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Recent Developments in the Field of Arms Control and Confidence- and Security-Building Measures

The Interlocking Web of Arms Control Arrangements

The participating States of the Organization for Security and Co-operation in Europe (OSCE) have succeeded in establishing a unique set of complementary, mutually reinforcing arms control arrangements, thus creating a culture of openness and transparency between states. The Treaty on Conventional Armed Forces in Europe (CFE Treaty), the Vienna Document (VD) on the Negotiations on Confidence- and Security-Building Measures (CSBMs), and the Open Skies Treaty have been key instruments for ensuring military predictability, verifiability, stability, and transparency within the OSCE area. Together with the Code of Conduct on Politico-Military Aspects of Security and regional and bilateral CSBMs, they form a solid and unique *acquis* of principles and commitments in the politico-military sphere. This web is crucial for the security of all participating States, irrespective of whether they are parties to a specific arrangement or not. Preserving, strengthening, and modernizing this *acquis*, while ensuring full and equal compliance with all the commitments it entails, remains vital for achieving military stability, security, and co-operation.

However, negotiations on two of these three key instruments have currently reached a stalemate. The 2011 Annual Security Review Conference (ASRC), held from 29 June to 1 July 2011, confirmed the recent political difficulties encountered with the Open Skies Treaty at the Opens Skies Consultative Commission, the enduring deadlock of the CFE Treaty, and the impasse of the discussions on a "Framework for Negotiations to Strengthen and Modernize the Conventional Arms Control Regime in Europe".

In this context, updating the VD is a strategic objective that will give impetus to the politico-military dimension of the OSCE. The VD is a success story and has proven to be a well balanced instrument with a high level of implementation; moreover, the participating States welcomed the significant progress that was achieved on its revision in 2010 and 2011. The adoption of a new version of the VD in time for the Ministerial Council in Vilnius could be the start of a comprehensive process of adapting the arrangements to cur-

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Note: This contribution was written in July 2011, after the 2010 Astana Summit and prior to the 2011 Review Conference of the CFE Treaty and the 2011 Ministerial Council.

Disclaimer: This courtesy contribution represents the views of the FSC (Forum for Security Co-operation) Chair's Co-ordinator for the Vienna Document and is not an official OSCE document.

rent and future politico-military realities, ultimately increasing pan-European security.

Almost all participating States continue to underline the central and strategic role of the CFE regime in the web of interlocking agreements. It is also widely recognized that the VD cannot replace the CFE's contribution to security in Europe, but that the two documents complement each other. In spite of the persisting differences of opinion, insufficient political will, and the incapacity to break the current deadlock, the States Parties to the CFE Treaty have recognized the importance of continuing to seek ways of overcoming the crisis of the regime on conventional arms control in Europe.

In this context, it is necessary to recall that the aims of the CSBMs contained in the VD are not the same as the goals of the CFE Treaty. The VD is politically binding on all 56 OSCE participating States, committing them to more transparency, while the CFE Treaty is a legally binding regime negotiated between 30 States Parties, obliging them to respect and implement thresholds and reductions.

The Open Skies Treaty has proven to be a useful instrument for transparency and predictability and a successful CSBM in itself. The States Parties have noted the recent political difficulties encountered with the Open Skies Treaty with concern and expressed their hope that the problems encountered at the Consultative Commission can soon be resolved.

The 2010 OSCE Summit

At the 2010 Astana OSCE Summit, the Heads of State or Government of the OSCE participating States gave new impetus to conventional arms control and CSBMs. They expressed their political will to restore trust and confidence in the politico-military dimension and praised the work of the Forum for Security Co-operation (FSC). The OSCE Summit adopted the Astana Commemorative Declaration,[1] which has several elements that relate to the politico-military dimension. Paragraph 8 is dedicated to arms control and CSBMs. It also tasks the FSC with updating the Vienna Document 1999 (henceforth: VD 99). The Heads of State or Government expressed their will to overcome the differences in their perceptions of the security situation and called on the participating States to work in a spirit of openness, while fully implementing existing commitments:

> 1. […] more must be done to ensure full respect for, and implementation of, these core principles and commitments that we have undertaken in the politico-military dimension […]

1 Organization for Security and Co-operation in Europe, Summit Meeting, Astana 2010, *Astana Commemorative Declaration – Towards a Security Community*, SUM.DOC/1/10/Corr.1, 3 December 2010, at: http://www.osce.org/mc/74985.

7. Serious threats and challenges remain. Mistrust and divergent security perceptions must be overcome. Our commitments in the politico-military, economic and environmental, and human dimensions need to be fully implemented. […]
8. Conventional arms control and confidence- and security-building regimes remain major instruments for ensuring military stability, predictability and transparency, and should be revitalized, updated and modernized. We value the work of the Forum for Security Co-operation, and look forward to the updating of the Vienna Document 1999. We value the CFE Treaty's contribution to the creation of a stable and predictable environment for all OSCE participating States. […]

11. We welcome initiatives aimed at strengthening European security. Our security dialogue, enhanced by the Corfu Process, has helped to sharpen our focus on these and other challenges we face in all three dimensions. The time has now come to act, and we must define concrete and tangible goals in addressing these challenges. We are determined to work together to fully realize the vision of a comprehensive, co-operative and indivisible security community throughout our shared OSCE area. […] We […] will be guided by the principles of equality, partnership co-operation, inclusiveness and transparency. […]
12. […] Progress achieved will be reviewed at the next OSCE Ministerial Council meeting in Vilnius on 6 and 7 December 2011.

Consequences for the 2011 Ministerial Council

In line with the priorities set by the 2010 OSCE Summit, updating the VD is one of the key tasks whose results are to be presented at the 2011 Ministerial Council in Vilnius. Since the last revision of the VD took place twelve years ago and the conventional arms control regime in Europe is currently deadlocked, its adoption would be one of the highlights of 2011.

