

10. Conventional arms control

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I. Introduction

There were many troubling developments for conventional arms control in 2007, although there was positive progress in some areas. In the biggest challenge yet to the 1990 Treaty on Conventional Armed Forces in Europe (CFE Treaty) the Russian Federation ‘suspended’ its participation in the regime.¹ This gave rise to more energetic consideration of the current status of conventional arms control in Europe. The weakening of the CFE arms control regime led to some disquieting reactions in the South Caucasus, while in Moldova the deadlock persisted over Russia’s removal of personnel and equipment. In contrast, there was further implementation of the 2005 Georgia–Russia agreement on the closure of Russian military bases and other facilities in Georgia and the subregional arms control regime in the Balkans continued to operate smoothly. Outside Europe, North and South Korea restarted talks in 2007 on building confidence on their mutual border.²

The states participating in the Organization for Security and Co-operation in Europe (OSCE) continued to develop confidence- and security-building measures (CSBMs) and other arms control-related arrangements in 2007, with the aim of better meeting Europe’s regional and subregional risks and challenges. Globally, there was progress in dealing with ‘inhumane weapons’, and the international Oslo process on cluster munitions, which was launched in 2006, gained momentum.

In reviewing these and other issues, this chapter assesses the major developments relating to conventional arms control in 2007. Section II gives a brief overview of the gathering crisis over the CFE Treaty, an analysis of the critical events during the year, the status of Russia’s commitments made in Istanbul in 1999 and the impact of the crisis on low-intensity conflicts in Europe. Developments in subregional arms control in the former Yugoslavia are also reviewed. Arms control-related efforts to promote confidence, render assistance and foster predictability in the OSCE area are addressed in section III. The issue of mines and cluster munitions is dealt with in section IV. Section V presents the conclusions.

¹ On conventional arms control in Europe before 2006 see the relevant chapters in previous editions of the SIPRI Yearbook.

² During the Oct. 2007 visit by South Korean President Roh Moon-hyun to North Korea, he and North Korean leader Kim Jong Il signed a statement containing a section devoted to confidence-building measures (CBMs) which pledged to terminate military hostilities and reduce military tension and conflict through dialogue and negotiation. For discussion of CBMs in the Korean context see Lachowski, Z. et al., *Tools for Building Confidence on the Korean Peninsula* (SIPRI/Center for Security Studies, ETH Zurich: Stockholm/Zurich, 2007), <<http://www.korea-cbms.ethz.ch/>>.

Table 10.1. Major developments related to the 1990 Treaty on Conventional Armed Forces in Europe, 1999–2006

Date	Event
1999	The Agreement on Adaptation of the CFE Treaty is signed.
2000	Belarus and Ukraine ratify the Agreement on Adaptation. <i>Beyond-the-Urals equipment.</i> Russia formally complies with the pledge of 14 June 1991 to destroy or convert 14 500 TLE items east of the Urals. In 1996 Russia had been allowed to substitute armoured combat vehicles for a number of battle tanks scheduled for destruction and later to eliminate the shortfall with regard to tanks. Together with Kazakhstan, Russia completes the destruction of the remaining excess of tanks in mid-2003.
2001	The second CFE Review Conference takes place. Special emphasis is put on the issue of unaccounted TLE. <i>Withdrawal from Georgia.</i> After Russia's initial pullout from its military bases, Georgia and Russia fall out over the remaining bases; an impasse follows. <i>Withdrawal from Moldova.</i> Russia pulls out its TLE. It fails to withdraw its military personnel and dispose of its stockpiled ammunition and equipment by the end of 2002. No withdrawals have taken place since 2004.
2002	<i>Flank dispute.</i> Russia presents data indicating that it has decreased the quantity of its TLE (raised in 1999 to strengthen its forces in Chechnya) and is now in compliance with the relevant provisions of the adapted (but not yet in force) treaty. Formally, however, Russia has been in breach of the 1996 Flank Document since 31 May 1999.
2003	Kazakhstan ratifies the Agreement on Adaptation.
2004	<i>New NATO members.</i> Estonia, Latvia, Lithuania and Slovenia, none of which is party to the CFE Treaty, join NATO. Russia denounces 'a legal black hole' along its borders with the Baltic states. NATO pledges not to deploy substantial numbers of TLE in its new member states. With Bulgaria and Romania also joining NATO, Russia feels at a growing disadvantage vis-à-vis the enlarged NATO in conventional armaments terms. Russia ratifies the Agreement on Adaptation.
2005	<i>Withdrawal from Georgia.</i> Georgia and Russia reach agreement that Russia will withdraw its troops and close its bases during 2008.
2006	The third CFE Review Conference takes place. Russia's proposal for provisional application of the Agreement on Adaptation fails.

