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COMPREHENSIVE NUCLEAR TEST-BAN TREATY

MESSAGE

FROM

THE PRESIDENT OF THE UNITED STATES

TRANSMITTING

COMPREHENSIVE NUCLEAR TEST-BAN TREATY, OPENED FOR SIGNATURE AND SIGNED BY THE UNITED STATES AT NEW YORK ON SEPTEMBER 24, 1996. TREATY INCLUDES TWO ANNEXES, A PROTOCOL, AND TWO ANNEXES TO THE PROTOCOL

SEPTEMBER 23, 1997.—Treaty was read the first time, together with the accompanying papers, referred to the Committee on Foreign Relations and ordered to be printed for use of the Senate

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LETTER OF TRANSMITTAL

THE WHITE HOUSE, *September 22, 1997.*

To the Senate of the United States:

I transmit herewith, for the advice and consent of the Senate to ratification, the Comprehensive Nuclear Test-Ban Treaty (the "Treaty" or "CTBT"), opened for signature and signed by the United States at New York on September 24, 1996. The Treaty includes two Annexes, a Protocol, and two Annexes to the Protocol, all of which form integral parts of the Treaty. I transmit also, for the information of the Senate, the report of the Department of State on the Treaty, including an Article-by-Article analysis of the Treaty.

Also included in the Department of State's report is a document relevant to but not part of the Treaty: the Text on the Establishment of a Preparatory Commission for the Comprehensive Nuclear Test-Ban Treaty Organization, adopted by the Signatory States to the Treaty on November 19, 1996. The Text provides the basis for the work of the Preparatory Commission for the Comprehensive Nuclear Test-Ban Treaty Organization in preparing detailed procedures for implementing the Treaty and making arrangements for the first session of the Conference of the States Parties to the Treaty. In particular, by the terms of the Treaty, the Preparatory Commission will be responsible for ensuring that the verification regime established by the Treaty will be effectively in operation at such time as the Treaty enters into force. My Administration has completed and will submit separately to the Senate an analysis of the verifiability of the Treaty, consistent with section 37 of the Arms Control and Disarmament Act, as amended. Such legislation as may be necessary to implement the Treaty also will be submitted separately to the Senate for appropriate action.

The conclusion of the Comprehensive Nuclear Test-Ban Treaty is a signal event in the history of arms control. The subject of the Treaty is one that has been under consideration by the international community for nearly 40 years, and the significance of the conclusion of negotiations and the signature to date of more than 140 states cannot be overestimated. The Treaty creates an absolute prohibition against the conduct of nuclear weapon test explosions or any other nuclear explosion anywhere. Specifically, each State Party undertakes not to carry out any nuclear weapon test explosion or any other nuclear explosion; to prohibit and prevent any nuclear explosions at any place under its jurisdiction or control; and 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.

The Treaty establishes a far reaching verification regime, based on the provision of seismic, hydroaucoustic, radionuclide, and infrasound data by a global network (the "International Monitoring System") consisting of the facilities listed in Annex 1 to the Protocol. Data provided by the International Monitoring System will be stored, analyzed, and disseminated, in accordance with Treaty-mandated operational manuals, by an International Data Center that will be part of the Technical Secretariat of the Comprehensive Nuclear Test-Ban Treaty Organization. The verification regime includes rules for the conduct of on-site inspections, provisions for consultation and clarification, and voluntary confidence-building measures designed to contribute to the timely resolution of any compliance concerns arising from possible misinterpretation of monitoring data related to chemical explosions that a State Party intends to or has carried out. Equally important to the U.S. ability to verify the Treaty, the text specifically provides for the right of States Parties to use information obtained by national technical means in a manner consistent with generally recognized principles of international law for purposes of verification generally, and in particular, as the basis for an on-site inspection request. The verification regime provides each State Party the right to protect sensitive installations, activities, or locations not related to the Treaty. Determinations of compliance with the Treaty rest with each individual State Party to the Treaty.

Negotiations for a nuclear test-ban treaty date back to the Eisenhower Administration. During the period 1978–1980, negotiations among the United States, the United Kingdom, and the USSR (the Depositary Governments of the Treaty on the Non-Proliferation of Nuclear Weapons (NPT)) made progress, but ended without agreement. Thereafter, as the nonnuclear weapon states called for test-ban negotiations, the United States urged the Conference on Disarmament (the "CD") to devote its attention to the difficult aspects of monitoring compliance with such a ban and developing elements of an international monitoring regime. After the United States, joined by other key states, declared its support for comprehensive test-ban negotiations with a view toward prompt conclusion of a treaty, negotiations on a comprehensive test-ban were initiated in the CD, in January 1994. Increased impetus for the conclusion of a comprehensive nuclear test-ban treaty by the end of 1996 resulted from the adoption, by the Parties to the NPT in conjunction with the indefinite and unconditional extension of that Treaty, of "Principles and Objectives for Nuclear Non-Proliferation and Disarmament" that listed the conclusion of a CTBT as the highest measure of its program of action.

On August 11, 1995, when I announced U.S. support for a "zero yield" CTBT, I stated that:

> . . . As part of our national security strategy, the United States must and will retain strategic nuclear forces sufficient to deter any future hostile foreign leadership with access to strategic nuclear forces from acting against our vital interests and to convince it that seeking a nuclear advantage would be futile. In this regard, I consider the maintenance of a safe and reliable nuclear stockpile to be a supreme national interest of the United States. "I am as-

sured by the Secretary of Energy and the Directors of our nuclear weapons labs that we can meet the challenge of maintaining our nuclear deterrent under a CTBT through a Science Based Stockpile Stewardship program without nuclear testing. I directed the implementation of such a program almost 2 years ago, and it is being developed with the support of the Secretary of Defense and the Chairman of the Joint Chiefs of Staff. This program will now be tied to a new certification procedure. In order for this program to succeed, both the Administration and the Congress must provide sustained bipartisan support for the stockpile stewardship program over the next decade and beyond. I am committed to working with the Congress to ensure this support.

While I am optimistic that the stockpile stewardship program will be successful, as President I cannot dismiss the possibility, however unlikely, that the program will fall short of its objectives. Therefore, in addition to the new annual certification procedure for our nuclear weapons stockpile, I am also establishing concrete, specific safeguards that define the conditions under which the United States can enter into a CTBT . . .

The safeguards that were established are as follows:

The conduct of a Science Based Stockpile Stewardship program to ensure a high level of confidence in the safety and reliability of nuclear weapons in the active stockpile, including the conduct of a broad range of effective and continuing experimental programs.

The maintenance of modern nuclear laboratory facilities and programs in theoretical and exploratory nuclear technology that will attract, retain, and ensure the continued application of our human scientific resources to those programs on which continued progress in nuclear technology depends.

The maintenance of the basic capability to resume nuclear test activities prohibited by the CTBT should the United States cease to be bound to adhere to this Treaty.

The continuation of a comprehensive research and development program to improve our treaty monitoring capabilities and operations.

The continuing development of a broad range of intelligence gathering and analytical capabilities and operations to ensure accurate and comprehensive information on worldwide nuclear arsenals, nuclear weapons development programs, and related nuclear programs.

The understanding that if the President of the United States is informed by the Secretary of Defense and the Secretary of Energy (DOE)—advised by the Nuclear Weapons Council, the Directors of DOE's nuclear weapons laboratories, and the Commander of the U.S. Strategic Command—that a high level of confidence in the safety or reliability of a nuclear weapon type that the two Secretaries consider to be critical to our nuclear deterrent could no

longer be certified, the President, in consultation with the Congress, would be prepared to withdraw from the CTBT under the standard "supreme national interests" clause in order to conduct whatever testing might be required.

With regard to the last safeguard:

The U.S. regards continued high confidence in the safety and reliability of its nuclear weapons stockpile as a matter affecting the supreme interests of the country and will regard any events calling that confidence into question as "extraordinary events related to the subject matter of the treaty." It will exercise its rights under the "supreme national interests" clause if it judges that the safety or realibility of its nuclear weapons stockpile cannot be assured with the necessary high degree of confidence without nuclear testing.

To implement that commitment, the Secretaries of Defense ad Energy—advised by the Nuclear Weapons Council or "NWC" (comprising representatives of DOD, JCS, and DOE), the Directors of DOE's nuclear weapons laboratories and the commander of the U.S. Strategic Command—will report to the President annually, whether they can certify that the Nation's nuclear weapons stockpile and all critical elements thereof are, to a high degree of confidence, safe and reliable, and, if they cannot do so, whether, in their opinion and that of the NWC, testing is necessary to assure, with a high degree of confidence, the adequacy of corrective measures to assure the safety and reliability of the stockpile, or elements thereof. The Secretaries will state the reasons for their conclusions, and the views of the NWC, reporting any minority views.

After receiving the Secretaries' certification and accompanying report, including NWC and minority views, the President will provide them to the appropriate committees of the Congress, together with a report on the actions he has taken in light of them.

If the President is advised, by the above procedure, that a high level of confidence in the safety or reliability of a nuclear weapon type critical to the Nation's nuclear deterrent could no longer be certified without nuclear testing, or that nuclear testing is necessary to assure the adequacy of corrective measures, the President will be prepared to exercise our "supreme national interests" rights under the Treaty, in order to conduct such testing.

The procedure for such annual certification by the Secretaries, and for advice to them by the NWC, U.S. Strategic Command, and the DOE nuclear weapons laboratories will be embodied in domestic law.

As negotiations on a text drew to a close it became apparent that one member of the CD, India, would not join in a consensus decision to forward the text to the United Nations for its adoption. After consultations among countries supporting the text. Australia requested the President of the U.N. General Assembly to convene a resumed session of the 50th General Assembly to consider and

take action on the text. The General Assembly was so convened, and by a vote of 158 to 3 the Treaty was adopted. On September 24, 1996, the Treaty was opened for signature and I had the privilege, on behalf of the United States, of being the first to sign the Treaty.

The Treaty assigns responsibility for overseeing its implementation to the Comprehensive Nuclear Test-Ban Treaty Organization (the "Organization"), to be established in Vienna. The Organization, of which each State Party will be a member, will have three organs: the Conference of the State Parties, a 51-member Executive Council, and the Technical Secretariat. The Technical Secretariat will supervise the operation of and provide technical support for the International Monitoring System, operate the International Data Center, and prepare for and support the conduct of on-site inspections. The Treaty also requires each State Party to establish a National Authority that will serve as the focal point within the State Party for liaison with the Organization and with other States Parties.

The Treaty will enter into force 180 days after the deposit of instruments of ratification by all of the 44 states listed in Annex 2 to the Treaty, but in no case earlier than 2 years after its being opened for signature. If, 3 years from the opening of the Treaty for signature, the Treaty has not entered into force, the Secretary-General of the United Nations, in his capacity as Depositary of the Treaty, will convene a conference of the states that have deposited their instruments of ratification if a majority of those states so requests. At this conference the participants will consider what measures consistent with international law might be undertaken to accelerate the ratification process in order to facilitate the early entry into force of the Treaty. Their decision on such measures must be taken by consensus.

Reservations to the Treaty Articles and the Annexes to the Treaty are not permitted. Reservations may be taken to the Protocol and its Annexes so long as they are not incompatible with the object and purpose of the Treaty. Amendment of the Treaty requires the positive vote of a majority of the States Parties to the Treaty, voting in a duly convened Amendment Conference at which no State Party casts a negative vote. Such amendments would enter into force 30 days after ratification by all States Parties that cast a positive vote at the Amendment Conference.

The Treaty is of unlimited duration, but contains a "supreme interests" clause entitling any State Party that determines that its supreme interests have been jeopardized by extraordinary events related to the subject matter of the Treaty to withdraw from the Treaty upon 6-month's notice.

Unless a majority of the Parties decides otherwise, a Review Conference will be held 10 years following the Treaty's entry into force and may be held at 10-year intervals thereafter if the Conference of the States Parties so decides by a majority vote (or more frequently if the Conference of the States Parties so decides by a two-thirds vote).

The Comprehensive Nuclear Test-Ban Treaty is of singular significance to the continuing efforts to stem nuclear proliferation and strengthen regional and global stability. Its conclusion marks the

achievement of the highest priority item on the international arms control and nonproliferation agenda. Its effective implementation will provide a foundation on which further efforts to control and limit nuclear weapons can be soundly based. By responding to the call for a CTBT by the end of 1996, the Signatory States, and most importantly the nuclear weapon states, have demonstrated the bona fides of their commitment to meaningful arms control measures.

The monitoring challenges presented by the wide scope of the CTBT exceed those imposed by any previous nuclear test-related treaty. Our current capability to monitor nuclear explosions will undergo significant improvement over the next several years to meet these challenges. Even with these enhancements, though, several conceivable CTBT evasion scenarios have been identified. Nonetheless, our National Intelligence Means (NIM), together with the Treaty's verification regime and our diplomatic efforts, provide the United States with the means to make the CTBT effectively verifiable. By this, I mean that the United States:

> will have a wide range of resources (NIM, the totality of information available in public and private channels, and the mechanisms established by the Treaty) for addressing compliance concerns and imposing sanctions in cases of noncompliance; and
>
> will thereby have the means to: (a) assess whether the Treaty is deterring the conduct of nuclear explosions (in terms of yields and number of tests) that could damage U.S. security interests and constraining the proliferation of nuclear weapons, and (b) take prompt and effective counteraction.

My judgment that the CTBT is effectively verifiable also reflects the belief that U.S. nuclear deterrence would not be undermined by possible nuclear testing that the United States might fail to detect under the Treaty, bearing in mind that the United States will derive substantial confidence from other factors—the CTBT's "supreme national interests" clause, the annual certification procedure for the U.S. nuclear stockpile, and the U.S. Safeguards program.

I believe that the Comprehensive Nuclear Test-Ban Treaty is in the best interests of the United States. Its provisions will significantly further our nuclear nonproliferation and arms control objectives and strengthen international security. Therefore, I urge the Senate to give early and favorable consideration to the Treaty and its advice and consent to ratification as soon as possible.

WILLIAM J. CLINTON.

LETTER OF SUBMITTAL

DEPARTMENT OF STATE,
Washington, September 20, 1997.

THE PRESIDENT: I have the honor to submit to you the Comprehensive Nuclear Test-Ban Treaty (the Treaty, or CTBT), opened for signature at New York on September 24, 1996, and signed by the United States of America and 145 other countries to date.

The Treaty includes as integral parts, two Annexes and a Protocol (on verification) with two Annexes. Accompanying this Report for the information of the Senate, is an Article-by-Article analysis of the Treaty.

INTRODUCTION

The Treaty represents the culmination of nearly four decades of efforts, beginning during the Eisenhower Administration, to ban completely all nuclear weapon test explosions, and any other nuclear explosions, wherever they might be carried out. Since 1963, the carrying out of a nuclear weapon test explosion, or any other nuclear explosion, in the atmosphere, in outer space or underwater has been prohibited by the Treaty Banning Nuclear Weapon Tests in the Atmosphere, in Outer Space and Under Water (the Partial or Limited Test-Ban Treaty, or LTBT), done at Moscow August 5, 1963. More than 120 states are party to the LTBT, but importantly two of the formally acknowledged nuclear weapon states, China and France, are not. During the 1977–1980 time frame, trilateral negotiations on a comprehensive test ban were carried out by the United States, the United Kingdom, and the Soviet Union. These negotiations reached an impasse over a number of issues, including seismic monitoring. They continued following the Soviet invasion of Afghanistan in early December 1979 and were adjourned in November 1980.

In the decade that followed, efforts to explore the verification needs for a comprehensive test ban were undertaken by the Group of Scientific Experts, a group of the Conference on Disarmament (the CD), while strong calls were made for negotiations on a test ban by many non-nuclear weapon states. In making their case for negotiation of a test ban, these non-nuclear weapon states repeatedly referred to the preambular expressions of support for continued negotiations on a test ban contained in the LTBT and the Treaty on the Non-Proliferation of Nuclear Weapons (NPT), done at Washington, London, and Moscow July 1, 1968.

Since December 11, 1990, the United States and the Russian Federation (as successor to the Soviet Union) have been legally precluded from conducting nuclear explosions with yields greater than

150 kilotons in the one environment to which the 1963 LTBT was not applicable, beneath the surface of the earth, by the Treaty on the Limitation of Underground Nuclear Weapon Tests (TTBT) and the Treaty on Underground Nuclear Explosions for Peaceful Purposes (PNET), signed on July 3, 1974 and May 28, 1976 respectively. Following signature of these Treaties and pending their entry into force, the United States and the Soviet Union in 1976 each publicly stated its intention to observe the 150 kiloton limit, provided that the other did likewise. Following agreement on new verification Protocols, the two Treaties were ratified and entered into force on December 11, 1990.

The CTBT will prohibit all nuclear weapon test explosions and any other nuclear explosion, however small, and it does so in each and every environment, without exception.

The text of the Treaty was negotiated in Geneva, between January 1994 and August 1996, in the CD. Nearly all of the member states of the CD, initially numbering 38, but subsequently expanded to 61 in June 1996, participated actively in the negotiations. On behalf of the United States, representatives of the Arms Control and Disarmament Agency, the Department of State, the Chairman of the Joint Chiefs of Staff, the Intelligence Community, the Office of the Secretary of Defense, and the Department of Energy all played important roles in the development of the Treaty through participation in the negotiations in Geneva and the development of policy in Washington. Throughout the negotiating process, the United States consulted and worked closely with its Western Allies in the CD, as well as with Israel and with the non-Western nuclear weapon state members of the CD, Russia and China.

BACKGROUND INFORMATION

When the United States made the decision in mid-1993 actively to pursue conclusion of a comprehensive test-ban treaty it did so in an environment, both international and domestic, significantly different from that in which negotiations of a test ban had taken place from 1977 to 1980. The dissolution of the Soviet Union and the appreciation of the magnitude of the security threat posed by the possible proliferation of states having nuclear weapon capabilities fostered a new look at the impact a comprehensive test-ban could have on constraining such threats. Additional factors included the redress of the major imbalance in conventional forces in Europe brought about by the Treaty on Conventional Armed Forces in Europe (the CFE Treaty), done at Paris December 19, 1990, which greatly reduced the levels of tanks, armored combat vehicles, artillery, attack aircraft, and helicopters, and the major reduction in the strategic forces of the United States and the former Soviet Union resulting from the START negotiations. Finally, it was determined that the United States had no current military requirement for new-design nuclear warhead production. Accordingly, the constraints of a test ban could be accepted. In contrast to earlier comprehensive test ban negotiations, all the negotiating parties were willing to accept relatively intrusive verification measures, including extensive in-country sensors and on-site inspections.

In addition, legislation was signed into law by President Bush in 1992 that directed the United States to stop all testing by Septem-

ber 30, 1996, provided no other state tested after that date, and to engage in negotiations to achieve a comprehensive test-ban by that date. In the meantime, the legislation (sponsored by Senators Hatfield, Exon, and Mitchell) precluded the expenditure of funds for more than 15 nuclear weapon tests (including three for the United Kingdom) and permitted the expenditure of appropriated funds for such tests only if they were found by the Executive Branch to be necessary for the sole purpose of maintaining the reliability and safety of the existing nuclear weapon stockpile.

As regards the international climate that contributed to the U.S. decision actively to support negotiation and conclusion of a comprehensive test-ban, the then forthcoming 1995 Review and Extension Conference of the NPT focused new light on the importance of a comprehensive test-ban to the member states of the NPT and to the continued viability of the nonproliferation regime. The United States was deeply committed to the indefinite and unconditional extension of the NPT, and it became clear that a comprehensive test-ban could make a major contribution to achievement of the NPT's permanent extension. The decision to support a concerted effort to conclude a comprehensive test-ban was thus based on the careful assessment that any possible risks were outweighed by the benefits to United States nonproliferation and other security objectives in constraining the spread and improvement of nuclear weapon capabilities. However, the U.S. decision to pursue actively a comprehensive test-ban was conditioned on having the capability to ensure a high level of confidence in the safety and reliability of the U.S. stockpile and to achieve an effective verification regime for the Treaty. At the same time, the United States sought to ensure protection of U.S. interests with respect to the scope, membership, and termination provisions of the Treaty.

The negotiations in the CD continued throughout 1994, 1995, and most of 1996. The CD was working to meet a target date for signature of the Treaty in the fall of 1996 set by the United Nations General Assembly (UNGA) resolution unanimously adopted in December 1995. The objective was for the CD to forward the agreed-upon text to a resumed 50th session of the UNGA, which could then request the Secretary-General to open the Treaty for signature. As the 1996 CD session drew close to an end it became clear that one state, India, would block consensus action by the CD to forward the text to the UNGA. The member states of the CD that supported the text thereupon began to consider other means by which the text that had resulted from the deliberations within the CD's AD Hoc Committee on a Nuclear Test-Ban might be forwarded to the UN. Australia took the lead in its individual capacity, not as a member of the CD, and formally requested that the UNGA President convene a resumed session of the 50th General Assembly for the purpose of considering and acting upon the text of a comprehensive test-ban treaty. At its resumed session the General Assembly adopted the text of the Treaty by a vote of 158 to 3 with 5 abstentions. Thereafter the Secretary-General opened the Treaty for signature on September 24, 1996. At the same time, the Signatory States held a series of consultations regarding the Text on the Establishment of a Preparatory Commission for the Comprehensive Nuclear Test-Ban Treaty Organization that had been

developed at the CD. At a meeting of Signatory States of the CTBT on November 19, 1996, the Signatory States, at that time numbering 130, adopted by acclamation the Text, thereby establishing the Preparatory Commission for the Organization. This document provides the basis for the work of the Preparatory Commission, which is the entity responsible for preparing detailed procedures for implementing the Treaty and for laying the foundation for the operation of the Comprehensive Nuclear Test-Ban Treaty Organization (the Organization) that is established by the Treaty and will come into being once the Treaty enters into force. The Text, which is relevant to but not part of the Treaty, is enclosed for the information of the Senate. On November 20, 1996, the Preparatory Commission convened its first meeting (which was reconvened and concluded in March 1997), and began the process of developing Rules of Procedure, Financial Regulations, and other necessary measures for the future operation of the Organization in implementing the Treaty.

THE TREATY: ITS STRUCTURE AND CONTENT

The Comprehensive Nuclear Test-Ban Treaty consists of a Preamble, 17 Articles, and two Annexes, as well as the Protocol to the Comprehensive Nuclear Test-Ban Treaty (the Verification Protocol) having three Parts and two Annexes. The basic obligations of the States Parties are set forth in Article I. Specifically, each State Party undertakes: (a) not to carry out any nuclear weapon test explosion, or any other nuclear explosion; (b) to prohibit and prevent any such nuclear explosion at any place under its jurisdiction or control; and (c) to refrain from causing, encouraging, or in any way participating in the carrying out of any such nuclear explosion by anyone else. The prohibitions and undertakings thus apply to geographic areas (i.e., any place under the jurisdiction or control of a State Party), as well as to the activities of a State Party (e.g., the carrying out of any nuclear weapon test explosion or any other nuclear explosion) wherever such activity might take place.

ORGANIZATIONAL BODIES

The Treaty establishes the Comprehensive Nuclear Test-Ban Treaty Organization (the Organization, or CTBTO) located in Vienna, Austria, as the body that is charged with achieving the object and purpose of the Treaty and overseeing implementation of the provisions of the Treaty and the international verification system described in the Protocol to the CTBT. Each State Party to the Treaty is a member of the Organization, which itself has three organs: the Conference of the States Parties, the Executive Council, and the Technical Secretariat.

The Conference of the States Parties (the Conference) is the body responsible for overseeing implementation of the Treaty, the activities of the Executive Council and the Technical Secretariat, and the States Parties' compliance with the Treaty's provisions. It is charged with considering and reviewing scientific and technological developments that could affect the operation of the Treaty, and with taking the necessary measures to ensure compliance with the Treaty and to redress and remedy any situation that contravenes the provisions of the Treaty.

The Executive Council is composed of 51 member states, elected by the Conference of the States Parties. Annex 1 to the Treaty assigns each potential State Party to one of six geographical regions. Each region will present to the Conference designations of States Parties for seats on the Executive Council. Designations will be based, inter alia, on a State Party's nuclear capabilities relevant to the Treaty as well as the number of monitoring facilities and financial contributions to the Organization. The United States expects to serve continuously on the Executive Council. The Executive Council is the executive body of the Organization, responsible for the supervision of the Technical Secretariat. The Executive Council serves as the liaison with the National Authority of each State Party, and carries out the preparatory and follow-up work for sessions of the Conference. The Executive Council has important functions with respect to verification and compliance: it is directed to facilitate cooperation among the States Parties through the exchange of information; to facilitate consultations among States Parties; to receive, consider, and act on requests for on-site inspections; and to take action on the reports of such inspections. It may make recommendations to the Conference based on the results of on-site inspections, or, if a case is urgent, take a matter directly to the United Nations.

The Technical Secretariat is responsible, inter alia and most importantly, for supervising the operation of the International Monitoring System (the IMS), operating the International Data Center (the IDC), and the conduct of on-site inspections. It is headed by a Director-General, appointed by the Conference, who will serve a four-year term and not more than two terms. Data from the monitoring stations in the IMS is provided by States directly or through their own national data centers, to the IDC, where it is processed, analyzed and stored, and made available to all States Parties. The IDC products that will be made available to all States Parties at no cost include: standard screened event bulletins, executive summaries of data acquired, and integrated lists of all signals detected by the IMS.

NATIONAL IMPLEMENTATION MEASURES

In addition to the implementing organs established by the Treaty itself, the Treaty requires each State Party to establish a National Authority to serve as a focal point for liaison with the Organization and with other States Parties. States Parties are also expressly required to take the steps necessary to prohibit natural and legal persons on their territory and natural and legal persons in any other place under their jurisdiction or control, from undertaking any activity that the State Party itself is prohibited from undertaking. In addition, they are required to prohibit their nationals from undertaking such activities anywhere. These prohibitions complement the basic obligation of each State Party under Article I to "prohibit and prevent" nuclear explosions at any place under its jurisdiction or control.

VERIFICATION OF COMPLIANCE

The verification regime established by the Treaty has four separate but interdependent components: an international monitoring

system, consultation and clarification procedures, on-site inspections, and confidence-building measures. The Protocol to the Treaty contains the specific objectives, authorities, functions, and requirements for the international monitoring system, on-site inspections, and confidence-building measures. The Treaty also provides for the States Parties to take measures necessary to ensure compliance and to redress a situation that contravenes the Treaty, including the possibility of the imposition of sanctions. In conjunction with States Parties' obligations to provide data and accept on-site inspections, provision is made for the protection of sensitive facilities and confidential information and data provided by States Parties. The Treaty also specifically recognizes States Parties' rights to use information obtained by national technical means in a manner consistent with generally recognized principles of international law, including the respect for the sovereignty of states, for purposes of verification generally, and in particular, as the basis for an on-site inspection request.

Each State Party is required to maintain and operate, in accordance with agreements or arrangements between it and the Organization, those facilities for seismological, radionuclide, hydroacoustical, and infrasound monitoring comprising the IMS, as well as laboratories and related communication facilities, listed in Annex 1 to the Protocol, located on its territory or for which it is otherwise responsible. The Organization is also authorized to enter into similar agreements or arrangements with states not party to the Treaty as necessary.

For the purpose of clarifying whether a nuclear explosion has been carried out in violation of the Treaty, each State Party has the right to request an on-site inspection. Within specific time frames an inspection request must be processed and referred to the Executive Council, which must take action within 96 hours from the time the request is first received. Approval of the request requires at least 30 affirmative votes of the 51 members of the Executive Council. If the request is approved, the inspection team must arrive at the point of entry no more than six days following the Executive Council's receipt of the request. Following the inspection, an inspection report is provided to all States Parties, and the Executive Council reviews the report and must address any concerns expressed by a State Party as to whether any non-compliance with the Treaty has occurred and whether the right to request an on-site inspection has been abused. If the Executive Council determines that further actions may be necessary, it may make recommendations to the Conference on measures to redress the situation.

Recognizing that signals from non-nuclear explosions might create ambiguities, the Treaty calls upon each State Party, on a voluntary basis, to participate in a number of confidence-building measures, including the provision of information relating to any chemical explosions using over 300 metric tons of TNT-equivalent blasting material that it intends to carry out.

ENTRY INTO FORCE, DURATION, AND WITHDRAWAL FROM THE TREATY

Annex 2 to the Treaty names the 44 states that are members of the Conference on Disarmament and that are also listed in Table

1 of the International Atomic Energy Agency's April 1996 edition of "Nuclear Power Reactors in the World" or listed in Table I of the IAEA's December 1995 edition of "Nuclear Research Reactors in the World." Pursuant to paragraph 1 of Article XIV of the Treaty, these 44 states are those whose ratification is required for the Treaty to enter into force. Once those states have ratified, the Treaty will enter into force 180 days following the deposit of the last instrument of ratification by the 44, or two years after September 24, 1996 (the date on which the Treaty was opened for signature), whichever is later.

By virtue of this Article XIV provision, each of the 44 named states could effectively block the entry into force of the Treaty. The Treaty therefore provides that three years after the opening of the Treaty for signature, if it has not yet entered into force, a majority of the states that have deposited their instruments of ratification can request the Secretary-General of the United Nations (the designated Depositary for the Treaty) to convene a conference to consider what measures, consistent with international law, might be undertaken to accelerate the ratification process in order to facilitate the Treaty's entry into force. This conference would not, however, have the authority to waive the requirement for ratification by the 44 designated states.

The Treaty is of unlimited duration. The Treaty contains a "supreme interests" clause, in accordance with which a State Party may withdraw from the Treaty upon six month's notice to all the other States Parties, the Executive Council, the Depositary, and the United Nations Security Council, if it determines that extraordinary events related to the subject matter of the Treaty have jeopardized its supreme interests. A State Party exercising this right is required to provide, along with its notice of withdrawal, a statement of the extraordinary event or events that it regards as having jeopardized its supreme interests.

RESERVATIONS AND AMENDMENTS

Reservations may not be taken to the Articles of the Treaty or the Annexes to the Treaty. Reservations may be taken to the Protocol and the Annexes thereto so long as they are not incompatible with the object and purpose of the Treaty.

The procedures for amendment of the Treaty, the Protocol or the Annexes to the Protocol provide that any State party may propose an amendment, which, if considered and adopted at an Amendment Conference by a majority of States Parties and without a negative vote by any State Party, shall enter into force for all States Parties 30 days after deposit of an instrument of ratification or acceptance by all those States Parties that voted for the amendment at the Amendment Conference.

In addition, the Treaty provides that, for the purpose of ensuring the viability and effectiveness of the Treaty, the Parties may make changes of an administrative or technical nature to Part I (dealing with the International Monitoring System and the International Data Center) and Part III (Confidence-Building Measures) of the Protocol, as well as the Annexes to the Protocol, in accordance with a separate procedure and without going through the formal amendment process.

COSTS

The expenses of the Organization are to be borne by the States Parties in accordance with the United Nations scale of assessments, adjusted to take into account differences in membership between the United Nations and the Organization. It is anticipated that the United States share will be approximately 25 percent. The Treaty provides that each State Party establishing or upgrading International Monitoring Facilities (IMS) may reduce its annual assessed contribution by up to 50 percent pursuant to agreement with the Organization and, if applicable, the state(s) on whose territory the facility is based. The expenses of the Preparatory Commission are to be divided in the same manner as the expenses of the Organization, and provision is made for giving credit to States Parties for their contribution to the Preparatory Commission as offsets against their assessed contributions for the regular budget of the Organization.

NATIONAL IMPLEMENTATION

As noted above, the Treaty requires that each State Party establish a National Authority that will function as its liaison with the Organization and other States Parties. Each State Party is required to inform the Organization of its National Authority upon entry into force of the treaty for it.

In order for the United States to ensure full compliance with its obligations under the Treaty, implementing legislation will be required. Such legislation will be submitted separately to the Congress. In addition, any environmental documentation that may be deemed appropriate will be forwarded separately to the Senate for its information.

CONCLUSION

I believe that this Treaty, by banning all nuclear weapon test explosions and all other nuclear explosions, as described above, and by establishing a comprehensive verification system to monitor compliance and assist States Parties in making compliance decisions, will significantly strengthen the national security of the United States and its Allies and will contribute to global and regional security as well. I therefore recommend that the Treaty be transmitted to the Senate for its advice and consent to ratification at the earliest possible time.

Respectfully submitted,

MADELEINE ALBRIGHT.

Enclosures: As stated.

ARTICLE-BY-ARTICLE ANALYSIS OF THE COMPREHENSIVE NUCLEAR TEST-BAN TREATY

The Comprehensive Nuclear Test-Ban Treaty ("The Treaty" or "CTBT") consists of the Articles of the Treaty and the following documents:

Annex 1 to the Treaty - List of States Pursuant to Article II, Paragraph 28;

Annex 2 to the Treaty - List of States Pursuant to Article XIV;

Protocol to the Comprehensive Nuclear Test-Ban Treaty;

Annex 1 to the Protocol (lists of monitoring stations); and

Annex 2 to the Protocol - List of Characterisation Parameters for International Data Centre Standard Event Screening.

Each of these documents is an integral part of the Treaty, and therefore has the same legally binding status as the Articles.

PREAMBLE

The Preamble to the Treaty provides an insight into the object and purpose of the Treaty and States Parties' views and expectations in entering into the Treaty.

The first paragraph records the States Parties' appreciation of recent achievements in the field of nuclear arms control and nonproliferation. These achievements have included bilateral agreements between the United States and the former Soviet Union, e.g., the INF and START I and II agreements, and multilateral achievements such as the indefinite extension of the Nuclear Non-Proliferation Treaty (the NPT) with its attendant document "Principles and Objectives for Non-Proliferation and Disarmament."

Paragraph two of the Preamble reflects the States Parties' underscoring of the importance of full implementation of the agreements and measures referred to in the first paragraph.

Paragraph three reflects the States Parties' conviction that the "present international situation" is conducive to further measures toward nuclear disarmament and nonproliferation efforts. The reference to the present situation is a reference primarily to the easing of East-West tensions associated with the end of the Cold War. In this context, the paragraph also states a declaration of intent on the part of the States Parties to take further effective measures towards nuclear disarmament and against the proliferation of nuclear weapons in all its aspects. As indicated in

preambular paragraph 5, the Treaty is viewed as an effective measure against proliferation "in all its aspects" because the cessation of all nuclear explosions will have the effect of constraining not only nuclear weapons development by nonnuclear-weapon states ("horizontal" proliferation), but also the effect of constraining the qualitative improvement of nuclear weapons and of ending the development of advanced new types of nuclear weapons by the nuclear-weapon states ("vertical" proliferation). This language does not imply that the Treaty prohibits the development of new types of nuclear weapons, or the improvement of existing weapons; it does recognize that the Treaty will have the effect of constraining such activities.

Paragraph four is a restatement of the need for progress toward reducing nuclear weapons, and a reiteration of the ultimate goal of eliminating nuclear weapons and achieving "general and complete disarmament under strict and effective international control" that appears or is referenced, in almost identical form, in most of the arms control agreements negotiated over the past thirty years that deal in any way with nuclear weapons, e.g., the NPT, the Treaty Banning Nuclear Weapon Tests in the Atmosphere, in Outer Space and Underwater (the LTBT), the Threshold Test-Ban Treaty and the Anti-Ballistic Missile Treaty.

Paragraph five notes the States Parties' recognition that the cessation of all nuclear explosions will constitute an effective measure of disarmament and nonproliferation in all its aspects. The paragraph states that the cessation of nuclear explosions will constrain development and qualitative improvement of nuclear weapons and end the development of advanced new types of nuclear weapons. These effects are recognized as constituting "an effective measure of nuclear disarmament and non-proliferation in all its aspects."

The sixth paragraph sets forth the States Parties' recognition that because of the effects described in paragraph five (the term "thus" is a reference to the antecedent description of the effects of an end to nuclear explosions), an end to all nuclear explosions will be a meaningful step in the fulfillment of a systematic process toward nuclear disarmament.

Paragraph seven records the States Parties' belief that the most effective way to achieve an end to all nuclear explosive testing is by means of a universal, and internationally and effectively verifiable, comprehensive nuclear test ban treaty, and notes that this has long been a priority item on the international disarmament and nonproliferation agenda.

Paragraph eight notes that the Parties to the 1963 Limited Test-Ban Treaty expressed the hope in that Treaty that all test explosions of nuclear weapons would be banned for all time, i.e., that nuclear explosions in the single remaining environment in which they were not banned by the 1963 Treaty, underground, would eventually be banned.

Paragraph nine notes that the Treaty could contribute to the protection of the environment.

Finally, paragraph ten affirms the purpose of attracting the adherence of all states to the Treaty and its objective to contribute effectively (through the "cessation of all nuclear weapon test

explosions and all other nuclear explosions") to the prevention of proliferation of nuclear weapons in all its aspects, to the process of disarmament, and therefore to the enhancement of international peace and security. Paragraph 10 emphasizes that the CTBT's ban on all nuclear explosions has the effect of contributing to the prevention of the proliferation of nuclear weapons and to the process of nuclear disarmament.

ARTICLE I - BASIC OBLIGATIONS

Article I consists of two paragraphs that set forth the basic obligations of the States Parties to the Treaty. The Article requires each State Party: not to carry out any nuclear weapon test explosion or any other nuclear explosion; to prohibit and prevent any such nuclear explosion at any place under its jurisdiction or control; and 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.

The text of Article I is based on, and similar to, Article I of the LTBT, which entered into force on October 10, 1963.

In paragraph 1 of Article I, each State Party undertakes, *inter alia*, not to "carry out any nuclear weapon test explosion or any other nuclear explosion." This means that each State Party to the Treaty is prohibited from carrying out a nuclear weapon test explosion or any other nuclear explosion anywhere in any environment, including underground. Thus, the Treaty completes the task that was begun in the LTBT, which prohibits nuclear weapon test explosions and any other nuclear explosions in three environments but does not prohibit underground nuclear explosions.

During the negotiation of the Treaty, the question arose whether it was necessary to state in the text that the obligation not to carry out any nuclear weapon test explosion or any other nuclear explosion extended to all environments or to enumerate the all-inclusive four environments to which the obligation applies, i.e., in the atmosphere, in outer space, underwater, and underground. By not specifying the environments in Article I, the Treaty avoids any confusion about possible loopholes. The prohibition on carrying out a nuclear weapon test explosion or any other nuclear explosion applies universally.

Nuclear Explosions for Peaceful Purposes

During the negotiation of the LTBT, the phrase "or any other nuclear explosion" was included for the specific purpose of prohibiting explosions of nuclear devices for peaceful applications, so-called "peaceful nuclear explosions" or "PNEs." LTBT negotiators recognized that any nuclear explosion could provide military benefits, and therefore that without the inclusion of this phrase, a State Party could conduct nuclear explosions providing valuable military benefits on the pretense that they were solely peaceful purposes explosions and not "nuclear weapon test explosions."

During much of the negotiation of the Treaty, one delegation in particular, China, sought to retain the possibility of carrying out underground nuclear explosions for peaceful purposes, citing Article V of the NPT, which recognizes that, for reasons of non-discrimination, non-military benefits that might be derived from peaceful applications of nuclear explosions would need to be available to non-nuclear weapon States Parties.

All delegations, after careful consideration, ultimately accepted the inclusion of the phrase "or any other nuclear explosion" in Article I of the Treaty, recognizing that PNEs would be prohibited. However, it is relevant to note that language was inserted into paragraph 1 of Article VIII providing that the first Review Conference, if any State Party so requests, may consider the possibility of permitting the conduct of underground nuclear explosions for peaceful purposes. If the Review Conference decides by consensus that such nuclear explosions may be permitted, it may recommend to States Parties an appropriate amendment that would preclude any military benefits of such nuclear explosions. Any such proposed amendment would require consensus approval for adoption, and would not enter into force until ratified by those States Parties that voted for the amendment, in accordance with the provisions of Article VII. Thus, the Treaty could not be amended to permit the conduct of underground nuclear explosions for peaceful purposes without the approval of the United States.

Activities Not Affected By The Treaty

The U.S. decided at the outset of negotiations that it was unnecessary, and probably would be problematic, to seek to include a definition in the Treaty text of a "nuclear weapon test explosion or any other nuclear explosion" for the purpose of specifying in technical terms what is prohibited by the Treaty. It is important to emphasize that Article I prohibits only nuclear explosions, not all activities involving a release of nuclear energy. It is clearly understood by all negotiating parties, as a result of President Clinton's announcement on August 11, 1995, that the U.S. will continue to conduct a range of nuclear weapon-related activities to ensure the safety and reliability of its nuclear weapons stockpile, some of which, while not involving a nuclear explosion, may result in the release of nuclear energy. Such activities, a number of which are planned as part of the Stockpile Stewardship and Management Program (SSMP), could include: computer modeling; experiments using fast burst or pulse reactors; experiments using pulse power facilities; inertial confinement fusion (ICF) and similar experiments; property research of materials, including high explosives and fissile materials, and hydrodynamic experiments, including subcritical experiments involving fissile material. None of these activities will constitute a nuclear explosion. Similarly, activities related to the operation of nuclear power and research reactors and the operation of accelerators are not prohibited pursuant to Article I, despite the fact that such activities may result in the release of nuclear energy. The examples of activities not prohibited by the Treaty cited above are not all-inclusive, but are illustrative.

Concerning ICF, the U.S. statement made at the 1975 NPT Review Conference established that energy sources "involving nuclear reactions initiated in millimeter-sized pellets of fissionable and/or fusionable material by lasers or by energetic beams of particles, in which the energy

releases, while extremely rapid, are designed to be and will be non-destructively contained within a suitable vessel" do not constitute "a nuclear explosive device within the meaning of the NPT or undertakings in IAEA safeguards agreements against diversion to any nuclear explosive device." Thus, such energy releases at the planned National Ignition Facility, as well as at existing facilities such as the NOVA laser facility, are not considered nuclear explosions and are not prohibited by the Treaty.

With respect to the obligation "not to carry out" any nuclear explosion, the negotiating record reveals that Article I does not limit in any way a State Party's ability to conduct activities in preparation for a nuclear weapon test explosion or any other nuclear explosion. During the negotiations, a proposal to prohibit such preparations was rejected as being unnecessary, too difficult to define, and too complicated and costly to verify. In addition, the U.S. opposed this proposal because it might interfere with its ability to maintain the basic capability to resume nuclear test activities prohibited by the Treaty should the United States exercise its "supreme interests" rights pursuant to Article IX and withdraw from the Treaty - one of the Treaty Safeguards announced by the White House on August 11, 1995.

Although preparations would not constitute non-compliance, a State Party could use the consultation and clarification procedures set forth in Article IV to address concerns about such preparations. In addition, irrespective of the CTBT, any state with information regarding another state's preparations to conduct a nuclear explosion could bring the matter directly to the attention of the UN Security Council.

The United States understands that Article I, paragraph 1 does not prohibit any activities not involving nuclear explosions that are required to maintain the safety, security, and reliability of the U.S. nuclear stockpile, to include: design, development, production, and remanufacture of nuclear weapons, replacement of weapon parts, flight testing of weapon components, engineering tests of the mechanical and electrical integrity of weapon components under a variety of environmental conditions, and changes to weapons. The United States also understands that the CTBT does not prohibit disposal or rendering safe of damaged weapons and terrorist devices, and experiments not involving nuclear explosions to develop render-safe methods.

Finally, the obligation "not to carry out any nuclear weapon test explosion or any other nuclear explosion" does not place limitations on the ability of the United States to use nuclear weapons. As noted above, the phrase "or any other nuclear explosion" is identical in meaning to that of the same text in the LTBT, where it was clearly understood that the phrase would not apply to a prohibition of the use of nuclear weapons in the event of war. Similarly, the CTBT negotiating record demonstrates that the prohibitions in Article I do not apply to the use of nuclear weapons. The U.S. position, which was repeated on numerous occasions, was that any proposed undertakings relating to the use of nuclear weapons were totally beyond the scope of this Treaty and the mandate for its negotiation. Moreover, the Preamble reflects this view in that it does not in any way address the issue of the use of nuclear weapons. Thus, Article I of the Treaty cannot

be deemed to prohibit the use of nuclear weapons or restrict the exercise of the right of self-defense recognized in Article 51 of the Charter of the United Nations.

Obligation to "Prohibit and Prevent"

Paragraph 1 of Article I also obligates each State Party to prohibit and prevent any nuclear weapon test explosion or any other nuclear explosion at any place under its jurisdiction or control. This provision represents an evolution of the LTBT formulation in that it separates the obligation "not to carry out" from the obligation to "prohibit and prevent." CTBT negotiators adopted this formulation in order to make clear that the obligation "not to carry out" is an unqualified ban on activities of the State Party, while the requirement to "prohibit and prevent" is directed at activities of other states and of non-state entities that are conducted on the territory of the State Party or at places under its jurisdiction or control.

Delegations recognized that it would be difficult, if not impossible, for a State Party to accept an obligation not only to prohibit, but to prevent any nuclear weapon test explosion or any other nuclear explosion in a place beyond its jurisdiction and control. Examples of places beyond the jurisdiction or control of a State Party include the high seas and, with certain exceptions, the territory of another state. Because a State Party might not be able to prevent a nuclear explosion conducted by another state or entity from occurring in such places, each State Party's obligation to "prohibit and prevent" any nuclear weapon test explosion and any other nuclear explosion is limited to places over which it has jurisdiction or control.

Obligation not to "Cause, Encourage, or Participate In"

In paragraph 2 of Article I, each State Party undertakes 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. This provision, drawn from the LTBT, prevents a State Party from doing indirectly what it has agreed to refrain from doing directly. For example, a State Party may not provide a corporation with the money and technology necessary to carry out a nuclear explosion on its behalf. Note that, although the Article I obligation to "prohibit and prevent" extends only to places under a State Party's jurisdiction or control, as discussed above, a State Party would be in violation of Article I if it were established that it had caused, encouraged, or participated in a nuclear explosion, even though the explosion may have occurred in a place not under the jurisdiction or control of the State Party and was carried out by another state or non-state entity.

ARTICLE II - THE ORGANIZATION

Article II consists of 57 paragraphs, divided into five sections. The first section establishes the Comprehensive Nuclear Test-Ban Treaty Organization and its three constituent organs (the Conference of the States Parties, the Executive Council, and the Technical Secretariat), which are charged with implementing the Treaty, and sets forth general provisions regarding the Organization. The Conference consists of all States Parties and is the ultimate policy-making body for the Treaty. The Executive Council consists of 51 members, elected by the Conference on the basis of designation by the States Parties in each of the six geographic regions according to several criteria, and is the executive authority for the Treaty. The Technical Secretariat will include the International Data Center, and is the organ charged with conducting the international verification provided for in the Treaty.

The next three sections delineate the composition, procedures, powers and functions of the Conference, the Executive Council, and the Technical Secretariat, respectively. The last section establishes the privileges and immunities necessary for the Organization, delegates and representatives and the Director General and his or her staff to carry out their functions.

Section A (paragraphs 1 through 8) of Article II sets forth the general provisions relating to the Organization.

Paragraph 1 of Article II provides that the States Parties to the Treaty establish the Organization to achieve the object and purpose of the Treaty, to ensure the implementation of its provisions, including those for international verification of compliance with it, and to provide a forum for consultation and cooperation among States Parties. The language "to achieve the object and purpose of the Treaty" is not intended to empower the Organization to seek to expand the obligations of Article I of the Treaty, or to give the Organization responsibilities in the area of nuclear disarmament and nonproliferation beyond that derived from the obligations of Article I.

Paragraph 2 of Article II provides that all States Parties to the Treaty are members of the Organization and that a State Party may not be deprived of its membership in the Organization. However, pursuant to paragraph 11 of this Article, a member may be deprived of its vote in the Organization if it has failed to pay its financial contribution for two successive years. Additionally, pursuant to paragraph 2 of Article V, a State Party's rights and privileges under the Treaty may be restricted or suspended by the Conference if it fails to fulfill a request made by the Conference or the Executive Council to redress a compliance problem. "Rights and privileges" include, for example, participation in the exchange of International Monitoring System (IMS) data, pursuant to Article IV, as well as the right to vote.

Paragraph 3 of Article II states that the seat of the Headquarters of the Organization shall be Vienna, Republic of Austria.

Paragraph 4 of Article II establishes, as organs of the Organization: the Conference of the States Parties, the Executive Council, and the Technical Secretariat, which will include the International Data Center (IDC).

Paragraph 5 of Article II requires each State Party to cooperate with the Organization in the exercise of its functions. This paragraph further requires States Parties to consult among themselves, either directly or through the Organization or other international procedures such as those within the framework of the United Nations, on any matter raised that relates to the object and purpose of the Treaty, or the implementation of its provisions. The importance the Treaty places upon cooperation and consultation between States Parties and between States Parties and the Organization is evident throughout the text. In particular, Paragraphs 29 through 33 of Article IV set forth procedures that may be used in the event a State Party has concerns about possible non-compliance and seeks to clarify and resolve the matter through consultations. It should be noted, however, that pursuant to Paragraph 29 of Article IV, a State Party is not required to engage in such consultations before submitting a request for an on-site inspection.

Paragraph 6 of Article II establishes guidelines for protecting legitimate interests of States Parties during the conduct of activities by the Organization. Specifically, this paragraph states that the Organization must conduct its verification activities in the least intrusive manner possible, consistent with the timely and efficient accomplishment of the purpose for which the activities are undertaken. It further states that the Organization shall request only the information and data necessary to fulfill its responsibilities under the Treaty. Finally, this paragraph requires the Organization to take every precaution to protect the confidentiality of information on civil and military activities and facilities coming to its knowledge in the implementation of the Treaty and, in particular, to abide by the confidentiality provisions set forth in the Treaty.

Paragraph 7 of Article II requires each State Party to treat as confidential and afford special handling to all information and data that it receives in confidence from the Organization in connection with the implementation of the Treaty and to treat such information and data exclusively in connection with its rights and obligations under the Treaty. The purpose of this paragraph is to protect information gathered by the Organization and shared with States Parties for purposes of implementing the Treaty from being used by States Parties for purposes that are not related to the Treaty, e.g., using data, collected during an on-site inspection, for purposes unrelated to the detection of nuclear explosions.

Paragraph 8 of Article II directs the Organization, as an independent body, to seek to utilize existing expertise and facilities, as appropriate, and to maximize cost efficiencies, through cooperative arrangements with other international organizations such as the International Atomic Energy Agency (IAEA). Unless the arrangements are of a minor and normal commercial or contractual nature, paragraph 8 requires that such arrangements be set out in agreements to be submitted to the Conference for its approval, as provided for in subsection (i) of paragraph 26 of this Article.

Paragraph 8 represents a compromise between those states that sought to have the IAEA assigned the responsibility for implementation of the Treaty and those that supported an independent organization with no connection whatsoever to other international organizations. The paragraph makes it clear that, although the Organization will be an independent body, it is authorized and directed to utilize the expertise and facilities that are currently available and, as appropriate, enter into agreements with other international organizations that establish cost-saving, cooperative arrangements. Pursuant to the Host Country Agreement between the Organization and the Government of Austria, the Organization will be located in the Vienna International Centre (VIC) and will be able to take advantage of the services and facilities that are available there. In addition, the Organization's co-location with the IAEA makes it feasible for the Organization, as appropriate, to draw upon the expertise of the IAEA staff and to enter into cooperative arrangements with the IAEA or any other international organization with respect to administrative and other matters.

Paragraph 9 of Article II sets forth the general rules for financing the Organization. Specifically, this paragraph states that the cost of the Organization's activities shall be paid annually by the States Parties in accordance with the UN scale of assessments, adjusted for differences in membership between the UN and the Organization. This provision is subject to Paragraph 10 of the same Article (discussed below), and to Paragraph 22 of Article IV, which provides that a State Party that is hosting or otherwise taking responsibility for an IMS facility may be able to obtain compensation for certain costs incurred that are associated with the facility by means of an appropriate reduction in its assessed financial contribution to the Organization.

Paragraph 10 of Article II states that the financial contributions of a State Party to the Preparatory Commission shall be deducted in an appropriate way from its contributions to the regular budget. This is understood to mean that at least for a significant period, those States Parties that did not financially contribute to the Preparatory Commission will pay proportionately more of the regular budget than those who did. The provision is intended to encourage states to sign the Treaty before the Treaty enters into force and fosters fairness in financial assessments. The "appropriate way" will be determined by the Organization, taking into account the recommendations of the Preparatory Commission and the need to operate the IMS and the IDC, as well as to conduct on-site inspections following entry into force.

Paragraph 11 of Article II sets forth the provisions for dealing with States Parties that have not made timely payments to the Organization. This paragraph states that a member of the Organization in arrears in the payment of its financial contribution to the Organization shall have no vote in the Organization if the amount of its arrearage equals or exceeds the amount of the contribution due for the preceding two full years. This paragraph further states that the Conference may, nevertheless, permit such a member to vote if it is satisfied that the failure to pay is due to conditions beyond the control of the member. This provision is similar to Article 19 of the UN Charter.

Section B (paragraphs 12 through 23) of Article II specifies the composition, procedures, decision-making, and powers and functions of the Conference of the States Parties.

Paragraph 12 of Article II states that the Conference shall be composed of all States Parties and that each State Party shall have one representative in the Conference, who may be accompanied by alternates and advisers.

Paragraphs 13 and 14 of Article II address the timing and frequency of regular meetings of the Conference. Specifically, paragraph 13 of Article II requires that the Depositary, i.e., the Secretary-General of the U.N., convene the first session of the Conference no more than 30 days after entry into force of the Treaty. Pursuant to paragraph 18, the first meeting must take place in Vienna. Paragraph 14 provides that the Conference shall meet in regular annual sessions unless it decides otherwise.

Paragraphs 15,16 and 17 of Article II contain the provisions for sessions other than the regular sessions, e.g., meetings to address serious problems in implementing the Treaty. Specifically, paragraph 15 of Article II states that special sessions must be held if decided by the Conference, requested by the Executive Council or requested by any State Party, provided that the requesting State Party is supported by a majority of the States Parties. It further states that such sessions shall be convened not more than 30 days after the decision of the Conference, the request by the Executive Council or the attainment of the necessary support for a State Party's request, unless specified otherwise in the decision or request.

Paragraph 16 of Article II confirms that the Conference may be convened in the form of an Amendment Conference in accordance with Article VII, i.e., if requested by the requisite number of States Parties.

