

cue to revoke what support they maintain right now. Many states such as China, India, Pakistan, and Israel look to the United States in part to frame their own policy regarding a test ban. Finally, the CTBT would lose its most important avenues of technical and financial support, were a provisional application to be pursued without the support of the United States.

As matters stand right now, the strength of customary international law, in concert with the expressed willingness of signatories not to impede the general principles of a test ban treaty (demonstrated by statements invoking Article 18 of the UN Law of Treaties), are strong indicators of the accepted status of the CTBT in the international system, despite its non-EIF. Of course, this is not to suggest that the CTBT is legally enforceable, or has the legitimacy that it would have with EIF; nevertheless, the status quo *supported by the recommendations contained here* is preferable to the potential outright rejection – or at least hardening of attitudes – were a provisional EIF to be pursued.

The greatest strengths for a universal test ban regime currently are the Article 18 assurances given by non-ratifying states (particularly the United States), and the operative verification structure in the IMS/IDC. The former is chiefly political: non-ratifying states still see the relevance and usefulness of the CTBT, and despite discouraging developments since 1996, most Annex 2 states want to see an effectively verifiable and universal nuclear test ban regime in place. The latter issue – the success of the verification mechanism for the CTBT – is not so much politically driven, as it is a function of the unique nature of the Treaty itself. The fact that the Preparatory Commission was authorized speaks to the urgency surrounding the CTBT, but also has created a state of affairs where a operational and constructive verification operation is functional before the Treaty has come into force.

The problem with the current status quo is that it cannot exist in perpetuity. A number of events could occur in the future to undermine the test ban regime. Most seriously, a test of a nuclear device would effectively derail the entire process. The Indian and Pakistani nuclear tests in 1998, for instance, both threatened the test ban regime, but also led proponents of the Treaty to redouble efforts for EIF and effective implementation. As well, North Korea's October 2002 admission of its violation of a non-nuclear development pact with the United States raises concerns about horizontal weapons proliferation. Less seriously, but more probable, would be a political violation of the current tacit agreement not to test new weapons; that is, not a full-fledged test per se, but a declaration not to be bound by the Treaty. Non-ratifying states will subscribe to Article 18 of the Law of Treaties only for so long before the Treaty is seen to be not