

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



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The U.S. Department of State**

ADHERENCE TO AND COMPLIANCE WITH ARMS CONTROL AGREEMENTS AND NONPROLIFERATION AGREEMENTS AND COMMITMENTS

I. PURPOSE

This unclassified Report is submitted pursuant to section 403 of the Arms Control and Disarmament Act, as amended, which requires, as part of the Department of State Annual Report, a discussion on Adherence to and Compliance with Arms Control Agreements and Nonproliferation Agreements and Commitments.

II. SCOPE OF THE REPORT

This Report addresses U.S. compliance, compliance by Russia and other successor states of the Soviet Union with treaties and agreements concluded bilaterally with the Soviet Union, and compliance by other countries that are parties to multilateral agreements with the United States. The issues addressed reflect activities from December 1, 2000, through December 31, 2001, unless otherwise noted. Pursuant to Section 403(a)(6), this Report, to the maximum extent practicable, identifies each and every question that exists with respect to compliance by other countries with their arms control, nonproliferation and disarmament agreements with the United States.

III. ADHERENCE TO AGREEMENTS

A. POLICY

Effective arms control and nonproliferation requires parties to comply fully with the obligations and commitments they have undertaken. Compliance with agreements freely negotiated by parties is a fundamental cornerstone of international law. The U.S. approach to compliance is deeply rooted in our own legal system and fundamental principles and values. To that end, the United States is committed to adhering to the same high standard of compliance that it requires of others.

B. U.S. ORGANIZATIONS AND PROGRAMS TO EVALUATE AND ENSURE TREATY COMPLIANCE

Our deep-seated legal tradition, a commitment to U.S. arms control agreements that enhance our security and that of our allies and friends, and our open society, create powerful incentives to comply with agreements to control nuclear weapons and other weapons of mass destruction. Legal and institutional procedures to ensure compliance have been established, and they reflect the seriousness with which these obligations are taken and reinforce these underlying policies and principles. Department of Defense (DoD) compliance review groups oversee and manage DoD compliance with arms control agreements. The Verification, Compliance Analysis Working Group (VCAWG), an interagency organization, oversees and manages analysis of compliance of other nations with arms control agreements. In addition, the VCAWG participates actively in the preparation of this annual report detailing the assessment of both the United States

and other nations adherence to obligations undertaken in all arms control, nonproliferation, and disarmament agreements in which the United States is a participating state. The report also discusses other related arms control, nonproliferation, and disarmament commitments that States have undertaken. Moreover, an interagency review is conducted in appropriate cases, including when other Treaty Parties officially raise questions regarding U.S. implementation of its arms control obligations. Finally, Congress performs oversight functions through committee hearings and budget allocations.

C. U.S. COMPLIANCE WITH ARMS CONTROL AGREEMENTS

1. U.S. INSTITUTIONAL AND PROCEDURAL ORGANIZATION FOR ENSURING COMPLIANCE

There are three major programs within the U.S. executive branch that operate to ensure that U.S. plans and programs remain consistent with U.S. international obligations. These procedures include internal Department of Defense (DoD) controls, Department of Energy (DOE) procedures and controls, and separate evaluations produced by the Department of State. These procedures are in addition to congressional oversight.

In 1972, by direction of the President, the DoD established a process to ensure that all DoD programs comply with U.S. international obligations. Under this compliance process (established with the SALT I agreements in 1972), key offices in DoD are responsible for overseeing DoD compliance with all United States arms control commitments. DoD components ensure that the implementing program offices adhere to DoD compliance directives and seek guidance from the offices charged with oversight responsibility.

Moreover, an interagency review is conducted in appropriate cases, including when other Treaty Parties officially raise questions regarding U.S. implementation of its arms control obligations.

2. TREATY COMPLIANCE

The United States is in compliance with all its obligations under arms control agreements and continues to make every effort to comply scrupulously. Because of the breadth and intrusiveness of current arms control regimes and their extensive notification and data exchange requirements, the United States has on occasion committed some errors in meeting our treaty obligations. When our Treaty Partners have raised compliance questions regarding U.S. implementation activities, the United States has carefully reviewed the matter to determine whether its actions were in compliance with its treaty obligations. When an error has been made, the United States has acknowledged this fact to our Treaty Partners and taken steps to correct the problem.

3. ISSUES RAISED BY OTHER TREATY PARTIES CONCERNING U.S. COMPLIANCE

a. THE INTERMEDIATE-RANGE NUCLEAR FORCES (INF) TREATY

The INF Treaty required the elimination of all U.S. and former Soviet ground-launched ballistic and cruise missiles with ranges of between 500 and 5,500 kilometers, their launchers and associated support equipment and permanently banned the possession, production, and flight-testing of such missiles. The United States and the Soviet Union completed the elimination of all declared INF-prohibited systems in 1991. Inspection rights under the Treaty ceased at midnight on May 31, 2001.

With the dissolution of the Soviet Union, all twelve former Soviet republics became Parties to the Treaty. The United States, Belarus, Kazakhstan, Russia, and Ukraine are the active participants in the Special Verification Commission (SVC), the implementing body for the INF Treaty.

The Russian Federation has expressed INF compliance concerns related to certain procedures used during past inspections in the United States, the treaty status of specific missiles and a silo test launcher. With regard to each of these concerns, the United States has determined that it is in full compliance with the INF Treaty. U.S. officials have addressed these concerns in great detail in the INF Treaty's Special Verification Commission, through diplomatic channels, and meetings at the political level, explaining why U.S. actions are fully consistent with the Treaty.

b. THE STRATEGIC ARMS REDUCTION TREATY (START)

The entry into force of the START Treaty on December 5, 1994, ushered in a verification regime of unprecedented complexity and intrusiveness. In addition to verification by national technical means, data notifications, missile flight test telemetry exchanges, and other cooperative measures, the Treaty provides for 12 types of on-site inspections and exhibitions, as well as continuous on-site monitoring activities at specified facilities. As required, the Parties have exchanged updated START Memorandum of Understanding (MOU) data on a semiannual basis and continued to exercise their right to conduct on-site inspections. During 2001, the United States hosted 26 such on-site inspections at U.S. facilities.

As might be expected under a verification regime with the breadth and intrusiveness of START, a number of compliance questions have been raised by our Treaty Partners. These questions primarily concern procedural issues related to inspections, flight tests of SLBMs and telemetry, as well as a few substantive disagreements with U.S. equipping and positioning of its heavy bombers and the nature of certain ICBM launchers. A number of these issues have been resolved in the Joint Compliance and Inspection Commission (JCIC) and through diplomatic channels, while others have been under active discussion since 1995.

With regard to each of these concerns, the United States has determined that it is in full compliance with the START Treaty. U.S. officials have addressed these concerns in great detail in the JCIC, through diplomatic channels, and meetings at the political level, explaining why U.S. actions are fully consistent with the Treaty.

IV. COMPLIANCE BY SUCCESSORS TO TREATIES AND AGREEMENTS CONCLUDED BILATERALLY WITH THE SOVIET UNION

A. THE TREATY ON THE LIMITATION OF ANTI-BALLISTIC MISSILE (ABM) SYSTEMS

The Treaty between the United States of America and the Union of Soviet Socialist Republics on the Limitation of Anti-Ballistic Missile Systems was signed in Moscow on May 26, 1972 and entered into force on October 3, 1972. Throughout the life of the Treaty, the United States monitored ABM Treaty-related activities. In 2001, the United States detected no activities on the part of the states of the former Soviet Union that gave rise to questions regarding compliance with the provisions of the ABM Treaty.

On December 13, 2001, President Bush provided, in accordance with Article XV of the ABM Treaty, formal notification of U.S. withdrawal from the ABM Treaty. The effective date of the withdrawal was June 13, 2002.

B. THE 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. Elimination of all declared missiles and launchers under the Treaty was completed in 1991.

The 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 ranges between 500 and 5,500 kilometers, their launchers, and their associated support equipment and structures. All such items were eliminated by May 28, 1991.

The Treaty established a verification regime using national technical means (NTM), notifications and an on-site inspection regime to detect and deter violations of Treaty obligations. The inspection regime concluded at the end of thirteen years following the Treaty's entry into force, that is, on May 31, 2001. All on-site inspection activities have now ceased in accordance with the Treaty. The remainder of the verification regime continues for the life of the Treaty.

Short-Notice Inspections. Since the start of this reporting period (December 1, 2000) and through May 31, 2001, when the INF inspection regime ended, the United States conducted five short-notice inspections. All of these INF short-notice inspections were conducted successfully and no ambiguities were declared.

Portal Monitoring at Votkinsk. Since the start of this reporting period (December 1, 2000) and through May 31, 2001, when the INF inspection regime ended, the Russian Federation routinely exited a number of items from Votkinsk. All were inspected successfully. In all cases, the United States was able to confirm that each inspectable item exiting the plant was not an INF-banned SS-20 intermediate-range ballistic missile.

The United States has identified no INF Treaty compliance issues with its Treaty Parties as of this report. The United States will continue to verify compliance with the INF Treaty through NTM for the duration of the Treaty.

UPDATE ON SS-23 MISSILES.

In 1990, the United States discovered that the Soviet Union had transferred a number of SS-23 shorter-range ballistic missiles to East Germany, Czechoslovakia, and Bulgaria. While this transfer did not violate the INF Treaty since it occurred prior to Treaty signature, the United States had serious compliance concerns regarding this issue. The nations whose military forces held the SS-23 missiles were not INF Parties, and thus were never legally liable under the Treaty. As a matter of policy, the United States has sought the destruction of these missiles in order to fulfill the objectives of the INF Treaty.

In December 2001, Bulgaria, the only country known to still be in possession of SS-23s, announced its intention to destroy its SS-23 missiles by October 2002. The United States offered to provide technical and financial assistance under the Department of State's Nonproliferation and Disarmament Fund (NDF). The missiles were rendered inoperable by the end of 2002; destruction of the motors is pending.

The Slovak Republic, which also had received SS-23s in the 1980s when it was part of the former Czechoslovakia, agreed to destroy its missiles with financial assistance provided by the NDF. On October 27, 2000, the Slovak Republic completed the destruction of its SS-23 missiles and associated support equipment as confirmed by a team of U.S. observers.

Germany and the Czech Republic already had destroyed their SS-23s and associated support equipment during the 1990s.

C. STRATEGIC ARMS REDUCTION TREATY (START)

Belarus, Kazakhstan, Russia and Ukraine are in compliance with the START strategic offensive arms (SOA) central limits. Both the United States and Russia met the START seven-year reduction final ceilings of 1,600 delivery vehicles and 6,000 attributed warheads by the December 4, 2001, deadline. By December 2001, the four FSU successor states had reduced their aggregate forces to 1,136 deployed launchers, 5,518 deployed warheads, and 4,894 deployed ballistic missile warheads, as defined by Article II of the Treaty, and all strategic weapons have been removed or eliminated from the territories of Ukraine, Belarus and Kazakhstan. Additionally, START required the four FSU successor states to eliminate at least 22 heavy ICBM (SS-18) silo launchers each Treaty year until the limit of 154 heavy ICBM silo launchers was reached at the end of the seventh Treaty year (December 2001). In the original MOU, dated 1 September 1990, the Soviet Union declared 308 SS-18 heavy ICBM silo launchers. As of 30 November 2001, a total of 158 SS-18 silo launchers had been eliminated—104 in Kazakhstan and 54 in Russia—leaving a total of 150 deployed heavy ICBMs, thereby meeting the agreed limit.

Russia is in compliance with the START Treaty ceilings. Based on the Treaty's verification regime that includes on-site inspections, notifications, cooperative measures and national technical means, the United States has been able to determine that the final reductions required by the Treaty have been carried out by the Russian Federation. Russia's implementation of the START Treaty with respect to achieving the central limits is therefore a success. Notwithstanding this success, a number of long-standing compliance issues that have been raised in the JCIC remain unresolved. The Parties continue to work through diplomatic channels and in the JCIC to ensure smooth implementation of the Treaty and effective resolution of compliance issues and questions.

