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



**April 2016**  
**Prepared by the U.S. Department of State**

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

**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 2015 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 2015 of other nations to 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, 2015, through December 31, 2015, unless otherwise noted.<sup>1</sup>

The Compliance Report includes reporting and analysis at the levels of classification for which reliable information is available. For example, a compliance concern / question may be included in the higher classification annex and/or collateral secret version of the report, but not in the unclassified report.

**ADHERENCE TO AGREEMENTS**

Arms control, disarmament, and nonproliferation agreements and related commitments continue to be important tools to enhance and advance the security of the United States, our allies, and partners. Their provisions serve to provide

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<sup>1</sup> In this Report, previous editions of the Report are cited by their year of release unless otherwise noted. For example, the previous edition of the Report was released in 2015 and primarily reflected activities from January 1, 2014 through December 31, 2014. But, there have been some exceptions to that general practice. For example, the edition released in 2011 primarily reflected activities from January 1, 2009 through December 31, 2010, and the edition released in 2010 primarily reflected activities from January 2004 through December 2008.

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insight and transparency into the actions of the participating states, limit or reduce threats to U.S. and allied security, and also, more broadly, contribute to greater transparency and stability on a global and regional scale.

Effective arms control requires countries to comply fully with arms control obligations and commitments they have undertaken. In evaluating any country's compliance with its arms control, disarmament, and nonproliferation obligations and commitments, the United States considers a variety of factors. These include the nature and precise language of the obligations undertaken in the context of international law, information regarding the country's activities (including that acquired by National Technical Means of Verification, cooperative verification measures, open source information, and diplomatic means), and any information provided by the country. Many concerns relating to compliance involve matters of interpretation; many also involve highly classified information derived from sensitive sources and methods. For these reasons, it may take significant time to assess whether the actions or activities that gave rise to our concerns constitute violations or simply differences in implementation approaches. When questions arise regarding the actions of our treaty partners, we seek, whenever possible, to address our concerns through diplomatic engagement. However, in the event that we determine any actions or activities in question constitute treaty violations, we also have a range of options and means to convince violators it is in their interest to return to compliance and to prevent violators from benefitting from their violations.

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 states are adhering to their obligations and commitments and have indicated their intention to continue doing so. This report indicates there are compliance concerns and in some instances, determinations of treaty violations, involving a relatively small number of states. The United States continues to pursue resolution of those issues.

### **U.S. Organizations and Programs to Evaluate and Ensure Treaty Compliance**

Because of our deep-seated legal traditions, our commitment to the rule of law, and our belief in the importance of arms control agreements to enhance our security and that of our allies and friends, the United States complies with our obligations. As a reflection of the seriousness with which we view these obligations, the United States has established legal and institutional procedures to ensure U.S. compliance. Individual agencies within the Executive Branch have

established policies and procedures to ensure that plans and programs under those agencies' purview remain consistent with U.S. international obligations. 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. Additionally, the U.S. Department of State, in its role as the lead U.S. agency on arms control matters, provides policy advice and expertise related to compliance to individual agencies and the interagency community. Further, an interagency review is conducted in appropriate cases, including when other treaty parties formally raise concerns 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, nonproliferation, and disarmament agreements and commitments (Part I), compliance by Russia and other successor states of the Soviet Union with treaties and agreements that the United States bilaterally concluded with the Soviet Union or one of its successor states (Part II), compliance by states parties (including successor states parties) with legally binding multilateral agreements concluded with the United States (Part III), adherence by states (including successor states) to politically binding bilateral and multilateral commitments in which the United States participates (Part IV), and states' adherence to certain unilateral commitments (Part V).

**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 DoD, the Department of Energy (DOE), the Department of Homeland Security (DHS), the Department of Commerce, and the Nuclear Regulatory Commission, that operate to ensure that plans and programs under those agencies' purview remain consistent with U.S. international obligations. Additionally, the Department of State, in its role as the lead U.S. agency on arms control matters, provides policy advice and expertise related to compliance to individual agencies and the interagency community. These processes and controls operate in parallel, and in addition to the Congressional oversight process.

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 CSBMs. DoD components ensure 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 and commitments. For example, DHS similarly established a compliance review process, which assesses DHS-sponsored research for compliance with all relevant arms controls agreements. Interagency reviews also are conducted in appropriate cases, such as when other states formally raise concerns regarding U.S. implementation of its arms control, nonproliferation, and disarmament obligations and commitments.

**U.S. COMPLIANCE**

In 2015, the United States continued to be in compliance with all of its obligations under arms control, nonproliferation, and disarmament agreements, and continues to make every effort to comply scrupulously with them. When other countries have formally raised a compliance concerns 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 toward enhancing transparency of biological defense work using the BWC confidence-building measures. In December 2015 at the annual Meeting of States Parties to the BWC, the delegation of the Russian Federation asserted that the United States had knowingly transferred live anthrax spores to a foreign country for use in open-air testing, and that this constituted a “grave violation” of Articles III and IV of the BWC. The transfers in question involved incompletely inactivated *Bacillus anthracis* samples intended for legitimate biodefense and preparedness purposes, and were fully consistent with the BWC. The samples’ incomplete inactivation (thoroughly disclosed by the U.S. Government and extensively documented in the press) was an unintentional biosafety lapse, but not a violation of U.S. obligations. The United States has encouraged Russia to engage in bilateral discussion to clarify any questions.

### **Chemical Weapons Convention (CWC)**

The CWC entered into force on April 29, 1997. The United States continues to work toward meeting its CWC obligations with respect to the destruction of chemical weapons (CW) and associated CW facilities. The United States has completed destruction of its Category 2 and 3 chemical weapons and has completed destruction of nearly 90 percent of its Category 1 chemical weapons stockpile. The United States remains fully committed to complete destruction of its entire stockpile as soon as practicable, consistent with the Convention’s imperatives of public safety, environmental protection, and international transparency and oversight.

The United States continues to update the Organization for the Prohibition of Chemical Weapons (OPCW) on U.S. destruction efforts, consistent with the 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.

**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 set forth in the Vienna Document 2011.

The United States continues to maintain cessation of implementation of certain CFE Treaty obligations (notifications, data exchange, and inspections) vis-à-vis the Russian Federation as a countermeasure in response to Russia's continued violation of its obligations to the United States under the CFE Treaty. This measure was closely coordinated with NATO Allies, who 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).

**PART II: COMPLIANCE BY RUSSIA OR OTHER SUCCESSOR STATES  
OF THE SOVIET UNION WITH TREATIES AND AGREEMENTS  
THE UNITED STATES 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.

**FINDING**

The United States has determined that in 2015, the Russian Federation (Russia) continued to be in violation of its obligations under the INF Treaty not to possess, produce, or flight-test a ground-launched cruise missile (GLCM) with a range capability of 500 km to 5,500 km, or to possess or produce launchers of such missiles.

**CONDUCT GIVING RISE TO COMPLIANCE CONCERNS**

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

The INF 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 on-site inspection regime concluded on May 31, 2001, 13 years following the Treaty's entry into force, per Article XI. The remainder of the verification regime continues for the duration of the Treaty.

In 2014 and 2015, the United States published in the unclassified version of the Report its determination that Russia was in violation of its obligations under

the INF Treaty not to possess, produce, or flight-test a ground-launched cruise missile (GLCM) with a range capability of 500 km to 5,500 km, or to possess or produce launchers of such missiles.

## **ANALYSIS OF COMPLIANCE CONCERNS**

The INF Treaty defines an intermediate-range missile as a ground-launched ballistic missile (GLBM) or GLCM having a range capability in excess of 1,000 km but not in excess of 5,500 km. The Treaty defines a shorter-range missile as a GLBM or GLCM having a range capability equal to or in excess of 500 km but not in excess of 1,000 km. A GLCM is defined as a ground-launched cruise missile that is a weapon delivery vehicle.

Article I provides that the Parties shall not have intermediate-range and shorter-range missiles.

Paragraph 1 of Article IV provides that the Parties shall not possess intermediate-range missiles and launchers of such missiles, or support structures and equipment of the categories listed in the Memorandum of Understanding associated with such missiles and launchers.

