

CTBTO Spectrum

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Who we are

The Comprehensive Nuclear-Test-Ban Treaty bans all nuclear weapon test explosions. The Treaty is a cornerstone of the international nuclear non-proliferation regime. It opened for signature in New York on 24 September 1996, and today has achieved strong worldwide support.

The CTBTO Preparatory Commission is an international organization consisting of a plenary body composed of all States Signatories and the Provisional Technical Secretariat. It carries out the necessary preparations for the effective implementation of the Treaty, and prepares for the first session of the Conference of the States Parties to the Treaty after its entry into force.

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Legal aspects of establishing the IMS system

One of the key tasks of the CTBTO Preparatory Commission is the establishment of a global verification regime to verify compliance with the prohibition of nuclear test explosions. Since the Comprehensive Nuclear-Test-Ban Treaty (CTBT) has not yet entered into force, one may well ask what the legal basis is for establishing and provisionally operating this regime.



SITE SURVEY FOR AUXILIARY SEISMIC STATION (AS74) IN WADI SARIN, OMAN¹

Article IV(1) of the CTBT stipulates that the verification regime of the Treaty, which includes the International Monitoring System (IMS), must be capable of meeting the verification requirements of the Treaty as it entry into force. The task of ensuring that this requirement is met has been entrusted to the CTBTO Preparatory Commission in accordance with the Text establishing the Commission, which was adopted by the signatories to the Treaty on 19 November 1996. Paragraph 13 of the Text provides that the Commission “shall undertake all necessary preparations to ensure the operationalization of the Treaty’s verification regime at entry into force”. In terms of paragraph 14, the Commission also supervises and coordinates the development, testing and provisional operation of the IMS.

Responsibility for IMS facilities is shared between the Provisional Technical Secretariat (PTS) and the States hosting the facilities. In accordance with Article IV(16) of the CTBT, the IMS is placed under the authority of the Technical Secretariat, while all monitoring facilities are “owned and operated by the states hosting or otherwise taking responsibility for them”. In view of this dual responsibility, paragraph 4 of Part I of the Protocol foresees that there will be appropriate agreements or arrangements between the organization and the

¹The most recent IMS facility agreement was concluded between the Commission and Oman on 19 May 2004.

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host States. The task of concluding these 'facility agreements' has been assigned to the Commission under paragraph 12 of its establishing Text. In 1997 the Commission approved model agreements and authorized the PTS to negotiate agreements based on the models.

Besides dealing with the establishment, upgrading and provisional operation and maintenance of monitoring stations and laboratories, facility agreements also provide for functional privileges and immunities of the Commission. To date, the Commission has concluded 29 such agreements, of which 22 have entered into force and one is being applied provisionally pending its entry into force. Most recently, the Facility Agreement between the Commission and the Government of the Sultanate of Oman was concluded on 19 May 2004. Once they enter into force definitively, the Commission publishes facility agreements and files and records them with the United Nations.

An interim exchange of letters between the Commission and the host State usually regulates the activities of the Commission pending the entry into force of the formal facility agreement. Facility agreements nevertheless remain essential to place the provisional operation and maintenance of the IMS on a secure legal foundation. By April 2004, appropriate legal arrangements in the form of facility agreements or interim exchanges of letters were in place for a total of 322 (of the 337) IMS facilities in 81 (of the 89) host countries.

In conclusion, the ongoing work of the CTBTO Preparatory Commission to establish the IMS has resulted in many of the provisions of the CTBT being implemented in practice even before the Treaty has entered into force. ■

PETER HULSROJ, LEGAL ADVISOR OF THE PREPARATORY COMMISSION FOR THE CTBTO.

List of concluded facility agreements

No.	COUNTRY NAME	DATE OF SIGNATURE(S)		ENTRY INTO FORCE
1	Canada	19 October 1998		19. Oct 1998, Articles 6,8 and 9 on 1 March 2000
2	New Zealand	13 November 1998		19 December 2000
3	South Africa	20 May 1999		20 May 1999
4	Ukraine	17 Sept. 1999 (Ukraine)	27 Sept. 1999 (PTS)	20 April 2001
5	Kenya	14 Oct. 1999 (Kenya)	29 Oct. 1999 (PTS)	29 October 1999
6	Jordan	11 November 1999		11 November 1999
7	United Kingdom of Great Britain and Northern Ireland	12 November 1999		16 June 2004
8	Argentina	9 December 1999		2 March 2004
9	Australia	13 March 2000		17 August 2000
10	Cook Islands	31 March 2000 (PTS)	14 April 2000 (Cook Islands)	14 April 2000
11	Finland	12 May 2000		6 June 2000
12	Mongolia	5 June 2000		25 May 2001
13	Sri Lanka	14 June 2000		
14	Spain	14 Sept. 2000		12 December 2003
15	Niger	20 Nov. 2000 (PTS)	24 Nov. 2000 (Niger)	24 November 2000
16	Peru	14 March 2001		8 July 2002
17	Senegal	22 May 2001		22 May 2001 (Provisionally applied)
18	France	13 July 2001		1 May 2004
19	Zambia	18 Sept. 2001 (PTS)	20 Oct. 2001 (Zambia)	20 October 2001
20	Palau	16 April 2002 (Palau)	29 April 2002 (PTS)	29 April 2002
21	Norway	10 June 2002		10 June 2002
22	Czech Republic	13 November 2002		29 January 2004
23	Guatemala	26 November 2002		
24	Paraguay	4 April 2003		
25	Philippines	14 April 2003	13 April 2003	8 January 2004
26	Romania	13 June 2003		
27	Mauritania	16 Sept. 2003 (PTS)	17 Sept. 2003 (Mauritania)	17 September 2003
28	Panama	26 November 2003		26 November 2003
29	Oman	19 May 2004		