



CASE STUDY



TREATY ON CONVENTIONAL FORCES IN EUROPE (CFE)

Overview. Initial indications of a potential compliance concern can come from a variety of sources – including on-site observations and declarations or statements by a State Party regarding its treaty-limited equipment. When concerns arise, it is essential to examine the language of the commitment about whose implementation there is concern in order to understand what States Party are obligated to do, and to use all available means to gather additional information that can shed light on the concern and its possible resolution. As this CFE case also illustrates, active engagement with the State Party whose actions raise the question or concern, including discussion of the desired corrective action, can also lead to a satisfactory resolution of the issue.

Background. In late 2001 the Russian Federation deployed in Chechnya limited numbers of two new variants of the MT-LB Armored Personnel Carrier (APC), the BERKUT and the KONDOR. Both variants had characteristics of armored combat vehicles (ACVs) as defined in Article II of the Treaty, but neither vehicle was listed in the Protocol on Existing Types (POET), nor were States Party notified that either vehicle had entered into service with the Russian armed forces in the CFE area of application (AoA). Subsequently, a U.S.-led inspection of a Russian facility in October

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2002 observed a large number of these vehicles. The Russians briefed the presence of close to 100 MT-LB variants, some of which they indicated as having arrived at the facility the previous year, and declared them to be used exclusively for research and development (R&D). As in 2001, Russia did not report these vehicles in its annual data exchange. In December 2002, when questioned in Vienna by U.S. experts on the margins of a meeting of the Joint Consultative Group (JCG), the Russians stated that they were not R&D vehicles, but belonged to the manufacturer and were still undergoing manufacturer's testing and development. They also stated that if these MT-LB variants eventually entered into service they would issue the appropriate CFE notification. The United States continued to follow up with Russian authorities. In December 2003, after an entire combat battalion had been equipped with the Kondors (one of the two MT-LB variants in question) the Russians notified the entry into force of these two new MT-LB ACVs and included them in their data as of January 1, 2004.

Discussion of Obligations. The CFE Treaty requires that all items assigned to the armed forces and fitting the definition of a Treaty limited item of Equipment (TLE) be included in annual data exchanges and that notification be given when they enter into service, as well as whenever the number of TLE assigned to a unit or installation changes by ten percent or more. The Treaty also requires that items in an R&D status also be included in the annual data exchanges. Article III of the Treaty states that all TLE within the AoA “shall be subject to the numerical limitations and other provisions” of the Treaty “with the exception of those which in a manner consistent with a State Party’s normal practices . . . are used exclusively

for the purposes of research and development.” However, there is no Treaty provision requiring reporting of holdings of equipment in Treaty limited categories that “are owned by a manufacturer and are in the process of manufacture, including manufacturing-related testing.”

Compliance Analysis. The primary data used in analyzing this case were: (1) the CFE Treaty language noted above, (2) Russian annual data exchanges and notifications; (3) the Russian open press; (4) on-site inspection observations; and (5) discussions between the U.S. and Russia on the margins of the JCG.

The Russian press portrayed the Kondor and Berkut as “prime movers” that are in the testing phase of research and development (R&D). Later in 2001, the Russian press reported that a “company of modernized light-armor prime movers comprising some 10-12 vehicles” was undergoing military tests in Chechnya. The press also reported that both vehicles carry a crew of two and a squad of at least eight. Both variants are externally similar to the MT-LB APC except that the standard MT-LB has a 7.62-mm machine gun on a small, conical turret at the front, right side of the vehicle. Article II defines ACVs as self-propelled vehicles with armored protection and a cross-country capability. ACVs include APCs, armored infantry fighting vehicles (AIFVs), and heavy armament combat vehicles (HACVs). By definition, APCs are designed and equipped to carry an infantry squad (not further defined) and as a rule are armed with an integral or organic weapon of less than 20-mm caliber. By contrast, AIFVs are designed and equipped primarily to carry an infantry squad (which normally can deliver fire from inside the vehicle) and are armed with an integral or organic cannon of at least 20-mm caliber and sometimes an antitank missile launcher, while HACVs have an integral direct fire gun of at least 75-mm caliber and weigh at least six metric tons, but do not fall within the definition of an APC, an AIFV, or a battle tank. On the basis of Treaty Article II definitions and the characteristics of the Berkut and Kondor vehicles, the Berkut variant that is armed with either a 14.5-mm or 12.7-mm gun

and carries an infantry squad met the Treaty definition of an APC. Similarly, the Kondor variant that is armed with a 30-mm gun and carries an infantry squad met the Treaty definition of an AIFV.

The question then arose as to whether these Berkut and Kondor vehicles were correctly excluded from declaration, either because they were being used exclusively for R&D in a manner consistent with Russia’s normal practices, or because they met the manufacturing exclusion.

One U.S. concern was that the number of MT-LB variants observed during the 2002 inspection (close to 100) was far higher than the average number of ACVs Russia reported over the past ten years as used exclusively for R&D -- an average of under 50, with a high of over 60 and a low of under 20. Another concern was reconciling the December 2002 statement that the roughly 100 vehicles at a Russian military facility belonged to the manufacturer and were being used by him for test and evaluation purposes with the statement made by Russian escorts at the October 2002 inspection that the vehicles were used exclusively for R&D.

Compliance Dialogue. In CFE, although formal compliance judgments are made in capitals after full analysis of all available information, U.S. and NATO on-site inspectors are highly trained in both inspection skills and in Treaty provisions. When an inspection team observes anything clearly contrary to Treaty rules, the head inspector declares an “ambiguity” in the inspection report. When inspectors observe something that appears to be, or may be contrary to the Treaty, they include a “substantive comment,” or for more ambiguous cases a “comment” in the report. For any of these inspector actions, the report also includes any response by the escorts from the inspected state. The U.S. then follows up on the issues that have been identified either bilaterally, in meetings of the JCG, and on the margins of JCG meetings. In this instance, the issue was discussed several times with the Russians from December 2002 through December 2003. In

response, the Russians indicated that they intended eventually to report the equipment according to Treaty provisions, and, in fact, both included the vehicles in their data as of January 1, 2004 and issued the required notification of entry into service.

Lessons Learned. Use of multiple sources of information is an essential element of Treaty verification, especially when entry into service of a new piece of equipment is at issue. Moreover, while it may take some time, consultations and dialogue can play an important role in resolving

concerns, if the States Party have a genuine interest in resolving an issue. In this case, it appears that Russian authorities may well have intended eventually to notify the entry into service of these vehicles. However, by using a variety of sources of information and continuing to engage the Russians on the issue in constructive ways we may have encouraged a more timely notification of entry into service, and we certainly resolved a potential compliance issue in a cooperative manner.

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