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# WITHDRAWAL SHEET

## Ronald Reagan Library

**Collection Name** deGraffenreid, Kenneth: Files

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**File Folder** GAC REPORT - CBW [SOVIET COMPLIANCE WITH  
ARMS CONTROL COMMITMENTS]

**FOIA**

F05-084

**Box Number** ~~91620~~ RAL Box 27

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ID	Doc Type	Document Description	No of Pages	Doc Date	Restrictions
8768	REPORT	RE SOVIET COMPLIANCE (PP. VIII, 25-38, 198, 199-200 ONLY)	18	ND	B1 B3
<b>PAR 8/30/2006 F05-084</b>					

Freedom of Information Act - [5 U.S.C. 552(b)]

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B-2 Release would disclose internal personnel rules and practices of an agency [(b)(2) of the FOIA]

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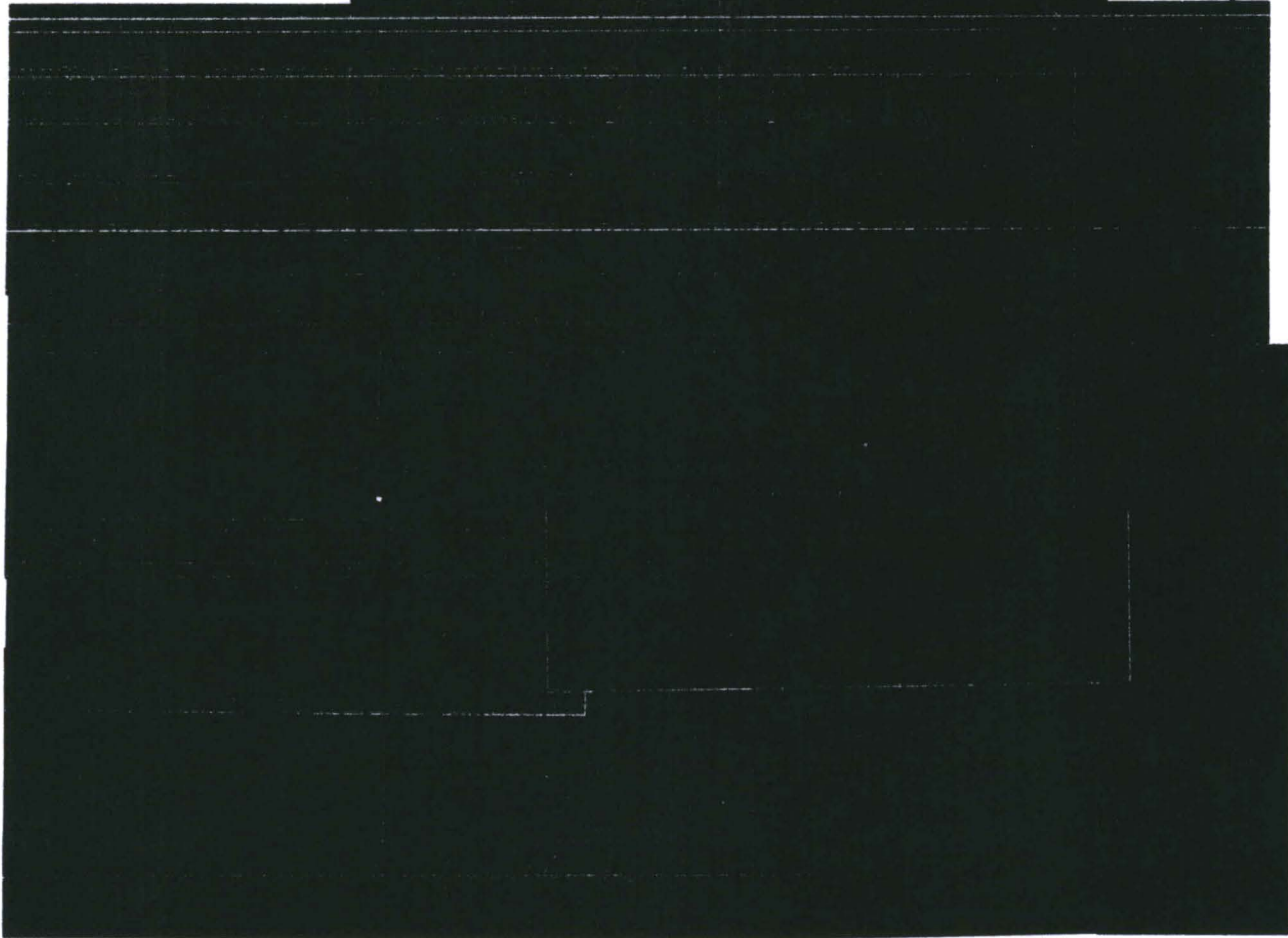
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FOIA(b)(1)

FOIA(b)(3)



(U) There are also many instances in which the Soviet Union has refused to facilitate verification of compliance when on-site inspection or termination of test encryption might have resolved uncertainties.

(U) It is particularly disturbing that the frequency of Soviet non-compliance with both strategic and other agreements have increased markedly since 1972.

(U) When the U.S. has been able to verify the fact of non-compliance, it has rarely succeeded in halting proscribed conduct. One notable exception is the removal of offensive weapons from Cuba in 1962. A second possible is the possible cessation in 1982 or 1983 of the use of lethal agents in S.E. Asia and Afghanistan.