Paragraph 1 of Article VI provides that no Party shall produce or flight-test any intermediate-range missiles or produce any stages or launchers of such missiles, or produce, flight-test, or launch any shorter-range missiles or produce any stages or launchers of such missiles.

Paragraph 1 of Article VII provides that if a cruise missile has been flight-tested or deployed for weapon delivery, all missiles of that type shall be considered to be weapon-delivery vehicles.

Paragraph 2 of Article VII provides that if a GLCM is an intermediate-range missile, all GLCMs of that type shall be considered to be intermediate-range missiles.

Paragraph 4 of Article VII provides that the range capability of a GLCM not listed in Article III of this Treaty shall be considered to be the maximum distance that can be covered by the missile in its standard design mode flying until fuel exhaustion, determined by projecting its flight path onto the earth's sphere from the point of launch to the point of impact.

Paragraph 7 of Article VII provides that if a launcher has been tested for launching a GLCM, all launchers of that type shall be considered to have been tested for launching GLCMs.

Paragraph 8 of Article VII provides that if a launcher has contained or launched a particular type of GLCM, all launchers of that type shall be considered to be launchers of that type of GLCM.

Paragraph 11 of Article VII provides that a cruise missile that is not a missile to be used in a ground-based mode shall not be considered to be a GLCM if it is test-launched at a test site from a fixed land-based launcher that is used solely for test purposes and that is distinguishable from GLCM launchers.

The United States determined that the cruise missile developed by Russia meets the INF Treaty definition of a ground-launched cruise missile with a range capability of 500 km to 5,500 km, and as such, all missiles of that type, and all launchers of the type used or tested to launch such a missile, are prohibited under the provisions of the INF Treaty.

## **EFFORTS TO RESOLVE COMPLIANCE CONCERNS**

As was the case in previous years, in 2015, the United States again raised concerns with Russia on repeated occasions in an effort to resolve U.S. concerns. The United States will continue to pursue resolution of U.S. concerns with Russia.

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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, dated January 2016, 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: COMPLIANCE BY STATES PARTIES  
(INCLUDING SUCCESSOR STATES PARTIES) WITH  
LEGALLY BINDING MULTILATERAL AGREEMENTS  
CONCLUDED WITH THE UNITED STATES**

**BIOLOGICAL AND TOXIN WEAPONS CONVENTION (BWC)**

The BWC opened for signature in 1972 and entered into force in 1975. As of the end of 2015, there were 173 States Parties to the BWC and nine countries had signed but not yet ratified the treaty. 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 streamlined in 2011. The arrangement establishing the CBMs is not legally binding and not all States Parties submit these voluntary reports.

This chapter addresses BWC-related compliance concerns regarding Russia, which is a State Party to the BWC. In previous years, this chapter addressed activities of China, Egypt, Iran, North Korea, Pakistan, and Syria. Egypt and Syria have signed but not ratified the BWC. BWC States Parties are legally bound by the provisions of the Convention. States that have signed but not ratified the BWC are not bound by its provisions, but do have an obligation under international law to refrain from acts that would defeat the object and purpose of the treaty. Moreover, there have been no new developments of sufficient concern associated with Egypt's activities that warrant including it in this year's Report. Syria's activities involving toxins, which would be in contravention of the BWC Article I obligations if Syria were a State Party to the Convention, are addressed in the CWC (10)(c) Compliance Report. Regarding the activities of the other countries that were previously included in the BWC section, there was insufficient information to support their inclusion in this year's unclassified Report.

**COUNTRY ASSESSMENTS**

**THE RUSSIAN FEDERATION (RUSSIA)**

**FINDING**

Russia previously acknowledged both that it is a BWC successor state and that it inherited past Soviet offensive programs of biological research and development. Russia's annual BWC CBM submissions 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. It remains unclear whether Russia has fulfilled its BWC Article II obligations in regard to the items specified in Article I of the Convention that it inherited.

## **CONDUCT GIVING RISE TO COMPLIANCE CONCERNS**

The Soviet Union became a State Party to the BWC in 1975. Russia's BWC compliance was first addressed in the 1993 Report, though 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 to its destruction.

Although Russia had inherited the past offensive program of biological research and development from the Soviet Union, Russia's annual BWC CBM submissions 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 government entities remained engaged during the reporting period in dual-use activities.

## **ANALYSIS OF COMPLIANCE CONCERNS**

Article I of the BWC requires States Parties "never in any circumstance to develop, produce, stockpile, or otherwise acquire or retain" biological weapons. Article II requires States Parties to "destroy or divert to peaceful purposes" the BW specified in Article I of the Convention. It remains unclear if Russia fulfilled its obligations under Article II to "destroy or divert to peaceful purposes" the BW specified in Article I of the Convention that it inherited from the Soviet Union.



**EFFORTS TO RESOLVE COMPLIANCE CONCERNS**

While there were no specific expert level consultations with Russia during the reporting period on matters relevant to its compliance with the BWC, the United States routinely informs Russia of its compliance findings and discusses, more broadly, BWC implementation issues. Additionally, the United States routinely expresses its willingness to engage Russia on such matters.

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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, dated February 2016, 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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**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 Compliance, dated March 2016, 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 chapter of the Report covers developments relevant to other nations' compliance with the 1968 Nuclear Non-Proliferation Treaty (NPT), including their compliance with their related obligation to conclude and implement a Comprehensive Safeguards Agreement (CSA) with the International Atomic Energy Agency (IAEA).<sup>2</sup> The chapter also addresses, where relevant, the status of countries' efforts to conclude and implement a modified Small Quantities Protocol (SQP) to their CSA and their efforts to conclude and implement an Additional Protocol to the Safeguards Agreement (AP).<sup>3</sup> The chapter focuses on developments in Burma, Iran, North Korea, and Syria.

As of the end of 2015, there were eleven non-nuclear-weapon States Party (NNWS) to the NPT that had not yet brought into force a CSA with the IAEA.<sup>4</sup> The NPT does not require adherence to an AP, 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 Party. As of the end of 2015, 147 States had an AP approved by the IAEA Board of Governors (BOG), 146 of those had been signed, and 126 had entered into force. The Protocol Additional to the Agreement between the United States of America and the IAEA for the Application of Safeguards in the United States of America (U.S. Additional Protocol) entered into force for the United States on January 6, 2009.

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<sup>2</sup> Article III of the NPT requires each NPT non-nuclear-weapon State (NNWS) to accept safeguards "for the exclusive purpose of verification of the fulfillment of its obligations assumed under [the] Treaty with a view to preventing diversion of nuclear energy from peaceful uses to nuclear weapons." Concluding and implementing a CSA with the IAEA fulfills this obligation. In the case of States with very limited quantities of nuclear material, the State also may enter into a Small Quantities Protocol (SQP) to the CSA that reduces the safeguards implementation burden for such States.

<sup>3</sup> The Model Protocol Additional to the Agreement(s) between State(s) and the International Atomic Energy Agency for the Application of Safeguards (AP) was developed in 1997 to provide the IAEA with broader access to information and locations, and thereby to increase the IAEA's ability to provide assurance of the absence of undeclared nuclear material and activities in States Party. The NPT does not require States to sign and implement an AP. However, with a supermajority of NPT States Party now implementing APs, in practice the combination of a CSA together with an AP has become the international standard for IAEA verification.

<sup>4</sup> The States without a CSA as of December 31, 2015 are, as follows: Benin, Cape Verde, Equatorial Guinea, Eritrea, Guinea, Guinea Bissau, Liberia, Micronesia, Sao Tome & Principe, Somalia, and Timor-Leste. In 2015, the Palestinians deposited an instrument of accession to the NPT. The United States does not believe the "State of Palestine" qualifies as a sovereign State and does not recognize it as such. Accession to the NPT is limited to sovereign States; therefore, the United States believes that the "State of Palestine" is not qualified to accede to the NPT and does not consider itself to be in a treaty relationship with the "State of Palestine" under the NPT.

