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United States Senate

COMMITTEE ON FOREIGN RELATIONS

WASHINGTON, DC 20510-6225

29466355
C0139

February 3, 1999

The President
The White House
Washington, DC 20500

Dear Mr. President:

I confess great concern about the direction in which negotiations relating to the Treaty on Conventional Armed Forces in Europe (CFE) are headed. As you are aware, of course, the Russian government is demanding adaption of the CFE Treaty prior to NATO's enlargement. Russia insists that failure to do so will be a breach of the Treaty. These demands are ludicrous.

For the good of the treaty, and for the sake of critical U.S. security interests, your Administration must avoid a last-minute push to agree on a statement of principles for the adaptation talks. Instead, your Administration should reject the legally-flawed interpretation of the Russian government and suspend negotiations on CFE issues until after the April 24, 1999, NATO Summit.

Rushing to conclude a new CFE Treaty will be a missed opportunity to address U.S. security concerns. The Senate made clear in Conditions (1), (2), (11), and (12) of the resolution of ratification for the CFE Flank Agreement that the U.S. should pursue "*the immediate withdrawal of all armed forces and military equipment under the control of the Russian Federation deployed on the territory of any State Party without the full and complete agreement of that State Party.*"

I am confident, Mr. President, that you share in the widespread frustration with Russia's failure to withdraw from illegally-occupied territory in Moldova and Georgia. Indeed Russia has retrenched on the Moldovan issue (despite the withdrawal agreement negotiated in 1994) and has engaged in blatant efforts to destabilize the democratic Georgian government. Any U.S. effort to conclude CFE negotiations without having brokered the withdrawal of Russian troops from these countries will be regarded by many in the Senate as a failure to discharge the principle duty assigned the Administration in the CFE Flank Document resolution.

Undue haste in concluding a new CFE Treaty will be a missed opportunity to use arms control to rectify the dramatic military imbalances used by Russia to bully and undermine its neighbors. Russia is the only CFE Treaty Party which has not complied with the essential provisions of the Flank Agreement (despite the new limits which were revised upwards specifically to accommodate Russian demands to mass more equipment in the Caucasus region). I am aware of no proposal in the present diplomatic discussions designed to reduce Russian military capabilities in the Flank. But I am aware of numerous

suggestions which would result in an increased Russian military presence along its borders. Frankly, there is absolutely no merit in such an approach.

I recall the Administration's urging the Senate to act quickly on the Flank Agreement so that the issue would be "off the table" during the adaptation talks. Despite assurances by the Administration that the Flank limits would not be renegotiated, discussions are now underway to change these limits yet again.

This, Mr. President, is inconsistent with the understanding shared by the Administration and the Senate at the time of advice and consent to the Flank Agreement. I feel obliged to caution that any effort to pressure countries on Russia's periphery to accede to a hastily-negotiated adaptation agreement (as was done in 1996) will not set well with the Senate.

As far as squandered arms control opportunities go, I am one of many who are extremely disappointed with the Administration's failure to disabuse Russia of its notion that military stationing abroad can be justified under the "temporary deployments" provisions of the CFE Treaty. In Condition (11) of the CFE Flank Agreement Resolution the Senate made clear to the Administration -- and required the Administration to make clear to all other CFE States Parties -- that the United States would "vigorously reject any effort" to so use this treaty right. Yet, no sooner had the Flank Document been ratified, when the Administration muddied the waters, tabling a proposal using the same term -- "temporary deployment" -- to refer to NATO military missions conducted within the territory of the new NATO members. An adapted CFE Treaty which so uses this term will completely undermine the Senate's intent as expressed in Condition (11).

Additionally, I am greatly concerned that, in an effort to accommodate Russian concerns over NATO expansion, the Administration may be willing to trade away NATO's operational flexibility. The misuse of the "temporary deployment" clause is a case in point. So, too, is the seeming willingness to agree to a series of national and territorial ceilings for equipment which leave little headroom for the presence of NATO forces.

Mr. President, Declaration (4) of the Senate-approved resolution of ratification on NATO enlargement states that "Poland, Hungary, and the Czech Republic, in becoming NATO members, will have all the rights, obligations, responsibilities, and protections that are afforded to all other NATO members." Any CFE obligation that would limit the defensibility of the new NATO members (e.g., the proposal for a "Stabilized Area") is inconsistent with the binding directive of the Senate. Needless to say, such limitations would mitigate against the approval of any future NATO applicants as well.

Finally, I must caution that your repeated assertion that Russia is today a party to the 1972 Anti-Ballistic Missile Treaty is absolutely incompatible with the certification you made under Condition (9) of the resolution of ratification on the CFE Flank Agreement. Your refusal to reconsider this assertion, and its legal implications, will leave the Senate little choice but to judge the resolution of ratification on the CFE Flank Agreement defective under U.S. law. It is hardly appropriate for the United State to race to conclude an adapted CFE treaty when, at the same time, your Administration's legal manipulations regarding the ABM Treaty have called into question the validity, insofar as the United States is concerned,

of an essential element of that treaty.

In light of these concerns, I urge that your Administration refrain from a last-minute push to conclude a new CFE Treaty prior to the upcoming Washington Summit. A more considered approach thoroughly addressing the Senate's concerns is absolutely essential to secure support for the adapted treaty.

Sincerely,

A handwritten signature in black ink, reading "Jesse Helms". The signature is written in a cursive, slightly stylized font. The first name "Jesse" is written with a large, looping 'J' and the last name "Helms" follows in a similar cursive style.

