

The Russian Threat to International Order: Challenge and Response

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Representative Berman, Representative Ros-Lehtinen, distinguished members of the House Foreign Affairs Committee, it is an honor to appear before you today on a matter of great importance to the future of Europe, of NATO, and of the United States. Were it not for the gravity of the issue before us, it would also, frankly, be a relief to be talking with you about something other than Iraq. But the issue is indeed grave. Without hyperbole, it is fair to say that we have reached a watershed moment in world history. The Russian military assault on Georgia, in violation of international law and Russia's own agreements, for the purpose of expanding Russia's influence in the region and, ultimately, I believe, Russia's territory, marks a fundamental inflection point in international relations almost as significant in its own way as Saddam Hussein's invasion of Kuwait in 1990. Much hinges on the West's response to this challenge, which must be both strong and nuanced. Although we must guard against overreacting, we must also guard against underreacting, which I believe is the greater danger now. Whatever we and our allies choose to do concretely in response to Russia's actions, we must begin by understanding the real clarity of the issue, including the international legal clarity of the situation, and the magnitude of the damage Russia has inflicted and proposes to inflict on the global states system.

We must start by dispensing with the notion that there is any sort of legal or moral equivalency between what Georgian President Mikheil Saakashvili did on August 7 and Russia's reactions. A magnificently prepared and executed Russian information operations campaign has attempted to portray Georgia's actions as unprovoked aggression and to accuse Georgia of "genocide" and war crimes. The use of Georgian military forces within Georgia's territory (and even the Russian leadership formally recognized Abkhazia and South Ossetia as Georgian territory at that time) is not aggression against Russia under any circumstances. More to the point, Saakashvili's actions were anything but unprovoked. Since the Western recognition of Kosovar independence in February and, even more dramatically, after NATO's refusal to offer a membership action plan (MAP) to Georgia at the Bucharest Summit in April, Abkhazian and South Ossetian secessionists had staged a series of attacks on Georgians within those regions and on Georgia proper. Russian peacekeepers in both Abkhazia and South Ossetia, legally obliged to prevent precisely such provocations and to identify and punish the offenders, instead aided and abetted them—in at least one case using a Russian fighter to shoot down a Georgian UAV over Abkhazia. Russian peacekeepers were clearly in violation of their own legal obligations long before August 7, when Saakashvili decided that he had to send additional military forces into South Ossetia to protect the lives of Georgians under attack by the secessionists.

In retrospect, it is easy to see that this decision was a mistake. Saakashvili walked right into a well-prepared Russian ambush in every sense of the word. Russian military forces had completed a large-scale military exercise starting on July 15, Caucasus 2008, in which they developed the plans for the invasion of Georgia and rehearsed them—even down to practicing the deployment of some of the units that moved rapidly into South Ossetia and Abkhazia in August. Within hours, perhaps minutes, of the

Georgian movement into South Ossetia, a Russian motorized rifle regiment was driving from its base at Vladikavkaz through the Roki Tunnel which separates Georgia from Russia and which had already been secured by Russian Spetsnaz troops on both sides, and toward the South Ossetian capital of Tskhinvali. Airborne units from the Moscow and Leningrad Military Districts were on their way at once and arrived in South Ossetia within days—repeating movements one of them had rehearsed less than three weeks before. And literally thousands of Russian troops began flowing into Abkhazia at the same time, despite the fact that the Georgians had taken no action on that front and were preparing to take none.

One could in principle debate the legality of the Russian decision to reinforce Russian peacekeepers in South Ossetia, although the treaties that established those peacekeepers on Georgian soil did not permit or foresee such a reinforcement. One could make the argument that if American peacekeepers were attacked, the U.S. might also decide unilaterally to reinforce them, even if existing international agreements did not specifically permit such an action. On the other hand, the fact that Russia has clear expansionist aims in these very regions, deterrence of which was one of the reasons for the initial conflict and the establishment of the peacekeepers in the first place, the appropriateness of even this Russian response is open to question. At all events, if Moscow had confined itself to reinforcing its peacekeepers in South Ossetia and Abkhazia and re-establishing the status quo, we might need to have a very nuanced discussion about the situation.

