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Condition (5) (C) Report

**COMPLIANCE WITH
THE TREATY ON
CONVENTIONAL ARMED FORCES
IN EUROPE**



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Prepared by the U.S. Department of State

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REPORT ON TREATY COMPLIANCE

This Report on Compliance (hereinafter referred to as the “Report”) with the Treaty on Conventional Armed Forces in Europe (CFE) of November 19, 1990 (hereinafter referred to as the “Treaty”), is submitted pursuant to Condition (5)(C) of the Senate Resolution of Advice and Consent to Ratification of the May 31, 1996, Document Agreed Among the States Parties to the Treaty on Conventional Armed Forces in Europe of November 19, 1990 (“the CFE Flank Document”), and covers January 1, 2016, through December 31, 2016.

This Report discusses compliance concerns involving States Parties not certified by the United States as being in compliance with their obligations under the Treaty. It lists outstanding compliance concerns, also referred to as compliance questions, detailed in earlier Reports and adds any new information and concerns that arose in 2016. The Report also provides an update on steps taken by the United States in response to the compliance concerns and responses from the implicated States Parties.

A. STATES PARTIES CERTIFIED TO BE IN COMPLIANCE WITH THE TREATY

States Parties certified to be in compliance with the Treaty and its associated documents for 2016 are: Belarus, Belgium, Bulgaria, Canada, the Czech Republic, Denmark, France, Georgia, Germany, Greece, Hungary, Iceland, Italy, Kazakhstan, Luxembourg, Moldova, the Netherlands, Norway, Poland, Portugal, Romania, Slovakia, Spain, Turkey, Ukraine, the United Kingdom, and the United States.

B. ANALYSIS OF COMPLIANCE CONCERNS AND STEPS TAKEN WITH REGARD TO STATES PARTIES NOT CERTIFIED

States Parties not certified to be in compliance with the Treaty and its associated documents for 2016 are: Armenia, Azerbaijan, and Russia. Specific compliance concerns are detailed below.

Republic of Armenia (Armenia)

Finding - Although Armenia continues to express its full support for the Treaty, its equipment totals continued to exceed Treaty-Limited Equipment (TLE) limits in 2016 and other activities related to Treaty implementation raised concerns as to its fulfillment of certain other Treaty obligations as noted below.

Outstanding Compliance Concerns

Previously reported, outstanding compliance concerns are: (1) exceeding limits on Treaty-Limited Equipment (TLE); (2) reported stationing of forces on the territory of Azerbaijan without Azerbaijani consent; and (3) possible failure to declare Conventional Armaments and Equipment Subject to the Treaty (CAEST).

Outstanding Compliance Concerns with New Information in 2016

Exceeding limits on Treaty-Limited Equipment (TLE): Declared equipment totals in 2016 continued to exceed Armenia's limits on armored combat vehicles (ACV). In its data as of January 1, 2016, Armenia declared equipment totals that exceeded its ACV limits by more than 20 and its sub-limit of 135 armored infantry fighting vehicles (AIFV) including heavy armament combat vehicles by more than 35. These declared holdings of ACVs were unchanged from 2015, for a total of about 240: armored personnel carriers (APCs), more than 65; and AIFVs, more than 170.

Efforts to Resolve Compliance Concerns in 2016

In 2016, NATO Allies conducted four quota inspections in Armenia and one additional inspection on a bilateral basis. U.S. inspectors participated in three of the inspections conducted by other NATO Allies. The United States and NATO Allies have continued to raise compliance concerns in the Treaty's Joint Consultative Group (JCG), the body created by the Treaty to resolve concerns related to Treaty compliance, as well as in bilateral discussions. Concerning exceeding limits on TLE, the United States has asked Armenia for its plans to reduce holdings to meet its limits.

Republic of Azerbaijan (Azerbaijan)

Finding – Although Azerbaijan continues to express its full support for the Treaty, its equipment totals continued to exceed Treaty-Limited Equipment (TLE) limits in 2016 and other activities related to Treaty implementation raised concerns as to its fulfillment of certain other Treaty obligations as noted below.

Outstanding Compliance Concerns

Previously reported, outstanding compliance concerns are: (1) exceeding limits on Treaty-Limited Equipment (TLE), (2) unilateral suspension of certain Treaty notifications and failure to report correctly certain objects of verification (OOVs), and (3) possible failure to declare equipment limited by the Treaty.

Outstanding Compliance Concerns with New Information in 2016

Exceeding its limits on Treaty-Limited Equipment (TLE): Declared equipment totals in 2016 continued to exceed Azerbaijan's overall limits on TLE. In its data as of January 1, 2016, Azerbaijan declared equipment totals that exceeded its overall limits by over 880 pieces of TLE (more than 290 battle tanks, almost 20 ACVs, and more than 570 artillery pieces in excess of Azerbaijan's limits of 220 battle tanks, 220 ACVs, and 285 artillery pieces).