CFE = Conventional Armed Forces in Europe (Treaty); NATO = North Atlantic Treaty Organization; TLE = treaty-limited equipment.

Source: SIPRI Yearbook, 2000–2007.

II. European arms control

The 1990 CFE Treaty regime remains by far the most elaborate conventional arms control regime worldwide.³ Acclaimed as the cornerstone of European security, it has contributed significantly to removing the threat of large-scale military attack from Europe and has enhanced confidence, openness and

³ For a brief summary of the Treaty on Conventional Armed Forces in Europe and a list of its parties see annex A in this volume. The text of the treaty and protocols is available at <<http://www.osce.org/item/13752.html?html=1>>.

mutual reassurance in the region. The CFE Treaty process has also inspired regional arms control solutions in the Balkans and Central Asia.

The CFE Treaty was built on a bipolar concept of an equilibrium of forces between the North Atlantic Treaty Organization (NATO) and the now defunct Warsaw Treaty Organization in its Atlantic-to-the-Urals (ATTU) zone of application. It sets equal ceilings on major categories of heavy conventional armaments and equipment (the treaty-limited equipment, TLE) of the two groups of states. The 1999 Agreement on Adaptation of the CFE Treaty discards the bipolar concept.⁴ On entry into force it will (a) introduce a new regime of arms control based on national and territorial ceilings, codified in the agreement's protocols as binding limits; (b) increase the verifiability of its provisions; and (c) open the adapted treaty regime to European states which were not yet parties to the CFE Treaty in 1999. The agreement has not entered into force because of the refusal of the NATO members and other states parties to ratify it until Russia complies with the commitments it made at the 1999 OSCE Istanbul Summit.⁵ Of the 30 signatories of the CFE Treaty, only Belarus, Kazakhstan, Russia and Ukraine have ratified the Agreement on Adaptation.⁶ The original CFE Treaty and the associated agreed documents and decisions therefore continue to be binding on all parties.

The CFE Treaty regime at a crossroads

In the first seven years after the signing of the 1999 Agreement on Adaptation, there was little progress towards its entry into force. Both NATO and Russia have repeatedly pledged to 'work cooperatively' towards ratification. Agreement was reached on several sticking points (see table 10.1), but major disagreements remained over the implementation of the Istanbul commitments, especially those related to Georgia and Moldova. As a result, the CFE process stalled.

The showdown

In 2006 Russia adopted a new approach in its relations with NATO. Having made many unsuccessful exhortations for the NATO member states to ratify

⁴ For a brief summary of the agreement and a list of its signatories see annex A in this volume. The text of the agreement is available at <<http://www.osce.org/item/13760.html?html=1>>. For the text of the CFE Treaty as amended by the Agreement on Adaptation see *SIPRI Yearbook 2000: Armaments, Disarmament and International Security* (Oxford University Press: Oxford, 2000), pp. 627–42.

