

An Inherent Lesson in Arms Control

The decision by the U.S. Senate not to ratify the Comprehensive Test Ban Treaty (CTBT) provides important lessons about arms control practices and objectives for the coming years. Those lessons fall into three broad categories. The first is political relations between the White House and Capitol Hill. The second relates to the terms of a treaty, particularly the alignment of its technical features with its purpose. The third category is the relationship between arms control and deterrence. Each offers food for thought for the pending debate over the deployment of a national missile defense system and the future of the Anti-Ballistic Missile (ABM) Treaty.

Political Relations

The first lesson is that “politics” matter. “Politics” clearly played a role in the defeat of the CTBT. It was not, as some would have it, the politics of scandal or isolationism. Rather it was politics of a simpler kind, the politics of mistrust. From its first days, the Clinton administration has had an uneasy relationship with the Congress. The administration’s ill-prepared policy initiatives, its failures to consult with its congressional allies, and its willingness to abandon positions long held by its own party caused disaffection among Democrats. The deft footwork of the administration in parrying and frequently defeating the efforts of the Republicans gave rise to cries of foul play. The president frustrated the new majority by recasting their major themes or initiatives and then either capturing them as his own or denigrating them as foolish.

Stephen Cambone is director of research for the Institute for National Strategic Studies at the National Defense University. The views expressed here are his own and do not represent those of INSS, NDU, DoD, or any other government agency.

Copyright © 2000 by The Center for Strategic and International Studies and the Massachusetts Institute of Technology
The Washington Quarterly • 23:2 pp. 207–218.

The mistrust between the White House and Capitol Hill, generated in domestic policy debates, also affected national security policy. It surfaced immediately over gays in the military. Events in Somalia followed by decisions to intervene in Haiti and Bosnia and the administration's justification for these actions as support for the "will of the international community" exacerbated that mistrust. Seven years into the Clinton administration, the president and Congress have agreed on relatively few national security issues beyond the expansion of the North Atlantic Treaty Organization (NATO). Secretary of State Madeleine Albright put it this way in her November 22, 1999, essay in *Time*: "Unfortunately ... the [a]dministration and Congress have not yet agreed on a common post-[C]old [W]ar strategy" for meeting the new dangers the nation faces.

In the field of arms control, the Senate's actions on two earlier treaty ratification votes revealed this mistrust. In the case of the second Strategic Arms Reduction Treaty (START II), the Senate declared in its ratification resolution that U.S. reductions called for in the treaty should not dangerously outpace those of Russia. It feared the administration would move toward START II levels before Russia ratified the treaty. A requirement to retain START I force levels was contained in successive Defense authorization acts. It has been relaxed somewhat by the current authorization act that recognizes the existing budgetary constraints on Russia's strategic forces.

Another arms control issue on which the White House and Senate have disagreed is the application of the ABM Treaty to theater missile defense (TMD). Since 1994, the majority in the Senate has held that agreements with Russia to distinguish or demarcate TMD systems from ABM systems of the type pursued and eventually obtained by the administration were unnecessary. Some argued that the ABM Treaty did not restrict TMD, while others contended that these agreements constituted a substantive change to the treaty requiring the Senate's advice and consent. Despite the clear opposition of the Senate majority, the administration concluded a demarcation agreement. This convinced many Republicans that, despite its assurances to the contrary, the administration was attempting to use the agreements to expand the authority of the ABM Treaty and to dangerously limit the capability of U.S. TMD to satisfy Russian demands.

For its part, the administration had argued that the demarcation agreements were designed to protect the integrity of the ABM Treaty by defining a difference between TMD and ABM capabilities. It insisted that the agreements did not limit theater defenses. It also insisted that the agreements did not amount to substantive changes to the ABM Treaty—specifically that they did not extend the treaty to include theater systems—and therefore did

not constitute amendments to the treaty requiring the advice and consent of the Senate. Unwilling to accept these assurances, the Senate's ratification resolution amending the Conventional Forces in Europe Treaty required that the president submit to the Senate for its advice and consent the agreements he reached with Russia and other former Soviet Union states on TMD, the so-called demarcation agreements. The president accepted this condition of ratification, but he has not yet submitted the demarcation agreements to the Senate.

