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**ADHERENCE TO AND COMPLIANCE
WITH
ARMS CONTROL, NONPROLIFERATION,
AND
DISARMAMENT AGREEMENTS
AND COMMITMENTS**



July 2013

Prepared by the U.S. Department of State

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**ADHERENCE TO AND COMPLIANCE WITH
ARMS CONTROL, NONPROLIFERATION,
AND DISARMAMENT AGREEMENTS AND
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INTRODUCTION

PURPOSE

This Report is submitted pursuant to Section 403 of the Arms Control and Disarmament Act, as amended (22 U.S.C. 2593a), which requires a report by the President on *Adherence to and Compliance with Arms Control, Nonproliferation, and Disarmament Agreements and Commitments*.

SCOPE OF THE REPORT

This Report assesses U.S. adherence in 2012 to obligations undertaken in arms control, nonproliferation, and disarmament agreements and related commitments, including Confidence- and Security-Building Measures (CSBMs), as well as the adherence in 2012 of other nations to obligations undertaken in arms control, nonproliferation, and disarmament agreements and related commitments, including CSBMs and the Missile Technology Control Regime, to which the United States is a participating state. The issues addressed in this Report primarily reflect activities from January 1, 2012 through December 31, 2012, unless otherwise noted.¹

Pursuant to 22 U.S.C. 2593a.(a)(6), this unclassified version of the Report identifies questions, to the maximum extent practicable, that exist with respect to compliance by other countries with their arms control, nonproliferation, and disarmament agreements and commitments with the United States. In comparison to classified versions of the Report, this unclassified version may contain less detailed information, fewer compliance assessments, and findings phrased to

¹ In this Report, previous editions of the Report are cited by their year of release (e.g., the 2012 Report) unless otherwise noted. The last edition of the Report was released in 2012 and primarily reflected activities from January 1, 2011 through December 31, 2011. The edition of the Report released in 2011 primarily reflected activities from January 1, 2009 through December 31, 2010; the edition released in 2010 primarily reflected activities from January 2004 through December 2008; the edition released in 2005 primarily reflected activities from January 2002 through December 2003; and the edition released in 2003 primarily reflected activities from December 2000 through December 2001. Each edition prior to the 2003 Report primarily reflected activities that occurred during the year preceding the edition's release.

safeguard sensitive or special reporting while at the same time fulfilling the Report's statutory requirement.

ADHERENCE TO AGREEMENTS

Effective arms control requires parties to comply fully with arms control obligations and commitments they have undertaken. For the arms control, nonproliferation, and disarmament agreements and commitments to which the United States is a participating state, the United States and the majority of the other participating nations are adhering to their obligations and commitments and have indicated their intention to continue doing so. This Report indicates there are compliance questions and concerns – and in some instances findings of serious treaty violations – involving a relatively small number of countries. The United States continues to pursue resolution of those compliance issues where appropriate.

U.S. Organizations and Programs to Evaluate and Ensure Treaty Compliance. Our deep-seated legal tradition, a commitment to U.S. arms control agreements that enhance our security and that of our allies and friends, and our open society create powerful incentives to comply with agreements to control nuclear weapons and other weapons. Legal and institutional procedures to ensure compliance have been established, and they reflect the seriousness with which these obligations are taken and reinforce these underlying policies and principles. For example, U.S. Department of Defense (DoD) compliance review groups oversee and manage DoD compliance with arms control, nonproliferation, and disarmament agreements and related commitments, including CSBMs. U.S. interagency organizations oversee and manage analysis of the compliance of other nations with arms control, nonproliferation, and disarmament agreements and related commitments, including CSBMs. Moreover, an interagency review is conducted in appropriate cases, including when other treaty parties officially raise questions regarding U.S. implementation of its obligations. Finally, Congress performs oversight functions through committee hearings and budget allocations.

OVERVIEW

This Report addresses U.S. compliance with arms control agreements and commitments (Part I), compliance by Russia and other successor states of the Soviet Union with treaties that the United States concluded bilaterally with the Soviet Union (Part II), compliance by countries that are parties to multilateral agreements and commitments with the United States (Part III), and compliance

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with commitments made less formally but that bear directly upon arms control, nonproliferation, or disarmament issues (Part IV).

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PART I: U.S. COMPLIANCE WITH ARMS CONTROL, NONPROLIFERATION, AND DISARMAMENT AGREEMENTS AND COMMITMENTS

U.S. INSTITUTIONAL AND PROCEDURAL ORGANIZATION FOR ENSURING COMPLIANCE

There are processes and controls within the U.S. executive branch, including at the Department of Defense (DoD), the Department of Energy (DOE), the Department of Homeland Security (DHS), the Commerce Department, and the Nuclear Regulatory Commission, that operate to ensure that U.S. plans and programs remain consistent with U.S. international obligations. They operate in parallel, and in addition to congressional oversight.

In 1972, the DoD established the first such department-level process. Under this compliance process (established at the conclusion of the Strategic Arms Limitation Talks (SALT) that led to arms control-related agreements on strategic offensive arms), key offices in DoD are responsible for overseeing DoD compliance with all U.S. arms control, nonproliferation, and disarmament agreements and commitments, including Confidence- and Security-Building Measures (CSBMs). DoD components ensure that their implementing program offices adhere to DoD compliance directives and seek guidance from the offices charged with oversight responsibility. Similar processes have been established by other agencies to ensure that their programs and activities comply with U.S. international obligations. Interagency reviews also are conducted in appropriate cases, such as when other treaty parties formally raise questions regarding U.S. implementation of its arms control obligations.

U.S. COMPLIANCE

The United States is in compliance with all its obligations under arms control, nonproliferation, and disarmament agreements and commitments, and continues to make every effort to comply scrupulously with them. When U.S. partners have raised a compliance question regarding U.S. implementation activities, the United States has carefully reviewed the matter to confirm that its actions were in compliance with its obligations.

Biological and Toxin Weapons Convention (BWC). All U.S. activities during the reporting period were consistent with the obligations set forth in the BWC. The United States continues to work towards full transparency of biological defense work using the BWC confidence-building measures.

Chemical Weapons Convention (CWC). The CWC entered into force on April 29, 1997. The United States continues to work towards meeting its CWC obligations with respect to the destruction of chemical weapons (CW) and associated CW facilities.

The United States continues to update the Organization for the Prohibition of Chemical Weapons (OPCW) on its destruction efforts. It was instrumental in the development and November 2011 adoption by the OPCW Conference of States Parties' of transparency measures to provide States Parties and the OPCW with additional confidence in States Parties' continued commitment to and progress toward complete, verified destruction of their chemical weapons under the CWC. The United States has provided a full and complete declaration of its CW and associated CW facilities. The United States also is compliant with its CWC obligations related to commercial activities. U.S. CWC Regulations (15 CFR 710 et seq.) require commercial facilities exceeding CWC-specified activity thresholds to submit annual declarations, notifications, and other reports, including on past and anticipated activities, and to permit systematic and routine verification through on-site inspections of declared commercial facilities.

Treaty on the Elimination of Intermediate-Range and Shorter-Range Missiles, also known as the Intermediate-Range Nuclear Forces (INF) Treaty. All U.S. activities during the reporting period were consistent with the obligations set forth in the INF Treaty. Russia did not raise any new INF compliance issues during the reporting period.

Threshold Test Ban Treaty (TTBT), Underground Nuclear Explosions for Peaceful Purposes Treaty (PNET), and Limited Test Ban Treaty (LTBT). The United States has not conducted any nuclear weapon explosive tests or any nuclear explosions for peaceful purposes since 1992. All U.S. activities during the reporting period were consistent with the obligations set forth in the TTBT, PNET, and LTBT.

1925 Geneva Protocol for the Prohibition of the Use in War of Asphyxiating, Poisonous or Other Gases, and of Bacteriological Methods of

Warfare. All U.S. activities during the reporting period were consistent with the obligations set forth in the 1925 Geneva Protocol.

Treaty on Conventional Armed Forces in Europe (CFE) and the Vienna Document 2011. All U.S. activities during the reporting period were consistent with the obligations set forth in the CFE Treaty and the political commitments associated with the Vienna Document 2011.