Numerous Treaty-mandated activities facilitate U.S. efforts to monitor compliance of the START Treaty. Every six months, Belarus, Kazakhstan, Russia and Ukraine provide extensive data declarations detailing the numbers and locations of their strategic nuclear forces. They then update that data throughout the year with numerous ad hoc change notifications. During the period of this report, the United States spot-checked the data declared by conducting 39 on-site inspections — 28 short-notice inspections and 11 others in response to notifications from Russia and Ukraine (29 in Russia, 9 in Ukraine, and 1 in Kazakhstan). Russia also responded to seven U.S. requests for NTM cooperative measures displays at ICBM mobile missile bases. The U.S. maintained a continuous portal monitoring presence at Russia's Votkinsk missile assembly plant. Moreover, during the period of this report, Russia provided telemetry tapes and documentation for 14 ICBM and SLBM flight tests.

There were no new compliance issues during the period of this report, December 1, 2000, through December 31, 2001, with regard to ICBMs, SLBMs or heavy bombers. Many of the issues that remain unresolved initially arose during the first year of Treaty implementation. Resolution of these issues is complicated by the different interpretations by the Parties about how to implement the complex inspection and verification provisions of the Treaty. In this regard, the Parties have expressed different views on when road-

mobile launchers become accountable under the Treaty. U.S. inspectors also on some occasions have been hampered in their effort to ascertain that Russian missiles are equipped with no more reentry vehicles than the number of warheads attributed to them.

Russia's implementation of the START Treaty with respect to achieving the central limits is Treaty compliant. Notwithstanding this achievement, a number of compliance issues remain unresolved.

V. COMPLIANCE OF OTHER NATIONS (INCLUDING SUCCESSORS TO THE SOVIET UNION) WITH MULTILATERAL AGREEMENTS

A. THE 1972 BIOLOGICAL AND TOXIN WEAPONS CONVENTION (BWC)

The 1972 Biological and Toxin Weapons Convention (BWC) prohibits development, production, stockpiling, acquisition or retention of: (a) microbial or other biological agents, or toxins, of types and in quantities that have no justification for prophylactic, protective, or other peaceful purposes, and (b) weapons, equipment or means of delivery, designed to use such agents or toxins for hostile purposes or armed conflict. As of December 2001, 144 countries were States Parties to the Convention. As of that date, an additional 18 countries have signed, but have not yet ratified the agreement, including Syria.

While the United States has concerns regarding the activities of other countries, the specific cases addressed here are those for which unclassified evidence exists. Consequently, this unclassified report only addresses the activities of China, Cuba, Iran, Iraq, Libya, North Korea, Russia (and the former Soviet Union), and Syria. Of those nations, China, Cuba, Iran, Iraq, Libya, North Korea, and Russia are States Parties to the Convention. With regard to these States Parties, the Report examines whether they are complying with the obligations assumed under the 1972 Biological and Toxin Weapons Convention (BWC) and are providing accurate data under agreed BWC Confidence Building Measures (CBMs). This Report also addresses the BW-related activities of Syria which is a signatory to the Treaty.

At the 1986 BWC Review Conference, the States Parties adopted a set of non-binding confidence building measures (CBMs); these were expanded at the 1991 Review Conference. The States Parties also agreed that the data called for in these CBMs should be submitted to the United Nations annually (by April 15 each year).

Of the then 144 States Parties, only 37 States Parties submitted declarations as of November 2001, reporting on 2000 activities. Since adoption of the non-binding CBMs in 1986, some 82 States Parties have submitted at least one declaration. Of those, a small number of States Parties have made only an initial declaration, and not annual declarations; the remainder have not submitted any declaration. Still others submitted declarations at one time but have not done so recently, e.g. Iran. Sixty-two States Parties have not submitted any declaration. The lack of participation in the CBMs is a concern

to the United States. Data provided by the CBMs has some limited utility for enhancing U.S. understanding of foreign biotechnical activities and capabilities.

In July 2001, the United States rejected the completion of a transparency Protocol to the BWC. Put simply, the draft Protocol would have been singularly ineffective. The United States rejected the draft protocol for three reasons: 1) it was based on a traditional arms control approach that would not work on biological weapons; 2) it would have compromised national security and confidential business information; and 3) it would have been used by proliferators to undermine other effective international export control regimes.

The United States presented a number of new proposals to address the BW threat and strengthen the BWC, including tightened national export controls, fully implementing the BWC by nationally criminalizing activity that violates it, intensified non-proliferation activities, increased domestic preparedness and controls, enhanced biodefense and counter-bioterrorism capabilities and innovative measures against disease outbreaks. Many, if not all of these proposals were measures that could be implemented by States Parties immediately. The Review Conference was suspended in December 2001, but the U.S. proposals were on the table for its November 2002 resumption.

The issue addressed in this Report is whether the nations reviewed are complying with the obligations assumed under the 1972 BWC and are providing accurate data in their declarations. The BWC prohibits development, production, stockpiling, acquisition or retention of microbial or other biological agents, or toxins, of types and in quantities that have no justification for prophylactic, protective, or other peaceful purposes. Not only the existence, but the intent of any biological program, is considered in the process of reaching compliance determinations. This is challenging given the dual-use nature of most biotech equipment, facilities, and activities.

CHINA

China deposited its instrument of accession, and thereby became a State Party to the BWC on November 15, 1984. The United States believes that China had an offensive BW program prior to 1984 when it became a State Party to the BWC, and maintained an offensive BW program throughout most of the 1980s. The offensive BW program included the development, production, stockpiling or other acquisition or maintenance of BW agents. Since 1984, China consistently has claimed that it never researched, produced, or possessed any biological weapons and never would do so. Nevertheless, China's declarations under the voluntary BWC-related declarations for confidence building purposes are believed to be inaccurate and incomplete, and there are some reports that China may retain elements of its biological warfare program. China's CBM declarations have not resolved U.S. concerns about this program, and there are strong indications that China probably maintains its offensive program.

FINDING. The United States believes that in the years after its accession to the BWC, China was not in compliance with its BWC obligations. China continues to maintain some elements of an offensive biological warfare program it is believed to have started in the 1950s.

CUBA

Cuba became a State Party to the BWC in 1976. Since 1991, Cuba has submitted annual declarations pursuant to the agreed BWC-related Confidence-Building Measures (CBMS).

Cuba has a sophisticated biotechnology infrastructure consisting of dual-use facilities, equipment and expertise capable of supporting a biological weapons effort. The United States believes that Cuba has at least a limited, developmental offensive biological warfare research and development effort. Cuba has provided dual-use biotechnology to rogue states. We are concerned that such technology could support BW programs in those states. Havana's worldwide commercial and scientific ties, including to countries with BW programs, offer a potential opportunity for sharing BW applicable technologies.

FINDING. The United States believes that Cuba has at least a limited, developmental offensive biological warfare research and development effort. Such efforts are prohibited by the BWC.

IRAN

Iran became a State Party to the BWC in March 1975.

Iran's biological warfare program began during the Iran-Iraq war. Hashemi-Rafsanjani—then Acting Commander in Chief of the Armed Forces and Speaker of the Majlis – was reported to have announced during an October 1988 speech: “We should fully equip ourselves both in the offensive and defensive use of chemical, bacteriological, and radiological weapons. From now on, you should make use of the opportunity and perform this task.” The United States believes Iran has endeavored to follow through on Rafsanjani's direction.

Iran has a growing biotechnology industry, significant pharmaceutical experience and the overall infrastructure to support its biological warfare program. Iran has expanded its efforts to seek considerable dual-use biotechnical materials and expertise from entities in Russia and elsewhere, ostensibly for civilian reasons.

The Iranian BW program has been embedded within Iran's extensive biotechnology and pharmaceutical industries so as to obscure its activities. The Iranian military has used medical, education, and scientific research organizations for many

aspects of BW agent procurement, research, and production. Iran has also failed to submit the data declarations called for in the CBMs.

FINDING. The United States judges, based on available evidence, that Iran has an offensive biological weapons program in violation of the BWC. Iran is technically capable of producing at least rudimentary biological warheads for a variety of delivery systems, including missiles.

IRAQ

Iraq signed the BWC in 1972. As required under Security Council resolution 687, Iraq ratified the BWC in 1991. Its ratification of the BWC in 1991 obligated Iraq to destroy or divert to peaceful purposes all agents, toxins, and related delivery systems in its possession or under its jurisdiction or control. The United States believes that, since signing the BWC in 1972, Iraq developed, produced, and stockpiled BW agents and BW weapons.

Until the defection of General Hussein Kamel Hassan in August 17, 1995, to Jordan, Iraq claimed that it had met its obligations under the BWC. Following Hassan's defection, Iraq then presented the United Nations Special Commission (UNSCOM) with dramatically new information on its past BW program, including details concerning weaponization, agents, and sites. Iraq's accounts of weapon development and deployment remain incomplete, as are its accounts of overall military dimensions and concepts of use. Many UNSCOM biological inspection teams visited Iraq from 1996-98 to obtain further details about Iraq's BW program. UNSCOM has yet to receive documentation which supports; (1) the information contained in Iraq's Full, Final, and Complete Declaration, (2) Iraqi claims that all BW agents and weapons have been destroyed, and (3) Iraqi claims that its BW program has been dismantled. In violation of its obligations under UN Security Council resolutions, Iraq has not permitted any UNSCOM inspections or provided any new information to UNSCOM since December 1998. UNSCOM has now been succeeded by the United Nations Monitoring, Verification, and Inspection Committee (UNMOVIC) which, as of December 2001, had yet to conduct any on-site activities in Iraq (subsequently, UNMOVIC initiated inspections in Iraq in 2002).

Though the Iraqi disclosures were substantial, we believe that Iraq has not yet presented all details of its offensive BW program. Evidence clearly indicates that Iraq moved BW production facilities to mobile facilities to hide these facilities from UN inspectors. The United States strongly suspects that Iraq has taken advantage of three years of no U.N. inspections to improve all phases of its offensive BW program and is violating the BWC.

FINDING. The United States judges that Iraq has biological weapons and a significant offensive biological weapons program in violation of its obligations under the BWC. After signing the BWC in 1972, Iraq developed, produced, and stockpiled BW

agents and weapons, and continued this activity after ratifying the BWC in 1991. Since inspections ended in 1998, Iraq has invested more heavily in biological weapons. Iraq has rebuilt biological weapons facilities damaged during Operation Desert Fox and has expanded its biological infrastructure under the cover of civilian production. Iraq has established large-scale, redundant, and concealed BW agent production capabilities based on mobile BW facilities. The Iraqi Government's determination to hold onto a sizable remnant of its WMD arsenal, agents, equipment, and expertise has led to years of dissembling and obstruction of UNSCOM inspections.

LIBYA

Libya became a State Party to the BWC in January 1992. Libya has acceded to the BWC, but it has continued a biological warfare program. Libya has the expertise to produce small quantities of biological equipment for its BW program and evidence suggests Libya is seeking to acquire the capability to develop and produce BW agents for offensive purposes. Such development or production would violate key provisions of the BWC. Libya also has failed to submit the data declarations stipulated in the CBMs.

FINDING. Evidence indicates that Libya has the expertise to produce small quantities of biological equipment for its BW program and that the Libyan Government is seeking to move its research program into a program of weaponized BW agents. The United States judges that Libya is in probable violation of its obligations under the BWC.

