

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



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

INTRODUCTION

PURPOSE

This Report is submitted pursuant to Section 403 of the Arms Control and Disarmament Act, as amended (22 U.S.C. 2593a), which requires a report by the President on *Adherence to and Compliance with Arms Control, Nonproliferation, and Disarmament Agreements and Commitments*.

SCOPE OF THE REPORT

This Report provides an assessment of U.S. adherence to obligations undertaken in arms control, nonproliferation, and disarmament agreements, as well as an assessment of the adherence of other nations to obligations undertaken in arms control, nonproliferation, and disarmament agreements and related commitments, including the Missile Technology Control Regime, to which the United States is a participating state. The issues addressed in this Report primarily reflect activities from January 1, 2009, through December 31, 2010, unless otherwise noted.¹

Pursuant to 22 U.S.C. 2593a.(a)(6), this unclassified version of the Report identifies questions, to the maximum extent practicable, that exist with respect to compliance by other countries with their arms control, nonproliferation, and disarmament agreements and commitments with the United States. In comparison to classified versions of the Report, this unclassified version may contain less detailed information, fewer compliance assessments, and findings phrased to safeguard sensitive or special reporting while at the same time fulfilling the Report's statutory requirement.

¹ In this Report, previous editions of the Report are cited by their year of release (e.g., the 2010 Report) unless otherwise noted. The last edition of the Report was released in 2010 and primarily reflected activities from January 2004 through December 2008. An edition was released in 2005, primarily reflecting activities from January 2002 through December 2003, and an edition was released in 2003, primarily reflecting activities from December 2000 through December 2001. Each edition prior to the 2003 Report primarily reflected activities that occurred during the year preceding the edition's release.

ADHERENCE TO AGREEMENTS

Effective arms control requires parties to comply fully with arms control obligations and commitments they have undertaken. For the arms control, nonproliferation, and disarmament agreements and commitments to which the United States is a participating state, the United States and the majority of the other participating nations are adhering to their obligations and commitments and have indicated their intention to continue doing so. This Report indicates there are compliance questions and concerns – and in some instances findings of serious treaty violations – involving a relatively small number of countries. The United States continues to pursue resolution of those compliance issues where appropriate.

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. For example, U.S. Department of Defense (DoD) compliance review groups oversee and manage DoD compliance with arms control, nonproliferation, and disarmament agreements and related commitments. U.S. interagency organizations oversee and manage analysis of the compliance of other nations with arms control, nonproliferation, and disarmament agreements and related commitments. Moreover, an interagency review is conducted in appropriate cases, including when other treaty parties officially raise questions regarding U.S. implementation of its obligations. Finally, Congress performs oversight functions through committee hearings and budget allocations.

OVERVIEW

This Report addresses U.S. compliance with arms control agreements (Part I), compliance by Russia and other successor states of the Soviet Union with treaties and agreements that the United States concluded bilaterally with the Soviet Union (Part II), compliance by other countries that are parties to multilateral agreements with the United States (Part III), and compliance with commitments made less formally but that bear directly upon arms control, nonproliferation, or disarmament issues (Part IV).

PART I: U.S. COMPLIANCE WITH ARMS CONTROL, NONPROLIFERATION, AND DISARMAMENT AGREEMENTS AND COMMITMENTS

U.S. INSTITUTIONAL AND PROCEDURAL ORGANIZATION FOR ENSURING COMPLIANCE

There are processes within the U.S. executive branch that operate to ensure U.S. plans and programs remain consistent with U.S. international obligations. These include internal U.S. Department of Defense (DoD) controls and U.S. Department of Energy (DOE) procedures and controls. Both operate in parallel, and 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 at the conclusion of the Strategic Arms Limitation Talks (SALT) that led to arms control-related agreements), key offices in DoD are responsible for overseeing DoD compliance with all U.S. arms control, nonproliferation, and disarmament commitments. DoD components ensure that their implementing program offices adhere to DoD compliance directives and seek guidance from the offices charged with oversight responsibility. Interagency reviews are also conducted in appropriate cases, such as when other treaty parties formally raise questions regarding U.S. implementation of its arms control obligations.

U.S. TREATY COMPLIANCE

The United States is in compliance with all its obligations under arms control, nonproliferation, and disarmament agreements and commitments, and continues to make every effort to comply scrupulously with them. When U.S. treaty partners have raised compliance questions regarding U.S. implementation activities, the United States has carefully reviewed the matter to confirm that its actions were in compliance with its treaty obligations.

PART II: COMPLIANCE WITH TREATIES AND AGREEMENTS CONCLUDED BILATERALLY WITH THE SOVIET UNION OR ITS SUCCESSOR STATES

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 of verification (NTM), notifications, and an on-site inspection regime to detect and deter violations of Treaty obligations. The inspection regime concluded at the end of 13 years following the Treaty's entry into force, that is, on May 31, 2001. All inspection activities have now ceased in accordance with the provisions of the Treaty. The remainder of the verification regime continues for the life of the Treaty.

The Parties to the Treaty last met in the Special Verification Commission in October 2003. There have been no issues raised in the intervening period.

PART III: OTHER NATIONS' (INCLUDING SUCCESSOR STATES') COMPLIANCE WITH MULTILATERAL AGREEMENTS

BIOLOGICAL AND TOXIN WEAPONS CONVENTION (BWC)

As of the end of 2010, there were 163 States Parties to the 1972 Biological and Toxin Weapons Convention (BWC or Convention), and an additional 13 countries had signed but not yet ratified the agreement. This Report addresses BWC-related issues regarding China, Cuba, India, Iran, Iraq, Libya, North Korea, Pakistan, and the Russian Federation, all of which are States Parties to the BWC. In 1987, BWC States Parties established an annual data exchange, referred to as the Confidence-Building Measures (CBMs). The CBMs were modified and expanded in 1991. The arrangement establishing the CBMs was not legally binding and not all States Parties submit reports. This Report also addresses biological warfare (BW)-related activities of Egypt and Syria, which have signed but not ratified the BWC.

