

# Modernizing conventional arms control in the Euro-Atlantic region

Clingendael Report

Peter van Ham



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Cover photo: Russian president Vladimir Putin at the Luzhsky training ground during the main stage of the Zapad-2017 joint Russian-Belarusian strategic exercises © Source: President of Russia.

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# 1 Bringing European arms control into the 21<sup>st</sup> century

Europe's conventional arms control architecture requires a thorough makeover. Today's arms control and confidence-building arrangements are based on two legally binding pillars: the Conventional Armed Forces Europe (CFE) Treaty of 1990 and the Open Skies Treaty of 1992. The Vienna Document on Confidence- and Security-Building Measures (CSBMs), originally adopted in 1990 and most recently updated in 2011, is politically binding and aims to increase the transparency of military postures and activities in Europe. Today, these arrangements are either blocked or in dire need of modernization. Widespread critical comments vary from measured ("Today, the existing regimes of arms control and disarmament are crumbling")<sup>1</sup>, to damning ("Conventional arms control lies in ruins").<sup>2</sup>

Political initiatives are required to start a new East-West détente and to avoid the steady escalation of bloc-to-bloc conflict and the hardening of positions. These initiatives should clarify what sort of regulatory framework and institutional venue will work best to modernize arms control, what the scope should be in terms of territory and capabilities, and how much of the existing arrangements (notably the CFE) can still be used. Although starting from scratch may be tempting, a new arms control framework for the Euro-Atlantic region is politically unfeasible. It will be more practicable to start from the arms control arrangements that are still (legally) in effect, and to see what aspects of the CFE and Open Skies Treaties and the Vienna Document can be retained, strengthened, and/or modernized, and what should be added. Moreover, since today's strategic landscape lacks the relative simplicity of the Cold War, a serious rethink of the aims, principles, and means of conventional arms control is required.

Since other political and security concerns (ranging from terrorism to immigration) have topped Europe's strategic agenda, conventional arms control has long been treated somewhat as a poor relation. During the Cold War, arms control was a complementary element of security policy alongside defense and deterrence. These three elements were integrated in a manner that was lost (or forgotten) in the changing 1990s strategic environment. In August 2016, German Minister of Foreign Affairs Frank-Walter

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1 Frank-Walter Steinmeier, "More Security For Everyone in Europe: A Call For a Re-Launch of Arms Control", *Frankfurter Allgemeine Zeitung* (August 26, 2016). Online. English translation by Project Syndicate.

2 Wolfgang Richter, "Return To Security Cooperation In Europe: The Stabilizing Role Of Conventional Arms Control", *Deep Cuts Working Paper*, No. 11 (September 2017), p. 2.

Steinmeier made an effort to change this by calling for “a relaunch of arms control which takes the new realities into account.”<sup>3</sup> This German initiative received immediate support from a Group of (now 22) Like-Minded Countries<sup>4</sup>, kick-starting (in April 2017) a Structured Dialogue within the Organization for Security and Cooperation in Europe (OSCE) on matters such as diverging threat perceptions, military doctrines and force postures. Although laudable, this German initiative has also underlined the fragility of the Western “bloc,” and NATO in particular. The US was not duly consulted, or even informed, of this proposal, which has rubbed Washington the wrong way.

More importantly, the US tacitly considers the resulting Structured Dialogue as a misplaced “reward” for Russian “bad behavior.” Washington also expected that the Group of Like-Minded Countries would be dissolved with the establishment of the Structured Dialogue. The US now seems to consider the Group of Like-Minded Countries as an irritant, unnecessarily complicating an already crowded field of discussion platforms and institutions.<sup>5</sup>

“The goal is not so much to start a ‘Helsinki 2.0’ process but to strengthen and modernize existing agreements. It will be best to aim for an eco-system of arms control, consisting of different formats and arrangements.”

For NATO members, Russia has emerged as the main culprit, primarily since it has violated core principles of Europe’s post-Cold War security agreements by occupying Crimea and destabilizing Eastern Ukraine (since 2014). Russia has demonstrated the capacity for rapid deployment of its armed forces, also through several large-scale “snap” exercises.<sup>6</sup> Russia’s neighbors are therefore preparing for the worst, arguing that Russia’s armed forces are now used as instruments of intimidation, coercion, and possibly even aggression against them.<sup>7</sup> The Ukraine crisis has resulted in an unfortunate militarization of European security, forcing conventional arms control and CSBMs higher up the political agenda in an effort to save what is still left of the dream of a Europe “founded on respect and cooperation.”<sup>8</sup> Russia had already suspended

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3 See footnote 1.

4 This Group of Like-Minded Countries now consists of 22 countries: Austria, Belgium, Bulgaria, the Czech Republic, France, Finland, Germany, Greece, Hungary, Italy, Ireland, Latvia, Liechtenstein, Luxembourg, the Netherlands, Norway, Portugal, Romania, Slovakia, Spain, Sweden and Switzerland.

5 All this may explain why the US has made numerous efforts to muddle the Structured Dialogue, for example by suggesting that it should also include talks on disinformation, and even migration.

6 “Major Russian Exercises Conducted Since 2014 in Its European Territory and Adjacent Areas”, *European Leadership Network* (February 2016). Online.

7 Lukasz Kulesa, “The Role of Arms Control in Future European Security”, *Security and Human Rights*, vol. 25 (2014), p. 230.

8 *Charter of Paris For a New Europe* (November 1990).

its implementation of the CFE Treaty in July 2007 (see below). Although Moscow continues to implement the Open Skies Treaty, it has unilaterally imposed restrictions on the conduct of observation flights over its territory (e.g. over the Kaliningrad Oblast). Russia also selectively implements Vienna Document provisions. In a similar vein, Russia has conducted a series of military exercises without proper notification, which is widely seen as contrary to the spirit (or even the letter) of the Vienna Document.

By contrast, Russia's Military Doctrine (2014) clearly identifies NATO enlargement as a danger to Russian national security, going against the OSCE objective of creating a common space of cooperative security. Russia blames the West (and the US in particular) for destabilizing the post-Soviet space, most notably Ukraine. Russia argues that its suspension of the CFE Treaty is a legitimate reaction to NATO enlargement, and the deployment of US missile defense facilities in Romania and a similar planned site in Poland. Although this is not a breach of the CFE Treaty itself, Russia argues that it goes strongly against the spirit of this Treaty. As a result, the "chances of Russia resuming compliance with the CFE Treaty look bleak."<sup>9</sup> Russia also continues to remind the West that arms control was conceived as a continuous process, which has been artificially "frozen" by Western states (by not ratifying the Adapted CFE – see below) at a point that is very disadvantageous to Russia.

Russia has therefore chosen the path of conventional and nuclear rearmament in an effort to reclaim its fading superpower status. The result is well-known and disquieting: NATO-Russia relations have entered a new mini-Ice Age, with both NATO and Russia moving troops and military infrastructure to each other's borders. Although existing arms control arrangements may have slowed down escalation, they could not prevent armed conflict and failed to offer the military transparency that was expected. Diverging threat perceptions between Russia and NATO countries now poison Europe's political atmosphere, triggering the forward-stationing of troops, large-scale military manoeuvres and "snap" exercises. Needless to say, this continuous show of force increases the risk of errors of judgment and unintended hazardous incidents.<sup>10</sup> This already complex state of affairs is made even more difficult by the surge in new weapon systems, military capabilities, and strategies.

