

ENTRY INTO FORCE OF THE TREATY ON OPEN SKIES;  
AND THE FUTURE OF COOPERATIVE AERIAL  
OBSERVATION AS A  
CONFIDENCE AND SECURITY BUILDING MEASURE

by

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## **Disclaimer**

The views expressed in this paper are those of the author and do not reflect the official policy or position of the US government.



## *Preface*

This is a timely topic with Russia and Belarus ratifying the Treaty on Open Skies this year and pending entry into force. In 1995 and 1996 I was assigned to the U.S. Arms Control and Disarmament Agency where I participated as a U.S. Delegate to the flight rules and procedures working group at the Open Skies Consultative Commission (OSCC) and participated in other pre-EIF activities. During this time I was witness to the powerful confidence building effect of the Open Skies Treaty and became an advocate of the future possibilities of cooperative unarmed aerial observation.

I have an appreciation for what aerial observation can and can not do as a Confidence and Security Building Measure (CSBM). Accession to the Open Skies Treaty is not necessarily the best course for all states, there are some cases where a bilateral or regional observation regime that is more tailored to the security needs of the participants would seem more advisable. I am attempting to provide a starting point for a U.S. government accession strategy for the Open Skies Treaty and what other areas the U.S. should actively promote regional or bilateral aerial observation regimes as a CSBM. I am convinced that cooperative aerial observation regimes as a CSBM have great potential to constructively serve peace-strengthening pursuits around the globe.

Particularly helpful was John Hawes paper, “Open Skies: Beyond Vancouver to Vladivostok” and Lt Col Michael J. Mixon’s paper, “Cooperative Aerial Observation as a

Confidence and Security Building Measure, Two Cases and a Proposal for Bosnia” of  
Mar 2000.

## *Abstract*

Cooperative aerial observation employed as a Confidence and Security Building Measure (CSBM) is an effective tool to strengthen multilateral and bilateral relations. By promoting openness and transparency, cooperative aerial observation regimes have contributed to the overall effort of peacefully building confidence and enhancing security between disparate nations. They also facilitate further security cooperation within a more stable and predictable international environment.

This paper reviews the value of pre-EIF activities of the Treaty on Open Skies and the bilateral Open Skies regime between Hungary and Romania and offers an accession Strategy for the Open Skies Treaty and two proposals for bilateral regimes. Pre-EIF activities of the Treaty on Open Skies have clearly demonstrated its value as a CSBM between NATO members and the former members of the Warsaw Pact. The bilateral Hungary-Romania Open Skies regime was designed to alleviate damaged relations between the two nations caused by mistrust and Romania's abuse of its Hungarian ethnic minority. This Hungary-Romanian regime is heralded as a great success within the OSCE and serves as an outstanding precedent to model.

A proposed accession strategy would include the remainder of the OSCE states and then focus on the Asia-Pacific region. Specifically Japan, Thailand, Australia, New

Zealand and ultimately China. Bilateral regime recommendations include the Korean peninsula, and India-Pakistan.

## Chapter 1

# Confidence & Security Building Measures and Aerial Observation

### Introduction

The *Treaty on Open Skies* is the wide-ranging international effort to date to promote the openness of military forces and activities. It is designed to enhance mutual understanding and confidence by giving all participating countries, regardless of size, a direct role in gathering information about military forces and activities of concern to them. In Europe, it opens all of the territory of the North Atlantic Treaty Organization (NATO) and most of the territory of the former Warsaw Pact to unarmed, short-notice observation flights. It meets the desire of many countries to build confidence and enhance stability now that the bipolar division of the continent has ended. In other regions, this type of openness and the techniques developed in the treaty could be applied in reducing regional tensions and preventing conflict<sup>1</sup>. In May 2001, Russia and Belarus ratified the treaty and are expected to deposit their instrument of ratification in November 2001. This would trigger entry into force (EIF) in January 2002 almost ten years after the twenty-five countries signed the Open Skies Treaty in Helsinki, March 24, 1992. During this period extensive pre-EIF activities have been accomplished contributing to the objectives of the Open Skies concept.

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<sup>1</sup> *Gist: Open Skies Treaty*, U.S. Department of State Dispatch. March 30, 1992.

The original signatories envisioned that the concept of openness, and the mechanisms created by the Open Skies Treaty, could be relevant to many more countries in addition to NATO and the former Warsaw Pact. The preamble of the treaty explicitly recognizes the contribution that the concept of Open Skies could make to security and stability in other regions. They foresaw that cooperative aerial observation measures might help mitigate certain long-standing regional conflicts and that openness and transparency could make a significant contribution to the reduction of misunderstandings and the building of stable relations<sup>2</sup>.

Until now, talk of the future of Open Skies has been speculative. With impending entry into force of The Treaty on Open Skies it is time to get specific about what actions should be pursued to fully implement the treaty and to invite the “accession of states able and willing to contribute to the objectives of the treaty.”<sup>3</sup> It is important for the U.S. government to review the value of the Open Skies concept and consider a more proactive role in extending the concept to other areas. This extension could occur in one of two forms: either (1) by the accession of additional participating states to the multilateral treaty or (2) by the adoption of the Open Skies concept as a basis for separate agreements on a more limited regional basis. The multilateral *Treaty on Open Skies* sets forth detailed provisions for the accession of new states, and the bilateral Hungary-Romania Open Skies Regime sets an outstanding precedent to model.

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<sup>2</sup> Hawes, John. U.S. Representative to the Open Skies Conference, Department of State. *Open Skies: Beyond “Vancouver to Vladivostok,”* Stimson Center Occasional Paper, No. 10, December 1992, 1.

<sup>3</sup> *Treaty on Open Skies*, U.S. Senate Treaty Doc. 102-37, Washington, DC: U.S. Government Printing Office, 9.

This paper considers the upcoming entry into force of The Treaty on Open Skies and the potential for extending the Open Skies concept. It considers the role of aerial observation as a confidence and security building measure, reviews the value of pre-EIF activities of the Treaty on Open Skies and the bilateral Hungary-Romania Open Skies Regime, offers a accession strategy for the Open Skies Treaty, and two proposals for bilateral regimes on the Korean peninsula and India-Pakistan.

### **Confidence and Security Building Measures (CSBMs)**

Confidence and Security Building Measures (CSBMs) are mutually agreed upon arrangements aimed at developing confidence and security among parties to the agreement. Their purpose is to establish a basis for trust between the parties through cooperation and mutual understanding. The confidence building portion of the CSBM has been defined as “arrangements designed to enhance . . . assurance of mind and belief in the trustworthiness of states and the facts they create.”<sup>4</sup> Mutual security and stability are thus derived from and built upon a foundation of mutual confidence. They differ from arms control agreements in that they do not establish restrictions on the use or deployment of military force, nor do they limit any class of weapons in terms of quantity or quality. Michael Krepon, CBM expert and Director of the Henry L. Stimson Center, describes the process of confidence building in three stages: conflict avoidance, confidence building, and strengthening of peace.

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<sup>4</sup> Johan Jorgen Holst, “Confidence-building Measures: A Conceptual Framework,” *Survival*, 25, Number 1 (January/February 1983), 2.

*Conflict Avoidance* is the initial goal of a CSBM so as to not worsen any states security or increase existing levels of hostility. These are normally modest measures to prevent accidental war and unintended escalation. These Conflict Avoidance Measures (CAMs) are between states who are very wary or openly hostile and should focus on transparency of military operations, forces, or on the establishment of lines of communication between governments. Transparency measures allow each side to develop confidence that hostile preparations or activities are not underway. Lines of communication provide a mechanism for dialog so that incidents, accidents or misunderstandings need not become a crisis. An example would be the 1963 US-Soviet hotline agreement.

*Confidence Building* requires national leadership to take greater risks in the interest of developing a more cooperative relationship. The relationship between states is not friendly, perhaps marked by mistrust of the motivations and intentions of the other party. Formidable political will on the part of one of the parties may be required to develop significant CBMs. Perhaps the states could start with more modest CBMs which could lead to more substantive CBMs that would shift from avoidance of unintentional conflict to the avoidance of being surprised by an attack. CBMs increase the scope and magnitude of transparency and communication techniques and add constraints on military operations. The combination of constraints and transparency make achieving surprise by an aggressor more difficult.

*Strengthening of Peace* consists of taking additional measures to broaden and deepen the cooperation that has already been established to make it as difficult as possible to revert to undesirable patterns of warlike behavior. The states are basically friendly and

measures should be implemented to strengthen that friendship as much as possible. This would likely include constraints on the size of military exercises, on site inspections, open skies regime, working-level relationships among military and civilian establishments. The strengthening of peace is more of a diplomatic and political phase than conflict avoidance or confidence building, which is more distinctly military in their goals and application<sup>5</sup>.

