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Russian Government: Violation by the US of its Obligations in the Sphere of Nonproliferation of WMD

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The START I Treaty

During the period of START I, a number of Russian concerns with US compliance with the treaty were never alleviated. In particular, there were no advance notices or telemetric information transmitted to the Russian side regarding a number of flight tests of Trident II submarine-launched ballistic missiles (SLBMs) at the US Eastern Test Range. According to Washington's statement, this was because the missiles belonged to the UK, which has no treaty obligations to Russia with respect to strategic offensive arms. Such unverified activity involving SLBMs by the American side rendered it virtually impossible for us to verify one of the fundamental parameters under the START I Treaty.

The Russian side repeatedly expressed concern at the unauthorized conversion of the five silo launchers of intercontinental ballistic missiles (ICBMs) to interceptor launchers at Vandenberg Air Force Base, which is contrary to the provisions of the Treaty. Also left open is the issue of procedures for conversion of B-1 heavy bombers (HBs) to bombers equipped for nuclear armaments, as well as their basing. The US did not provide conclusive evidence that the set of procedures employed would make it impossible to reconvert non-nuclear HBs to a nuclear configuration.

Russian concerns about the operation and maintenance of US submarines equipped with SLBM launchers at a Cape Canaveral site not declared in the Treaty were ignored. We also repeatedly indicated to the US side the employment of procedures not envisioned by START I in the elimination of the MX ICBMs and in the conversion of the Trident-I SLBM launchers.

Treaty on the Elimination of Intermediate-Range and Shorter-Range Missiles (INF Treaty)

For the development and testing of missile defense systems, the US is using a whole family of target missiles that simulate a wide spectrum of intermediate- range ballistic missiles: Hera (with a range of up to 1200 km), LRALT (up to 2000 km), and MRT (up to 1100 km).

The launches of these systems are interpreted in accordance with the INF Treaty as the testing of ground-based intermediate-range ballistic missiles of a "new type," which is a direct violation of its fundamental provision – Article VI, which prohibits the Parties from producing or flight-testing INF-range missiles in the future.

In the Realm of Nuclear Nonproliferation

1. As a result of violations of radiation safety measures and regulations concerning the storage of radioactive materials, about 1500 sources of ionizing radiation were lost in a number of US enterprises and organizations in the period 1996-2001 alone.

Evidence revealed in 2004 the loss by Pacific Gas and Electric Company (California) of three segments of the spent fuel rods with heat-emitting elements that had been used in the reactors at the Humboldt Bay Nuclear Power Plant. In the same year there was stolen a container of the radioactive materials cesium-137 and americium-41 owned by Foundation Engineering Scene (Virginia). In December 2005, Ground Engineering Consultants (Colorado) lost a source containing radioactive cesium-137.

2. In October 2006, at Los Alamos National Laboratory, the lead US nuclear weapons research center, a piece of classified electronic media went missing. The peculiarity of this incident was that, unlike several previous incidents in which nuclear secrets had been leaked to foreign intelligence services, this time US police found that secret information from the Laboratory had ended up at the hands of a drug dealing gang.

The Chemical Weapons Convention

1. US law on nonproliferation and destruction of chemical weapons allows the US side to evade fulfilling the requirements of the Chemical Weapons Convention. The President of the United States is granted the right to refuse inspections envisioned by the CWC at American chemical facilities. In addition, samples taken during such inspections may be prohibited to be exported outside the country.

2. The US government submitted a report to the Technical Secretariat of the Organization for the Prohibition of Chemical Weapons (OPCW) on the elimination of a part of Iraq's chemical weapons (CW) in the period 2003-2008. According to the submission, within the specified time US forces in Iraq had found chemical samples of chemical agents (CA) and chemical munitions. All the samples and a portion of the munitions with an unknown CA were sent to the US for identification where they were then disposed of. However, the Americans provided no timely information to the OPCW either on the discovery or on the elimination of the CW. Data on area decontamination is absent in the documents.

Thus, the documents submitted to the OPCW prove a violation by the US of the Convention provisions on procedures for declaration and destruction of CA.

The Biological Weapons Convention (BTWC)

US Violations of Provisions of Article I of the BTWC

While formally not in breach of its obligations and supportive of the importance of the

BTWC, the US administration, however, continues to avoid establishing international control over its biological activities in any form. A feature of this policy is its persistence in downplaying the BTWC's role in strengthening the biological weapons nonproliferation regime.

