

Condition (5)(C) Report
on
COMPLIANCE WITH
THE TREATY ON
CONVENTIONAL ARMED FORCES
IN EUROPE



January 2022

Prepared by the U.S. Department of State

REPORT ON TREATY COMPLIANCE

This Report (hereinafter referred to as the “Report”) on Compliance 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, 2021 through December 31, 2021.

This Report discusses compliance concerns, including recent trends regarding compliance, outstanding compliance concerns detailed in earlier Reports, and new information where available for existing or emergent concerns. The Report also details steps taken by the United States in response to compliance concerns and conveys 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 Russia exerts over armed groups operating in eastern Ukraine; its 2018 attack on three Ukrainian naval ships near the Kerch Strait; its unusual and non-transparent military build-up in and near Ukraine in the spring and fall/winter of 2021, which has increased Russian forces stationed on Ukrainian territory without host state consent; and its violation of many of its obligations under international law. These actions have all strained the key pillars of the European conventional arms control architecture, including the CFE Treaty.

Moreover, Russia’s purported “suspension,” since 2007, of its obligations under 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. This situation has persisted despite diplomatic efforts by the United States and its NATO Allies to convince Russia to return to Treaty implementation and compliance. In 2011, in response to Russia’s breaches of CFE obligations under its continuing “suspension,” the United States, along with 21 NATO CFE States Parties, Georgia, and Moldova, ceased implementing CFE vis-à-vis Russia. Russia’s persistent failure to implement and comply with CFE has resulted in continuing uncertainty about the largest military force in Europe and has contributed to a worsening European security environment. However, the Treaty

still provides transparency about other military forces in Europe, including in Armenia, Azerbaijan, Belarus, Georgia, Kazakhstan, Moldova and Ukraine, as well as NATO members. Besides Russia, the only other States Parties not certified to be in compliance with the Treaty and its associated documents for 2021 are Armenia and Azerbaijan. This year's report includes some new developments with respect to outstanding 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 Russia's unfounded "suspension" and resulting violations. The United States will continue to pursue resolution of all violations and implementation concerns.

The COVID-19 pandemic continued to affect CFE implementation in 2021, with a number of CFE States Parties again postponing or cancelling their planned CFE verification activities, just as they did in 2020. Since March 2020, in addition to all CFE verification activities in which the United States might otherwise have been involved being postponed or cancelled, normal diplomatic discourse remained severely curtailed. Most direct contacts between implementing officials were still limited to telephone or email, slowly transitioning back to limited in-person meetings with videoconference links for those not attending in person. As a consequence, intensive follow-up action on outstanding compliance concerns has been limited.

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 2021 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 2021 are Armenia, Azerbaijan, and Russia. Specific compliance concerns are detailed below.

Republic of Armenia (Armenia)

Finding –As of the end of the reporting period, Armenia had failed to provide annual data on its forces, which it was required to do on December 15 pursuant to the Treaty. Additionally, existing compliance concerns detailed in last year’s report remain unresolved.

Outstanding Compliance Concerns in 2021

(U) Previously reported outstanding compliance concerns, detailed in last year’s CFE Condition 5(C) report, are: (1) exceeding the TLE sub-limit for armored infantry fighting vehicles (AIFVs); (2) possible failure to declare conventional armaments and equipment subject to the Treaty (CAEST); (3) failure to provide certain Treaty notifications, and failure to provide annual data as of January 1, 2021; and (4) announcement of a policy excluding Turkish inspectors from conducting CFE inspections on Armenian territory (which has yet to be implemented in practice to date because of the pause in verification activities in light of the COVID-19 pandemic).

Developments Regarding Compliance Concerns in 2021

Lack of Treaty Notifications and Failure to Provide Annual Data: In 2021, Armenia did not issue any notifications of changes of 10 percent or greater in assigned holdings of TLE or permanent changes in organizational structure. It also submitted no prescribed event-driven notifications. This level of notification is unusual, particularly in a year in which post-conflict changes to unit holdings and organization would be expected, and potentially indicative of non-compliance with notification requirements.