COUNTRY ASSESSMENTS

CHINA

FINDING

Available information indicates China engaged during the reporting period in biological activities with potential dual-use applications; however, the information did not indicate that China is engaged in activities prohibited by the BWC.

BACKGROUND

China became a State Party to the BWC in 1984. Its compliance with the Convention has been addressed since the 1993 Report.

China's CBM declarations have not documented a historical offensive BW program.

Available information indicates that China continued during the reporting period to develop its biotechnology infrastructure, pursue scientific cooperation with entities of several countries, and engage in biological activities with potential dual-use applications. However, the information did not indicate China engaged in activities prohibited by the BWC. China has adopted national export controls to address the challenges of biological weapons proliferation.

China's State Council issued a January 2009 white paper, *China's National Defense in 2008*, stating that China had established a comprehensive legislation system for the implementation of the BWC, set up a national implementation focal point, and submitted its BWC CBM declarations in a timely manner.

Compliance Discussions

No BWC compliance issues were raised between the United States and China during the reporting period. China maintained that it was meeting its BWC obligations.

CUBA

FINDING

Information available through the end of 2010 did not indicate that Cuba is engaged in activities prohibited by the BWC.

BACKGROUND

Cuba became a State Party to the BWC in 1976. Its compliance with the Convention was first addressed in the 2003 Report.

Cuba has a sophisticated biotechnology infrastructure that, according to available information, continued during the reporting period to engage in a range of pharmaceutical, biomedical, and agricultural activities. These included supplying products such as vaccines and pharmaceuticals to other countries, and pursuing scientific cooperation with entities of other countries. Information available through the end of 2010 did not indicate Cuba is engaged in activities prohibited by the BWC.

Compliance Discussions

During the reporting period, the United States did not raise any issues regarding Cuba's compliance with the BWC.

EGYPT

FINDING

As of the end of 2010, available information did not indicate that Egypt is engaged in activities prohibited by the BWC. Since Egypt is a signatory and not a

State Party to the BWC, its compliance with the Convention has not been formally assessed.

BACKGROUND

Egypt signed the BWC in 1972 but has yet to ratify the Convention. Egypt's compliance with the BWC has not been formally assessed because it is a signatory and not a State Party to the Convention.

Available information indicated Egypt continued during the reporting period to improve its biotechnology infrastructure, engage in biological research and development activities including genetic engineering techniques, and pursue scientific cooperation with other countries. However, as of the end of 2010, available information did not indicate that Egypt is engaged in activities prohibited by the BWC.

Compliance Discussions

During the reporting period, the Egyptian Government affirmed that it remains committed to the prohibition of the development, production, and stockpiling of bacteriological and toxin weapons.

INDIA

FINDING

Information available through the end of 2010 did not indicate that India is engaged in activities prohibited by the BWC. India has continued efforts to strengthen its export control of biological materials.

BACKGROUND

India became a State Party to the BWC in 1974.

Available information indicates India has a rapidly growing biotechnology infrastructure, and that its activities during the reporting period included pursuing scientific cooperation with entities in other countries, including the United States, and research relating to pathogens and toxins such as ricin, abrin, and anthrax. Information available through the end of 2010 did not indicate that India is engaged in activities prohibited by the BWC.

Compliance Discussions

The United States and India continued during the reporting period to discuss issues relating to transfer of biotechnology and to pursue cooperative activities relating to customs and export control reform.

IRAN

FINDING

Available information indicated Iran continued during the reporting period to engage in activities with potential dual-use BW applications. It remained unclear whether any of these activities were prohibited by the BWC.

BACKGROUND

Iran became a State Party to the BWC in 1973. Its compliance with the Convention has been addressed since the 1993 Report.

Available information indicated that Iran continued during the reporting period to engage in activities with potential dual-use BW applications. It remained unclear whether any of these activities were prohibited by the BWC.

Compliance Discussions

Issues relating to Iran's potential dual-use BW activities continued to be raised during the reporting period in multilateral channels.

In April 2010, Iran's Ambassador to the United Nations sent a letter to the UN Security Council (UNSC) indicating Iran is firmly committed to full implementation of the BWC. In May 2010, senior Iranian officials publicly condemned the production of biological weapons and stated that Iran has never sought to produce or acquire a biological weapon.

IRAQ

FINDING

As of the end of 2010, available information did not indicate that Iraq is engaged in activities prohibited by the BWC.

BACKGROUND

Iraq became a State Party to the BWC in 1991. The UN Security Council's adoption of Resolution 1483 in May 2003, following the fall of the Hussein regime, reaffirmed that Iraq must meet its disarmament obligations. Iraq's compliance with the BWC has been addressed since the 1993 Report.

In a joint U.S.-UK letter dated June 28, 2007, the U.S. Secretary of State and UK Secretary of State for Foreign and Commonwealth Affairs informed the UN Security Council that all appropriate steps had been taken to secure, remove, disable, render harmless, eliminate, or destroy: (a) all of Iraq's known WMD and ballistic missiles with a range of greater than 150 kilometers; and (b) all known elements of Iraq's programs established to research, develop, design, manufacture, produce, support, assemble, and employ such weapons and delivery systems, subsystems, and components thereof.

As of the end of 2010, available information did not indicate that Iraq is engaged in activities prohibited by the BWC.

Compliance Discussions

During the reporting period, no BWC compliance issues were raised between the United States and Iraq.

In correspondence to the UN Security Council in January 2010, the Iraqi Government reiterated its commitment to the BWC and to the 1925 Geneva Protocol for the Prohibition of the Use in War of Asphyxiating, Poisonous or Other Gases, and of Bacteriological Methods of Warfare (1925 Geneva Protocol). Iraq also noted that its National Monitoring Directorate is the national focal point for the implementation of the BWC, and that the Directorate annually undertakes confidence-building measures and submits information in that regard to the United Nations.

Iraq contributed during the reporting period to multilateral discussions on biological weapons, emphasizing that it opposes biological weapons and WMD in the hands of non-state actors.