Adopting the new VD ("VD 2011")[2] will have an impact on the other Ministerial Council decisions elaborated by the FSC. It would affect both the decision on the "OSCE Programme for Further Action in the Field of Arms Control and Confidence- and Security-Building Measures" and the "Decision on the Issues Relevant to the FSC", which outline the mandate and tasks of the FSC in 2012. Since the participating States are calling for a substantial revision of the VD, it would be wise to adopt a decision welcoming the

2 According to FSC Decision No. 1/10 of 19 May 2010, the Vienna Document shall be updated and revised on a regular basis and reissued every five years (or more frequently), starting not later than 2011. Cf. OSCE, Forum for Security Co-operation, Decision No. 1/10, Establishing a Procedure for Incorporating Relevant FSC Decisions into the Vienna Document, FSC.DEC/1/10, 19 May 2010, p. 1.

"modernized" VD and the progress achieved in 2011, but also strongly urging the document's continuous substantial revision. This would also acknowledge that the modernization of the document should be seen as an ongoing process.

Therefore, the adoption prior to the Ministerial Council of the modernized VD – or the failure thereof – will influence not only the work of the FSC, but also the results to be presented at the Ministerial Council. The foreign ministers will attend the Vilnius Ministerial Council with a more positive attitude if it promises clear deliverables in terms of the tasks outlined in the 2010 Astana Commemorative Declaration. Thus, the reputation of the OSCE will depend on the adaptation in due time of the Vienna Document.

The Vienna Document

The adoption of the VD in 1990 represented a milestone in confidence- and security-building throughout the entire OSCE region. Its achievements included strengthening transparency and predictability in military affairs, facilitating military contacts, and underpinning early warning and crisis prevention. Since its adoption in 1990, the VD has been updated in 1992, 1994, and 1999.

The VD 1990 built upon the 1975 provisions of the Helsinki Final Act on early notification of military exercises involving 25,000 or more military personnel, and the provisions of the 1986 Stockholm Document, i.e. the concluding document of the Stockholm Conference on Confidence- and Security-Building Measures and Disarmament in Europe (1984-1986), on prior notification and observation of military activities and verification measures. The VD 1990 was updated in 1992, mainly to include the fifteen new OSCE participating States. The VD 1994 provided additional parameters for prior notification and observation of military activities. In 1999, two chapters on regional measures and defence planning were introduced.

The VD is considered a success story, and its level of implementation remains exceptionally high. However, it has not been updated since the 1999 Istanbul Summit, despite geopolitical changes, the evolution of military doctrine, the modernization of military equipment, and the drastic downsizing of most participating States' armed forces. The VD review process should adapt the document to modern realities, improving its transparency and enhancing its implementation.

The Nature of the Vienna Document

The VD has the following main characteristics:

- It is a politically binding document negotiated among all the OSCE participating States, which encompass a wide geographical area and a variety of security arrangements.
- It is an important source of information for all participating States through its information exchanges on defence planning, military budgets, military forces and structures, data and plans for the deployment of major weapon and equipment systems, and military activities.
- It is a facilitator of military contacts, military co-operation, and regional confidence- and security-building measures.
- It is a political tool for conflict prevention, risk reduction, and early warning.
- It is a living document with the potential for continuous adaptation.

The Need for Modernization and the Search for Political Impetus

The FSC remains engaged in CSBM negotiations under the original mandate of the Stockholm Conference on Confidence- and Security-Building Measures and Disarmament in Europe (1984-1986). The OSCE's role has been confirmed by the concluding documents of several follow-up meetings and summits, including the Madrid, the Vienna, and the Helsinki Follow-up Meetings of the CSCE (Madrid Concluding Document, 1983; Vienna Concluding Document, 1989; Helsinki Summit Declaration, 1992), the Charter of Paris for a New Europe of 1990, the Programme for Immediate Action contained in the Helsinki Document 1992, and the Framework for Arms Control contained in the Lisbon Document 1996.

Little has been achieved in the years since the last VD update. Only five decisions concerning the VD were taken between 2000 and 2009, and they all related to the implementation of the VD and did not aim to modernize the document itself. These decisions concerned, respectively, the notification format (2000), the distribution of information exchange in electronic form (2001), the respect of national holidays when planning verification activities (2008) – a commitment that was already part of the VD – and, in two instances, meetings between heads of verification centres (2009).

In recent years, however, the participating States have presented more than twenty proposals aiming at modernizing the VD. The FSC has not been able to reach consensus on these proposals, although some decisions were almost carried. Instead of FSC decisions, six "FSC Chair's Statements" were published, all of them between 2000 and 2005. Such statements do not have the political status of VD decisions, but represent strong views shared by the vast majority of participating States. The six statements related to the modalities governing air base visits (2000), the use of digital cameras (2003), the

facilitation of point-of-entry procedures (2003), information exchange related to former army helicopter units reassigned to the air force (2004), the status of auxiliary personnel for interpreters during verification activities (2004), and the voluntary notification of one major military exercise or activity below the threshold per year (2005).

In 2007, a link was established between the deadlock of the CFE Treaty and the negotiations on the VD. Some participating States were no longer willing to negotiate proposals related to the VD due to the unilateral suspension of CFE Treaty implementation by the Russian Federation, while the Russian Federation relaunched a number of proposals linked to provisions of the adapted CFE Treaty, including a proposal on "Prior Notification of a Large-Scale Military Transit" and one on "Complementary Measures for Risk Reduction in the Deployment of Foreign Military Forces in the OSCE Area".

With regard to the deadlock in VD negotiations during the 2000s, the Russian Federation suggested the creation of independent CSBMs to be applied in addition to the VD. Russia presented several technical proposals, on topics such as "Duration of Evaluation Visits", "Taking National Holidays into Account when Planning Verification Activities", "Single Deadline for Submission of Information on Defence Planning", and "Procedure for Submitting Reports on the Results of Verification Activities". However, these proposals were not intended for analysis as independent technical measures, but as part of a more ambitious project to conduct an in-depth analysis of the future role of arms control and CSBM.

Concerning the implementation of the Vienna Document, the activation of Chapter III "Risk Reduction – Mechanism for Consultation and Co-operation as regards Unusual Military Activities" reflects issues of serious concerns among participating States and is considered to be an early warning signal within the conflict cycle; Chapter III has very rarely been activated, only twice in the 90s. In the run-up to the August 2008 conflict in Georgia, it was activated three times, once by Georgia and twice by the Russian Federation. No solutions were found to the concerns raised by the parties, despite consultations chaired by the OSCE Chairman-in-Office and joint meetings of the Permanent Council and the Forum for Security Co-operation involving all participating States.

