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***Arms Control and CSBMs in Europe: Challenges and opportunities***

Today, Europe stands at a crucial juncture in its history after the end of the Cold War: Will it be in a position to solve the crisis and revive security cooperation or return to confrontation? Failure might bring back forward stationing of forces, growing defense budgets and economical burdens, an increased reliance on sub-strategic nuclear weapons, a renewed split of Europe at the cost of people and a perpetuation of threat perceptions with destabilizing consequences in Europe and global repercussions. The concept of cooperative security would be discredited as a model for crisis management and cooperative conflict resolution in other regions of the world.

This development is in stark contrast to the agreed norms and objectives enshrined in the Charta of Paris (1990), the European Security Charter of Istanbul (1999) and other key documents, namely to create a common undivided security space without geopolitical zero-sum games in which no state or alliance seeks to enhance its own security at the expense of partners. It was this very concept which enabled Europe to end the Cold War and replace confrontation by cooperation. All OSCE participating States just recently have renewed their commitment to this concept under the label “*Helsinki plus 40*”, during the last Ministerial Council Meeting in December 2013 in Kiev not far from the Maidan. There is still hope that this was not only lip service.

Critics argue that the “*Helsinki plus 40*”-process has become obsolete. They ask why one should continue pursuing security cooperation and refine respective documents while its very foundations, Helsinki principles and norms of international law, have been seriously violated. Instead, inside NATO the call to fortify Eastern borders by permanent stationing of combat troops has become louder and more urgent. To some, a return to confrontation does not seem to be a question of choice but already a hard fact.

However, one might also argue that a number of states were already reluctant to embrace the idea of security cooperation and adapt its relevant instruments long before the current crisis started. The fact that this concept was marginalized for one decade might be one of the reasons why the belief in security cooperation was waning and new threat perceptions growing. One could even ask whether the current crisis had been likely to develop to the widespread perception of a full-fledged European confrontation had these instruments been in place. They were geared to reassure all parties in Europe that geopolitics was a matter of the past. In that context, conventional arms control played an essential role. Its deterioration has had a negative impact on security, and led to an erosion of trust and confidence. The fate of the *CFE Treaty*, which was to reassure each other of mutual strategic restraint, is a case in point. Though it was labeled the “*corner stone of European security*” up to 2009, its adaptation failed and the interest in negotiating a viable replacement petered out.

### **Relevance of arms control**

Given these doubts whether arms control is still relevant let me make some observations and start with an analysis of the current situation:

(1) The contributions made to European stability by the CFE Treaty through unprecedented disarmament in the 1990s can still be felt even in the current crisis. In consequence of obligatory reductions and voluntary force transformations, today the military holdings of most states parties – except for Southern flank states – stay far below Maximum National Levels of Holdings. In Central Europe major alliance warfare scenarios are no realistic option any more.

(2) The CFE Treaty was perfectly in line with the security requirements of the time by addressing the military risks of the late 1980s with a geographical focus on Central Europe. Thus, it set the objectives of eliminating potentials for launching major offensive operations or regional surprise attacks and, to that end, establishing an equal bipolar balance of forces at reduced levels. However, that objective became obsolete simply because one alliance together with its leading military super power disappeared and all its former non-Soviet member states, the three Baltic States and three States “south of Vienna” joined voluntarily the other alliance. The idea that a single state could make up for this “strategic loss” and alone keep the balance against 28 states in Europe is flawed and contradicts the CFE sufficiency clause under Art. 6.

(3) In the meantime, NATO’s enlargement to the East also rendered the CFE Treaty’s strategically well defined regional limitation regime obsolete: Its entire central area 4.4 is NATO territory while its adjacent wider limitation area 4.3 is dominated by NATO countries. In consequence, NATO countries keep a regional balance of forces among themselves while regional CFE limitations do not unfold any stabilizing effect in the new sensitive neighbourhood of Russia, her CSTO partners and Russian stationed forces on the one hand and her neighbouring and NATO member states on the other. Furthermore, in the Baltic States (and the Western Balkans) NATO’s collective defence commitments cover territories which are excluded from the current CFE area of application. There, no regional limitations for stationing national and allied forces exist. Mutual NATO-Russia commitments provide certain but undefined reassurances which seem to be at stake in consequence of the current crisis.