Based on a brief sketch of the well-known political and practical hurdles, this Clingendael Report focuses on three key questions: (1) What is the optimal mix of formal institutions and smaller groups to develop practicable ideas and political will/support for a modern Euro-Atlantic arms control regime; (2) How can compliance with current

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9 Viktor Litovkin, "Conventional Armed Forces in Europe Treaty Chapter Is Closed", *TASS* (March 12, 2015). Online.

10 Lukasz Kulesa, Thomas Frear and Denitsa Raynova, "Managing Hazardous Incidents in the Euro-Atlantic Area: A New Plan of Action", *ELN Policy Brief* (November 2016).

arms control arrangements (the CFE Treaty, the Open Skies Treaty, and the OSCE Vienna Document) be improved; and (3) What could be the innovative elements of a future arms control regime, taking into account (among others) new doctrinal and technological developments? This Report concludes with recommendations to take the thinking on this process further.



## 2 Managing the Euro-Atlantic arms control eco-system

Arms control in the Euro-Atlantic region faces two main challenges: Firstly, new and practicable ideas to modernize existing arrangements are scarce; secondly, political support for possible new initiatives remains modest and uncertain. Taken together, the process of modernizing arms control promises to be an uphill battle. The fact that any arms control process may be derailed by the breakdown of existing nuclear disarmament treaties (discussed below) certainly does not help. This Report argues that new ideas tend to emerge in smaller, more informal settings, which could then “trickle down” to more inclusive, formal institutions where politically and/or legally binding commitments can be made.

No formal institutional division of labor exists in the field of conventional arms control. Arms control has a rich history of proposals (developed nationally, bilaterally, and internationally), although most may never have been tabled, and certainly not implemented. Since the goal is not so much to start a “Helsinki 2.0” process but to strengthen and modernize existing agreements, it will be best to aim for “a more flexible construct, an eco-system of arms control, consisting of different formats and arrangements, encompassing both bilateral and multilateral frameworks.”<sup>11</sup> Clarifying already existing ideas and preparing for a new phase of arms control by examining options critically is a useful first step. Following this argument (made by Lukasz Kulesa), the OSCE retains its leading position, “but arms control and CSBM arrangements could also be agreed in other multilateral or bilateral formats.”<sup>12</sup>

This change from a structured architecture to a more organic and modular eco-system is already in progress. The specific input and dynamic of smaller factions such as the Group of Like-Minded Countries may help to move things forward. Only a small caucus has the audacity, energy, and focus to generate and discuss new ideas which can thereafter be plugged into the OSCE’s Structured Dialogue. New ideas may also emerge from the broader expert community, notably from think-tanks. A renewed Track 2 effort seems essential given the diverging interests and interpretations on the origins and nature of today’s arms control problems. The Hamburg-based Centre for OSCE Research (CORE) has taken the lead in developing a network of experts and practitioners, aimed

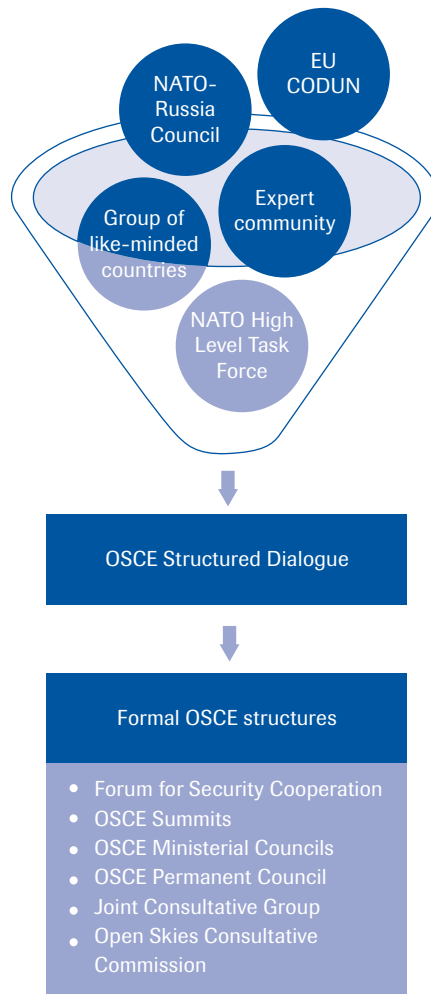
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11 Lukasz Kulesa, “Making Conventional Arms Control Fit for the 21<sup>st</sup> Century”, *ELN Post-Conference Report* (September 2017), p. 3.

12 *Ibid.*

at developing new concepts for a sustainable new framework for conventional arms control.<sup>13</sup> The ultimate goal is to formalize and validate new proposals within the OSCE's formal setting (see Figure 1).

**Figure 1 Conventional Arms Control Flowchart**



13 Internet: <https://ifsh.de/en/core/profile/>.

## The OSCE

The value of the OSCE as an umbrella organization can hardly be overestimated. The OSCE's role in arms control is threefold: (1) Work towards a consensus on the basic principles underlying arms control; (2) Create a shared appreciation of the facts and figures in the broad area of arms control; and (3) Generate the requisite political will to work towards a new, formal arms control regime. The OSCE offers both the "large tent" and the required expertise to maintain continuity as well as momentum to keep an updated arms control regime in sight. It is also clear that the OSCE's set-up of consensual decision-making among 57 Participating States often spawns inertia. Still, critics of the OSCE process should realize that patience and careful groundwork has been the hallmark of all arms control processes. For example, the preparatory work of the Mutual and Balanced Force Reduction (MBFR) talks between NATO and the Warsaw Pact (1973-1989) finally paid off by preparing common understandings on key issues. This made rapid progress towards a full-blown CFE Treaty (in 1990) possible once political conditions improved.

The Forum for Security Cooperation (FSC, set up in 1992 to deal with the OSCE's military dimension) provides a formal open platform to test the waters and build up the required political will. The FSC is seen as "one of the main instruments to overcome the climate of confrontation," and a "real opportunity to strengthen transparency and predictability and create new trust."<sup>14</sup> This inclusivity even goes beyond the OSCE, since the FSC regularly invites representatives from other International Organizations (IOs), including the European Union (EU), NATO, as well as the Collective Security Treaty Organization (CSTO). Unfortunately, the FSC has become bogged down in the ongoing Ukraine crisis, which may explain why a new discussion format was required.

Since April 2017, the Informal Working Group (IWG) on Structured Dialogue has held a series of meetings with Vienna-based ambassadors and senior officials from capitals across the OSCE region. Discussions have so far focused on converging and diverging threat perceptions, military force postures, the appropriate instruments to deal with compliance concerns, and military-to-military contacts and military exercises. At times, so-called Background Papers have been prepared by think-tanks aimed at opening up the discussion beyond the usually limited political statements made by representatives of capitals. For example, SIPRI contributed a paper to the Structured Dialogue meeting on threat perceptions (April 7, 2017). An in-depth analysis of force postures and military exercises was prepared by IISS for the (November 8-10, 2017) Vienna Workshop on "Mapping" (aimed at offering facts and figures underlying force postures and military doctrines). These workshops (on expert level from capitals) have been particularly useful

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14 Ambassador Clemens Koja (Austria), quoted in "OSCE Participating States Discussed Current and Future European Security Challenges", *OSCE.org* (December 7, 2017). Online.

to discuss sensitive issues such as military capabilities, sources and data, as well as the underlying principles, and scope, area of application, and timeframe for a modern arms control regime. Despite this useful non-governmental input, the Structured Dialogue will be purely state-centric from this point on. The input of think-tanks and NGOs will be included in the OSCE Security Days, as well as informal seminars on specific topics. Further progress will depend on the activities of the 2018 OSCE Chair (Italy), as well as the new Chair of the Structured Dialogue (Belgium).