The next Russian actions obviate the need for any such nuance. Russian combat aircraft immediately began to pound military and civilian targets throughout Georgia, beyond South Ossetia and Abkhazia. They attacked the bases of every single one of Georgia's ground forces units, Georgia's military airfields apart from the military side of Tbilisi airfield itself, command-and-control sites, radars, and port facilities. The intent of this air campaign was clearly to degrade the Georgian military as much as possible, and it seems clear that Russian President Dmitrii Medvedev held off ordering a halt to military operations until he felt that this objective had been accomplished.

Russian troops also invaded the territory of Georgia proper (a term I use without prejudice to Georgia's continued legal sovereignty over South Ossetia and Abkhazia simply to designate the area that even the Russians do not claim and over which they have no international rights whatsoever). Russian mechanized units drove from Tskhinvali to the key city of Gori, which sits astride the road and rail links from Tbilisi to the Black Sea—Georgia's lifeline. Gori is also the location of Georgia's single tank battalion and lone artillery battalion, and Russian troops appear to have occupied the cantonments of both units and systematically destroyed their infrastructure while seizing a great deal of Georgian military equipment. Russian mechanized forces also advanced from Abkhazia to the Georgian cities of Zugdidi, Senaki, and Poti. Senaki is the base of one of Georgia's most sophisticated brigades, and Russian official sources themselves report that Russian troops brought in demolition experts with the express purpose of leveling this Georgian base on undisputed Georgian territory. Poti is Georgia's most important port, it is not that close to Abkhazia and is not the base for any Georgian forces that could have threatened Abkhazia. Russian troops took up positions in and around Poti for no reason other than to be able to restrict the flow of goods from the outside world into Georgia. Russian troops also occupied the Inguri Hydroelectric Power Station, jointly controlled and hitherto jointly protected by Georgian and Abkhazian troops. That power station, which was never threatened by Georgian military

action, supplies most of western Georgia's electricity. Russian troops in Abkhazia, finally, supported the assault of Abkhazian separatists to drive Georgian peacekeepers out of the Kodori Gorge and out of Abkhazia entirely, despite the fact that the Georgians had made no move to provoke such an attack. The Russians subsequently supported Abkhazian troops as they advanced Abkhazia's border to the Inguri River, i.e., beyond the legally-defined boundaries of the region. In other words, in the days after August 7, Russian military forces invaded the undisputed sovereign territory of Georgia, attacked Georgian military and civilian targets that were not involved in combat with Russian troops and posed no threat to Russian troops, and assisted Abkhazian separatists to expand the territory of their region in violation of international agreements.

The Russian accusations of Georgian "genocide," while demonstrably false, are both interesting and disturbing. By August 10, Russian leaders were already making this charge and demanding that Georgia's leaders be brought to justice for their crimes. Prime Minister Vladimir Putin instructed Russian President Medvedev publicly to establish an investigative commission to document these supposed crimes and this supposed genocide, which Medvedev immediately did. The next day, the investigative commission announced that it had begun preparing a criminal case against Georgian leaders *for trial in Russian Federation courts* as well as international tribunals. On August 12, the Russian Federation Prosecutor General carefully explained the legal basis under which Russia asserted its right to try the leaders of a sovereign state for criminal actions that did not occur on Russian soil in Russian courts under Russian law. The investigation is proceeding to this day.