In the Caucasus, arms races continued for several years with one State Party exceeding CFE Maximum National Levels of Holdings and non-state actors acquiring large amounts of armaments limited by the Treaty which are not accounted for (UTLE). The flank rule failed to contribute to sub-regional stability and hedge territorial conflicts, arms races and major powers geopolitical zero-sum games since regional Cold War ceilings are too high to prevent dangerous force concentrations. There, conflicts take place at a much smaller scale, within the same CFE group of states and in a fragmented post-Soviet landscape.

(4) Already the 1999 Adaptation Agreement (ACFE) acknowledged that the outdated CFE limitation regime did not respond to changing security needs. Therefore, it was to be replaced by national and territorial limitations for every State Party irrespective of any alliance membership. By opening the treaty for accession to all OSCE participating States with territory between the Urals and the Atlantic, the ACFE carried the potential of a pan-European arms control regime. It failed due to geopolitical disputes over selected territorial conflicts. In the meantime, more changes of the European security landscape put into question the relevance of several provisions of the ACFE as well.

(5) Despite its conceptually flawed limitation concept the CFE information and verification regime still entails a valuable degree of transparency and predictability. Since Russia’s sus-

pension of the Treaty in December 2007 there is a lack of transparency. Compared to the CFE Treaty the intrusiveness of information and verification of the *Vienna Document* is much lower and the threshold values for notification and observation of unusual military activities still represent scenarios of large scale offensive operations perceived at the end of the Cold War. They are by far too high to reflect Europe's military reality today.

In sum, the *OSCE crisis management tools* have shown their validity and usefulness in the current conflict – but also their shortcomings. Since they were designed to build trust *between states* they are not geared to deal with *internal* conflicts without additional local provisions negotiated on the spot on a case by case basis.

***In conclusion, conventional arms control has disconnected from a changing security context. To regain relevance it needs to respond to the security needs of our time:***

*First*, it should reassure all OSCE participating States of *mutual strategic restraint* by suitable agreements on prevention of destabilizing force concentrations.

*Second*, it should contribute to *stabilizing* the situation in regard of *territorial conflicts* by preventing sub-regional arms races, providing for early warning and monitoring of local preparations of hostilities as well as de-escalation in crisis.

*Third*, obviously Europe is currently far away from the goal of pan-European security cooperation and still divided over a range of different risk perceptions and disputes on intervention policies and geopolitical strategies, territorial conflicts, missile defence and the like. Only if such remaining and new risk perceptions can be hedged common international action seems possible to cope with global security challenges.

### **Conceptual uncertainties: How to shape future conventional arms control?**

Against this background, for some years there have been conceptual uncertainties how to shape future conventional arms control in Europe.

Are limitations dispensable while *verified transparency* could sufficiently ensure favourable security conditions in Europe? While for all conceivable solutions transparency is a *conditio sine qua non* the lessons learned from the current crisis and mutual threat perceptions suggest that transparency alone is not enough:

In context with NATO's enlargement Russia has voiced concern about the elimination of the balance of forces, a potential shift of military infrastructure and substantial combat forces closer towards Russian borders and rapid reinforcement and long range precise strike capabilities of the Alliance. It argued that such concerns are not irrelevant given military interventions of major NATO powers in and outside Europe without or beyond Security Council mandates. However, the current crisis made clear that Russia herself has embraced intervention policies and it seems to me that she did it predominantly for fear of strategic losses of military key positions.

Several Central and Eastern European countries, however, have perceived Russian action in the "*near abroad*" a security concern long before the current crisis started, in particular, the intervention in the Georgian war in 2008 and the subsequent recognition of Abkhazia and South-Ossetia. They worried about the potential use of minority problems for further intervention policies. In this context, the inherent geo-strategic advantage of Russia to concentrate forces at neighbouring sub-regions including the South Caucasus is assessed a security risk.

Conceptually, such mutual threat perceptions are complementary: Russia and her neighbours view military activities in border areas with suspicion, put emphasis on strengthening defence options and regard arms control with some scepticism since it could unduly curtail defence capabilities. They seem to neglect, however, that mutual arms limitations serve national defence by restricting offensive options of potential opponents and providing for early warning. With this caveat, keeping open sufficient *flexibility* for individual or collective defence, avoiding *non-reciprocal restrictions* on own territory and *preventing sub-regional force concentrations* seem to be the common denominators for approaching future arms control.