## Group of Like-Minded Countries

The arms control eco-system also comprises the Group of Like-Minded Countries (both NATO and non-NATO participating States west of Vienna), which has quickly developed into a breeding-ground for new ideas which can afterwards be fed into the OSCE's Structured Dialogue. To date, the Group has met eight times, starting with a first meeting of 14 states (in Berlin, September 2016), a second meeting of 16 states (in Vienna, October 2016), and a sixth meeting of 20 states (in Berlin, September 2017). In its latest meeting (in Berlin, January 2018), a substantial discussion took place on the parameters of a future arms control regime (in terms of goals, weapon categories, area of application, transparency, and verification).<sup>15</sup> These meetings tend to be accompanied by a range of (restricted) "non-papers" prepared in capitals. The informality and confidentiality of these discussions make the Group of Like-Minded Countries particularly valuable. The Group has no entry criteria, which explains its rapid expansion from an initial 14 to the current 22 "like-minded" countries. Logically, all these countries commit themselves to the main tenets of the original declaration supporting the relaunch of conventional arms control in Europe (November 25, 2016). It is clear that with countries like Latvia and Poland joining the Group, the faction that is most suspicious of Russia's geostrategic objectives has been strengthened. It remains to be seen whether these countries are really committed to arms control, or more focused on keeping tabs on the Group's future initiatives.

## NATO

Senior NATO officials make it clear that "this is a time when the role of the OSCE in facilitating constructive dialogue is more important than ever."<sup>16</sup> Apart from facilitating dialogue, NATO sees a particular role for the OSCE to strengthen Europe's rules-based order, as well as working towards the modernization of the Vienna Document.

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<sup>15</sup> See *OSCE-Network.net*. Online.

<sup>16</sup> Rose Gottemoeller, NATO Deputy Secretary General, "Security Through Dialogue and the Vital Role of the OSCE", *NATO.int* (June 27, 2017). Online.

In 2015, NATO Secretary-General Jens Stoltenberg already called for the renegotiation of the Vienna Document, arguing that “the time has come to modernize the rules (...) They were developed in another time – decades ago.”<sup>17</sup> Even though NATO officials acknowledge the OSCE’s central role, the Alliance portrays itself as “an essential consultative and decision-making forum for its members on all aspects of arms control and disarmament.”<sup>18</sup> Indeed, NATO’s High-Level Taskforce on Conventional Arms Control (HLTF, created in 1986) has been the preferred platform to coordinate the positions of NATO members during the negotiations for the CFE Treaty. NATO force planning requires such a coordinated approach by member states towards arms control. For most (if not all) allies, NATO’s key role in the development of any new arms control regime is therefore undisputed. For this reason, NATO’s HLTF began a discussion (in 2013) about a possible conventional arms control regime that could replace the CFE Treaty.

Although (most) NATO members agree on the need to square (future) arms control agreements with NATO’s ability to ensure collective (territorial) defense and effective out-of-area missions, allies also cherish diverging views on important practical issues, such as the relevance of the flank limits and the required transparency measures. The concept of flank arrangements will be problematic in any future arms control arrangement, since it assumes a cohesive “front” (reminiscent of the Cold War). Today, Turkey, the Baltic states and Norway have their own specific concerns, and ask for more flexibility with regard to reinforcement capabilities, host nation support and exercises. These concerns are understandable, since the anticipated pattern of any future conflict involves smaller-scale engagements in several different locations. The Cold War pattern of large force concentrations in fixed positions is replaced by a pattern of rapid deployment of smaller forces, perhaps to multiple locations, combined with firepower using networked forces located rather a long way from the area of conflict. In any future arms control regime, these countries will therefore remain reluctant, if not adamantly opposed, to being included in flank arrangements that might hamper their military capabilities.

Despite these problems, NATO provides a unique practical platform to discuss and prepare a future arms control regime. The NATO-Russia Council (NRC) offers a useful addition to the arms control eco-system. Today, the NRC meets about three to four times a year at the ambassadorial level. Some allies prefer to extend NRC meetings to include discussions amongst high-ranking officials, and broaden the agenda to modernizing the Euro-Atlantic’s arms control regime. NATO also offers the requisite link between conventional and nuclear arms control. Since today’s “conventional” mega-bombs are more destructive than low-yield tactical nuclear weapons, the strategic firewall between

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17 Sam Jones, “NATO Secretary General Calls For Modernization of Cold War Treaty”, *Financial Times* (November 5, 2015). Online.

18 “NATO’s Role in Conventional Arms Control”, *NATO.int* (May 22, 2017). Online.

conventional and nuclear weapons is crumbling. Moreover, NATO is directly impacted by, and involved in, the ongoing debate on the future of the 1987 Intermediate-Range Nuclear Forces (INF) Treaty. It has become increasingly obvious that were the INF Treaty (and/or the 2010 New Strategic Arms Reduction [START] Treaty) to be officially disbanded, relations with Russia would freeze over and block the route towards a future conventional arms control regime. The linkages between conventional arms control, nuclear negotiations and missile defense have multiplied, requiring a holistic and comprehensive bargain across the conventional-nuclear nexus.

## The European Union (EU)

Until now, the EU has only played a marginal role in conventional arms control. The EU's Working Party on Global Disarmament and Arms Control (CODUN) coordinates the EU's Common Foreign and Security Policy (CSDP) within the field of global disarmament. Today, the EU actively pushes for the modernization of the "OSCE politico-military toolbox, including through a substantial update of all possible chapters of the Vienna Document."<sup>19</sup> The EU's future role in shaping a new arms control regime largely depends on the latitude it is given by the US as well as NATO. As long as this lasts, the EU (together with its members) has an opportunity to take the initiative on some aspects of the arms control agenda. For example, it has been suggested that the EU could explore possibilities of developing a strategy which would "systematically and deliberately reduce aid and sympathy for countries which repeatedly block progress in the arms control field."<sup>20</sup> Although laudable, it remains to be seen whether the EU can muster the requisite unity in this highly politicized and strategic policy area.

Overall, the arms control eco-system includes a variety of Groups and IOs ready to animate and shape the formal discussions in the OSCE's Structured Dialogue. The following section addresses the key questions concerning how compliance with existing arms control instruments can be improved, and what new elements need to be added.

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19 European Union, "EU Statement on Conventional Arms Control and Confidence and Security Building Measures", *FSC.DEL/233/17* (October 11, 2017).

20 Paul Schulte, "Developing a New Approach to Conventional Arms Control", *OSCE Security Days*, Vienna (March 4, 2013), p. 5. Online.

### 3 Encouraging compliance and crafting new mechanisms: striking the balance

Should full compliance with existing obligations and commitments be the goal, or should we aim for the modernization of existing arms control regimes? Striking the right balance between both options is a political as well as a pragmatic requirement. The US calls for full compliance of all States Parties to the CFE and Open Skies Treaties, arguing that doing otherwise could be construed as “rewarding” Russia for its recalcitrance and belligerence. Countries such as Turkey are bent on keeping the CFE Treaty for practical reasons, given the strategic importance of the current limits on military equipment in flank regions. If compliance is the goal, a full picture of who is in breach of what obligations is key. The US State Department 2017 reports on the compliance concerns (of the US) relating to the CFE and Open Skies

Treaties, as well as the Vienna Document, offer a good point of departure.<sup>21</sup> Although some modest “adherence concerns” and “compliance concerns” are identified relating to a short list of countries (such as Armenia, Azerbaijan, Kyrgyzstan, and Uzbekistan), by far the biggest problems concern Russia. The following overview outlines the key compliance problems (with Russia), followed by a scorecard.