LIBYA

FINDING

Available information continues to indicate that Libya is complying with its obligations under the BWC and is fulfilling the biological weapons-related

commitments Libya made in December 2003 when it committed to rid itself of internationally proscribed weapons.

BACKGROUND

Libya became a State Party to the BWC in 1982. Its compliance with the Convention has been addressed since the 1993 Report.

On December 19, 2003, Libya's Foreign Ministry issued a statement indicating that Libya had decided of its own free will to eliminate the materials, equipments, and programs that lead to production of internationally proscribed weapons so that Libya may be completely free of such weapons. The Foreign Ministry's statement also confirmed that Libya would be bound by the BWC, among other international agreements.

Information available through the end of 2010 did not indicate Libya is engaged in activities that are prohibited by the BWC or inconsistent with Libya's December 2003 biological weapons-related commitments.

Compliance Discussions

During the reporting period, no issues were raised between the United States and Libya regarding Libya's adherence to its BWC obligations or December 2003 biological weapons-related commitments.

NORTH KOREA (DEMOCRATIC PEOPLE'S REPUBLIC OF KOREA (DPRK))

FINDING

North Korea may still consider the use of biological weapons as an option, contrary to the BWC. North Korea continues to develop its biological research and development capabilities, but has yet to declare any relevant developments as part of the BWC confidence-building measures.

BACKGROUND

North Korea became a State Party to the BWC in 1987. Its compliance with the Convention was first addressed in the edition of this Report covering the year 2000.

The only BWC-related declaration that North Korea has made was a BWC CBM declaration in 1990.

Available information indicated North Korean entities engaged during the reporting period in a range of biological research and development activities, including pursuing scientific cooperation with entities of other countries.

The United States notes that North Korea may still consider the use of biological weapons as an option, contrary to the BWC.

In June 2009, the UN Security Council passed Resolution 1874, which, *inter alia*, authorized and required all Member States to seize and dispose of items the supply, sale, transfer, or export of which is prohibited by paragraph 8(a), 8(b) or 8(c) of UN Security Council Resolution (UNSCR) 1718 (2006), and that are identified in an inspection conducted pursuant to paragraph 11, 12, or 13 of Resolution 1874. UNSCR 1718 requires all Member States to prevent the supply, sale, or transfer to the DPRK, and to prohibit procurement from the DPRK, of certain items that could contribute to the DPRK's nuclear-related, ballistic missile-related, or other weapons of mass destruction-related programs. The list of items, materials, equipment, goods, and technology related to biological and chemical weapons to be included under the sanctions provisions of UNSCR 1718 was issued by the UN DPRK Sanctions Committee in S/2006/853.

Compliance Discussions

During the reporting period, discussions regarding North Korea's compliance with its BWC obligations continued in multilateral fora.

In the past, North Korea has rejected the view that it is not meeting its BWC obligations. It has also stated that it opposes the development and use of biological weapons, and that it does not possess a single biological weapon.

PAKISTAN

FINDING

Information available through the end of 2010 did not indicate Pakistan is engaged in activities prohibited by the BWC. Pakistan continued during the reporting period to work to improve its biological weapons-related export controls. It has yet to submit an annual confidence-building measure (CBM) declaration.

BACKGROUND

Pakistan became a State Party to the BWC in 1974.

Pakistan has a modernizing biotechnology infrastructure that continued during the reporting period to pursue a range of biological research and development activities. These included pursuing scientific cooperation with entities in other countries, such as the United States. Information available through the end of 2010 did not indicate Pakistan is engaged in activities prohibited by the BWC.

As of the end of 2010, Pakistan had yet to submit an annual CBM declaration. In 2010, Pakistan indicated it was preparing its first declaration.

Compliance Discussions

The United States and Pakistan continued to collaborate during the reporting period on improving Pakistan's BW-related export controls.

RUSSIAN FEDERATION

FINDING

Available information during the reporting period indicated Russian entities have remained engaged in dual-use, biological activities. It is unclear that these activities were conducted for purposes inconsistent with the BWC. It also remains unclear whether Russia has fulfilled its BWC obligations in regard to the items specified in Article I of the Convention that it inherited.

BACKGROUND

The Soviet Union became a State Party to the BWC in 1975. Russia's BWC compliance was first addressed in the 1993 Report, while the Soviet Union's BWC noncompliance was first addressed in the January 1984 Report to Congress on Soviet Non-compliance with Arms Control Agreements.

Russia's Acknowledgement of Inherited Soviet Activities. In January 1992, President Yeltsin announced that Russia renounced the former Soviet Union's reservations to the 1925 Geneva Protocol that had allowed for retaliatory use of biological weapons. (The Duma voted to remove these reservations in 2001.) In April 1992, President Yeltsin signed a decree committing Russia as the BWC successor to the Soviet Union and prohibiting illegal biological warfare activity in Russia. During discussions in Moscow in September 1992, Russian officials confirmed the existence of a biological weapons program inherited from the Soviet Union, committed themselves to dismantling it, and agreed to on-site verification procedures.

Although Russia had inherited the past offensive program of biological research and development from the Soviet Union, Russia's annual BWC confidence-building measure declarations since 1992 have not satisfactorily documented whether this program was completely destroyed or diverted to peaceful purposes in accordance with Article II of the BWC.

Russian entities remained engaged during the reporting period in BW-relevant activities. It also remains unclear if Russia has fulfilled its obligations under Article II of the BWC to destroy or divert to peaceful purposes the items specified in Article I of the Convention that it inherited from the Soviet Union.

Compliance Discussions

Discussions again took place during the reporting period in multilateral fora, and between the United States and Russia, regarding Russia's compliance with the BWC. Russia maintained that it is in compliance with the Convention.

SYRIA

FINDING

It remained unclear during the reporting period whether Syria, a signatory to the BWC, is engaged in activities prohibited by the BWC and whether it would consider the use of biological weapons as a military option.