**COUNTRY ASSESSMENTS**

**MYANMAR (BURMA)**

**FINDING**

There is no evidence that Myanmar (Burma) violated the NPT; however, the United States continues to be concerned about Burma's willingness to be transparent about its previous nuclear work, given that much of this knowledge remains within the military, which does not report to the civilian government. Confidence regarding Burma's nuclear activities will be improved upon implementation of the AP and modified SQP. Burma's signing of an AP in 2013 and its announcement that it would adhere to the modified SQP contributed significantly to U.S. confidence in the civilian leadership's peaceful intentions regarding its nascent nuclear program. Neither the AP nor the modified SQP have yet entered into force and efforts to bring into force and implement them will require cooperation between the civilian and military elements of the Burmese Government to succeed.

**CONDUCT GIVING RISE TO COMPLIANCE CONCERNS**

Burma became a State Party to the NPT in 1992, its CSA with the IAEA entered into force in 1995, and it signed an AP with the IAEA in 2013. Entry into force (EIF) of the AP will occur when Burma notifies the IAEA that its domestic statutory requirements have been met, after which Burma will have 180 days to submit its initial declaration to the IAEA. As a country with little to no nuclear material, Burma concluded an SQP to its Safeguards Agreement in 1995, which holds in abeyance key provisions in the Safeguards Agreement as long as Burma does not possess quantities of nuclear material that exceed a defined threshold or "in a facility as defined in" its Safeguards Agreement. In 2005, the IAEA approved an update of the Model SQP. Burma has not yet modified its SQP to conform to the update, but in 2012 President Thein Sein announced Burma's intention to do so.

As early as 2002, Burma had publicly announced its intention to acquire a nuclear research reactor for peaceful purposes, and in 2007 it signed an agreement with Russia for assistance building a nuclear research center, including a light-water research reactor. Burma reported in 2010 that it had suspended its reactor plan with Russia "due to inadequacy of resources and the government's concern for misunderstanding it may cause." Russia and Burma did sign a Memorandum

of Understanding (MOU) for cooperation in peaceful use of nuclear energy on June 18, 2015. The Burmese government describes the MOU as addressing cooperation on research and development of nuclear energy for peaceful purposes, as well as nuclear safety, assessments of the environmental impact of nuclear energy, and nuclear medical technology.

## **ANALYSIS OF COMPLIANCE CONCERNS**

Under NPT Article II, each non-nuclear-weapon State (NNWS) Party undertakes, among other things “not to manufacture or otherwise acquire nuclear weapons or other nuclear explosive devices.” In NPT Article III, each NNWS Party “undertakes to accept safeguards ...for the exclusive purpose of verification of the fulfillment of its obligations assumed under this Treaty with a view to preventing diversion of nuclear energy from peaceful uses to nuclear weapons....” This obligation requires conclusion and implementation of a CSA with the IAEA.

When Burma’s AP enters into force, it will be obligated to, among other things, provide the IAEA with a declaration that includes extensive information on its nuclear facilities and nuclear-related activities. It will also provide the IAEA with expanded inspection access, including to additional parts of Burma’s nuclear fuel cycle, and the ability to collect samples and information to verify compliance. When Burma modifies its SQP to conform to the 2005 update, it will, among other things, require it to declare all nuclear material subject to safeguards under its Safeguards Agreement. Additionally, Burma will be required to provide early design information for any planned nuclear facilities and corresponding inspection access, which are currently held in abeyance under the existing SQP.

The United States retains confidence in Burma’s civilian leadership’s intentions to pursue a purely peaceful civilian nuclear program. However, the United States continues to be concerned about Burma’s willingness to be transparent about its previous nuclear work given that much of this knowledge remains within the military, which does not report to the civilian government. Burma’s declarations of nuclear-related activities and locations under an AP, its initial declaration of nuclear material under a modified SQP, and its responsiveness to IAEA questions, following EIF of an AP and signature and EIF of a modified SQP, along with its implementation of an AP and modified SQP will be key to assessing activities that have raised concerns regarding its military’s nuclear intentions and activities.

## **EFFORTS TO RESOLVE COMPLIANCE CONCERNS**

The United States held a series of workshops for Burmese stakeholders, including a fourth workshop in May 2015 that included a complementary access exercise to increase awareness of the AP and SQP, and to help prepare for their future implementation.

In discussions with Burma, the United States continued to emphasize the importance of ensuring the cooperation of all relevant agencies, particularly the military, to provide complete reporting to the IAEA, address all IAEA outstanding questions and concerns regarding Burma's nuclear activities, and fully implement an AP and SQP.

## **ISLAMIC REPUBLIC OF IRAN (IRAN)**

### **FINDING**

As of the end of the 2015 reporting period, previous issues leading to NPT noncompliance findings had been resolved. As of the end of the 2015 reporting period, there also were no outstanding issues regarding Iran's fulfillment of its commitments under the Joint Plan of Action (JPOA),<sup>5</sup> and Iran was well positioned to complete the key nuclear steps necessary for implementation of the Joint Comprehensive Plan of Action (JCPOA). The JCPOA provides a path for addressing the international community's concerns regarding the nature of Iran's nuclear program and ensuring that it is and remains exclusively peaceful in nature. The JCPOA was concluded on July 14, 2015, and came into effect on October 18, 2015, known as "Adoption Day." For the reporting period, Iran fulfilled the commitments specified to be completed by Adoption Day on schedule and began implementing other nuclear-related commitments.<sup>6</sup> As of the end of the reporting period, Iran was in the process of fulfilling the remaining nuclear-related commitments required to reach "Implementation Day," at which point JCPOA-related sanctions relief would become effective and the provisions of UN Security

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<sup>5</sup> For further discussion of Iran's fulfillment of its commitments under the JPOA, see the monthly Reports to Congress on Implementation of the Joint Plan of Action between the P5+1 and Iran concluded November 24, 2013, in accordance with Section 7041(b)(2)(B) of division J of the Consolidated and Further Continuing Appropriations Act, 2015 (P.L. 113-235), as carried forward by the Continuing Appropriations Act, 2016 (P.L. 114-53).

<sup>6</sup> For further discussion of Iran's fulfillment of its commitments under the JCPOA, see the Semi-Annual Report, dated January 2016, in accordance with Section 135(d)(4) of the Atomic Energy Act of 1954, as amended, including as amended by the Iran Nuclear Agreement Review Act of 2015.

Council Resolutions (UNSCR) 1696, 1737, 1747, 1803, 1929, and 2224 would be terminated in accordance with UNSCR 2231.<sup>7</sup>

In regard to previous noncompliance with its IAEA safeguards obligations and international concerns regarding possible military dimensions of Iran's nuclear program, the IAEA Director General (DG) reported that Iran had successfully completed the "Roadmap" agreed between Iran and the IAEA for addressing those outstanding issues, including regarding the "possible military dimensions" (PMD) of Iran's nuclear program. Based on the DG's report, the IAEA Board of Governors (BOG) on December 15, 2015, adopted a resolution terminating, effective as of "Implementation Day" under the JCPOA, all previous BOG resolutions, including those containing a noncompliance finding, and decided to remain seized of a new agenda item covering JCPOA implementation and verification and monitoring in Iran in light of UNSCR 2231 (2015). The IAEA maintains its full authorities to pursue all safeguards-relevant or JCPOA-related information in Iran, including any potential new concerns regarding weapons-related activities, through implementation of Iran's CSA, AP, and the enhanced verification and transparency measures contained in the JCPOA.

## **CONDUCT GIVING RISE TO COMPLIANCE CONCERNS**

Iran became a State Party to the NPT in 1970, and its CSA entered into force in 1974. Iran signed but did not ratify an AP to its safeguards agreement in 2003 and voluntarily implemented AP measures from late 2003 to early 2006, when it stopped such implementation.

Iran's violations of its obligations under the NPT and its IAEA Safeguards Agreement had been ongoing since the early 1980s. In 2002, an Iranian opposition group publicly revealed covert nuclear facilities under construction at Natanz and Arak that Iran had failed to declare to the IAEA. Reports from the resulting IAEA investigation led the IAEA BOG to find Iran in noncompliance with its Safeguards Agreement in 2005 and to report the case to the UN Security Council (UNSC) in 2006. In 2009, Iran announced another previously undisclosed uranium enrichment facility under construction near the city of Qom, Iran. The IAEA reported extensively in dozens of reports since 2003 on Iran's violations of its Safeguards Agreement. From 2006 to 2011, the Security Council adopted multiple

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<sup>7</sup> Following the conclusion of the reporting period, the IAEA verified on January 16, 2016 that Iran had fulfilled the specified nuclear commitments necessary to reach "Implementation Day" under the JCPOA.



resolutions on Iran, four of which imposed binding obligations under Chapter VII of the UN Charter (UNSCRs 1737, 1747, 1803, and 1929).

