

Condition (5)(C) Report

COMPLIANCE WITH THE TREATY ON CONVENTIONAL ARMED FORCES IN EUROPE



January 2020

Prepared by the United States Department of State

REPORT ON TREATY COMPLIANCE

This Report on Compliance (hereinafter referred to as the “Report”) with the Treaty on Conventional Armed Forces in Europe of November 19, 1990 (hereinafter referred to as the “CFE Treaty,” the “Treaty,” or “CFE”), is submitted pursuant to Condition (5)(C) of the Senate Resolution of Advice and Consent to Ratification of the May 31, 1996, Document Agreed Among the States Parties to the Treaty on Conventional Armed Forces in Europe of November 19, 1990 (“the CFE Flank Document”), and covers January 1, 2019 through December 31, 2019.

This Report discusses compliance concerns, also referred to as compliance questions, involving States Parties not certified by the United States as being in compliance with their obligations under the Treaty. It discusses recent trends regarding compliance, lists outstanding compliance concerns detailed in earlier Reports, and adds any new information and concerns that arose in 2019. The Report also provides an update on steps taken by the United States in response to the compliance concerns and responses from the implicated States Parties.

A. RECENT TRENDS

The United States continues to be concerned about Russia’s aggressive actions in Europe, including: its 2014 occupation and attempted annexation of Crimea, Ukraine; the control it exerts over armed groups operating in eastern Ukraine; its 2018 attack on three Ukrainian naval ships near the Kerch Strait; and its disregard for international law more generally, all of which have strained the key pillars of European conventional arms control architecture, including the CFE Treaty. Russia’s unilateral “suspension,” since 2007, of its implementation of CFE – an action not viewed by the United States as legally available under CFE or under customary international law – continues to degrade confidence and transparency at a time when military transparency is needed most. This situation has persisted despite diplomatic efforts by the United States and its NATO Allies to convince Russia to resume Treaty implementation. In 2011, in response to Russia’s continuing “suspension,” the United States, along with the 21 NATO CFE States Parties, Georgia, and Moldova, ceased implementing CFE vis-à-vis Russia. Russia’s persistent failure to implement CFE has resulted in continuing uncertainty about the largest military force in Europe. However, the Treaty still provides transparency about other military forces in Europe, including in Belarus, Armenia, Azerbaijan, and Ukraine, as well as NATO members and many partners. Besides Russia, the only other States Parties not certified to be in compliance with the

Treaty and its associated documents for 2019 are Armenia and Azerbaijan; this year's report includes some new compliance concerns.

CFE, together with other conventional arms control instruments, provides military transparency among implementing States Parties. The regime also contributes to dialogue and stability at a time of heightened tensions in Europe, despite the erosion in CFE Treaty compliance resulting from Russian behavior. The United States will continue to pursue resolution of all violations and implementation concerns. Certification has not been withheld from any State Party due to minor and transitory technical implementation problems or concerns.

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

States Parties certified to be in compliance with the Treaty and its associated documents for 2019 are: Belarus, Belgium, Bulgaria, Canada, the Czech Republic, Denmark, France, Georgia, Germany, Greece, Hungary, Iceland, Italy, Kazakhstan, Luxembourg, Moldova, the Netherlands, Norway, Poland, Portugal, Romania, Slovakia, Spain, Turkey, Ukraine, the United Kingdom, and the United States.

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

States Parties not certified to be in compliance with the Treaty and its associated documents for 2019 are: Armenia, Azerbaijan, and Russia. Specific compliance concerns are detailed below.

Republic of Armenia (Armenia)

Finding - Although Armenia continues to express its full support for the Treaty, its equipment total for armored infantry fighting vehicles (AIFVs) continued to exceed the relevant Treaty-Limited Equipment (TLE) sub-limit in 2019, and other Treaty implementation practices raised concerns as to its fulfillment of certain other Treaty obligations as noted below.

Outstanding Compliance Concerns in 2019 - Previously reported, outstanding compliance concerns are: (1) exceeding the sub-limit for AIFVs; (2) reported stationing of forces on the territory of Azerbaijan without Azerbaijani consent; (3) possible failure to declare Conventional Armaments and Equipment Subject to the

Treaty (CAEST); and (4) unilateral suspension of certain Treaty notifications. No new compliance concerns arose during the reporting year.

Compliance Concerns with New Information in 2019

Exceeding a Sub-limit on Treaty-Limited Equipment (TLE): Armenia continues to exceed its sub-limit on armored infantry fighting vehicles.