BACKGROUND

Syria signed the BWC in April 1972, but has yet to ratify the Convention. Syria's BW-related activities have been addressed since the 1993 Report.

It remained unclear during the reporting period whether Syria would consider the use of biological weapons as a military option.

It remained unclear during the reporting period whether Syria is engaged in activities prohibited by the BWC.

Pursuant to U.S. Executive Order 13382, the United States had designated four Syrian entities as WMD proliferators during the previous reporting period out of concern their activities focused on the development of biological and chemical weapons. These designations remained in effect through the end of this reporting period.

Discussions regarding Syria's BW-related activities continued among the United States and other countries during the reporting period.

Compliance Discussions

During a regional workshop on the implementation of UN Security Council Resolution 1540 in March 2009, the Syrian representative stated that Syria did not have any weapons of mass destruction, did not want to acquire any, and was not helping other countries to get materials to develop WMD.

TREATY ON CONVENTIONAL ARMED FORCES IN EUROPE (CFE)

For a discussion of other nations' adherence to their obligations under the CFE Treaty, see the Report on Compliance with the Treaty on Conventional Armed Forces in Europe submitted consistent with Condition 5(C) of the Senate Resolution of Advice and Consent to Ratification of the CFE Flank Document (also known as the "Condition 5(C) Report") and submitted contemporaneously with this Report.

VIENNA DOCUMENT 1999 ON THE NEGOTIATIONS ON CONFIDENCE- AND SECURITY-BUILDING MEASURES

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 Vienna Document 1992 (VD92), which added to and built upon the undertakings in Vienna Document 1990 (VD90). Subsequently, most of the successor states of the former Yugoslavia also joined VD92. In November 1994, at the CSCE Summit in Budapest, VD92 was expanded and incorporated into Vienna Document 1994 (VD94). At that time, the CSCE became the Organization for Security and Cooperation in Europe (OSCE). During 1999, the participating States to VD94 completed discussions to update the Document, and improved provisions were accepted in Vienna Document 1999 (VD99) at the OSCE Istanbul Summit in November 1999. The measures contained in VD99 are politically binding upon the participating States.

In 2009, 96 inspections and 46 evaluation visits of units and formations were conducted by the participating States under the provisions of VD99. In addition, 11 inspections and 25 evaluation visits were conducted using VD99 procedures under bilateral agreements that offer additional quotas to the participants.

In 2010, 98 inspections and 48 evaluation visits of units and formations were conducted by the participating States under the provisions of VD99. In addition, 16 inspections and 34 evaluation visits were conducted using VD99 procedures under bilateral agreements that offer additional quotas to the participants.

In the most recent annual VD99 exchange of confidence- and security-building measures (CSBM) data, 49 of the 50 participating States with armed forces provided CSBM data as of the end of 2010.

CHEMICAL WEAPONS CONVENTION (CWC)

For a discussion of other nations' adherence to their obligations under the Chemical Weapons Convention, see the Report on Chemical Weapons Convention Compliance submitted in accordance with Condition 10(C) of the Senate Resolution of Advice and Consent to the Chemical Weapons Convention (also known as the "Condition 10(C) Report") and submitted contemporaneously with this Report.

NUCLEAR NON-PROLIFERATION TREATY (NPT)

This section of the Report covers developments relevant to other nations' compliance with the 1968 Nuclear Non-Proliferation Treaty (NPT) and addresses, in particular, developments in Burma, China, Iran, North Korea (DPRK), and Syria.

As of the end of 2010, there were 17 non-nuclear-weapon States (NNWS) party to the NPT that had not yet brought into force a comprehensive safeguards agreement with the International Atomic Energy Agency (IAEA). The NPT does not require adherence to an IAEA Additional Protocol, which contains measures that increase the IAEA's ability to verify the non-diversion of declared nuclear material and to provide assurances as to the absence of undeclared nuclear material and activities in a State. As of the end of 2010, 139 States had an Additional Protocol approved by the IAEA Board of Governors, 135 of those had been signed, and 104 had entered into force (the Additional Protocol entered into force for the United States on January 6, 2009).

COUNTRY ASSESSMENTS

BURMA

FINDING

The United States remains concerned about Burma's interest in pursuing a nuclear program, including the possibility of cooperation with North Korea. The U.S. Government continues to be alert to any indications of Burmese nuclear weapons-related activities or intentions to develop a nuclear weapons capability. As of the end of 2010, available information did not support a conclusion that Burma had engaged in activities prohibited by its NPT obligations or IAEA safeguards, but U.S. confidence in Burma's compliance would be enhanced by the adoption of an Additional Protocol.

BACKGROUND

Burma became a State Party to the NPT in 1992 and its NPT Safeguards Agreement with the IAEA entered into force in 1995. As a country with little to no nuclear material, Burma concluded a Small Quantities Protocol (SQP) in April 1995. The SQP holds in abeyance most of the operative provisions of the Safeguards Agreement. As of the end of 2010, Burma had not signed the Additional Protocol, modified its SQP as called for by the IAEA Board of Governors in September 2005, or modified Code 3.1 of the Subsidiary Arrangements to its Safeguards Agreement. The latter would obligate Burma to notify the IAEA of a decision to build a nuclear facility.

As early as 2002, the Burmese Government had publicly announced its intention to acquire a nuclear research reactor for peaceful purposes under IAEA auspices.

In May 2007, Burma and Russia signed an agreement for Russia to assist in building a nuclear research center in Burma that would include a 10 Megawatt (MW) light-water research reactor. Russia has provided public assurances that the research reactor would be placed under IAEA safeguards.

The United States has expressed concerns about Burma's interest in pursuing a nuclear program, including the possibility of cooperation with North Korea.

As of the end of 2010, available information did not indicate there had been progress in establishing the nuclear research center called for in the Burma-Russia agreement, or that Burma's efforts to establish the center had involved activities prohibited by the NPT or by IAEA safeguards. The United States continues to note that U.S. confidence in Burma's compliance would be enhanced by the adoption of an Additional Protocol.