Paragraph 17 of Article II states that special sessions may also be convened in the form of a Review Conference, in accordance with Article VIII. Paragraph 1 of Article VIII provides for a Review Conference 10 years after entry into force of the Treaty, unless otherwise decided by a majority of the States Parties. Paragraph 1 of Article VIII states that the purpose of this Review Conference shall be, *inter alia*, to review the operation and effectiveness of the Treaty, with a view to assuring the Conference that the objectives and purposes in the Preamble and the provisions of the Treaty are being realized. Pursuant to Paragraph 2 of Article VIII, the Conference of the States Parties may decide to convene subsequent Review Conferences at 10-year intervals thereafter, or may decide to hold such Review Conferences more frequently.

Paragraph 18 of Article II states that sessions of the Conference shall take place at the seat of the Organization, i.e., Vienna, unless the Conference itself decides otherwise.

Paragraph 19 of Article II addresses Conference rules of procedure and selection of officers of the Conference. Specifically, this paragraph requires the Conference to adopt its rules of procedure

and, at the beginning of each session, to elect its President and such other officers as required, who shall hold office until a new President and other officers are elected at the next session.

Paragraph 20 of Article II stipulates that a majority of the States Parties constitutes a quorum for conducting business.

Paragraph 21 of Article II provides that each State Party shall have one vote when decisions are taken by the Conference. Paragraph 22 of Article II sets forth the rules for voting in the Conference on questions of procedure and of substance. Specifically, this paragraph states that decisions on questions of procedure shall be taken by a simple majority of the members present and voting. On matters of substance, paragraph 22 states that decisions should be taken as far as possible by consensus, but if consensus is not reached on an issue, the Chairman must defer voting on that issue for 24 hours and continue to attempt to reach consensus. Before the end of this period, the Chairman must report to the Conference on his efforts. This paragraph further states that if consensus is still not reached, the Conference shall take the decision by a two-thirds majority of the members present and voting, unless the Treaty specifically provides otherwise.

Finally, this paragraph states that the question of whether a particular issue is one of substance or procedure is itself treated as a matter of substance unless otherwise decided by the Conference by the majority required for decisions on matters of substance, i.e., consensus, but if consensus cannot be achieved, two-thirds of the members present and voting. The purpose of this last provision is to prevent a simple majority of the Conference from circumventing the two-thirds requirement for substantive issues by deciding that particular questions are procedural, and therefore, require only a simple majority.

Paragraph 23 of Article II sets forth the rules for voting that specifically apply when the Conference is fulfilling its obligation to update Annex 1 to the Treaty pursuant to subsection (k) of paragraph 26 of this Article. Annex 1 to the Treaty assigns each state to one of six geographical regions for the purpose of determining Executive Council composition. Paragraph 23 of Article II provides that the Conference, when deciding to add a state to the list of states contained in Annex 1 to the Treaty, must follow the procedures set forth in paragraph 22 of this Article for decisions on matters of substance, i.e., consensus, or if consensus is not possible, decision by two-thirds majority of the members present and voting. For decisions on all other changes to Annex 1 to the Treaty, such as a decision to move a state from one regional grouping to another, paragraph 23 specifies that the Conference must take all such decisions by consensus.

It should be noted that Paragraph 28 of Article II allocates a specific number of seats on the Executive Council to each geographical region. Pursuant to paragraph 29 of Article II, the States Parties assigned to each geographical region must collectively designate States Parties from that region for election as members of the Executive Council, either on the basis of indicative criteria, rotation, or by elections within that geographical region. Accordingly, a decision to change Annex 1 to the Treaty in order to move a State Party from one geographical region to another could have serious political ramifications, and would require the States Parties in each of the two

affected geographical regions to re-examine the manner in which they designate States Parties within their regional group for election to the Executive Council. By adopting a consensus rule for such decisions, the Treaty prevents any one State Party from being forced to change geographic regions and minimizes the potential for problems caused by changes to Annex 1 to the Treaty.

The powers and functions of the Conference are set out in paragraphs 24 through 26 of Article II. Paragraph 24 sets forth the general powers and functions of the Conference as the principal organ of the Organization. Specifically, this paragraph states that the Conference shall consider any questions, matters or issues within the scope of the Treaty, including those relating to the powers and functions of the Executive Council and the Technical Secretariat. Paragraph 24 also states that the Conference may make recommendations and take decisions on any questions, matters or issues within the scope of the Treaty raised by a State Party or brought to its attention by the Executive Council.

Paragraph 25 of Article II requires the Conference to oversee the implementation of, and review compliance with, the Treaty and act in order to promote its object and purpose. This paragraph further states that the Conference shall oversee the activities of the Executive Council and the Technical Secretariat, and may issue guidelines to either of them for the exercise of their functions.

Paragraph 26 of Article II consists of eleven subparagraphs that enumerate the specific powers and responsibilities of the Conference. Subparagraphs 26(a) through (e) provide that the Conference shall: consider and adopt the report of the Organization on the implementation of the Treaty and the annual program and budget of the Organization, submitted by the Executive Council, as well as consider other reports; decide the scale of financial contributions to be paid by States Parties under paragraph 9 of this Article, i.e., make the adjustments to the UN scale of assessments necessary to take into account differences in membership; elect the members of the Executive Council, i.e., ratify the designation made by each of the geographic regions pursuant to paragraph 29 of this Article; appoint the Director-General of the Technical Secretariat; and consider and approve the rules of procedure of the Executive Council submitted by the Executive Council.

Subparagraph 26(f) requires the Conference to consider and review scientific and technological developments that could affect the operation of the Treaty. This subparagraph further states that, in this context, the Conference may direct the Director-General to establish a Scientific Advisory Board to enable the Director-General, in the performance of his or her functions, to render specialized advice in the areas of science and technology relevant to the Treaty to the Conference, the Executive Council or to States Parties. In the event that the Conference decides to create such a Board, this subparagraph requires the Board to be composed of independent experts, serving in their individual capacity, and appointed in accordance with terms of reference adopted by the Conference, i.e., appointed pursuant to selection criteria determined by the Conference, which must include their level of expertise and experience in the particular scientific fields relevant

to the implementation of the Treaty. Note that in addition to, or in lieu of, the establishment of a Scientific Advisory Board, paragraph 51 of this Article authorizes the Director-General, after consultation with the Executive Council, to establish temporary working groups of scientific experts to provide recommendations on specific issues.

Subparagraph 26(g) provides that the Conference must take the necessary measures to ensure compliance with the Treaty and to redress and remedy any situation that contravenes the provisions of the Treaty, in accordance with Article V. (Article V contains measures to redress a situation and to ensure compliance, including sanctions.)

Subparagraph 26(h) provides that, at its first session, the Conference must consider, for approval, any draft agreements, arrangements, provisions, procedures, operational manuals, guidelines and any other documents developed and recommended by the Preparatory Commission for the Organization. Note that pursuant to paragraph 1 of Article IV, the verification regime, including the International Monitoring System, must be capable of meeting the verification requirements of the Treaty upon its entry into force. It is planned that the International Monitoring System and the International Data Centre will be operable at entry into force of the Treaty. Accordingly, the Preparatory Commission will need to develop all of the documents necessary for the establishment and operation of the IMS and the IDC, and for the conduct of on-site inspections for approval by the Conference following entry into force. The Text on the Establishment of a Preparatory Commission specifically directs the Commission to develop and prepare for adoption at the initial session of the Conference of the States Parties operational manuals for seismological monitoring, radionuclide monitoring, hydroacoustic monitoring, infrasound monitoring, the IDC, and all appropriate legal, technical and administrative procedures for the support of on-site inspections. References to these manuals and other relevant documents may be found in Article IV and the Protocol to the Treaty, and the Text on the Establishment of a Preparatory Commission contains specific instructions on the development of such manuals and other documents.

Subparagraph 26(i) requires the Conference to consider for approval agreements or arrangements negotiated by the Technical Secretariat with States Parties, other states and international organizations to be concluded by the Executive Council on behalf of the Organization in accordance with paragraph 38(h) of this Article. Note that pursuant to subparagraphs (h) and (i) of paragraph 38, the Executive Council is authorized to approve agreements or arrangements relating to the implementation of verification activities with States Parties and other states, e.g., agreements or arrangements between a host State and the Organization concerning the establishment of an IMS station, without obtaining prior approval by the Conference. This enables the Technical Secretariat and the Executive Council to enter into and amend verification agreements or arrangements as necessary without having to wait for the Conference to meet or to convene a special session of the Conference.

Subparagraph 26(j) empowers the Conference to establish such subsidiary organs as it finds necessary for the exercise of its functions in accordance with the Treaty. Finally, subparagraph

26(k) directs the Conference to update Annex 1 to the Treaty, as appropriate, in accordance with the procedures set forth in paragraph 23 of Article II.

Section C (paragraphs 27 through 41) of Article II specifies the composition, procedures, decision-making, and powers and functions of the Executive Council.

Paragraph 27 of Article II sets forth the composition of the Executive Council. Specifically, this paragraph states that the Executive Council shall have 51 members. Each State Party, subject to the geographic distribution and other requirements set forth in paragraphs 28 and 29, has the right to serve on the Executive Council.

Paragraph 28 of Article II establishes the geographic apportionment of the Executive Council seats among six geographic regions. In subparagraphs (a) through (f), ten seats are allocated to the States Parties from Africa, seven seats to the States Parties from Eastern Europe, nine seats to the States Parties from Latin America and the Caribbean, seven seats to the States Parties from the Middle East and South Asia, ten seats to the States Parties from North America and Western Europe, and eight seats to the States Parties from South-East Asia, the Pacific and the Far East. Paragraph 28 further indicates that the composition of each geographic region is set forth in Annex 1 to the Treaty, and states that Annex 1 shall be updated, as appropriate, by the Conference in accordance with paragraphs 23 and 26(k) of Article II. These paragraphs indicate that a proposal to add a state to the Annex must be treated as a matter of substance, in accordance with paragraph 22 of this Article, but that a consensus decision is required for any other proposed change. To avoid any confusion, paragraph 28 makes it clear that Annex 1 is not subject to the procedures for amendments or changes set forth in Article VII.

Paragraph 29 of Article II states that the members of the Executive Council shall be elected by the Conference and directs each geographical region to designate States Parties from that region for election. States Parties must be designated for election in accordance with the procedures set forth in subparagraphs (a) through (c).

Subparagraph (a) requires that at least one-third of the seats allocated to each geographical region be filled, taking into account political and security interests, by States Parties in that region designated partly on the basis of the nuclear capabilities relevant to the Treaty, as determined by international data. In addition to a State Party's nuclear capabilities, designation may also be on the basis of any or all of the following indicative criteria, in the order of priority determined by each region: the number of IMS monitoring facilities for which the State Party is responsible; the State Party's expertise and experience in monitoring technology; and the State Party's contribution to the annual budget of the Organization.

Subparagraph (b) establishes that one of the seats allocated to each geographical region must be filled on a rotational basis by the State Party that is first in the English alphabetical order among the States Parties in that region that have not served as members of the Executive Council for the longest period of time since becoming States Parties to the Treaty or since their last term,

whichever is shorter. A State Party that is designated on this basis may decide to forgo its seat, in which case the seat will be filled by the State Party following next in order. This provision ensures that each State Party will have the opportunity to serve on the Executive Council.

Subparagraph (c) states that the remaining seats allocated to each geographical region shall be filled by States Parties from that region either by rotation or elections.

The formula set forth in paragraphs 28 and 29 represents a compromise between the nuclear-weapon states, the non-nuclear weapon states that will bear a significant portion of the implementation burden, e.g., Japan, Germany and others, and the developing countries. The formula is intended to make very likely, but does not absolutely guarantee, that the States Parties that will bear the greatest implementation burden, for example those with significant capabilities that are also hosting IMS stations and paying a significant portion of the Organization's budget, will be permanent members of the Executive Council. Although the allocation of seats within the North America and Western European geographic region will not be decided until the Treaty enters into force, the U.S. is confident that it will serve continuously on the Executive Council.

Paragraph 30 of Article II states that each member of the Executive Council shall have one representative on the Executive Council, who may be accompanied by alternates and advisers.

Paragraph 31 of Article II establishes that the term of office for members of the Executive Council will be two years. Specifically, paragraph 31 states that each member of the Executive Council shall hold office from the end of the session of the Conference at which that member is elected until the end of the second regular annual session of the Conference thereafter. However, an exception is made for the first election, at which 26 members will be elected to hold office until the end of the third regular annual session of the Conference, due regard being paid to the apportionment of seats among the geographical regions, pursuant to paragraph 28. The purpose of this exception is to ensure that the composition of the Executive Council is not subject to a complete change every two years.

Paragraph 32 of Article II states that the Executive Council shall elaborate its rules of procedure and submit them to the Conference for approval, i.e., as provided for in paragraph 26(e) of this Article.

Paragraph 33 of Article II states that the Executive Council shall elect its Chairman from among its members.

Paragraph 34 of Article II states that the Executive Council shall meet for regular sessions, but that between regular sessions, it shall meet as often as may be required for the fulfillment of its powers and functions.

Paragraphs 35 and 36 of Article II address the issue of voting within the Executive Council. Specifically, paragraph 35 states that each member of the Executive Council shall have one vote.

Paragraph 36 indicates that the Executive Council shall take decisions on matters of procedure by a majority of all its members. Decisions of substance must be taken by a two-thirds majority of all its members, unless otherwise specified in the Treaty. Note that unlike the Conference, the Executive Council is not required to seek consensus. In addition, Executive Council decisions are taken by a simple majority or two-thirds majority of all of its members rather than members "present and voting." Accordingly, procedural motions will require 26 positive votes for approval, while substantive matters would ordinarily require 34 votes for approval. In the event that it is unclear whether a question is one of substance or not, i.e., substantive or procedural, the question is treated as a matter of substance unless otherwise decided by the Executive Council by the majority required for decisions on matters of substance. In other words, where an issue is not clearly procedural, the Executive Council will treat it as substantive unless it decides by a two-thirds majority to treat it as procedural.

The phrase "unless otherwise specified in the Treaty" is necessary because, pursuant to paragraphs 46 through 50 of Article IV, different voting majorities are required for a number of Executive Council decisions concerning on-site inspections. For example, paragraph 46 of Article IV requires at least 30 affirmative votes of members of the Executive Council to approve an on-site inspection request, while paragraph 47 indicates that the continuation of an on-site inspection is considered approved unless the Executive Council decides by a majority of all its members not to continue the inspection.

The powers and functions of the Executive Council are elaborated in paragraphs 37 through 41.

Paragraph 37 of Article II addresses the central purpose and responsibilities of the Executive Council. Specifically, this paragraph states that the Executive Council is the executive organ of the Organization, but is responsible to, i.e. subordinate to, the Conference. The Executive Council is directed to carry out the powers and functions entrusted to it under the Treaty, and in so doing, must act in conformity with the recommendations, decisions and guidelines of the Conference and ensure their continuous and proper implementation.

Paragraph 38 of Article II lists a number of the powers and functions referred to in the previous paragraph for which the Executive Council will be responsible. Subparagraphs (a) through (d) set forth some general implementation tasks assigned to the Executive Council. In particular, subparagraphs (a) through (d) require the Executive Council to: promote the effective implementation of, and compliance with, the Treaty; supervise the activities of the Technical Secretariat, including the operation of the IDC and the IMS; make recommendations as necessary to the Conference for consideration of further proposals for promoting the object and purpose of the Treaty; and cooperate with the National Authority of each State Party, established pursuant to paragraph 4 of Article III.

Subparagraphs (e) and (f) identify the Executive Council's responsibilities with regard to the Conference. Specifically, subparagraph (e) requires the Executive Council to consider and submit to the Conference the draft annual programme and budget of the Organization, the draft report of

the Organization on the implementation of the Treaty, the report on the performance of its own activities, and such other reports as it deems necessary or that the Conference may require. Subparagraph (f) requires the Executive Council to make arrangements for the sessions of the Conference, including the preparation of the draft agenda.

Subparagraph (g) references the Executive Council's Article VII obligations concerning proposed changes to the Protocol or the Annexes to the Protocol. Specifically, subparagraph (g) directs the Executive Council to examine such proposed changes, provided that the changes are on matters of an administrative or technical nature, and to make recommendations to the States Parties regarding their adoption. This obligation relates to the obligations set forth in paragraph 8 of Article VII, which establishes the procedures for making administrative or technical changes (otherwise known as viability and effectiveness changes) to Parts I and III of the Protocol and Annexes 1 and 2 to the Protocol. Subparagraph (c) of paragraph 8 of that Article states that the Executive Council shall examine the proposal in light of all information available to it, including whether the proposal fulfils the requirements of paragraph 7 -- *inter alia,* that the proposal relates only to matters of an administrative or technical nature. Subparagraph (c) further directs the Executive Council to provide its recommendation on adoption or rejection of the proposal, with appropriate explanations, to all States Parties for their consideration.

Subparagraph (h) grants the Executive Council the power to conclude, subject to the prior approval of the Conference, agreements or arrangements with States Parties, other states and international organizations on behalf of the Organization, and requires the Council to supervise their implementation. Such agreements or arrangements would be negotiated by the Technical Secretariat pursuant to paragraph 43(g), but would be formally concluded by the Executive Council. Although "agreements" and "arrangements" are functionally the same, some states required the inclusion of "arrangements" on the grounds that "agreements" would be legally binding and would require parliamentary action under their domestic legal systems. Accordingly, the inclusion of the term "arrangements" indicates that States Parties, states, and international organizations will be able to pursue the format that is most appropriate to address the matter at hand. Note that agreements and arrangements relating to the implementation of verification activities are specifically exempted from these procedures and are instead subject to the procedures set forth in subparagraph (i).

Subparagraph (i) authorizes the Executive Council to approve and supervise the operation of agreements or arrangements relating to the implementation of verification activities with States Parties and other states. Pursuant to paragraph 43(g), such verification agreements or arrangements would be negotiated and concluded by the Technical Secretariat, subject to the prior approval of the Executive Council. However, these agreements or arrangements would not require the prior approval of the Conference. As is evidenced by the provisions of Part B of Article IV, negotiators recognized that a large number of such agreements or arrangements would be necessary for the establishment and operation of the IMS, and that such agreements or arrangements could be subject to frequent change throughout their implementation. In addition, due to the technical nature of such agreements or arrangements, negotiators concluded that it

would be inappropriate and unnecessary to require that the Conference review them. Accordingly, negotiators chose to exempt such agreements or arrangements from the requirement of prior Conference approval because such a requirement might hamper the effective implementation of the verification regime.

Subparagraph (j) requires the Executive Council to approve any new operational manuals and any changes to the existing operational manuals that may be proposed by the Technical Secretariat. Such manuals would be developed and maintained by the Technical Secretariat, pursuant to paragraph 44 of this Article, and are intended to guide the operation of the various components of the verification regime, in accordance with Article IV and the Protocol.

Paragraph 39 of Article II grants the Executive Council the right to request the convening of a special session of the Conference. Pursuant to paragraph 15(b) of this Article, the Conference is required to convene such a session.

Paragraph 40 of Article II identifies three situations in which the Executive Council is directed to serve as facilitator between States Parties. Specifically, subparagraph (a) requires the Executive Council to facilitate cooperation among States Parties, and between States Parties and the Technical Secretariat, relating to the implementation of the Treaty through information exchanges. For example, the Executive Council may play an important role in facilitating the voluntary exchange of information through confidence-building measures, in accordance with Part E of Article IV. Subparagraph (b) directs the Executive Council to facilitate consultation and clarification among States Parties in accordance with Article IV, i.e., when a State Party is concerned about possible non-compliance with the basic obligations of the Treaty. Finally, subparagraph (c) requires the Executive Council to receive, consider and take action on requests for, and reports on, on-site inspections in accordance with Article IV.

Paragraph 41 of Article II sets forth the powers of the Executive Council with regard to concerns about possible non-compliance with the Treaty and abuse of rights by States Parties. Specifically, paragraph 41 states that the Executive Council shall consider any concern raised by a State Party about possible non-compliance with the Treaty and abuse of the rights established by the Treaty. Note that the phrase "concerns about possible non-compliance" is intended to indicate that the Executive Council should address concerns and situations related to compliance, as opposed to actually deciding whether or not there has been compliance with the Treaty.

In the event a State Party raises a concern about possible non-compliance or an abuse of rights, paragraph 41 requires the Executive Council to consult with the States Parties involved and, as appropriate, request a State Party to take measures to redress the situation within a specified time. If the Executive Council considers further action to be necessary, paragraph 41 requires the Council to take, *inter alia*, one or more of the following measures: notify all States Parties of the issue or matter; bring the issue or matter to the attention of the Conference; or make recommendations to the Conference or take action, as appropriate, regarding measures to redress the situation and to ensure compliance in accordance with Article V. Note that pursuant to

paragraph 2 of Article V, if a State Party fails to fulfill the Executive Council's request within the specified time, the Conference, *inter alia,* may decide to restrict or suspend the State Party's rights and privileges under the Treaty.

Section D (paragraphs 42 though 53) of Article II contains the general provisions with regard to the Technical Secretariat.

Paragraph 42 of Article II states that the Technical Secretariat shall assist States Parties in the implementation of the Treaty, and shall assist the Conference and the Executive Council in the performance of their functions. Paragraph 42 further states that the Technical Secretariat shall carry out the verification and other functions entrusted to it by the Treaty, as well as those functions delegated to it by the Conference or the Executive Council. Finally, paragraph 42 indicates that the IDC will be an integral part of the Technical Secretariat.

Paragraph 43 of Article II sets forth, in eight subparagraphs, some of the verification functions assigned to the Technical Secretariat and indicates that these functions must be carried out in accordance with Article IV and the Protocol. Subparagraphs (a) through (d) identify functions related to the IMS and IDC. Specifically, subparagraphs (a) and (b) make the Technical Secretariat responsible for supervising and coordinating the operation of the IMS and for operating the IDC. Subparagraph (c) tasks the Technical Secretariat with routinely receiving, processing, analyzing and reporting on IMS data, the details of which are further elaborated in paragraph 14 of Article IV. Subparagraph (d) directs the Technical Secretariat to provide technical assistance in, and support for, the installation and operation of monitoring stations.

Subparagraph (e) requires the Technical Secretariat to assist the Executive Council in facilitating consultation and clarification among States Parties. Such assistance could include providing appropriate information in the Technical Secretariat's possession to a State Party that has concerns about possible non-compliance, in accordance with paragraph 31 of Article IV.

Subparagraph (f) makes the Technical Secretariat responsible for directing the conduct of on-site inspections. In particular, subparagraph (f) tasks the Technical Secretariat with: receiving requests for on-site inspections and processing them; facilitating Executive Council consideration of such requests; carrying out the preparations for, and providing technical support during, the conduct of on-site inspections; and reporting to the Executive Council.

Subparagraph (g) makes the Technical Secretariat the chief negotiating body for the Organization. Specifically, subparagraph (g) makes the Technical Secretariat responsible for negotiating agreements or arrangements with States Parties, other states, and international organizations. Such agreements or arrangements would be concluded by the Executive Council, in accordance with paragraph 38(h) of this Article. Subparagraph (g) also tasks the Technical Secretariat with negotiating and concluding any agreements or arrangements relating to verification activities with States Parties or other states, subject to the prior approval of the Executive Council, i.e., in accordance with paragraph 38(i) of this Article.

Finally, subparagraph (h) directs the Technical Secretariat to assist the States Parties through their National Authorities on other issues of verification under the Treaty.

Paragraph 44 of Article II requires the Technical Secretariat to develop and maintain, subject to approval by the Executive Council, operational manuals to guide the operation of the various components of the verification regime, in accordance with Article IV and the Protocol. Paragraph 44 indicates that such manuals shall not constitute integral parts of the Treaty or the Protocol. In addition, since the manuals are not integral parts of the Treaty or Protocol, they are not subject to the amendment procedures set forth in Article VII. Rather, paragraph 44 states that the manuals may be changed by the Technical Secretariat subject to approval by the Executive Council. This enables the Technical Secretariat to change the manuals as appropriate, in order to take into account, *inter alia*, technical advances or changing circumstances. In the event that a change is made to an existing manual, paragraph 44 requires the Technical Secretariat to inform promptly the States Parties of the change.

Paragraph 44 must be read in conjunction with paragraph 26(h) of Article II and the provisions of the Text on the Establishment of a Preparatory Commission, which indicate that the Preparatory Commission will develop and submit to the Conference of the States Parties at its initial session a number of operational manuals, including operational manuals for each of the monitoring systems included in the IMS, for the IDC, and for on-site inspections. The development of these operational manuals by the Preparatory Commission, prior to entry into force of the Treaty, is necessary in order to satisfy the requirement set forth in paragraph 1 of Article IV that the verification regime be capable of meeting the verification requirements of the Treaty upon its entry into force. Nevertheless, once the proposed operational manuals are adopted by the Conference of the States Parties, paragraph 44 authorizes the Technical Secretariat to further develop or amend these operational manuals and to develop additional operational manuals, whenever necessary and appropriate, subject to approval by the Executive Council.

Paragraph 45 of Article II, in five subparagraphs, sets forth the functions of the Technical Secretariat with respect to administrative matters. Subparagraphs (a) and (b) task the Technical Secretariat with preparing and submitting to the Executive Council the Organization's draft program and budget, the draft report of the Organization on implementation of the Treaty, and such other reports as the Conference or the Executive Council may request. Subparagraph (c) tasks the Technical Secretariat with providing administrative and technical support to the Conference, the Executive Council and subsidiary organs, e.g., providing translation services when needed, and reserving conference space. Subparagraph (d) directs the Technical Secretariat to address and receive communications on behalf of the Organization relating to implementation of the Treaty. Note that pursuant to paragraph 2 of Article XVI, the communications role of the depositary (the U.N. Secretary-General) is largely limited to notices regarding states joining the Treaty. Finally, subparagraph (e) tasks the Technical Secretariat with carrying out the administrative responsibilities related to any agreements between the Organization and other international organizations.

Paragraph 46 of Article II establishes the mechanism by which States Parties send official communications to the Organization. Specifically, paragraph 46 states that all requests and notifications by States Parties to the Organization shall be transmitted through their National Authorities to the Director-General. Such requests and notifications must be in one of the official languages of the Treaty, and the Director-General is required to use the language of the transmitted request or notification when responding to the State Party.

Paragraph 47 of Article II further elaborates the Technical Secretariat's obligation to provide the Executive Council the draft program and budget of the Organization, pursuant to paragraph 45(a) of this Article. When submitting the draft program and budget, paragraph 47 requires the Technical Secretariat to determine and maintain a clear accounting of all costs for each IMS facility. The paragraph further states that similar treatment, i.e., a clear accounting of all costs, must be accorded to all other activities of the Organization that are addressed in the draft program and budget.

Paragraph 48 of Article II requires the Technical Secretariat to notify the Executive Council when problems arise with regard to the implementation of the Treaty. Specifically, this paragraph requires the Technical Secretariat promptly to inform the Executive Council of any problems that have arisen with regard to the discharge of its functions that have come to its notice in the performance of its activities and that it has been unable to resolve through consultations with the State Party concerned. Note that States Parties also have the right to request, through the Executive Council, clarification from another State Party on any matter that may cause concern about possible non-compliance with the Treaty, pursuant to Article IV.

Paragraphs 49 through 53 set out the organizational structure of the Technical Secretariat and the specific responsibilities of its Director-General.

Paragraph 49 of Article II states that the Technical Secretariat shall comprise a Director-General, who shall be its head and chief administrative officer, and such scientific, technical and other personnel as may be required. This paragraph further states that the Director-General is appointed by the Conference, upon the recommendation of the Executive Council, for a four-year term. The Director-General's term may be renewed for one further term, i.e., four more years, but not thereafter. Finally, this paragraph requires that the first Director-General be appointed by the Conference at its initial session upon the recommendation of the Preparatory Commission.

Paragraph 50 of Article II concerns the recruitment of staff for the Technical Secretariat. Specifically, this paragraph states that the Director-General is responsible to the Conference and the Executive Council for the appointment of the staff and for the organization and functioning of the Technical Secretariat. This paragraph further states that the paramount consideration in the employment of the staff and in the determination of the conditions of service shall be the necessity of securing the highest standards of professional expertise, experience, efficiency, competence and integrity.

Paragraph 50 also states that only citizens of States Parties shall serve as the Director-General, as inspectors or as members of the professional and clerical staff of the Technical Secretariat. Finally, this paragraph specifies that due regard shall be paid to the importance of recruiting the staff on as wide a geographical basis as possible and that recruitment shall be guided by the principle that the staff shall be kept to the minimum necessary for the proper discharge of the responsibilities of the Technical Secretariat.

Paragraph 51 of Article II authorizes the Director-General, subject to prior consultation with the Executive Council, to establish temporary working groups of scientific experts to provide recommendations on specific issues. This will enable the Director-General to obtain needed scientific and technical advice as appropriate, while retaining the necessary flexibility to maximize cost efficiencies. Note that the Conference may direct the Director-General to establish a Scientific Advisory Board, pursuant to paragraph 26(f) of this Article, if it decides that such a body is necessary.

Paragraph 52 of Article II states that, in the performance of their duties, the Director-General, the inspectors, the inspection assistants and the members of the staff shall not seek or receive instructions from any government or from any other source external to the Organization. This paragraph further states that such persons shall refrain from any action that might reflect adversely on their positions as international officers responsible only to the Organization. This means that they may not act as representatives of, or in support of, their countries' interests. Although there are no formal penalties specified in the Treaty for violating this provision, the staff regulations for the Technical Secretariat may be the appropriate place to provide for sanctions for such activities. This requirement does not preclude the seconding of State Party personnel as a method of staffing the Technical Secretariat, however. Finally, paragraph 52 requires the Director-General to assume responsibility for the activities of an inspection team. Note, however, that the Director-General (as well as the inspectors and inspection assistants) are accorded privileges and immunities in accordance with section E of this Article and paragraphs 26 through 31 of the Protocol.

Paragraph 53 of Article II states that each State Party shall respect the international character of the responsibilities of the Director-General, the inspectors, the inspection assistants and the members of the staff and not seek to influence them in the discharge of their responsibilities.

Section E (paragraphs 54 through 57) of Article II sets forth the general privileges and immunities to be accorded the Organization. (Specific privileges and immunities for inspectors, inspection assistants and observers are discussed in paragraphs 26 through 31 of the Protocol.)

Paragraph 54 of Article II states that the Organization shall enjoy on the territory and in any other place under the jurisdiction or control of a State Party such legal capacity and privileges and immunities as are necessary for the exercise of its functions.

Paragraph 55 of Article II states that 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 members of the staff of the Organization shall enjoy such privileges and immunities as are necessary in the independent exercise of their functions in connection with the Organization.

Paragraph 56 of Article II states that the legal capacity, privileges and immunities referred to in this Article shall be defined in agreements between the Organization and the States Parties as well as in an agreement between the Organization and the state in which the headquarters of the Organization is seated, i.e., the Republic of Austria. This paragraph indicates that such agreements must be considered and approved in accordance with paragraph 26(h) and (i), i.e., negotiated by the Preparatory Commission and considered and approved by the Conference, or alternatively, negotiated by the Technical Secretariat and concluded by the Executive Council, subject to the prior consideration and approval of the agreement by the Conference.

Paragraph 57 of Article II states that, notwithstanding paragraphs 54 and 55, the privileges and immunities enjoyed by the Director-General, the inspectors, the inspection assistants and the members of the staff of the Technical Secretariat during the conduct of verification activities shall be those set forth in the Protocol, i.e., paragraphs 26 through 31 of the Protocol. The purpose of this provision is to make clear that the agreements between the Organization and the States Parties, pursuant to paragraph 56, must either provide for the immunities set forth in paragraphs 26 through 31 of the Protocol, or recognize the obligation to provide such privileges and immunities, regardless of the scope of privileges and immunities accorded to the Director-General, inspectors, inspection assistants and other staff of the Technical Secretariat at other times, i.e., when they are not conducting an on-site inspection.

ARTICLE III - NATIONAL IMPLEMENTATION MEASURES

Article III consists of four paragraphs, which set forth the obligations of States Parties with regard to their domestic implementation of the Treaty and their relationships with other States Parties and the Organization.

Paragraph 1 of Article III, in three subparagraphs, requires each State Party, in accordance with its constitutional processes, to take any measures that are necessary in order for it to carry out its obligations under the Treaty and in particular to prohibit natural and legal persons from engaging in activities prohibited to a State Party. The purpose of Paragraph 1 is to extend the prohibitions on activities by States Parties, primarily the Article I obligations not to carry out any nuclear weapon test explosion or any other nuclear explosion, and 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, to private individuals and "legal persons" such as corporations.

Subparagraph 1(a) of Article III requires each State Party 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. Thus, this subparagraph governs the activities of private individuals and corporations, regardless of their nationality, (a) on a State Party's territory, or (b) anywhere outside its territory that is nevertheless under its jurisdiction, e.g., on ships or aircraft flying its flag.

Subparagraph (a) does not specifically require States Parties to enact penal legislation when implementing this obligation. Negotiators reached an understanding that subparagraph (a) required each State Party to impose penalties, whether criminal, civil or administrative, on natural and legal persons who engage in prohibited activities, using the most appropriate legal mechanisms available to that State Party under its domestic legal system.

Subparagraph 1(b) of Article III requires each State Party to prohibit natural and legal persons from undertaking any activity prohibited to a State Party under this Treaty anywhere under its control. This subparagraph thus governs the activities of private individuals and corporations, regardless of their nationality, in places under the State Party's control whether or not under its jurisdiction.

Subparagraphs 1(a) and (b) must be read in conjunction with paragraph 1 of Article I, which requires, *inter alia*, each State Party to "prohibit and prevent" any nuclear explosion at any place under its jurisdiction or control. Thus, while a State Party might fulfill its paragraph 1(a) and (b) obligations by prohibiting such activities through domestic legislation, Presidential decree, regulations or otherwise, that state must also take affirmative action where necessary to enforce the prohibition against carrying out any nuclear explosion on its territory or in any other place under its jurisdiction or control, in order to comply with its Article I obligation to prevent such activities from occurring. Note, however, that a violation of Article I, paragraph 1 would not occur until a nuclear weapon test explosion or other nuclear explosion actually took place.

Subparagraph 1(c) of Article III requires each State Party to prohibit, in conformity with international law, any activity prohibited to a State Party under the Treaty undertaken anywhere by natural persons who possess its nationality. This means that each State Party must extend its prohibitions to include activities conducted by its citizens outside its territory or other places under its jurisdiction. Note that this requirement to prohibit does not extend extra-territorially to corporations.

Note also that for individuals, effective implementation of this subparagraph would require each State Party to carry out enforcement actions with regard to its citizens for activities conducted by such citizens outside its territory or other places under its jurisdiction, when such citizens are present in its territory.

Paragraph 2 of Article III requires States Parties to cooperate with each other and to accord the appropriate form of legal assistance to facilitate the implementation of the obligations under

paragraph 1. The purpose of this paragraph is to require States Parties to work together on the enforcement of their domestic prohibitions on the activities of private individuals and corporations.

Paragraph 3 of Article III requires each State Party to inform the Organization of the legislation it has enacted, Presidential decrees or orders it has issued or other measures taken to implement this Article.

Paragraph 4 of Article III 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 other States Parties and to notify the Organization of its National Authority when the Treaty enters into force for it. The purpose of this paragraph is to facilitate the interaction between a State Party and the Organization or other States Parties regarding implementation of the Treaty, particularly exchanging IMS data and conducting inspections, by ensuring that each State Party will have a central point of contact for such activities.

ARTICLE IV - VERIFICATION

Article IV of the Treaty sets forth the rights and obligations of the States Parties with respect to the verification regime established by the Treaty. This Article is divided into five Sections. Section A sets forth the general obligations of the States Parties in verifying compliance with the Treaty. Section B establishes the basic functions and characteristics of the IMS and the IDC. Section C sets forth the procedures for the consultation and clarification process of the Treaty. Section D sets forth rights and obligations of the States Parties in the implementation of the on-site inspection mechanism of the Treaty. Lastly, Section E sets forth the confidence-building measures of the Treaty.

The verification regime is designed to monitor phenomena worldwide so as to detect the occurrence of nuclear explosions anywhere and facilitate the resolution of ambiguous events. The breadth of its coverage is intended to create a significant deterrent against possible efforts to seek to evade the ban on testing.

A. General Provisions

Section A of Article IV establishes the various components of the verification regime of the Treaty -- the IMS; consultation and clarification system; on-site inspections; and confidence-building measures -- the general rights and obligations of the States Parties regarding this regime, and verification responsibilities of the Technical Secretariat.

The absence of "national technical means of verification" in the list of components of the Treaty verification regime does not imply that national technical means cannot be used for verification. As confirmed in paragraphs 5 and 6 of this Article, national technical means of verification (NTM)

are recognized as means by which States Parties will verify compliance with Treaty provisions. During the negotiations, some states argued that NTM should not be an authorized method for verifying Treaty compliance, and that information obtained by such means should not be used as the basis for a request for an on-site inspection because they believed that NTM would be used in a discriminatory manner by those states that possessed to a greater degree such methods of verification. The United States remained steadfast in its view that NTM be specified in the Treaty as being a legitimate verification tool, as well as providing the basis for an on-site inspection. The resulting provision, paragraph 37 of Section D of Article IV, provides that an on-site inspection request shall be based on information collected by the IMS, national technical means, or a combination of these methods (this specific issue will be addressed in greater detail in the analysis of paragraph 37 of this Article).

Paragraph 1 of Article IV provides that when the Treaty enters into force, the verification regime shall be capable of meeting the verification requirements of this Treaty. However, the Treaty does not quantify its verification requirements nor specify what precise capabilities are needed to meet these requirements, beyond indicating that the IMS and IDC shall have operational capability at entry into force. The U.S. believes that the Treaty does not require that all IMS facilities and all IDC capabilities must be operational at entry into force. In this respect, paragraph 13 of the Preparatory Commission Text provides that the Preparatory Commission shall undertake all necessary preparations to ensure the operation of the Treaty's verification regime at entry into force, pursuant to paragraph 1 of Article IV, and shall develop appropriate procedures for its operation. A report from the Preparatory Commission on the operational readiness of the regime, together with any relevant recommendations, will be presented to the initial session of the Conference of the States Parties.

Paragraph 2 of Article IV describes the basic principles and limitations subject to which all verification activities of the Treaty must be carried out. Specifically, all such verification activities shall be: based on objective information, limited to the subject matter of the Treaty, carried out on the basis of full respect for the sovereignty of the States Parties to the Treaty, and carried out in the least intrusive manner possible consistent with the effective and timely accomplishment of their objectives. In addition, each State Party is required to refrain from any abuse of its right of verification as set forth in the Treaty.

Paragraph 3 of Article IV provides that each State Party must cooperate with the Organization and other States Parties to facilitate verification of compliance with the Treaty. This cooperation shall be carried out through each state's National Authority, which is to be established pursuant to Article III, paragraph 4 of the Treaty. Paragraph 3 lists some examples of the type of cooperation envisioned, including:

(a) establishing the necessary facilities to participate in these verification measures and establishing the necessary communication;

(b) providing data obtained from national stations that are part of the IMS;

(c) participating, as appropriate, in a consultation and clarification process;

(d) permitting the conduct of on-site inspections; and

(e) participating, as appropriate, in confidence-building measures.

Paragraph 4 guarantees to each State Party the equal right of verification, and demands from each State Party an equal obligation to accept verification. Note, that this paragraph only applies to the international verification measures and activities established by the Treaty.

As noted, paragraph 5 provides that for the purposes of the Treaty, no State Party shall be precluded from using information obtained by NTM in a manner consistent with generally recognized principles of international law, including that of respect for the sovereignty of states. The term "national technical means of verification," in the context of the CTBT is meant to include a broad range of means for collecting information relevant to verifying compliance with the Treaty. Such means include, but are not limited to: IMS-type sensors that are nationally owned and operated and other national means of collecting information such as reconnaissance satellites, ships, aircraft, and ground stations equipped with non-IMS-type sensors.

With the exception of the phrase "including that of respect for the sovereignty of States," this paragraph is very similar to provisions in earlier arms control agreements, such as paragraph 1 of Article XII of the INF Treaty, paragraph 1 of Article XII of the ABM Treaty, paragraph 1 of Article IX of the START I Agreement, and paragraph 1 of Article XV of the CFE Treaty. The inclusion of the phrase "including that of respect for the sovereignty of States," was proposed by a number of states who had reservations regarding the inclusion of any NTM provision in the Treaty. In the view of the United States,"respect for the sovereignty of States" is a generally recognized principle of international law, and its inclusion creates no additional constraints beyond the phrase "in a manner consistent with international law."

Paragraph 6 provides that without prejudice to the right of States Parties to protect sensitive installations (as set out in paragraph 7 of Article IV), activities or locations not related to this Treaty, States Parties shall not interfere with elements of the verification regime of this Treaty or with national technical means of verification operating in accordance with paragraph 5.
The reference to NTM in this paragraph is modeled after similar provisions in other arms control treaties. Pursuant to this paragraph, a State Party cannot destroy, blind, jam, or otherwise interfere with the NTM of another State Party that are used in a manner consistent with generally recognized principles of international law, including that of respect for the sovereignty of states. The phrase "without prejudice to the right of States Parties to protect sensitive installations, activities or locations not related to this Treaty" is included to make clear that the obligation not to interfere with verification activities or NTM does not prevent a state from protecting unrelated information or locations of a sensitive nature.

Similarly, paragraph 7 provides that each State Party has the right to take measures it deems

necessary to protect sensitive installations and prevent disclosure of confidential information and data not related to the Treaty. Paragraph 8 provides that all necessary measures shall be taken to protect the confidentiality of any information related to civil and military activities and facilities obtained during verification. Paragraph 9 of Article IV sets forth the responsibility of the Organization, subject to its obligations provided in paragraph 8, to make information available to all States Parties in accordance with the relevant provisions of the Treaty and the Protocol.

Paragraph 10 provides that nothing in the Treaty shall be interpreted as restricting the international exchange of data for scientific purposes. During the Treaty negotiations, states recognized that the international community was engaged already in the extensive exchange of data and cooperative establishment of facilities, such as seismic data and stations, for scientific purposes. This paragraph was agreed to among the states to make clear that the Treaty does not in any way restrict such activities.

Paragraph 11 of Article IV addresses the possible improvement of the verification regime in the future to enhance its efficiency and cost-effectiveness, including the possibility of adding new technologies to the current IMS structure. It specifically mentions the possibility of electromagnetic pulse monitoring or satellite monitoring as possible additional monitoring technologies of the verification regime Specifically, the paragraph requires each State Party to cooperate with the Organization and other States Parties in improving the verification regime, and in examining the verification potential of additional monitoring technologies. Such measures might be added to the Treaty or as additional sections of the Protocol upon the agreement of the States Parties and in accordance with Article VII or, if appropriate, reflected in the operational manuals developed in accordance with paragraph 44 of Article II. In this respect, Article VII of the Treaty sets forth the Treaty amendment procedures and the procedures for making technical and administrative changes other than by amendment to the Treaty text. The analysis of paragraphs 23 to 25 of this Article discusses the way in which changes to the IMS system can be made in accordance with Article VII of the Treaty. Paragraph 44 of Article II mandates the Technical Secretariat to maintain operational manuals to guide the operation of the components of the verification regime.

Paragraph 12 addresses the value of the coòperation among the States Parties in exchanging information on technologies for verification of the Treaty. Specifically, it provides that the States Parties undertake to promote cooperation among themselves to facilitate and participate in the fullest possible exchange relating to technologies used in the international verification of the Treaty in order to enable all States Parties to strengthen their national implementation of verification measures and to benefit from the application of such technologies for peaceful purposes. However, this provision does not require the U.S. to provide sensitive technologies or data to other States Parties to the Treaty. Paragraph 13 provides that the provisions of the Treaty shall be implemented in such a way as not to hamper the economic and technological development of the States Parties for development of the application of atomic energy for peaceful purposes.

Verification Responsibilities of the Technical Secretariat

Paragraphs 14 and 15 set forth information on the verification responsibilities of the Technical Secretariat. Paragraph 14 sets forth the duties of the Technical Secretariat to be carried out in cooperation with the States Parties. These duties include the receipt, dissemination, storage and analysis of data and other information obtained through the activities that comprise the verification regime.

For purposes of the Treaty, the Technical Secretariat shall do the following:

(a) Make arrangements to receive and distribute data and reporting products relevant to the verification of the Treaty in accordance with its provisions, and maintain a global communications infrastructure appropriate to this task.

Paragraph 14 makes clear that the Technical Secretariat will have a role in IMS operations. Also, regarding subparagraph 14(a), paragraph 5 of Part I of the Protocol provides that modalities for cooperation between the Organization and States Parties or states hosting or otherwise taking responsibility for facilities of the IMS shall be set out in agreements or arrangements as appropriate in each case. Paragraph 12(b) of the Preparatory Commission Text provides that the Preparatory Commission shall develop standard model agreements or arrangements where relevant, to be concluded by the future Organization with States Parties, other states and international organizations. The Preparatory Commission shall also develop agreements or arrangements negotiated in accordance with the above models by the Provisional Technical Secretariat (with relevant states), in particular with those prospectively hosting or otherwise taking responsibility for IMS facilities. Lastly, paragraph 26 (h) of Article II of the Treaty provides that the Conference shall consider and approve at its initial session any draft agreements, arrangements, provisions, procedures, operational manuals, guidelines and any other documents developed and recommended by the Preparatory Commission.

(b) Routinely (through its IDC, which shall in principle be the focal point within the Technical Secretariat for data storage and data processing):

(i) Receive and initiate requests for data from the IMS;

(ii) Receive data, as appropriate, resulting from the process of consultation and clarification, from on-site inspections, and from confidence-building measures; and

(iii) Receive other relevant data from States Parties and international organizations in accordance with the Treaty and the Protocol;

Subparagraph 14(b)(i) should be read in conjunction with paragraph 16, Part I of the Protocol to the Treaty, which establishes the basic obligation of the IDC to receive, collect, process, analyze,

report on and archive data from the IMS facilities (including results of analyses conducted at certified laboratories). In addition, paragraph 20 of Part I of the Protocol also addresses the IDC services to States Parties (further analysis on this issue is provided in the analysis of paragraph 20).

(c) Supervise, coordinate and ensure the operation of the IMS and its component elements, and of the IDC, in accordance with the relevant operational manuals. Part I of the Protocol provides that a number of Operational Manuals will be developed to address detailed issues related to the different verification technologies that make up the IMS. Specifically, there will be an Operational Manual for Seismological Monitoring and the International Exchange of Seismological Data, an Operational Manual for Radionuclide Monitoring and the International Exchange of Radionuclide Data, an Operational Manual for Hydroacoustic Monitoring and the International Exchange of Hydroacoustic Data, and an Operational Manual for Infrasound Monitoring and the International Exchange of Infrasound Data. In addition, the Preparatory Commission will develop an Operational Manual for the IDC. Drafts of these manuals will be approved by the Preparatory Commission (see Annex 1 to the Preparatory Commission Document) and adopted by the initial Conference of the States Parties pursuant to paragraph 26 (h) of Article II, of the Treaty;

(d) Routinely process, analyze and report on IMS data according to agreed procedures so as to permit the effective international verification of the Treaty and contribute to the early resolution of compliance concerns;

(e) Make available all data, both raw and processed, and any reporting products, to all States Parties, each State Party taking responsibility for the use of IMS data in accordance with paragraph 7 of Article II, and paragraphs 8 and 13 of this Article;

(f) Provide to all States Parties equal, open, convenient and timely access to all stored data;

(g) Store all data, both raw and processed, and reporting products;

(h) Coordinate and facilitate requests for additional data from the IMS;

(i) Coordinate requests for additional data by one State Party to another State Party;

(j) Provide technical assistance in, and support for, the installation and operation of monitoring facilities and respective communication means, where such assistance and support are required by the state concerned. This subparagraph should be read in conjunction with paragraph 17 of this Article, which provides that all the monitoring facilities of the IMS shall be owned and operated by the states hosting or taking responsibility for them. In this respect, subparagraph (j) makes clear that the Technical Secretariat shall provide technical assistance and required support

to the states of those monitoring facilities. (Such support should provide a mechanism for ensuring that site installations are done properly.);

(k) Make available to any State Party, upon its request, techniques utilized by the Technical Secretariat and its IDC in compiling, storing, processing, analyzing and reporting on data from the verification regime;

(l) Monitor, assess and report on the overall performance of the IMS and of the IDC.

The Technical Secretariat, including the IDC, is not empowered to recommend or state any conclusions related to a State Party's compliance with the basic obligations of the Treaty.

Paragraph 15 of Article IV provides that agreed procedures to be used by the Technical Secretariat in discharging the verification responsibilities referred to in paragraph 14 and detailed in the Protocol shall be elaborated in the relevant operational manuals. The manuals referred to here are those mentioned in the analysis of subparagraph 14(c) of this Article.

B. The International Monitoring System

Section B of Article IV has thirteen paragraphs that set forth the funding of the IMS, provisions for changing the IMS, temporary arrangements, and the use of cooperating national facilities outside the IMS.

Paragraphs 16, 17 and 18 set forth the general provisions for the IMS. Paragraph 16 specifies that the IMS shall comprise facilities for seismological monitoring, radionuclide monitoring including certified laboratories, hydroacoustic monitoring, infrasound monitoring and respective means of communication. This system shall be supported by the IDC of the Technical Secretariat.

Paragraph 17 of Article IV establishes that the IMS shall be placed under the authority of the Technical Secretariat and that all of the monitoring facilities shall be owned and operated by the state hosting or otherwise taking responsibility for them in accordance with the Protocol. In this respect, Part I of the Protocol, particularly paragraphs 1 through 5, sets forth general provisions for states that are hosting or taking responsibility for monitoring facilities of the IMS. It should be noted here that both States Parties to the Treaty and other states can host or otherwise take responsibility for IMS facilities (see paragraph 4, Part I of the Protocol).

Paragraph 18 sets forth the right of every State Party to participate in the international exchange of data and to have access to all data that is made available to the IDC. In addition, each State Party, through its National Authority, shall cooperate with the IDC.

Funding the International Monitoring System

Paragraphs 19 through 22 address the issue of funding the IMS. Paragraph 19 provides that, for

facilities incorporated into the IMS, which are listed by location and type in Tables 1-A, 2-A, 3 and 4 of Annex 1 to the Protocol, the Organization is responsible for funding the activities listed in paragraphs 19 (a) through (d) (which are listed below) to the extent that such facilities are agreed by the relevant state and the Organization to provide data to the IDC in accordance with the technical requirements of the Protocol and relevant operational manuals. Part I, paragraph 4 of the Protocol provides that the State Party or other state that is hosting or otherwise taking responsibility for IMS facilities and the Technical Secretariat shall agree and cooperate in establishing, operating, upgrading, financing, and maintaining monitoring facilities, related certified laboratories and respective means of communication within areas under its jurisdiction or control or elsewhere in conformity with international law. The Organization shall meet the costs of:

(a) Establishing any new facilities and upgrading existing facilities, unless the state responsible for such facilities meets these costs itself;

(b) Operating and maintaining IMS facilities, including facility physical security if appropriate, and application of agreed data authentication procedures;

(c) Transmitting IMS data (raw or processed) to the IDC by the most direct and cost-effective means available, including, if necessary, via appropriate communication nodes, from monitoring stations, laboratories, analytical facilities or from national data centers; or such data (including samples where appropriate) to laboratory and analytical facilities from monitoring stations; and

(d) Analyzing samples on behalf of the Organization.

Paragraph 20 sets forth different funding requirements for auxiliary seismic stations than for the other sensors, as described in paragraph 19 above. Auxiliary seismic stations provide data on request from the IDC, whereas the primary seismic stations provide continuous data to the IDC. These stations are discussed in more detail in analysis of Part I of the Protocol to the Treaty.

Paragraph 20 provides that for auxiliary seismic network stations specified in Table 1-B of Annex 1 to the Protocol, the Organization, as specified in agreements or arrangements pursuant to Part I, paragraph 4 of the Protocol, shall meet the costs only of:

(a) Transmitting data to the IDC;

(b) Authenticating data from such stations;

(c) Upgrading stations to the required technical standard, unless the state responsible for such facilities meets these costs itself;

(d) If necessary, establishing new stations for the purposes of this Treaty where no

appropriate facilities currently exist, unless the state responsible for such facilities meets these costs itself; and

(e) Any other costs related to the provision of data required by the Organization as specified in the relevant operational manuals.

Paragraph 21 provides that the Organization shall meet the cost of provision to each State Party of its requested selection from the standard range of IDC reporting products and services, as specified in Part I, Section F of the Protocol (which addresses the IDC functions, including the IDC standard products and services to States Parties). However, the costs of preparation and transmission of any additional data or products shall be met by the requesting State Party.

Paragraph 22 provides for compensation to States Parties for certain "in kind" contributions. A State Party that is meeting the costs of establishing new IMS facilities and upgrading existing facilities on its own territory or elsewhere may be compensated by an appropriate reduction in its assessed financial contribution to the Organization. Such a reduction may not exceed 50 percent of the annual assessed contribution of a State Party, but may be spread over successive years. A State Party may share such a reduction with another State Party by agreement or arrangement between themselves and with the concurrence of the Executive Council. Paragraph 22 further provides that the agreement or arrangements referred to in this paragraph shall be approved in accordance with paragraphs 26 (h) and 38 (i) of Article II. Paragraph 26 (h) of Article II, provides that the Conference shall consider and approve at its initial session any draft agreements, arrangements, provisions, procedures, operational manuals, guidelines and any other documents developed and recommended by the Preparatory Commission. Paragraph 38 (i) provides that the Executive Council shall approve and supervise the operation of agreements or arrangements relating to the implementation of verification activities with States Parties and other states.

The provision allowing for compensation for these types of national contributions to the IMS is intended to help ensure that the U.S. does not pay more than its fair share of building an effective international monitoring system and facilitate acceptance by other States of U.S. involvement with installment and operation of sensors that the U.S. requires for national purposes.

Changes to the International Monitoring System

Paragraphs 23 through 25 address changes to the IMS. Paragraph 23 provides that the addition or deletion of a monitoring technology such as referred to in paragraph 11 shall, when agreed, be incorporated into the Treaty and the Protocol pursuant to paragraphs 1 to 6 of Article VII, which detail the procedures for amendments. Adoption of an amendment requires a positive vote at an Amendment Conference of a majority of the States Parties with no State Party's casting a negative vote, and acceptance by all those states that cast a positive vote at the Amendment Conference in the form of the deposit of an instrument of ratification.