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By LOI, NARA, Date 8/30/06

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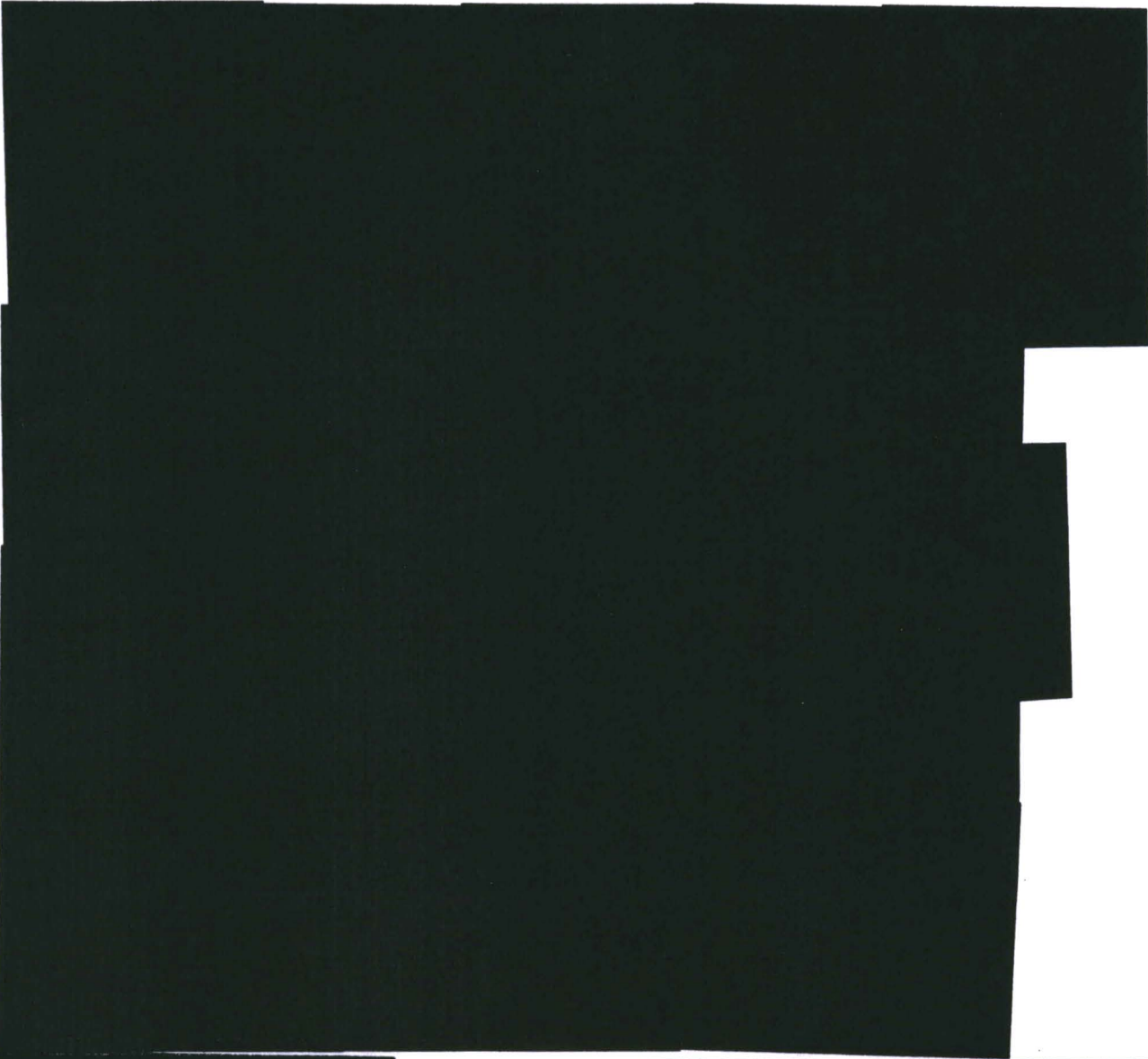
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NO FOREIGN DISSEMINATION

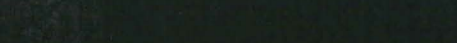
2.2.5 ~~(S)~~ Biological Weapons Convention (BWC) of 1972 - Violations -  
Facilities Expansion, Probable Bacteriological Munitions  
Production, Storage, Transfer, and Use - 1972 to present.

~~(U)~~ The BWC of April 1972 entered into force on March 26, 1975 and required destruction or diversion to peaceful purposes of all biological agents, toxins, weapons, equipment, and means of delivery by December 26, 1975.

~~(U)~~ By September 1983 fully 125 states were signatories of this Convention. Ninety three of these states have ratified the Convention or are bound to it by accession. The Soviet Union signed the Convention in April 1972 and ratified it along with other major powers on March 26, 1975.



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(U) In negotiations at the United Nations Committee on Disarmament, the Soviet Ambassador Roshchin conceded in 1970 that verification "would be simply impossible from the practical point of view ...controllers in every laboratory."

(U) In March 1971 the Soviet Union tabled in these negotiations a draft Convention covering biological weapons, but not chemical weapons. This narrowing of the scope of regulation resulted in identical United States and Soviet Union Convention drafts on August 5, 1971 and the opening of the BWC for signature on April 10, 1972.

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[REDACTED]

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(S) Soviet expansion of biological weapons-related facilities between signing and ratifying the BWC defeats the object and purpose of that treaty and constitutes a material breach of legal obligations between April 10, 1972, and December 26, 1975.

(S) Soviet operation of biological weapons research, production, and munitions storage facilities at Sverdlovsk and Zagorsk, and elsewhere after December 26, 1975, constitutes a continuing violation of the BWC since that date.

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[REDACTED] At the U.S. initiative, the BWC specifically bans the retention or transfer of toxins. The 7th Main Directorate of the Soviet Defense Ministry classifies and budgets its toxin weapons as "chemical weapons," but does not thereby escape the specific prohibitions of the BWC.

~~(U)~~ The 1977 East German Textbook of Military Chemistry attempts to rationalize retention of toxin weapons:

The toxins selected for military purposes were included among biological warfare agents. Today it is possible to produce various toxins synthetically.

Toxins are not living substances; they thus differ from the biological organisms, so that they can be included among chemical warfare agents. When they are used in combat, the atmosphere can be contaminated over relatively large areas.