From 2006 through 2013, in contravention of UNSC and IAEA BOG resolutions, Iran continued research and development work on advanced centrifuges; enriched uranium up to nearly twenty percent at both the Natanz Pilot Fuel Enrichment Plant and the Fordow Fuel Enrichment Plant; continued to construct the IR-40 heavy water-moderated research reactor at Arak; and operated its heavy water production plant at Arak. During this timeframe, Iran did not fully cooperate with the IAEA in regard to its declared facilities; in particular, as noted in previous Compliance Reports, Iran did not provide design information or report design changes well in advance of any action taken to modify existing facilities or construct new ones, as required by modified Code 3.1 of the Subsidiary Arrangements to Iran's Safeguards Agreement.

From 2008 through 2014, the IAEA DG's reports to the IAEA BOG on Iran stated that concerns remained about the possible existence in Iran of undisclosed nuclear-related activities, both past and current, involving military-related organizations. The Annex to the November 2011 DG's report detailed the basis for concerns regarding the PMD of Iran's nuclear program. It stated that Iran had a structured military program through 2003, including activities related to the development of a nuclear payload for a missile, and that some nuclear weapons related activities may have continued post-2003.

On November 24, 2013, the P5+1 (United States, United Kingdom, France, Russia, China, and Germany) and Iran entered into the JPOA, designed to keep Iran's nuclear program from advancing while negotiations on a long-term comprehensive solution continued. The JPOA went into effect on January 20, 2014; on July 19, 2014, the P5+1 and Iran extended the JPOA as talks continued. On November 24, 2014, the P5+1 and Iran extended the JPOA again until June 30, 2015, and subsequently extended the JPOA through the conclusion of negotiations on a long-term, comprehensive solution. On July 14, 2015, the JPOA was extended again until "Implementation Day" under the JCPOA. Under the JPOA, Iran took a series of initial steps to stop and roll back key elements of its nuclear program.

On July 14, 2015, the P5+1, the European Union and Iran concluded the JCPOA to address the international community's concerns regarding the nature of Iran's nuclear program. By its terms, the JCPOA came into effect on October 18, 2015, known as "Adoption Day." As of the end of the reporting period, Iran had

fulfilled its commitments required by Adoption Day and was in the process of completing the nuclear-related steps necessary to reach Implementation Day, at which point JCPOA-related sanctions relief would become effective. The nuclear steps necessary to reach Implementation Day are specified in paragraphs 15.1 to 15.11 of Annex V of the JCPOA.

Consistent with JCPOA commitments, Iran informed the IAEA on October 18 that, effective on Implementation Day, Iran will provisionally apply the AP to its CSA, and fully implement the modified Code 3.1 of the subsidiary arrangements to its Safeguards Agreement.

On July 14, 2015, the IAEA and Iran concluded a Roadmap establishing a time-limited process to address the IAEA's concerns regarding PMD. Under the JCPOA, Iran committed to complete by October 15 all activities set out in paragraphs two, four, five, and six of the Roadmap, as verified by the IAEA. On October 15, 2015, the IAEA reported that Iranian cooperation as set out in the Roadmap was completed on schedule, including the provision of information and access to facilities and individuals. On December 2, 2015, IAEA DG Amano released the IAEA's "Final Assessment on Past and Present Outstanding Issues regarding Iran's Nuclear Program" (the final PMD report). The final PMD report found that Iran pursued a coordinated program of nuclear weapons-related activities, that this coordinated program was discontinued in 2003, and that certain other activities relevant to nuclear weapons development, including work on computer modeling and explosive detonators, remained ongoing in Iran until 2009. However, the final PMD report also concluded that activities post-2003 were not part of a coordinated effort, and that none of Iran's nuclear weapons-related work went beyond feasibility studies and scientific research. The final PMD report also found no indication that nuclear weapons-related work was continuing in Iran during the reporting period.

The U.S. Intelligence Community assessed with high confidence in November 2007 (and made public in the December 2007 National Intelligence Estimate) that Iran halted its nuclear weapons program in 2003, and that as of the time of that assessment, Iran had conducted research and development projects with commercial and conventional military applications – some of which would also be of limited use to nuclear weapons.

On December 7, 2015, the P5+1 submitted a resolution to the IAEA BOG with a view to closing consideration of the PMD of Iran's past nuclear program. The resolution was subsequently adopted by the BOG by consensus on

December 15, 2015. In the resolution, the BOG closed its consideration of the PMD agenda item and decided to remain seized of a new agenda item covering JCPOA implementation and verification and monitoring in Iran. The resolution also terminated previous BOG resolutions, effective as of “Implementation Day” under the JCPOA, including those that found Iran in noncompliance with its safeguards obligations. Closing the PMD agenda item does not preclude the IAEA from investigating if there is reason to believe Iran is pursuing any covert nuclear activities, including nuclear weapons work.

## **ANALYSIS OF COMPLIANCE CONCERNS**

The December 15 BOG resolution was supported by the United States and adopted by the BOG by consensus. During the reporting period, the IAEA confirmed that Iran completed the JCPOA commitments specified for on Adoption Day (Oct. 18, 2015), it has no credible indications of activities in Iran relevant to nuclear weapons development, and no Safeguards violations occurred at declared facilities during the reporting period.

Implementing the JCPOA will close off various pathways Iran could take to produce fissile material for a nuclear weapon: an overt uranium pathway, through its safeguarded enrichment activities; an overt plutonium pathway, through its safeguarded heavy water reactor; and a covert pathway. The JCPOA’s tight constraints and strict curbs on Iran’s program, as well as enhanced monitoring and transparency measures, should ensure that any attempt to break out would be detected quickly enough for the international community to effectively respond.

## **EFFORTS TO RESOLVE COMPLIANCE CONCERNS**

In 2015, major efforts by the United States, along with its P5 + 1 partners, the EU, and the IAEA produced the JCPOA, which will bring clear benefits to regional and international security if fully implemented. The United States will continue its work with our partners in the JCPOA and with Iran in 2016 to ensure that the significant nuclear-related steps Iran took to reach JCPOA “Implementation Day” are fully implemented (the last remaining steps were completed after the reporting period). Iran’s continued compliance with the JCPOA will allow the United States and the international community to gradually gain confidence in the exclusively peaceful nature of Iran’s nuclear program.

**DEMOCRATIC PEOPLE’S REPUBLIC OF KOREA (NORTH KOREA)**

**FINDING**

The United States assesses that the nuclear activities of the Democratic People’s Republic of Korea (North Korea) contravene North Korea’s commitments under the 2005 Joint Statement of Six-Party Talks and stand in clear violation of UNSCRs 1718, 1874, 2087, and 2094. North Korea was in violation of its obligations under Articles II and III of the NPT and in noncompliance with its IAEA Safeguards Agreement at the time it announced its withdrawal from the NPT in 2003. North Korea’s continuing nuclear activities and statements attest that it currently has no intention to adhere to its 2005 Joint Statement commitments and comply with its UNSCR obligations.

**CONDUCT GIVING RISE TO COMPLIANCE CONCERNS**

North Korea acceded to the NPT in 1985 and its IAEA Safeguards Agreement entered into force in 1992.

Previous editions of this Report have described violations by North Korea of its obligations under Articles II and III of the NPT and its Safeguards Agreement before it announced its withdrawal from the NPT in 2003. This Report will focus primarily on calendar year 2015 (the reporting period), with updates on activities and the status of the key North Korean nuclear facilities.

*Production Facilities*

On April 2, 2013, North Korea announced that it intended to restart and “adjust and alter the uses of existing nuclear facilities” including “readjusting all the nuclear facilities in Nyongbyon (Yongbyon).” We assess that North Korea has followed through on its announcement by expanding the uranium enrichment facility and restarting the graphite moderated reactor that was shut down in 2007. North Korea publically acknowledged having restarted the reactor in September 2015.