NORTH KOREA

North Korea has pursued biological warfare capabilities since the 1960s and continued its program despite having become a State Party to the BWC in March 1987. Pyongyang's resources include a rudimentary (by Western standards) biotechnical infrastructure that could support the production of infectious biological warfare agents and toxins such as anthrax, cholera, and plague. North Korea's only BWC data submission pursuant to the BWC-related Confidence Building Measures was in 1990. It stated that North Korea had nothing to declare. The United States believes this declaration to be false. North Korea is believed to possess a munitions-production infrastructure that would allow it to weaponize biological warfare agents and may have biological weapons available for use.

FINDING. The United States believes North Korea has a dedicated, national-level effort to achieve a BW capability and that it has developed and produced, and may have weaponized for use, BW agents in violation of the Convention. North Korea likely has the capability to produce sufficient quantities of biological agents for military purposes within weeks of a decision to do so.

RUSSIA

The USSR, the United Kingdom, and the United States, as the three depository governments for the BWC, all deposited their instruments of ratification on March 26,

1975. Russia has assumed BWC successor status from the Soviet Union, and therefore is bound to comply fully with the obligations contained therein.

The offensive biological weapons program of the USSR, in violation of the BWC, was the world's largest and consisted of both military facilities and civilian research and development institutes.

The Russian government publicly committed to ending the former Soviet biological weapons program and claims to have done so in 1992. Nevertheless, serious concerns remain about Russia's offensive biological warfare capabilities and the status of some elements of the offensive biological warfare capability inherited from the USSR.

Since the breakup of the Soviet Union, downsizing and restructuring of the program have taken place. Many of the key research and production facilities have taken severe cuts in funding and personnel. However, some key components of the former Soviet program may remain largely intact and may support a mobilization capability for the production of biological agents and delivery systems. Work outside the scope of legitimate biological defense activity may be occurring now at selected facilities within Russia, and the United States continues to receive unconfirmed reports of some ongoing offensive biological warfare activities. Some facilities, in addition to being engaged in legitimate activity, may be maintaining the capability to produce BW agents.

The Russian Federation's 1993-1999 BWC-related data declarations contained no new information and its 1992 declaration was incomplete and misleading in certain areas. Serious concerns remain about the status of Russian biological warfare programs, the accuracy of the information Russia provided in its declarations, and the willingness of the Russian defense establishment to eliminate these capabilities. With regard to the trilateral process that began in 1992, while there has been progress toward achieving the openness intended in the Joint Statement (which calls for a series of confidence-building visits and information exchanges), the progress has not resolved all U.S. concerns. The trilateral process broke down in the mid-1990s without resolving U.S. and UK concerns regarding Russia's compliance with the BWC.

Previous assessments of Russian compliance have highlighted the dichotomy between what appears to be the commitment of key members of the Russian leadership to resolve BWC issues, and the continued involvement of veterans of the Soviet offensive BW program in both BWC Protocol negotiations and in what Russia describes as its defensive BW program.

FINDING. The United States judges, based on available evidence, that Russia continues to maintain an offensive BW program in violation of the BWC.

SYRIA

Syria is a signatory to the BWC, but has yet to ratify the Treaty. Syria has indicated that ratification of the BWC and accession to the CWC is contingent upon Israeli accession to the Nuclear Non-Proliferation Treaty.

Syria's biotechnical infrastructure is capable of supporting agent development. However, the Syrians are not believed to have begun any major effort to put biological agents into weapons. It is believed that the Syrian offensive BW program is in the research and development stage.

FINDING. The United States judges, based upon the evidence available, that Syria is pursuing the development of biological weapons that would constitute a violation of the BWC if Syria were a State Party.

B. THE TREATY ON CONVENTIONAL ARMED FORCES IN EUROPE (CFE)

The Treaty on Conventional Armed Forces in Europe¹ (CFE) was signed November 19, 1990, by 22 States. On June 14, 1991, the Soviet Union issued two related statements in an extraordinary conference in Vienna and in the Joint Consultative Group (JCG). One contained legally-binding obligations related to equipment of the same categories as treaty-limited equipment (TLE) held by Naval Infantry, Coastal Defense (NI/CD), and Strategic Rocket Forces. The second contained political commitments related to equipment of Treaty-limited types removed from the CFE area of application by the Soviet Union prior to Treaty signature.

In December 1991, the Soviet Union dissolved and twelve newly-independent states (NIS) came into existence. In the Tashkent Agreement of May 15, 1992, the eight NIS with territory in the CFE Treaty's area of application (Armenia, Azerbaijan, Belarus, Georgia, Kazakhstan, Moldova, Russia and Ukraine) agreed on principles for, and most of the details of, allocating the CFE rights and obligations of the Soviet Union. At the Oslo Extraordinary Conference of all CFE participants in June 1992, these eight states confirmed their acceptance of all CFE and CFE-related rights and obligations of the former Soviet Union (FSU).

On July 17, 1992, the CFE Treaty came into full provisional application. After the final instrument of ratification was deposited, the Treaty formally entered into force on November 9, 1992, with all Treaty timelines calculated from July 17, 1992.

CFE-1A, an associated agreement that came into effect simultaneously with the CFE Treaty, establishes aggregate national ceilings for personnel in military forces in the

¹ This Report covers activities and data through early December 2001, and includes an initial review of the data exchanged by States Parties as of January 1, 2002.

area of application. It requires each CFE State Party to provide data on its peacetime authorized personnel strength and to brief on-site inspection (OSI) teams on the personnel holdings of units inspected.

In January 1993, the Czechoslovak Federated Republic (CSFR) split into two separate states, the Czech Republic and the Slovak Republic, which accepted the rights and obligations of the former CSFR and were accepted into the Treaty. This brought the number of States Parties to its present 30.

Detailed CFE data, as of July 17, 1992, were exchanged in August 1992. Subsequent data exchanges required by the Treaty have occurred each year on December 15, with information as of January 1 of the following year. There was an additional data exchange as of November 16, 1995, at the end of the Treaty reduction period, when the Treaty's limits on TLE and CFE-1A's limits on personnel went into effect.

The first Review Conference of States Parties to the Treaty took place from May 15-31, 1996. Among the achievements of this conference were: agreement on understandings and interpretations to improve the viability and effectiveness of the Treaty; identification of technical/administrative issues requiring further consideration in the JCG; a commitment to begin a negotiation process aimed at preserving the Treaty's viability and improving its operation in a changing security environment (CFE adaptation); acceptance of a new schedule with some additional modalities for Russia's obligations to destroy or convert equipment east of the Urals; and, in response to recognized Russian and Ukrainian flank concerns, an agreement revising the Treaty's flank regime.

The Flank Document has three basic elements: (1) reduction of the size of the flank zone in Russia and Ukraine by a map realignment; (2) establishment of limits on overall Russian TLE that could be in the original flank zone, and on Russian ACVs and all three categories of Ukrainian ground TLE in specific areas removed from the original flank zone; and (3) provision of greater transparency regarding military forces on Russian and Ukrainian territory in the original flank zone through additional inspections, data exchanges, and notifications.

Under the agreement, Russia and Ukraine were required to meet all CFE obligations in the new and old (original) flank zones by May 31, 1999.

Major parts of the Flank Document went into provisional effect immediately (including an interim cap on Russian TLE in the original flank area, as well as the enhanced transparency measures). The Flank Document entered into force on May 15, 1997.

In January 1997, the States Parties began negotiations in the JCG to adapt the Treaty to new political circumstances, including the dissolution of the Warsaw Pact and the Soviet Union and enlargement of NATO. During 1997, NATO proposed a new

structure of limitations that all States Parties accepted. In summer 1998, NATO tabled detailed proposals concerning the operation of the new limitations, including key military flexibilities, enhancement of data and verification provisions, and reconciliation of the 1996 Flank Agreement and related provisions. On November 19, 1999, an amendment document to adapt the CFE Treaty was signed at the OSCE summit in Istanbul; it will enter into force upon ratification by all 30 States Parties. Key elements of the Adapted Treaty include: national and territorial ceilings (NC and TC); flexibilities for situations when it would be necessary to exceed TCs; enhanced provisions regarding host state consent for the presence of foreign forces; enhanced transparency on forces, activities, and TLE holdings; increased opportunities for on-site inspections; and the opening of the Treaty to accession on a case-by-case basis.

As noted in previous reports, including last year's Condition 5 Report, in spite of some troubling exceptions, most of the provisions of the Treaty have been implemented with success. By the end of 2001, more than 52,000 pieces of conventional armaments and equipment had been reduced inside the CFE zone according to the Treaty's reduction provisions, with many States Parties having reduced their holdings to lower levels than required — notifying over 6,000 voluntary reductions below limits.² By that date, Russia had notified for destruction or conversion approximately 15,400 additional items in accordance with the provisions of Treaty-related agreements. Almost 4,100 intrusive on-site inspections had taken place by the end of 2001 (including supplementary flank inspections, expert's visits, and reduction inspections).

On a major compliance concern, Russian stationed forces in Moldova and Georgia without host state consent, some important progress has been made, but more needs to be done. In regard to a second major concern, Russian data and related notifications indicated that the overages above Adapted Treaty flank limits had been almost eliminated. Nevertheless, there remained a continuing need to monitor the situation. (Subsequently, Russia's flank data as of July 1, 2002, and a related notification indicated that Russian holdings of TLE for the adapted flank area were within the future limits of the Adapted Treaty.) In addition, a number of other longstanding concerns remained in regard to Armenia, Azerbaijan, Belarus, Russia, and Ukraine. In addition, new issues arose in 2001. These are all discussed below. Additional details can be found in the CFE Compliance Report pursuant to Condition 5 on the Senate Resolution of Advice and Consent to the CFE Flank Document.

Finally, there were a number of smaller, more technical concerns such as late or erroneous notifications, failure to notify removal of TLE from designated permanent storage sites (DPSS), failure to report correctly objects of verification (OOV), and the inability of escorts and unit commanders to account for missing TLE.

² Currently, only some States Parties voluntarily make notifications and allow inspections of reductions below limits. However, all 30 States Parties have agreed to make such notifications in the Adapted Treaty.

ARMENIA

Declaring and Meeting Required Reduction Liabilities. As noted in previous Reports, Armenia has failed to notify properly or carry out all of the reductions required by the Treaty. This problem has existed since the Treaty came into force. Armenia's failure to notify properly or to complete its required CFE reduction obligations contributes to the collective failure by the Soviet CFE successor states to meet their 1992 Oslo commitment to declare and to complete reduction requirements that are no less than the reduction requirements of the FSU (discussed under Collective Obligations).

Apparent Failure to Report TLE Received from Russia. Reports over the last three years³ outlined possible Treaty implications of TLE transfers from Russia into Armenia between 1994 and 1996. There has been no change in this issue on the Armenian side, and there have been no new steps toward resolving the CFE issues surrounding these transfers. It is not clear whether it will be possible to make progress on this issue outside of the context of a political settlement of the Nagorno-Karabakh (N-K) dispute which is the focus of the OSCE's Minsk Group (co-chaired by the United States, Russia, and France).

Failure to Declare Look-Alikes of the MT-LB APC. For the first time in several years (after repeated U.S. questioning, and after an OSI in 2000 observed several MT-LB-U APC look-alikes at a site in Armenia), Armenia declared in its data as of January 1, 2001, exactly the number of MT-LB APC look-alikes based on the MT-LB-U chassis that had been observed during the inspection. However, questions remain. When Armenia previously declared MT-LB-U's in its annual data, it declared a much larger figure, and the declared Armenian force structure has not changed significantly.

Late, and Possibly Incomplete, Notification of TLE Entry into Service. As reported previously, Armenia was late in notifying entry into service of multiple rocket launcher (MRL) systems acquired from China, and may have failed to report the full number received (according to press reports). Armenian representatives deny that more MRLs were received than the number they notified. The Armenians did not follow CFE procedures for providing technical data and photographs of these systems, but they hosted a Vienna Document 1999 demonstration of the new equipment in August 2000.

