

Commentary and Model Provisions



Guide to CTBT National Implementation Measures

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Guide to CTBT National Implementation Measures

1. Introduction

1.1 The Comprehensive Nuclear-Test-Ban Treaty

The Comprehensive Nuclear-Test-Ban Treaty (CTBT) was negotiated and drafted in the Conference on Disarmament in Geneva from 1994 to 1996 and opened for signature in New York in 1996. The object and purpose of the CTBT is to comprehensively ban nuclear weapon test explosions and any other nuclear explosion in any environment in an effectively verifiable manner.

The Treaty establishes a treaty-implementing body, the Comprehensive Nuclear-Test-Ban Treaty Organization (CTBTO), of which all CTBT States Parties are members and which has three organs: the Conference of the States Parties, the Executive Council and the Technical Secretariat. The Treaty also establishes a verification regime to monitor compliance with the obligations undertaken in the Treaty. The verification regime is composed of the following elements:

- An International Monitoring System (IMS), comprising facilities for seismological, radionuclide, hydroacoustic and infrasound monitoring, and supported by the International Data Centre (IDC) in Vienna;
- Consultation and clarification;
- On-site inspections; and
- Confidence building measures.

The States Signatories to the CTBT adopted, in 1996, a Resolution creating a Preparatory Commission for the CTBTO and mandating it to carry out the necessary preparations for the effective implementation of the CTBT. The Preparatory Commission is an international organization which in 2000 entered into an agreement with the United Nations to regulate their relationship.

Pending entry into force of the CTBT, States Signatories are invited to take national implementation measures to facilitate the necessary preparations, including by recognizing the legal capacity, privileges and immunities of the Preparatory Commission.

1.2 Purpose of This Guide

The implementation of some obligations under the CTBT may require legislative, executive or administrative action by States. In this light, the ‘Guide to CTBT National Implementation Measures’ is intended to help States to identify the elements that may need to be transposed into national law to implement the CTBT. It provides a commentary on those elements and several types of model legislation. In this respect:

- The material in this Guide has been developed for illustrative purposes only. It is for each State to decide which information may be of relevance in its national context and how its obligations under the Treaty may be implemented in its legal system and legal culture.
- The information in this Guide is not based on a specific legal system and follows the requirements and language of the Treaty. It may, however, reflect elements contained in examples of national implementing legislation enacted by some States and may include references to possible approaches to implementation of obligations of a general nature that

have not been specified in detail in the Treaty.

- The model provisions are a generic reference source for legislative drafters and are not intended to be copied literally. Not all model elements may be required in a given State and it is expected that the model provisions will require to be appropriately adapted, modified or supplemented.

Guide to CTBT National Implementation Measures

2. Overview of National Implementation Measures

2.1 Obligation to Implement the CTBT Nationally

Each State must bring its national law into conformity with its obligations under international law.¹ The CTBT will not automatically become a part of a State's internal law unless the Constitution or legislation of that State says so, such as in States with a 'monist' legal system, in which the act of ratifying an international treaty automatically incorporates the treaty into national law. Even in monist States, however, implementing legislation will be needed to give effect to treaty obligations which are not 'self-executing'. States with a 'dualist' legal system, meanwhile, must adopt national legislation explicitly incorporating treaty obligations so that those obligations can have effect domestically.

Article III of the Treaty therefore requires each State Party to take, in accordance with its constitutional processes, any measures that may be necessary to implement its obligations under the Treaty.

Each State Party must assess its international obligations under the Treaty to determine the steps that need to be taken to give effect to those obligations domestically.

Where required, implementing legislation and the necessary complementary measures must be adopted by the State to comply with its obligations under the Treaty. In some cases, only executive or administrative measures may be required. Accordingly, the type of national implementing legislation will depend on the respective legal system and the legal culture of each State Party. The models provided in the annexes to this Guide are therefore intended to illustrate the key content and possible shape of such legislation.

2.2 Overview of Treaty Obligations

The implementation of the CTBT verification regime is not cumbersome for States, since there are **no mandatory reports** or **routine inspections** under the CTBT. However, the CTBT does foresee national implementation of a range of obligations, in four broad categories:

1. The national implementation measures explicitly mentioned in Article III of the Treaty are:
 - To prohibit natural or legal persons anywhere in the State's territory or any other place under its jurisdiction or control from undertaking activities prohibited by the CTBT and to extend those prohibitions to natural persons possessing its nationality regardless of where they are located;
 - To cooperate with, and afford legal assistance to, other States Parties; and
 - To designate or set up a National Authority to serve as national focal point for liaison with the CTBTO and other States Parties.
2. Pursuant to Article IV of the Treaty, there are other obligations that may need to be incorporated into national law, in order for States Parties to facilitate verification of compliance with its provisions, including:

¹ Article 27 of the 1969 Vienna Convention on the Law of the Treaties provides that a party to a treaty may not invoke the provisions of its internal law as justification for its failure to perform its obligations under a treaty.

- To participate, as necessary, in consultation and clarification processes;
 - To participate in confidence building measures;
 - To allow CTBTO inspectors access to conduct on-site inspections on its territory, subject to certain conditions.
3. There are certain additional obligations for States hosting one or more facilities of the IMS created by the CTBT, namely:
- To facilitate the establishment and operation of the stations and provision of data from them to the IDC in Vienna; and
 - To conclude a facility agreement or arrangement with the CTBTO concerning the modalities of cooperation in respect of the monitoring stations and other practical aspects.
4. Article II, paragraphs 54 to 57 of the Treaty states that the CTBTO shall enjoy “such legal capacity and such privileges and immunities as are necessary for the exercise of its functions”, and that delegates of other States Parties, the Director-General, staff, inspectors and inspection assistants “shall enjoy such privileges and immunities as are necessary in the independent exercise of their functions in connection with the Organization”. Consequently, States will normally need to adopt administrative acts or legislative measures to recognize both the legal capacity of the Organization and its privileges and immunities.

Guide to CTBT National Implementation Measures

3. Legislation Implementing the CTBT

3.1 Possible Format of Implementing Legislation

Each State must determine, in accordance with its constitutional processes, the legislative steps that need to be taken to give effect to its international obligations under the Treaty. Implementing legislation already adopted by States varies widely, depending on the legal system, legal culture and internal structure of the State.

For example, national legislation may already fulfil some or all of the Treaty's requirements. Some of the Treaty provisions may have become automatically applicable at the national level upon ratification. Existing legislation may require to be amended or supplemented, or a new law may need to be passed. In other cases, a statute may not be necessary: it may be sufficient for the executive to promulgate a new ordinance or regulations.

In order to inspire those responsible for developing and drafting legislation, a selection of model legislation has been annexed to this Guide. Annex I contains a comprehensive Act: model clauses specifically implement each of the key provisions of the Treaty. Annex II contains a framework Act, for use where the national system permits implementation by way of enabling legislation, with a view to promulgation of subsidiary executive orders or regulations. Annex III contains a model amendment to a national Penal Code, implementing the comprehensive prohibitions of the CTBT. Annex IV contains a model decree to designate the National Authority required under Article III, paragraph 4 of the CTBT.

Annex V contains model secondary legislation, in the form of a resolution, on the privileges and immunities of the CTBTO Preparatory Commission. Further background to this model can be found in Chapter 4 of this Guide.

3.2 Elements of Implementing Legislation

When drafting national legislation to implement the CTBT, States need to consider which elements may be most relevant for their specific national systems. This section sets out the range of potential elements of such legislation.

3.2.1 Preamble to Legislation

The extent and content of the preamble of a legislative act depends on the nature, scope and hierarchy of that instrument. The preamble related to CTBT implementation may include reference to:

- The CTBT and its adoption by the State;
- The need to adopt and/or amend national legislation to implement the obligations under the Treaty, where appropriate;
- The constitutional and/or legal basis for enacting the respective legislation;
- Existing national legislation that may be related to the subject matter of the CTBT.²

² In some jurisdictions the preamble serves to place the legislative measures in the context of the national legal system by making reference to other acts, statutes or regulations that may be related thereto. Depending on the legislative approach of a given State, the subject matter of the CTBT may be considered to pertain to one or more of the following

Some States have included more comprehensive considerations in preambles of acts related to the CTBT, such as:

- The CTBT and its role in the field of disarmament and non-proliferation;
- The commitment of the State to the principles embodied in the CTBT;
- The interest of the State in participating in the CTBT verification regime and in benefiting from its civil and scientific applications.

A model preamble can be found in Annex I.

3.2.2 Definitions in Legislation

If the State determines that it is necessary to define in the legislation some of the terms and expressions that appear in the Treaty, it should ensure that the legislative definitions align with the terms' meaning or scope under the Treaty.

Model definitions can be found in Section 1 of Annexes I and II.

3.2.3 Objectives of Legislation

In some countries, legislative acts may include a statement of objectives. For acts related to the CTBT, such a statement may indicate that the legislation is intended to implement the obligations of the State under the Treaty at the national level and to facilitate verification of compliance with the Treaty. States' national arrangements may require submission of the Treaty for approval by the legislature, together with the implementing legislation, for enactment in the same bill. In these cases, the objectives of the legislative acts may also refer to the approval or ratification of the Treaty.

Model objectives can be found in Section 2 of Annex I and Section 2 of Annex II.

3.2.4 Criminalization of Certain Acts

As stated in section 2 of this Guide, Article III of the Treaty requires that each State Party take any necessary measures:

- “(a) To prohibit natural and legal persons anywhere on its territory or in any other place under its jurisdiction as recognized by international law from undertaking any activity prohibited to a State Party under [the] Treaty;
- (b) To prohibit natural and legal persons from undertaking any such activity anywhere under its control; and
- (c) To prohibit, in conformity with international law, natural persons possessing its nationality from undertaking any such activity anywhere.”

The activities prohibited to the States Parties under the Treaty are those that appear in Article I, which urges States:

- “... not to carry out any nuclear weapon test explosion or any other nuclear explosion, and to prohibit and prevent any such nuclear explosion at any place under [the State's] jurisdiction or control”;
- “... to refrain from causing, encouraging, or in any way participating in the carrying out of any nuclear weapon test explosion or any other nuclear explosion.”

fields: public international law, prohibition of weapons of mass destruction, disarmament and non-proliferation, nuclear weapon-free zones, national security, counterterrorism, nuclear law, environmental law, criminal law and/or administrative law.

Accordingly, implementing national measures by States Parties will normally entail, wholly or partly, the following elements:

- The reproduction of Article I in the form of criminal legislation. Penal provisions criminalizing³ these activities would underline the central importance of the prohibition for the Treaty, provide for a strong deterrent and ensure unequivocally the possibility of enforcement against natural and legal persons, whether State or non-State actors/agents.
- The imposition of penalties severe enough to reflect the seriousness of the criminal offence in accordance with the CTBT.⁴
- The categorization as an offence of the preparatory activities and/or the attempt to carry out a nuclear explosion, as well as the acts of participating in the crime as an accomplice, ordering the commission of the crime, or contributing to it. This would help to strengthen the prohibition and enable law enforcement officers to interrupt or prevent the crime, to the extent possible.

Since the CTBT foresees the exercise of ad personam and ad territorium jurisdictions for Treaty violations, the following aspects should be taken into account when drafting implementing legislation:

- The penal legislation should apply to all natural and legal persons, irrespective of their nationality, in the territory of the State or in any other place under the State's jurisdiction or control as recognized by international law;
- The penal legislation should also extend extraterritorially to natural persons possessing the nationality of the State when they commit such an offence outside the territorial jurisdiction of the State;
- The penal legislation should also envisage liability of legal persons and, ultimately, their administrators or directors;⁵
- In some jurisdictions it may be necessary to specify that the prohibition shall also bind the government or the crown;
- While the principle of aut dedere aut judicare ("extradite or prosecute") is not explicitly stated in the CTBT, States that consider it pertinent to apply this principle to activities prohibited under the CTBT may do so by extending their penal jurisdiction to prohibited conduct committed outside their territory, if the alleged perpetrator is found on their territory and is not extradited to another State requesting extradition for the same conduct.⁶

Model prohibitions can be found in Part 2 of Annex I and Section 4 of Annex II, as well as in Annex III.

3.2.5 Nuclear Security and the Prevention of Nuclear Explosions

Article I also requires each State Party to prevent nuclear explosions in any place under its jurisdiction or control. In drafting their penal legislation, States should consider that the creation of criminal offences and the application to those offences of adequate and dissuasive penalties will have a deterrent effect on potential perpetrators of such crimes.