Unilateral Suspension of Certain Treaty Notifications and Failure to Report Correctly Certain Objects of Verification (OOVs): The Treaty's Protocol on Notification and Exchange of Information, Section VIII, paragraph 1(B) calls for notifications of changes of 10 percent or greater in assigned holdings of TLE in individual units to be provided no later than five days after such change has been made. In 2016, Azerbaijan did not issue any notifications

of changes of 10 percent or greater in assigned holdings of TLE, although U.S. inspectors had been given an updated list of equipment indicating such changes for a facility they inspected in April.

In its data valid as of January 1, 2017, Azerbaijan again included a footnote on Chart V indicating about 10 units deployed on the “line of contact,” and did not declare those units as OOVs in Chart V. The number of declared OOVs included in Chart V is the basis for establishing the available inspection quotas which enable States Parties to inspect Azerbaijan’s forces.

Possible Failure to Declare Equipment Limited by the Treaty: During 2015, Azerbaijan declared some previously unreported equipment observed in earlier parades: 2S12 120mm mortars, TOS-1A multiple rocket launchers, BTR-82A AIFVs, 2S31 1200 Vena self-propelled artillery pieces, and T-90 battle tanks. Through 2016, however, the Lynx MLRS were not reported.

Efforts to Resolve Compliance Concerns in 2016

Azerbaijan has repeatedly stated that security issues will continue to affect its Treaty implementation, including the provision of certain time-sensitive Treaty notifications, as long as the Nagorno-Karabakh (N-K) conflict is unresolved and part of Azerbaijan’s territory is occupied by Armenia. In 2016, the United States conducted one inspection and NATO Allies conducted three inspections, each of which included a U.S. inspector. The United States and NATO Allies have continued to raise compliance concerns in the JCG as well as in bilateral discussions. Concerning exceeding its limits on TLE, the United States has asked Azerbaijan for its plans to reduce holdings to meet its limits.

Concerning the failure to report correctly certain OOVs and the possible failure to declare equipment limited by the Treaty, the United States will continue to monitor and raise the status of these concerns with Azerbaijan and notes that Azerbaijan significantly clarified the status of other systems observed in the parades as they became operational.

OSCE Minsk Group Activity Involving Armenia and Azerbaijan

Treaty implementation by Armenia and Azerbaijan is affected by the on-going N-K conflict. The United States is working with Armenia and Azerbaijan on conflict resolution through the Organization for Security and Co-operation in Europe (OSCE) Minsk Group, the only forum agreed upon by Armenia and Azerbaijan to negotiate a peaceful settlement of the N-K conflict. A successful political settlement could have a positive impact on the ability of Armenia and Azerbaijan to resolve these Treaty compliance concerns.

During 2016, the OSCE Minsk Group Co-chairs (Russia, United States, and France), accompanied at times by the Personal Representative of the OSCE Chairperson-in-Office, met on several occasions with Presidents Sargsyan and Aliyev; the foreign ministers of Azerbaijan and Armenia; the de facto authorities in N-K; representatives of the International Committee of the Red Cross; and the Parliamentary Assembly of the Council of Europe to discuss the peace

process and potential for settlement of the N-K conflict. The Co-Chairs Joint Statement of December 8, 2016, called on the leaders of Armenia and Azerbaijan to demonstrate flexibility and to return to the negotiation table with the firm aim of moving toward a sustainable peace on the basis of current working proposals.

Russian Federation (Russia)

Finding – In 2007, Russia “suspended” its implementation of the Treaty. Since its “suspension,”¹ Russia has continued to violate its Treaty obligations and has made clear that it will not resume implementation of the Treaty. In addition, Russia’s stationing of forces without the consent of the host state in Georgia, Moldova, and Ukraine continued through 2016.

Outstanding Compliance Concerns

Previously reported compliance concerns that remain unresolved and continued through 2016 are: (1) Russia’s “suspension” of its implementation of the Treaty²; and (2) Russia’s stationing of forces without the consent of the host state in Georgia, Moldova, and Ukraine.^{3 4} The concerns related to Russia’s continuing “suspension” cannot be evaluated individually and as a result are no longer reported separately.

Outstanding Compliance Concerns With New Information in 2016

Russia’s “Suspension” of Its Implementation of the Treaty. In keeping with its suspended participation in the JCG since March 2015, Russia did not participate in the fifth CFE Treaty Review Conference which took place in Vienna on September 27, 2016.

