

NATO'S PROPOSED BASIC ELEMENTS FOR OPEN SKIES

Open Skies: Basic Elements

The following text outlines the basic elements of NATO's Open Skies negotiating position. These elements were agreed to by the North Atlantic Council Meeting in Ministerial Session at NATO Headquarters, Brussels, on 14th and 15th December 1989.

1. INTRODUCTION

1. On 12th May 1989, President Bush proposed the creation of a so-called 'Open Skies' regime, in which the participants would voluntarily open their airspace on a reciprocal basis, permitting the overflight of their territory in order to strengthen confidence and transparency with respect to their military activities.

This proposal expanded on a concept that had already been proposed during the 1950s but had failed to reach fruition because of the unfavorable international political climate prevailing at the time.

Today, this new initiative has been made in a very different context as openness becomes a central theme of East-West relations and the past few years have been marked by important advances in the areas of confidence-building and arms control.

2. The provisions for notification and observation of military activities specified in the Helsinki Final Act were strengthened and made obligatory by the Stockholm Document concluded by the CDE [Conference on Disarmament in Europe] in 1986.

With respect to arms control, in 1987, the INF [Intermediate-Range Nuclear Forces] Treaty, apart from its immediate goals, represented a very important precedent because of the extent of its verification provisions.

All this leads one to expect today that even more spectacular advances will be achieved in the near future. In particular, a two-pronged effort is under way in Vienna: on the one hand, to deepen the measures for confidence-building and transparency among the 35 countries of the CSCE [Conference on Security and Cooperation in Europe], and the other, to reach an unprecedented agreement between the countries of the Atlantic alliance and the Warsaw Treaty Organization on the elimination of large numbers of conventional arms.

Furthermore, one awaits important developments in other sectors of disarmament such as chemical weapons and the Soviet-American strategic arms negotiations.

3. All of these agreements will naturally require their own verification regimes, often of a highly intrusive nature. Moreover, the specific provisions of each verification treaty will be supplemented by the habitual means by

which countries verify compliance with agreements (National Technical Means).

It seems useful, however, particularly in the prevailing context of improved East-West relations, to reflect on other ways of creating a broadly favorable context for confidence-building and disarmament efforts.

In this context, the Open Skies concept has a very special value. The willingness of a country to be overflown is, in itself, a highly significant political act in that it demonstrates its availability to openness; aerial inspection also represents a particularly effective means of verification, along with the general transparency in military activities discussed above.

This double characteristic of an Open Skies regime would make it a valuable complement to current East-West endeavors, mainly in the context of the Vienna negotiations but also in relation to the other disarmament efforts (START [Strategic Arms Reduction Talks], chemical weapons).

It would seem desirable to focus now on the European region, while also including the entire territories of the Soviet Union, the United States, and Canada. Accordingly, we will be ready to consider at an appropriate time the wish of any other European country to participate in the Open Skies regime. This element could be complementary to their efforts at confidence-building and conventional arms control and would conform to the objectives of those negotiations.

4. To this end, the Open Skies regime should be based on the following guidelines:

- the commitment of the parties to greater transparency through aerial overflights of their entire national territory, in principle without other limitations than those imposed by flight safety or rules of international law.
- the possibility for the participants to carry out such observation flights on a national basis or jointly with their allies.
- the commitment of all parties to conduct and to receive such observation flights on the basis of national quotas.
- the establishment of agreed procedures designed to ensure both transparency and flight safety.
- the possibility for the parties to employ the result of such overflights to improve openness and transparency of military activities as well as ensuring compliance with current or future arms control measures.

II. PURPOSE

The basic purpose of Open Skies is to encourage reciprocal openness on the part of the participating states and to allow the observation of military activities and installations on their territories, thus enhancing confidence and security. Open Skies can serve these ends as a complement both to National Technical Means of data collection and to information exchange and verification arrangements established by current and future arms control agreements.

III. PARTICIPATION AND SCOPE

Participation in Open Skies is initially open to all members of the Atlantic Alliance and the Warsaw Treaty Organization. All territories of the participants in North America and Asia, as well as in Europe, will be included.

IV. QUOTAS

1. Open Skies "accounting" will be based on quotas which limit the number of overflights. These quotas will be derived from the geographic size of the participating countries. The duration of flights can also be limited in relation to geographic size. For larger countries, the quota should permit several flights a month over their territory. AU of the parties will be entitled to participate in such observation flights on a national basis, either individually or jointly in co-operation with their allies.