~~(U)~~ The biochemical agents that the Soviets provided to their allies in 1975-1982 are by their retention and stockpiling (Article I) and by their transfer (Article III) direct violations of the BWC. The Soviets furnished mycotoxin agents, beyond manufacturing capabilities of recipients, for use in three nations not party to the Geneva Protocol of 1925. See Section 2.2.6. Nonetheless, retention or transfer of these weapons in Laos (since 1975), Kampuchea (since 1978) and Afghanistan (since 1979) violates the BWC in any event because "toxins whatever their origin or method of production" are explicitly banned under Article I. Illegal use of mycotoxins continued until at least March 1983.

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### 2.2.6 (U) Geneva Protocol of 1925 - Circumventions - Transfer for First Use of Chemical Weapons Against Protocol Non-Parties - 1975 to 1982; and First Use by Soviet Forces in Afghanistan - 1980 to 1982.

(U) In 1928 the Soviet Union ratified, with reservations, the Geneva Protocol of 1925 for the Prohibition of the Use in War of Asphyxiating, Poisonous or Other Gases, and of Bacteriological Methods of Warfare.

(U) The Protocol would prohibit "the use in war of asphyxiating, poisonous or other gases, and of all analogous liquids, materials, or devices," to the end that "this prohibition shall be universally accepted as part of International Law, binding alike the conscience and the practice of nations."

(U) The Soviets have transferred and used chemical weapons against nationals of states that are Nonparties to the Geneva Protocol of 1925.

(U) Such conduct raises four concerns regarding possible Soviet breach of arms control obligations:

- Does Soviet use of chemical weapons in Afghanistan (1980-1982) breach explicit Soviet obligations under the Geneva Protocol of 1925, read in conjunction with Soviet reservations to that treaty?
- Does Soviet transfer of chemical agents, and related training and supervision of foreign nationals breach explicit Soviet obligations under the Geneva Protocol of 1925?
- Does Soviet use of chemical weapons and assistance that aids and abets the use of chemical weapons by other nations breach a customary rule of international law?
- Does Soviet use of chemical weapons against nationals of Protocol Nonparties, and the aiding and abetting of use by other States of such chemical weapons circumvent Protocol restrictions, thereby defeating an essential object or purpose of the Protocol?

(U) We find that the Soviet use of chemical weapons in Afghanistan does not breach explicit Soviet commitments under the Geneva Protocol of 1925, because the Soviets explicitly reserved the right not to be bound in relation to Protocol Nonparties, and because Afghanistan is not a Party to the Geneva Protocol.

(U) We find that Soviet transfer of chemical agents does not breach explicit Soviet commitments under the Geneva Protocol of 1925, both because transfer of chemical weapons is not outlawed by the Protocol,

**NO FOREIGN DISSEMINATION**

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(U) The transfer of bulk chemical agents or dispensing mechanisms for their delivery does, however, involve recurring Soviet violations of the Biological Weapons Convention of 1972, when such chemical agents are derived from toxins. Transfer of the T-2 mycotoxin recurrently found on objects and in blood and liver samples of "yellow rain" victims in Southeast Asia violates the Biological Weapons Convention, whether or not the victims are nationals of states that are Parties or Nonparties to the Geneva Protocol. See the preceding section 2.2.5 regarding such treaty violations.

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# CHEMICAL/BIOLOGICAL WARFARE VICTIM



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(U) We next consider whether Soviet use of chemical weapons and Soviet assistance that aids and abets the use of chemical weapons by other nations breaches a customary rule of international law.

(U) Is the Geneva Protocol of 1925 a convention that constitutes a peremptory norm of international law binding upon all nations? If so, are the rules of conduct those of the Protocol taken together with widely adopted reservations or without those reservations?

(U) If the prohibition of the first use of lethal chemical weapons is a peremptory norm of general international law, then under Article 64 of the Vienna Convention on the Law of Treaties:

If a new peremptory norm of general international law emerges, any existing treaty which is in conflict with that norm becomes void and terminates.

(U) The Department of State has asserted that the Geneva Protocol modifies a customary rule of international law that is binding on all nations, and is applicable between Protocol Party and Nonparty states, irrespective of treaty reservations.

(U) The Soviet view is that the "formulation of a reservation is an act of State sovereignty and does not require acceptance by other States." [U.S.S.R. Explanatory Memorandum on the Question of Reservations to Multilateral Treaties. U.N. Doc.A/Conf. 39/L.3(1969).]

There is no reason to suppose that the draftsmen of the Protocol desired to depart from the usual principle of mutuality of obligations...[R. Baxter and T. Buergenthal, "Legal Aspects of the Geneva Protocol of 1925," 64 Am. J. Int'l L. 853 at 870 (1970).]

(U) Despite this generally accepted concept of mutuality of obligations, the Geneva Protocol did not expressly limit the obligations of Protocol parties to relations with other parties. Thus, 33 of 118 parties to the Protocol expressly reserved the right to be bound only in relations with other states obligated under the Protocol.

(U) The Soviet Union is within this 28 percent of Protocol parties expressly reserving the right to be bound only in relation to other Protocol parties. Additional states signed and ratified the Protocol under the assumption that these express reservations were unnecessary to preserve the right of chemical weapons use against nations that did not ratify the Protocol.

(U) The percentage of express reservations substantially exceeds the norm for multilateral treaties. [See J.K. Gamble, Jr., "Reservations to Multilateral Treaties: A Macroscopic View of State Practice," 74 Am. J. Int'l L. 372 at 377 (1980).] Given this pattern, the fact that

## UNCLASSIFIED

other Parties assumed they were not bound in relations with Nonparties, and the use against Nonparties of chemical weapons in Mongolia, Yemen, Laos, Kampuchea, and Afghanistan, it is implausible to consider the Geneva Protocol without associated reservations a peremptory norm of general international law.

(U) The Soviet position with regard to whether the Geneva Protocol of 1925 constitutes a binding norm that applies to Parties and Nonparties alike has varied over time. Embarrassing contradictions in the Soviet legal claims perhaps account for the recurring denial of the facts of Soviet chemical weapons use rather than justification of the right to use such weapons.