Although some participating States questioned the implementation of the VD in this situation, most stressed its usefulness for conflict prevention and early warning. It has been largely accepted that the VD cannot substitute for the lack of political will. And it is precisely this lack of will that prevented the 2008 Helsinki Ministerial Council from adopting a political declaration, despite tremendous efforts on the part of all participating States, leading the OSCE into a crisis.

The 2009 Greek Chairmanship launched the Corfu Process in order to restore dialogue and trust among participating States. The Corfu Process

demonstrated the lack of political consensus and the divergences between the participating States about their vision for the role of the OSCE. It also demonstrated the need to reinforce the OSCE and the Organization's ability to take action. Concerning the politico-military dimension, the 2009 OSCE Ministerial Council in Athens was able to adopt a decision that tasked the FSC, among other things, with "strengthen[ing] the OSCE's politico-military toolbox, with particular attention to strengthening current arms control and CSBM instruments, including strengthening the Vienna Document 1999".[3] This very important decision allowed the FSC to initiate the modernization of the VD and closed the issue of independent CSBMs.

The Parliamentary Assembly (PA) also expressed itself several times in favour of the modernization of the VD. In 2010, in its Oslo Declaration, the OSCE PA welcomed the new activities of the FSC in strengthening the VD 99, and called on participating States "to hold vigorous negotiations in the interests of signing in the near future, if possible by the end of 2010, a new version of the Vienna Document".[4] Although the FSC did not succeed in negotiating a new VD in 2010, the OSCE Heads of State or Government demonstrated political will at the 2010 OSCE Astana Summit by acknowledging the importance of conventional arms control and confidence- and security-building regimes. The Heads of State or Government tasked the FSC with revitalizing, updating, and modernizing the VD 99; the progress achieved is to be reviewed at the next OSCE Ministerial Council Meeting in December 2011.

During its presentation of the 2011 OSCE Chairmanship priorities, the Lithuanian Chairmanship indicated that a substantial update of the VD 99 and the adoption of an "OSCE Programme for Further Actions in the Field of Arms Control and CSBMs" are realistic goals for 2011. The Chairmanship outlined other priorities as well, such as strengthening the analytical and operational capacity of the OSCE executive structures, and reinforcing the Organization's capabilities in the conflict cycle, particularly in conflict prevention, early warning, and crisis management.

First Achievements of the FSC in the Run-up to the 2010 OSCE Summit

In May 2010, the FSC undertook to modernize the VD. The VD 99 was to remain in effect until its replacement by an updated version. After eleven years, the FSC was able to adopt a decision, which, although merely procedural, paved the way to the reopening of the VD and put an end to the arduous dis-

3 Decision No. 16/09, Issues Relevant to the Forum for Security Co-operation, MC.DEC/16/09 of 2 December 2009, in: Organization for Security and Co-operation in Europe, *Seventeenth Meeting of the Ministerial Council, 1 and 2 December 2009*, Athens, 2 December 2009, pp. 46-46, here: p. 47.

4 Resolution on Strengthening the 1999 Vienna Document Regime on Confidence- and Security-Building Measures (CSBMs) Negotiations, in: OSCE PA, *Oslo Declaration of the OSCE Parliamentary Assembly and Resolutions Adopted at the Nineteenth Annual Session*, Oslo, 6-10 July 2010, p. 23.

cussions regarding the modernization of the VD versus independent CSBMs. This decision – also known as the "VD Plus" decision (FSC.DEC/1/10) – was vital for starting the negotiation process on the VD.

Decision No. 1/10 tasked the FSC to proceed with the modernization of the VD 99. The participating States also agreed to hold a special FSC meeting every five years or more frequently, starting no later than 2011, in order to reissue the VD. These commitments have since been integrated into the Vienna Document by FSC.DEC/12/10. This constitutes an important achievement and clearly demonstrates that the VD is a "living document".

Following FSC.DEC/1/10, a breakthrough towards an update of the VD was made in the run-up to the 2010 Astana OSCE Summit. More than 20 proposals for draft decisions were published by the participating States. Of these, the FSC was able to adopt five prior to the Summit. (Such decisions are also known as "Vienna Document Plus" decisions.) Although these decisions were technical in nature, they updated Chapter IV "Contacts", Chapter IX "Compliance and Verification", and Chapter XII "Final Provisions" to some extent. These decisions concern the eligibility of airbases for hosting visits, the timing of demonstrations of new types of major weapon and equipment systems, national holidays, and the update of the list of Partners for Co-operation. The FSC also agreed to update Chapter V "Prior Notification of Certain Military Activities" and Chapter IX "Compliance and Verification".

This progress was confirmed at the 2010 Astana OSCE Summit, where the Heads of State or Government charged the participating States with updating the VD 99 and gave a new impetus to the politico-military dimension of the OSCE.

Weaknesses after the 2010 OSCE Summit

Despite the tremendous work done by the FSC prior to the Astana Summit and the ongoing negotiations on a large number of proposal for draft decisions, no decision related to the VD was taken by the FSC during the six months following the 2010 OSCE Summit, although several propositions published by the participating States gained a broad consensus and appeared to be reasonable, such as the use of digital cameras or the notification of one military activity per year lower than the thresholds. In order to regain the impetus created at the Summit, a Special FSC Meeting on VD 99, CSBMs, and conventional arms control took place on 16 February 2011. It produced several novel ideas, none of which has yet been put into practice.

Various interrelated factors could explain this apparent standstill in the VD negotiations. First, the political signal given in Astana has not been echoed enough within the participating States and the relevant ministries. The ministries of defence of several states were cautious, or even unwilling to negotiate, despite the political will to update the VD as demonstrated by the

Heads of State or Government in Astana and echoed by the positive message of the Permanent Representatives in Vienna.

Moreover, major stakeholders are making connections between the ongoing negotiations on the VD 2011 and the deadlock of the CFE regime. The future of the CFE Treaty is increasingly uncertain, as demonstrated by the difficulties in the ongoing informal talks on a framework agreement. Furthermore, the discussions in the Open Skies Treaty Consultative Commission have not fostered an atmosphere of co-operation, so that two of the three conventional arms control regimes are facing difficulties due to political divergences.