Improper Site Diagram and Denial of Inspection Access. As reported last year, during the U.S.-led inspection in May 2000, the Armenian site diagram improperly excluded two common area units and access was denied to those areas. This problem, however, has not resurfaced in 2001 and Armenian representatives have attributed it to inadequately trained escort personnel.

Compliance with Limits. Previously, Armenia, while asserting compliance with its limits in the five major categories of TLE, exceeded its limit in the armored infantry fighting vehicle (AIFV)/heavy armament combat vehicle (HACV) sub-category of ACVs

³ Including the Condition 5 CFE Compliance Report covering the year 2000.

by more than 30. This overage had remained unchanged since Treaty limits came into effect. However, on August 22, 2000, Armenia notified the transfer of almost 60 AIFVs from the conventional armed forces to internal security forces and Armenian data as of January 1, 2001 and as of January 1, 2002 showed Armenia to be within all of its limits, including those for AIFV/HACVs. However, because of other questions we continue to track this issue.

FINDINGS. Armenia has failed to comply with Treaty provisions in regard to reduction liability declarations and reductions completed. According to notifications and Armenian data as of January 1, 2000, January 1, 2001, and January 1, 2002, Armenia no longer exceeds Treaty limits in the AIFV/HACV sub-category of ACVs, but the possibly unreported TLE creates questions. There is evidence that Armenia may have failed to notify increases in unit holdings involving TLE transferred from Russia. After several years during which Armenia failed to report MT-LB-U look-alikes of the MT-LB APC that have remained in its inventory, Armenia in its latest data did report several such look-alikes, but far fewer than it had regularly reported in the years before Armenia stopped including them in its data. Also, in 2000, Armenia notified the acquisition of MRLs late, and may not have reported all of them. Finally, Armenia presented an improper site diagram and improperly denied access to two excluded common area units during a U.S.-led inspection in May 2000, but this problem did not resurface in 2001 and may have been corrected.

AZERBAIJAN

Declaring and Meeting Required Reduction Liabilities. As noted in previous reports, Azerbaijan has stated that it cannot notify and carry out its required reductions so long as the dispute in N-K continues. This position has not changed. Nevertheless, Azerbaijan has notified and carried out reduction events. To date, Azerbaijan has notified and apparently completed some 430 TLE reductions out of a putative liability of over 1,000. Azerbaijan's failure either to notify or to complete its required reductions contributes to the collective failure by the Soviet CFE successor states to meet the Oslo commitment to declare and to complete reduction requirements that are no less than the reduction requirements of the FSU.

Compliance with Limits. According to its data as of January 1, 2000, January 1, 2001, and January 1, 2002, Azerbaijan no longer exceeds its declared limits in any TLE category. However, as described in previous reports, two inspections (one in 1999 and one in 2000) led to questions about these data.

In regard to the inspections in 1999 and 2000 that have led to questions about the accuracy of Azerbaijan's data and notifications indicating holdings equal to but not exceeding its declared limits, the Azerbaijanis stated that the issue of improperly modified MT-LB-Ts (described in last year's report) had been brought to the attention of the MOD which had assured the MFA that this equipment had now been properly modified as required by the Treaty. Similarly, they reported that internal Azerbaijani

checking had determined that the static display artillery, which had been questionably deployed to the line of contact, had been moved there temporarily in order to carry out training of reserve artillery personnel, and were not in combat operations. They stated that these artillery pieces were now located with a heavy artillery brigade stationed in the vicinity of Baku and were being used solely for training. The response on improperly modified MT-LBs is plausible, but has not been confirmed by a subsequent on-site inspection. However, the Treaty states that working order static display items “shall be displayed at museums or other similar sites.”

Suspension of CFE Provisions. In its data as of January 1, 2001, Azerbaijan continued to fail to report correctly eight OOVs. Then, in its data as of January 1, 2002, this number rose to nine. Also, during 2001, Azerbaijan continued its unilateral suspension of CFE provisions requiring notifications of changes of ten percent or more in TLE assigned to units. Azerbaijan has continued to defend its unilateral suspension of certain Treaty notifications on the grounds that these notifications would provide operational information to Armenia in the N-K context, and again alluded to military security necessity in regard to the lack of notifications on changes in unit holdings and the failure to report locations for deployed units whose garrisons were occupied by the enemy. However, considering that a cease-fire has been in place for several years, it is difficult to understand how the number of units whose garrisons are “enemy-occupied” can continue to grow.

FINDINGS. Azerbaijan has failed to comply with Treaty provisions with regard to reduction liability declarations, and has continued to unilaterally suspend selected Treaty requirements. Although, according to its last three data exchanges, Azerbaijan has asserted that it is in compliance with its Treaty limits, there is continuing information to suggest improper use of equipment allegedly reduced by virtue of being transformed into working order static display items.

BELARUS

Questionable Declaration of Tanks for Export. As reported for several years, there have been questions about the number of tanks Belarus has declared as in the “awaiting export” category. Over the last few years, these numbers have decreased, and subsequent UN and OSCE data about Belarusian tank exports confirm that (except for the one instance in which the number of modern tanks decreased due to their replacement in the export category by older, more exportable models) the decreases have represented exports. Belarusian data as of January 1, 2001, continued to show almost 150 tanks awaiting export. Its data as of January 1, 2002, showed one less. Although Belarus now apparently is properly implementing its obligations in regard to TLE awaiting export, this does not fully resolve all of our concerns about previous Belarusian use of the exemption from accountability for equipment awaiting export, especially in regard to its reduction liability and to the collective obligation described below. Belarus continues to state that the tanks declared as awaiting export are in excess of its needs and that it needs the hard currency they could bring if exported.

Denial of Access to a Portion of a Declared Site and Failure to Declare Equipment. In its data as of January 1, 2001, and as of January 1, 2002, Belarus continued to declare the Spetsnaz brigade at Marina Gorka, but again without any of the TLE that could still remain there. The site has not been inspected since 1999, when access was last denied.

FINDINGS. Belarus' recent tank exports reinforce the conclusion reported previously that Belarus is now using its holdings of equipment for export in the manner intended. Belarus has continued to not report TLE at a site, and to deny access to part of that site, where TLE could still be present.

RUSSIA

Failure to Declare Look-Alikes. There has been no change on this issue. Russia continues to refuse to declare either APC look-alikes of the MT-LB-U version or Engineer Reconnaissance Vehicle (IRM) AIFV look-alikes, insisting that their inclusion in Soviet data as of Treaty signature and in Russia's first data exchange of July 17, 1992, was a technical error. The United States disagrees with this view. Moreover, the MT-LB-U is included in the POET and Russia's refusal to declare these APC look-alikes is not in accord with Treaty rules.

Russian Stationed Forces. For several years, there have been important concerns about Russian forces stationed in Moldova and Georgia without host state consent. At the November 1999 OSCE Summit in Istanbul, Russia committed to specific actions related to withdrawal of Russian forces from Georgia and Moldova, and there was, until recently, considerable progress in the case of Russian forces in Georgia. Meanwhile, after a year and a half of virtually no progress in Moldova, a number of encouraging developments have taken place there since the summer of 2001.

The United States and the OSCE have continued to offer and provide assistance in the form of reimbursement for costs associated with the relocation of Russian troops and military equipment from Georgia and Moldova, as well as for removal or destruction of military equipment and ammunition stored at Russian facilities in Moldova. See previous reports, including last year's Condition 5 Report for additional details.

As reported previously, in Annex 14 of the CFE Final Act, Russia committed to decrease, by no later than December 31, 2000, its TLE holdings on Georgian territory to not more than 153 tanks, 241 ACVs, and 140 pieces of artillery. Russian CFE data reported some 140 tanks, over 500 ACVs, and close to 170 pieces of artillery in Georgia as of January 1, 2000, not including ACVs and artillery in Russian "peacekeeping" forces present in the Abkhaz and South Ossetian regions of Georgia. Russia's flank data as of July 1, 2000, showed the same numbers of tanks and pieces of artillery, but a drop in ACVs to about 480. But counting the peacekeeping forces and over 20 decommissioned ACVs, the total number of ground items present on Georgian territory was some 140 tanks, close to 650 ACVs, and almost 170 pieces of artillery. After a series of

withdrawals and TLE destruction events which were all either observed and confirmed by U.S. and/or OSCE observers or confirmed by Georgia, Russia met this TLE commitment by the end of 2000 and issued a notification to that effect. Russia's data both as of January 1, 2001, and July 1, 2001 (adjusted to include the peacekeeping forces), showed total TLE holdings in Georgia to be within the levels committed to at Istanbul.

At Istanbul, Russia also agreed to withdraw or dispose of the TLE at the Russian military bases at Vaziani and Gudauta and the repair facility in Tbilisi by December 31, 2000, and to disband and to withdraw from the bases at Vaziani and Gudauta by July 1, 2001. Other aspects of the remaining Russian presence in Georgia were to be resolved in the same timeframe. While the Vaziani base was turned over on time, agreement over some of the terms of the closure of Gudauta was not reached by the July deadline. In November, the Russians announced fulfillment of their Istanbul Summit commitments with respect to Gudauta, claiming to have disbanded the base and withdrawn regular military forces there, leaving only CIS "peacekeepers" and the necessary facilities to support their presence. Georgia, however, disputed Russia's characterization of the status of Gudauta. The United States and NATO Allies underscored to Russia that it was essential to reach agreement with Georgia on any continuing Russian presence at Gudauta and urged Russia and Georgia to renew their talks. This theme was echoed in the Statement on Georgia agreed by all 54 OSCE Ministers at their meeting in Bucharest December 3-4. The Ministerial document, agreed by Russia and Georgia, called for the resumption of Georgia-Russia talks on transparency regarding Gudauta and early legal transfer of the facility to Georgia. This appears to offer a way forward on these issues that both Russia and Georgia can accept.

With regard to Moldova, Russia announced in November that it had fulfilled its Istanbul commitment to withdraw or destroy all TLE by the end of 2001. In Russia's CFE data both as of January 1, 2001, and as of July 1, 2001, there were close to 110 tanks, some 130 ACVs, and over 120 pieces of artillery stationed in Moldova. Russia began notifying and carrying out destruction events in July, completing the TLE portion of the Istanbul requirement. By December 2001, OSCE observers, including CFE inspectors, confirmed the withdrawal or destruction of all TLE Russia had declared in Moldova, and Russian data as of January 1, 2002 showed no TLE in Moldova.

The second Istanbul commitment regarding Moldova was for the full withdrawal of all Russian forces by the end of 2002. Other than the politics related to Transnistria, the biggest obstacle to meeting this second commitment is the removal, destruction, or demilitarization of some 42,000 tons of stored Russian ammunition. In addition, there are over 25,000 stored Russian small arms that must be withdrawn. Throughout the summer and fall, intensive negotiations were under way to identify the best and most satisfactory methods, including on a cost-effectiveness basis, to accomplish the disposal of the ammunition and the withdrawal of the remaining Russian materiel. Russia invited the OSCE mission to observe loading of the first four trainloads of ammunition to be withdrawn to Russia. The first trainload of Russian munitions departed the Kolbasna depot December 2, containing 20 cars carrying approximately 1,000 220mm Uragan rockets. Developments on Moldova were welcomed at the December OSCE Ministerial,

and several states, including the United States, announced their intention to make additional contributions to the OSCE Voluntary fund-Moldova to help support the Russian withdrawal effort, in particular the costly process of disposing of ammunition stocks.

Throughout 2000 and 2001, U.S. and NATO officials continued to press the Russians bilaterally and at the OSCE in Vienna to take action to fulfill their commitment to withdraw Russian equipment and personnel from Moldova. Important progress began in spring 2001. The OSCE Head of Mission agreed with Russian authorities on procedures for the use of the OSCE Voluntary Fund to support withdrawal and/or destruction of Russian troops, arms, and military equipment from Moldova. It was agreed to establish a group of experts to work out the technical procedures for the destruction, conversion, or removal of the large quantities of Russian ammunition stored in Moldova. Meetings were held in August and September of 2001. Discussions have also been ongoing between Russia and the OSCE to arrange the withdrawal of the large numbers of stored Russian small arms. Contributions by the US to the OSCE Voluntary Fund to support the withdrawal of Russian troops and to support the withdrawal or destruction of Russian arms and military equipment from Moldova have been critical to these efforts.

