

India is a *de facto* member of the Comprehensive Test Ban Treaty

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Summary

India is already in de facto observance of the spirit of the CTBT by maintaining its unilateral moratorium on nuclear explosive testing. By committing to the Indo-US nuclear agreement, India has further expressed its principled support to the test-ban treaty. The deal, which took more than three years of intense diplomatic bargaining and the investment of huge political capital to reverse years of technology denial, has provided enormous benefits to India. These include India's acceptability as a state with advanced nuclear capability and international standing as a responsible nuclear weapon power. The deal has opened up vistas for nuclear commerce as well. It is noteworthy that in September 2009 a former Chairman of the Atomic Energy Commission of India, Anil Kakodkar, stated that "the 1998 tests were fully successful and had achieved in toto their scientific objectives and the capability to build fission and thermonuclear weapons with yields up to 200 kt. This indicates that there is no need for additional nuclear tests by India unless of course there is a significant deterioration in its security environment. If that be so, then India could well reconsider its current position on signing the CTBT.

The Comprehensive Test Ban Treaty (CTBT) – a basic building block in the nuclear disarmament process has remained deadlocked for 18 years now. The 1996 treaty has so far been signed by 183 states and ratified by 162 states. Yet, a structural prerequisite of the treaty has held it hostage from coming into force. Namely, Article XIV of the CTBT, which stipulates that for the treaty to enter into force the signature and ratification by all the 44 states possessing nuclear weapons capabilities and research reactors as listed in Annex 2 is a prerequisite. The treaty thus awaits signature and ratification from India, Pakistan, and North Korea and in addition requires the United States, China, Israel, Iran and Egypt (which have already signed) to formally ratify it. Even though it is yet to sign the CTBT, India has supported the treaty's basic principle of banning nuclear explosions by declaring a unilateral moratorium on nuclear testing. India's expressed support to the essential requirement of the treaty makes it a *de facto* member of the CTBT. This Issue Brief analyses India's stated position on the CTBT and its extent of support to the treaty in principle.

India's Stand on CTBT: 1954 to 1998

When the United Nations General Assembly (UNGA) adopted the CTBT in September 1996, 2048 nuclear explosions had already been conducted worldwide.¹ 18 years later, the number of explosions has further increased to 2055.² Given this, the CTBT has an important role to play in ensuring a world where nuclear weapons tests are barred and thus constrain the development of new nuclear weapons as well as new nuclear weapon countries.

India advocated a test ban years before it came into being. Prime Minister Jawaharlal Nehru made the first call for an "immediate standstill" agreement on nuclear testing between the United States and the former Soviet Union as early as 1954. However, this call was sabotaged by the nuclear weapons states (NWS) on the ground that it was "difficult to evolve a fool proof verification system".³ Instead, the United States, the Soviet Union, and the United Kingdom signed the Partial Test Ban Treaty (PTBT) in August 1963. However, the PTBT, while banning atmospheric, outer space and underwater tests, permitted underground tests and did not also provide for international verification. And even as superpower nuclear tests went underground, China and France, which refused to join the PTBT, continued to conduct atmospheric tests.

The belief that PTBT would play a crucial role in reversing the intense arms-race among the NWS was essentially flawed. Since it was signed, a total of 1372 underground nuclear explosions have been conducted between 1964 and 2006; this number stands in contrast

¹ Vitaly Fedchenko, "Nuclear explosions, 1945-2013," *SIPRI Yearbook 2014*, <http://www.sipri.org/yearbook/2014/files/sipri-yearbook-2014-chapter-6-section-xi>, p. 351 (Accessed December 22, 2014).

² Ibid.

³ N.D. Jayaprakash, "Nuclear Disarmament and India," *Economic and Political Weekly*, Vol. 35, No. 7 (February 12-18, 2000), p. 526.

to the 461 atmospheric and including underwater nuclear tests that were conducted between 1945 and 1963.⁴ Failure of the PTBT to prevent further nuclear test explosions was clearly a dampener for the CTBT negotiations. The CTBT, which sought to prohibit underground nuclear testing and discontinue nuclear explosions, lost momentum due to conflicting objectives between the NWS and the non-nuclear weapons states like India. But this did not weaken the Indian resolve against nuclear testing and in favour of nuclear disarmament.

Post the 1964 Chinese nuclear test, an Indian debate began on the pros and cons of advocating a test ban and nuclear disarmament. At the same time, driven by security considerations, a small group of nuclear bomb advocates emerged in the scientific and political communities. Security considerations received a further fillip during the 1965 India-Pakistan War, which saw China extending not only diplomatic support to Pakistan but also threatening India with an attack of its own. These events marked a watershed in India's nuclear policy. In November 1965, India embarked upon the Subterranean Nuclear Explosion Project (SNEP), designed to carry out a peaceful nuclear explosive test (which was eventually done in 1974) and use that as a foundation for keeping the nuclear weapons option open. Subsequent developments including China's attainment of ballistic missile capability and America's attempt to intimidate India during the course of the 1971 War only reinforced Indian security concerns. Yet, India did not abandon its goal of nuclear disarmament.