Paragraph 24 lists those changes to the IMS that, subject to the agreement of those states directly affected, may be incorporated into the Treaty pursuant to the simplified procedures outlined in Article VII, paragraphs 7 and 8. Such changes, considered to be of an administrative or technical nature, need not be subjected to the formal amendment process of the Treaty, whereby each State Party must give its approval and deposit its instruments of ratification or acceptance.

Paragraph 24 of Article IV provides that changes to the IMS that are of an administrative and technical nature are as follows:

(a) changes to the number of facilities specified in the Protocol for a given monitoring technology; and

(b) changes to other details for particular facilities as reflected in the Tables of Annex 1 to the Protocol (including, *inter alia*, the state responsible for the facility; location; name of facility; type of facility; and the attribution of facilities between the primary and auxiliary seismic networks.)

The paragraph further provides that if the Executive Council recommends, pursuant to the simplified procedure for adopting changes established in paragraph 8(d) of Article VII, that such changes be adopted, it shall as a rule also recommend, pursuant to paragraph 8(g) of Article VII, that such changes enter into force upon notification by the Director-General of their approval. Paragraph 8(g) provides that such changes that have been approved shall enter into force 180 days after the date of notification of their approval by the Director-General; however, paragraph 8(g) recognizes that another time for entry into force for changes pursuant to paragraph 7 of Article VII can be agreed.

Paragraph 25 provides that the Director-General, in submitting to the Executive Council and States Parties information and evaluation in accordance with paragraph 8(b) of Article VII, must include particular information in the case of any proposal made pursuant to paragraph 24 of this Article. Paragraph 8(b) of Article VII, provides that no later than 60 days after receipt of proposed changes to the Treaty of an administrative or technical nature, the Director-General shall evaluate the proposal to determine all its possible consequences for the provisions of the Treaty and its implementation and shall communicate any such information to all States Parties and the Executive Council. In the case of such changes to the IMS, this information shall include:

(a) A technical evaluation of the proposal;

(b) A statement on the administrative and financial impact of the proposal; and

(c) A report on consultations with states directly affected by the proposal, including indication of their agreement.

Temporary Arrangements

Paragraph 26 of Article IV addresses temporary arrangements for the IMS that may be necessary. In cases of significant or irretrievable breakdown of a monitoring facility specified in the Tables of Annex 1 to the Protocol (which list the seismic stations, radionuclide stations, hydroacoustic stations and infrasound stations) or in order to compensate for other temporary reductions of monitoring coverage, the Director-General shall, in consultation and agreement with those states directly affected, and with the approval of the Executive Council, initiate temporary arrangements of no more than one year's duration, renewable if necessary by agreement of the Executive Council and of the states directly affected for another year. Limitations on these temporary arrangements are that such arrangements: shall not cause the number of operational facilities of the IMS to exceed the number specified for the relevant network; shall meet as far as possible the technical and operational requirements specified in the operational manual for the relevant network; and shall be conducted within the budget of the Organization. In addition, the Director-General shall take steps to rectify the situation and make proposals for its permanent resolution. Lastly, the Director-General shall notify all States Parties of any decision taken pursuant to this paragraph.

Cooperating National Facilities

Paragraphs 27 and 28 of Article IV address situations in which a State Party may wish to provide the Organization with data from monitoring stations that are not part of the IMS. Paragraph 27 provides that States Parties may establish cooperative arrangements with the Organization in order to make available to the IDC supplementary data from national monitoring stations that are not formally part of the IMS.

Paragraph 28 provides the mechanism for the establishment of such cooperative arrangements. That paragraph provides that such arrangements may be established in the following way:

(a) Upon request by a State Party, and at the expense of that State Party, the Technical Secretariat shall take the steps required to certify that a given monitoring facility meets the technical and operational requirements specified in the relevant operational manuals for an IMS facility, and make arrangements for the authentication of its data. Subject to the agreement of the Executive Council, the Technical Secretariat shall then formally designate such a facility as a cooperating national facility. In addition, the Technical Secretariat shall take the steps required to revalidate its certification as appropriate;

(b) The Technical Secretariat shall maintain a current list of cooperating national facilities and shall distribute it to all States Parties; and

(c) The IDC shall call upon data from cooperating national facilities, if so requested by a State Party, for the purposes of facilitating consultation and clarification and the consideration of on-site inspection requests, data transmission costs being borne by that State Party. This

subparagraph makes clear that once a cooperating arrangement has been established, the IDC may request data from that facility as needed for the above-noted purposes of the Treaty. This subparagraph also makes clear that when the IDC does so call upon these national facilities, the costs for transmitting such data will be borne by the State Party that requested the data.

Lastly, this paragraph provides that the conditions under which supplementary data from such facilities are made available, and under which the IDC may request further or expedited reporting, or clarifications, shall be elaborated in the operational manual for the respective monitoring network.

C. Consultation and Clarification

Section C of Article IV consists of five paragraphs. This Section sets forth procedures for consultation and clarification by States Parties about possible non-compliance with the basic obligations of the Treaty. The consultation and clarification process is intended to provide States Parties a relatively non-confrontational and inexpensive means that may resolve concerns regarding compliance with the Treaty.

Paragraph 29 of this Article provides that without prejudice to the right of any State Party at any time to request an on-site inspection, States Parties should, whenever possible, first make every effort to clarify and resolve, among themselves or with or through the Organization, any matter that may cause concern about possible non-compliance with the basic obligations of the Treaty. It is clear from the language "without prejudice to the right to request an on-site inspection" that the consultation and clarification process is separate from that of on-site inspections. States Parties are not required first to attempt to resolve concerns through consultation before requesting an on-site inspection or to pursue consultations at any point during the Executive Council deliberations or the Technical Secretariat's conduct of an OSI. However, States Parties are encouraged to engage in consultations whenever possible.

Paragraph 30 of Article IV of the Treaty provides that a State Party that receives a request pursuant to paragraph 29 directly from another State Party shall provide the clarification to the requesting State Party as soon as possible, but in any case no later than 48 hours after the request. The requesting and requested States Parties may keep the Executive Council and the Director-General informed of the request and the response.

Paragraph 31 of this Section gives each State Party the right to request assistance from the Director-General in obtaining clarification of a situation involving compliance with the Treaty. Specifically, this paragraph gives a State Party the right to request the Director-General to assist in clarifying any matter that may cause concern about possible non-compliance with the basic obligations of the Treaty. The Director-General shall provide appropriate information in the possession of the Technical Secretariat relevant to such a concern. The paragraph further provides that the Director-General shall inform the Executive Council of the request and of the information provided in response, if so requested by the requesting State Party.

Paragraph 32 of Article IV gives each State Party the further right to request that the Executive Council obtain clarification from another State Party on any matter that may cause concern about possible non-compliance with the basic obligations of the Treaty. The procedures for this are set forth in the following four subparagraphs.

Subparagraph (a) requires the Executive Council to forward the request for clarification to the requested State Party through the Director-General no later than 24 hours after receipt of the request.

Subparagraph (b) requires the requested State Party to provide the clarification to the Executive Council as soon as possible, but in any case no later than 48 hours after receipt of the request.

Subparagraph (c) requires the Executive Council to take note of the clarification and forward it to the requesting State Party no later than 24 hours after receipt of the request.

Subparagraph (d) gives the requesting State Party, if it deems the clarification to be inadequate, the right to request that the Executive Council obtain a further clarification from the requested State Party.

Paragraph 32 further provides that if a request for clarification is made by a State Party pursuant to this paragraph, the Executive Council will be under an obligation to inform without delay all other States Parties about such a request, as well as any response provided by the requested State Party.

Paragraph 33 of Article IV gives the Executive Council and other States Parties an opportunity to participate in a request for clarification that has not been satisfactorily addressed by the requested State Party. Specifically, paragraph 33 provides that if the requesting State Party considers the clarification obtained under paragraph 32 (d) to be unsatisfactory, it shall have the right to request a meeting of the Executive Council in which States Parties involved that are not members of the Executive Council shall be entitled to take part. At such a meeting, the Executive Council shall consider the matter and may recommend any measure in accordance with Article V (which addresses measures to redress a situation and ensure compliance, including sanctions.)

D. On-site Inspections

Section D of Article IV, consisting of paragraphs 34 through 67, provides the basis for on-site inspections to assist in verifying compliance with the Treaty and contains provisions necessary for the establishment of the on-site inspection regime of the Organization. Section D is further divided into eight parts, as follows: "Request for an On-Site Inspection," paragraphs 34 through 38; "Follow-up After Submission of an On-Site Inspection Request," paragraphs 39 through 45; "Executive Council Decisions," paragraphs 46 through 52; "Follow-up After Executive Council Approval of an On-Site Inspection," paragraphs 53 through 55; "The Conduct of an On-Site

Inspection," paragraphs 56 through 60; "Observer," paragraph 61; "Reports of an On-Site Inspection," paragraphs 62 through 66; and, "Frivolous or Abusive On-Site Inspection Requests," paragraph 67.

Request for an On-Site Inspection

This part of Section D, Article IV, consisting of paragraphs 34 through 38, establishes the right to request an inspection and sets forth other basic matters concerning a request for an on-site inspection.

Paragraph 34 of Section D of Article IV gives each State Party the right to request an on-site inspection, in accordance with the provisions of this Article and Part II of the Protocol, in the territory or in any other place under the jurisdiction or control of any State Party, or in any area beyond the jurisdiction or control of any state. Note that the inclusion of a right to request an inspection of areas beyond the jurisdiction or control of any state is different from inspection rights in other treaties, such as the Chemical Weapons Convention, and is a recognition by the negotiators that a nuclear explosion might be carried out in violation of the Treaty on the high seas or in other areas beyond a state's jurisdiction or control.

Paragraph 35 of Section D of Article IV sets forth the purpose of an on-site inspection. Specifically, this paragraph states that the sole purpose of an on-site inspection shall be to clarify whether a nuclear weapon test explosion or any other nuclear explosion has been carried out in violation of Article I and, to the extent possible, to gather any facts which might assist in identifying any possible violator. This paragraph indicates that the purpose of an inspection is to discover facts on the basis of which each State Party could determine whether the basic obligations of the Treaty had been violated, and the identity of the State Party that had committed the violation.

Paragraph 36 of Section D of Article IV states that the requesting State Party shall be obligated to keep the on-site inspection request within the scope of the Treaty and to provide in the request information in accordance with paragraph 37. The paragraph also states that the requesting State Party shall refrain from unfounded or abusive inspection requests.

Paragraph 37 of Section D of Article IV states that the on-site inspection request shall be based on information collected by the International Monitoring System, on any relevant technical information obtained by national technical means of verification in a manner consistent with generally recognized principles of international law or on a combination thereof. The paragraph also states that the request shall contain information pursuant to paragraph 41 of Part II of the Protocol. During the negotiations some states opposed permitting data obtained by national technical means to be used as the basis for a request for an on-site inspection. The United States, and several other states, argued strongly that data obtained by national technical means was both appropriate and valuable for verifying Treaty compliance in general, and as a basis for requests for on-site inspections in particular. Consequently, the United States supported the wording in

paragraph 37 (and all delegations ultimately concurred), which explicitly recognizes the legitimacy of data derived from national technical means in a manner consistent with generally recognized principles of international law as a basis for a request for an on-site inspection.

Note that paragraph 41 of the Protocol requires, *inter alia*, that the estimated location of the event triggering the request, and the proposed boundaries of the area to be inspected, be provided as part of the request.

Paragraph 38 of Section D of Article IV states that the requesting State Party shall present the on-site inspection request to the Executive Council and at the same time to the Director-General for the latter to begin immediate processing. Immediate processing by the Director-General is necessary for the timely commencement of the follow-up activities set forth in paragraphs 39 through 45 in regard to approval or non-approval of a request.

Follow-up After Submission of an On-Site Inspection Request

This second part of Section D, consisting of paragraphs 39 through 45, sets forth procedures and activities to be undertaken after receipt of an on-site inspection request.

Paragraph 39 of Section D of Article IV states that the Executive Council shall begin its consideration immediately upon receipt of the on-site inspection request. As the Executive Council has only 96 hours, pursuant to paragraph 46, in which to take a decision on the request, it is necessary for its consideration to commence immediately upon receipt.

Paragraph 40 of Section D of Article IV states that the Director-General, after receiving the on-site inspection request, shall acknowledge receipt of the request to the requesting State Party within two hours and communicate the request to the State Party sought to be inspected within six hours. This paragraph also states that the Director-General shall ascertain that the request meets the requirements specified in paragraph 41 of Part II of the Protocol, and, if necessary, shall assist the requesting State Party in filing the request accordingly, and shall communicate the request to the Executive Council and to all other States Parties within 24 hours.

This paragraph requires prompt, expeditious handling of a request by the Director-General. If the request does not meet the requirements of paragraph 41 of the Protocol, the Director-General must assist the requesting State Party in making the necessary changes in time to communicate the request to all other States Parties within 24 hours. Briefly, paragraph 41 of the Protocol requires specification of the approximate location of the event, the proposed boundaries of the area to be inspected, the name of the State Party or States Parties to be inspected, the probable environment of the event, the estimated time of the event, all data upon which the request is based, and, if applicable, personal details of the proposed observer and the results of a consultation and clarification process (see the discussion of paragraph 41 of the Protocol, below.) If, however, for some reason a non-conforming request cannot be changed to meet the requirements in time, then the Director-General would not be required to begin processing the request until the requirements

are met. Note, however, that as paragraph 38 requires that the requesting State Party also send the request to the Executive Council, the Director-General would need to keep the Executive Council informed as to the status of the efforts to conform the request to requirements.

Paragraph 41 of Section D of Article IV states that when the on-site inspection request fulfils the requirements, the Technical Secretariat shall begin preparations for the on-site inspection without delay. This reflects the practical requirement for an immediate commencement of preparations if timely arrival of the inspection team at the inspection area is to be achieved. However, this paragraph also means that the commencement of preparations is subject to the receipt of a request that meets the requirements of paragraph 41 of the Protocol, thus ensuring that a partial or incomplete request does not act as a trigger for preparations. The 96-hour period in which the Executive Council must decide on the request is not, however, affected by any of these activities. That period begins as soon as the Executive Council receives the original request for inspection.

Paragraph 42 of Section D of Article IV states that the Director-General, upon receipt of an on-site inspection request referring to an inspection area under the jurisdiction or control of a State Party, shall immediately seek clarification from the State Party sought to be inspected in order to clarify and resolve the concern raised in the request.

This paragraph reflects a compromise between states that wanted a mandatory process of consultation, clarification and technical evaluation (the result of which would have then become a report by the Director-General to the Executive Council which would serve as the basis for the Executive Council's decision on the inspection request), and other states that wanted a consultation and clarification process conducted in parallel to the Executive Council's consideration of the request so as not to interfere with on-site inspection time lines. If the Executive Council had to wait for the process to be completed, there would be considerable delay entailed, and a real possibility of preventing potential detection of the shorter-lived phenomena generated by a nuclear explosion. However, consultation, clarification and technical evaluation processes would be very desirable in the achievement of correct decisions by the Executive Council. The compromise reached in this paragraph (and in paragraphs 43 and 44) allows the Executive Council to work towards a decision without first receiving a formal report by the Director-General on the consultation and clarification process, while at the same time it provides that the Executive Council can use any information obtained when it considers and decides on the request.

Paragraph 43 of Section D of Article IV states that a State Party that receives a request for clarification pursuant to paragraph 42 shall provide the Director-General with explanations and with other relevant information available as soon as possible, but no later than 72 hours after receipt of the request for clarification. As mentioned above, this paragraph provides the means to use information from the consultation and clarification process in the Executive Council's decision. Note that the 72-hour time period is set so as to avoid delay (deliberate or otherwise) and allow for use of information during the Executive Council's 96-hour decision deadline under paragraph 46. It also provides an incentive to the State Party from whom the clarification is

requested, as a State Party that delayed its response could very well find that the Executive Council had decided to approve a request when a prompt, thorough response might have obviated the need for an inspection.

Paragraph 44 of Section D of Article IV provides that the Director-General, before the Executive Council takes a decision on the on-site inspection request, shall transmit immediately to the Executive Council any additional information available from the International Monitoring System or provided by any State Party on the event specified in the request, including any clarification provided pursuant to paragraphs 42 and 43, as well as any other information from within the Technical Secretariat that the Director-General deems relevant or that is requested by the Executive Council. This paragraph ensures that the Executive Council's consideration of and decision on an on-site inspection request is informed by the most up-to-date data available from the IMS or any other important, relevant information. In addition, of course, any information from the consultation and clarification process shall also be provided by the Director General.

Paragraph 45 of Section D of Article IV provides that unless the requesting State Party considers the concern raised in the on-site inspection request to be resolved and withdraws the request, the Executive Council shall take a decision on the request in accordance with paragraph 46. This simply permits the withdrawal of a request that is no longer necessary in the view of the requesting State Party because of information from the consultation and clarification process, or for some other reason.

Executive Council Decisions

This third part of Section D, consisting of paragraphs 46 through 52, sets forth the basis for Executive Council decisions with regard to on-site inspection requests.

Paragraph 46 of Section D of Article IV provides that the Executive Council shall take a decision on the on-site inspection request no later than 96 hours after receipt of the request from the requesting State Party. This paragraph also states that the decision to approve the on-site inspection shall be made by at least 30 affirmative votes of members of the Executive Council. Further, this paragraph states that if the Executive Council does not approve the inspection, preparations shall be stopped and no further action on the request shall be taken.

Note that with regard to the 96-hour period, the Treaty text refers to a 96-hour period from receipt of the original request, not from any corrected request that the requesting State Party may be required to submit.

The final version of this paragraph attests to the compromise that underlay the agreed text and allowed the Treaty to be concluded. The paragraph is the result of the resolution of the long disagreement among negotiators concerning the so-called "red-light, green-light" approval process for on-site inspections. Briefly, those states that favored the "red-light" process wanted an inspection request to be approved automatically unless the Executive Council voted against the

inspection prior to the expiration of a fixed time-period. States that favored a "green-light" process wanted a vote of the Executive Council (some states sought a two-thirds majority vote) in favor of the inspection before one could proceed. Many variations of these basic concepts were considered and debated. Finally, agreement was reached that 30 affirmative votes of the Executive Council would be required to approve an on-site inspection.

Paragraph 47 of Section D of Article IV requires that no later than 25 days after the approval of the on-site inspection in accordance with paragraph 46, the inspection team shall transmit to the Executive Council, through the Director-General, a progress inspection report. This paragraph also states that the continuation of the inspection shall be considered approved unless the Executive Council, no later than 72 hours after receipt of the progress inspection report, decides by a majority of all its members not to continue the inspection. This paragraph also requires that if the Executive Council decides not to continue the inspection, the inspection shall be terminated, and the inspection team shall leave the inspection area and the territory of the inspected State Party as soon as possible in accordance with Part II, paragraphs 109 and 110 of the Protocol. Note that paragraph 70 of the Protocol provides limitations as to the inspection activities that may be conducted in the first 25 days.

This paragraph, coupled with paragraph 49, provides the basic framework of an inspection process that can be viewed as a potential two-phase operation. The first phase would allow for rapid investigation of a compliance concern. The second phase is for situations in which more needs to be done to gather facts on whether there has been a nuclear weapon test explosion or any other nuclear explosion.

Paragraph 48 of Section D of Article IV provides that, in the course of the on-site inspection, the inspection team may submit to the Executive Council, through the Director-General, a proposal to conduct drilling. The paragraph also states that the Executive Council shall take a decision on such a proposal no later than 72 hours after receipt of the proposal. It also provides that the decision to approve drilling shall be made by a majority of all members of the Executive Council.

This paragraph separates Executive Council consideration of drilling from other considerations of an inspection request. The request for drilling could be made by the team at any time, during any part of an inspection. Paragraph 69(h) of the Protocol indicates that drilling is for the purpose of obtaining radioactive samples.

Paragraph 49 of Section D of Article IV states that the inspection team may request the Executive Council, through the Director-General, to extend the inspection duration by a maximum of 70 days beyond the 60-day time-frame specified in paragraph 4 of Part II of the Protocol, if the inspection team considers such an extension essential to enable it to fulfil its mandate. This paragraph also states that the inspection team shall indicate in its request which of the activities and techniques listed in paragraph 69 of Part II of the Protocol it intends to carry out during the extension period. The paragraph states that the Executive Council shall take a decision on the extension request no later than 72 hours after receipt of the request, and that the decision to

approve an extension of the inspection duration shall be made by a majority of all members of the Executive Council. This paragraph provides the basis for an extended phase of an inspection for situations in which continued and potentially more intensive activities would be required to search for evidence that a nuclear explosion has been carried out in violation of Article I.

Paragraph 50 of Section D of Article IV provides that at any time following the approval of the continuation of the on-site inspection in accordance with paragraph 47, the inspection team may submit to the Executive Council, through the Director-General, a recommendation to terminate the inspection. The paragraph states that such a recommendation shall be considered approved unless the Executive Council, no later than 72 hours after receipt of the recommendation, decides by a two-thirds majority of all its members not to approve the termination of the inspection. This paragraph then states that in case of termination of the inspection, the inspection team shall leave the inspection area and the territory of the inspected State Party as soon as possible in accordance with paragraphs 109 and 110 of Part II of the Protocol. If the inspection team recommends termination, then the inspection will be terminated absent a vote by two-thirds of the Executive Council that, despite the recommendation of the inspection team, it should be continued.

Paragraph 51 of Section D of Article IV provides that the requesting State Party and the State Party sought to be inspected may participate in the deliberations of the Executive Council on the on-site inspection request without voting. It further provides that the requesting State Party and the inspected State Party may also participate without voting in any subsequent deliberations of the Executive Council related to the inspection.

Paragraph 51 ensures that if a State Party that is not a member of the Executive Council makes a request for an on-site inspection, or if a State Party that is not a member of the Executive Council is sought to be inspected, each may participate in the discussion of the request in the Executive Council. This provision ensures that the information on which the request is based may be explained by the requesting State Party itself, and similarly, any argument against the request may be made by the State Party that is the subject of the request. In the absence of such a provision, the only information available to the members of the Executive Council from a requesting State Party or a State Party sought to be inspected that is not a member of the Executive Council would be the information contained in the request itself or the clarification received by the Director-General. The paragraph makes it clear, however, that while being afforded an opportunity to make its case before the Executive Council, such a non-member of the Executive Council is not given a vote.

Paragraph 52 of Section D of Article IV states that the Director-General shall notify all States Parties within 24 hours about any decision by and reports, proposals, requests and recommendations to the Executive Council pursuant to paragraphs 46 to 50. This paragraph is for the purpose of ensuring that the Director-General provides all States Parties with information regarding on-site inspections.

Follow-up After Executive Council Approval of an On-Site Inspection

The fourth part of Section D, consisting of paragraphs 53 through 55, concerns actions necessary immediately following approval of an on-site inspection request.

Paragraph 53 of Section D of Article IV provides that an on-site inspection approved by the Executive Council shall be conducted without delay by an inspection team designated by the Director-General and in accordance with the provisions of the Treaty and the Protocol. The paragraph also states that the inspection team shall arrive at the point of entry no later than six days following the receipt by the Executive Council of the on-site inspection request from the requesting State Party.

Paragraph 54 of Section D of Article IV provides that the Director-General shall issue an inspection mandate for the conduct of the on-site inspection. It also requires that the inspection mandate shall contain the information specified in paragraph 42 of Part II of the Protocol. This paragraph provides the basis in the Treaty for the Director-General to issue an inspection mandate, while ensuring that it fulfills requirements set forth in the Protocol.

Paragraph 55 of Section D of Article IV provides that the Director-General shall notify the inspected State Party of the inspection no less than 24 hours before the planned arrival of the inspection team at the point of entry, in accordance with paragraph 43 of Part II of the Protocol. This paragraph provides the basis in the Treaty for the notification to the inspected State Party that the inspection team is soon to arrive at the point of entry. The Protocol requires preparations by an inspected State Party (see paragraphs 45-55 of the Protocol.) Note that details such as the time allowed for movement of an inspection team from point of entry to inspection area have been left to the Protocol (see paragraph 54 of the Protocol.) Such notification will enable the inspected State Party to make the necessary preparations to receive the inspection team at the point of entry (particularly if the inspection team is arriving via an unscheduled aircraft), to conduct activities at the point of entry, and to transport the inspection team to the inspection area, in accordance with paragraphs 45-55 and 57 of the Protocol.

The Conduct of an On-Site Inspection

The fifth section of Section D, consisting of paragraphs 56 through 60, establishes basic rules and obligations concerning the conduct of an on-site inspection.

Paragraph 56 of Section D of Article IV provides that each State Party shall permit the Organization to conduct an on-site inspection on its territory or at places under its jurisdiction or control in accordance with the provisions of the Treaty and the Protocol. This paragraph provides a limitation on such inspections by stating that no State Party shall be required to accept simultaneous on-site inspections on its territory or at a place under its jurisdiction or control.

Paragraph 57 of Section D of Article IV, in five subparagraphs, establishes rights and obligations of an inspected State Party. Specifically, paragraph 57 states that, in accordance with the provisions of the Treaty and the Protocol, the inspected State Party shall have:

(a) The right and the obligation to make every reasonable effort to demonstrate its compliance with this Treaty and, to this end, to enable the inspection team to fulfil its mandate;

(b) The right to take measures it deems necessary to protect national security interests and to prevent disclosure of confidential information not related to the purpose of the inspection;

(c) The obligation to provide access within the inspection area for the sole purpose of determining facts relevant to the purpose of the inspection, taking into account subparagraph (b) and any constitutional obligations it may have with regard to proprietary rights or searches and seizures;

(d) The obligation not to invoke this paragraph or Part II, paragraph 88 of the Protocol to conceal any violation of its obligations under Article I; and

(e) The obligation not to impede the ability of the inspection team to move within the inspection area and to carry out inspection activities in accordance with the Treaty and the Protocol.

Paragraph 57 also defines access, in the context of an on-site inspection, to mean both the physical access of the inspection team and the inspection equipment to, and the conduct of inspection activities within, the inspection area. The Treaty recognizes that there could be some cases whereby an inspected State Party might have to take actions necessary to protect sensitive installations, locations, confidential information, buildings, other structures and sites, and to afford Constitutional protections.

Paragraph 57 is designed to strike a balance between the need to provide the inspection team with access to the inspection area in order to fulfill its mandate, and the interests of the inspected State Party in protecting its national security interests and preventing disclosure of confidential information not related to the purpose of the inspection. Thus, while the inspected State Party has the obligation, *inter alia*, to make every reasonable effort to demonstrate its compliance, to provide access within the inspection area and to refrain from impeding the ability of the inspection team to move within the inspection area, the inspected State Party also has the right, *inter alia*, to take measures it deems necessary to protect its national security interests and unrelated confidential information.

It is important to note that, pursuant to paragraph 57, the inspected State Party has the right to take into account "...any Constitutional obligations it may have with respect to proprietary rights or searches and seizures." This provision specifically recognizes that some States Parties have constitutional constraints on searches of non-governmental property and persons. Accordingly,

this provision constitutes acknowledgment that a State Party would not necessarily be in violation of the Treaty if its constitutional processes resulted in limited or delayed access by the inspection team to certain places within the inspection area on the basis of a constitutional prohibition of unreasonable searches and seizures or protection of proprietary rights. Nevertheless, pursuant to paragraph 60 of Article IV, the inspected State Party would be obligated to make every reasonable effort in consultations with the inspection team to demonstrate through alternative means its compliance with the Treaty.

Paragraph 58 of Section D of Article IV requires that an on-site inspection shall be conducted in the least intrusive manner possible, consistent with the efficient and timely accomplishment of the inspection mandate, and in accordance with the procedures set forth in the Protocol. Paragraph 58 also states that wherever possible, the inspection team shall begin with the least intrusive procedures and then proceed to more intrusive procedures only as it deems necessary to collect sufficient information to clarify the concern about possible non-compliance with the Treaty. Finally, this paragraph provides that the inspectors shall seek only the information and data necessary for the purpose of the inspection and shall seek to minimize interference with normal operations of the inspected State Party.

Paragraph 58 is a direct result of the concerns of some states that inspections would be too intrusive and possibly abused for information gathering purposes. Therefore this paragraph provides that the inspections should begin with the least intrusive measures and proceed when necessary to more intrusive measures. Information to be sought is limited to that necessary for the purpose of the inspection, and interference with the inspected State Party is to be minimized. The provisions of the Protocol concerning the conduct of inspections (paragraphs 56 - 61, 69 and 70 of the Protocol), were also drafted with this concern in mind.

Paragraph 59 of Section D of Article IV requires that the inspected State Party shall assist the inspection team throughout the on-site inspection and facilitate its task. This paragraph imposes a requirement on the inspected State Party to do more than merely permit access; it imposes an affirmative obligation on the inspected State Party to help the inspection team and facilitate its task.

Paragraph 60 of Section D of Article IV provides that if the inspected State Party, acting in accordance with Part II, paragraphs 86 to 96 of the Protocol, restricts access within the inspection area, it shall make every reasonable effort in consultation with the inspection team to demonstrate through alternative means its compliance with the Treaty.

The important principle is that any limitation on access to the inspection area carries with it an accompanying obligation to make every effort through alternative means to demonstrate compliance with the Treaty. This principle is also evident in the Protocol provisions dealing with managed access (see paragraphs 86-96 of the Protocol, in particular paragraph 88(b)).

Observer

The sixth section of Section D, consisting of paragraph 61 only, concerns observers.

Paragraph 61 of Section D of Article IV, in four subparagraphs, provides that with regard to an observer, the following shall apply:

(a) The requesting State Party, subject to the agreement of the inspected State Party, may send a representative, who shall be a national either of the requesting State Party or of a third State Party, to observe the conduct of the on-site inspection;

(b) The inspected State Party shall notify its acceptance or non-acceptance of the proposed observer to the Director-General within 12 hours after approval of the on-site inspection by the Executive Council;

(c) In case of acceptance, the inspected State Party shall grant access to the observer in accordance with the Protocol;

(d) The inspected State Party shall, as a rule, accept the proposed observer, but if the inspected State Party exercises a refusal, that fact shall be recorded in the inspection report.

Paragraph 61 further provides that there shall be no more than three observers from an aggregate of requesting States Parties.

Paragraph 61 allows the requesting State Party to send an observer so as to assure itself that the concerns that prompted the request for an inspection are indeed addressed. The inspected State Party can refuse to accept the observer, but the refusal will be recorded in the inspection report. The U.S. view is that the inspected State Party must have reasonable grounds for refusal of a proposed observer and cannot use the 12-hour period provided pursuant to subparagraph (b) to delay initiation of an on-site inspection or to frustrate its purposes. Note that, in the event that more than one State Party submits a request for an on-site inspection, each requesting State Party may send an observer, provided that the total number of observers participating in an inspection does not exceed three. Paragraphs 63-68 of the Protocol provide detailed rules for the observer, including the proviso that the requesting State Party must bear all costs associated with the observer's stay on the territory of the inspected State Party.

Reports of an On-Site Inspection

The seventh part of Section D, consisting of paragraphs 62 through 66, concerns the contents, transmission and review of inspection reports.

Paragraph 62 of Section D of Article IV, in five subparagraphs, provides that inspection reports shall contain:

(a) A description of the activities conducted by the inspection team;

(b) The factual findings of the inspection team relevant to the purpose of the inspection;

(c) An account of the cooperation granted during the on-site inspection;

(d) A factual description of the extent of the access granted, including the alternative means provided to the team, during the on-site inspection; and

(e) Any other details relevant to the purpose of the inspection.

In addition, paragraph 62 permits differing observations made by inspectors to be attached to the report.

Paragraph 63 of Section D of Article IV provides that the Director-General shall make draft inspection reports available to the inspected State Party. This paragraph also states that the inspected State Party shall have the right to provide the Director-General within 48 hours with its comments and explanations, and to identify any information and data which, in its view, are not related to the purpose of the inspection and should not be circulated outside the Technical Secretariat. The paragraph requires that the Director-General shall consider the proposals for changes to the draft inspection report made by the inspected State Party and shall wherever possible incorporate them, and that the Director-General shall also annex the comments and explanations provided by the inspected State Party to the inspection report.

Paragraph 63 entitles the inspected State Party to see the draft inspection report in time to make comments and explanations, and identify items that it believes should not be part of the report. The Director-General must consider the proposals for changes made by the inspected State Party and wherever possible incorporate them in the report. However, the use of the qualifier "wherever possible" means that the Director-General is not required to incorporate such comments, for example, if they are considered incorrect or misleading. In any case, the Director-General is required to append the comments of the inspected State Party in an annex.

Paragraph 64 of Section D of Article IV requires the Director-General to transmit the inspection report promptly to the requesting State Party, the inspected State Party, the Executive Council and to all other States Parties. This paragraph also states that the Director-General shall further transmit promptly to the Executive Council and to all other States Parties any results of sample analysis in designated laboratories in accordance with Part II, paragraph 104 of the Protocol, relevant data from the International Monitoring System, the assessments of the requesting and inspected States Parties, as well as any other information that the Director-General deems relevant. This paragraph also provides that in the case of the progress inspection report referred to in paragraph 47, the Director-General shall transmit the report to the Executive Council within the time-frame specified in that paragraph.

This paragraph authorizes and instructs the Director-General to transmit the inspection report, the results of sample analysis, IMS data, assessments and other information to all other States Parties. This paragraph reflects the desire of the negotiators that the inspection process be "transparent,"-- open and available to all States Parties. Note that the Technical Secretariat is not required to prepare a technical evaluation of the report.

Paragraph 65 of Section D of Article IV provides that the Executive Council, in accordance with its powers and functions, shall review the inspection report and any material provided pursuant to paragraph 64, and shall address any concerns as to:

(a) Whether any non-compliance with the Treaty has occurred; and

(b) Whether the right to request an on-site inspection has been abused.

Note that the inspection report will not include recommendations or statements concerning a State Party's compliance with the basic obligations of the Treaty. Compliance judgements remain the prerogative of each State Party.

Paragraph 66 of Section D of Article IV states that if the Executive Council reaches the conclusion, in keeping with its powers and functions, that further action may be necessary with regard to paragraph 65, it shall take the appropriate measures in accordance with Article V. . This means that if the Executive Council concludes that further action is necessary, it must either make recommendations to the Conference, pursuant to paragraph 41 of Article II, regarding measures to redress the situation and to ensure compliance in accordance with Article V (Measures to Redress a Situation and to Ensure Compliance, Including Sanctions,) or if the case is urgent, it may take action itself, pursuant to paragraph 4 of Article V, and bring the issue, including the relevant information and conclusions, e.g., the inspection report, to the attention of the United Nations.

Frivolous or Abusive On-Site Inspection Requests

The eighth part of Section D, consisting of paragraph 67 only, concerns measures to redress frivolous or abusive inspection requests.

Paragraph 67 of Section D of Article IV provides that if the Executive Council does not approve the on-site inspection on the basis that the on-site inspection request is frivolous or abusive, or if the inspection is terminated for the same reasons, the Executive Council shall consider and decide on whether to implement appropriate measures to redress the situation, including the following:

(a) Requiring the requesting State Party to pay for the cost of any preparations made by the Technical Secretariat;

(b) Suspending the right of the requesting State Party to request an on-site inspection for a period of time, as determined by the Executive Council; and

(c) Suspending the right of the requesting State Party to serve on the Executive Council for a period of time.

Paragraph 67 is intended to discourage frivolous or abusive inspection requests. Note that the Executive Council has the power to implement the measures itself, and does not need to seek the approval of the Conference before imposing these sanctions.

E. Confidence-building Measures

Section E of Article IV consists of one paragraph, which concerns confidence-building measures.

Paragraph 68 of Section E, Article IV of the Treaty provides that in order to:

(a) Contribute to the timely resolution of any compliance concerns arising from possible misinterpretation of verification data relating to chemical explosions; and

(b) Assist in the calibration of the stations that are part of the component networks of the International Monitoring System,

each State Party undertakes to cooperate with the Organization and with other States Parties in implementing relevant measures as set out in Part III of the Protocol.

The confidence-building measures that are provided in Part III of the Protocol are a number of voluntary measures that involve notification of chemical explosions of 300 metric tons or greater, information regarding such chemical explosions, and visits of representatives of the Technical Secretariat or of other States Parties to specified sites.

ARTICLE V - MEASURES TO REDRESS A SITUATION AND TO ENSURE COMPLIANCE, INCLUDING SANCTIONS

Article V consists of four paragraphs that identify methods that the CTBT Organization may utilize to ensure compliance with the Treaty.

Paragraph 1 of Article V obligates the Conference to take the necessary measures, as set forth in paragraph 2 (restriction or suspension of rights and privileges) and paragraph 3 (collective measures), to ensure compliance with the Treaty and to redress and remedy any situation that contravenes the provisions of the Treaty. This paragraph requires the Conference, when taking such measures, to take into account, *inter alia*, any recommendations submitted by the Executive Council. The use of the phrase *"inter alia"* indicates that the Conference must also take into

account other information brought to its attention. Paragraph 41 of Article II grants the Executive Council broad authority to consider and take action on concerns raised by States Parties about possible non-compliance with the Treaty. Thus, in addition to providing its recommendations to the Conference in accordance with subparagraph (c) of paragraph 41 of Article II, the Executive Council could also submit information to the Conference that it obtained through the IMS, formal or informal consultations with States Parties, or on-site inspections.

Paragraph 2 of Article V authorizes the Conference, *inter alia*, to restrict or suspend a State Party's rights and privileges under the Treaty if the State Party has failed to fulfill a request by the Conference or the Executive Council to redress a situation raising problems with regard to its compliance with the Treaty. Note that, pursuant to paragraph 41 of Article II, the Executive Council may, as appropriate, require a State Party to fulfil its request within a specified time. This enables the Conference and the Executive Council, in a timely manner, to bring pressure to bear on a State Party that is suspected of non-compliance with the Treaty.

Paragraph 3 of Article V states that in cases where damage to the object and purpose of the Treaty may result from non-compliance with the basic obligations of the Treaty, i.e., the prohibitions set forth in Article I, the Conference may recommend to States Parties collective measures that are in conformity with international law. Thus, the Conference is given the power to recommend collective action by States Parties in cases of a serious breach of the Treaty.

Note that the Conference does not have the power to impose collective measures, only to recommend them. Note also that while the title of Article V refers to sanctions as an example of measures to redress a situation and to ensure compliance, this paragraph on collective measures, as well as the rest of the text of Article V, does not mention sanctions. However, it is understood that the term "collective measures" is intended to include, but is not limited to, sanctions.

Paragraph 4 of Article V authorizes the Conference, or if the case is urgent, the Executive Council, to bring the issue, including relevant information and conclusions, to the attention of the UN. Thus, unlike paragraphs 2 and 3 of this Article, this paragraph also empowers the Executive Council to take action when a situation is particularly urgent.

Negotiators recognized that requiring Conference action in such cases might result in considerable delay, due to practical problems associated with requesting and organizing a special meeting of the Conference. Empowering the Executive Council to submit the concern and relevant information and conclusions directly to the UN will better enable the UN to act in a timely manner. Note that the paragraph does not specifically identify the UN body to which the Conference or the Executive Council may bring a concern about non-compliance. It is anticipated that concerns about non-compliance with Article I would be brought to the attention of the UN Security Council, due to the serious nature of such concerns and the likely need for timely Security Council action. Nevertheless, the Conference or the Executive Council could choose to bring the matter to the attention of the UN General Assembly rather than the Security Council, or

alternatively, to bring the matter to the attention of both the General Assembly and the Security Council.

ARTICLE VI -SETTLEMENT OF DISPUTES

Article VI consists of six paragraphs. This Article sets forth the general mechanisms for the settlement of disputes between States Parties or between the States Parties and the Organization. Additional mechanisms for dealing with disputes are contained in Article IV (questions regarding compliance) and Article V (measures to redress a situation). Note that, while the Executive Council and the Conference play an important role in dispute resolution, nothing in the Treaty gives them the power to impose a resolution of a dispute.

Paragraph 1 of Article VI requires that disputes that may arise concerning the application or the interpretation of the Treaty be settled in accordance with the relevant provisions of the Treaty and in conformity with the provisions of the Charter of the United Nations. Chapter VI and paragraph 3 of Article 2 of the UN Charter set forth the principle that, *inter alia*, disputes shall be settled peacefully.

Paragraph 2 of Article VI states that when a dispute arises between two or more States Parties, or between one or more States Parties and the Organization, relating to the application or interpretation of the Treaty, the parties concerned are committed to entering into consultation with a view to the expeditious settlement of the dispute by negotiation or by other peaceful means of the parties' choice, including recourse to appropriate organs of the Treaty and, by mutual consent, referral to the International Court of Justice (ICJ) in conformity with the Statute of the Court. This paragraph also states that the States Parties involved must keep the Executive Council informed of the actions being taken.

The purpose of paragraph 2 of Article VI is to establish the means by which States Parties and the Organization can settle disputes over the interpretation or application of the Treaty. The paragraph mandates consultations, but does not require referral to the International Court of Justice for settlement, unless both parties consent. Such settlement must be "in conformity with the Statute of the Court." Since paragraph 1 of Article 34 of the Statute of the International Court of Justice provides that only states may come before it with disputes, this means that only disputes between States Parties, not disputes between the Organization and States Parties, may be referred to the Court for resolution. Pursuant to paragraph 5 of this Article, however, the Executive Council or the Conference, subject to authorization of the UN General Assembly, may request advisory opinions of the Court.

Paragraph 3 of Article VI states that the Executive Council may contribute to the settlement of a dispute that may arise concerning the application or interpretation of the Treaty by whatever means it deems appropriate, including offering its good offices, calling upon the States Parties to a

dispute to seek a settlement through a process of their choice, bringing the matter to the attention of the Conference and recommending a time limit for any agreed procedure.

Paragraph 4 of Article VI requires the Conference to consider questions related to disputes raised by States Parties or brought to its attention by the Executive Council and, as it finds necessary, establish or entrust organs with tasks related to the settlement of these disputes in conformity with paragraph 26(j) of Article II. (Paragraph 26(j) of Article II provides that the Conference shall establish such subsidiary organs as it finds necessary for the exercise of its functions in accordance with the Treaty.)

Paragraph 5 of Article VI states that the Conference and the Executive Council are separately empowered, subject to authorization from the General Assembly of the United Nations, to request the ICJ to render an advisory opinion on any legal question arising within the scope of the activities of the Organization. The paragraph further requires that an agreement between the Organization and the United Nations be concluded for this purpose in accordance with paragraph 38(h) of Article II. (Paragraph 38(h) of Article II provides that the Executive Council shall conclude agreements or arrangements with States Parties, other States and international organizations on behalf of the Organization, subject to prior approval by the Conference.)

The purpose of paragraph 5 of Article VI is to provide both the Conference and the Executive Council with the power to request a non-binding advisory opinion by the ICJ on any legal question concerning their activities or the activities of the Technical Secretariat. Although international organizations cannot be parties to a dispute before the Court, paragraph 1 of Article 65 of the ICJ's Statute provides that such organizations can request advisory opinions, if such requests are authorized by or in accordance with the UN Charter. Paragraph 2 of Article 96 of the UN Charter provides that specialized agencies, which may at any time be so authorized by the General Assembly, may also request advisory opinions of the ICJ on legal questions arising within the scope of their activities.

The exact relationship between the Organization and the UN remains to be worked out in the Preparatory Commission and/or the Organization. However, for the Organization to exercise this provision it would have to be a specialized agency at least for the purposes of paragraph 2 of Article 96 of the UN Charter. Note that to avoid the possible delay involved in seeking a UN General Assembly resolution for each request for an advisory opinion, paragraph 5 requires that an agreement with the UN granting approval for such requests be concluded.

Paragraph 6 states that Article VI is without prejudice to Article IV and Article V. The purpose of this paragraph is to make clear that a State Party may not invoke the provisions of Article VI as means of avoiding or delaying requests for clarification regarding compliance, including on-site inspections (Article IV) or requests to take measures to redress a situation (Article V).

ARTICLE VII - AMENDMENTS

Article VII consists of eight paragraphs. This Article provides for two methods of modifying the Treaty -- a formal amendment process, which applies to any part of the Treaty, and a "simplified" procedure for making minor changes of an administrative or technical nature, which is limited to particular Parts of the Protocol and Annexes 1 and 2 to the Protocol.

Paragraph 1 of Article VII authorizes any State Party to propose amendments to the Treaty and to propose changes, as specified in paragraph 7, i.e., if they are related to matters of an administrative or technical nature, to the Protocol or Annexes thereto. This paragraph also indicates which procedures are applicable to amendments and changes respectively.

Paragraph 2 of Article VII provides that amendments may only be considered and adopted by an Amendment Conference. Thus, regular sessions of the Conference, convened in accordance with paragraph 14 of Article II, special sessions of the Conference, convened in accordance with paragraph 15 of Article II, and Review Conferences, convened in accordance with paragraph 17 of Article II could not take up proposed amendments or changes to the Treaty.

Paragraph 3 of Article VII sets forth the procedures for convening an Amendment Conference. Specifically, this paragraph requires that the text of a proposed amendment be submitted to the Director-General of the Organization. The Director-General must then circulate the proposal to all States Parties and to the Depositary (the Secretary-General of the UN) and seek the views of the States Parties on whether an Amendment Conference should be convened to consider the proposal. If a majority of the States Parties notify the Director-General no later than 30 days after the dates of its circulation that they support further consideration of the proposal, the Director-General must convene an Amendment Conference to which all States Parties are invited.

Paragraph 4 of Article VII requires that, if an Amendment Conference is convened, it must be held immediately following a regular session of the Conference unless all States Parties that support the convening of an Amendment Conference request that it be held earlier. However, the paragraph further requires that no Amendment Conference be convened less than 60 days after the circulation of the proposed amendment. Accordingly, if a regular session of the Conference concludes before the 60-day period has expired, the convening of the Amendment Conference must be delayed. This ensures that each State Party has adequate time to review a proposed amendment and develop its position prior to the convening of the Amendment Conference.

Paragraph 5 of Article VII sets forth the procedures by which a proposed amendment may be adopted at an Amendment Conference. Specifically, paragraph 5 provides that amendments must be adopted by a positive vote of a majority of the States Parties with no State Party casting a negative vote. This means that in order for a proposed amendment to be adopted two requirements must be met. First, a majority (50% plus one) of all the States Parties to the Treaty, not just of those present and voting, must vote in favor of the amendment. Second, the amendment will only be adopted if no State Party votes against it. This is significantly different

from the voting procedures for decisions of the Conference of the States Parties on matters of substance, which are set forth in paragraph 22 of Article II. Those procedures require consensus, i.e., no State Party objects to the proposal, but if consensus is not possible, after a 24-hour delay, a two-thirds majority of States Parties present and voting is required to adopt the proposal.

Paragraph 6 of Article VII indicates that once an amendment is adopted by an Amendment Conference, it must be ratified before it will enter into force. Specifically, paragraph 6 requires that for the amendment to become effective every State Party that cast a positive vote for the proposed amendment at the Amendment Conference must deposit its instrument of ratification or acceptance of the Amendment. Once this is accomplished, the amendment enters into force for all States Parties, 30 days after the deposit of the last required instrument of ratification or acceptance.

Note that the procedures set forth in paragraphs 5 and 6 provide a State Party with two different ways to veto a proposed amendment. A State Party may prevent an amendment from entering into force either by casting a negative vote at the Amendment Conference or by casting a positive vote, but subsequently failing to ratify or accept the amendment.

The purpose of this voting mechanism is twofold. First, the procedures give both States Parties and their legislatures the opportunity to block proposed amendments while at the same time not delaying the entry into force of amendments by requiring ratification or acceptance by States Parties that did not participate or vote in the Amendment Conference. Second, the procedures avoid the creation of a "two-tiered" regime, whereby some States Parties are bound by an amendment while other States Parties are not. Pursuant to paragraphs 5 and 6, once the requisite conditions are met, the amendment enters into force for all States Parties, regardless of whether they cast a positive vote or abstained or did not attend the Amendment Conference.

Paragraph 7 of Article VII sets forth the parts of the Protocol and Annexes to the Protocol that may be changed by the "simplified" process, i.e., without formal amendment of the Treaty, and the criteria for such changes. Specifically, this paragraph provides that in order to improve the viability and effectiveness of the Treaty, Parts I and III of the Protocol (which relate to the IMS and IDC, and confidence-building measures) and Annexes 1 and 2 to the Protocol (which list the IMS stations and list the characterization parameters for IDC standard event screening) may be changed in accordance with paragraph 8, i.e., the procedures for making changes that are related only to matters of an administrative or technical nature. This means that States Parties may propose changes of an administrative or technical nature, in order to improve the viability and effectiveness of the Treaty. Paragraph 7 indicates that all other provisions of the Protocol and Annexes thereto (provisions relating to on-site inspections) may not be changed using the procedures set forth in paragraph 8, i.e., the formal amendment process must be used.

Paragraph 8 of Article VII sets forth, in seven subparagraphs, the procedures for consideration and adoption of proposed changes of a technical or administrative nature (i.e., the "simplified" process). Specifically, subparagraph 8(a) of Article VII provides that the text of the proposed

changes must be transmitted together with the necessary information to the Director-General of the Organization. This subparagraph also permits any State Party and the Director-General to submit additional information for the evaluation of the proposal, and requires the Director-General to communicate promptly any such proposals and information to all States Parties, the Executive Council and the Depositary (the Secretary-General of the UN).

Subparagraph 8(b) of Article VII provides that within 60 days after the Director-General receives a proposed change, the Director-General must evaluate the proposed change to determine all its possible consequences for the provisions of the Treaty and its implementation and must communicate any such information to all States Parties and the Executive Council.

Subparagraph 8(c) of Article VII requires the Executive Council to examine the proposal in the light of all information available to it, including whether the proposal fulfils the requirements of paragraph 7, i.e., the proposed change is of a technical or administrative nature. This subparagraph further requires the Executive Council, within 90 days of its receipt of the proposal, to notify all States Parties of its recommendation, with appropriate explanations, and requires each State Party to acknowledge receipt of the recommendation within 10 days.

Subparagraph 8(d) of Article VII provides that if the Executive Council recommends to all States Parties that the proposal be adopted, it shall be considered approved if no State Party objects to it within 90 days after receipt of the recommendation. Alternatively, if the Executive Council recommends that the proposal be rejected, paragraph 8(d) provides that the proposal shall be considered rejected if no State Party objects to the rejection within 90 days after receipt of the recommendation.

Subparagraph 8(e) of Article VII indicates that if a recommendation of the Executive Council does not meet with acceptance, i.e., if a State Party objects to the Executive Council's recommendation, a decision on the proposal, including whether it is of an administrative or technical nature, must be taken as a matter of substance by the Conference at its next session.

Subparagraph 8(f) of Article VII requires the Director-General to notify all States Parties and the Depositary of any decision taken under the paragraph 8 ("simplified" process).

Subparagraph 8(g) of Article VII provides that changes approved under the simplified process will enter into force for all States Parties 180 days after the date of notification by the Director-General of their approval unless another time period is recommended by the Executive Council, or decided by the Conference.

This means that under the simplified process proposed changes are first evaluated by the Technical Secretariat, and the evaluation provided to States Parties and the Executive Council. This evaluation is limited to an analysis of the impact of the change on the Treaty and the activities of the Technical Secretariat and does not involve a formal approval or recommendation. The proposed changes are then evaluated by the Executive Council.

The Executive Council first determines whether the proposed change is of an administrative or technical nature and whether the provision is one that may be modified by the "simplified" process. If the change meets these criteria, then the Executive Council will evaluate the merits of the proposed change and make either a positive or negative recommendation concerning the proposed change to all States Parties.

If the Executive Council recommends that a change be made, it becomes binding on all States Parties unless a State Party objects within 90 days. A State Party may object on either procedural grounds (e.g. the change is not of an administrative or technical nature) or substantive grounds (e.g., the change will not improve the operation of the Treaty). If a State Party objects, the Conference determines whether the proposed change meets the procedural requirements and whether the change is desirable. Adoption of the change requires consensus or, if consensus is not possible, a two-thirds majority of States Parties present and voting. If the Conference votes for the change, the change is binding on all States Parties, regardless of their vote. Finally, a State Party may also compel Conference consideration of a negative recommendation by the Executive Council if it objects to such a recommendation.

ARTICLE VIII - REVIEW OF THE TREATY

Article VIII, in three paragraphs, sets forth the procedures for convening Review Conferences and determining the frequency of such conferences. The convening of such conferences is a common practice during the implementation of arms control treaties, and provides States Parties with an opportunity to review the operation and effectiveness of the convention or treaty.

Paragraph 1 of Article VIII requires the States Parties to convene the first Review Conference ten years after the entry into force of the Treaty, unless a majority of all of the States Parties decides otherwise. This paragraph indicates that the purpose of this conference is to review the operation and effectiveness of the Treaty, with a view to assuring the States Parties that the objectives and purposes in the Preamble and the provisions of the Treaty are being realized, and taking into account any new scientific and technological developments relevant to the Treaty. The United States intends to reject any efforts to transform the Conference into a multilateral forum for negotiation of nuclear disarmament and nonproliferation, or for formally evaluating U.S. progress in the areas of nuclear disarmament and nonproliferation.

Paragraph 1 also provides that if a State Party requests, the Review Conference must consider the possibility of permitting the conduct of underground nuclear explosions for peaceful purposes. If the Review Conference decides by consensus that such nuclear explosions may be permitted, paragraph 1 requires the Review Conference to commence work without delay, with a view to recommending to States Parties an appropriate amendment to the Treaty that will preclude any military benefits of such nuclear explosions. Any such proposed amendment must be

communicated to the Director-General by a State Party and must be dealt with in accordance with the provisions of Article VII, which sets forth the procedures for amending the Treaty.

It is important to note that Article I prohibits the carrying out of any nuclear explosion, regardless of whether its stated purpose was peaceful or otherwise. Accordingly, if the Review Conference decided to permit such explosions for peaceful purposes, the "appropriate amendment" to the Treaty that would preclude any military benefits of such nuclear explosions would likely have to, *inter alia*, amend Article I in order to exempt expressly such nuclear explosions from the prohibitions set forth therein.