A Russian representative has also reiterated the argument that Russia's non-TLE related Istanbul commitments regarding Georgia and Moldova "did not have anything to do with CFE." This is not correct. The stationing of a State Party's forces on another State Party's territory without permission from the host state is a violation of Treaty rules (specifically in Article IV, paragraph 5) regardless of whether or not TLE is present.

Additional details on U.S. actions can be found in the Secretary of State's Annual Report on Withdrawal of Russian Armed Forces and Military Equipment.

Failure to Notify Equipment Transfers Within the CFE Zone. The last three Reports outlined details of the possible Treaty implications of TLE transfers from Russia into Armenia between 1994 and 1996. There has been no change in this issue on the Russian side (as previously reported, Russia has admitted that "illegal" transfers did take place), and there have been no new steps toward resolving the CFE issues surrounding these transfers. It is not clear whether it will be possible to make progress on this without a political settlement of the N-K dispute, which is the focus of the OSCE's Minsk Group (co-chaired by the United States, Russia, and France).

Improper Designation of ACVs as Ambulances. Last year's Condition 5 Report, based on examination of Russia's data, as of January 1, 1999, indicated that, at least at two sites of previous concern, units might no longer hold improperly marked "ambulances" — suggesting that this issue had been resolved. Subsequently, however, a U.S.-led challenge inspection of the Sevastopol area discovered a number of questionable APC "ambulances" and a corresponding reduction in previous declared holdings of APCs. As a result, it is not clear how much of the APC ambulance problem was

eliminated and how much had just been relocated. In a number of these inspections BTR-70 APCs and BTR-80 APCs marked as ambulances were observed. The designation of BTR-70s and BTR-80s as ambulances raises questions because the small access doors make it virtually impossible for a stretcher carrying an injured soldier to be placed inside the vehicle.

Since September 2000, Russian representatives have maintained that this issue had been solved. But, as noted earlier, subsequent inspections again suggested it was not. In 2001, when this issue was raised the Russian representatives questioned the significance of the instances cited, and stated that Russian inspectors often saw more ambulances than this during inspections at U.S. and German sites. The United States pointed out that its concerns had nothing to do with the relative number of ambulances, but with situations where the previous unit holdings of APCs (e.g., in a motorized rifle battalion) had been replaced by APC ambulances that were marked only by the addition of a red cross, with no other modifications, and were parked in motorized rifle battalion sets alongside the other equipment of a motorized rifle battalion. The Russians responded only by indicating that they did not see this as a continuing problem.

Decommissioned Equipment. As noted in previous Reports, Russian data through July 1, 1999, regularly declared more items of decommissioned tanks, ACVs, and artillery than the Treaty allows to be exempted from counting against limits. Russian data as of January 1, 2000, no longer showed an excess of decommissioned items. However, in those data, Russia improperly wrote off a total of almost 190 tanks and over 250 ACVs that were present at two capital repair facilities and previously reported as either decommissioned or in service (see discussion below on the issue of manipulation of annual data). Because these tanks and ACVs have never been properly removed from Russia's accountable holdings, they should still be listed as either decommissioned or in service. Subsequent Russian data continued to exclude somewhat diminishing numbers of such items. Russian data as of January 1, 2001, once again showed an excess in decommissioned items (over 10 items), while still continuing to improperly exclude almost 15 tanks and over 250 ACVs that should either be included in its holdings or reported as decommissioned. In Russia's data as of July 1, 2001, the number of decommissioned items in the flank alone was over 40 tanks and almost 170 ACVs – some 10 items of decommissioned ground TLE above what the Treaty allows for Russia in the entire AoA. The number of improperly excluded tanks dropped slightly, but the number of excluded ACVs remained the same.

Compliance with Flank Limits. According to its own data and notifications, Russian holdings continue to exceed most of the legally binding limits for both the original and revised flank zones. Russian holdings also continue to exceed the future limits for tanks in the flank area of Russia under the Adapted CFE Treaty. According to Russian data as of January 1, 2002, and a related notification, the overages related to the Adapted Treaty had been reduced and ostensibly eliminated by the end of 2001. However, these data and the notification do not incorporate eleven tanks still improperly excluded from accountability at St Petersburg – leaving a continuing overage of at least

five tanks. In its data as of January 1, 2001, July 1, 2001, and January 1, 2002, Russia continued to improperly exclude equipment at capital repair facilities that it characterizes as “non-combat capable.”

A notification accompanying the Russian data as of January 1, 2000, voluntarily referenced TLE “temporarily introduced” into the adapted flank from outside the AoA. This information was not provided in subsequent data exchanges and notifications on the amount of TLE temporarily located in the adapted flank. In these, the Russians only referenced TLE temporarily introduced into the adapted flank with no clarification of how much came from other locations in the AoA or how much came from outside the AoA. Because no information was provided on the peacetime locations of this TLE, it is not possible to determine how much of the total amounts were added to the original flank area.

The amounts of these overages, according to Russian figures, and comparisons among the last three data exchanges and notifications are shown in the charts below. In all cases, Russian data and notifications have been adjusted to also include the items improperly excluded from data, but do not account for excess decommissioned items.

Overages above Adapted Treaty Flank Limits on Russian Territory:

	<u>Tanks</u>	<u>ACV</u>	<u>Artillery</u>
Future limits	1300	2140	1680
January 2001 Overages	Almost 40	Some 650	Almost 70
July 2001 Overages	Almost 20	Almost 140	0
January 2002 Overages	at least some 5	0	0

Overages above Current Treaty Limits for Active Units in the Revised Flank Zone:⁴

	<u>Tanks</u>	<u>ACV</u>	<u>Artillery</u>
Current active limits	700	580	1280
January 2001 Overages	Over 900	Close to 2850	Almost 850
July 2001 Overages	Over 880	Close to 2400	Close to 750
January 2002 Overages	Some 760	Over 2000	Over 500 ⁵

Overages above Current Treaty Flank Limits for the Original Flank Zone:

	<u>Tanks</u>	<u>ACV</u>	<u>Artillery</u>
Current total limits	1800	3700	2400
January 2001 Overages	0	at least some 640	0
July 2001 Overages	0	at least close to 600	0
January 2002 Overages	0	at least some 475	0

⁴ The active-unit overages were significantly increased in late 1999 in part because of the conflict in Chechnya, and in part because the new Russian data declared all flank TLE in active units, the limits for which are lower now than under the adapted Treaty — in effect, unilaterally and selectively implementing the adapted Treaty before it enters into force.

⁵ These overage figures do not take into account Russian notifications of temporary deployments in Armenia, Ukraine, and Georgia and on Russian territory in the original flank — some of which may no longer be entirely valid. Adjusting for these temporary deployments would reduce these overages to over 500 tanks, over 1,400 ACVs, and nearly 300 artillery pieces.

In April and May notifications and at the May 2001 Review Conference (RevCon), Russia notified decreases in their overages above Adapted Treaty flank limits. After May, not only did all decreases in the number of TLE in the adapted flank cease, but Russian data as of July 1, 2001, showed small increases in the overages from those indicated in May. This was due to small increases in the number of TLE permanently assigned to units in this area. In October, the Russians announced that planned unit withdrawals from the Adapted flank would result in Russian compliance with Adapted Treaty flank limits “by the end of the present year [2001].”

In 2001, the United States continued to press at high levels the concerns regarding Russian non-compliance with flank limits. As previously reported, then-Russian Prime Minister Putin issued a statement on November 1, 1999, promising that Russian forces in the flank (which includes Chechnya) would be reduced to the levels allowed in the adapted Treaty as soon as possible. During the first several months of 2001, Russian representatives indicated that Russia might be in compliance with the Adapted Treaty flank limits by the RevCon; and, indeed Russian notifications in April and May showed decreases in the overages there. However, these withdrawals ceased in late May/early June and Moscow indicated that unless the situation in the Chechnya conflict changed, there would be no further withdrawals from the area. Later, in early autumn, Russian representatives in Vienna and Brussels indicated that Russia expected to be able to claim to be below its Adapted Treaty flank limits by the “end of the current year [2001].” The United States and NATO allies have reaffirmed, including in the 2001 spring North Atlantic Conference (NAC) communiqué, that ratification of the Adapted Treaty can only be envisaged in the context of compliance by all States Parties with the Treaty’s agreed levels of armaments and equipment, and consistent with the Istanbul commitments.

Denial of Full Access During Inspections and Improper Site Diagrams. As reported last year, this recurring problem continued in 2000. During 2001, this issue occurred at least once. In the past, this infrequent, but recurring, problem has involved a Russian attempt to improperly define a declared site (and thus inspection access) on the basis of subordination, rather than geography (as the Treaty requires). This Russian practice is an issue that has been discussed in the JCG. The disagreement over the definition of a declared site and the contents of a site diagram has not been resolved. Only Belarus supports the Russian interpretation.

East of the Urals (EoU) Commitment. As discussed in last year’s Report, the Russian EoU commitment, as revised by the 1996 Review Conference, called for the destruction (or conversion into civilian equipment) of 6,000 tanks, 1,500 ACVs, and 7,000 pieces of artillery “by the year 2000.” Annex E of the Final Document of the First Conference to Review the CFE Treaty allows Russia to apply ACVs destroyed in excess of the 1,500 commitment to any shortfall of not more than 2,300 in tanks. However, a number of tanks equal to the shortfall must be subsequently eliminated. Although Russia had not destroyed or converted the full 6,000 tanks, as of February 24, 2001, Russia had notified the destruction of a sufficient number of tanks (almost 5,000) and excess ACVs (over 1,500) so as to allow it to claim the EoU commitment “in general to be deemed

completed.” Since February, Russia has notified the destruction of an additional almost 300 tanks, decreasing the remaining number of tanks to be destroyed to under 800.

Violation of Overall Limits for Holdings in Active Units. In its data as of January 1, 2000, Russia identified just over 6,300 pieces of artillery held by conventional armed forces in the AoA. A notification that accompanied the data submission stated that an additional 130 pieces of artillery from sites east of the Urals were temporarily present in Chechnya and the surrounding area. The latter are also subject to Treaty limitations and were not included in Russia’s declared holdings of artillery. Therefore, the total quantity of Russian artillery in the AoA was approximately 20 over Russia’s notified limit of 6,415. As of February 1, 2000, Russia’s overall limit for artillery dropped to 6,315 due to transfers of national maximum levels for holdings to Kazakhstan. Russian data and notifications as of January 1, 2001, showed compliance with overall artillery limits (almost 150 under). However, OSI identified quantities of artillery that had been reported as having departed the AoA to still be in the AoA in mid-January. Subsequently, it appears that this excess artillery did depart the AoA.

As reported last year, Russia also exceeded its overall limits in active units in tanks, ACVs, and artillery. In its data as of January 1, 2000, all TLE reported in the flank area were reported to be in active units, the current Treaty limits which are much lower now than they will be under the Adapted Treaty. These data indicated that Russia was within the overall ACV limit for active units, but exceeded the overall tank limit for active units by over 200 and the overall artillery limit for active units by more than 400. Russia, however, did not include in its holdings a total of almost 200 tanks and over 250 ACVs at two capital repair facilities. A note in Russia’s data stated that this equipment was excluded as “non-combat capable.” Moreover, Russia separately notified the deployment of almost 200 tanks, over 350 ACVs, and some 130 pieces of artillery from east of the Urals to the Adapted flank on Russian territory. None of the above-noted items of equipment, which are subject to CFE Treaty limitations, were included in Russia’s declared holdings. When these items were taken into consideration, Russia exceeded its overall limits for holdings of TLE in active units in the AoA by some 600 tanks, less than 20 ACVs, and over 500 pieces of artillery. Russian data and notifications as of January 1, 2001, showed compliance with overall ACV limits for active units (almost 800 under the limit), but continued to show smaller overages above overall limits in active unit limits for tanks (almost 200) and for artillery (almost 400). However, these data do not include TLE from outside the AoA that were an unspecified part of the TLE separately notified as being temporarily in the adapted flank zone (over 50 tanks, almost 700 ACVs, and close to 200 pieces of artillery).