Additionally, Armenia has not provided its annual data for the second year in a row. As reported last year, Armenia notified States Parties on December 16, 2020 that because of the conflict between Armenia and Azerbaijan that began in late 2020, there would be a delay in the provision of its annual CFE declared data. Armenia transmitted a new notification to the same effect on November 12, 2021, and did not provide the required annual data on December 15, 2021. Per paragraph

1(C) of Section VII of the CFE Treaty's Protocol on Notification and Exchange of Information, such data is to be provided on December 15 annually.

Due to Armenia's failure to submit its annual data for the last two years, a full assessment of its compliance with its numerical limits of TLE in 2021 is not feasible.

Efforts to Resolve Compliance Concerns in 2021

Concerning unilateral suspension of certain Treaty notifications, the United States will continue to ask Yerevan to provide timely notifications for changes in equipment holdings and unit subordinations. The United States will monitor and address, as appropriate, Armenia's continued failure to provide its annual data.

Republic of Azerbaijan (Azerbaijan)

Finding – Existing compliance concerns detailed in last year's report remain outstanding. However, unlike in 2020, on December 15, 2021, Azerbaijan provided its annual data for 2022, as required by the Treaty.

Outstanding Compliance Concerns in 2021

Previously reported, outstanding compliance concerns are: (1) exceeding national limits on TLE; (2) lack of Treaty notifications and failure to report correctly certain objects of verification (OOVs); (3) possible failure to declare equipment limited by the Treaty; and (4) possible failure to declare sites and objects of verification.

The most current information on these previously reported issues is available in last year's CFE Condition 5(C) report. Due to Azerbaijan's previous failure to submit its annual data for 2021, a full and timely assessment of Azerbaijan's compliance with its national limits for this reporting period is not feasible. However, a brief review of Azerbaijan's December 15, 2021 submission of data for 2022 suggests that it has significant overages in multiple categories of TLE. Next year's Condition 5(C) report will provide a more thorough analysis of the recently provided data. This analysis may also shed light on the status of the other previously reported compliance concerns listed above.

Developments Regarding Compliance Concerns in 2021

Lack of Treaty Notifications and Provision of Annual Data: In 2021, Azerbaijan did not issue any notifications of changes of 10 percent or greater in assigned holdings of TLE.^a This level of notification is unusual, particularly in a year in which post-conflict changes to unit holdings and organization would be expected, and potentially indicative of non-compliance with notification requirements. It is unclear whether any such notifiable changes occurred as Azerbaijan did not provide annual data for 2021 that would indicate changes to this situation. Of note, Azerbaijan's data for 2022, received on December 15, 2021, may reveal changes that should have been notified, but has not yet been fully analyzed. However, there is no indication that Azerbaijan has changed its position that it does not issue notifications of changes of 10 percent or greater in assigned holdings of TLE in individual units because continuing security concerns purportedly limit its ability to implement some Treaty provisions.

Additionally, Azerbaijan had previously failed to provide annual data for 2021. Per paragraph 1(C) of Section VII of the CFE Treaty's Protocol on Notification and Exchange of Information, such data is to be provided on December 15 annually. However, in a positive development, Azerbaijan did submit its annual data for 2022, on December 15, 2021.

Efforts to Resolve Compliance Concerns in 2021

Concerning unilateral suspension of certain Treaty notifications, the United States will continue to ask Baku to provide timely notifications for changes in equipment holdings and unit subordinations. The United States welcomes Azerbaijan's renewed provision of its annual data and its utility for next year's Condition 5C Report.

OSCE Minsk Group Efforts involving Armenia and Azerbaijan

Treaty implementation by Armenia and Azerbaijan has been 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 Co-Chair process is mandated to facilitate a "peaceful and comprehensive settlement" which necessarily includes

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

helping the sides resolve the core issue of the conflict – the political future of the ethnic Armenian population of Nagorno-Karabakh. 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 late September 2020, renewed fighting broke out between Azerbaijani and Armenian forces near the Line of Contact in the N-K conflict zone. Azerbaijani forces retook several strategic towns and made significant gains south of the former oblast of N-K and into N-K itself. The Minsk Group Co-Chairs redoubled their efforts to help the sides peacefully settle the N-K conflict as well as broker a ceasefire.