(U) By these specific reservations in 1928, the Soviets preserved their claim of rightful use of chemical weapons against either a Party to the Geneva Protocol engaging in first use or against a Nonparty. Both before (1923) and after (1933) Soviet ratification of the Geneva Protocol, the Soviet government entered into secret agreements with Germany for the development and production of chemical weapons, a practice consistent with this asserted right of use.

(U) After World War II, however, the Soviet Union chose to interpret the Geneva Protocol as establishing a standard of conduct that was binding upon a Nonparty state (Japan), both in relations with a Party state (China) and in relations with a Nonparty state (Mongolia). In a Red Army trial at Khabarovsk in 1949, the Soviets convicted 12 Japanese servicemen for Japan's preparation and use of bacteriological agents in China (1939) and in Mongolia (1940-1942).<sup>\*</sup> Japan did not accede to the Geneva Protocol until 1970, and Mongolia did not accede to the Protocol until 1968, so the convictions rest upon an assumption that the Geneva Protocol establishes a generally accepted norm binding in relations with Nonparty states. If so, the Soviets stand in violation of the norm established by the Geneva Protocol through use of chemical weapons in Afghanistan, and through aiding and abetting use against other Nonparties in the two decades since 1963.

(U) Because of the Soviet reservations in 1928, the Geneva Protocol does not specifically restrict Soviet use of chemical weapons against Nonparties. Because the reservations under the Protocol are so numerous and the practice of many states at variance with a prohibition on all uses of lethal chemical weapons, customary international law does not provide a clear prohibition. Thus, the Soviet practice of furnishing lethal nerve gases and chemicals derived from toxins for use by other nations against Protocol Nonparties systematically and recurrently evades the restraints of the Geneva Protocol.

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<sup>\*</sup>(U) See Lauterpacht, 2 Oppenheim's International Law, section 113 at p. 343 Note 2 (8th ed. 1955); M. Greenspan, The Modern Law of Land Warfare, at p. 358 Note 184 (1959); and M. Whiteman, 10 Digest of International Law at p. 458 (1968).

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(U) This pattern of arms control evasion is more than a technical circumvention of restrictions on permissible weapons employment. It strikes at the essential purpose of the Geneva Protocol, which was to assure that never again would lethal chemicals cause such pain and indiscriminate death as occurred in World War I. The Protocol sought to discourage first use of chemical weapons, and indirectly to remove incentives for possession of such weapons. The Soviet practice of first use of lethal chemical weapons in Afghanistan (jointly with the Afghanistan government), and supply of chemical agents for first use by Soviet allies defeats the central purpose of the Protocol. Indirectly, the use of lethal chemicals strengthens incentives of other states to prepare for chemical warfare. Thus, the evasion of Protocol limits on employment of lethal chemicals in war constitutes a further abuse of rights, and a material breach of one of the oldest arms control treaties in force. The Soviets test and evaluate in warfare chemical weapons that they could not use against the majority of nations that are Protocol Parties, by furnishing them for use against Protocol Nonparties.

(U) The Soviets avoid the illogic of convicting Japanese for Protocol violations (against a Nonparty state) and avoid the embarrassment of explaining their abuse of rights flowing from the supply of chemical weapons for first use against Protocol Nonparties. They do this by denying the facts of Soviet use of lethal chemical weapons in Afghanistan, and by denying that they are the source of toxin-derived chemical weapons used by other nations.

(U) Despite these denials, the Soviets are not content to let the evidence of their chemical warfare sponsorship accumulate: after the identification of the T-2 trichothecene mycotoxin found in Southeast Asia as the same toxin found in the Soviets' grain (millet) epidemic in the Orenburg region in 1943-1944, the Soviets discouraged their allies in Southeast Asia from admitting experts from a United Nations investigating team.

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## 8.1 (U) MATERIAL SOVIET BREACHES

SOVIET BREACHES OF BINDING ARMS CONTROL OBLIGATIONS  
HIGH CONFIDENCE IN RELIABILITY OF DATA INTERPRETATION

### NON-SALT MATTERS

1. (U) Nuclear Test Moratorium - Breach of Unilateral Commitment - 1961 through 1962.
2. (U) Offensive Weapons In Cuba - Breach of Unilateral Commitment - 1962.
3. (U) Limited Test Ban Treaty of 1963 - Violations - Extra-Territorial Venting - 1965 to present.
4. [REDACTED] Offensive Weapons In Cuba - Breach of Unilateral Commitment - Deploying Nuclear Missile Type Submarines In Cuban Territorial Waters, 1970 - 1974.
5. [REDACTED]
6. (U) Geneva Protocol of 1925 - Circumventions Defeating Object or Purpose - Transfer for First Use of Chemical Weapons Against Protocol Non-Parties - 1925 to Present; First Use by Soviet Forces - 1980 to 1982.
7. (U) Montreux Convention of 1936 - Violations - Transit of Turkish Straits by Aircraft Carriers - 1976 to Present.
8. (U) Helsinki Final Act of 1975 - Violations - Failure to Notify Final Act Parties Before Military Exercise 25,000 Troops, March 1981, and Failure to Provide Specified Elements of Notices, September 1983.
9. (U) Conventional Weapons Convention of 1981 - Violations of Customary International Law - Use of Booby-Trap Mines and Incendiary Devices Against Civilians In Afghanistan - 1981, 1982.
10. (U) Brezhnev-Declared Moratorium on Completion of SS-20 Launcher Positions - Breach of Unilateral Commitment - March 1982 to November 1983.

### SALT MATTERS

1. (U) Interim Agreement of 1972 - Circumvention Defeating Object or Purpose - Deployment of "Medium" ICBMs (SS-19 and SS-17) - 1972 to Present
2. (U) Interim Agreement, ABM Treaty and SALT II Treaty - Violations - Deliberate Concealment Impeding Verification - 1972 to Present.
3. (U) ABM Treaty - Violation - Development and Deployment of Non-Permanently Fixed ABM Radar Contrary to Article V (1) (Common Understanding C) - 1975.