The European security environment provides the best example of the evolution of CSBMs beginning with the Conference for Security and Cooperation in Europe (CSCE) which established a political commitment called the Helsinki Final Act in 1975, a modest series of CBMs designed to reduce the “dangers or armed conflict and of misunderstanding or miscalculation of military activities which could give rise to apprehension.”<sup>6</sup> This evolved into the Stockholm Conference on Confidence and Security Building Measures and Disarmament in Europe, September 1986. This agreement on a set of CSBMs was designed to increase openness and predictability about military activities in Europe, with the aim of reducing the risk of armed conflict in Europe. In 1992, the Forum for Security Cooperation (FSC) was established as part of the CSCE and works on a continuous basis in Vienna, Austria. The FSC produces among other things the Vienna Document of the negotiations on confidence and security building measures (1990, 1992, and 1994). The Vienna Document is the most advanced and established multilateral CSBM and includes annual exchanges of military information, risk reduction, contacts, prior notification of certain military activities,

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<sup>5</sup> Mark D. Gabreile *The Treaty on Open Skies and its Practical Applications and Implications for the United States*, RAND Graduate School dissertation Dec 1997, 39-42.

observation of certain military activities, annual calendars, constraining provisions, compliance and verification, and annual implementation assessments.

Arms control and confidence-building measures did not resolve the Cold War confrontation. However, during the Cold War a combination of arms control treaties and confidence-building measures were used to directly address the security dilemma of the bipolar world and to help build a security structure that was based more on security cooperation rather than zero-sum confrontation and competition. This was a building-block approach, each individual piece waiting to be put in place when politically and technically feasible. These measures, when added together, were significant and helped stabilize the confrontation politically and militarily while also helping to shape the intellectual and political climate, facilitating positive change in international relations. By increasing openness and deflating the assumption of inevitable conflict, arms control and confidence-building measures played a very important role in making it possible for reformers in the former Soviet Union to move Moscow away from sterile confrontation and towards new thinking.<sup>7</sup>

The European security environment has evolved from the height of the confrontational Cold War period where arms control and CSBM's were used primarily as conflict avoidance measures and confidence building measures between the US-USSR or NATO-Warsaw Pact while strengthening peace measures were used within western Europe and the NATO alliance. Now there exists a more cooperative security environment within the entire European community where CSBMs are primarily

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<sup>6</sup> Document of the Stockholm Conference on Confidence and Security Building Measures and Disarmament in Europe convened in accordance with the relevant provisions of the Concluding Document of the Madrid meeting of the conference on security and cooperation in Europe. September 19, 1986.

confidence building measures and strengthening peace measures. Confidence and security building measures have played a significant role in assisting this transition and will continue to help strengthen peaceful cooperation in Europe while also providing a proven methodology for use in other regions.

The Treaty on Open Skies is a confidence and security building measure (CSBM), an openness and transparency measure with an information exchange that was developed with the regional representation of the CSCE. The Open Skies Treaty is a confidence building measure and a strengthening peace measure as described in the paragraphs above. It is built on the success of the Helsinki Final Act and the Stockholm Conference document. It is the most extensive confidence building measure ever negotiated and its entry into force is finally coming after 10 years of successful implementation of the Vienna document by the OSCE. Entry into force of the Open Skies Treaty should energize the status of CSBM's and bring to center stage the successes of the European security structure. This in turn could bring more focus to CSBMs in other regions allowing applicable CSBMs to take root; accessions to the Treaty on Open Skies will help to create an openness and transparency norm helping to bring together like minded nations in other regions and to hold an openness norm out to closed societies to assist their transition.

The willingness of a country to be over flown is, in itself, a highly significant political act in that it demonstrates its availability to the idea of openness. This is especially significant for states with a long history of very closed secretive regimes that were characteristic of Soviet-style totalitarianism. This idea of openness and transparency

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<sup>7</sup> Hawes, John. U.S. Representative to the Open Skies Conference, Department of State. *Open Skies: Beyond "Vancouver to Vladivostok,"* Stimson Center Occasional Paper, No. 10, December 1992, 24.

are not just related to security and military forces. The ideas of openness and transparency are also fundamental to the effectiveness of democratic governance and free market economic reform. As such, a government that is assessing whether it should join an Open Skies regime is, in fact, deliberating at every level of government the concept of openness and transparency and is making a decision to move in the direction of cooperative international relations and away from more zero-sum confrontation.

Aerial observation and reconnaissance have been used since the very beginning of manned flight especially during war. Aerial observation, inspection, and reconnaissance operations were commonplace in the international security arena during the Cold War.

Several examples include:

- UN Emergency Force (1956): Aerial observation along the international Egyptian-Israeli frontier and the Armistice Demarcation Line separating the Gaza Strip from Israel.
- UN operations in Cyprus (1964): Helicopter aerial observation of zone separating Greek and Turkish Cypriots.
- Sinai Disengagement Agreements (1974 and 1975): Reconnaissance aircraft used to monitor the deployment of Egyptian and Israeli forces.
- UN “Interim” Force in Lebanon (1978): Helicopter aerial inspections to confirm the withdrawal of Israeli forces from southern Lebanon.
- UN Operation in Western Sahara (1991): Aerial inspection to monitor the cease-fire agreement.<sup>8</sup>

In each of these examples aerial monitoring was used to enforce post-conflict resolutions and were largely measures to avoid the recurrence of conflict. Conflict avoidance measures. The Open Skies concept picks up where these aerial observation agreements stop, outside of the immediate area of conflict, for the purpose of confidence-

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<sup>8</sup> Allen Banner, Andrew J. Young, and Keith W. Hall, *Aerial Reconnaissance for Verification of Arms Limitation Agreements; An Introduction*, United Nations Institute for Disarmament Research, New York NY: United Nations, 1990, 24-27. Amy Smithson, “Multilateral Aerial Inspections: An Abbreviated

building and strengthening peace on a larger scale and in a more cooperative environment.

Chapter 2 of this paper will examine the *Treaty on Open Skies*. Here the paper will discuss the Treaty's history, elements, current status, and value. Chapter 3 will examine the Hungary-Romania Open Skies Regime (a bilateral aerial observation regime based on the Treaty on Open Skies). Here the paper provides some historical background explaining the basis for tense bilateral relations, and then it discusses the elements of, experience with, and value of the bilateral regime. Chapter 4 discusses the way ahead for Open Skies, providing an accession strategy for the Treaty on Open Skies and other applications of the Open Skies concept.

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History," in *Open Skies, Arms Control and Cooperative Security*, eds. Michael Krepon and Amy E. Smithson. 113-133. New York NY: St. Martin's Press, 1992, 113-133.

## Chapter 2

### The Treaty on Open Skies

In an official letter to President George Bush, then Secretary of State James Baker wrote succinctly about the purpose of the Treaty. He wrote:

The *Treaty on Open Skies* is designed to enhance mutual understanding and confidence by giving all States Parties, regardless of size, a direct role in gathering information about military forces and activities of concern to them. In Europe, the Treaty responds to the desire of many states to find innovative means of strengthening confidence, stability and predictability in the new and more fluid situation which has developed following the end of the bi-polar division of the continent.<sup>9</sup>

In Europe and around the globe, the security environment was in a state of fluid change and uncertainty; there was a need for innovative measures to promote cooperation, confidence and stability. Ways were needed for leaders to reinforce the positive changes while guarding against the negative. These requirements were expressed by Michael Krepon, Henry L. Stimson Center president, during the September 1992 United States Senate hearing on the *Treaty on Open Skies*. He stated:

Some countries in the post-cold war era are moving to become civil societies; others are engaged in unspeakable brutal civil wars. Centrifugal and centripetal forces seem to be working against each other in world affairs—and not just in Eastern Europe and the former Soviet Union . . . .

Under these extraordinary circumstances, the challenge for political leaders is to find ways to reinforce hopeful signs while providing

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<sup>9</sup> Baker, James A. "Letter of Transmittal" to President George Bush printed as front matter with the text of the *Treaty on Open Skies*, U.S. Senate Treaty Doc. 102-37, Washington, DC: U.S. Government Printing Office, 1992, VIII.

safeguards against reversals. We need tools to accentuate the positive and guard against the negative.

In other words, we need confidence-building measures like the Open Skies Treaty. By mandating aerial inspections, the treaty can help institutionalize military cooperation instead of the confrontation that prevailed during the cold war. By permitting collaborative overflights by multinational teams, the Open Skies Treaty could foster cooperation during good times and bad in the decade ahead.<sup>10</sup>

The Treaty on Open Skies was one of several measures pursued by the U.S. government to help cope with the challenges of this evolving security environment.

### **The History of Open Skies**

The first Open Skies proposal came from President Eisenhower at the four-power summit meeting in Geneva on July 21, 1955. At the time, the Soviet Union was pursuing an aggressive nuclear weapons development program. The U.S. was experiencing great difficulty in assessing military force structure and capabilities in the Soviet Union, which was a very closed and secretive society. Alternatively, the United States possessed an extremely open society which consequently allowed the Soviets to collect fundamental intelligence with relative ease. The U.S. government was in dire need of strategic reconnaissance and was preparing to make manned reconnaissance flights over the USSR. In fact, several reconnaissance flights had already taken place by RB-47's over the Kamchatka and Kola peninsulas<sup>11</sup>. Eisenhower was keenly aware that these overflights were a provocative act, but regarded them as necessary to ensure the security of the United States. The lack of ability of the U.S. to acquire information about the

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<sup>10</sup> Krepon, Michael. Official remarks contained in *Treaty on Open Skies: Hearing before the Committee on Foreign Relations*, United States Senate, Washington, DC: U.S. Government Printing Office, 22 September 1992, 25.