Russia’s data as of January 1, 2002, show only an overage above overall active unit limits in artillery of a bit over 100, but do not include any of the items notified as being temporarily in the adapted flank zone that may have come from outside the AoA.

Improper Exemption of TLE from Accountability. As reported previously, in its data as of January 1, 2000, Russia improperly excluded from accountability a total of

almost 200 tanks and over 250 ACVs that were present at two capital repair facilities. Because these tanks and ACVs were not properly removed from Russia's accountable holdings, they should have been listed as either decommissioned or in service. Proper accounting of these items would have resulted in Russia having declared more decommissioned items than allowed and/or in increased overages above overall limits in active units and flank limits. In subsequent data exchanges Russia continued to exclude decreasing amounts of such tanks and a few less ACVs. Russian data as of January 1, 2002, excluded a little more than ten tanks and slightly fewer ACVs at the two capital repair facilities on these same improper grounds.

New MT-LB Variants. In a development that may have compliance ramifications, Russia has deployed limited numbers of two new variants of the MT-LB APC in Chechnya. Both variants have characteristics of ACVs as defined in Article II of the Treaty, but neither vehicle is listed in the POET. According to the Russian press, the Kondor and Berkut MT-LB variants have stronger armor overall as well as added armor on the bottom of the chassis and an upgraded engine. Moreover, there are reports 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 armored vehicles with cross-country capability. ACVs include APCs, 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, but 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 cannon of at least 20-mm caliber, and 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. An APC look-alike or an AIFV look-alike is an armored vehicle on the same chassis as, and externally similar to, an APC or an AIFV, respectively, which does not have a cannon or gun of 20mm caliber or greater and which has been constructed or modified in such a way as not to permit the transportation of a combat infantry squad.

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

The Kondor and Berkut have been portrayed as "prime movers" that are in the testing phase of research and development.⁶ Later in 2001, a company of modernized light-armored prime movers comprising some 10-12 vehicles was undergoing military tests in Chechnya. Article III excludes from counting as TLE equipment in the process of

⁶ "Prime movers" is the translation of the MT (Mnogotselvoi Tyagach) part of MT-LB.

“manufacturing-related testing” or that is “used exclusively for the purpose of research and development.” In the short term, the Russians could claim that the vehicles are in the testing phase of research and development and are therefore not subject to Treaty limitations.

So far, it is not clear that there is any current Treaty compliance issue involved with Kondor and Berkut, but the potential is clearly there and the situation needs to be closely monitored.

FINDINGS. Although Russia continues to station forces in both Georgia and Moldova, Russia has committed to the withdrawal of some (Georgia) or all (Moldova) Russian TLE and forces, and has met its commitments in this regard in Georgia and Moldova. Russia continues to refuse to declare MT-LB-U APC look-alikes and IRM AIFV look-alikes in data exchanges and, in some cases, to include them in inspection briefings. Russia may have failed to make Treaty-required notifications of transfers or reassignment of TLE entering Armenia. Russia again has declared excessive numbers of decommissioned ground items. Russia remains far over the current Treaty limits for tanks, ACVs, and artillery in active units in the revised flank and the current limits in ACVs for the original flank zone. Although Russian data and notifications now portray Russia as in compliance with flank limits for the Adapted Treaty, these data do not include improperly excluded tanks at St. Petersburg. When these are accounted for, Russia remains at least five some tanks over Adapted Treaty flank limits. Moreover, Russia is over its limits for artillery in active units in the AoA. In 2001, Russia again improperly denied access to part of at least one declared site. As noted above, Russia continues to manipulate its data by unilaterally and improperly excluding more than 260 items of TLE as “non-combat capable.” Although Russia failed to complete its CFE-related EoU destruction commitment by the year 2000 as required, Russia did meet most of the terms of that commitment by February 2001 by an allowed substitution of ACV destructions for shortages in tank destructions — leaving only a non-time-limited commitment to eventually destroy additional tanks equal to the numbers for which excess ACV destructions had been substituted. Finally, a new potential issue arose in 2001 in regard to apparently new variants of the MT-LB APC.

UKRAINE

Active Unit Limits. As noted in previous Reports, Ukrainian data since 1996 have repeatedly indicated that Ukraine was above several of its notified limits for holdings in active units. In its data as of January 1, 2001, Ukraine no longer had any overages above overall active unit limits. Ukraine, however, still had overages above active unit limits in zone 4.3 of almost 140 tanks and close to 50 artillery pieces. Although there are some internal inconsistencies in Ukraine's data as of January 1, 2002, it appears to show an overage, but only in tanks in active units in zone 4.3 of some 120. The overages in zone 4.3 began following the entry into force of the Flank Document, which removed the Odessa Oblast from the revised flank zone, thereby adding the equipment in that oblast to zone 4.3.

Questionable ACV Ambulances. As reported previously, in the fall of 2000, Ukraine issued a series of notifications concerning transfers of TLE between its conventional armed forces and its internal security forces. Included in these notifications were the redesignation of some 150 ACVs as ambulances. On its face, this would not normally be a compliance concern unless the ambulances were located in and replacing organic ACVs in combat units, as has been done in Russia in the past but which does not appear to be the case in Ukraine. However, not only did these new ambulances include APC types that are of questionable suitability for use as ambulances, but a Ukrainian representative stated that this had been a way of handling what otherwise would have been excess ACVs returned to the conventional armed forces inventory.

When this issue was discussed with the Ukrainians in May 2001, the Ukrainians assured the United States that they had no units where organic APCs were missing and equal numbers of APC "ambulances" were there instead. Subsequently, in August, Ukraine began issuing notifications addressing the numbers of APC ambulances in certain units — notifications required under the Adapted Treaty, but which are not required under the current Treaty.

FINDINGS. Ukraine remains over its limits in active units in zone 4.3 in tanks. Although last year it appeared that Ukraine might have improperly redesignated some 150 ACVs as ambulances in order to avoid having excess ACVs added to its conventional armed forces inventory after being transferred from internal security forces, the United States no longer considers this a compliance concern.

COLLECTIVE OBLIGATIONS

NI/CD-related Reductions. Russia and Ukraine shared a legally-binding commitment to declare and to complete NI/CD-related reductions equal to those the Soviet Union had committed to carry out. In March 2000, Russia completed its remaining share of the NI/CD-related reduction obligations. Ukraine has not fulfilled its share of the reductions.

There have been no further tangible developments in regard to Ukraine on the issue of the unfulfilled Ukrainian obligation for NI/CD-related reductions (close to 160 tanks, some 370 ACVs, and over 150 pieces of artillery) that Ukraine shared with Russia. Ukraine continues to contend that it should not have to carry out these reductions because it is already in compliance with overall limits.

When this issue was raised with Ukraine in 2001, the Ukrainians responded with a detailed argument against the reduction obligation. This argument ignored some of the precise wording of the NI/CD commitment and, in the final analysis, differs from the conclusions and interpretations held by the United States and (apparently) all other States Parties except Ukraine. A main thrust of the Ukrainian argument continued to be that Ukraine is fully within all of its overall limits when NI/CD holdings are added to holdings of conventional armed forces (after having conducted very significant CFE reductions outside of any theoretical NI/CD-related reduction obligations).

Declaring and Meeting the Reduction Obligations of the USSR. There have been no changes from what was reported in the October 2, 2000 Report on this issue.

FINDINGS. Ukraine has not yet met its shared NI/CD-related reduction obligation. In addition, the USSR's eight CFE successor states have not fulfilled their collective obligation to declare reduction liabilities and to complete reductions that will, in the aggregate, be no less than what the USSR would have had to declare and to complete. The majority of the shortfall in reduction liabilities can be attributed to Armenia, Azerbaijan, and Belarus. However, even if Armenia and Azerbaijan were to declare and to complete their maximum putative reduction liabilities and Belarus were to increase its reduction obligation to include tanks awaiting export, there would still be shortfalls.

C. THE VIENNA DOCUMENT 1992, 1994, AND 1999

On March 4, 1992, the participating States in the Conference on Security and Cooperation in Europe (CSCE), including all successor states to the Soviet Union, adopted the Vienna Document 1992 (VD-92), which added to and built upon the undertakings in Vienna Document 1990 (VD-90). Subsequently, most of the successor states of the former Yugoslavia also joined VD-92. In November 1994, at the CSCE Summit in Budapest, VD-92 was expanded and incorporated into Vienna Document 1994 (VD-94). At that time, the CSCE also changed its name to the Organization for Security and Cooperation in Europe (OSCE). During 1999, the participating Parties to VD-94 completed discussions to update VD-94. Improved provisions were accepted in the Vienna Document 1999 (VD-99) at the Istanbul Summit in November. The measures contained in Vienna Documents 1992, 1994, and 1999 are politically binding.

In general terms, compliance with the Vienna Document was good in 2001. During 2001, 88 VD inspections and 71 VD unit evaluations were conducted by the participating States. These include nine inspections and 25 evaluations conducted

according to VD rules under bilateral agreements that offer extra VD quotas to the participants. As in the past, however, some VD signatory nations did not provide Confidence and Security-Building Measures data that were to be provided in December. For data as of January 1, 2002, these nations included: Kazakhstan, San Marino, Turkmenistan, and Uzbekistan. Tajikistan's data was submitted in December, but late. San Marino does not have armed forces but should have submitted a negative report. Subsequently all of these nations submitted their data or negative reports late.

In addition, several states have not hosted an air base visit during the period 1997 through 2001. These include: Albania, Azerbaijan, Bosnia-Herzegovina, Georgia, Kazakhstan, Kyrgyzstan, Turkmenistan, Uzbekistan, and Yugoslavia. The Vienna Document commits each participating state with reported air combat units to arrange at least one air base visit during any one five-year period.

A more complex continuing concern relates to the Nagorno-Karabakh (N-K) dispute. The Preamble to the Vienna Document notes the goal of undertaking, in stages, new actions designed to strengthen confidence and security so as to give effect to the duty of States to refrain from the threat or use of force in their mutual relations as well as in their international relations in general. During the N-K conflict, Armenian forces have conducted combat operations inside the territory of Azerbaijan in support of the ethnic Armenians in N-K. Currently, there is a cease-fire in effect between the combatants (Azerbaijanis on one side and the N-K Armenians and regular Armenian forces on the other).

A second continuing concern relates to Russia's military operations in Chechnya. In contrast to the previous conflict in Chechnya, Russia has provided some degree of transparency in the Forum for Security Cooperation (FSC) on the forces involved. Specifically, on October 8, 1999, Russia provided a VD notification of a concentration of troops in accord with VD94 paragraph 38.3. While the United States and others have welcomed these notifications, they have also noted that Russia has other commitments under the VD. Under paragraph 47.3 of VD-99, Russia is committed to host a VD observation visit because of the scale of Russian operations in and around Chechnya. While Russia did host an observation visit to the area in June 2000, it was neither notified nor carried out according to the provisions of the VD, and NATO states have stated that this welcome observation opportunity did not satisfy the VD commitment. Also, questions have been raised as to the consistency of Russia's actions with its commitments under the OSCE Code of Conduct, which specifies that "If recourse to force cannot be avoided in performing internal security missions, each participating State will ensure that its use must be commensurate with the needs of enforcement. The armed forces will take due care to avoid injury to civilians or their property."

