

Introduction

Why a book about the negotiation of the Open Skies Treaty? The treaty is functioning well. It has been the cause of no great dramas—at least none that have garnered any public attention. Moreover, many believe that the advent of widely available commercial satellite imagery has rendered Open Skies obsolete. These last perceptions are not correct. Open Skies has shown itself to be far more than a Cold War agreement, and, with leadership and vision, it is capable of considerable further evolution. Open Skies, or cooperative aerial monitoring more generally, has the potential to be at the forefront of attempts to build confidence in many regions of the world and to verify other agreements, both disarmament and environmental, into the future. Moreover, the manner in which it was negotiated, and the obstacles, both technical and political that had to be overcome, hold considerable lessons for those who would embark upon the negotiation of any ambitious Confidence-building Measure (CBM) in many different contexts in today's world. There is much to be learned from the Open Skies experience on many different levels.

Beyond that, the advent of commercially available satellite imagery, though it has changed the world considerably, does not invalidate Open Skies. Cooperative aerial monitoring has unique advantages of both a political and a technical nature. Aircraft can linger over an area, or visit it repeatedly over a short period of time and from different angles and altitudes. Aircraft can adjust their flight paths and altitudes to compensate for changes in the weather. The extraordinary expense of building, launching, and maintaining satellites is such that images and other data returned by aircraft compare very favorably in cost

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terms. Aircraft can be outfitted with sensors that are not available to satellites, such as sensitive air sampling devices (not yet permitted on Open Skies aircraft but which could be added, if agreed). Finally, for those countries that do not have so-called National Technical Means (NTM), or spy satellites, aircraft are the only way they have of independently acquiring overhead imagery from platforms they control.¹

These are significant benefits to aerial observations. For the United States, and other countries that maintain NTM, Open Skies still has benefits. In addition to those listed above (meaning that, even for countries with NTM, there are still benefits from overflights), there are three additional benefits to Open Skies that matter considerably. First, even though the U.S. has other means of acquiring overhead imagery (and though Open Skies flights still have unique benefits), it is often in America's interest that countries in vulnerable areas should also have the means to acquire data that can put their minds at ease in a tense situation. For many years, as overhead imagery became more widely available, many were concerned that the "democratization" of this unique data would somehow equate to a loss for the United States. This does not have to be the case.

Second, in cases in which the U.S. wishes it to be known that something is happening, but does not wish to expose the capabilities of its reconnaissance satellites, imagery from an overflight can be released. Finally, Open Skies, and cooperative aerial monitoring generally, is different from NTM in that the acquisition of the imagery is *cooperative*. A country cannot prevent a satellite from flying overhead. But that same country must not only acquiesce to an overflight; it also must actively cooperate to make that flight possible. This is the essential quality of Open Skies that was so attractive to President Eisenhower when he first proposed it in 1955. The aspect of mutual reassurance—the act of saying, "We are not preparing to attack you, and you may come and see for yourself"—was key to the deeper objective of the regime in the wider sense of building confidence between adversaries.

This book recounts and analyzes the history of Open Skies from the first time it was proposed by Eisenhower in 1955, through its relaunch by President George H. W. Bush in 1989, through the subsequent negotiation of the treaty, and up to the present day. It concludes with some thoughts as to how the Open Skies idea may be further developed in other contexts and for other purposes. As with both the 1955 and the 1989 iterations, this will require high-level political vision—but the potential rewards are great.

The bulk of the book focuses on the negotiation of the treaty as the Cold War was coming to an end. It is a fascinating story, and a case study in how the politicians were ahead of their bureaucrats and their diplomats on both sides of the Iron Curtain. For it was the political leaders who saw the value of Open Skies and who pushed their bureaucratic structures, still mired in the negotiating traditions of the Cold War, to go beyond their comfort levels and come up with an agreement that broke out of the traps they had lived with for half a century.

Chapter 1 briefly recounts the considerations that led President Eisenhower to first propose Open Skies, and those that led the Soviets to reject it. As those who would work on the later iteration of Open Skies in 1989 would discover, the factors that led Eisenhower to propose the idea were quite similar in many respects to those that motivated Bush many years later; it was a simple, easily understood idea that would test whether a new Soviet regime (one apparently committed to better relations) was really prepared to make fundamental changes in long-held positions. As such, it was a win-win proposition for the United States: if the Soviets accepted it, the U.S. would gain access to new sources of information; if they said no, the United States would score a valuable propaganda victory. Of course, in the days before high-altitude reconnaissance flights and reconnaissance satellites there were some very practical benefits for the U.S. Over the years, the question of aerial monitoring arose again in different contexts but was always turned down by the Soviets. In the 1980s the Soviets displayed slightly less resistance to aerial monitoring of specific locations as part of a wider package of other Confidence-building Measures under negotiation in Europe. But nothing they agreed to in that context could reasonably have led anyone to imagine that a full-blown Open Skies regime might one day be possible.