“The US calls for full compliance of all States Parties to the CFE and Open Skies Treaties, arguing that doing otherwise could be construed as ‘rewarding’ Russia for its recalcitrance and belligerence.”

#### The CFE Treaty

The CFE Treaty is all but defunct for two reasons: firstly, the basic set-up of the Treaty no longer conforms to today’s geopolitical reality. An Adapted Treaty was signed in 1999 (at the OSCE Istanbul Summit), replacing the initial bloc-to-bloc structure with individual national and territorial ceilings. However, this Adapted Treaty did not enter into

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21 U.S. Department of State, *Report on Adherence to and Compliance With Arms Control, Nonproliferation and Disarmament Agreements and Commitments*, Washington DC (April 14, 2017). Online, and U.S. Department of State, *Compliance With the Treaty on Conventional Armed Forces in Europe Condition (5) (C) Report*, Washington DC (January 2017). Online.

force, since it was never ratified by NATO member states. In June 2007, Russia called for an extraordinary conference of CFE Treaty States Parties at Vienna, putting forward several proposals: including the Baltic countries (which by then had joined NATO) in the Treaty; reducing the total quantity of NATO military equipment; canceling flanking zone limitations for Russia; confirming that the Adapted CFE Treaty should come into effect by mid-2008; and ensuring that this Adapted Treaty is open to any OSCE Participating State. These proposals were not accepted by the West. In June 2010, NATO members (following a US initiative) launched a final attempt to salvage the CFE Treaty, calling for its reform on the basis of three principles: mutual restraint; mutual transparency; and host nation consent. A new discussion format “at 36” was set up, which included the 30 CFE States Parties and the six new NATO members remaining outside the CFE. These talks failed one year later (December 2011), after NATO had already stopped implementing the Treaty vis-à-vis Russia.

Secondly, Russia has gradually withdrawn its participation in the CFE process and eventually (unilaterally) “suspended” its implementation of the Treaty. In July 2007, after the West’s rejection of Russia’s proposal to adjust the CFE Treaty, President Putin signed an order on the cessation of the Treaty, including a memorandum stating that the Treaty would not be in effect “until NATO countries ratify the Agreement on the Adaptation of the Treaty on Conventional Armed Forces in Europe and begin in good faith to execute the document.”<sup>22</sup> In March 2015, Russia announced that it would also cease its participation in the Joint Consultative Group (JCG) within the CFE Treaty framework. As a result, Russia has now *de facto* withdrawn from the CFE Treaty in its entirety. As one Russian senior official argued, the “CFE Treaty has no future (...) There are no chances that it can be reinstated on a new basis.”<sup>23</sup> However, the US does not consider Russia’s “suspension” a legally available option under the CFE Treaty, and therefore still considers Russia bound by the Treaty’s provisions, including its Treaty-Limited Equipment (TLE) limitations.<sup>24</sup>

This raises questions about exactly what compliance with CFE Treaty commitments entails, and, hence, how full compliance can be achieved (if at all). CFE compliance would require Russia to resume reporting, permitting inspections and rejoining the JCG with a commitment to good-faith consultation on questions of potential concern. The ultimate question is what “price” Russia will require to follow this line, and whether the West is prepared to pay it. Any “deal” will have to tackle the ongoing strategic headache of Crimea. NATO has not (yet) built up forces in the Black Sea region, whereas

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22 Artem Kureev, “The Real Reason Why Russia Finally Left the CFE Treaty”, *Russia-direct.org* (May 17, 2015). Online.

23 “CFE Treaty is Dead, Long Live 2011 Vienna Document”, *VaidaiClub.com* (April 9, 2013). Online.

24 The five categories of CFE Treaty-Limited Equipment include battle tanks, heavy artillery, armored combat vehicles, attack helicopters, and combat aircraft.



Russia has expanded its military infrastructure and forces in Crimea in ways that are not transparent. No other CFE State Party recognizes the annexation of Crimea, which implies that Russian forces are to be considered foreign deployments lacking host nation consent.

This stands in stark contrast to the fact that today, 29 of the 30 CFE States Parties continue to implement the Treaty among themselves, making proper notifications, providing site access, and receiving inspections. This may be just sufficient to keep the CFE Treaty afloat, but it does not contribute to the Treaty's aim of building trust, confidence, and transparency. This does not mean that elements of the CFE Treaty cannot be salvaged. The ongoing conflict in Eastern Ukraine and Russia's annexation of Crimea clearly indicate that sub-regional clashes are still fought with conventional weapons. Moreover, Russia has expressed its concerns about NATO's (possible) build-up of conventional forces in the Baltic and Black Sea regions. The CFE Treaty (as well as the Vienna Document) therefore rightfully focuses on the five categories of TLE required to seize and hold territory. Hence, paying attention to TLE is sensible and meaningful, as is rescuing existing CFE-based verification instruments and continuing to apply and use them, even if the Treaty itself obviously fails.

## The Open Skies Treaty

The Open Skies Treaty offers more hope. Problems can be clustered in two categories: firstly, Russia imposes unilateral restrictions on the conduct of observation flights over its territory (notably the Kaliningrad Oblast, an enclave between NATO members Poland and Lithuania that Western officials claim is home to "sophisticated weaponry").<sup>25</sup> Russia also imposes minimum altitude restrictions on observation flights over Moscow, restrictions on flights adjacent to Abkhazia and South Ossetia, and has (improperly) invoked force majeure (forcing last-minute changes to observation flights). Although Russia has (since 2014) also imposed some restrictions on Ukraine's rights under the Open Skies Treaty, Russia continues to observe the Treaty, although not always "in the full spirit of transparency that the treaty was intended to promote."<sup>26</sup> Russian behavior has damaged the Open Skies Treaty, but has not killed it off. The rationale for the Treaty remains largely undisputed: creating a regime for the conduct of unarmed military reconnaissance flights over the territory of other States Parties (with only 24 hours' notice of the intended flight plan). The resulting information about (military) activities

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25 David Rutz, "Dunford: Open Skies Treaty Shouldn't Be in Place if Russians Aren't Complying", *Freebeacon.com* (September 27, 2017). Online.

26 Statement of Stephen G. Rademaker, "The Growing Russian Military Threat in Europe: Assessing and Addressing the Challenge", *US Helsinki Commission, Commission on Security and Cooperation in Europe*, Washington DC (May 17, 2017). Online.

on the ground has become a valuable CSBM. Importantly, the images obtained by Open Skies flights can be shared among all the 34 treaty signatories, offering data to countries without sophisticated satellite systems. Since 2002, more than 1,000 cooperative aerial over-flight missions have been flown, covering the area from Vancouver to Vladivostok.<sup>27</sup>

So how could Russia's compliance with the Open Skies Treaty be enhanced? The key challenge is to improve the relevance of the Open Skies Treaty in conflict areas/regions. During conflicts, transparency and early warning are particularly important, but also politically problematic. Especially in conflict regions (like Abkhazia, South Ossetia, Crimea, and Eastern Ukraine), aerial imaging and pooled intelligence are key to verifying (for example) changes in force postures that may signify hostile intent. In Eastern Ukraine, states were actually able to use the Treaty to arrive at a comprehensive aerial observation of the situation in the region by coordinating Open Skies flight patterns. This indicates that the Treaty proved itself to be useful in a crisis. Whether Russia would allow this again remains to be seen.