1. Begun at the University of Pennsylvania, research on a synthetic smallpox virus continues in the US that caused a mixed assessment in the world as early as 2002. Despite the prohibition of the World Health Organization on such work, the US is trying to justify the need for it by a desire to study this pathogenic organism at a qualitatively different level than was done before its official destruction in 1980.

2. Especially questionable from the standpoint of Article I of the BTWC look the so called "threat assessment investigations" that have noticeably intensified in recent years and are being justified on the grounds of the need to combat terrorism. They presuppose not only the traditional defense-related study of the damaging effects of known biological pathogenic agents (BPA), but also attempts at the practical creation of new (including genetically modified) agents as part of simulation of the relevant capabilities of terrorist organizations. Such research was launched way back in the mid-1990s, when the so called rogue states acted as the chief enemy of the United States (Projects Clear Vision, Bacchus, Jefferson and others). Conducting these investigations is currently entrusted to the research institutions of the Department of Homeland Security.

US Violations of Provisions of Article IV of the BTWC and UNSCR 1540

Under US law, all the country's research outfits working with pathogenic (disease-causing) organisms must be specially certified by authorized Department of Health or Agriculture bodies according to the type of human, animal or plant pathogen, along with reporting regularly on their use and transfer. Meanwhile, the provisions of US law are routinely violated.

1. In a 2005 audit of the Department of Agriculture's relevant activities, its Audit Office uncovered numerous violations of procedures for processing applications from interested organizations and decision making, control over the maintenance of security at the facilities and the preservation of collections of pathogens, employee access to the relevant work, and so on. The lack of adequate oversight by regulatory authorities had led to the identification in 2005 of three organizations in illegal possession of pathogenic agents of dangerous and infectious plant and animal diseases, including the eastern equine encephalomyelitis virus (the case-fatality rate in humans being 35%). As a result, the Department's activities in monitoring the circulation of pathogenic microorganisms was evaluated as unsatisfactory, as well as highlighting the cases of concealment by its officials of the violations identified in the bodies under DA supervision.

2. Despite the tightening of rules on handling the pathogenic agents of dangerous and infectious diseases, the sharply increased number of persons given access to them in parallel with the general decline in their professional skills were objective reasons for the high incidence of intra-laboratory infection among staff and other incidents in this area that have occurred in recent years. In particular, such facts were noted in the Boston University Medical Center (tularemia infection, August 2004), Research Institute in Oakland, New Jersey (anthrax infection, June 2004), the Rocky Mountain Microbiology Laboratory in Denver, Colorado (Q fever infection, February 2005), the Health Research Institute (loss of rodents infected with plague, September 2005), the Midwest Research Institute in Kansas

City, Kansas (anthrax infection, October 2005) and others.

3. The case of brucellosis infection of a female employee at the Texas University (College Station), concealed by senior university officials and made public only in April 2007, had special repercussions. It was caused by laboratory managers' noncompliance with the regulations governing the admission of staff to work with pathogenic microorganisms, which had led to a breach of the special safety precautions. The ensuing check-up identified an additional number of Q fever infections among the staff, as well as the loss of several laboratory animals infected with it. The University had its license to conduct these studies revoked.

4. September 2008 saw the publication of the results of a Government Accountability Office examination of the physical security of private research centers with top biosafety laboratories (the Institute of Virology and Immunology, Southwest Foundation for Biomedical Research, San Antonio, Texas and the Center of Virology and Immunology of the University of Georgia, Atlanta). It was found that they were not secure enough and could not prevent unauthorized intrusion, ranking substantially lower than the security measures at similar federally owned facilities (the absence of roving armed guards, automatic barriers at the entrance gates, door frame metal detectors, etc.). The re-inspection conducted in July 2010 again revealed the same shortcomings, which shows their managements' disregard for the previously made representations.

