly the very lowest yield nuclear explosions, including hydronuclear tests, may slip below the detection threshold. However, tests below a few hundred tons do not permit an adequate assessment of the performance of a two-stage thermonuclear weapon. In addition, as the 1995 JASON study judged, there is little to be learned from the very lowest yield hydronuclear experiments toward the development of a new type of weapon.

Too Little Time, Too Little Talk

By taking up the treaty in what Senator Lugar called "an abrupt and truncated manner that is so highly politicized," the Senate was unable, and the leadership unwilling, to sort out these and other test ban related issues. Unlike previous Senate deliberations on arms control treaties, there was no negotiation or exchange of views concerning the president's six proposed CTBT "safeguards" or other possible conditions that might assuage concerns and win the support of skeptical senators. Without the time necessary to achieve clarity and political consensus, the doubts and questions raised about the CTBT effectively undercut potential support for the treaty. Recognizing that the opportunity for give and take was absent and that the votes needed for ratification were not there, 62 senators wrote the leadership on October 12 "in support of putting off final consideration until the next Congress." Prominent Republicans, including President Bush's former secretary of state, Lawrence Eagleburger, argued that "if the Senate cannot bring itself to do the right thing and approve the treaty, then senators should do the next best thing and pull it off the table." <15>

However, agreeing to postpone the vote required the same kind of "unanimous consent" agreement needed to schedule the vote, and some CTBT opponents had publicly said they opposed any such agreement. On the eve of the vote, Majority Leader Lott and Minority Leader Daschle were on the verge of an agreement to postpone the vote. But Senators Paul Coverdell (R-GA), Helms, James Inhofe (R-OK), Kyl, and Bob Smith (R-NH) reportedly raced to the majority leader's office to tell him...
that they were prepared to block any new agreement that would postpone the vote. These senators were motivated as much by their political instincts as their discomfort with the CTBT. As Senator Smith said in an October 12 floor speech: "Postponing a vote on the CTBT will allow the White House to claim victory in saving the treaty, and will allow the White House to continue to spin the American people by blaming opponents for not ratifying the treaty. There is no conservative victory in that." In the end, Senator Lott was either unwilling or unable to persuade this small group of hard-liners to delay the vote.

Whether it might have been possible to win this Senate's approval for the CTBT with greater presidential leadership, a more collegial Senate culture and a more effective presentation of the case for the treaty will never be known. It is clear, however, that the future of the CTBT may well be determined by the lessons that decision-makers and the public draw from the 1997-1999 period and by the course of events in coming year.

The Next Phase of the Debate

Despite the fact that the Senate failed to provide its advice and consent for ratification of the CTBT by a stunning 16 votes, the president and the Congress will have to continue to deal with test ban-related issues: test ban monitoring, nuclear weapons stockpile stewardship, the future of the U.S. nuclear test moratorium and international non-proliferation challenges. Several senators have expressed disappointment about the vote and have indicated that they will revisit the unfinished question of CTBT ratification. Two centrist senators, Joseph Lieberman (D-CT) and Hagel noted that "our constituents and our country's allies have expressed grave concerns about our hasty rejection of the treaty and the impact of that rejection on the treaty's survival. They need to know that we, along with a clear majority of the Senate, have not given up hope of finding common ground in our quest for a sound and secure ban on nuclear testing." This will only be possible if the executive branch, in cooperation with Senate CTBT supporters and skeptics alike, work together to reinforce the existing non-testing regime and to lay the groundwork necessary to convince the Senate to reconsider and approve the treaty.

A first step toward repairing the damage from the October 1999 debate and building consensus on the CTBT should be a more thorough and substantive exchange of views between the executive branch and the Congress on core issues and facts concerning the treaty, including the following:

- the effect of U.S. ratification (or lack thereof) on nuclear non-proliferation objectives;
- the overall national security costs and benefits of ratifying the treaty;
- the role and purpose of the stockpile stewardship program in assuring warhead reliability, and determining what degree of assurance is necessary and how it can be maximized;
- combined yield detection thresholds and capabilities of the CTBT's International Monitoring System, national and scientific monitoring networks, and on-site inspections, as well as the plausibility of evasion;
- the capabilities of various states (including the United States) to maintain or develop nuclear weapons without nuclear test explosions;
- the capability to detect and respond to prohibited activities through the CTBT's International Monitoring System, on-site inspection and confidence-building measures, as well as national technical means and civilian/scientific seismic monitoring networks; and
- whether or not there is a demonstrable U.S. national security requirement or practical military purpose for new types of nuclear warheads that is worth the cost of resuming nuclear test explosions.