The notion of a so-called "status-neutral approach" has been put forward to increase the relevance of the Open Skies Treaty in these volatile regions. Following established principle, Sergi Kapanadze *et al.* argue that such an approach allows CSBMs to function "without pre-empting the outcome of status talks or referring to the status claims of the parties involved."<sup>28</sup> A recent study by Thomas Frear notes that the Open Skies Treaty (in paragraph 2, section 2) "allows for the legitimate refusal of access to an area bordering a non-signatory state. It is on this basis that Russia, having formally recognized Abkhazia and South Ossetia as independent states in August 2008, began in May 2010 to deny the right of overflight to OST [Open Skies Treaty] observers."<sup>29</sup> Compliance could be improved by setting up "a process with the involvement [of Abkhazia and South Ossetia] on a status-neutral basis."<sup>30</sup> Frear also asks whether such an approach could be a model for including Crimea in the Open Skies process. Russia has already invited Open Skies flights over Crimea as part of missions over Russia,

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27 The Open Skies Consultative Commission convenes monthly plenary meetings and has several informal working groups of experts, mainly to deal with technical issues, such as sensors, notification formats, aircraft certification, and rules and procedures.

28 Sergi Kapanadze, Ulrich Kühn, Wolfgang Richter, and Wolfgang Zellner, "Status-Neutral Security, Confidence-Building and Arms Control Measures in the Georgian Context", *CORE Working Paper*, no. 28 (January 2017), p. 30. This approach (to some extent) follows WTO practice, where (for example) trade corridors are defined by their geographic coordinates without mentioning any name in the agreement in an attempt to keep a "status-neutral approach." In such an approach, all the grid points (of trade corridors for example) are defined according to the Universal Transverse Mercator (UTM) coordinate system.

29 Thomas Frear, "Open Skies: A Status Neutral Approach For Georgia and Russia", *ELN Policy Brief* (August 2017), p. 4.

30 *Ibid.*, p. 5. See also Wilton Park Conference, "Status-Neutral Cooperative Security Measures in the European Context", WP1523 (January 23-25, 2017).

which were declined since they would imply recognition of Russia's annexation of the peninsula. Due to the ongoing imbroglio between Russia and Georgia on observation flights over Abkhazia and South Ossetia, the 2018 Open Skies arrangements have been put on hold. Given the risk of escalation, the need to find a pragmatic solution is greater than ever, with the "status-neutral approach" seeming to be the most practical way forward.

The second cluster of problems is related to the ongoing, simmering US-Russia disagreement over access to airfields as well as the partial closure of airspace for Open Skies overflights. In 2017, the US announced plans (starting January 2018) to close airspace over the US states of Alaska and Hawaii to Russian Open Skies surveillance flights, and to limit the range of these flights. US General Joseph Dunford, Chairman of the Joint Chiefs of Staff, suggested (in September 2017) that "on balance it would be best if the [Open Skies] treaty continued to be in place. But we don't believe that the treaty should be in place if the Russians aren't complying. So there is a decidedly aggressive diplomatic effort right now to bring the Russians back into compliance, which we think would be the best outcome."<sup>31</sup> Dunford further suggested that the US may even decide to scrap the Open Skies Treaty "if Russia is not in compliance."<sup>32</sup> In response, a senior Russian official argued that "As for the claims against us, we do not consider them grounded. In fact, the [Open Skies] agreement is very complex; its provisions cannot always be straightforwardly interpreted, so it is necessary to look for compromises and solutions."<sup>33</sup> In December 2017, Russia therefore declared that "based on the principle of reciprocity, Russia [is] forced to take adequate measures that are procedural in nature."<sup>34</sup> Most importantly, Russia decided to limit the number of airfields available to US surveillance aircraft within the Open Skies framework, as of January 1, 2018.

The ongoing tit-for-tat posturing between the US and Russia is mainly political, since both countries can fall back on sophisticated national satellite imaging technology. General Dunford suggested (in September 2017) that given the size and capabilities of the US satellite constellation versus Russia's, Moscow gets more benefits from Open Skies flights than does the US.<sup>35</sup> Indeed, over the years, US critics of Open Skies have objected to the openness of the Treaty, which (they argue) may facilitate Russian spying. These recent problems highlight the fading political will among US and Russian leaders

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31 Quoted in Rutz (2017).

32 Alex Gorka, "US Takes New Steps to Dismantle Open Skies Treaty", *Strategic-Culture.org* (30 September 2017). Online.

33 *Ibid.*

34 "Russia Notifies US of Rejection of Several Agreements Within Open Skies Treaty", *SputnikNews.com* (December 28, 2017). Online.

35 Quoted in Rutz (2017).

to stick to Open Skies provisions. They also indicate that compliance with these Open Skies provisions remains essential to keep the Treaty relevant and alive. Although this is clearly a political matter, compliance also has an important technical (and budgetary) side. Initially, the Open Skies Treaty allowed States Parties to use four types of traditional sensors. But (in June 2016) Russia became the first to install sophisticated digital electro-optical sensors on its surveillance aircraft, which could (of course) also be used on its scheduled surveillance flights over US territory. This may have rubbed Washington the wrong way, since the US has yet to make a decision to modernize its two ageing OC-135s (which are converted Boeing 707 aircraft) that remain in use for its Open Skies missions.<sup>36</sup> The US Congress remains reluctant to make the requisite (modest) investment, and has struck funding deals in the Fiscal Year 2019 Defense Authorization Act for two replacements of Open Skies aircraft and upgraded sensors, because “Moscow is misbehaving.”<sup>37</sup> Although an odd way for the US to “punish” Russia, these compliance hitches could surely be fixed if US-Russian relations improved. Then again, the current imbroglio could escalate and throw even more sand in the already fragile and delicate Open Skies mechanism.

“Recent problems highlight the fading political will among US and Russian leaders to stick to Open Skies provisions. They also indicate that compliance with these Open Skies provisions remains essential to keep the Treaty relevant and alive.”

## The OSCE Vienna Document

The Vienna Document requires Participating States to share information on their military forces, equipment, and defense planning, obliging these states to accept inspection and evaluation visits on their territory. Unlike the CFE and Open Skies Treaties, the Vienna Document is (just) a political agreement, which means that non-compliance does not

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36 The suggestion is now made that two new Open Skies planes with high-level digital sensors (costing around US\$ 200 million) could be added to the European Reassurance Initiative, which would “clearly demonstrate America’s commitment to European friends and allies.” See Michael Krepon, “How To Strengthen Alliances On President Trump’s Watch”, *BreakingDefense.com* (February 7, 2017). Online. Moreover, equipping these aircraft with capabilities to take atmospheric samplings would also “enable the search for trace signatures that accompany the processing of material for nuclear weapons”. See George P. Schulz, Sidney D. Drell and Christopher Stubbs, “Modernize Open Skies”, *The New York Times* (March 25, 2012). Online.

37 Michael Krepon, “Crippling the Open Skies Treaty Punishes Allies and the US, Not Russia”, *Armscontrolwonk.com* (May 23, 2018). Online.

constitute a breach of international law. The Vienna Document has been regularly updated (in 1992, 1994, 1999, and 2011), but in 2016 Russia blocked its further review. The most recent “updates” have been unexceptional and limited to minor technical and procedural changes.