The United States – along with France and Russia – hosted the first meeting of the Foreign Ministers of Azerbaijan and Armenia since November 2020, on the sidelines of the UN General Assembly in September 2021; a second joint meeting was held in Paris under Co-Chair auspices in November. These important steps demonstrated the two countries’ resolve to reengage in the peace process through direct dialogue aimed at contributing to security, stability, and prosperity in the region.

Russian Federation (Russia)

Finding – In 2007, Russia “suspended” its obligations under 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 has continued to station forces on the territories of Georgia, Moldova, and Ukraine without the host country’s consent.

Outstanding Compliance Concerns in 2021

Previously reported compliance concerns that remain unresolved and continued through 2021 are: (1) Russia’s so-called “suspension” of its obligations under the Treaty, including the failure to abide by its national limits, including limits for particular treaty zones, and failure to provide detailed Treaty-required

^b (U) In this Report, Russia’s action is referred to as a purported 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.

annual data^c and other information on the structure, organization, and equipment of its land and air forces, and to submit to prescribed on-site inspection activities, which limits the U.S. ability to assess to what extent Russia exceeds TLE limits in the Treaty's flank zone (the zone referenced in Article V.1.A of the Treaty, as subsequently amended, which has the most restrictive limits); (2) likely overages of equipment above Russia's Treaty limits in the flank zone; and (3) Russia's stationing of conventional armed forces, including TLE, on the territories of Georgia, Moldova, and Ukraine without host-country consent.^{d e}

Developments Regarding Compliance Concerns in 2021

Russia's "Suspension" of Its Obligations Under the Treaty. Russia's "suspension" of CFE Treaty implementation since 2007 has resulted in its continued noncompliance with numerous Treaty provisions. As part of its overall "suspension," Russia has suspended its participation in the Treaty's Joint Consultative Group (JCG) since March 2015, and continued in 2021 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 9%. Additionally, in 2021, the absence of Russian declared data and associated verification opportunities with respect to Russian conventional forces was especially concerning given Russia's spring and fall/winter 2021 build-ups of forces near Ukraine and in Crimea.

Likely Overages Above Russia's Treaty Limits in the CFE Flank Zone. 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

c (U) Information required but not provided from December 2007 through December 2021 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.5 prohibition on stationing without host state consent reflects existing obligations under the UN Charter and customary international law, and applies to conventional armed forces in general.

e (U) Russia's data as of January 1, 2020, provided under the OSCE Global Exchange of Military Information, indicated the presence of a considerable amount of TLE in Abkhazia and South Ossetia. Russia's data as of January 1, 2020, under the Vienna Document indicated the presence of TLE in Crimea and personnel in Moldova.

Russia before its “suspension”), Russia had long exceeded its national entitlements under TLE limits for tanks, ACVs, and artillery in the revised flank zone, and for ACVs in the original flank zone. The original flank zone is the zone described in Article V.1.A of the Treaty as signed in 1990, and the revised flank zone incorporates the alterations made in the 1996 Flank Document, which entered into force on May 15, 1997.

Under the CFE Flank Document, which as noted above entered into force in 1997, and related documents, Russia is limited to 700 tanks, 580 ACVs, and 1,280 pieces of artillery in active units in the revised, geographically-reduced flank zone. Article II of the Flank Document limits Russia to 1,800 tanks, 3,700 ACVs, and 2,400 pieces of artillery in the original flank zone.

At the time of its “suspension” in 2007, as reported in earlier Condition 5(C) Reports, Russia’s declared data indicated that it had overages of almost 600 tanks, over 1,800 ACVs, and over 300 artillery pieces in the revised flank zone.

Past assessments of Russia’s VDoc and GEMI data have suggested that Russia was over 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, unlike CFE data, VDoc and GEMI data do not include equipment held in storage depots and maintenance facilities, thus the overages are almost certainly even higher than reflected in current information.