2. Effective implementation of a quota system requires agreement that a country will not undertake flights over the territory of any other country belonging to the same alliance.

3. Quota totals for participating states should be established in such a manner that there is a rough correspondence between totals for NATO and the Warsaw Treaty Organization and, within that total, for the USSR and the North American members of NATO.

4. Every participant, regardless of size, would be obligated to accept a quota of at least one overflight per quarter.

5. Smaller nations, that is, those subject to the minimum quota, may group themselves into one unit for the purposes of hosting Open Skies overflights and jointly accept the quota that would apply to the total land mass of the larger unit.

V. AIRCRAFT

The country or countries conducting an observation flight would use unarmed, fixed-wing civilian or military aircraft capable of carrying host country observers.

VI. SENSORS

A wide variety of sensors would be allowed, with one significant limitation—devices used for the collection and recording of signals intelligence would be prohibited. A list of prohibited categories and types of sensors will be

agreed among the participating states which will be updated every year.

VII. TECHNICAL CO-OPERATION AMONG ALLIES

Multilateral or bilateral arrangements concerning the sharing of aircraft or sensors, as well as the conduct of joint overflights, will be possible among members of the same alliance.

VIII. MISSION OPERATION

1. Aircraft will begin observation flights from agreed, pre-designated points of entry and terminate at pre-designated points of exit; such entry and exit points for each participating state will be designated by that state and listed in an annex to the agreement.

2. The host country will make available the kind of support equipment, servicing and facilities normally provided to commercial air carriers. Provision will be made for refueling stops during the flight.

3. An observing state will provide 16 hours notification of arrival at a point of entry. However, if the point of entry is on a coast or at a border and no territory of the receiving state will be overflown prior to arrival at the point of entry, this pre-arrival period could be abbreviated.

4. The crew of the observation aircraft shall file a flight plan within six hours of its arrival at the point of entry.

5. After arrival and the filing of a flight plan, a 24 hour pre-flight period will begin. This period is to allow time to determine that there are no flight safety problems associated with the planned route and to provide necessary servicing for the aircraft. During this pre-flight period the aircraft will also be subject to intrusive but non-destructive inspection for prohibited sensors and recorders.

6. Prior to the flight, host-country monitors will be able to board the observatory aircraft. During the flight they would ensure that the aircraft is operated in accordance with the flight plan and would monitor operation of the sensors. There would be no restrictions on the movement of the monitors within the aircraft during the flight.

7. The flight will be from the agreed point of entry to an agreed point of exit, where the host country observers would depart the aircraft. The points of entry and exit could be the same. Loitering over a single location will not be permitted. Aircraft will not be limited to commercial air corridors. Observation aircraft may in principle only be prohibited from flying through airspace that is publicly announced as closed to other aircraft for valid air safety reasons. Such reasons would include specific hazards posing extreme danger to the aircraft and its occupants. Each country will make arrangements to ensure that public announcements of such hazardous airspace are widely and promptly disseminated; each

country will produce for an annex to the agreement a list of where these public announcements can be found. The minimum altitudes for such flights may vary depending on air safety considerations. The extent of ground control over aircraft will be determined in advance by agreement among the parties on compatible rules such as those recognized by ICAO [International Civil Aviation Organization]. In the application of these considerations and procedures, the presumption shall be on behalf of encouraging the greatest degree of openness consistent with air safety.

8. The operation of the Open Skies regime will be without prejudice to states not participating in it.

IX. MISSION RESULTS

Members of the same alliance will determine among themselves how information acquired through Open Skies is to be shared. Each party may decide how it wishes to use this information.

X. TRANSITS

A transit flight over a participating state on the way to the participating state over which an observation flight is to be conducted shall not be counted against the quota of the transitted state, provided the transit flight is conducted exclusively within civilian flight corridors.

XI. TYPE OF AGREEMENT

The Open Skies regime will be established through a multilateral treaty among the parties.

XII. OPEN SKIES CONSULTATIVE BODY

To promote the objectives and implementation of the Open Skies regime, the participating states will establish a body to resolve questions of compliance with the terms of the treaty and to agree upon such measures as maybe necessary to improve the effectiveness of the regime.