4. [REDACTED]

5. [REDACTED]

6. [REDACTED]

7. [REDACTED]

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## 8.2 (U) FINDINGS

(U) A review of Soviet actions relative to arms control agreements and activities since 1958 has resulted in a collection of events which confirm the view that the Soviets have acted in a fashion which is to their advantage, independent of the nature of the constraints placed upon them by various international commitments.

(U) Most of these breaches of SALT and non-SALT agreements are first observed since SALT I in 1972. See Figure 13.

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(U) There have also been a number of Soviet activities which are of a suspicious nature and which may indicate other contraventions, but the data are inconclusive in these cases. The possible Soviet violation of the Threshold Test Ban is included in this category, as are activities which might indicate the existence of strategic missile capabilities and ABM capabilities banned by the agreements.

(U) In addition to these breaches there have been other Soviet actions which appear incompatible with their duty of good faith in the arms control process. These include: (1) material misrepresentations and failure to correct U.S. information errors during several negotiations; (2) disregard of at least seven U.S. unilateral declarations without indicating such intent at the time of the declaration or the time of the agreement; (3) denials of apparent breaches and failure to halt such breaches after notice from other Parties; (4) failure to take steps to produce evidence to clarify suspicious events; and (5) bad-faith assertions and accusations relative to U.S. compliance.

(U) The Soviets have also breached the 1973 agreement on principles for the prevention of nuclear war, and in SALT I appeared to have breached the May 1972 arms control principles that are not binding but that proclaim that neither party will seek unilateral advantage in arms control.

(U) The Committee has in its review identified 13 Soviet arms control commitments that do not presently appear to have been breached. Most of these agreements are either intended to reduce the risks of accidental war or to limit the spread of nuclear weapons.

(U) In contrast, the Committee find that Soviet arms control commitments involving limits on the quantity, quality, use or location of Soviet armaments are recurrently breached. Many of the breaches, both some known with high confidence and some only suspected, can have substantial and continuing significance.

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## GENERAL ADVISORY COMMITTEE ON ARMS CONTROL AND DISARMAMENT

Washington, D.C. 20451

### A QUARTER CENTURY OF SOVIET COMPLIANCE PRACTICES UNDER ARMS CONTROL COMMITMENTS:

1958 - 1983

#### SUMMARY

OCTOBER 1984

The General Advisory Committee on Arms Control and Disarmament (GAC) is a Presidential advisory committee established by the Arms Control and Disarmament Act of 1961. The members are private citizens appointed by the President with the advice and consent of the Senate. Its duties are to advise the President, the Secretary of State, and the Director of the Arms Control and Disarmament Agency on matters affecting arms control and disarmament and world peace. The current General Advisory Committee is bipartisan, and its members have been drawn from the scientific, academic, business, and national security communities. A number of its members have held high government positions in previous administrations. The General Advisory Committee provides advice and analysis that is independent from the bureaucratic process, with a point of view not tied to any particular institution.

## Introduction

In response to President Reagan's request and in accord with its statutory mandate,\* the President's General Advisory Committee on Arms Control and Disarmament has conducted an independent, comprehensive, one-year study of the long-term pattern of Soviet performance pertaining to arms control obligations arising from agreements and Soviet unilateral commitments. The classified report of that study, entitled A Quarter Century of Soviet Compliance Practices Under Arms Control Commitments: 1958-1983, was submitted to the President on December 2, 1983, with the Committee's unanimous endorsement, and has since been presented to senior administration officials and briefed to congressional committees and members upon their request. In accordance with Congressional Amendments to the Fiscal Year 1985 Defense Authorization Bill and in response to instruction from the White House, the General Advisory Committee has prepared this unclassified summary for transmittal to the Congress.

Using all available data concerning Soviet actions pertinent to such obligations, the Committee has determined that the Soviet Union's practices related to about half of its documentary arms control commitments have raised no questions regarding compliance. Soviet practices related to the other half, however, show material breaches -- violations, probable violations, or circumventions -- of contractual obligations.

Many of the compliance issues considered in the report have been reviewed by the U.S. Government, raised by the U.S. in the U.S.-Soviet Standing Consultative Commission, or brought to Soviet attention through diplomatic channels. The prevailing practice has been to consider each instance as an isolated event. The General Advisory Committee report is the first comprehensive U.S. study of all Soviet practices under arms control obligations since World War II and explores the cumulative pattern of pertinent Soviet conduct. Such a study, based on wide access to official information, has never before been done within the U.S. Government.

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\*As specified in Section 26 of the Arms Control and Disarmament Act of 1961 as amended. A list of members is attached.

Twenty-six documentary agreements were examined, along with numerous unilateral Soviet commitments. The sources of information included previous U.S. Government studies and documents, Soviet statements, and briefings by a wide range of U.S. Government officials and non-government experts. While the Committee is grateful for assistance from many quarters, the Committee acknowledges full responsibility for the content of its report and this summary.

The report used a conceptual framework based upon the norms of international law.\* According to these norms, treaty violations, circumventions which defeat the object and purpose of the treaty, and breaches of authoritative unilateral commitments all constitute material breaches and justify appropriate corrective measures. All types of material breaches are considered in the report, and the distinctions among them are noted.

The Committee has found that in most cases of alleged Soviet violations, the Soviets readily could have shown that the allegations were false -- if they had been false. This the Soviets have repeatedly failed to do, even though diplomatic and other channels have been used by the U.S. in seeking to clarify possible misconceptions.

Past analyses (other than the President's report to the Congress of January 23, 1984) have tended to invoke standards of proof applicable only when powers to collect and to inspect evidence, to subpoena witnesses, to take testimony under oath, to prosecute for perjury, etc., are available as legal tools.