Throughout the negotiations, the U.S. delegation consistently opposed all attempts to create an exception for so-called peaceful nuclear explosions in Article I. The United States does not know of, and does not foresee, any possibility of precluding military benefits from the conduct of such nuclear explosions.

Paragraph 2 of Article VIII provides that additional Review Conferences may be convened, at intervals of ten years after the first Review Conference, if the Conference of the States Parties so decides as a matter of procedure in the preceding year. This means that at its annual meeting, nine years after the convening of the previous Review Conference, the Conference could decide by a majority of its members present and voting to convene a Review Conference during the following year. Paragraph 2 indicates that the objective of such subsequent Review Conferences will be the same as that for the first Review Conference, namely to review the operation and effectiveness of the Treaty, with a view to assuring States Parties that the objectives and purposes in the Preamble and the provisions of the Treaty are being realized. Paragraph 2 also permits the Conference of the States Parties to convene such conferences after an interval of less than ten years if so decided by the Conference as a matter of substance, i.e., by consensus or, if consensus is not possible, by a two-thirds majority of members present and voting.

Paragraph 3 of Article VIII provides that normally, any Review Conference must be held immediately following the regular annual session of the Conference provided for in paragraph 14 of Article II.

ARTICLE IX - DURATION AND WITHDRAWAL

Paragraph 1 of Article IX provides that the Treaty shall be of unlimited duration.

Paragraph 2 of Article IX provides that each State Party shall have the right, in exercising its national sovereignty, to withdraw from the Treaty if it decides that extraordinary events related to the subject matter of the Treaty have jeopardized its supreme interests.

On August 11, 1995 President Clinton made the following statement:

> In the event that I were informed by the Secretary of Defense and Secretary of Energy -- advised by the Nuclear Weapons Council, the Directors of DOE's nuclear weapons laboratories and the Commander of U.S. Strategic Command -- that a high level of confidence in the safety or reliability of a nuclear weapons type which the two Secretaries consider to be critical to our nuclear deterrent could no longer be certified, I would be prepared, in consultation with Congress, to exercise our "supreme national interests" rights under the CTBT in order to conduct whatever testing might be required. Exercising this right, however, is a decision I believe I or any future President will not have to make. The nuclear weapons in the United States arsenal are safe and reliable, and I am determined our stockpile stewardship program will ensure they remain so in the absence of nuclear testing.

Paragraph 3 of Article IX sets forth the procedures that must be followed when a State Party exercises its right to withdraw from the Treaty. Specifically, paragraph 3 provides that withdrawal can only be effected by giving notice six months in advance to all other States Parties, the Executive Council, the Depositary and the United Nations Security Council. Notice of withdrawal must include a statement of the extraordinary event or events that a State Party regards as jeopardizing its supreme interests.

Note that the provisions of Article IX are similar to those used in numerous other arms control agreements, e.g., the Chemical Weapons Convention (Article XVI), the INF Treaty (Article XV), START (Article XVII(3)), and the Non-Proliferation Treaty (Article X).

ARTICLE X - STATUS OF THE PROTOCOL AND THE ANNEXES

Article X provides that the Annexes to the Treaty, the Protocol, and the Annexes to the Protocol form an integral part of the Treaty and that any reference to the Treaty includes the Annexes to the Treaty, the Protocol, and the Annexes to the Protocol.

ARTICLE XI - SIGNATURE

Article XI provides that at any time before its entry into force any state may sign the Treaty.

ARTICLE XII - RATIFICATION

Article XII provides that the Treaty shall be subject to ratification by Signatory States, in accordance with their respective constitutional processes.

ARTICLE XIII - ACCESSION

Article XIII provides that any state that does not sign the Treaty before its entry into force may accede to it at any time thereafter, i.e., may become a party by depositing its instrument of accession. The purpose of this Article is to allow states to join the Treaty after it enters into force.

ARTICLE XIV - ENTRY INTO FORCE

Paragraph 1 of Article XIV provides that the Treaty will enter into force 180 days after the date of the deposit of the instruments of ratification by all states listed in Annex 2 to the Treaty, but in no case earlier than two years after its opening for signature. This means that the earliest the Treaty could enter into force is September 24, 1998, i.e., two years after September 24, 1996, the date on which the Treaty was opened for signature. For this to occur, all of the states listed in Annex 2 to the Treaty will need to deposit their instruments of ratification by March 28, 1998, i.e., 180 days before the expiration of the two-year period. The purpose of the two-year delay is to provide the Preparatory Commission time to set up the Organization, establish the IMS and IDC, develop detailed implementing procedures, and to provide Signatory States with sufficient time to establish domestic legislation and ratify the Treaty.

The issue of which states would be required to sign the Treaty and deposit their instruments of ratification in order for the Treaty to enter into force became one of the most contentious issues addressed in the negotiations. The formula set forth in Annex 2 to the Treaty effectively captures all five of the acknowledged nuclear-weapon states and the three so-called "threshold states," i.e., those states believed to have nuclear weapons capability that are not parties to the Treaty on the Non-Proliferation of Nuclear Weapons. The criteria used in establishing the list contained in Annex 2 are discussed in the analysis of Annex 2 to the Treaty.

Paragraph 2 of Article XIV provides that, if the Treaty has not entered into force three years after the date of the anniversary of its opening for signature, the Depositary (the U.N. Secretary-General) must convene a conference of the Signatory States that have already deposited their instruments of ratification upon the request of a majority of those states. The inclusion of the phrase "date of the anniversary of its opening for signature," introduces some ambiguity about the timing of the conference into the provision. However, the negotiating record reveals the negotiators' intent that, if the Treaty has not yet entered into force by September 24, 1999, the Depositary must convene a conference if requested to do so by a majority of Signatory States that have deposited their instruments of ratification. This conference would differ from meetings of the Preparatory Commission, in that the participants would be Signatory States that had deposited their instruments of ratification, rather than all Signatory States, although Signatory States who had not deposited instruments of ratification would be invited to attend as observers in accordance with paragraph 4 of this Article.

Paragraph 2 directs such a special conference to examine the extent to which the requirements set out in paragraph 1 have been met, i.e., the number of states listed in Annex 2 to the Treaty that have signed the Treaty and deposited their instruments of ratification, and requires the conference to consider and decide by consensus what measures consistent with international law may be undertaken to accelerate the ratification process in order to facilitate the early entry into force of the Treaty. It is important to recognize that a conference convened in accordance with paragraph 2 would not have the authority to waive the requirements of paragraph 1, i.e., that all of the states listed in Annex 2 to the Treaty sign the Treaty and deposit their instruments of ratification before the Treaty can enter into force. Nevertheless, the conference would be able to exert considerable political influence on a state that had not signed the Treaty or had signed but not yet deposited its instrument of ratification. Note that paragraph 2 prohibits the conference from adopting any measures that would be inconsistent with international law. Thus, the conference could not, for example, use force or threaten to use force to induce a state to sign or ratify the Treaty.

Paragraph 3 of Article XIV provides that, unless otherwise decided by the conference referred to in paragraph 2 (i.e., the conference of Signatory States that have deposited their instruments of ratification) or other such conferences, the process set forth in paragraph 2 must be repeated at subsequent anniversaries of the opening for signature of the Treaty, until it enters into force. This means that, unless a prior conference decides otherwise, a conference of Signatory States that have deposited their instruments of ratification shall be held each succeeding year some time after September 24.

Paragraph 4 of Article XIV provides that all Signatory States must be invited to attend a conference convened in accordance with paragraph 2 and any subsequent conferences convened in accordance with paragraph 3, as observers. The extent to which such Signatory States that had not yet deposited their instruments of ratification would be permitted to participate in the conference as observers would be determined by the participants in the conferences, i.e., Signatory States that had already deposited their instruments of ratification.

Paragraph 5 of Article XIV establishes the date of entry into force for those states that join the Treaty after it enters into force. Specifically, this paragraph provides that for states whose instruments of ratification or accession are deposited subsequent to the entry into force of this Treaty, it shall enter into force on the 30th day following the date of deposit of their instruments of ratification or accession.

ARTICLE XV - RESERVATIONS

Article XV provides that reservations cannot be taken to the Articles of and Annexes to the Treaty. The Article further provides that reservations cannot be taken to the provisions of the Protocol to the Treaty and the Annexes to the Protocol that are incompatible with the object and purpose of the Treaty. Note that in allowing reservations to the Protocol and Annexes to the Protocol, Article XV repeats the requirements of Article 19(c) of the Vienna Convention on the

Law of Treaties, i.e., a state may formulate a reservation to a treaty unless the reservation is incompatible with the object and purpose of the treaty. The U.S. is not a party to the Vienna Convention on the Law of Treaties. However, the U.S. views parts of the Vienna Convention on the Law of Treaties as declarative of customary international law.

It is recognized that in its resolution of advice and consent to ratification of the Chemical Weapons Convention, the Senate adopted a binding condition accepted by the President that required the President to certify to Congress that the United States had informed all other States Parties to the Convention that the Senate reserved the right, pursuant to the U.S. Constitution, to give its advice and consent to ratification of the Convention subject to reservations, notwithstanding Article XXII of the Convention, which prohibited reservations to articles of the Treaty. On April 25, 1997, President Clinton certified to Congress that all other States Parties had been so informed. The intent of the prohibition on reservations in Article XV of the CTBT is to constrain irresponsible behavior by states that might seek to undermine the effect of the Treaty and to promote certainty for others. The Senate retains the right to express its views on all provisions of the Treaty and to impose conditions, consistent with the U.S. Constitution, in connection with Executive Branch ratification of the Treaty. However, if such conditions included a reservation to the Treaty, the United States would be unable to ratify it.

ARTICLE XVI - DEPOSITARY

Like comparable provisions of other recent multilateral arms control treaties, Article XVI designates the Secretary-General of the United Nations as the Depositary for the Treaty and sets forth the responsibilities of the Depositary with respect to the Treaty. Note that, in addition to the responsibilities set forth in this Article, other Articles of the Treaty require the Depositary to be involved in the implementation of the Treaty and to perform other Treaty-related duties, if necessary. For example, paragraph 2 of Article XIV requires the Depositary to convene (under certain circumstances) a conference of Signatory States that have deposited their instruments of ratification, in accordance with the procedures set forth in that paragraph.

Paragraph 1 of Article XVI designates the Secretary-General of the United Nations as the Depositary of this Treaty and directs the Secretary-General to receive signatures, instruments of ratification and instruments of accession.

Paragraph 2 of Article XVI requires the Depositary to inform promptly all Signatory States and acceding States of the date of each signature, the date of deposit of each instrument of ratification or accession, the date of the entry into force of the Treaty and of any amendments and changes thereto, and the receipt of other notices.

Paragraph 3 of Article XVI requires the Depositary to send duly certified copies of the Treaty to the Governments of all Signatory States and acceding states.

Paragraph 4 of Article XVI requires the Depositary to register the Treaty pursuant to Article 102 of the Charter of the United Nations. Paragraph 1 of Article 102 states that every treaty and every international agreement entered into by any member of the United Nations shall as soon as possible be registered with the United Nations Secretariat (and published by it).

ARTICLE XVII - AUTHENTIC TEXTS

Article XVII requires that the Treaty, of which the Arabic, Chinese, English, French, Russian and Spanish texts are equally authentic, must be deposited with the Secretary-General of the United Nations. Note that these languages are the official languages of the United Nations.

ANNEX 1 TO THE TREATY

LIST OF STATES PURSUANT TO ARTICLE II, PARAGRAPH 28

Annex 1 to the Treaty assigns each state to one of six geographical regions for the purpose of determining Executive Council composition, in accordance with paragraph 28 of Article II. That paragraph assigns a specific number of seats to each of the six geographical regions, and paragraph 29 of Article II sets forth the procedures whereby each regional group must designate States Parties within that regional group for election to the Executive Council.

The listing of states in Annex 1 is designed to be comprehensive and includes not only those States that participated in the negotiations, but also all other states that are generally recognized as "states" under international law. Nevertheless, in the event that it becomes necessary, Paragraph 23 of Article II authorizes the Conference to add a state to Annex 1 by following the procedures set forth in paragraph 22 of Article II for decisions on matters of substance, i.e., consensus, or if consensus is not possible, decision by two-thirds majority of the members present and voting. Pursuant to paragraph 23 of Article II, any other changes to Annex I, e.g., moving a state from one geographic region to another, requires a consensus decision of the Conference.

The division of states into six geographic regions constitutes a departure from the more common division into five regions that is employed by the UNGA, and that will be employed in the Organization for the Prohibition of Chemical Weapons. CTBT negotiators chose to divide states into six geographic regions primarily because such a structure would parallel the structure of the IAEA.

ANNEX 2 TO THE TREATY

LIST OF STATES PURSUANT TO ARTICLE XIV

The first paragraph of Annex 2 to the Treaty sets forth a formula that determines the specific group of states that must have deposited their instruments of ratification in order for the Treaty to enter into force, pursuant to paragraph 1 of Article XIV. The formula is designed to satisfy two principal concerns that were raised during the negotiations. First, a number of states, including several nuclear weapon states, insisted upon a requirement that all nuclear weapon states and the three so-called "threshold states" sign the Treaty and deposit their instruments of ratification as a precondition for entry into force of the Treaty. Second, some negotiating states were unwilling to adopt a list of states that appeared arbitrary or that was limited to the nuclear weapon states and the threshold states. In addition, the negotiating states recognized that ratification by a certain minimum number of states would be needed to ensure the effective implementation of the Treaty. The formula addresses the two principal concerns by establishing two criteria for inclusion on the list of states required for entry into force of the Treaty.

The first criterion is that the state must have been a member of the Conference on Disarmament ("CD") on June 18, 1996. This date is significant because on June 17, 1996 the CD decided to expand its membership by adding a number of additional states, including Israel, one of the "threshold states." By using the expanded membership of the CD as an initial criterion, all of the nuclear weapon states and all of the "threshold states" are captured.

The second criterion is that the state must be included in either the IAEA list of states that have nuclear power reactors (Table 1 of the April 1996 edition of the IAEA's publication "Nuclear Power Reactors in the World,") or the IAEA list of states that have nuclear research reactors (Table I of the December 1995 edition of the IAEA's publication "Nuclear Research Reactors in the World.)" Using the IAEA lists of states with nuclear reactors as a second criterion creates a reasonable, albeit indirect, linkage between those states required for entry into force of the Treaty and the subject matter of the Treaty.

In addition to the two above-mentioned criterion, a third criterion was added to address the unique status of the former Yugoslavia (the Socialist Federal Republic of Yugoslavia). Although Yugoslavia is a member of the CD, a number of CD members do not recognize the Federal Republic of Yugoslavia ("FRY") as the "continuation" of, or sole successor to, the former Yugoslavia. A compromise solution to this problem was worked out in the CD, whereby the CD retains a seat for the former Yugoslavia, but neither the FRY, nor any other of the former Yugoslavian entities is permitted to participate on its behalf.

Because inclusion of Yugoslavia in the list of states required for entry into force of the CTBT might be deemed formal recognition of the FRY by states that sign the Treaty, many states considered it necessary to adopt a formula that excluded Yugoslavia from the list of required states. Accordingly, a final criterion was added that requires the state to have formally participated in the work of the 1996 session of the CD. This effectively excludes the former Yugoslavia from the list.

The second paragraph of Annex 2 lists the forty-four states that meet all three of the criteria set forth in the first paragraph of the Annex. Those states are as follows: 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, Viet Nam, and Zaire. Pursuant to paragraph 1 of Article XIV, each of these states must sign the Treaty and deposit its instrument of ratification before the Treaty can enter into force.

PROTOCOL TO THE COMPREHENSIVE NUCLEAR TEST-BAN TREATY

The Protocol to the Comprehensive Nuclear Test-Ban Treaty is divided into three parts. Part I is titled "The International Monitoring System and International Data Centre Functions," Part II is titled "On-Site Inspections," and Part III is titled "Confidence-Building Measures." All three Parts of the Protocol provide procedures to be used in the implementation of the Treaty.

Part I of the Protocol provides details on the IMS and the IDC of the Technical Secretariat and also elaborates on the basic rights and obligations of the States Parties regarding the IMS and the IDC. Part I also provides information on IDC standard products, IDC services to States Parties, national event screening, and technical assistance.

Part II of the Protocol provides detailed information on the procedures for the on-site inspection regime of the Treaty, including the designation of inspectors, points of entry for the inspection team, the on-site inspection request, and privileges and immunities of the inspection team. Article IV, Section D of the Treaty provides the basic rights and obligations of the States Parties under the on-site inspection regime.

Part III of the Protocol provides details on confidence-building measures of the Treaty. These measures are not mandatory and are to be carried out on a voluntary basis by the States Parties. The confidence-building measures that are provided for in Part III include notification of chemical explosions of 300 metric tons, or greater, TNT-equivalent, and invitations to representatives of the Technical Secretariat and States Parties to visit a State Party's territory. Article IV, Section E of the Treaty contains the undertaking by each State Party to cooperate with the Organization and States Parties to implement the measures as set out in Part III.

Part I

The International Monitoring System and International Data Center Functions

Background

Part I of the Protocol consists of six Sections -- General Provisions, Seismological Monitoring, Radionuclide Monitoring, Hydroacoustic Monitoring, Infrasound Monitoring, and the International Data Center (IDC).

The formal verification regime of the Treaty involves the cooperative establishment and international operation of four worldwide networks of sensors, continuously monitoring for indications of nuclear tests. This international system, the IMS, consists of seismic monitoring stations, radionuclide monitoring stations, hydroacoustic monitoring stations, and infrasound monitoring stations. Data from the seismic, radionuclide, hydroacoustic, and infrasound networks will be collected, analyzed, and disseminated by the IDC. The IMS, along with on-site inspections, consultation and clarification, and information exchanges (voluntary confidence-building measures), will constitute the Treaty's verification system.

A. General Provisions

Section A of Part I of the Protocol consists of five paragraphs that address the general Treaty provisions concerning the IMS and the IDC. Paragraph 1 of that Section provides that the IMS shall be comprised of monitoring facilities as set out in Article IV, paragraph 16 of the Treaty, and respective means of verification. Article IV, paragraph 16 lists the facilities that comprise the IMS: seismic monitoring; radionuclide monitoring including certified laboratories; hydroacoustic monitoring; infrasound monitoring; and respective means of communication.

Paragraph 2 of Section A provides that the monitoring facilities that shall be incorporated into the IMS (those noted in Article IV, paragraph 16) shall consist of those that are set forth in Annex 1 to the Protocol. Annex 1 provides the list of seismological stations comprising the primary network (of which there are 50), the list of seismological stations comprising the auxiliary network (of which there are 120), the list of radionuclide stations (of which there are 80), the list of radionuclide laboratories (of which there are 16), the list of hydroacoustic stations (of which there are 11), and the list of infrasound stations (of which there are 60).

It should be noted that changes can be made to the list of IMS stations in the Annex. Article IV, paragraphs 23 through 25 of the Treaty address the method for such changes. Briefly, States Parties can agree to add or delete a monitoring technology pursuant to the amendment procedures of the Treaty (Article VII, paragraphs 1 to 6 of the Treaty). However, changes to the number of facilities for a specific monitoring technology, and changes to other details for a specific facility in Annex 1 (such as the name of the facility) can be carried out as an administrative or technical change to the Treaty, requiring the simplified procedure provided in Article VII, paragraphs 7 and 8 of the Treaty. More information on these two methods for making changes to the Treaty text can be found in the analysis of the Article VII provisions of the Treaty.

Paragraph 2 also provides that the IMS shall fulfill the technical and operational requirements specified in the relevant operational manuals. The Preparatory Commission Document provides that the Preparatory Commission will develop and prepare for adoption by the Conference operational manuals for the four monitoring technologies, in addition to an operational manual for the IDC (see para. 14(b) of the Preparatory Commission Text). Article II, paragraph 26(h) of the Treaty provides that the Conference of the States Parties shall consider and approve at its initial session a number of documents that are developed and recommended by the Preparatory Commission.

Annex 1 of the Preparatory Commission Document provides that the compilation of the above mentioned manuals will require the Preparatory Commission to develop, spell out and approve all necessary technical and operational details required to ensure the effective operation of the IMS, *inter alia*:

> (a) the technical specifications and operational requirements for the relevant facilities in each global monitoring network;
>
> (b) procedures for the provision of data to the IDC, including transmission formats and modalities;
>
> (c) procedures for facility security and for data authentication; and
>
> (d) procedures for checking of monitoring facility equipment and communications links by the Technical Secretariat, and for facility certification (including for cooperating national facilities and for their designation as such).

The Preparatory Commission Document provides further elaboration on what should be included in operational manuals for each monitoring technology. For example, the operational manual for radionuclide monitoring will include procedures for the integration of relevant meteorological data if appropriate, and for hydroacoustic monitoring, the Preparatory Commission must develop the different technical specifications and operational requirements for the two different types of facilities envisaged (hydrophone stations and T-phase stations).

Paragraph 3 of Part I provides that the Organization, in accordance with Article II of the Treaty (which addresses the Organization in detail), shall, in cooperation and consultation with the States Parties, with other states, and with international organizations as appropriate, establish and coordinate the operation and maintenance, and any future agreed modification or development, of the IMS.

Paragraph 4 of Part I sets forth the obligations of states that are hosting or otherwise taking responsibility for monitoring facilities of the IMS. It clearly establishes the fact that monitoring facilities may be hosted by a state that is not a party to the Treaty. In accordance with appropriate agreements or arrangements and procedures, a State Party or other state that is

hosting or otherwise taking responsibility for IMS facilities shall agree and cooperate with the Technical Secretariat in establishing, operating, upgrading, financing, and maintaining monitoring facilities, related certified laboratories and respective means of communication within areas under its jurisdiction or control or elsewhere in conformity with international law. Such cooperation shall be in accordance with the security and authentication requirements and technical specifications contained in the relevant operational manuals. The Technical Secretariat shall be given the authority, by the state hosting the facility, to access a monitoring facility for checking equipment and communication links, and the state shall agree to make the necessary changes in the equipment and the operational procedures to meet agreed requirements. These requirements will be developed by the Preparatory Commission (see paragraph 5 below). The Technical Secretariat shall also provide to that state appropriate technical assistance as is deemed by the Executive Council to be required for the proper functioning of the facility as part of the IMS.

Paragraph 5 provides that the modalities for the cooperation referred to in paragraph 4 of this Section between the Organization and the States Parties or states that are hosting or otherwise taking responsibility for monitoring facilities shall be set out in agreements or arrangements as appropriate in each individual case. In this respect, the Preparatory Commission Text provides that the Preparatory Commission shall develop draft agreements or arrangements with relevant states, in particular with those prospectively hosting or otherwise taking responsibility for IMS facilities that shall be approved by the Conference of States Parties, as provided in Article II, paragraph 26(h) of the Treaty (see paragraph 12(b) of the Preparatory Commission Text).

B. Seismic Monitoring

Section B of Part I of the Protocol, which consists of three paragraphs, sets forth details regarding the seismic monitoring of the IMS. Paragraph 6 provides that each State Party undertakes to cooperate in an international exchange of seismic data to assist in the verification of compliance with the Treaty. This cooperation shall include the establishment and operation of a global network of primary and auxiliary seismic monitoring stations, (as listed in Annex 1 to this Protocol). Lastly, these stations will provide data in accordance with agreed procedures to the IDC.

Paragraph 7 provides that the primary stations shall consist of the 50 stations specified in Table 1-A of Annex 1 to the Protocol. The primary stations shall fulfill the technical and operational requirements specified in the Operational Manual for Seismological Monitoring and the International Exchange of Seismological Data. The primary stations will provide uninterrupted data from the station transmitted, directly or through a national data center, on-line to the IDC. The uninterrupted aspect of data transmission to the IDC is what makes these stations "primary."

Paragraph 8 addresses auxiliary seismic stations. The primary seismic stations shall be supplemented by an auxiliary network of 120 stations that shall provide information to the IDC upon request directly or through a national data center. These stations are listed in Table 1-B of

Annex 1 to this Protocol. Auxiliary stations shall fulfill the technical and operational requirements specified in the Operational Manual for Seismological Monitoring and the International Exchange of Seismological Data. Data from the auxiliary stations including stored data recorded earlier may at any time be requested by the IDC and shall be immediately available through on-line computer connections.

C. Radionuclide Monitoring

Section C of Part I of the Protocol, which consists of three paragraphs, provides details about the radionuclide monitoring stations for the IMS. Paragraph 9 provides that each State Party undertakes to cooperate in an international exchange of data on radionuclides in the atmosphere to assist in the verification of compliance with the Treaty. Such cooperation shall include the establishment and operation of a global network of radionuclide monitoring stations and certified laboratories. The network shall provide data in accordance with agreed procedures to the IDC.

Paragraph 10 points the reader to Annex 1, Table 2-A of the Protocol, where the 80 radionuclide stations that will measure radionuclides in the atmosphere are listed. Each of the 80 stations must be capable of monitoring the presence of relevant particulate matter in the atmosphere. Paragraph 10 also provides that 40 stations from those listed in Table 2-A of Annex 1 to the Protocol shall be capable of monitoring the presence of relevant noble gases upon entry into force of the Treaty. During the negotiations, the United States proposed that all 80 radionuclide stations should have the capability to detect noble gasses. Other states questioned whether the need for noble gas monitoring capability justified the costs involved. All states agreed to a compromise of at least 40 noble gas stations. Noble gas monitoring will aid detection of underground nuclear tests that vent radioactive gases. This may be particularly useful in the detection of underground nuclear tests conducted evasively.

To implement this requirement, the United States anticipates that the Preparatory Commission will designate 40 of the stations listed in Table 2-A for noble gas monitoring capability and install such capability prior to entry into force of the Treaty. The Preparatory Commission's designation of which 40 stations of those listed in Table 2-A shall be capable of providing noble gas monitoring will be submitted to the Conference at its initial session for its consideration and approval (see Article II, paragraph 26(h) of the Treaty). In addition, at the Conference's first regular session, the Conference shall consider and decide on a plan for implementing noble gas monitoring capability throughout the network. A report on the modalities for the implementation of noble gas monitoring capability throughout the network shall be prepared by the Director-General, who shall provide it to the Conference. Lastly, paragraph 10 provides that all monitoring stations of the network shall fulfill the technical and operational requirements specified in the Operational Manual for Radionuclide Monitoring and the International Exchange of Radionuclide Data.

Table 2-B of Annex 1 to the Protocol lists the radionuclide laboratories that will support the radionuclide monitoring system. These laboratories, all of which currently exist, are to be used by

the Organization to perform analysis of samples from radionuclide monitoring stations. They must be certified by the Technical Secretariat in accordance with the relevant operational manual. All shall be on contract to the Organization and shall be paid on a fee-for-service basis.

In addition to the above task of the laboratories, paragraph 11 provides that these laboratories, appropriately equipped, shall, as required, be drawn upon by the Technical Secretariat to perform additional analysis of samples from radionuclide monitoring stations. Further laboratories may, upon agreement with the Executive Council, be certified by the Technical Secretariat to perform the routine analysis of samples from manual monitoring stations where necessary. All laboratories that are certified shall provide the results of such analysis to the IDC, and in doing so, shall fulfill the technical and operational requirements specified in the Operational Manual on Radionuclide Monitoring and the International Exchange of Data.

D. Hydroacoustic Monitoring

Section D of Part 1 of the Protocol, which consists of two paragraphs, addresses hydroacoustic monitoring. Table 3 of Annex 1 to the Protocol lists the hydroacoustic stations of the IMS. There are 11 stations, consisting of six hydrophones and five T-phase stations (a hydrophone is a hydroacoustic sensor that can detect the acoustic signal from an explosion possibly across an entire ocean basin, while the T-phase stations can detect seismic signals created by ocean acoustic signals striking the shorelines). Paragraph 12 of this Section provides that each State Party undertakes to cooperate in an international exchange of hydroacoustic data and assist in the verification of compliance with the Treaty. This cooperation shall include the establishment and operation of a global network of hydroacoustic monitoring stations, as provided in Table 3. These stations shall provide data in accordance with agreed procedures to the IDC. In addition, and as noted in paragraph 13, the hydroacoustic stations shall fulfil the technical and operational requirements specified in the Operational Manual for Hydroacoustic Monitoring and the International Exchange of Hydroacoustic Data.

E. Infrasound Monitoring

Section E of Part I of the Protocol, which consists of two paragraphs, addresses the infrasound stations that are part of the IMS. The list of IMS infrasound stations is located at Table 4, Annex 1 of the Protocol. There are 60 infrasound stations.

Paragraph 14 of Part I of the Protocol provides that each State Party undertakes to cooperate in an international exchange of infrasound data to assist in the verification of compliance with the Treaty. This cooperation shall include the establishment and operation of a global network of infrasound monitoring stations. These stations shall provide data in accordance with agreed procedures to the IDC. Paragraph 15 provides that the infrasound monitoring stations shall fulfill the technical and operational requirements specified in the Operational Manual for Infrasound Monitoring and the International Exchange of Infrasound Data.

F. International Data Center

Section F of Part I of the Protocol addresses the functions of the IDC. This Section is divided into the following sub-sections: International Data Center Standard Products, International Data Center Services to States Parties, National Event Screening, and Technical Assistance.

Paragraph 16 of Part I of the Protocol provides that the IDC shall receive, collect, process, analyze, report on and archive data from IMS facilities, including the results of analysis conducted at certified laboratories.

Paragraph 17 of Part I provides that the procedures and standard event screening criteria to be used by the IDC in carrying out its agreed functions, in particular for the production of standard reporting products and for the performance of a range of standard services for States Parties, shall be elaborated in the Operational Manual for the IDC and shall be progressively developed. The procedures and criteria for event screening by the IDC shall be developed initially by the Preparatory Commission and shall be approved by the Conference at its initial session. The term "event screening" means that agreed parameters will be used to characterize the extent to which events appear to be consistent with natural phenomena or non-nuclear man-made phenomena.

International Data Center Standard Products

This sub-section to Section F addresses the standard products of the IDC. Paragraph 18 provides that the IDC shall apply on a routine basis automatic processing methods and interactive human analysis to raw IMS system data in order to produce and archive standard IDC products on behalf of all States Parties. The IDC products shall be at no cost to the States Parties, and they shall be without prejudice to final judgments with regard to the nature of any event.

It is important to note here that paragraph 18 provides that the responsibility for final judgements regarding the nature of any event shall be with the States Parties. The United States' position regarding screening events for purposes of characterization is that IDC analysis and/or conclusions do not constitute an authoritative statement regarding the source of an event. The use of any IDC product in no way limits access by a State Party to the entire set of raw IMS data or to the products available from the IDC archive (according to Article IV, paragraph 14(e), the Technical Secretariat shall make available all data, raw and processed, and any reporting products, to all States Parties). In addition, compliance judgments remain the prerogative solely of the States Parties, and this prerogative is not constrained by decisions and/or actions taken at the IDC or elsewhere in the Organization.

Paragraph 18 lists what the products of the IDC shall include. They are as follows:

> (a) Integrated lists of all signals detected by the IMS, as well as standard event lists and bulletins, including the values and associated uncertainties calculated for each event located by the IDC, based on a set of standard parameters;

(b) Standard screened event bulletins that result from the application to each event of standard event screening criteria, making use of the characterization parameters specified in Annex 2 to this Protocol, with the objective of characterizing, highlighting in the standard event bulletin, and thereby screening out events considered to be consistent with natural phenomena or non-nuclear, man-made phenomena. The standard event bulletin shall indicate numerically for each event the degree to which that event meets or does not meet the event screening criteria. In applying event screening, the IDC shall use both global and supplementary screening criteria to take account of regional variations where applicable. The IDC shall progressively enhance its technical capabilities as experience is gained in the operation of the IMS;

(c) Executive summaries, which summarize the data acquired and archived by the IDC, products of the IDC, and the performance and operational status of the IMS and IDC; and

(d) Extracts or subsets of the standard IDC products specified in subparagraphs (a) to (c), selected according to the request of an individual State Party.

As a means of providing additional assistance to the Organization and States Parties, paragraph 19 provides that the IDC shall carry out, at no cost to States Parties, special studies to provide in-depth, technical review by expert analysis of data from the IMS, if requested by the Organization or by a State Party, to improve the estimated values for the standard signal and event parameters.

International Data Center Services to States Parties

This sub-section of Section F addresses the IDC Services to States Parties. Specifically, the IDC shall provide States Parties with open, equal, timely and convenient access to all raw or processed IMS data; all IDC products, and all other IMS data in the archives of the IDC or, through the IDC, of IMS facilities. Paragraph 20 further provides that the methods for supporting data access and the provision of data shall include the following services:

(a) Automatic and regular forwarding to a State Party of the products of the IDC or the selection by the State Party thereof, and, as requested, the selection by the State Party of IMS data;

(b) The provision of the data or products generated in response to *ad hoc* requests by States Parties for the retrieval from the IDC and IMS facility archives of data and products, including interactive electronic access to the IDC data base; and

(c) Assisting individual States Parties, at their request and at no cost for reasonable efforts, with expert technical analysis of IMS data and other relevant data provided by the requesting State Party, in order to help the State Party concerned to identify the source of

specific events. The output of any such technical analysis shall be considered a product of the requesting State Party, but shall be available to all States Parties.

The services of the IDC that are specified in subparagraphs (a) and (b) above are to be available at no cost to each State Party. Services specified in subparagraph (c) are also to be at no cost when such requests (for expert technical analysis of IMS data and other relevant data provided by the requesting State Party) are for reasonable efforts. The volumes and formats of data shall be set out in the Operational Manual for the IDC.

National Event Screening

One of the functions of the IDC will be the processing of raw data from all IMS stations into a form, or alternative forms, that will be useful to States Parties. In addition to the standard IDC products, States Parties may receive the IMS information in the form and volume they desire in order to make national judgements. Paragraph 21 provides that the IDC shall, if requested by a State Party, apply to any of its standard products, on a regular and automatic basis, national event screening criteria established by that State Party, and provide the results of such analysis to that State Party. This service shall be at no cost to the requesting State Party. The output of such national event screening processes shall be considered a product of the requesting State Party.

Technical Assistance

This sub-section of Section F addresses technical assistance provided by the IDC. Paragraph 22 provides that the IDC shall, where required, provide technical assistance to individual States Parties as follows:

(a) in formulating their requirements for selection and screening of data and products;

(b) by installing at the IDC, at no cost to a requesting State Party for reasonable efforts, computer algorithms or software provided by the State Party to compute new signal and event parameters that are not included in the Operational Manual for the IDC, the output being considered products of the requesting State Party; and

(c) by assisting States Parties to develop the capability to receive, process and analyze IMS data at a national data center.

Paragraph 23 of this Section provides that the IDC shall continuously monitor and report on the operational status of the IMS facilities, of communications links, and of its own processing systems. It shall provide immediate notification to those responsible should the operational performance of any component fail to meet agreed levels set out in the relevant operational manual.

Part II

On-Site Inspections

Part II of the Protocol to the Comprehensive Nuclear Test-Ban Treaty is titled "On-Site Inspections." It consists of 110 paragraphs divided into five sections as follows: Section A, titled "General Provisions," consists of paragraphs 1 - 13; Section B, titled "Standing Arrangements," consists of paragraphs 14 - 40; Section C, titled "On-Site Inspection Request, Inspection Mandate and Notification of Inspection," consists of paragraphs 41 - 44; Section D, titled "Pre-Inspection Activities," consists of paragraphs 45 - 55; and Section E, titled "Conduct of Inspections," consists of paragraphs 56 - 110. This Part of the Protocol sets forth the detailed procedures for the implementation of on-site inspections that are carried out in accordance with the provisions for on-site inspections established in Article IV of the Treaty.

A. General Provisions

This first section of Part II of the Protocol, consisting of 13 paragraphs, sets forth provisions of a general nature that apply to on-site inspections. Paragraph 1 of this Section provides that the procedures of Part II of the Protocol shall be implemented pursuant to the provisions for on-site inspections set out in Article IV of the Treaty, which is implemented by this Part of the Protocol.

Paragraph 2 of Section A provides that the on-site inspection shall be carried out in the area where the event that triggered the on-site inspection request occurred.

Paragraph 3 of Section A provides that the area of an on-site inspection shall be continuous and its size shall not exceed 1000 square kilometers, and that there shall be no linear distance greater than 50 kilometers in any direction. This paragraph precludes the use of a single inspection to inspect separated areas and prevents highly unusual configurations of the inspected area by requiring that no linear distance be greater than 50 kilometers. For example, an inspection request for an area one kilometer wide by one thousand kilometers long would not be permitted.

Paragraph 4 of Section A provides a time limitation for the duration of an inspection. Once an inspection has been approved in accordance with Article IV, paragraph 46, it cannot exceed 60 days, unless extended by a maximum of 70 days in accordance with Article IV, paragraph 49. Therefore, the maximum time for the duration of an inspection, if extended, is 130 days.

Paragraph [illegible] f Section A provides that if an inspection area extends to areas under the control of more than one State Party, the provisions for on-site inspections shall apply, as appropriate, to each of the States Parties to which the inspection area extends.

Paragraph 6 of Section A delineates the respective rights and obligations of States Parties in the case of an inspection of an area under the jurisdiction or control of an inspected State Party located on the territory of another State Party or where access from the point of entry to the

inspection area requires transit through the territory of another State Party. Specifically, this paragraph states that in such cases, the inspected State Party shall exercise the rights and fulfill the obligations in accordance with this Protocol. This means that the inspected State Party has the burden of responsibility for inspections in areas under its control even where the area is on the territory of another State Party. The paragraph also requires the State Party on whose territory the inspection takes place to facilitate the inspection and provide necessary support to enable the inspection team to carry out its tasks in a timely and effective manner. Finally, this paragraph states that States Parties through whose territory transit is required to reach the inspection area shall facilitate such transit.

Paragraph 7 of Section A sets forth the rights and obligations of the inspected State Party in the case of an inspection of an area under the jurisdiction or control of the inspected State Party but that is located on the territory of a State that is not a Party to the Treaty. Specifically, this paragraph states that in such cases, the inspected State Party shall take all necessary measures to ensure that the inspection can be carried out in accordance with this Protocol. This paragraph further states that a State Party that has under its jurisdiction or control one or more areas on the territory of a State not Party to the Treaty shall take all necessary measures to ensure acceptance by the territorial state of inspectors and inspection assistants designated to the State Party, and if the inspected State Party is unable to ensure access, it shall demonstrate that it took all necessary measures to ensure access.

The purpose of paragraph 7 is to provide for the fact that the legal reach of the Treaty on the territory of a state that is not a Party to the Treaty is limited by that state's sovereign rights. Accordingly, a State Party legally may not be able to comply fully with its obligations with regard to inspections where the consent of a territorial state that is not a Party to the Treaty is necessary in order to provide access for an inspection team. Therefore, in such a situation a State Party is required to do everything possible to allow the inspection to take place. Note that the negotiators generally understood paragraph 7 to apply to such things as military bases or other government-owned facilities under a State Party's jurisdiction or control but on the territory of another state, but not to facilities or areas owned by private companies, even if the companies are incorporated by the State Party.

Paragraph 8 of Section A sets forth the rights and obligations of a State Party in the cases where the inspection area is located on the territory of the State Party but is under the jurisdiction or control of a state that is not a Party to the Treaty, i.e. the opposite situation from paragraph 7. Specifically, paragraph 8 states that in cases where the inspected area is located on the territory of a State Party, but in a place under the jurisdiction or control of a state not Party to the Treaty, the State Party shall take all necessary measures that would be required of an inspected State Party and a State Party on whose territory the inspection area is located, without prejudice to the rules and practices of international law, to ensure that on-site inspections can be carried out in accordance with the provisions of this Protocol. This means that even though the State Party on whose territory the inspection area is located is not the inspected State Party, it nevertheless has the same obligations as an inspected State Party. For example, if consent is given by the non-

State Party in control of the inspected area for an inspection, the State Party must assist the inspection team in conducting the inspection on its territory. In addition, the State Party must fulfill the obligations of a territorial State Party, e.g., it must allow the inspection team to transit its territory.

Paragraph 8 further states that if the State Party is unable to ensure access to the inspection area, it shall demonstrate that it took all necessary measures to ensure access. Paragraph 8 specifically provides that both obligations to take all necessary measures to ensure that an inspection can be carried out, and to ensure access to an inspection area, are to be without prejudice to the rules and practices of international law. This proviso was a recognition by the negotiators that in some cases where a non-State Party has valid jurisdiction and control under existing international agreements, the conduct of an inspection could be affected, and an assurance to States Parties that the necessary measures obligation does not supersede other valid international obligations.

Finally, with regard to on-site inspections, in each of the cases dealt with in paragraphs 6 through 8, the State Party remains under the obligation to make every reasonable effort to demonstrate compliance (subparagraph 57(a) and paragraph 60 of Article IV), and so must still take steps not involving actual inspection to demonstrate its compliance when access is restricted, recognizing that the final decision on any access rests with the inspected Party.

Paragraphs 9 and 10 of Section A provide general principles for establishing the size and composition of inspection teams. Paragraph 9 indicates that the inspection team shall be kept to the minimum necessary to properly fulfill the inspection mandate, with a maximum number of 40, except during the conduct of drilling, when more could be necessary. Further, paragraph 9 provides that no national of the requesting, or inspected, State Party shall be a member of the inspection team. This is to help insure objectivity of inspections, and to avoid even the appearance of favoritism towards either the requesting or inspected state.

Paragraph 10 provides that the Director-General shall determine the actual size of any particular inspection team and select its members from the list of inspectors (see paragraphs 15 and 18 of the Protocol for procedures for nomination and acceptance of inspectors) taking into account the circumstances of each request for an inspection.

Paragraph 11 of Section A requires the inspected State Party to provide for or arrange for the amenities necessary for the inspection team such as communication means, interpretation services, transportation, working space, lodging, meals and medical care. Note that this list is illustrative, not exhaustive.

Paragraph 12 of Section A provides that the inspected State Party shall be reimbursed by the CTBT Organization for all expenses, including those mentioned in paragraphs 11 and 49 of the Protocol (paragraph 49 concerns aircraft of the inspection team), related to the stay and functional activities of the inspection team on the territory of the inspected State Party. This paragraph provides that such reimbursement shall be paid in a reasonably short period of time

after the conclusion of the inspection. The reasonably short time frame addresses the concerns of some that too great a financial burden could be incurred by poorer states, which could adversely affect conduct of inspections unless reimbursement was reasonably prompt. Again, note that the expenses are not limited to those mentioned in paragraphs 11 and 49.

Paragraph 13 of Section A provides that procedures for implementation of on-site inspections shall be detailed in the Operational Manual for On-Site Inspections. On a case-by-case basis, the U.S. will determine how most effectively to apply the managed access provisions set forth in the Treaty to protect national security interests and to prevent the disclosure of confidential information not related to the purpose of the inspection.

Paragraph 15 of the Text on the Establishment of a Preparatory Commission directs the Preparatory Commission to "make all necessary preparations... for the support of on-site inspections from the entry into force of the Treaty," including developing and preparing "an operational manual containing all appropriate legal, technical and administrative procedures." Pursuant to paragraph 26(h) of Article II of the Treaty, the proposed operational manual will be submitted at the initial session of the Conference of the States Parties for its consideration and approval. In the Protocol, the Operational Manual for On-Site Inspections is referred to in paragraphs 25 (training), 36 (equipment), 85 (overflights), 101 and 102 (sample analysis).

B. Standing Arrangements

The second section of Part II of the Protocol, consisting of paragraphs 14-40, sets forth standing arrangements that apply to on-site inspections. This section is itself divided into five parts, as follows: "Designation of Inspectors and Inspection Assistants," paragraphs 14-25; "Privileges and Immunities," paragraphs 26-31; "Points of Entry," paragraphs 32-34; "Arrangements for Use of Non-Scheduled Aircraft," paragraph 35; and "Approved Inspection Equipment," paragraphs 36-40.

The first part of Section B is titled "Designation of Inspectors and Inspection Assistants." Paragraph 14 provides that an inspection team may consist of inspectors and inspection assistants, that an on-site inspection shall only be carried out by qualified inspectors assisted by inspection assistants and that both must be specially designated. The procedures for designation and approval of inspectors and inspection assistants are discussed below. This paragraph mentions technical and administrative personnel, aircrew and interpreters as non-exclusive examples of inspection assistants.

Paragraph 15 of Section B provides that inspectors and inspection assistants shall be nominated for designation by States Parties on the basis of their expertise and experience relevant to the purpose and functions of on-site inspections. The purpose of this paragraph is to provide that inspectors and inspection assistants shall be nominated on the basis of their qualifications. This paragraph specifically states that approval of such nominees shall be in advance by the States Parties in accordance with paragraph 18 of the Protocol.

Paragraphs 16 and 17 of Section B set forth the means by which State Parties and the Technical Secretariat propose persons for designation as inspectors and inspection assistants. Paragraph 16 applies to nominees of each State Party. Specifically, each State Party, within 30 days after the Treaty enters into force for that State Party, shall notify the Director General of the names, dates of birth, sex, ranks, qualifications and professional experience, of persons proposed by that State Party as inspectors and inspection assistants.

Paragraph 17 of Section B provides that no later than 60 days after entry into force of the Treaty itself (see the discussion of Article XIV of the Treaty) the Technical Secretariat shall communicate in writing to all States Parties the initial list of individuals and their qualifications proposed for designation as inspectors and inspection assistants by the Director-General and the States Parties.

Paragraph 18 of Section B provides the means for the approval of inspectors and inspection assistants, and provides each State Party an opportunity to disapprove specific inspectors or inspection assistants with regard to inspections on its territory or in any other place under its jurisdiction or control. Each State Party is also specifically obligated to acknowledge immediately receipt of the list. Approval is automatic unless a State Party declares its non-acceptance in writing no later than 30 days after that state acknowledges receipt of the list. Second, regarding disapproval, each State Party, at the time of initial designation, has the right to bar specific inspectors or inspection assistants from participating in any inspections of that particular State Party. This would be done by declaration of non-acceptance in writing to the Technical Secretariat within 30 days after acknowledgment of receipt of the list. The State Party may, but is not required to, include the reason for its objection. In case of such non-acceptance, this paragraph provides that the inspector (or assistant) shall not undertake or participate in on-site inspection activities on the territory or in any other place under the jurisdiction or control of the objecting state. Finally, this paragraph requires the Technical Secretariat to confirm immediately receipt of the notification of objection.

Note that rejection of an inspector or inspection assistant by a State Party does not prohibit such individuals from participating in inspections of other States Parties that have not objected to them.

Paragraph 19 of Section B provides for additions and changes to the list of inspectors and inspection assistants. Whenever additions or changes are proposed by either the Director-General or a State Party, they shall be designated in the same manner as the initial list. A proposal by a new State Party of its nominees would constitute a change or addition to the list and thus fall under this paragraph. This paragraph also requires each State Party to notify the Technical Secretariat when a previously designated individual can no longer fulfill the duties of an inspector or inspection assistant. This means that in addition to the death, disability or resignation of an individual, the original nominating state could remove one of its own designees by simply declaring that a particular individual could no longer fulfill the requisite duties.

Paragraph 20 of Section B requires the Technical Secretariat to keep the list of inspectors and assistants up to date and to notify all States Parties of any additions or changes to the list.

Paragraph 21 of Section B allows a State Party requesting an on-site inspection to propose that an individual from the inspector list serve as that State's observer in accordance with Article IV, paragraph 61 of the Treaty. Note that while paragraph 9 of the Protocol provides that no national of the requesting state can be a member of the inspection team, paragraph 21 provides for the possibility of a national of the requesting state who is one of the designated inspectors or inspection assistants serving as an observer for the requesting state. Paragraph 61(b) of Article IV, however, allows an inspected State Party to refuse to accept a proposed observer within 12 hours after approval of an on-site inspection by the Executive Council.

Paragraph 22 of Section B provides the means for the rejection of an inspector or assistant who has previously been accepted. In essence, this is the provision that allows a State Party to change its mind about the acceptability of specific individuals. However, this right is limited in one respect, that is, once a state has been notified of an inspection then it shall not seek to remove from that inspection any inspectors or assistants named in that particular inspection mandate. Specifically, this paragraph states that, subject to the provisions of paragraph 23, a State Party has the right at any time to object to an inspector or inspection assistant who has already been accepted. (Paragraph 23 is the limitation that applies once a state has been notified of an inspection.)

Paragraph 22 further states that the objecting State Party shall notify the Technical Secretariat of its objection in writing and may include (i.e., this is not required) the reason for the objection. Finally, this paragraph states that such objection shall come into effect 30 days after receipt of the notification by the Technical Secretariat, and that the Technical Secretariat shall immediately confirm receipt of the notification and inform the objecting and nominating states Parties of the date on which the inspector or inspection assistant shall cease to be designated for the objecting State Party.

Paragraph 23 of Section B states that a State Party that has been notified of an inspection shall not seek the removal from the inspection team of any of the inspectors or inspection assistants named in the inspection mandate. The purpose of this paragraph is to prevent a State Party that is about to be inspected from using its right to reject inspectors or inspection assistants from using this right to delay, hinder, or prevent an inspection.

Paragraph 24 of Section B also contains provisions that are designed to prevent potential interference by a State Party with the successful accomplishment of the inspection. The first sentence of paragraph 24 states that the number of inspectors and inspection assistants accepted by a State Party must be sufficient to allow for the availability of appropriate numbers of inspectors and assistants. Thus, this sentence prohibits, without imposing specific numerical requirements, a State Party from using its ability to reject inspectors and assistants to interfere with the ability of the Technical Secretariat to conduct inspections of that state.

The second sentence of paragraph 24 allows the Director-General to refer to the Executive Council any problem caused by non-acceptance of inspectors by a State Party. Specifically, the second sentence states that if, in the opinion of the Director General, the non-acceptance by a State Party of proposed inspectors or inspection assistants impedes the designation of a sufficient number of inspectors and inspection assistants or otherwise hampers the effective fulfillment of the purposes of an on-site inspection, the Director-General shall refer the issue to the Executive Council. Thus, this sentence provides a mechanism for dealing with the abuse of the right to reject inspectors and inspection assistants.

Paragraph 25 of Section B provides that each inspector included in the list of inspectors and assistants shall receive relevant training that shall be provided by the Technical Secretariat pursuant to procedures to be specified in the Operational Manual for On-Site inspections. The Technical Secretariat shall co-ordinate, with the States Parties, a schedule for this training. Note that inspection assistants are not included in this training requirement.

The next part of Section B is entitled "Privileges and Immunities" and consists of paragraphs 26 through 31. Paragraph 26 of Section B provides that each State Party shall be obliged to issue multiple entry/exit and/or transit visas for inspectors and inspection assistants. Specifically, this paragraph requires that "[f]ollowing acceptance" of the initial list of inspectors and assistants (under paragraph 18) or an altered or changed list of inspectors (under paragraph 19) upon application by an inspector or inspection assistant, each State Party shall be obliged to issue such visas and "other relevant documents to enable each inspector and inspection assistant to enter and to remain on the territory of that State Party for the sole purpose of carrying out inspection activities." This obligation to issue visas is to be carried out "in accordance with its national procedures." However, there is a requirement that the documents be issued no later than 48 hours after the receipt of the application or immediately upon arrival of the inspection team at the point of entry on the territory of that State. The documents shall be valid "for as long as is necessary" to allow the inspectors to remain on the territory of the inspected State "for the sole purpose" of carrying out the inspection activities.

Paragraph 27 of Section B sets forth, in nine subparagraphs, the specific privileges and immunities that are to be accorded members of the inspection team, and the terms and conditions under which they are to be accorded. Specifically, this paragraph states that to exercise their functions effectively, members of the inspection team shall be accorded privileges and immunities as set forth in subparagraphs (a) to (i). This paragraph further states that privileges and immunities shall be granted to members of the inspection team for the sake of the Treaty and not for the personal benefit of the individuals themselves. Finally, this paragraph states that such privileges and immunities shall be accorded to inspectors and inspection assistants for the entire period between arrival on and departure from the territory of the inspected State Party, and thereafter with respect to acts previously performed in the exercise of their official functions.

Except as noted below, these are the same privileges and immunities accorded in other U.S. arms control agreements such as INF and START. Note also that the Treaty can require only States

Parties, not all states, to accord privileges and immunities, and therefore an inspector or assistant inspecting an area under the jurisdiction or control of an inspected State Party on the territory of a State not a Party to the Treaty will not necessarily enjoy diplomatic privileges and immunities with regard to the territorial state that is not a Party to the Treaty.

Subparagraph 27(a) grants the members of the inspection team the inviolability enjoyed by diplomatic agents pursuant to Article 29 of the Vienna Convention on Diplomatic Relations of 18 April 1961. (Article 29 of the Vienna Convention provides that the person of a diplomatic agent shall be inviolable. Article 29 further provides that a diplomatic agent shall not be liable to any form of arrest or detention. Finally, Article 29 provides that the receiving state (i.e. the inspected State Party) shall treat the diplomatic agent with due respect and shall take all appropriate steps to prevent any attack on his person, freedom or dignity.)

Subparagraph 27(b) grants the living quarters and office premises occupied by the inspection team carrying out inspection activities pursuant to the Treaty the inviolability and protection accorded to the premises of diplomatic agents pursuant to paragraph 1 of Article 30 of the Vienna Convention on Diplomatic Relations. (Paragraph 1 of Article 30 of the Vienna Convention provides that the private residence of a diplomatic agent shall enjoy the same inviolability and protection as the premises of the mission. Paragraph 1 of Article 22 of the Vienna Convention provides that the premises of a mission shall be inviolable and the agents of the receiving state (i.e. the inspected State Party) may not enter them, except with the consent of the head of the mission. Paragraph 2 of Article 22 provides that the receiving state is under an obligation to take all appropriate steps to protect the premises of the mission against any intrusion or damage and to prevent any disturbance of the peace of the mission or impairment of its dignity. Paragraph 3 of Article 22 provides that the premises of the mission, their furnishings and other property thereon and the means of transport of the mission shall be immune from search, requisition, attachment or execution.)

Note that unlike other U.S. arms control agreements, such as INF or START, under the CTBT, even short-term inspectors enjoy inviolable living quarters, i.e. even hotel rooms are protected. This provision accords additional protection to inspectors in potentially hostile situations.