The US has emerged as the most vocal proponent of the Vienna Document, arguing that Russia selectively implements certain provisions of the Document. The list of US complaints is long, ranging from the failure to provide information on Russia’s military forces located in the separatist regions of Georgia, as well as on two Russian units in Crimea (Ukraine), to conducting massive military exercises (e.g. in August 2016) of up to 100,000 personnel but only making no more than 12,600 personnel subject to Vienna Document inspections. The US also claims that Russia conducts so-called “no-notice” (or “snap”) large-scale exercises and reports them as below the Vienna Document Chapter 5 threshold (of 13,000 troops). In most cases Russia did not respond to US calls for more information. Despite requests from the US (and many other OSCE states), Russia has refused to engage in discussions to update and alter the Vienna Document to provide additional transparency on these types of military exercises and activities. Since Russia no longer complies with the CFE Treaty and has not even properly declared its massive military *Zapad* exercises to the OSCE, the Vienna Document’s ambitions to provide transparency have suffered.<sup>38</sup> It is clear that without data on and inspections of Russia’s forces, States Parties have only sketchy information on Russia’s military modernization, risking strategic misunderstandings at a time when Russia is conducting the largest military exercises on European soil in two decades. Conflicts in and over Abkhazia, South Ossetia and Eastern Ukraine (as well as Crimea) underline the necessity of having sufficient verification opportunities in times of crisis.

“Since Russia no longer complies with the CFE Treaty and has not even properly declared its massive military *Zapad* exercises to the OSCE, the Vienna Document’s ambitions to provide transparency have suffered.”

Luckily, discussions on modernizing the Vienna Document are not formally linked to the waning CFE Treaty. The OSCE started discussions aimed at updating the Vienna Document in early 2016. The ongoing Ukraine crisis is considered proof that such an update is required since it underlines the impact of new military capabilities (including UAVs) and the necessity to lower thresholds for notification of military activities to take

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38 Keir Giles, “Russia Multiple Targets With ZAPAD-2017”, *Carnegie Endowment U.S.-Russia Insight* (January 2018).

into account smaller amounts of military forces and equipment with more powerful capabilities. For example, the rise of hybrid warfare and the use of foreign troops posing as (or mixing with) local insurgents (using heavy armor and weapons) had not been foreseen. The Vienna Document is also widely considered too restricted, for example by not providing for “no-notice” inspections. The following options to improve the Vienna Document are therefore under discussion: further reduce the threshold of personnel and materiel requiring prior notification to the OSCE (from 9,000 to 5,000 troops); and allow for more intrusive inspections to enhance the existing verification regime (including snap inspections). The main reason for starting with these measures is that a commitment to allow more intrusive inspections “would be a first demonstration of the political will to arrive at greater transparency.”<sup>39</sup>

Although the loopholes of the Vienna Document are clear for everyone to see, full support to address them is lacking. Most participating States continue to push Russia to improve the transparency of its military activities by complying with agreements that are already in force. For the moment, a small group within the OSCE (led by Russia) remains unwilling to modernize the Document, arguing that the current level of mistrust makes such an exercise fruitless.<sup>40</sup> One of the key reasons for Russia’s limited interest in new arms control negotiations (including the Vienna Document) is the need to complete its ten-year State Armaments Program (SAP). Russia’s SAP foresees the procurement of large amounts of new or upgraded weapons systems and other military hardware, across all services of its armed forces, over the period 2011-2020. In these circumstances, enhancing transparency and verification measures are considered unwelcome. It is expected that Russia may be more open to starting talks in two years’ time, allowing it to negotiate from a position of (military) strength (see below). Still, for Russia the main incentive may well be to try and freeze the implementation of existing NATO military initiatives. In other words: for Russia, the current situation is probably as good as it gets.

Against this background, it must be acknowledged that even if the Vienna Document were fully implemented – in both letter and spirit – this could hardly compensate for Russia’s growing military ambitions and its (related) failure to comply with its CFE Treaty obligations. For the moment, pushing for compliance with existing Vienna Document regulations remains key, notably since the Document still offers transparency on military forces and observation of large-scale military activities. During the Ukraine crisis, the Vienna Document (by means of Chapters 3, 9, and 10) was used extensively, in what was labelled “a modern way.” For example, Ukraine hosted voluntary visits and above-quota inspections during the crisis to dispel political and security concerns.

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39 Lucien Kleinjan, “Conventional Arms Control In Europe: Decline, Disarray, And the Need for Reinvention”, *Arms Control Today* (June 2016), p. 24.

40 *Ibid.*

**Figure 2 Conventional Arms Control Scorecard**

	CFE TREATY	OPEN SKIES TREATY	VIENNA DOCUMENT
<b>Agreement on rationale</b>	Basic principle of “parity” (between blocs) out-dated. No agreement on new rationale	Full agreement on the continued rationale of the OST, mainly based on transparency and a level playing field	Widespread call for modernization, but rejected by Russia. 2016 VD adaptation not realized
<b>Agreement on provisions</b>	Disagreement on major provisions (e.g. flank limits) – Adapted CFE Treaty (1999) not ratified by the West	Minor disagreements on the reimbursement of operating expenses, technical matters (e.g. sensor configurations)	Call to redefine VD zone of application, to lower thresholds, increase transparency on no-notice activities
<b>Compliance</b>	Russia has suspended the CFE Treaty (July 2007) – Other States Parties continue to perform their obligations under the CFE Treaty	Russia imposes unilateral restrictions on observation flights over its territory (e.g. Kaliningrad) – Disagreement on conflict areas/regions and access to airfields (US/Russia)	Disagreement on Russia’s compliance (e.g. 2017 <i>Zapad</i> military exercises) – artificial separation of exercises aimed at keeping them under reporting thresholds – providing misleading information to postpone/reject inspection requests
<b>Relevance in current geopolitical context</b>	Of limited relevance – Military of little use, politically obsolete	Highly relevant – Opportunities for a “status-neutral” approach to OST (incl. Crimea)	Highly relevant given the need to build East-West trust – VD offers the basis for new provisions to manage dangerous military encounters
<b>Relevance in current military-strategic context</b>	Ukraine crisis indicated that conventional weapons (and Treaty Limited Equipment) are still relevant	Continued relevance due to (almost) unlimited access and information sharing which is basis for confidence building	Call for widening scope of VD to include modern war-fighting capabilities (e.g. UAVs and hybrid warfare)
<b>Functioning verification instruments</b>	CFE-based verification instruments still relevant, but require adaptation taking into account new technological and doctrinal developments	Russia-Georgia problems have put 2018 OST arrangements on hold – New technology (e.g. RGB digital and infrared sensors) offer new opportunities	Options to improve VD verification (e.g. on notification thresholds) under discussion

EXCELLENT	GOOD	FAIR	POOR	VERY POOR
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## 4 A future arms control regime: the challenge and limits of innovation

The Scorecard (see Figure 2) clearly illustrates the range and depth of compliance problems. This demonstrates the need for a debate on the key elements of a new, modernized Euro-Atlantic arms control regime. This is both an intellectual and a political challenge. Given the current frosty political climate, it will be mostly up to a small group of academics, experts, and officials to develop new ideas. One of the problems is that the deadlock in conventional arms control and the absence of negotiations has been detrimental to analytical and diplomatic capacities across all Western states.

As Matthias Bieri argued (in 2013), “Staff positions have been successfully abolished rather than reappointing experts when positions are vacated, leaving states unable to support negotiations.”<sup>41</sup> As a result, the number of specialist conventional arms control personnel (including inspectors and observers) has steadily diminished.<sup>42</sup>

This Section offers some suggestions on how new proposals may be introduced and sequenced. It should be recognized that most official arms control discussions (within NATO, the OSCE, and beyond) remain confidential,

which means that many of the options outlined below may already have been examined, or even discarded as unrealistic. There are also political reasons that call for some modesty. As Paul Schulte has argued, “it could be counterproductive to urge forward any high-profile reanimating initiative which was judged genuinely doomed to failure.”<sup>43</sup>

**“At a minimum, a future arms control regime should reflect today’s geostrategic realities, acknowledge growing distrust between Russia and the West, and make a direct impact on military stability.”**

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41 Matthias Bieri, “The Future of Conventional Arms Control in Europe”, *CSS Analysis in Security Policy – ETH Zürich*, no. 146 (December 2013), p. 2. A similar point is made by Hans-Joachim Schmidt, “Strukturprobleme eines Neustarts der konventionellen Rüstungskontrolle in Europa”, *PRIF/HSEK-Report*, No. 7 (2017).