In addition, it is important that States establish measures aimed at preventing the acquisition of items and material which could contribute to nuclear explosive activity. Some of these measures are required under other multilateral treaties or arrangements and aim at preventing the illegal or unauthorized uses of nuclear

³ The use of terms such as "criminalize", "offence", "prohibit" or "proscribe" herein is general; each State will use its own terminology, taking into account the categorization of criminal offences in their national legislation.

⁴ In general, the legislation adopted by States have treated violations of the CTBT norms as very serious offences and have included the penalty of imprisonment for the more serious violations, up to and including life imprisonment in jurisdictions which deliver such sentences.

⁵ See, for instance, United Nations Office on Drugs and Crime (UNODC) Model Legislative Provisions against Organized Crime (2021), Article 9.

⁶ See, for instance, see UNODC Model Legislative Provisions against Organized Crime, Article 4.1(c) and (d).

material and facilities through acts such as theft, diversion, threats and sabotage.⁷ Therefore, when developing preventive measures in accordance with the CTBT, States may refer to the legal resources and assistance available to fulfil their obligations under other relevant international instruments.

Model provisions can be found in Part 2 of Annex I, as well as in Annex III.

3.2.6 Criminal Proceedings and Mutual Legal Assistance

Article III, paragraph 2 of the Treaty requires States Parties to cooperate with one another and afford the appropriate form of legal assistance to facilitate the implementation of their obligations under the Treaty. Although the Treaty does not spell out the forms of legal assistance or the specific procedures by which such assistance shall be given, States are encouraged to include in their legislation measures to pursue cooperation and mutual legal assistance.

If more than one State Party is involved in prosecuting offences concerning activities prohibited under the Treaty, these States Parties will have to cooperate and should provide mutual legal assistance. It could be expected that cases of nuclear testing might involve the transboundary movement of persons, technology, items and/or financial resources. To ensure the prosecution of offences and mutual legal assistance between States, legislation could make reference to the following:

- The obligation of the National Authority or the competent authority to prevent and investigate the offences and to prosecute alleged perpetrators;
- The regime that will be applied to the criminal proceedings and mutual legal assistance, whether through reference to general provisions under national law for domestic criminal matters, or on the basis of a special existing regime in accordance with international obligations, or by establishing specific provisions for such purposes;
- In the absence of bilateral or multilateral mutual legal assistance agreements, the legislation could be drafted to provide specific authorization for effective cooperation with other States in areas ranging from authenticating documents and taking testimony or statements to the location of suspects and extradition of offenders.⁸

Among the preventive measures that may be considered by States to help prevent nuclear explosions is the so-called ‘whistleblower’ protection, whereby individuals providing information on covert activities related to nuclear explosions may be granted witness protection and immunity from prosecution.⁹

Model provisions can be found in Part 2 of Annex I, as well as in Annex III.

3.2.7 Establishment and/or Designation of the National Authority

The establishment or designation of the National Authority is normally an administrative matter, which could be carried out by decree, resolution or ministerial order. While a National Authority is therefore generally established by the exercise of executive powers, some States may need to establish the mandate and powers of the National Authority by statute, in particular when its powers affect the rights of third

parties, when it has been assigned some level of enforcement authority or when necessary for budgetary purposes.

⁷ The importance of adopting and enforcing such measures has been underscored by the United Nations Security Council. In its resolution 1540 (2004), adopted under Chapter VII of the United Nations Charter and, as such, binding on all Member States, the Security Council explicitly required “all States” to, inter alia, take and enforce effective measures to establish domestic controls to prevent the proliferation of nuclear weapons, their means of delivery, and related materials among non-State actors. The Security Council reaffirmed its decision in Resolution 2663 (2022).

⁸ See UNODC Model Law on Mutual Assistance in Criminal Matters, as amended (2022) and UNODC Model Law on Extradition (2004).

⁹ See UNODC Model Witness Protection Bill, specifically designed for common law countries, as well as the commentary to the Model Bill.

Detailed model legislative provisions can be found in Part 3 of Annex 1. Model enabling legislation with respect to designation of a National Authority can be found in Section 6 of Annex II. A model executive decree designating a National Authority can be found in Annex IV.

Functions of the National Authority

Article III, paragraph 4 of the Treaty requires each State Party to designate or set up a National Authority to “serve as the national focal point for liaison with the Organization and with other States Parties.” The core function of the National Authority is to facilitate the interaction between States and with the CTBTO on all matters regarding the implementation of the Treaty. During the preparatory phase, prior to entry into force of the Treaty, States are encouraged to designate or establish a National Authority to facilitate cooperation with the Preparatory Commission in establishing the verification regime and promote capacity building initiatives. Most States Signatories have already set up at least an interim National Authority during the preparatory phase. The functions/powers of the National Authority may include:

- Cooperation with national departments, agencies and institutions on matters related to the implementation and enforcement of the Treaty;
- Carrying out the obligations of the State Party under the Treaty;
- Acting as the main point of contact with the CTBTO and other States Parties to the Treaty;
- Cooperating with the CTBTO and the other States Parties in order to facilitate the implementation of the verification regime;
- Negotiating agreements or arrangements with any person, States Parties and the CTBTO related to the implementation of the Treaty and facilitating their conclusion;
- Requesting and processing information from natural and legal persons regarding implementation of and compliance with the Treaty internally;
- Promoting the civil and scientific applications of the technologies of the verification regime established under the Treaty and cooperation with the CTBTO and States Parties in this area.

Structure of the National Authority

The Treaty does not elaborate in detail the structure or mandate of the National Authority: it is left to the discretion of each State, but it should be sufficient to effectively address and coordinate all issues pertaining to implementation of the Treaty. States may consider the following options for the designation or establishment of the National Authority:

- A ministry or any other governmental agency with suitable powers to give relevant directions to, and solicit information from, national institutions that are related to the implementation of the Treaty;
- An inter-institutional entity composed of several competent government authorities, allowing them to cooperate with each other and to liaise with the CTBTO;
- An entity especially created to act as National Authority, with the powers and resources necessary to serve as point of contact with the CTBTO and States Parties.

Role of the National Authority in Disaster Relief and Nuclear Safety

Although the CTBT provides for the establishment of the IMS as a tool to verify compliance with the Treaty, some States have sought to realize additional benefits from IMS monitoring data and technologies, particularly in relation to disaster mitigation and nuclear safety, where national capabilities have been significantly enhanced in some cases.

In this regard, a State may wish to include in its national measures a facility through which the National Authority (or its subsidiary National Data Centre, if any) may enter into a cooperative arrangement with the national entity or entities responsible for disaster relief mitigation and radiological emergencies, so that it can provide, in a timely fashion, any available and relevant IMS data and data bulletins. This proved to be particularly important following the earthquake in Japan on 11 March 2011.

A State may also wish to establish a linkage to the CTBT legislation in its national measures for disaster relief and nuclear safety.

3.2.8 IMS Monitoring Facilities

The IMS consists of 337 facilities which, when complete, will operate in 89 host States worldwide, some located in remote and inaccessible regions, to monitor the planet for nuclear explosions. Once established or upgraded to Treaty standards and certified as meeting all technical requirements, monitoring stations and radionuclide laboratories are operated by local institutions under contracts with the Organization. The CTBTO Global Communications Infrastructure (GCI) is used by the IDC to receive and distribute IMS data, through a network of satellites, ground hubs and terrestrial links.

States hosting IMS facilities, as listed in Annex 1 to the Protocol to the CTBT, shall cooperate with the CTBTO in establishing, operating, upgrading, financing and maintaining IMS facilities. In accordance with the provisions of the CTBT, hosting States shall conclude agreements or arrangements with the Organization to set out the form and modalities of such cooperation. These are known as facility agreements.¹⁰ Article IV of the Treaty provides that States Parties shall own and operate the monitoring stations hosted by them or otherwise under their responsibility in accordance with the Protocol to the CTBT, however they remain under the authority of the Technical Secretariat.¹¹ For further information on facility agreements, see section 4.5 below.

States hosting IMS facilities, depending on existing national arrangements and the terms of the facility agreement signed, may need to include a provision in their national legislation permitting the National Authority or other entity to:

- Establish or designate a facility to serve as an IMS facility: in some States a ministerial decision listing the IMS station(s) for purposes of publication and effect vis-à-vis other public entities or third parties may be necessary;
- Negotiate agreements, arrangements or contracts with the CTBTO;
- Contribute to the preparation of appropriate implementing measures at national level;
- Enter into agreements with private parties and pursue the administrative procedures to occupy privately-owned land or otherwise secure unobstructed access for CTBTO's officials and any person charged with the establishment or operation and maintenance of IMS station(s) hosted there.

The security of the IMS, the IDC and the GCI is critical to the Treaty's verification regime. Awareness of cybersecurity and the need for an effective legal framework is growing in the international community. In this context, States may wish to review existing legislation to ensure that, if the IMS, IDC or GCI were the object of an attack, the State would legally be in a position to investigate, prosecute and punish the offence

¹⁰ Protocol I 5.

¹¹ Treaty IV.17.

and to cooperate with an investigation or prosecution led by the authorities of another State.

Model legislation on IMS facilities can be found in Part 4 of Annex I.

3.2.9 Consultation and Clarification

Pursuant to Article IV, paragraph 29 of the Treaty, a State Party may seek clarification from another State Party, either directly or through the CTBTO, on whether there has been non-compliance with Article I of the Treaty. This procedure is independent of, and without prejudice to, the right of a State Party to request an on-site inspection under Article IV, Section D. To effectively implement this provision with the aim of satisfying the concerns of a State Party seeking clarification, States may include in their national legislation any or all of the following provisions:

- The obligation of any person occupying or controlling the area where an event giving rise to the clarification request has taken place to provide relevant information;
- The possibility to conduct national inspections for clarification purposes or take other appropriate enforcement measures to gather the information;¹²
- The obligation of the National Authority to convey the information so gained to the other State Party and/or the CTBTO.

Model provisions for this purpose are found in Part 5 of Annex I and Section 7 of Annex II.

3.2.10 Confidence Building Measures

Voluntary confidence building measures are foreseen in Part III of the Protocol to the CTBT. The voluntary reporting in advance of chemical explosions is the main element of such confidence building measures as it would assist the CTBTO and States Parties in clarifying the origins of any such event detected by the IMS. There are no routine reporting requirements in the CTBT.

The Treaty has set a threshold for chemical explosions relevant to voluntary reporting: any chemical explosion using 300 tonnes or greater of TNT-equivalent blasting material detonated as a single explosion anywhere on its territory or under its jurisdiction or control.¹³

To be in a position to report and implement voluntary confidence building provisions under the Treaty, the State may need to take measures at the national level to:

- Require natural and legal persons to notify the National Authority of any such explosions in advance, including details on location, date and time of the blast, quality and type of explosive used, as well as on the configuration and intended purpose of the blast;
- Establish sanctions for violations of the reporting requirements.

Model provisions for this purpose are found in Part 5 of Annex I.

3.2.11 On-site Inspections

Article IV of the CTBT, at paragraphs 34 and 35, establishes the right of each State Party to request an on-site inspection to clarify whether a nuclear weapon test explosion or any other nuclear explosion has been carried out in violation of Article I of the Treaty, and to gather facts that might assist in identifying the possible violator. An on-site inspection will be an extraordinary event: there are no routine inspections

¹² Some States have adopted legislation which contains provisions enabling the conduct of national inspections for clarification purposes, in some cases in accordance with the same procedures and techniques established in the Treaty for on-site inspections.

¹³ Protocol III.1. Such notification shall be provided in advance, if possible, and include details on location, time, quantity and type of explosive used, as well as on the configuration and intended purpose of the blast.

under the CTBT.

States Parties have a number of rights and obligations in connection with on-site inspections.¹⁴ In this light, it is important that States draft their implementing legislation with a view to the effective and timely conduct of on-site inspections, without limiting the CTBTO's inspection powers or introducing any elements that could delay, or render more difficult, the exercise of an inspection mandate. In this context, the implementation of the timeframes envisaged by the Treaty for the conduct of on-site inspections is particularly important.

Each State may decide how the Treaty provisions on on-site inspection are incorporated into national legislation and to what degree of specificity. The main elements to be borne in mind, addressed in the following sections, may be summarized as follows:

- Identifying the authority or authorities competent to carry out the State's obligations regarding on-site inspections;
- Granting the National Authority or other competent authority a key role in coordinating the standing arrangements for the conduct of an on-site inspection as required by the Treaty;
- Establishing the necessary measures to recognize the privileges and immunities of the inspection team and observers;
- Establishing the obligation of the State to accept the conduct of on-site inspections and the right of the inspection team to enter the State's territory, conduct the on-site inspection and exercise the inspection activities established in the Treaty;
- Granting the competent authority the powers to accept, allow and facilitate the conduct of an on-site inspection;
- Establishing the modalities and procedures to accept, allow and facilitate the conduct of an on-site inspection.