Stationing forces without the consent of the host state: Russia’s stationing of military forces in Georgia and Moldova without host nation consent continued through 2016. In Ukraine, Russia’s occupation and attempted annexation of Crimea, and its stationing of military forces in Crimea without host nation consent in violation of Article IV, paragraph 5, of the Treaty,⁵

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- 1 In this Report Russia’s action is referred to as a suspension of implementation of the Treaty, as a decision to suspend observation of Russia’s Treaty obligations, or as a “suspension” in quotation marks, since the Russian action is not viewed as a legally available option under the Treaty.
 - 2 Information required but not provided from December 2007 through December 2016 includes Russia’s annual Treaty data as of January 1 each year and associated annual notifications; flank data as of July 1 each year; quarterly notifications regarding equipment holdings at the Kushchevskaya armor maintenance facility; and periodic notifications of permanent changes in the organizational structure of Russia’s conventional armed forces, or of changes of 10 percent or more in TLE assigned to units.
 - 3 While the Treaty establishes numerical limits on TLE and not on military personnel, the Article IV, paragraph 5 prohibition on stationing without host state consent applies to conventional armed forces in general.
 - 4 Russia’s data as of January 1, 2016, provided under the OSCE Global Exchange of Military Information, indicated the presence of a considerable amount of TLE in Abkhazia and South Ossetia and military personnel in Moldova. Russia’s data as of January 1, 2016, under the Vienna Document indicated the presence of TLE in Crimea.
 - 5 Article IV, paragraph 5 permits States Parties belonging to the same group of States Parties to locate certain TLE in certain areas, “provided that no State Party stations conventional armed forces on the

continued through 2016. The United States, NATO Allies, and all other States Parties except Russia consider Crimea to be part of the internationally recognized territory of Ukraine. In addition, the United States has called for the removal of Russian forces and equipment from eastern Ukraine. Russia's aggression in Ukraine continued in 2016 and remains of concern to the United States, our Allies and partners, and other States Parties.

Efforts to Resolve Compliance Concerns in 2016

The United States and NATO Allies have responded to Russia's "suspension" of Treaty implementation and its stationing of forces without host nation consent in Georgia, Moldova, and Ukraine with diplomatic engagement at the most senior levels.

There has been no change in Russia's position or actions to address U.S. compliance concerns since the United States announced in Vienna, Austria, on November 22, 2011, that it was ceasing implementation of certain obligations under the Treaty with regard to Russia. This was followed by similar announcements from the other 21 NATO States Parties to the Treaty as well as Georgia and Moldova that they would also cease implementation of the Treaty "vis-à-vis the Russian Federation." Since then and through 2016, the United States and NATO Allies have not attempted to inspect Russian forces under the Treaty. The United States continues to implement all of its obligations under the Treaty with respect to all States Parties other than Russia, and is prepared to resume full Treaty implementation with respect to Russia if Russia resumes implementation of its Treaty obligations.

The United States and NATO Allies have raised longstanding compliance concerns bilaterally and in a variety of multilateral fora, including the JCG and OSCE meetings. Russia's responses to concerns on compliance have varied, but Russia has made clear that it will not resume implementation of the Treaty, and it has tried to deflect U.S. and Allied concerns. From 2007 through 2016, other longstanding concerns related to Russia's adherence to specific Treaty provisions were not pursued, as discussions focused on the broader issue of Russia's "suspension," and since 2014, on Russia's occupation and attempted annexation of Crimea and continuing aggression in Ukraine.

C. IMPLICATIONS FOR U.S. SECURITY, MILITARY SIGNIFICANCE, AND BROADER SECURITY RISKS OF COMPLIANCE CONCERNS

Russia's "suspension" of Treaty implementation has seriously eroded the Treaty's verifiability, diminished the exchange of data and notifications, decreased transparency, and undermined the cooperative approach to security that have been core elements of the NATO-Russia relationship and European security for more than two decades.

Russia's stationing of forces on the territory of another State Party without that State Party's consent not only has political and military significance to the State Party in which those

territory of another State Party without the agreement of that State Party."

forces are stationed, but also destabilizes regional security and has further eroded confidence and stability throughout Europe.

Despite the political and military significance of Russia's actions in the region, none of the Treaty compliance concerns identified and discussed in this Report are militarily significant to the United States or to NATO as a whole.

Similarly, the Armenian and Azerbaijani compliance concerns may be militarily significant to those two states, especially in the context of the N-K conflict, but are not militarily significant to the United States or to NATO as a whole.

Notwithstanding military significance, it is the policy of the United States that all violations of arms control agreements should be challenged and corrected, lest governments subject to such obligations conclude that they may be disregarded at will.