It is necessary to recall that, despite the fact that both the CFE Treaty and the VD are based on military information exchanges with inspection regimes for verification, the purpose of the VD is not the same as that of the CFE Treaty. While the CFE Treaty is a legally binding regime of thresholds and reductions negotiated between 30 States Parties, the VD is a politically binding instrument that is less intrusive and based on trust-building and CSBMs, valid for all the participating States.

In the past, the Russian Federation has constantly denounced the lack of willingness of other participating States to adapt the VD to modern realities and insisted that the politico-military dimension of the OSCE needs to be strengthened. Russia achieved a real breakthrough in the VD negotiations by imposing an apparently trivial decision in October 2010 on "Taking National Holidays into Account when Planning Verification Activities", which broke the deadlock on FSC decisions regarding the VD. However, in the spring of 2011, Russia changed its approach and is now no longer in favour of an immediate substantial updating of the VD. Instead, it wishes to modernize the VD in two steps: The first concerns technical deliverables achievable in 2011, the second is linked to the future of the CFE regime and involves a more substantial modernization of the VD. Russia explained its new position in terms of three factors: (1) It wishes to avoid new commitments under the VD before or during the large-scale military reforms it is holding over the next few years. (2) There have been substantial cuts in Russia's expertise in the field of arms control due to a decade during which the field has been discredited by the stubborn refusal of the partners to update the VD and to ratify the adapted CFE Treaty. And finally, (3) it points to the uncertainty regarding further prospects for conventional arms control in Europe.

The Essential Role of Informal Consultations

In order to overcome the standstill in the negotiations on the VD after the December 2010 OSCE Summit, it was agreed in February 2011 to conduct informal consultations. The FSC Chair underlined the necessity to continue substantial discussions, recalling that the Astana Summit had tasked it to update the Vienna Document and noting how little time was left until the next

OSCE Ministerial Council. It was necessary to facilitate the exchange of ideas to create a genuine dialogue not only between the members of delegations in Vienna, but also between Vienna and the capitals and even between the verification centres of different participating States.

The FSC Chair also gave a number of important tasks to the FSC Chair's Co-ordinator for the Vienna Document, who was to facilitate informal consultations, reduce tensions and resolve conflicting positions, publish studies on specific topics, make suggestions for draft decisions, advise the FSC Chair, and follow up the numerous proposals for draft decisions published by the participating States. The Co-ordinator also facilitated the process aiming at updating and modernizing the VD by publishing the "Draft Vienna Document", which reflects the stage reached in negotiations.

Successive FSC Chairmanships have taken a positive view of the numerous informal consultations that have taken place, which brought the delegations closer to a common understanding of the proposals under discussion. The participating States have demonstrated a growing interest in co-operating on the modernization of the VD, by publishing and co-sponsoring further food-for-thought papers and proposals for draft decisions. The FSC Chair commended those delegations that worked together and published common proposals in particular.

A High Level of Co-operation between Participating States

The work of the FSC has been exemplary since the participating States started to really co-operate on modernizing the VD. Some proposals were worked out and co-sponsored by delegations belonging to different security arrangements. This is a confidence- and security-building measure in itself. This pattern of co-operation is unique when compared to other dimensions of the OSCE, such as the human dimension, despite tremendous efforts made at the Human Dimension Committee.

Co-operation between Hungary, Belarus, Ukraine, and Poland set the stage for this collaborative effort. Although these participating States had divergent views on certain topics relating to Chapter IX, they succeeded within three months in achieving consensus and published two proposals for co-sponsored draft decisions. One of the proposals specifies the procedures for the start of the inspection, the other deals with the enhancement of the quality of briefing during inspection and evaluation visits. These proposals have gained large support in a short period with several participating States joining as co-sponsors. Even states with highly divergent positions within the Open Skies Joint Consultative Commission are co-sponsoring the same document.

Among other examples of co-operation, the delegation of the Russian Federation launched a proposal for a draft FSC VD decision on "Prior Notification of Certain Military Activities", which foresees the notification by the participating States of one major military exercise or military activity below

the thresholds in the absence of any notifiable military exercise or military activity in a calendar year. This proposal has the merit of binding all 56 participating States in their commitments under the VD. It also gained large support, the eleven cosponsors by July 2011 including the United Kingdom, Greece, Kazakhstan, Germany, and Sweden.

The proposal for "Lowering the Thresholds for Prior Notification of Certain Military Activities" is another example of co-operation; it has gained the largest co-sponsorship ever seen for a proposal for a draft decision within the FSC, with 35 participating States as co-sponsors. This topic was also widely discussed between experts in informal meetings.

Unfortunately, less positive examples also exist. No consensus has been found on the wording concerning the use of digital cameras, although most of the states have been using them for a number of years. Regrettably, at least one participating State was not in position to accept this more technical decision despite several months of consultations. It is conceivable that while this may have damaged the adoption of other FSC decisions, it set in motion the co-operation among delegations.

Lowering Thresholds as a Key Element for the Modernization of the VD

In Helsinki in 1975, the participating States agreed to notify each other about military exercises involving 25,000 or more troops. In Stockholm in 1986, the notification threshold was lowered to 13,000 and the observation limit was set at 17,000 troops. At that time, 25 million soldiers would have been engaged in Eastern and Western Europe in case of war. The third and last time that the thresholds were lowered was in 1992, where the notification threshold was set at 9,000 troops and the observation threshold at 13,000. Today, 19 years later, the quantity of troops and major weapon systems on European soil has dramatically decreased, but the thresholds remain the same as at the end of the Cold War.

Taking into account the thresholds defined in 1986 and 1992, the Vienna Document thus brought far more transparency at the time than it does currently. Experts agree that lowering thresholds once more is necessary to further increase transparency. One of the main achievements of the modernization of the Vienna Document will therefore be a substantial decrease of the thresholds in comparison to the ones last changed in 1992 and still contained in the Vienna Document 1999.