<sup>11</sup> Hall, R.C. (1996). *From Concept to National Policy: Strategic Reconnaissance in the Cold War*, Prologue, a Journal of the National Archives, 28(2), 107-125.

condition of the Soviet military and the notion that it would be better to do these flights by agreement than to just unilaterally conduct overflights were key factors in Eisenhower's decision to make the Open Skies proposal. Eisenhower proposed that each side should be able to fly unarmed reconnaissance aircraft over the others' country. He also proposed that a "complete blueprint" of the nations' military establishments should be provided to the other side. This proposal was rejected by Soviet Premier Nikita Krushchev who was concerned that the U.S. would use the Open Skies program as a spy mechanism.<sup>12</sup>

The basic need for strategic reconnaissance remained and the first U-2 flew over the USSR on July 4, 1956. These flights continued until Francis Gary Powers was shot down on May 1, 1960. Later that year, CORONA, the first successful space-based photographic reconnaissance system became operational August 19, 1960. In the 1960's, 70's and 80's the U.S. and USSR developed and used satellite systems to reap an abundance of information about all sorts of activities behind each others borders. Smaller nations, lacking the required resources for their own satellite program, were reliant upon the superpowers to provide this imagery or the intelligence derived from it.

This situation began to thaw toward the end of the 1980's when Soviet leadership began embracing ideas and policies like *perestroika* (restructuring) and *glasnost* (openness). These policies began to change the fabric of the Soviet Union and also to change the perceptions of her European neighbors. As the Reagan administration came to a close, the U.S. appeared to some observers to be developing hawkish behavior, while the Soviets began to position themselves as more interested in openness and peace than

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<sup>12</sup> Ruffner, Kevin, editor. *CORONA: America's First Satellite Program*, Washington DC: History Staff, Center for the Study of Intelligence, Central Intelligence Agency, 1995, xi.

they had been historically, and perhaps even more so than the United States. When President Bush reformulated the Open Skies concept in May 1989, the world was on the verge of rapid change. Open Skies was proposed as a means of confidence-building which would promote and consolidate existing trends toward openness.<sup>13</sup> During this reformulation Canadian Prime Minister Bryan Muroney and Secretary of State for External Affairs Joe Clark, were enthusiastic supporters of the concept but recommended that it should be expanded to include all of the NATO and Warsaw Pact nations, not just the US-USSR.

Thirty-four years after Eisenhower's initial proposal, U.S. President George Bush delivered a speech in May 1989 proposing the aim of Open Skies:

would be to increase the transparency of both sides' [NATO and Warsaw Pact Nations] military activities and thereby strengthen the emerging cooperation between East and West and enhance the security of all participating states.<sup>14</sup>

Bush's Open Skies proposal was well received by the Soviet leadership and in September 1989, Gorbachev agreed to begin multinational negotiations on such a treaty. Formal negotiations on an Open Skies Treaty began in Ottawa in February 1990 and continued in Budapest in April-May 1990; however, it was apparent that the Soviet Union was not yet prepared to open all its territory to aerial observation. After the Ottawa and Budapest stalemates, negotiations were on hold for more than a year, although the United States and other countries kept pressing the issue bilaterally. Only after the abortive August 1991 Moscow coup attempt did the former Soviet Union agree to open all its territory to observation. This cleared the way, and productive negotiations began

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<sup>13</sup> *Gist: Open Skies Treaty*, U.S. Department of State Dispatch, March 30, 1992.

<sup>14</sup> Tucker, Jonathan B. "Negotiating Open Skies: A Diplomatic History" in Krepon and Smithson (editors) *Open Skies, Arms Control and Cooperative Security*, New York, NY: St. Martin's Press, 1992, 5.

again in November 1991 in Vienna. The *Treaty on Open Skies* was signed by twenty-five nations—including the Russian Federation—in Helsinki on March 24, 1992.<sup>15</sup>

### **Elements of the *Treaty on Open Skies***

In President George Bush’s official message to the Senate transmitting the *Treaty on Open Skies* for the advice and consent of the Senate to ratification, he wrote:

I believe that the *Treaty on Open Skies* is in the best interest of the United States. By engaging all participating States actively in cooperative observation, the *Treaty on Open Skies* will strengthen international stability. The Treaty also provides an important means of increasing mutual understanding of military forces and activities, thus easing tensions and strengthening confidence and security, not only in the area covered by the Treaty, but in other areas as well...

The Open Skies Treaty establishes a regime of unarmed aerial observation flights over the entire territory of its 25 signatories (North Atlantic Treaty Organization Allies, Eastern European members of the former Warsaw Pact, and Russia, Ukraine, Belarus, and Georgia). The Treaty is designed to enhance mutual understanding and confidence by giving all participants, regardless of size, a direct role in observing military or other activities of concern to them. Covering territory from Vancouver to Vladivostok, Open Skies is the widest-ranging international effort to date to promote openness and transparency of military forces and activities. The Treaty allows for consensus decisions to improve sensors, to adjust quotas, and to admit new participants in order to enhance its effectiveness. The Open Skies principles may be applicable to States in other regions of the world as well.<sup>16</sup>

The Open Skies Treaty is based on agreements on territorial openness, the use of observation aircraft, sensors on board those aircraft, quotas of annual flights, which each country in the treaty is willing to accept, and availability of data collected.

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<sup>15</sup> *Gist: Open Skies Treaty*, U.S. Department of State Dispatch. March 30, 1992.

<sup>16</sup> Bush, George “Message to the Senate Transmitting the Treaty on Open Skies”, Public papers of the Presidents, The White house, August 12, 1992.

## **Territorial Openness**

The first requirement for a realistic Open Skies system was that all participants agree to make all of their territory accessible to aerial observation. This also was the most difficult question to resolve, given the long tradition of closed areas in the former Soviet Union. It has been agreed that all territory is open to observation and that countries may not restrict observation flights for national security reasons. A proposed observation flight plan may be amended only for genuine reasons of flight safety. The treaty narrowly and carefully defines these issues.

## **Observation Aircraft**

Observation flights will be conducted on unarmed fixed-wing aircraft provided either by the observing or the observed Party. The United States and most other participants would have been prepared to have all flights conducted on aircraft provided by the observing Party. The option of using aircraft provided by the observed Party was included at the request of the former Soviet Union a position maintained by Russia. All aircraft used in Open Skies will be subjected to rigorous certification and inspection procedures to ensure that the sensors on board meet the standards of the treaty and to ensure that sensors not permitted are not installed. In providing an aircraft, a party may choose to use an aircraft that it has purchased and equipped itself; or to borrow or lease an aircraft from another participating state on a case-by-case basis. This range of options is designed to ensure maximum flexibility in the actual implementation of the Open Skies

regime. The objective is to make it possible for all states, regardless of size, to participate actively in the conduct of observation flights and the collection of information.<sup>17</sup>

Fixed-wing aircraft, as opposed to other types of aircraft (e.g. helicopters), are especially suited for Open Skies Treaty missions because they can provide fast air speed, facilitate long duration flights, and carry large sensor payloads. This means that a vast amount of information can be gathered over a large territorial area. Fixed-wing aircraft also provide sufficient space to facilitate in-flight film changing, sensor maintenance, and the required presence of official observers from the observed party.

The fleet of Open Skies aircraft range in size and performance from the large U.S. OC-135B four-engine jet aircraft to the much smaller British Andover twin propeller airplane. See Table 1 below for a list of Open Skies aircraft.

**Table 1. Open Skies Aircraft**

State Party	Aircraft Type	Notes
Belarus	No aircraft	Plans to fly jointly with Russian Federation
Belgium	C-130	(Sensors in Pod)
Bulgaria	An-30	
Canada	C-130	(Sensors in Pod)
Czech Republic	An-30	
Denmark	No Aircraft	
France	C-130	(Sensors in Pod)
Georgia	No Aircraft	
Germany	No Aircraft	Used Tu-154 until mishap in Sep 97. Will replace with either Tu-154 or Airbus
Greece	C-130	(Sensors in Pod)
Hungary	An-26	
Iceland	No Aircraft	
Italy	C-130	(Sensors in Pod)
Kyrgyzstan	No Aircraft	

<sup>17</sup> Hawes, John. U.S. Representative to the Open Skies Conference, Department of State. *Open Skies: Beyond "Vancouver to Vladivostok,"* Stimson Center Occasional Paper, No. 10, December 1992, 1.