Chapter 2 recounts the process whereby Open Skies came to be launched again in 1989. As before, it was a “top-down” initiative, launched by a small group of officials and publicly endorsed by the president with little bureaucratic support. As before, one of the key objectives was to test a Soviet leader’s apparent commitment to mutual coexistence and openness. But there was a key difference: the 1989 proposal was launched as a multilateral one to include all of the countries of the North Atlantic Treaty Organization (NATO) and the Warsaw Pact. Key to this new aspect had been the high-level intervention with President Bush of Canadian prime minister Brian Mulroney. Arguing that the benefits of Open Skies, both political and military, would best be realized on a multilateral basis, Mulroney exerted significant influence over the decision to

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relaunch Open Skies and to do it multilaterally. Canada would go on to play a significant role in getting the negotiation underway and keeping it alive during the tough times. In this Canada would be joined by a country on the other side, Hungary, that also saw the benefits of the idea.

Once again, however, Open Skies had been launched as a top-down, political initiative with little support in the bureaucracy in the United States; it had no champions at the working level. Instead, most of the key players who would have to come together to put some flesh on Bush's idea saw Open Skies as potentially interfering with other priorities and were either indifferent or hostile. Although they could not openly oppose a presidential initiative, many within the U.S. national security bureaucracy would have been happy to see Open Skies quietly die. The Soviet bureaucracy, meanwhile, was deeply suspicious and would also have been quite content to see the idea go away. It was against these pressures that the activities of Canada and Hungary in keeping the idea alive and forcing the pace would play the greatest role over time.

Even though much of the U.S. bureaucracy was initially lukewarm toward Open Skies, the president had proposed the idea and it had to be developed. Chapter 3 thus explores the issues that arose when the NATO countries began to develop a concrete position. Lacking firm guidance from the political level on the basic objectives of the exercise, this process soon degenerated into a squabble over the details. Many in the United States sought to develop a regime that would maximize the intelligence-collection aspects of the treaty. They sought also to develop the regime firmly within the East-West paradigm that had dominated security negotiations for several decades. It was during this period that the first signs of push-back arose. The Canadians began to wonder if the emerging concept of the regime was not too adversarial. The French began to argue that the regime should not be structured in a way that accentuated the East-West dynamic, which they believed to be faltering, but that it should permit easy accession by the neutral countries of Europe. Most of these discussions went on within NATO. The few opportunities for interaction with the Soviets during this period revealed a cautious but noncommittal approach. There was no opportunity for any kind of "prenegotiation" of the sort that often precedes a major international negotiation.

When the two sides came together for the first conference, they found that their basic positions—indeed, their basic conceptions of the treaty itself—were very far apart. Chapter 4 covers the first two rounds of the talks in Ottawa and Budapest, where the U.S. and Soviet delegations dug in and took the attitude

that it was up to the other side to make compromises. This may have reflected a view on the part of powerful elements of their delegations that it was the best way to ensure that the treaty would not be realized.

What was also discovered during the Ottawa and Budapest rounds, however, was the degree to which the solidarity of the Warsaw Pact had disintegrated. The non-Soviet members of the Warsaw Pact soon joined their Hungarian colleagues and openly sided with the Western delegations in calling for a much more intrusive and open regime than the Soviets were prepared to accept. What the Eastern Europeans did insist on, as part of a formula that came to be known within the negotiation as the “Grand Compromise,” was that the regime be equal—that whatever capabilities the NATO allies would enjoy in terms of sensors and data-processing should be equally available to all participants. This was to be a foundation of the eventual treaty, and it had the effect of moderating the more extreme aspects of the U.S. insistence that each country be able to use whatever sensors it wanted, with very few restrictions. While the Eastern Europeans were challenging the position of “their” superpower, some of the NATO countries began to do the same with the United States. Although Canada was the only NATO country to break ranks formally on the issue during this phase of the negotiations, others privately signaled growing frustration. For the European allies, Open Skies was not the priority at this time; the treaty to limit conventional forces in Europe (the so-called CFE Treaty) was. But the moment would come for Open Skies as the CFE Treaty encountered its own difficulties later on.