The following examples illustrate the significance of the level of transparency already reached in 1986 with the Stockholm Document: The Russian motor rifle division had 14,300 troops, which was more than the threshold of notification set at 13,000 troops, obliging the notification of any exercise. The Group of Soviet Force in Germany had 420,000 troops, 6,420 main battle tanks, 3,700 artillery pieces and 675 aircraft.

These days, armed forces are establishing task forces, such as battle groups at brigade level, for specific missions. Units of this kind, which are capable of acting independently for a specific time period and are equipped according to their task, can undertake significant military activities. This may include the ability to secure the military interest of one state or a group of states. While the thresholds defined in the Vienna Document 1999 reflect the division level of the early 1990s, the operational level today is the brigade and task-force level, which represent 3,000-5,000 troops. It has also been suggested that prior notification of military actives should also be triggered by qualitative parameters.

Recognizing the importance of the issue of thresholds, in 2005 the Chairperson of the FSC published a "Chair's Statement" proposing a voluntary notification of one major military exercise or activity below the thresholds per year in the absence of any notifiable military exercise or activity in a calendar year.

In the run-up to the 2010 OSCE Summit, an interesting proposal for lowering the thresholds was published in the framework of the Forum for Security Co-operation (FSC.DEL/107/10). The substantive merit of this proposal is its suggestion that not only troop thresholds but also the thresholds of all categories of main weapon systems be lowered. The thresholds mentioned in this document are regarded as a realistic base for negotiation. This proposal is with the modernization of the VD because it brings more transparency without further costs. However, it seems that the thresholds set in this proposal represent almost no increase of notification for Western participating States and an important increase in the reporting burden of the Russian Federation. Further consultation might be needed to find a solution. In this, key principles should be respected, such as the principle of reciprocity and the principle of transparency.

The Preamble of the Modernized VD

During the negotiations on the updating of the VD, it has been recognized that the preamble should be considered as a package (paras 1 to 8 of VD 99). The aim was to issue a substantial preamble that is forward looking but does not disregard the achievements already made in the field of CSBMs. The new preamble of the modernized VD takes up the terms found in the VD 99, partially changing the order, avoiding duplications, and making it easier to read.

Since the FSC has a continuous mandate to update the Vienna Document, a new paragraph has also been introduced. This paragraph reflects the "VD Plus" decision (FSC.DEC/1/10), stipulating that the VD can be updated any time ("VD Plus decisions decided upon by the FSC shall enter into force on the date of adoption, unless it is otherwise specified in the text of the decision"). This decision was also incorporated within the modernized VD, under Chapter XII "Final Provisions" by FSC.DEC/12/10. It contains an important

forward looking element, aiming at revising the Vienna Document on a regular basis and reissuing it every five years or more frequently. This makes the VD a living document.

Analysis of the successive updates of the VD preamble between 1990 and 1999 demonstrates that it has been continuously adapted over the years. However, some paragraphs have undergone (almost) no changes since 1990; they are considered core paragraphs, containing fundamental provisions for the CSBMs:

- para. 3 of VD 99 referring to the multilateral process decided by the Conference on Confidence- and Security-Building Measures and Disarmament in Europe. This process, which remains valid, is designed to undertake, in stages, concrete actions designed to make progress in strengthening confidence and security and achieving disarmament.
- Paras 4 and 7 of VD 99, which refer to the mandates on CSBMs. The references to the Madrid, Vienna, and Helsinki Follow-up Meetings of the CSCE are important because the final documents of these meetings, as well as the Charter of Paris for a New Europe of 1990, the Programme for Immediate Action of the Helsinki Document 1992, and the 1996 Framework for Arms Control constitute the basis for the actual work of the FSC, which is continuing the CSBM negotiations under the original CSBM mandate.
- Para. 5 of VD 99, which refers to the declaration of the participating States on Refraining from the Threat or Use of Force of the Document of the Stockholm Conference, a commitment repeated in the Charter of Paris for a New Europe and the Charter for European Security, adopted at the Istanbul Summit in 1999.

What Does "Substantial Updating" Mean?

All participating States are in favour of a substantial modernization of the VD. However, some of the proposals merely focus on improving current implementation modalities, although this in itself is to be welcomed. Other delegations perceive such proposals as being linked to the implementation of the CFE Treaty. For example, the proposals on increasing the opportunities for inspections and evaluations are seen as remedies for the suspension of the CFE Treaty by the Russian Federation. Nevertheless, the notion of multinational inspection and evaluation teams contained in these proposals has been welcomed by a majority of states and could be one of the keys towards a potential consensus.

Some of the proposals made by the Russian Federation amount to an expansion of the Vienna Document, for example the inclusion of an additional chapter on an exchange of information on naval forces, the notification of the activities of multinational rapid reaction forces, and the notification of large-scale military transit operations. Russia drastically downsized its

demands concerning naval forces; the latest proposals withdraw the announcing mechanism and the possibility of conducting inspections, retaining only information exchange. Even if negotiations are not possible, the latest version merits at least the start of a dialogue.

This raises the notion of substantial updating. The improvement of the current implementation modalities is part of a necessary modernization. The dialogue towards updating the VD should include thoughts on the evolution of the capabilities of armed forces and of military doctrines. Mechanisms of risk reduction and co-operation such as those contained in Chapter III of the Vienna Document must be improved.

CSBMs could be reinforced and improved in a regional and sub-regional context. Regional CSBMs should be developed in order to provide an appropriate tool to contribute to regional conflict prevention; they might include mechanisms on the exchange of information, on observation, and even restriction of military activities.

The CSBMs contained in the VD have to cover the whole of Europe as well as the adjoining sea area and air space. The full implementation of this principle might allow to explore new forms of CSBMs.

Realistic Goals for 2011

The updating of the VD is an ongoing process, with the following being realistic goals for 2011:

- an "administrative update", encompassing, for example, the adaptation of the list of participating States and Partners for Co-operation;
- an update of the preamble to take into account the progress made since 1999, including the results of the Astana Summit;
- inclusion of regular assessments of the VD and the possibility of reissuing the VD every five years or more frequently, reflecting the spirit of the "VD Plus" decision;
- modernizing information exchange by taking into account the restructuring of the armed forces (downsizing, brigadization, and so on);
- lowering the threshold for prior notification of certain military activities to reflect the decrease of troops and equipment, thereby bringing more transparency;
- increasing the opportunities for contact organizations, inspections, and evaluations;
- the facilitation of certain procedures (enhancing quality of briefing and reporting, facilitating point-of-entry procedures, start of inspection and evaluation, organization of contacts).