Luxembourg	C-130	(Sensors in Pod)
Netherlands	C-130	(Sensors in Pod)
Norway	C-130	(Sensors in Pod)
Poland	No Aircraft	(Bilaterally agreed to use Ukrainian An-30)
Portugal	C-130	(Sensors in Pod)
Romania	An-30	
Russian Federation	An-30	Plan to use Tu-154 after EIF of Treaty
Slovak Republic	No aircraft	
Spain	C-130	(Sensors in Pod)
Turkey	No aircraft	Programmed to utilize Casa CN-235
United Kingdom	British Andover	
Ukraine	An-30	
United States	OC-135B	

**Source:** DTRA, Dec 99.

## Sensors

The Open Skies Treaty establishes specific standards for the kind and quality of sensors that may be employed. These standards are intended to reassure both the party conducting the observation and the party being observed: For the observing party, the precise sensor standards are the guarantee that the information received will be good enough to answer certain basic security questions. For the observed party, the standards are a guarantee that the sensors will not be excessively intrusive. All parties are assured that they will have access to the same sensor capabilities as all other parties. This guarantees that there will be no disparities among states on the basis of different levels of technology. To ensure the fullest possible participation in the Open Skies, including States Parties lacking advanced sensor technology, the treaty provides that sensors which are used shall be commercially available to all participants.

Aircraft may be equipped with video cameras, panoramic and framing cameras for day light photography, infrared line scanning systems which also can operate at night and synthetic aperture radar which can operate day and night in any weather. The primary

sensors used on Open Skies observation aircraft are the optical panoramic and framing cameras with black and white photographic film. According to the treaty, these cameras are to produce imagery with a ground resolution of not better than 30 centimeters.

The quality of the photo's produced by the cameras on an observation aircraft is designed to make it possible to recognize major items of military equipment, for example, to enable photo interpreters to distinguish between a tank and a truck. Although this degree of ground resolution does not produce photos equivalent to those obtained by state-of-the-art satellite photography, the quality of these photos is much better than that of the satellite photos now commercially available on the international market.<sup>18</sup>

All participants in the negotiations believed that the ability to recognize a tank was essential to an understanding of the scope and activity of military forces. Not only would this recognition help an observing party locate and estimate the size of major military forces-in garrison, on exercises, or on deployments-but would help that party to develop an understanding of patterns of deployments and to notice major changes in deployments. All of this information would enhance mutual understanding and help to minimize miscalculations, and would do so, the participants agreed, without threatening the security of the observed party. Information of this standard, for example, would neither permit the identification of particular tank models, nor enable the observing party to analyze the technical capabilities of a tank or other equipment.<sup>19</sup>

The other sensors that may be used are: video cameras with real-time display and magnetic tape (30 cm resolution); Infrared line-scanning devices with magnetic tape or

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<sup>18</sup> Hawes, John. U.S. Representative to the Open Skies Conference, Department of State. *Open Skies: Beyond "Vancouver to Vladivostok,"* Stimson Center Occasional Paper, No. 10, December 1992, 1.

<sup>19</sup> Hawes, John. U.S. Representative to the Open Skies Conference, Department of State. *Open Skies: Beyond "Vancouver to Vladivostok,"* Stimson Center Occasional Paper, No. 10, December 1992, 1.

black and white photographic film (50 cm resolution); and Sideways-looking synthetic aperture radar with magnetic tape (3 meter resolution).<sup>20</sup> These larger resolutions are not adequate to recognize individual items of military equipment. They could detect large ships and planes, or the presence of numerous items of ground equipment, but it would not be able to identify those objects. The ground resolution is not as good as the optical camera but should nevertheless provide an ability to recognize major items of military equipment at night.

A number of other sensors were discussed in the negotiations, but agreement could not be reached for their inclusion in the initial regime. There was, for example, considerable interest in the possibility of installing air-sampling equipment, which could be used to monitor the environment or the production of chemical weapons. Some participants raised the potential desirability of improving the ground resolution of some sensors as experience developed with the regime. Sensor categories and capabilities can be improved by agreement among the States Parties during periodic meetings of the Open Skies Consultative Commission.

### **Annual Quotas**

Open Skies observation flights are guaranteed and automatic. There is no right of refusal. There is no requirement that the party requesting a flight submit a rationale for the flight. There is no requirement linking flights to a list of authorized purposes. Each participating country has agreed to an annual passive quota of observation flights which it is obligated to accept from other participants. Quotas are loosely scaled to the size of the country, with the smallest participants having two or four flights each. The United States

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<sup>20</sup> *Treaty on Open Skies*, U.S. Senate Treaty Doc. 102-37, Washington, DC: U.S. Government Printing

and Russia, as the largest participants, have accepted quotas of 42 annual observation flights each. The number of observation flights a State Party is allowed to conduct is referred to as an active quota (equal to the number of passive quotas). The number of flights actually conducted over a country and which other country conducts them will depend on the particular concerns of individual countries and on how the international situation develops. At this particular time, there is quite a bit of interest in observing the area of the former Soviet Union, a reflection of the security environment. However, there is very little interest in observing the United States and Canada. The OSCC is charged to annually review the distribution of quotas.

### **Data Availability**

The treaty provides that at the conclusion of the observation flight, the recorded media will be processed in the presence of representatives from both participating parties and the processed media and duplicates will be shared between the observing and observed parties. Additionally, any state party to the Treaty has the right to purchase a duplicate of the processed media, regardless of their actual participation in the observation flight. To enable other participating states to make informed judgements about what film or tape they may wish to acquire, the treaty requires the observing party to prepare and circulate a detailed report after an observation flight, describing precisely the route of the flight and the points where observation equipment was employed. As a result, the data available to each Open Skies participating state is much greater than that which it can collect itself under the treaty quota system. This aspect of the treaty increases the output and efficiency of the regime for all participants. Participants will also

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Office, 9.

be able to assemble a common base of information about military forces and activities in the entire treaty area or any sub region of it. Such an information base could be a particularly valuable starting point in any effort to defuse tensions and increase mutual understanding.

### **The Open Skies Consultative Commission (OSCC)**

The Open Skies Treaty establishes the Open Skies Consultative Commission (OSCC) whose purpose is to promote the objectives and facilitate the implementation of the Treaty's provisions.<sup>21</sup> The OSCC meets in Vienna, Austria and consists of representatives from all 27 States Parties with a rotating chairmanship for every session. The OSCC makes decisions by consensus. The treaty text states:

The Open Skies Consultative Commission shall take decisions or make recommendations by consensus. Consensus shall be understood to mean the absence of any objection by any State Party to the taking of a decision or making of a recommendation.<sup>22</sup>

The mandate and procedures for the OSCC are spelled out in the Treaty:

Within the framework of the Open Skies Consultative Commission the States Parties to this Treaty shall: (A) consider questions relating to compliance with the provisions of this Treaty; (B) seek to resolve ambiguities and differences of interpretation that may become apparent in the way this Treaty is implemented; (C) consider and take decisions on applications for accession to this Treaty; and (D) agree as to those technical and administrative measures, pursuant to the provisions of the Treaty, deemed necessary following the accession to this Treaty by other States.<sup>23</sup>

Additionally the OSCC reviews the distribution of quotas annually and may propose amendments to the Treaty. Each state party has the right to raise and place on the OSCC agenda any issue relating to the Treaty. Finally, the OSCC may consider requests from

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<sup>21</sup> Ibid, 25.

<sup>22</sup> Ibid.

bodies of the Conference on Security and Cooperation in Europe (CSCE) authorized to deal with conflict prevention and crisis management regarding the conduct of extraordinary observation flights.<sup>24</sup>

## **Current Status of the *Treaty on Open Skies***

### **Entry Into Force (EIF)**

Entry into force of the Treaty on Open Skies has been a long awaited event. It has been nearly an entire decade since the treaty was signed in 1992. The Treaty text states:

Shall enter into force 60 days after the deposit of 20 instruments of ratification, including those of the Depositories, and of State Parties whose individual allocation of passive quotas . . . is eight or more.<sup>25</sup>

Most of the States Parties have already deposited their instruments of ratification prior to 1995. It is no surprise that several States Parties have required more time for national deliberation than others. In particular Russia and Belarus have been the last to ratify, in May 2001. However, the requirement is for their instruments of ratification to be deposited with one of the depository states, Canada or Hungary. It is possible that they could deposit prior to November 2001. However, it is most likely that they will deposit on November 1, 2001 so that entry into force will occur January 1, 2002. This would allow the most time for implementation, 23 months during the first year of implementation (defined as the end of the first complete calendar year after EIF). Table 2 below contains the current record for State Party signatures and dates of deposit of instruments of ratification.

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<sup>23</sup> Ibid, 26.

<sup>24</sup> *Open Skies Consultative Commission*, U.S. State Department web site. Feb 23, 1994.