Yongbyon also has a light water reactor (LWR) under construction, which North Korea revealed publicly in 2010. If successfully completed and operated, the LWR could provide North Korea with a relatively small source of electricity. It also provides North Korea with a justification to possess uranium enrichment

technology that could potentially be used to produce fissile material for nuclear weapons.

The United States believes there is a clear likelihood of additional unidentified nuclear facilities in North Korea.

## **ANALYSIS OF COMPLIANCE CONCERNS**

Under the 2005 Joint Statement of the Six Party Talks, North Korea committed to abandoning all nuclear weapons and existing nuclear weapons programs, and to return at an early date to the NPT and IAEA safeguards. Multiple UNSCRs require North Korea to abandon all nuclear weapons and existing nuclear programs in a complete, verifiable, and irreversible manner, and immediately cease all related activities. The UNSCRs also demand that North Korea return to the NPT and IAEA safeguards; require that it act strictly in accordance with the obligations applicable to States Party to the NPT and the terms and conditions of its IAEA safeguards agreement; and require that North Korea implement such transparency measures as may be required and deemed necessary by the IAEA. During the reporting period, North Korea did not take any steps toward fulfilling its denuclearization commitments and obligations. North Korea's continuing nuclear activities stand in clear violation of multiple UNSCRs. North Korea was in violation of its obligations under Articles II and III of the NPT and in noncompliance with its Safeguards Agreement before it announced withdrawal from the NPT in 2003.

## **EFFORTS TO RESOLVE COMPLIANCE CONCERNS**

The United States and North Korea last engaged in formal bilateral dialogue on North Korea's nuclear program in February 2012. During the reporting period, the United States consistently urged North Korea to demonstrate genuine willingness to fulfill its denuclearization obligations and commitments to create the conditions necessary for meaningful dialogue through resumption of Six-Party Talks. North Korean statements and activities during the reporting period did not signal any intention or commitment to denuclearization.

In January 2015, the North offered to temporarily suspend nuclear testing in exchange for a cessation of major U.S.-South Korea joint military exercises. At the 2015 UN First Committee, the North Korean delegation stated that by turning down their proposal, the United States "closed forever all possibilities for denuclearization of the Korean Peninsula."

During the reporting period, in several multilateral fora, including the UN General Assembly, UNSC discussions, and the IAEA, countries from every region of the world strongly urged North Korea to return to dialogue on denuclearization. Member States urged North Korea to comply with its international commitments and obligations under UNSCRs, its NPT Safeguards Agreement, and the 2005 Joint Statement. IAEA DG Amano stated in March of 2015 that the IAEA remains ready to play a monitoring and verification role at Yongbyon and other North Korean sites despite not having access for almost six years.

## **SYRIAN ARAB REPUBLIC (SYRIA)**

### **FINDING**

Syria remains 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 an Israeli airstrike on September 6, 2007. Syria's clandestine construction of the Al Kibar reactor and its continued denial of IAEA requests for access and information concerning the Al Kibar reactor and three functionally related locations are clear violations of its Safeguards Agreement, including its obligations under modified Code 3.1 of the Subsidiary Arrangements to its Safeguards Agreement.

### **CONDUCT GIVING RISE TO COMPLIANCE CONCERNS**

Syria became a State Party to the NPT in 1968 and its Safeguards Agreement entered into force in 1992. It had not signed the AP as of the end of 2015.

*Al Kibar Site.* The U.S. government has concluded that, until September 2007, Syria covertly was building, with North Korean assistance, an undeclared nuclear reactor at Al Kibar (in the province of Dair Alzour) in Syria's eastern desert. Given its assessed design, the reactor would have been capable of producing weapon-grade 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 previously existed at the site. By

December 2007, Syria had constructed a large building over the location where the reactor once stood.

During the reporting period, the IAEA continued to seek information to address outstanding issues related to the site, including the nature of the destroyed facility and the origin of 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.)

## **ANALYSIS OF COMPLIANCE CONCERNS**

Article 41 of Syria's Safeguards Agreement with the IAEA specifies that "...the provision of design information in respect of the new facilities...shall be provided as early as possible before nuclear material is introduced into a new facility." Article 42 states, among other requirements, that "design information to be provided to the Agency shall include, when applicable: (a) the identification of the facility, stating its general character, purpose, nominal capacity and geographic location, and the name and address to be used for routine business purposes..." The NPT states in Article III.1 that "the safeguards required by this article shall be applied on all source or special fissionable material in all peaceful nuclear activities within the territory of such State, under its jurisdiction, or carried out under its control anywhere."

On May 24, 2011, the DG released a report assessing that the building destroyed at Al Kibar was very likely a nuclear reactor that should have been declared by Syria pursuant to Articles 41 and 42 of its Safeguards Agreement and modified Code 3.1 of the Subsidiary Arrangements to its Safeguards Agreement. The United States agreed with this finding. In addition, as noted in the above analysis, we consider Syria to be in violation of its obligations under the NPT.

## **EFFORTS TO RESOLVE COMPLIANCE CONCERNS**

On June 9, 2011, the IAEA BOG adopted a resolution finding Syria in noncompliance with its Safeguards Agreement and calling upon Syria to sign and bring into force an AP to its Safeguards Agreement.

The IAEA resolution also referred the matter to the UNSC. The Security Council met once in 2011, following the IAEA's referral, but took no action. The Security Council did not address Syria's nuclear activities in 2012, 2013, 2014, or 2015. For 2015, the IAEA stated that there had been no new developments and

renewed its call for Syria to cooperate fully with the IAEA in connection with unresolved issues related to the Dair Alzour site and the other locations.

In 2015, the United States continued to stress the need for the IAEA Secretariat and Member States to remain seized of the matter. The United States called upon Syria to engage substantively with the IAEA without further delay, and provide access to all relevant locations, materials, and persons that Syria retains reasonable access to. In 2015, the United States did not hold any bilateral discussions with Syria on its nuclear program.



## **TREATY ON OPEN SKIES (OST)**

The OST establishes a regime for the conduct of unarmed observation flights by States Parties over the territories of other States Parties using up to 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). 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, 2015, 34 States Parties have signed and ratified the OST.

In March and April 2015, the Open Skies Consultative Commission (OSCC) adopted five new Treaty decisions that update the provisions related to the Treaty's transition from film to digital optical sensors. These decisions capped a year-long effort by the United States to provide procedures for bringing the next generation of optical Treaty sensors into use while addressing and mitigating the concerns of U.S. departments and agencies and other States Parties.

Belarus and Russia participate in the Treaty as the Belarus/Russian Federation Group of States Parties. The United States first began addressing compliance concerns for the Belarus/Russian Federation Group of States Parties in the 2004 Compliance Report. All OST compliance concerns for 2015 are related to Russia alone.

### **BELARUS/RUSSIAN FEDERATION GROUP OF STATES PARTIES (RUSSIA)**

#### **FINDING #1**

Russia continues not to meet its treaty obligations to allow effective observation of its entire territory, raising serious compliance concerns under Article VI and VIII of the OST and OSCC Decision 3/04. Specifically, Russia has:

- enforced a “maximum flight distance” of 500 kilometers for all flights over Kaliningrad since 2014;
- refused access in a ten-kilometer corridor along its border with the Georgian regions of South Ossetia and Abkhazia since 2010;
- refused access in the Moscow region below 3,600 meters altitude in an area 39 kilometers by 31 kilometers, identified by Russian Air Traffic Control as UUP-53 since 2005, and below 5,100 meters altitude over Chechnya and nearby areas of southwestern Russia since 2002; and

- refused to provide air traffic control facilitation, including by improperly invoking *force majeure*, for certain OST flights since 2011.