The administration is no more trustful of the Congress. For example, it was reluctant to consult on its negotiating approach on TMD out of fear that it would be misrepresented. And, following the passage of the Missile Defense Act of 1999, which declared it to be U.S. policy to deploy a national missile defense (NMD), the White House issued a statement declaring that the law did not, in fact, mean that the United States was committed to a deployment of missile defense. This statement was issued after the administration had failed to have the act amended to condition deployment on criteria related to cost, effectiveness, technical readiness, and its diplomatic effect. In the view of the White House, its statement was needed to preserve executive prerogatives, to reassure U.S. allies and Russia, and to avoid a "rush to failure" in deploying missile defenses.

A deep lack of trust between the executive and legislative branches is not likely to be overcome by an appeal to the hoary traditions of bipartisanship on national security matters. In such moments, only a solid record of dealing in good faith over time on a variety of issues can assure a full and frank exchange between the two treaty-making partners. This record is especially necessary when considering a treaty, such as the CTBT, that is so highly charged.

Clearly no such record existed at the moment of the vote. Worse, even overtures of good faith had gone unrewarded. Those in a position to know say that the White House was informed in midsummer 1999 about the Senate leadership's concerns. These included the manner in which it was negotiated; the particular terms of the treaty; and deep concerns about the measures for assuring compliance, on the one hand, and the safety, security, reliability, and credibility of the U.S. nuclear stockpile, on the other. Nor were these issues raised for the first time in the summer of 1999. Hearings had been held on these and many other issues related to the CTBT during the preceding sessions of Congress. In light of these concerns, the Republi-

The first lesson is that 'politics' matter.

can leadership warned the administration that it did not have the votes to secure ratification of the CTBT and offered to postpone a vote. It assured the White House, however, that if it came to vote, the CTBT would be defeated.

A number of Democratic senators chose to pursue the matter in any case, threatening to bring the Senate's business to halt unless the CTBT was placed on the calendar. The result, given no indication that the administration was prepared to address the substantive concerns of the leadership, was a foregone conclusion in mid-year.

Treaty Rationale, Terms, and Purpose

A second lesson drawn from the CTBT vote is that the rationale developed to guide Cold War arms-control efforts are not so easily adapted to the evolving post-Cold War strategic environment. The CTBT was a Cold War-era treaty. Its original rationale was to inhibit the proliferation of nuclear weapons by new states by prohibiting testing. For states with nuclear weapons, a CTBT would also prevent the development of new, perhaps more usable, weapons.

Additional reasons were developed over the years to support a CTBT, including the argument that it was an essential step to engage in negotiations toward general and complete disarmament, ostensibly fulfilling the Article VI pledge of the nuclear weapon states in the Nuclear Non-Proliferation Treaty (NPT). More recently, the case has been made that a CTBT, irrespective of its particular success in stemming proliferation, would establish an international norm against the acquisition and improvement of nuclear weapons.

Recollections of history and recent experience undermined the CTBT's rationale. The first two U.S. atomic weapons delivered the anticipated explosive yield the first time they were detonated in 1945. One was a relatively uncomplicated device, a gun-assembled type, called Little Boy. The other was a more sophisticated implosion type, which has become the type-design of choice.

In the years since 1945, and especially in the last decade or so, there has been a wide diffusion of the scientific and engineering knowledge related to nuclear weapon design. It has given rise to a broad consensus that first-generation nuclear weapons—unsophisticated by the contemporary standards of the United States—can be developed confidently, without nuclear testing, by a country that can acquire the fissile materials and mount a serious design effort. As a result, most are persuaded by the administration's finding that North Korea possesses one or perhaps two nuclear devices developed

without testing. Many believed India and Pakistan had workable nuclear weapons prior to their tests in 1998. Recent press reports that the CIA can not rule out the possibility that Iran has acquired nuclear weapons highlights the concern of Gen. Anthony Zinni, Commander in Chief, U.S. Central Command, that Iran is likely to have a handful of nuclear weapons in its arsenal in only a few years. The likelihood is low that Iran would need to test a first-generation device. After the invasion of Kuwait, Iraq began a crash program to produce a nuclear device in six to nine months based on uranium removed from the safeguarded reactor at Tuwaitha. There is near universal agreement that Israel also possesses nuclear weapons.