The General Advisory Committee's report distinguishes between instances for which the evidence supports high confidence that material Soviet breaches have occurred, and those cases for which the evidence gives substantial reason for suspicion but is short of being conclusive.

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\*The Committee used the 1969 Vienna Convention on the Law of Treaties and decisions of the International Court of Justice as the principal legal bases for analyzing Soviet compliance behavior. (The United States is a signatory of the Vienna Convention; the Soviet Union is not. Neither nation has ratified it, but the Vienna Convention is regarded by both the U.S. and the Soviet Union as a codification of customary international law on treaty obligations, applicable to parties and non-parties alike.)

Categories used in the report are:

- o Areas of Apparent Soviet Compliance as determined within the limitations of U.S. verification capabilities.
- o Material Breaches ranging from highly probable to certain, including:
  - violations of an international obligation involving conduct contrary to a treaty or other binding international agreement;
  - breaches of authoritative unilateral commitments, whether written or oral, as well as unilateral commitments reciprocally negotiated; and
  - circumventions, or practices incompatible with the essential objects or purposes of agreements though not in explicit violation of their terms.
- o Suspicious Events indicative of possible material breaches.
- o Breaches of the Duty of Good Faith incumbent upon all nation states.

The following summarizes areas of apparent Soviet compliance:

Areas of Apparent Soviet Compliance

Accident Avoidance

- o Direct Communications Link/Hot Line Agreement of 1963, amended 1971
- o USSR-US Accidents Agreement of 1971  
(one violation, judged to be inadvertent)
- o USSR-United Kingdom Accidents Agreement of 1973

- o USSR-France Accidents Agreement of 1976

Nonproliferation

- o Nonproliferation Treaty of 1968
- o Guidelines for Nuclear Transfers, IAEA INFCIRC/209 of 1974
- o Guidelines for Nuclear Transfers, IAEA INFCIRC/254 of 1978
- o Protocol II of the Treaty of Tlatelolco (Latin American Nuclear Free Zone), USSR Ratification of 1979
- o Convention on the Physical Protection of Nuclear Material, USSR Ratification 1983

Other

- o Antarctic Treaty of 1959
- o Outer Space Treaty of 1967
- o Seabed Treaty of 1971
- o Convention on Environmental Modification of 1977

The following summarizes specific instances of probable to certain Soviet non-compliance, as determined by the Committee's study:

SOVIET VIOLATIONS, BREACHES OF UNILATERAL COMMITMENTS, AND CIRCUMVENTIONS DEFEATING THE OBJECT OR PURPOSE OF ARMS CONTROL AGREEMENTS: HIGH CONFIDENCE IN RELIABILITY OF DATA INTERPRETATION:

A. Non-SALT Matters:

1. Nuclear Test Moratorium: breach of unilateral commitment to suspend all nuclear testing--by resuming and continuing atmospheric nuclear testing, 1961-1962.

In September 1961, the Soviet Union breached its unilateral commitment to the nuclear test moratorium upon giving three days of notice and while conducting related treaty negotiations with the U.S. This breach resulted in the Soviet Union testing a total explosive yield of more than 300 megatons in the ensuing 13 months.

2. Offensive Weapons in Cuba: breach of unilateral commitment not to send offensive weapons to Cuba--by the covert shipment and deployment of offensive weapons, 1962.

The Cuban missile crisis was caused by the breach of the Soviets' unilateral commitment not to send offensive weapons to Cuba, 1962.

3. Limited Test Ban Treaty of 1963: numerous violations of the prohibition on conducting nuclear tests that cause extraterritorial venting of radioactive debris--by testing nuclear devices that vent radioactive debris beyond the borders of the Soviet Union, 1965 to present.

The Limited Test Ban Treaty not only prohibits testing of nuclear weapons under water, in the atmosphere, and in space, but also bans the venting of underground explosions that cause radioactive debris to cross national boundaries. Since 1965, the Soviet Union has repeatedly allowed such radioactivity to vent in connection with many of its nuclear weapon tests. U.S. experience has shown that care can prevent such venting, and that Soviet violations of this treaty could reasonably have been prevented.

4. Offensive Weapons in Cuba: breach of unilateral commitments of 1962 and 1970 not to place offensive weapons in Cuba-- by deploying and tending Soviet nuclear missile-carrying submarines in Cuban territorial waters, 1970-1974.

After the termination of the Cuban missile crisis, the record shows the Soviets did commit themselves not to base offensive weapons in Cuba if the U.S. refrained from invading Cuba. Soviet tending and operation of nuclear weapons submarines in Cuban territorial waters from 1970 to 1974 breached this unilateral commitment.

5. Biological Weapons Convention of 1972: violations of provisions requiring the destruction or diversion to peaceful purposes of all biological agents, toxins, weapons, equipment, and means of delivery--by the retention of facilities, continued biological munitions production, storage, transfer, and use, 1972 to present.

The Soviets' biological weapons program continued during the negotiating, signing, ratification, and entry into force of this treaty.

6. Geneva Protocol of 1925: circumventions defeating the object and purpose of treaty provisions (a) by the transfer of chemical weapons and toxin weapons to their Vietnamese clients with subsequent use in Southeast Asia, 1975-1982; and (b) by Soviet use of lethal agents in Afghanistan, 1980-1982.

The Soviet reservations relative to the ratification of the Geneva Protocol of 1925, claiming exemption for first use against protocol Non-parties, might be put forward to explain the Soviet use of chemical and toxin weapons in Afghanistan, Laos, and Kampuchea. Such circumventions nevertheless defeat the object and purpose of banning first use of lethal chemical or toxin weapons. The Soviets have not asserted this or other legal defense of their actions, but rather they have denied the facts of the matter, falsely claiming no such use.

7. Montreux Convention of 1936: violations of the prohibition on the transit of aircraft carriers through the Turkish Straits--by the recurring transit of Soviet KIEV-class aircraft carriers, 1976 to present.

