The nuclear test-ban and international law

BY SÉRGIO de QUEIROZ DUARTE

Since the first nuclear test in 1945, public opinion worldwide has been concerned with their harmful consequences. During the second half of the 20th century more than 2,000 nuclear weapon tests were carried out both in the atmosphere and underground. The escalation of the nuclear arms race, together with the risk of further proliferation of atomic weapons, helped provide impetus for the negotiation of agreements aimed at curbing such test explosions as an effective non-proliferation tool and as a step toward achieving the goal of nuclear disarmament. The Partial Test Ban Treaty (PTBT) concluded between the United States, the Soviet Union and the United Kingdom in 1963 was the starting point for subsequent efforts to extend the prohibition to all environments.

Thirty-six years later, the United Nations General Assembly adopted the Comprehensive Nuclear-Test-Ban Treaty (CTBT), a longstanding priority objective of the international community. To date, 183 States have signed and 164 have ratified it. The Treaty instituted an International Monitoring System (IMS) with 321 monitoring stations and 16 radionuclide laboratories worldwide, supported by an International Data Centre. The IMS is nearing completion and at the entry into force of the CTBT the verification regime will be able to meet its verification requirements. The IMS has already proven its practical worth in detecting the three nuclear explosions conducted by the Democratic People’s Republic of Korea (DPRK), and in providing data to a number of tsunami warning centres, thus increasing their ability to issue rapid tsunami warnings.

However, despite its importance, the CTBT is not yet formally in effect. Ratification by eight States – China, the DPRK, Egypt, India, Iran, Israel, Pakistan and the United States of America – a necessary condition for its entry into force – is still pending. A group of international personalities experienced in disarmament issues – the Group of Eminent Persons (GEM) – set up by the Executive Secretary of the CTBTO in September 2013, is working with governments and non-governmental organizations directly concerned in order to promote the universalization of the Treaty. In their individual capacity, the members of this group participate in seminars and international conferences and avail themselves of every opportunity to explain to specialized audiences and the public at large the significance of the Treaty and the need for its full entry into force.

With the exception of the DPRK, all States possessing nuclear weapons have observed a voluntary moratorium on test explosions since the mid-1990s. This is an encouraging sign, but not enough. The international community needs to do more. The carrying out of a nuclear test by any State would entail the end of the current situation and would represent a serious challenge to international peace and security.

The worldwide concern with the catastrophic consequences of any nuclear explosion expressed at the 2010 Review Conference of the Treaty on the Non-Proliferation of Nuclear Weapons (NPT), as well as the results of three important international meetings held since then, underscore the urgent need to make the prohibition mandatory under international law. Progress toward the entry into force of the Treaty would also be a factor for the success of the 2015 NPT Review Conference.

Completion of internal legal procedures for the ratification of the CTBT by the eight States mentioned above is in the security interests of all States, as well as that of humanity as a whole. The Treaty has already set a strong standard, but only by becoming part of positive international law will it be able to provide a powerful, verifiable legal barrier against proliferation and strengthen efforts toward nuclear disarmament.

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