⁵ Istanbul Summit Declaration, Istanbul, 17 Nov. 1999, paragraphs 15–19; and Final Act of the Conference of the States Parties to the Treaty on Conventional Armed Forces in Europe, Istanbul, 17 Nov. 1999, Annex 14. These texts are reproduced in *SIPRI Yearbook 2000* (note 4), pp. 642–46; and OSCE, *Istanbul Document 1999* (OSCE: Vienna, 2000), <<http://www.osce.org/item/15853.html>>, pp. 46–54, 236–59. So far Russia has failed to implement the following Istanbul commitments: (a) to close the Gudauta base in Abkhazia, Georgia; (b) to withdraw all Russian troops and ammunition from Moldova's Trans-Dniester region; and (c) to eliminate the stocks of ammunition and military equipment in the Trans-Dniester region. In addition, the states parties to the CFE Treaty are not agreed on how to treat the Russian peacekeepers in Georgia and Moldova.

⁶ However, Ukraine has not deposited its instruments of ratification with the treaty depositary.

the Agreement on Adaptation, Russia resorted to alternative arguments demonstrating the growing incompatibility of the original treaty regime with political and strategic reality. These claims were echoed by some NATO states' concerns about US intransigence. In addition, Russia threw the extraneous issue of US missile defence in the Czech Republic and Poland into the conventional arms control debate.⁷

In 2007, reassured by its resurgent economic performance, frustrated by the West's continuing refusals to address its security concerns, and with the forthcoming elections in mind, Russia became more assertive in its relations with the United States and the other NATO allies. In February 2007, speaking on the CFE Treaty at the annual Munich Conference on Security Policy, Russian President Vladimir Putin warned the West against imposing 'new dividing lines and walls' on Russia.⁸ Statements by the Russian foreign and defence ministers and by the Russian representatives in the CFE Treaty's Joint Consultative Group (JCG) and the NATO–Russia Council (NRC) claimed that the treaty regime was increasingly 'outdated' and 'degraded and withered', especially in the light of the alleged build-up of a system of military bases along Russia's borders.⁹ In March the Russian delegation to the JCG presented the results of its 'comprehensive analysis' of the CFE-related situation.¹⁰ Russia proposed that the following issues be addressed.

1. The 'absurdity' of the cold war bloc-related limits means that new members of NATO continue to be counted as belonging to the Eastern (i.e. former Warsaw Treaty Organization) group of states parties. Russia suggested that the new NATO states should be transferred to the Western group.

2. As the result of Bulgaria and Romania joining NATO in 2004, the Western group has vastly exceeded the flank limitations agreed in 1996.¹¹ The USA's planned deployments of TLE would further exacerbate these violations. Russia asked the USA to provide a legal justification of this deployment.¹²

⁷ On US ballistic missile defence plans see chapter 1 and appendix 8C in this volume.

⁸ Putin, V. V., President of the Russian Federation, Speech at the 43rd Munich Conference on Security Policy, English translation, 10 Feb. 2007, <<http://www.securityconference.de/konferenzen/rede.php?sprache=en&id=179>>.

⁹ Joint Consultative Group, Statement by the delegation of the Russian Federation, document JCG.JOUR/625, 27 Mar. 2007, annex. On post-cold war changes in basing policy see Lachowski, Z., *Foreign Military Bases in Eurasia*, SIPRI Policy Paper no. 18 (SIPRI: Stockholm, 2007), <<http://books.sipri.org/>>.

¹⁰ Joint Consultative Group (note 9).

¹¹ These limitations are included in the Flank Document, Annex A of the Final Document of the First Conference to Review the Operation of the Treaty on Conventional Armed Forces in Europe and the Concluding Act of the Negotiation on Personnel Strength, Vienna, 15–31 May 1996. For the text of these documents see *SIPRI Yearbook 1997: Armaments, Disarmament and International Security* (Oxford University Press: Oxford, 1997), pp. 511–14, or <<http://www.osce.org/item/13755.html?html=1>>.