Model provisions on on-site inspections are found in Part 6 of Annex I and Section 5 of Annex II.

Role of the National Authority in On-site Inspections

It is important that each State clearly identifies, by decree or regulation, the authorities who will be competent to coordinate all matters relative to on-site inspections, with a view to securing the effective and timely conduct of these inspections, as provided in the Treaty and the Protocol to the CTBT.

Even in States with a monist legal system, where the CTBT has been automatically incorporated into national law and takes precedence over other parts of the domestic legal system, it might be necessary to designate a competent authority coordinating on-site inspections or to distribute the corresponding responsibilities among various authorities. These measures would ensure timely compliance with the State's obligations under the Treaty. Although the CTBT provisions are in principle self-executing in a monist system, the strict time limits established in the Treaty for on-site inspections will require States to actively adopt national measures.¹⁵

Standing Arrangements

The Treaty requires the CTBTO to conclude standing arrangements with each State Party so that relevant preliminary preparations will be permanently in place, well in advance of any eventual on-site inspection. These standing arrangements help to ensure compliance with the time limits¹⁶ set out in the Treaty for the

¹⁴ See Commentary on National Implementation Measures for On-Site Inspections under the CTBT (2013).

¹⁵ This was one of the conclusions of the 2011 Pilot Workshop on Implementing Legislation for the CTBT, Vienna, 1-5 November 2011.

¹⁶ Given the short time limits granted to the inspection team to arrive at the point of entry of the inspected State Party (with a six-day deadline as per Article IV, paragraph 53 of the Treaty), travel to the inspection area (within 36 hours

arrival of the inspection team in the territory of the inspected State Party and the initiation of inspection activities. Accordingly, where necessary, a State may need to adopt measures to enable it to comply with the following obligations:

- Designation by the State of inspectors and inspection assistants as part of the list maintained by the Technical Secretariat, to be submitted to the CTBTO no later than 30 days after entry into force of the Treaty, and any follow-up action in respect thereof (granting of visas, nomination, refusal, etc.);
- Recognition of the privileges and immunities granted by the Treaty to the inspectors and inspector assistants and to any observers when conducting an on-site inspection in the territory of the State;¹⁷
- Designation of locations for points of entry of the inspection team, to be submitted to the CTBTO no later than 30 days after entry into force of the Treaty;
- Issuance of a standing diplomatic clearance number for non-scheduled aircraft transporting an inspection team and equipment, to be submitted to the CTBTO no later than 30 days after entry into force of the Treaty;
- Making available equipment for use during on-site inspections pursuant to the CTBTO approved list of equipment.

Obligations of the Inspected State Party

National legislation may also refer to the obligations of the inspected State Party during an on-site inspection. Those obligations are to:

- Acknowledge receipt of the notification of inspection by the Organization;
- Accept the conduct of an on-site inspection;
- Ensure the immediate entry of the inspection team and equipment, provide and arrange for the amenities necessary for the inspection team, and ensure its safe conduct during the period of inspection;
- Grant the inspection team access to the inspection area;
- Allow inspection activities in the inspection area;
- Facilitate the conduct of on-site inspections by assisting the inspection team and liaising with other national entities for all relevant purposes;
- Appoint a point of contact to liaise with the inspection team;
- Provide the inspection team with the necessary services and ensure their safe and secure transportation during the on-site inspection;
- Organize information meetings with the inspection team;
- Facilitate clarifications in connection with ambiguities that may arise during the inspection;
- Facilitate the exit of the inspection team and ensure their safe and secure transportation to the exit point.

from the point of entry) and initiate the inspection activities (within 72 hours after arrival at the point of entry), the national implementing measures required for these provisions could be similar to the measures adopted by States to allow the speedy entry of persons and equipment for international disaster relief efforts.

¹⁷ See Section 3.2.12 below.

Inspection Powers

The Treaty specifies the powers that the inspection team and observers may exercise during the on-site inspection. States could indicate these powers in their legislation to facilitate and ensure that the inspection proceeds smoothly. Such legislation would ideally provide broad authority to undertake inspection activities in accordance with the Treaty, the inspection mandate and the CTBTO On-site Inspection Operational Manual. A legislative clause granting inspection powers may be of a general nature or specify in more detail the rights of the inspection team.

The powers of the inspection team during an on-site inspection may be summarized as follows:

- Determine how the inspection will proceed, consistent with the Treaty, the inspection mandate and the CTBTO On-site Inspection Operational Manual, and taking into account any steps taken by the State consistent with the Treaty provisions on managed access;¹⁸
- Modify the Inspection Plan, as necessary, to ensure the effective execution of the inspection, taking into account the recommendations and suggested modifications by the State;¹⁹
- Request clarifications in connection with ambiguities that may arise during the inspection;²⁰
- Have access within the inspection area for the sole purpose of determining facts relevant to the purpose of the inspection;²¹
- Move unimpeded within the inspection area to carry out inspection activities in accordance with the Treaty;²²
- Conduct overflights over the inspection area;²³
- Communicate with each other and with the Technical Secretariat, using their own duly certified and approved equipment;²⁴
- Collect, handle, analyse and remove samples from the inspection area;²⁵
- Bring and use equipment approved in accordance with the relevant provisions of the Protocol to the CTBT;²⁶
- Transit buildings and other structures housing the entrance to mines, other excavations or caverns of large volume not otherwise accessible;²⁷
- Continuing the duration of the inspection if approved by the CTBTO Executive Council;²⁸
- Access buildings and other structures within the inspection area if the inspection team demonstrates credibly that such access is necessary to fulfil the inspection mandate and the necessary activities authorized in the mandate could not be carried out from the outside;²⁹
- Drill to obtain radioactive samples, after approval by the CTBTO Executive Council.³⁰

¹⁸ Protocol II.60 a).

¹⁹ Protocol II.60 b) and c).

²⁰ Protocol II.60 d), 61 g).

²¹ Treaty IV.57 c).

²² Treaty IV.57 e).

²³ Protocol II.71.

²⁴ Protocol II.62.

²⁵ Protocol II.97.

²⁶ Protocol II.36 a), 40, 42 j) and 50.

²⁷ Protocol II.90.

²⁸ Treaty IV.47 and 49; Protocol II.4.

²⁹ Treaty IV.56 and 57; Protocol II.90 and 91.

³⁰ Protocol II.69 h) and 70.

Observers and National Representatives

Article IV, paragraph 61 of the Treaty provides that, subject to acceptance by the inspected State Party, up to a maximum of three observers from the State(s) requesting the inspection may be permitted to accompany the on-site inspection team. Pursuant to Part II, paragraph 61(c) of the Protocol to the CTBT, national representatives from the inspected State Party may accompany the inspection team.

According to available legislation examples, States may wish to include the following elements in their national legislation for the implementation of these provisions:

- Recognition of privileges and immunities of the observers, in particular for the issuance of visas at short notice;
- Identification of officials who may accompany the inspection team, for example, members of the police or armed forces or other public security officers;
- Assignment of functions of assistance, liaison and/or exercise of policing authority to national representatives;
- Bestowal of investigative powers to national representatives in addition to the inspection powers under the Treaty, such as examining documents, interviewing persons or carrying out any act necessary to conduct an on-site inspection in the State's territory.

Access to the Inspection Area

When an on-site inspection is conducted under the CTBT, the inspected State Party may consider it necessary to put in place appropriate legislative measures to ensure access by the inspection team to the Inspection Area specified in the Inspection Mandate issued by the CTBTO Director-General. Such measures would be intended to compel the occupier(s) and any other person(s) present in the Inspection Area to cooperate with and support the inspection team in carrying out its functions, and could include: a briefing on the Inspection Area; operational and administrative arrangements for the smooth conduct of the inspection; provision of evidence; and participation and cooperation in the clarification of ambiguities.

For this purpose, States could draft implementing legislation with a view to:

- Conferring a power on the competent authority or the national representative(s) to require information and/or cooperation from the occupier(s) and any other person(s) present in the Inspection Area; and/or
- Establishing enforcement measures, such as the use of public security forces or imposing a fine or penalty, on any person who refuses to cooperate, obstructs, or deceives a member of the inspection team or national escort.

Searches and Seizures

Depending on the constitutional requirements of a State Party, inspection activities, in particular inspection of private or government property or the seizure of evidentiary material, may require the authorization of a judge. In States where this will be the case, the State should include in their national implementation legislation appropriate mechanisms for obtaining such authorization in advance of or during an inspection, bearing in mind the State's obligation under the Treaty to facilitate on-site inspections and to provide timely access to the Inspection Area for the inspection team. States may wish to consider the following elements when drafting their implementing measures:

- Creating a fast track procedure in lieu of the normal procedures for obtaining a search warrant, so as to avoid delaying the entry of the inspection team into the Inspection Area and creating a risk that the objective of the inspection is frustrated;
- Conferring decision powers to the National Authority or national escorts on this issue;

- Authorizing a national inspector to enter premises without a judicial order where access has been denied and there is a risk of loss or destruction of evidentiary material;
- Imposing a fine or penalty on any person who refuses to cooperate or who obstructs or deceives an inspector or national escort.

3.2.12 Privileges and Immunities

General Recognition of CTBTO's Privileges and Immunities

Pursuant to Article II, paragraphs 54 and 55 of the Treaty, the CTBTO, delegates of States Parties, together with their alternates and advisers, representatives of members elected to the Executive Council, together with their alternates and advisers, the Director-General, the inspectors, the inspection assistants and the members of the staff of the CTBTO shall enjoy such privileges and immunities as are necessary for the independent exercise of their functions.

Article II, paragraph 56 foresees that the legal capacity, privileges and immunities shall be defined in agreements between the CTBTO and States Parties which shall be approved by the Conference of the States Parties at its first session.³¹ It is expected that these agreements will mirror the privileges and immunities stipulated in the 1946 Convention on the Privileges and Immunities of the United Nations.

Model legislative provisions recognizing the legal capacity of the CTBTO are found in section 18 of Annex I and section 9 of Annex II. Model legislative provisions recognizing the privileges and immunities of the CTBTO and relevant personnel are found in section 19 of Annex I and section 9 of Annex II. In many States, however, national legislation granting privileges and immunities to specified international organizations and their officials is already in place. In such a case, it could suffice to amend the existing legislation, or to issue a new order under the auspices of that legislation, to extend these privileges and immunities to the CTBTO and the individuals referred to in Article II, paragraph 55 of the Treaty.

Privileges and Immunities During On-site Inspections

Legislation should also identify the specific privileges and immunities that shall apply during any on-site inspection. During the conduct of on-site inspections, the Director-General, inspectors, inspection assistants and members of staff of the Technical Secretariat shall enjoy the additional privileges and immunities set out in Part II, paragraphs 26 to 30 of the Protocol to the CTBT. Observers shall be accorded the same privileges and immunities as the inspection team except for inviolability of samples and approved equipment.³²

3.2.13 Confidentiality of Data

Confidentiality of information and data made available under the CTBT should be preserved in all the activities conducted by States Parties in the implementation of the Treaty. Accordingly, national legislation should be drafted taking into consideration two main elements regarding confidentiality:

- Any restrictions which the State Party wishes to place on the access of natural and legal persons (such as the National Authority, other national institutions and representatives involved in implementing the Treaty) to information and data obtained pursuant to the CTBT or on the right to transmit that information and data to others;
- Compliance by natural and legal persons having access to information and data obtained pursuant to the CTBT (such as the National Authority, other national institutions and representatives involved in implementing the Treaty) with the provisions contained in the Treaty and related decisions by the CTBTO for the protection of confidentiality of information;

The enactment of relevant enforcement measures should also be considered. Model legislation on

³¹ Treaty II.26 h) and i).

³² Protocol II. 31 and 27 d).

confidentiality can be found in Part 8 of Annex I.

3.2.14 Executive Powers

In addition to legislative implementation of the Treaty and in accordance with each State Party's constitutional requirements, its Government, National Authority³³ or another entity would normally be given powers to implement the Treaty administratively.

Based on the legal requirements of each State, national legislation could provide either for a general authority granting such executive powers or for powers in connection with specific elements of the legislation, such as those related to administrative procedures for conducting on-site inspections, acceptance of an on-site inspection, designation of facilities as IMS stations, and recognition of privileges and immunities. Model legislation can be found in Section 23 of Annex I.