42 Hans-Joachim Schmidt and Wolfgang Zellner, “Confidence- and Security-Building Measures”, *SIPRI Yearbook* (Oxford: Oxford University Press, 2012), p. 442.

43 Schulte (2013), p. 6.



## Sequencing and Negotiation Options

What form should a future arms control regime take given that today's arrangements do not meet modern security requirements? At a minimum, a future arms control regime should reflect today's geostrategic realities, acknowledge growing distrust between Russia and the West, and make a direct impact on military stability. Although most European states subscribe to reforming existing arms control arrangements, there is no agreement on why this is required, how this should be achieved, and what the concrete form and shape of such a new arms control regime should be. For decades, arms control was considered an integral part of political bargaining rather than a key aspect of common security. For example, the process of adapting the CFE (the so-called ACFE) has been linked to broader geostrategic issues, most notably Russia's policies towards its "near abroad" and NATO enlargement. Today, arms control is inevitably linked to conflict management (with Eastern Ukraine as a major bone of contention), even though Russia has declared (e.g. in the Structured Dialogue) that any formal link between arms control to ongoing conflicts is a "red line".

It is clear that exploratory discussions on a new regime should in principle be open-ended and refrain from prejudging eventual political solutions and outcomes. A legally binding treaty (akin to the CFE Treaty) seems unlikely, if not impossible, given the unfavorable political conditions. A mix of politically binding agreements and so-called "voluntary political declarations" (such as the Presidential Nuclear Initiatives, PNIs) may work and can play a role in arms control areas that remain far removed from formal agreements.<sup>44</sup> Especially at the end of the Cold War, both US and Soviet leaders "made reciprocal unilateral pledges to substantially limit and reduce their nuclear weaponry, most notably their tactical or 'battlefield' nuclear weapons, such as nuclear artillery shells."<sup>45</sup> This may be a model to drag the arms control process out of the current rut. But before we get there, the following considerations need to be taken into account.

First, one of the key prerequisites to initiate a process towards a modern arms control regime will be to offer sufficient incentives for Russian engagement. The US (and many European allies) remain reluctant to do so, based on the argument that Russia first has to comply with existing arms control obligations. Central European countries seem concerned that starting negotiations may send the wrong signal to Russia, suggesting that it is now "business as usual" again.<sup>46</sup> Despite these hesitations, the West

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44 Eli Corin, "Presidential Nuclear Initiatives: An Alternative Paradigm For Arms Control", *NTI.org* (March 1, 2004). Online.

45 "The Presidential Nuclear Initiatives (PNIs) on Tactical Nuclear Weapons At a Glance", *Arms Control Today* (July 2017). Online.

46 Justyna Gotkowska, "The German Initiative For Arms Control: Time For a Dialogue With Russia", *Centre for Eastern Studies – OSW* (September 9, 2016). Online.

is now engaged in a policy of “small steps,” working towards a constructive dialogue with Russia. A pragmatic choice has clearly been made to shift the level of ambition away from today’s “cooperative security” to a concerted effort towards “managing differences.” Managing differences could start off by formulating modest but practical “rules of the road.” For example, proposals are now circulating to modify the Cold War bilateral agreements with the Soviet Union to prevent incidents on and above the high seas (INCSEA) into multilateral arrangements.

An enhanced arms control dialogue could interest Moscow for three reasons. First, Russia’s major armament modernization program (SAP) will be completed in 2020 (see above). Russia’s SAP has been seriously impacted by Western sanctions, notably due to the resulting slowdown of the Russian economy. Resuming arms control negotiations may benefit Moscow since it could go hand-in-hand with a possible relaxation of Western sanctions against Russia. Second, a dialogue should include working towards robust verification provisions, including qualitative arms control (see below). This is obviously a two-way street which offers Russia insights into Western strategic planning it could not gather otherwise. Third (and most importantly), any conventional arms control process will be part of a much broader security agenda including all aspects of the INF Treaty, the extension of New START, as well as matters such as third-country nuclear forces and US missile defense systems in Europe. This would open up opportunities to come to a more comprehensive, pan-European security deal, which has been a long-standing Russian strategic objective since the launch of the so-called Medvedev Plan (for a European Security Treaty, in 2008). For Russia, the main incentive to engage in such a dialogue will be to negotiate on a par with the US, which may boost its confidence as a Great Power.

Second, a discussion on the future principles for arms control is required. Some basic principles will be considered immutable, such as host nation consent (for the stationing of foreign troops). Other principles will have to be clearly outlined and formulated (such as the specific meaning of the use of force, and humanitarian intervention). Taking existing arms control regimes as the point of departure implies that we do not have to start from scratch. For example, the CFE Treaty’s area of application stretches from the Atlantic to the Urals (or ATTU, including all European island territories, such as Portugal’s Madeira and Denmark’s Faroe Islands). Within the Group of Like-Minded Countries, suggestions have been tabled to challenge the ATTU approach, suggesting that a significant stretch of Russian territory *east* of the Urals may have to be included (as well as adjoining sea areas and airspace). This would indeed be a possible consequence of Russia’s new military (including naval) capabilities, which can have a direct strategic impact on far-off battlefield operations and conflicts.

Other key aspects and parameters of existing arrangements are up for debate, including the notion of the “indivisibility of security” in the Euro-Atlantic region. The CFE Treaty (Articles 4 and 5) already introduced sub-regional arms control measures (in the form of

flank limits). This implies that (for example) a status-neutral approach to conflict areas does not run counter to established key principles, but forms a welcome modernization. There is an emerging consensus that any future conventional arms control arrangement should avoid a bloc-to-bloc (i.e. NATO-Russia) approach and work to include all European states (regardless of their affiliation or status), as well as the US and Canada. This basic principle was already acknowledged during the negotiations towards the ACFE. Avoiding a bloc-based approach would sidestep the messy process of deciding which country belongs to what “bloc.”

Other questions also need further discussion. For example, is focusing on force levels and fixed and verifiable territorial ceilings still the way to go? What military systems and capabilities should be included in new arms control arrangements, and how should transparency be organized? If the goal is to enhance security and stability throughout the Euro-Atlantic region, which systems should become the subject of regulation and how can we make the shift from measuring force levels to the quality of those forces? Today’s military technology emphasizes mobility, flexibility, and deployability, and has moved away from the large, heavy armor and firepower capabilities of the Cold War. In other words: How can we constrain not just the number of forces (quantity), but the way they are organized and configured (quality)? Suggestions have been made to launch (within the OSCE’s FSC) a process of “technical consultations by military experts to form a ‘security matrix’ that would determine the inter-connections between – and the degree of influence on – various types of weapons in combat missions.”<sup>47</sup>

“Today’s military technology emphasizes mobility, flexibility, and deployability. How can we constrain not just the number of forces (quantity), but the way they are organized and configured (quality)?”