Ukrainian concerns about restriction on the use of digital cameras during CFE Treaty inspections of U.S. forces in Germany in March 2012 were resolved when the United States updated other States Parties on the U.S. decision to allow the use of digital cameras on inspections when the procedure is implemented reciprocally. The United States also stated that the use is contingent on the cameras functioning solely as cameras and on the cameras not possessing additional capabilities. This U.S. procedure is in full compliance with the CFE Treaty.

The United States continues to maintain a cessation of implementation of certain CFE Treaty obligations (notifications, data exchange, and inspections) vis-à-vis the Russian Federation due to Russia's ongoing nonperformance of its obligations to the United States under the CFE Treaty. This measure was closely coordinated with NATO Allies, who also implemented similar steps in their respective national capacities. Russia has not challenged this action. The United States continues to perform its obligations under the CFE Treaty vis-à-vis all other States Parties.

Treaty on Open Skies (OST). All U.S. activities during the reporting period were consistent with the obligations set forth in the OST.

Nuclear Non-Proliferation Treaty (NPT). All U.S. activities during the reporting period were consistent with the obligations set forth in the NPT.

Treaty between the United States of America and the Russian Federation on Measures for the Further Reduction and Limitation of Strategic Offensive Arms (New START Treaty). All U.S. activities during the reporting period were consistent with the obligations set forth in the New START Treaty (NST). During this second year of treaty implementation, both the United States and Russia have raised questions related to implementation in the Bilateral Consultative Commission (BCC) and through diplomatic channels. The United

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States reviewed the Russian concerns and determined that U.S. actions are in full compliance with the Treaty. The United States has explained in detail in the BCC and diplomatic channels why U.S. actions are fully consistent with the Treaty.

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**PART II: COMPLIANCE WITH TREATIES AND AGREEMENTS
CONCLUDED BILATERALLY WITH THE SOVIET UNION OR ITS
SUCCESSOR STATES**

INTERMEDIATE-RANGE NUCLEAR FORCES (INF) TREATY

The Treaty Between the United States of America and the Union of Soviet Socialist Republics on the Elimination of Their Intermediate-Range and Shorter-Range Missiles (INF Treaty) was signed by President Reagan and Soviet General Secretary Gorbachev on December 8, 1987, and entered into force on June 1, 1988. Elimination of all declared missiles and launchers under the Treaty was completed in 1991.

The Treaty is of unlimited duration and bans the possession, production, and flight testing of intermediate- and shorter-range missile systems. The Treaty required complete elimination of all the approximately 800 U.S. and approximately 1,800 former Soviet ground-launched missiles with ranges between 500 and 5,500 kilometers, their launchers, and their associated support equipment and structures. All such items were eliminated by May 28, 1991.

The Treaty established a verification regime using national technical means of verification (NTM), notifications, and an on-site inspection regime to detect and deter violations of Treaty obligations. The inspection regime concluded on May 31, 2001, that is, 13 years following the Treaty's entry into force. All inspection activities have now ceased in accordance with the provisions of the Treaty. The remainder of the verification regime continues for the life of the Treaty.

The Parties to the Treaty last met in the Special Verification Commission in October 2003. There were no issues raised during this reporting period.

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**TREATY ON
MEASURES FOR THE FURTHER REDUCTION AND LIMITATION OF
STRATEGIC OFFENSIVE ARMS
(THE NEW START TREATY)**

For a discussion of Russia's implementation of its obligations under the New START Treaty, see the Report on Implementation of the New START Treaty, submitted in January 2013, consistent with Section (a)(10) of the Senate Resolution of Advice and Consent to Ratification of the Treaty between the United States of America and the Russian Federation on Measures for the Further Reduction and Limitation of Strategic Offensive Arms (also known as the "Condition (10) Report"), and appended to this Report.

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**PART III: OTHER NATIONS' (INCLUDING SUCCESSOR STATES')
COMPLIANCE WITH MULTILATERAL TREATIES**

BIOLOGICAL AND TOXIN WEAPONS CONVENTION (BWC)

As of the end of 2012, there were 166² States Parties to the 1972 Biological and Toxin Weapons Convention (BWC or Convention), and an additional 12 countries had signed but not yet ratified the agreement. This Report addresses BWC-related issues regarding China, Iran, North Korea, Pakistan, and the Russian Federation, all of which are States Parties to the BWC. This Report also addresses biological warfare (BW)-related activities of Egypt and Syria, which have signed but not ratified the BWC. In 1987, BWC States Parties established an annual data exchange, referred to as the Confidence-Building Measures (CBMs). The CBMs were modified and expanded in 1991 and further streamlined in 2011. The arrangement establishing the CBMs is not legally binding and not all States Parties submit reports.

COUNTRY ASSESSMENTS

CHINA

FINDING

Available information indicates that China engaged during the reporting period in biological activities with potential dual-use applications. However, the information did not establish that China is engaged in activities prohibited by the BWC.

BACKGROUND

China became a State Party to the BWC in 1984. Its compliance with the Convention has been addressed since the 1993 Report.

² The Marshall Islands acceded on November 15, 2012. An additional four states acceded to the BWC in early 2013. Specifically, Cameroon acceded to the BWC on January 18, 2013; Nauru on March 15, 2013; Guyana on March 26, 2013; and Malawi on April 2, 2013. (U)

China's CBM declarations have not documented a historical offensive BW program.

Available information indicates that China continued during the reporting period to develop its biotechnology infrastructure, pursue scientific cooperation with entities of several countries, and engage in biological activities with potential dual-use applications. China has adopted national export controls to address the challenges of biological weapons proliferation.

China's State Council issued a January 2009 white paper, *China's National Defense in 2008*, stating that China had established a comprehensive legislation system for the implementation of the BWC, set up a national implementation focal point, and submitted its BWC CBM declarations in a timely manner.

Compliance Discussions

No BWC compliance issues were raised between the United States and China during the reporting period.

EGYPT

FINDING

During the reporting period, available information did not indicate that Egypt is engaged in activities prohibited to States Parties by the BWC. Egypt is a signatory and not a State Party to the BWC.

BACKGROUND

Egypt signed the BWC in 1972 but has yet to ratify the Convention. As a signatory but not a State Party to the BWC, Egypt has not committed, nor has it been expected, to submit annual CBM declarations. Accordingly, it has made no BWC CBM declarations.

There has been no reporting during the reporting period to indicate that Egypt has a BW program.

Available information indicated Egypt continued during the reporting period to improve its biotechnology infrastructure, engage in biological research and

development activities including genetic engineering techniques, and pursue scientific cooperation with other countries. However, as of the end of 2012, available information did not indicate that Egypt is engaged in activities prohibited by the BWC.

Compliance Discussions

No BWC compliance issues were raised between the United States and Egypt during the reporting period.

IRAN

FINDING

Available information indicated that Iran continued during the reporting period to engage in activities with dual-use BW applications. It remained unclear whether any of these activities were prohibited by the BWC.

BACKGROUND

Iran became a State Party to the BWC in 1973. Its compliance with the Convention has been addressed since the 1993 Report.

Available information indicated that Iran continued during the reporting period to engage in activities with dual-use BW applications. It remained unclear whether any of these activities were prohibited by the BWC.

Compliance Discussions

During the reporting period, issues relating to Iran's dual-use BW activities continued to be raised with other countries in multilateral channels.

In April 2010, Iran's Ambassador to the United Nations sent a letter to the UN Security Council (UNSC) indicating that Iran is firmly committed to full implementation of the BWC. In December 2011, senior Iranian officials publicly renounced the development, production, acquisition, and stockpiling of any weapons of mass destruction, including biological, and toxin weapons. In December 2012, Iran delivered statements at the Meeting of State Parties on behalf of the NAM as well as a national statement.

NORTH KOREA

FINDING

The United States judges that North Korea may still consider the use of biological weapons as an option, contrary to the BWC. North Korea continues to develop its biological research and development capabilities, but has yet to declare any relevant developments as part of the BWC confidence-building measures.

BACKGROUND

North Korea (the Democratic People's Republic of Korea, or DPRK) became a State Party to the BWC in 1987. Its compliance with the Convention was first addressed in the edition of this Report covering the year 2000.

The only BWC-related declaration that North Korea has made was a BWC CBM declaration in 1990.

Available information indicated North Korean entities engaged during the reporting period in a range of biological research and development activities, including pursuing scientific cooperation with entities of other countries.

The United States notes that North Korea may still consider the use of biological weapons as an option, contrary to the BWC.

