

IV. The end of the Treaty on Conventional Armed Forces in Europe

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The 1990 Treaty on Conventional Armed Forces in Europe (CFE Treaty)—often described as the ‘cornerstone of European security’—collapsed in 2023, effectively ending the post-cold war conventional arms control regime in Europe.¹ In May, Russian Federation President Vladimir Putin signed a law on withdrawal from the treaty, which went into effect on 7 November.² In response, the North Atlantic Treaty Organization (NATO) announced its members’ suspension of the CFE Treaty ‘for as long as necessary’ because ‘a situation whereby [NATO] States Parties abide by the Treaty, while Russia does not, would be unsustainable’.³

The Russian withdrawal from the CFE Treaty regime did not come as a surprise—it simply reflected the unsuccessful attempt to build a comprehensive, pan-European security architecture after the end of the cold war. This section first reviews that attempt and the structural causes of the treaty’s demise. It then discusses the Russian withdrawal decision and the NATO response, before considering the implications for European security.

The long path to Russia’s withdrawal from the CFE Treaty

The CFE Treaty was signed in November 1990 between the then member states of NATO on the one hand and those of the Soviet-led Warsaw Treaty Organization (WTO) on the other. The treaty established equal collective ceilings on numbers of battle tanks, artillery, armoured combat vehicles, combat aircraft and combat helicopters among the two groups of states. This required major disarmament efforts, including the destruction, conversion or relocation of major conventional weapon systems. Overall, the treaty contributed to the destruction of more than 70 000 pieces of treaty limited equipment (TLE).⁴ It also set up a comprehensive system of military transparency and an on-site verification regime within its zone of application,

¹ For a summary and other details of the CFE Treaty see annex A, section II, in this volume. On the description see e.g. 1st CFE Treaty Review Conference, Final document, 15–31 May 1996, para. 1.

² Russian Federal Law no. 179-ФЗ ‘On the denunciation by the Russian Federation of the Treaty on Conventional Armed Forces in Europe’, signed into law 29 May 2023 (in Russian).

³ NATO, North Atlantic Council, Statement on response to Russia’s withdrawal from the CFE Treaty, 7 Nov. 2023.

⁴ Estimates vary from 50 000 to more than 70 000 pieces of TLE, depending on the chosen time frame. See e.g. British House of Commons, Select Committee on Committee, Memorandum and supplementary memorandum submitted by the Foreign and Commonwealth Office on arms control, 10 Sep. 1998; and Gottemoeller, R., Acting US under secretary for arms control and international security, ‘Revitalizing conventional arms control in Europe’, 4 Sep. 2012.

which stretched from the Atlantic Ocean to the Ural Mountains. It divided Europe into four concentric zones centred on Germany with varying force posture limits, including a special zone covering the border areas of the Soviet Union, Türkiye and Norway—the so-called flanks. This structure aimed to limit the ability for large-scale, conventional surprise attacks. To further strengthen this logic and provide for stability in Europe, on 10 July 1992 the CFE Treaty states parties signed the CFE-IA Agreement to create individual, politically binding upper limits on the numbers of land-based military personnel.⁵

By the time the CFE Treaty entered into force, in November 1992, the Soviet Union and the WTO had already dissolved, putting the very structure of the treaty regime into question. Russia and Ukraine, in particular, became dissatisfied with the flank sub-limits that now cut through their national territories, reducing their flexibility to move troops and equipment. In May 1996 this issue was eventually addressed in the Flank Document, agreed at the first CFE Treaty Review Conference. The document adjusted the flanks geographically, without changing the numerical limits within the zone.⁶

However, following NATO's decision in December 1996 to invite 'countries which [had] expressed interest', including former members of the WTO, to start accession negotiations with the alliance, a more fundamental adaptation of the treaty to the evolving geopolitical circumstances became urgent.⁷ Official negotiations to adapt the treaty began in early 1997, and treaty members adopted the Agreement on Adaptation of the CFE Treaty at the Istanbul summit of the Organization for Security and Co-operation in Europe (OSCE) in November 1999.⁸

