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## **ARTICLE-BY-ARTICLE ANALYSIS OF THE TREATY BETWEEN THE UNITED STATES OF AMERICA AND THE RUSSIAN FEDERATION ON STRATEGIC OFFENSIVE REDUCTIONS**

The Treaty Between the United States of America and the Russian Federation on Strategic Offensive Reductions, signed at Moscow on May 24, 2002 (the Moscow Treaty) consists of a Preamble and five Articles.

### **TITLE AND PREAMBLE**

The title of the Moscow Treaty is “Treaty Between the United States of America and the Russian Federation on Strategic Offensive Reductions.” This title was deliberately chosen to reflect the fact that this Treaty focuses on reductions in strategic nuclear warheads, rather than on “strategic offensive arms,” which traditionally have been considered to be delivery vehicles and launchers. For linguistic reasons, the title of the Russian language version of the Treaty is “... on Reductions in Strategic Offensive Potential.” The English language text of the Treaty was agreed first, but the phrase “strategic offensive reductions” could not be literally translated into Russian. The substantive meanings of the titles are the same.

The Preamble to the Moscow Treaty sets forth the intentions of the Parties in broad terms. The first preambular paragraph designates the United States and Russia as “the Parties” to obviate the use of their full names throughout the Treaty. The second, third and fourth preambular paragraphs set forth the Parties’ shared commitment to conducting their relations in the new century on a fundamentally different and more cooperative basis than had characterized their relations in the past. The reference to “mutual security” in the fourth paragraph refers to the non-threatening nature of the Parties’ new strategic relationship; it does not imply a specific relationship between the Parties’ forces. The fifth paragraph reaffirms the Parties’ general, longstanding commitment to implementing significant reductions in strategic offensive arms. This paragraph introduces references to specific prior commitments and obligations by the Parties in the sixth, seventh and eighth paragraphs that immediately follow, including those in the Treaty Between the United States of America and the Union of Soviet Socialist Republics on the Reduction and Limitation of Strategic Offensive Arms of July 31, 1991 (the START Treaty) and the Treaty on Non-Proliferation of Nuclear Weapons of July 1, 1968 (the NPT). The sixth paragraph recognizes Joint Statements made by Presidents Bush and Putin in Genoa on July 22, 2001 and in Washington, DC on November 13, 2001 that detail the new basis for relations between the United States and Russia. This preambular language does not imply any restrictions or obligations relating to defensive programs. The seventh and eighth paragraphs make reference to two existing agreements of the Parties with regard to nuclear weapons, the START Treaty and Article VI of the NPT. The final paragraph sets forth the Parties’ conviction that this Treaty will establish more favorable conditions for actively promoting security and cooperation and enhancing international security.

## ARTICLE I

Article I contains the central obligation of the Moscow Treaty. The first sentence of this paragraph obligates the Parties to reduce and limit their strategic nuclear warheads, as stated by the President of the United States of America on November 13, 2001 and as stated by the President of the Russian Federation on November 13 and December 13, 2001 respectively, so that by December 31, 2012 the aggregate number of such warheads does not exceed 1700-2200 for each Party. The Moscow Treaty's limits relate solely to the number of each Party's strategic nuclear warheads. The Moscow Treaty does not limit the number of U.S. or Russian inter-continental ballistic missiles (ICBMs) or submarine-launched ballistic missiles (SLBMs) or their associated launchers, or heavy bombers. Article I, by referencing the statements of both Presidents, makes clear that the Parties need not implement their reductions in an identical manner.

The United States will implement Article I as stated by President Bush on November 13, 2001: "... the United States will reduce our operationally deployed strategic nuclear warheads to a level between 1,700 and 2,200 over the next decade, a level fully consistent with American security."<sup>2</sup> U.S. negotiators noted to their Russian counterparts that, in carrying out the reductions provided for in this Treaty, in using the term "operationally deployed strategic nuclear warheads" the United States means reentry vehicles on ICBMs in their launchers, reentry vehicles on SLBMs in their launchers onboard submarines, and nuclear armaments loaded on heavy bombers or stored in weapons storage areas of heavy bomber bases. The United States also made clear that a small number of spare strategic nuclear warheads (including spare ICBM warheads) would be located at heavy bomber bases and that the United States would not consider these warheads to be operationally deployed strategic nuclear warheads. The United States intends to reduce its operationally deployed strategic nuclear warheads in a manner consistent with these statements. In the context of this Treaty, it is clear that only "nuclear" reentry vehicles, as well as nuclear armaments, are subject to the 1700-2200 limit.

The method by which U.S. warhead numbers will be determined under the Moscow Treaty differs from the START Treaty methodology. The START Treaty contains counting rules that attribute specific numbers of warheads to each type of ICBM, SLBM or heavy bomber regardless of the actual number of warheads on the missile or bomber. These numbers may be different from both the actual capacity of the specific system and the number actually carried by the system.