In June 2009, the UN Security Council passed Resolution 1874, which, *inter alia*, authorized and required all Member States to seize and dispose of items the supply, sale, transfer, or export of which is prohibited by paragraph 8(a), 8(b) or 8(c) of UN Security Council Resolution (UNSCR) 1718 (2006), and that are identified in an inspection conducted pursuant to paragraph 11, 12, or 13 of Resolution 1874. UNSCR 1718 requires all Member States to prevent the supply, sale, or transfer to the DPRK, and to prohibit procurement from the DPRK, of certain items that could contribute to the DPRK's nuclear-related, ballistic missile-related, or other weapons of mass destruction-related programs. The list of items, materials, equipment, goods, and technology related to biological and chemical weapons to be included under the sanctions provisions of UNSCR 1718 was issued by the UN DPRK Sanctions Committee in S/2006/853.

Compliance Discussions

During the reporting period, discussions regarding North Korea's compliance with its BWC obligations continued in multilateral fora.

In the past, North Korea has rejected the view that it is not meeting its BWC obligations. It has also stated that it opposes the development and use of biological weapons, and that it does not possess a single biological weapon.

PAKISTAN

FINDING

Information available through the end of 2012 did not indicate that Pakistan is engaged in activities prohibited by the BWC. Pakistan continued during the reporting period to work to improve its biological weapons-related export controls and submitted its first confidence building measure (CBM) declaration.

BACKGROUND

Pakistan became a State Party to the BWC in 1974.

Pakistan has a modernizing biotechnology infrastructure that continued during the reporting period to pursue a range of biological research and development activities. These included pursuing scientific cooperation with entities in other countries. Information available through the end of 2012 did not indicate that Pakistan is engaged in activities prohibited by the BWC.

Compliance Discussions

During a senior-level bilateral exchange in December 2012, the United States discussed non-proliferation issues with Pakistan.

RUSSIA

FINDING

Available information during the reporting period indicated Russian entities have remained engaged in dual-use, biological activities. It is unclear that these activities were conducted for purposes inconsistent with the BWC. It also remains

unclear whether Russia has fulfilled its BWC obligations in regard to the items specified in Article I of the Convention that it inherited.

BACKGROUND

The Soviet Union became a State Party to the BWC in 1975. Russia's BWC compliance was first addressed in the 1993 Report, while the Soviet Union's BWC noncompliance was first addressed in the January 1984 Report to Congress on Soviet Non-compliance with Arms Control Agreements.

Russia's Acknowledgement of Inherited Soviet Activities. In January 1992, President Yeltsin announced that Russia renounced the former Soviet Union's reservations to the 1925 Geneva Protocol that had allowed for retaliatory use of biological weapons. (The Duma voted to remove these reservations in 2001.) In April 1992, President Yeltsin signed a decree committing Russia as the BWC successor to the Soviet Union and prohibiting illegal biological warfare activity in Russia. During discussions in Moscow in September 1992, Russian officials confirmed the existence of a biological weapons program inherited from the Soviet Union and committed themselves to its destruction.

Although Russia had inherited the past offensive program of biological research and development from the Soviet Union, Russia's annual BWC confidence-building measure declarations since 1992 have not satisfactorily documented whether this program was completely destroyed or diverted to peaceful purposes in accordance with Article II of the BWC.

Russian entities remained engaged during the reporting period in BW-relevant activities. It also remains unclear if Russia has fulfilled its obligations under Article II of the BWC to destroy or divert to peaceful purposes the items specified in Article I of the Convention that it inherited from the Soviet Union.

Compliance Discussions

There were no discussions during the reporting period regarding Russia's compliance with the BWC.

SYRIA

FINDING

The United States is concerned, based on information available during the reporting period, that Syria, a signatory to the BWC, may be engaged in activities that would violate its obligations under the BWC if it were a State Party to the Convention.

BACKGROUND

Syria signed the BWC in April 1972, but has yet to ratify the Convention. Syria's BW-related activities have been addressed since the 1993 Report.

As a signatory but not a State Party to the BWC, Syria has not committed, nor has Syria been expected, to submit annual CBM declarations. Accordingly, it has made no BWC CBM declarations.

Pursuant to U.S. Executive Order 13382, the United States had designated four Syrian government entities as WMD proliferators during previous reporting periods out of concern their activities focused on the development of biological and chemical weapons. These designations remained in effect through the end of this reporting period.

It remained unclear during the reporting period whether Syria would consider the use of biological weapons as a military option.

In 2004, Israel's Intelligence and Terrorism Information Center said in a report on Syria that the Scientific Studies and Research Center had been developing ricin-based biological weapons.

Compliance Discussions

Discussions regarding Syria's BW-related activities continued among the United States and other countries during the reporting period.

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**TREATY ON
CONVENTIONAL ARMED FORCES IN EUROPE (CFE)**

For a discussion of other nations' adherence to their obligations under the CFE Treaty, see the Report on Compliance with the Treaty on Conventional Armed Forces in Europe submitted in January 2013, consistent with Condition 5(C) of the Senate Resolution of Advice and Consent to Ratification of the CFE Flank Document (also known as the "Condition 5(C) Report") and appended to this Report.

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VIENNA DOCUMENT ON CONFIDENCE- AND SECURITY-BUILDING MEASURES

On November 30, 2011, the participating States of the Organization for Security and Cooperation in Europe (OSCE) adopted Vienna Document 2011 (VD11), which added to and built upon the undertakings in previous versions of the Vienna Document (1990, 1992, 1994, and 1999). The measures contained in the Vienna Document reflect political commitments of the participating States.

In 2012, 85 inspections and 34 evaluation visits of units and formations were conducted by the participating States under the provisions of the Vienna Document Chapter IX. In addition, 13 inspections and 33 evaluation visits were conducted using Vienna Document procedures under bilateral agreements or regional measures that provided additional inspection opportunities to the participants in those arrangements.

In the most recent annual Vienna Document exchange of confidence- and security-building measures (CSBM) data, 48 of the 51 participating States with armed forces provided CSBM data as of the end of 2012. Turkmenistan did not provide data as of the end of 2012, while Uzbekistan has not provided data since 2004. Mongolia, which joined the OSCE on November 21, 2012, has no armed forces in the Vienna Document “zone of application.”

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CHEMICAL WEAPONS CONVENTION (CWC)

For a discussion of other nations' adherence to their obligations under the Chemical Weapons Convention, see the Report on Chemical Weapons Convention Compliance, submitted in January 2013, in accordance with Condition 10(C) of the Senate Resolution of Advice and Consent to the Chemical Weapons Convention (also known as the "Condition 10(C) Report"), and appended to this Report.

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NUCLEAR NON-PROLIFERATION TREATY (NPT)

This section of the Report covers developments relevant to other nations' compliance with the 1968 Nuclear Non-Proliferation Treaty (NPT) and addresses, in particular, developments in Burma, Iran, North Korea (DPRK), and Syria.

As of the end of 2012, there were 14 non-nuclear-weapon States (NNWS) party to the NPT that had not yet brought into force a comprehensive safeguards agreement with the International Atomic Energy Agency (IAEA). The NPT does not require adherence to an IAEA Additional Protocol, which contains measures that increase the IAEA's ability to verify the non-diversion of declared nuclear material and to provide assurances as to the absence of undeclared nuclear material and activities in a State. As of the end of 2012, 142 States had an Additional Protocol approved by the IAEA Board of Governors, 139 of those had been signed, and 119 had entered into force. (The Additional Protocol entered into force for the United States on January 6, 2009).

COUNTRY ASSESSMENTS

BURMA

FINDING

The United States remains encouraged by the Burmese government's recent reforms, its November 18, 2012 announcement that it intends to sign an Additional Protocol (AP) and submit a modified Small Quantities Protocol (SQP), and its stated intention to comply fully with UN Security Council Resolution 1718 and 1874. However, U.S. concerns regarding possible activities in Burma cannot be fully alleviated until an AP is signed and implemented, a modified SQP is submitted, and Burma has cooperated with the IAEA in accordance with these agreements to resolve any outstanding IAEA questions regarding Burma's nuclear activities. The Burmese government's support for the transparency measures inherent in an AP and modified SQP will be important for the successful implementation of these protocols. The United States will continue to support Burma in pursuing and achieving these objectives. In the meantime, the United States remains alert to any indications of Burmese nuclear weapon-related activities or intentions to develop a nuclear weapons capability, although available

information does not suggest the current Burmese government has any such ambitions.

