

Avoiding and Managing Hazardous Incidents in the Euro-Atlantic Area: a New Plan of Action

ANNEX: Main elements of the relevant agreements

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<u>MEASURES FOR AVOIDING MILITARY INCIDENTS – RESTRAINT¹</u>	
<p>AGREEMENT ON THE PREVENTION OF INCIDENTS ON AND OVER THE HIGH SEAS²</p>	<p>Parties commit to:</p> <ul style="list-style-type: none"> • ‘Remaining well clear to avoid risk of collision’ by maintaining course and speed under the Rules of the Road (the 1972 Collision Regulations). • ‘Avoiding manoeuvring in a manner which would hinder the evolution of the formations’ of the other party. • Avoiding manoeuvres in areas of heavy sea traffic where internationally recognized traffic separation schemes are in effect. • Requiring surveillance ships to ‘stay at a distance which avoids the risk of collision’ and avoid ‘embarrassing or endangering the ships under surveillance’. • ‘Not stimulating attacks by aiming guns, missile launchers, torpedo tubes’, ‘not launching objects toward, or illuminating the bridges of the other party ships’. • Not hindering ships of the other party engaged in launching or landing aircraft as well as ships engaged in replenishment. • Requiring aircraft commanders to use the greatest caution and prudence in approaching aircraft and ships of the other party and not permitting stimulated attacks against aircraft of ships, performing aerobatics over ships, or dropping hazardous objects near them. • <i>‘Ships of the Parties shall not use lasers in such a manner as to constitute a hazard to the health of the crew or cause damage to the equipment on board a ship or aircraft of the other Party.’³</i> • <i>‘Ships of the Parties shall not launch signal rockets in the direction of the ships or</i>

¹ *Neither the Vienna Document nor the Open Skies Treaty contain such measures*

² The provisions listed below are taken from the US-USSR INCSEA agreement. The texts of the other agreements follow the formulation provided in the table with minor variations in wording. Any major differences are indicated.

³ This provision is not included in the US-Russia, UK-Russia nor Germany-Russia INCSEA agreements. It was included in all subsequent INCSEA agreements.

<p>AGREEMENT ON THE PREVENTION OF DANGEROUS MILITARY ACTIVITIES⁵</p>	<p><i>aircraft of the other Party.</i>⁴</p>
	<p>Parties commit to avoiding the following provocative activities of armed forces and personnel:</p> <ul style="list-style-type: none"> • Entering of the armed forces of one Party into the national territory of the other Party 'brought about by force majeure or as a result of unintentional actions'. • Use of 'a laser in a manner that its radiation could cause harm to personnel or damage equipment'. • 'hampering the activities of the personnel and equipment of the armed forces of the other Party in a Special Caution Area'. • Interfering with 'command and control networks'. <p>Further, they shall:</p> <ul style="list-style-type: none"> • 'Exercise great caution and prudence' and take 'the necessary measures directed towards preventing dangerous military activities'. • Attempt to notify the other Party if a Party intends to use a laser that could cause harm to personnel or damage to equipment. • Establish communications and seek termination if any laser use could cause harm to personnel or damage equipment. If the personnel of the armed force of the Party having received a notification are actually using a laser, they shall investigate the relevant circumstances. If the laser could cause harm, they shall terminate its use. • Designate a region as Special Caution Area (SCA) where parties shall 'establish and maintain communications' in accordance with Annex I and 'undertake other measures' that could be agreed at a later point to prevent dangerous military activities. • 'When a Party detects interference with their command and control networks' that could cause harm or damage, they may inform the relevant personnel of the other Party. If the personnel of the Party having received such a notification establish that the interference is caused by their activities, 'they shall take expeditious measures to terminate the interference'.

⁴ Ibid.

⁵ The provisions are taken from the US-Russia DMA. The texts of the other agreements follow the formulation provided in the table with minor variations in wording.

