



CASE STUDY



SS-23 MISSILES IN EASTERN EUROPE

Overview. In 1990, the United States learned that Soviet-made SS-23 missiles were in East Germany, Czechoslovakia and Bulgaria. This discovery raised concerns that the Soviet Union may have violated the Intermediate-Range Nuclear Forces (INF) Treaty that banned U.S. and Soviet possession of missiles of this type. Shortly after this discovery, the United States began an assessment of Soviet compliance. This assessment ultimately determined that the existence of the missiles in these three countries (that were not parties to the INF Treaty) was not a violation of the Treaty. However, the failure of the Soviet Union to inform the United States during INF Treaty negotiations that it transferred the missiles constituted bad faith in the negotiation process. Moreover, the United States determined that the Soviet Union *might have* violated an Elimination Protocol to the Treaty.

The case highlights different ways of gathering information to determine compliance. It also demonstrates the importance of clarifying terms during negotiations, and the difficulties that arise when questions about the meaning of these terms develop.

Background. On December 8, 1987, President Ronald Reagan and Soviet General Secretary Mikhail Gorbachev signed the Intermediate-Range Nuclear Forces (INF) Treaty. This Treaty, which entered into force on June 1, 1988, banned all U.S. and Soviet missiles with ranges between 500 and 5,500 kilometers,

as well as their launchers, and their associated support structures and equipment. As part of its Treaty-obligations, the Soviet Union declared in the INF Treaty Memorandum of Understanding (MOU) that it possessed 239 SS-23 shorter-range missiles. In the MOU, the Soviet Union indicated that these missiles were all to be eliminated by November 1, 1989. In fact, these declared missiles were eliminated. The United States confirmed the elimination of the declared missiles through on-site inspections.

In 1990, however, the United States learned that other SS-23 missiles still existed in Eastern Europe. In January, the government of East Germany announced it was closing a missile base and that it would begin to scrap the missiles deployed there. Soon after the announcement, an article in an East German newspaper claimed that the missiles in question were SS-23s. In February 1990, the U.S. identified these missiles as SS-23s. In March, the Soviet Union announced that it transferred SS-23 missiles to East Germany, Czechoslovakia and Bulgaria, before the signing of the INF Treaty. The Soviet Union argued that since these transfers occurred during the Treaty negotiations but before the Treaty was signed, these transferred SS-23 missiles were not subject to the INF treaty.

Prior to these revelations, the United States had believed that all SS-23 missiles had been eliminated pursuant to the INF Treaty. In addition, during the negotiations, the Soviet Union had not informed the U.S. of any missile-sharing arrangement, known as a Program of Cooperation, between the Soviet Union and the three European countries. After learning of the existence of several of these weapons in countries belonging to the Warsaw Pact, the United States began an investigation to

determine whether these missiles, in addition to providing military advantages to the Soviet Union, constituted a violation of the Treaty. This investigation began with a careful review of the obligations the Soviet Union had assumed as a Party to the Treaty.

Discussion of Obligations. Article I of the INF Treaty states that each side shall eliminate “its” intermediate-range and shorter-range missiles, and shall not possess such weapons in the future. Article V of the Treaty reiterates this requirement and notes that it includes missiles listed in the Memorandum of Understanding. The SS-23 missile is listed as one of the missiles subject to elimination under the INF Treaty. Article VI of the Treaty contains a prohibition against producing or testing any of these missiles. Therefore, as each side is required to destroy all intermediate-range and shorter-range missiles, no transfer of these weapons could be allowed after Treaty signature.

Article IX of the Treaty requires both sides to provide and update data provided in the MOU. Therefore, failure to provide accurate data regarding a missile possessed by a Party could constitute a violation of Article IX of the Treaty.

Furthermore, regarding programs of cooperation, paragraph 9, Section II of the Treaty Elimination Protocol requires that “during the last 15 days, a Party shall withdraw to its national territory reentry vehicles which, by unilateral decision, have been released from existing programs of cooperation and eliminate them during the same timeframe.”

The Treaty, however, did not include a definition of the term “possession.” It also did not clearly define the term “program of cooperation.”