BACKGROUND

Burma became a State Party to the NPT in 1992 and its NPT Safeguards Agreement with the IAEA entered into force in 1995. As a country with little to no nuclear material, Burma concluded an SQP in April 1995. The SQP holds in abeyance most of the operative provisions of the Safeguards Agreement. At the end of 2012, Burma had not yet signed an AP, modified its SQP as called for by the IAEA Board of Governors in September 2005, or modified Code 3.1 of the Subsidiary Arrangements to its Safeguards Agreement.

Modifying its SQP would require Burma to make an initial declaration of all its nuclear materials and provide early design information for any planned nuclear facilities, as well as restore the corresponding inspection access, which is currently held in abeyance under the original SQP. An AP would grant the IAEA expanded inspection authority, including to all parts of Burma's nuclear fuel cycle, and the ability to collect samples and information to verify compliance. Adhering to the modified Code 3.1 would obligate Burma to provide the IAEA with early notification of a decision to build a nuclear facility.

As early as 2002, the Burmese Government had publicly announced its intention to acquire a nuclear research reactor for peaceful purposes under IAEA auspices. In May 2007, Burma and Russia signed an agreement for Russia to assist in building a nuclear research center in Burma that would include a 10 Megawatt (MW) light-water research reactor. Russia has provided public assurances that the research reactor would be placed under IAEA safeguards.

In 2010, Burma's Ministry of Foreign Affairs stated that Burma had suspended its reactor plan with Russia "due to inadequacy of resources and the government's concern for misunderstanding it may cause" among the international community. Throughout 2011 and 2012, following a major transformation of the government from military junta to a nominally civilian-led parliamentary system, the Burmese government continued to report that its nuclear program was solely for peaceful purposes and that the Burmese government had abandoned its reactor deal with Russia.

The United States has expressed concerns about Burma's interest in pursuing a nuclear program, including the possibility of cooperation with North Korea.

Burma concluded an SQP with the IAEA in 1995 which holds in abeyance key safeguards provisions on the condition that Burma not possess any nuclear "facilities," as defined by the agreement, or quantities of nuclear material above a limited threshold.

On November 18, 2012, Burma announced President Thein Sein's decision to sign an AP and submit a modified SQP, pending Parliamentary approval, which was granted on November 22, 2012. The announcement also stated that Burma is committed to abiding with UN Security Council Resolution 1874.

In December 2012, Burma's military chief Vice Senior General Min Aung Hlaing reportedly stated that Burma planned to use nuclear technology for medical, research, and energy purposes, but that it would not develop atomic weapons.

Compliance Discussions

During high level meetings in 2012 with Burma on a range of issues, the United States continued to urge Burma to implement fully all relevant UNSC Resolutions, including 1718 and 1874; to enhance its IAEA safeguards by adopting an AP; to modify its SQP; to improve its cooperation with the IAEA; and to strengthen its transparency. During Secretary of State Clinton's November 2011 visit, in addition to calling on Burma to sign an AP, she noted that "better relations with the United States will only be possible if the entire government respects the international consensus against the spread of nuclear weapons" and that "while the measures already taken may be unprecedented and certainly welcome, they are just a beginning."

In January 2013, at Burma's invitation and in support of Burma's announced decision to sign the AP and modify its SQP, U.S. officials held a three-day workshop in Burma to familiarize Burmese officials and scientists with the AP and modified SQP. The workshop included participation by all relevant agencies in the Burmese government and a participant from the International Atomic Energy Agency.

IRAN

FINDING

Iran is in violation of obligations under the NPT, its IAEA Safeguards Agreement, and relevant UN Security Council resolutions.

BACKGROUND

Iran became a State Party to the NPT in 1970 and its NPT Safeguards Agreement entered into force in 1974. Iran signed the Additional Protocol in 2003 and implemented it provisionally and selectively from 2003 to 2006, when provisional implementation was suspended.

Iran's violations of its obligations under the NPT and its IAEA Safeguards Agreement have been ongoing since the early 1980s. In 2002, an Iranian opposition group publicly revealed covert nuclear facilities under construction at Natanz and Arak in Iran that Iran had failed to declare to the IAEA. Developments led the IAEA Board of Governors to declare Iran in noncompliance with its IAEA Safeguards Agreement in 2005 and to report the case to the UN Security Council in 2006.

During the reporting period, Iran continued to make progress on uranium enrichment-related activities in contravention of UN Security Council and IAEA resolutions that require Iran to suspend its enrichment, heavy water, and reprocessing activities. It accelerated expansion of centrifuge installation at the Fordow Fuel Enrichment Plant (FFEP) near the city of Qom; continued research and development work on advanced centrifuges; and enriched uranium up to nearly 20 percent at both the Natanz Pilot Fuel Enrichment Plant (PFEP) and the FFEP. Between May and November 2012, Iran effectively tripled the enrichment capacity of the formerly undeclared Fordow facility. As of November 2012, Iran had accumulated 232.8 kilograms of uranium enriched to near 20 percent (though it converted 96.3 kg and down-blended 1.6 kg, leaving it with a stockpile of 134.9 kg of uranium enriched to near 20 percent). It also continued to amass a large stockpile of uranium enriched up to five percent that, if further enriched and processed, would be sufficient to produce five to seven nuclear weapons. Iran's work at Fordow is consistent with its stated intention to triple its production capacity of near 20 percent enriched uranium as fuel for future research reactors. Iran also continued to make progress on its heavy water-related activities, by

continuing to construct its IR-40 heavy water- moderated research reactor at Arak and operate its heavy water production plant at Arak. Iran provided no information on its previously stated intention to build ten new uranium enrichment facilities. However, Iran has repeatedly failed to provide design information or report design changes to nuclear installations well in advance of any action taken to modify existing facilities or construct new ones, as required by Iran's modified Code 3.1 of the Subsidiary Arrangements to Iran's NPT Safeguards Agreement.

The IAEA continued to note serious concerns regarding possible military dimensions (PMD) to Iran's nuclear program. IAEA reporting indicated that, since August 2008, Iran has declined to discuss these unresolved issues with the IAEA or to provide any further information or access to locations and people necessary to address the IAEA's concerns.

In November 2011, the IAEA Director General (DG) submitted the most detailed description of the possible military dimensions (PMD) of Iran's nuclear program to date, clearly depicting the IAEA's grave concerns about it. In particular, the report noted that the Agency has credible information indicating that Iran had conducted activities relevant to the development of a nuclear explosive device at the Parchin site. As stated in the Annex to the November 2011 report, "information provided to the Agency by Member States indicates that Iran constructed a large explosive containment vessel in which to conduct hydrodynamic experiments; such experiments would be strong indicators of possible nuclear weapons development. The containment vessel was installed at the Parchin site in 2000." The report also indicated that Iran had a structured military program through 2003, and that some activities may still be ongoing.

Since 2011, the IAEA has asked for access to the Parchin site as a step toward mutual confidence and as a precursor for other aspects of its PMD investigation. Iran has responded with repeated refusals on providing the IAEA access to Parchin. Shortly after the Agency's first request to visit Parchin, commercial imagery showed that Iran had taken extensive measures to sanitize the Parchin site. In his September 2012 report, the DG stated that Iran's actions will significantly hamper the Agency's ability to conduct effective verification when it gains access to the location.

Based on the IAEA Director General's February 2013 Report, since Iran began enriching uranium at its declared facilities, it has produced 5974 kg of UF₆ enriched up to five percent U₂₃₅, some of which it fed back into the cascades at

Natanz and Fordow for enrichment to 20 percent. It also has converted some of its 280 kg of UF₆ enriched up to 20 percent U₂₃₅ into U₃₀₈, which can be used as fuel for its nuclear reactors or may be converted back to UF₆ as needed. Nevertheless, it has amassed sufficient quantities to build five to seven nuclear weapons.