It was also during the Ottawa and Budapest rounds that the issue of whether and how to incorporate the neutral countries of Europe began to be faced. There was a growing recognition that the alliance-to-alliance structure of the negotiation was becoming increasingly anachronistic, but the negotiation was not ready to tackle the issue directly. The search began, however, for a way to permit an ever-increasing level of participation for the neutral countries in the discussions. This raised two issues. First, France became increasingly convinced that the Open Skies regime should be developed within the context of the Conference on Security and Cooperation in Europe (the CSCE—later to become the Organization for Security and Cooperation in Europe – the OSCE). The United States resisted this approach, as it did not want to have a CSCE measure applied to the territory of the U.S. Second, the dispute between Greece and Turkey over whether and how Cyprus would be allowed to join the regime, though it had nothing to do with Open Skies as such, would go on to become one of the most long-standing and frustrating issues dealt with by the negotiation.

With the failure of the Budapest round an interim period began, covered in Chapter 5. The key development of this phase was that the politicians took control of the negotiation again and established, for the first time, the parameters of the regime they sought—a moderately intrusive, cooperative CBM. In meetings between presidents Bush and Gorbachev, and then between Secretary of State Baker and Foreign Minister Schevardnadze, it became clear that these leaders saw Open Skies in different terms than had their officials to that point. The leaders were able to work out a formula for compromise, based on the “Grand Compromise” advocated by the smaller countries in Ottawa and Budapest, and instructed their officials to get on with it. For the first time, Open Skies had a clear set of goals, endorsed at the highest levels, that could be translated into practical regime requirements. This was, without doubt, the turning point.

Wider events during this period also moved in favor of Open Skies. The CFE talks hit a serious snag as the Soviets moved a large amount of conventional equipment out of the CFE zone of application, and thus beyond the monitoring and verification provisions of the CFE Treaty. Suddenly, for the European allies, who had always relegated Open Skies to second place in importance behind the CFE talks, Open Skies became extremely important as their only means to monitor Russian conventional military equipment beyond the Ural Mountains. Moreover, the negotiations to create an aerial verification component of the CFE Treaty had failed, so there was no wide-area aerial aspect to the CFE verification system even within the zone of application of the treaty. It was the European allies, and particularly the Germans, who picked up Open Skies at this point and began pushing hard for a treaty. Politically, this period featured the coup attempt in the Soviet Union that would ultimately lead to breakup of that country. The coup also discredited many of those in Moscow that had opposed Open Skies.

The Open Skies talks thus resumed in Vienna in the autumn of 1991. There were two rounds of talks: the autumn of 1991 and the winter and spring of 1992. These rounds are the subject of Chapters 6 and 7. It was during this period that certain countries emerged to take control of the discussion and push it along. Although the United States and the Soviet Union (and later Russia) were key to the eventual success of the regime, it was countries such as Germany, France, and Britain that did much of the heavy lifting in Vienna, with Canada, Hungary, and others assisting. Also during this period, as they began to look seriously at how the regime would work in practice, it became ever more clear that the

adversarial approach first advocated by the NATO countries—an approach that sought short-notice overflights for intelligence-gathering purposes—would not have worked; that such flights require a cooperative approach. Also during this period the ever-increasing pace of change in Europe necessitated a new approach to the question of how the neutral countries would be admitted to the regime—but the issue of Cyprus held back formal compromise. It was thus necessary to devise an ever more complex set of temporary fixes to allow the neutrals to participate in the discussions.

The Open Skies Treaty was signed on March 24, 1992. But it was not complete. A number of key provisions had been deferred. Thus began a lengthy period of ratification, implementation, and entry into force. This is covered in Chapter 8. Ironically, it was actually during this period, *after* the treaty was signed, that the overflight regime was finally worked out in detail as those who would operate the flights got their hands around the regime and designed practical ways to fulfill its objectives. Political issues, such as the Cyprus question, continued to bedevil the process. A formula was found, however, to permit the neutral countries to join the regime, except for Cyprus. Chapter 8 also contains thoughts on how the Open Skies idea might be applied in other contexts and for other purposes. Since the beginning of the talks the issues of extending the regime to other parts of the world, and also permitting the use of Open Skies flights for environmental and crisis monitoring, have been envisaged; there are provisions in the treaty itself for these purposes. For various reasons, which are explored, none of this has yet happened. In the last few years, some authors have also proposed that Open Skies could be useful in verifying deep cuts in nuclear and other Weapons of Mass Destruction (WMD). Again, this would require an evolution in the Open Skies regime, and this chapter explores what such an evolution would look like and how it might happen.

The Conclusion of the book reflects back on the Open Skies experience to date and offers some lessons and observations to those who would consider expanding the present regime or applying the idea of cooperative aerial monitoring in other contexts. It is my firm hope that this will happen. I continue to believe that the Open Skies idea has much to contribute to stability, verification, and confidence in many parts of the world. As with the process that led to the treaty in the first place, however, high-level political vision and leadership will be required.