## **CONDUCT GIVING RISE TO COMPLIANCE CONCERNS**

In 2014, Russia imposed a 500-kilometer limit for all observation flights over Kaliningrad, including flights that originate from the Kubinka airfield, which otherwise has a maximum flight distance of 5,500 kilometers. In July 2015, a joint Romania-United States mission proposed a flight plan of 772 kilometers over Kaliningrad, which was rejected by Russia. Russia also rejected similar flight plans of greater than 500 kilometers proposed by a Germany-Latvia mission in April 2015, a United Kingdom mission in June 2015, a Poland mission in July 2015, and a Canada-Spain mission in September 2015. The affected States Parties objected to these restrictions in the respective mission reports.

In July 2015, a joint Ukraine-United States mission proposed a flight plan within 10 kilometers of Russia's border with the Georgian regions of South Ossetia and Abkhazia, which Russia rejected. In August 2015, Russia rejected a similar flight plan during a Turkey mission.

In November 2015, Russia rejected the flight plan of a joint Canada-United States mission that proposed to transit UUP-53 at an altitude less than 3,600 meters, but at the certified altitude of the sensor. Russia imposed similar altitude restrictions over Chechnya in 2002 due to conflict in the area and purported safety-of-flight considerations; the restrictions remained in place through 2015.

Russia forced a United States mission to deviate from an agreed-upon flight plan in 2014 based upon an improper claim of *force majeure* because of assertions of very important person (VIP) movement concerns. A similar incident occurred during a United Kingdom flight in June 2015, though this issue did not affect the United States in 2015.

## **ANALYSIS OF COMPLIANCE CONCERNS**

*Imposing a Sublimit of 500 Kilometers for Flights Over Kaliningrad.* As provided for by Annex A, Section III, flights originating from the Kubinka Open Skies Airfield are subject to a maximum flight distance of 5,500 kilometers. No treaty provision allows a State Party to establish a sub-limit within the maximum flight distance of an established Open Skies Airfield, as Russia has done for missions originating from the Kubinka Open Skies Airfield for the territory of

Kaliningrad. To the contrary, Subparagraph 1(b) of OSCC Decision 3/04 precludes a State Party from decreasing the maximum flight distance of an Open Skies Airfield. Relatedly, Subparagraph 1(a) of this decision requires that the coverage of the entire territory of a State Party shall be ensured in such a way so as not to increase the number of flights required for the opportunity to observe the entire territory of that State Party. U.S. experts have determined that 500 kilometers is insufficient to enable the United States to observe Kaliningrad in its entirety in one flight. Russia's 500-kilometer limit on flights over Kaliningrad raises serious concerns about its adherence to OSCC Decision 3/04, a view that the majority of OST States Parties share.

*Airspace Restrictions Along the Russia-Georgia Border.* Article VI, Section II, Paragraph 2, prohibits flight within 10 kilometers of a border with a non-State Party. Russia claims the South Ossetia and Abkhazia regions of Georgia are independent states not party to the Treaty, and thus takes the position that Article VI, Section II, Paragraph 2, prohibits flight within ten kilometers of its border with those regions. However, South Ossetia and Abkhazia are within the internationally recognized borders of Georgia, and are considered by all other States Parties to be part of Georgia, which is party to the Treaty. Accordingly, in the U.S. view, there does not appear to be any basis within the Treaty to exclude observation flights from within ten kilometers of any portion of the Russia-Georgia border. Russia's rejection of the U.S. flight plan raises serious concerns about Russia's adherence to its obligations under Articles VI and VIII by denying States Parties the right to observe the territory along portions of its border with Georgia.

*Altitude Restrictions Over/Near UUP-53 and Chechnya.* Article VI, Section II, Paragraph 2, states that an observing Party's mission plan "may provide for an observation flight that allows for the observation of any point on the entire territory of the observed Party, including areas designated by the observed Party as hazardous airspace ...." In addition, the Treaty permits an observing Party to obtain a ground resolution of no better than 30 centimeters for optical panoramic cameras, optical framing cameras, and video cameras. Due to the certified minimum altitudes at which U.S. sensors can obtain such resolution, Russian altitude restrictions prevent observation at 30-centimeter resolution of the UUP-53 area (in the Moscow region) and Chechnya by most U.S. sensor configurations. Four other States Parties are similarly affected by Russia's altitude restrictions and four States Parties are unable to achieve maximum Treaty-permitted resolutions with any of their certified sensor configurations. The inability of these States Parties to observe parts of Russian territory effectively has a direct impact on the United States since approximately one-third of U.S. observation missions are

conducted using other States Parties' aircraft. Russia's altitude restrictions raise serious concerns about Russia's adherence to its obligations under Article VI.

*Failure to Provide Air Traffic Control Facilitation.* Article VI, Section I, Paragraph 15, states that the observed Party "shall ensure its air traffic control authorities facilitate the conduct of observation flights in accordance with this Treaty." Once a flight plan is accepted by the observing and observed Parties, the Treaty does not provide for deviations from the flight plan unless "necessitated" by the scenarios specified in Article VIII, Section II, Paragraph 1, which include "air traffic control instructions related to circumstances brought about by *force majeure*."

The term *force majeure* is not defined in the Treaty, but it is widely understood in international law to refer to a force or event beyond a State's control. VIP movements are known in advance and are within the control of the government. Russia's restrictions do not fit this description and therefore do not constitute *force majeure*. Russia's practice of groundlessly invoking *force majeure* to justify deviations from accepted flight plans during negotiations or to force deviations of observation missions in flight raises serious concerns about Russia's adherence to its obligations under Articles VI and VIII of the Treaty.

## **EFFORTS TO RESOLVE COMPLIANCE CONCERNS**

The United States and other States Parties have raised these compliance concerns repeatedly in 2015 through OST notifications, statements in the OSCC – including at the Third Review Conference in June 2015 – and bilaterally with Russia in consultations at various levels. In the OSCC, the United States continued to oppose any airspace restriction inhibiting an observing Party's right to observe any point on the observed Party's territory in accordance with the Treaty. U.S. initiative placed the altitude and airspace concerns related to Russia's implementation in the Informal Working Group on Rules and Procedures (IWGRP) of the OSCC, where the United States continues to lead the effort to reach solutions. The United States continues to consult with other States Parties that have altitude restrictions for a variety of reasons. Poland submitted a working paper to the OSCC co-sponsored by 15 States Parties, including the United States, which outlined the problems associated with Russia's actions in Kaliningrad. This issue also remains on the agenda of the IWGRP. U.S. officials, as well as Allied representatives, continued to object to Russia's groundless invocation of *force majeure* in connection with VIP movements in an effort to justify deviations from agreed-upon flight plans. In 2015, the United States began to discuss with other

OST States Parties compliance concerns raised by Russia's conduct. To date, these efforts have not resolved any of the compliance concerns.

## **FINDING #2**

In 2015, Russia made clear that it would not allow Ukraine to conduct solo observation flights over its territory unless Ukraine paid for each flight in advance. As a result, Ukraine has been unable to conduct any solo flights over Russian territory during 2015. Although not involving an obligation owed the United States, Russia's conduct raises serious concerns about its adherence to OSCC Decisions 2/15 and 2/09. There is a reasonable basis to conclude that Russia's refusal to allow Ukraine to overfly Russia without prepayment could be the basis for a violation determination on the part of Ukraine.

## **CONDUCT GIVING RISE TO COMPLIANCE CONCERNS**

In January 2015, the OSCC decided on the annual distribution of observation flight quotas for 2015. The OSCC's decision allotted six quotas to Ukraine for observation flights over Russia – some to be flown by Ukraine solo, and some to be flown in partnership with other States Parties. On February 9, Ukraine notified Russia via Format 12 notification that it intended to conduct an observation flight over its territory. The following day, Russia responded via Format 13 notification, citing a prior Format 35 notification to Ukraine with instructions for pre-payment and bank routing information. Russia made clear in subsequent statements, including at a January 2015 OSCC Plenary session, that it would not allow Ukraine to conduct a solo observation flight over its territory unless Ukraine paid for the flight in advance. As a result of Ukraine's refusal to pay in advance, Ukraine was unable to conduct any solo flights over Russian territory during 2015.