³³ See Section 3.7 above.

Guide to CTBT National Implementation Measures

4. Measures for the Preparatory Commission

4.1 Mandate of the Preparatory Commission for the CTBTO

The CTBT will enter into force 180 days after ratification by the 44 States listed in Annex 2 of the Treaty.³⁴ Pursuant to Article IV, paragraph 1, the verification regime established by the CTBT to monitor compliance with the Treaty shall be capable of meeting the verification requirements of the Treaty at entry into force.

To carry out preparations for the effective implementation of the CTBT, States Signatories adopted the Resolution Establishing the Preparatory Commission for the Comprehensive Nuclear-Test-Ban Treaty Organization (Preparatory Commission) on 19 November 1996. Pursuant to the annexed Text on the Establishment of a Preparatory Commission for the CTBTO, the Preparatory Commission is an intergovernmental international organization, established in particular to create and provisionally operate the CTBT verification regime, including the IMS and the IDC, prior to the entry into force of the Treaty. To assist the Preparatory Commission in its activity, a Provisional Technical Secretariat has been set up. The Commission shall remain in existence until the conclusion of the first session of the Conference of the States Parties after entry into force of the Treaty.³⁵

4.2 Legislative Measures

To enable cooperation with the Preparatory Commission on the extensive range of activities required of the Preparatory Commission and States Signatories during the preparatory phase, legislative measures are necessary in some States to:

- Prohibit or criminalize nuclear explosions;³⁶
- Establish or designate the National Authority;³⁷
- Recognize the standing and legal capacity of the Preparatory Commission as an international organization;³⁸
- Authorize the negotiation and conclusion of a facility agreement or arrangements with the Preparatory Commission;³⁹
- Authorize and enable the conduct of activities pursuant to the Resolution Establishing the Preparatory Commission, including cooperation between the National Authority and the Preparatory Commission;

³⁴ Algeria, Argentina, Australia, Austria, Bangladesh, Belgium, Brazil, Bulgaria, Canada, Chile, China, Colombia, Democratic People's Republic of Korea, Egypt, Finland, France, Germany, Hungary, India, Indonesia, Iran (Islamic Republic of), Israel, Italy, Japan, Mexico, Netherlands, Norway, Pakistan, Peru, Poland, Romania, Republic of Korea, Russian Federation, Slovakia, South Africa, Spain, Sweden, Switzerland, Turkey, Ukraine, United Kingdom of Great Britain and Northern Ireland, United States of America, Vietnam, Zaire.

³⁵ Text of the Resolution Establishing the Preparatory Commission for the CTBTO, paragraph 20.

³⁶ See sections 3.2.4 and 3.2.5 above.

³⁷ See section 3.2.7 above.

³⁸ Text of the Resolution Establishing the Preparatory Commission for the CTBTO, paragraphs 7 and 22.

³⁹ Text of the Resolution Establishing the Preparatory Commission for the CTBTO, paragraph 14.

- Allocate budgetary and personnel resources to participate in the Commission and its activities;⁴⁰ and
- Recognize the privileges and immunities of the Preparatory Commission, delegates, the Executive Secretary, staff and experts.⁴¹

4.3 Complementarity to Legislation Implementing the Treaty

In many States, provisions to ensure effective cooperation with the Preparatory Commission are needed with immediate effect, in contrast to provisions of Treaty-implementing legislation that will take effect only upon entry into force of the Treaty.

During the preparatory phase, most States Signatories have established an interim National Authority to cooperate with the Preparatory Commission in establishing and provisionally operating the IMS and IDC.

4.4 Privileges and Immunities

Paragraph 7 of the Text annexed to the Resolution expressly provides that the Preparatory Commission “shall have standing as an international organization, authority to negotiate and enter into agreements and such other legal capacity as necessary for the exercise of its functions and fulfilment of its purpose”. Such legal capacity, privileges and immunities are functionally necessary for the Preparatory Commission’s operations as an international organization, separate and independent from the future CTBTO.

Many States have found it necessary, before the entry into force of the CTBT, to issue an order or resolution which recognizes the legal personality of the Preparatory Commission and accords to it the privileges and immunities needed for the performance of its functions in the jurisdiction of that State. This is particularly important for States which host IMS facilities, and for those wishing to host visits from or events for the Preparatory Commission. A model resolution recognizing the privileges and immunities of the Preparatory Commission is provided in Annex 5.

4.5 Negotiation of Facility Agreements

Paragraph 12(b) of the Text annexed to the Resolution mandates the Preparatory Commission to negotiate agreements with States hosting or taking responsibility for IMS facilities (“host States”). In 1998 the Preparatory Commission adopted a model “facility agreement/arrangement” for this purpose.

Host States are encouraged to conclude a facility agreement or arrangements with the Preparatory Commission as a matter of priority. These regulate the details of the commitment by the host State to host the facility and work with the Provisional Technical Secretariat to operate the IMS stations during the preparatory phase. Such agreements also ensure that host States take measures to guarantee, to the greatest extent practicable, treatment in matters of taxation and duties for the Preparatory Commission equivalent to that for other international organizations. This is particularly relevant considering that the Provisional Technical Secretariat has experienced delays and additional costs in shipping equipment for repairs or replacements, which in turn has impacted the availability of data from IMS stations.

4.6 Prohibiting Nuclear Explosions During the Preparatory Phase

For policy reasons, or to give effect to other parallel multilateral obligations, a number of States have decided to adopt national constraints against nuclear testing with immediate effect, in advance of the Treaty’s entry into force. Some States, at the time of ratifying the CTBT, amended their penal codes with immediate effect, while others already had such legislation in place for some time, for example, to implement their obligations under a regional nuclear weapon-free-zone treaty.

It is important that States create explicit criminal offences for carrying out a nuclear explosion, identifying penalties which are appropriate to the gravity of the crime. These measures, together with acts

⁴⁰ Text of the Resolution Establishing the Preparatory Commission for the CTBTO, paragraph 5.

⁴¹ Text of the Resolution Establishing the Preparatory Commission for the CTBTO, paragraph 7 and 22.

aimed at preventing the acquisition of enabling materials or devices, serve to deter persons from undertaking such activities in the State's jurisdiction and prevent the State's territory from becoming a haven for those who might be interested in pursuing such endeavours.

Since the adoption of the United Nations Security Council Resolution 1540 (2004), it has become an obligation for all States to adopt and enforce effective laws prohibiting the manufacture, acquisition, possession, development, transport, transfer or use of nuclear, chemical or biological weapons and their delivery systems, as well as to establish a range of domestic controls aimed at preventing proliferation of these weapons to non-State actors. Many States have already taken action to fulfil such obligations, drafting related legislation.

Guide to CTBT National Implementation Measures

5. Legal Assistance and Reference Material

5.1 Legal Assistance

Paragraph 18 of the Annex to the Resolution Establishing the Preparatory Commission for the Comprehensive Nuclear-Test-Ban Treaty Organization provides that the Preparatory Commission shall:

- “(a) Facilitate the exchange of information between States Signatories concerning legal and administrative measures for the implementation of the Treaty and, if requested by States Signatories, give advice and assistance to them on these matters;
- (b) Follow the ratification process and, if requested by States Signatories, provide them with legal and technical information and advice about the Treaty in order to facilitate its ratification process; and
- (c) Prepare such studies, reports and records as it deems necessary.”

The programme of legal assistance of the Preparatory Commission developed under that mandate provides States with information, documentation and advice regarding the implementation of obligations under the CTBT. This includes reference materials, legal instruments and documentary tools, which are publicly available on the Legal Resources web page of the Preparatory Commission website. The Provisional Technical Secretariat additionally provides comments on draft legislation and other assistance on a bilateral and confidential basis upon request. States are therefore encouraged to contact the Legal Services Section for consultations on national implementation measures. The Provisional Technical Secretariat routinely delivers in-person and online presentations on aspects of national implementation measures in workshops, seminars, training courses and external events, and provides States with tools for national self-assessment and legislative drafting assistance.

To assist the Preparatory Commission in developing further its programme of legal assistance, and to facilitate the exchange of information on legal and administrative measures, the Preparatory Commission seeks, on an annual basis, updates from each State Signatory with respect to the national implementation measures they have taken.

For further information about the legal assistance available from the Preparatory Commission:

Preparatory Commission for the CTBTO
Legal Services Section
Legal and External Relations Division
Vienna International Centre
P.O. Box 1200, A-1400 Vienna
Tel.: (+43-1) 26030-6107
Fax: (+43-1) 26030-5976
Email: legal.registry@ctbto.org
Website: www.ctbto.org

5.2 Reference Material

- Signing and Ratifying the CTBT: Procedures, Depositary Requirements and Legal Consequences: [Signature and Ratification Guide](#)
- Background Information for Parliamentarians on the Comprehensive Nuclear-Test-Ban Treaty: [Background Information for Parliamentarians on the CTBT](#)
- [Commentary on National Implementation Measures for On-site Inspections: Commentary on National Implementation Measures for On-site Inspections under the Comprehensive Nuclear-Test-Ban Treaty](#)
- CTBT Legislation Questionnaire: [Legislation Questionnaire](#)
- [UNODC Guide for the Legislative Incorporation and Implementation of the Universal Anti-Terrorism Instruments: Legislative and Implementation Guide](#)
- UNODC Model Legislative Provisions against Organized Crime: [Model Legislative Provisions against Organized Crime](#)
- UNODC Model Law on Mutual Assistance in Criminal Matters (2007), as amended with provisions on electronic evidence and the use of special investigative techniques (2022): [Model Law on Mutual Assistance in Criminal Matters](#)
- UNODC Model Witness Protection Bill: [Model Witness Protection Bill](#)
- UNODC Model Law on Extradition: [Model Law on Extradition](#)

Guide to CTBT National Implementation Measures

ANNEXES: Model Legislation

Annex I

Comprehensive Act for Implementing the CTBT

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Preamble

Whereas the Comprehensive Nuclear-Test-Ban Treaty was adopted by the United Nations General Assembly on 10 September 1996 and signed [ratified] by [name of State] on [date of signature or ratification] pursuant to [Government or parliamentary decision];

Whereas the Comprehensive Nuclear-Test-Ban Treaty prohibits nuclear explosions and creates a verification regime to monitor compliance with the obligations under the Treaty;

Whereas [name of State] is required to adopt the necessary measures to implement its obligations under the Comprehensive Nuclear-Test-Ban Treaty;⁴²

Whereas pursuant to [national legal basis] legislation [may] [shall] be adopted to implement the obligations assumed by [name of State] under the Comprehensive Nuclear-Test-Ban Treaty.

Part 1 – Preliminary Provisions

Section 1 – Definitions

[The terms and expressions appearing in this Act shall have the same meaning as in the Treaty.]

[OR]

[The following terms and expressions shall have the following meaning for the purposes of this Act:

“**Director-General**” means the head of the Technical Secretariat and chief administrative officer of the Technical Secretariat of the Organization.⁴³

“**Inspection area**” means the site at which an on-site inspection is conducted pursuant to an inspection mandate issued in accordance with the Treaty.⁴⁴

“**Inspection mandate**” means the document issued by the Director-General for the conduct of an on-site inspection under the Treaty.⁴⁵

“**Inspection team**” means the inspectors and inspection assistants designated by the Director-General in the inspection mandate in accordance with the Treaty for the purpose of conducting an on-site inspection in [name of State].⁴⁶

“**Inspector**” means an individual nominated for designation as an inspector or an inspection assistant in accordance with the Treaty, and so accepted by [name of State], for conducting an on-site inspection as part of an inspection team.⁴⁷

“**International Data Centre**” means the focal point within the Technical Secretariat of the Organization for storage and processing of data received from facilities of the International Monitoring System.⁴⁸

“**International Monitoring System**” means the facilities for seismological monitoring, radionuclide monitoring including certified laboratories, hydroacoustic monitoring, infrasound monitoring and respective means of communication, supported by the International Data Centre of the Technical Secretariat of the Organization, established in the Treaty as one of the four elements of the verification regime.

“**Monitoring facilities**” means the facilities comprising the International Monitoring System, as listed in Annex 1 to

⁴² Treaty III.1.

⁴³ Treaty II.49.

⁴⁴ Treaty IV.42, Treaty IV.57 (c); Protocol II.42 (c); Protocol II.3, II.86 to 91.

⁴⁵ Treaty IV.54; Protocol II.42.

⁴⁶ Treaty IV.53; Protocol II.14 to 25.

⁴⁷ Protocol II.14 to 25.

⁴⁸ Treaty IV.14 (b).