Subparagraph 27(c) grants the papers and correspondence, including records, of the inspection team the inviolability accorded to all papers and correspondence of diplomatic agents pursuant to Article 30, paragraph 2 of the Vienna Convention on Diplomatic Relations. In general, Paragraph 2 of Article 30 of the Vienna Convention provides that the papers, the correspondence, and the property of a diplomatic agent shall enjoy inviolability, except for certain legal actions related to: private immovable property situated in the territory of the receiving state (i.e. the inspected State Party) not held for purposes of the mission; inheritance where the diplomatic agent is involved as executor, administrator, heir or legatee as a private person; or any professional or commercial activity exercised outside of the diplomatic agent's official functions. (Such activities, in any case, are prohibited pursuant to subparagraph 27(i) of Section B.)

Subparagraph 27(c) also grants the inspection team the right to use codes for its communications with the Technical Secretariat.

Subparagraph 27(d) states that samples and approved equipment carried by members of the inspection team shall be inviolable subject to provisions contained in the Treaty, and exempt from all customs duties. Note that paragraphs 97 through 104 of the Protocol contain the general rules regarding samples, while paragraphs 36 through 40 contain the general rules regarding approved equipment. Subparagraph 27(d) also states that hazardous samples shall be transported in accordance with relevant regulations.

Subparagraph 27(e) states that the members of the inspection team shall be accorded the immunities accorded to diplomatic agents pursuant to paragraphs 1, 2 and 3 of Article 31 of the Vienna Convention on Diplomatic Relations. (Paragraph 1 of Article 31 of the Vienna Convention provides that a diplomatic agent shall enjoy immunity from the criminal jurisdiction of the receiving state (i.e. the inspected State Party) and shall also enjoy immunity from their civil and administrative jurisdiction, except as noted above in the analysis of subparagraph 27(c). Paragraph 2 of Article 31 provides that a diplomatic agent is not obliged to give evidence as a witness. Also, paragraph 3 of Article 31 prohibits most legal actions, except in certain limited cases, as also discussed in the analysis of subparagraph 27(c) above, in regard to Article 30 of the Vienna Convention).

Note that, nonetheless, paragraphs 29 and 30 of the Protocol require members of the inspection team to respect local laws and allow for waiver of immunity for violations.

Subparagraph 27(f) states that the members of the inspection team carrying out prescribed activities pursuant to this Treaty shall be accorded the exemption from dues and taxes accorded to diplomatic agents pursuant to Article 34 of the Vienna Convention on Diplomatic Relations. Article 34 of the Vienna Convention provides that diplomatic agents shall be exempt from all dues and taxes, personal or real, regional or municipal, except for: indirect taxes normally incorporated into the prices of goods or services; real estate taxes and other fees related to property situated in the territory of the receiving state (i.e. the inspected State Party) (unless held for the sending state, (i.e. the Organization) for purposes of the mission); estate taxes, except on personal movable property; charges for specific services rendered; income and capital taxes related to private income and commercial investments in receiving state (i.e. the inspected State Party); and registration, court or record fees, mortgage dues and stamp duty with respect to immovable property, except for the premises of the mission, (i.e. the living quarters and working spaces of the inspection team). Thus, for purposes of the Treaty, the living quarters and working spaces of the inspection team are exempt from all national, regional or municipal dues and taxes.

Subparagraph 27(g) states that the members of the inspection team shall be permitted to bring into the territory of the inspected State Party, without payment of any customs duties or related charges, articles for personal use, with the exception of articles the import or export of which is prohibited by law or controlled by quarantine regulations.

Subparagraph 27(h) states that the members of the inspection team shall be accorded the same currency and exchange facilities as are accorded to representatives of foreign Governments on temporary official missions.

Subparagraph 27(i) states that the members of the inspection team shall not engage in any professional or commercial activity for personal profit on the territory of the inspected State Party.

Paragraph 28 of Section B sets forth the privileges and immunities to be accorded when the inspection team is in transit. Specifically, this paragraph states that when transiting the territory of States Parties other than the inspected State Party, the members of the inspection team shall be accorded the privileges and immunities enjoyed by diplomatic agents pursuant to paragraph 1 of Article 40 of the Vienna Convention on Diplomatic Relations. (Paragraph 1 of Article 40 of the Vienna Convention provides that if a diplomatic agent passes through or is in the territory of a third state, which has granted the inspector a passport visa if such visa was necessary, while proceeding to take up or to return to the inspector's post, or when returning to the inspector's own country, the third state shall accord the inspector inviolability and such other immunities as may be required to ensure the inspector's transit or return, which shall also apply to family members who enjoy privileges or immunities who are accompanying the diplomatic agent, or traveling separately to join the agent or to return to their country.)

Paragraph 28 also states that papers and correspondence, including records, and samples and approved equipment, carried by members of the inspection team, shall be accorded the privileges and immunities set forth in subparagraphs 27(c) and (d), i.e. inviolability. Approved equipment is core equipment for inspection activities and auxiliary equipment necessary for the effective and timely conduct of inspections. (See paragraphs 36 - 40 of the Protocol in regard to approved equipment.)

Paragraph 29 of Section B provides for handling of possible abuses of privileges and immunities. Specifically, this paragraph states that without prejudice to their privileges and immunities the members of the inspection team shall be obliged to respect the laws and regulations of the inspected State Party and, to the extent that is consistent with the inspection mandate, shall be obliged not to interfere in the internal affairs of that state. This paragraph further states that if the inspected State Party considers that there has been an abuse of privileges and immunities specified in this Protocol, consultations shall be held between the State Party and the Director-General to determine whether such an abuse has occurred and, if so determined, to prevent a repetition of such an abuse.

Paragraph 30 of Section B allows for waiver of the privileges and immunities of the members of the inspection team by the Director-General when members have abused their privileges and immunities. Specifically, this paragraph states that the immunity from jurisdiction of members of the inspection team may be waived by the Director-General in those cases when the Director-General is of the opinion that immunity would impede the course of justice and that it

can be waived without prejudice to the implementation of the provisions of the Treaty. This paragraph further states that waiver must always be express.

Paragraph 31 of Section B states that observers shall be accorded the same privileges and immunities accorded to members of the inspection team pursuant to this section, except for those accorded pursuant to subparagraph 27(d). Subparagraph 27(d) gives inviolability to samples and approved equipment. This exception prevents observers from bringing unauthorized samples or approved equipment to or removing such samples or equipment from an inspection site under the protection of their privileges and immunities. (Other provisions regarding observers are contained in paragraph 61 of Article IV of the Treaty, and paragraphs 61, 63 through 68 of Section B of this Protocol.)

The next part of Section B is titled "Points of Entry" and consists of paragraphs 32 through 34.

Paragraph 32 of Section B requires each State Party to designate points of entry for inspection teams. Specifically, this paragraph requires each State Party to designate points of entry and to supply the required information to the Technical Secretariat within 30 days after the Treaty enters into force for it. This paragraph further states that these points of entry shall be such that the inspection team can reach any inspection area from at least one point of entry within 24 hours. The locations of points of entry shall be provided to all States Parties by the Technical Secretariat. Points of entry may also serve as points of exit, however, this is not required.

Paragraph 33 of Section B provides for changes of points of entry. Specifically, this paragraph permits each State Party to change its points of entry by giving notice of such change to the Technical Secretariat. This paragraph further states that changes shall become effective 30 days after the Technical Secretariat receives such notification to allow appropriate notification to all States Parties.

Paragraph 34 of Section B provides for consultations between the Technical Secretariat and a State Party if timely conduct of inspections would be adversely impacted by factors related to the points of entry. Specifically, this paragraph states that if the Technical Secretariat considers that there are insufficient points of entry for the timely conduct of inspections or that changes to the points of entry proposed by a State Party would hamper such timely conduct of inspections, it shall enter into consultations with the State Party concerned to resolve the problem.

The next part of Section B is titled "Arrangements for Use of Non-Scheduled Aircraft" and consists of paragraph 35. Paragraph 35 provides for the use of non-scheduled aircraft by the inspection team. Specifically, this paragraph states that for inspections where timely travel to the point of entry is not feasible using scheduled commercial flights, an inspection team may utilize non-scheduled aircraft. This paragraph further states that within 30 days after the Treaty enters into force for it, each State Party shall inform the Technical Secretariat of the standing diplomatic clearance number for non-scheduled aircraft transporting an inspection team and equipment necessary for inspection. Finally, this paragraph states that aircraft routings shall be along

established international airways that are agreed upon between the State Party and the Technical Secretariat as the basis for such diplomatic clearance.

This paragraph provides for the possibility of using non-scheduled aircraft where timely commercial transport for inspections is not available, such as when commercial transportation is not reliable, is not scheduled at appropriate times, or is unavailable for other reasons. Note that there is no requirement to use non-scheduled aircraft owned by a particular state or entity (such as the Technical Secretariat), and there is no requirement to use any particular type of non-scheduled aircraft (e.g., a helicopter could be used).

The last part of Section B is titled "Approved Inspection Equipment" and consists of paragraphs 36 through 40. Paragraph 36 of Section B provides that the Conference, at its initial session, shall consider and approve a list of equipment for use during on-site inspections. Each State Party may submit proposals for the inclusion of equipment in the list. Specifications for the use of the equipment will be set forth in the Operational Manual for On-Site Inspections, and must take account of safety and confidentiality considerations where such equipment is likely to be used.

Note that the provisions of paragraphs 88 through 96 of the Protocol allow the inspected State Party to restrict the use of approved equipment in certain circumstances. Restricted access will be discussed in greater detail in the analysis of paragraphs 88 through 96 below.

Paragraph 37 of Section B provides that equipment for use during on-site inspections shall consist of core equipment and auxiliary equipment. Core equipment is for inspection activities and techniques specified in paragraph 69. Auxiliary equipment is other equipment that is necessary for the effective and timely conduct of inspections. Paragraph 51 provides authority for the inspected State Party to exclude equipment that has not been approved, without prejudice to the requirement in paragraph 54, that the inspection team must be able to move from the point of entry to the inspection area within 36 hours.

Paragraph 38 of Section B requires the Technical Secretariat to ensure that all types of approved equipment are available for inspections when required. Also, when required, the Technical Secretariat shall certify that the equipment has been calibrated, maintained and protected. The Technical Secretariat shall provide documentation and attach authenticating seals. The inspected State Party has the right, under paragraph 51, to check that equipment has been approved and certified in accordance with this paragraph, and to exclude equipment that has not been approved and certified. Other than the rights of paragraph 51, the inspected State Party is precluded by paragraph 50 from restricting the presence or use of approved equipment. Note, however, as discussed above in regard to paragraph 36, that the inspected State Party can even restrict use of approved equipment in accordance with the provisions of paragraphs 88 through 96 of the Protocol.

Paragraph 39 of Section B provides that permanently held equipment shall be in the custody of

the Technical Secretariat, and that the Technical Secretariat shall be responsible for the maintenance and calibration of such equipment.

Paragraph 40 of Section B provides that, as appropriate, the Technical Secretariat shall make arrangements with States Parties to provide equipment mentioned in the list of equipment approved by the Conference under paragraph 36. The States Parties providing such equipment shall be responsible for its maintenance and calibration.

C. On-Site Inspection Request, Inspection Mandate and Notification of Inspection

The third section of Part II of the Protocol, consisting of paragraphs 41- 44, details the required contents of an inspection request, an inspection mandate, and the notification of an inspection to an inspected State Party. This section is divided into three parts, consistent with the title, as follows: "On-Site Inspection Request," paragraph 41; "Inspection Mandate," paragraph 42; and "Notification of Inspection," paragraphs 43 and 44.

The first part of Section C is titled "On-Site Inspection Request" and consists of only paragraph 41. This paragraph provides that an on-site inspection request shall contain the information required by subparagraphs (a) through (h) of paragraph 41 (other information is not excluded). The right to request an on-site inspection is provided by paragraph 34 of Article IV of the Treaty, and paragraphs 35 through 38 of Article IV of the Treaty contain additional provisions related to on-site inspection requests.

Subparagraph 41(a) requires the estimated geographical and vertical co-ordinates of the location of the event that triggered the request for an inspection. Also required is an indication of the possible margin of error.

Subparagraph 41(b) requires the proposed boundaries of the area to be inspected. The boundaries are to be specified on a map, and must be in accordance with paragraphs 2 and 3 of Part II of the Protocol. (Paragraphs 2 and 3 limit the place and size of an inspection area; see the discussion above.)

Subparagraph 41(c) requires naming the State Party or States Parties to be inspected, or an indication that the area to be inspected or part of that area is beyond the jurisdiction or control of any State.

Subparagraph 41(d) requires specifying the probable environment of the event that triggered the request. The word "environment" refers to potential testing environments, i.e., the atmosphere, outer space, underwater, and underground.

Subparagraph 41(e) requires an estimated time of the event that triggered the request with an indication of possible margin of error.

Subparagraph 41(f) is a general requirement that all data upon which the request is based be provided. Paragraph 37 of Article IV of the Treaty sets forth the acceptable sources of information upon which an on-site inspection request can be based.

Subparagraph 41(g) requires that personal data regarding the proposed observer, if any, be provided. Note that paragraph 61 of Article IV of the Treaty, and paragraphs 63 through 68 of the Protocol, contain provisions regarding the observer. (Also, despite the use of the singular form of the word "observer" there can be as many as three such observers.)

Subparagraph 41(h) requires information about the results of a consultation and clarification process, if any, that may have been conducted in relation to the proposed inspection, or an explanation of why such a process has not been carried out. Paragraphs 29 through 33 of Article IV of the Treaty concern the consultation and clarification process.

The next part of Section C is entitled "Inspection Mandate", and only consists of paragraph 42. This paragraph sets forth the required contents of an inspection mandate in ten subparagraphs (a) through (j). Paragraph 54 of Article IV of the Treaty requires the Director-General to issue an inspection mandate for the conduct of any on-site inspection.

Subparagraph 42(a) requires the mandate to include the decision of the Executive Council to approve the on-site inspection request (see paragraphs 46 through 52 of Article IV of the Treaty for provisions concerning Executive Council decisions).

Subparagraph 42(b) requires the name of the state (or states) Party to be inspected, or an indication that the inspected area is beyond the jurisdiction or control of any state.

Subparagraph 42(c) requires the location and boundaries of the inspection area specified on a map. This specification must take into account all information on which the request was based, all other technical information, and be in consultation with the requesting State Party.

Subparagraph 42(d) requires the planned types of activity of the inspection team in the inspected area. Note that subparagraph 60(e) requires that activities during the inspection must be relevant to the purpose of the inspection, and paragraph 69 sets forth the activities that may be conducted.

Subparagraph 42(e) requires the point of entry to be used by the inspection team.

Subparagraph 42(f) requires any transit or basing points, as appropriate. Transit or basing points are for inspections in an area beyond the jurisdiction or control of any state. Paragraphs 105 and 106 of this Protocol contain provisions in regard to such points.

Subparagraph 42(g) requires the name of the head of the inspection team.

Subparagraph 42(h) requires the names of the members of the inspection team.

Subparagraph 42(i) requires the name of the proposed observer, if any. (See the discussion of subparagraph 41(g) above.)

Subparagraph 42(j) requires a list of equipment to be used in the inspection area.

Paragraph 42 also provides that if the Executive Council makes a decision pursuant to Article IV, paragraphs 46 to 49, of the Treaty, that necessitates a modification of the inspection mandate, the Director-General may update the mandate with respect to planned types of activities, members, and equipment, as appropriate. The inspected State Party must be immediately notified of any such modification.

The next part of Section C is titled "Notification of Inspection" and consists of two paragraphs, paragraphs 43 and 44.

Paragraph 43 of Section C sets forth the required contents of a notification of inspection in five subparagraphs, (a) through (e). Article IV, paragraph 55 of the Treaty requires the Director-General to notify the inspected State Party of the inspection. This notification must be no less than 24 hours before the planned arrival of the inspection team at the point of entry.

Subparagraph 43(a) requires that the inspection mandate be included.

Subparagraph 43(b) requires the date and estimated time of arrival of the inspection team at the point of entry.

Subparagraph 43(c) requires the means of arrival at the point of entry.

Subparagraph 43(d) requires the standing diplomatic clearance number for non-scheduled aircraft, if appropriate.

Subparagraph 43(e) requires a list of any equipment the Director General requests the inspected State Party to make available to the inspection team.

Paragraph 44, the last paragraph of Section C, requires the inspected State Party to acknowledge receipt of the notification by the Director General no later than 12 hours after receipt. Note that Article IV paragraph 55 of the Treaty provides that the inspection team can arrive as early as 24 hours after the notification, so delay in acknowledging the notification would not affect the requirement to allow access to the inspection team.

D. Pre-Inspection Activities

The fourth section of Part II of the Protocol is subtitled "Entry Into the Territory of the Inspected State Party, Activities at the Point of Entry and Transfer to the Inspection Area." Section D, consisting of paragraphs 45 through 55, provides detailed provisions in regard to the various

rights and activities of an inspection team prior to an inspection, and the rights and responsibilities of an inspected State Party prior to an inspection.

Paragraph 45 of Section D requires an inspected State Party that has been notified of the arrival of the inspection team to ensure the immediate entry of the team into its territory. As noted above, Article IV, paragraph 55 of the Treaty provides for a 24 hour notice to the inspected State Party, prior to the arrival of the inspection team at the point of entry .

Paragraph 46 of Section D provides for the filing of a flight plan for the use of non-scheduled aircraft by an inspection team. Specifically, this paragraph states that when a non-scheduled aircraft is used, the Technical Secretariat shall provide the inspected State Party with a flight plan, through the National Authority, for the aircraft's flight from the last airfield prior to entering the airspace of the inspected State Party to the point of entry, not less than six hours before the scheduled departure time from that airfield. This paragraph further states that such a plan shall be filed in accordance with the procedures of the International Civil Aviation Organization applicable to civil aircraft. Also, this paragraph states that the Technical Secretariat shall include in the remarks section of each flight plan the standing diplomatic clearance number and the appropriate notation identifying the aircraft as an inspection aircraft. Finally, if a military aircraft is used, the Technical Secretariat shall request prior authorization from the inspected State Party for the aircraft to enter its airspace.

Paragraph 47 of Section D requires the inspected State Party to ensure approval of the flight plan. Specifically, this paragraph states that not less than three hours prior to the scheduled departure of the inspection team from the last airfield prior to entering the airspace of the inspected State Party, the inspected State Party shall ensure that the flight plan filed in accordance with paragraph 46 is approved so that the inspection team may arrive at the point of entry by the estimated arrival time.

Paragraph 48 of Section D provides that, where necessary, the head of the inspection team and the representative of the inspected State Party shall agree on a basing point and a flight plan from the point of entry to the basing point and, also if necessary, to the inspection area.

Paragraph 49 of Section D requires the inspected State Party to provide for or arrange parking, security protection, servicing and fuel as required by the Technical Secretariat for the aircraft of the inspection team at the point of entry and, where necessary, at the basing point and at the inspection area. This paragraph further states that such aircraft shall not be liable for landing fees, departure tax, and similar charges. This paragraph further states that it also applies to aircraft used for overflight during the inspection.

Note that paragraphs 46, 47 and 49 are similar to corresponding provisions found in other recent arms control agreements such as the Open Skies Treaty and START.

Paragraph 50 of Section D provides that, subject to paragraph 51, there shall be no restriction by the inspected State Party on the inspection team bringing approved equipment into the inspected State Party and using the equipment in accordance with the provisions of the Treaty. There are, however, some restrictions on these rights. First, as specifically stated in this paragraph, the rights are subject to paragraph 51, which provides the inspected State Party with the right to check the equipment and exclude it under certain highly limited circumstances (see paragraph 51 below). Next, the use must be in accordance with the Treaty. Finally, as noted above in the analysis of paragraph 36, the inspected State Party can restrict the use of equipment in certain circumstances, for example, when restricted access sites are declared (see also the discussion of paragraphs 88 to 96 below).

Paragraph 51 of Section D gives the inspected State Party a limited right to check and exclude approved equipment. Specifically, this paragraph states that the inspected State Party shall have the right, without prejudice to the prescribed time frames (see paragraph 54), to check in the presence of inspection team members at the point of entry that the equipment has been approved and certified in accordance with paragraph 38. (Paragraph 38 provides a procedure for the Technical Secretariat to certify equipment and authenticate the certification.) The inspected State Party may exclude equipment that is not in conformity with the inspection mandate or that has not been so approved and certified. Note that the inspection mandate only requires that a list of equipment be provided; therefore, if equipment is on that list and is approved under paragraph 38 it may not be excluded.

Paragraph 52 of Section D provides for a pre-inspection briefing of the inspection team by the inspected State Party. Specifically, this paragraph states that immediately upon arrival at the point of entry the head of the inspection team shall present to the representative of the inspected State Party the inspection mandate and an initial inspection plan prepared by the team. The time for this initial procedure is to be "without prejudice" to the time-frame of paragraph 54, that is, the time that the inspection team takes to make this presentation does not count against the 36 hours allowed the inspected State Party under paragraph 54. The paragraph further requires the inspected State Party to brief the inspection team, with the aid of maps and other appropriate documents, about relevant natural terrain features, safety and confidentiality issues, and logistical arrangements. This paragraph also provides that the inspected State Party may indicate locations within the inspection area that, in its view, are not related to the purpose of the inspection. However, unless the inspected State Party takes the extra step of restricting access pursuant to paragraphs 88 to 96, this indication would not impede an inspection of such locations.

Paragraph 53 of Section D requires that, after the pre-inspection briefing, the inspection team modify the initial inspection plan, as appropriate, taking into account comments by the inspected State Party. The modified plan shall then be made available to the representative of the inspected State Party. Note that, while there is a requirement that the inspection plan be modified to take into account comments by the inspected State Party, there is no provision for resolving a dispute between the inspected State Party and the team as to whether the modified plan fully meets the comments. The U.S. expects that, should a dispute arise, the inspected State Party will take

whatever steps are necessary, consistent with safety and constitutional considerations, to make every reasonable effort to satisfy the inspection mandate through alternative means. Overall, the inspected State Party would be able to implement the managed access provisions set forth in paragraphs 86 to 96.

Paragraph 54 of Section D requires that the inspected State Party shall do "everything in its power" to provide assistance and to ensure the safe conduct of the inspection team, and approved equipment , from the point of entry to the inspection area no later than 36 hours after arrival at the point of entry, unless other timing has been agreed within the time-frame specified in paragraph 57 (i.e., begin inspection activities within the inspection area as soon as possible, i.e., once the inspected State Party has completed required and necessary actions at the point of entry, but in any case the inspection activities must begin no later than 72 hours after arrival at the point of entry).

Note that paragraph 32 of Section B requires each State Party to designate a sufficient number of points of entry to enable an inspection team to reach any inspection area from at least one point of entry within 24 hours. The 36-hour time frame set forth in paragraph 54 is intended to recognize that additional time may be required in order for the inspected State Party to check whether the inspection equipment has been approved and certified in accordance with paragraph 38 of Section B. However, there is no Treaty requirement that the inspection team wait for 24 hours, 36 hours, or any other period of time after arriving at the point of entry before beginning an inspection. Rather, paragraph 57 indicates that inspection activities are to commence as soon as possible, i.e., once the inspection team and the inspected State Party have completed required and necessary actions, but in any case must begin no later than 72 hours after arrival at the point of entry.

Paragraph 55 of Section D provides for verification of the location of the inspection site. Specifically, this paragraph provides that, to confirm that the area to which the inspection team has been transported corresponds to the inspection area specified in the inspection mandate, the inspection team shall have the right to use approved location-finding equipment. Finally, this paragraph requires the inspected State Party to assist the inspection team in this task.

E. Conduct of Inspections

The fifth section of Part II of the Protocol, consisting of paragraphs 56 - 110, sets forth detailed rules and procedures that apply to the conduct of inspections. This section is divided further into ten parts, as follows: "General Rules," paragraphs 56-61; "Communications," paragraph 62; "Observer," paragraphs 63-68; "Inspection Activities and Techniques," paragraphs 69-70; "Overflights," paragraphs 71-85; "Managed Access," paragraphs 86-96; "Collection, Handling and Analysis of Samples," paragraphs 97-104; "Conduct of Inspections in Areas beyond the Jurisdiction or Control of any State," paragraphs 105-108; "Post-Inspection Procedures," paragraph 109; and "Departure," paragraph 110.

The first part of Section E, entitled "General Rules," consists of paragraphs 56 through 61, and contains rules of general applicability for the conduct of on-site inspections.

Paragraph 56 of Section E provides that the inspection team shall discharge its functions in accordance with the provisions of the Treaty and the Protocol. This is a statement of a rule of general applicability in international law, that is, activities conducted under authority of an international agreement shall be in accordance with the provisions of that agreement.

Paragraph 57 of Section E provides that the inspection team shall begin its inspection activities in the inspection area as soon as possible, but in no case later than 72 hours after arrival at the point of entry. For reference, this paragraph is one of a number that involve timing requirements, for example: paragraph 26 - timing for issuance of visas; paragraph 32 - time to reach an inspection area; paragraph 46 - aircraft flight plan times; and paragraph 54 - time for movement from point of entry to the inspection area.

Paragraph 58 of Section E states that the activities of the inspection team shall be so arranged as to ensure the timely and effective discharge of its functions and the least possible inconvenience to the inspected State Party and disturbance to the inspection area.

Paragraph 59 of Section E provides for the use by the inspection team of equipment requested from the inspected State Party by the Director General pursuant to paragraph 43(e). Specifically, this paragraph states that in cases where before or in the course of the inspection, the inspected State Party has been requested to make available any equipment for use by the inspection team, the inspected State Party shall comply with the request to the extent it can. Note that the inspected State Party is only required to respond to requests for use of equipment at an inspection site to the extent that it is able to do so.

Paragraph 60 of Section E sets forth eight specific rights and obligations of an inspection team during an on-site inspection in subparagraphs (a) through (h). Note that these are not the only rights of an inspection team; the subparagraphs contain an illustrative list only. In general, under international law, and within the provisions of the Treaty and Protocol, an inspection team has the rights necessary to carry out effectively the purpose of the inspection as set forth in the mandate and stated in Article IV paragraph 35.

Subparagraph 60(a) provides that the inspection team shall have the right to determine how the inspection will proceed, consistent with the inspection mandate and taking into account any steps taken by the inspected State Party consistent with the provisions on managed access (see paragraphs 86-96).

Subparagraph 60 (b) provides the inspection team the right to modify the inspection plan, as necessary, to ensure the effective execution of the inspection. This recognizes and provides for the possibility that during the course of an inspection, circumstances could make a change of plan necessary.

Subparagraph 60(c) states the obligation of the inspection team to take into account the recommendations and suggested modifications by the inspected State Party to the inspection plan.

Subparagraph 60(d) provides the inspection team the right to request clarifications in regard to ambiguities that may arise during the inspection. Note that the inspected State Party is obligated under paragraph 61(g) to provide such clarification.

Subparagraph 60(e) obligates the inspection team to use only the techniques specified in paragraph 69 and to refrain from activities not relevant to the purpose of the inspection. This paragraph further provides that the inspection team shall collect and document such facts as are related to the purpose of the inspection, but shall neither seek nor document information which is clearly not related thereto. Finally, this paragraph provides that any material collected and subsequently found not to be relevant shall be returned to the inspected State Party.

Subparagraph 60(f) obligates the inspection team to take into account and include in its report data and explanations on the nature of the event that triggered the request that are provided by the inspected State Party from its national monitoring networks and other sources.

Subparagraph 60(g) obligates the inspection team to provide the inspected State Party, at its request, with copies of the information and data collected in the inspection area.

Subparagraph 60(h) obligates the inspection team to respect the confidentiality and the safety and health regulations of the inspected State Party.

Paragraph 61 of Section E sets forth six specific rights and one specific obligation of an inspected State Party during an on-site inspection in subparagraphs (a) through (g). This, also, is illustrative only, and is not an exhaustive list of the rights and obligations of an inspected State Party. In general, under international law and within the provisions of the Treaty and Protocol, an inspected State Party has the rights necessary to demonstrate its compliance with the Treaty. Article IV paragraph 57 of the Treaty sets forth rights and obligations of an inspected State Party.

Subparagraph 61(a) provides the inspected State Party the right to make recommendations at any time to the inspection team regarding possible modification of the inspection plan.

Subparagraph 61(b) provides the right and also requires the inspected State Party to provide a representative for liaison with the inspection team.

Subparagraph 61(c) provides the inspected State Party with the right to have representatives accompany the inspection team during the performance of its duties and to observe all inspection activities carried out by the inspection team. The paragraph specifically states, however, that this shall not delay or otherwise hinder the inspection team in the exercise of its functions. Note that the inspected State Party is not required to provide representatives to accompany the inspection team.

Subparagraph 61(d) provides the inspected State Party with the right to provide additional information and to request the collection and documentation of additional facts it believes are relevant to the inspection.

Subparagraph 61(e) provides the inspected State Party the right to:

- examine all photographic and measurement products as well as samples
- receive duplicate copies of the same
- retain any photographs or parts thereof, showing sensitive sites not related to the purpose of the inspection
- retain photographic originals and first-generation photographic products
- put photographs or parts thereof under joint seal in its territory
- provide its own camera operator to take still/video photographs as requested by the inspection team (otherwise, members of the team shall do this).

Subparagraph 61 (f) provides the inspected State Party the right to provide the inspection team, from its national monitoring networks and from other sources, with data and explanations on the nature of the event that triggered the request for an on-site inspection.

Subparagraph 61 (g) obligates the inspected State Party to provide the inspection team with such clarification as may be necessary to resolve any ambiguities that arise during the inspection. (See subparagraph 60(d), which gives the team the right to ask for clarification.)

The second part of Section E is titled "Communications" and consists of only paragraph 62.

Paragraph 62 of Section E provides the inspection team the right, at all times during the on-site inspection, to communicate with the Technical Secretariat and among its members. Specifically, this paragraph states that inspectors shall have the right throughout the on-site inspection to communicate with each other and with the Technical Secretariat. This paragraph further states that for this purpose they may use their own duly approved and certified equipment with the consent of the inspected State Party, to the extent that the inspected State Party does not provide them with access to other telecommunications.

The third part of Section E is titled "Observer" and consists of paragraphs 63 through 68.

Paragraph 63 of Section E provides for coordination of the arrival of the observer and the inspection team at the point of entry. Specifically, this paragraph provides that in accordance with the provisions of paragraph 61 of Article IV, with regard to the participation of an observer in an on-site inspection, the requesting State Party shall liaise with the Technical Secretariat to coordinate the arrival of the observer at the same point of entry or basing point as the inspection team within a reasonable period of the inspection team's arrival.

Note that paragraph 61 of Article IV, *inter alia*, requires the agreement of the inspected State Party for the participation of an observer. Also, as mentioned above (see the discussion of subparagraph 41(g)), even though the singular form of the word "observer" is used, paragraph 61 of Article IV allows as many as three observers from an aggregate of requesting States Parties.

Paragraph 64 of Section E provides the observer with the right to communicate with the requesting State Party. Specifically, this paragraph provides that the observer shall have the right throughout the inspection to be in communication with the embassy of the requesting State Party located in the inspected State Party or, in the case of absence of an embassy, with the requesting State Party itself.

Paragraph 65 of Section E provides that the observer shall have the right to arrive at the inspection area, and to have access to the inspection area as granted by the inspected State Party.

Paragraph 66 of Section E provides that the observer shall have the right to make recommendations to the inspection team throughout the inspection.

Paragraph 67 of Section E provides that throughout the inspection, the inspection team shall keep the observer informed about the conduct of the inspection and the findings.

Paragraph 68 of Section E requires the inspected State Party to provide the amenities necessary for the observer; however, the costs of the observer are the responsibility of the requesting State Party. Specifically, this paragraph provides that throughout the inspection, the inspected State Party shall provide or arrange for the amenities necessary for the observer similar to those enjoyed by the inspection team as described in paragraph 11. (Paragraph 11 contains an illustrative list that includes communication means, interpretation services, transportation, working space, lodging, meals and medical care.) Finally, paragraph 68 states that all costs in connection with the stay of the observer on the territory of the inspected State Party shall be borne by the requesting State Party.

The fourth part of Section E, titled "Inspection Activities and Techniques", consists of paragraphs 69 and 70.

Paragraph 69 of Section E sets forth specific inspection activities and techniques for use by an inspection team during an on-site inspection, in eight subparagraphs, (a) through (h). Specifically, the paragraph provides that the inspection activities may be conducted and techniques used, in accordance with the provisions on managed access, on collection, handling and analysis of samples, and on overflights. Note that this paragraph specifically references the provisions on managed access (which are found in paragraphs 86-96), thus acknowledging the ability of the inspected State Party to take measures managing activities and techniques. Note that subparagraph 60(e) obligates the team to "use only" the techniques specified in this paragraph.

Subparagraph 69(a) provides for position finding from the air and at the surface to confirm the boundaries of the inspection area and establish co-ordinates of locations therein, in support of inspection activities.

Subparagraph 69(b) provides for visual observation, video and still photography and multi-spectral imaging, including infrared measurements, at or below the surface, and from the air, to search for anomalies or artifacts.

Subparagraph 69(c) provides for measurement of levels of radioactivity above, at and below the surface, using gamma radiation monitoring and energy resolution analysis from the air, and at or under the surface, to search for and identify radiation anomalies.

Subparagraph 69(d) provides for environmental sampling and analysis of solids, liquids and gases from above, at or below the surface to detect anomalies.

Subparagraph 69(e) provides for passive seismological monitoring for aftershocks to localize the search area and facilitate determination of the nature of an event.

Subparagraph 69(f) provides for resonance seismometry and active seismic surveys to search for and locate underground anomalies, including cavities and rubble zones. Note that paragraph 70 precludes the use of these techniques during the initial 25-day phase of the inspection.

Subparagraph 69(g) provides for magnetic and gravitational field mapping, ground penetrating radar and electrical conductivity measurements at the surface and from the air, as appropriate, to detect anomalies or artifacts. Note that paragraph 70 precludes the use of these techniques during the initial 25-day phase of the inspection.

Subparagraph 69(h) provides for drilling to obtain radioactive samples. Note that drilling is subject to Article IV paragraph 48 of the Treaty, which requires a specific request to and approval of the Executive Council before drilling can proceed.

Note that Article IV paragraph 58 of the Treaty requires the conduct of an inspection in the least intrusive manner possible, consistent with the efficient and timely accomplishment of the inspection mandate, and specifically requires that inspectors seek only information and data necessary for the purpose of the inspection.

Paragraph 70 of Section E sets forth the details for the different stages in the process of on-site inspections. For the first 25 days after approval in accordance with Article IV, paragraph 46, the inspection team has the right to utilize the activities and techniques listed in subparagraphs 60(a) to (e). If the inspection is continued in accordance with Article IV, paragraph 47, the inspection team can use the techniques set out in subparagraphs 60(f) and (g). These techniques are generally more appropriate after the inspection area has been narrowed. In addition, many of them require heavier, less mobile equipment. The inspection team can only drill (pursuant to

subparagraph 69(h)) after approval of the Executive Council in accordance with Article IV, paragraph 48 and in accordance with the provisions on managed access. Note that commencement of drilling is not limited in time, that is, it could be approved in the first 25 days if necessary. The final part of an inspection would begin if the inspection team requests an extension in accordance with article IV, paragraph 49, for up to 70 more days, and such extension is approved by the Executive Council. If such an extension is requested, the inspection team must indicate in its request what paragraph 69 activities it intends to carry out during the extension.

The fifth part of Section E, titled "Overflights" consists of paragraphs 71 through 85, and details procedures for use by an inspection team of overflights.

Paragraph 71 of Section E provides the inspection team with the right to conduct one overflight (more than one such flight would be subject to the agreement of the inspected State Party, see paragraph 73.) Specifically, paragraph 71 states that the inspection team shall have the right to conduct an overflight over the inspection area during the on-site inspection for the purposes of providing the team with a general orientation of the inspection area, narrowing down and optimizing the locations for ground-based inspection and facilitating the collection of factual evidence, using equipment specified in paragraph 79. Note the careful delineation of the purpose and equipment of the overflight. Overflight is a sensitive matter to many states and the negotiators wanted the right to be carefully drawn.

Paragraph 72 of Section E requires the overflight to be conducted as soon as is practically possible and limits the initial overflight to no more than a 12 hour duration.

Paragraph 73 of Section E provides that additional overflights using equipment specified by paragraphs 79 and 80 may be conducted subject to the agreement of the inspected State Party.

Paragraph 74 states that the area to be covered by overflights shall not extend beyond the inspection area.

Paragraph 75 of Section E provides the inspected State Party the right to impose restrictions on the flight altitude, number of passes and circling, duration of hovering, type of aircraft, number of inspectors, and the type of measurements or observations. The inspected State Party also has the right to prohibit the overflight of sensitive sites not related to the inspection, but this right is limited to "exceptional cases and with reasonable justification." This paragraph also provides that if the team considers that the restrictions or prohibitions may impede the fulfillment of its mandate, the inspected State Party shall make every reasonable effort to provide alternative means of inspection.

Paragraph 76 of Section E requires overflights to be conducted according to a flight plan duly filed and approved in accordance with the aviation rules and regulations of the inspected State Party. Flight safety regulations of the inspected State Party shall be strictly observed throughout all flying operations.

Paragraph 77 of Section E provides that during overflights landing should normally be authorized only for purposes of staging and refueling.

Paragraph 78 of Section E requires overflights to be conducted at altitudes as requested by the inspection team consistent with the activities to be conducted, visibility conditions, as well as the aviation and the safety regulations of the inspected State Party and its right to protect sensitive information not related to the purpose of the inspection. Overflights shall be conducted up to a maximum of 1500 meters above the surface.

Paragraph 79 of Section E sets forth the equipment that can be used for the one overflight the inspection team has a right to conduct, pursuant to paragraphs 71 and 72. Specifically the equipment consists of field glasses; passive location-finding equipment; video cameras; and hand-held still cameras. Note that subparagraph 61(e) provides the inspected State Party the right to provide its own camera operator to take photos requested by the team.

Paragraph 80 of Section E provides that for any additional overflights conducted pursuant to paragraph 73, inspectors on board the aircraft may also use portable, easily installed equipment for: multi-spectral (including infrared) imagery; gamma spectroscopy; and magnetic field mapping. Note that paragraph 70 requires that magnetic field mapping can only be used after approval by the Executive Council of the continuation of an inspection beyond 25 days.

Paragraph 81 of Section E provides that overflights shall be conducted with a relatively slow fixed or rotary wing aircraft that affords a broad, unobstructed view of the surface below. The U.S. will ensure, consistent with paragraph 75 of Section E, the protection of national security interests in the event of overflights during an on-site inspection.

Paragraph 82 provides the inspected State Party with the right to provide its own aircraft, pre-equipped as appropriate in accordance with the technical requirements of the relevant operational manual, and crew. If the inspected State Party does not provide the aircraft, this paragraph states that the aircraft shall be provided or rented by the Technical Secretariat.

Paragraph 83 of Section E provides the inspected State Party the right to check aircraft provided by the Technical Secretariat to ensure that it is equipped with approved inspection equipment. Such checking must be completed within the time-frame of paragraph 57 (i.e. begin inspection activities within the inspection area as soon as possible, but in any case no later than 72 hours after arrival at the point of entry). Thus, the inspected State Party must not use the right to check aircraft, set forth in paragraph 83, to delay unnecessarily the beginning of the initial overflight.

Paragraph 84 of Section E provides that personnel on board the aircraft shall consist of: the minimum number of crew consistent with safe operation; up to four members of the inspection team; up to two representatives of the inspected State Party; an observer, if any, subject to the agreement of the inspected State Party; and an interpreter, if necessary.

Paragraph 85 of Section E requires that procedures for the implementation of overflights be detailed in the Operational Manual for On-Site Inspections. (See the discussion of paragraph 13 in regard to this manual.)

The sixth part of Section E, titled "Managed Access", consists of paragraphs 86 through 96, and details rights and procedures for managing access in the inspection area. Note that in this context, as a general matter, Article IV, paragraph 57 of the Treaty defines access to mean both the physical access of the team and its equipment to, and the conduct of inspection activities within, the inspection area.

Paragraph 86 of Section E states the right of the inspection team to access the inspection area in accordance with the provisions of the Treaty and the Protocol.

Paragraph 87 of Section E requires the inspected State Party to provide access within the inspection area in the time-frame specified in paragraph 57, (i.e. no later than 72 hours after arrival at the point of entry).

Paragraph 88 of Section E, in three subparagraphs, sets forth a list of the rights and obligations of the inspected State Party. This paragraph refers to paragraph 57 of Article IV of the Treaty, which also sets forth rights of the inspected State Party.

Subparagraph 88(a) provides the inspected State Party the right to take measures to protect sensitive installations and locations in accordance with the Protocol.

Subparagraph 88(b) obligates the inspected State Party, when it restricts access, to make every reasonable effort to satisfy the requirements of the inspection mandate through alternative means. This paragraph also requires that the resolution of questions about one part of the inspection not delay or interfere with the conduct of the inspection team regarding other aspects of an inspection. Note that the obligation contained in this provision is related to the obligation contained in paragraph 60 of Article IV of the Treaty, for the inspected State Party to demonstrate its compliance with the Treaty through alternative means, if the inspected State Party restricts access in an inspection area.

Subparagraph 88(c) gives the inspected State Party the right to make the final decision regarding access of the inspection team, taking into account its obligations under this Treaty and the provisions on managed access. The United States has carefully considered the balance between inspection intrusiveness and the need to protect sensitive information, locations, facilities and areas. The United States realizes that in some exceptional cases there may be the need to deny access to certain areas in order to protect sensitive information, locations, facilities and areas.

Paragraph 89 of Section E first explains the rights of the inspected State Party to protect sensitive installations and locations and to prevent disclosure of confidential information not related to the purpose of the inspection, (these rights are found in paragraph 88(a) of the Protocol, and

paragraph 57(b) of Article IV of the Treaty, respectively). Then paragraph 89 sets forth an illustrative list of measures that an inspected State Party may take, in five subparagraphs.

Subparagraph 89(a) allows shrouding of sensitive displays, stores, and equipment.

Subparagraph 89(b) allows restricting measurements of radionuclide activity and nuclear radiation to determine the presence or absence of those types and energies of radiation relevant to the purpose of the inspection.

Subparagraph 89(c) allows restricting the taking of or analyzing of samples to determining the presence or absence of radioactive or other products relevant to the purpose of the inspection.

Subparagraph 89(d) allows managing access to buildings and other structures in accordance with paragraphs 90 and 91.

Subparagraph 89(e) allows the inspected State Party to declare restricted-access sites in accordance with paragraphs 92 to 96.

Paragraph 90 of Section E is the first of two provisions dealing with access to buildings and other structures. Paragraph 90 provides that access to buildings shall be deferred until after the approval of the continuation of an inspection (i.e. beyond 25 days pursuant to Article IV, paragraph 47), except for access to buildings and other structures housing the entrance to a mine, other excavations, or caverns of large volume not otherwise accessible. For such buildings and structures, the inspection team only has the right of transit, as directed by the inspected State Party, in order to enter such mines, caverns or other excavations.

Paragraph 91 of Section E provides for access to buildings and other structures after a continuation of an inspection. This paragraph provides that the team shall have the right to access buildings and other structures if the inspection team demonstrates credibly to the inspected State Party that access to buildings and other structures is necessary to fulfil the mandate and the necessary activities could not be carried out from the outside. The procedure to be followed is that the head of the team requests access from the inspected State Party. The request must indicate the purpose, the number of inspectors, as well as the intended activities. The inspected State Party has the right to impose restrictions or, in exceptional cases with reasonable justification, prohibitions on such access. The modalities for access shall be the subject of negotiations between the inspection team and the inspected State Party.

Paragraph 92 of Section E limits the size and total area of restricted-access sites. Specifically, each such site shall be no larger than 4 square kilometers, and the inspected State Party may only declare up to 50 square kilometers of restricted-access sites. If more than one site is declared, each site shall be separated from any other site by a minimum of 20 meters, and each site shall have clearly defined and accessible boundaries.

Paragraph 93 of Section E states that the size, location, and boundaries of restricted-access sites shall be presented to the head of the inspection team no later than the time that the team seeks access to a location that contains all or part of a site. There is no obligation for the inspected State Party to reveal the location of restricted areas prior to a request for entry. This provides additional protection for the inspected State Party, which may never need to reveal the locations of restricted access sites to the inspection team.

Paragraph 94 of Section E provides that the inspection team shall have the right to place equipment and take other steps necessary to conduct its inspection up to the boundary of a restricted-access site.

Paragraph 95 of Section E provides that the inspection team shall be permitted to observe visually all open places within the restricted-access site from the boundary of the site.

Paragraph 96 of Section E provides the modalities governing the inspection team's right to access restricted-access sites. First, prior to requesting access to restricted-access sites, the inspection team is required to make every reasonable effort to fulfil the inspection mandate outside the sites. If at any time the inspection team demonstrates credibly to the inspected State Party that the necessary activities authorized in the mandate could not be carried out from the outside and that access to a restricted-access site is necessary to fulfil the mandate, some members of the team shall be granted access to accomplish specific tasks within the site. The inspected State Party has the right to shroud or otherwise protect sensitive equipment, objects and materials not related to the purpose of the inspection. Finally, the modalities for such access shall be subject to negotiation between the team and the inspected State Party.

The seventh part of Section E, entitled "Collection, Handling and Analysis of Samples," consists of paragraphs 97 through 104, and sets forth the detailed rules concerning samples.

Paragraph 97 of Section E provides the general right of the inspection team to collect and remove relevant samples from the inspection area. However, this right is expressly subject to paragraphs 86-96 (i.e. the managed access rules) and paragraphs 98-100.

Paragraph 98 of Section E sets forth the procedures for the on-site analysis of samples. Specifically, this paragraph states that whenever possible, the analysis of samples shall be performed on-site. Representatives of the inspected State Party shall have the right to be present when samples are analyzed on site. This paragraph further states that at the request of the inspection team, the inspected State Party shall, in accordance with agreed procedures (i.e. as agreed between the inspection team and the inspected State Party, or as provided in Technical Secretariat guidelines that will be detailed in the Operational Manual for On-Site Inspections), provide assistance for the analysis of samples on-site. This paragraph states that the inspection team shall have the right to transfer samples for off-site analysis at laboratories designated by the Organization, but only if the team demonstrates that the necessary sample analysis cannot be performed on-site.

Paragraph 99 of Section E gives the inspected State Party the right to retain portions of all samples taken and take duplicate samples. This means that the inspected State Party has two means for providing a control for each sample -- retaining a portion of the original sample and taking a duplicate sample.

Paragraph 100 of Section E provides the inspected State Party the right to request that any unused samples or portions thereof be returned.

Paragraph 101 of Section E provides that designated laboratories shall conduct chemical and physical analysis of the samples transferred for off-site analysis. Details of such analysis shall be elaborated in the Operational Manual for On-Site Inspections.

Paragraph 102 of Section E sets forth, in five subparagraphs, general rules regarding the conduct of off-site analysis of samples. Specifically, this paragraph states that the Director-General shall have the primary responsibility for the security, integrity and preservation of samples and for ensuring that the confidentiality of samples transferred for analysis off-site is protected. This paragraph further states that the Director-General shall do so in accordance with procedures contained in the Operational Manual for On-Site Inspections.

Subparagraph 102(a) requires the Director-General to establish a stringent regime governing the collection, handling, transport and analysis of samples.

Subparagraph 102(b) requires the Director-General to certify the laboratories designated to perform different types of analysis.

Subparagraph 102(c) requires the Director-General to oversee the standardization of equipment and procedures at these designated laboratories and of mobile analytical equipment and procedures.

Subparagraph 102(d) requires the Director-General to monitor quality control and overall standards in relation to the certification of these laboratories and in relation to mobile equipment and procedures.

Subparagraph 102(e) requires the Director-General to select from among the designated laboratories those which shall perform analytical or other functions in relation to specific investigations.

Paragraph 103 of Section E sets forth the procedures for analyzing samples in off-site laboratories. Specifically, this paragraph states that when off-site analysis is to be performed, samples shall be analyzed in at least two designated laboratories. The purpose of this provision is to minimize erroneous results by conducting separate independent analyses of samples. Note that this language does not preclude the laboratories, if any, in the inspected State Party, or in the requesting State Party, from conducting the analysis, provided they are designated laboratories.

This paragraph also requires the Technical Secretariat to ensure the expeditious processing of the analysis.

Finally, this paragraph states that the samples shall be accounted for by the Technical Secretariat and any unused samples or portions thereof shall be returned to the Technical Secretariat.

Paragraph 104 of Section E describes the procedure for reporting the results of the laboratory analysis of samples. Specifically, this paragraph requires the Technical Secretariat to compile the results of the laboratory analysis of samples relevant to the purpose of the inspection. Pursuant to Article IV, paragraph 63, the Director-General shall transmit any results promptly to the inspected State Party for comments and thereafter to the Executive Council and to all other States Parties and shall include detailed information concerning the equipment and methodology employed by the designated laboratories.

The eighth part of Section E, entitled "Conduct of Inspections in Areas beyond the Jurisdiction or Control of any State," consists of paragraphs 105 through 108.

Paragraph 105 of Section E provides that in case of an on-site inspection in an area beyond the jurisdiction or control of any state, the Director-General shall consult with the appropriate States Parties and agree on any transit or basing points to facilitate a speedy arrival of the inspection team in the inspection area.

Paragraph 106 of Section E provides that the States Parties on whose territory transit or basing points are located shall, as far as possible, assist in facilitating the inspection, including transporting the inspection team, its baggage and equipment to the inspection area, as well as providing the relevant amenities specified in paragraph 11. The Organization shall reimburse assisting Stat rties for all costs incurred.

Paragraph 107 provides that, subject to the approval of the Executive Council, the Director-General may negotiate standing arrangements with States Parties to facilitate assistance in the event of an on-site inspection in an area beyond the jurisdiction or control of any state.

Paragraph 108 provides that in cases where one or more States Parties have conducted an investigation of an ambiguous event in an area beyond the jurisdiction or control of any state, before a request is made for an on-site inspection in that area, any results of such investigation may be taken into account by the Executive Council in its deliberations pursuant to Article IV.

The ninth part of Section E, entitled "Post-Inspection Procedures," consists only of paragraph 109, which sets forth the procedures for providing the preliminary results of the inspection to the inspected State Party. Specifically, this paragraph states that upon completion of an inspection the inspection team shall meet the representative of the inspected State Party to review the preliminary findings of the inspection team and to clarify any ambiguities. Note that the inspection team will not be authorized to include in its "preliminary findings" any

recommendations or judgements about the inspected State Party's compliance. The paragraph requires the inspection team to provide to the representatives of the inspected State Party its preliminary findings in written form according to a standardized format, together with a list of any samples and other material taken from the inspection area pursuant to paragraph 98. This paragraph further states that the document shall be signed by the head of the inspection team and that in order to indicate that notice of the contents of the document has been taken, the representative of the inspected State Party shall countersign the document. Finally, this paragraph states that this meeting shall be completed no later than 24 hours after the completion of the inspection.

The tenth, and last, part of Section E, entitled "Departure," also consists of only one paragraph. Paragraph 110 of Section E states that upon completion of the post-inspection procedures, the inspection team shall leave, as soon as possible, the territory of the inspected State Party. This paragraph also states that the inspected State Party shall do everything in its power to provide assistance and to ensure the safe conduct of the inspection team, equipment and baggage to the point of exit. Unless agreed otherwise by the inspected State Party and the inspection team, the point of exit used shall be the same as the point of entry.

PART III - CONFIDENCE-BUILDING MEASURES

Part III of the Protocol, which consists of 4 paragraphs, addresses the confidence-building measures of the Treaty. The purpose of these measures is to provide for an exchange of data and information that would help reduce ambiguities and promote confidence in Treaty compliance. Such measures could also reduce the likelihood of requests for on-site inspections.

The United States initially sought confidence-building measures that would be mandatory for all States Parties. Many other states preferred that confidence-building measures of the Treaty be only on a voluntary basis because they were concerned that mandatory measures might be overly burdensome, and they were also unconvinced of their utility. Ultimately, all states agreed that the confidence-building measures provided for in Part III of the Protocol are voluntary; there is no legal obligation to comply with these provisions. The U.S. intends to provide all information identified in paragraphs 1 and 2 of Part III.

Article IV, paragraph 68 of the Treaty provides that each State Party undertakes to cooperate with the Organization and other States Parties in implementing relevant measures as set out in Part III of the Protocol. Paragraph 1 of Part III of the Protocol provides that pursuant to Article IV, paragraph 68, each State Party shall, on a voluntary basis, provide the Technical Secretariat with notification of any chemical explosion using 300 tonnes or greater of TNT-equivalent blasting material detonated as a single explosion anywhere on its territory, or at any place under its jurisdiction or control. Paragraph 1 further provides that if possible, such notification shall be provided in advance. Such notification shall include details on location, time, quantity and type of explosive used, as well as on the configuration and intended purpose of the blast.

Paragraph 2 of Part III provides that each State Party shall, on a voluntary basis, as soon as possible after the entry into force of the Treaty, provide to the Technical Secretariat, and at annual intervals thereafter update, information related to its national use of all other chemical explosions greater than 300 tonnes TNT-equivalent. In particular, the State Party shall seek to advise:

(a) The geographic locations of sites where the explosions originate;

(b) The nature of activities producing them and the general profile and frequency of such explosions;

(c) Any other relevant detail, if available.

In addition, the States Parties shall seek to assist the Technical Secretariat in clarifying the origins of any such event detected by the IMS.

The U.S. understanding of these provisions is that the explosions referred to in paragraph 1 of Part III are events in which 300 metric tons or greater of TNT-equivalent blasting materials are detonated simultaneously, whereas the explosions referred to in paragraph 2 are events in which the cumulative energy release, whether released in a single explosion or with delays between the firing of individual charges, i.e. "ripple-fired," is greater than or equal to the energy release resulting from the detonation of 300 metric tons of TNT-equivalent blasting materials.

Paragraph 3 of Part III of the Protocol provides that a State Party may, on a voluntary and mutually-acceptable basis, invite representatives of the Technical Secretariat to visit sites within its territory referred to in paragraphs 1 and 2 above.

The final paragraph of Part III, paragraph 4, provides that for the purpose of calibrating the IMS, States Parties may liaise with the Technical Secretariat to carry out chemical calibration explosions or to provide relevant information on chemical explosions planned for other purposes. Since the purpose of this liaison is for calibration, information on chemical explosions given pursuant to this paragraph may be for such explosions below 300 tonnes of TNT-equivalent blasting material.