5. In recent years, US special services have repeatedly thwarted attempts at illegal exports of equipment and materials intended for microbiological and biotechnological research, as well as pathogenic microorganisms. Thus, in January 2006 Thomas Butler, a former Texas Tech University Health Sciences Center researcher convicted of pathogenic microorganism import and export violations, completed a two-year prison term. While working in Tanzania in 2001-2002, this expert had repeatedly smuggled vials of the human plague into the United States, as well as transporting them across the country. In addition, at the time of arrest by FBI agents in January 2003 Butler was unable to explain the disappearance of 30 samples of this pathogen, which were never subsequently found.

US Violations of Obligations to Comply with the BTWC Confidence Building Measures

The BTWC has a mechanism of confidence building measures that presupposes states parties should annually declare the content of their microbiological research and related research facilities. Furthermore, it particularly highlights the sections on the availability of biological security programs – Form A, part 2 (ii). The mechanism is now virtually the only significant tool for obtaining such information and thus ensuring at least the relative transparency of the work being done.

The US excludes from the declarable certain medical and biological facilities because of the insufficient certainty of criteria for assigning national research programs, including military, to the specified category. In particular, the US has not declared year after year its network of military medical research centers in Indonesia, Thailand, Peru, Egypt, Kenya and other countries under the pretext of their location outside of US territory.

In the conditions of a sharp escalation of the scope and pace of biological research in the period 2001-2009 the United States transferred a sizeable portion of the research to civilian

departments and agencies and even private firms. In addition, some of the investigations have been moved from the category of “defense research” to the category of anti-terrorism research, which also helps the US avoid the need to declare them as part of the confidence building measures and further reduce the monitoring possibilities of the world community.

Hague Code of Conduct against Ballistic Missile Proliferation

Pursuant to voluntarily assumed obligations under the Hague Code of Conduct, member states are required to expand the confidence building measures pertinent to their ballistic missile programs, space launch vehicle programs and land (test-) launch sites, to make an annual declaration providing an outline of their policies on these issues and to exchange pre-launch notifications on their ballistic missile and space launch vehicle launches and test flights. In addition, they should provide annual information on the number and generic class of ballistic missiles launched during the preceding year.

Only in May 2010 did the US begin to submit pre-launch notifications on its ballistic missiles and space launch vehicles, with the American side reserving the right not to notify certain missile firings for military purposes. Such an approach undermines the foundations of operation of the Hague Code of Conduct as a whole.

In the Area of International Export Control Regimes

1. American companies continue to actively supply a variety of products relevant to missile technology and related know-how to foreign countries, about one-third of which are not members of the international Missile Technology Control Regime (MTCR), including Egypt, Israel, Kuwait, Oman, UAE, as also Taiwan and others. It is an attention-engaging fact that even in these cases, checking the use of missiles by a final recipient, provided by US legislation, is not done on a regular basis.

2. Contrary to the principles of the MTCR, Washington collaborates with Tel Aviv (not a member of the Regime) in the joint Arrow 2 antimissile project. Under the 2002 bilateral agreement between Boeing and Israel Aircraft Industries, there was organized in the US the production of major components of such missiles to be subsequently assembled in Israel. These components belong to MTCR Category I devices, for transfers of which the exporting state must exercise the greatest restraint.

3. With US scientific and technical assistance Israel has developed a three-stage solid-fuel Shavit rocket launcher (take-off weight about 30 tons, length about 18 meters, diameter of the cylindrical part of the hull 1.35 meters).

4. Washington is constantly confronted with export control violations by national private commercial entities and enterprises of the military-industrial complex.

In particular, the US Department of Commerce Bureau of Industry and Security in the first half of 2008 alone uncovered 70-odd illegal exports of military and dual-use goods and technologies. Moreover, the largest amount of such deals was carried out with countries inscribed by Washington in the so called blacklist – China, Iran, Syria and Libya.

5. A routine check by the Government Accountability Office (GAO) of the US Congress of Pentagon activities related to the overseas sale of man-portable air defense systems (MANPADS) found significant discrepancies in the data of the various military agencies on the amount of such supplies. Thus, according to the Department of the Army, from 1982 to 2004 the United States exported 7,551 Stinger MANPADS to 15 countries. At the same time, according to records by the Defense Security Cooperation Agency, US Department of Defense, 8,331 such MANPADS were supplied to 17 nations during this period. Thus, the data spread was 780 units, which allowed the GAO to conclude that the Pentagon's accounting for MANPAD export amounts was "incomplete and unreliable."