N.B. The roman numerals in the footnotes refer to the articles of the Treaty and the parts of the Protocol, the Arabic numerals to their paragraphs.

the Protocol to the Treaty.⁴⁹

“**National Authority**” means the National Authority [designated] [set up] in [name of State] to serve as national focal point for liaison with the Organization and other States Parties in accordance with the Treaty.⁵⁰

“**National Data Centre**” means the entity designated by [the National Authority] [competent authority] to exchange data with the International Data Centre.

“**National inspector**” means: (a) an individual designated by [the National Authority] [name of competent authority] to assist and accompany the inspection team during the conduct of an on-site inspection in accordance with the Treaty.⁵¹

“**National monitoring facilities**” means the monitoring facilities of the International Monitoring System hosted by [name of State] in accordance with the Treaty.⁵²

“**Observer**” means a person who represents a State Party requesting the conduct of an on-site inspection in [name of State] under the Treaty, and accepted by [name of State] to observe the conduct of an on-site inspection in [name of State].⁵³

“**On-site inspection**” means an on-site inspection carried out in accordance with the Treaty to clarify whether a nuclear explosion has been carried out in violation of the Treaty and, to the extent possible, to gather any facts which might assist in identifying any possible violator.⁵⁴

“**Organization**” means the Comprehensive Nuclear-Test-Ban Treaty Organization established by the Treaty.⁵⁵

“**Person**” means a natural or a legal person.

“**Technical Secretariat**” means the Technical Secretariat of the Organization, including the International Data Centre.⁵⁶

“**Treaty**” means the Comprehensive Nuclear-Test-Ban Treaty adopted by the United Nations General Assembly in New York on 10 September 1996 and ratified by [name of State] on [date of ratification], including the Annexes to the Treaty, the Protocol to the Treaty and the Annexes to the Protocol [as amended or changed from time to time in accordance with Article VII of the Treaty].

“**Verification regime**” means the regime established to monitor compliance with the Treaty which consists of four elements⁵⁷:

- (a) The International Monitoring System, supported by the International Data Centre;
- (b) Consultation and clarification;
- (c) On-site inspections;
- (d) Confidence building measures.

Section 2 – Objectives of the Act

(General) The purpose of this Act is to fulfil the obligations of [name of State] under the Treaty.

[OR]

⁴⁹ This provision may not be necessary if the State does not host any IMS stations or cooperating national facilities (“CNFs”) (Treaty IV.27 and 28). While CNFs may be formally established only after entry into force of the Treaty, during the preparatory phase it has been envisaged that prototype CNFs may participate in cooperative experiments, through a Draft Model Arrangement/Agreement on Prototype Cooperating National Facilities, approved by the Preparatory Commission (CTBT/PC-6/1/Annex I, Appendix IV).

⁵⁰ Treaty III.4.

⁵¹ Protocol II.61 (c).

⁵² Treaty IV.17.

⁵³ Treaty IV.61.

⁵⁴ Treaty IV.35.

⁵⁵ Treaty II.1.

⁵⁶ Treaty II.42 to 53.

⁵⁷ Treaty IV.1.

(Specific) The objectives of this Act are the following:⁵⁸

- (a) To approve the Treaty signed by [name of State] on [date];
- (b) To [enable the implementation of the] [fulfil] obligations of [name of State] under the Treaty;
- (c) To establish criminal sanctions for the authors and accomplices of activities prohibited by the Treaty;
- (d) To adopt measures to ensure the prevention, detection and enforcement of activities prohibited by the Treaty;
- (e) To adopt measures to facilitate the implementation by [name of State] of its obligations in relation to the verification of compliance with the Treaty;
- (f) To adopt measures to ensure the operation of national monitoring facilities hosted by [name of State] under the Treaty;⁵⁹
- (g) To facilitate the conduct of on-site inspections under the Treaty in [name of State];
- (h) To [designate] [set up] the National Authority to coordinate all matters related to the implementation of the Treaty.⁶⁰

Part 2 – Prohibition of Nuclear Explosions

Section 3 – Prohibited Activities and Criminal Offences⁶¹

- (1) No person shall
 - (a) Carry out a nuclear weapon test explosion or any other nuclear explosion;⁶²
 - (b) Cause, encourage or in any way participate in the carrying out of a nuclear weapon test explosion or any other nuclear explosion.⁶³
- (2) A person who engages in conduct prohibited by Subsection 1 commits an offence and is liable to a term of imprisonment not exceeding [] years or to a fine not exceeding [], or to both.
- (3) A person who participates in the planning or preparation of an offence set forth in this section commits an offence and is liable to a term of imprisonment not exceeding [] years or to a fine not exceeding [], or to both.
- (4) A person who attempts to commit an offence set forth in this section commits an offence and is liable to a term of imprisonment not exceeding [] years or to a fine not exceeding [], or to both.

Section 4 – Jurisdiction

- (1) [Name of State] shall have jurisdiction with respect to the offences set forth in Section 3 if they have been attempted or committed: (a) in the territory of [name of State]; (b) on board ships and aircraft registered in [name of State]; or (c) in any other place which are under the jurisdiction or control of [name of State] as recognized by international law.⁶⁴
- (2) [Name of State] shall have jurisdiction with respect to the offences set forth in Section 3 committed outside

⁵⁸ If and as applicable.

⁵⁹ Treaty IV.3(a) and (b).

⁶⁰ Treaty III.4.

⁶¹ Subsection (1) of this section reproduces Article I of the Treaty. Subsection (2) establishes the penalty for carrying out the activities/conduct prohibited by Subsection (1). For purposes of criminal liability in common law-based jurisdictions, it can be said that Subsection (1) provides the objective element (*actus reus*) of the conduct. In respect to the subjective element (*mens rea*), the question of guilt should be determined by the objective element itself; thus the model draft does not propose a specific intent (or motive), on account of the grave nature of the offence and the extent of the damage to people and the environment in the event of a nuclear explosion, nor does it propose to include any kind of strict liability or negligence; this is left for the legislator to decide. In civil law, it is usually not necessary to prove a subjective element to establish liability. Among the practical considerations to be borne in mind, when determining the level of culpability or whether it is advisable to require specific intent for the prohibited activities in Subsection (1), is that proving such subjective element can be extremely difficult, in the absence of a confession by the suspect. Another consideration is that, in the event of a request for extradition or mutual legal assistance, adding a specific subjective element may obstruct or complicate the process, as generally the conduct should be punishable in both the requesting and the requested State. In Subsections (3) and (4), the draft proposes to criminalize both the attempt to carry out any of the activities in Subsection (1) as well as participation as an accomplice.

⁶² Treaty I.1.

⁶³ Treaty I.2.

⁶⁴ Treaty I.1, IV.34; Protocol II.6, 7.

[name of State] if the offence was attempted or committed by a national of [name of State].^{65 66}

Section 5 – Proceedings, Mutual Legal Assistance

- (1) The competent authorities of [name of State] shall institute appropriate proceedings to prevent, investigate and prosecute alleged offences under this Act in accordance with the provisions of the [Criminal Code] [applicable laws].

(Mutual Legal Assistance General) (2) The competent authorities of [name of State] may collaborate and exchange relevant data with competent foreign authorities and with international organizations, to the extent required for the prevention or prosecution of offences under this Act or comparable foreign rules.⁶⁷

[OR]

(Mutual Legal Assistance Specific) (2) The competent authorities [pursuant to the relevant applicable laws and treaties in force in [name of State],] may collaborate with competent foreign authorities and international organizations in the exchange of information and the provision of mutual legal assistance in relation to the prevention or prosecution of offences under this Act or comparable foreign rules.

- (3) Mutual legal assistance may include:
- (a) Taking evidence or statements from persons;
 - (b) Assisting in the availability of detained persons or others to give evidence or assist in investigations;
 - (c) Effecting service of judicial documents;
 - (d) Executing searches or seizures;
 - (e) Examining objects and sites;
 - (f) Providing information and evidentiary items;
 - (g) Any other form of assistance.⁶⁸
- (4) The offences set forth in this Act shall be extraditable offences under the relevant applicable laws and treaties in force in [name of State].

Part 3 – National Authority Section 6 – Designation of the National Authority

The [name of entity] is hereby designated as the National Authority to serve as national focal point for liaison with the Organization and with States Parties to the Treaty on any matter relating to the object and purpose, or the implementation, of the Treaty.⁶⁹

[OR]

A National Authority is hereby set up to serve as national focal point for liaison with the Organization and with States Parties to the Treaty on any matter relating to the object and purpose, or the implementation, of the Treaty. The National Authority shall be composed as follows: [].

[OR]

The [competent authority] shall, by [ministerial order] [presidential decree], [designate an entity as National Authority] [set up a National Authority] to serve as national focal point for liaison with the Organization and with States Parties to the Treaty on any matter relating to the object and purpose, or the implementation, of the Treaty.

Section 7 – Functions of the National Authority

⁶⁵ The term “national” should also include legal persons located in the territory of the State. If this is not explicitly provided in the State’s criminal legislation, specific wording extending the application of the provisions to legal persons, and regulating their liability and that of the managers or directors, would need to be included in the legislation. For model provisions on Liability of Legal Entities see Article 9 of the UNODC Model Legislative Provisions against Organized Crime (2021).

⁶⁶ For States that may wish to implement the principle of prosecuting or extraditing (“aut dedere aut judicare”) for offences under the CTBT, a useful model provision may be: “The courts of [Name of State] shall have jurisdiction with respect to offences set forth in this Section committed outside [name of State] if the alleged perpetrator is found on the territory of [name of State] and is not extradited to any State requesting extradition for the same conduct.” See also Article 4.1(c) and d) of the UNODC Model Legislative Provisions against Organized Crime (2021).

⁶⁷ Treaty III.2.

⁶⁸ See UNODC Model Law on Mutual Assistance in Criminal Matters as amended (2022).

⁶⁹ Treaty III.4, II.5, IV.3, IV.18.

The National Authority shall, in accordance with the Treaty and in cooperation with other national departments, agencies and institutions, the Organization and States Parties to the Treaty:⁷⁰

- (a) Ensure the effective operation of this Act;
- (b) Carry out the obligations of [name of State] under the Treaty;
- (c) Act as the main point of contact with the CTBTO and other States Parties to the Treaty;
- (d) Inform the CTBTO of the result of criminal proceedings related to activities prohibited by the Treaty;
- (e) Negotiate and pursue conclusion of agreements or arrangements related to the implementation of the Treaty;⁷¹
- (f) Request and process information from natural and legal persons regarding implementation of and compliance with the Treaty;
- (g) Establish a cooperative arrangement with the national entity or entities responsible for disaster relief mitigation and radiological emergencies;
- (h) Promote the civil and scientific applications of the technologies of the verification regime established under the Treaty and the cooperation with the CTBTO and States Parties in this area;⁷²
- (i) Carry out the duties and exercise the powers conferred on the National Authority under this Act or the regulations or under any other law of [name of State];
- (j) Do anything incidental or conducive to performing any of the above functions.

Part 4 – Monitoring Facilities

Section 8 – Monitoring Facilities

- (1) The National Authority, in cooperation with other national departments, agencies and institutions, the CTBTO and States Parties to the Treaty, shall
 - (a) Cooperate with the CTBTO in establishing, upgrading, operating and maintaining national monitoring facilities, including the necessary communication means as part of the International Monitoring System, to permit the performance of verification measures;
 - (b) Transmit data obtained from national stations that are part of the International Monitoring System to the International Data Centre.⁷³
- (2) The National Authority, in cooperation with other national departments, agencies and institutions, the CTBTO and States Parties to the Treaty, may
 - (a) Enter into agreements or arrangements with the CTBTO and other parties, occupy, buy or lease land and provide the related utilities for national monitoring facilities;⁷⁴
 - (b) Establish or designate a facility to serve as National Data Centre for the exchange of data with the International Data Centre;⁷⁵
 - (c) Establish or designate a facility to serve as a Cooperating National Facility of the International Monitoring System.⁷⁶

Part 5 – Clarification and Confidence Building Measures Section 9 – Participation

- (1) The National Authority shall participate with the Organization and States Parties to the Treaty in consultation and clarification processes relating to matters which may cause concern about possible non-compliance with Article I of the Treaty.⁷⁷

(Model Provisions on Confidence Building Measures General OR Specific) (see Section 12)

- (2) [The National Authority may cooperate with the CTBTO, States Parties to the Treaty and relevant local industries, entities and persons in respect of confidence building measures relating to the notice of chemical explosions to the CTBTO.]