**Table 2. States Parties to the Treaty on Open Skies**

<b>States Parties</b>	<b>Signature</b>	<b>Ratification Deposit</b>
Belarus	Mar 92	May 01 awaiting deposit
Belgium	Mar 92	Jun 95
Bulgaria	Mar 92	Apr 94
Canada	Mar 92	Jul 92
Czech Republic	Mar 92	Dec 92
Denmark	Mar 92	Jan 93
France	Mar 92	Jul 93
Georgia	Mar 92	Jun 98
Germany	Mar 92	Jan 94
Greece	Mar 92	Sep 93
Hungary	Mar 92	Aug 93
Iceland	Mar 92	Aug 94
Italy	Mar 92	Oct 94
Kyrgyzstan	Dec 92	Awaiting
Netherlands	Mar 92	Jun 95
Luxembourg	Mar 92	Jun 95
Norway	Mar 92	Jul 93
Poland	Mar 92	May 95
Portugal	Mar 92	Nov 94
Romania	Mar 92	Jun 94
Russia	Mar 92	May 01 awaiting deposit
Slovakia	Mar 92	Dec 92
Spain	Mar 92	Nov 93
Turkey	Mar 92	Nov 94
United Kingdom	Mar 92	Dec 93
Ukraine	Mar 92	Apr 00
United States	Mar 92	Dec 93

**Source:** Diana Marvin, Arms Control Bureau, Conventional Arms Control. U.S. State Department, May 01.

During the period of provisional application while awaiting entry into force, State Parties have been officially encouraged by the OSCC to exercise Treaty provisions with other State Parties through multilateral and bilateral trial observation flights. According to the OSCC these trial flights serve the following purposes:

- Proves the validity and viability of the Treaty

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<sup>25</sup> Ibid.

- Prepares State Parties for post-Entry-into-Force operations.
- Builds political support for additional ratifications.
- Demonstrates the concept of Open Skies to future State Parties.
- Communicates the concept of aerial observation as a tool for conflict prevention and conflict monitoring.<sup>26</sup>

In this spirit many pre-EIF activities have been successfully conducted including joint trial observation flights (JTF's), Mock aircraft certification events, multinational data collection events, and static aircraft displays. The conduct of these pre-EIF activities was very positive throughout and effectively demonstrated the value of the Treaty on Open Skies as a CSBM.

The United States has frequently conducted international Open Skies trial flights, over 70 flights since 1993. These flights were primarily conducted with Treaty signatories, however several non-signatories (e.g. Finland, Sweden) have participated in trial flights either with the U.S. or other State Parties. The following is a list of the nations the United States has conducted trial flights with through June 2001—either over the United States or their territory—where both nations were primary participants. Next to the nation's name is the number of trial flights the U.S. has conducted with the particular country.

- BENELUX (2)
- Bosnia (1) [non-State Party]
- Bulgaria (3)
- Canada (5)
- Czech Republic (5)
- Estonia (1) [non-State Party]
- Finland (2) [non-State Party]
- France (2)
- Georgia (1)
- Germany (6)
- Greece (3)
- Hungary (4)

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<sup>26</sup> *Statement by the Chairman of the Open Skies Consultative Commission, OSCC Journal, 7 Jun 99.*

- Italy (2)
- Latvia (1) [non-State Party]
- Lithuania (1) [non-State Party]
- Norway (1)
- Poland (4)
- Romania (3)
- Russian Federation (5)
- Slovakia (2)
- Slovenia (2)
- Spain (1)
- Turkey (3)
- Ukraine (10)
- United Kingdom (4)<sup>27</sup>

### **Open Skies and National Security**

Open Skies is clearly an openness and transparency measure but does it go too far and promote espionage while posing a risk to national security? This is a central question for any country considering such an agreement and is a perfectly legitimate concern. There is a natural tension between the competing interests of promoting openness and transparency as a confidence and security building measure and protecting sensitive national security information. The Open Skies Treaty deals directly with this concern to give due regard to protecting national security information with a series of safeguards regarding sensors, inspections, certifications, and the presence of host country observers. These safeguards are intended to ensure that the level of openness is clearly understood by all parties, that it cannot be exceeded, and that there will be no collection of unauthorized information.

All observation aircraft and sensors are subject to international certifications, preflight inspections, and demonstration flights prior to the conduct of observation flights

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<sup>27</sup> DTRA, Jun 01.

to ensure they conform to Treaty standards. The ground resolution quality of the collected imagery resolution is limited. Annual quotas are in place to limit the number of observation flights a nation is obligated to receive and observation flights are limited in terms of time and distance. If the observed party is not comfortable with or suspicious of the capabilities of the observing parties aircraft it may require that the observation flight be conducted on an authorized aircraft belonging to the observed party versus the observing party (the taxi option).<sup>28</sup> Also, both principal parties involved in the observation flight have the right to monitor post-flight processing of the recorded media to ensure Treaty specified procedures are followed.

It is certainly true that an aggressor will exploit all sources of information and that no CBM structure will constrain a country determined to carry out aggression. The treaty specifically prohibits electronic data links between the observation aircraft and ground or satellite stations. This means that Open Skies can not produce “real time” targeting information. A significant time interval, a matter of days, will elapse between an Open Skies observation flight and the processing and analysis of the raw film or magnetic tapes. This will provide plenty of time for the observed party to decide what if any special measures, including movement of vulnerable equipment, might be necessary to guard against any attack that might be launched after an observation flight.<sup>29</sup>

The Open Skies regime will enable all parties to gather information on each other. There is no unilateral advantage to a potential aggressor in a system of open information. The largest net gain from a measure of openness should come to a country with peaceful intentions, concerned at the potentially hostile intentions of its neighbors. By

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<sup>28</sup> Ibid, 12.

<sup>29</sup> Hawes.

participating in a cooperative observation regime and by acquiring information gathered by other participants, and possibly by sharing analyses, the peaceful country can greatly improve its specific understanding of the military capabilities and deployments of the potential aggressor, throughout the length and breadth of that country. On this basis, the peaceful country can make far better defensive preparations than it could in the absence of such information; an aggressor country will find its ability to launch meaningful offensives impaired. This is the essence of the Open Skies contribution to a more stable and peaceful world.<sup>30</sup>

### **Value of the *Treaty on Open Skies***

The primary value of the Treaty on Open Skies is as a venue for engagement as a CSBM in Europe. This was demonstrated during extensive pre-EIF activities in Europe over the last 10 years. Open Skies trial flights and other pre-EIF activities have had a positive impact on the European security environment. All three Central European NATO inductees - Czech Republic, Hungary, and Poland - have all been active members in Open Skies demonstrating cooperative attitudes and their commitment to openness and transparency on the path toward NATO membership.

The direct value of the actual information collected under the Treaty on Open Skies is more valuable to other State Parties compared to the United States. Imagery collected by the Treaty is a modest supplement to overhead sources available to the United States. The data sharing provision of the Treaty make the imagery collected by all States Parties

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<sup>30</sup> Hawes.

available to all others. During the 1992 Senate hearing on Open Skies U.S. Ambassador John Hawes stated:

The Treaty offers each of the participating states, regardless of size or level of technological development, the opportunity for direct involvement in the observation of military forces and activities of concern on the territory of other participating states. For most of the states parties, which unlike the United States have not operated sophisticated observation satellites, Open Skies will provide the first opportunity they have had to acquire this kind of hard information relevant to their security. As such, the Open Skies Treaty can contribute to the reduction of regional tensions, by giving greater and more accurate information to the parties involved.<sup>31</sup>

The provisions of the Treaty on Open Skies provides an affordable source of overhead imagery for states that do not have the resources for satellite collection and do not wish to depend on the United States or Russia for such imagery. This is particularly useful for the newly independent states in Central Europe.

The real value of Treaty on Open Skies is not the imagery collected but the opportunity for mil-mil and pol-mil interaction and coordination. The concepts of openness and transparency that are the backbone of this Treaty are also the fundamental tenets of democratic governance and free market reform. The political process of reviewing and accepting the openness and transparency concepts embedded within the Treaty on Open Skies greatly assist governments transitioning from closed totalitarian states to more open and representative governance. It requires a deliberation within the states political and military leadership to accept these tenets and provides an engagement venue to encourage this transition. The willingness of a country to be overflown is, in itself, a highly significant political act in that it demonstrates its availability to the idea of openness. This is especially significant for states with a long history of very closed secretive regimes that were characteristic of Soviet-style totalitarianism. This idea of

openness and transparency are not just related to security and military forces. The ideas of openness and transparency are also fundamental to the effectiveness of democratic governance and free market economic reform. As such, a government that is assessing whether it should join an Open Skies regime are, in fact, deliberating at every level of government the concept of openness and transparency and are making a decision to move in the direction of cooperative international relations and away from more continued zero-sum confrontation. This has the effect of helping to consolidate democratic reform. Open Skies activities in Ukraine provided a practical and political venue to demonstrate their separation from Russian dominance by enthusiastically participating in Open Skies activities and overflights of Ukraine by the United States Open Skies aircraft. The Treaty on Open Skies has very modest costs for high democracy consolidation results over the next several years.

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<sup>31</sup> Hawes, 4.

## Chapter 3

### **The Hungary-Romania Open Skies Regime**

The end of the Cold War has brought political revolution in Central and Eastern Europe, the Soviet withdrawal from satellite states, the dissolution of the Warsaw Pact, and the total collapse of the Soviet system along all fronts—political, economic, and security. In the early 1990s, NATO initially chose to not allow former Warsaw Pact members to join the western alliance. This decision was meant to reassure the emerging Russian Federation that NATO was not a threat to Eastern European security and to avoid a resurgence of Soviet-style political leadership. It also contributed to a regional security vacuum in Central and Eastern Europe as the Warsaw Pact dissolved.