MEASURES FOR AVOIDING MILITARY INCIDENTS – COMMUNICATION	
AGREEMENT ON THE PREVENTION OF INCIDENTS ON AND OVER THE HIGH SEAS	<p>Parties commit to:</p> <ul style="list-style-type: none"> • Using signals prescribed by the Rules of the Road, the International Code of Signals or mutually agreed signals for ‘signalling operations and intentions’.⁶ • Informing vessels when submarines are exercising near them using the appropriate signals prescribed by the International Code of Signals. • Raising proper signals concerning intent to begin launching or landing aircraft. • Displaying navigations lights in darkness (aircraft). • Providing through established radio broadcasts information or warning to mariners no less than 3 to 5 days in advance. • Increasing the use of informative signals contained in the International Code of Signals.
AGREEMENT ON THE PREVENTION OF DANGEROUS MILITARY ACTIVITIES	<p>The Parties commit to:</p> <ul style="list-style-type: none"> • Establishing and maintaining communications at the following levels: ‘between Task Force commanders of both Parties at the SCAs, ship commanders of both Parties, and aircraft commanders and air traffic control or monitoring of the other Party. • Establishing communication with specific frequencies: <ul style="list-style-type: none"> • between aircraft or between an aircraft and an air traffic control or monitoring facility: on VHF band frequency 121.5 MHz or 243.0 MHz, or on HF band frequency 4125.0 KHz (alternate 6215.5 KHz); after initial contact is made, the working frequency 130.0 MHz or 278.0 MHz, or 4125.0 KHz should be used; • between ships and ship-to-shore: on VHF band frequency 156.8 MHz, or on HF band frequency 2182.0 KHz; • between a ship and an aircraft: on VHF band frequency 121.5 MHz or 243.0 MHz; after initial contact is made, the working frequency 130.0 MHz or 278.0 MHz shall be used; • Between ground vehicles or ground units: on VHF band frequency 44.0 MHz (alternate 46.5 MHz), or on HF band frequency 4125.0 KHz (alternate 6215.5 KHz). • Communicating using signals and phrases according to the International Code of Signals of 1965 or specially agreed Special signals for ship-to-ship and ship-to-shore communications. • Using signals and phrases according to the Rules of the Air, Annex 2 to the 1944 Convention on International Civil Aviation for aircraft-to-aircraft communication. • (When aircraft come into visual contact) monitoring the frequency 121.5 MHz or 243.0 MHz. If it is necessary to exchange information, but communications in a common language are not possible, attempts shall be made to convey essential information and acknowledgment of instructions by using phrases. If radio communication is not possible, then visual signals shall be used.
VIENNA DOCUMENT⁷	<ul style="list-style-type: none"> • Participating States will, consult and co-operate with each other about any unusual and unscheduled activities of their military forces outside their normal peacetime locations. • The participating State which has concerns about such an activity may transmit a request for an explanation stating the cause, or causes, of the concern and, to the extent possible, the type and location, or area, of the activity. • The reply will be transmitted within not more than 48 hours giving answers to questions raised, as well as any other relevant information. • The requesting State, after considering the reply provided, may then request a meeting with the responding State to be convened within not more than 48 hours.
OPEN SKIES TREATY	<p>The chief flight monitor shall have the right:</p> <ul style="list-style-type: none"> • to communicate with air traffic control authorities, as appropriate, and to help relay and interpret communications from air traffic control authorities to flight crew and from the flight crew to the air traffic control authorities about the conduct of the observation flight; • For this purpose, the chief flight monitor shall be permitted to make external radio

⁶ This is the Internationally-recognised system of signals which vessels use to communicate while at sea.

⁷ The provisions below are part of the ‘Mechanism for consultation and cooperation as regarding unusual military activities’, Clause 16 of the Vienna Document. They do not specifically address incidents, but may be used in order to stop an unusual activity before it escalates into a serious incident. As mentioned previously, it only applies ex post facto.

	communications using the radio equipment of the observation aircraft.
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MEASURES FOR AVOIDING MILITARY INCIDENTS – INCIDENT RESPONSE

<p>AGREEMENT ON THE PREVENTION OF INCIDENTS ON AND OVER THE HIGH SEAS</p>	<ul style="list-style-type: none"> • The Parties shall exchange appropriate information concerning instances of collision, incidents which result in damage, or other incidents at sea between ships and aircraft of the Parties. • The United States Navy shall provide such information through the Soviet Naval Attaché in Washington and the Soviet Navy shall provide such information through the United States Naval Attaché in Moscow.⁸
<p>AGREEMENT ON THE PREVENTION OF DANGEROUS MILITARY ACTIVITIES</p>	<p>Parties agree to/ that:</p> <ul style="list-style-type: none"> • 'take measures to ensure expeditious termination and resolution by peaceful means ... of any incident that might arise as a result of dangerous military activities'. • 'exchange appropriate information on instances of dangerous military activities or incidents' • 'The Chairman of the Joint Chiefs of Staff of the United States shall convey information referred to in paragraph 2 of this Article through the Defense Attaché of the Union of Soviet Socialist Republics in Washington, D.C. The Chief of the General Staff of the Armed Forces of the Union of Soviet Socialist Republics shall convey such information through the Defense Attaché of the United States in Moscow.'⁹ • 'Should an incident encompassed by this Agreement occur in the territory of an Ally of a Party, that Party shall have the right to consult with its ally as to appropriate measures to be taken'. <p>Procedures for the peaceful resolution of situations when a Party enters into the national territory of the other Party:</p> <ul style="list-style-type: none"> • they shall continuously attempt to establish and maintain communication with personnel of the armed forces of the other Party, • each Party shall provide the personnel of the other Party (which is entering or about to enter national territory) appropriate instructions as to subsequent actions and assistance; • the personnel in the national territory of the other Party shall take into consideration any instruction that are appropriate to the existing circumstances and shall either depart the national territory or proceed to a designated location; • upon arrival at the location designated by personnel of the armed forces of that other party, each Party shall be: <ol style="list-style-type: none"> a. Accorded an opportunity to contact their Defense Attaché or consular authorities as soon as possible; b. Cared for properly and their equipment protected; and c. Assisted in repairing their equipment in order to facilitate their departure from the national territory, and in departing at the earliest opportunity. <p>These shall apply regardless of whether that other Party has been made aware of the circumstances of such entry.</p>
<p>VIENNA DOCUMENT</p>	<ul style="list-style-type: none"> • Participating States will co-operate by reporting and clarifying hazardous incidents of a military nature within the zone of application for CSBMs. • Each participating State will designate a point to contact in case of such hazardous incidents and will so inform all other participating States. • In the event of such a hazardous incident the participating State whose military forces are involved in the incident should provide the information available to other participating States in an expeditious manner. Any participating State affected by such an incident may also request clarification as appropriate. • Matters relating to information about such hazardous incidents may be discussed by participating States in the FSC, or at the Annual Implementation Assessment Meeting.

