

Stop Muddying the Waters on the Appointment of the Executive Secretary of the CTBTO¹

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*And so ... ask not what your country can do for you — ask what you can do for your country.”
President John Kennedy, 20 January 1961.*

For the better part of a year, diplomats from more than 180 countries have been feuding over the appointment of the Executive Secretary of the Comprehensive Nuclear-Test-Ban Treaty Organization (CTBTO) located in Vienna, alongside the International Atomic Energy Agency (IAEA).

CTBT/CTBTO

The Comprehensive Nuclear-Test-Ban Treaty ([CTBT](#)) bans [nuclear explosions](#) “by everyone, everywhere: on the Earth’s surface, in the atmosphere, underwater and underground”.

Established in Vienna in 1996, the Provisional Technical Secretariat of the Preparatory Commission of the [Comprehensive Nuclear Test Ban Treaty Organization](#) is mandated to prepare for the entry-into-force of the Treaty through development and deployment of techniques for [monitoring and verification](#) of any type of nuclear explosion anywhere in the world. The Preparatory Commission elects its Chair for a one-year term; it appoints the

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Executive Secretary of the Provisional Technical Secretariat; and it meets twice a year to decide on financial and administrative matters.

In a surprising omission, likely due to sloppy drafting, the length of the term in office of the Executive Secretary is not specified in the [Rules of Procedure](#) nor in the [Resolution](#) establishing the Commission.

This is in notable contrast to the CTBT which in its [Article 49](#) stipulates that, “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”. One would assume that the term of the Executive Secretary also would be similarly limited; but that appears not to be the case. This is surprising because under the Vienna Convention on the Law of Treaties, States Signatories are obligated to honour treaty terms even if it has not entered into force. To their credit, the first and the second Executive Secretary incumbents, Wolfgang Hoffman (Germany) and Tibor Tóth (Hungary) dutifully and honourably departed after serving two terms each.

Inconclusive Election 2020

The election process in 2020 became highly politicised and controversial, in contrast to previous elections in 1997, 2005 and 2013. There were several reasons for this, the most important being that the incumbent threw their hat in the ring for an unprecedented third term. This led to a major split between the 185 CTBT Signatory States.

Last year, the Group of African States supported by several other States backed the candidacy of the incumbent Executive Secretary, Lassina Zerbo, for a third term; though in reality a large number of African, Latin American and Asian States supported the principle of two terms for heads of international organisations. Many African States felt some obligation to support a candidate from their region, despite their opposition to a third term.

The Western States and some others cited the general practice of heads of international organisations serving two terms, but did not prevent the candidacy of the incumbent for a third term.

This matter created underlying tensions exacerbated by some evidence that some staff members of the Secretariat had been deployed to actively support the campaign of the incumbent, contrary to staff regulations.

Another bone of contention last year was the process by which voting rights were restored of States delinquent in paying their assessed dues. States Signatories agreed to consider requests for the restoration of voting rights on an exceptional basis due to the financial impact of the COVID-19 crisis but ultimately this opened the door for States in arrears for several years to circumvent the rules and get an exemption to participate in the vote. This was perceived to benefit the incumbent as the delinquent States were from Africa and other developing regions of the world.

Ironically, at that time, the organisation's financial health had never been better. As a result of the mobilisation effort to ensure that the largest number of States could participate in the election, dues and arrears were paid in record numbers, making the participation in the 2020 election the highest in the organisation's history.

In December last year, several rounds of voting were inconclusive in securing the required two-thirds majority either for the incumbent, Lassina Zerbo (Burkina Faso) running for an unprecedented third (four-year) term, or for Robert Floyd (Director-General, Australian Safeguards and Non-Proliferation Office).

Quite spectacularly, in each of the six rounds of voting in December 2020, Floyd maintained a comfortable lead. In the final voting under Rule 27.2, on "leading candidate", the incumbent received 57 yes, 78 no votes with 6 abstentions; the required "magic number" of two-thirds majority being 90 yes votes. For his part, Floyd's tally was 91 yes, 46 no, and three abstentions, with the rounded off "magic number" of 92 yes votes – hence he fell short by (a fraction of) one vote.

At this point, some delegations recalled that in the 2013 election, when Ambassador Alfredo Labbé (Chile) lagged behind in votes, in the interest of the organisation and restoring harmony among States Signatories, he honourably took the high road and withdrew his candidacy leading to Lassina Zerbo being appointed Executive Secretary by acclamation. However, to the disappointment of many, the incumbent did not take the high road last year but remained in the ring thus prolonging the divide among States Signatories (*the high road beckons, there is still time*).

Consequently, the-then Commission Chair sent a letter on 21 December 2020 to all States Signatories again inviting nominations for the post of the Executive Secretary.