Rising regional security concerns combined with the preexisting strain on Hungarian-Romanian relations and an entirely new political leadership encouraged bilateral military cooperation. In an effort to enhance confidence and build security between Hungary and Romania, a bilateral aerial observation agreement was negotiated and signed in 1991. The agreement calls for eight annual unarmed aerial observation flights—four over Hungary and four over Romania.<sup>32</sup>

This chapter briefly describes the historical Hungarian-Romanian dispute and the political revolution leading to the bilateral Open Skies regime. It then describes the

elements of the bilateral Hungary-Romania Open Skies Regime and the experiences of both State Parties. Finally, it will consider the value of this cooperative agreement and how it and other measures have impacted bilateral and multilateral relations.

### **The Historical Hungary-Romania Dispute: Transylvania**

The original Romanian state (1866-1918) consisted of two provinces—Moldavia and Walachia. These original provinces are traditionally considered as part of the Balkans. Romania's third province, Transylvania, is located west of the Carpathian Mountains. Transylvania is geographically Central European and contains the largest population of Romania's Hungarian minority. It had been an integral part of Hungary before World War I, but it was awarded to Romania at the Treaty of Trianon (1920) as part of the post-war settlement imposed by the Western powers. It has been a point of bitter contention between the two countries since.<sup>33</sup>

Hungary became a Soviet satellite state shortly after its 1945 liberation from Nazi control by Soviet troops. In November 1956, Hungarian leader Imre Nagy announced over Hungarian radio a restoration of the multiparty system, the appointment to his cabinet of members of non-Communist parties long since banned in Hungary, and Hungary's withdrawal from the Warsaw Pact. On November 4, 1956, the Soviets intervened with massive military force. Soviet tanks patrolled the streets of Budapest, and quickly overwhelmed popular resistance. Democratic reform was temporarily over and Nagy was executed in 1958. From 1956 until the Gorbachev period, Hungary remained a reluctant satellite and practiced moderate socialism. During the latter half of

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<sup>32</sup> *Agreement Between the Government of Romania and the Government of the Republic of Hungary on the Establishment of an Open Skies Regime*, Bucharest, Romania, 11 May 1991, Annex A.

the 1980s Hungary embraced *perestroika*, *glasnost*, political liberalization, and finally democratic reforms. A peaceful political revolution culminated on 23 October 1989 in an official proclamation of a new non-socialist Republic, and a parliamentary election followed in March and April 1990.

Romania supported the Nazi invasion of the Soviet Union in 1941. After World War II the Romanians had to allow Communists to participate in the national government. With Soviet support the Romanian Communists soon forced the king's abdication in December 1947. The Romanian Workers' Party (RWP) converted Romania into a republic and in 1948 proceeded to eliminate political opposition and to establish state control over industry, agriculture, and foreign trade.<sup>34</sup>

At the beginning of communist control at the end of the Second World War and throughout the early years of Nicolae Ceausescu's rule, Romania strictly adhered to the Soviet model and tolerated no challenges to the government.

The regime of Nicolae Ceausecu (1965-1990) ended in violent revolution. During Ceausecu's regime, Hungarian-Romania relations were characterized by constant quarreling regarding the treatment of Romania's Hungarian (Magyar) minority, located primarily in Transylvania. Ceausecu deliberately cultivated national animosities in Transylvania and used popular nationalist sentiment against a contrived Magyar threat to Romanian independence.

In 1987, after a three-volume historical account of Transylvania was published in Hungary which further enflamed tensions to an all time high. It refuted some of the more exaggerated claims of Romanian nationalist historiography, stressed the violation of

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<sup>33</sup> J. F. Brown, "Crisis and Conflict in Eastern Europe," *RFE/RL Research Report*, Volume 1, Number 22, 29 May 1992, 4.

ethnic Hungarian minority rights in Romania, and accused Romania of ‘territorial revisionism’.<sup>35</sup> Hungarian-speaking Romanian citizens attempting to emigrate to Hungary were blocked by bureaucratic obstacles like perplexing exit visas procedures and emigration taxes. Romanian propaganda was persistently accusatory.

In March 1988, Ceausescu released the details of his plan for Romanian rural development, better known as systemization. Systemization called for the relocation of eleven million Romanian villagers to new ‘agro-industrial complexes’, which would act as points of concentration for the rural population. Then the surplus villages were to be razed and the land used for agriculture.<sup>36</sup> In spite of considerable resistance in Romania and strong criticism from Western Europe, United States, and Hungary, the program went ahead, having its greatest effect on the Wallachian plain and in the western region of Transylvania near the Hungarian border.<sup>37</sup>

On Christmas day in 1989 insurgents agitated by the systemization scheme and with the help of the national army captured, tried, and executed Nicolae and Elena Ceausescu for using brutal military force to kill hundreds of Romanian civilians—ethnic Romanian and Hungarian alike—for demonstrating against the Ceausescu regime.<sup>38</sup>

With its revolution complete, Romania reckoned with reforms on all fronts: political, economic, and social. In the revolution’s aftermath, Bucharest attempted to win European approval and international credibility but was not taken seriously because of

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<sup>34</sup> Goldman, 184.

<sup>35</sup> Martyn Rady, *Romania in Turmoil: A Contemporary History*, New York, NY: IB Tauris & Company, Limited, 1992, 72.

<sup>36</sup> Rady, 68.

<sup>37</sup> Rady, 70

<sup>38</sup> Goldman, 186.

“poor political and economic performance, and by continued quarrels with Hungary over the treatment of the Magyar minority in Romania.”<sup>39</sup>

### **Hungarian-Romanian Open Skies Regime - The Agreement**

In the spring of 1990, overall conditions were worsening for both the Soviet Union and the Warsaw Treaty Organization (WTO). The new Hungarian and Romanian leadership both realized that the future was to the west, in order to be taken seriously by western European security and economic institutions they needed to try to resolve their chronic bilateral security issues. Coincidentally, formal negotiations on the Open Skies Treaty that began in Ottawa in February 1990 continued in Budapest, Hungary in April-May 1990. The Budapest round was a stalemate because the Soviet Union would not yet agree to full territorial openness. However, Hungary and Romania could agree to all the Open Skies concepts that were spelled out in the treaty negotiations up to this point. Hungary and Romania demonstrated considerable diplomatic initiative by taking the draft Treaty text and fashioning a bilateral agreement for Open Skies, and also using the Vienna Document as a foundation for a more significant bilateral military agreement.

In December 1990 Hungary and Romania . . . concluded a military agreement aimed at strengthening trust between the two armies and ensuring that political tension would not extend to the military sphere. In May 1991 the two countries became the first to sign an “Open Skies” agreement calling for four annual unarmed surveillance flights over each country’s territory.<sup>40</sup>

This aerial observation agreement—officially titled the Agreement Between the Government of Romania and the Government of the Republic of Hungary on the

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<sup>39</sup> Alfred A. Reisch, “Central and Eastern Europe’s Quest for NATO Membership,” *RFE/RL Research Report*, Volume 2, Number 28, 9 July 1993, 39.

<sup>40</sup> Reisch 40.

Establishment of an Open Skies Regime—entered into force on 27 February 1992. This was a month before the multilateral *Treaty on Open Skies* was even signed.

### **Elements of the Hungary-Romania Open Skies Regime**

The Hungary-Romania Open Skies Regime was taken directly from the Treaty on Open Skies negotiations, slightly modified, and implemented bilaterally so the regime is very similar to the multilateral treaty. The overall objective of the agreement is articulated in its preface.

The Government of Romania and the Government of the Republic of Hungary hereinafter referred to as the Parties . . . Seeking to implement in their bilateral relations in addition to the provisions of the 1990 Vienna Document of the Negotiations on Confidence and Security Building Measures, further cooperative confidence and security building measures . . . Noting the possibility of employing the results of such overflights to improve openness and transparency, to enhance confidence and security building, and to improve the monitoring of, and thus promote compliance with, current or future arms control measures . . . Believing that an effective Open Skies regime would serve to consolidate improved good-neighborly relations between the States Parties.<sup>41</sup>

Clearly, the objective of this agreement is to enhance relations by promoting openness and transparency and building confidence and security between Hungary and Romania.

The elements are directly from the Treaty on Open Skies; territorial openness, aircraft, sensors, quota's, data exchange, and due regard for national security concerns. Each state party is able conduct aerial observation flights over the entire territory of the other state party. Observation aircraft are specified as unarmed, fixed wing aircraft, capable of carrying two Observed Party Flight Monitors in addition to its Aircrew

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<sup>41</sup> *Agreement . . . Open Skies Regime*, 1-2.

Members. An aircraft is considered unarmed when it is not carrying any armament (munitions) of any type or equipment dedicated to armament operations.<sup>42</sup>

Both parties chose to use virtually identical turboprop-twin engine aircraft. Hungary chose the An-26 and Romania the An-30.

For routine bilateral aerial observation flights, aerial sensors are limited to two types: optical and video. Only under special circumstances may other types of sensors be permitted. Currently, each nation's aircraft is equipped with twin optical framing cameras—no video cameras. They have simplified their media processing requirements by using twin-framing cameras. At the end of the aerial observation mission, the observing party simply processes identical sets of Kodak aerial film from each of the two cameras and provides one set to the observed party and retains the other. This precludes the requirement for processing duplicate films and simplifies the entire operation.

