REPORT NO. 1 OF THE
STANDING COMMITTEE ON
WORLD ORDER UNDER LAW
PRESENTED JOINTLY WITH THE
SECTION OF
INDIVIDUAL RIGHTS & RESPONSIBILITIES

RECOMMENDATION*

BE IT RESOLVED, That the American Bar Association recommends that the United States, consistent with its obligations under the 1963 Limited Test Ban Treaty and the 1968 Treaty on the Non-Proliferation of Nuclear Weapons, institute an immediate moratorium on any further testing of nuclear explosive devices, and maintain that moratorium so long as the Union of Soviet Socialist Republics continues to refrain from such testing.

REPORT

On July 10, 1985, the American Bar Association approved a resolution which called upon the United States and the Soviet Union to resume negotiations with the goal of achieving a mutually verifiable comprehensive test ban treaty (“CTB”). The present resolution recommends as an interim measure that the United States institute a moratorium on nuclear weapons testing.

The United States is a party to the Limited Test Ban Treaty and the Treaty on the Non-Proliferation of Nuclear Weapons (“NPT”). In both the preamble and Article I(B) of the 1963 Limited Test Ban Treaty, the parties affirm their determination to achieve the discontinuance of all nuclear weapons testing. This determination was explicitly reaffirmed in the preamble and paragraph 10 of the Non-Proliferation Treaty.

At the first NPT Review Conference, in 1980, the parties expressed the view that conclusion of a treaty banning all nuclear weapons tests was one of the most essential measures to halt the nuclear arms race. This view was reaffirmed by the Final Declaration of the 1985 NPT Review Conference which stated “[t]he Conference stresses the important contribution that such a Treaty would make toward strengthening and expanding the in-

*The recommendation was withdrawn. See page 49.
international barriers against the proliferation of nuclear weapons; it further stresses that adherence to such a treaty by all states would contribute substantially to the full achievement of the non-proliferation objective.” Final Declaration Review of Article VI at B.6.

At the present time, the United States and the Soviet Union are not engaged in any CTB negotiations. The Soviet Union declared a unilateral moratorium on nuclear explosions from August 1985 until January 1, 1986 and further stated that this moratorium would continue beyond the date if the United States refrained from carrying out nuclear explosions. Subsequently, the Soviet Union announced an extension of its moratorium until January 1, 1987.

The United Nations General Assembly has passed numerous resolutions calling for a moratorium on nuclear weapons testing pending the conclusion of a comprehensive test ban treaty.

The proposed resolution, which calls upon the United States to institute a moratorium on nuclear testing, would demonstrate the United States’ continued commitment to the goal of achieving a comprehensive test ban. Such a moratorium would be consistent with the United States’ obligations under the Limited Test Ban Treaty and the Non-Proliferation Treaty. It would match the Soviet moratorium but would not limit the United States’ ability to test should the Soviets resume testing. Finally such a moratorium would provide a stable framework in which to negotiate the details of a comprehensive test ban treaty.

Respectfully submitted,

ROBERT C. MUSSEHL,
Chairman
Standing Committee on
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SARA-ANN DETERMAN,
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Section of Individual Rights
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