Unilateral Suspension of Certain Treaty Notifications: As in 2018, in 2019, Armenia did not issue any notifications of changes of 10 percent or greater in assigned holdings of TLE or permanent changes in organizational structure. As with 2018 data, we observed more than forty instances in certain units where changes in organizational structure related to deletion, resubordination, and redesignation and/or changes in holdings of 10 percent or greater between the 2018 and 2019 annual exchanges appeared to require F20 and/or F21 notifications. To its credit, Armenia did submit more than 20 notifications other than F20/F21s in 2019, indicating that Armenia continues to comply with the requirement for certain treaty notifications.

Efforts to Resolve Compliance Concerns in 2019

In 2019, the United States and NATO Allies conducted CFE inspections in Armenia. The United States and its NATO Allies have continued to raise compliance concerns in bilateral discussions. In 2019, the United States has addressed these issues directly with Armenia bilaterally at the Forum for Security Cooperation in Vienna.

Concerning unilateral suspension of certain Treaty notifications, the United States will continue to ask Yerevan to provide timely notifications for such changes in equipment holdings and unit subordinations.

Republic of Azerbaijan (Azerbaijan)

Finding - Although Azerbaijan continues to express its full support for the Treaty, its equipment totals continued to exceed Treaty-Limited Equipment (TLE) limits in 2019, and other activities related to Treaty implementation raised concerns as to its fulfillment of certain other Treaty obligations as noted below.

Outstanding and New Compliance Concerns in 2019

Previously reported, outstanding compliance concerns are: (1) exceeding limits on TLE; (2) unilateral suspension of certain Treaty notifications and failure to report correctly certain objects of verification (OOVs); and (3) possible failure to declare equipment limited by the Treaty. Previously reported compliance concerns with new facts in 2019 include: (4) possible failure to declare sites and objects of verification; and (5) potentially limiting days available for receiving CFE inspections.

Compliance Concerns with New Information in 2019

Exceeding limits on TLE: Declared equipment totals in 2019 continued to exceed Azerbaijan's overall limits on TLE.

Unilateral Suspension of Certain Treaty Notifications and Failure to Report Correctly Certain OOVs: In 2019, Azerbaijan did not issue any notifications of changes of 10 percent or greater in assigned holdings of TLE.^a

Possible Failure to Declare Equipment Limited by the Treaty: During 2019, Azerbaijan did not declare any previously unreported equipment.

Potentially Limiting Days Available for Hosting CFE Inspections: In 2019, Azerbaijan issued one notification requesting that CFE States Parties refrain from conducting inspections on its territory during certain time periods beyond those notified as national holidays.

Efforts to Resolve Compliance Concerns in 2019

Azerbaijan has repeatedly stated that security issues will continue to affect its Treaty implementation, including the provision of certain time-sensitive Treaty notifications, as long as the Nagorno-Karabakh (N-K) conflict is unresolved and part of Azerbaijan's territory is occupied by Armenia. In 2019, NATO Allies conducted four inspections in Azerbaijan. The United States and NATO Allies have continued to raise compliance concerns in the JCG as well as in bilateral discussions. In 2019, the United States has addressed these issues directly with Azerbaijan bilaterally at the Forum for Security Cooperation in Vienna.

^a The Treaty's Protocol on Notification and Exchange of Information, Section VIII, paragraph 1, subparagraph (B) calls for this type of notification to be provided no later than five days after such change has been made.

Concerning other outstanding and new concerns in 2019, the United States will continue to monitor and raise the status of these concerns with Baku.

OSCE Minsk Group Efforts involving Armenia and Azerbaijan

Treaty implementation by Armenia and Azerbaijan is affected by the protracted Nagorno-Karabakh (N-K) conflict. The United States is committed, as a Co-Chair (along with France and Russia) of the Organization for Security and Cooperation in Europe (OSCE) Minsk Group, to helping the sides reach a peaceful settlement of the conflict. The Minsk Group is the only forum agreed upon by Armenia and Azerbaijan to negotiate a peaceful settlement of the N-K conflict. A successful political settlement would almost certainly have a positive impact on the ability of Armenia and Azerbaijan to resolve these Treaty compliance concerns.