The baseness of these accusations has been demonstrated by numerous NGOs operating in Georgia and South Ossetia, particularly Human Rights Watch, the World Food Organization, and the UN High Commission on Refugees. There was no Georgian genocide and no attempt at any genocide. HRW has noted that Georgian artillery and tank fire was insufficiently discriminating and that Georgian troops, faced with Ossetian separatists who fired their weapons from within occupied civilian structures, did not always appropriately weigh the costs of collateral damage against the military advantage gained—the litmus test for the legitimacy of any civilian deaths in war. It is not at all clear that any of these incidents rise to the level of a war crime, and there are offsetting interviews with Ossetian civilians describing the care with which Georgian soldiers attempted to avoid generating needless civilian casualties. The fact that Georgian troops occupied Tskhinvali for less than a day and that the total death toll was below 2,000 and probably lower than that eliminate the possibility that a genocide was conducted, and the Russians have so far failed utterly to provide any evidence that a genocide was contemplated or intended—as, indeed, it surely was not. HRW and other NGOs, on the other hand, have amply demonstrated a systemic campaign of ethnic cleansing conducted by Ossetian separatists against Georgians, included the razing of villages by fire. This ethnic cleansing campaign was at least tolerated by Russian troops that were legally in control of the area as occupying forces and did nothing to stop it. In all likelihood, they assisted with it. They certainly prevented the Georgians from taking any action to defend their own citizens.

To sum up, Russian military forces at the order of Russia's president committed the following violations of international law in August 2008:

- Invading the territory of a sovereign state that had not attacked or threatened to attack Russia
- Conducting a strategic bombing campaign against both civilian and military targets in that state, with which Russia was not at war and which was not engaging in any activity remotely commensurate with such a response
- Seizing (stealing really) Georgian civilian and military hardware from Georgia proper
- Systematically demolishing Georgian military infrastructure in Georgia proper
- Failing to perform its international legal responsibilities by allowing Ossetian separatists to undertake an ethnic cleansing campaign in areas occupied by Russian forces
- Supporting Abkhazian separatists militarily in a patent land-grab

To all this we must add the fact that Russian troops remained beyond the boundaries of South Ossetia and Abkhazia long after the Sarkozy-Medvedev agreement obliged them to withdraw and that the Russian government unilaterally recognized the independence of South Ossetia and Abkhazia, again in violation of international law but also specifically in violation of Point 6 of the Sarkozy-Medvedev agreement requiring both sides to submit the disputes over these territories to international negotiations. The Russian government is in the process of concluding political and military agreements with the soi-disant republics of South Ossetia and Abkhazia, including basing rights for Russian military forces in those republics. Senior members of the Russian government have also indicated Russia's "willingness" to absorb South Ossetia and Abkhazia into the Russian Federation at the request of those republics.

Perhaps the most disturbing thing of all, however, is the official justification President Medvedev has offered for the entire operation. He has repeatedly declared that the Russian Federation has the right to take armed action in neighboring states to defend the "lives and dignity of Russian citizens." The distribution of Russian passports throughout South Ossetia in the months leading up to the crisis offer a demonstration of the Russian definition of "citizen:" anyone speaking Russian. The further claim that Russian law permits the trial of the leaders of sovereign states in Russian court for actions that are "against the interests of the Russian Federation" is a de facto reassertion of Russian suzerainty, if not sovereignty, over the whole of the former Soviet empire. It is also a clear violation of international laws and norms. It is a declaratory statement that Moscow has backed up so far with action, and it undermines the entire basis of the post-Soviet state system, placing the survival of every former Soviet republic at risk.

The effects of Russia's words and deeds have already been felt throughout Eastern Europe. The NATO members in the region—Poland, Lithuania, Latvia, and Estonia—wasted no time in condemning Russia's actions, calling for the incorporation of Georgia and Ukraine into NATO, and moving closer toward the US. In Poland's case, this movement manifested itself in the agreement to allow the U.S. to base elements of a ballistic missile defense system in Poland in return for the provision of American Patriot missile batteries to protect Warsaw. The Russian reaction was characteristically hyperbolic and false—Moscow asserted, contrary to the laws of physics, that the BMD system is really aimed at Russia and threatened to nuke Poland in retaliation. The Eastern European members of NATO have all made clear that they feel that Russia's actions in Georgia have placed the significance of their own Article V security

guarantees on the line, even though they have not been attacked, and Russian threats only add to their feelings of vulnerability.