6. Significant issues are raised by US supplies to Israel of aviation bombs and missiles during the recent Middle East conflicts. These US actions are contrary to the basic provisions of the Wassenaar Arrangement and the OSCE principles governing arms supplies.

Thus, the above facts show that the United States commits numerous, often very gross, violations of existing agreements on disarmament and nonproliferation.

The Scope of Conventional Arms Control in Europe

1. As a result of NATO expansion the US, together with other states parties to the CFE Treaty that have signed or acceded to the Washington Treaty of 1949, exceed the Treaty's group limits.

The definition in subparagraph (A) of paragraph 1 of Article II of the CFE Treaty of the "Western" group of States Parties consists of two elements – a list of States Parties at the time of the signing of the CFE Treaty and the criterion of belonging to NATO or the WEU (The term "group of States Parties" means… the group of States Parties that signed or acceded to the Treaty of Brussels of 1948 or the Treaty of Washington of 1949…). Consequently, the group limits set for it should cover not only the "old" NATO members who were part of the alliance at the time of the Treaty's signing, but also the States Parties that have acceded to the alliance and were previously part of the Warsaw Treaty Organization.

Compliance with the CFE Treaty by all States Parties can objectively be ensured only on the basis of the above understanding of the definition of the term "group of States Parties." Hence the special need to especially focus on two key treaty provisions.

First, under paragraph 7 of Article VII of the Treaty, States Parties belonging to the same group of States Parties have pledged to ensure that their maximum levels for holdings, taken together as appropriate, do not exceed the limitations set forth in Articles IV, V and VI.

Second. Under subparagraph (A) of paragraph 1 of Article V of the Treaty, within the "flank area" for a group of States Parties the aggregate numbers of Treaty-limited conventional armaments and equipment (TLE) must not exceed 4,700 battle tanks, 5,900 armored combat vehicles and 6,000 pieces of artillery.

These provisions are not complied with by the US and other NATO CFE States Parties.

a) The maximum total levels for holdings of these countries exceed the group levels set in paragraph 1 of Article IV of the Treaty for the area of application as a whole; a similar picture is also observed in relation to paragraphs 2, 3 and 4 of Article IV, and in respect of Article V.

b) There are even more serious departures from the Treaty provisions relating now to the real, not formal excess of its levels. Thus, in the zone defined in Article V of the Treaty, i.e., in the "flank area," the NATO countries have real TLE holdings significantly in excess of the levels set in subparagraph A of paragraph 1 of Article V of the Treaty. It thus is a significant actual violation of the flank levels by the "Western" group of countries.

The Russian side believes that these violations are substantial.

2. The periodic placement of US conventional armaments in Bulgaria and Romania has an additional negative impact on compliance with CFE group limits and on the fulfillment of the pledge of the NATO countries to renounce "additional permanent stationing of substantial combat forces."

As noted above, the "Group of States Parties that signed or acceded to the Treaty of Brussels of 1948 or the Treaty of Washington of 1949," with Bulgaria and Romania counted in, already exceeds considerably the current CFE flank levels. Any additional deployment of conventional arms by the countries of the alliance on the flanks can only exacerbate the violation of the Treaty.

The Treaty ipso facto hinders the stationing of US armaments in the territories of these countries.

Thus, the subparagraph (B) of paragraph 1 of Article V of the CFE Treaty allows for the temporary deployment of conventional armaments only "into the territory belonging to the members of the same group of States Parties," of which a host country is a part.

If, however, it is not about a temporary deployment, but about the permanent stationing of equipment within the limits of the "gap" between the "flank" level of the "Eastern" group of States Parties and their total holdings of armaments, at least two problems also arise.

First, paragraph 5 of Article IV of the Treaty stipulates that such stationing can only be carried out by "States Parties belonging to the same group of States Parties."

Secondly, in the Russia-NATO Founding Act the members of the alliance renounced any additional permanent deployments of substantial combat forces. The Russian side has repeatedly proposed to develop a common understanding of the term "substantial combat forces" and believes the brigade level more than meets the criterion of "substantiality." As far as can be understood, it is planned to station in Bulgaria and Romania a somewhat larger contingent of armed forces (General John Craddock, commander of US forces in Europe, spoke about the presence on a rotating basis of a brigade-level unit, but, judging from NATO's redistribution of quotas, the US is allocated the quotas for 70 battle tanks, 111 armored combat vehicles and 41 artillery systems, it is about a Stryker mechanized brigade reinforced by one or two tank battalions; in addition, an air group will be stationed in the region).