Section 10 – Request for Information

⁷⁰ See model provisions on monitoring facilities, consultation and clarification and on-site inspections for further eventual functions of the National Authority. See also Annex 4 for a model decree establishing a National Authority.

⁷¹ Treaty II.5, II.56, III.2; Protocol I.4, 5.

⁷² Treaty IV.10, IV.12.

⁷³ Treaty IV.3(b), IV.18.

⁷⁴ Treaty IV.3(a), IV.17, Protocol I.4, 5.

⁷⁵ Treaty IV.19(c); States Parties can send IMS data and receive IDC products without establishing a National Data Centre.

⁷⁶ Treaty IV.27-28.

⁷⁷ Treaty IV.29-33.

The National Authority may seek information from any person that it believes has information or documents relevant to the:

- (a) Clarification of a matter which may cause concern about possible non-compliance with Article I of the Treaty;⁷⁸ or
- (b) Clarification as may be necessary to resolve a matter that has arisen during an on-site inspection;⁷⁹ or
- (c) Implementation of the Treaty or the enforcement of this Act.

Section 11 – Offences

In response to a request under Section 10, a person commits an offence and shall be liable to a penalty of [] who:

- (a) Fails to supply such information or documents without reasonable excuse and to the extent capable of complying with it; or
- (b) Knowingly provides false or misleading information or forged documents.

(Model Provisions on Confidence Building Measures Specific OR General) (see Section 9(2))

Section 12 – Notice of Chemical Explosions

- (1) The National Authority shall cooperate with the CTBTO in confidence building measures and shall notify it in advance of any planned chemical explosions using [300] tonnes or more of TNT-equivalent blasting material detonated as a single explosion in the territory of [name of State].⁸⁰
- (2) A person intending to carry out a chemical explosion using [300] tonnes or more of TNT-equivalent blasting material detonated as a single explosion shall give notice of it to the National Authority at least seven days prior to the explosion, specifying:
 - (a) The geographic location of the site where the explosion will originate;
 - (b) The time and date of the explosion;
 - (c) The quantity and type of the explosive;
 - (d) The configuration of the explosion;
 - (e) The purpose of the explosion; and
 - (f) Any other relevant details about the explosion.
- (3) Subsection 2 also applies to a person intending to carry out a series of chemical explosions using less than [300] tonnes of TNT-equivalent blasting material in each explosion and detonated by a single command in which the total amount of TNT-equivalent blasting materials used is [300] tonnes or more.⁸¹
- (4) A person who fails to give prior notice in accordance with Subsections 2 and 3 shall give the notice without further delay.
- (5) A person is guilty of an offence and subject to a penalty of [] if the person has not submitted the notice required in Subsections 2 and 3.

Part 6 – On-site Inspections Section 13 – Functions of the National Authority

The National Authority, in cooperation with other national departments, agencies and institutions, the Organization and States Parties to the Treaty, shall:

- (a) Nominate for designation inspectors and inspection assistants;⁸²
- (b) Facilitate the conduct of on-site inspections in [name of State] by assisting the inspection team, collaborating with its tasks and liaising with other national entities for all relevant purposes;⁸³
- (c) Designate points of entry in [name of State] for on-site inspections;⁸⁴
- (d) Obtain a standing diplomatic clearance number for non-scheduled aircraft transporting an inspection

⁷⁸ Treaty IV.29.

⁷⁹ Protocol II.61(g).

⁸⁰ Treaty IV.68; Protocol III.1, 2: Each State Party shall provide the Technical Secretariat with preferably advance notification of certain chemical explosions on a voluntary basis.

⁸¹ Protocol III.2.

⁸² Protocol II.15.

⁸³ Treaty IV.59.

⁸⁴ Protocol II.32.

- team;⁸⁵
- (e) Acknowledge receipt of the notification of inspection by the Organization,⁸⁶ ensure the immediate entry of the inspection team,⁸⁷ provide and arrange for the amenities necessary for the inspection team,⁸⁸ and ensure its safe conduct during the period of inspection;⁸⁹
- (f) Perform pre-inspection equipment checks, briefings for the inspection team and post-inspection procedures;⁹⁰
- (g) Appoint national inspectors to accompany or assist an inspection team;
- (h) Issue directions to any person or entity for the purpose of facilitating an on-site inspection;
- (i) Issue a certificate identifying inspectors, observers and national inspectors.

Section 14 – Inspection Powers

- (1) The inspection team shall have the right to conduct an on-site inspection at an inspection area in [name of State] in accordance with the Treaty and relevant decisions of the CTBTO to clarify whether a nuclear weapon test explosion or any other nuclear explosion has been carried out in violation of Article I of the Treaty and, to the extent possible, gather any facts which might assist in identifying any possible violator.⁹¹
- (2) The inspection team shall have the right to:
 - (a) Determine how the inspection will proceed, consistent with the Treaty, the inspection mandate and the CTBTO on-site inspection operational manual, and taking into account any steps taken by [name of State] consistent with the Treaty provisions on managed access;⁹²
 - (b) Modify the inspection plan, as necessary, to ensure the effective execution of the inspection, taking into account the recommendations and suggested modifications by the National Authority;⁹³
 - (c) Request clarifications in connection with ambiguities that may arise during the inspection;⁹⁴
 - (d) Have access within the inspection area for the sole purpose of determining facts relevant to the purpose of the inspection;⁹⁵
 - (e) Move unimpeded within the inspection area to carry out inspection activities in accordance with the Treaty;⁹⁶
 - (f) Conduct overflights over the inspection area;⁹⁷
 - (g) Communicate with each other and with the Technical Secretariat, using their own duly certified and approved equipment;⁹⁸
 - (h) Collect, handle, analyse and remove samples from the inspection area;⁹⁹
 - (i) Bring and use equipment approved in accordance with the relevant provisions of the Protocol to the Treaty;¹⁰⁰
 - (j) Transit buildings and other structures housing the entrance to mines, other excavations or caverns of large volume not otherwise accessible;¹⁰¹
 - (k) Following the approval of the continuation of the inspection after 25 days in accordance with Article IV, paragraph 47 of the Treaty:
 - (i) Have access to buildings and other structures within the inspection area if the inspection team demonstrates credibly that access to buildings and other structures is necessary to fulfil the inspection mandate and the necessary activities authorized in the mandate could not be carried out from the outside;¹⁰²

⁸⁵ Protocol II.35. Experience shows that national regulations may need to be amended or a waiver issued in order to allow the State to issue such a number.

⁸⁶ Protocol II.44.

⁸⁷ Protocol II.45.

⁸⁸ Protocol II.11.

⁸⁹ Protocol II.54, 110.

⁹⁰ Protocol II. 51-53, 109.

⁹¹ Treaty IV.56.

⁹² Protocol II.60 (a).

⁹³ Protocol II.60 (b) and (c).

⁹⁴ Protocol II.60 (d), 61 (g).

⁹⁵ Treaty IV.57(c).

⁹⁶ Treaty IV.57 (e).

⁹⁷ Protocol II.71-85.

⁹⁸ Protocol II.62.

⁹⁹ Protocol II.97.

¹⁰⁰ Protocol II.36-40, 42 (j) and 50.

¹⁰¹ Protocol II.90.

¹⁰² Treaty IV.56 and 57; Protocol II. 90 and 91.

- (ii) Drill to obtain radioactive samples, after approval by the Organization's Executive Council.¹⁰³

Section 15 – Observers and National Inspectors

The inspection team may be accompanied by:

- (a) Up to three observers of the State Party or Parties to the Treaty requesting the on-site inspection in [name of State];¹⁰⁴
- (b) Up to [] national inspectors¹⁰⁵ appointed by the National Authority to liaise with the inspection team, assist it throughout the on-site inspection, facilitate its task and ensure its safe conduct.¹⁰⁶

Section 16 – Access to Sites and Premises

- (1) Inspectors, observers and national inspectors:
 - (a) Must carry an identification certificate issued to him or her by the National Authority [competent authority]; and
 - (b) Must produce the identification certificate or other means of identification to any person appearing to be in charge of a place entered:
 - (i) On entering the place (if such a person is then present); and
 - (ii) At any reasonable time afterwards, if asked to do so by the person.
- (2) If there is no person appearing to be in charge of the place at any time between the time of entry and the time the inspection has been completed, national inspectors must, as soon as practicable after the inspection is completed, ensure that an occupier or person in charge of the place is given a written notice stating that the place has been entered, and specifying:
 - (a) The date and time of entry;
 - (b) The circumstances and purpose of entry;
 - (c) The name of every person entering.
- (3) Any person who is required to submit to on-site inspections shall:
 - (a) Support the inspection team, observers and national inspectors in order to facilitate the conduct of the inspection;¹⁰⁷
 - (b) Give all necessary internal instructions and make arrangements in order to provide access to the installations in accordance with the Treaty;¹⁰⁸
 - (c) Assist the National Authority with briefing the inspection team on the inspection area;¹⁰⁹
 - (d) Contribute to clarifying ambiguities.¹¹⁰
- (4) Any person who infringes a provision relating to an obligation to cooperate pursuant to this Section or willfully or negligently obstructs, hinders, resists or deceives an inspector, observer or national inspector who is exercising any function contemplated or any power provided for in the Treaty, commits an offence and is subject to a penalty of [].
- (5) If a national inspector discovers any offence or suspected offence under this Act as a result of accompanying an inspector on an on-site inspection, the person must report that offence or suspected offence to the police as soon as practicable after the completion of that inspection.

Section 17 – Searches and Seizures

- (1) If the consent of a person in control of a place in an inspection area is not obtainable, the competent authority may, on application, issue a search warrant in respect of the place if satisfied that there are reasonable grounds for believing that:
 - (a) Entry to the place is necessary for the purpose of exercising any function contemplated, or any power

¹⁰³ Protocol II.69(h) and 70.

¹⁰⁴ Treaty IV.61, Protocol II, 63-68.

¹⁰⁵ National legislation adopted by States has in some cases specified the type of national officers that may accompany the inspection team, i.e. peace or enforcement officers, in which case certain decision powers, such as applying for warrants, are expressly delegated to such officers.

¹⁰⁶ Treaty IV.56, 57, 59; Protocol II.54, 61(c) and (g), 110.

¹⁰⁷ Treaty IV.59, 56, 57; Protocol II.52.

¹⁰⁸ Treaty IV.59, 56, 57; Protocol II.52.

¹⁰⁹ Treaty IV.59, 56, 57; Protocol II.52.

¹¹⁰ Treaty IV.59, 56, 57; Protocol II. 61(g) and 109.

- provided for in the Treaty and in this Act; or
 - (b) Evidence of the commission of an offence under this Act is to be found there.
- (2) A warrant issued under Subsection 1 authorizes:
- (a) Inspectors, observers and national inspectors to enter the place at any time for the purpose of exercising any function contemplated, or any power provided for, in the Treaty and in this Act;
 - (b) A national inspector to use such force as is reasonable in the circumstances for effecting entry to or inspection of a place specified in the warrant.

Part 7 – Privileges and Immunities Section 18 – Legal Capacity of Organization

The Organization is a body corporate with perpetual succession. It is capable, in its corporate name, of negotiating and entering into contracts and other agreements; acquiring, holding and disposing of property; and suing.

Section 19 – Privileges and Immunities

[The privileges and immunities of the (title of the relevant law granting privileges and immunities to international intergovernmental organizations of the State Party) apply] [The Convention on Privileges and Immunities of the United Nations shall apply, mutatis, mutandis,] to the Organization, the delegates of States Parties, together with their alternates and advisers, the representatives of members elected to the Executive Council, together with their alternates and advisers, the Director-General, the inspectors, the inspection assistants and the members of the staff of the Organization.¹¹¹

Section 20 – Privileges and Immunities of Inspection Team

- (1) Without prejudice to Section [], to carry out their on-site inspection activities, members of the inspection team shall have the privileges and immunities provided for in Paragraph 27, Part II of the Protocol to the Treaty, including those enjoyed by diplomatic agents pursuant to the following provisions of the Vienna Convention on Diplomatic Relations of 18 April 1961:
 - (a) Article 29,
 - (b) Paragraphs 1 and 2 of Article 30,
 - (c) Paragraph 1, 2 and 3 of Article 31, and
 - (d) Article 34.
- (2) Without prejudice to Section [], when transiting [name of State] to or from another State Party in connection with on-site inspections activities, the members of the inspection team shall have the privileges and immunities provided for in Paragraph 28, Part II of the Protocol to the Treaty, including those enjoyed by diplomatic agents pursuant to the provisions of paragraph 1 of Article 40 of the Vienna Convention on Diplomatic Relations of 18 April 1961.
- (3) Observers shall enjoy the same privileges and immunities as members of the inspection team under Subsections 1 and 2 with the exception of those accorded pursuant to Part II, paragraph 27, (d) of the Protocol to the Treaty.¹¹²
- (4) The members of the inspection team shall not enjoy immunity under this Act if such immunity is waived by the Director-General in accordance with Part II, paragraph 30, of the Protocol to the Treaty. Observers shall not enjoy immunity under this Act if the State Party on whose behalf the observer participates in an on-site inspection under the Treaty waives the immunity of the observer.