The United States notes that Iran continues to engage in uranium enrichment- and heavy water-related activities in violation of UN Security Council resolutions. Three significant issues raised in the IAEA DG's recent reports are of particular concern: the significant expansion of enrichment capacity, the sanitization of the Parchin site as Iran continues to refuse access, and Iran's refusal to agree to a structured approach to resolve the outstanding issues related to its nuclear program. Iran also continues to fail to meet its obligations under modified Code 3.1 of the Subsidiary Arrangements to its IAEA Safeguards Agreement. Iran's failure to abide by the obligations of its IAEA Safeguards Agreement also constitutes a violation of its NPT Article III obligations. Moreover, Iran had previously received assistance in the manufacture of nuclear weapons in violation of its Article II obligations, as noted in the 2005, 2010, and 2011 Reports. The issues underlying that finding remain unresolved.

Compliance Discussions

Since 2006, the Security Council has adopted seven resolutions on Iran (UNSCRs 1696, 1737, 1747, 1803, 1835, 1929, and 1984), four of which impose binding Chapter VII sanctions. In June 2010, the UN Security Council adopted United Nations Security Council Resolution 1929 (UNSCR 1929), imposing a range of sanctions against Iran. A year later, in June 2011, the Security Council passed United Nations Security Council Resolution 1984 (UNSCR 1984), which extended the mandate of the Panel of Experts established by UNSCR 1929 to help implement UNSCR 1929. In addition, the United States and others, including the European Union, Norway, Canada, Australia, Japan, and the Republic of Korea, have imposed their own sanctions to increase pressure on Iran to resolve questions about its nuclear program.

During the reporting period, the IAEA Director General reiterated publicly that, while the IAEA continues to verify the non-diversion of *declared* nuclear material in Iran, Iran has not provided the necessary cooperation to permit the IAEA to provide assurances that Iran's nuclear program is exclusively peaceful. In September 2012, the IAEA Board of Governors again passed a resolution urging

Iran to comply fully and without delay with its obligations and expressing deep and increasing concern about the unresolved issues related to Iran's nuclear program, including those which need to be clarified to exclude the existence of possible military dimensions.

During the reporting period, the United States continued to support the IAEA in addressing Iran's nuclear program and to work closely with the other P5+1 countries (China, France, Germany, Russia, and the United Kingdom) to resolve the issue. In addition, the United States imposed a series of new sanctions on entities and individuals involved in nuclear-related proliferation with Iran. The IAEA, the United States, and numerous other countries urged Iran to cooperate with the IAEA and to implement UNSC and IAEA BOG resolutions, the Additional Protocol, and modified Code 3.1. However, Iran continued to maintain that its nuclear program is peaceful and to reject concerns regarding its nuclear activities and lack of full cooperation with the IAEA.

NORTH KOREA

FINDING

North Korea was in violation of its obligations under Articles II and III of the NPT and had been found to be in noncompliance with its IAEA Safeguards Agreement before its announced withdrawal from the NPT in 2003. North Korea's continued development of its nuclear program, including its uranium enrichment activities and ongoing construction of a light-water reactor, are violations of UNSCRs 1718 and 1874 and of the DPRK's commitments under the 2005 Joint Statement of the Six-Party Talks.

BACKGROUND

North Korea (the Democratic People's Republic of Korea, or DPRK) acceded to the NPT in 1985 and its IAEA Safeguards Agreement entered into force in 1992. In 2003, the DPRK announced its withdrawal from the NPT. In the Joint Statement released by the Six Parties (China, Japan, North Korea, Russia, South Korea, and the United States) in September 2005, the DPRK committed, *inter alia*, to abandoning all nuclear weapons and existing nuclear programs and returning, at an early date, to the NPT and to IAEA safeguards.

Previous editions of this Report have described violations by North Korea of its obligations under Articles II and III of the NPT and under its IAEA Safeguards Agreement before its announced withdrawal from the NPT in 2003. Previous editions also described North Korea's violations of its political commitments, including those under the 2005 Joint Statement. During the reporting period, the DPRK did not take any concrete steps toward fulfilling its international obligations and commitments.

In the September 2005 Joint Statement of the Six-Party Talks, North Korea committed to shut down and disable key parts of Yongbyon's fuel fabrication facility, reprocessing plant, and 5 MW(e) reactor. However, on April 14, 2009, in response to the UN Security Council's Presidential statement condemning its April 5 TD-2 rocket launch as a violation of UNSCR 1718, North Korea announced its withdrawal from the Six-Party Talks, the expulsion of U.S. experts and IAEA monitors who had been monitoring nuclear facilities at Yongbyon since July 2007, and its intention to reverse disablement actions taken at the Yongbyon nuclear complex.³ - It subsequently announced that it would "positively examine" the construction of a light water reactor. While not specified in the DPRK announcement, such reactors require enriched uranium for fuel.

On May 25, 2009, North Korea publicly announced that it had successfully conducted its second underground nuclear test. The test had a yield of roughly two kilotons and appears to have been more successful than North Korea's October 9, 2006 test, which the United States judges was a partial failure. These tests strengthened our assessment that North Korea has produced nuclear weapons. In response to the second nuclear test, the UN Security Council adopted UNSCR 1874, tightening sanctions against North Korea. In September 2009, the DPRK Permanent Representative to the United Nations stated in a letter to the President of the UN Security Council that "[r]eprocessing of spent fuel rods is at its final phase and extracted plutonium is being weaponized" and that "[e]xperimental uranium enrichment has successfully been conducted to enter into completion phase." In November 2009, North Korea announced it had successfully completed the reprocessing of 8,000 spent fuels rods.

In November 2010, DPRK authorities disclosed to a visiting American academic delegation of technical and regional experts, ongoing construction of a

³ It should be noted that North Korea has not operated the Yongbyon 5 MW(e) plutonium production reactor since July 2007. In order to restart it, North Korea would have to build a cooling system to replace the reactor's demolished cooling tower and manufacture new fresh fuel rods, or modify the existing stock of fuel rods originally intended for the abandoned 50 MWe reactor.

light-water reactor (LWR) at Yongbyon, with a target completion date of 2012, as well as what they claimed to be an operational uranium enrichment facility. DPRK authorities stated that the enrichment facility—built inside the former rod core production building at Yongbyon’s Fuel Fabrication and Feed Materials Plant—contained about 2,000 centrifuges, which was consistent with the visitors’ observations, and that the facility was operating and producing low-enriched uranium (LEU), which the scientists could not confirm. North Korea’s disclosure supports the United States’ longstanding assessment that North Korea has pursued uranium enrichment capabilities.

North Korea in 2010 stated that the target completion date for the LWR was 2012, according to open source reporting, and significant progress has been made on the construction of the reactor building structure since construction began in mid-2010, with the exterior of the main building largely completed. However, in late 2011, a nongovernmental U.S. delegation was told that the LWR will not begin operation until 2013 or 2014. If successfully operated, the LWR would provide North Korea with a relatively small source of electricity; North Korean officials refer to it as an experimental reactor, according to open source reporting. However, the LWR provides the North with a justification to possess uranium enrichment technology that potentially could be used to produce fissile material for nuclear weapons.

North Korea was in violation of its obligations under Articles II and III of the NPT and under its IAEA Safeguards Agreement before its announced withdrawal from the NPT in 2003. In addition, North Korea’s continuing nuclear activities, including its uranium enrichment activities and construction of a light-water reactor, are violations of UNSCRs 1718 and 1874 and of the DPRK’s commitments under the 2005 Joint Statement of the Six-Party Talks.

Compliance Discussions

In July and October 2011, the United States held two bilateral dialogues with the DPRK to urge it to take concrete steps toward fulfilling its international obligations and commitments. These discussions were generally constructive, but by the end of 2011, further progress was on hold following the death of DPRK leader Kim Jong Il. U.S.-DPRK engagement resumed in February 2012 in Beijing, at which time the DPRK agreed to a moratorium on its long-range missile launches, nuclear tests, and nuclear activities at Yongbyon, including uranium enrichment activities, and to the return of IAEA inspectors to monitor the

moratorium. During the discussions, as reflected in the U.S. statement, the DPRK also agreed to allow IAEA inspectors to verify and monitor the moratorium on uranium enrichment activities and confirm the disablement of the 5-MW reactor and associated facilities at Yongbyon. However, the DPRK statement only acknowledged the IAEA's role in monitoring the moratorium on uranium enrichment activities.