India's nuclear test ban policy post 1974

Post the 1974 peaceful nuclear test, India maintained a policy of self-restraint. It did not conduct any follow up tests and the development of nuclear weapons was temporarily halted. In June 1978, Prime Minister Morarji Desai once again suggested a ban on nuclear weapons testing at the Special Session of the UNGA. Prime Minister Indira Gandhi upheld this position in 1982 by calling for a test-ban treaty and a freeze on the production of nuclear weapons. Her successor Rajiv Gandhi put forward an Action Plan in 1988 calling for a halt to the development of new weapons systems and proposing nuclear disarmament in a time-bound framework of 22 years. Again, in 1993, India supported the multilateral negotiations and jointly co-sponsored a consensus resolution on the CTBT at the UN General Assembly. India thus consistently supported the view that a CTBT was an essential element of the disarmament process and it opposed any conduct of nuclear tests by any state under the garb of safety reasons.

But in 1995 India's advocacy of a test-ban treaty as an essential element in the larger process of total nuclear disarmament received a setback with the indefinite extension of

⁴ Vitaly Fedchenko, "Nuclear explosions, 1945-2013," *SIPRI Yearbook 2014*, <http://www.sipri.org/yearbook/2014/files/sipri-yearbook-2014-chapter-6-section-xi>, p. 351 (Accessed December 22, 2014).

the Non Proliferation Treaty (NPT) without a simultaneous commitment by the nuclear weapon states on nuclear disarmament. It is against this backdrop as well as India's growing security concerns about Pakistan's acquisition of nuclear weapons capability and the assistance that China has provided in this regard that India chose to oppose the CTBT in 1996. And driven by these security considerations, India eventually conducted a series of nuclear tests in May 1998.⁵

India's Stand on CTBT: Post-1998 nuclear tests

Post May 1998, India continued to adopt a flexible position on the CTBT and indicated its willingness to discuss a "*de jure* formalization"⁶ of its voluntary moratorium on future nuclear testing. Principal Secretary to the Prime Minister, Brajesh Mishra stated that "India would be prepared to consider being an adherent to some of the undertakings in the Comprehensive Test Ban Treaty."⁷ However, India remained firm that its support to the CTBT cannot be expected in any "vacuum" and that it "depended on a series of reciprocal activities"⁸ particularly from the NWS.

Despite its reservations on the CTBT, India met the basic requirements of the treaty by stating on May 27, 1998 that it "will now observe a voluntary moratorium and refrain from conducting underground nuclear test explosions."⁹ At the same time, it also indicated its willingness to move towards a *de jure* formalisation of this declaration. The basic obligation of the CTBT was thus met; to refrain from undertaking nuclear test explosions. This voluntary declaration was intended to convey to the international community the seriousness of India's intent for meaningful engagement. The government maintained that "subsequent decisions will be taken after assuring ourselves of the security needs of the country."¹⁰

⁵ "NUCLEAR ANXIETY; Indian's Letter to Clinton On the Nuclear Testing," *The New York Times*, May 13, 1998, <http://www.nytimes.com/1998/05/13/world/nuclear-anxiety-indian-s-letter-to-clinton-on-the-nuclear-testing.html> (Accessed December 12, 2014).

⁶ "PM's Statement In Parliament On "Bilateral Talks With United States," *Public Information Bureau*, September 24, 1998, <http://pib.nic.in/focus/foyr98/fo1298/fo1612981.html> (Accessed December 12, 2014).

⁷ Press statement read out by the Principal Secretary to the Prime Minister, Brajesh Mishra following announcement by Prime Minister AB Vajpayee on the May 11, 1998 nuclear tests, *Public Information Bureau*, New Delhi May 11, 1998, <http://pib.nic.in/archieve/lreng/lyr98/I0598/PIBR110598.html> (Accessed December 12, 2014).

⁸ Ibid.

⁹ "Evolution Of India's Nuclear Policy," *Public Information Bureau*, May 27, 1998, <http://pib.nic.in/focus/foyr98/fo0598/Foc2705982.html> (Accessed December 12, 2014).

¹⁰ Ibid.