The Soviets additionally have under construction at their Black Sea shipyards an even larger aircraft carrier that will also violate the Montreux Convention upon passage to the open seas.

8. Helsinki Final Act of 1975: violations of the commitment to notify Final Act Parties and provide specified data 21 days before conducting exercises of more than 25,000 troops--by undertaking major military troop maneuvers without providing specified information concerning the maneuvers, March and September 1981, and June 1983.

9. Conventional Weapons Convention of 1981: violations of customary international law--by failing to observe the Treaty between signing and ratification--by the use of booby-trap mines and incendiary weapons against civilians in Afghanistan, 1981-1982.

10. The March 16, 1982, Brezhnev-declared Moratorium (further clarified in May 1982) on the completion of SS-20 ballistic missile launchers in the European part of the U.S.S.R.: breach of unilateral commitment--by the continued construction of SS-20 bases and facilities in the European part of the Soviet Union, March 1982 to November 1983.

On March 16, 1982, President Brezhnev committed the Soviet Union to a moratorium on the completion of SS-20 launch facilities in the European part of the Soviet Union. In May 1982, President Brezhnev specified "an end to the construction of launching positions" as a part of the moratorium. The continued construction and completion of SS-20 sites in 1982 and 1983 violated that unilateral commitment.

#### B. SALT Matters

1. The SALT I Interim Agreement on Offensive Arms, 1972: circumvention defeating the stated U.S. object and purpose of limiting the throwweight of Soviet ICBMs and breach of the 1972 Principles Agreement--by the deployment of the large throwweight SS-19 and SS-17 ICBMs, 1972 to present.

The SALT I Interim Agreement prohibits the conversion of launchers for light ICBMs into launchers for heavy ICBMs. The intent of this provision was to limit the growth of ICBM throwweight and its resultant potential counterforce capability. The Soviet conversion of launchers for the light SS-11 into launchers for the SS-17 and SS-19 ICBMs circumvents this provision, thereby defeating an essential stated U.S. object and purpose in entering into the agreement. This action widened the disparity between Soviet and U.S. strategic missile throwweight and increased significantly the threat to U.S. ICBMs.

2. The SALT I Interim Agreement on Offensive Arms, 1972, Article V(3); ABM Treaty of 1972, Article XII(3); SALT II Treaty of 1979, Article XV(3): violation of the provisions not to use deliberate concealment measures which impede verification of compliance by national technical means--by numerous deliberate concealment activities that impede verification of SALT Agreements, 1972 to present.

The SALT I agreements and the exchange of commitments made concerning SALT II bind the U.S. and the Soviet Union not to use deliberate concealment measures which impede verification, by national technical means, of compliance with provisions of these agreements. However, during the decade of the 1970s, there has been a substantial increase in Soviet arms control-related concealment activities. An example of Soviet concealment activities that clearly impede U.S. verification efforts is the encryption of the SS-X-25 missile telemetry, which impedes the U.S. ability to determine the characteristics of this missile, including characteristics controlled by SALT II. (This issue is further discussed below.) A second example of prohibited deliberate Soviet concealment activity is connected with the probable continued deployment of the SS-16 ICBM at Plesetsk. The present Soviet concealment activities constitute a continuing violation of binding commitments.

3. The ABM Treaty of 1972: violation of the prohibition on the development and deployment of non-permanently fixed ABM radar [Article V(1) Common Understanding C]--by the development and deployment of such a radar on the Kamchatka Peninsula in 1975, and by continuing developmental activities between 1975 and the present.

The ABM Treaty prohibits the development, testing and deployment of mobile ABM components. During the negotiations the U.S. and the Soviet delegations agreed (on January 29, 1972 and April 13, 1972 respectively) that this provision would rule out deployment of ABM launchers and radars which "were not permanent fixed types." This agreement constitutes a binding interpretation of the treaty.

4. SALT I Interim Agreement of 1972, Protocol: violations of the numerical launcher limits--by the deployment of DELTA submarines exceeding the limit of 740 launch tubes on modern ballistic missile submarines without dismantling sufficient older ICBM or SLBM launchers, March 1976 to October 1977.

The SALT I Interim Agreement required the Soviets to dismantle ICBM launchers to compensate for modern SLBM launchers in excess of 740. Following the sea trials of new DELTA-class submarines in 1976 and 1977, the Soviets did not dismantle a sufficient number of launchers to compensate for deployments of their new submarine ballistic missile launchers. Upon U.S. inquiry, the Soviets admitted this excess, but failed to accelerate their dismantling activities.

The Committee has reviewed the data relative to this matter, and has concluded that the violation was probably not inadvertent, but rather was part of a deliberate Soviet effort to challenge U.S. arms control verification capabilities.

5. SALT II Treaty of 1979: probable violations of the provision banning the production, testing, and deployment of the SS-16 mobile ICBM--by the probable continued deployment of SS-16 ICBMs at Plesetsk, and by falsifying the SALT II data base identifying specific systems and their numbers covered by the Treaty, 1979 to present.

The SALT II Treaty prohibits the deployment of the SS-16 ICBM (Soviet designation - RS-14). Deliberate Soviet concealment which impedes verification of compliance by U.S. national technical means has been associated with the probable SS-16 deployment. Nevertheless, the SS-16 apparently has been maintained at Plesetsk since the signing of the Treaty, in violation of Soviet commitments relative to that treaty. The probable existence of the SS-16 at Plesetsk also shows that the Soviets deliberately falsified the SALT II data base concerning the number of ICBM launchers. This data base was to be corrected semi-annually; however, the Soviets have not corrected it.

6. SALT II Treaty of 1979: probable violation of Article IV (9) which limits each side to one new type ICBM--by the testing of a second new type ICBM, February 1983 to present; violation of the anti-MIRV provision of Article IV(10)--by testing a lighter warhead than the Treaty allows; and violation by the deliberate concealment (encryption) of data, contrary to Article XV(3), May 1983 to present.