Compliance Discussions

The United States and numerous other countries continued during the reporting period to exchange views regarding Burma's nuclear intentions, including at senior diplomatic levels. The United States urged Burma to sign the IAEA Additional Protocol.

In June 2010, the Democratic Voice of Burma (DVB), an Oslo-based Burmese dissident group, issued a report alleging that the Government of Burma was pursuing a nuclear weapons program with the help of North Korea. The Burmese Government rejected the conclusions of the DVB report.

In September 2010, Burma affirmed in a statement to the IAEA General Conference that the applications of nuclear science and technology in Burma were only for peaceful developmental purposes and that Burma would never engage in activities related to the production and proliferation of nuclear weapons.

CHINA

FINDING

Non-Chinese foreign entities continued during the reporting period to pursue nuclear-related activities with Chinese entities. Information available as of the end of 2010 did not indicate, however, that the Chinese Government is engaged in activities prohibited by the NPT or by IAEA safeguards.

BACKGROUND

China acceded to the NPT in 1992, joining the Treaty as a nuclear-weapon State Party. Its NPT Safeguards Agreement had entered into force in 1989. China's

compliance with its NPT obligations was first raised in the 1993 Report. China's Additional Protocol entered into force in 2002.

During the reporting period, non-Chinese foreign entities continued to pursue nuclear-related activities with Chinese entities. Information available as of the end of 2010 did not indicate, however, that the Chinese Government is engaged in activities prohibited by the NPT or by IAEA safeguards.

Compliance Discussions

In 2009 and 2010, the Chinese Government repeatedly affirmed its commitment to implementing the NPT and the UN Security Council (UNSC) resolutions related to nuclear proliferation. The United States continued to work with China in strengthening its nuclear export controls.

IRAN

FINDING

Iran is in violation of obligations under the NPT, its IAEA Safeguards Agreement, and relevant UN Security Council resolutions.

BACKGROUND

Iran became a State Party to the NPT in 1970 and its NPT Safeguards Agreement entered into force in 1974. Iran signed the Additional Protocol in 2003 and implemented it provisionally and selectively from 2003 to 2006, when provisional implementation was suspended.

Iran's violations of its obligations under the NPT and its IAEA Safeguards Agreement have been ongoing since the early 1980s. In 2002, an Iranian opposition group publicly revealed covert nuclear facilities under construction at Natanz and Arak in Iran that Iran had failed to declare to the IAEA. Developments led the IAEA Board of Governors to declare Iran in noncompliance with its IAEA Safeguards Agreement in 2005 and to report the case to the UN Security Council in 2006.

Developments during the reporting period included the following. Iran continued to make progress on uranium enrichment-related activities, such as continuing construction of a new (formerly covert) enrichment facility near the city of Qom (also known as the Fordow site), developing advanced centrifuges, enriching uranium up to 20 percent, and indicating its intention to build ten new uranium enrichment facilities. Iran also continued to make progress on its heavy water-related activities, including the construction of its IR-40 heavy water moderated research reactor at Arak and the operation of its heavy water production plant at Arak. On the unresolved issues

concerning the possibility of military dimensions to Iran's nuclear program, there was no movement by Iran. IAEA reporting indicated that, since August 2008, Iran has declined to discuss these unresolved issues with the IAEA or to provide any further information or access to locations and people necessary to address the IAEA's concerns. In addition, the IAEA indicated that, as of November 2010, there were no ongoing reprocessing-related activities in Iran at the facilities to which the IAEA has access. Finally, Iran repeatedly failed to report design changes to nuclear installations well in advance of any action taken to modify existing facilities or construct new ones, as required by modified Code 3.1 of the Subsidiary Arrangements to Iran's NPT Safeguards Agreement.

The IAEA Director General reiterated publicly during the reporting period that, while the IAEA continues to verify the non-diversion of declared nuclear material in Iran, Iran has not provided the necessary cooperation to permit the IAEA to provide assurances that Iran's nuclear program is exclusively peaceful. The United States notes that Iran continues to engage in uranium enrichment- and heavy water-related activities in violation of UN Security Council resolutions. It also continues to fail to fully meet its obligations under modified Code 3.1 of the Subsidiary Arrangements to its NPT Safeguards Agreement. In addition, there was no movement by Iran during the reporting period on outstanding issues which need to be clarified to exclude the possibility of military dimensions to its nuclear program. Iran's failure to implement its IAEA Safeguards Agreement also constitutes a violation of its NPT Article III obligations. Moreover, Iran had previously received assistance in the manufacture of nuclear weapons in violation of its Article II obligations, as noted in the 2005 and 2010 Reports. The issues underlying that finding remain unresolved.

Compliance Discussions

In November 2009, the IAEA Board of Governors (BOG) passed a resolution urging Iran to comply fully and without delay with its obligations and expressing concern with Iran's construction of the formerly undeclared uranium enrichment plant at Qom. In June 2010, the UN Security Council adopted Resolution 1929 imposing a range of sanctions against Iran. The Security Council has now adopted six resolutions on Iran (UNSCRs 1696, 1737, 1747, 1803, 1835, and 1929), four of which impose binding Chapter VII sanctions.

During the reporting period, the United States continued to support the IAEA in addressing Iran's nuclear program and to work closely with the other P5+1 countries (China, France, Germany, Russia, and the United Kingdom) on the issue. In addition, the United States continued to impose sanctions on entities and individuals involved in nuclear-related proliferation with Iran. The IAEA, the United States, and numerous other countries urged Iran to cooperate with the IAEA and to implement UNSC and IAEA BOG resolutions, the Additional Protocol, and modified Code 3.1. However, Iran continued to maintain that its nuclear program was peaceful and to reject concerns regarding its nuclear activities and lack of full cooperation with the IAEA.

