

V. Report on Peaceful Nuclear Explosions Treaty

BE IT RESOLVED, that the American Bar Association recommends that the United States continue its efforts to achieve effective verification measures for the Threshold Test Ban Treaty and the Peaceful Nuclear Explosions Treaty;

BE IT FURTHER RESOLVED, that the American Bar Association urges the Senate to give its advice and consent to ratification of those treaties subject to agreement between the United States and the Soviet Union on measures providing for effective verification; and

BE IT FURTHER RESOLVED, that the American Bar Association recommends that once an agreement on verification has been achieved and the treaties have been ratified, the United States and the Soviet Union should immediately engage in negotiations on ways to implement a step-by-step program of limiting and ultimately ending nuclear testing.

REPORT

The Limited Test Ban Treaty of 1963 prohibits nuclear weapon tests “or any other nuclear explosion in the atmosphere, in outer space, and under water.” While not banning tests underground, the Treaty does prohibit nuclear explosions in this environment if they cause radioactive debris to be present outside the territorial limits of the State under whose jurisdiction or control the explosions were conducted. It was signed on October 5, 1963, ratified by the United States on October 10, 1963, and entered into force on that date. At the end of 1986, there were 114 parties to the Treaty.

The 1968 Treaty on the Non-Proliferation of Nuclear Weapons, designed to prevent the spread of nuclear weapons to additional countries, was signed July 1, 1968, ratified by the United States on November 24, 1969, and entered into force on March 5, 1970. At the end of 1986, there were 135 Parties to this Treaty.

The Preamble to each of the above treaties states the determination of the Parties to seek the discontinuance of all test explosions of nuclear weapons, and in Article VI of the Non-Proliferation Treaty, “Each of the Parties to the Treaty undertakes to pursue negotiations in good faith on effective measures relating to cessation of the nuclear arms race at an early date and to nuclear disarmament. . . .”

The Treaty on the Limitation of Underground Nuclear Weapon Tests, also known as the Threshold Test Ban Treaty (TTBT), between the United

States and the Soviet Union, was signed in July 1974. It establishes a nuclear "threshold" prohibiting tests having a yield exceeding 150 kilotons. This Treaty was not submitted to the Senate until July 29, 1976. On that date, the President also submitted to the Senate the Treaty between the United States and the Soviet Union on Underground Nuclear Explosions for Peaceful Purposes, signed May 28, 1976. This Treaty is commonly known as the Peaceful Nuclear Explosions Treaty (PNET).

In preparing the TTBT the United States and the Soviet Union recognized the need to establish an appropriate agreement to govern underground nuclear explosions for peaceful purposes. There is no essential distinction between the technology of a nuclear explosive device which would be used as a weapon and the technology of a nuclear explosive device used for a peaceful purpose.

The PNET will govern all nuclear explosions carried out at locations outside the weapons test sites specified under the Threshold Test Ban Treaty. The two nations agreed not to carry out any individual nuclear explosions having a yield exceeding 150 kilotons; not to carry out any group explosion (consisting of a number of individual explosions) having an aggregate yield exceeding 1,500 kilotons and not to carry out any group explosion having an aggregate yield exceeding 150 kilotons unless the individual explosions in the group could be identified and measured by agreed verification procedures.

To date, the Senate has not consented to the ratification of either the TTBT or PNET, in large part because of concerns over verification of compliance. Since 1983, the United States has sought to engage the Soviets in discussions on ways to make the necessary TTBT/PNET verification improvements, and has undertaken several initiatives to this end. As a result of a United States initiative in the spring of 1986, American and Soviet governmental experts have conducted four rounds of technical discussions in Geneva on a broad range of issues related to nuclear testing.

The President stated in October 1986 that if the Soviet Union agrees promptly to essential TTBT/PNET verification procedures, he will request the advice and consent of the Senate to TTBT/PNET and the accompanying verification instrument, and will ask that this matter be given high priority in the 100th Congress. He also stated that if the Soviet Union failed to agree to the required package of verification improvements prior to the convening of the 100th Congress, he will still seek Senate advice and consent to ratification of these treaties, but would include an appropriate reservation to the treaties that would ensure that they would not take effect until they are effectively verifiable. With the commencement of the 100th Congress, given the failure of the Soviet Union thus far to agree, the President adopted the latter course. Hearings were held on the two treaties by the Senate Foreign Relations Committee in January.

Lastly, the President stated that once our verification concerns have been satisfied and the treaties have been ratified, the United States proposes—in association with a program to reduce and ultimately eliminate all nuclear weapons—that the United States and the Soviet Union immediately engage in negotiations on ways to implement a step-by-step parallel program of limiting and ultimately ending nuclear testing.

CONCLUSION

By means of this resolution and the recommendations contained therein, the American Bar Association would help strengthen the existing regime of nuclear arms control. By endorsing the ratification of effectively verifiable Treaties on the Limitation of Underground Nuclear Weapons Tests and Underground Nuclear Explosions for Peaceful Purposes, the American Bar Association supports the United States goal of limiting and ultimately ending nuclear testing.

Respectfully submitted,

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