Compliance Analysis. The United States’ compliance analysis of this issue centered on two key questions:

- 1) Did the Soviet Union “possess” these missiles at any point after entry into force of the Treaty?

- 2) If the Soviet Union did not possess these missiles, did it have any agreement, known as a Program of Cooperation, with the three states to supply nuclear warheads that would be subject to the Elimination Protocol?

The United States took a comprehensive approach to resolve these questions. First, it reviewed the record of negotiations prior to Treaty signature to identify agreements or discussions that addressed the definition of “program of cooperation” and “possession.” Second, it asked the Soviet Union and the three East European countries to supply as much information as possible to determine which nation “possessed” the missiles. Third, the United States conducted visits to the missile sites in the three countries to gather first-hand information to assist in its determination of compliance.

Review of the Negotiation Record. During the negotiations, the Soviet Union never revealed to the United States that it transferred any shorter-range missiles to East Germany, Czechoslovakia or Bulgaria for any reason. In fact, the negotiation record shows that Soviet negotiators made several statements that clearly implied that no transfers of SS-23s had taken place. In addition, American negotiators stated that the United States believed the Soviet Union had not established a pattern of cooperation to supply its Warsaw Pact allies with shorter-range missiles. The Soviets never refuted this statement.

Also during the negotiations, the two sides expressly agreed that a number of Pershing II missiles located inside the United States that were part of a Program of Cooperation (POC) with West Germany would not be subject to the Treaty. West Germany later released these missiles from the POC; the West German missiles were then destroyed in accordance with the Elimination Protocol. However, the physical location of these missiles in the United States did not constitute U.S. “possession” of those missiles. Similarly, the United States could not conclude that the presence of SS-23 missiles in East Germany, Czechoslovakia and Bulgaria

constituted “possession” by those countries rather than by the Soviet Union.

The United States then concluded that simply reviewing the Treaty and the negotiating record were not sufficient steps, in and of themselves, to determine which nation actually possessed the SS-23 missiles located in East Europe. Nor could it identify an existing Program of Cooperation between the Soviet Union and the three East European countries. The United States then sought to gather as much information as it could. It asked the Soviet Union and the other countries to supply this information voluntarily. It also conducted visits to the sites where the missiles were located.

Information from the Soviet Union and the East European States. After the United States learned that SS-23s still existed in East Germany, it asked the Soviet Union and all of its Warsaw Pact allies if SS-23 missiles were located anywhere else. The United States also asked who controlled these missiles while they were located outside of the Soviet Union. The Soviet Union replied that it had sold SS-23 missiles to East Germany, Czechoslovakia and Bulgaria before the Treaty was signed. The missiles were to be deployed with conventional warheads only, and were the property of those East European states alone. Therefore, the Soviet Union argued, the missiles were not subject to the INF Treaty.

Evidence Gathered from On-Site Inspections. In April 1990, at the invitation of the East German Government, the United States sent a team to gather facts. In early 1991, after repeated requests by the United States, Czechoslovakia also permitted a fact-finding mission. During these visits, the teams held discussions and reviewed sales contracts, equipment logs, delivery documents, maintenance logs and salvage receipts. The teams also observed and photographed the SS-23 missiles, as well as conventional warheads, launchers, and storage canisters associated with them. The teams were able to determine that the missiles and most of the equipment were delivered from the Soviet Union in 1986 and

early 1987. However, the team sent to East Germany discovered a number of conventional warheads and training equipment whose records indicated that they were delivered in 1988, after the Treaty had entered into force.

In addition, the inspection teams in East Germany and Czechoslovakia discovered equipment used to link warheads to the SS-23 missiles. The inspectors identified this equipment as being of a type used only for mounting nuclear, and not conventional, warheads to SS-23 missiles. In the East German case, U.S. intelligence also collected information showing that East German military units received training in the use of Soviet nuclear warheads mounted on SS-23 missiles.¹

Judgment of Compliance. The visits by U.S. inspection teams to the SS-23 sites in East Europe provided useful information about the role of the Soviet Union in the deployment of the missiles in those countries. Based on the information obtained, it was clear that, after supplying the missiles and before the Treaty was signed, the Soviet Union continued to supply warheads and training equipment to at least the East Germans. This indicated that the Soviet Union had continued a Program of Cooperation with East Germany. While such direct evidence of a POC was not revealed at the time, the United States also presumed that the existence of SS-23s in Czechoslovakia and Bulgaria suggested that the Soviet Union had made similar arrangements with those countries. The Soviet Union had never revealed the existence of any such arrangement to the United States during the Treaty negotiations.