India's commitment to the conclusion of the CTBT was further evident from Prime Minister Vajpayee's September 24, 1998 statement in Parliament: "India is now engaged in discussions with our key interlocutors on a range of issues including the CTBT. We are prepared to bring these discussions to a successful conclusion so that the entry into force of the CTBT is not delayed beyond September 1999. We expect that other countries . . . will also adhere to this Treaty without condition."¹¹

Further, the Indian position on the CTBT is not in defiance of the objectives of nuclear disarmament. This was evident from Prime Minister Vajpayee's statement in the UNGA in 1998 that "India will not stand in the way of entry into force of the CTBT."¹² Thereafter in December 1998 he stated in Parliament that "India remains committed to converting our voluntary moratorium into a *de jure* obligation... [however] this...does not constrain...the effectiveness of our nuclear deterrent."¹³ This stand marked a new beginning in the CTBT debate. From a position of "not now, not ever"¹⁴ stated in 1996 when India emphasized that it will not accept the obligations of an "unequal" test ban treaty, it committed itself on not blocking the CTBT from coming into force.

CTBT and the India-US Civil Nuclear Agreement

The CTBT debate re-emerged in the July 18, 2005 Joint Statement India signed with the United States on the Civil Nuclear Energy Cooperation Initiative. The nuclear deal involved reversing the 30-year-old technology denial regime imposed on India in the aftermath of the peaceful nuclear explosion of 1974. The Indo-US nuclear deal reversed the US ban and facilitated cooperation in the civil nuclear energy field. India reciprocated by committing to separate its civil and military facilities, placing all its civil nuclear facilities under International Atomic Energy Agency (IAEA) safeguards, working with the US for the conclusion of an FMCT and continuing its voluntary moratorium on nuclear testing. That India continued to support the CTBT in principle was evident from the statement made on December 22, 2005 by the Minister of State in the Ministry of External Affairs

¹¹ "PM's Statement In Parliament On "Bilateral Talks With United States," *Public Information Bureau*, September 24, 1998, <http://pib.nic.in/focus/foyr98/fo1298/fo1612981.html> (Accessed December 12, 2014).

¹² "Interview of Prime Minister of India, Shri Atal Bihari Vajpayee with Asharq Alawsat's Amir Taheri Part I and Part II," Ministry of External Affairs, August 27, 2002, <http://mea.gov.in/in-focus-article.htm?4700/Interview+of+Prime+Minister+of+India+Shri+Atal+Bihari+Vajpayee+with+Asharq+Alawsats+Amir+Taheri+Part+I+and+Part+II> (Accessed December 23, 2014).

¹³ "Statement by Prime Minister," *Parliament of India*, XII Lok Sabha Debates, Session III, (Winter) Tuesday, December 15, 1998, <http://parliamentofindia.nic.in/Isdeb/Is12/ses3/01151298.htm> (Accessed December 23, 2014).

¹⁴ Arundhati Ghose, Ambassador/Permanent Representative of India to the UN Offices at Geneva, Statement in explanation of vote to the United Nations General Assembly, September 10, 1996, www.fas.org/news/india/1996/ctbt_UN_september_10_96.htm (Accessed December 12, 2014).

that "India has already stated that it will not stand in the way of the Entry into Force of the Treaty."¹⁵

It is noteworthy that both the Bharatiya Janata Party (BJP)-led National Democratic Alliance and the Congress-led United Progressive Alliance Governments have upheld the commitment on unilateral moratorium on nuclear testing, thus implying the prevailing political consensus on the issue. Though the Indo-US nuclear deal encountered intense domestic opposition from the BJP on grounds that the agreement would eventually restrict India from conducting future nuclear tests, then External Affairs Minister Pranab Mukherjee addressed these apprehensions by stating "...India has the right to test, others have the right to react."¹⁶ But at the same time, he also added significantly that India will "continue to bind"¹⁷ itself to the unilateral moratorium on nuclear testing. And till date India has continued to abide by the moratorium.

1998 nuclear tests: a dud?

In August 2009, K. Santhanam, Project Leader during the Pokhran-II nuclear tests, declared that the thermonuclear bomb test had been a fizzle and questioned its yield. He cast doubt on the 1974 test result as well, which was used as a baseline for the 1998 nuclear explosions. In the light of this he suggested that India must refrain from signing the CTBT: "Based upon the seismic measurements and expert opinion from world over, it is clear that the yield in the thermonuclear device test was much lower than what was claimed. I think it is well documented and that is why I assert that India should not rush into signing the CTBT."¹⁸

Santhanam's observations received considerable attention from within sections of India's strategic and political communities. In essence, it implied that India should not sign the CTBT and keep the option open for more nuclear tests in future. Yet, India has remained supportive of a non-discriminatory CTBT that is adhered to by other countries as specified in Article XIV of the treaty. India continues to abide by a voluntary and unilateral moratorium on nuclear tests. This position has been upheld consistently in several national and international forums. Ahead of the 2010 Nuclear Security Summit in Washington, for instance, India reiterated its commitment to a voluntary unilateral moratorium on nuclear

¹⁵ "Rajya Sabha, Unstarred Question No. 3260, *Ministry of External Affairs*, December 22, 2005, <http://mea.gov.in/in-focus-article.htm?7945/Q3260++CTBT> (Accessed December 12, 2014).