In 2019, the Minsk Group Co-Chairs (United States, France, and Russia) continued their efforts to help the sides settle peacefully the Nagorno-Karabakh conflict. Despite the occasional use of inflammatory rhetoric, the level of violence at the Line of Contact and international border remained low by historical standards. In January 2019, the Co-Chairs hosted a meeting of the Armenian and Azerbaijani Foreign Ministers in Paris, where they reviewed key principles and parameters for the current phase of the negotiation process and discussed next steps toward a summit between Azerbaijani President Ilham Aliyev and Armenian Prime Minister Nikol Pashinyan. In February 2019, the Co-Chairs visited Baku and Yerevan for consultations with the two leaders and the foreign ministers about the situation on the ground and secure the leaders' agreement to meet in March 2019 under Co-Chair auspices. When public statements by the sides about the substance and format of the Minsk Group process inflamed tensions in the region in the period before the summit, the Co-Chairs issued a statement that emphasized their commitment to helping the sides find a peaceful solution and underlined the need to maintain an environment conducive to negotiations.

On March 29, 2019, in Vienna, the Co-Chairs hosted the first official meeting of President Aliyev and PM Pashinyan. At the summit, the two leaders exchanged views about key issues of the settlement process, underlined the importance of building up an environment conducive to peace, recommitted to strengthening the ceasefire and improving the mechanism for direct communication, and agreed to develop a number of measures in the humanitarian field. At a meeting in Moscow in April 2019, the Co-Chairs and the Foreign Ministers of Russia, Azerbaijan, and Armenia discussed key aspects of the

settlement process and agreed to pursue humanitarian projects including enhancing the ceasefire during agricultural activities, permitting family members to visit relatives held in detention by the sides, and mutual visits of media representatives. The Co-Chairs met in Warsaw in May 2019 to prepare proposals for concrete next steps in the settlement process, including on humanitarian and security measures, as the Foreign Ministers had requested in Moscow. Later that month, continuing their high-level consultations with Minsk Group member countries, the Co-Chairs traveled to Stockholm, where they discussed conflict dynamics with Swedish FM Wallström and briefed her on the status of Minsk Group settlement talks. Also in May the Co-Chairs visited the region for consultations, with a particular view to assess the evolution of the situation on the Line of Contact and the international border, as well as to follow up on the summit and the Moscow meeting of the two FMs. As requested, the Co-Chairs provided proposals for concrete next steps in the settlement process, including on humanitarian and security measures, expressed deep concern about recent casualties, and urged the parties to exercise restraint to avoid escalation.

The Co-Chairs hosted the two foreign ministers for consultations in Washington, DC on June 20, 2019, and urged the ministers to take immediate steps to restore an atmosphere conducive to peace and favorable to substantive talks. Following the simultaneous release of prisoners by the sides on June 28, the Co-Chairs issued a statement expressing appreciation for the efforts of the International Committee of the Red Cross in facilitating the exchange. The Co-Chairs met with the foreign ministers separately and then jointly on the margins of the UN General Assembly in New York on September 25, 2019, where they urged the sides to uphold the ceasefire and refrain from using rhetoric that is inflammatory or prejudices the outcome of negotiations. The Co-Chairs visited the region in October 2019 for consultations with PM Pashinyan and President Aliyev and their foreign ministers in their respective capitals. The two leaders briefed the Co-Chairs on their recent conversation during the CIS summit in Ashgabat and presented their ideas for advancing the settlement process. The Co-Chairs welcomed the prospect of implementing specific humanitarian and security measures to prepare the populations for peace and reduce tensions and called on the sides to continue supporting monitoring missions led by Personal Representative of the OSCE Chairperson-in-office (PRCIO) Andrzej Kasprzyk, in accordance with his mandate and longstanding practice.

In Vienna on November 7, 2019, the Co-Chairs briefed the OSCE Permanent Council and the members of the Minsk Group. The sides implemented, on November 17-21, 2019, the exchange of journalists agreed under Co-Chairs

auspices and facilitated by PRCIO Kasprzyk, an exemplary achievement and the first such exchange since 2001. For the remainder of 2019, the Co-Chairs focused their efforts on encouraging the sides to observe the ceasefire strictly, implement concrete measure to sustain an atmosphere conducive to peace and favorable to substantive talks, prepare the populations for peace, and lay the groundwork for resuming the leader-level dialogue.

Russian Federation (Russia)

Finding – In 2007, Russia “suspended” its implementation of the Treaty, which the United States does not view as legally available under the Treaty or customary international law.^b Since its “suspension,” Russia has continued to violate its Treaty obligations and has made clear that it will not resume implementation of the Treaty. In addition, Russia’s stationing of forces on the territories of Georgia, Moldova, and Ukraine without the host country’s consent continued through 2019.