National security concerns are also given due regard and the level of intrusiveness is regulated in several ways. Annual quotas limit the number of observation flights; Hungary may perform no more than four observation flights over Romania. Likewise, Romania is limited to no more than four observation flights over Hungary.

The conduct of each aerial observation flight is limited in terms of distance and time (no more than 1,680 kilometers or 4 hours).<sup>43</sup> This restricts the quantity of imagery collection.

The quality of imagery was limited when both parties agreed to restrict the minimum altitude of the observation aircraft to 3,000 meters during sensor collection. Hungary and Romania have determined that their systems operating at this minimum altitude collect

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<sup>42</sup> *Agreement . . . Open Skies Regime*, 2.

<sup>43</sup> *Agreement . . . Open Skies Regime*, 4.

imagery quality close to 30 centimeters of resolution.<sup>44</sup> This is the same resolution agreed upon by the Treaty on Open Skies; the resultant image is designed to recognize major pieces of military equipment—for example, to distinguish between aircraft types, and between trucks and tanks. It also makes possible the detection of weapons on aircraft wings, but does not make possible the identification of those weapons by type.

Each aerial observation platform—aircraft and sensors—is subject to examination and inspection. The “examination” is similar to the certification process in the Open Skies Treaty. During the examination, both parties agree to the observation aircraft, sensors and associated equipment that will be operated under the terms of the Agreement. Also during the examination, both parties calculate and establish a minimum altitude that provides the desired quality of image resolution.<sup>45</sup> In addition to this initial examination, aircraft and sensor inspections are permitted prior to the commencement of the observation flight to determine whether there is any prohibited equipment on the observation aircraft.<sup>46</sup>

The observed party has the right to place flight monitors on board the observation aircraft during the observation flight. Such flight monitors shall have access to all areas of the observation aircraft during the observation flight.<sup>47</sup>

### **Agreement Experience**

According to official Hungarian and Romanian sources, in the eight years from the date the Agreement entered into force, 27 February 1992 through 9 February 2000, Hungary conducted 19 observation flights over Romania, and Romania conducted 18

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<sup>44</sup> Captain (Navy) Gheorghe Iliescu, telefax, 9 Feb 2000.

<sup>45</sup> Iliescu, telefax

<sup>46</sup> *Agreement . . . Open Skies Regime*, 6.

observation flights over Hungary.<sup>48</sup> Significantly during the course of these bilateral observation flights “no major incident occurred and no deviation from the provisions set down in the Agreement was recorded.”<sup>49</sup>

### **The Value of the Hungary-Romania Open Skies Regime**

Bilateral relations between Hungary and Romania have improved dramatically since 1990. In addition to the bilateral Hungary-Romania Open Skies Regime they also completed a bilateral military treaty in December 1990 that had a similar goal: “strengthening confidence between the two armies and ensuring that political tension would not expand to the military sphere.”<sup>50</sup> Using previous agreements as building blocks, “On August 14, 1996 agreement on a bilateral treaty of friendship was reached after years of deadlocked negotiations.”<sup>51</sup>

Multilateral relations since 1990 have seen many positive changes as well. As an OSCE member, Romania signed a declaration in 1991 stating that “issues concerning national minorities, as well as compliance with international obligations and commitments concerning the rights of persons belonging to them, are matters of legitimate international concern and consequently do not constitute exclusively an internal affair of a respective state.”<sup>52</sup> This can be viewed as the first diplomatic step in reconciling the Hungarian ethnic minority issue in Transylvania. Romania joined the

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<sup>47</sup> *Agreement . . . Open Skies Regime*, 6.

<sup>48</sup> Lt Col Zoltan Toth, Staff Officer, Arms Control Agency, Ministry of Defense, Republic of Hungary, telefax, 9 Feb 2000; and Captain (Navy) Gheorghe Iliescu, telefax, 9 Feb 2000.

<sup>49</sup> Iliescu, telefax.

<sup>50</sup> Zoltan Barany, “Hungary: An Outpost on the Troubled Periphery,” in *America’s New Allies: Poland, Hungary, and the Czech Republic in NATO*, ed. Andrew A. Michta, Seattle WA: University of Washington Press, 1999, 83.

<sup>51</sup> Tom Gallagher, *Romania After Ceausescu: The Politics of Intolerance*, Edinburgh UK: Edinburgh University Press, 1995, 78-79.

<sup>52</sup> Valentin Stan, “Democratization in the Balkans: The Role of External Forces in the Transition,” conference on *Democratization in the Balkans*, University of Bristol, May 1997, 10.

Council of Europe in 1993, and signed the European Convention on the Protection of Human Rights and Fundamental Freedoms. Romania formally applied for NATO admission in April 1996 and is waiting for the second round of selections. Hungary was formally admitted into NATO in April 1999.

Considerable almost inconceivable progress has been made on the issue of Transylvania in the last decade. According to Tom Gallagher, a noted author on the subject,

Transylvania is now indubitably Romanian; in Hungary, Transylvanian Hungarians are increasingly viewed as different inhabitants from another state. Irredentist sentiment is fading, and the prospect that two nations who waged sterile quarrels over territory will at last bury their differences, as France and Germany did over Alsace-Lorraine, has never seemed brighter than today.<sup>53</sup>

The intolerance of the Ceausescu regime in Romania with the intentional use of popular nationalism to agitate the situation in Transylvania brought bilateral relations to the brink of disaster. Just as this intolerant and nationalistic political leadership can wreak havoc internally and bilaterally, so too can political will and positive, responsible, leadership reverse this trend. The primary reason that Hungary and Romania are on friendly and more neighborly terms is because they both had the political will and responsible leadership to do so. However, the bilateral Open Skies regime and other military CBMs undoubtedly did contribute to the development of trust and confidence between Hungary and Romania and officials have been forthright about recognizing this fact. Marton Krasznai, Hungarian Ambassador to the OSCE Center for Conflict

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<sup>53</sup> Tom Gallagher, "To Be Or Not To Be Balkan: Romania's Quest for Self-Definition," 13.

Prevention stated that, “the Open Skies regime is an invaluable program that promotes essential openness and transparency.”<sup>54</sup>

A Romanian Ministry of Defense official reported:

Common work of Romanian and Hungarian team members during a great number of missions met one of the scopes of the Agreement: increasing openness, transparency, and confidence . . . . [On] different occasions, political and military leadership of Romania and Hungary mentioned the contribution of the [bilateral] Open Skies Regime to the actual good neighboring and partnership relations.<sup>55</sup>

The Romanian Permanent Mission to the OSCE was asked, “How has this bilateral Open Skies activity benefited the security of Hungary and Romania?” The Mission’s official response follows:

Firstly, OS activity created practical opportunities for cooperation between Hungarian and Romanian military OS operators in planning, working and carrying out together aerial mission flights. This has contributed to strengthening confidence at the military level and opened new ways and means to enhance military contacts and cooperation.

Secondly, the implementation of the bilateral Agreement, through promotion of increased transparency, openness and practical cooperation in the military-security area at lower working levels, offered useful grounds for increased dialogue and cooperation on security issues at higher diplomatic and political levels, at a time when bilateral political dialogue was experiencing difficulties.

Thirdly, the positive experience of Romania and Hungary in this Agreement, from both practical and political points of view, served them as a proof of their political capacity to overcome long lasting problems through cooperation and confidence building, and, on a larger scale confirmed their capability to approach and contribute to the solution of problems pertaining to regional and European security.<sup>56</sup>

Political will causes changes of this magnitude. Open Skies and other CSBM’s are a method for practical opportunities to interact at a variety of different levels for the

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<sup>54</sup> Marton Krasznai, Hungarian Ambassador, OSCE Center for Conflict Prevention, personal interview, 20 May 1998.

<sup>55</sup> Iliescu, telefax.

common purpose of building trust: military-military, political-military, political-political. This opportunity and method to interact combined with the political will to promote increased dialog and cooperation that is continuously reinforced with positive political and military leadership is the concrete of confidence building.

The Open Skies Consultative Commission (OSCC) often refers to the Hungarian-Romanian as a model bilateral regime that validates the Open Skies concept. The Hungarian and Romanian delegations are the most enthusiastic advocates of the Open Skies concept.

The Hungary-Romania Open Skies Regime was established to counter bilateral tensions resulting from cultural differences combined with age-old territorial disputes. By all accounts this cooperative aerial observation regime has enhanced the level of confidence and trust between Romania and Hungary. Since its inception, no armed conflict has been conducted between the two; and the issues of Transylvania and the treatment of the Magyar minority in Romania have been ameliorated. Furthermore, Hungary has been admitted into NATO and Romania seeks admission.

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<sup>56</sup> Adriana Stanescu and Commander Dragan Andrei, Romanian Permanent Mission to the OSCE, Email, 24 Feb 2000.

