

# WebMemo



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## Ratifying the Comprehensive Test Ban Treaty: A Bad Idea in 1999, a Worse Idea Today

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Section 3122 of the Senate version of the National Defense Authorization Act for Fiscal Year 2008 (S. 1547) would express the sense of Congress that the Senate should consent to the ratification of the 1996 Comprehensive Test Ban Treaty (CTBT). The CTBT would permanently prohibit explosive tests of nuclear weapons by the United States. U.S. ratification of the CTBT and the treaty's entry into force would jeopardize the vital national security interests of the United States by undermining its nuclear deterrent.

**Procedural Problems.** Procedurally, it is inappropriate for the Senate to even be considering the language in Section 3122. The Senate voted to reject ratification of the CTBT on October 13, 1999.<sup>2</sup> This was a determinative action regarding CTBT ratification. Following that action, the treaty should have been returned to the executive branch, and the United States should have announced to other treaty signatories that it was no longer seeking ratification and reserved the right to take actions contrary to the object and purpose of the treaty. Furthermore, S. 1547 is under the jurisdiction of the Senate Armed Services Committee. Treaty ratification properly falls under the jurisdiction of the Senate Foreign Relations Committee. As such, the Senate Armed Services Committee has usurped an authority properly given to a different committee.

**Persistent Problems with the CTBT.** Substantively, the shortcomings of the CTBT that the Senate found in 1999 persist today. The requirements of the treaty have not changed in any way since

1999, and the United States' security continues to require a nuclear arsenal that is safe, reliable, and militarily effective. Such an arsenal depends on preserving the option to conduct explosive tests of the weapons already in the arsenal for the purpose of developing new weapons to meet new requirements. CTBT ratification by the United States and its entry into force would lead to the same unacceptable outcomes that caused the Senate to reject the treaty in 1999. They are:

- **Irreversible Nuclear Disarmament.** Permanently forgoing explosive tests of nuclear weapons will lead to U.S. nuclear disarmament.<sup>3</sup> While the disarmament process will take an undetermined amount time, it is inevitable for two reasons. First, testing prohibition will foreclose the modernization steps necessary to keep the deterrent effective under changing circumstances. Proliferation is already changing these circumstances significantly; the U.S. arsenal, meanwhile, is designed to deter the former Soviet Union. The United States will eventually retire the weapons that are no longer suited to current purposes, with nothing to replace them. The second reason that a permanent testing prohibition will lead to disarmament is that ques-

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tions will emerge about the safety and reliability of the weapons in the arsenal and stockpile. These concerns will cause the United States to remove those weapons. In short, a permanent ban on explosive testing will result in disarmament brought about by atrophy.

- **A Papering Over of Problems in the Stockpile.** A treaty-based ban on the explosive testing of nuclear weapons creates a perverse incentive to refrain from fixing problems with the stockpile.<sup>4</sup> Technicians responsible for maintaining a safe, reliable, and militarily effective arsenal and stockpile will feel immense pressure not to take any steps that are inconsistent with the treaty. Policymakers will demand that the technicians never find a need to conduct an explosive test, but rather just withdraw and dismantle the questionable weapons. However, testing is the most effective way to address problems with the stockpile. Specifically, testing is the best way to ensure that fixes to weapons have resolved any known problems. Further, testing is the only way to develop new militarily effective weapons to meet new requirements and missions.
- **A Weakening of the Standards of Good Arms Control.** The CTBT does not meet basic standards of arms control agreements that serve the national interest: It fails to reduce the risk of conflict; it undermines U.S. security commitments to its allies; and it is unverifiable and unenforceable.<sup>5</sup> Ultimately, it makes arms control an end in itself, as opposed to a means to the end of improved security.

**New Circumstances Increase Dangers of CTBT Ratification.** Today's circumstances make U.S. ratification of the CTBT an even worse choice than it was in 1999. The Senate needs to consider the following three points:

- **There has been considerable atrophy in the U.S. nuclear weapons production complex, stockpile, and arsenal since the end of the Cold War.** The United States has been observing a unilateral testing moratorium and last conducted an explosive nuclear test in 1992. The weapons in its current arsenal, generally speaking, were designed to last for 20 years. Some weapons are already exceeding their design age. No new classes of nuclear weapons have been designed and built since the testing moratorium began. Reports regarding the impact of the atrophy are starting to surface. A recent National Defense University study addresses the U.S. nuclear weapons complex: "While interest in nuclear weapons is rising in the rest of the world, the United States since the end of the Cold War has experienced an erosion of institutional interest and expertise in U.S. nuclear capabilities."<sup>6</sup> In April 2005, the General Accountability Office found that the new methodology for assessing and certifying nuclear weapons "is still incomplete and evolving."<sup>7</sup> Even the nominee to head the National Nuclear Security Administration, Thomas P. D'Agostino (who has not been shy about touting the purported successes of the Stockpile Stewardship Program), acknowledged problems before the House Subcommittee on Strategic Forces on March 20. He testified that