Part 8 – Confidentiality

Section 21 – Confidentiality

- (1) All activities pursuant to this Act shall be conducted in accordance with the relevant provisions of the Treaty and relevant decisions of the Organization regarding confidentiality of information and data.¹¹³
- (2) Subject to Subsection 1, the authorities involved in implementing the Treaty may communicate among themselves and to the Organization the information and data which is received under this Act, or which has

¹¹¹ Treaty II.54, 55.

¹¹² Protocol II.31.

¹¹³ Treaty II.6, 7, IV.5, 7 to 10, 18, 57 (b), Protocol II.88 (a), 89.

come to their attention in the exercise of their functions pursuant to this Act, including personal data, in so far as this is required to monitor compliance with the obligations arising from the Treaty or to prosecute criminal offences pursuant to this Act. Such information and data may only be used for the purpose of which it was communicated.

- (3) A person in possession of information or data that has been provided under this Act or pursuant to the Treaty, which is subject to a claim that it is confidential, shall not knowingly communicate it or allow any person to have any access to it unless permitted by this Act or any other Act or regulation made pursuant to it.
- (4) A person who discloses information or data in contravention of Subsection 3 commits an offence and shall be liable to a penalty of [].

Part 9 – Miscellaneous Provisions

Section 22 – Provisional Measures

- (1) Until entry into force of the Treaty, the National Authority shall cooperate with the Preparatory Commission and States Signatories of the Treaty in order to meet requirements of the Annex to the Resolution Establishing the Preparatory Commission for the Comprehensive Nuclear-Test-Ban Treaty Organization, adopted by the States Signatories of the Comprehensive Nuclear-Test-Ban Treaty on 19 November 1996. The National Authority shall carry out the functions provided in this Act to the extent required for this purpose.¹¹⁴
- (2) Until entry into force of the Treaty and until the Preparatory Commission is dissolved, the Preparatory Commission shall enjoy in the territory of [name of State] such legal capacity, privileges and immunities as are necessary for the performance of its functions. Accordingly the privileges and immunities set out in this Act shall apply, mutatis mutandis, to the Preparatory Commission, its representatives, officials and experts.¹¹⁵

Section 23 – Executive Powers

The [Government] [competent authority] may promulgate regulations on matters necessary or desirable for:

- (a) Giving full effect to this Act;
- (b) Implementing [name of State] obligations under the Treaty;
- (c) Implementing an agreement or arrangement concluded with the Organization under the Treaty;
- (d) Putting into effect changes of an administrative and technical nature to the Protocol and Annexes to the Treaty approved by the Organization; or
- (e) Implementing amendments to the Treaty approved by the States Parties.

Section 24 - Commencement

- (1) Sections [] shall enter into force [without the need of regulations] on the day of the [promulgation] [publication] of this Act.
- (2) Sections [] shall enter into force on the day on which the Treaty enters into force pursuant to its Article XIV.

¹¹⁴ Treaty IV.1, Text of the Resolution Establishing the Preparatory Commission for the CTBTO, paragraph 1.

¹¹⁵ Text of the Resolution Establishing the Preparatory Commission for the CTBTO, paragraphs 7, 20 to 22.

Annex 2

Framework Act for Implementing the CTBT

Section 1 - Interpretation

(1) In this Act,

“Organization” means the Comprehensive Nuclear-Test-Ban Treaty Organization established in the Treaty’;

“Person” means a natural or a legal person;

“Treaty” means the Comprehensive Nuclear-Test-Ban Treaty adopted by the United Nations General Assembly in New York on 10 September 1996 [and ratified by [name of State] on [date of ratification]], including the Annexes to the Treaty, the Protocol to the Treaty and the Annexes to the Protocol [as amended or changed from time to time in accordance with Article VII of the Treaty].

(2) The terms and expressions appearing in this Act shall have the same meaning as in the Treaty.

Section 2 – Objectives of the Act

The objectives of this Act are the following:

- (a) To approve the Treaty signed by [name of State] on [date];
- (b) To [enable the implementation of the] [fulfil] the obligations of [name of State] under the Treaty;
- (c) To grant [the Government] [competent authority] the authority to issue the necessary or desirable regulations to give full effect to this Act and to implement the obligations of [name of State] under the Treaty.

Section 3 – [Ratification] [Approval] of the Treaty

The Treaty signed by [name of State] on [date] is hereby [approved] [ratified].

Section 4 – Prohibition of Nuclear Explosions

(1) No person shall:

- (a) Carry out a nuclear weapon test explosion or any other nuclear explosion;
- (b) Cause, encourage or in any way participate in, the carrying out of a nuclear weapon test explosion or any other nuclear explosion.

(2) A person who engages in a conduct prohibited in subsection (1) above commits an offence and is liable to a term of imprisonment not exceeding [] years or to a fine not exceeding [], or to both.

(3) A person who participates in the planning or preparation of an offence set forth in subsection (1) commits an offence and is liable to a term of imprisonment not exceeding [] years or to a fine not exceeding [], or to both.

(4) A person who attempts to commit an offence set forth in subsection (1) commits an offence and is liable to a term of imprisonment not exceeding [] years or to a fine not exceeding [], or to both.

(5) The courts of [name of State] shall have jurisdiction with respect to the offences set forth in Subsections (1), (2), (3) and (4), if they have been attempted or committed (a) in the territory of [name of State], (b) on board of ships and aircraft registered in [name of State], or (c) in any other places which are under the jurisdiction or control of [name of State] as recognized by international law.¹¹⁶

(6) The courts of [name of State] shall have jurisdiction with respect to the offences set forth in subsections (1), (2), (3) and (4) above committed outside [name of State] if the offence was attempted or committed by a national of [name of State].

¹¹⁶ Treaty I, III.1.

Section 5 – On-site Inspections

- (1) The Organization's inspection team shall have the right to conduct an on-site inspection at an inspection area in [name of State] in accordance with the Treaty, the inspection mandate and the on-site inspection operational manual of the Organization to clarify whether a nuclear weapon test explosion or any other nuclear explosion has been carried out in violation of Article I of the Treaty and, to the extent possible, gather any facts which might assist in identifying any possible violator, conducting the activities and using the techniques set out in the Treaty.
- (2) Inspectors and inspection assistants shall have the right, and every person must permit them to enter a place, to inspect a place and exercise a function contemplated, or a power provided for, in the Treaty in connection with an on-site inspection within an inspection area in accordance with the Treaty.
- (3) The [Government] [competent authority] shall facilitate the conduct of on-site inspections in [name of State] by assisting the inspection team, collaborating with its tasks and ensuring its safe conduct.
- (4) If the consent of a person in control of a place in an inspection area is not obtainable, the competent authority may, on application, issue a search warrant in respect of the place if satisfied that there are reasonable grounds for believing that entry to the place is necessary for the purpose of exercising any function contemplated, or any power provided for in the Treaty in connection with an on-site inspection.
- (5) Any person who infringes a provision relating to an obligation to cooperate pursuant to this Section or willfully or negligently obstructs, hinders, resists or deceives an inspector, observer or national inspector who is exercising any function contemplated or any power provided for in the Treaty, commits an offence and is subject to a penalty of [].

Section 6 – National Authority

- (1) The [Government] [competent authority] shall [designate an entity as National Authority] [set up a National Authority] to serve as national focal point for liaison with the Organization and with States Parties to the Treaty on any matter relating to the object and purpose, or the implementation, of the Treaty.¹¹⁷
- (2) The National Authority shall, in accordance with the Treaty and in cooperation with other national departments, agencies and institutions, the Organization and States Parties to the Treaty:
 - (a) Ensure the effective operation of this Act;
 - (b) Carry out the obligations of [name of State] under the Treaty;
 - (c) Act as the main point of contact with the CTBTO and other States Parties to the Treaty;
 - (d) Inform the CTBTO of the result of criminal proceedings related to activities prohibited by the Treaty;
 - (e) Negotiate and pursue conclusion of agreements or arrangements related to the implementation of the Treaty;¹¹⁸
 - (f) Request and process information from natural and legal persons regarding implementation of and compliance with the Treaty;
 - (g) Establish a cooperative arrangement with the national entity or entities responsible for disaster relief mitigation and radiological emergencies;
 - (h) Promote the civil and scientific applications of the technologies of the verification regime established under the Treaty and the cooperation with the CTBTO and States Parties in this area;¹¹⁹
 - (i) Carry out the duties and exercise the powers conferred on the National Authority under this Act or the regulations or under any other law of [name of State];
 - (j) Do anything incidental or conducive to performing any of the above functions.

Section 7 – Request for Information

- (1) The National Authority may seek information from any person that it believes has information or documents relevant to the:
 - (a) Clarification of a matter which may cause concern about possible non-compliance with Article I of the Treaty, or
 - (b) Implementation of the Treaty or the enforcement of this Act.

¹¹⁷ Treaty III.4.

¹¹⁸ Treaty II.5, 56, III.2, IV.3, 18; Protocol I.4, 5.

¹¹⁹ Treaty IV.10, 12.

- (2) A person commits an offence and shall be liable to a penalty of [specify penalty] who
 - (a) Fails to supply information or documents under Subsection (1) without reasonable excuse and to the extent capable of complying with it;
 - (b) Knowingly provides false or misleading information or forged documents.

Section 8 – Penal Code

The [Penal Code] [applicable law] applies to the offences under this Act.

Section 9 – Legal Capacity, Privileges and Immunities

- (1) The Organization has legal capacity.
- (2) The Organization, the delegates of States Parties, together with their alternates and advisers, the representatives of members elected to the Executive Council, together with their alternates and advisers, the Director-General, the inspectors, the inspection assistants and the members of the staff of the Organization shall enjoy in [name of State] the privileges and immunities necessary for the performance of their functions, as provided in the Treaty.

Section 10 - Regulations

- The [Government] [competent authority] may promulgate regulations on matters necessary or desirable for
- (a) Giving full effect to this Act;
 - (b) Implementing [name of State] obligations under the Treaty;
 - (c) Implementing an agreement or arrangement concluded with the Organization under the Treaty;
 - (d) Putting into effect changes of an administrative and technical nature to the Protocol and Annexes to the Treaty approved by the Organization; or
 - (e) Implementing amendments to the Treaty approved by the States Parties.

Section 11 – Commencement

- (1) Sections [] shall enter into force [without the need of regulations] on the day of the [promulgation] [publication] of this Act.
- (2) Sections [] shall enter into force on the day to be fixed by order of the [competent authority].

Annex 3

Amendment of the Penal Code

Model CTBT Penal Provision

Whereas the Comprehensive Nuclear-Test-Ban Treaty was adopted by the United Nations General Assembly on 10 September 1996 and signed [ratified] by [name of State] on [date of signature or ratification] pursuant to [Government or Parliament decision];

Whereas the Comprehensive Nuclear-Test-Ban Treaty requires States Parties to adopt the necessary measures to prohibit and prevent nuclear explosions;

Whereas the [Penal Code or other applicable legislation] prohibits the [unlawful use, possession, transfer or disposal of nuclear material] [the manufacture, acquisition, possession, development, transport, transfer or use of nuclear weapons] [the manufacture, construction or development of weapons of mass destruction];

Whereas the [Penal Code or other applicable legislation] needs to be amended to cover the prohibition of all nuclear explosions;

Therefore

Article 1. - The [Penal Code or other applicable legislation] shall be amended as follows:

(1) In Article [] the following provisions shall be inserted:

#) carry out a nuclear weapon test explosion or any other nuclear explosion

##) cause, encourage or in any way participate in, the carrying out of a nuclear weapon test explosion or any other nuclear explosion

(2) In Article [] the following provisions shall be inserted:

*) The courts of [name of State] shall have jurisdiction with respect to the offences set forth in paragraphs #) and ##) of Article [] if they have been attempted or committed (a) in the territory of [name of State], (b) on board of ships and aircraft registered in [name of State], or (c) in any other places which are under the jurisdiction or control of [name of State] as recognized by international law.

**) The courts of [name of State] shall have jurisdiction with respect to the offences set forth in paragraphs #) and ##) of Article [] and committed outside [name of State] if the offence was attempted or committed by a national of [name of State].