The information obtained during the on-site visits and bilateral consultations, however, was not enough to conclude that the Soviet Union had violated the INF Treaty. It only demonstrated that the Soviet Union had negotiated the INF Treaty in bad faith. By failing to inform the United States of the existence of the missiles in the three East

¹ “Supplemental Report to Congress on SS-23 Missiles in Eastern Europe” September 20, 1991. Page 5.

European countries, and of the on-going Programs of Cooperation, the Soviet Union purposefully had allowed the United States to falsely assume that the entire class of SS-23 missiles would be eliminated.

However, for the Soviet Union's action to constitute an actual violation of the Treaty, the United States would have to establish that the Soviet Union actually "possessed" these missiles in violation of the Treaty. During its assessment, the United States reviewed the information it had gathered, and attempted to resolve the issue of "possession" to reach a final determination on this question.

To define the term "possession" the United States addressed two different arguments. One argument held that the East European countries possessed the missiles. The other argument was that the Soviet Union possessed them.

To support the argument that the East European states possessed the missiles, the United States considered the following:

- All three East European states claimed ownership of the missiles.
- All claimed that they had purchased the missiles from the Soviet Union and had received them before the Treaty entered into force.
- Inspections showed that, at least in East Germany, the missiles bore painted insignias identifying them as non-Soviet weapons.

On the other hand, to support the argument that the Soviet Union "possessed" the missiles, the United States considered the following:

- Because during the course of the negotiations, the Soviet Union did not seek to identify the SS-23 missiles in Eastern Europe as third party systems, it had not sufficiently absolved itself of the legal responsibility for them.
- The fact that the Soviet Union had continued to supply the East

European states with equipment and training for the missiles suggested that the relationship over those missiles was much more than a supplier-customer relationship.

- Since all military forces of Warsaw Pact states were under the direction of the Soviet Union, control over the missiles was, ultimately, held by the Soviet Union.

Based on all information gathered, the United States determined the following.

1. Soviet control over the SS-23 missiles did not constitute actual possession of them. The evidence gathered suggested that the missiles were the property of the three East European states. The presence of the missiles, therefore, was not a violation of the INF Treaty ban on all Soviet shorter-range missiles.
2. The Soviet Union maintained an informal program of cooperation with East Germany, and most likely with the other states as well, regarding the SS-23 missiles. The Soviet failure to inform the United States of this arrangement during the negotiations indicated that the Soviet Union had misled the United States, and therefore had negotiated the INF Treaty in bad faith.
3. The Soviet Union probably had made plans to use the SS-23s in East Germany, and most likely in the other two states, to deliver nuclear warheads during wartime. However, the Soviet Union never announced the elimination of the front section of the SS-23s associated with these nuclear warheads to the United States, as required by the Elimination Protocol. The Soviet Union, therefore, probably violated the Elimination Protocol.

Lessons Learned. The history of this compliance issue identifies important tools available to all countries for compliance assessment. The case also underscores the importance of clarifying key terms during the

negotiation stage in order to facilitate subsequent assessments and determinations of compliance.

In this case, the United States relied not only on its national technical means of verification but, even more importantly, upon the following non-technical means and methods to gather facts regarding the existence of the missiles in Eastern Europe:

- Statements made by the East European countries, as well as the Soviet Union
- Information provided in local media reports
- Information gathered from on-site inspections
- Other national means and methods

After gathering the information, the assessment of compliance centered on the definition of the word “possession.” To clarify this issue, the United States relied upon the following:

- Review of the Treaty text;
- Review of the negotiation record; and
- Analysis of the political context in which the transfer of missiles had been made.

The United States ultimately concluded that the presence of SS-23 missiles in Eastern Europe was not a violation of the INF Treaty. However, by engaging the East European states regarding the SS-23 missiles, the United States ultimately was able to secure the elimination of all of the missiles.

For further information please visit:

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