The Adapted CFE Treaty would have dissolved the original structure based on the two alliances, replaced the concentric zones, including the flank zones, with national and territorial ceilings, and opened the treaty to all OSCE participating states. It also specifically introduced the principle that the deployment of foreign conventional armaments and equipment on the territory of a state party would require either the prior explicit consent of the host state or a relevant resolution from the United Nations Security Council.⁹ Alongside the text of a legally binding treaty, the Istanbul summit agreed a set of politically binding commitments. These included the complete withdrawal

⁵ For a summary and other details of the Concluding Act of the Negotiation on Personnel Strength of Conventional Armed Forces in Europe (CFE-IA Agreement) see annex A, section II, in this volume.

⁶ On the 1996 Flank Document see US Senate, 'Flank Document Agreement to the CFE Treaty', Treaty Document no. 105-5, 7 Apr. 1997; and annex A, section II, in this volume.

⁷ NATO, North Atlantic Council, Final communiqué of ministerial meeting, 10 Dec 1996.

⁸ For a summary and other details of the Agreement on Adaptation of the CFE Treaty see annex A, section II, in this volume. See also e.g. W. Boese, 'Executive summary of the Adapted Conventional Armed Forces in Europe Treaty', *Arms Control Today*, vol. 29, no. 7 (Nov. 1999). For a brief description of the OSCE and a list of its participating states see annex B, section II, in this volume.

⁹ Agreement on Adaptation of the CFE Treaty (note 8), Article 2 (Article I(3) of the adapted treaty).

by Russia of its remaining forces and weapons from Moldova and Georgia. Thus, while Belarus, Kazakhstan, Russia and Ukraine ratified the Agreement on Adaptation between August 2000 and July 2004, NATO member states refused to do so prior to Russia's implementation of the Istanbul commitments.¹⁰ While Russia reduced its munition stocks in Moldova and eventually signed a withdrawal agreement with Georgia in March 2006, the situation remained ultimately unresolved due to the unsettled statuses of the break-away regions of Abkhazia and South Ossetia in Georgia and Trans-Dniester in Moldova.¹¹

At an extraordinary conference of all CFE states parties in June 2007, Russia demanded concessions on six points, including the reduction of the total permitted holdings of TLE by NATO members and the entry into force of the Adapted CFE Treaty or at least its temporary application.¹² None of these points gained full support at the conference, however.¹³ Instead, NATO member states developed a package of measures to address some of Russia's concerns while simultaneously making progress in the process of ratification and resolving the outstanding issues related to Russian forces and facilities in Moldova and Georgia.¹⁴ These measures were proposed to Russia later in 2007 but, before that, in July President Putin announced Russia's suspension of its implementation of the CFE Treaty, which entered into effect 150 days later, on 12 December.¹⁵ Russia subsequently ceased to provide annual data to the level of detail required by the treaty, stopped providing notifications of changes of data and ended inspection activities. At the same time, it declared that it would continue to provide aggregate data on its overall holdings of conventional weapon systems as a sign of 'good will'.¹⁶

After the 2008 Georgian–Russian War further consideration of how to bring the Adapted CFE Treaty into force broke off. However, under US President Barack Obama, a policy of resetting relations with Russia led in 2010 and 2011 to renewed informal discussions among the 30 parties to the CFE Treaty and the 6 new NATO members not party to the treaty (Albania, Croatia, Estonia,

¹⁰ E.g. NATO, North Atlantic Council, Prague summit declaration, 21 Nov 2002, para. 15. Ukraine never formally deposited its ratification with the depositary.

¹¹ Socor, V., 'Agreements signed on Russian military withdrawal from Georgia', Eurasia Daily Monitor, Jamestown Foundation, 4 Apr. 2006; and Richter, W., *A Framework for Arms Control, Current Status of and Requirements for Conventional Arms Control in Europe* (Austrian Federal Ministry of Defence: Vienna, 2021), pp. 52–57.