On April 13, 2012, North Korea launched a rocket in an unsuccessful attempt to put a satellite into orbit. (Satellite launches can be a concern since they can contribute to a country's development of ballistic missile technology.) With that launch attempt, the DPRK abrogated the terms of its February agreement with the United States. The UN Security Council issued a Presidential Statement strongly condemning the launch as serious violations of UN Security Council Resolutions 1718 and 1874. The Security Council demanded that the DPRK immediately comply with its obligations under these resolutions by abandoning all nuclear weapons and existing nuclear programs in a complete, verifiable and irreversible manner; immediately cease all related activities; and not conduct any further launches that use ballistic missile technology, nuclear tests or any further provocation. On December 12, 2012, North Korea undertook another satellite launch, reporting shortly after that it had been successful and that the satellite had entered orbit. The United States continues to consult closely with its Six-Party and other key allies and partners on next steps, including appropriate UN action.

SYRIA

FINDING

Syria is in violation of its obligations under the NPT and its IAEA Safeguards Agreement. Syria failed to declare and provide design information to the IAEA for the construction of the reactor at Al Kibar (also known as Dair Alzour), which was destroyed in September 2007. Syria's clandestine construction of the reactor at Dair Alzour and its actions to hide the true nature and function of its nuclear program are in violation of Articles 41 and 42 of its Safeguards Agreement and its obligations under Code 3.1 of the Subsidiary Arrangements to its Safeguards Agreement.

BACKGROUND

Syria became a State Party to the NPT in 1968 and its NPT Safeguards Agreement entered into force in 1992. It had not signed the Additional Protocol as of the end of 2012.

Al Kibar Site. Until September 2007, Syria covertly was building an undeclared nuclear reactor at Al Kibar (in the province of Dair Alzour) in Syria's eastern desert that would have been capable of producing plutonium. The reactor was destroyed on September 6, 2007, before it became operational. We assess that the reactor's intended purpose was the production of plutonium, because the reactor was not configured for power production, was isolated from any civilian population, and was ill-suited for research. Following the reactor's destruction, Syria went to great lengths to clean up the site and to destroy evidence of what had existed at the site. By December, Syria had constructed a large building over the location where the reactor once stood. In April 2008, the United States provided information to the IAEA indicating that the installation destroyed at Al Kibar was a nuclear reactor being constructed with North Korean assistance. The IAEA began investigating Syria's compliance with its IAEA safeguards, but despite repeated requests, was not allowed by Syria to send inspectors to visit the Al Kibar site until June 2008.

During the reporting period, the IAEA continued to seek access and information to address outstanding issues related to the site, including the nature of the destroyed facility and the origin of anthropogenic (man-modified chemically processed) natural uranium particles found in samples taken at the site. (The particles were of a type not included in Syria's declared inventory of nuclear material.)

On May 24, 2011, the IAEA released a report that assessed the nature of the destroyed building at Al Kibar, concluding that the building was very likely a nuclear reactor and should have been declared by Syria pursuant to Articles 41 and 42 of its Safeguards Agreement and Code 3.1 of the Subsidiary Arrangements to its Safeguards Agreement. The IAEA assessment concluded that: 1) features of the destroyed building were comparable to those of gas cooled graphite moderated reactors of the type and size alleged; 2) prior to the bombing, the configuration of the infrastructure at the site, including its connections for cooling and treated water, was able to support the operation of such a reactor and was not consistent with Syria's claims regarding the purpose of the infrastructure; in addition, a

number of other features of the site added to its suitability for the construction and operation of a nuclear reactor; 3) analysis of samples from the site indicated a connection to nuclear-related activities; and 4) the features of the destroyed building and the site could not have served the purpose claimed by Syria.

In an August 30, 2012 Report, IAEA Director General Amano reported that during a meeting with an IAEA team in Damascus on October 25-26, 2011, Syria had indicated that it was prepared to grant the IAEA access to Al Kibar, under certain conditions. However, Syria was not prepared to grant IAEA access to three other locations that the Agency considered critical to resolving outstanding questions related to Al Kibar, as Syria did not consider those other locations to be relevant. The Report stated that after careful review, the Agency had concluded that the Syrian proposal was not acceptable given the conditions placed by Syria on Agency verification activities and Syria's unwillingness to discuss or address access to the other three locations. (The Report also rejected Syrian assertions that the signature of a member of the IAEA team visiting Syria constituted IAEA acceptance of the proposal, noting that the team had made clear that a signature simply acknowledged the proposal and that the proposal would require "further review and endorsement.") Further, the Report noted that the Agency subsequently had proposed further discussions to Syria, and that, in a letter dated February 12, 2012, Syria had indicated that it would provide a detailed response at a later time, citing the difficult prevailing security situation in the country. Finally, the Report reiterated the IAEA's request for further discussions to address all outstanding issues related to Al Kibar and the other three locations.

The Three Related Sites. Since 2009, the IAEA has asked Syria for access to three additional sites with possible functions related to Al Kibar. However, the IAEA has not publicly disclosed the location of the sites. During the reporting period, the IAEA continued to request access to these sites. Syria continued to maintain that, due to their non-nuclear nature, it has no obligation to provide access to the additional locations.

Miniature Neutron Source Reactor (MNSR), Damascus. During the reporting period, the IAEA carried out a physical inventory verification during a routine safeguards implementation visit to MNSR, the location at which it previously had concerns about the origin of anthropogenic natural uranium particles found in samples taken in 2008 and 2009, which were of a type not included in Syria's declared inventory of nuclear material.

Syria had claimed the particles were related to experiments it had performed at the MNSR using yellowcake produced at its Pilot Phosphoric Acid Purification Plant at Homs, Syria. In September 2010, the IAEA and Syria had agreed upon a plan of action for resolving the outstanding issues relating to the MNSR. As part of the September 2010 plan of action, the IAEA had visited the MNSR on April 19, 2011. The IAEA stated that samples taken on the visit, along with documentation provided by Syria and in conjunction with routine verification activities carried out 18 days later yielded analysis results “not inconsistent” with Syrian statements on the origin of the anthropogenic uranium particles found previously at MNSR. The IAEA also had stated that subsequently, the matter would be addressed in the routine implementation of safeguards.

Compliance Discussions

In November 2010, the IAEA Director General (DG) sent a letter to the Syrian foreign minister requesting that Syria provide prompt access to relevant information and locations related to Al Kibar and underscoring to Syria the importance of cooperating with the IAEA.

On June 9, 2011, the IAEA Board of Governors (BOG) adopted a resolution on Syria’s implementation of its NPT safeguards. The resolution found Syria in noncompliance with its Safeguards Agreement; called upon Syria to “remedy urgently” its noncompliance by allowing IAEA access to all information, sites, material, and persons necessary for the agency to resolve all outstanding questions regarding Syria’s nuclear program; and called upon Syria to sign and bring into force the Additional Protocol to its Safeguards Agreement.

The IAEA resolution also referred the matter to the United Nations Security Council. The UN Security Council met once in 2011, following the IAEA’s referral but took no action. It did not address Syria’s nuclear activities in 2012. The IAEA DG has stated that, since his May 24, 2011 report, the Agency has not received any new information from Syria or other Member States that would have an impact on the IAEA assessment of the nature of the destroyed building at Al Kibar. The Agency also remains unable to provide any assessment of the nature or operational status of the three other locations. The United States and other countries continue to stress the need for the IAEA and the United Nations to focus on the matter in light of Syria’s reluctance to address all outstanding questions about its clandestine nuclear activities.

In 2012, Russia, China, and a few other states that voted against the 2011 IAEA Board of Governors resolution continued to oppose international efforts to address Syria's noncompliance. Syria continued to maintain that the destroyed building at Al Kibar was a non-nuclear military installation, and reiterated its commitment to uphold its safeguards obligations and to cooperate with the IAEA to resolve the questions that have been raised.

TREATY ON OPEN SKIES

The Treaty on Open Skies establishes a regime for the conduct of unarmed observation flights by States Parties over the territories of other States Parties. States Parties are allowed to utilize four types of sensors (optical panoramic and framing cameras, video cameras with real-time display, infra-red line-scanning devices, and sideways-looking synthetic aperture radar) during the observation flights. The Treaty was signed at Helsinki on March 24, 1992. The Treaty entered into force on January 1, 2002, and is of unlimited duration. As of December 31, 2012, 34 States Parties have signed and ratified the Treaty on Open Skies (Belarus, Belgium, Bosnia and Herzegovina, Bulgaria, Canada, Croatia, the Czech Republic, Denmark, Estonia, Finland, France, Georgia, Germany, Greece, Hungary, Iceland, Italy, Latvia, Lithuania, Luxembourg, the Netherlands, Norway, Poland, Portugal, Romania, Russia, the Slovak Republic, Slovenia, Spain, Sweden, Turkey, Ukraine, the United Kingdom, and the United States). The Open Skies Consultative Commission (OSCC) met only once in 2012 in formal session due to disagreement between Turkey and Greece about the status and treatment of an application for accession to the Treaty by Cyprus. This has prevented adoption of an agenda and thereby inhibited discussion and resolution of compliance issues that would normally come before the Commission. Despite this impasse, discussion of relevant issues took place in informal and bilateral meetings.