1. National Defense Authorization Act for Fiscal Year 2008 (S. 1547), Sec. 3122, 110th Congress, 1st Session, at <http://thomas.loc.gov/cgi-bin/query/F?c110:1::/temp/~c1104HI3BA:e670328> (June 26, 2008).
2. *Congressional Record*, 106th Congress, 1st Session, October 13, 1999, p. 12547.
3. Baker Spring, "The Comprehensive Test Ban Treaty and U.S. Nuclear Disarmament," Heritage Foundation *Backgrounder* No. 1330, October 6, 1999, at [www.heritage.org/Research/MissileDefense/upload/14518\\_1.pdf](http://www.heritage.org/Research/MissileDefense/upload/14518_1.pdf) (June 26, 2007).
4. Baker Spring, "Why the Administration's Stockpile Stewardship Program Will Harm the U.S. Nuclear Deterrent," Heritage *Backgrounder* No. 1334, October 7, 1999, at [www.heritage.org/Research/MissileDefense/BG1334.cfm](http://www.heritage.org/Research/MissileDefense/BG1334.cfm) (June 26, 2007).
5. Baker Spring, "The Comprehensive Test Ban Treaty: In Arms Control's Worst Tradition," Heritage *Backgrounder* No. 1332, October 7, 1999, at [www.heritage.org/Research/MissileDefense/BG1332.cfm](http://www.heritage.org/Research/MissileDefense/BG1332.cfm) (June 26, 2007).
6. Paul I. Bernstein, John P. Caves, Jr., and John F. Reichart, "The Future Nuclear Landscape," *Occasional Paper*, Center for the Study of Weapons of Mass Destruction, National Defense University, April 2007, p. 29.
7. Gene Aloise, Director, Natural Resources and Environment, General Accountability Office, letter to the Honorable Terry Everett and Silvestre Reyes, April 29, 2005, attached to GAO report No. GAO-05-636R, April 4, 2005.

the directors of the nation's nuclear weapons laboratories have raised concerns about their ability—absent nuclear testing—to assure a reliable nuclear weapons stockpile over the very long-term, absent nuclear testing.<sup>8</sup>

- **The nuclear threat is expanding.** Established nuclear powers (Russia and China), new *de facto* nuclear powers (India, North Korea, and Pakistan), and aspiring nuclear powers (Iran) are moving forward in establishing or expanding their nuclear capabilities. Russian leaders continue to believe that a modernized nuclear arsenal plays a central role in their national strategy.<sup>9</sup> China is expanding the number of nuclear-capable missiles in its arsenal.<sup>10</sup> India and Pakistan conducted nuclear tests in 1998, and North Korea conducted one in 2006. Iran continues to defy multilateral demands that it freeze its program for enriching uranium. Without the option to conduct tests in the future, the United States will see lesser powers equal and eventually surpass its nuclear capabilities.
- **Nuclear proliferation is creating the need for a modern U.S. nuclear arsenal that is suited to maintaining stability in a multi-polar setting.** The U.S. nuclear arsenal is suited for the bipolar setting of the Cold War; it is not designed to address nuclear multi-polarity created by proliferation. Indeed, the Cold War nuclear deterrence

policy and the arsenal it created are likely undermining nuclear stability and increasing the prospect for the use of nuclear weapons.<sup>11</sup> A permanent ban on nuclear testing will bar the United States from developing a new nuclear-deterrent posture. The new arsenal should include nuclear weapons, along with conventional and defensive weapons, that support a damage limitation strategy. Such a strategy aims to prevent or limit the damage from attacks by enemies armed with weapons of mass destruction.

**Conclusion.** For both procedural and substantive reasons, the Senate should oppose ratification of the CTBT. The Senate rejected ratification in 1999 for good reasons, and those reasons are still pertinent today. Further, the effectiveness of the U.S. nuclear deterrence posture has declined in recent years for reasons of atrophy within the weapons complex and changing international circumstances. The United States has no margin for error in maintaining its national security in the context of its nuclear deterrent. Senate consent to the ratification of the CTBT entails nothing less than gambling with the survival of the United States.

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8. "Statement of Thomas P. D'Agostino, Acting Under Secretary for Nuclear Security and Administrator, National Nuclear Security Administration, U.S. Department of Energy, Before the House Committee on Armed Services, Subcommittee on Strategic Forces," March 20, 2007, p. 4.

9. Bernstein, Caves and Reichart, "The Future Nuclear Landscape," pp. 25–27.

10. John J. Tkacik, Jr., "China's Quest for a Superpower Military," *Heritage Backgrounder* No. 2036, May 17, 2007, pp. 3–5, at [www.heritage.org/Research/AsiaandthePacific/upload/bg\\_2036.pdf](http://www.heritage.org/Research/AsiaandthePacific/upload/bg_2036.pdf) (June 26, 2007).

11. The Nuclear Stability Working Group, *Nuclear Games: An Exercise Examining Stability and Defenses in a Proliferated World* (Washington, D.C.: The Heritage Foundation, 2005), at [www.heritage.org/upload/NuclearGames.pdf](http://www.heritage.org/upload/NuclearGames.pdf) (June 26, 2007).