Third (and last), a decision has to be made regarding the scope of future arms control arrangements. Historically, conventional and nuclear weapons have been dealt with in different fora. Although there are still strong arguments to keep a “firewall” between these two weapons categories, we should also acknowledge that Russia justifies its current reliance on nuclear weapons by pointing to NATO’s superiority in conventional capacities (both quantity and quality). Russia’s Military Doctrine clearly indicates that nuclear weapons may be used in response to an attack with conventional weapons “when the very existence of the state is under threat.”<sup>48</sup> With Russia emphasizing the role of nuclear weapons in its defense strategy (for example by simulating nuclear

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47 “Managing Differences On European Security In 2015: US, Russian, and European Perspectives”, *Atlantic Council / ELN / RIAC* (2015), p. 20. Online.

48 *The Military Doctrine of the Russian Federation*, Moscow (December 25, 2014).

strikes in its September 2017 *Zapad* exercise), it becomes even harder to keep conventional and nuclear arms control separate.<sup>49</sup>

Against this background, proposals by the ELN's Task Force on Cooperation in Greater Europe (of July 2017) are particularly relevant. This group of (former) European leaders calls for the revitalization of existing arms control commitments by "opening discussion on new arms control measures, such as the agreements on limiting strategic missile defense, the high-precision conventional strike missiles blurring the line with nuclear weapons, cyber-attack measures, the use of drones, or the deployment of weapons in space."<sup>50</sup> This ELN Task Force further suggests that a new arms control concept should focus on the "conventional and nuclear military balance, strategic cyber operation, and other non-kinetic measures of confrontation which may have strategic consequences."<sup>51</sup> In itself, this is not new: the MBFR Talks between NATO and the Warsaw Pact (1973-89) included conventional *and* nuclear weapons. Although linking conventional and nuclear arms control may make conceptual sense, it may also complicate matters. As mentioned earlier, bilateral US-Russian nuclear arms control is making little progress. As a result, the INF Treaty may fold and New START may not be prolonged.

What could be the innovative elements of a future arms control regime, taking into account (among others) new doctrinal and technological developments? The following elements are widely considered essential to any future arms control regime.<sup>52</sup>

First, numerical limits should not be aggregated into any sort of "bloc." New rules and limitations should apply across the Euro-Atlantic region, mainly because sub-regional arms control regimes (with restrictions on military holdings in pre-agreed zones of application) seem unacceptable to states in the regions concerned. In today's strategic environment, the overall number of TLEs poses less concern than their locations and activities, notably with respect to cross-border operations and out-of-garrison activities. This has been one of the key lessons learned from the Ukraine crisis. Each unit should have a declared home garrison, and limits should be set on where units can be stationed "out-of-garrison" at any time or place. This implies that the list of limited equipment has to be revised (although the current five TLEs could still be a useful point

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49 Although the notion that Russia simulated nuclear attacks in its 2017 *Zapad* exercises is contested. See Bruno Tertrais, "Russia's Nuclear Policy: Worrying For the Wrong Reasons", *Survival*, vol. 60, no. 2 (April-May 2018).

50 Task Force on Cooperation in Greater Europe, "Managing the Cold Peace Between Russia and the West", *ELN Position Paper*, no. 5 (July 2017), p. 3.

51 *Ibid.*, p. 4.

52 Gregory G. Govan, "Conventional Arms Control in Europe: Some Thoughts About an Uncertain Future", *Deep Cuts Issue Brief*, no. 5 (July 2015). See also Kulesa, "Making Conventional Arms Control Fit for the 21<sup>st</sup> Century" (2017).

of departure). Moreover, modern net-centric warfare allows smaller forces (as compared to the Cold War) to operate with fire support far removed from a potential conflict area. Today's military capabilities are based on satellite reconnaissance, positioning and communications, and modern computer software. A modern arms control regime should therefore include a new catalogue of TLE to cover (among others) some UAVs, cruise and ballistic missiles, air and missile defense systems, and the development of weapons in space. Clearly, these capabilities defy existing transparency and verification methods.

Second, transparency and verification have to be "reinvented," taking into account the fact that building trust depends on a balance between openness and internal security. The goal should (still) be to acquire data (on the basis of national declarations), but attention should shift from concern for static stability to the (possible) concentration of military capabilities in sensitive areas. This implies more emphasis on transfers, deployments, and activities, rather than capabilities *per se*. One of the key proposals to modernize the Vienna Document is to broaden the scope of information exchange to include naval forces, air and missile defense systems, as well as cruise and ballistic missiles, and UAVs.<sup>53</sup> This should be accompanied by the lowering of the thresholds for prior notification of exercises, given that Russia has frequently manipulated the numbers (by splitting exercises into separate episodes – see above) in order to bring them below Vienna Document levels.<sup>54</sup> CFE-type on-site inspections should continue, but provisions should be discussed for unrestricted challenge inspections of any suspected out-of-garrison activity that has not been declared. In all cases, verification should be based on the principle of reciprocity.

The current monitoring and verification provisions of the International Atomic Energy Agency (IAEA) *vis-à-vis* Iran under the 2015 Joint Comprehensive Plan of Action (JCPOA) could lead the way. The IAEA has conducted 402 site visits and 25 snap inspections in the first 12 months since the JCPOA was enacted. Replication of such a regime would go way beyond current CFE Treaty and Vienna Document provisions, but may still prove possible if certain areas could be declared too sensitive, or of special concern for a limited time. Some courage (and inspiration) may also be taken from the recent decision by the Organization for the Prohibition of Chemical Weapons (OPCW) to inquire not just whether chemical weapons have been used, but also who bears responsibility. Although Russia (together with Iran) has been highly critical of this move, it is a clear indication that upholding non-proliferation norms require new thinking as well as widening the authority of IOs to ensure that lawbreakers are duly punished.<sup>55</sup>

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53 Michael Brzoska *et al.*, "Prospects For Arms Control in Europe", *Friedrich Ebert Stiftung / IFSH Study* (November 2011), p. 28.

54 Kulesa, "The Role of Arms Control" (2015), p. 232.

55 John Hart, "Confrontation At the OPCW: How Will the International Community Handle Syria and Skripal?", *War on the Rocks* (June 18, 2018). Online.

Third, a consultative body should be established in order to manage a future new agreement and to resolve any emerging ambiguities and conflicts.

Proposals have already been floated within the Group of Like-Minded Countries to strengthen the OSCE Secretariat's role for verification and monitoring missions in unclear cases or crisis situations. To some extent, the current CFE Treaty's Joint Consultative Group (JCG) is a body that already functions in this way. The INF Treaty also

has its own Special Verification Commission (SVC) tasked with resolving compliance issues. The main objective for a new consultative body will be to depoliticize (as much as possible) conflicts and to ensure confidentiality. Suggestions have been made to establish "standing inspection teams" to monitor the provisions and report back to the consultative body. These teams could be modelled on (for example) the inspections conducted by the OPCW. This new consultative body could also provide assurance that a future arms control regime will be a so-called "living agreement," preferably linked to a catch-all clause. Given the rapid development of technology and strategy, trust can only be built by taking into account both military capabilities and intentions, as well as specific issues such as the combat utility of forces, the quality of training, deployability, as well as supporting infrastructure. To make any arms control regime resilient and "future-proof," it should be open to regulate the role and use of non-combat units, paramilitary and special forces, and private contractors, as well as (even more challenging) the impact of capabilities in cyberspace and outer space.

**“A consultative body should be established in order to manage a future new agreement and to resolve any emerging ambiguities and conflicts. Proposals have already been floated within the Group of Like-Minded Countries to strengthen the OSCE Secretariat's role for verification and monitoring missions in unclear cases or crisis situations.”**