

# United States Senate

COMMITTEES:  
BANKING, HOUSING,  
AND URBAN AFFAIRS  
BUDGET  
FOREIGN RELATIONS  
SPECIAL COMMITTEE ON AGING

September 21, 2016

The Honorable John Kerry  
Secretary of State  
Washington, D.C.

Dear Mr. Secretary:

As chairman of the Senate Foreign Relations Committee, I write regarding the administration's forthcoming plan to offer a United Nations Security Council resolution on the Comprehensive Nuclear Test-Ban Treaty (CTBT).

I am in receipt of assurances from the State Department in a letter dated August 10, 2016, that the United States will neither propose nor support "the adoption of a U.N. Security Council Resolution imposing a legally binding prohibition on nuclear testing." I am pleased to have the administration's clear written assurance that no resolution adopted by the U.N. Security Council during the 71<sup>st</sup> U.N. General Assembly this month will have any legally binding effect on the United States—now, or in the future, with respect to a prohibition on nuclear testing. I also was glad to receive, in a letter dated September 7, 2016, your promise that the resolution "will not cite Chapter VII of the U.N. Charter or impose Chapter VII obligations."

I also appreciate your office providing me with the department's 2008 response to Senator Jon Kyl's inquiries regarding the department's consensus view regarding the legal status of the CTBT and whether the unratified treaty imposes any legal obligations on the United States. As you know, the full Senate considered and rejected the CTBT by a majority vote in October 1999. That letter rightly confirmed that the State Department "do[es] not believe that the treaty imposes any current obligation on the United States resulting from the U.S. signature in 1996."

The letter further clarified that "we do not believe that such obligations would arise unless the treaty was to be ratified by the United States." This legal position is consistent with my own view and that of a majority of the Senate Foreign Relations Committee, namely, that the Senate's rejection of CTBT in 1999, coupled with the previous administration's clear declaration that the United States does not intend to become a party to that treaty, has extinguished any legal obligations that might have resulted from signing the treaty and, further, that no such legal obligations would enter into force absent Senate consent to ratification.

Thank you for your assurance that the administration's actions at the U.N. Security Council this week will be consistent with the division of roles between the president and the Senate with respect to treaty-making under the Constitution. We are always stronger as a nation when the Senate and president work together.

Sincerely,

A handwritten signature in blue ink, appearing to read "Bob Corker", is written over a horizontal line.

Bob Corker  
Chairman  
Senate Foreign Relations Committee

Enclosure