Article 2. - Publication, Entry into Force

(1) The [competent authority] shall publish in the [name of official publication] the revised text of the [Penal Code or other relevant legislation].

(2) This Statute shall enter into force on the date of [promulgation] [publication].

Model Integrated Penal Provision¹²⁰

- (1) Whoever, without lawful authority, uses or disperses in any way radioactive/nuclear material or uses or makes a device:
 - (a) With the intent to cause:
 - (i) Death or serious bodily injury; or
 - (ii) Substantial damage to property or to the environment; or
 - (b) To compel a natural or legal person, an international organization, or a State to do or refrain from doing an act; or
 - (c) Which causes or is likely to cause death or serious injury to any person or substantial damage to property or to the environment;
 shall be punished with [penalties which take into account the grave nature of those offences¹²¹].
- (2) Whoever carries out a nuclear weapon test explosion or any other nuclear explosion shall be punished with [penalties which take into account the grave nature of those offences].
- (3) Whoever manufactures, acquires, possesses, develops, transports, imports, introduces, transfers or uses nuclear weapons shall be punished with [penalties which take into account the grave nature of those offences].
- (4) Whoever causes, encourages, attempts, participates in, or threatens to commit any of the offences set forth in this Article shall be punished with [penalties which take into account the grave nature of those offences].
- (5) Whoever contributes to the commission of one or more such offences by a group of persons acting with a common purpose, where such contribution is intentional and is made with the aim of furthering the criminal activity or criminal purpose of the group [in the knowledge of the intention of the group to commit such offence] shall be punished with [penalties which take into account the grave nature of those offences].
- (6) [Name of State] shall have jurisdiction over the offences set forth in [cite relevant article] as follows:
 - (a) when the offence is committed within the territory of [name of State] or on board a ship or aircraft registered in [name of State] or in any other place which are under the jurisdiction or control of [name of State] as recognized by international law;¹²²
 - (b) when the alleged offender is a national or permanent resident of [name of State];¹²³
 - (c) when the alleged offender is present in the territory of [name of State] and is not extradited to any other State asserting jurisdiction;
 - (d) when an act is done outside [name of State] if the act is done in the course of international transport of nuclear material in a case where it is the State where the shipment originates or the State of ultimate destination.

¹²⁰ These provisions were developed during the Pilot Workshop on CTBT Implementing Legislation conducted on 1-5 November 2011. They cover prohibited activities and criminal offences under United Nations Security Council Resolution 1540 and international treaties including the CTBT, the International Convention for the Suppression of Acts of Nuclear Terrorism, the Convention on the Physical Protection of Nuclear Material and its Amendments. For example, it may be noted that paragraph (2), which prohibits nuclear explosions, covers the prohibited activities in Article I of the CTBT, while paragraph (1) covers other activities involving a release of nuclear energy or radioactive material for purposes of the afore mentioned international treaties. See further CTBT/PTS/INF.1204 on National Implementation Measures.

¹²¹ Term of imprisonment not exceeding [] years or to a fine not exceeding [], or to both.

¹²² Treaty I, III.1.

¹²³ The term “national” should also include legal persons located in the territory of the State. If this is not explicitly provided in the State’s criminal legislation, specific wording extending the application of the provisions to legal persons, and regulating their liability and that of the managers or directors, would need to be included in the legislation. For model provisions on Liability of Legal Entities see Article 9 of the UNODC Model Legislative Provisions against Organized Crime (2021).

Annex 4

National Authority Decree

Preamble¹²⁴

Whereas the Comprehensive Nuclear-Test-Ban Treaty was adopted by the United Nations General Assembly on 10 September 1996 and signed [ratified] by [name of State] on [date of signature or ratification] pursuant to [Government or Parliament decision];

Whereas under Article III.4 of the Treaty each State Party shall designate or set up a National Authority to serve as the national focal point for liaison with the Organization and with other States Parties;

Whereas it is desirable to ensure a proper coordination of all relevant functions of the National Authority at the national level;

Therefore

Section 1. - Designation of the National Authority

- (1) The National Authority for the Comprehensive Nuclear-Test-Ban Treaty is hereby set up to serve as national focal point for liaison with the Organization and with States Parties to the Treaty on any matter relating to the object and purpose, or the implementation, of the Treaty.¹²⁵
- (2) The [competent authority] is hereby designated as the National Authority [or] The National Authority shall be composed as follows: []

Section 2. - Functions of the National Authority

The National Authority shall, in accordance with the Treaty and in cooperation with other national departments, agencies and institutions, the Organization and States Parties to the Treaty:

- (a) Ensure the effective operation of this Act;
- (b) Carry out the obligations of [name of State] under the Treaty;
- (c) Act as the main point of contact with the CTBTO and other States Parties to the Treaty;
- (d) Inform the CTBTO of the result of criminal proceedings related to activities prohibited by the Treaty;
- (e) Negotiate and pursue conclusion of agreements or arrangements related to the implementation of the Treaty;¹²⁶
- (f) Request and process information from natural and legal persons regarding implementation of and compliance with the Treaty;
- (g) Establish a cooperative arrangement with the national entity or entities responsible for disaster relief mitigation and radiological emergencies;
- (h) Promote the civil and scientific applications of the technologies of the verification regime established under the Treaty and the cooperation with the CTBTO and States Parties in this area;¹²⁷
- (i) Carry out the duties and exercise the powers conferred on the National Authority under this Act or the regulations or under any other law of [name of State];
- (j) Do anything incidental or conducive to performing any of the above functions.

Section 3. - Monitoring Facilities

The National Authority, in cooperation with other national departments, agencies and institutions, the Organization and States Parties to the Treaty, shall:

- (a) Cooperate with the Organization in establishing, upgrading, operating and maintaining monitoring facilities including the necessary communication means as part of the International Monitoring System to permit the performance of verification measures, and enter into agreements or arrangements with the Organization and other parties, occupy, buy or lease land and provide the related utilities for such purposes;
- (b) Establish or designate a facility to serve as National Data Centre for the exchange of data with the International Data Centre;

¹²⁴ This model was finished during the Pilot Workshop on CTBT National Implementation Measures.

¹²⁵ Treaty III.4.

¹²⁶ Treaty II.5, 56, III.2; Protocol I.4, 5.

¹²⁷ Treaty IV.10, 12.

- (c) Transmit data obtained from national stations that are part of the International Monitoring System to the International Data Centre;
- (d) Establish or designate a facility to serve as a Cooperating National Facility of the International Monitoring System.

Section 4. - On-site Inspection

The National Authority, in cooperation with other national departments, agencies and institutions, the Organization and States Parties to the Treaty, shall:

- (a) Nominate for designation inspectors and inspection assistants;
- (b) Facilitate the conduct of on-site inspections in [name of State] by assisting the inspection team, collaborating with its tasks and liaising with other national entities for all relevant purposes;
- (c) Designate points of entry in [name of State] for on-site inspections;
- (d) Obtain a standing diplomatic clearance number for non-scheduled aircraft transporting an inspection team;
- (e) Acknowledge receipt of the notification of inspection by the Organization, ensure the immediate entry of the inspection team, provide and arrange for the amenities necessary for the inspection team, and ensure its safe conduct during the period of inspection;
- (f) Perform pre-inspection equipment checks, briefings for the inspection team and post-inspection procedures;
- (g) Appoint national inspectors to accompany or assist an inspection team;
- (h) Issue directions to any person or entity for the purpose of facilitating an on-site inspection;
- (i) Issue a certificate identifying inspectors, observers and national inspectors.

Section 5. - Requests for Information

- (1) The National Authority shall participate with the Organization and States Parties to the Treaty in the consultation and clarification processes relating to matters which may cause concern about possible non-compliance with Article I of the Treaty.¹²⁸
- (2) [The National Authority may cooperate with the Organization and States Parties to the Treaty in implementing confidence building measures relating to chemical explosions] or [The National Authority shall cooperate with the Organization in confidence building measures and shall notify to it chemical explosions using [300] tones or more of TNT-equivalent blasting material detonated as a single explosion in the territory of [name of State]].¹²⁹
- (3) The National Authority may seek information from any person that it believes has information or documents relevant to the:
 - (a) Clarification of a matter which may cause concern about possible non-compliance with Article I of the Treaty; or
 - (b) Clarification as may be necessary to resolve a matter that has arisen during an on-site inspection; or
 - (c) Implementation of the Treaty.

¹²⁸ Treaty IV.29-33.

¹²⁹ Treaty IV.68; Protocol III.1, 2: Each State Party shall provide the Technical Secretariat notification preferably in advance of certain chemical explosions on a voluntary basis.

Annex 5

Resolution on Privileges and Immunities of the Commission

Section 1. - The following terms and expressions shall have the following meaning for the purposes of this Resolution:

“Officials of the Preparatory Commission for the CTBTO” shall mean the staff of the Provisional Technical Secretariat of the Preparatory Commission for the CTBTO.

“Preparatory Commission for the CTBTO” shall mean the Preparatory Commission for the Comprehensive Nuclear-Test-Ban Treaty Organization established by the Resolution adopted by States Signatories of the Comprehensive Nuclear-Test-Ban Treaty at New York on 19 November 1996;

“Representatives of Member States” shall mean the delegates, alternates and advisers of delegations accredited to the Preparatory Commission for the CTBTO.

Section 2. - The Preparatory Commission for the CTBTO is [under title of relevant legislation]¹³⁰ an international organization with juridical personality. In particular, it shall have the legal capacity to:

- (a) Contract;
- (b) Acquire and dispose of immovable and movable property; and
- (c) Institute legal proceedings.

Section 3. - The Preparatory Commission for the CTBTO shall enjoy the following privileges and immunities in the territory of [name of State] [as defined in title of relevant legislation]:¹⁴⁹

- (a) Immunity from suit and legal process;
- (b) Inviolability of official premises and archives;
- (c) Immunity in relation to its property and assets from search, requisition, confiscation, expropriation, or any other form of interference;
- (d) Exemption from direct and indirect taxes, except for charges related to the provision of public utility services;
- (e) Exemption from taxes and customs duties on the importation or the exportation of goods for official use in [name of State];
- (f) Exemption from prohibitions and restrictions on importation or exportation of goods for official use;
- (g) Reduced rates in respect of telegraphic communications and press telegrams for official use.

Section 4. - Representatives of Member States shall enjoy, in the exercise of their functions, the following privileges and immunities in the territory of [name of State] as defined in [title of relevant legislation]:¹⁴⁹

- (a) Immunity from suit and legal process as accorded to a diplomatic agent;
- (b) Inviolability of official archives as accorded to a diplomatic agent;
- (c) Exemption from taxes and customs duties as accorded to a diplomatic agent.

Section 5. - Officials of the Preparatory Commission for the CTBTO shall enjoy the following privileges and immunities in the territory of [name of State] as defined in [title of relevant legislation]:¹⁴⁹

- (a) Immunity from suit and legal process in respect of things done or omitted to be done by them in the course of the performance of their official duties;
- (b) Exemption from taxes in respect of salaries and benefits received by them as Officials of the Preparatory Commission for the CTBTO;
- (c) Exemption from customs duties for importing or exporting personal items in the course of the performance of their official duties.

Section 6. - The Executive Secretary of the Preparatory Commission for the CTBTO shall enjoy the following privileges and immunities in the territory of [name of State] as defined in [title of relevant legislation]:¹⁴⁹

- (a) Immunity from suit and legal process as accorded to a diplomatic agent;
- (b) Inviolability of residence, official premises and official archives as accorded to a diplomatic agent;
- (c) Exemption from taxes and customs duties as accorded to a diplomatic agent.

¹³⁰ The text in brackets may be necessary if an international organization is required to be registered under a specific national legislation to be recognized within the State’s territory, or to make reference to the 1946 Convention on the Privileges and Immunities of the United Nations.

Section 7.- Experts employed on missions on behalf of the Preparatory Commission for the CTBTO shall enjoy, in the exercise of their functions, the following privileges and immunities in [name of State] as defined in [title of relevant legislation]:¹⁴⁹

- (a) Immunity from suit and legal process in respect of acts done or omitted to be done by them in the course of the performance of their mission as accorded to a diplomatic agent;
- (b) Inviolability of official archives as accorded to a diplomatic agent.

Section 8.- The privileges and immunities conferred by this instrument do not apply in so far as in a particular case a privilege or immunity is waived by the Preparatory Commission for the CTBTO, the Executive Secretary of the Preparatory Commission for the CTBTO or the Government of the Member State concerned, as the case may be.