***One could conclude that conventional arms control should focus on stabilizing the military situation in those sub-regions where excessive concentration of forces have or could have destabilizing effects. At the same time, it should ensure mutual strategic restraint.***

### **Territorial conflicts and principles**

Territorial conflicts in the post-Soviet CFE southern flank area have proven to be the major stumbling-block to revitalizing conventional arms control in Europe. A number of countries tend to link pan-European arms control initiatives to the desired outcome of conflict settlement or else block progress. However, developing a meaningful arms control concept, obviously, cannot succeed in the foreseeable future if it were made subject to prior conflict settlement for at least *eight* disputed areas in Europe. Furthermore, sub-regional conflicts cannot be solved when they are perceived as political symbols and strategic cornerstones on the chessboard of a larger geopolitical rivalry between major powers. Acceptable solutions to territorial conflicts are more likely to be found if they are imbedded in a comprehensive security architecture that reassures involved states not to fall victim to geostrategic zero-sum games. Only if no party involved has to fear geopolitical losses it might be willing to agree on face saving compromises on issues which are essentially local problems only. That is why the security dimension has to be strengthened – not despite but because of the existence of territorial conflicts.

Of course, such areas of dispute cannot be excluded from a pan-European arms control concept. Pending political conflict settlement, arms control should aim at containing local arms races, preventing tensions from turning into open war and, thus, promoting military stability to allow for peaceful conflict settlement. Without providing legal status, transparency of and restrictions on stationed forces and UTLE of non-state actors are useful elements. The Dayton Peace Accord's Annex B Article II and IV Agreements and various ceasefire agreements for conflict areas have provided precedent. However, it will be difficult to enshrine such precarious stipulations in a pan-European agreement between states since they might be interpreted as legal recognition of the political status or armaments of non-state actors. Therefore, separate but interconnected sub-regional agreements might be the better alternative. They could be linked to a pan-European agreement by respective annexes and be supplemented by special commitments of all states which exert political and military influence in the zones of conflict.

These measures could be taken without prejudice to the final outcome of status talks and without compromising the principles of sovereignty and territorial integrity. It might be attainable to enshrine in a new agreement the principle of *host nation consent* for the stationing of forces, though in a generic way only. However, any attempt to prejudge the outcome of specific status talks which are undertaken at the appropriate fora would again lead to an impasse.

A future agreement should reflect further important principles such as *non-use of force*, *equal security* of states within a common security space without dividing lines, *reciprocity* of secu-

rity building measures and *non-discrimination* of all participating States. Furthermore, for arms control to be of relevance it must be militarily effective and, at the same time, leave sufficient flexibility for individual or collective self-defence.

### **Military effectiveness**

#### *Preventing destabilizing concentration of forces*

A number of states regard undue accumulations of forces in their geographical neighbourhood as a potential threat. However, with the exception of territorial conflicts where forces are in positions close to the lines of contact, it is noteworthy that in most of Europe it is not the *status quo* which is regarded a threat but rather the potential future stationing or short-term build-up of forces. In such cases, no reduction seems to be required but rather reassurances that the *status quo* will not change. To that end, one might consider reciprocal commitments to exercise restraint as for additional force deployment in sensitive areas and to ensure a high degree of transparency.

#### *Flexibility*

To leave the necessary flexibility for collective defence one might also consider an acceptable margin for temporary deployment of additional forces for the purposes of exercises or emergency cases. However, such deployment should not exceed a reasonable duration and level of forces and be accompanied by additional intrusive information and verification. To that end, one can build on precedence such as NATO-Russia commitments not to station additional substantial combat forces, Vienna Document provisions on the information on and observation of exercises and the ACFE inspection of designated areas in accordance with Section IX of the Adapted Protocol of Inspections. However, such provisions need modification in order to meet today's security needs.

#### *Net-centric operations and modern warfare capabilities*

Militarily effective arms control in our times cannot ignore modern military capabilities and net-centric operations. They allow for rapid reinforcement, fire support and precise long-range destruction missions from decentralized geographical locations outside the key zones from where offensive ground operations could be launched. These capabilities are linked to global reconnaissance, target detection, positioning, command, control and communication capabilities and essentially brought to bear by strategic air and sea mobility, long-range air-to-surface missiles, air- and sea-launched cruise missiles as well as ballistic missiles with conventional warheads. Such munitions can be launched from distant ground positions or by long-range combat aircraft supported by air-refuelling or by ships and submarines. In addition, amphibious capabilities and sea landing forces generate important reinforcement options.