Because nuclear weapons can be developed without testing, opponents of the CTBT were not persuaded it would have had a substantial effect on proliferation. Nor were they convinced that the Cold War-era techniques for monitoring and verifying the treaty were adequate to detect cheating and resolve ambiguity related to actual testing. Verification capabilities and the compliance standards associated with them were the source of fierce disagreement surrounding Soviet compliance with Strategic Arms Limitation Talks (SALT), the Intermediate-Range Nuclear Force (INF) Treaty, the ABM Treaty, and the Biological and Toxin Weapons Convention. The disagreement over the U.S. capacity to monitor and verify nuclear testing were especially contentious in the past, particularly during debates over the Threshold Test Ban Treaty's limit of 150 kilotons of explosive yield.

Proponents argued that the CTBT was, as a whole, "effectively verifiable" due to the combination of a ban on nuclear-explosive testing with the monitoring, verification, and inspection provisions of the treaty. That is, the CTBT's benefits outweighed the military risk that could be gained by surreptitious testing. Treaty proponents pointed to its requirement for 331 international monitoring stations to collect relevant data, including both natural and man-made seismic and acoustic events, to establish a data center where all collected information is available to all signatories, and to create an onsite inspection regime.

But here, too, recent experience and advances in science and engineering undermined confidence in the CTBT's monitoring and verification regime. We know, as noted above, that testing is not needed to develop a first-generation nuclear weapon. The techniques for spoofing sensors or concealing tests (e.g., through decoupling the explosion from the surrounding earth)

First-generation nuclear weapons can be developed confidently without nuclear testing.

are also well known. They are not sophisticated techniques; aspiring nuclear weapon states can employ them. Those members of the regime who are looking to use such techniques have the advantage of knowing a great deal about its monitoring, verification, and inspection because that knowledge is open to all members. That means monitoring and verification in the end depends less on the treaty's provisions than on the national technical means of signatories, particularly the United States.

The CTBT was about setting new standards of behavior in the international system.

The U.S. intelligence community is highly capable. But as determined actors have demonstrated repeatedly in recent years, they are capable of denying the intelligence community timely information about their actions, of deceiving and misleading it about their intentions, and, in the end, of surprising it. To be sure, some of the intelligence community's vulnerability to denial and deception practices is a result of its own shortcomings. These have been chronicled in Adm. David Jeremiah's report following India's nuclear test and the Rumsfeld Commission's "Intelligence Side Letter." The director of central intelligence has testified that the intelligence community is working hard to overcome these shortcomings.

As the Rumsfeld Commission pointed out, however, repairing the shortcomings of the intelligence community, while necessary, will not be sufficient. Espionage, demarches, press releases, unauthorized publications, and leaks as well as the inexorable march of satellite- and information-based technology have eroded the advantages once enjoyed by the U.S. intelligence community and increased the likelihood of surprise.

Even when surprise is not an issue, ambiguity is likely to reign. In the late 1970s, a flash of light was detected in the southern hemisphere, leading to speculation about its source. Some argue Israel was involved, others that it was a South African test, others that both were involved. In 1997, South African deputy foreign minister Aziz Pahad claimed that the event in the Indian Ocean on September 22, 1979, was a South African nuclear test. Shai Feldman, in a published review of arms control issues in the Middle East, concluded that Israel and South Africa have probably not cooperated in the nuclear realm.