The Western European NATO states have, on the whole, reacted much more weakly. French President Sarkozy accepted from Russian President Medvedev what was in effect the Russian ultimatum to Georgia and then presented it to Saakashvili to sign as a “compromise.” The Georgian president was compelled to sign this document while Russian troops occupied Georgia’s soil and Russian military aircraft controlled Georgia’s skies. Sarkozy was thereby complicit—in the name of the European Union of which France currently holds the presidency—in Russia’s effort to compel Georgia to surrender on Moscow’s terms. Even then, Russia did not abide by the terms of the agreement, and the Western European reaction has been extremely weak. Britain’s leaders have spoken out strongly and well; some Western NATO members sent warships into the Black Sea (which definitely caught Moscow’s attention).

But so far from taking any action that might hurt Russia, it is far from clear that NATO will even extend MAP to Georgia and Ukraine at its December ministerial meeting. Russian statements at the start of the conflict explicitly declared that deterring NATO from offering MAP to Tbilisi and Kiiv was one of Russia’s key goals, and it seems as though Moscow may succeed. Moreover, some European states are continuing normal military-to-military relations with Russia, including the visit of a senior officer of the Bundeswehr and the German ambassador to Russia to the opening of a German war cemetery in Krasnodar—the region between Abkhazia and the Crimea and a staging area for Russian forces that moved into Abkhazia—and the official visit of a Belgian naval ship to St. Petersburg, with accompanying reciprocal visits between its captain and the commander of the Leningrad naval base. If Europe’s intention is to show that Russia is isolating itself through its actions, there is little reason thus far to suppose that it will succeed.

The most distressing spin-off from the Georgian crisis has been the deterioration of Russo-Ukrainian relations and the destabilization of the Ukrainian government. Ukrainian President Yushchenko denounced the Russian move at once and threatened to block the Black Sea Fleet from returning to its leased home-port facility in Ukrainian territory (the port of Sevastopol) following its participation in hostilities against Georgia. Moscow immediately responded with exaggerated rhetoric and a lengthy exposition in *Izvestia* about the legal and practical steps Russia could take to regain the Crimea from Ukraine next year. Tensions within the Ukrainian government soared as accusations flew that Yushchenko was playing hard with the Russians for his own political purposes and his opponents were lying low because the Russians had bought them. For a time it seemed that Moscow was preparing the conditions on the ground in the Crimea to stage a provocation justifying the seizure of Sevastopol. For the moment such a move seems unlikely, but it is possible at almost any time.

Russia has not only succeeded in crushing Georgia, therefore, but continues to put pressure on Tbilisi to remove Saakashvili. Moscow has laid the basis in declaratory statements and, in some cases, actions, to carry out similar aggressions in response to staged provocations in any of the states on Russia’s periphery. It has attacked the basis of NATO and called the entire purpose of the alliance into question in a way that threatens to drive a wedge between Eastern Europe and Western Europe. And it has asserted its right to prevent the U.S. from providing military assistance to its allies in Russia’s sphere of

influence, and to wage strategic bombing campaigns and conduct invasions to destroy any such assistance as has already been provided. What shall we do about all this?

The announcement of a very large aid package for Georgia is a start, as was the deployment of American and NATO naval forces to the Black Sea. But it is not enough. Our East European allies see the upcoming December NATO ministerial as a test. If Georgia and Ukraine are not given MAPs, then the reliability of the alliance in the face of Russian menace will be undermined in Tallinn, Riga, Vilnius, and Warsaw, at least—and seriously damaged in Kiiv and Tbilisi. The trouble is that MAP makes Ukraine and Georgia targets for further Russian aggression without providing them with any short-term protections, either in the form of security guarantees or in the form of military assistance. The Ukrainian armed forces are already sufficiently robust that the Russians are unable to contemplate a conflict with Kiiv outside of very localized struggles (such as the Crimea). But the Ukrainians are far too intimately integrated into the Russian military structure even now and will require assistance if they are to maintain their deterrence capabilities as the Russian military improves and expands (as it appears to be doing aggressively).