Outstanding and New Compliance Concerns in 2019

Previously reported compliance concerns that remain unresolved and continued through 2019 are: (1) Russia’s so-called “suspension” of its implementation of the Treaty, including the failure to provide detailed Treaty-required annual data^c and other information on the structure, organization, and equipment of its land and air forces, which continues to interfere with the United States ability to assess at what levels Russia is still exceeding TLE limits in the Treaty’s Flank Zone; and (2) Russia’s stationing of forces on the territories of Georgia, Moldova, and Ukraine without host country consent.^{d e}

b (U) In this Report Russia’s action is referred to as a suspension of implementation of the Treaty, as a decision to suspend observation of Russia’s Treaty obligations, or as a “suspension” in quotation marks, since the Russian action is not viewed as a legally available option under the Treaty or under customary international law.

c (U) Information required but not provided from December 2007 through December 2019 includes: Russia’s annual Treaty data as of January 1 each year and associated annual notifications; flank data as of July 1 each year; quarterly notifications regarding equipment holdings at the Kushchevskaya armor maintenance facility; and periodic notifications of permanent changes in the organizational structure of Russia’s conventional armed forces, or of changes of 10 percent or more in TLE assigned to units.

d (U) While the Treaty establishes numerical limits on TLE and not on military personnel, the Article IV, paragraph 5 prohibition on stationing without host state consent applies to conventional armed forces in general.

e (U) Russia’s data as of January 1, 2017, provided under the OSCE Global Exchange of Military Information, indicated the presence of a considerable amount of TLE in Abkhazia and South Ossetia and military personnel in Moldova. Russia’s data as of January 1, 2017, under the Vienna Document indicated the presence of TLE in Crimea.

Compliance Concerns with New Information in 2019

Russia’s “Suspension” of Its Implementation of the Treaty. As an extension of its overall “suspension,” Russia has suspended participation in the Joint Consultative Group (JCG) since March 2015 and continued in 2019 to fail to pay its specified share of the common expenses associated with the operation of the JCG in accordance with Treaty requirements. Paragraph 11 of the Treaty’s Protocol on the Joint Consultative Group provides a scale of distribution for such common expenses that “shall be applied, unless otherwise decided by the [JCG].” Under the current scale of distribution of common expenses, adopted by the JCG on May 10, 1994, Russia’s share of the JCG common expenses is nine percent.

Russia’s “suspension” of CFE Treaty implementation since 2007 has resulted in its continued noncompliance with numerous Treaty provisions. As reported in previous Condition 5(C) reports, according to Russia’s annual data as of January 1, 2007, its flank data as of July 1, 2007, and Russian CFE notifications up to December 12, 2007 (the last data and notifications provided by Russia before the “suspension”), Russia had long exceeded most of the TLE limits for both the original and revised flank zones but, as of July 2007, remained within the limits for the flank zone as contemplated under the Adapted CFE (A/CFE) Treaty (which has not entered into force).^{f g}

Overages Above Current Treaty Limits. Under the CFE Flank Document, which entered into force in 1997, Russia is limited to 700 tanks, 580 ACVs, and 1,280 pieces of artillery in the revised, geographically-reduced flank zone. The same agreement limits Russia to 1,800 tanks, 3,700 ACVs, and 2,400 pieces of artillery in the original flank zone. Limits in the revised flank zone were increased to 1,300 tanks, 2,140 ACVs, and 1,680 artillery pieces on Russian territory under the 1999 A/CFE Treaty, although it has not entered into force.

f The term “Adapted Treaty” refers to the Agreement on Adaptation of the Treaty on Conventional Armed Forces in Europe that was signed in Istanbul on November 19, 1999 but is not yet in force. As in previous versions of this Report, reference is made in parts of this Report to Adapted Treaty flank numerical limits for additional context. Russia exceeds its original (Post-1996) flank limits by over 225 ACVs and its A/CFE flank limits by over 360 ACVs. Russia has never been in compliance with either its original (entered into force in 1992) or its revised (entered into force in 1997) flank limits, but until 2017 had remained below the flank limits reflected in the A/CFE Treaty that has never entered into force.

g See previous reports for further details about developments on these issues before, and after, Russia’s “suspension” of its implementation of the CFE Treaty in 2007.

On the basis of Russia's VDoc and GEMI data as of January 1, 2019, Russia exceeds its limits in the revised flank zone by over 2,550 ACVs and its limits in the original flank zone by over 225 ACVs. Of note, VDoc and GEMI data do not include equipment held in storage depots and maintenance facilities, thus the overages are almost certainly even higher than accounted for by current data.