ANNEX 1 TO THE PROTOCOL

Annex 1 to the Protocol consists of six parts as follows: Table 1-A, titled "List of Seismological Stations Comprising the Primary Network;" Table 1-B, titled "List of Seismological Stations Comprising the Auxiliary Network;" Table 2-A, titled "List of Radionuclide Stations;" Table 2-B titled "List of Radionuclide Laboratories;" Table 3, titled "List of Hydroacoustic Stations;" and, Table 4, titled "List of Infrasound Stations."

The six lists that comprise Annex 1 are the lists of facilities of the International Monitoring System (IMS). Article IV, paragraph 16 of the Treaty requires that the IMS shall be comprised of facilities for seismological, radionuclide, hydroacoustic, and infrasound monitoring, certified laboratories, and respective means of communication. Annex 1 lists the actual facilities for monitoring and the certified laboratories (but not the means of communication). Paragraph 2 of the Protocol also indicates that the IMS shall consist of the facilities specified in Annex 1.

Seismological Monitoring

The seismological monitoring portion of the IMS is specified by paragraphs 6 through 8 of Part I of the Protocol. It includes a global network of primary and auxiliary monitoring stations. The primary stations are listed in Table 1-A of Annex 1. These stations are to provide uninterrupted data, directly or through a national data center, on-line to the International Data Centre (IDC). Table 1-A lists the 50 stations of the primary network alphabetically by the state responsible for the station, and includes information on the location, latitude, longitude, and type of station.

The auxiliary stations are listed in Table 1-B of Annex 1. These stations are to provide data at any time on request by the IDC. The data are also provided directly or through a national data Centre. Table 1-B lists the 120 stations of the auxiliary network alphabetically by the state responsible for the station, and includes information on the location, latitude, longitude, and type of station.

Note that station number 20 in Table 1-A and station number 39 in Table 1-B have no information associated with them. Their entries in the tables read, "to be determined." These stations were originally intended to be in India. After India requested that all IMS stations on its territory be removed from the IMS, the entries were left blank. At the November 19, 1996 signatories meeting to establish the Preparatory Commission, statements were made making it clear that entries for these stations concerning their location and type, whether they are in India or elsewhere, will be left to the Preparatory Commission, and do not require adoption pursuant to the procedures outlined for changes of an administrative or technical nature, detailed in Article VII, paragraph 8 of the Treaty. Stations number 26 and 38 in Table 1-A, slated for Niger and Saudi Arabia respectively, do not have longitudinal and latitudinal coordinates listed in the Table. As in the case of stations originally intended for India, the exact locations will be determined by the Preparatory Commission, and will not be subject to the provisions of Article VII, paragraph 8.

Radionuclide Monitoring

The radiological monitoring portion of the IMS is specified by paragraphs 9 through 11 of Part I of the Protocol. It includes a global network of radionuclide monitoring stations and certified laboratories. Paragraph 10 of Part I of the Protocol requires a network of 80 stations to measure radionuclides in the atmosphere. Forty of these stations will also be capable of monitoring for the presence of relevant noble gases. Table 2-A of Annex 1 lists the eighty radionuclide monitoring stations. Table 2-A is alphabetical by the state responsible for the station, and includes the

location, latitude and longitude of each station. Forty of the stations listed in Table 2-A will be designated by the Preparatory Commission for the installation of noble gas monitoring capability, subject to the approval of the Conference of the States Parties. In addition, the Conference will consider and decide at its first session on a plan for implementing noble gas monitoring capability throughout the network.

Paragraph 11 of Part I of the Protocol provides that the network of radionuclide monitoring stations will be supported by laboratories that must be certified by the Technical Secretariat and will perform, on contract to the Organization and on a fee-for service basis, the analysis of samples from radionuclide monitoring stations. Table 2-B of Annex 1 lists radionuclide laboratories that may also be drawn upon, as required by the Technical Secretariat, to perform additional analysis of samples from radionuclide monitoring stations.

Hydroacoustic Monitoring

The hydroacoustic monitoring portion of the IMS is specified in paragraphs 12 and 13 of Part I of the Protocol. It includes the establishment and operation of a global network of hydroacoustic monitoring stations. Paragraph 13 of Part I of the Protocol states that this network shall consist of the stations specified in Table 3 of Annex 1. Table 3 of Annex 1 lists the required network, which consists of 11 stations -- six hydrophone and five T-phase stations. Table 3 lists the stations alphabetically by state and provides location, latitude, longitude and type (i.e., hydrophone or T-phase). These stations shall provide data to the IDC in accordance with procedures to be developed in the Preparatory Commission and approved by the Conference.

Infrasound Monitoring

The infrasound monitoring portion of the IMS is specified in paragraphs 14 and 15 of Part I of the Protocol. It includes the establishment and operation of a global network of infrasound monitoring stations. Paragraph 15 of Part I of the Protocol states that this network shall consist of the stations specified in Table 4 of Annex 1, and shall comprise an overall network of 60 stations. Table 4 lists the 60 stations alphabetically by the state responsible for the station and provides location, latitude and longitude. (Again note the discussion above with regard to stations on this list that are "to be determined".)

ANNEX 2 TO THE PROTOCOL

Annex 2 to the Protocol consists of a list titled "List of Characterization Parameters for International Data Centre Standard Event Screening." This list is specified in subparagraph 18(b) of the Protocol. In many states' view, one of the most important tasks of the IDC is to apply on a routine basis automatic processing methods and human analysis to data that is received from signals detected by the various parts of the IMS. Each signal of an "event" will be analyzed by

the IMS using parameters such as those listed in Annex 2. Note that this list is not exhaustive. The results of these analyses will be reported in IDC products.

Comprehensive Nuclear Test-ban Treaty

Meeting of States Signatories

CTBT/MSS/RES/1
27 November 1996

ORIGINAL: ENGLISH

New York, 19 November 1996

Resolution establishing the Preparatory Commission for the Comprehensive Nuclear Test-Ban Treaty Organization

Adopted on 19 November 1996

The States Signatories of the Comprehensive Nuclear Test-Ban Treaty, adopted by the General Assembly at New York on 10 September 1996,

Having decided to take all necessary measures to ensure the rapid and effective establishment of the future Comprehensive Nuclear Test-Ban Treaty Organization,

Having decided to this end to establish a Preparatory Commission,

1. Approve the Text on the Establishment of a Preparatory Commission for the Comprehensive Nuclear Test-Ban Treaty Organization, as annexed to the present resolution;

2. Request the Secretary-General of the United Nations, in accordance with General Assembly resolution 50/245, of 10 September 1996, on the Comprehensive Nuclear Test-Ban Treaty, to provide the services required to initiate the work of the Preparatory Commission for the Comprehensive Nuclear Test-Ban Treaty Organization, including the Meeting of States Signatories and the first session of the Preparatory Commission.

ANNEX

Text on the Establishment of a Preparatory Commission for the Comprehensive Nuclear Test-Ban Treaty Organization

1. There is hereby established the Preparatory Commission for the Comprehensive Nuclear Test-Ban Treaty Organization (hereinafter referred to as "the Commission") for the purpose of carrying out the necessary preparations for the effective implementation of the Comprehensive Nuclear Test-Ban Treaty, and for preparing for the first session of the Conference of the States Parties to that Treaty.

2. The Secretary-General of the United Nations shall convene the Commission for its first session as soon as possible, but not later than 60 days after the Treaty has been signed by 50 States.

3. The seat of the Commission shall be at the seat of the future Comprehensive Nuclear Test-Ban Treaty Organization.

4. The Commission shall be composed of all States which sign the Treaty. Each State Signatory shall have one representative in the Commission, who may be accompanied by alternates and advisers.

5. (a) The costs of the Commission and its activities, including those of the provisional Technical Secretariat, shall be met annually by all States Signatories, in accordance with the United Nations scale of assessment adjusted to take into account differences between the United Nations membership and States Signatories and timing of signature. The Commission and the provisional Technical Secretariat may also benefit from voluntary contributions;

(b) A State Signatory which has not discharged in full its financial obligations to the Commission within 365 days of receipt of the request for payment shall have no vote in the Commission, until such payment is received. The Commission may, nevertheless, permit such a member to vote if it is satisfied that the failure to pay is due to conditions beyond the control of the member;

(c) 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. The funding by the Commission shall be regulated in accordance with the provisions of the Comprehensive Nuclear Test-Ban Treaty, adjusted to take into account the organizational differences between the Comprehensive Nuclear Test-Ban Treaty Organization and the Commission. The Preparatory Commission shall develop the funding procedures in cases not covered by the Treaty.

6. All decisions of the Commission should be taken by consensus. If, notwithstanding the efforts of representatives to achieve consensus, an issue comes up for voting, the Chairman of the Commission shall defer the vote for 24 hours and during this period of deferment shall make every effort to facilitate achievement of consensus, and shall report to the Commission before the end of the period. If consensus is not possible at the end of 24 hours, the Commission shall take decisions on questions of procedure by a simple majority of the members present and voting. Decisions on matters of substance shall be taken by a two-thirds majority of the members present and voting. When the issue arises as to whether the question is one of substance or not, that question shall be treated as a matter of substance unless otherwise decided by the Commission by the majority required for decisions on matters of substance.

7. The 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 the fulfilment of its purposes.

8. The Commission shall:

(a) Elect its Chairman and other officers, adopt its rules of procedure, meet as often as necessary and establish such committees as it deems useful;

(b) Appoint its Executive Secretary;

(c) Establish a provisional Technical Secretariat to assist the Commission in its activity and to exercise such functions as the Commission may determine, and appoint the necessary staff in accordance with the principles established for the staff of the Technical Secretariat pursuant to article II, paragraph 50, of the Treaty. Only nationals of States Signatories shall be appointed to the provisional Technical Secretariat;

(d) Establish administrative and financial regulations in respect of its own expenditure and accounts, providing for, inter alia:

(i) Proper financial control and accounting by the Commission;

(ii) Preparation and approval of periodic financial statements by the Commission;

(iii) Independent audit of the Commission's financial statements;

(iv) Annual presentation of the audited financial statements to a regular session of the plenary of the States Signatories for formal acceptance.

9. The Commission shall make arrangements for the initial session of the Conference of the States Parties, including the preparation of a draft agenda and draft rules of procedure.

10. The Commission shall undertake, inter alia, the following tasks concerning the organization and work of the Technical Secretariat and requiring immediate attention after the entry into force of the Treaty:

(a) Elaboration of a detailed staffing pattern of the Technical Secretariat, including delegation of authority and the process of decision-making;

(b) Assessments of personnel requirements;

(c) Development of staff rules for recruitment and service conditions;

(d) Recruitment and training of technical personnel and support staff;

(e) Organization of office and administrative services.

11. The Commission shall undertake, inter alia, the following tasks on matters of the Organization requiring immediate attention after the entry into force of the Treaty:

(a) Preparation of programme of work and budget of the first year of activities of the Organization;

(b) Preparation of detailed getary provisions for the Organization;

(c) Preparation of the scale of financial contributions to the Organization;

(d) Preparation of administrative and financial regulations for the Organization providing for, inter alia:

(i) Proper financial control and accounting by the Organization;

(ii) Preparation and approval of periodic financial statements by the Organization;

(iii) Independent audit of the Organization's financial statements;

(iv) Annual presentation of the audited financial statements to a regular session of the Conference of the States Parties for formal acceptance;

(e) Development of arrangements to facilitate the designation and election in accordance with article II, paragraph 29 of the Treaty for the first election of the Executive Council.

12. The Commission shall develop, inter alia, the following draft agreements, arrangements and guidelines for approval by the Conference of the States Parties in accordance with the Treaty and Protocol:

(a) Standard model agreements or arrangements, where relevant, to be concluded by the future Organization with States Parties, other States and international organizations;

(b) Agreements or arrangements negotiated in accordance with the above models by the provisional Technical Secretariat with relevant States, in particular with those prospectively hosting or otherwise taking responsibility for International Monitoring System facilities;

(c) The Headquarters Agreement with the Host Country pursuant to article II, paragraph 56, of the Treaty.

13. The Commission shall undertake all necessary preparations to ensure the operationalization of the Treaty's verification regime at entry into force, pursuant to article IV, paragraph 1, and shall develop appropriate procedures for its operation, presenting a report on the operational readiness of the regime, together with any relevant recommendations, to the initial session of the Conference of the States Parties.

14. The Commission shall supervise and coordinate, in fulfilling the requirements of the Treaty and its Protocol, the development, preparation, technical testing and, pending their formal commissioning, provisional operation as necessary of the International Data Centre and the International Monitoring System, together with assuring appropriate support of the System by certified laboratory facilities and by respective means of communication. Inter alia, the Commission shall:

(a) At its second plenary session, taking into consideration all relevant reports, including those prepared in the course of the CTBT negotiation and by the Conference on Disarmament's Group of Scientific Experts:

(i) Establish an initial plan for the progressive commissioning of the International Data Centre and the International Monitoring System, and for the implementation of related responsibilities;

(ii) Assume responsibility for relevant technical tests, including the work begun under the Group of Scientific Experts' Technical Test 3, and for the development and management of any arrangements required to provide an uninterrupted transition from such technical tests to the future International Monitoring System;

(iii) Constitute appropriate structures for the regular provision to the Commission of expert and integrated technical advice on monitoring, data communications and analysis issues, and for technical supervision of International Monitoring System and International Data Centre implementation;

(b) [illegible]lop in accordance with the Treaty and Protocol, and prepare for adoption by the initial session of the Conference of the States Parties, operational manuals for:

(i) Seismological Monitoring;

(ii) Radionuclide Monitoring;

(iii) Hydroacoustic Monitoring;

(iv) Infrasound Monitoring; and

(v) The International Data Centre.

15. The Commission shall make all necessary preparations, in fulfilling the requirements of the Treaty and its Protocol, for the support of on-site inspections from the entry into force of the Treaty. It shall, inter alia:

(a) Develop and prepare for the approval of the initial session of the Conference of the States Parties:

(i) An operational manual containing all appropriate legal, technical and administrative procedures; and

(ii) A list of equipment for use during on-site inspections;

(b) Develop a programme for the training of inspectors; and

(c) Acquire or otherwise make provision for the availability of relevant inspection equipment, including communications equipment, and conduct technical tests of such equipment as necessary.

16. The Commission shall develop guidelines and reporting formats for the implementation of confidence-building measures.

17. An indicative list of verification tasks to be carried out by the Preparatory Commission, as specified in paragraphs 12 to 16, is attached as the appendix to the present text.

18. The 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.

19. The Commission shall prepare a final report on all matters within its mandate for the first session of the Conference of the States Parties.

20. Rights and assets, financial and other obligations and functions of the Commission shall be transferred to the Organization at the first session of the Conference of the States Parties. The Commission shall make recommendations to the Conference of the States Parties on this matter, including on effecting a smooth transition.

21. The Commission shall remain in existence until the conclusion of the first session of the Conference of the States Parties.

22. The Commission as an international organization, its staff, as well as the delegates of the States Signatories shall be accorded by the Host Country such legal status, privileges and immunities as are necessary for the independent exercise of their functions in connection with the Commission and the fulfilment of its object and purpose.

APPENDIX

Indicative list of verification tasks of the Preparatory Commission

The following indicative list is illustrative of the verification-related tasks the Preparatory Commission might need to undertake in implementing he relevant provisions of the Treaty and of the resolution establishing the Commission.

Preparatory Commission Text paragraph 12: Draft agreements, arrangements and guidelines

In addition to t : items mentioned in the illustrative and explicitly non-exhaustive listing contai in paragraph 12, the following tasks might also be necessary:

- Procedures for the conduct of consultation and clarification including for use of data from cooperating national facilities if agreed (article IV, paragraphs 27 and 28, and paragraphs 29 to 33, of the Treaty);
- Procedures for the Technical Secretariat's monitoring, assessment and reporting on the overall performance of the IMS and the IDC (article IV, paragraph 14 (1), of the Treaty);
- Guidelines for CTBT Organization funding of IMS and OSI activities, including for funding of IMS operational and maintenance costs, and for recognition of credit against assessed contributions if agreed (article IV, paragraphs 19 to 22, of the Treaty);
- Confidentiality procedures (article II, paragraph 7 and article IV, paragraph 8, of the Treaty).

For those items already specifically listed under paragraph 12, it is envisaged that verification agreements or arrangements (either generic model agreements or arrangements, or the draft agreements or arrangements negotiated with States in accordance with these models) would include, pursuant to part I, section A, of the Protocol to the Treaty:

- Procedures for specifying a particular State's acceptance pursuant to the CTBT of responsibility for particular monitoring facilities;
- Responsibilities for operation, maintenance and upgrading in accordance with the Operational Manuals;
- Procedures to be followed in establishment of new or upgrading of existing facilities, or for more substantive changes to IMS facilities;
- Procedures for temporary arrangements which might apply (article IV, paragraph 26 of the Treaty);

- Provisions for funding IMS activities and data transmission (article IV, paragraph 22, of the Treaty);

- Assistance to the Organization in inspecting an area beyond the jurisdiction or control of any State (part II, paragraph 107, of the Protocol to the Treaty); or

- Availability of OSI equipment from a State Party, and for the maintenance and calibration of such equipment (part II, paragraph 40, of the Protocol to the Treaty).

Preparatory Commission Text paragraph 13: Preparatory Commission verification regime responsibilities

The report referred to in this paragraph reflects a negotiating understanding that the task of compiling such a report - implicit in article II, paragraph 26 (h), of the Treaty - would be explicitly mentioned in the resolution establishing the Preparatory Commission. The report and associated recommendations from the Commission will be essential prerequisites for the initial Conference of States Parties to take the steps necessary to formalize the establishment of the IMS and other elements of the Treaty's verification regime. The Preparatory Commission would as a consequence need, inter alia, to:

- Develop recommendations for any changes to the IMS facility lists which experience during the Preparatory Commission may dictate be put to the initial Conference of the States Parties; and

- Agree on related recommendations, including where relevant recommendations relating to the deployment of particular technologies and aspects thereof such as noble gas (part I, paragraph 10, of the Protocol to the Treaty).

Preparatory Commission Text paragraph 14: Preparatory Commission IMS preparation responsibilities

This chapeau includes, inter alia, references to the responsibility of the Preparatory Commission for families of tasks related to:

- The establishment of international communications channels for the transmission and receipt of IMS data and reporting products (article IV, paragraph 14 (a), of the Treaty); and

- Developing procedures and a formal basis for the provisional operation and funding of the provisional IMS.

Preparatory Commission Text paragraph 14 (b): development of Operational Manuals

Drafts of all Operational Manuals, approved by the Preparatory Commission, are required to be adopted by the initial Conference of the States Parties (article II, paragraph 26 (h), of the Treaty). The compilation of the Operational Manual for each monitoring technology will require the Preparatory

Commission to develop, spell out and approve all necessary technical and operational detail required to ensure the effective operation of the International Monitoring System, inter alia:

- The technical specifications and operational requirements for the relevant facilities in each global monitoring network (part I, paragraphs 2, 7, 8, 10, 11, 13 and 15, of the Protocol to the Treaty);

- Procedures for the provision of data to the IDC, including transmission formats and modalities (part I, paragraphs 6, 8, 9, 12 and 14 of the Protocol to the Treaty);

- Procedures for facility security and for data authentication (part I, paragraph 4, of the Protocol to the Treaty);

- Procedures for checking of monitoring facility equipment and communications links by the Technical Secretariat, and for facility certification (including for cooperating national facilities and for their designation as such) (article IV, paragraphs 27 and 28, of the Treaty and part I, paragraph 4, of the Protocol to the Treaty).

Preparatory Commission Text paragraph 14 (b) (ii): Operational Manual for Radionuclide Monitoring

In addition to the generic points listed above, the Operational Manual for Radionuclide Monitoring will require the Preparatory Commission to develop:

- Procedures for the processing and handling of samples of associated data flowing from monitoring facilities (part I, paragraph 11, of the Protocol to the Treaty);

- Specifications and procedures for the certification and ongoing calibration of laboratories used by the CTBTO in support of the radionuclide monitoring network (part I, paragraph 11, of the Protocol to the Treaty);

- Special procedures for the transmission of samples to certified laboratories, for additional analysis, and for their storage or archiving as appropriate (part I, paragraph 11, of the Protocol to the Treaty);

- Procedures for the integration of relevant meteorological data if appropriate (part I, paragraph 9, of the Protocol to the Treaty); and

- Guidelines for the striking of contracts with specific certified laboratories to provide for fee-for-service analysis of samples (part I, paragraph 11, of the Protocol to the Treaty).

Preparatory Commission Text paragraph 14 (b) (iii): Operational Manual for Hydroacoustic Monitoring

In addition to generic points listed above, in order to prepare the Operational Manual for Hydroacoustic Monitoring, the Preparatory Commission will need to:

- Develop the different technical specifications and operational requirements for the two different types of facilities envisaged (hydrophone stations and T-phase stations) (part I, paragraph 13 of the Protocol to the Treaty);

- Develop procedures for the storage or archiving IMS data at the monitoring station if so decided.

Preparatory Commission Text paragraph 14 (b) (v): Operational Manual for the International Data Centre

In developing the Operational Manual for the International Data Centre and producing its content, the Preparatory Commission will need to:

- Develop the procedures to be used by the IDC in receiving, collecting, processing, analysing, reporting on and archiving data from the IMS, and for carrying out its agreed functions, in particular for the production of standard reporting products and for the performance of the standard range of services to be offered to States Parties (part I, paragraphs 16 and 17, of the Protocol to the Treaty and passim);

- In this context, it will need to give special attention to developing:

  - Agreed standard event screening criteria and related operational procedures and formats in accordance with Protocol provisions (part I, paragraphs 17 and 18 (b) of, and annex 2 to the Protocol to the Treaty);

  - Agreed formats and procedures for assisting States Parties with expert technical analysis (part I, paragraph 20 (c), of the Protocol to the Treaty);

  - Specification of the volumes and formats of data services to be provided by the IDC to States Parties at no cost (part I, paragraph 20, of the Protocol to the Treaty), and procedures for the recovery of costs from States Parties requesting products or services in excess of these specifications;

  - Guidelines for the establishment of national event screening procedures (part I, paragraph 21, of the Protocol to the Treaty);

  - Procedures for the provision of technical assistance to individual States Parties (part I, paragraph 22, of the Protocol to the Treaty); and

- Procedures for monitoring and reporting on the operational status of the International Monitoring System (part I, paragraph 23, of the Protocol to the Treaty).

Preparatory Commission Text paragraph 15: On-Site Inspection

The Treaty and Protocol text are separately explicit that the Operational Manual for OSI and the list of approved inspection equipment must be approved by the Conference of the States Parties at its initial session (part II, paragraph 13, of the Protocol to the Treaty, article II, paragraph 26 (h), of the Treaty and part II, paragraph 36, of the Protocol to the Treaty).

In order to compile the Operational Manual for OSI, the Preparatory Commission will in all likelihood need to develop or consider, inter alia:

- Procedures and formats for the nomination and designation of inspectors and inspection assistants (part II, paragraphs 14 to 25, of the Protocol to the Treaty);

- Procedures for the training and qualification of inspectors;

- Procedures and formats for designating, recording and consulting on points of entry (part II, paragraphs 32 to 34, of the Protocol to the Treaty);

- Procedures for use of non-scheduled aircraft and agreement on routings (part II, paragraph 35, of the Protocol to the Treaty);

- A list of core and auxiliary inspection equipment and detailed specifications therefor; procedures for documentation, and sealing to authenticate certification of inspection equipment; and procedures to calibrate, maintain, protect and retain custody over the approved inspection equipment (part II, paragraphs 36 to 40, of the Protocol to the Treaty);

- Formats and communications procedures for OSI requests, mandates and notifications, and procedures for drawing up the inspection mandate (part II, paragraphs 35 and 41 to 43, of the Protocol to the Treaty);

- Procedures for the reimbursement of inspected State Party costs associated with OSI (including for the itemization of expenses and of payments) and for other administrative arrangements (part II, paragraphs 11 to 13, of the Protocol to the Treaty);

- Procedures for the checking, and if necessary, storing of inspection equipment at point of entry (part II, paragraph 51, of the Protocol to the Treaty);

- Procedures covering OSI team safety and health, and confidentiality issues (part II, paragraph 60 (h), of the Protocol to the Treaty);

Procedures related to the implementation of the inspected States Parties' rights during the OSI (part II, paragraph 61, of the Protocol to the Treaty);

Procedures for communications by the inspection team, including for the due approval and certification of communications equipment (part II, paragraph 62, of the Protocol to the Treaty);

Procedures for participation of observers (nominations, acceptance, non-acceptance, and notifications) (article IV, paragraph 61, of the Treaty and part II, paragraphs 63 to 68, of the Protocol to the Treaty);

Procedures for implementation of inspection activities and techniques in the conduct of an OSI (part II, paragraphs 69 and 70, of the Protocol to the Treaty);

Procedures for overflights and the use of inspection equipment during overflights (part II, paragraphs 71 to 85, of the Protocol to the Treaty);

Procedures for the collection, handling and analysis of samples as per the requirements of the Treaty, including relevant scientific criteria and guidelines (part I, paragraphs 97 to 104, of the Protocol to the Treaty);

Procedures for the certification of laboratories designated to perform different types of OSI-related analysis (part II, paragraph 102, of the Protocol to the Treaty);

Procedures for inspection of areas beyond the jurisdiction or control of any State (part II, paragraphs 105 to 108, of the Protocol to the Treaty); and

Formats for OSI team's preliminary findings report (part II, paragraph 109, of the Protocol to the Treaty) and formats and procedures for handling the inspection report (article IV, paragraphs 62 to 64, of the Treaty);

Procedures for storing and handling the OSI data and samples after the completion of the inspection.

COMPREHENSIVE NUCLEAR-TEST-BAN TREATY

PREAMBLE

The States Parties to this Treaty (hereinafter referred to as "the States Parties"),

Welcoming the international agreements and other positive measures of recent years in the field of nuclear disarmament, including reductions in arsenals of nuclear weapons, as well as in the field of the prevention of nuclear proliferation in all its aspects,

Underlining the importance of the full and prompt implementation of such agreements and measures,

Convinced that the present international situation provides an opportunity to take further effective measures towards nuclear disarmament and against the proliferation of nuclear weapons in all its aspects, and declaring their intention to take such measures,

Stressing therefore the need for continued systematic and progressive efforts to reduce nuclear weapons globally, with the ultimate goal of eliminating those weapons, and of general and complete disarmament under strict and effective international control,

Recognizing that the cessation of all nuclear weapon test explosions and all other nuclear explosions, by constraining the development and qualitative improvement of nuclear weapons and ending the development of advanced new types of nuclear weapons, constitutes an effective measure of nuclear disarmament and non-proliferation in all its aspects,

Further recognizing that an end to all such nuclear explosions will thus constitute a meaningful step in the realization of a systematic process to achieve nuclear disarmament,

Convinced that the most effective way to achieve an end to nuclear testing is through the conclusion of a universal and internationally and effectively verifiable comprehensive nuclear test-ban treaty, which has long been one of the highest priority objectives of the international community in the field of disarmament and non-proliferation,

Noting the aspirations expressed by the Parties to the 1963 Treaty Banning Nuclear Weapon Tests in the Atmosphere, in Outer Space and Under Water to seek to achieve the discontinuance of all test explosions of nuclear weapons for all time,

Noting also the views expressed that this Treaty could contribute to the protection of the environment,

Affirming the purpose of attracting the adherence of all States to this Treaty and its objective to contribute effectively to the prevention of the proliferation of nuclear weapons in all its aspects, to the process of nuclear disarmament and therefore to the enhancement of international peace and security,

Have agreed as follows:

ARTICLE I

BASIC OBLIGATIONS

1. Each State Party undertakes 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 its jurisdiction or control.

2. Each State Party undertakes, furthermore, 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.

ARTICLE II

THE ORGANIZATION

A. GENERAL PROVISIONS

1. The States Parties hereby establish the Comprehensive Nuclear Test-Ban Treaty Organization (hereinafter referred to as "the Organization") to achieve the object and purpose of this Treaty, to ensure the implementation of its provisions, including those for international verification of compliance with it, and to provide a forum for consultation and cooperation among States Parties.

2. All States Parties shall be members of the Organization. A State Party shall not be deprived of its membership in the Organization.

3. The seat of the Organization shall be Vienna, Republic of Austria.

4. There are hereby established as organs of the Organization: the Conference of the States Parties, the Executive Council and the Technical Secretariat, which shall include the International Data Centre.

5. Each State Party shall cooperate with the Organization in the exercise of its functions in accordance with this Treaty. States Parties shall consult, directly among themselves, or through the Organization or other appropriate international procedures, including procedures within the framework of the United Nations and in accordance with its Charter, on any matter which may be raised relating to the object and purpose, or the implementation of the provisions, of this Treaty.

6. The Organization shall conduct its verification activities provided for under this Treaty in the least intrusive manner possible consistent with the timely and efficient accomplishment of their objectives. It shall request only the information and data necessary to fulfil its responsibilities under this Treaty. It shall take every precaution to protect the confidentiality of information on civil and military activities and facilities coming to its knowledge in the implementation of this Treaty and, in particular, shall abide by the confidentiality provisions set forth in this Treaty.

7. Each State Party shall treat as confidential and afford special handling to information and data that it receives in confidence from the Organization in connection with the implementation of this Treaty. It shall treat such information and data exclusively in connection with its rights and obligations under this Treaty.

8. The Organization, as an independent body, shall seek to utilize existing expertise and facilities, as appropriate, and to maximize cost efficiencies, through cooperative arrangements with other international organizations such as the International Atomic Energy Agency. Such arrangements, excluding those of a minor and normal commercial and contractual nature, shall be set out in agreements to be submitted to the Conference of the States Parties for approval.

9. The costs of the activities of the Organization shall be met annually by the States Parties in accordance with the United Nations scale of assessments adjusted to take into account differences in membership between the United Nations and the Organization.

10. Financial contributions of States Parties to the Preparatory Commission shall be deducted in an appropriate way from their contributions to the regular budget.

11. A member of the Organization which is in arrears in the payment of its assessed contribution to the Organization shall have no vote in the Organization if the amount of its arrears equals or exceeds the amount of the contribution due from it for the preceding two full years. The Conference of the States Parties may, nevertheless, permit such a member to vote if it is satisfied that the failure to pay is due to conditions beyond the control of the member.

B. THE CONFERENCE OF THE STATES PARTIES

Composition, Procedures and Decision-making

12. The Conference of the States Parties (hereinafter referred to as "the Conference") shall be composed of all States Parties. Each State Party shall have one representative in the Conference, who may be accompanied by alternates and advisers.

13. 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.

14. The Conference shall meet in regular sessions, which shall be held annually, unless it decides otherwise.

15. A special session of the Conference shall be convened:

(a) When decided by the Conference;

(b) When requested by the Executive Council; or

(c) When requested by any State Party and supported by a majority of the States Parties.

The special session shall be convened no later than 30 days after the decision of the Conference, the request of the Executive Council, or the attainment of the necessary support, unless specified otherwise in the decision or request.

16. The Conference may also be convened in the form of an Amendment Conference, in accordance with Article VII.

17. The Conference may also be convened in the form of a Review Conference, in accordance with Article VIII.

18. Sessions shall take place at the seat of the Organization unless the Conference decides otherwise.

19. The Conference shall adopt its rules of procedure. At the beginning of each session, it shall elect its President and such other officers as may be required. They shall hold office until a new President and other officers are elected at the next session.

20. A majority of the States Parties shall constitute a quorum.

21. Each State Party shall have one vote.

22. The Conference shall take decisions on matters of procedure by a majority of members present and voting. Decisions on matters of substance shall be taken as far as possible by consensus. If consensus

is not attainable when an issue comes up for decision, the President of the Conference shall defer any vote for 24 hours and during this period of deferment shall make every effort to facilitate achievement of consensus, and shall report to the Conference before the end of this period. If consensus is not possible at the end of 24 hours, the Conference shall take a decision by a two-thirds majority of members present and voting unless specified otherwise in this Treaty. When the issue arises as to whether the question is one of substance or not, that question shall be treated as a matter of substance unless otherwise decided by the majority required for decisions on matters of substance.

23. When exercising its function under paragraph 26 (k), the Conference shall take a decision to add any State to the list of States contained in Annex 1 to this Treaty in accordance with the procedure for decisions on matters of substance set out in paragraph 22. Notwithstanding paragraph 22, the Conference shall take decisions on any other change to Annex 1 to this Treaty by consensus.

Powers and Functions

24. The Conference shall be the principal organ of the Organization. It shall consider any questions, matters or issues within the scope of this Treaty, including those relating to the powers and functions of the Executive Council and the Technical Secretariat, in accordance with this Treaty. It may make recommendations and take decisions on any questions, matters or issues within the scope of this Treaty raised by a State Party or brought to its attention by the Executive Council.

25. The Conference shall oversee the implementation of, and review compliance with, this Treaty and act in order to promote its object and purpose. It shall also oversee the activities of the Executive Council and the Technical Secretariat and may issue guidelines to either of them for the exercise of their functions.

26. The Conference shall:

(a) Consider and adopt the report of the Organization on the implementation of this Treaty and the annual programme and budget of the Organization, submitted by the Executive Council, as well as consider other reports;

(b) Decide on the scale of financial contributions to be paid by States Parties in accordance with paragraph 9;

(c) Elect the members of the Executive Council;

(d) Appoint the Director-General of the Technical Secretariat (hereinafter referred to as "the Director-General");

(e) Consider and approve the rules of procedure of the Executive Council submitted by the latter;

(f) Consider and review scientific and technological developments that could affect the operation of this Treaty. In this context, the Conference may direct the Director-General to establish a Scientific Advisory Board to enable him or her, in the performance of his or her functions, to render specialized advice in areas of science and technology relevant to this Treaty to the Conference, to the Executive Council, or to States Parties. In that case, the Scientific Advisory Board shall be composed of independent experts serving in their individual capacity and appointed, in accordance with terms of reference adopted by the Conference, on the basis of their expertise and experience in the particular scientific fields relevant to the implementation of this Treaty;

(g) Take the necessary measures to ensure compliance with this Treaty and to redress and remedy any situation that contravenes the provisions of this Treaty, in accordance with Article V;

(h) Consider and approve at its initial session any draft agreements, arrangements, provisions, procedures, operational manuals, guidelines and any other documents developed and recommended by the Preparatory Commission;

(i) Consider and approve agreements or arrangements negotiated by the Technical Secretariat with States Parties, other States and international organizations to be concluded by the Executive Council on behalf of the Organization in accordance with paragraph 38 (h);

(j) Establish such subsidiary organs as it finds necessary for the exercise of its functions in accordance with this Treaty; and

(k) Update Annex 1 to this Treaty, as appropriate, in accordance with paragraph 23.

C. THE EXECUTIVE COUNCIL

Composition, Procedures and Decision-making

27. The Executive Council shall consist of 51 members. Each State Party shall have the right, in accordance with the provisions of this Article, to serve on the Executive Council.

28. Taking into account the need for equitable geographical distribution, the Executive Council shall comprise:

(a) Ten States Parties from Africa;

(b) Seven States Parties from Eastern Europe;

(c) Nine States Parties from Latin America and the Caribbean;

(d) Seven States Parties from the Middle East and South Asia;

(e) Ten States Parties from North America and Western Europe; and

(f) Eight States Parties from South-East Asia, the Pacific and the Far East.

All States in each of the above geographical regions are listed in Annex 1 to this Treaty. Annex 1 to this Treaty shall be updated, as appropriate, by the Conference in accordance with paragraphs 23 and 26 (k). It shall not be subject to amendments or changes under the procedures contained in Article VII.

29. The members of the Executive Council shall be elected by the Conference. In this connection, each geographical region shall designate States Parties from that region for election as members of the Executive Council as follows:

(a) At least one-third of the seats allocated to each geographical region shall be filled, taking into account political and security interests, by States Parties in that region designated on the basis of the nuclear capabilities relevant to the Treaty as determined

by international data as well as all or any of the following indicative criteria in the order of priority determined by each region:

(i) Number of monitoring facilities of the International Monitoring System;

(ii) Expertise and experience in monitoring technology; and

(iii) Contribution to the annual budget of the Organization;

(b) One of the seats allocated to each geographical region shall be filled on a rotational basis by the State Party that is first in the English alphabetical order among the States Parties in that region that have not served as members of the Executive Council for the longest period of time since becoming States Parties or since their last term, whichever is shorter. A State Party designated on this basis may decide to forgo its seat. In that case, such a State Party shall submit a letter of renunciation to the Director-General, and the seat shall be filled by the State Party following next-in-order according to this sub-paragraph; and

(c) The remaining seats allocated to each geographical region shall be filled by States Parties designated from among all the States Parties in that region by rotation or elections.

30. Each member of the Executive Council shall have one representative on the Executive Council, who may be accompanied by alternates and advisers.

31. Each member of the Executive Council shall hold office from the end of the session of the Conference at which that member is elected until the end of the second regular annual session of the Conference thereafter, except that for the first election of the Executive Council, 26 members shall be elected to hold office until the end of the third regular annual session of the Conference, due regard being paid to the established numerical proportions as described in paragraph 28.

32. The Executive Council shall elaborate its rules of procedure and submit them to the Conference for approval.

33. The Executive Council shall elect its Chairman from among its members.

34. The Executive Council shall meet for regular sessions. Between regular sessions it shall meet as may be required for the fulfilment of its powers and functions.

35. Each member of the Executive Council shall have one vote.

36. The Executive Council shall take decisions on matters of procedure by a majority of all its members. The Executive Council shall take decisions on matters of substance by a two-thirds majority of all its members unless specified otherwise in this Treaty. When the issue arises as to whether the question is one of substance or not, that question shall be treated as a matter of substance unless otherwise decided by the majority required for decisions on matters of substance.

Powers and Functions

37. The Executive Council shall be the executive organ of the Organization. It shall be responsible to the Conference. It shall carry out the powers and functions entrusted to it in accordance with this Treaty. In so doing, it shall act in conformity with the recommendations, decisions and guidelines of the Conference and ensure their continuous and proper implementation.

38. The Executive Council shall:

(a) Promote effective implementation of, and compliance with, this Treaty;

(b) Supervise the activities of the Technical Secretariat;

(c) Make recommendations as necessary to the Conference for consideration of further proposals for promoting the object and purpose of this Treaty;

(d) Cooperate with the National Authority of each State Party;

(e) Consider and submit to the Conference the draft annual programme and budget of the Organization, the draft report of the Organization on the implementation of this Treaty, the report on the

performance of its own activities and such other reports as it deems necessary or that the Conference may request;

(f) Make arrangements for the sessions of the Conference, including the preparation of the draft agenda;

(g) Examine proposals for changes, on matters of an administrative or technical nature, to the Protocol or the Annexes thereto, pursuant to Article VII, and make recommendations to the States Parties regarding their adoption;

(h) Conclude, subject to prior approval of the Conference, agreements or arrangements with States Parties, other States and international organizations on behalf of the Organization and supervise their implementation, with the exception of agreements or arrangements referred to in sub-paragraph (i);

(i) Approve and supervise the operation of agreements or arrangements relating to the implementation of verification activities with States Parties and other States; and

(j) Approve any new operational manuals and any changes to the existing operational manuals that may be proposed by the Technical Secretariat.

39. The Executive Council may request a special session of the Conference.

40. The Executive Council shall:

(a) Facilitate cooperation among States Parties, and between States Parties and the Technical Secretariat, relating to the implementation of this Treaty through information exchanges;

(b) Facilitate consultation and clarification among States Parties in accordance with Article IV; and

(c) Receive, consider and take action on requests for, and reports on, on-site inspections in accordance with Article IV.

41. The Executive Council shall consider any concern raised by a State Party about possible non-compliance with this Treaty and abuse of the

rights established by this Treaty. In so doing, the Executive Council shall consult with the States Parties involved and, as appropriate, request a State Party to take measures to redress the situation within a specified time. To the extent that the Executive Council considers further action to be necessary, it shall take, inter alia, one or more of the following measures:

(a) Notify all States Parties of the issue or matter;

(b) Bring the issue or matter to the attention of the Conference;

(c) Make recommendations to the Conference or take action, as appropriate, regarding measures to redress the situation and to ensure compliance in accordance with Article V;

D. THE TECHNICAL SECRETARIAT

42. The Technical Secretariat shall assist States Parties in the implementation of this Treaty. The Technical Secretariat shall assist the Conference and the Executive Council in the performance of their functions. The Technical Secretariat shall carry out the verification and other functions entrusted to it by this Treaty, as well as those functions delegated to it by the Conference or the Executive Council in accordance with this Treaty. The Technical Secretariat shall include, as an integral part, the International Data Centre.

43. The functions of the Technical Secretariat with regard to verification of compliance with this Treaty shall, in accordance with Article IV and the Protocol, include inter alia:

(a) Being responsible for supervising and coordinating the operation of the International Monitoring System;

(b) Operating the International Data Centre;

(c) Routinely receiving, processing, analysing and reporting on International Monitoring System data;

(d) Providing technical assistance in, and support for, the installation and operation of monitoring stations;

(e) Assisting the Executive Council in facilitating consultation and clarification among States Parties;

(f) Receiving requests for on-site inspections and processing them, facilitating Executive Council consideration of such requests, carrying out the preparations for, and providing technical support during, the conduct of on-site inspections, and reporting to the Executive Council;

(g) Negotiating agreements or arrangements with States Parties, other States and international organizations and concluding, subject to prior approval by the Executive Council, any such agreements or arrangements relating to verification activities with States Parties or other States; and

(h) Assisting the States Parties through their National Authorities on other issues of verification under this Treaty.

44. The Technical Secretariat shall develop and maintain, subject to approval by the Executive Council, operational manuals to guide the operation of the various components of the verification regime, in accordance with Article IV and the Protocol. These manuals shall not constitute integral parts of this Treaty or the Protocol and may be changed by the Technical Secretariat subject to approval by the Executive Council. The Technical Secretariat shall promptly inform the States Parties of any changes in the operational manuals.

45. The functions of the Technical Secretariat with respect to administrative matters shall include:

(a) Preparing and submitting to the Executive Council the draft programme and budget of the Organization;

(b) Preparing and submitting to the Executive Council the draft report of the Organization on the implementation of this Treaty and such other reports as the Conference or the Executive Council may request;

(c) Providing administrative and technical support to the Conference, the Executive Council and other subsidiary organs;

(d) Addressing and receiving communications on behalf of the Organization relating to the implementation of this Treaty; and

(e) Carrying out the administrative responsibilities related to any agreements between the Organization and other international organizations.

46. All requests and notifications by States Parties to the Organization shall be transmitted through their National Authorities to the Director-General. Requests and notifications shall be in one of the official languages of this Treaty. In response the Director-General shall use the language of the transmitted request or notification.

47. With respect to the responsibilities of the Technical Secretariat for preparing and submitting to the Executive Council the draft programme and budget of the Organization, the Technical Secretariat shall determine and maintain a clear accounting of all costs for each facility established as part of the International Monitoring System. Similar treatment in the draft programme and budget shall be accorded to all other activities of the Organization.

48. The Technical Secretariat shall promptly inform the Executive Council of any problems that have arisen with regard to the discharge of its functions that have come to its notice in the performance of its activities and that it has been unable to resolve through consultations with the State Party concerned.

49. The Technical Secretariat shall comprise a Director-General, who shall be its head and chief administrative officer, and such scientific, technical and other personnel as may be required. The Director-General shall be appointed by the Conference upon the recommendation of the Executive Council for a term of four years, renewable for one further term, but not thereafter. The first Director-General shall be appointed by the Conference at its initial session upon the recommendation of the Preparatory Commission.

50. The Director-General shall be responsible to the Conference and the Executive Council for the appointment of the staff and for the organization and functioning of the Technical Secretariat. The paramount consideration in the employment of the staff and in the determination of the conditions of service shall be the necessity of securing the highest standards of professional expertise, experience, efficiency, competence and integrity. Only citizens of States Parties shall serve as the Director-General, as inspectors or as members of the professional and clerical staff. Due regard shall be paid to the

importance of recruiting the staff on as wide a geographical basis as possible. Recruitment shall be guided by the principle that the staff shall be kept to the minimum necessary for the proper discharge of the responsibilities of the Technical Secretariat.

51. The Director-General may, as appropriate, after consultation with the Executive Council, establish temporary working groups of scientific experts to provide recommendations on specific issues.

52. In the performance of their duties, the Director-General, the inspectors, the inspection assistants and the members of the staff shall not seek or receive instructions from any Government or from any other source external to the Organization. They shall refrain from any action that might reflect adversely on their positions as international officers responsible only to the Organization. The Director-General shall assume responsibility for the activities of an inspection team.

53. Each State Party shall respect the exclusively international character of the responsibilities of the Director-General, the inspectors, the inspection assistants and the members of the staff and shall not seek to influence them in the discharge of their responsibilities.

E. PRIVILEGES AND IMMUNITIES

54. The Organization shall enjoy on the territory and in any other place under the jurisdiction or control of a State Party such legal capacity and such privileges and immunities as are necessary for the exercise of its functions.

55. 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 Organization shall enjoy such privileges and immunities as are necessary in the independent exercise of their functions in connection with the Organization.

56. The legal capacity, privileges and immunities referred to in this Article shall be defined in agreements between the Organization and the States Parties as well as in an agreement between the Organization and

the State in which the Organization is seated. Such agreements shall be considered and approved in accordance with paragraph 26 (h) and (i).

57. Notwithstanding paragraphs 54 and 55, the privileges and immunities enjoyed by the Director-General, the inspectors, the inspection assistants and the members of the staff of the Technical Secretariat during the conduct of verification activities shall be those set forth in the Protocol.

ARTICLE III

NATIONAL IMPLEMENTATION MEASURES

1. Each State Party shall, in accordance with its constitutional processes, take any necessary measures to implement its obligations under this Treaty. In particular, it shall 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 this 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.

2. Each State Party shall cooperate with other States Parties and afford the appropriate form of legal assistance to facilitate the implementation of the obligations under paragraph 1.

3. Each State Party shall inform the Organization of the measures taken pursuant to this Article.

4. In order to fulfil its obligations under the Treaty, each State Party shall designate or set up a National Authority and shall so inform the Organization upon entry into force of the Treaty for it. The National Authority shall serve as the national focal point for liaison with the Organization and with other States Parties.

ARTICLE IV

VERIFICATION

A. GENERAL PROVISIONS

1. In order to verify compliance with this Treaty, a verification regime shall be established consisting of the following elements:

(a) An International Monitoring System;

(b) Consultation and clarification;

(c) On-site inspections; and

(d) Confidence-building measures.

At entry into force of this Treaty, the verification regime shall be capable of meeting the verification requirements of this Treaty.

2. Verification activities shall be based on objective information, shall be limited to the subject matter of this Treaty, and shall be carried out on the basis of full respect for the sovereignty of States Parties and in the least intrusive manner possible consistent with the effective and timely accomplishment of their objectives. Each State Party shall refrain from any abuse of the right of verification.

3. Each State Party undertakes in accordance with this Treaty to cooperate, through its National Authority established pursuant to Article III, paragraph 4, with the Organization and with other States Parties to facilitate the verification of compliance with this Treaty by, inter alia:

(a) Establishing the necessary facilities to participate in these verification measures and establishing the necessary communication;

(b) Providing data obtained from national stations that are part of the International Monitoring System;

(c) Participating, as appropriate, in a consultation and clarification process;

(d) Permitting the conduct of on-site inspections; and

(e) Participating, as appropriate, in confidence-building measures.

4. All States Parties, irrespective of their technical and financial capabilities, shall enjoy the equal right of verification and assume the equal obligation to accept verification.

5. For the purposes of this Treaty, no State Party shall be precluded from using information obtained by national technical means of verification in a manner consistent with generally recognized principles of international law, including that of respect for the sovereignty of States.

6. Without prejudice to the right of States Parties to protect sensitive installations, activities or locations not related to this Treaty, States Parties shall not interfere with elements of the verification regime of this Treaty or with national technical means of verification operating in accordance with paragraph 5.

7. Each State Party shall have the right to take measures to protect sensitive installations and to prevent disclosure of confidential information and data not related to this Treaty.

8. Moreover, all necessary measures shall be taken to protect the confidentiality of any information related to civil and military activities and facilities obtained during verification activities.

9. Subject to paragraph 8, information obtained by the Organization through the verification regime established by this Treaty shall be made available to all States Parties in accordance with the relevant provisions of this Treaty and the Protocol.

10. The provisions of this Treaty shall not be interpreted as restricting the international exchange of data for scientific purposes.

11. Each State Party undertakes to cooperate with the Organization and with other States Parties in the improvement of the verification regime, and in the examination of the verification potential of additional monitoring technologies such as electromagnetic pulse monitoring or satellite monitoring, with a view to developing, when appropriate,

specific measures to enhance the efficient and cost-effective verification of this Treaty. Such measures shall, when agreed, be incorporated in existing provisions in this Treaty, the Protocol or as additional sections of the Protocol, in accordance with Article VII, or, if appropriate, be reflected in the operational manuals in accordance with Article II, paragraph 44.

12. The States Parties undertake to promote cooperation among themselves to facilitate and participate in the fullest possible exchange relating to technologies used in the verification of this Treaty in order to enable all States Parties to strengthen their national implementation of verification measures and to benefit from the application of such technologies for peaceful purposes.

13. The provisions of this Treaty shall be implemented in a manner which avoids hampering the economic and technological development of the States Parties for further development of the application of atomic energy for peaceful purposes.

Verification Responsibilities of the Technical Secretariat

14. In discharging its responsibilities in the area of verification specified in this Treaty and the Protocol, in cooperation with the States Parties the Technical Secretariat shall, for the purpose of this Treaty:

(a) Make arrangements to receive and distribute data and reporting products relevant to the verification of this Treaty in accordance with its provisions, and to maintain a global communications infrastructure appropriate to this task;

(b) Routinely through its International Data Centre, which shall in principle be the focal point within the Technical Secretariat for data storage and data processing:

(i) Receive and initiate requests for data from the International Monitoring System;

(ii) Receive data, as appropriate, resulting from the process of consultation and clarification, from on-site inspections, and from confidence-building measures; and

(iii) Receive other relevant data from States Parties and international organizations in accordance with this Treaty and the Protocol;

(c) Supervise, coordinate and ensure the operation of the International Monitoring System and its component elements, and of the International Data Centre, in accordance with the relevant operational manuals;

(d) Routinely process, analyse and report on International Monitoring System data according to agreed procedures so as to permit the effective international verification of this Treaty and to contribute to the early resolution of compliance concerns;

(e) Make available all data, both raw and processed, and any reporting products, to all States Parties, each State Party taking responsibility for the use of International Monitoring System data in accordance with Article II, paragraph 7, and with paragraphs 8 and 13 of this Article;

(f) Provide to all States Parties equal, open, convenient and timely access to all stored data;

(g) Store all data, both raw and processed, and reporting products;

(h) Coordinate and facilitate requests for additional data from the International Monitoring System;

(i) Coordinate requests for additional data from one State Party to another State Party;

(j) Provide technical assistance in, and support for, the installation and operation of monitoring facilities and respective communication means, where such assistance and support are required by the State concerned;

(k) Make available to any State Party, upon its request, techniques utilized by the Technical Secretariat and its International Data Centre in compiling, storing, processing, analysing and reporting on data from the verification regime; and

(l) Monitor, assess and report on the overall performance of the International Monitoring System and of the International Data Centre.

15. The agreed procedures to be used by the Technical Secretariat in discharging the verification responsibilities referred to in paragraph 14 and detailed in the Protocol shall be elaborated in the relevant operational manuals.

B. THE INTERNATIONAL MONITORING SYSTEM

16. The International Monitoring System shall comprise facilities for seismological monitoring, radionuclide monitoring including certified laboratories, hydroacoustic monitoring, infrasound monitoring, and respective means of communication, and shall be supported by the International Data Centre of the Technical Secretariat.

17. The International Monitoring System shall be placed under the authority of the Technical Secretariat. All monitoring facilities of the International Monitoring System shall be owned and operated by the States hosting or otherwise taking responsibility for them in accordance with the Protocol.

18. Each State Party shall have the right to participate in the international exchange of data and to have access to all data made available to the International Data Centre. Each State Party shall cooperate with the International Data Centre through its National Authority.

Funding the International Monitoring System

19. For facilities incorporated into the International Monitoring System and specified in Tables 1-A, 2-A, 3 and 4 of Annex 1 to the Protocol, and for their functioning, to the extent that such facilities are agreed by the relevant State and the Organization to provide data to the International Data Centre in accordance with the technical requirements of the Protocol and relevant operational manuals, the Organization, as specified in agreements or arrangements pursuant to Part I, paragraph 4 of the Protocol, shall meet the costs of:

(a) Establishing any new facilities and upgrading existing facilities, unless the State responsible for such facilities meets these costs itself;

(b) Operating and maintaining International Monitoring System facilities, including facility physical security if appropriate, and application of agreed data authentication procedures;

(c) Transmitting International Monitoring System data (raw or processed) to the International Data Centre by the most direct and cost-effective means available, including, if necessary, via appropriate communications nodes, from monitoring stations, laboratories, analytical facilities or from national data centres; or such data (including samples where appropriate) to laboratory and analytical facilities from monitoring stations; and

(d) Analysing samples on behalf of the Organization.

20. For auxiliary network seismic stations specified in Table 1-B of Annex 1 to the Protocol the Organization, as specified in agreements or arrangements pursuant to Part I, paragraph 4 of the Protocol, shall meet the costs only of:

(a) Transmitting data to the International Data Centre;

(b) Authenticating data from such stations;

(c) Upgrading stations to the required technical standard, unless the State responsible for such facilities meets these costs itself;

(d) If necessary, establishing new stations for the purposes of this Treaty where no appropriate facilities currently exist, unless the State responsible for such facilities meets these costs itself; and

(e) Any other costs related to the provision of data required by the Organization as specified in the relevant operational manuals.

21. The Organization shall also meet the cost of provision to each State Party of its requested selection from the standard range of International Data Centre reporting products and services, as specified in Part I, Section F of the Protocol. The cost of preparation and transmission of any additional data or products shall be met by the requesting State Party.