The Russia-NATO Founding Act accepts in principle the possibility of "reinforcement," but states that "reinforcement may take place, when necessary, in the event of defense against a threat of aggression and missions in support of peace consistent with the United Nations Charter and the OSCE governing principles, as well as for exercises consistent with the adapted CFE Treaty, the provisions of the Vienna Document… and mutually agreed transparency measures." If the United States refers to these provisions of the Founding Act,

we are not quite clear which of them could, in the opinion of the American side, “legitimize” the stationing of its troops in Bulgaria and Romania.

With this in mind, the question arises about how thoroughly our partners comply with the document that underlies Russian-NATO relations.

3. The United States and other NATO CFE States Parties do not comply with the political commitment undertaken in Istanbul to early ratification of the Agreement on Adaptation.

The Final Act of the Conference of States Parties to the CFE Treaty (Istanbul, 17-19 November 1999) states that all Parties “have undertaken to move forward expeditiously to facilitate completion of national ratification procedures, so that the Agreement on Adaptation can enter into force as soon as possible.” Moreover, at the insistence of NATO member countries this undertaking is indirectly conditioned only by the “commitment” of Russia to “agreed levels of armaments and equipment” (i.e., in fact, the need to comply with the “flank” levels of the adapted CFE Treaty). These two provisions are set forth in a single paragraph of the Final Act.

By the end of 2001, despite the difficult situation in the North Caucasus, Russia had fitted in with the “agreed levels,” but this did not accelerate the ratification of the Agreement on Adaptation by the NATO member countries. From approximately the second half of 2001, our Western partners, as if oblivious of the flank levels, persistently insisted as a condition for ratification on the “full compliance” by Russia with the Istanbul Agreements on Georgia and Moldova, meaning those of their aspects that do not belong to the Treaty at all.

As a result of this artificial linkage the Agreement on Adaptation has not yet been ratified by the United States and other NATO member countries.

Moreover, the Rome Declaration by Heads of State and Government of Russia and NATO “Russia-NATO Relations: A New Quality” (2002) is likewise not observed. Its “Arms Control and Confidence-Building Measures” section reads that the Parties “will work cooperatively toward ratification by all the States Parties and entry into force of the Agreement on Adaptation of the CFE Treaty, which would permit accession by non-CFE states.”

4. The United States and its NATO allies, avoiding a discussion within the Joint Consultative Group (JCG) of the issues of restoring the viability of the Treaty, hinder the full implementation of the provisions of its Article XVI.

Thus, subparagraphs (B) and (C) of Paragraph 2 of Article XVI note that within the framework of the JCG, the States Parties shall:

– seek to resolve ambiguities and differences of interpretation that may become apparent in the way this Treaty is implemented;

– consider and, if possible, agree on measures to enhance the viability and effectiveness of this Treaty.

In addition, paragraph 5 of Article XVI points out that the JCG may also agree on improvements to the viability and effectiveness of this Treaty, consistent with its provisions.

5. The US, by supplying small arms and light weapons (SALW) to Georgia, violates its obligation under the OSCE Document on SALW of 2000.

In violation of section III, paragraph 2.a) and subparagraphs ii, iii, vi, vii, and also 2.b) and subparagraphs i, ii, iii, iv, v, vi, vii, xi, which set forth the criteria governing exports of SALW, and which, in turn, are based on another OSCE document, the Principles Governing Conventional Arms Transfers, 1993, the US in 2008 exported a large shipment of 18,400 rifles and carbines and 40 heavy machine guns to Georgia.

The provisions of these documents contain commitments by the OSCE participating States to refrain from arms transfers to zones of tension and armed conflict which bring destabilizing military capabilities to the region, or otherwise contribute to regional instability. Given the fact that Tbilisi has already demonstrated its inability to responsibly dispose of weapons supplied to it, a share of responsibility for the attempt by Georgia to resolve its conflicts with South Ossetia and Abkhazia by force lies, respectively, with both the US and other exporters of various armaments and munitions to the regime of Saakashvili.