Georgia is in much worse shape. We must proceed from the assumption that the Georgian military cannot resist Russian attacks in the future and that Tbilisi therefore remains at Moscow's mercy subject only to what the Russians think we and the Europeans will tolerate. That is unacceptable. Georgia is an American ally whose forces were fighting in Iraq alongside ours as Russian tanks invaded their country. Moscow's assertions that American military assistance to Georgia is a provocation ranks with the most Orwellian of fantasies, resting as it does on the unbelievable assertion that Georgia somehow poses a military threat to Russia. We must work actively to rebuild the defensive capabilities of the Georgian military as rapidly as possible, particularly in the areas of anti-tank and anti-air defenses, neither of which can be construed as posing any threat at all to Russia, unless, of course, Moscow means to invade a sovereign state.

The Baltic States are reasonably well equipped from the standpoint of anti-tank munitions, and would even now pose a much more serious challenge to invading Russian forces than Georgia did. But they are entirely dependent on NATO forces deployed outside their borders to provide any sort of defensive anti-aircraft shield. We should remedy that deficiency by helping them acquire short-range anti-aircraft weapons as rapidly as possible. Again, such weapons pose no threat at all to a peaceful Russia, but can have a powerful deterrent effect against a Russian military machine that remains extremely limited in its capabilities. Poland also requires additional bilateral and multilateral assistance. In particular, we must help the Poles understand that the Patriot system is not the answer to all of their air-defense challenges. We must help them develop a layered anti-air defense system of which Patriot is an important part, but not the only part.

But above all we, the United States, must rally the rest of the world in the repudiation of Russian aggression and lawlessness. Ideas like excluding Russia from the G-8, fighting Russian WTO negotiations, and so on are good, but not sufficient. We must work energetically with our NATO and non-NATO allies to express support for threatened states on Russia's periphery, including providing a revised MAP to Georgia and Ukraine. It would help in this regard if Congress continued to express its

bipartisan rejection of Russia's actions and declarations and our determination to stand by the principles of international law and by our threatened allies. The current weakness of NATO requires a stronger American bilateral response. We must make it clear to Moscow that we will not tolerate further adventures, and at this point we can only do that by taking dramatic action to help our current allies protect themselves, to extend the umbrella of NATO's protection over other threatened states, and by ensuring that everyone believes in the solidity and reliability of NATO's protection.

And Russia must be made to pay a price for clear violations of international law. If our strategy is to isolate Moscow, and there is much merit in such a strategy coupled with the real defense of threatened border states, then we must make the isolation real. Russia should be forced to veto UNSC resolutions condemning its actions on a regular basis. Belgium should be admonished for continuing unnecessary military-to-military relations with Russia and other states should be dissuaded from doing so. America and her international partners should look hard at the illegal financial activities of Russian mobsters who connect to the kleptocracy that surrounds Putin and explore ways of hurting the individuals who benefit most from Russia's egregious behavior.

The aim is not to return to a Cold War relationship with Russia—success in this strategy ends with re-engagement with a Russia that is committed to being a responsible member of the international community. It goes almost without saying that the aim of this strategy is also to avoid military conflict with Russia and to deter any additional military conflicts between Russia and its neighbors. But there are no meaningful indicators that Moscow's behavior is likely to be self-correcting. The road to re-engagement starts with deterrence, punishment, and isolation. Above all, we must recognize what is at stake. Do the United States of America and its allies believe in the principles of international law and the sovereignty of states or not? If we choose to ignore blatant violations of those principles because responding to them seems difficult or dangerous, then we risk watching passively as international relations degenerate into the law of the jungle.