SALT II allows each party to develop only one new type of ICBM. Since the Soviets have designated the SS-X-24 as that one new type, the SS-X-25, which appears to be another new type of ICBM, violates the Treaty. The Soviets, however, claim that this missile is a modification of the SS-13, an ICBM developed in the mid-60s.

While common sense judgment would hold a 1980's high technology missile to be new, the extensive encryption of the flight telemetry impedes U.S. understanding of the missile. U.S. analyses, however, indicate that it is very likely that the missile fits the Treaty definition of a new type of ICBM.

7. The SALT I ABM Treaty of 1972: violation of Article VI(b) limiting the location and orientation of radar deployment-- by the construction of a large, phased array radar not located on the periphery of the Soviet Union and not oriented outward, 1981 to present.

The ABM Treaty restricts the deployment of early warning radars to sites on the periphery of the national territory; such radars must also be oriented outward. The construction and orientation of such a radar near the city of Krasnoyarsk, an interior site, violate this provision. The design of the facility is substantially identical to another radar declared by the Soviets to be an early warning radar. The Soviets, however, have stated that the Krasnoyarsk radar is a "space tracking" radar. All early warning radars can also perform limited "space tracking" functions, and while this radar is no exception, its location and geometry are inappropriate for a dedicated space tracking radar.

#### Suspicious Soviet Activities Related to Arms Control Commitments

The Committee also reviewed fifteen areas of Soviet activity that raise suspicion of further material breaches of arms control agreements. In these cases the data neither confirm that a material breach has occurred nor eliminate suspicion concerning non-compliance. Most of these suspicious activities have been connected with Soviet offensive forces and may indicate the existence of either an offensive force structure in excess of that

allowed by various agreements, or offensive weapons with greater capability than allowed by agreements. In addition, several events are indicative of further violations or circumventions of the ABM Treaty, and a review of Soviet testing of nuclear explosives strongly suggests that the Soviets may have repeatedly violated the Threshold Test Ban Treaty. Moreover, other Soviet activities may relate to obligations under the provisions of one or more accords addressing non-interference with national technical means of verification of compliance. Each of these activities may indicate Soviet plans and efforts to develop further military capabilities of considerable significance.

#### Breaches of the Duty of Good Faith

Customary international law, as codified by the Vienna Convention of the Law of Treaties and by decisions of the International Court of Justice, obligates nations to act in good faith in their dealings with other nations. The Committee reviewed a number of Soviet actions which, while not material breaches of binding agreements, were breaches of that duty of good faith. Some Soviet actions in this category have been misrepresentations made during arms control negotiations or after binding agreements came into effect. An example of such misrepresentation concerns the erroneous data provided by Soviet negotiators at the Mutual Balanced Force Reduction negotiations in Vienna concerning Warsaw Pact troop numbers. This material misrepresentation has been a major barrier in these negotiations.

The Soviets have also disregarded all six unilateral declarations made by the U.S. in SALT I to clarify constraints upon Soviet forces under that agreement. While unilateral declarations do not bind the other party, Soviet unwillingness either to concur promptly or to take exception to such U.S. statements constitutes a breach of the duty of good faith in negotiations.

Further, the Soviets have demonstrated a lack of good faith by their largely non-responsive posture concerning compliance concerns brought to their attention by the U.S. Government over a span of nearly two decades.

### Patterns in Soviet Compliance Practices

The Soviet Union's actions since 1958 concerning arms control agreements demonstrate a pattern of pursuing military advantage through selective disregard for its international arms control duties and commitments.

The Committee found recurring instances of Soviet conduct involving deliberate deception, misdirection, and falsification of data during negotiations. In addition to the military value accruing to the Soviets from individual violations, the overall pattern of Soviet practices could have several possible motivations:

(1) The Soviets may be indifferent to U.S. objections and responses to their non-compliance with arms control treaties.

(2) The Soviets may be attempting to weigh the effectiveness of U.S. verification capabilities.

(3) The Soviets may be testing U.S. willingness to reach definitive conclusions concerning Soviet arms control compliance.

(4) The Soviets may be testing U.S. and international resolve and responses to their arms control behavior.

(5) These activities, as well as the other concealment activities, may be intended to raise the level of U.S. confusion in order to hide more serious covert activities, such as development and deployment of a ballistic missile defense system.

Soviet denial activities significantly increased over the last quarter century and today are challenging U.S. verification capabilities despite improvements in U.S. verification technology. Deliberate Soviet efforts to counter U.S. national technical means of verification strongly indicate a Soviet intention to persevere in circumventing and violating agreements.

U.S. verification capabilities have not deterred the Soviets from violating arms control commitments. Furthermore, the near total reliance on secret diplomacy in seeking to restore Soviet compliance has been largely ineffective. The U.S. record of raising its concerns about Soviet non-compliance exclusively in the Standing Consultative Commission and through various high level

diplomatic demarches demonstrates the ineffectiveness of this process. In contrast, the international participation in verifying the use of chemical and toxin weapons and the disclosure to the public of such use may have contributed to limiting the extent of these prohibited Soviet activities.

The United States has never had a long-range, comprehensive strategy to deter and if necessary initiate measures to offset Soviet arms control non-compliance. Development of a U.S. arms control policy that anticipates Soviet behavior in light of the historical compliance record was beyond the scope of the Committee's review. Nevertheless, the development of means to safeguard the U.S. against Soviet non-compliance is essential if the arms control process is to avoid being further undermined, if it is to have favorable long-term prospects, if it is to build trust among nations, and if it is to contribute to U.S. national security and the cause of peace.

U.S. efforts to obtain Soviet compliance have been most effective when reliable information about compliance has been presented to the American people and to the world. The strength of America's democracy lies in an informed citizenry. Fundamental to this nation's effort to negotiate equitable and verifiable arms control agreements is an American public informed on the critical issue of arms control compliance.



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Washington, D.C. 20451

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