NORTH KOREA
(DEMOCRATIC PEOPLE’S REPUBLIC OF KOREA (DPRK))

FINDING

North Korea was in violation of its obligations under Articles II and III of the NPT and under its IAEA Safeguards Agreement before its announced withdrawal from the NPT in 2003. In addition, North Korea’s continuing nuclear activities, including its uranium enrichment activities and construction of a small light-water reactor, are further violations of UNSCRs 1718 and 1874 and of the DPRK’s commitments under the 2005 Joint Statement of the Six-Party Talks.

BACKGROUND

North Korea acceded to the NPT in 1985 and its IAEA Safeguards Agreement entered into force in 1992. In 2003, the DPRK announced its withdrawal from the NPT. In the Joint Statement released by the Six Parties (China, Japan, North Korea, Russia, South Korea, and the United States) in September 2005, the DPRK committed, *inter alia*, to abandoning all nuclear weapons and existing nuclear programs and returning, at an early date, to the NPT and to IAEA safeguards.

Previous editions of this Report have described violations by North Korea of its obligations under Articles II and III of the NPT and under its IAEA Safeguards Agreement before its announced withdrawal from the NPT in 2003. Previous editions also described North Korea’s violations of its political commitments under the Agreed Framework. During the reporting period, those violations had not been remedied.

On April 14, 2009, North Korea announced its withdrawal from the Six-Party Talks, the expulsion of U.S. disablement experts and IAEA inspectors who had been monitoring nuclear facilities in the DPRK since July 2007, and its intention to reverse disablement actions taken at the Yongbyon nuclear complex. On May 25, 2009, North Korea publicly announced that it had successfully conducted its second underground nuclear test.¹ The UN Security Council adopted UNSCR 1874 in response, tightening sanctions against North Korea. In September, the DPRK Permanent Representative to the United Nations stated in a letter to the President of the UN Security Council that “[r]eprocessing of spent fuel rods is at its final phase and extracted plutonium is being weaponized” and that “[e]xperimental uranium enrichment has successfully been conducted to enter into completion phase.” In November 2009, North Korea announced it had successfully completed the reprocessing of 8,000 spent fuels rods.

In November 2010, DPRK authorities disclosed to visiting American scientists a uranium enrichment facility and ongoing construction of a light-water reactor at Yongbyon. DPRK authorities stated that the enrichment facility contained about 2,000

¹ The DPRK announced that it had conducted a test of a nuclear explosive device on October 9, 2006. The UN Security Council adopted UNSCR 1718 in response, imposing sanctions against the DPRK.

centrifuges, which was consistent with the scientists' observations, and that the facility was operating and producing LEU, which the scientists could not verify.

North Korea was in violation of its obligations under Articles II and III of the NPT and under its IAEA Safeguards Agreement before its announced withdrawal from the NPT in 2003. In addition, North Korea's continuing nuclear activities, including its uranium enrichment activities and construction of a small light-water reactor, are further violations of UNSCRs 1718 and 1874 and of the DPRK's commitments under the 2005 Joint Statement of the Six-Party Talks.

Compliance Discussions

During the reporting period, the United States emphasized that North Korea continues to disregard its commitments under the 2005 Joint Statement and its obligations under UNSCRs 1718 and 1874. The United States made clear that North Korea cannot be a nuclear-weapon State as defined in the NPT, and that the United States remains committed to the 2005 Joint Statement and its goal of the verifiable denuclearization of the Korean peninsula in a peaceful manner. The United States also continued to encourage the international community to implement fully and transparently the UN sanctions relating to the North Korean nuclear issue. The IAEA reiterated that it has been unable to carry out any monitoring or verification activities in the DPRK since April 2009, and that the DPRK has not permitted the IAEA to implement safeguards in the DPRK since December 2002. In December 2010, the United States and other members of the IAEA BOG noted that the DPRK's construction of a uranium enrichment facility at Yongbyon is a violation of UNSCRs 1718 and 1874. The United States also noted that this activity was also a violation of the DPRK's commitments under the 2005 Joint Statement.

SYRIA

FINDING

Syria failed to declare and provide design information to the IAEA for the construction of the reactor at Al Kibar, which was destroyed in September 2007. In doing so, Syria failed to meet obligations under modified Code 3.1 of the Subsidiary Arrangements to its Safeguards Agreement. During the reporting period, Syria refused to cooperate with the IAEA's investigation into this matter² and also failed to clarify the origin of anthropogenic natural uranium particles found in samples taken at its Miniature Neutron Source Reactor. The particles were of a type not included in its declared inventory of nuclear material.

² On June 9, 2011, following Syria's refusal to cooperate with the IAEA's investigation into this matter for over three years, the IAEA BOG adopted a resolution finding Syria in noncompliance with its obligations under its NPT Safeguards Agreement with the IAEA in the context of Article XII.C of the IAEA's Statute.

BACKGROUND

Syria became a State Party to the NPT in 1968 and its NPT Safeguards Agreement entered into force in 1992. It had not signed the Additional Protocol as of the end of 2010.

Al Kibar Site. Until September 2007, Syria was building a covert nuclear reactor at Al Kibar (in the province of Dair Alzour) in Syria's eastern desert that would have been capable of producing plutonium. The reactor was destroyed on September 6, 2007, before it became operational. The reactor's intended purpose was apparently the production of plutonium, because the reactor was not configured for power production, was isolated from any civilian population, and was ill-suited for research. Following the reactor's destruction, Syria went to great lengths to clean up the site and to destroy evidence of what had existed at the site. By December, Syria had constructed a large building over the location where the reactor once stood. In April 2008, the United States provided information to the IAEA indicating that the installation destroyed at Al Kibar was a nuclear reactor being constructed with North Korean assistance. The IAEA began investigating Syria's compliance with its IAEA safeguards, but despite repeated requests, was not allowed by Syria to send inspectors to visit the Al Kibar site until June 2008.

