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Trump, Spies and the Open Skies Treaty

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Summary

In early October rumours emerged that Donald Trump intended to withdraw the United States from the Open Skies Treaty. The treaty allows signatories to carry out observation flights over each other's territory and to photograph military facilities and communications infrastructure from the air. It can be characterised as a mechanism for 'legalised spying' and, were its provisions to end, the signatories would most likely resort to covert methods to obtain the same information.

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What is the Open Skies Treaty?

The Open Skies Treaty came into force at the beginning of 2002. Its signatories conduct observation missions with a bare minimum of notice as to their flight path. The minimal notice arrangement is valuable from an arms control perspective since it makes it harder for the observed party to conceal its activities. The treaty permits the observed party to inspect the equipment being used and to escort the observing party during its mission. Furthermore, the observed party has a right to receive copies of images recorded during any Open Skies mission.

The reconnaissance flights provided for by the treaty might seem antiquated given advances in satellite imaging technology, but the benefits of the treaty are far-reaching. It offers a relatively inexpensive means of arms control verification and allows states with fewer resources to actively participate by partnering other states. In the past Belarus and Russia have conducted observation missions over the United States together, for example.

In this way the Open Skies Treaty has contributed to an inclusive system of arms control. This achievement should not be overlooked as the liberal world order faces its sternest challenges for decades.

> Indeed, while it may not be obvious in today's febrile political climate, the cooperation necessary for the Open Skies Treaty's implementation has succeeded in building increased trust among the signatories.

So it is alarming that, on 27 October, the Wall Street Journal cited sources in the Trump Administration stating that the president had signed a document paving the way to US withdrawal. Such a move would further dismantle the post-Cold War arms control system, already fragile after the US withdrew from the Anti-Ballistic Missile Treaty in 2002, Russia's suspension and subsequent withdrawal from the Conventional Forces in Europe Treaty and, most recently, both sides' termination of the Intermediate-range Nuclear Forces Treaty.

Secrets and lies: The lessons of the treaty's long gestation

The 'Open Skies' idea always attracted claims that it amounted to 'legalised spying.' Its origins trace back to a proposal made by US President Dwight D. Eisenhower in 1955 during a Cold War atmosphere of mutual suspicion. The Soviet Presidium suspected that the Americans would use the proposed agreement to obtain confidential military information.

In his memoir, Anatoly Dobrynin, later the Soviet Ambassador to the US, wrote that Nikita Khrushchev believed that the proposal was a bluff. He doubted that the US would ever really allow Soviet overflights of US territory. He wanted to call the Americans' bluff and, in Dobrynin's words, 'watch the White House squirm in the propaganda spotlight.' Instead, nervous of the plan's implications, the Soviet Union rejected the American overture.

The 'Open Skies Plan' lay dormant for the following three decades. It was Mikhail Gorbachev's 'new thinking' in foreign policy and the spirit of *glasnost'* that saw him and George Bush Snr. revive the proposals. Two dozen states signed the agreement in 1992, although both Russia and the US dragged their feet when it came to ratification. The long gestation of the Open Skies Treaty should serve as a warning. In most cases, it is far easier to unpick agreements than it is to reach them in the first place.

We can infer that the US itself has benefited recently from this 'legalised spying' arrangement. In a letter to President Trump dated 7 October, the chairman of the US House of Representatives' Foreign Affairs Committee claimed that 'observation flights under the Treaty have generated additional information [for the US and its allies] regarding Russian military action in Ukraine and provided a check on further Russian aggression there.'

An incentive for covert surveillance

In recent years both Russia and the United States have accused the other of not fully complying with their commitments under the treaty. The US complained about Russia fitting its Open Skies aircraft with sophisticated sensors. Russia, in its turn, complained that the US delayed certification for its plane. This led to what US defence officials reportedly described as an 'impasse' which prevented Open Skies flights throughout 2018.

The dissatisfaction with the treaty could be understood in different ways. It could be viewed as a case of technology outpacing the provisions of the treaty; in which case the solution should be to adapt the treaty to the new technological environment. Alternatively, the dissatisfaction may reflect issues of defective implementation; in which case greater efforts must be made to encourage the parties to return to their commitments. In either case terminating the treaty would mean throwing the baby out with the bathwater.

> Both Russia and the United States will continue to want the information presently obtained from Open Skies observation flights. Without the treaty they will likely resort to non-transparent means to that end.

Satellite imaging lacks the flexibility that observation missions offer, since satellite positions can be known in advance, and both states can therefore be expected to place greater emphasis on electronic surveillance and human intelligence.

Smaller states will feel increasingly uncertain, and consequently insecure, as they face increasing exclusion from verification mechanisms due to resource constraints. Belarus would increasingly rely on information sharing by Russia. Moreover, a termination of the Open Skies Treaty would undermine Belarus's efforts in support of transparency and confidence-building between NATO and Russia.

Failure to reach agreement in 1955 led to the U-2 incident a few years later, which embarrassed the United States. After that incident, according to Khrushchev, 'those who felt that America had imperialist intentions, and that military strength was the most important thing, had the evidence they needed.' Trump's America is feeding its critics just as well.

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