¹² Extraordinary Conference of CFE States Parties, Address by the head of the Russian Delegation, 12 June 2007 (in Russian). See also Wilcox, M. R., 'The Treaty on Conventional Armed Forces in Europe and Russian foreign and security policy', Doctoral dissertation, Kansas State University, 2020, pp. 327–29.

¹³ NATO, 'CFE Extraordinary Conference concludes', 15 June 2007.

¹⁴ NATO, North Atlantic Council, Statement on CFE, 28 Mar. 2008.

¹⁵ Russian Presidential Decree no. 72 'On the suspension by the Russian Federation of the Treaty on Conventional Armed Forces in Europe and related international treaties', 14 July 2007 (in Russian). See also President of Russia, Background to Decree no. 72, 14 July 2007.

¹⁶ Wilcox (note 12), p. 344.

Latvia, Lithuania and Slovenia).¹⁷ These negotiations ultimately failed to produce compromise on the status of the ongoing conflicts in Georgia and Moldova. Subsequently, NATO member states ceased to implement their CFE Treaty obligations in relation to Russia, but they continued to fulfil them in relation to all other CFE state parties.¹⁸ In addition, Russia continued to take part in meetings of the Joint Consultative Group (JCG)—the common forum of CFE parties to consider rules and compliance. It left the JCG only in March 2015 after its annexation of Crimea and in the wake of the military conflict in the Donbas region in eastern Ukraine.¹⁹

Russia's withdrawal decision and NATO's response

Russia's full-scale invasion of Ukraine in February 2022 radically changed the politico-military context in Europe and further undermined the remaining arms control architecture. In February 2023, for example, Russia suspended participation in the bilateral 2010 New Strategic Arms Reduction Treaty (New START) with the United States.²⁰ Then, in March, Russia confirmed publicly that it was no longer providing information about its armed forces within the context of the annual exchange of military information (AEMI) under the Vienna Document on Confidence- and Security Building Measures.²¹

The Russia–Ukraine war also removed all existing doubts about the prospects of Russia returning to the CFE Treaty or the future coming into force of the Adapted CFE Treaty. This was compounded in March 2023, when Poland halted its implementation of the treaty in relation to Belarus because of the latter's support for Russia in Ukraine.²² In October Belarus

¹⁷ Neither Albania nor Yugoslavia (of which Croatia and Slovenia formed part until 1992) belonged to the WTO, and so did not participate in the original CFE Treaty negotiations. Estonia, Latvia and Lithuania left the CFE framework upon becoming independent from the Soviet Union in 1991. See W. Zellner, 'Conventional arms control in Europe: Is there a last chance?', *Arms Control Today*, vol. 42, no. 2 (Mar. 2012).

¹⁸ US Department of State, 'Implementation of the Treaty on Conventional Armed Forces in Europe', Press statement, 22 Nov. 2011. See also NATO, North Atlantic Council, Final statement of the meeting of foreign ministers, 7 Dec 2011.

¹⁹ 'Russia suspends joint consultations on Treaty on Conventional Armed Forces in Europe', TASS, 10 Mar. 2015.

²⁰ On developments related to New START see chapter 8, section I, in this volume. For a summary of the treaty see annex A, section III, in this volume.

²¹ The Russian decision on the AEMI had already been communicated among OSCE participating states in Jan. 2022. See Hernández, G. R., 'Russia refuses annual Vienna Document data exchange', Mar. 2023. Simultaneously, Russia suspended all verification activities under the Vienna Document, see Davis, I., 'The Russia–Ukraine war and conventional arms control in Europe', *SIPRI Yearbook 2023*, pp. 437–41. For a summary and other details of the Vienna Document 2011 see annex A, section II, in this volume. On OSCE transparency measures see also section VI of this chapter.