Under the U.S. approach, certain strategic nuclear warheads, such as those nominally associated with submarines in overhaul or submarines modified for other purposes, those downloaded from ICBMs and SLBMs, and those nominally associated with deactivated Peacekeeper ICBMs, will continue to be subject to the START Treaty unless such ICBMs or SLBMs and their associated launchers are eliminated or converted in accordance with START Treaty procedures. At the same time, however, under the Moscow Treaty, once such warheads are no longer in operationally-deployed status, they will be included as part of the United States' reductions. Thus, among other things, missiles from which some warheads have been removed will be considered for purposes

of the START Treaty as carrying more warheads than they in fact carry. By contrast, under the Moscow Treaty, the United States will limit its strategic nuclear warheads based on the actual number of warheads on missiles in their launchers and at bomber bases (other than spare warheads).

President Putin, for his part, stated at the Russian Embassy in Washington, DC on November 13, 2001:

... Russia is stating its readiness to proceed with significant reductions of strategic offensive arms. That is why today we are proposing a radical program of further reductions of SOA -- at the least, by a factor of three -- to the minimum level necessary to maintain strategic equilibrium in the world.<sup>3</sup>

and in a statement on December 13, 2001:

... a particularly important task in these conditions is to legally formalize the agreements that have been reached on further drastic, irreversible, and verifiable reductions in strategic offensive arms, which we believe should be at the level of 1,500-2,200 nuclear warheads for each side.<sup>4</sup>

President Putin did not state explicitly how Russia intends to implement its reductions. During the negotiations the Russians suggested that they anticipated reducing warheads by eliminating or converting missiles, launchers and heavy bombers. As noted above, Russia, like the United States, may reduce its strategic nuclear warheads by any method it chooses. Russia did not state conclusively during the negotiations how it intends to carry out its reductions.

The Moscow Treaty does not provide for sublimits or interim reduction levels or require a Party to reach the final reduction level prior to December 31, 2012. Therefore, prior to December 31, 2012, each Party is free to maintain whatever level of strategic nuclear warheads it deems appropriate, consistent with its obligations under the START Treaty and its obligation to meet the specified limit by the specified date.

The second sentence of Article I states that each Party shall determine for itself the composition and structure of its strategic offensive arms, based on the established aggregate limit for the number of such warheads. As noted earlier, the Moscow Treaty does not limit the total number of strategic offensive arms, or contain either numerical sublimits or bans on categories of forces. Under the Moscow Treaty, each Party will thus have flexibility in structuring its forces to reach these new low levels for strategic nuclear warheads. The Treaty does not restrict a Party's decisions regarding how it will implement the required reductions.

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<sup>2</sup> Press Conference by President Bush and Russian President Vladimir Putin, The East Room, on November 13, 2001.

<sup>3</sup> Speech of Russian Federation President Vladimir Putin to Representatives of the

American Public and U.S. Politicians, November 13, 2001, Russian Embassy in Washington. [Official U.S. translation]

<sup>4</sup> Statement by Russian President Vladimir Putin on December 13, 2001, Regarding the Decision of the U.S. Administration to Withdraw from the 1972 ABM Treaty. [Official U.S. translation]

## **ARTICLE II**

In Article II, the Parties recognize that the START Treaty remains in force in accordance with its terms. The purpose of this Article is to make clear that the Moscow Treaty and the START Treaty are separate. The START Treaty's provisions do not extend to the Moscow Treaty, and the Moscow Treaty does not terminate, extend or in any other way affect the status of the START Treaty. The START Treaty will remain in force until December 5, 2009, unless it is superseded by a subsequent agreement or extended.

## **ARTICLE III**

Article III establishes a Bilateral Implementation Commission (BIC), a diplomatic consultative forum which shall meet at least twice a year, to discuss issues related to implementation of the Moscow Treaty.

## **ARTICLE IV**

Article IV consists of three paragraphs covering ratification, entry into force, duration and withdrawal.

Paragraph 1 of Article IV provides that the Moscow Treaty shall be subject to ratification in accordance with the constitutional procedures of each Party and shall enter into force on the date of the exchange of instruments of ratification.

Paragraph 2 of Article IV provides that the Moscow Treaty shall remain in force until December 31, 2012 and may be extended by agreement of the Parties or superseded earlier by a subsequent agreement. Extension of the Treaty is not automatic but must be done by agreement of the Parties. Since such an extension is authorized by the Treaty, it would constitute an agreement pursuant to the Treaty and would accordingly not be subject to Senate advice and consent.

Paragraph 3 of Article IV provides that each Party, in exercising its national sovereignty, may withdraw from the Treaty upon three months' written notice to the other Party. Unlike some other arms control agreements, this withdrawal clause is not tied to a Party's determination that extraordinary circumstances jeopardizing its supreme national interests exist. Rather, the Moscow Treaty includes a more general formulation that allows greater flexibility for each Party to respond to unforeseen circumstances.

Unlike several earlier arms control agreements, including the START Treaty, there are no specific provisions for either amending the Moscow Treaty or for making "viability and

effectiveness” changes to the Treaty. Such provisions were not seen as necessary given the structure and content of this Treaty.

For international agreements submitted to the Senate that do not have specific amendment procedures, U.S. practice has been to submit amendments to the Senate for its advice and consent unless the Senate agrees that submission is not required.

## **ARTICLE V**

Article V sets forth standard provisions for registration of the Treaty pursuant to Article 102 of the Charter of the United Nations.