Stationing forces without the consent of the host state: Russia's stationing of military forces on the territories of Georgia and Moldova without host nation consent continued through 2019. In Ukraine, Russia's occupation and attempted annexation of Crimea, and its stationing of military forces in Crimea without host nation consent in violation of Article IV, paragraph 5, of the Treaty,^h continued through 2019. The United States, NATO Allies, and all other States Parties except Russia consider Crimea to be part of the internationally recognized territory of Ukraine. As previously reported, the United States has also called for the removal of Russian forces and equipment from eastern Ukraine and Secretary Pompeo's Crimea Declaration of July 25, 2018, rejected Russia's attempted annexation of Crimea. During 2019, Russia continued to instigate armed conflict in eastern Ukraine where Russia arms, trains, leads, and fights alongside antigovernment forces. Russia's ongoing aggressive activities against Ukraine in 2019 remains of concern to the United States, our Allies and partners, and other States Parties.

Efforts to Resolve Compliance Concerns in 2019

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

There has been no change in Russia's position or actions to address United States compliance concerns since the United States announced in Vienna, Austria, on November 22, 2011, that it was ceasing implementation of certain obligations under the Treaty with regard to Russia. This was followed by similar announcements from the other 21 NATO States Parties to the Treaty, as well as by Georgia and Moldova, that they would also cease implementation of the Treaty "vis-à-vis the Russian Federation." Since then and through 2019, the United States and NATO Allies have not attempted to inspect Russian forces under the Treaty.

^h (U) Article IV, paragraph 5 permits States Parties belonging to the same group of States Parties to locate certain TLE in certain areas, "provided that no State Party stations conventional armed forces on the territory of another State Party without the agreement of that State Party."

The United States continues to implement all of its obligations under the Treaty with respect to all States Parties other than Russia, and is prepared to resume full Treaty implementation with respect to Russia if Russia resumes implementation of its Treaty obligations.

The United States and NATO Allies have raised longstanding compliance concerns bilaterally and in a variety of multilateral fora, including the JCG, OSCE, and Geneva International Discussions meetings. Regarding Russia's failure to meet its financial obligations under the CFE Treaty, the United States has made clear the United States position that Russia, as a State Party to the CFE Treaty, is obligated to pay its specified share of the common expenses associated with the operation of the JCG, in accordance with paragraph 11 of the Treaty's Protocol on the Joint Consultative Group.

Russia's responses to concerns on compliance have varied, but Russia has made clear that it will not resume implementation of the Treaty and has tried to deflect United States and Allied concerns. From 2007 through 2019, other longstanding concerns related to Russia's compliance with specific Treaty provisions were not pursued, as discussions focused on the broader issue of Russia's "suspension," and, since 2014, on Russia's occupation and attempted annexation of Crimea and continuing aggressive activities in eastern Ukraine.

D. IMPLICATIONS FOR UNITED STATES SECURITY, MILITARY SIGNIFICANCE, AND BROADER SECURITY RISKS OF COMPLIANCE CONCERNS

Russia's "suspension" of Treaty implementation since 2007 has seriously eroded the Treaty's verifiability, decreased transparency, and undermined the cooperative approach to security that have been core elements of the NATO-Russia relationship and European security for more than two decades.

Russia's stationing of forces on the territory of other States Parties without the consent of those States Parties not only has political and military significance to the States Parties in which those forces are stationed, but also destabilizes regional security and has further eroded confidence and stability throughout Europe. Russia's ongoing occupation of and military build-up in Crimea, Ukraine, for example, has increased Russia's reach into the Black Sea region, and affected the security situation in that area.

Russia's aggressive actions in Europe, notably its military invasions of Ukraine in 2014 and of Georgia in 2008, and its disregard for international law, including its unilateral "suspension" of CFE Treaty implementation since 2007, have diminished trust and confidence about Russia's military intentions and remain a significant concern throughout Europe. Russia's actions are of increasing concern; combined with reduced detail about Russia's equipment holdings, they have had significant military implications for the United States and NATO.

While Armenian and Azerbaijani compliance concerns may be militarily significant to those two states, especially in the context of the N-K conflict, they do not have significant military or security implications for the United States or for NATO as a whole. The stationing of forces on the territory of another State Party without that State Party's consent is a key political issue in the context of the N-K conflict.

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