This Report discusses compliance issues involving the Russian Federation from January 1, 2012, to December 31, 2012.

COUNTRY ASSESSMENTS

RUSSIA

FINDING – AIRSPACE RESTRICTIONS

Russia has continued to restrict access to three areas: over Chechnya and nearby areas of southwestern Russia; below 3,600 meters (MSL) altitude in a 39 kilometer by 31 kilometer area over Moscow – an area known by Russian Air Traffic Control as the UUP-53 area; and along the border of Russia with the Georgian regions of South Ossetia and Abkhazia.

BACKGROUND

Russia imposed restrictions over Chechnya in 2002 due to conflict in the area and purported safety of flight considerations; the restrictions remain in place, but no State Party has attempted to conduct an observation flight over that area. Since 2005, Russia has claimed that flight within UUP-53 over Moscow below 3,600 meters is prohibited due to safety of flight considerations. Since 2010, Russia also has claimed that flight over Russia within 10 kilometers of the border with the Georgian regions of South Ossetia and Abkhazia is prohibited by the Treaty. A provision in the Treaty prohibits flight within 10 kilometers of a non-state party. Russia claims that South Ossetia and Abkhazia are independent nations not party to the Treaty and therefore, flight within 10 kilometers of their borders is prohibited. No other party to the Open Skies Treaty agrees with the Russian position on the status of the Georgian regions of South Ossetia and Abkhazia.

In April 2012, Georgia announced that it would no longer allow Russian Open Skies overflights of Georgian territory as a legal countermeasure in response to Russia's decision not to allow overflights within 10 kilometers of this portion of the Russia-Georgia border.

Compliance Analysis.

Airspace Restrictions Over/Near Chechnya. Annex I of the Treaty states that State Parties shall provide "detailed information on all hazardous airspace." However, Article VI, Section II, Paragraph 2 states that a mission plan (provided by an observing states party) "may provide for the observation of any point on the entire territory of the observed party, including areas designated by the observed party as hazardous airspace."

Restrictions in UUP-53. The altitude restrictions imposed by Russia over UUP-53 negatively impact the ability of States Parties to observe "any point on the entire territory of the observed party, including areas designated by the observed party as hazardous airspace," using approved sensors. Paragraphs 1 and 2 of Article IV of the Treaty permit States Parties to use any of four sensor types to conduct observation flights, provided that the sensors are commercially available and comply with certain performance limits.

Analysis completed by the United States confirmed that UUP-53 is large enough to prevent States Parties from observing all portions of the area from outside of it, even with wide field of view panoramic cameras. In addition, analysis has confirmed that sharing partner aircraft, whose sensors can achieve the Treaty-allowed 30 centimeter resolution only when flying below 3600 meters, are unable to observe the UUP-53 territory and achieve mission goals due to the UUP-53 restrictions. While the United States is able to obtain Treaty-allowed resolution imagery of the territory under UUP-53 airspace using its higher-altitude KA-91C panoramic camera, weather permitting, its KS-87E framing camera also is unable to achieve the Treaty-allowed resolution of 30 centimeters when operated above 3600 meters. The United States also is unable to utilize such sensors – and is therefore unable to obtain Treaty-allowed resolution imagery – when flying on partner aircraft within UUP-53.

Restrictions Along the Russia-Georgia Border. Section II of Paragraph 2 of Article VI of the Treaty prohibits flight within 10 kilometers of a non-state party. In 2010, Russia invoked this provision of the Treaty and declared that it would not allow flights by any States Parties within the 10-kilometer corridor of Russia where it borders the regions of South Ossetia and Abkhazia, on the basis that it considers South Ossetia and Abkhazia to be independent nations that are not parties to the Treaty. No other party to the Open Skies Treaty agrees with the Russian position on the status of the Georgian regions of South Ossetia and Abkhazia.

Georgia is a State Party to the Treaty, and South Ossetia and Abkhazia are recognized as part of Georgia by all States Parties except Russia. All States Parties except Russia take the view that flights within 10 kilometers of the continuous, internationally-recognized border of Russia with Georgia, including South Ossetia and Abkhazia, are permitted.

As of December 31, 2012, restrictions on flights over Chechnya, UUP-53, and Russian territory within 10 kilometers of the Georgian regions of South Ossetia and Abkhazia were still in effect.

Compliance Discussions

The airspace restriction issues identified above have been raised by the United States and others multiple times in the OSCC and by the United States in U.S.-Russian bilateral consultations, and have not been resolved.

The United States continues to utilize the OSCC and diplomatic means to highlight the negative impact of the airspace restrictions described above, with the goal of convincing Russia to remove all airspace restrictions that negatively impact observation flights.

Regarding the restrictions related to the UUP-53 area, the United States provided a summary of this compliance issue to the OSCC in July 2012 and requested that the issue remain on the agenda of the Informal Working Group on Rules and Procedures.

With regard to the Russian prohibition on flights along the Georgian border, in April 2012, the U.S. Delegation to the OSCC issued a statement on Russia's noncompliance relating to the 10-kilometer restriction. The statement explained the U.S. position that "this provision of the Treaty...does not apply to any portion of the border between Georgia and the Russian Federation, including those segments in the vicinity of the separatist regions of Abkhazia and South Ossetia which are within Georgia's internationally recognized borders." The statement closed by "(urging) all States Parties to fulfill the Treaty provisions necessary for continued openness and transparency."

FINDING – MISSION ROUTE RESTRICTIONS DUE TO “VIP” MOVEMENTS; AIR TRAFFIC CONTROL (ATC) CLEARANCE COORDINATION ISSUES

Russia has imposed airspace restrictions on multiple U.S. flights since mid-2011, citing the movement of State officials (i.e., VIPs) as the reason for the restrictions. In several cases, Russia insisted that an agreed mission plan be modified to delete observation legs or that a portion of the mission be cancelled altogether due to air travel of VIPs. In these and other instances, the Russian Air Traffic Control (ATC) system failed to ensure priority flight clearance for Open Skies flights. These actions impeded the United States' ability to exercise its Treaty rights and U.S. mission capability over Russia.

BACKGROUND

Each Open Skies mission flight plan is subject to negotiation and acceptance by the observed party.

In June 2011, Russia claimed that VIP air traffic movements associated with an international summit taking place in the St. Petersburg area prevented it from granting ATC clearance for a joint Sweden-Estonia-United States mission even though the mission plan had been agreed the day prior. As a result, the joint team was forced to cancel the mission.

In November 2012, the Russian ATC Authority refused to accommodate a late take-off for a U.S. team beginning a mission from Khabarovsk after lengthy de-icing procedures delayed the U.S. flight for over 20 minutes following a short maintenance delay. This resulted in the U.S. having to cancel its first two mission segments.

Compliance Analysis.

Article VI of the Treaty states that Open Skies flights “shall take priority over any regular air traffic,” and that the observed party “shall ensure its air traffic control authorities facilitate the conduct of observation flights in accordance with this Treaty.” Implementation of this provision by the observed party should allow the observing party unimpeded access to the entire territory of the observed State Party. The cited Russian ATC procedures are inconsistent with these provisions, hindered the United States’ ability to exercise its Treaty rights, and limited the U.S. mission capability over Russia.

Article VIII, Section II, Paragraph 1 of the Treaty discusses deviations from flight plans when necessitated by “air traffic control instructions related to circumstances brought about by ‘force majeure’.” This provision applies after a flight is airborne and flying the agreed mission plan. Nonetheless, the Russian Team Chiefs informally claimed that “force majeure” was a basis for imposing the deviations. However, these cases were not deviations brought about by in-flight circumstances, but rather ATC restrictions that prevented flights or flight segments from taking place.

Compliance Discussions.