JESSE HELMS

THE WHITE HOUSE
WASHINGTON

February 22, 1999

29466355

0957

CO139

ACTION

MEMORANDUM FOR THE PRESIDENT

FROM: SAMUEL BERGER
LARRY STEIN

SUBJECT: Letter from Senator Helms on CFE/ABM

Purpose

Respond to Senator Helms on the CFE and ABM Treaties.

Background

Senator Helms wrote expressing concerns about positions the United States has taken in the CFE adaptation negotiations. He is also suspicious that we might make an unwise "last-minute" push to conclude an adapted treaty or agree on a statement of principles prior to the Washington summit to appease the Russians. He expresses concern regarding the position the United States has taken regarding Russia's status as a party to the ABM Treaty.

Your reply explains that the United States is aiming to conclude CFE treaty adaptation by the OSCE summit in November, and that we will not negotiate to artificial deadlines. You also outline how our positions in the negotiations should not be cause for the concerns that Senator Helms has expressed. Finally, you reassure him that you will submit the ABM Treaty MOU on Succession to the Senate, as promised in the CFE Flank Resolution of Ratification, but reiterate our legal view that in the interim, the ABM Treaty remains in force.

RECOMMENDATION

That you sign the letter at Tab A.

Attachments

Tab A Reply to Senator Helms
Tab B Incoming Correspondence

cc: Vice President
Chief of Staff

~~99 FEB 22 PM 4:31~~

99 FEB 22 PM 6:36

Phil wants
to give this
back to NSC
ASAP

THE WHITE HOUSE
WASHINGTON

Dear Mr. Chairman:

Thank you for your letter regarding the Conventional Armed Forces in Europe (CFE) Treaty.

I am committed to adapting CFE in a way that produces a sound agreement. An adapted Treaty should reflect changes in the European security environment since the Treaty was signed in 1990, while fully protecting U.S. and alliance security interests. That said, let me make it clear that we do not accept the Russian argument that NATO enlargement will violate the Treaty.

You have expressed concern that the Administration might make a last-minute push to conclude an adapted CFE Treaty or agree on a statement of principles prior to the Washington summit. Let me reassure you about our intentions. At last September's Moscow Summit, I set forth the goal of concluding an adapted Treaty by the time of the 1999 OSCE summit, now scheduled for this coming November. In December 1998, at the OSCE meeting of Foreign Ministers in Oslo, all CFE states adopted that goal, including Russia. The Ministers also recognized that if this goal were to be accomplished, Parties would need to try to resolve the key outstanding issues in the first months of this year. We should not hesitate to secure progress when it is in our interest to do so, but I want to emphasize that these are goals, not deadlines.

I also want to underscore that, as the negotiations have progressed, we have kept very much in mind the conditions to the Resolution of Ratification to the 1996 Flank Agreement and have maintained a regular dialogue with your staff on these issues. During our consultations on February 11, we briefed your staff on recent progress by Turkey and Russia in reaching an agreement in principle on many of the main elements that would apply to the flank area under an adapted treaty. These understandings represent important progress and, if elaborated, will serve our

objective of reinforcing flank states' sovereignty and independence, particularly with respect to the New Independent States.

In parallel with the CFE negotiations, we are pursuing the issue of Russian force withdrawals from Moldova. In December, with our strong support, all OSCE Foreign Ministers agreed on a number of steps that could facilitate resolution of this issue, including the elaboration within six months of an equipment withdrawal schedule. As part of the expanded NIS threat reduction initiative, this year we have requested funding from the Congress that could help with the costs related to Russian troop withdrawals from neighboring countries.

You have also raised concern about how CFE will affect our new NATO allies. We will not accept an outcome in the negotiations that would create "second class" status for new members. To the contrary, NATO has proposed a treaty structure that will ensure the necessary military flexibility for an enlarged alliance. This flexibility will not be dependent on "headroom" between a state's actual equipment holdings and its territorial ceiling, but on agreement to provisions for temporarily exceeding those ceilings, which will apply uniformly to all states outside the flank area. We have made clear in the negotiations that these temporary deployments will not be used as a substitute for permanent stationing.

Finally, with respect to the ABM Treaty, as stated in my certification made under Condition (9) of the Resolution of Ratification to the CFE Flank Agreement, "I will submit to the Senate for advice and consent to ratification any international agreement ... that would add one or more countries as States Parties to the ABM Treaty, or otherwise convert the ABM Treaty from a bilateral treaty to a multilateral treaty." Consistent with this certification, the Memorandum of Understanding (MOU) on ABM Treaty Succession, which was signed on September 26, 1997, will be provided to the Senate for its advice and consent. While I respect the fact that the MOU will not enter into force without the advice and consent of the Senate, there is no question that the ABM Treaty has continued in force following the dissolution of the Soviet Union. If the Senate were to fail to approve the MOU, ambiguity would remain about the extent to which states other than Russia are Parties. The ABM Treaty, however, would continue in force.

Again, thank you for writing. I look forward to working with you on these important issues.

Sincerely,

A handwritten signature in black ink, appearing to read "Bill Clinton". The signature is fluid and cursive, with a small dot above the "i" in "Clinton".

The Honorable Jesse Helms
Chairman
Committee on Foreign Relations
United States Senate
Washington, D.C. 20510

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Sincerely,

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JESSE HELMS

..... 3 pages

NSC PACKAGE

2-22-99
(date)

RM:

OK FOR SIGNATURE PER **PHIL CAPLAN/SEAN MALONEY**.

RETURN ALL LETTER(S) AND ORIGINAL MEMO(S) TO
STAFF SECRETARY'S OFFICE.

bb
(initials)

Re 2/22/98 memo