Election 2021 Controversies

Given the tensions created last year over the election process and that the conduct of the Chair of the Preparatory Commission from Algeria was perceived by some as not being entirely fair and neutral, it was felt to resume the election process in 2021 after a break to let things cool down.

In January 2021, the new Chair of the Preparatory Commission took over—hailing from the Czech Republic—and on 6 January enquired about the availability of the incumbent Executive Secretary, who confirmed his availability on 2 February to contest the election. On 8 January, Australia re-nominated Robert Floyd as candidate for the post of Executive Secretary. As last year, there are only these two candidates.

Between 11 February and 16 March 2021, the Commission Chair carried out extensive consultations on the process of the election and emphasised that he would make every effort to find a solution by consensus.

On 26 March 2021, the Commission, emphasising the principle of inclusiveness, decided that all States Signatories which had taken part in the voting conducted on 16 and 17 December

2020 as well as new States Signatories and those paying their arrears would be invited to cast votes.

This time the projected magic number is 100 out of 150 eligible votes – though this number might go up if additional States pay up their dues and have their voting rights restored, as transpired in December 2020 when the magic number was rounded up from 91 to 92 when one State paid off its arrears of a few hundred dollars on the eve of the last two rounds of voting.

The Commission also decided to proceed to the selection stage and authorised its Chair to facilitate the procedure for the appointment of the Executive Secretary with a view to conducting the first round of balloting no later than 17 May 2021.

The Chair assured States Signatories on 14 May that he was fully committed to ensuring the observance of the Rules of Procedure and that he remained under the authority of the Preparatory Commission, that only the Commission could make decisions, and that the Chair was not in a position to deviate from such decisions in any way.

As such, in accordance with the responsibility given by the Commission, the Chair noted that he had decided on the basis of consultations to commence the first round of balloting on 17 May 2021 at 9:30 am, in person, at the Vienna International Centre – the location of the CTBTO. He added that based on the responsibility accorded by the Commission, following extensive consultations, he had proposed to hold two rounds of balloting per day on 17, 21 and 27 May 2021, with the objective of finalising the appointment of the Executive Secretary in time for the successful candidate to take office on 1 August – the day after incumbent's second term ends on 31 July.

The Chair reminded States Signatories that they had agreed to continue with the same procedure for the appointment of the Executive Secretary as in December 2020, and recalled that as at that time there was no decision of the Commission on the voting dates, it was the-then Chair who on her own authority had decided on the voting dates in December. The Chair added that consequently the Commission had conducted voting in December 2020 and had concluded that the process had been in accordance with its procedures.

In a strange twist this past week, in a reprise of the political machinations of last year and despite the Commission's decision of 26 March, referred to above; démarches from the Group of African States, Cuba, Iran, Russia, Venezuela were sent to the Chair challenging: (1) his authority to call the balloting; (2) to have further voting rounds on 21 and 27 May; and (3) called for a special session of the Commission on Monday to discuss these items and to set up voting on consecutive following days—18 and 19 May—in their view to facilitate States not having representation in Vienna and in light of the need for negative COVID-19 test results. They reminded the Chair that all decisions of the Commission should be taken by consensus as provided for in Rule 26 (paragraph 1) of the Rules of Procedure. The language in some démarches was quite tough and could even be considered as undiplomatic.

While at first blush it may seem reasonable to compress the balloting to consecutive dates, the result would be to limit the ability of delegations to consult with capitals before the

subsequent rounds to get new instructions should a candidate gather momentum – especially those without representation in Austria that necessarily vote by proxy as noted below by Nauru. In this regard, it would be instructive to recall that in December last year, voting was done over consecutive days and did not yield an outcome as noted above.

Again, as last year, many in the African Group feel some obligation to support the candidate from their region for a third term, despite their support for a two-term limit. Similarly, many in the Group of Latin American and Caribbean States (GRULAC), and other regional groups support a two-term limit. It is obvious that only a small cabal of States is challenging the authority of the Chair and persisting in supporting the incumbent driven by varying motivations, such as, regional solidarity, “south versus north”, and other political motivations and rivalries unconnected to the CTBTO.

Counter démarches supporting the Chair came from Canada, the EU, Japan, Nauru, the UK and the US.

The Chair has informed delegations that as there was no consensus, rather strong opposition, to convene a plenary meeting of the Commission before the first round of balloting on 17 May 2021; the Chair was not in a position to convene the Commission.

In his response to the Group of African States, the Chair stated that based on extensive consultations, he had taken into consideration all requests that could be accommodated including from the African Group. He reiterated that the proposed voting dates fully reflected the decision (on 26 March) of the Commission authorising its Chair to facilitate the procedure for the appointment of the Executive Secretary with a view to conducting the first round of balloting no later than 17 May 2021.