In addition to addressing Senate skeptics' concerns, the administration and other CTBT proponents must more effectively communicate the overall benefits of U.S. leadership and ratification of the
treaty. The CTBT can impede the development of advanced, new types of two-stage nuclear warheads, which are more easily deliverable by ballistic missiles, and will strengthen international support for the nuclear Non-Proliferation Treaty (NPT) and U.S. leadership abroad. Because the United States does not now, nor likely will ever, need to conduct another nuclear explosive test, it is in America's interest to ratify the treaty to encourage others to do so and to implement the treaty's verification provisions to ensure that other nations are not conducting nuclear tests.

Nearly one month after the Senate vote, the administration announced a tentative step toward addressing the concerns of senators who voted "no." In a November 10 speech to the Chicago Council on Foreign Relations, Secretary Albright announced that the Clinton administration "will establish a high-level administration task force to work closely with the Senate on addressing the issues raised during the test ban debate." Albright said: "It is essential that the dialogue on the CTBT continue and bear fruit. In our discussions with the Senate, we will be open to a variety of possible approaches for bridging differences, including at an appropriate point the potential need for additional conditions and understandings."

Although the Clinton administration should have established such a task force shortly after the transmittal of the CTBT to the Senate in September 1997, the secretary's announcement is nevertheless a useful first step toward building support for the CTBT. The job of the CTBT task force will be all the more challenging as the 2000 election season heats up and as arms control again moves to the front of the political stage when President Clinton's national security team and the Congress turn their attention to the divisive question of deployment of a "limited" national ballistic missile defense and the stalled strategic nuclear arms reduction process with Russia.

Whether and how the Clinton administration task force will address these post-vote challenges is uncertain. If it does not prove effective, others may fill the leadership void, although with less certain results. Senator Warner, for instance, has introduced legislation (S.1812) that would set up a bipartisan commission in order "to devise a nuclear testing treaty seen clearly as in our national interests." Warner, like many other senators, notes that "much of the confusion [about the treaty] is based on misconceptions and wrong information."

On the surface the proposal appears reasonable and could, if modified, serve to help answer outstanding questions and address misconceptions about the CTBT. However, rather than exploring how and whether greater consensus can be achieved on the existing CTBT through additional or modified safeguards and conditions to the articles of ratification, the outcome of the Warner commission's work might easily be the drafting of a wholly different treaty. Some commentators have explicitly proposed renegotiating key elements of the existing treaty to make it finite in duration and to allow for low-yield nuclear explosions. Such changes would undercut the core purposes of the treaty. Furthermore, it is impractical and naive to expect that the international community would agree to reopen talks on a treaty that was negotiated by 61 states and has been signed by 155.

A second and equally important post-vote task will be to mitigate damage from further attacks on the existing CTBT regime. Even without ratification of the CTBT in the near term, the United States has no plans or need to conduct nuclear test explosions, and it is in both the national and the international interest to detect and deter other nuclear capable states from conducting nuclear explosions. Under these conditions, the United States must communicate that the Senate vote does not represent a shift in U.S. non-proliferation policy, which could prompt other states to respond in ways that lead to vertical or horizontal proliferation. The United States must also continue to work to improve national and international nuclear test monitoring capabilities.

The administration has indicated that it will continue to seek funding for the United States' share of the CTBT Organization's (CTBTO) preparatory work, including construction of the International Monitoring System, which is scheduled to be completed in 2001. The United States provides approximately 25 percent of the CTBTO's annual budget, which was $74.7 million in 1999 and is $79.9 million for 2000. U.S. spending on the international network has been characterized as a "very valuable" investment by the director of the Defense Department's nuclear treaty program office, Ralph Alewine. "We're buying into a big system at 25 cents on the dollar, and this provides us data we couldn't get otherwise."
Before the Senate voted on the treaty, foreign operations appropriations committees had already approved the full U.S. contribution for FY2000. However, as a result of the CTBT’s rejection, congressional support for continuing U.S. contributions to the CTBTO may not be sustainable over the long term. Efforts were made in both 1998 and late 1999 to strip CTBTO funding out of the appropriations bill. Those efforts failed, but Senator Helms—and perhaps others—are likely to try once again to cut support for the program.

Additionally, in a valuable effort to mitigate the effect of the Senate CTBT vote on U.S. foreign relations and non-proliferation efforts, Secretary Albright said in an October 18 letter to foreign leaders that the United States "will continue to act in accordance with its obligations as a signatory under international law, and will seek reconsideration of the treaty at a later date when conditions are better suited for ratification."<ref> As a signatory to the Vienna Convention on the Law of Treaties, the United States is obligated to refrain from acts that would defeat the "object and purpose" of any treaty it has signed until "it shall have made its intention clear not to become a party to the treaty...."<ref> The object and purpose of the CTBT is to ban "any nuclear weapon test explosion or any other nuclear explosion."