22. The agreements or, if appropriate, arrangements concluded with States Parties or States hosting or otherwise taking responsibility for

facilities of the International Monitoring System shall contain provisions for meeting these costs. Such provisions may include modalities whereby a State Party meets any of the costs referred to in paragraphs 19 (a) and 20 (c) and (d) for facilities which it hosts or for which it is responsible, and is compensated by an appropriate reduction in its assessed financial contribution to the Organization. Such a reduction shall not exceed 50 per cent of the annual assessed financial contribution of a State Party, but may be spread over successive years. A State Party may share such a reduction with another State Party by agreement or arrangement between themselves and with the concurrence of the Executive Council. The agreements or arrangements referred to in this paragraph shall be approved in accordance with Article II, paragraphs 26 (h) and 38 (i).

Changes to the International Monitoring System

23. Any measures referred to in paragraph 11 affecting the International Monitoring System by means of addition or deletion of a monitoring technology shall, when agreed, be incorporated into this Treaty and the Protocol pursuant to Article VII, paragraphs 1 to 6.

24. The following changes to the International Monitoring System, subject to the agreement of those States directly affected, shall be regarded as matters of an administrative or technical nature pursuant to Article VII, paragraphs 7 and 8:

(a) Changes to the number of facilities specified in the Protocol for a given monitoring technology; and

(b) Changes to other details for particular facilities as reflected in the Tables of Annex 1 to the Protocol (including, inter alia, State responsible for the facility; location; name of facility; type of facility; and attribution of a facility between the primary and auxiliary seismic networks).

If the Executive Council recommends, pursuant to Article VII, paragraph 8 (d), that such changes be adopted, it shall as a rule also recommend pursuant to Article VII, paragraph 8 (g), that such changes enter into force upon notification by the Director-General of their approval.

25. The Director-General, in submitting to the Executive Council and States Parties information and evaluation in accordance with Article VII, paragraph 8 (b), shall include in the case of any proposal made pursuant to paragraph 24:

(a) A technical evaluation of the proposal;

(b) A statement on the administrative and financial impact of the proposal; and

(c) A report on consultations with States directly affected by the proposal, including indication of their agreement.

Temporary Arrangements

26. In cases of significant or irretrievable breakdown of a monitoring facility specified in the Tables of Annex 1 to the Protocol, or in order to cover other temporary reductions of monitoring coverage, the Director-General shall, in consultation and agreement with those States directly affected, and with the approval of the Executive Council, initiate temporary arrangements of no more than one year's duration, renewable if necessary by agreement of the Executive Council and of the States directly affected for another year. Such arrangements shall not cause the number of operational facilities of the International Monitoring System to exceed the number specified for the relevant network; shall meet as far as possible the technical and operational requirements specified in the operational manual for the relevant network; and shall be conducted within the budget of the Organization. The Director-General shall furthermore take steps to rectify the situation and make proposals for its permanent resolution. The Director-General shall notify all States Parties of any decision taken pursuant to this paragraph.

Cooperating National Facilities

27. States Parties may also separately establish cooperative arrangements with the Organization, in order to make available to the International Data Centre supplementary data from national monitoring stations that are not formally part of the International Monitoring System.

28. Such cooperative arrangements may be established as follows:

(a) Upon request by a State Party, and at the expense of that State, the Technical Secretariat shall take the steps required to certify that a given monitoring facility meets the technical and operational requirements specified in the relevant operational manuals for an International Monitoring System facility, and make arrangements for the authentication of its data. Subject to the agreement of the Executive Council, the Technical Secretariat shall then formally designate such a facility as a cooperating national facility. The Technical Secretariat shall take the steps required to revalidate its certification as appropriate;

(b) The Technical Secretariat shall maintain a current list of cooperating national facilities and shall distribute it to all States Parties; and

(c) The International Data Centre shall call upon data from cooperating national facilities, if so requested by a State Party, for the purposes of facilitating consultation and clarification and the consideration of on-site inspection requests, data transmission costs being borne by that State Party.

The conditions under which supplementary data from such facilities are made available, and under which the International Data Centre may request further or expedited reporting, or clarifications, shall be elaborated in the operational manual for the respective monitoring network.

C. CONSULTATION AND CLARIFICATION

29. Without prejudice to the right of any State Party to request an on-site inspection, States Parties should, whenever possible, first make every effort to clarify and resolve, among themselves or with or through the Organization, any matter which may cause concern about possible non-compliance with the basic obligations of this Treaty.

30. A State Party that receives a request pursuant to paragraph 29 directly from another State Party shall provide the clarification to the requesting State Party as soon as possible, but in any case no later than 48 hours after the request. The requesting and requested States Parties may keep the Executive Council and the Director-General informed of the request and the response.

31. A State Party shall have the right to request the Director-General to assist in clarifying any matter which may cause concern about possible non-compliance with the basic obligations of this Treaty. The Director-General shall provide appropriate information in the possession of the Technical Secretariat relevant to such a concern. The Director-General shall inform the Executive Council of the request and of the information provided in response, if so requested by the requesting State Party.

32. A State Party shall have the right to request the Executive Council to obtain clarification from another State Party on any matter which may cause concern about possible non-compliance with the basic obligations of this Treaty. In such a case, the following shall apply:

(a) The Executive Council shall forward the request for clarification to the requested State Party through the Director-General no later than 24 hours after its receipt;

(b) The requested State Party shall provide the clarification to the Executive Council as soon as possible, but in any case no later than 48 hours after receipt of the request;

(c) The Executive Council shall take note of the clarification and forward it to the requesting State Party no later than 24 hours after its receipt;

(d) If the requesting State Party deems the clarification to be inadequate, it shall have the right to request the Executive Council to obtain further clarification from the requested State Party.

The Executive Council shall inform without delay all other States Parties about any request for clarification pursuant to this paragraph as well as any response provided by the requested State Party.

33. If the requesting State Party considers the clarification obtained under paragraph 32 (d) to be unsatisfactory, it shall have the right to request a meeting of the Executive Council in which States Parties involved that are not members of the Executive Council shall be entitled to take part. At such a meeting, the Executive Council shall consider the matter and may recommend any measure in accordance with Article V.

D. ON-SITE INSPECTIONS

Request for an On-Site Inspection

34. Each State Party has the right to request an on-site inspection in accordance with the provisions of this Article and Part II of the Protocol in the territory or in any other place under the jurisdiction or control of any State Party, or in any area beyond the jurisdiction or control of any State.

35. The sole purpose of an on-site inspection shall be to clarify whether a nuclear weapon test explosion or any other nuclear explosion has been carried out in violation of Article I and, to the extent possible, to gather any facts which might assist in identifying any possible violator.

36. The requesting State Party shall be under the obligation to keep the on-site inspection request within the scope of this Treaty and to provide in the request information in accordance with paragraph 37. The requesting State Party shall refrain from unfounded or abusive inspection requests.

37. The on-site inspection request shall be based on information collected by the International Monitoring System, on any relevant technical information obtained by national technical means of verification in a manner consistent with generally recognized principles of international law, or on a combination thereof. The request shall contain information pursuant to Part II, paragraph 41 of the Protocol.

38. The requesting State Party shall present the on-site inspection request to the Executive Council and at the same time to the Director-General for the latter to begin immediate processing.

Follow-up After Submission of an On-Site Inspection Request

39. The Executive Council shall begin its consideration immediately upon receipt of the on-site inspection request.

40. The Director-General, after receiving the on-site inspection request, shall acknowledge receipt of the request to the requesting State Party within two hours and communicate the request to the State Party sought to be inspected within six hours. The Director-General

shall ascertain that the request meets the requirements specified in Part II, paragraph 41 of the Protocol, and, if necessary, shall assist the requesting State Party in filing the request accordingly, and shall communicate the request to the Executive Council and to all other States Parties within 24 hours.

41. When the on-site inspection request fulfils the requirements, the Technical Secretariat shall begin preparations for the on-site inspection without delay.

42. The Director-General, upon receipt of an on-site inspection request referring to an inspection area under the jurisdiction or control of a State Party, shall immediately seek clarification from the State Party sought to be inspected in order to clarify and resolve the concern raised in the request.

43. A State Party that receives a request for clarification pursuant to paragraph 42 shall provide the Director-General with explanations and with other relevant information available as soon as possible, but no later than 72 hours after receipt of the request for clarification.

44. The Director-General, before the Executive Council takes a decision on the on-site inspection request, shall transmit immediately to the Executive Council any additional information available from the International Monitoring System or provided by any State Party on the event specified in the request, including any clarification provided pursuant to paragraphs 42 and 43, as well as any other information from within the Technical Secretariat that the Director-General deems relevant or that is requested by the Executive Council.

45. Unless the requesting State Party considers the concern raised in the on-site inspection request to be resolved and withdraws the request, the Executive Council shall take a decision on the request in accordance with paragraph 46.

Executive Council Decisions

46. The Executive Council shall take a decision on the on-site inspection request no later than 96 hours after receipt of the request from the requesting State Party. The decision to approve the on-site inspection shall be made by at least 30 affirmative votes of members of the Executive Council. If the Executive Council does not approve the

inspection, preparations shall be stopped and no further action on the request shall be taken.

47. No later than 25 days after the approval of the on-site inspection in accordance with paragraph 46, the inspection team shall transmit to the Executive Council, through the Director-General, a progress inspection report. The continuation of the inspection shall be considered approved unless the Executive Council, no later than 72 hours after receipt of the progress inspection report, decides by a majority of all its members not to continue the inspection. If the Executive Council decides not to continue the inspection, the inspection shall be terminated, and the inspection team shall leave the inspection area and the territory of the inspected State Party as soon as possible in accordance with Part II, paragraphs 109 and 110 of the Protocol.

48. In the course of the on-site inspection, the inspection team may submit to the Executive Council, through the Director-General, a proposal to conduct drilling. The Executive Council shall take a decision on such a proposal no later than 72 hours after receipt of the proposal. The decision to approve drilling shall be made by a majority of all members of the Executive Council.

49. The inspection team may request the Executive Council, through the Director-General, to extend the inspection duration by a maximum of 70 days beyond the 60-day time-frame specified in Part II, paragraph 4 of the Protocol, if the inspection team considers such an extension essential to enable it to fulfil its mandate. The inspection team shall indicate in its request which of the activities and techniques listed in Part II, paragraph 69 of the Protocol it intends to carry out during the extension period. The Executive Council shall take a decision on the extension request no later than 72 hours after receipt of the request. The decision to approve an extension of the inspection duration shall be made by a majority of all members of the Executive Council.

50. Any time following the approval of the continuation of the on-site inspection in accordance with paragraph 47, the inspection team may submit to the Executive Council, through the Director-General, a recommendation to terminate the inspection. Such a recommendation shall be considered approved unless the Executive Council, no later than 72 hours after receipt of the recommendation, decides by a two-thirds majority of all its members not to approve the termination of the inspection. In case of termination of the inspection, the inspection

team shall leave the inspection area and the territory of the inspected State Party as soon as possible in accordance with Part II, paragraphs 109 and 110 of the Protocol.

51. The requesting State Party and the State Party sought to be inspected may participate in the deliberations of the Executive Council on the on-site inspection request without voting. The requesting State Party and the inspected State Party may also participate without voting in any subsequent deliberations of the Executive Council related to the inspection.

52. The Director-General shall notify all States Parties within 24 hours about any decision by and reports, proposals, requests and recommendations to the Executive Council pursuant to paragraphs 46 to 50.

Follow-up After Executive Council Approval of an On-Site Inspection

53. An on-site inspection approved by the Executive Council shall be conducted without delay by an inspection team designated by the Director-General and in accordance with the provisions of this Treaty and the Protocol. The inspection team shall arrive at the point of entry no later than six days following the receipt by the Executive Council of the on-site inspection request from the requesting State Party.

54. The Director-General shall issue an inspection mandate for the conduct of the on-site inspection. The inspection mandate shall contain the information specified in Part II, paragraph 42 of the Protocol.

55. The Director-General shall notify the inspected State Party of the inspection no less than 24 hours before the planned arrival of the inspection team at the point of entry, in accordance with Part II, paragraph 43 of the Protocol.

The Conduct of an On-Site Inspection

56. Each State Party shall permit the Organization to conduct an on-site inspection on its territory or at places under its jurisdiction or control in accordance with the provisions of this Treaty and the Protocol. However, no State Party shall have to accept simultaneous

on-site inspections on its territory or at places under its jurisdiction or control.

57. In accordance with the provisions of this Treaty and the Protocol, the inspected State Party shall have:

(a) The right and the obligation to make every reasonable effort to demonstrate its compliance with this Treaty and, to this end, to enable the inspection team to fulfil its mandate;

(b) The right to take measures it deems necessary to protect national security interests and to prevent disclosure of confidential information not related to the purpose of the inspection;

(c) The obligation to provide access within the inspection area for the sole purpose of determining facts relevant to the purpose of the inspection, taking into account sub-paragraph (b) and any constitutional obligations it may have with regard to proprietary rights or searches and seizures;

(d) The obligation not to invoke this paragraph or Part II, paragraph 88 of the Protocol to conceal any violation of its obligations under Article I; and

(e) The obligation not to impede the ability of the inspection team to move within the inspection area and to carry out inspection activities in accordance with this Treaty and the Protocol.

Access, in the context of an on-site inspection, means both the physical access of the inspection team and the inspection equipment to, and the conduct of inspection activities within, the inspection area.

58. The on-site inspection shall be conducted in the least intrusive manner possible, consistent with the efficient and timely accomplishment of the inspection mandate, and in accordance with the procedures set forth in the Protocol. Wherever possible, the inspection team shall begin with the least intrusive procedures and then proceed to more intrusive procedures only as it deems necessary to collect sufficient information to clarify the concern about possible non-compliance with this Treaty. The inspectors shall seek only the information and data necessary for the purpose of the inspection and shall seek to minimize interference with normal operations of the inspected State Party.

59. The inspected State Party shall assist the inspection team throughout the on-site inspection and facilitate its task.

60. If the inspected State Party, acting in accordance with Part II, paragraphs 86 to 96 of the Protocol, restricts access within the inspection area, it shall make every reasonable effort in consultations with the inspection team to demonstrate through alternative means its compliance with this Treaty.

Observer

61. With regard to an observer, the following shall apply:

(a) The requesting State Party, subject to the agreement of the inspected State Party, may send a representative, who shall be a national either of the requesting State Party or of a third State Party, to observe the conduct of the on-site inspection;

(b) The inspected State Party shall notify its acceptance or non-acceptance of the proposed observer to the Director-General within 12 hours after approval of the on-site inspection by the Executive Council;

(c) In case of acceptance, the inspected State Party shall grant access to the observer in accordance with the Protocol;

(d) The inspected State Party shall, as a rule, accept the proposed observer, but if the inspected State Party exercises a refusal, that fact shall be recorded in the inspection report.

There shall be no more than three observers from an aggregate of requesting States Parties.

Reports of an On-Site Inspection

62. Inspection reports shall contain:

(a) A description of the activities conducted by the inspection team;

(b) The factual findings of the inspection team relevant to the purpose of the inspection;

(c) An account of the cooperation granted during the on-site inspection;

(d) A factual description of the extent of the access granted, including the alternative means provided to the team, during the on-site inspection; and

(e) Any other details relevant to the purpose of the inspection.

Differing observations made by inspectors may be attached to the report.

63. The Director-General shall make draft inspection reports available to the inspected State Party. The inspected State Party shall have the right to provide the Director-General within 48 hours with its comments and explanations, and to identify any information and data which, in its view, are not related to the purpose of the inspection and should not be circulated outside the Technical Secretariat. The Director-General shall consider the proposals for changes to the draft inspection report made by the inspected State Party and shall wherever possible incorporate them. The Director-General shall also annex the comments and explanations provided by the inspected State Party to the inspection report.

64. The Director-General shall promptly transmit the inspection report to the requesting State Party, the inspected State Party, the Executive Council and to all other States Parties. The Director-General shall further transmit promptly to the Executive Council and to all other States Parties any results of sample analysis in designated laboratories in accordance with Part II, paragraph 104 of the Protocol, relevant data from the International Monitoring System, the assessments of the requesting and inspected States Parties, as well as any other information that the Director-General deems relevant. In the case of the progress inspection report referred to in paragraph 47, the Director-General shall transmit the report to the Executive Council within the time-frame specified in that paragraph.

65. The Executive Council, in accordance with its powers and functions, shall review the inspection report and any material provided pursuant to paragraph 64, and shall address any concerns as to:

(a) Whether any non-compliance with this Treaty has occurred; and

(b) Whether the right to request an on-site inspection has been abused.

66. If the Executive Council reaches the conclusion, in keeping with its powers and functions, that further action may be necessary with regard to paragraph 65, it shall take the appropriate measures in accordance with Article V.

Frivolous or Abusive On-Site Inspection Requests

67. If the Executive Council does not approve the on-site inspection on the basis that the on-site inspection request is frivolous or abusive, or if the inspection is terminated for the same reasons, the Executive Council shall consider and decide on whether to implement appropriate measures to redress the situation, including the following:

(a) Requiring the requesting State Party to pay for the cost of any preparations made by the Technical Secretariat;

(b) Suspending the right of the requesting State Party to request an on-site inspection for a period of time, as determined by the Executive Council; and

(c) Suspending the right of the requesting State Party to serve on the Executive Council for a period of time.

E. CONFIDENCE-BUILDING MEASURES

68. In order to:

(a) Contribute to the timely resolution of any compliance concerns arising from possible misinterpretation of verification data relating to chemical explosions; and

(b) Assist in the calibration of the stations that are part of the component networks of the International Monitoring System,

each State Party undertakes to cooperate with the Organization and with other States Parties in implementing relevant measures as set out in Part III of the Protocol.

ARTICLE V

MEASURES TO REDRESS A SITUATION AND TO ENSURE COMPLIANCE, INCLUDING SANCTIONS

1. The Conference, taking into account, inter alia, the recommendations of the Executive Council, shall take the necessary measures, as set forth in paragraphs 2 and 3, to ensure compliance with this Treaty and to redress and remedy any situation which contravenes the provisions of this Treaty.

2. In cases where a State Party has been requested by the Conference or the Executive Council to redress a situation raising problems with regard to its compliance and fails to fulfil the request within the specified time, the Conference may, inter alia, decide to restrict or suspend the State Party from the exercise of its rights and privileges under this Treaty until the Conference decides otherwise.

3. In cases where damage to the object and purpose of this Treaty may result from non-compliance with the basic obligations of this Treaty, the Conference may recommend to States Parties collective measures which are in conformity with international law.

4. The Conference, or alternatively, if the case is urgent, the Executive Council, may bring the issue, including relevant information and conclusions, to the attention of the United Nations.

ARTICLE VI

SETTLEMENT OF DISPUTES

1. Disputes that may arise concerning the application or the interpretation of this Treaty shall be settled in accordance with the relevant provisions of this Treaty and in conformity with the provisions of the Charter of the United Nations.

2. When a dispute arises between two or more States Parties, or between one or more States Parties and the Organization, relating to the application or interpretation of this Treaty, the parties concerned shall consult together with a view to the expeditious settlement of the dispute by negotiation or by other peaceful means of the parties' choice, including recourse to appropriate organs of this Treaty and, by mutual consent, referral to the International Court of Justice in conformity with the Statute of the Court. The parties involved shall keep the Executive Council informed of actions being taken.

3. The Executive Council may contribute to the settlement of a dispute that may arise concerning the application or interpretation of this Treaty by whatever means it deems appropriate, including offering its good offices, calling upon the States Parties to a dispute to seek a settlement through a process of their own choice, bringing the matter to the attention of the Conference and recommending a time-limit for any agreed procedure.

4. The Conference shall consider questions related to disputes raised by States Parties or brought to its attention by the Executive Council. The Conference shall, as it finds necessary, establish or entrust organs with tasks related to the settlement of these disputes in conformity with Article II, paragraph 26 (j).

5. The Conference and the Executive Council are separately empowered, subject to authorization from the General Assembly of the United Nations, to request the International Court of Justice to give an advisory opinion on any legal question arising within the scope of the activities of the Organization. An agreement between the Organization and the United Nations shall be concluded for this purpose in accordance with Article II, paragraph 38 (h).

6. This Article is without prejudice to Articles IV and V.

ARTICLE VII

AMENDMENTS

1. At any time after the entry into force of this Treaty, any State Party may propose amendments to this Treaty, the Protocol, or the Annexes to the Protocol. Any State Party may also propose changes, in accordance with paragraph 7, to the Protocol or the Annexes thereto. Proposals for amendments shall be subject to the procedures in paragraphs 2 to 6. Proposals for changes, in accordance with paragraph 7, shall be subject to the procedures in paragraph 8.

2. The proposed amendment shall be considered and adopted only by an Amendment Conference.

3. Any proposal for an amendment shall be communicated to the Director-General, who shall circulate it to all States Parties and the Depositary and seek the views of the States Parties on whether an Amendment Conference should be convened to consider the proposal. If a majority of the States Parties notify the Director-General no later than 30 days after its circulation that they support further consideration of the proposal, the Director-General shall convene an Amendment Conference to which all States Parties shall be invited.

4. The Amendment Conference shall be held immediately following a regular session of the Conference unless all States Parties that support the convening of an Amendment Conference request that it be held earlier. In no case shall an Amendment Conference be held less than 60 days after the circulation of the proposed amendment.

5. Amendments shall be adopted by the Amendment Conference by a positive vote of a majority of the States Parties with no State Party casting a negative vote.

6. Amendments shall enter into force for all States Parties 30 days after deposit of the instruments of ratification or acceptance by all those States Parties casting a positive vote at the Amendment Conference.

7. In order to ensure the viability and effectiveness of this Treaty, Parts I and III of the Protocol and Annexes 1 and 2 to the Protocol shall be subject to changes in accordance with paragraph 8, if the

proposed changes are related only to matters of an administrative or technical nature. All other provisions of the Protocol and the Annexes thereto shall not be subject to changes in accordance with paragraph 8.

8. Proposed changes referred to in paragraph 7 shall be made in accordance with the following procedures:

(a) The text of the proposed changes shall be transmitted together with the necessary information to the Director-General. Additional information for the evaluation of the proposal may be provided by any State Party and the Director-General. The Director-General shall promptly communicate any such proposals and information to all States Parties, the Executive Council and the Depositary;

(b) No later than 60 days after its receipt, the Director-General shall evaluate the proposal to determine all its possible consequences for the provisions of this Treaty and its implementation and shall communicate any such information to all States Parties and the Executive Council;

(c) The Executive Council shall examine the proposal in the light of all information available to it, including whether the proposal fulfils the requirements of paragraph 7. No later than 90 days after its receipt, the Executive Council shall notify its recommendation, with appropriate explanations, to all States Parties for consideration. States Parties shall acknowledge receipt within 10 days;

(d) If the Executive Council recommends to all States Parties that the proposal be adopted, it shall be considered approved if no State Party objects to it within 90 days after receipt of the recommendation. If the Executive Council recommends that the proposal be rejected, it shall be considered rejected if no State Party objects to the rejection within 90 days after receipt of the recommendation;

(e) If a recommendation of the Executive Council does not meet with the acceptance required under sub-paragraph (d), a decision on the proposal, including whether it fulfils the requirements of paragraph 7, shall be taken as a matter of substance by the Conference at its next session;

(f) The Director-General shall notify all States Parties and the Depositary of any decision under this paragraph;

(g) Changes approved under this procedure shall enter into force for all States Parties 180 days after the date of notification by the Director-General of their approval unless another time period is recommended by the Executive Council or decided by the Conference.

ARTICLE VIII

REVIEW OF THE TREATY

1. Unless otherwise decided by a majority of the States Parties, ten years after the entry into force of this Treaty a Conference of the States Parties shall be held to review the operation and effectiveness of this Treaty, with a view to assuring itself that the objectives and purposes in the Preamble and the provisions of the Treaty are being realized. Such review shall take into account any new scientific and technological developments relevant to this Treaty. On the basis of a request by any State Party, the Review Conference shall consider the possibility of permitting the conduct of underground nuclear explosions for peaceful purposes. If the Review Conference decides by consensus that such nuclear explosions may be permitted, it shall commence work without delay, with a view to recommending to States Parties an appropriate amendment to this Treaty that shall preclude any military benefits of such nuclear explosions. Any such proposed amendment shall be communicated to the Director-General by any State Party and shall be dealt with in accordance with the provisions of Article VII.

2. At intervals of ten years thereafter, further Review Conferences may be convened with the same objective, if the Conference so decides as a matter of procedure in the preceding year. Such Conferences may be convened after an interval of less than ten years if so decided by the Conference as a matter of substance.

3. Normally, any Review Conference shall be held immediately following the regular annual session of the Conference provided for in Article II.

ARTICLE IX

DURATION AND WITHDRAWAL

1. This Treaty shall be of unlimited duration.

2. Each State Party shall, in exercising its national sovereignty, have the right to withdraw from this Treaty if it decides that extraordinary events related to the subject matter of this Treaty have jeopardized its supreme interests.

3. Withdrawal shall be effected by giving notice six months in advance to all other States Parties, the Executive Council, the Depositary and the United Nations Security Council. Notice of withdrawal shall include a statement of the extraordinary event or events which a State Party regards as jeopardizing its supreme interests.

ARTICLE X

STATUS OF THE PROTOCOL AND THE ANNEXES

The Annexes to this Treaty, the Protocol, and the Annexes to the Protocol form an integral part of the Treaty. Any reference to this Treaty includes the Annexes to this Treaty, the Protocol and the Annexes to the Protocol.

ARTICLE XI

SIGNATURE

This Treaty shall be open to all States for signature before its entry into force.

ARTICLE XII

RATIFICATION

This Treaty shall be subject to ratification by States Signatories according to their respective constitutional processes.

ARTICLE XIII

ACCESSION

Any State which does not sign this Treaty before its entry into force may accede to it at any time thereafter.

ARTICLE XIV

ENTRY INTO FORCE

1. This Treaty shall enter into force 180 days after the date of deposit of the instruments of ratification by all States listed in Annex 2 to this Treaty, but in no case earlier than two years after its opening for signature.

2. If this Treaty has not entered into force three years after the date of the anniversary of its opening for signature, the Depositary shall convene a Conference of the States that have already deposited their instruments of ratification upon the request of a majority of those States. That Conference shall examine the extent to which the requirement set out in paragraph 1 has been met and shall consider and decide by consensus what measures consistent with international law may be undertaken to accelerate the ratification process in order to facilitate the early entry into force of this Treaty.

3. Unless otherwise decided by the Conference referred to in paragraph 2 or other such conferences, this process shall be repeated at subsequent anniversaries of the opening for signature of this Treaty, until its entry into force.

4. All States Signatories shall be invited to attend the Conference referred to in paragraph 2 and any subsequent conferences as referred to in paragraph 3, as observers.

5. For States whose instruments of ratification or accession are deposited subsequent to the entry into force of this Treaty, it shall enter into force on the 30th day following the date of deposit of their instruments of ratification or accession.

ARTICLE XV

RESERVATIONS

The Articles of and the Annexes to this Treaty shall not be subject to reservations. The provisions of the Protocol to this Treaty and the Annexes to the Protocol shall not be subject to reservations incompatible with the object and purpose of this Treaty.

ARTICLE XVI

DEPOSITARY

1. The Secretary-General of the United Nations shall be the Depositary of this Treaty and shall receive signatures, instruments of ratification and instruments of accession.

2. The Depositary shall promptly inform all States Signatories and acceding States of the date of each signature, the date of deposit of each instrument of ratification or accession, the date of the entry into force of this Treaty and of any amendments and changes thereto, and the receipt of other notices.

3. The Depositary shall send duly certified copies of this Treaty to the Governments of the States Signatories and acceding States.

4. This Treaty shall be registered by the Depositary pursuant to Article 102 of the Charter of the United Nations.

ARTICLE XVII

AUTHENTIC TEXTS

This Treaty, of which the Arabic, Chinese, English, French, Russian and Spanish texts are equally authentic, shall be deposited with the Secretary-General of the United Nations.

ANNEX 1 TO THE TREATY

LIST OF STATES PURSUANT TO ARTICLE II, PARAGRAPH 28

Africa

Algeria, Angola, Benin, Botswana, Burkina Faso, Burundi, Cameroon, Cape Verde, Central African Republic, Chad, Comoros, Congo, Côte d'Ivoire, Djibouti, Egypt, Equatorial Guinea, Eritrea, Ethiopia, Gabon, Gambia, Ghana, Guinea, Guinea-Bissau, Kenya, Lesotho, Liberia, Libyan Arab Jamahiriya, Madagascar, Malawi, Mali, Mauritania, Mauritius, Morocco, Mozambique, Namibia, Niger, Nigeria, Rwanda, Sao Tome & Principe, Senegal, Seychelles, Sierra Leone, Somalia, South Africa, Sudan, Swaziland, Togo, Tunisia, Uganda, United Republic of Tanzania, Zaire, Zambia, Zimbabwe.

Eastern Europe

Albania, Armenia, Azerbaijan, Belarus, Bosnia and Herzegovina, Bulgaria, Croatia, Czech Republic, Estonia, Georgia, Hungary, Latvia, Lithuania, Poland, Republic of Moldova, Romania, Russian Federation, Slovakia, Slovenia, The former Yugoslav Republic of Macedonia, Ukraine, Yugoslavia.

Latin America and the Caribbean

Antigua and Barbuda, Argentina, Bahamas, Barbados, Belize, Bolivia, Brazil, Chile, Colombia, Costa Rica, Cuba, Dominica, Dominican Republic, Ecuador, El Salvador, Grenada, Guatemala, Guyana, Haiti, Honduras, Jamaica, Mexico, Nicaragua, Panama, Paraguay, Peru, Saint Kitts and Nevis, Saint Lucia, Saint Vincent and the Grenadines, Suriname, Trinidad and Tobago, Uruguay, Venezuela.

Middle East and South Asia

Afghanistan, Bahrain, Bangladesh, Bhutan, India, Iran (Islamic Republic of), Iraq, Israel, Jordan, Kazakstan, Kuwait, Kyrgyzstan, Lebanon, Maldives, Nepal, Oman, Pakistan, Qatar, Saudi Arabia, Sri Lanka, Syrian Arab Republic, Tajikistan, Turkmenistan, United Arab Emirates, Uzbekistan, Yemen.

North America and Western Europe

Andorra, Austria, Belgium, Canada, Cyprus, Denmark, Finland, France, Germany, Greece, Holy See, Iceland, Ireland, Italy, Liechtenstein, Luxembourg, Malta, Monaco, Netherlands, Norway, Portugal, San Marino, Spain, Sweden, Switzerland, Turkey, United Kingdom of Great Britain and Northern Ireland, United States of America.

South East Asia, the Pacific and the Far East

Australia, Brunei Darussalam, Cambodia, China, Cook Islands, Democratic People's Republic of Korea, Fiji, Indonesia, Japan, Kiribati, Lao People's Democratic Republic, Malaysia, Marshall Islands, Micronesia (Federated States of), Mongolia, Myanmar, Nauru, New Zealand, Niue, Palau, Papua New Guinea, Philippines, Republic of Korea, Samoa, Singapore, Solomon Islands, Thailand, Tonga, Tuvalu, Vanuatu, Viet Nam.

ANNEX 2 TO THE TREATY

LIST OF STATES PURSUANT TO ARTICLE XIV

List of States members of the Conference on Disarmament as at 18 June 1996 which formally participated in the work of the 1996 session of the Conference and which appear in Table 1 of the International Atomic Energy Agency's April 1996 edition of "Nuclear Power Reactors in the World", and of States members of the Conference on Disarmament as at 18 June 1996 which formally participated in the work of the 1996 session of the Conference and which appear in Table 1 of the International Atomic Energy Agency's December 1995 edition of "Nuclear Research Reactors in the World":

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, Viet Nam, Zaire.

PROTOCOL TO THE COMPREHENSIVE NUCLEAR TEST-BAN TREATY

PART I

THE INTERNATIONAL MONITORING SYSTEM AND INTERNATIONAL DATA CENTRE FUNCTIONS

A. GENERAL PROVISIONS

1. The International Monitoring System shall comprise monitoring facilities as set out in Article IV, paragraph 16, and respective means of communication.

2. The monitoring facilities incorporated into the International Monitoring System shall consist of those facilities specified in Annex 1 to this Protocol. The International Monitoring System shall fulfil the technical and operational requirements specified in the relevant operational manuals.

3. The Organization, in accordance with Article II, shall, in cooperation and consultation with the States Parties, with other States, and with international organizations as appropriate, establish and coordinate the operation and maintenance, and any future agreed modification or development of the International Monitoring System.

4. In accordance with appropriate agreements or arrangements and procedures, a State Party or other State hosting or otherwise taking responsibility for International Monitoring System facilities and the Technical Secretariat shall agree and cooperate in establishing, operating, upgrading, financing, and maintaining monitoring facilities, related certified laboratories and respective means of communication within areas under its jurisdiction or control or elsewhere in conformity with international law. Such cooperation shall be in accordance with the security and authentication requirements and technical specifications contained in the relevant operational manuals. Such a State shall give the Technical Secretariat authority to access a monitoring facility for checking equipment and communication links, and shall agree to make the necessary changes in the equipment and the operational procedures to meet agreed requirements. The Technical Secretariat shall provide to such States appropriate technical assistance as is deemed by the Executive Council to be required for the

proper functioning of the facility as part of the International Monitoring System.

5. Modalities for such cooperation between the Organization and States Parties or States hosting or otherwise taking responsibility for facilities of the International Monitoring System shall be set out in agreements or arrangements as appropriate in each case.

B. SEISMOLOGICAL MONITORING

6. Each State Party undertakes to cooperate in an international exchange of seismological data to assist in the verification of compliance with this Treaty. This cooperation shall include the establishment and operation of a global network of primary and auxiliary seismological monitoring stations. These stations shall provide data in accordance with agreed procedures to the International Data Centre.

7. The network of primary stations shall consist of the 50 stations specified in Table 1-A of Annex 1 to this Protocol. These stations shall fulfil the technical and operational requirements specified in the Operational Manual for Seismological Monitoring and the International Exchange of Seismological Data. Uninterrupted data from the primary stations shall be transmitted, directly or through a national data centre, on-line to the International Data Centre.

8. To supplement the primary network, an auxiliary network of 120 stations shall provide information, directly or through a national data centre, to the International Data Centre upon request. The auxiliary stations to be used are listed in Table 1-B of Annex 1 to this Protocol. The auxiliary stations shall fulfil the technical and operational requirements specified in the Operational Manual for Seismological Monitoring and the International Exchange of Seismological Data. Data from the auxiliary stations may at any time be requested by the International Data Centre and shall be immediately available through on-line computer connections.

C. RADIONUCLIDE MONITORING

9. Each State Party undertakes to cooperate in an international exchange of data on radionuclides in the atmosphere to assist in the verification of compliance with this Treaty. This cooperation shall include the establishment and operation of a global network of

radionuclide monitoring stations and certified laboratories. The network shall provide data in accordance with agreed procedures to the International Data Centre.

10. The network of stations to measure radionuclides in the atmosphere shall comprise an overall network of 80 stations, as specified in Table 2-A of Annex 1 to this Protocol. All stations shall be capable of monitoring for the presence of relevant particulate matter in the atmosphere. Forty of these stations shall also be capable of monitoring for the presence of relevant noble gases upon the entry into force of this Treaty. For this purpose the Conference, at its initial session, shall approve a recommendation by the Preparatory Commission as to which 40 stations from Table 2-A of Annex 1 to this Protocol shall be capable of noble gas monitoring. At its first regular annual session, the Conference shall consider and decide on a plan for implementing noble gas monitoring capability throughout the network. The Director-General shall prepare a report to the Conference on the modalities for such implementation. All monitoring stations shall fulfil the technical and operational requirements specified in the Operational Manual for Radionuclide Monitoring and the International Exchange of Radionuclide Data.

11. The network of radionuclide monitoring stations shall be supported by laboratories, which shall be certified by the Technical Secretariat in accordance with the relevant operational manual for the performance, on contract to the Organization and on a fee-for-service basis, of the analysis of samples from radionuclide monitoring stations. Laboratories specified in Table 2-B of Annex 1 to this Protocol, and appropriately equipped, shall, as required, also be drawn upon by the Technical Secretariat to perform additional analysis of samples from radionuclide monitoring stations. With the agreement of the Executive Council, further laboratories may be certified by the Technical Secretariat to perform the routine analysis of samples from manual monitoring stations where necessary. All certified laboratories shall provide the results of such analysis to the International Data Centre, and in so doing shall fulfil the technical and operational requirements specified in the Operational Manual on Radionuclide Monitoring and the International Exchange of Radionuclide Data.

D. HYDROACOUSTIC MONITORING

12. Each State Party undertakes to cooperate in an international exchange of hydroacoustic data to assist in the verification of compliance with this Treaty. This cooperation shall include the establishment and operation of a global network of hydroacoustic monitoring stations. These stations shall provide data in accordance with agreed procedures to the International Data Centre.

13. The network of hydroacoustic stations shall consist of the stations specified in Table 3 of Annex 1 to this Protocol, and shall comprise an overall network of six hydrophone and five T-phase stations. These stations shall fulfil the technical and operational requirements specified in the Operational Manual for Hydroacoustic Monitoring and the International Exchange of Hydroacoustic Data.

E. INFRASOUND MONITORING

14. Each State Party undertakes to cooperate in an international exchange of infrasound data to assist in the verification of compliance with this Treaty. This cooperation shall include the establishment and operation of a global network of infrasound monitoring stations. These stations shall provide data in accordance with agreed procedures to the International Data Centre.

15. The network of infrasound stations shall consist of the stations specified in Table 4 of Annex 1 to this Protocol, and shall comprise an overall network of 60 stations. These stations shall fulfil the technical and operational requirements specified in the Operational Manual for Infrasound Monitoring and the International Exchange of Infrasound Data.

F. INTERNATIONAL DATA CENTRE FUNCTIONS

16. The International Data Centre shall receive, collect, process, analyse, report on and archive data from International Monitoring System facilities, including the results of analysis conducted at certified laboratories.

17. The procedures and standard event screening criteria to be used by the International Data Centre in carrying out its agreed functions, in particular for the production of standard reporting products and for the

performance of a standard range of services for States Parties, shall be elaborated in the Operational Manual for the International Data Centre and shall be progressively developed. The procedures and criteria developed initially by the Preparatory Commission shall be approved by the Conference at its initial session.

International Data Centre Standard Products

18. The International Data Centre shall apply on a routine basis automatic processing methods and interactive human analysis to raw International Monitoring System data in order to produce and archive standard International Data Centre products on behalf of all States Parties. These products shall be provided at no cost to States Parties and shall be without prejudice to final judgements with regard to the nature of any event, which shall remain the responsibility of States Parties, and shall include:

(a) Integrated lists of all signals detected by the International Monitoring System, as well as standard event lists and bulletins, including the values and associated uncertainties calculated for each event located by the International Data Centre, based on a set of standard parameters;

(b) Standard screened event bulletins that result from the application to each event by the International Data Centre of standard event screening criteria, making use of the characterization parameters specified in Annex 2 to this Protocol, with the objective of characterizing, highlighting in the standard event bulletin, and thereby screening out, events considered to be consistent with natural phenomena or non-nuclear, man-made phenomena. The standard event bulletin shall indicate numerically for each event the degree to which that event meets or does not meet the event screening criteria. In applying standard event screening, the International Data Centre shall use both global and supplementary screening criteria to take account of regional variations where applicable. The International Data Centre shall progressively enhance its technical capabilities as experience is gained in the operation of the International Monitoring System;

(c) Executive summaries, which summarize the data acquired and archived by the International Data Centre, the products of the International Data Centre, and the performance and operational status of the International Monitoring System and International Data Centre; and

(d) Extracts or subsets of the standard International Data Centre products specified in sub-paragraphs (a) to (c), selected according to the request of an individual State Party.

19. The International Data Centre shall carry out, at no cost to States Parties, special studies to provide in-depth, technical review by expert analysis of data from the International Monitoring System, if requested by the Organization or by a State Party, to improve the estimated values for the standard signal and event parameters.

International Data Centre Services to States Parties

20. The International Data Centre shall provide States Parties with open, equal, timely and convenient access to all International Monitoring System data, raw or processed, all International Data Centre products, and all other International Monitoring System data in the archive of the International Data Centre or, through the International Data Centre, of International Monitoring System facilities. The methods for supporting data access and the provision of data shall include the following services:

(a) Automatic and regular forwarding to a State Party of the products of the International Data Centre or the selection by the State Party thereof, and, as requested, the selection by the State Party of International Monitoring System data;

(b) The provision of the data or products generated in response to ad hoc requests by States Parties for the retrieval from the International Data Centre and International Monitoring System facility archives of data and products, including interactive electronic access to the International Data Centre database; and

(c) Assisting individual States Parties, at their request and at no cost for reasonable efforts, with expert technical analysis of International Monitoring System data and other relevant data provided by the requesting State Party, in order to help the State Party concerned to identify the source of specific events. The output of any such technical analysis shall be considered a product of the requesting State Party, but shall be available to all States Parties.

The International Data Centre services specified in sub-paragraphs (a) and (b) shall be made available at no cost to each State Party. The

volumes and formats of data shall be set out in the Operational Manual for the International Data Centre.

National Event Screening

21. The International Data Centre shall, if requested by a State Party, apply to any of its standard products, on a regular and automatic basis, national event screening criteria established by that State Party, and provide the results of such analysis to that State Party. This service shall be undertaken at no cost to the requesting State Party. The output of such national event screening processes shall be considered a product of the requesting State Party.

Technical Assistance

22. The International Data Centre shall, where required, provide technical assistance to individual States Parties:

(a) In formulating their requirements for selection and screening of data and products;

(b) By installing at the International Data Centre, at no cost to a requesting State Party for reasonable efforts, computer algorithms or software provided by that State Party to compute new signal and event parameters that are not included in the Operational Manual for the International Data Centre, the output being considered products of the requesting State Party; and

(c) By assisting States Parties to develop the capability to receive, process and analyse International Monitoring System data at a national data centre.

23. The International Data Centre shall continuously monitor and report on the operational status of the International Monitoring System facilities, of communications links, and of its own processing systems. It shall provide immediate notification to those responsible should the operational performance of any component fail to meet agreed levels set out in the relevant operational manual.

PART II

ON-SITE INSPECTIONS

A. GENERAL PROVISIONS

1. The procedures in this Part shall be implemented pursuant to the provisions for on-site inspections set out in Article IV.

2. The on-site inspection shall be carried out in the area where the event that triggered the on-site inspection request occurred.

3. The area of an on-site inspection shall be continuous and its size shall not exceed 1,000 square kilometres. There shall be no linear distance greater than 50 kilometres in any direction.

4. The duration of an on-site inspection shall not exceed 60 days from the date of the approval of the on-site inspection request in accordance with Article IV, paragraph 46, but may be extended by a maximum of 70 days in accordance with Article IV, paragraph 49.

5. If the inspection area specified in the inspection mandate extends to the territory or other place under the jurisdiction or control of more than one State Party, the provisions on on-site inspections shall, as appropriate, apply to each of the States Parties to which the inspection area extends.

6. In cases where the inspection area is under the jurisdiction or control of the inspected State Party but is located on the territory of another State Party or where the access from the point of entry to the inspection area requires transit through the territory of a State Party other than the inspected State Party, the inspected State Party shall exercise the rights and fulfil the obligations concerning such inspections in accordance with this Protocol. In such a case, the State Party on whose territory the inspection area is located shall facilitate the inspection and shall provide for the necessary support to enable the inspection team to carry out its tasks in a timely and effective manner. States Parties through whose territory transit is required to reach the inspection area shall facilitate such transit.

7. In cases where the inspection area is under the jurisdiction or control of the inspected State Party but is located on the territory of

a State not Party to this Treaty, the inspected State Party shall take all necessary measures to ensure that the inspection can be carried out in accordance with this Protocol. A State Party that has under its jurisdiction or control one or more areas on the territory of a State not Party to this Treaty shall take all necessary measures to ensure acceptance by the State on whose territory the inspection area is located of inspectors and inspection assistants designated to that State Party. If an inspected State Party is unable to ensure access, it shall demonstrate that it took all necessary measures to ensure access.

8. In cases where the inspection area is located on the territory of a State Party but is under the jurisdiction or control of a State not Party to this Treaty, the State Party shall take all necessary measures required of an inspected State Party and a State Party on whose territory the inspection area is located, without prejudice to the rules and practices of international law, to ensure that the on-site inspection can be carried out in accordance with this Protocol. If the State Party is unable to ensure access to the inspection area, it shall demonstrate that it took all necessary measures to ensure access, without prejudice to the rules and practices of international law.

9. The size of the inspection team shall be kept to the minimum necessary for the proper fulfilment of the inspection mandate. The total number of members of the inspection team present on the territory of the inspected State Party at any given time, except during the conduct of drilling, shall not exceed 40 persons. No national of the requesting State Party or the inspected State Party shall be a member of the inspection team.

10. The Director-General shall determine the size of the inspection team and select its members from the list of inspectors and inspection assistants, taking into account the circumstances of a particular request.

11. The inspected State Party shall provide for or arrange the amenities necessary for the inspection team, such as communication means, interpretation services, transportation, working space, lodging, meals, and medical care.

12. The inspected State Party shall be reimbursed by the Organization, in a reasonably short period of time after conclusion of the inspection, for all expenses, including those mentioned in paragraphs 11 and 49,

related to the stay and functional activities of the inspection team on the territory of the inspected State Party.

13. Procedures for the implementation of on-site inspections shall be detailed in the Operational Manual for On-Site Inspections.

B. STANDING ARRANGEMENTS

Designation of Inspectors and Inspection Assistants

14. An inspection team may consist of inspectors and inspection assistants. An on-site inspection shall only be carried out by qualified inspectors specially designated for this function. They may be assisted by specially designated inspection assistants, such as technical and administrative personnel, aircrew and interpreters.

15. Inspectors and inspection assistants shall be nominated for designation by the States Parties or, in the case of staff of the Technical Secretariat, by the Director-General, on the basis of their expertise and experience relevant to the purpose and functions of on-site inspections. The nominees shall be approved in advance by the States Parties in accordance with paragraph 18.

16. Each State Party, no later than 30 days after the entry into force of this Treaty for it, shall notify the Director-General of the names, dates of birth, sex, ranks, qualifications and professional experience of the persons proposed by the State Party for designation as inspectors and inspection assistants.

17. No later than 60 days after the entry into force of this Treaty, the Technical Secretariat shall communicate in writing to all States Parties an initial list of the names, nationalities, dates of birth, sex and ranks of the inspectors and inspection assistants proposed for designation by the Director-General and the States Parties, as well as a description of their qualifications and professional experience.

18. Each State Party shall immediately acknowledge receipt of the initial list of inspectors and inspection assistants proposed for designation. Any inspector or inspection assistant included in this list shall be regarded as accepted unless a State Party, no later than 30 days after acknowledgment of receipt of the list, declares its non-acceptance in writing. The State Party may include the reason for

the objection. In the case of non-acceptance, the proposed inspector or inspection assistant shall not undertake or participate in on-site inspection activities on the territory or in any other place under the jurisdiction or control of the State Party that has declared its non-acceptance. The Technical Secretariat shall immediately confirm receipt of the notification of objection.

19. Whenever additions or changes to the list of inspectors and inspection assistants are proposed by the Director-General or a State Party, replacement inspectors and inspection assistants shall be designated in the same manner as set forth with respect to the initial list. Each State Party shall promptly notify the Technical Secretariat if an inspector or inspection assistant nominated by it can no longer fulfil the duties of an inspector or inspection assistant.

20. The Technical Secretariat shall keep the list of inspectors and inspection assistants up to date and notify all States Parties of any additions or changes to the list.

21. A State Party requesting an on-site inspection may propose that an inspector from the list of inspectors and inspection assistants serve as its observer in accordance with Article IV, paragraph 61.

22. Subject to paragraph 23, a State Party shall have the right at any time to object to an inspector or inspection assistant who has already been accepted. It shall notify the Technical Secretariat of its objection in writing and may include the reason for the objection. Such objection shall come into effect 30 days after receipt of the notification by the Technical Secretariat. The Technical Secretariat shall immediately confirm receipt of the notification of the objection and inform the objecting and nominating States Parties of the date on which the inspector or inspection assistant shall cease to be designated for that State Party.

23. A State Party that has been notified of an inspection shall not seek the removal from the inspection team of any of the inspectors or inspection assistants named in the inspection mandate.

24. The number of inspectors and inspection assistants accepted by a State Party must be sufficient to allow for availability of appropriate numbers of inspectors and inspection assistants. If, in the opinion of the Director-General, the non-acceptance by a State Party of proposed

inspectors or inspection assistants impedes the designation of a sufficient number of inspectors and inspection assistants or otherwise hampers the effective fulfilment of the purposes of an on-site inspection, the Director-General shall refer the issue to the Executive Council.

25. Each inspector included in the list of inspectors and inspection assistants shall receive relevant training. Such training shall be provided by the Technical Secretariat pursuant to the procedures specified in the Operational Manual for On-Site Inspections. The Technical Secretariat shall co-ordinate, in agreement with the States Parties, a schedule of training for the inspectors.

Privileges and Immunities

26. Following acceptance of the initial list of inspectors and inspection assistants as provided for in paragraph 18 or as subsequently altered in accordance with paragraph 19, each State Party shall be obliged to issue, in accordance with its national procedures and upon application by an inspector or inspection assistant, multiple entry/exit and/or transit visas and other relevant documents to enable each inspector and inspection assistant to enter and to remain on the territory of that State Party for the sole purpose of carrying out inspection activities. Each State Party shall issue the necessary visa or travel documents for this purpose no later than 48 hours after receipt of the application or immediately upon arrival of the inspection team at the point of entry on the territory of the State Party. Such documents shall be valid for as long as is necessary to enable the inspector or inspection assistant to remain on the territory of the inspected State Party for the sole purpose of carrying out the inspection activities.

27. To exercise their functions effectively, members of the inspection team shall be accorded privileges and immunities as set forth in sub-paragraphs (a) to (i). Privileges and immunities shall be granted to members of the inspection team for the sake of this Treaty and not for the personal benefit of the individuals themselves. Such privileges and immunities shall be accorded to them for the entire period between arrival on and departure from the territory of the inspected State Party, and thereafter with respect to acts previously performed in the exercise of their official functions.

(a) The members of the inspection team shall be accorded the inviolability enjoyed by diplomatic agents pursuant to Article 29 of the Vienna Convention on Diplomatic Relations of 18 April 1961;

(b) The living quarters and office premises occupied by the inspection team carrying out inspection activities pursuant to this Treaty shall be accorded the inviolability and protection accorded to the premises of diplomatic agents pursuant to Article 30, paragraph 1, of the Vienna Convention on Diplomatic Relations;

(c) The papers and correspondence, including records, of the inspection team shall enjoy the inviolability accorded to all papers and correspondence of diplomatic agents pursuant to Article 30, paragraph 2, of the Vienna Convention on Diplomatic Relations. The inspection team shall have the right to use codes for their communications with the Technical Secretariat;

(d) Samples and approved equipment carried by members of the inspection team shall be inviolable subject to provisions contained in this Treaty and exempt from all customs duties. Hazardous samples shall be transported in accordance with relevant regulations;

(e) The members of the inspection team shall be accorded the immunities accorded to diplomatic agents pursuant to Article 31, paragraphs 1, 2 and 3, of the Vienna Convention on Diplomatic Relations;

(f) The members of the inspection team carrying out prescribed activities pursuant to this Treaty shall be accorded the exemption from dues and taxes accorded to diplomatic agents pursuant to Article 34 of the Vienna Convention on Diplomatic Relations;

(g) The members of the inspection team shall be permitted to bring into the territory of the inspected State Party, without payment of any customs duties or related charges, articles for personal use, with the exception of articles the import or export of which is prohibited by law or controlled by quarantine regulations;

(h) The members of the inspection team shall be accorded the same currency and exchange facilities as are accorded to representatives of foreign Governments on temporary official missions; and

(i) The members of the inspection team shall not engage in any professional or commercial activity for personal profit on the territory of the inspected State Party.

28. When transiting the territory of States Parties other than the inspected State Party, the members of the inspection team shall be accorded the privileges and immunities enjoyed by diplomatic agents pursuant to Article 40, paragraph 1, of the Vienna Convention on Diplomatic Relations. Papers and correspondence, including records, and samples and approved equipment carried by them, shall be accorded the privileges and immunities set forth in paragraph 27 (c) and (d).

29. Without prejudice to their privileges and immunities the members of the inspection team shall be obliged to respect the laws and regulations of the inspected State Party and, to the extent that is consistent with the inspection mandate, shall be obliged not to interfere in the internal affairs of that State. If the inspected State Party considers that there has been an abuse of privileges and immunities specified in this Protocol, consultations shall be held between the State Party and the Director-General to determine whether such an abuse has occurred and, if so determined, to prevent a repetition of such an abuse.

30. The immunity from jurisdiction of members of the inspection team may be waived by the Director-General in those cases when the Director-General is of the opinion that immunity would impede the course of justice and that it can be waived without prejudice to the implementation of the provisions of this Treaty. Waiver must always be express.

31. Observers shall be accorded the same privileges and immunities accorded to members of the inspection team pursuant to this section, except for those accorded pursuant to paragraph 27 (d).

Points of Entry

32. Each State Party shall designate its points of entry and shall supply the required information to the Technical Secretariat no later than 30 days after this Treaty enters into force for it. These points of entry shall be such that the inspection team can reach any inspection area from at least one point of entry within 24 hours. Locations of

points of entry shall be provided to all States Parties by the Technical Secretariat. Points of entry may also serve as points of exit.

33. Each State Party may change its points of entry by giving notice of such change to the Technical Secretariat. Changes shall become effective 30 days after the Technical Secretariat receives such notification, to allow appropriate notification to all States Parties.

34. If the Technical Secretariat considers that there are insufficient points of entry for the timely conduct of inspections or that changes to the points of entry proposed by a State Party would hamper such timely conduct of inspections, it shall enter into consultations with the State Party concerned to resolve the problem.

Arrangements for Use of Non-Scheduled Aircraft

35. Where timely travel to the point of entry is not feasible using scheduled commercial flights, an inspection team may utilize non-scheduled aircraft. No later than 30 days after this Treaty enters into force for it, each State Party shall inform the Technical Secretariat of the standing diplomatic clearance number for non-scheduled aircraft transporting an inspection team and equipment necessary for inspection. Aircraft routings shall be along established international airways that are agreed upon between the State Party and the Technical Secretariat as the basis for such diplomatic clearance.