Update after 2011: A More Strategic Approach Is Needed

The modernization of the VD does not take place in a vacuum. All the participating States recognized the need to modernize and strengthen all three OSCE politico-military instruments. The CFE Treaty, the Open Skies Treaty, and the Vienna Document should reflect the politico-military realities of today and tomorrow. Updating the VD is an ongoing process that will not stop at the end of 2011. All the discussions, consultations, and proposals published by delegations in 2010 and 2011 will be a useful part of this process.

Several participating States recommended starting a strategic conversation on the conventional arms control challenges of the 21st century. VD reform may require a more imaginative and forward-looking approach. The updates have to be substantial, based on a culture of co-operation, and taking into account the interests of all participating States. In order to get a more global and integrated picture, the FSC should make full use of its capacities and conduct, for example:

- an assessment of the development and modernization of the armed forces, including in the field of technology;
- an assessment of the evolution of military doctrine and its consequences for CSBMs and arms control;
- threat assessments, including a security conversation about what military activities of real concern, should promote common understanding;
- an analysis of the causes of crises and conflicts within the OSCE region;
- a projection of the security and politico-military situation over the next 20 years.

The May 2011 High-Level Seminar on Military Doctrine and the February 2011 Special FSC Meeting on VD 99, CSBMs and Conventional Arms Control have been concrete and useful examples of just this kind of approach. It would also be welcome if Working Group A meetings of the FSC were more active in the exchange of views.[5]

A particular interest remains in improving the use of VD in crisis situations and its provisions relating to early warning, conflict prevention, and crisis management.

Future CSBM should fulfil the following criteria:

- taking into account the security-related interests and concerns of each participating State;
- representing concrete progress and real added value for security and stability; in other words, they should deepen military transparency and predictability within the entire zone of application;

5 The FSC's Working Group A meets weekly. It is concerned with the implementation of all existing obligations and the negotiation of new proposals.

- being compatible, complementary, and congruent with existing CSBMs;
- being verifiable and compulsory.

The Uncertain Future of the CFE Treaty

The Treaty on Conventional Armed Forces in Europe (CFE Treaty) was signed in Paris on 19 November 1990 and came into force on 9 November 1992. The Treaty aimed at strengthening European security, eliminating military disparities prejudicial to stability and security in Europe, and creating a balance between the conventional forces of the Warsaw Pact and the North Atlantic Treaty Organisation (NATO). The Treaty reduced capabilities for the launch of surprise attacks and large-scale offensives in Europe by limiting armaments and defining thresholds to prevent the deployment of conventional weapons.

The 1999 Istanbul Summit adopted the adapted CFE Treaty, which took into consideration the new geopolitical situation in Europe by abolishing the Cold-War bipolar approach. However, only a few States Parties ratified the adapted CFE Treaty. The Russian Federation criticized the successive enlargements of NATO and the planned deployment of US conventional forces in Bulgaria and Romania. Russia urged the NATO members to ratify the adapted Treaty and to implement it in good faith. Western States Parties claimed that Russia had failed to implement the so-called Istanbul commitments, which foresee the withdrawal of Russian troops and military equipment from Georgia and Moldova. Russia claims that the NATO states have linked their ratification of the adapted Treaty to the Istanbul Agreements, which are bilateral agreements and unconnected to CFE. Furthermore, Russia accuses Hungary, Poland, Slovakia, and the Czech Republic of not complying with the commitments they accepted in Istanbul to adjust their territorial ceilings. Russia has furthermore asked Bulgaria, Hungary, Poland, Romania, Slovakia, and the Czech Republic to formally acknowledge their transfer from one group of States Parties to the Treaty to another, i.e. their accession to NATO.

The resulting situation made the Russian Federation suspend the implementation of the CFE Treaty in December 2007 and ask for negotiations to restore its viability and to ensure its continual renewal. Russia also requested the interim application of the adapted Treaty no later than 1 July 2008, the working out of terms of accession for new members of the CFE Treaty (including Estonia, Latvia, and Lithuania), the abolition of flank restrictions on Russian territory, and the definition of the term "substantial combat forces", and called for co-operation and restraint prior to coming to an agreement. NATO presented a "parallel actions package", which did not succeed in allowing the Parties to overcome their divergences. The conflict of August 2008, in which conventional weapon systems described by the Treaty

were extensively used, and the following unilateral recognition of South Ossetia and Abkhazia by one State Party, complicated the situation around the CFE Treaty.

The CFE Treaty Deadlock and the Conventional Forces Impasse in Europe Worsen

The impasse in the CFE Treaty negotiations is likely to last for a long time and even to worsen in the coming months. The frustration that has built up among the States Parties is an obstacle in the search for solutions and for the expression of political will. The favourable conditions that were created before and during the OSCE Summit in December 2010 have not been sufficiently exploited. The States Parties and the depository state currently see no solution to the CFE Treaty crisis.

Consultations took place in Vienna in 2010 and early 2011 with the aim of reaching a framework agreement that would enable the resumption of negotiations. These consultations ended in failure; at the last meeting on 14 May 2011, the participants suspended the discussions, and no date has been fixed for a new round of consultations. The participants agreed that to advance this issue, political impetus from the highest level would be necessary. It was hoped that a Russo-American agreement could be reached in the margins of the G8 summit in Deauville. This was not the case, and the chief Russian and American negotiators have now been appointed to other positions. The participants in these consultations acknowledged the need for a break and recognized that there is no immediate likelihood of a resumption of consultations. Since then, the Russian Federation and the United States have pursued bilateral consultations, though it seems that no concrete results have yet been obtained.