Stationing conventional armed forces without the consent of the host state: Russia’s stationing of conventional armed forces, including TLE, on the territories of Georgia and Moldova without host nation consent, contrary to a principle of customary international law reflected in Article IV.5, of the Treaty, continued through 2021. In Ukraine, Russia’s occupation and attempted annexation of Crimea, and its stationing of military forces in Crimea without host nation consent,^f also continued through 2021. The United States, NATO Allies, and all other States Parties except Russia and Belarus consider Crimea to be part of the internationally recognized territory of Ukraine. As previously reported, the United States has called for the removal of Russian forces and equipment from eastern Ukraine, and the United States has repeatedly rejected Russia’s attempted annexation of Crimea. During 2021, Russia continued to instigate armed conflict

f (U) Article IV. 5 permits States Parties belonging to the same group of States Parties to locate TLE in each of the Treaty zones, consistent with their notified maximum level for holdings, “provided that no State Party stations conventional armed forces on the territory of another State Party without the agreement of that State Party.”

in eastern Ukraine where Russia finances, arms, trains, leads, and fights alongside antigovernment forces. Russia's ongoing and increased aggressive activities against Ukraine in 2021 remain of concern to the United States, our Allies and partners, and other CFE States Parties.

Efforts to Resolve Compliance Concerns in 2021

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. The Treaty's sixth five-year Review Conference in 2021 provided a prominent platform for the United States and many other States Parties to renew and reinvigorate calls for Russia to return to compliance.

There has been no change in Russia's position or Russian actions to address U.S. compliance concerns, and indeed Russia's violations have only escalated, 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 as a countermeasure. 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 that date, including in 2021, the United States and NATO Allies have not attempted to inspect Russian forces under the Treaty. 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 returns to full implementation of and compliance with 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. Regarding Russia's failure to meet its financial obligations under the CFE Treaty, the United States has made clear the U.S. 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 specific responses to appeals to return to compliance have varied. However, Russia has been consistently clear that it will not resume implementation of the Treaty, and it has tried to deflect U.S. and Allied concerns even as its positions have become more entrenched and its violations have escalated. From 2007 through 2021, other longstanding concerns related to Russia's compliance with specific Treaty provisions were subordinated to discussions focused on the broader issue of Russia's "suspension," and, since 2014, on Russia's occupation and attempted annexation of Crimea, non-transparent military build-ups in and near Ukraine, and continuing aggressive activities in eastern Ukraine.

At the October 15, 2021 CFE Review Conference in Vienna, the United States called on other States Parties to press Russia to end its "suspension" and resume full implementation of the CFE Treaty.

D. IMPLICATIONS FOR U.S. SECURITY, MILITARY SIGNIFICANCE, AND BROADER SECURITY RISKS OF COMPLIANCE CONCERNS

Russia's invalid "suspension" of Treaty implementation since 2007 has seriously eroded the Treaty's verifiability with respect to Russia, has decreased transparency, and has undermined the cooperative approach to security that NATO endeavors to implement. The security situation in Europe has substantially worsened due to Russia's extensive military buildup in and around Ukraine in 2021, including the increase of forces stationed on Ukrainian territory without host State consent.

Russia's stationing of forces on the territory of other States Parties without their consent 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, for example, has increased Russia's reach into the Black Sea region, and adversely affected the security situation in that area.

Russia's ongoing aggression against Ukraine, its purported annexation of Crimea, its 2021 build-up of forces in and around Ukraine's borders, and to a lesser degree, Russia's longstanding "suspension" of the CFE Treaty, have collectively degraded the European security environment. This in turn has caused the U.S. and NATO Allies to refocus on approaches to enhancing their deterrence and defense posture in Europe, with real opportunity costs. NATO's response has

included an enhanced forward presence in the eastern part of the Alliance. The United States has reinforced this Allied posture with rotational deployments under U.S. OPERATION ATLANTIC RESOLVE, and has increased financial investments in the European Deterrence Initiative to increase presence, enhance exercises and training (e.g., DEFENDER-EUROPE), enhance equipment prepositioning, improve infrastructure, and build partner capacity.

In contrast to compliance concerns regarding Armenia and Azerbaijan, Russia's violations – particularly within the context of Russia's aggressive actions in the region – have significant military and security implications for the United States, for Europe, and for NATO as a whole.

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