While this issue has been raised with Russia in both bilateral and multilateral fora, these efforts have not yet convinced Russia to provide air traffic priority for Open Skies observation flights.

FINDING – AIRFIELD CLOSURES IN SUPPORT OF HOLIDAYS

Russia's airfield closures for an extended holiday period in the late April/early May 2012 time frame had a negative impact on two planned U.S. observation flights. Russia claimed its military airfields were closed for the holidays and that it was unable to host missions on the requested days. These closures are inconsistent with the Treaty's provisions in Article VI relating to mission planning, which do not provide for such closures.

BACKGROUND

In December 2011, Russia sent a notification that, *inter alia*, designated May 1 and May 9, 2012, as designated holidays. In April 2012, Russia sent a second notification that Russian military airfields would be closed for two separate periods totaling nine days between late April and early May for Victory Day and May Day holiday celebrations.

As a courtesy, States Parties generally try to avoid conducting observation flights on national holidays, although the Treaty does not allow for restriction of observation flights for national holidays. The United States had planned to conduct two observation missions during the late April/early May time period, one shared with France and one with Turkey. The United States sent Russia a notification offering a proposal that it believed would minimize the impact of the missions during the Russian holidays. Under the U.S. proposal, after the U.S. crews arrived at the point-of-entry, aircraft arrival and point-of-entry procedures would be completed and then the crews would stand down for 24 hours. The mission would recommence the morning following the holiday. The intent was to allow Russia to assign the minimum number of escorts and maximize time off for the rest of the escort team. Russia responded that implementation of the proposed U.S. approach was not possible as Russian military airfields would be closed. Russia also explained that it did not consider any sort of mission support possible during the holidays. Subsequently, the United States coordinated with France and Turkey, with whom it shared the sequential missions affected by Russia's holidays, to devise a plan to truncate our shared missions but still complete all active quotas within the number of days allotted by Russia's prescribed period: a four-day period, instead of the standard five-day period. In the case of the joint U.S.–Turkey mission, Turkey, which led the mission, chose to truncate the mission in half. The U.S.-French mission, although under a compressed timeline and operating over the weekend, completed the full mission in four days.

Compliance Analysis.

As noted above, while States Parties generally try to avoid conducting observation flights on national holidays, the Treaty does not allow for restriction of observations flights for national holidays. To our knowledge, Russia is the only State Party to have refused access to Open Skies airfields because of a holiday.

In practice, no States Parties conduct Open Skies flight operations between mid-December and the end of January due to winter holidays and prevailing inclement weather. Additionally, the Russian statement that other weeks are available is unrealistic: Russia, subject to as many as 42 flights under the Treaty annually, usually receives a flight every week between the beginning of March and the end of November. This leaves few opportunities to reschedule flights that are cancelled due to holidays. Of note, Russia's original holiday notification in December 2011 made no mention of an extended holiday period in April and May 2012. Furthermore, it should have been apparent to Russia that this late adjustment to its holiday plan would have negative impacts on the coordinated overflight schedule. In mid-February 2012, the United States provided the Quarterly Sequence of Flights message, which notifies Russia of the upcoming missions it is obligated to host, listing 13 overflights of Russia for the 13 weeks of the second quarter of 2012. Despite considerable effort to extend the customary courtesy with regard to Russia's holiday schedule, the extended holiday period and late notification in this case had a significant negative impact on the ability of the United States to exercise its Treaty rights.

Compliance Discussions

The United States addressed this issue bilaterally with Russia, primarily via the two Open Skies notifications (a copy of which was sent to all other States Parties), in which the United States proposed to arrive and stand down for 24 hours. In addition, the United States raised its objections to the Russian holiday airfield closures during the informal OSCC meeting on April 24, 2012.

FINDING – FIRST GENERATION DUPLICATE NEGATIVE FILM

Russia is unable to provide a first generation duplicate negative of processed photographic film from Open Skies flights, as required by Sections II and IV of Article IX of the Treaty on Open Skies.

BACKGROUND

Consistent with the rights established in Sections II and IV of Article IX of the Treaty, the United States has requested that Russia provide duplicate negative film of imagery collected during Russian observation flights over the United States. Russia continues to provide only duplicate positive film because its media processing facility is not capable of producing a first generation duplicate negative.

Compliance Analysis.

Section II of Article IX of the Treaty provides that when only one original film negative is developed, the observed Party has the right to select and receive a complete first generation duplicate or part thereof, either positive or negative, of the original film negative. Additionally, Section IV of Article IX of the Treaty provides that each State Party shall have the right to request and receive from the observing Party, copies of data collected by sensors during an observation flight, including duplicate negative film.

Consistent with the rights established in Sections II and IV of Article IX of the Treaty, the United States has requested that Russia provide duplicate negative film of imagery collected during Russian observation flights over the United States. However, in each case, Russia was able to provide only duplicate positive film because its media processing facility was not capable of producing a duplicate negative. Consequently, the United States was not able to exercise its rights under Sections II and IV of Article IX. The result of the observation flight analysis is not optimal since analysis of a duplicate negative copy usually provides better results than a duplicate positive copy.

Compliance Discussions

The United States first raised its concerns regarding Russia's film duplication capability and Russia's inability to produce first generation duplicate negatives in August 2007, at which time Russia acknowledged that its film processing system needed to be improved and stated that it was undertaking modernization efforts.

There were no discussions of this issue with Russia in 2012, and no changes in Russian capabilities in 2012. However, since Russia does plan to transition to digital sensors for observation flights at some point in the future, Russia may have

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decided to forego acquiring the equipment needed to make first-generation duplicate negatives.

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PART IV: OTHER NATIONS' (INCLUDING SUCCESSOR STATES') COMPLIANCE WITH THEIR INTERNATIONAL COMMITMENTS

MISSILE NONPROLIFERATION COMMITMENTS

The Missile Technology Control Regime (MTCR) and the Hague Code of Conduct Against Ballistic Missile Proliferation (HCOC; originally known as the International Code of Conduct Against Ballistic Missile Proliferation (ICOC)) are the key multilateral mechanisms addressing the proliferation of missiles and missile-related technology. In addition, the United States holds frequent bilateral discussions on nonproliferation issues, often with states that are not members of multilateral regimes. The United States has sought and received separate, bilateral political nonproliferation commitments from nations to limit their missile-related activities that are addressed below.

Missile Technology Control Regime. The MTCR is a voluntary arrangement among Partner countries sharing a common interest in controlling missile proliferation. The MTCR is not a treaty and it does not impose legally binding obligations on participating countries. Rather, it is an informal political understanding among states that seek to limit the proliferation of missiles and missile technology. The MTCR Partners control exports of a common list of controlled items (the MTCR Equipment, Software, and Technology Annex, also referred to as the MTCR Annex) according to a common export control policy (the MTCR Guidelines). The Guidelines and Annex are implemented according to each country's national legislation and regulations. Membership in the MTCR has grown steadily since the Regime's creation in 1987, and 34 countries are now members.

Hague Code of Conduct Against Ballistic Missile Proliferation. On November 25, 2002, the HCOC was launched in The Hague, Netherlands. As of December 31, 2012, a total of 134 countries had subscribed to the HCOC. The HCOC intends to create a widely subscribed international predisposition against ballistic missile proliferation. The Code consists of a set of broad principles, general commitments, and modest confidence-building measures. It is a voluntary political commitment, not a treaty, and is open to all countries. The Code is intended to supplement, not supplant, the MTCR.

CHINA

FINDING

In 2012, Chinese companies continued to supply missile programs in countries of concern. The United States notes that China made a public commitment in November 2000 not to assist “*in any way, any country in the development of ballistic missiles that can be used to deliver nuclear weapons (i.e., missiles capable of delivering a payload of at least 500 kilograms to a distance of at least 300 kilometers).*”

MORATORIA ON NUCLEAR TESTING

By September 1996, each of the nuclear weapons States (NWS) under the Nuclear Nonproliferation Treaty (NPT) -- China, France, the Russian Federation, the United Kingdom, and the United States -- had declared a nuclear testing moratorium and had signed the Comprehensive Nuclear-Test-Ban Treaty (CTBT), which has not yet entered into force. The scope of each moratorium has not been publicly defined. While it is difficult to assess the compliance of a given state with its own moratorium, when the scope or meaning of a moratorium is unclear, U.S. assessments are based on the U.S. position of what constitutes a nuclear explosive testing moratorium.