During the reporting period, the IAEA continued to investigate the nature of the destroyed facility at the Al Kibar site. The IAEA noted that Syria had not cooperated with the IAEA since June 2008 on the unresolved issues related to the Al Kibar site and some other locations. Syria has maintained that the destroyed facility was a military installation and not involved in nuclear activities. As of the end of 2010, Syria had not provided information or access to allow the IAEA to resolve outstanding issues relating to the Al Kibar site, including the nature of the destroyed facility and the origin of the anthropogenic (man-modified chemically processed) natural uranium particles found in samples taken at the site. The particles are of a type not included in Syria's declared inventory of nuclear material. Moreover, Syria had failed to declare and provide design information to the IAEA for the construction of the Al Kibar reactor, despite being an NPT Party that implemented a safeguards agreement with the IAEA. In doing so, Syria failed to meet obligations under modified Code 3.1 of the Subsidiary Arrangements to its Safeguards Agreement.³

Miniature Neutron Source Reactor (MNSR), Damascus. The IAEA remained engaged with Syria during the reporting period in efforts to clarify the origin of anthropogenic natural uranium particles found in samples taken in 2008 and 2009 at the MNSR. The particles were of a type not included in Syria's declared inventory of nuclear material. The United States has called within the IAEA BOG for Syria to provide a full and complete accounting of all previously undeclared activities conducted at the

³ On June 9, 2011, the IAEA BOG adopted a resolution finding Syria in noncompliance with its obligations under its NPT Safeguards Agreement with the IAEA in the context of Article XII.C of the IAEA's Statute.

MNSR. In September 2010, the IAEA and Syria agreed upon a plan of action for resolving the outstanding issues relating to the MNSR.⁴

Compliance Discussions

The United States and numerous other countries continued during the reporting period to urge Syria to cooperate fully with the IAEA to address all outstanding questions about Syria's clandestine nuclear activities. The Director General repeatedly urged Syria to engage with the IAEA to resolve outstanding issues, including cooperating with, and providing prompt access in support of, IAEA verification activities. Syria was also urged by others to bring into force the Additional Protocol to its Safeguards Agreement. The Director General sent a letter to the Syrian foreign minister in November 2010 requesting that Syria provide prompt access to relevant information and locations related to Al Kibar and underscoring to Syria the importance of cooperating with the IAEA.

Syria continued during the reporting period to reject concerns regarding its past activities at Al Kibar, but stated that it was committed to the NPT and to IAEA safeguards, and to cooperating with the IAEA.

⁴ In his introductory statement to the June 2011 BOG meeting, the IAEA Director General stated that Syria's statements concerning the previously unreported conversion activities at the MNSR and the origin of anthropogenic uranium particles are not inconsistent with the results of the IAEA's verification activities, and that this matter will be addressed in the routine implementation of safeguards.

TREATY ON OPEN SKIES

The Treaty on Open Skies establishes a regime for the conduct of unarmed observation flights by States Parties over the territories of other States Parties. States Parties are allowed to utilize four types of sensors (optical panoramic and framing cameras, video cameras with real-time display, infra-red line-scanning devices, and sideways-looking synthetic aperture radar) during the observation flights. The Treaty was signed at Helsinki on March 24, 1992. The Treaty entered into force on January 1, 2002, and is of unlimited duration. As of December 31, 2010, 34 States Parties had signed and ratified the Treaty on Open Skies (Belarus, Belgium, Bosnia and Herzegovina, Bulgaria, Canada, Croatia, the Czech Republic, Denmark, Estonia, Finland, France, Georgia, Germany, Greece, Hungary, Iceland, Italy, Latvia, Lithuania, Luxembourg, the Netherlands, Norway, Poland, Portugal, Romania, Russia, the Slovak Republic, Slovenia, Spain, Sweden, Turkey, Ukraine, the United Kingdom, and the United States).

This Report discusses three compliance issues involving the Russian Federation from January 1, 2009, to December 31, 2010.

COUNTRY ASSESSMENTS

RUSSIAN FEDERATION

FINDING – ACCESS TO KALININGRAD

In July 2010, a U.S. Open Skies mission in the OC-135B was denied access to Khrabrovo Airfield in Kaliningrad. The reason cited by the local airport authority was excessive aircraft weight. The U.S. team protested but the issue was not resolved and the mission was aborted. During subsequent bilateral discussions, the United States provided assurances that the aircraft would not exceed runway weight-bearing limits and the issue was resolved. Another U.S. mission into Kaliningrad in October was successful and the United States now considers the matter closed.

FINDING – AIRSPACE RESTRICTIONS

Russia has restricted access to three areas: over Chechnya and nearby areas of southwestern Russia; in the UUP-33 area over Moscow below 3,600 meters altitude; and along the border of Russia with the Georgian regions of South Ossetia and Abkhazia.

Russia imposed restrictions over and near Chechnya in 2002 due to conflict in the area and purported safety of flight considerations. Russia claims that flight within UUP-33 over Moscow below 3,600 meters is prohibited due to safety of flight. Russia also claims that flight over Russia within 10 km of the border regions of South Ossetia and

Abkhazia is prohibited by the Open Skies Treaty. A provision in the Treaty prohibits flight within 10 km of a non-State Party. Russia claims that South Ossetia and Abkhazia are independent nations not party to the Treaty and, therefore, flight within 10 km of their borders is prohibited. This issue has been raised by the United States, Canada, Romania, and others multiple times in the Open Skies Consultative Commission (OSCC) and has not been resolved. Georgian representatives regard the Russian action a violation of Georgian sovereignty and are seeking future Russian compliance with this Treaty provision.¹

BACKGROUND

Paragraphs 1 and 2 of Article IV of the Treaty state that States Parties may use any of four sensor types to conduct observation flights. Additionally, Section II of Article VI of the Treaty states that the observation flight mission plan may provide for the observation of any point on the entire territory of the observed Party, including areas designated by the observed Party as hazardous airspace.