The fact that such capabilities can be used for both global action and inside Europe, poses a conceptual challenge. Consequently, certain land- or sea-based capabilities located outside the zone of direct neighbourhood should be made subject to arms control provisions if and when they affect the security in Europe as their geographical location allows for direct operational impact inside such zones or beyond. As impressive as new war fighting potentials in asymmetrical wars might be, one should put in perspective its operational impact in a scenario in which equally equipped adversaries conduct combined arms battles and mobile air-ground operations. In such scenarios the five TLE categories of the CFE Treaty are still relevant.

#### *Geographical asymmetries*

Operationally effective arms control will have to take into account geographical asymmetries. The geographic extension of her frontiers grants Russia operational freedom of shifting forces

on own soil in the whole of Eastern Europe and concentrating them in sub-regions between the High North and the Caucasus (flank rationale). On the other hand, Russia faces numerous neighbours at her outer periphery while equal rules on temporary deployments for every state would allow a group of smaller allies to accumulate high numbers of forces in adjacent sub-regions (ACFE problem). So it seems that the principles of non-discrimination and reciprocity occasionally collide with military implications of geographical asymmetries. That will require sensible compromises which also take into account a strategic view of alliance defence commitments and warfare potentials beyond sub-regional equations.

However, what might work in a strategic context of pan-European stability might not have any effect with respect to areas of *territorial conflict*. Here, where forces are entrenched and confronting each other on short distances it is not the large extension of the operational depth which counts but the short-range tactical requirements of small scale combat. Also, the recognition of the military *status quo* as a base line will be insufficient to prevent escalation and stop arms races. Instead, it will be important to set up local demilitarized and heavy weapons restricted zones under international observation in order to stabilize the situation on the ground; arms reductions are needed to contain the risks of destabilizing arms accumulations.

#### *Transparency and limitations*

Establishing limitations for defined armaments within certain geographical areas only makes sense if they are assured by information and verification. So, the concept of *verified transparency* should not be portrayed as contrasting with or having advantages over limitations. The question is whether verified transparency alone is sufficient to alleviate security concerns of states or whether and which limitations are required in addition. Of course, finally only negotiations will find out what is acceptable. However, ignoring that a number of states insist on limitations does not seem to be a reasonable position to start with. Furthermore, when it comes to a cooperative evaluation of what constitutes destabilizing military activities, such an approach will also face some problems of practicability for the following reasons:

Each concept requires an initial detailed exchange of information on the current status of forces as well as subsequent updates. Where states deem the current status acceptable and only fear a reconstitution of military capabilities or short term build-up of additional forces, the *status quo* automatically becomes a base line against which further development of military capabilities will be assessed, e.g. fielding of new weaponry and stationing of additional units. Consequently, for all practical purposes the *status quo* will become a threshold value. In the absence of common standards any exceeding of such thresholds will give rise to controversies whether it poses a security concern and constitutes a destabilization of the situation in violation of the spirit of an agreement. That might result in yet another political dispute on compliance and antagonize partners rather than ensure stability.

Therefore, it seems advisable to define what constitutes a destabilizing concentration of forces and which modest increase or temporary deployment could be acceptable within the necessary margin of flexibility for legitimate defence purposes. At the same time, one should assume that any unusual military activity would be limited in time, preceded by specific information requirement and monitored by additional intrusive inspections to reassure states of the purposes and extent of temporary deployments. Consequently, certain threshold values must be introduced which trigger respective notifications and observations and, at the same time, limit such temporary deployments.

Occasionally, the argument is made that the value of limitations was doubtful since the *Revolution in Military Affairs* progressed rapidly and its impact could not be properly assessed yet.

Furthermore, new military technologies could be used inside and outside Europe. However, uncertainties about the qualitative aspects of new military equipment are not new. They accompanied military assessments already in the past and also influenced CFE negotiations but did not render arms control compromises impossible. They rather confirm the need of constant review and adaptation in light of future developments. What could be considered, however, is a step by step approach which establishes threshold values and limitations in certain geographical key zones while transparency measures monitor capabilities beyond such areas, particularly, as they could be used for global purposes as well.