The next major meeting will be the five-yearly Review Conference of the CFE Treaty, which will be held at the end of September 2011 and chaired by Moldova. The States Parties to the Treaty seem to have agreed to hold a technical conference, although the adoption of the agenda gave some concern, indicating that the crisis is likely to continue. It is highly improbable that the Russian Federation will resume its information exchanges under the terms of the CFE Treaty. The immediate future after the review conference will probably see a suspension of information exchanges with Russia by the NATO states on 15 December 2011, which is the date of the annual exchange of information between States Parties according to the provisions of the CFE Treaty. Hypothetically, the year 2012 could see new initiatives to unblock the situation. However, a breakthrough is very unlikely, since no solution has been found with regard to the 1990 CFE Treaty, and no new States Parties have ratified the adapted CFE Treaty of 1999. Consequently, the Vienna Document could become (temporarily at least) the reference document for conventional forces in Europe if the impasse continues.

The weekly meetings of the Joint Consultative Group (JCG), whose task is to monitor the implementation of the CFE Treaty, have also been called into question for economic reasons and because lack of substance. Following the suspension by Russia of the CFE Treaty, no substantive discussions have taken place in the JCG.

Discussions on an Agreement Entitled "Framework for Negotiations to Strengthen and Modernize the Conventional Arms Control Regime in Europe"

A series of consultations were held in Vienna from July 2010 to May 2011 with a view to drafting a framework agreement that would enable the resumption of negotiations to modernize the arms control regime in Europe ("Framework for Negotiations to Strengthen and Modernize the Conventional Arms Control Regime in Europe"). These consultations, launched following an initiative by the United States, took place in the framework of the Group of 36, which consists of all the States Parties to the CFE Treaty plus six new members of the Atlantic Alliance. The Group of 36 met ten times.

These consultations did not succeed for the following reasons:

- first, the participants disagreed on the nature of the instrument to be negotiated and on whether it should be politically or legally binding;
- second, there were differences of opinion about the application of the principle of host nation consent, which highlighted the issues of respect for territorial integrity and of the use of force in Georgia, Moldova, and Nagorno-Karabakh;
- third, the participants had diverging views on the role and status of the current CFE Treaty in the framework of new negotiations;
- fourth, there were differences of opinion on the implementation of an interim information exchange and inspection regime during the period of negotiations;
- finally, to a lesser extent, there was no agreement on the preservation of the flanks regime.

The Key Problems Raised by the Discussions on the Framework Agreement

The Nature of the Instrument to Be Negotiated and the Foundations of the Modernization of the Regime on Conventional Forces in Europe

The role of the fundamental principles and of the *acquis* has been called into question. The issue of whether this should be legally or politically binding remains open. The Russian Federation could limit itself to modernizing the conventional forces in Europe regime without referring to the principles that are currently in force or to the CFE Treaty. It should be pointed out that the majority of states, not only on the NATO side, would prefer to strengthen the

current regime derived from the CFE Treaty and based on the adapted CFE Treaty. The states represented in the Group of 36 have not managed to agree on the format of the future treaty/instrument on conventional forces. Three main options are possible:

- *Negotiations based on the CFE Treaty currently in force.* This option, which enjoys the support of important States Parties, would mean building on the *acquis*; would avoid a gap in implementation (moratorium); and would use existing structures (maintaining, for example, the current depository state, negotiating within the JCG, and the principles of financial distribution). Interested third states could potentially participate in negotiations on condition that they partially implement the obligations of the CFE Treaty. Once negotiated, accession to the amended Treaty would be open to third states on condition that they are accepted by the current States Parties.
- *Negotiations on a partially redesigned Treaty referring to the adapted CFE Treaty adopted at the Istanbul Summit in 1999 and the CFE Treaty currently into force.* This option seems to enjoy the favour of some States Parties due to its flexibility, the fact that it allows reference to the acquis and leaves the door open to a politically or legally binding arrangement.
- *Designing a completely new arrangement on conventional forces in Europe.* The aim of this proposal is to relaunch the negotiations without preconditions and without anticipating and prejudging future results. This option, which was proposed by the Russian Federation, involves a rethink of the conceptual foundations and the format governing conventional arms control. The Russian Federation invites all states willing to "seriously negotiate and avoid any link with unresolved conflicts" to take part in new negotiations, and calls on them to avoid imposing any conditions whatsoever. In concrete terms, this option would exclude the participation of Georgia, Moldova, and Azerbaijan. The goal is to arrive at a regime that is less restrictive and free of some current limitations. The Russian Federation takes an open-minded approach to the question of the format of negotiations and whether they take place within the OSCE, the NATO-Russia Council, or another body. At the moment, this option is rejected by all the other states.

Unresolved and Protracted Conflicts

The diverging positions of the States Parties on unresolved and protracted conflicts were a major factor that led to the failure of the discussions on the framework agreement. Certain States Parties linked the future of the conventional armed forces regime in Europe with the resolution of unresolved and protracted conflicts. In this regard, the presence of Russian troops in South Ossetia and Abkhazia is indicative of the fundamental differences between the Russian Federation and the West regarding the respect for internationally

recognized borders. The respect of the principle of "host nation consent" seems to be the main obstacle. No consensus has been reached on how to deal with the issue of the consent of the host nation for the stationing of foreign troops on its territory.

Armenia, Azerbaijan, Georgia, and Moldova have regularly expressed their concerns on the basis that the stationing of military forces on foreign territory without the consent of the host nation is inconsistent with the principle of the non-use of force. Most of the amendments proposed by these states were unacceptable to the Russian Federation. In order to reach a consensus, the Russian Federation has repeatedly stressed the need to avoid any link between the protracted conflicts and arms control within the framework agreement. Not only the states directly concerned by unresolved and protracted conflicts, but also others argued that it is precisely in areas where unresolved conflicts take place that arms control is especially important and necessary.

Interim Implementation Measures: Information Exchanges and Inspection

During the drafting of the framework agreement, the United States, supported by its NATO allies, tried to impose two conditions for participation in future negotiations on the modernization of the conventional armed forces regime. These were referred to as "transparency principles" or "provisional confidence-building measures" for the duration of the negotiations. The first of these was the obligation to exchange military information concerning structures, equipment, and locations of active and inactive armed forces and security forces, up to battalion and independent squadron levels. The second was the obligation to accept inspection quotas to verify this information. These voluntary measures would have the purpose of (1) avoiding a moratorium on the CFE Treaty, (2) demonstrating the will of the participants to negotiate, and (3) refraining from the threat or use of force.