⁸ The text of this provision is taken from the 1972 INCSEA agreement between the US and the USSR so the reference to the appropriate military commanders applies to it specifically. For the remaining ten agreements, referenced are their respective military figures.

⁹ The text of this provision is taken from the 1989 Agreement between the US and the USSR so the reference to the appropriate military commanders applies to it specifically. For the remaining agreements with Canada, Greece and the Czech Republic, referenced are their respective military figures.

OPEN SKIES TREATY

Parties agree that:

- In the event of an aviation accident, search and rescue operations shall be conducted by the observed Party in accordance with its own regulations and procedures for such operations.
- Investigations of an aviation accident or incident shall be conducted by the observed Party, with the participation of the observing Party, in accordance with the ICAO recommendations set forth in Annex 13 to the Convention on International Civil Aviation ("Investigation of Aviation Accidents") as revised or amended and in accordance with the national regulations of the observed Party.¹⁰
- In the event that the observation aircraft is not registered with the observed Party, at the conclusion of the investigation all wreckage and debris of the observation aircraft and sensors, if found and recovered, shall be returned to the observing Party or to the Party to which the aircraft belongs, if so requested.

¹⁰ International Civil Aviation Organization (ICAO), The convention can be found here: <http://www.icao.int/publications/pages/doc7300.aspx>, Accessed 11/01/2016

MEASURES FOR AVOIDING MILITARY INCIDENTS – MONITORING IMPLEMENTATION¹¹

AGREEMENT ON THE PREVENTION OF INCIDENTS ON AND OVER THE HIGH SEAS

- The Parties shall meet within one year after the date of the signing of this Agreement to review the implementation of its terms. Similar consultations shall be held thereafter annually, or more frequently as the Parties may decide.
- The Parties shall designate members to form a Committee which will consider specific measures in conformity with this Agreement. The Committee will, as a particular part of its work, consider the practical workability of concrete fixed distances to be observed in encounters between ships, aircraft, and ships and aircraft. The Committee will meet within six months of the date of signature of this Agreement and submit its recommendations for decision by the Parties during the consultations prescribed in Article IX.

AGREEMENT ON THE PREVENTION OF DANGEROUS MILITARY ACTIVITIES

- Each Party may propose to the other Party that the Parties agree to designate a region as a Special Caution Area. Either Party also has the right to request that a meeting of the Joint Military Commission be convened, in accordance with Article IX of this Agreement, to discuss such a proposal.¹²
- Each Party has the right to terminate an arrangement with respect to a designated Special Caution Area. The Party intending to exercise this right shall provide timely notification of such intent to the other Party, including the date and time of termination of such an arrangement, through use of the communications channel set forth in paragraph 3 of Article VII of this Agreement.¹³
- To promote the objectives and implementation of the provisions of this Agreement, the Parties hereby establish a Joint Military Commission. Within the framework of the Commission, the Parties shall consider:
 - (a) Compliance with the obligations assumed in this Agreement;
 - (b) Possible ways to ensure a higher level of safety for the personnel and equipment of their armed forces; and
 - (c) Other measures as may be necessary to improve the viability and effectiveness of this Agreement.

¹¹ Neither the Vienna Document nor the Open Skies Treaty contain specific measures for monitoring implementation

¹² The Joint Military Commission would meet to review documents or evidence submitted by either side on encounters with the other side. For example: https://fas.org/irp/doddir/navy/opnavinst/5711_96c.pdf, Accessed October 2016

¹³ Refers to the meetings of the Chairman of the Joint Chiefs of Staff of the US and the Chief of the General Staff of the Armed Forces of the USSR