#### *Crisis management*

The crisis management tools must be refined. The current CSBM instruments such as the *Vienna Document* are useful but have their limitations: Quotas for routine inspections and evaluations need to be increased, threshold values for unusual military activities should be lowered, special inspection regimes for destabilizing sub-regional force concentration introduced taking useful examples from the ACFE such as Section IX inspections (Adapted Protocol of Inspections) though it did not enter into force. The fact that CSBMs and arms control were geared to ensure stability *between* states but have only limited value for stability operations in *internal* conflicts needs special attention and requires appropriate adaptation.

### **Conclusions and recommendations**

- (1) A future conventional arms control regime should aim at alleviating *remaining and new security concerns* in Europe in order to promote European stability and facilitate overall security cooperation in the face of global security risks. To that end, it should be geared to support a pan-European security space without dividing lines and geopolitical zero-sum games, provide for reliable reassurances of strategic restraint and allow for accession by all OSCE participating states within the area of application.
- (2) European arms control should focus on stabilizing the military situation in those sub-regions where *unusual concentration of forces* have or could have destabilizing effects.
- (3) Where existing force structures and deployments do not give rise to security concerns the confirmation of the *status quo* and the prevention of future sub-regional force accumulations would sufficiently reassure against destabilizing concentration of forces.
- (4) Regulations should provide appropriate *flexibility* for individual or collective self-defence and respective exercises. They should strike a reasonable balance between the needs of reciprocity and geo-strategic asymmetries taking into account the strategic implications of alliance defence commitments beyond sub-regional equations.
- (5) European arms control cannot ignore remaining *territorial conflicts*. It should diminish their geopolitical significance, contain local arms races, prevent tensions from turning into open war and, thus, promote military stability to allow for peaceful conflict settlement. To that end, states should commit to sub-regional transparency and exercise restraint with respect to stationing of forces and arms deliveries to the zones of conflict.
- (6) *Verified transparency* is an indispensable tool to reassure partners of the compliance with agreed rules. In order to enable cooperative risk assessments common standards such as *threshold values* should be established against which the significance of force concentrations could be measured.

- (7) In context with offensive air-ground and combined arms operations in Europe the five *TLE categories* of the CFE Treaty are still relevant. In addition, arms control should also cover rapid reinforcement and long-range precise strike capabilities located outside sensitive sub-regions whenever they could affect the security in Europe.
- (8) Arms control agreements should be based on relevant *principles of international law* and the OSCE acquis such as non-use of force and peaceful conflict settlement, respect for the sovereignty and territorial integrity of states, host nation consent for the stationing of foreign forces, undiminished and equal security of states in a common security space without dividing lines, the right to individual or collective self-defence, non-discrimination and reciprocity of rights and obligations. In regard of territorial conflicts, however, arms control cannot prejudge the outcome of status talks undertaken in the appropriate fora.
- (9) Stabilization of conflict areas must take into account the military *potentials of non-State actors* without providing international legal status as recognized states. Therefore, separate but supplementary sub-regional agreements by the parties to a conflict and mediating states might be necessary. They could be linked to a pan-European instrument by annexes and respective commitment of all involved states.
- (10) While a European arms control regime should be open for *accession* to all OSCE participating States uncompromising linkages to particular interests of parties to a territorial conflict might result in an early blockade. Therefore, it is advisable to start negotiations with a core group which guards the *pan-European focus* of an open ended process.
- (11) A complete new start of negotiations from scratch entails the risk of lengthy and probably futile mandate discussions on all basic elements such as the definition of the area of application, exclusion zones and principal force categories that should be covered. To avoid that, it would be wise to build on relevant ACFE provisions and keep the talks focused on such issues which require urgent modification to regain relevance and validity of arms control.
- (12) Whether a future arrangement should be *legally or politically binding* will be a question of its character and of opportunity. A regime with limitations might require more legal foundation than a transparency regime. But politics is the art of the possible; while a legally binding treaty would provide the perception of more reliable reassurance, a politically binding agreement would be preferable to no agreement at all.

Summarizing, the OSCE with its comprehensive security concept, autonomous institutions, key documents, its field presence on the ground and a unique arms control and CSBM acquis can and should play an important role to promote stability and crisis management in Europe. Against the background of the current crisis and urgent security needs in Europe as well as global security challenges, its objective to create a common security space without dividing lines is not obsolete. However, any regional organization can only be as strong as participating States are willing to lend their support. In this respect, States themselves bear the main responsibility for the implementation of that concept.