The Russian Federation made it known that it was opposed to all interim measures that implemented in disguised form the provisions of the "suspended" CFE Treaty. In Russia's view, the exchange of information should be confined to data covered by the Vienna Document and its global exchange of military information. The United States, several allied countries, Moldova, Georgia, and Azerbaijan consider that this provision is insufficient, given that the VD data is incomplete, failing, as it does, to cover either autonomous units or stores of military equipment.

A Brief Analysis of the Consultations on a Framework Agreement

The United States entered into the consultations on a framework agreement after long negotiations with its partners in NATO. The United States put considerable pressure on Russia to consent to the framework agreement in the spring of 2011 and to agree to a concrete date in 2011 to start negotiations on

the future regime on conventional armed forces in Europe, thereby avoiding a moratorium in the application of the CFE Treaty. On several occasions, the US has proposed a tight calendar that takes into account the meetings of the NATO-Russia Council, the NATO summit, the NATO Ministerial Meeting, the G8, and the CFE Treaty Review Conference – all without success.

Although Russia displayed a co-operative attitude when working on the American framework agreement, which was several pages long, it argued that the document should be simpler, one page at most, and should simply set out the principles to be applied at the next negotiations on arms controls.

The United States has insisted on the principles of the non-use of force, respect for internationally recognized borders and the consent of the host state, as well as on transparency in the exchange of information. A critical analysis of the American proposal for a framework agreement on negotiations to strengthen and modernize the conventional arms control regime in Europe could demonstrate that the purpose of this initiative is (1) the withdrawal of the Russian military presence from South Ossetia and Abkhazia, adapting the 1999 Istanbul commitments to the current situation, and (2) to force Russia to publish information concerning military structures, equipment, major arms systems, and troop locations and movements that is no longer available following its suspension of the CFE Treaty.

Russia has clearly stated its position, confirming (1) that the Russian decision regarding "two new internationally recognized states" (South Ossetia and Abkhazia) is final and non-negotiable; this fundamental divergence is the heart of the failure of these consultations; and (2) that the information exchanged in the framework of the Vienna Document is sufficient. It should be noted that both Russia and the United States see a link between the modernization of the Vienna Document and the future of the CFE Treaty, as demonstrated in the consultations at the OSCE Forum for Security Co-operation.

By insisting that the CFE Treaty should no longer be mentioned during consultations and during negotiations on the agenda of the Review Conference of the CFE Treaty, the Russian Federation has signalled its intention to opt out of the CFE Treaty and to demand a less binding arms control regime, putting the "cornerstone treaty" for European security in question. An agreement between NATO and the Russian Federation would be sufficient to modernize the control of conventional weapons in Europe by excluding "trouble makers" such as Georgia, Azerbaijan, Armenia, and Moldova.

Given the failure of the consultations on the framework agreement, the results of the CFE Treaty Review Conference scheduled for September 2011 will be carefully examined by the NATO allies. If a framework agreement does not appear to be realistic in the short term and if Russia persists in the unilateral suspension of the CFE Treaty, the allies will have to make a decision on the suspension of their information exchanges with Russia in accordance with the principle of reciprocity.

Conclusion

The impasse around the conventional armed forces in Europe regime is hardening, and the CFE Treaty stalemate is likely to persist in the foreseeable future. It may even worsen in the coming months. Although the Vienna Document cannot replace the CFE Treaty, it is a complementary tool and indispensable for stability and security in the OSCE area, with an important chapter on risk reduction, which is vital for crisis prevention. The modernization of the VD is essential to preserve a certain level of predictability in military activities in Europe by maintaining a significant level of transparency via various exchanges of information and a meaningful inspection system. This creates confidence and security among participating States.

All the participating States agree that security within the OSCE area requires an effective, inclusive, and transparent conventional arms control and CSBM regime; they are important for military as well as political reasons. Europe needs solid arms control and CSBM regimes, with full implementation of up-to-date commitments. Arms control and CSBMs are particularly relevant in the context of the OSCE's efforts to build a genuine security community. Enhanced military transparency proved to be an effective solution with substantial benefits in the development of a higher level of confidence and security within the OSCE area. When US Defense Secretary Robert M. Gates met with Russian Minister of Defence Anatoly Serdyukov and later with Russian President Dmitry Medvedev in March 2011, he stated that an "issue of great importance to both of our leaders is establishing a framework for European security that can strengthen stability, predictability and security for all nations on the continent".[6]

The CSBMs are important tools for transparency that increase predictability and generate confidence between the 56 participating States. The added value of the VD lies not only in the various information exchanges it puts in place and the opportunity it provides to verify their compliance, but also the promotion of regional measures. Furthermore, thanks to its chapter on risk reduction, the VD is a political tool for early warning and crisis prevention in the hands of the participating States, the Permanent Council, the Conflict Prevention Centre, and the Secretary General. The VD might also be used for dispelling concerns in case of unusual military activities and incidents of military nature, making it a relevant instrument for crisis management

Successive FSC Chairmanships have called for a genuine dialogue and readiness to develop a common understanding in order to recapture the spirit of CSBMs. The OSCE participating States have been invited in several Summit and Ministerial decisions to explore a wide range of updating possi-

6 U.S. Department of Defense, *Joint Press Statement by Secretary Gates and Minister Serdyukov at the Ministry of Defense Guest House*, Moscow, 22 March 2011, at: http://www.defense.gov/transcripts/transcript.aspx?transcriptid=4792.

bilities. This dialogue should aim to identify topics and proposals to improve reciprocal military transparency in Europe, Central Asia, and the Caucasus. The aim of the CSBMs and the VD is not to limit the military operational flexibility of the States, but to bring more confidence and security amongst them.

An open, frank, and generous dialogue is the basis for a good climate for negotiations, of which the outcome has to be a "win-win" situation for all 56 participating States. In accordance with the 2010 OSCE Summit Declaration and FSC Decision No. 1/10, the VD will be reissued in 2011. The updating however is an ongoing process that will not stop at the end of the year. In a time of uncertainty for other arms control regimes, it is important to leave the door open for further negotiations. The VD is a living document full of potential under the motto "flexibility and adaptability".