## **Chapter 4**

### **The Future of Open Skies**

#### **Treaty Membership and Accession**

The Treaty on Open Skies clearly expects accessions from other states. Treaty membership is described in four accession categories starting with the original signatories. The original signatories of the Treaty on Open Skies include nations from the North Atlantic Treaty Organization (NATO), nations from the former Warsaw Pact, and some former Soviet Republics. Included here are: Belarus, Belgium, Bulgaria, Canada, Czechoslovakia, Denmark, France, Georgia, Germany, Greece, Hungary, Iceland, Italy, Luxembourg, the Netherlands, Norway, Poland, Portugal, Romania, Russia, Spain, Turkey, Ukraine, United Kingdom, and the United States. In January 1993 Czechoslovakia formally separated into two states—the Czech Republic and Slovakia. Both are considered original signatories.

The second accession category applies to specified former soviet republics. At any time prior to entry-into-force, the Treaty is open to signature by Armenia, Azerbaijan, Kazakhstan, Moldova, Tajikistan, Turkmenistan and Uzbekistan. These same countries may also accede at any time after entry-into-force. Originally, this category also included Georgia and Kyrgyzstan. However, Georgia acted quickly to become an original signatory in March 1992 and Kyrgyzstan signed later in December 1992.<sup>57</sup>

The third accession category applies to non-signatories who also hold membership in the Organization for Security and Cooperation in Europe (OSCE). These countries have

special permission to apply for Treaty accession during the first six-month period after the Treaty enters into force.<sup>58</sup> These countries include: Albania, Andorra, Austria, Bosnia-Herzegovina, Croatia, Cyprus, Estonia, Finland, Holy See, Ireland, Latvia, Liechtenstein, Lithuania, Macedonia (FRY), Malta, Monaco, San Marino, Slovenia, Sweden, Switzerland, and Yugoslavia (FRY).

The last accession category applies to any remaining non-signatories. The Treaty text states:

Following six months after entry into force of this Treaty, the Open Skies Consultative Commission may consider the accession to this Treaty of any State which, in the judgment of the Commission, is able and willing to contribute to the objectives of this Treaty.<sup>59</sup>

In this last accession category, it's important to recognize the fact that there are no permanent geographic limitations to Treaty membership. The Treaty has a truly global scope—membership is essentially open to all nations who are able and willing to pursue Treaty objectives.

## **Accession Strategy for the Treaty on Open Skies**

### European Accession to the Open Skies Treaty

The Treaty on Open Skies clearly expects accessions from other states. This starts with the Former Soviet Union, Newly Independent States at any time, then any member of the OSCE after Entry Into Force, and finally any other state 6 months after EIF. The United States Government should actively support accession of all members of the OSCE

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<sup>57</sup> Ibid, 30.

<sup>58</sup> Ibid.

<sup>59</sup> Ibid.

who indicate a desire to join the Treaty on Open Skies. Some of the smaller OSCE states may choose not to join at this time for cost considerations, the United States should refrain from actively encouraging or pressuring accession from some of the smaller states. However, OSCE membership would help to consolidate the Open Skies concept within the OSCE. This will help to establish an openness and transparency norm within Europe and in turn help consolidate democratic reform within the FSU. This will also create a foundation for accession in other regions, or a successful model for other regional, sub-regional, or bilateral regimes. The Hungarian-Romanian Open Skies Regime offers an outstanding example of a successful bilateral regime.

### **Global Accession to the Treaty on Open Skies**

The United States Government should continue to champion the ideas of openness and transparency embodied in the Treaty on Open Skies. The Asia-Pacific region is particularly suitable for possible accession to the Treaty on Open Skies. Chinese accession in particular would be a strategically significant event and would provide an especially useful venue for engagement with the Chinese government.

In a press briefing on July 20, 2001, Secretary Powell stated:

I see China as an important and powerful country that is going through a transformation, an economic transformation, a political transformation. It is trying to control that transformation and trying to control transforming forces that are within the society. They have liberalized quite a bit in the last 20 or 30 years in ways we couldn't have imagined 20 or 30 years ago with respect to the society and the openness in the society. It is not as open as our society or we would, you know, encourage them to be. They still do not practice human rights to the standards that we think are appropriate and they undertake proliferation activities that are troublesome to us. And we will discuss all these issues.

At the same time, it is a nation that need not be seen as an enemy. I would expect the Chinese military to modernize and transform itself and to use some of its newfound wealth to do that. This is not shocking or surprising to me.

We encourage Chinese military leaders to talk to our military leaders so we have a better understanding of the nature of that transformation, and it would be very useful if we had more transparency into what both sides are doing, and in that way have some confidence in the security relationship between the two of us. I do not yet see efforts on the part of the Chinese military to transform themselves in a way that we should see them as a potential enemy. But, at the same time, we should watch what's happening. And, of course, there is always the potential danger of misjudgments with respect to Taiwan and we will always keep that in mind as well.

This speaks directly to the value of Chinese accession to the Treaty on Open Skies. Chinese government deliberation on the openness and transparency concepts in the Open Skies Treaty would go a long way toward supporting this transformation and would serve as an excellent vehicle for political and military engagement with China. The United States Government should actively promote the idea of Chinese accession to the Treaty on Open Skies; our accession strategy for the Treaty on Open Skies should be focused toward this goal. Acceptance of the openness and transparency principals in the Treaty on Open Skies by China would be a significant step toward democratization. The ASEAN Regional Forum (ARF) has had several CSBM discussions and is ready to consider the possibilities of an Open Skies Treaty contribution to regional security. Japan and Thailand have shown an interest in Open Skies, while the U.S., Canada and Russia are already states parties. Our accession strategy should be to consolidate OSCE membership and look toward Asia-Pacific regional accession toward the goal of Chinese accession. Once China, Russia and the U.S. have committed to these openness and transparency concepts all other regional applications will be much more credible and effective.

## **Other Applications of the Open Skies Concept**

**Korean Peninsula:** A bilateral Open Skies regime beginning with aerial monitoring of the DMZ and its immediate vicinity with officers from both North and South Korea would match well with the goals of South Korea's "Sunshine" engagement policy. The Korean peninsula is not yet ready for accession to the Treaty on Open Skies but a bilateral Open Skies regime could certainly serve as an effective CSBM and should be actively supported by the U. S. Government.

**India-Pakistan:** The geography of the Kashmir area is particularly suitable for a bilateral Open Skies regime. This conflict is still very active and in need of effective conflict avoidance measures. A bilateral Open Skies regime with observers from both parties over a limited DMZ/buffer zone would clearly be an effective CSBM. The U. S. Government should support this concept and encourage direct interaction with Hungarian-Romanian experts with India/Pakistan.

**Middle East:** Aerial monitoring and inspection regimes have been effective in the past, particularly on the Suez Peninsula. However, the current security environment and political leadership in Syria, Iraq, and Iran present rather large obstacles toward any sort of Open Skies regime at this particular time. Several years of effective operation of the Open Skies Treaty with significant global accessions may provide some additional political pressure in this region for more reasonable interaction.

**South America:** Accession to the Treaty on Open Skies or adoption of a regional Open Skies regime would provide an excellent venue for political and military cooperation. Accession would be effective; however a regional regime would allow a more regional focus on the security threat that has been evolving from interstate security

to more transnational security threats like drug smuggling and other transnational crime. A regional Open Skies regime with improved sensors and international crews could be used for a variety of security goals including border security, counter-drug reconnaissance, and disaster relief.

### **Summary**

The Treaty on Open Skies is an effective venue of engagement. Accepting the concepts of openness and transparency in the Treaty on Open Skies have the effect of helping to consolidate democratic reform. Accession to the Treaty on Open Skies should start with the OSCE and move to the Asia-Pacific region. China's accession to the Treaty on Open Skies would be a strategically significant event. The United States Government should actively support accession within the ASEAN Regional Forum toward the goal of China's accession.

## *Glossary*

ACDA	Arms Control and Disarmament Agency
CFE	Conventional Armed Forces in Europe Treaty
CIA	Central Intelligence Agency
CSBM	Confidence and Security Building Measure
DTRA	Defense Threat Reduction Agency
EAPC	Euro-Atlantic Partnership Council
EU	European Union
FSU	Former Soviet Union
GPS	Global Positioning System
INF	Intermediate-range Nuclear Forces Treaty
JCC	Joint Consultative Commission
NATO	North Atlantic Treaty Organization
NIMA	National Imagery and Mapping Agency
OSCC	Open Skies Consultative Commission
OSCE	Organization for Security and Cooperation in Europe
OSIA	On-Site Inspection Agency
START	Strategic Arms Reduction Treaty
UN	United Nations
USSR	Union of Soviet Socialist Republics
WEU	Western European Union
WTO	Warsaw Treaty Organization

**flight monitor.** An individual who, on behalf of the observed party, is on board an observation aircraft provided by the observing party during the observation flight.

***glasnost.*** Policy promoting openness (Russian).

**ground resolution.** The minimum distance—on the ground—between two closely located objects distinguishable as separate objects.

**observed party.** The State Party or group of States Parties over whose territory an observation flight is conducted.

**observing party.** The State Party or group of States Parties that conducts an observation flight over the territory of another State Party or group of States Parties.

***perestroika.*** Policy promoting restructuring (Russian).

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