Six months after the event, the press was reporting disagreement within the U.S. government about the characteristics of the weapons tested by Pakistan in May 1998. This, in turn, set off a dispute between the intelligence community and the Congress on the issue. Nor is ambiguity related only to

events conducted by new nuclear powers. In September 1999, a senior intelligence official said “we [the intelligence community] just don’t know at this point” whether an event detected earlier in the month at Russia’s Novya Zemlya test site was a small nuclear blast or a conventional explosion that did not reach critical mass. The same press report asserts that intelligence agencies “also detected what is believed to have been a small Chinese underground nuclear test in June.”

The debate on the CTBT revealed the difficulty of adapting Cold War technical approaches to securing contemporary arms-control objectives. It also came to a vote at a moment when the efforts to deny and deceive the U.S. intelligence community were most visible undermining confidence in the treaty’s verifiability. The combination proved an insurmountable obstacle.

Deterrence and Arms Control

A third lesson drawn from the debate over the CTBT is that the fissure in thinking among U.S. policy elites on the relationship between deterrence and arms control is now exposed. The existence of this fissure in the policy elite is not new. What is new is that the debate on the CTBT may have placed majorities on both sides of the issue into irreconcilable positions.

During the Cold War, arms control evolved into a carefully orchestrated set of agreements meant to codify extant notions of nuclear deterrence and to assure deployment over time of forces in the number and with the capabilities essential to its enforcement. This was possible because most of the majority that favored arms control were fundamentally committed to deterrence. Among the majority who stressed the requirement to strengthen deterrence in every way possible, arms control agreements could be crafted that at the very least did no harm, as in the case of START I, or actually achieved long-held objectives, as in the case of START II. Hence, during the Cold War, compromise was possible on the basis of a commitment to improve deterrent capabilities and to control the growth of, reduce, or otherwise regulate the size and characteristics of the deterrent forces.

The CTBT debate seems unlikely to yield such compromise. To its proponents, the CTBT was not about deterrence as it is classically understood. To be sure, proponents assume the current and future U.S. capability to retaliate for any attack on the United States is a given, an unquestionable premise. Moreover, they argued, the CTBT would not diminish that capability for many years to come, if at all. The stockpile stewardship program is designed to assure, in a no-testing environment, the safety, reliability, and security of the weapons for the indefinite future. Beyond this, protecting the U.S. capacity to improve its capabilities was not only unnecessary but also

contrary to the purposes of the treaty. The end to testing was meant to freeze capabilities where they are—both in the United States and among other states possessing or on the verge of possessing nuclear weapons.

If the CTBT was not about deterrence in the classic sense, it was about setting new standards of behavior in the international system. It was about putting arms control to new uses. The president made this clear in 1996 when he announced his intention to secure a treaty by 1999. National Security Advisor Samuel Berger, in his speech shortly after the Senate's decision,

and the Secretary of State, in her *Time* essay, reiterated this rationale. Because the CTBT does not affect classic deterrence, goes the logic of their argument, the United States has the opportunity to use arms control to fashion what Berger called “global rules with global backing.”

Put another way, the CTBT was represented by its proponents as arms control that related less to reinforcing the U.S. deterrent

per se than to altering the broader strategic environment in which the United States operated. The intended effect of the treaty was to reduce both the need, and the capability, for nuclear deterrence leading over time to an end of the need for deterrence itself.

Opponents never wavered in their conviction that the CTBT would pose a threat to the deterrent capacity of the United States. The formulation offered by Senator Olympia Snowe (R-Maine) fairly well captured the view of the Senate majority that “the no-testing, unlimited duration policy [of the CTBT] would fatally undermine confidence in the reliability of our nuclear stockpile as a sturdy hedge against international aggression.”

In particular, opponents expressed very little confidence in the stockpile stewardship program. A sizable number of knowledgeable scientists and engineers still believe that the program could permit current weapons to be maintained and that modest modifications might be possible. The Senate majority heeded the concern of an increasing number of scientists, however, that maintaining the weapons and making modifications to them will be difficult at best. Nearly all scientists believe that the restrictions imposed by the CTBT do not affect the United States and Russia equally.