²² Office of the Polish Prime Minister, [Request for the approval of the Council of Ministers for the non-implementation by the Republic of Poland of articles V(2), IX(2), X(1), X(8), X(11), XI(3), XI(7), XII(2), XIII, XIV of the Treaty on Conventional Armed Forces in Europe, signed in Paris on 19 November 1990 (Journal of Laws of 1995, item 73) with respect to the Republic of Belarus, due to its participation in the aggression against Ukraine, together with a draft protocol provision], 21 Mar. 2023 (in Polish).

then suspended the treaty in relation to Poland, but also Czechia because, according to Belarusian lawmakers, the latter had notified Belarus of the suspension of its obligations under the CFE Treaty in August 2022.²³

Meanwhile, on 10 May 2023 President Putin initiated the domestic legal process for the denunciation of the CFE Treaty, appointing the deputy foreign minister, Sergey Ryabkov, as his official representative on the issue within the Russian Federal Assembly.²⁴ On 16 May the State Duma, the lower house, unanimously voted to denounce the CFE Treaty; the Federation Council, the upper house, followed suit on 24 May; and President Putin signed the resultant federal law on 29 May.²⁵ Subsequently, on 9 June Russia gave the other states parties the required 150 days' notice of its withdrawal from the treaty.²⁶

The official notice linked the withdrawal decision to three circumstances: the accession of several states to NATO 'without a corresponding change in the composition of the CFE States Parties and groups of States Parties', the non-ratification of the Agreement on Adaptation by NATO member states, and 'other actions . . . that run counter to the goals of the treaty, in particular, actions concerning the transfer of conventional arms' (presumably to Ukraine).²⁷ In the words of Ryabkov, 'the events of recent months—Helsinki's and Stockholm's renunciation of military non-alignment, Finland's admission to the alliance and . . . the real prospect of US troops on Finnish territory . . .—have made it impossible for us to remain in the treaty'.²⁸

At the obligatory conference of state parties on 29 June 2023 that followed the Russian withdrawal notification, several CFE states parties reiterated their commitments to effective conventional arms control and condemned Russia's behaviour.²⁹ Ryabkov, in turn, noted that Russia would not change its decision but, 'if the CFE Treaty ceases to be in force in the future . . . , then the entire blame for such an outcome would fall on the United States and its allies'.³⁰

²³ [Belarusian Law no. 305-3 'On the suspension of the Treaty on Conventional Armed Forces in Europe with respect to the Republic of Poland and the Czech Republic'], 16 Oct. 2023 (in Belarusian); and Belarusian Government, 'Belarus suspends CFE Treaty with Poland, Czechia', Belarus.by, 19 Sep. 2023.

²⁴ Russian Presidential Order no. 140-pp, 10 May 2023 (in Russian).

²⁵ Russian Federal Law no. 179-Ф3 (note 2).

²⁶ Dutch Ministry of Foreign Affairs, Notification by the Russian Federation of withdrawal from the CFE Treaty, 9 June 2023.

²⁷ Dutch Ministry of Foreign Affairs (note 26); and Russian Ministry of Foreign Affairs, 'Foreign Ministry statement on Russia sending notifications to states-parties to the Treaty on Conventional Armed Forces in Europe (CFE)', 9 June 2023.

²⁸ Larionov, P., [Sergey Ryabkov: The West has gone down the path of confrontation with Russia], *Parlamentskaya Gazeta*, 15 May 2023 (in Russian; author translation).

²⁹ E.g. Conference of the CFE Treaty States Parties, Statements by Denmark, Norway and the United States, 29 June 2023.

³⁰ Conference of the CFE Treaty States Parties, Closing address by S. Ryabkov, Russian deputy minister of foreign affairs, 29 June 2023 (in Russian, author translation).