Analysis completed by the United States confirmed that UUP-33 was large enough to prevent States Parties from observing all portions of the area from outside of it, even with wide field of view panoramic cameras, nor do these restrictions allow the certified sensors of other sharing partner aircraft with minimum sensor altitudes less than 3,600 meters to observe all Russian territory in accordance with Paragraphs 1 and 2 of Article IV of the Treaty. The United States is able to obtain Treaty-allowed resolution imagery of the territory under UUP-33 airspace using its higher-altitude KA-91C panoramic camera, weather permitting. However, the United States is still not able to exercise its right to use the KS-87E framing camera to obtain the Treaty-allowed resolution of 30 cm on targets in the UUP-33 prohibited area.

Georgia is a State Party to the Treaty, and South Ossetia and Abkhazia are recognized as part of Georgia by all States Parties (including Russia until 2008). All States Parties except Russia believe that flights within 10 km of the continuous, internationally recognized border of Russia with Georgia, including South Ossetia and Abkhazia, are permitted.

As of December 31, 2010, Chechnya, UUP-33, and border-related airspace restrictions were still in effect.

Compliance Discussions

The United States continues to utilize the OSCC and diplomatic means to highlight the negative impact of these airspace restrictions with the goal of Russia removing all airspace restrictions that negatively impact observation flight.

¹ To register its concern, Georgia has chosen not to conduct a flight over Russia this year, but will allow Russia to conduct a flight over its territory.

FINDING – FIRST GENERATION DUPLICATE NEGATIVE FILM

The United States notes that Russia's inability to provide a first generation duplicate negative of processed photographic film from Open Skies flights is not in compliance with its obligations under Sections II and IV of Article IX of the Treaty on Open Skies.

BACKGROUND

Russia's film duplication equipment is not capable of producing a first generation duplicate negative. The United States has raised the concern with Russian film duplication capability and Russia's inability to produce first generation duplicate negatives.

There have been no changes since the August 2007 U.S.-hosted bilateral discussion with Russia on Open Skies implementation issues, during which Russia responded that it was unable to update equipment at its Kubinka airfield, but that it was planning to install new duplicating equipment and to purchase special copy film.

Section II of Article IX of the Treaty states that when only one original film negative is developed, the observed Party has the right to receive a complete first generation duplicate, either positive or negative, of the original film negative. Additionally, Section IV of Article IX of the Treaty states that a State Party shall have the right to request and receive from the observing Party copies of data collected by sensors during an observation flight. Such requests include the right to ask for duplicate negative film.

Consistent with the rights established in Sections II and IV of Article IX of the Treaty, the United States has requested that Russia provide duplicate negative film of imagery collected during Russian observation flights over the United States. However, in each case, Russia was able to provide only duplicate positive film because their media processing facility was not capable of producing a duplicate negative. As a result, the United States was not able to exercise its rights under Sections II and IV of Article IX. Analysis of a duplicate negative copy usually provides better results than a duplicate positive copy, thus the results of the observation flight analysis is not optimal.

Compliance Discussions

During the reporting period, there was no compliance discussion with Russia on this issue.

PART IV: OTHER NATIONS' (INCLUDING SUCCESSOR STATES') COMPLIANCE WITH THEIR INTERNATIONAL COMMITMENTS

MISSILE NONPROLIFERATION COMMITMENTS

The **Missile Technology Control Regime (MTCR)** and the **Hague Code of Conduct Against Ballistic Missile Proliferation (HCOG; originally known as the International Code of Conduct Against Ballistic Missile Proliferation (ICOC))** are the key multilateral mechanisms addressing the proliferation of missiles and missile-related technology. In addition, the United States holds frequent bilateral discussions on nonproliferation issues, often with states that are not members of or parties to multilateral regimes. The United States has sought and received separate, bilateral political nonproliferation commitments from nations to limit their missile proliferation activities.

Missile Technology Control Regime. The MTCR is a voluntary arrangement among Partner countries sharing a common interest in controlling missile proliferation. The MTCR is not a treaty and it does not impose legally binding obligations on participating countries. Rather it is an informal political understanding among states that seek to limit the proliferation of missiles and missile technology. The MTCR Partners control exports of a common list of controlled items (the MTCR Equipment, Software, and Technology Annex, also referred to as the MTCR Annex) according to a common export control policy (the MTCR Guidelines). The Guidelines and Annex are implemented according to each country's national legislation and regulations. Membership in the MTCR has grown steadily since the Regime's creation in 1987, and 34 countries are now members.

Hague Code of Conduct Against Ballistic Missile Proliferation. On November 25, 2002, the HCOG was launched in The Hague, Netherlands. As of November 15, 2010, a total of 131 countries had subscribed to the HCOG, the most recent being Iraq, which subscribed in August 2010. The HCOG intends to create a widely subscribed international predisposition against ballistic missile proliferation. The Code consists of a set of broad principles, general commitments, and modest confidence-building measures. It is a voluntary political commitment, not a treaty, and is open to all countries. The Code is intended to supplement, not supplant, the MTCR.

COUNTRY ASSESSMENTS

CHINA

FINDING

In 2009-2010, Chinese companies continued to supply missile programs in countries of concern. The United States imposed sanctions pursuant to U.S. domestic laws and Executive Orders on several Chinese companies in 2009 for proliferation activities. The United States notes that China made a November 2000 Commitment not to assist “*in any way, any country in the development of ballistic missiles that can be used to deliver nuclear weapons (i.e., missiles capable of delivering a payload of at least 500 kilograms to a distance of at least 300 kilometers).*”

LIBYA

FINDING

Available information indicates Libya is acting consistently with the commitment it made publicly in December 2003 that Libya would “limit itself to missiles of range standards agreed upon in the MTCR control system.”

MORATORIA ON NUCLEAR TESTING

By September 1996, each of the nuclear-weapon States (NWS) under the NPT (China, France, the Russian Federation, the United Kingdom, and the United States) had declared a nuclear testing moratorium and had signed the Comprehensive Nuclear-Test-Ban Treaty (CTBT), which has not yet entered into force. The scope of each moratorium has not been publicly defined. While it is difficult to assess the compliance of a given state with its own moratorium, when the scope or meaning of a moratorium is unclear, U.S. assessments are based on the U.S. position of what constitutes a nuclear explosive test moratorium.