Based on these conclusions, the Senate decided it had little reason to believe that restricting U.S. capability would appreciably affect the further proliferation of nuclear weapons. It was not persuaded that the stockpile stewardship program would successfully maintain U.S. capabilities. Some also worried that the CTBT would foreclose the U.S. option to develop new

A treaty must reflect the objective reality of today's security environment.

weapon designs should that be necessary to meet an evolving threat.

Looking forward, it is difficult to imagine how these positions might be reconciled within the framework of a CTBT debate. Proponents fought for a treaty that bans nuclear explosive testing. The United States interprets this to mean a zero-yield treaty, that is, literally no explosions are permitted that result in a nuclear yield. They insisted on this provision in the belief that in the end advances in nuclear weaponry required such testing. For proponents to retreat on this point, a matter of principle, is to surrender the moral high ground on which their campaign had been fought.

Proponents might seek a compromise; that is the gist of the argument of Senator Joseph Biden (D-Del.) and others that the issue be reconsidered. Advocates might consider former Secretary of Defense James Schlesinger's suggestion that the permitted yield be raised to five kilotons. This would increase the probability of detection, it would provide for greater confidence that the United States could maintain its nuclear deterrent, and it might allow development of new designs. But so long as opponents lack confidence in the administration, are unconvinced that the treaty can substantially affect proliferation, believe that the impact of the treaty may disproportionately constrain the United States, and can muster the needed 34 votes in the Senate, they are unlikely to agree to reopen the issue.

Conclusion

These lessons apply to pending national security decisions, particularly to the upcoming debate on missile defenses and the future of the ABM Treaty. The recent decision on the CTBT suggests that if the nation is to move forward successfully on missile defense, at least three conditions will need to be met:

- A reasonable level of confidence and trust is needed between the executive and legislative branches. Absent this, Congress will be reluctant to provide the president the benefit of the doubt on an issue as contentious as the ABM Treaty.

In the end, responsibility for the political relationship between the treaty-making partners rests with the executive branch, in particular the president himself. It is he who has the authority to negotiate treaties and he who is responsible for their execution. It is incumbent upon him, then, consistent with his prerogatives and his obligation to protect his communications with foreign governments, to insure that the Senate is consulted in advance on his objectives in a negotiation. The Clinton administration did consult with a Senate observer group on NATO enlargement. Past administrations have

used observer groups for SALT, START, and INF. In participating in an observer group, senators do not surrender the constitutional obligation of the Senate to provide its advice and consent to ratification. But they do take on the obligation to avoid using privileged information for partisan purpose in the course of the ratification process. The Senate has reestablished an observer group for ABM negotiations. The administration might consider making more assiduous use of it, reviving a process that led to the successful ratification of START and NATO enlargement.

- The purpose and specific terms of a treaty must reflect the objective reality of today's security environment, not yesterday's.

The ABM Treaty, in the view of some, suffers from the same concerns as did the CTBT. As defensive technologies have advanced beyond those available, and in some cases envisioned, at the time the ABM Treaty was signed, the compliance rulings which govern the testing and deployment of deployment ballistic missile have become increasingly strained. These strains are the heart of the dispute between the administration and the Congress over the demarcation agreements on theater defenses cited earlier.

In addition, Russia is no longer the only nation that poses a ballistic missile threat to the United States. The logic that supported the ABM Treaty and SALT I package in 1972—stability between two superpowers—is no longer consistent with the strategic situation confronting the United States. With respect to strategic threats, the United States now lives in a multipolar environment. Fixing the U.S.-Russian relationship does not, *ipso facto*, satisfy the requirements to meet these multiple strategic threats.