The Russian withdrawal entered into force on 7 November 2023. On the same day the North Atlantic Council, NATO's principal political decision-making body, announced that all NATO member states would 'suspend the operation of the CFE Treaty for as long as necessary'.³¹ However, subsequent statements by individual member states illustrated some degree of diversity. Türkiye, for example, stressed the continuing 'need for the foundations and fundamental principles of the legally binding CFE Treaty'.³² Poland, in contrast, declared that it was suspending 'the CFE Treaty indefinitely and in its entirety' and would not 'exclude taking further legal steps in the future, including the denunciation of the CFE Treaty'.³³ Moreover, some NATO member states asserted that the decision to suspend the treaty was 'reversible', but linked such a potential reversal to Russia's return to the treaty or the resolution of the Russia–Ukraine war.³⁴ National timelines for suspension also reflect this diversity of views. While Poland ended implementation with immediate effect, the USA, for example, decided to apply a 30-day period, which expired in early December. In contrast, Germany observed a 150-day notification period, delaying its suspension until April 2024, on the basis of the period specified in the CFE Treaty for a notice of withdrawal.³⁵

By the end of 2023, 19 of the 29 remaining state parties had officially informed the Netherlands as the depositary that they would suspend operation of the CFE Treaty. Armenia, Azerbaijan, Belarus, Kazakhstan and Moldova had not publicly announced either their suspension or termination of the treaty, while Ukraine had effectively stopped implementing the treaty with the beginning of the full-scale Russian invasion in February 2022. In addition, Hungary, Poland, Spain and Türkiye formally endorsed the decision of the North Atlantic Council to suspend the implementation of the CFE Treaty, but there is no public record available of their notifications to the depositary. However, several NATO member states indicated that they would continue to implement elements of the treaty with like-minded partners and to conduct inspections outside the CFE framework in order to maintain practical expertise.³⁶

³¹ NATO (note 3).

³² Turkish Ministry of Foreign Affairs, 'Press release regarding the Russian Federation's decision to withdraw from the CFE Treaty coming into force as of today', 7 Nov 2023.

³³ Polish Ministry of Foreign Affairs, Statement on the suspension of the CFE Treaty, 7 Nov. 2023.

³⁴ E.g. Turkish Ministry of Foreign Affairs (note 32); and US Department of State, Note verbale, 7 Nov. 2023.

³⁵ German Federal Foreign Office, Note verbale, 10 Nov. 2023; and Hernández, G. I. R. and Graef, A., 'The CFE Treaty's demise and the OSCE: Time to think anew?', Just Security, 13 Dec. 2023.

³⁶ E.g. German Federal Foreign Office, Statement on the suspension of the CFE Treaty, 7 Nov. 2023.

Implications and outlook

The Russian withdrawal from and NATO member states' suspension of the CFE Treaty has effectively ended the post-cold war conventional arms control regime in Europe. Both decisions reflect a failure to build a comprehensive, pan-European security architecture. With the Russia–Ukraine war ongoing, limits on force postures and military transparency measures are increasingly perceived as disadvantageous to national interests, particularly by Russia and Ukraine but also by several NATO member states located closer to the battlefield.

Essentially, the arms control instruments implemented in post-cold war Europe were crafted to validate the politico-military status quo of the 1990s and to facilitate incremental changes in pursuit of a new European security order that would be agreeable to all states, including Russia. When it became evident that realizing this vision was unattainable because the two sides were unable to find agreement on the status and role of Russia within Europe, the significance of the post-cold war instruments for military security policy waned. Simultaneously, substantial reform within this framework, including the adaptation of the CFE Treaty and other agreements to technological change, proved unfeasible due to irreconcilable political differences. Without any reform, however, they became less and less relevant.

Nevertheless, the CFE Treaty has been historically a great success. It contributed significantly to the demilitarization of Europe after the end of the cold war and resulted in greater stability and mutual confidence through ceilings, inspections and exchanges of information among the state parties. In the future, after the Russia–Ukraine war has been concluded, conventional arms control might become politically useful again. When this happens, any new arms control regime will also need to address military technologies—such as long-range precision-strike weapons and uncrewed systems—that have become increasingly relevant for modern warfare and the conduct of surprise attacks.³⁷ Meanwhile, in the absence of an arms control regime, European states could attempt to incorporate risk-reduction and crisis communication measures into their respective deterrence and defence strategies to enhance the management of escalatory scenarios.

³⁷ On the uses of these systems see sections II and III of this chapter.