D. THE CHEMICAL WEAPONS CONVENTION (CWC)

The Convention on the Prohibition of the Development, Production, Stockpiling and Use of Chemical Weapons and on Their Destruction was ratified by the United States on April 25, 1997, and entered into force on April 29, 1997. As of December 31, 2001, there were 145 States Parties to the Convention. While the United States has concerns regarding the activities of other countries, the specific cases addressed here are those for which unclassified evidence can be discussed in this Report exists. Consequently, this Report only addresses the activities of China, Iran, Russia (and the former Soviet Union), and Sudan.

The Organization for the Prohibition of Chemical Weapons (OPCW) has settled into its operational mission carrying out both industrial and military inspections. Although the interface between the United States and the OPCW is improving, we continue to push for greater transparency, particularly in the Verification Implementation Report. However, other States Parties are less enthusiastic about broader dissemination of the information in their declarations. In addition, we still encounter some delays in obtaining specific documents to review, such as Conversion Requests and/or Destruction and Verification plans. The United States recognizes these items are reviewed by the OPCW Technical Secretariat (TS), and translated, but will continue to urge the OPCW to expedite the process.

Countries that were original States Parties to the CWC were required to submit their initial data declaration not later than May 29, 1997, (30 days after CWC entry into force). Countries that ratify after the CWC entered into force, or accede, become States Parties 30 days after the deposit of their instrument of ratification or accession, and are required to submit their initial data declaration 30 days after becoming States Parties.

Under the CWC, a State Party is required to declare, *inter alia*, whether it:

- owns or possesses any chemical weapons, or whether there are any chemical weapons located in any place under its jurisdiction or control;
- has on its territory old or abandoned chemical weapons or has abandoned chemical weapons on the territory of another State;
- has or has had any chemical weapons production facility under its ownership or possession, or that is or has been located in any place under its jurisdiction or control at any time since January 1, 1946;
- has transferred or received directly or indirectly any equipment for the production of chemical weapons since January 1, 1946;
- has any facility or establishment under its ownership or possession, or located in any place under its jurisdiction or control that has been designed, constructed or

used since January 1, 1946 primarily for the development of chemical weapons; and,

- holds chemicals for riot control purposes.

The United States continues to work closely with the OPCW, particularly, on budget issues, to ensure funding is adequate for inspection activities. Additionally, we are moving closer to electronic data management, as U.S. experts work with the TS to improve the ability of the OPCW and States Parties to access information provided to the OCPW. The United States believes modern information technology solutions will significantly ease the workload on the Technical Secretariat.

CHINA

The People's Republic of China (PRC) is an original State Party to the CWC and submitted its initial declaration on time. The United States received the Chinese declaration (in Chinese) on November 3, 1997.

Even though China is a State Party to the CWC, made its declaration, and subjected its declared chemical facilities to OPCW inspections, the United States believes that Beijing has not acknowledged the full extent of its chemical weapons program. The United States believes that China has an advanced chemical warfare program, including research and development, production, and weaponization capabilities. China's chemical industry has the capability to produce many chemicals, some of which have been sought by states trying to develop a chemical warfare capability. While China claims it possesses no CW agent inventory, it is believed to possess a moderate inventory of traditional CW agents.

FINDING. The United States assesses that China maintains an active offensive R&D CW program, a possible undeclared CW stockpile, and CW-related facilities that were not declared. Such activities are inconsistent with the CWC.

IRAN

The Islamic Republic of Iran became a State Party to the Chemical Weapons Convention on December 3, 1997.

In May 1998, during the Conference of the States Parties, the Government of Iran (GOI), for the first time, acknowledged the existence of a past chemical weapons program. Iran admitted developing a chemical warfare program during the latter stages of the Iran-Iraq war as a deterrent against Iraq's use of chemical agents against Iran. Moreover, the GOI claimed that after the 1988 cease-fire, it "terminated" its CW program. However, Iran has not acknowledged possessing chemical weapons. The United States believes Iran has manufactured and stockpiled blister, blood and choking chemical agents, and weaponized some of these agents into artillery shells, mortars,

rockets and aerial bombs. We continue to believe that Iran has not acknowledged the full extent of its chemical weapons program.

FINDING. The United States assesses that Iran has not submitted a complete and accurate declaration, and in fact is acting to retain and modernize key elements of its CW program. Some of these elements include an offensive R&D CW program, an undeclared stockpile and an offensive production capability. Such activities are inconsistent with the CWC.

RUSSIA

The Russian Federation became a State Party to the CWC on December 5, 1997, and submitted its initial declaration on time.

The Russian Federation has declared 40,000 metric tons of chemical agent, which is the world's largest stockpile of chemical agents. The Russian chemical warfare agent inventory consists of a comprehensive array of blister, choking, and nerve agents in weaponized and bulk form. In addition, since 1992, Russian scientists familiar with Moscow's chemical warfare development program have publicized information on a new generation of agents, sometimes referred to as "Novichoks." These scientists report that these compounds, some of which are binary agents, were designed to circumvent the Chemical Weapons Convention and to defeat Western detection and protection measures. Furthermore, it is believed that their production can be hidden within commercial chemical plants. There is concern that the technology to produce these compounds might be acquired by other countries.

FINDING. Although the United States continues to engage the Russian Federation on these and other issues with some progress, it is our assessment that the Russian Federation has not divulged the full extent of its chemical agent and weapon inventory. The United States believes its declaration to be incomplete with respect to CW production, development facilities and chemical agent and weapons stockpiles. Such activities are inconsistent with the CWC.

SUDAN

Sudan became a State Party on June 23, 1999. Sudan submitted its initial declaration to the OPCW in January 2000.

Sudan has been interested in acquiring a chemical warfare capability since the 1980s, and has sought assistance from a number of countries with chemical warfare programs to maintain and advance its CW capabilities. The United States believes that Sudan may be pursuing a more advanced chemical warfare capability. Although Sudan is a party to the CWC, there have been allegations of CW use by the Sudanese against rebels in southern Sudan, although these allegations have not been confirmed.

FINDING. The United States assesses that Sudan has established a CW R&D program with the goal of indigenously producing CW. The United States believes Sudan will continue to seek foreign assistance and technical expertise from a number of countries. Such activities are inconsistent with the CWC.

E. THE NUCLEAR NON-PROLIFERATION TREATY

This Report updates developments relevant to other nations' compliance with the 1968 Nuclear Non-Proliferation Treaty (NPT) and addresses in particular developments in North Korea, Iraq, Iran, Libya, and China. There were no new issues regarding compliance with the NPT during 2001. However, 50 countries have not complied with their obligations under Article III of the NPT to conclude with the International Atomic Energy Agency (IAEA) and put into effect a full-scope safeguards agreement within 18 months after joining the NPT. The United States will continue to urge all NPT Parties required to do so to conclude a full-scope safeguards agreement with the IAEA.

CHINA

China has joined several international nuclear regimes and has promulgated comprehensive nuclear export controls over the past decade in an effort to bolster its credentials as a responsible international player. Beijing signed the Nonproliferation Treaty in 1992, joined the Zangger Committee in 1997, and implemented dual-use nuclear export controls based on the Nuclear Suppliers Group (NSG) control list in 1998. Nevertheless, China to date has declined to join the NSG (membership is not required by the NPT). Since the Zangger Committee only requires item-specific safeguards (as opposed to the more stringent requirement of the NSG, which mandates full-scope safeguards), technically China may sell controlled nuclear-related items to non-NPT members, as long as the item itself is subject to safeguards. This technical difference makes it possible for China to provide assistance to safeguarded facilities of proliferators, such as Pakistan, should it choose to do so. China is the only NPT nuclear-weapon state not a member of the NSG. It appears that Chinese policies and nuclear export control systems contain all the necessary elements to enforce China's obligations under Article I of the NPT.

FINDING. While we continue to believe that Beijing is seriously prepared to implement its NPT obligations, and has taken steps to do so, given all the available information, the United States remains concerned about China's compliance with its nuclear nonproliferation commitments.

IRAN

Although Iran's nuclear program has apparently met with only limited success so far, the United States finds that Iran has not abandoned its efforts to expand its nuclear infrastructure to support nuclear weapons development with particular attention at present focused on acquiring the capability to produce indigenously fissile material for nuclear weapons. International pressure, led by the United States, and Iran's highly questionable

nuclear nonproliferation credentials have caused nuclear suppliers to refrain from cooperation with Tehran, Russia being the most notable exception.

Senior U.S. officials continue to press Russia to cease nuclear cooperation with Iran. In the fall of 2000, President Putin indicated that Russia would suspend any cooperation with Iran related to atomic vapor laser isotope separation, which is an alternative means of uranium enrichment. The secondary proliferation potential for Iran to exploit Bushehr and use it as a cover for weapons-related technology and training is an NPT concern. Russian entities continue to engage in discussions with Iran on additional nuclear cooperation. President Bush raised U.S. concerns with Russian President Putin in June 2001.

In late 1995, Iran accepted part one of the IAEA Strengthened Safeguards System, which allows the IAEA to conduct environmental sampling at declared facilities. Acceptance by Iran of additional Strengthened Safeguards measures, such as an Additional Protocol to its NPT Safeguards Agreement, (i.e., Part II measures) have not yet occurred. Such measures are seen as important in the effort to ensure compliance by non-nuclear-weapon states with their NPT Article II obligations.

FINDING. Based on the totality of the available information, the United States assesses that Iran is pursuing a program to develop nuclear weapons. Aspects of this activity are in violation of Iran's NPT commitments.

IRAQ

The United States has determined that Iraq violated its Safeguards Agreement when it pursued an active nuclear weapons development program and that these actions violated Iraq's obligations under Articles II and III of the NPT.

Iraq's construction of secret nuclear facilities, including a facility for nuclear weapons development and assembly, contributed to its violation of Article II. Iraq's failure to apply safeguards to its clandestine program also constituted a violation of Article III, which requires safeguards be applied to all source or special fissionable material under its jurisdiction.

As the IAEA Director-General stated in 2000, since UN inspections ceased in December 1998, the IAEA has not been in a position to implement its mandate under relevant Security Council resolutions and is thus unable to provide any measure of assurance of Iraq's compliance under these resolutions. The Director-General has further stated that for the IAEA to provide the assurance that Iraq is in full compliance with all of its safeguards obligations, the IAEA must resume these verification activities in Iraq as mandated by UN Security Council resolutions.

In January 2001, the IAEA, in accordance with its NPT safeguards agreement with Iraq, conducted a physical inventory verification (PIV) inspection of declared

material in Iraq. This inspection was not pursuant to the authority granted the IAEA under Security Council resolutions and thus was limited in scope. It does not satisfy Iraq's NPT or disarmament obligations. The IAEA Director-General has stated that the "limited objective" of the PIV is neither sufficient to provide any assurance that Iraq is in full compliance with its safeguards obligations nor a substitute for the Agency's activities under the relevant Security Council resolutions.

The United States Government has determined that Iraq remains in violation of its obligation under UN Security Council resolutions to cooperate fully with UN and IAEA inspections and monitoring of its prohibited WMD and long-range missile programs. During the period of this Report, there has been no UN-mandated inspection or monitoring activity in Iraq; such activities have not occurred since December 1998 (subsequently, IAEA inspections in Iraq resumed in late 2002).

FINDING. The United States Government has determined that Iraq pursued an active nuclear weapons development program and that various aspects of this program violated its obligations under Articles II and III of the NPT. The United States Government has further determined that Baghdad is in violation of its obligation under U.N. Security Council resolutions to declare and accept the destruction of its prohibited WMD and long-range missile programs and to cooperate fully with U.N. and IAEA inspections and monitoring.

