

States Parties, the Executive Council, and the Technical Secretariat, which includes the International Data Centre. The Conference of States Parties is described as the “principal organ of the Organization,”³⁷ and oversees the activities of other organs of the CTBTO. It is the most democratic and inclusive division of the CTBTO, with all states parties represented. However, the Conference cannot be convened until entry into force of the Treaty. This condition is made explicit in the Treaty, and is directly related to EIF: “the initial session of the Conference shall be convened by the Depositary no later than 30 days after the entry into force of this Treaty.”³⁸ The direct identification of the CTBT EIF specifications complicates a provisional entry into force, since Article 2 references Article 14. Were a provisional EIF to take place, it could be argued on the basis of international treaty law that it would violate the prior agreement of negotiating states that the organs of the CTBTO would be overseen, and struck, on the basis of the EIF arrangements codified in Article 14.

This brings into play a series of related issues. For instance, would a provisional EIF allow for the effective implementation of On-Site Inspections (OSI)? Since OSI, according to the CTBT, is to be overseen by the Executive Council, which in turn cannot be activated without EIF as per the Treaty, the logical conclusion would be that OSI is impossible without EIF, conforming to Article 14. Also, what would a provisional application of the CTBT mean for the work of the IMS/IDC? And, could a provisional application allow for the involvement of non-ratifying states? These questions are based on a fairly strict reading of treaty, and assume that the Preparatory Commission cannot undertake any of these responsibilities without EIF. However, the Preparatory Commission does entail a *Provisional* Technical Secretariat, created to prepare for the full operation of the Technical Secretariat; it is reasonable that the PTS will more or less transform itself to the TS once EIF becomes a reality. The PTS has overseen the development of the IMS and the IDC, which presumably will retain their core structure with EIF of the CTBT. As well, the Preparatory Commission mirrors most of the responsibilities of the Conference of States Parties outlined in the CTBT, with membership for signatories as well as ratifiers, and a similar decision-making process.

Strictly speaking, it is possible that states parties to the CTBT – ratifying states – could settle on a mechanism “in some other manner so agreed” to bring about provisional application of the CTBT. This would create a viable and binding regime for ratifying states. Moreover, it could be argued that there would

³⁷CTBT, Article 2, B, 24. <http://www.ctbto.org/treaty/treatytext.tt.htm>

³⁸CTBT, Article 2, B, 13. <http://www.ctbto.org/treaty/treatytext.tt.html>