The technical features of the ballistic missile threat have evolved as well. The ABM Treaty limits capability against strategic ballistic missiles. In 1972, such missiles were associated with either strategic ballistic missile submarines or land-based missiles with ranges of 5,500 kilometers or more. But what is to be made of the North Korean Tapeo Dong 1 (TD-1) launched in 1998? To our great surprise, the North Koreans placed a third stage on what we thought was a two-stage theater ballistic missile. With that they demonstrated that the TD-1 could send a small payload to strategic ballistic missile ranges. How should such capability be treated by the ABM Treaty? If the United States develops a TMD able to shoot down the TD-1, should it also be treated as a strategic missile defense given its demonstrated range? If so, then such theater ballistic missile defenses are illegal under the ABM Treaty. If not, then it is incumbent on those who would advocate adherence to the ABM Treaty to demonstrate how meaningful distinctions can be drawn. The demarcation agreement negotiated by the administration with the Russians does not solve this problem.

Those who wish to preserve the ABM Treaty's limits on defenses will

need to demonstrate how its extension reflects objective conditions, both those we see now and those that are easily foretold. For example, treaty proponents worry that a defense deployment will provoke an offensive arms race. This pressure is exacerbated by an expectation that the low level of defense currently sought by the administration will inevitably give way to still higher levels over time, in turn causing offensive forces to be raised in anticipation of those higher defense levels.

One way to approach this problem is to revise the current U.S. negotiating policy. It now calls for a minimal initial deployment, followed by later deployments should the threat evolve in unspecified ways. Among the elements of an alternative approach would be a formal notification of withdrawal from the treaty to deploy a larger, though still constrained, defense to perform a limited set of specifically declared missions. The defense deployment declaration could include a unilateral commitment not to exceed a given capability either for a particular period of time or until a specified change in the threat occurs. During the six months the treaty requires between notification to withdraw and actual withdrawal, negotiations could be conducted with Russia to reach a bilateral agreement along these lines. Such an approach is not without its own risks, but it could provide others with a clear statement of U.S. intent and observable means of calibrating that intent with U.S. capability, thus aiding stability. It could also provide the United States with clearly delineated thresholds for sizing its deployed defense forces and a rationale on which to base its defense research and development.

Deterrence continues to drive the purposes of arms control.

- Deterrence and arms control remain linked and deterrence continues to drive the purposes of arms control.

In the case of the ABM Treaty, both proponents and opponents will agree to the first half of this proposition. It is on the second half that they are likely to part company. Proponents of missile defense will argue that deployments will strengthen deterrence. They are also likely to argue that arms control, in the form of the ABM Treaty, is inhibiting defenses and undermining deterrence. Opponents will respond that if defense deployments bring down the Cold War regime of arms control, lasting damage will have been done to deterrence, in whose name that regime was constructed. Missile defense proponents will need to take this argument seriously. They will need to show how they can fashion the contemporary equivalent of the Cold War compromise between the needs of deterrence and the desired outcome of any arms control agreement.

More imagination than was shown in the CTBT debate, and has thus far been shown in the ABM Treaty debate, may prove necessary. Classic arms control approaches are unlikely to garner support (and should not) from either opponents or proponents of missile defense. A unilateral commitment of the kind suggested above, coupled with the sort of political, economic, and technical agreements envisioned by the Bush administration in its Global Protection Against Limited Strikes proposals may provide a starting point.

The CTBT would pose a threat to the deterrent capacity of the United States.

These included a willingness to create mechanisms by which the benefits of defense are more broadly shared among congenial states, to increase reliance on self-defense among these states even as they eschew offensive ballistic missile programs, and to offer appropriate technical assistance.

Finally, the United States may need to provide a broader definition both of what we seek to deter and how we intend to do so.

The U.S. interest in deterrence is not limited to nuclear (or chemical and biological) attacks on the U.S. homeland. Nor can deterrence be easily enforced in the emerging environment through dependence on strategic offensive or theater and NMD forces, working alone or in concert. It also requires enhanced intelligence collection and analysis as well as conventional forces coupled to diplomatic initiatives to dampen incipient threats if possible, to reduce existing threats when opportunity presents itself, and to encourage collective action in response to aggression. There can be a place for arms control in such a strategy; the challenge is to find it.