LIBYA

Libya's nuclear program has not progressed beyond the early stages of developing an independent nuclear research and fuel-cycle related capability for a nuclear weapons program. Libya's longstanding interest in acquiring nuclear weapons strongly suggests that its nuclear research and procurement efforts are aimed at development of an indigenous nuclear weapons capability. Such development would be inconsistent with Libya's NPT Article II obligations. In April 1999, with the surrender of the Pan Am 103 bombing suspects, UN sanctions were suspended. There is concern that Libyan attempts to pursue foreign assistance for its WMD and missile programs may intensify. It may be attempting through various means to rejuvenate its Tajura Nuclear Research Center.

FINDING. The United States has determined that Libya has demonstrated a continuing interest in the acquisition of nuclear weapons. Since UN sanctions were suspended in 1999, Libya has resumed investment in its nuclear infrastructure.

NORTH KOREA

In October 2002, James Kelly, the State Department's Assistant Secretary of State for East Asia and Pacific Affairs headed an interagency delegation to Pyongyang to confront North Korea about its uranium enrichment program. North Korea's admission of the program and subsequent declaration that it considers the Agreed Framework "nullified" led to the Korean Peninsula Energy Development Organization's (KEDO)

decision to suspend shipments of heavy fuel oil to North Korea. The U.S. is consulting closely with KEDO partners, friends, and allies with regard to next steps on North Korea policy, including construction of the light water reactors.

Under the Agreed Framework, the DPRK was to come into full compliance with its IAEA safeguards agreement and the NPT by the time a significant portion of the Light-Water Reactor (LWR) project has been completed but before delivery of key nuclear components of the LWR project. (The DPRK has subsequently announced its withdrawal from the NPT and its IAEA safeguards agreement.)

In 2002 the United States and the IAEA continued to monitor North Korea's implementation of the freeze on its nuclear activities at Yongbyon and Taechon agreed to in the 1994 Agreed Framework, prior to the North's decision to expel IAEA personnel and to remove seals and monitoring equipment. In 2002, the IAEA was also unsuccessful in gaining the DPRK's full cooperation in preserving essential historical information on reactor operation and plutonium separation, which are deemed necessary by the IAEA to permit verification of the accuracy and completeness of the DPRK's initial report on nuclear material production. We find regrettable the DPRK's December 12 statement that it has decided to "lift the nuclear freeze" at Yongbyon and "immediately resume the operation and construction of nuclear facilities necessary for electric power generation." The announcement flies in the face of the international consensus that the North Korean regime must fulfill all its commitments and, in particular, dismantle its covert nuclear weapons program.

In November 2002, the IAEA Board of Governors issued a strong resolution on the DPRK in response to the DPRK's continued unwillingness to cooperate fully with the IAEA and the recent disclosure of an unsafeguarded DPRK uranium enrichment program. The resolution was adopted by consensus and deplores the DPRK's repeated public statements that it is entitled to possess nuclear weapons, contrary to its obligations under the NPT. The resolution also insists that the DPRK constructively cooperate with the IAEA in opening immediately all relevant facilities to IAEA inspections and safeguards and urges the DPRK to give up any nuclear weapons program expeditiously and in a verifiable manner.

FINDING. The United States has determined that North Korea continues to be in violation of its IAEA safeguards agreement and assesses that it has produced enough plutonium for one or more nuclear weapons. The United States judges that the DPRK is in violation of the NPT and that it has not complied with its international commitments under the Agreed Framework, and the Joint South-North Declaration on the Denuclearization of the Korean Peninsula.

VI. COMPLIANCE OF OTHER NATIONS (INCLUDING SUCCESSORS TO THE SOVIET UNION) WITH THEIR INTERNATIONAL COMMITMENTS

THE MISSILE TECHNOLOGY CONTROL REGIME (MTCR)

The Missile Technology Control Regime (MTCR) is the centerpiece of international efforts to curb the spread of missiles capable of delivering weapons of mass destruction (WMD). Created in 1987, the MTCR is the only multilateral nonproliferation forum on missiles, and currently has 33 members (Partners). The MTCR is not a treaty but an agreement wherein participating countries undertake to take steps, on a voluntary basis to control missile proliferation.

Over the course of the MTCR's fourteen-year history, the Regime has made important strides in slowing missile proliferation worldwide. The MTCR Partners' efforts have: induced most major suppliers to responsibly control their missile-related exports, reduced the number of countries with MTCR-class missile programs, and added countries with significant economic and political potential to the MTCR to increase its influence and capabilities. The MTCR Partners also have cooperated to halt numerous shipments of proliferation concern and have established the MTCR Guidelines and Annex as the international standard for responsible missile-related export behavior. In addition, they have established a broad outreach program to non-members, in order to increase awareness of the global missile proliferation threat and to urge countries that have engaged in missile proliferation to desist. In recent years, the MTCR Partners also have focused increasingly on new ideas for addressing ongoing global missile proliferation challenges and the demand-side issues posed by non-MTCR members.

Membership in the MTCR has grown steadily since the Regime's creation in 1987. Brazil, Russia, and South Africa became MTCR Partners in 1995. Turkey joined the MTCR in April 1997 and the Czech Republic, Poland, and Ukraine became Partners in 1998. The Republic of Korea became a Partner in 2001. With the addition of these countries, the MTCR Partners now number 33: Argentina, Australia, Austria, Belgium, Brazil, Canada, the Czech Republic, Denmark, Finland, France, Germany, Greece, Hungary, Iceland, Ireland, Italy, Japan, the Republic of Korea, Luxembourg, the Netherlands, New Zealand, Norway, Poland, Portugal, Russia, South Africa, Spain, Sweden, Switzerland, Turkey, Ukraine, the United Kingdom, and the United States.

Several other countries have declared unilateral adherence to the MTCR Guidelines and implemented export controls consistent with the MTCR Guidelines and Annex. Current states so adhering include Bulgaria, Israel, Romania, and the Slovak Republic. The United States and several other MTCR Partner countries maintain an active nonproliferation dialogue with these countries. However, these countries do not participate

as members in the Regime, e.g., they do not participate in the decision-making process regarding the activities and future orientation of the MTCR, or enjoy any of the other rights or responsibilities of Regime membership.

Other nations have expressed missile nonproliferation commitments related to, but not in adherence to, the MTCR. Intensive U.S. dialogue and high-level political efforts — augmented by trade sanctions in 1991-92, 1993-94, and since September 2001 — have resulted in a variety of Chinese missile nonproliferation commitments.

While the MTCR does not impose any legally binding obligations on participating countries, the regime rests on adherence to common export policy guidelines (the MTCR Guidelines) applied to an integral common list of controlled items (the MTCR Equipment and Technology Annex). The Guidelines and Annex are implemented according to each country's own national laws and regulations. Outside the scope of membership in the Regime, the MTCR Guidelines and Annex are open to all nations to implement unilaterally, and the United States and its MTCR Partners encourage all governments to do so.

The MTCR Guidelines restrict transfers of missiles — and specific equipment and technology related to missiles — capable of delivering a payload of at least 500 kg to a range of at least 300 km (so-called “MTCR-class” or “Category I” missiles). The MTCR Guidelines originally restricted transfers related to nuclear-capable missiles. However, in January 1993, the MTCR Partners extended the Guidelines to cover delivery systems capable of carrying all types of weapons of mass destruction (WMD) -- biological, chemical, and nuclear.

The MTCR Annex of controlled items consists of two sections: Category I items and Category II items. Category I MTCR Annex items include complete MTCR-class missile systems, as well as their major complete subsystems, such as rocket stages, engines, guidance sets, and re-entry vehicles. Pursuant to the MTCR Guidelines, exports of Category I items are subject to an unconditional *strong presumption of denial* regardless of the purpose of the export and are licensed for export only on rare occasions. The MTCR Guidelines also specify that “*transfer of Category I production facilities will not be authorized.*” This is the only activity that is absolutely proscribed by the MTCR.

Category II MTCR Annex items include other less sensitive and dual-use missile-related components. Their export is to undergo case-by-case review against the five nonproliferation factors specified in the MTCR Guidelines, except that exports judged by the exporting country to be intended for use in WMD delivery are to be subjected to a strong presumption of denial. The five nonproliferation factors are: (1) Concerns about the proliferation of weapons of mass destruction; (2) the capabilities and objectives of the missile and space programs of the recipient state; (3) the significance of the transfer in terms of the potential development of delivery systems (other than manned aircraft) for weapons of mass destruction; (4) the assessment of the end-use of the transfers, including

the relevant assurances of the recipient states; and, (5) the applicability of relevant multilateral agreements.

MTCR export controls are not bans but regulatory efforts by individual Partners to prevent transfers of items that could contribute to delivery systems for WMD. Licensing such exports is consistent with the MTCR's goal of curbing the flow of missile equipment and technology worldwide. It also helps suppliers have confidence that they can provide access to sensitive items without fear of these items being diverted to programs of concern.

The MTCR Guidelines do not distinguish between exports to Partners and exports to non-Partners. Moreover, the MTCR Partners have explicitly affirmed that membership in the Regime involves no entitlement to obtain technology from another Partner and no obligation to supply it. Partners are expected to exercise appropriate accountability and restraint in trade among Partners, just as they would in trade between Partners and non-Partners.

CHINA

DISCUSSION OF OBLIGATIONS

China is not an MTCR partner. However, it did commit effective March 1992 to abide by the original "guidelines and parameters" of the MTCR; in the mid-1990s, China stated that this commitment did not include the MTCR Annex. In October 1994, China reiterated its earlier commitment to the guidelines and parameters of the MTCR, pledged not to export ground-to-ground MTCR-class missiles, and agreed to the MTCR Annex concepts of range/payload "tradeoff" and "inherent capability" in determining when a missile system is Category I. In November 2000, China committed not to assist any country, in any way, in the development of MTCR-class ballistic missiles, and to enact "at an early date" comprehensive missile-related export control list and a requirement for governmental approval of all exports of listed items. These controls were promulgated on August 25, 2002 and are being reviewed by the U.S. Government.

Chinese entities have provided Pakistan with missile-related technical assistance, and firms in China have provided missile-related items and/or assistance to several other countries of proliferation concern — such as Iran, North Korea, and Libya. In September 2001, the U.S. imposed missile sanctions on Chinese and Pakistani entities for their involvement in the transfer of MTCR Annex Category II items that contributed to Pakistan's MTCR Category 1 ballistic missile program. We are not aware whether and to what extent the Chinese Government is aware of these transfers. Senior Chinese officials have publicly stated that China opposes the proliferation of weapons of mass destruction and their delivery systems and the United States has been pursuing the issue of missile-related transfers with China at the highest levels.

FINDING. The foregoing actions call into serious question China's stated commitment to controlling missile proliferation. Chinese state-owned corporations have

engaged in transfer activities with Pakistan, Iran, North Korea, and Libya that are clearly contrary to China's commitments to the U.S.

RUSSIA

Russia became an MTCR Partner in 1995. We remain concerned that Russian entities are providing proliferant states with technology related to weapons of mass destruction and missiles. Russian entities continue to engage in a broad array of cooperative projects which aid the WMD and missile programs of countries of concern.

In 1999, Russia passed the Federal Law on Export Controls which created a comprehensive basis for controlling items of proliferation concern. The Russian Government has since enacted a number of implementing regulations under the new law, revamped the export control administration, expanded and updated its control lists and provided new authorities for punishing violators.

Notwithstanding this export control framework, implementation and enforcement remain insufficient. The Russian government on occasion has taken steps to investigate alleged violations. However, proliferators continue to have access to a wide range of sensitive technologies from Russian entities. Moscow also tends to downplay the threat posed by proliferant weapons programs and to express the belief that the limited technological capability of proliferant states will prevent them from developing WMD and missiles. That view is shortsighted and dangerous.

FINDING. Russian commercial and governmental entities have engaged in transfers that are contrary to the nonproliferation criteria outlined in the MTCR Guidelines. To-date, Russia's efforts to prevent further transfers have been inadequate.