

law” to be truly binding.¹⁸ This rather confusing legal arrangement stems from the text for the agreement establishing the Preparatory Commission.¹⁹ Whereas the CTBT confines verification activities to the implementation of the EIF for the Treaty, the Preparatory Commission agreement does provide it some autonomy, including the right to “operate provisionally as necessary the International Data Centre and the International Monitoring System networks provided for in the Treaty”²⁰ without EIF. This is a rather unique situation for the Preparatory Commission, but it can be used as grounds for EIF, provided it introduces a viable and amenable system of verification and monitoring.

The second answer to the question surrounding CTBT verification with no EIF is more practical than legal. One might argue that the greatest triumph of the test ban regime has been the creation of a truly effective verification and monitoring system. However, the net effect of this success story is a quandary: at what point does the legal mandate to “provide the services necessary to initiate the work”²¹ of the CTBTO stop? The Preparatory Commission effectively functions as an NACD organization, but its fundamental role is to prepare for the EIF of the CTBT. Practically, rather than legally, the Preparatory Commission is virtually – if not completely – providing for the operative verification structure that the CTBT will require. Yet this structure exists with no EIF for the CTBT. All of this contributes to a truly unique situation where the Preparatory Commission of the CTBTO (an organization created without a formal treaty, but related to one nonetheless) has a more extensive mandate than other verification regimes, due largely to the enormity of global test ban analysis requirements.

¹⁸Interview, Preparatory Commission for the Comprehensive Nuclear Test Ban Treaty Organization, Vienna, Austria, 15 July 2002.

¹⁹“Resolution Establishing the Preparatory Commission for the Comprehensive Nuclear Test-ban Treaty Organization,” Adopted by the States Signatories, November 19, 1996
<http://www.fas.org/nuke/control/ctbt/text/ctbt4.htm>

²⁰Paragraph 5 c) of Annex: Text on the Establishment of a Preparatory Commission for the Comprehensive Nuclear Test-Ban Treaty Organization reads: “The Commission shall, between the time the Treaty is opened for signature and the conclusion of the initial session of the Conference of the States Parties, use funds provided by the States Signatories to meet the necessary costs arising from its functions and purposes, including the capital investments and operating and maintenance costs to establish and, pending their formal commissioning, to operate provisionally as necessary the International Data Centre and the International Monitoring System networks provided for in the Treaty.”
http://www.ctbto.org/reference/legal_resources/prepcom_resolution.pdf

²¹http://www.ctbto.org/reference/legal_resources/prepcom_resolution.pdf