The Chair cautioned that “time is running out”, as the term of the incumbent ends on 31 July 2021, and that it was the prerogative of the Chair to propose the dates of the voting recognising that not everyone’s preferences could be accommodated. He expressed his “strong view that the sequencing of the voting dates must allow for sufficient time to give more opportunity for diplomacy and possible reflection on the situation by candidates and the States Signatories. This also reflects positions of those States Signatories requesting sufficient time between the voting dates, gives a chance to search for a consensus over one candidate, and is in line with the practice across the UN system”.

The European Union on 14 May expressed full support for the Chair and for his efforts in accordance with the prerogatives conferred to him by the Rules of Procedure and the Commission’s previous decisions, to proceed with the appointment process and set dates for all rounds of balloting. The EU also supported the Chair's decision to allow time between the rounds of balloting to facilitate consultations and to possibly achieve an outcome by consensus.

Nauru’s position reflected the view of small States Signatories that do not maintain diplomatic representation in Austria and rely on voting by proxy as permitted under the Rules of Procedure. Nauru asserted that the Commission must adhere to the current dates proposed by the Chair for the election, especially because the time frames allow for proxy

holders to relay outcomes of each round of balloting and to seek further instructions as necessary. Nauru noted that predictability was essential for such planning, and constantly moving dates for an election would create difficulties for those States that intend to vote via proxy.

Canada, Japan and the UK expressed support for the Chair's proposal for balloting and opposed convening a meeting of the Commission on 17 May. The United Kingdom also noted that the previous Chair had exercised her prerogative to establish and alter the dates of the first round of the election in 2020 without convening meetings of the Preparatory Commission. The UK added that the current Chair already had changed the balloting dates a number of times to accommodate the broadest possible constituency.

The die seems to be cast for a needless confrontation that threatens to further delay the election and deepen differences between States Signatories.

The Way Forward

The preceding text has shown in some detail the divisions that have continued from last year and even deepened this year. Again, it is only a small group of hardline States that are determined to challenge the Chair for ideological or political reasons, some of the latter being driven by regional or bilateral rivalries. Furthermore, once again, reportedly some Secretariat officials are involving themselves in the election process in violation of staff regulations.

These divisions now are threatening the integrity and authority of the CTBTO and of the Chair of the Commission, especially at a time when nuclear risks are on the rise and multilateral nuclear arms control processes are in decline as relations are markedly deteriorating between the largest possessors of nuclear weapons, and also between other States in certain regions of the world.

Though the CTBT has been signed by 185 States and ratified by 170, of the 44 States whose ratification is required for entry-into-force eight are still outstanding. The CTBTO is the competent verification organisation mandated by the international community to detect nuclear explosions. It is the only international organisation that provided the technical data on the characteristics of the nuclear detonations carried out by North Korea. It stands on guard to detect clandestine nuclear tests anywhere in the world. Together with the IAEA, the CTBTO contributes to preventing further proliferation of nuclear weapons and furthering nuclear disarmament. It is too important an organisation to be left to the whims of feuding States or quarrelling diplomats.

States Signatories, as well as the staff of the CTBTO, have the responsibility to respect the role and the prerogative of the Chair who in turn is obligated to discharge their duties in accordance with the Rules of Procedure in a visibly unbiased manner. Such support was given to the previous Chair when contending, *inter alia*, with challenges due to the COVID-19 pandemic; no Commission decision was sought last year to change the dates of voting from November to December. The changes in voting dates from November to December last

year were done at the sole prerogative of the-then Chair and were not challenged by States Signatories in a spirit of cooperation, despite the reservations of several delegations.

Such an approach conforms to the “Vienna spirit” and is not disputed across the UN system. There would be grave concerns were the current Commission Chair to be undermined especially when they are acting in the best collective interests of the Commission and States Signatories.

This September will mark 25 years since the CTBT was opened for signature in September 1996. Then-US President Bill Clinton, signing the treaty with the same pen that President John F. Kennedy used three decades earlier to sign the [Limited Test Ban Treaty](#), ruefully remarked that the CTBT was “[the longest-sought, hardest-fought prize in arms control history](#)”. Bickering over the appointment process of the Executive Secretary will inflict yet another blow as this is not the time to have a leadership crisis or a vacuum. The best way forward is a clean, transparent, fair and democratic process to conduct the election along the lines proposed by the Commission Chair, without further delays or bureaucratic obstacles – that is what is expected of responsible States Signatories and by taxpayers.

To paraphrase President Kennedy’s famous appeal cited in the header, CTBT States Signatories need to “*ask not what the Commission Chair can do for States Signatories – ask what State Signatories can do for the Commission Chair*”.

Update: On 20 May, Dr Robert Floyd was elected as the next head of the CTBTO by a 96-48 vote. He will take up his position on 1 August.

The Author

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