## **ANALYSIS OF COMPLIANCE CONCERNS**

OSCC Decision 2/09, Section I, Paragraph 1 provides that, unless otherwise specified in the Decision or agreed to by the States Parties, "an observing Party using its own observation aircraft or an observation aircraft designated by a third Party shall reimburse the observed Party" for certain costs, including fuel, oil, oxygen, de-icing fluid, and ground and technical servicing. Paragraph six of the Decision specifies certain other costs, including costs related to meals and accommodation of the observing Party's personnel, which the observing Party shall reimburse "in accordance with the mechanism set forth in this Decision."

The mechanism for such reimbursement is described in Section V of Decision 2/09. As provided in Paragraph 9, “[n]o later than 30 days after completion of an observation flight the observed Party shall transmit an invoice to the observing Party clearly itemizing the costs incurred during that observation flight ....” Paragraph 10 provides that “[u]nless otherwise agreed, at the end of each calendar year the States Parties will exchange requests for payment in EUR or US dollars.” Following a review of these requests, “any State Party that is in debt to any other State Party shall pay its debt in EUR or US dollars to that State Party no later than 1 March of the following year – unless the debt is still under discussion.”

The pre-payment procedures imposed by Russia in its Format 13 and Format 35 notifications appear to be plainly inconsistent with the reimbursement procedures prescribed by Decision 2/09. Accordingly, it could reasonably be argued that Ukraine had no obligation to comply with the Russian procedures, and Russia had no basis to condition Ukraine’s ability to conduct observation flights over Russian territory upon Ukraine’s submission to the pre-payment procedures.

## **EFFORTS TO RESOLVE COMPLIANCE CONCERNS**

During 2015, the United States, Ukraine, and several other like-minded States Parties have objected to this practice during meetings of the OSCC and during the 3<sup>rd</sup> Review Conference in June. To date, these efforts have not resolved this issue, and Russia continues to insist Ukraine prepay for its solo flights. Accordingly, to avoid delaying adoption of the 2016 quota allocation, Ukraine did not bid on any solo flights over Russia, instead opting only to conduct flights with partners. The United States will continue to support Ukraine in its effort to resolve this issue at the OSCC.

**PART IV: ADHERENCE BY STATES (INCLUDING SUCCESSOR STATES) TO POLITICALLY BINDING BILATERAL AND MULTILATERAL COMMITMENTS**

**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 commitments in previous versions of the Vienna Document (1990, 1992, 1994, and 1999). The confidence- and security-building measures (CSBMs) contained in VD11 are politically binding upon the participating States. In 2010, the OSCE's Forum for Security Cooperation (FSC) adopted a procedure to update existing provisions of the Vienna Document and to reissue the Vienna Document at least every five years starting in 2011, which means the next version will be issued in 2016.

This chapter covers VD11 compliance by participating States during 2015. Reported on are the same five participating States as last year.

In 2015, 95 inspections and 41 evaluation visits of units and formations were conducted by the participating States under the provisions of VD11, Chapter IX. In addition, 17 inspections and 29 evaluation visits were conducted using VD11 procedures under bilateral agreements or regional measures or other arrangements that provided additional inspection opportunities to the participants in those arrangements.

The most recent annual VD11 exchange of CSBMs data was held on December 15, 2015, for participating States with military forces in the zone of application to provide CSBMs data valid as of January 1, 2016.<sup>8</sup>

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<sup>8</sup> Under the terms of VD11, participating States provide data each December regarding their forces in the zone of application as of January 1 of the following year

## **COUNTRY ASSESSMENTS**

### **THE RUSSIAN FEDERATION (RUSSIA)**

#### **FINDING**

The United States assesses that Russia's selective implementation of some provisions of VD11 and the resultant loss of transparency about Russian military activities has limited the effectiveness of the CSBMs regime. Russia's selective implementation also raises concerns as to Russia's adherence to VD11.

In 2015, Russian support for ongoing separatist operations in Ukraine was contrary to paragraph three of VD11, in which the participating States stress the continued validity of commitments on refraining from the threat or use of force contained in the Stockholm Document, as seen in the light of the Charter of Paris and the Charter for European Security.

#### **CONDUCT GIVING RISE TO COMPLIANCE CONCERNS**

Russia has joined the consensus adoption of each version of the Vienna Document since November 17, 1990, when Russia was part of the Union of Soviet Socialist Republics. Russian compliance with the Vienna Document was first addressed in the 1999 Compliance Report.

Russia's implementation of VD11, including with respect to Ukraine, continued to be of concern and raised compliance questions in 2015, as in 2014. In 2015 Ukraine sent five notifications to Russia requesting an Explanation of Unusual Military Activities in accordance with VD11, Chapter III. In each instance, Russia refused to provide any information on its military activities, including responding with comments such as Ukraine was making "unsubstantiated accusations towards Russia" and that the information provided by Ukraine "does not conform with reality."

In March 2015, Russia provided information about a no-notice combat readiness inspection of units in northern and western Russia, citing personnel and equipment numbers below Chapter V notification thresholds and noting the information was "provided in the spirit of good will." Two days later, the MOD publicly announced that the exercises would also include readiness drills in southern, central, and eastern Russia and involve up to 80,000 personnel and 10,000 armored vehicles – numbers well above VD11 thresholds for notification



and observation. There is no explicit requirement for participating States to account for differences between notifiable numbers and numbers that are announced publicly, which are likely to include categories of military activity that are not required to be notified under the VD11.<sup>9</sup>

Russia's continued occupation and attempted annexation of Crimea in 2015, as well as its support for ongoing separatist operations in Ukraine, runs counter to the declaration on Refraining from the Threat or Use of Force contained in paragraphs 9 to 27 of the Document of the Stockholm Conference and reaffirmed in paragraph 3 of the VD11.

## **ANALYSIS OF COMPLIANCE CONCERNS**

VD11, Chapter III ("Mechanism for Consultation and Co-operation as Regards Unusual Military Activities") states that a participating State which has concerns about the unusual military activities of another participating State may transmit a request for explanation about the activities. The reply should give answers to the questions raised, as well as any other relevant information in order to explain the activity in question and dispel the concern. Russia's repeated failure to provide responsive replies to requests for an explanation raised concerns as to its adherence to the provisions of Chapter III. The United States continues to be concerned about Russia's refusal to provide responsive replies to Chapter III requests and provide explanatory information about its ongoing military activities near its border with Ukraine.

VD11, Chapter V states that participating States will provide notification in writing to all other participating states 42 days or more in advance of the start of notifiable military activities. No-notice exercises need not be notified in advance, but are otherwise subject to Chapter V reporting criteria.

VD11, Chapter I states that the participating States will annually exchange information on their military forces in the zone of application concerning the military organization, manpower, and major weapon and equipment systems, including armored infantry fighting vehicle look-alikes. Russia failed to report the BRM-1K armored combat vehicle. Also, Russia has failed to report on its military

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<sup>9</sup> Examples of activities that are not required to be notified under the Vienna Document but could be included in publicly announced numbers include command post exercises that do not involve activities in the field, military activities that are not conducted as a single activity under a single command structure, military activities outside the zone of application, or the activities of internal security forces, seagoing naval forces (except for amphibious operations), air defense forces, strategic aviation, and strategic rocket forces.

forces in Georgia's separatist regions of Abkhazia and South Ossetia and claims their territory is not part of the VD11 zone of application; the United States and our NATO Allies do not agree.

## **EFFORTS TO RESOLVE COMPLIANCE CONCERNS**

Throughout 2015, Ukraine noted security concerns and invoked Chapter III provisions repeatedly to request that Russia provide information regarding its military activities in the Southern and Western Russian military districts close to the Ukrainian border, including details of deployments of Russian forces; their purpose, duration, composition, and character. These requests were made via five CSBMs notifications as well as during meetings of the OSCE's FSC.

During 2015, the United States and Allies continued to raise in the OSCE the grave issues of Russia's occupation and attempted annexation of Crimea and continuing provocative actions in and around eastern Ukraine, which run counter to OSCE security commitments and are recalled in VD11. The United States has raised concerns about no-notice exercises involving forces with publicly announced numbers that could be in excess of VD11, Chapter V notification thresholds if they correspond to activities notifiable under VD11.

## **REPUBLIC OF ARMENIA (ARMENIA)**

### **FINDING**

Last year's conduct involving a failure to provide accurate notification in the appropriate format for a large scale training exercise was not repeated in 2015. This compliance question will not be reported in next year's Compliance Report.