Senators Lott and Helms were quick to criticize these positions and are likely to continue to do so in the future. Lott has asserted that the Senate’s rejection of the CTBT “serves to release the United States from any possible obligations as a signatory of the negotiated text of the treaty.” Senator Helms claims that “since the Senate is a co-equal [in treaty-making] and the Senate has overwhelmingly vetoed the CTBT, the intention to never become a party has been made crystal clear."<ref> They are both incorrect.

According to long-accepted constitutional practice, the president, not the Senate, decides when to stop observing the basic purpose of a treaty that the Senate has not ratified. For example, when the Senate failed to ratify SALT II, President Carter decided that, consistent with international law, he would continue observing the purpose of that treaty. The Reagan administration decided to observe the treaty as a matter of policy, not international law. But in both cases the president, not the Senate, made the decision.

Of course, the policy of future presidents on the CTBT may be different. Both candidates running for the Democratic presidential nomination have said they would return the CTBT to the Senate for its consideration and approval and would continue the U.S. test moratorium. The leading contender for the Republican nomination has been more ambiguous. A spokesperson for the George W. Bush campaign said that the candidate backs the current testing moratorium, but "doesn't support the [comprehensive test ban] treaty."<ref> Some Bush campaign officials lean in favor of testing. Former Reagan appointee Richard Perle, who is now a Bush advisor, told test ban opponents in October that he endorses nuclear testing, saying, "low-yield testing that carries no negative environmental effects should not be regarded as an evil." Another leading Republican presidential candidate, Senator John McCain (R-AZ), voted against the CTBT saying, "I must vote against ratification of the Comprehensive Test Ban Treaty at this time." But he also said, "Preferably, this vote would be delayed until a more appropriate time, but barring that, I cannot support ratification right now."

**Conclusion**

On the surface, the Senate's 51-48 rejection of the CTBT may appear to some as an endorsement of the argument advanced by the CTBT opposition: that arms control is ineffective and that the United States should reject any limitation on its military capabilities, even when such limitations, like the CTBT, help to prevent the emergence of military threats to U.S. and international security. However, these perspectives are not yet embraced by a majority of Senate Republicans, let alone a majority of the Senate. Rather, the rejection of the CTBT was a consequence of the dubious claims and calculated actions of a small nucleus of opponents, an atmosphere of distrust and confrontation between the White House and the Congress, and the absence of a consistent leadership from the president in support of the treaty. In this context, treaty opponents were able to win the support of the majority leader, take advantage of the short time frame allotted for treaty consideration by
raising more doubts that proponents had time to refute, and, in the final hours, stubbornly reject the option of postponing the vote against the wishes of 62 of their colleagues. Repairing the damage caused by the Senate vote on the CTBT and averting other imprudent nuclear weapons policy decisions will require a much more balanced debate of core issues and key facts surrounding U.S. nuclear weapons and nuclear testing policy: the role and purpose of nuclear weapons test explosions; what constitutes an effective stockpile stewardship program; and whether other states can gain militarily significant advantages relative to the United States under the CTBT regime. As these issues are addressed, policymakers should consider that defending the United States against nuclear attack no longer depends on maintaining an overwhelming arsenal of nuclear weapons for delivery against Soviet targets. Further, it is important to consider how, in the absence of the CTBT, the United States will effectively be able to prevent nuclear testing and the emergence of new nuclear security dangers.

In order to create the conditions for a more balanced, less politicized debate on the CTBT and other vital nuclear security issues, there must be new leadership from the executive branch, as well as internationalist "moderates" in Congress. The administration and the Senate must avoid becoming engaged in post-vote reviews of the CTBT that primarily serve partisan political purposes and focus on how CTBT-related questions and concerns can be addressed so that the United States can be a party to the treaty and play a constructive role in curbing nuclear proliferation worldwide. As Secretary Albright has noted, the challenge is to "overcome the scars left by past arguments, put aside partisan distractions, and come together around concrete measures that will keep Americans secure." Whether this is likely-or even possible-is yet to be determined.

NOTES


3. Since the CTBT was transmitted to the Senate on September 23, 1997, over 120 editorials have been written in support of the CTBT, while fewer than 10 recommended rejection.

4. For a list of supporters, see *The Congressional Record*, pp. S12262-63, October 8, 1999.


9. A September 9, 1999 letter to Senator Lott from 52 CTBT opponents organized by the lobby group Center for Security Policy contained key arguments against the treaty that would appear in the October debate and the speeches and statements of several senators voting "no." For analysis and rebuttal of these arguments, see Christopher Paine, "Tall Tales of the Test Ban Opposition," Natural Resources Defense Council, October 6, 1999.


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