¹⁶ "India will abide by unilateral moratorium on N-tests: Pranab," *The Times of India*, October 3, 2008, <http://timesofindia.indiatimes.com/india/India-will-abide-by-unilateral-moratorium-on-N-tests-Pranab/articleshow/3556712.cms> (Accessed December 12, 2014).

¹⁷ Ibid.

¹⁸ Sachin Parashar, "Pokhran II not fully successful: Scientist," *The Times of India*, August 27, 2009, <http://timesofindia.indiatimes.com/india/Pokhran-II-not-fully-successful-Scientist/articleshow/4938610.cms> (Accessed December 12, 2014).

testing.¹⁹ And as the Indian Permanent Representative to the Conference on Disarmament stated, it is India's commitment to nuclear disarmament that has led to its adherence to a voluntary moratorium on nuclear explosive testing till date.²⁰

A criticism that is levelled against India is that by linking the CTBT to the nuclear disarmament issue,²¹ New Delhi has prevented the treaty from coming into force. But this ignores the fact that the CTBT is an integral part of the nuclear disarmament process and it is a superfluous effort to de-link the two. The purpose of the CTBT is to steer the world towards a stage where nuclear weapons capable states refrain from nuclear explosions and move towards global zero. This goal can be realized only when all nuclear weapons capable countries champion the real essence of the CTBT. At the same time, it would also provide the much-needed impetus for the re-start of the FMCT negotiations that remains deadlocked at the Conference on Disarmament.

Conclusion

Undeniably, the CTBT is an important element of the nuclear disarmament process. Apart from its primary objective of preventing future nuclear explosions, its importance in scientific and civilian applications is widely acknowledged. The Preparatory Commission for the test ban treaty – the Comprehensive Nuclear Test-Ban Treaty Organization (CTBTO) – is designed to play a significant role in mitigating disasters by detecting earthquakes and tsunamis. This was demonstrated by its role during the Fukushima Dai-ichi nuclear accident in March 2011. The critical role played by the CTBTO has influenced several countries including Pakistan into becoming a CTBTO observer State even though it has not signed the Treaty.

India is already in *de facto* observance of the spirit of the Treaty by maintaining its unilateral moratorium on nuclear explosive testing.²² By committing to the Indo-US nuclear

¹⁹ "Remarks by Special Envoy of Prime Minister Shri Shyam Saran at the Global Zero Summit," *Ministry of External Affairs*, February 3, 2010, <http://www.mea.gov.in/bilateral-documents.htm?dtl/448/Remarks+by+Special+Envoy+of+Prime+Minister+Shri+Shyam+Saran+at+the+Global+Zero+Summit> (Accessed December 23, 2014).

²⁰ "Statement by Ambassador D B Venkatesh Varma, Permanent Representative of India to the Conference on Disarmament at the General Debate of the First Committee of the 69th UNGA," *Ministry of External Affairs*, October 7, 2014, <http://www.mea.gov.in/Speeches-Statements.htm?dtl/24058/Statement+by+Ambassador+D+B+Venkatesh+Varma+Permanent+Representative+of+India+to+the+Conference+on+Disarmament+at+the+General+Debate+of+the+First+Committee+of+the+69th+UNGA> (Accessed December 23, 2014).

²¹ "Jayantha Dhanapala responds," *The Hindu*, April 6, 2012, <http://www.thehindu.com/opinion/op-ed/article3287611.ece> (Accessed December 23, 2014).

²² "Rajya Sabha, Unstarred Question No. 3260, *Ministry of External Affairs*, December 22, 2005, <http://mea.gov.in/in-focus-article.htm?7945/Q3260++CTBT> (Accessed December 12, 2014).

agreement, India has further expressed its principled support to the test-ban treaty. The deal, which took more than three years of intense diplomatic bargaining and the investment of huge political capital to reverse years of technology denial, has provided enormous benefits to India. These include India's acceptability as a state with advanced nuclear capability and international standing as a responsible nuclear weapon power. The deal has opened up vistas for nuclear commerce as well.

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²³ Rahi Gaikwad, "Pokhran-II: "no scientific basis for doubts" *The Hindu*, September 25, 2009, <http://www.thehindu.com/news/national/pokhranii-no-scientific-basis-for-doubts/article24690.ece> (Accessed on December 24, 2014).