### **CONDUCT GIVING RISE TO COMPLIANCE CONCERNS**

See Finding above.

### **ANALYSIS OF COMPLIANCE CONCERNS**

See Finding above.

## **EFFORTS TO RESOLVE COMPLIANCE CONCERNS**

The United States raised issues related to the Armenian exercise “Unity 2014” bilaterally and outlined concerns about the lack of transparency for this exercise in the FSC. Armenia acknowledged the lapse and assured U.S. officials that future exercise notifications would adhere to all requirements of VD11. Armenia appears to have followed up on this assurance and in 2015 provided advance notifications of two exercises below Chapter V notification thresholds.

### **REPUBLIC OF AZERBAIJAN (AZERBAIJAN)**

#### **FINDING**

Azerbaijan failed to notify at least one major military exercise or activity for calendar year 2015.

#### **CONDUCT GIVING RISE TO COMPLIANCE CONCERNS**

Azerbaijan has joined the consensus adoption of each version of the Vienna Document since November 17, 1990, when it was part of the Union of Soviet Socialist Republics. Azerbaijani compliance with the Vienna Document was first addressed in the Compliance Report in 1998.

Azerbaijan failed to provide advance notification of at least one major military exercise or activity during calendar year 2015.

#### **ANALYSIS OF COMPLIANCE CONCERNS**

VD11, Chapter V states that participating States will provide notification in writing to all other participating States 42 days or more in advance of the start of notifiable military activities. No-notice exercises need not be notified in advance, but are otherwise subject to Chapter V reporting criteria. At least one major military exercise or activity is to be notified if no military activity meets Chapter V notification thresholds.

On September 6, 2015, the Azerbaijani Ministry of Defense announced that it would conduct command and staff exercises involving land, air, air defense, and seagoing naval forces from September 6-13, 2015, involving “up to” 65,000 military personnel, 700 armored vehicles, and more than 500 missile and artillery

units – numbers of personnel and equipment that would exceed VD11 thresholds for notification if determined to be subject to notification.

Azerbaijan did not issue a notification on this or any other exercise either in advance or at any time during the exercise.

## **EFFORTS TO RESOLVE COMPLIANCE CONCERNS**

The United States shared with Azerbaijan concerns about the lack of transparency for this exercise. In response to questions as to why the exercise had not been notified either in advance or when notification had been given to the troops involved, Azerbaijan responded that this was a no-notice command post exercise that consisted largely of simulations rather than exercise activity in the field.

## **KYRGYZ REPUBLIC (KYRGYZSTAN)**

### **FINDING**

Kyrgyzstan failed to provide CSBMs data on its armed forces (as of January 1, 2015) by December 31, 2015. Also, Kyrgyzstan failed to notify at least one major military exercise or activity for calendar year 2015.

### **CONDUCT GIVING RISE TO COMPLIANCE CONCERNS**

Kyrgyzstan has joined the consensus adoption of each version of the Vienna Document since November 17, 1990, when it was part of the Union of Soviet Socialist Republics. Kyrgyzstan compliance with the Vienna Document was first addressed in the Compliance Report in 2001.

Kyrgyzstan did not provide by December 15, 2014 its annual VD11 data valid as of January 1, 2015. Kyrgyzstan did not provide VD11 data at any time during 2015, including at the most recent annual VD11 exchange of CSBMs data on December 15, 2015.

Kyrgyzstan failed to provide advance notification of at least one major military exercise or activity during calendar year 2015.

## **ANALYSIS OF COMPLIANCE CONCERNS**

VD11, Chapter I states that participating States will exchange annually information on their military forces in the zone of application not later than December 15 of each year. Kyrgyzstan's failure to provide this information raises concerns regarding its adherence to Chapter I commitments.

VD11, Chapter V states that participating States will provide notification in writing to all other participating states 42 days or more in advance of the start of notifiable military activities. At least one major military exercise or activity is to be notified if no military activity meets Chapter V notification thresholds.

## **EFFORTS TO RESOLVE COMPLIANCE CONCERNS**

The United States discussed bilaterally with Kyrgyzstan its VD11 commitments and in December 2015 encouraged Kyrgyzstan to provide its overdue CSBM data on its armed forces valid as of January 1, 2015, and to return to its previous practice of providing an annual CSBMs data declaration.

## **REPUBLIC OF UZBEKISTAN (UZBEKISTAN)**

### **FINDING**

Uzbekistan failed to provide CSBMs data on its armed forces (as of January 1, 2015) by December 31, 2015. Also, Uzbekistan failed to notify at least one major military exercise or activity for calendar year 2015.

### **CONDUCT GIVING RISE TO COMPLIANCE CONCERNS**

Uzbekistan has joined the consensus adoption of each version of the Vienna Document since November 17, 1990, when it was part of the Union of Soviet Socialist Republics. Uzbekistan's compliance with the Vienna Document was first addressed in the Compliance Report in 2000.

Uzbekistan did not provide by December 15, 2014, its annual VD11 data valid as of January 1, 2015. Uzbekistan did not provide VD11 data at any time during 2015, including at the most recent annual VD11 exchange of CSBMs data on December 15, 2015. Uzbekistan has not provided data since February 12, 2003, when it provided data valid as of January 1, 2003.

Uzbekistan failed to provide advance notification of at least one major military exercise or activity during calendar year 2015.

## **ANALYSIS OF COMPLIANCE CONCERNS**

VD11, Chapter I states that participating States will exchange annually information on their military forces in the zone of application not later than December 15 of each year. Uzbekistan's failure to provide this information raises concerns regarding its adherence to Chapter I commitments.

VD11, Chapter V states that participating States will provide notification in writing to all other participating states 42 days or more in advance of the start of notifiable military activities. At least one major military exercise or activity is to be notified if no military activity meets Chapter V notification thresholds.

## **EFFORTS TO RESOLVE COMPLIANCE CONCERNS**

The United States discussed bilaterally with Uzbekistan in December 2015 its VD11 commitments and failure to provide an annual CSBMs data declaration and encouraged Uzbekistan to provide its overdue CSBMs data on its armed forces valid as of January 1, 2015, and to return to its previous practice of providing an annual CSBMs data declaration.

## **MISSILE NONPROLIFERATION COMMITMENTS**

The Missile Technology Control Regime (MTCR) is the key multilateral mechanism addressing the proliferation of missiles and missile-related technology. In addition, the United States holds frequent bilateral discussions on missile-related nonproliferation issues, often with states that are not members of multilateral regimes.

*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 Partner countries 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.

The United States has sought and received separate, bilateral political commitments from nations to limit missile proliferation activities that are addressed below.

### **COUNTRY ASSESSMENTS FOR NON-MTCR MISSILE PROLIFERATION-RELATED COMMITMENTS**

#### **PEOPLE'S REPUBLIC OF CHINA (CHINA)**

#### **FINDING**

In 2015, Chinese entities continued to supply missile programs of proliferation concern.

#### **CONDUCT GIVING RISE TO COMPLIANCE CONCERNS**

In November 2000, China made a public commitment 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).”*

## **ANALYSIS OF COMPLIANCE CONCERNS**

As mentioned above, China committed in a November 2000 public statement 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).*”

## **EFFORTS TO RESOLVE COMPLIANCE CONCERNS**

The United States continues to engage regularly with China on missile nonproliferation issues.



**PART V: STATES' ADHERENCE TO  
CERTAIN UNILATERAL COMMITMENTS**

This part of the Compliance Report concerns States' adherence to certain commitments undertaken unilaterally by those States that do not impose obligations under international law. Although the United States is not a participant in these commitments, they are included in the Compliance Report as a matter of discretion.

**MORATORIA ON NUCLEAR TESTING**

By September 1996, each of the nuclear-weapon States (NWS) under the NPT – China, France, Russia, the United Kingdom, and the United States – had unilaterally declared a nuclear testing moratorium. The United States currently defines its own nuclear testing moratorium as a commitment not to conduct “nuclear explosive” tests. The scope of the other unilateral policy declarations has not been publicly defined by the declaring state. Thus, it is difficult to assess the compliance of a given state with its own moratorium.