Analyses OSW

CENTRE FOR EASTERN STUDIES 22.05.2020 www.osw.waw.pl

Crocodile tears: Russia on the US's exit from the Open Skies Treaty

Marek Menkiszak

On 21 May, US Secretary of State Mike Pompeo announced that the United States would notify the states party to the Open Skies Treaty (OST) on 22 May of its withdrawal from this agreement, which will take place within the next six months. The OST is a multilateral agreement signed in 1992 and ratified by 34 states in North America, Europe and the post-Soviet area, enabling mutual observation flights over their territories as part of confidence and security-building measures. The reason given for the US's decision is Russia's repeated violations of the treaty's provisions, as well as the potential threat to US national security resulting from Russia's use of it. At the same time, the US has declared its readiness to return to the agreement if Russia begins to abide by it.

The Russian Foreign Ministry criticised the US's decision to leave the OST, accusing it of dealing another blow (after its exit from the Intermediate-Range Nuclear Forces Treaty, INF) to the security system in Europe. Russia also called on Washington to clarify its disagreements within the framework of multilateral talks. So far, Moscow has not declared whether it will also decide to leave the agreement in response to the US's move. Russian Foreign Ministry representatives have stated that Moscow has a 'plan B', but before taking a final decision it must analyse the situation, and that for now it intends to implement the treaty provisions, and hopes that it can still be maintained.

Commentary

- The Open Skies Treaty has been in the state of crisis for many years already, due to repeated violations by Russia. After the Russian-Georgian war and the recognition of the independence of Abkhazia and South Ossetia (separatist para-states on the territory of Georgia) in 2008, Russia introduced a ban (enforced since 2010) on observation flights in a 10-km strip from these areas' borders (with the justification that they are not parties to the OST). In response, Georgia has completely banned Russia from making any observation flights over its territory since 2012. This problem led to a temporary paralysis of OST flights in 2018. In turn, after Poland carried out a flight over the highly militarised Kaliningrad oblast in 2014, Russia announced it was unilaterally limiting flight distance over this area to 500 km, which made full overflights impossible. In addition, in 2019, Russia blocked the American-Canadian mission from making flights over its territory during the *Tsentr-2019* strategic exercises. Moscow has also designated an airport in

occupied Crimea as one of those used for refuelling observation flights.

- In response to the Russian violations, since the beginning of 2018 the US has introduced a number of restrictions regarding Russian flights over its territory, including restricted flights over Hawaii and the Aleutian Islands; it has also blocked the use of some of its airports as well as low-altitude flights over Washington. At a NATO forum in autumn 2019, the US also provided confidential information on Russia's use of flights over American territory to collect information about its critical infrastructure. At that time Washington also announced its readiness to leave the OST unless the situation changed.
- However, Russia has not returned to full compliance with the OST, probably assuming that it will be able to exploit whichever choice the US makes for its own ends: either the US will remain a participant in the OST and will tolerate its asymmetrical character, mainly under pressure from NATO and its allies (who, as they do not have satellite reconnaissance systems comparable to the US or Russia, are interested in maintaining this regime, because it allows independent observational data on Russia and other post-Soviet states to be collected and exchanged freely); or the US will leave the treaty, which will lead it to be considered a state that has destroyed yet more foundations of the international arms control system, which will lead to further worsening of trans-Atlantic relations (which are already tense) and will contribute to deepening political divisions within the American establishment.
- The US's announcement that it will leave the OST, although it will prevent Russia from making observation flights over the territory of the United States, works in Moscow's favour. First of all, Russia hopes that the decision will deepen divisions within NATO and strengthen anti-American sentiment in the political elites and societies of key European countries (such as Germany, whose foreign minister Heiko Maas has expressed his regret at Washington's decision and called for it to be reversed); and above all, it will strengthen the negative image of the Trump administration, which has already decided to exit the Intermediate-Range Nuclear Forces Treaty, a decision which came into force in August 2019), and has been sending contradictory signals concerning the extension of the New START (the Strategic Arms Reduction Treaty between the US and Russia signed in 2010, which will expire next February).
- Secondly, Russia probably hopes that the desire of the vast majority of the OST's other participants to keep the treaty in force, and above all to keep Russia in it, will encourage them to be more open to Russia's positions on the issues that interest Moscow. This could mean concluding new agreements with Russia on arms control in Europe, bypassing the US, as well as new initiatives for cooperation with Moscow. This is most likely why Russia's responses to the US decisions have not so far ruled out its continued participation in the OST.
- Thirdly, Moscow has satellite reconnaissance systems which can enable closer observation of the territories of the US and other countries (although weather conditions may be a limitation here). If, as seems likely, Belarus remains in the OST (it has a joint observation agreement with Russia; Minsk does not have the right kind of aircraft and uses Russian planes), Moscow, after handing over the observation aircraft to Belarus, will be able to obtain the information it wants (also concerning the US) with Belarus's aid.

Russia itself, if it remains in the OST, will also still be able to conduct observation flights, including over NATO member states and the US military installations on their territories.

- Pushing Russia into fully compliance with the OST, although it cannot be ruled out, is unlikely. Nevertheless, as happened with the INF, the US decision has once again turned Russia – which after all is responsible for the erosion of the arms control system – into a false 'defender' of the system against the 'adventurous' policy of the Trump administration.

Annex: the Open Skies Treaty

This multilateral treaty was signed on 24 March 1992 at the initiative of the US and Russia, and came into force on 1 January 2002. It has been signed by 35 countries (including the US, Canada and most European countries, including Russia, Belarus, Ukraine, Georgia and Turkey), and has been ratified by 34 of them (Kyrgyzstan being the exception). It states that its participants have the right (individually or in groups) to make mutual observation flights (using certified cameras and sensors) in fixed numbers, to be reported three days in advance, over any part of a state's territory. The flights are launched from agreed airports located on the territories of the observing countries, and can be up to 5000 km in distance. Representatives of the countries observed participate in the flights, and the materials collected can be transferred to other participants. Since the OST came into force, over 1500 such flights have been carried out, over 500 of which over Russian territory.