Approved Inspection Equipment

36. The Conference, at its initial session, shall consider and approve a list of equipment for use during on-site inspections. Each State Party may submit proposals for the inclusion of equipment in the list. Specifications for the use of the equipment, as detailed in the Operational Manual for On-Site Inspections, shall take account of safety and confidentiality considerations where such equipment is likely to be used.

37. The equipment for use during on-site inspections shall consist of core equipment for the inspection activities and techniques specified in paragraph 69 and auxiliary equipment necessary for the effective and timely conduct of on-site inspections.

38. The Technical Secretariat shall ensure that all types of approved equipment are available for on-site inspections when required. When required for an on-site inspection, the Technical Secretariat shall duly certify that the equipment has been calibrated, maintained and protected. To facilitate the checking of the equipment at the point of entry by the inspected State Party, the Technical Secretariat shall provide documentation and attach seals to authenticate the certification.

39. Any permanently held equipment shall be in the custody of the Technical Secretariat. The Technical Secretariat shall be responsible for the maintenance and calibration of such equipment.

40. As appropriate, the Technical Secretariat shall make arrangements with States Parties to provide equipment mentioned in the list. Such States Parties shall be responsible for the maintenance and calibration of such equipment.

C. ON-SITE INSPECTION REQUEST, INSPECTION MANDATE AND NOTIFICATION OF INSPECTION

On-Site Inspection Request

41. Pursuant to Article IV, paragraph 37, the on-site inspection request shall contain at least the following information:

(a) The estimated geographical and vertical co-ordinates of the location of the event that triggered the request with an indication of the possible margin of error;

(b) The proposed boundaries of the area to be inspected, specified on a map and in accordance with paragraphs 2 and 3;

(c) The State Party or States Parties to be inspected or an indication that the area to be inspected or part thereof is beyond the jurisdiction or control of any State;

(d) The probable environment of the event that triggered the request;

(e) The estimated time of the event that triggered the request, with an indication of the possible margin of error;

(f) All data upon which the request is based;

(g) The personal details of the proposed observer, if any; and

(h) The results of a consultation and clarification process in accordance with Article IV, or an explanation, if relevant, of the reasons why such a consultation and clarification process has not been carried out.

Inspection Mandate

42. The mandate for an on-site inspection shall contain:

(a) The decision of the Executive Council on the on-site inspection request;

(b) The name of the State Party or States Parties to be inspected or an indication that the inspection area or part thereof is beyond the jurisdiction or control of any State;

(c) The location and boundaries of the inspection area specified on a map, taking into account all information on which the request was based and all other available technical information, in consultation with the requesting State Party;

(d) The planned types of activity of the inspection team in the inspection area;

(e) The point of entry to be used by the inspection team;

(f) Any transit or basing points, as appropriate;

(g) The name of the head of the inspection team;

(h) The names of members of the inspection team;

(i) The name of the proposed observer, if any; and

(j) The list of equipment to be used in the inspection area.

If a decision by the Executive Council pursuant to Article IV, paragraphs 46 to 49, necessitates a modification of the inspection

mandate, the Director-General may update the mandate with respect to sub-paragraphs (d), (h) and (j), as appropriate. The Director-General shall immediately notify the inspected State Party of any such modification.

Notification of Inspection

43. The notification made by the Director-General pursuant to Article IV, paragraph 55 shall include the following information:

(a) The inspection mandate;

(b) The date and estimated time of arrival of the inspection team at the point of entry;

(c) The means of arrival at the point of entry;

(d) If appropriate, the standing diplomatic clearance number for non-scheduled aircraft; and

(e) A list of any equipment which the Director-General requests the inspected State Party to make available to the inspection team for use in the inspection area.

44. The inspected State Party shall acknowledge receipt of the notification by the Director-General no later than 12 hours after having received the notification.

D. PRE-INSPECTION ACTIVITIES

Entry Into the Territory of the Inspected State Party, Activities at the Point of Entry and Transfer to the Inspection Area

45. The inspected State Party that has been notified of the arrival of the inspection team shall ensure the immediate entry of the inspection team into its territory.

46. When a non-scheduled aircraft is used for travel to the point of entry, the Technical Secretariat shall provide the inspected State Party with a flight plan, through the National Authority, for the flight of the aircraft from the last airfield prior to entering the airspace of

that State Party to the point of entry, no less than six hours before the scheduled departure time from that airfield. Such a plan shall be filed in accordance with the procedures of the International Civil Aviation Organization applicable to civil aircraft. The Technical Secretariat shall include in the remarks section of the flight plan the standing diplomatic clearance number and the appropriate notation identifying the aircraft as an inspection aircraft. If a military aircraft is used, the Technical Secretariat shall request prior authorization from the inspected State Party to enter its airspace.

47. No less than three hours before the scheduled departure of the inspection team from the last airfield prior to entering the airspace of the inspected State Party, the inspected State Party shall ensure that the flight plan filed in accordance with paragraph 46 is approved, so that the inspection team may arrive at the point of entry by the estimated arrival time.

48. Where necessary, the head of the inspection team and the representative of the inspected State Party shall agree on a basing point and a flight plan from the point of entry to the basing point and, if necessary, to the inspection area.

49. The inspected State Party shall provide for or arrange parking, security protection, servicing and fuel as required by the Technical Secretariat for the aircraft of the inspection team at the point of entry and, where necessary, at the basing point and at the inspection area. Such aircraft shall not be liable for landing fees, departure tax, and similar charges. This paragraph shall also apply to aircraft used for overflight during the on-site inspection.

50. Subject to paragraph 51, there shall be no restriction by the inspected State Party on the inspection team bringing approved equipment that is in conformity with the inspection mandate into the territory of that State Party, or on its use in accordance with the provisions of the Treaty and this Protocol.

51. The inspected State Party shall have the right, without prejudice to the time-frame specified in paragraph 54, to check in the presence of inspection team members at the point of entry that the equipment has been approved and certified in accordance with paragraph 38. The inspected State Party may exclude equipment that is not in conformity

with the inspection mandate or that has not been approved and certified in accordance with paragraph 38.

52. Immediately upon arrival at the point of entry and without prejudice to the time-frame specified in paragraph 54, the head of the inspection team shall present to the representative of the inspected State Party the inspection mandate and an initial inspection plan prepared by the inspection team specifying the activities to be carried out by it. The inspection team shall be briefed by representatives of the inspected State Party with the aid of maps and other documentation as appropriate. The briefing shall include relevant natural terrain features, safety and confidentiality issues, and logistical arrangements for the inspection. The inspected State Party may indicate locations within the inspection area that, in its view, are not related to the purpose of the inspection.

53. After the pre-inspection briefing, the inspection team shall, as appropriate, modify the initial inspection plan, taking into account any comments by the inspected State Party. The modified inspection plan shall be made available to the representative of the inspected State Party.

54. The inspected State Party shall do everything in its power to provide assistance and to ensure the safe conduct of the inspection team, the approved equipment specified in paragraphs 50 and 51 and baggage from the point of entry to the inspection area no later than 36 hours after arrival at the point of entry, if no other timing has been agreed upon within the time-frame specified in paragraph 57.

55. To confirm that the area to which the inspection team has been transported corresponds to the inspection area specified in the inspection mandate, the inspection team shall have the right to use approved location-finding equipment. The inspected State Party shall assist the inspection team in this task.

E. CONDUCT OF INSPECTIONS

General Rules

56. The inspection team shall discharge its functions in accordance with the provisions of the Treaty and this Protocol.

57. The inspection team shall begin its inspection activities in the inspection area as soon as possible, but in no case later than 72 hours after arrival at the point of entry.

58. The activities of the inspection team shall be so arranged as to ensure the timely and effective discharge of its functions and the least possible inconvenience to the inspected State Party and disturbance to the inspection area.

59. In cases where the inspected State Party has been requested, pursuant to paragraph 43 (e) or in the course of the inspection, to make available any equipment for use by the inspection team in the inspection area, the inspected State Party shall comply with the request to the extent it can.

60. During the on-site inspection the inspection team shall have, inter alia:

(a) The right to determine how the inspection will proceed, consistent with the inspection mandate and taking into account any steps taken by the inspected State Party consistent with the provisions on managed access;

(b) The right to modify the inspection plan, as necessary, to ensure the effective execution of the inspection;

(c) The obligation to take into account the recommendations and suggested modifications by the inspected State Party to the inspection plan;

(d) The right to request clarifications in connection with ambiguities that may arise during the inspection;

(e) The obligation to use only those techniques specified in paragraph 69 and to refrain from activities that are not relevant to the purpose of the inspection. The team shall collect and document such facts as are related to the purpose of the inspection, but shall neither seek nor document information that is clearly unrelated thereto. Any material collected and subsequently found not to be relevant shall be returned to the inspected State Party;

(f) The obligation to take into account and include in its report data and explanations on the nature of the event that triggered the request, provided by the inspected State Party from the national monitoring networks of the inspected State Party and from other sources;

(g) The obligation to provide the inspected State Party, at its request, with copies of the information and data collected in the inspection area; and

(h) The obligation to respect the confidentiality and the safety and health regulations of the inspected State Party.

61. During the on-site inspection the inspected State Party shall have, inter alia:

(a) The right to make recommendations at any time to the inspection team regarding possible modification of the inspection plan;

(b) The right and the obligation to provide a representative to liaise with the inspection team;

(c) The right to have representatives accompany the inspection team during the performance of its duties and observe all inspection activities carried out by the inspection team. This shall not delay or otherwise hinder the inspection team in the exercise of its functions;

(d) The right to provide additional information and to request the collection and documentation of additional facts it believes are relevant to the inspection;

(e) The right to examine all photographic and measurement products as well as samples and to retain any photographs or parts thereof showing sensitive sites not related to the purpose of the inspection. The inspected State Party shall have the right to receive duplicate copies of all photographic and measurement products. The inspected State Party shall have the right to retain photographic originals and first-generation photographic products and to put photographs or parts thereof under joint seal within its territory. The inspected State Party shall have the right to provide its own camera operator to take still/video photographs as requested by the inspection team. Otherwise, these functions shall be performed by members of the inspection team;

(f) The right to provide the inspection team, from its national monitoring networks and from other sources, with data and explanations on the nature of the event that triggered the request; and

(g) The obligation to provide the inspection team with such clarification as may be necessary to resolve any ambiguities that arise during the inspection.

Communications

62. The members of the inspection team shall have the right at all times during the on-site inspection to communicate with each other and with the Technical Secretariat. For this purpose they may use their own duly approved and certified equipment with the consent of the inspected State Party, to the extent that the inspected State Party does not provide them with access to other telecommunications.

Observer

63. In accordance with Article IV, paragraph 61, the requesting State Party shall liaise with the Technical Secretariat to co-ordinate the arrival of the observer at the same point of entry or basing point as the inspection team within a reasonable period of the arrival of the inspection team.

64. The observer shall have the right throughout the inspection to be in communication with the embassy of the requesting State Party located in the inspected State Party or, in the case of absence of an embassy, with the requesting State Party itself.

65. The observer shall have the right to arrive at the inspection area and to have access to and within the inspection area as granted by the inspected State Party.

66. The observer shall have the right to make recommendations to the inspection team throughout the inspection.

67. Throughout the inspection, the inspection team shall keep the observer informed about the conduct of the inspection and the findings.

68. Throughout the inspection, the inspected State Party shall provide or arrange for the amenities necessary for the observer similar to those

enjoyed by the inspection team as described in paragraph 11. All costs in connection with the stay of the observer on the territory of the inspected State Party shall be borne by the requesting State Party.

Inspection Activities and Techniques

69. The following inspection activities may be conducted and techniques used, in accordance with the provisions on managed access, on collection, handling and analysis of samples, and on overflights:

(a) Position finding from the air and at the surface to confirm the boundaries of the inspection area and establish co-ordinates of locations therein, in support of the inspection activities;

(b) Visual observation, video and still photography and multi-spectral imaging, including infrared measurements, at and below the surface, and from the air, to search for anomalies or artifacts;

(c) Measurement of levels of radioactivity above, at and below the surface, using gamma radiation monitoring and energy resolution analysis from the air, and at or under the surface, to search for and identify radiation anomalies;

(d) Environmental sampling and analysis of solids, liquids and gases from above, at and below the surface to detect anomalies;

(e) Passive seismological monitoring for aftershocks to localize the search area and facilitate determination of the nature of an event;

(f) Resonance seismometry and active seismic surveys to search for and locate underground anomalies, including cavities and rubble zones;

(g) Magnetic and gravitational field mapping, ground penetrating radar and electrical conductivity measurements at the surface and from the air, as appropriate, to detect anomalies or artifacts; and

(h) Drilling to obtain radioactive samples.

70. Up to 25 days after the approval of the on-site inspection in accordance with Article IV, paragraph 46, the inspection team shall have the right to conduct any of the activities and use any of the techniques

listed in paragraph 69 (a) to (e). Following the approval of the continuation of the inspection in accordance with Article IV, paragraph 47, the inspection team shall have the right to conduct any of the activities and use any of the techniques listed in paragraph 69 (a) to (g). The inspection team shall only conduct drilling after the approval of the Executive Council in accordance with Article IV, paragraph 48. If the inspection team requests an extension of the inspection duration in accordance with Article IV, paragraph 49, it shall indicate in its request which of the activities and techniques listed in paragraph 69 it intends to carry out in order to be able to fulfil its mandate.

Overflights

71. The inspection team shall have the right to conduct an overflight over the inspection area during the on-site inspection for the purposes of providing the inspection team with a general orientation of the inspection area, narrowing down and optimizing the locations for ground-based inspection and facilitating the collection of factual evidence, using equipment specified in paragraph 79.

72. The overflight shall be conducted as soon as practically possible. The total duration of the overflight over the inspection area shall be no more than 12 hours.

73. Additional overflights using equipment specified in paragraphs 79 and 80 may be conducted subject to the agreement of the inspected State Party.

74. The area to be covered by overflights shall not extend beyond the inspection area.

75. The inspected State Party shall have the right to impose restrictions or, in exceptional cases and with reasonable justification, prohibitions on the overflight of sensitive sites not related to the purpose of the inspection. Restrictions may relate to the flight altitude, the number of passes and circling, the duration of hovering, the type of aircraft, the number of inspectors on board, and the type of measurements or observations. If the inspection team considers that the restrictions or prohibitions on the overflight of sensitive sites may impede the fulfilment of its mandate, the inspected State Party shall make every reasonable effort to provide alternative means of inspection.

76. Overflights shall be conducted according to a flight plan duly filed and approved in accordance with aviation rules and regulations of the inspected State Party. Flight safety regulations of the inspected State Party shall be strictly observed throughout all flying operations.

77. During overflights landing should normally be authorized only for purposes of staging or refuelling.

78. Overflights shall be conducted at altitudes as requested by the inspection team consistent with the activities to be conducted, visibility conditions, as well as the aviation and the safety regulations of the inspected State Party and its right to protect sensitive information not related to the purposes of the inspection. Overflights shall be conducted up to a maximum altitude of 1,500 metres above the surface.

79. For the overflight conducted pursuant to paragraphs 71 and 72, the following equipment may be used on board the aircraft:

(a) Field glasses;

(b) Passive location-finding equipment;

(c) Video cameras; and

(d) Hand-held still cameras.

80. For any additional overflights conducted pursuant to paragraph 73, inspectors on board the aircraft may also use portable, easily installed equipment for:

(a) Multi-spectral (including infrared) imagery;

(b) Gamma spectroscopy; and

(c) Magnetic field mapping.

81. Overflights shall be conducted with a relatively slow fixed or rotary wing aircraft. The aircraft shall afford a broad, unobstructed view of the surface below.

82. The inspected State Party shall have the right to provide its own aircraft, pre-equipped as appropriate in accordance with the technical requirements of the relevant operational manual, and crew. Otherwise, the aircraft shall be provided or rented by the Technical Secretariat.

83. If the aircraft is provided or rented by the Technical Secretariat, the inspected State Party shall have the right to check the aircraft to ensure that it is equipped with approved inspection equipment. Such checking shall be completed within the time-frame specified in paragraph 57.

84. Personnel on board the aircraft shall consist of:

(a) The minimum number of flight crew consistent with the safe operation of the aircraft;

(b) Up to four members of the inspection team;

(c) Up to two representatives of the inspected State Party;

(d) An observer, if any, subject to the agreement of the inspected State Party; and

(e) An interpreter, if necessary.

85. Procedures for the implementation of overflights shall be detailed in the Operational Manual for On-Site Inspections.

Managed Access

86. The inspection team shall have the right to access the inspection area in accordance with the provisions of the Treaty and this Protocol.

87. The inspected State Party shall provide access within the inspection area in accordance with the time-frame specified in paragraph 57.

88. Pursuant to Article IV, paragraph 57 and paragraph 86 above, the rights and obligations of the inspected State Party shall include:

(a) The right to take measures to protect sensitive installations and locations in accordance with this Protocol;

(b) The obligation, when access is restricted within the inspection area, to make every reasonable effort to satisfy the requirements of the inspection mandate through alternative means. Resolving any questions regarding one or more aspects of the inspection shall not delay or interfere with the conduct of the inspection team of other aspects of the inspection; and

(c) The right to make the final decision regarding any access of the inspection team, taking into account its obligations under this Treaty and the provisions on managed access.

89. Pursuant to Article IV, paragraph 57 (b) and paragraph 88 (a) above, the inspected State Party shall have the right throughout the inspection area to take measures to protect sensitive installations and locations and to prevent disclosure of confidential information not related to the purpose of the inspection. Such measures may include, inter alia:

(a) Shrouding of sensitive displays, stores, and equipment;

(b) Restricting measurements of radionuclide activity and nuclear radiation to determining the presence or absence of those types and energies of radiation relevant to the purpose of the inspection;

(c) Restricting the taking of or analysing of samples to determining the presence or absence of radioactive or other products relevant to the purpose of the inspection;

(d) Managing access to buildings and other structures in accordance with paragraphs 90 and 91; and

(e) Declaring restricted-access sites in accordance with paragraphs 92 to 96.

90. Access to buildings and other structures shall be deferred until after the approval of the continuation of the on-site inspection in accordance with Article IV, paragraph 47, except for access to buildings and other structures housing the entrance to a mine, other excavations, or caverns of large volume not otherwise accessible. For such buildings and structures, the inspection team shall have the right only of transit, as directed by the inspected State Party, in order to enter such mines, caverns or other excavations.

91. If, following the approval of the continuation of the inspection in accordance with Article IV, paragraph 47, the inspection team demonstrates credibly to the inspected State Party that access to buildings and other structures is necessary to fulfil the inspection mandate and that the necessary activities authorized in the mandate could not be carried out from the outside, the inspection team shall have the right to gain access to such buildings or other structures. The head of the inspection team shall request access to a specific building or structure indicating the purpose of such access, the specific number of inspectors, as well as the intended activities. The modalities for access shall be subject to negotiation between the inspection team and the inspected State Party. The inspected State Party shall have the right to impose restrictions or, in exceptional cases and with reasonable justification, prohibitions, on the access to buildings and other structures.

92. When restricted-access sites are declared pursuant to paragraph 89 (e), each such site shall be no larger than 4 square kilometres. The inspected State Party has the right to declare up to 50 square kilometres of restricted-access sites. If more than one restricted-access site is declared, each such site shall be separated from any other such site by a minimum distance of 20 metres. Each restricted-access site shall have clearly defined and accessible boundaries.

93. The size, location, and boundaries of restricted-access sites shall be presented to the head of the inspection team no later than the time that the inspection team seeks access to a location that contains all or part of such a site.

94. The inspection team shall have the right to place equipment and take other steps necessary to conduct its inspection up to the boundary of a restricted-access site.

95. The inspection team shall be permitted to observe visually all open places within the restricted-access site from the boundary of the site.

96. The inspection team shall make every reasonable effort to fulfil the inspection mandate outside the declared restricted-access sites prior to requesting access to such sites. If at any time the inspection team demonstrates credibly to the inspected State Party that the

necessary activities authorized in the mandate could not be carried out from the outside and that access to a restricted-access site is necessary to fulfil the mandate, some members of the inspection team shall be granted access to accomplish specific tasks within the site. The inspected State Party shall have the right to shroud or otherwise protect sensitive equipment, objects and materials not related to the purpose of the inspection. The number of inspectors shall be kept to the minimum necessary to complete the tasks related to the inspection. The modalities for such access shall be subject to negotiation between the inspection team and the inspected State Party.

Collection, Handling and Analysis of Samples

97. Subject to paragraphs 86 to 96 and 98 to 100, the inspection team shall have the right to collect and remove relevant samples from the inspection area.

98. Whenever possible, the inspection team shall analyse samples on-site. Representatives of the inspected State Party shall have the right to be present when samples are analysed on-site. At the request of the inspection team, the inspected State Party shall, in accordance with agreed procedures, provide assistance for the analysis of samples on-site. The inspection team shall have the right to transfer samples for off-site analysis at laboratories designated by the Organization only if it demonstrates that the necessary sample analysis cannot be performed on-site.

99. The inspected State Party shall have the right to retain portions of all samples collected when these samples are analysed and may take duplicate samples.

100. The inspected State Party shall have the right to request that any unused samples or portions thereof be returned.

101. The designated laboratories shall conduct chemical and physical analysis of the samples transferred for off-site analysis. Details of such analysis shall be elaborated in the Operational Manual for On-Site Inspections.

102. The Director-General shall have the primary responsibility for the security, integrity and preservation of samples and for ensuring that the confidentiality of samples transferred for off-site analysis is

protected. The Director-General shall do so in accordance with procedures contained in the Operational Manual for On-Site Inspections. The Director-General shall, in any case:

(a) Establish a stringent regime governing the collection, handling, transport and analysis of samples;

(b) Certify the laboratories designated to perform different types of analysis;

(c) Oversee the standardization of equipment and procedures at these designated laboratories and of mobile analytical equipment and procedures;

(d) Monitor quality control and overall standards in relation to the certification of these laboratories and in relation to mobile equipment and procedures; and

(e) Select from among the designated laboratories those which shall perform analytical or other functions in relation to specific investigations.

103. When off-site analysis is to be performed, samples shall be analysed in at least two designated laboratories. The Technical Secretariat shall ensure the expeditious processing of the analysis. The samples shall be accounted for by the Technical Secretariat and any unused samples or portions thereof shall be returned to the Technical Secretariat.

104. The Technical Secretariat shall compile the results of the laboratory analysis of samples relevant to the purpose of the inspection. Pursuant to Article IV, paragraph 63, the Director-General shall transmit any such results promptly to the inspected State Party for comments and thereafter to the Executive Council and to all other States Parties and shall include detailed information concerning the equipment and methodology employed by the designated laboratories.

Conduct of Inspections in Areas beyond the Jurisdiction or Control of any State

105. In case of an on-site inspection in an area beyond the jurisdiction or control of any State, the Director-General shall consult

with the appropriate States Parties and agree on any transit or basing points to facilitate a speedy arrival of the inspection team in the inspection area.

106. The States Parties on whose territory transit or basing points are located shall, as far as possible, assist in facilitating the inspection, including transporting the inspection team, its baggage and equipment to the inspection area, as well as providing the relevant amenities specified in paragraph 11. The Organization shall reimburse assisting States Parties for all costs incurred.

107. Subject to the approval of the Executive Council, the Director-General may negotiate standing arrangements with States Parties to facilitate assistance in the event of an on-site inspection in an area beyond the jurisdiction or control of any State.

108. In cases where one or more States Parties have conducted an investigation of an ambiguous event in an area beyond the jurisdiction or control of any State before a request is made for an on-site inspection in that area, any results of such investigation may be taken into account by the Executive Council in its deliberations pursuant to Article IV.

Post-Inspection Procedures

109. Upon conclusion of the inspection, the inspection team shall meet with the representative of the inspected State Party to review the preliminary findings of the inspection team and to clarify any ambiguities. The inspection team shall provide the representative of the inspected State Party with its preliminary findings in written form according to a standardized format, together with a list of any samples and other material taken from the inspection area pursuant to paragraph 98. The document shall be signed by the head of the inspection team. In order to indicate that he or she has taken notice of the contents of the document, the representative of the inspected State Party shall countersign the document. The meeting shall be completed no later than 24 hours after the conclusion of the inspection.

Departure

110. Upon completion of the post-inspection procedures, the inspection team and the observer shall leave, as soon as possible, the territory of

the inspected State Party. The inspected State Party shall do everything in its power to provide assistance and to ensure the safe conduct of the inspection team, equipment and baggage to the point of exit. Unless agreed otherwise by the inspected State Party and the inspection team, the point of exit used shall be the same as the point of entry.

PART III

CONFIDENCE-BUILDING MEASURES

1. Pursuant to Article IV, paragraph 68, each State Party shall, on a voluntary basis, provide the Technical Secretariat with notification of any chemical explosion using 300 tonnes or greater of TNT-equivalent blasting material detonated as a single explosion anywhere on its territory, or at any place under its jurisdiction or control. If possible, such notification shall be provided in advance. Such notification shall include details on location, time, quantity and type of explosive used, as well as on the configuration and intended purpose of the blast.

2. Each State Party shall, on a voluntary basis, as soon as possible after the entry into force of this Treaty provide to the Technical Secretariat, and at annual intervals thereafter update, information related to its national use of all other chemical explosions greater than 300 tonnes TNT-equivalent. In particular, the State Party shall seek to advise:

(a) The geographic locations of sites where the explosions originate;

(b) The nature of activities producing them and the general profile and frequency of such explosions;

(c) Any other relevant detail, if available; and

to assist the Technical Secretariat in clarifying the origins of any such event detected by the International Monitoring System.

3. A State Party may, on a voluntary and mutually acceptable basis, invite representatives of the Technical Secretariat or of other States Parties to visit sites within its territory referred to in paragraphs 1 and 2.

4. For the purpose of calibrating the International Monitoring System, States Parties may liaise with the Technical Secretariat to carry out chemical calibration explosions or to provide relevant information on chemical explosions planned for other purposes.

ANNEX 1 TO THE PROTOCOL

Table 1-A List of Seismological Stations Comprising the Primary Network

	State Responsible for Station	Location	Latitude	Longitude	Type
1	Argentina	PLCA Paso Flores	40.7 S	70.6 W	3-C
2	Australia	WRA Warramunga, NT	19.9 S	134.3 E	array
3	Australia	ASAR Alice Springs, NT	23.7 S	133.9 E	array
4	Australia	STKA Stephens Creek, SA	31.9 S	141.6 E	3-C
5	Australia	MAW Mawson, Antarctica	67.6 S	62.9 E	3-C
6	Bolivia	LPAZ La Paz	16.3 S	68.1 W	3-C
7	Brazil	BDFB Brasilia	15.6 S	48.0 W	3-C
8	Canada	ULMC Lac du Bonnet, Man.	50.2 N	95.9 W	3-C
9	Canada	YKAC Yellowknife, N.W.T.	62.5 N	114.6 W	array
10	Canada	SCH Schefferville, Quebec	54.8 N	66.8 W	3-C
11	Central African Republic	BGCA Bangui	05.2 N	18.4 E	3-C
12	China	HAI Hailar	49.3 N	119.7 E	3-C > array
13	China	LZH Lanzhou	36.1 N	103.8 E	3-C > array
14	Colombia	XSA El Rosal	04.9 N	74.3 W	3-C
15	Côte d'Ivoire	DBIC Dimbroko	06.7 N	04.9 W	3-C
16	Egypt	LXEG Luxor	25.0 N	33.0 E	array
17	Finland	FINES Lahti	61.4 N	26.1 E	array
18	France	PPT Tahiti	17.6 S	149.6 W	3-C
19	Germany	GEC2 Freyung	48.9 N	13.7 E	array
20	To be determined	To be determined	To be determined	To be determined	To be determined

	State Responsible for Station	Location	Latitude	Longitude	Type
21	Iran (Islamic Republic of)	THR Tehran	35.8 N	51.4 E	3-C
22	Japan	HJAR Matsushiro	36.5 N	138.2 E	array
23	Kazakstan	MAK Makanchi	46.8 N	82.0 E	array
24	Kenya	KHBO Kilimambogo	01.1 S	37.2 E	3-C
25	Mongolia	JAVH Javhlant	48.0 N	106.8 E	3-C > array
26	Niger	New Site	to be determined	to be determined	3-C > array
27	Norway	NAO Hamar	60.8 N	10.8 E	array
28	Norway	ARAO Karasjok	69.5 N	25.5 E	array
29	Pakistan	PRPK Pari	33.7 N	73.3 E	array
30	Paraguay	CPUP Villa Florida	26.3 S	57.3 W	3-C
31	Republic of Korea	KSRS Wonju	37.5 N	127.9 E	array
32	Russian Federation	KBZ Khabaz	43.7 N	42.9 E	3-C
33	Russian Federation	ZAL Zalesovo	53.9 N	84.8 E	3-C > array
34	Russian Federation	NRI Norilsk	69.0 N	88.0 E	3-C
35	Russian Federation	PDY Peleduy	59.6 N	112.6 E	3-C > array
36	Russian Federation	PET Petropavlovsk-Kamchatskiy	53.1 N	157.8 E	3-C > array
37	Russian Federation	USK Ussuriysk	44.2 N	132.0 E	3-C > array
38	Saudi Arabia	New Site	to be determined	to be determined	array
39	South Africa	BOSA Boshof	28.6 S	25.6 E	3-C
40	Spain	ESDC Sonseca	39.7 N	04.0 W	array
41	Thailand	CHTO Chiang Mai	18.8 N	99.0 E	array

	State Responsible for Station	Location	Latitude	Longitude	Type
42	Tunisia	THA Thala	35.6 N	08.7 E	3-C
43	Turkey	BRTR Belbashi The array is subject to relocation at Keskin	39.9 N	32.8 E	array
44	Turkmenistan	GEYT Alibeck	37.9 N	58.1 E	array
45	Ukraine	AKASG Malin	50.4 N	29.1 E	array
46	United States of America	LJTX Lajitas, TX	29.3 N	103.7 W	array
47	United States of America	MNV Mina, NV	38.4 N	118.2 W	array
48	United States of America	PIWY Pinedale, WY	42.8 N	109.6 W	array
49	United States of America	ELAK Eielson, AK	64.8 N	146.9 W	array
50	United States of America	VNDA Vanda, Antarctica	77.5 S	161.9 E	3-C

Key: 3-C > array: Indicates that the site could start operations in the International Monitoring System as a three-component station and be upgraded to an array at a later time.

Table 1-B List of Seismological Stations Comprising the Auxiliary Network

	State responsible for station	Location	Latitude	Longitude	Type
1	Argentina	CFA Coronel Fontana	31.6 S	68.2 W	3-C
2	Argentina	USHA Ushuaia	55.0 S	68.0 W	3-C
3	Armenia	GNI Garni	40.1 N	44.7 E	3-C
4	Australia	CTA Charters Towers, QLD	20.1 S	146.3 E	3-C
5	Australia	FITZ Fitzroy Crossing, WA	18.1 S	125.6 E	3-C
6	Australia	NWAO Narrogin, WA	32.9 S	117.2 E	3-C
7	Bangladesh	CHT Chittagong	22.4 N	91.8 E	3-C
8	Bolivia	SIV San Ignacio	16.0 S	61.1 W	3-C
9	Botswana	LBTB Lobatse	25.0 S	25.6 E	3-C
10	Brazil	PTGA Pitinga	0.7 S	60.0 W	3-C
11	Brazil	RGNB Rio Grande do Norte	6.9 S	37.0 W	3-C
12	Canadà	FRB Iqaluit, N.W.T.	63.7 N	68.5 W	3-C
13	Canada	DLBC Dease Lake, B.C.	58.4 N	130.0 W	3-C
14	Canada	SADO Sadowa, Ont.	44.8 N	79.1 W	3-C
15	Canada	BBB Bella Bella, B.C.	52.2 N	128.1 W	3-C
16	Canada	MBC Mould Bay, N.W.T.	76.2 N	119.4 W	3-C
17	Canada	INK Inuvik, N.W.T.	68.3 N	133.5 W	3-C

	State responsible for station	Location	Latitude	Longitude	Type
18	Chile	RPN Easter Island	27.2 S	109.4 W	3-C
19	Chile	LVC Limon Verde	22.6 S	68.9 W	3-C
20	China	BJT Baijiatuan	40.0 N	116.2 E	3-C
21	China	KMI Kunming	25.2 N	102.8 E	3-C
22	China	SSE Sheshan	31.1 N	121.2 E	3-C
23	China	XAN Xi'an	34.0 N	108.9 E	3-C
24	Cook Islands	RAR Rarotonga	21.2 S	159.8 W	3-C
25	Costa Rica	JTS Las Juntas de Abangares	10.3 N	85.0 W	3-C
26	Czech Republic	VRAC Vranov	49.3 N	16.6 E	3-C
27	Denmark	SFJ Søndre Strømfjord, Greenland	67.0 N	50.6 W	3-C
28	Djibouti	ATD Arta Tunnel	11.5 N	42.9 E	3-C
29	Egypt	KEG Kottamya	29.9 N	31.8 E	3-C
30	Ethiopia	FURI Furi	8.9 N	38.7 E	3-C
31	Fiji	MSVF Monasavu, Viti Levu	17.8 S	178.1 E	3-C
32	France	NOUC Port Laguerre, New Caledonia	22.1 S	166.3 E	3-C
33	France	KOG Kourou, French Guiana	5.2 N	52.7 W	3-C
34	Gabon	BAMB Bambay	1.7 S	13.6 E	3-C

	State responsible for station	Location	Latitude	Longitude	Type
35	Germany/South Africa	--- SANAE Station, Antarctica	71.7 S	2.9 W	3-C
36	Greece	IDI Anogia, Crete	35.3 N	24.9 E	3-C
37	Guatemala	RDG Rabir	15.0 N	90.5 W	3-C
38	Iceland	BORG Borgarnes	64.8 N	21.3 W	3-C
39	To be determined	To be determined	To be determined	To be determined	To be determined
40	Indonesia	PACI Cibinong, Jawa Barat	6.5 S	107.0 E	3-C
41	Indonesia	JAY Jayapura, Irian Jaya	2.5 S	140.7 E	3-C
42	Indonesia	SWI Sorong, Irian Jaya	0.9 S	131.3 E	3-C
43	Indonesia	PSI Parapat, Sumatera	2.7 N	98.9 E	3-C
44	Indonesia	KAPI Kappang, Sulawesi Selatan	5.0 S	119.8 E	3-C
45	Indonesia	KUG Kupang, Nusatenggara Timur	10.2 S	123.6 E	3-C
46	Iran (Islamic Republic of)	KRM Kerman	30.3 N	57.1 E	3-C
47	Iran (Islamic Republic of)	MSN Masjed-e-Soleyman	31.9 N	49.3 E	3-C
48	Israel	MBH Ellath	29.8 N	34.9 E	3-C
49	Israel	PARD Parod	32.6 N	35.3 E	array

	State responsible for station	Location	Latitude	Longitude	Type
50	Italy	ENAS Enna, Sicily	37.5 N	14.3 E	3-C
51	Japan	JNU Ohita, Kyushu	33.1 N	130.9 E	3-C
52	Japan	JOW Kunigami, Okinawa	26.8 N	128.3 E	3-C
53	Japan	JHJ Hachijojima, Izu Islands	33.1 N	139.8 E	3-C
54	Japan	JKA Kamikawa-asahi, Hokkaido	44.1 N	142.6 E	3-C
55	Japan	JCJ Chichijima, Ogasawara	27.1 N	142.2 E	3-C
56	Jordan	--- Ashqof	32.5 N	37.6 E	3-C
57	Kazakstan	BRVK Borovoye	53.1 N	70.3 E	array
58	Kazakstan	KURK Kurchatov	50.7 N	78.6 E	array
59	Kazakstan	AKTO Aktyubinsk	50.4 N	58.0 E	3-C
60	Kyrgyzstan	AAK Ala-Archa	42.6 N	74.5 E	3-C
61	Madagascar	TAN Antananarivo	18.9 S	47.6 E	3-C
62	Mali	KOWA Kowa	14.5 N	4.0 W	3-C
63	Mexico	TEYM Tepich, Yucatan	20.2 N	88.3 W	3-C
64	Mexico	TUVM Tuzandepeti, Veracruz	18.0 N	94.4 W	3-C
65	Mexico	LPBM La Paz, Baja California Sur	24.2 N	110.2 W	3-C
66	Morocco	MDT Midelt	32.8 N	4.6 W	3-C

	State responsible for station	Location	Latitude	Longitude	Type
67	Namibia	TSUM Tsumeb	19.1 S	17.4 E	3-C
68	Nepal	EVN Everest	28.0 N	86.8 E	3-C
69	New Zealand	EWZ Erewhon, South Island	43.5 S	170.9 E	3-C
70	New Zealand	RAO Raoul Island	29.2 S	177.9 W	3-C
71	New Zealand	URZ Urewera, North Island	38.3 S	177.1 E	3-C
72	Norway	SPITS Spitsbergen	78.2 N	16.4 E	array
73	Norway	JMI Jan Mayen	70.9 N	8.7 W	3-C
74	Oman	WSAR Wadi Sarin	23.0 N	58.0 E	3-C
75	Papua New Guinea	PMG Port Moresby	9.4 S	147.2 E	3-C
76	Papua New Guinea	BIAL Bialla	5.3 S	151.1 E	3-C
77	Peru	CAJP Cajamarca	7.0 S	78.0 W	3-C
78	Peru	HNA Hana	12.0 S	76.8 W	3-C
79	Philippines	DAV Davao, Mindanao	7.1 N	125.6 E	3-C
80	Philippines	TGY Tagaytay, Luzon	14.1 N	120.9 E	3-C
81	Romania	MLR Muntele Rosu	45.5 N	25.9 E	3-C
82	Russian Federation	KIRV Kirov	58.6 N	49.4 E	3-C
83	Russian Federation	KIVO Kislovodsk	44.0 N	42.7 E	array
84	Russian Federation	OBN Obninsk	55.1 N	36.6 E	3-C
85	Russian Federation	ARU Arti	56.4 N	58.6 E	3-C

	State responsible for station	Location	Latitude	Longitude	Type
86	Russian Federation	SEY Seymchan	62.9 N	152.4 E	3-C
87	Russian Federation	TLY Talaya	51.7 N	103.6 E	3-C
88	Russian Federation	YAK Yakutsk	62.0N	129.7 E	3-C
89	Russian Federation	URG Urgal	51.1N	132.3 E	3-C
90	Russian Federation	BIL Bilibino	68.0 N	166.4 E	3-C
91	Russian Federation	TIXI Tiksi	71.6 N	128.9 E	3-C
92	Russian Federation	YSS Yuzhno-Sakhalinsk	47.0 N	142.8 E	3-C
93	Russian Federation	MA2 Magadan	59.6 N	150.8 E	3-C
94	Russian Federation	ZIL Zilim	53.9 N	57.0 E	3-C
95	Samoa	AFI Afiamalu	13.9 S	171.8 W	3-C
96	Saudi Arabia	RAYN Ar Rayn	23.6 N	45.6 E	3-C
97	Senegal	MBO Mbour	14.4 N	17.0 W	3-C
98	Solomon Islands	HNR Honiara, Guadalcanal	9.4 S	160.0 E	3-C
99	South Africa	SUR Sutherland	32.4 S	20.8 E	3-C
100	Sri Lanka	COC Colombo	6.9 N	79.9 E	3-C
101	Sweden	HFS Hagfors	60.1 N	13.7 E	array
102	Switzerland	DAVOS Davos	46.8 N	9.8 E	3-C
103	Uganda	MBRU Mbarara	0.4 S	30.4 E	3-C
104	United Kingdom	EKA Eskdalemuir	55.3 N	3.2 W	array

	State responsible for station	Location	Latitude	Longitude	Type
105	United States of America	GUMO Guam, Marianas Islands	13.6 N	144.9 E	3-C
106	United States of America	PMSA Palmer Station, Antarctica	64.8 S	64.1 W	3-C
107	United States of America	TKL Tuckaleechee Caverns, TN	35.7 N	83.8 W	3-C
108	United States of America	PFCA Piñon Flat, CA	33.6 N	116.5 W	3-C
109	United States of America	YBH Yreka, CA	41.7 N	122.7 W	3-C
110	United States of America	KDC Kodiak Island, AK	57.8 N	152.5 W	3-C
111	United States of America	ALQ Albuquerque, NM	35.0 N	106.5 W	3-C
112	United States of America	ATTU Attu Island, AK	52.8 N	172.7 E	3-C
113	United States of America	ELK Elko, NV	40.7 N	115.2 W	3-C
114	United States of America	SPA South Pole, Antarctica	90.0 S	- -	3-C
115	United States of America	NEW Newport, WA	48.3 N	117.1 W	3-C
116	United States of America	SJG San Juan, PR	18.1 N	66.2 W	3-C
117	Venezuela	SDV Santo Domingo	8.9 N	70.6 W	3-C
118	Venezuela	PCRV Puerto la Cruz	10.2 N	64.6 W	3-C
119	Zambia	LSZ Lusaka	15.3 S	28.2 E	3-C
120	Zimbabwe	BUL Bulawayo	to be advised	to be advised	3-C

Table 2-A List of Radionuclide Stations

	State responsible for station	Location	Latitude	Longitude
1	Argentina	Buenos Aires	34.0 S	58.0W
2	Argentina	Salta	24.0 S	65.0 W
3	Argentina	Bariloche	41.1 S	71.3 W
4	Australia	Melbourne, VIC	37.5 S	144.6 E
5	Australia	Mawson, Antarctica	67.6 S	62.5 E
6	Australia	Townsville, QLD	19.2 S	146.8 E
7	Australia	Macquarie Island	54.0 S	159.0 E
8	Australia	Cocos Islands	12.0 S	97.0 E
9	Australia	Darwin, NT	12.4 S	130.7 E
10	Australia	Perth, WA	31.9 S	116.0 E
11	Brazil	Rio de Janeiro	22.5 S	43.1 W
12	Brazil	Recife	8.0 S	35.0 W
13	Cameroon	Douala	4.2 N	9.9 E
14	Canada	Vancouver, B.C.	49.3 N	123.2 W
15	Canada	Resolute, N.W.T.	74.7 N	94.9 W
16	Canada	Yellowknife, N.W.T.	62.5 N	114.5 W
17	Canada	St. John's, N.L.	47.0 N	53.0 W
18	Chile	Punta Arenas	53.1 S	70.6 W
19	Chile	Hanga Roa, Easter Island	27.1 S	108.4 W
20	China	Beijing	39.8 N	116.2 E
21	China	Lanzhou	35.8 N	103.3 E
22	China	Guangzhou	23.0 N	113.3 E
23	Cook Islands	Rarotonga	21.2 S	159.8 W
24	Ecuador	Isla San Cristóbal, Galápagos Islands	1.0 S	89.2 W
25	Ethiopia	Filtu	5.5 N	42.7 E
26	Fiji	Nadi	18.0 S	177.5 E
27	France	Papeete, Tahiti	17.0 S	150.0 W
28	France	Pointe-à-Pitre, Guadeloupe	17.0 N	62.0 W
29	France	Réunion	21.1 S	55.6 E
30	France	Port-aux-Français, Kerguelen	49.0 S	70.0 E

	State responsible for station	Location	Latitude	Longitude
31	France	Cayenne, French Guiana	5.0 N	52.0 W
32	France	Dumont d'Urville, Antarctica	66.0 S	140.0 E
33	Germany	Schauinsland/Freiburg	47.9 N	7.9 E
34	Iceland	Reykjavik	64.4 N	21.9 W
35	To be determined	To be determined	To be determined	To be determined
36	Iran (Islamic Republic of)	Tehran	35.0 N	52.0 E
37	Japan	Okinawa	26.5 N	127.9 E
38	Japan	Takasaki, Gunma	36.3 N	139.0 E
39	Kiribati	Kiritimati	2.0 N	157.0 W
40	Kuwait	Kuwait City	29.0 N	48.0 E
41	Libya	Misratah	32.5 N	15.0 E
42	Malaysia	Kuala Lumpur	2.6 N	101.5 E
43	Mauritania	Nouakchott	18.0 N	17.0 W
44	Mexico	Baja California	28.0 N	113.0 W
45	Mongolia	Ulaanbaatar	47.5 N	107.0 E
46	New Zealand	Chatham Island	44.0 S	176.5 W
47	New Zealand	Kaitaia	35.1 S	173.3 E
48	Niger	Bilma	18.0 N	13.0 E
49	Norway	Spitsbergen	78.2 N	16.4 E
50	Panama	Panama City	8.9 N	79.6 W
51	Papua New Guinea	New Hanover	3.0 S	150.0 E
52	Philippines	Quezon City	14.5 N	121.0 E
53	Portugal	Ponta Delgada, São Miguel, Azores	37.4 N	25.4 W
54	Russian Federation	Kirov	58.6 N	49.4 E
55	Russian Federation	Norilsk	69.0 N	88.0E
56	Russian Federation	Peleduy	59.6 N	112.6 E
57	Russian Federation	Bilibino	68.0 N	166.4 E
58	Russian Federation	Ussuriysk	43.7 N	131.9 E
59	Russian Federation	Zálesovo	53.9 N	84.8 E
60	Russian Federation	Petropavlovsk-Kamchatskiy	53.1 N	158.8 E

	State responsible for station	Location	Latitude	Longitude
61	Russian Federation	Dubna	56.7 N	37.3 E
62	South Africa	Marion Island	46.5 S	37.0 E
63	Sweden	Stockholm	59.4 N	18.0 E
64	Tanzania	Dar es Salaam	6.0 S	39.0 E
65	Thailand	Bangkok	13.8 N	100.5 E
66	United Kingdom	BIOT/Chagos Archipelago	7.0 S	72.0 E
67	United Kingdom	St. Helena	16.0 S	6.0 W
68	United Kingdom	Tristan da Cunha	37.0 S	12.3 W
69	United Kingdom	Halley, Antarctica	76.0 S	26.0 W
70	United States of America	Sacramento, CA	38.7 N	121.4 W
71	United States of America	Sand Point, AK	55.0 N	160.0 W
72	United States of America	Melbourne, FL	28.3 N	80.6 W
73	United States of America	Palmer Station, Antarctica	64.5 S	64.0 W
74	United States of America	Ashland, KS	37.2 N	99.8 W
75	United States of America	Charlottesville, VA	38.0 N	78.0 W
76	United States of America	Salchaket, AK	64.4 N	147.1 W
77	United States of America	Wake Island	19.3 N	166.6 E
78	United States of America	Midway Islands	28.0 N	177.0 W
79	United States of America	Oahu, HI	21.5 N	158.0 W
80	United States of America	Upi, Guam	13.7 N	144.9 E

Table 2-B List of Radionuclide Laboratories

	State responsible for Laboratory	Name and place of laboratory
1	Argentina	National Board of Nuclear Regulation Buenos Aires
2	Australia	Australian Radiation Laboratory Melbourne, VIC
3	Austria	Austrian Research Center Seibersdorf
4	Brazil	Institute of Radiation Protection and Dosimetry Rio de Janeiro
5	Canada	Health Canada Ottawa, Ont.
6	China	Beijing
7	Finland	Centre for Radiation and Nuclear Safety Helsinki
8	France	Atomic Energy Commission Montlhéry
9	Israel	Soreq Nuclear Research Centre Yavne
10	Italy	Laboratory of the National Agency for the Protection of the Environment Rome
11	Japan	Japan Atomic Energy Research Institute Tokai, Ibaraki
12	New Zealand	National Radiation Laboratory Christchurch
13	Russian Federation	Central Radiation Control Laboratory, Ministry of Defence Special Verification Service Moscow
14	South Africa	Atomic Energy Corporation Pelindaba
15	United Kingdom	AWE Blacknest Chilton
16	United States of America	McClellan Central Laboratories Sacramento, CA

Table 3 List of Hydroacoustic Stations

	State responsible for station	Location	Latitude	Longitude	Type
1	Australia	Cape Leeuwin, WA	34.4 S	115.1 E	Hydrophone
2	Canada	Queen Charlotte Islands, B.C.	53.3 N	132.5 W	T-phase
3	Chile	Juan Fernández Island	33.7 S	78.8 W	Hydrophone
4	France	Crozet Islands	46.5 S	52.2 E	Hydrophone
5	France	Guadeloupe	16.3 N	61.1 W	T-phase
6	Mexico	Clarión Island	18.2 N	114.6 W	T-phase
7	Portugal	Flores	39.3 N	31.3 W	T-phase
8	United Kingdom	BIOT/Chagos Archipelago	7.3 S	72.4 E	Hydrophone
9	United Kingdom	Tristan da Cunha	37.2 S	12.5 W	T-phase
10	United States of America	Ascension	8.0 S	14.4 W	Hydrophone
11	United States of America	Wake Island	19.3 N	166.6 E	Hydrophone

Table 4 List of Infrasound Stations

	State responsible for station	Location	Latitude	Longitude
1	Argentina	Paso Flores	40.7 S	70.6 W
2	Argentina	Ushuaia	55.0 S	68.0 W
3	Australia	Davis Base, Antarctica	68.4 S	77.6 E
4	Australia	Narrogin, WA	32.9 S	117.2 E
5	Australia	Hobart, TAS	42.1 S	147.2 E
6	Australia	Cocos Islands	12.3 S	97.0 E
7	Australia	Warramunga, NT	19.9 S	134.3 E
8	Bolivia	La Paz	16.3 S	68.1 W
9	Brazil	Brasilia	15.6 S	48.0 W
10	Canada	Lac du Bonnet, Man.	50.2 N	95.9 W
11	Cape Verde	Cape Verde Islands	16.0 N	24.0 W
12	Central African Republic	Bangui	5.2 N	18.4 E
13	Chile	Easter Island	27.0 S	109.2 W
14	Chile	Juan Fernández Island	33.8 S	80.7 W
15	China	Beijing	40.0 N	116.0 E
16	China	Kunming	25.0 N	102.8 E
17	Côte d'Ivoire	Dimbokro	6.7 N	4.9 W
18	Denmark	Dundas, Greenland	76.5 N	68.7 W
19	Djibouti	Djibouti	11.3 N	43.5 E
20	Ecuador	Galápagos Islands	0.0 N	91.7 W
21	France	Marquesas Islands	10.0 S	140.0 W
22	France	Port LaGuerre, New Caledonia	22.1 S	166.3 E
23	France	Kerguelen	49.2 S	69.1 E
24	France	Tahiti	17.6 S	149.6 W

	State responsible for station	Location	Latitude	Longitude
25	France	Kourou, French Guiana	5.2 N	52.7 W
26	Germany	Freyung	48.9 N	13.7 E
27	Germany	Georg von Neumayer, Antarctica	70.6 S	8.4 W
28	To be determined	To be determined	To be determined	To be determined
29	Iran (Islamic Republic of)	Tehran	35.7 N	51.4 E
30	Japan	Tsukuba	36.0 N	140.1 E
31	Kazakstan	Aktyubinsk	50.4 N	58.0 E
32	Kenya	Kilimanbogo	1.3 S	36.8 E
33	Madagascar	Antananarivo	18.8 S	47.5 E
34	Mongolia	Javhlant	48.0 N	106.8 E
35	Namibia	Tsumeb	19.1 S	17.4 E
36	New Zealand	Chatham Island	44.0 S	176.5 W
37	Norway	Karasjok	69.5 N	25.5 E
38	Pakistan	Rahimyar Khan	28.2 N	70.3 E
39	Palau	Palau	7.5 N	134.5 E
40	Papua New Guinea	Rabaul	4.1 S	152.1 E
41	Paraguay	Villa Florida	26.3 S	57.3 W
42	Portugal	Azores	37.8 N	25.5 W
43	Russian Federation	Dubna	56.7 N	37.3 E
44	Russian Federation	Petropavlovsk-Kamchatskiy	53.1 N	158.8 E
45	Russian Federation	Ussuriysk	43.7 N	131.9 E
46	Russian Federation	Zalesovo	53.9 N	84.8 E

	State responsible for station	Location	Latitude	Longitude
47	South Africa	Boshof	28.6 S	25.4 E
48	Tunisia	Thala	35.6 N	8.7 E
49	United Kingdom	Tristan da Cunha	37.0 S	12.3 W
50	United Kingdom	Ascension	8.0 S	14.3 W
51	United Kingdom	Bermuda	32.0 N	64.5 W
52	United Kingdom	BIOT/Chagos Archipelago	5.0 S	72.0 E
53	United States of America	Eielson, AK	64.8 N	146.9 W
54	United States of America	Siple Station, Antarctica	75.5 S	83.6 W
55	United States of America	Windless Bight, Antarctica	77.5 S	161.8 E
56	United States of America	Newport, WA	48.3 N	117.1 W
57	United States of America	Piñon Flat, CA	33.6 N	116.5 W
58	United States of America	Midway Islands	28.1N	177.2 W
59	United States of America	Hawaii, HI	19.6 N	155.3 W
60	United States of America	Wake Island	19.3 N	166.6 E

ANNEX 2 TO THE PROTOCOL

List of Characterization Parameters for International Data Centre Standard Event Screening

1. The International Data Centre standard event screening criteria shall be based on the standard event characterization parameters determined during the combined processing of data from all the monitoring technologies in the International Monitoring System. Standard event screening shall make use of both global and supplementary screening criteria to take account of regional variations where applicable.

2. For events detected by the International Monitoring System seismic component, the following parameters, inter alia, may be used:

- location of the event;
- depth of the event;
- ratio of the magnitude of surface waves to body waves;
- signal frequency content;
- spectral ratios of phases;
- spectral scalloping;
- first motion of the P-wave;
- focal mechanism;
- relative excitation of seismic phases;
- comparative measures to other events and groups of events; and
- regional discriminants where applicable.

3. For events detected by the International Monitoring System hydroacoustic component, the following parameters, inter alia, may be used:

- signal frequency content including corner frequency, wide-band energy, and mean centre frequency and bandwidth;
- frequency-dependent duration of signals;
- spectral ratio; and
- indications of bubble-pulse signals and bubble-pulse delay.

4. For events detected by the International Monitoring System infrasound component, the following parameters, inter alia, may be used:

- signal frequency content and dispersion;
- signal duration; and
- peak amplitude.

5. For events detected by the International Monitoring System radionuclide component, the following parameters, inter alia, may be used:

- concentration of background natural and man-made radionuclides;
- concentration of specific fission and activation products outside normal observations; and
- ratios of one specific fission and activation product to another.

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