¹² In response, in May 2007 the US delegation to the JCG presented a legal analysis of cross-group stationing (i.e. the stationing of troops from a member of one group of states on the territory of a member of the other group of states). Its main thesis was that no provision of the CFE Treaty prohibits cross-group stationing as long as the group ceilings are not violated and the host state consents to the stationing. The only restriction that applies is in Article V, which allows the temporary deployment of TLE on the territory of a member of the *same* group of states parties. Joint Consultative Group, 'Legal ana-

3. Estonia, Latvia and Lithuania have been members of NATO since 2004 but are not parties to the CFE Treaty. As a goodwill gesture to alleviate the uncertainty and unpredictability in that region, Russia proposes that the Baltic states accede to the existing CFE Treaty.¹³

4. NATO should clarify what it means by 'full implementation' of the Istanbul commitments to prevent it from making more and more demands on Russia. NATO should also clarify the meaning of the term 'substantial combat forces', as contained in its 1997 pledge not to undertake 'additional permanent stationing of substantial combat forces'.¹⁴

In addition, Russia reserved the right to make further requests with the aim of 'restoring the balances' in the treaty regime. These issues constituted the basis for further elaboration of Russia's stance during 2007 as the crisis developed.

On 26 April, in response to the growing dispute over the US plans to deploy missile defences in the Czech Republic and Poland and to establish military installations ('bases') in Bulgaria and Romania for use by US troops,¹⁵ President Putin proposed to 'examine the possibility of suspending' Russia's commitments under the CFE Treaty 'until such time as all NATO members without exception ratify it and start strictly observing its provisions, as Russia has been doing so far on a unilateral basis'.¹⁶ Subsequently, Russia stated that it would suspend inspections, notifications and data exchanges, although it did not immediately put this into effect pending further developments.¹⁷ The suspension of observance of the CFE Treaty is not provided for in the treaty, and so lacks a legal footing.¹⁸ The NATO states parties to the CFE Treaty

lysis of cross-group stationing', Statement by the delegation of the United States of America, document JCG.JOUR/627, 8 May 2007, Annex 3.

¹³ The 3 Baltic states and Slovenia, all NATO members, have repeatedly declared their readiness to accede to the Adapted CFE Treaty once it has entered into force.

¹⁴ The pledge was made in NATO, Statement by the North Atlantic Council, 14 Mar. 1997, <<http://www.nato.int/docu/pr/1997/>>; and reiterated and amplified in the Founding Act on Mutual Relations, Cooperation and Security between NATO and the Russian Federation, which was signed on 27 May 1997, <<http://www.nato.int/docu/basicxt/fndact-a.htm>>.

¹⁵ Russia has persistently claimed that the USA will station 5000 troops in each of Bulgaria and Romania. See e.g. Putin (note 8); and Litovkin, V., 'Byt' ili ne byt'? Vot v chem vopros' [To be or not be? That is the question], *Nezavisimoe voennoe obozrenie*, 22 June 2007. The USA has said that it will deploy in Bulgaria and Romania combat elements of a brigade, stationed in Germany, on a rotational basis. Since these deployments will be below brigade level, the USA claims that they do not constitute 'substantial combat forces'. Russia also drew attention to the USA's reluctance to accept the Russian proposals on new CSBMs regarding the foreign stationing of forces. On Russia's proposed CSBMs see Lachowski, Z. and Sjögren, M., 'Conventional arms control', *SIPRI Yearbook 2007: Armaments, Disarmament and International Security* (Oxford University Press: Oxford, 2007), pp. 613–14.

¹⁶ Putin, V. V., President of the Russian Federation, Annual Address to the Federal Assembly, Moscow, 26 Apr. 2007, <<http://www.kremlin.ru/eng/sdocs/speeches.shtml?stype=70029>>. Russian officials later sought to sever the direct linkage between the US missile defence plans and CFE issues. See e.g. 'Baluyevskiy addresses CFE, NMD issues on eve of Russia–NATO meeting', World News Connection, National Technical Information Service (NTIS), US Department of Commerce, 9 May 2007.

¹⁷ 'DOVSE: nikakikh inspektsii v Rossii i uvedomlenii bol'she ne budet' [CFE: there will be no more inspections in Russia and no notifications], *Nezavisimaya gazeta*, 23 May 2007.

¹⁸ Russia claims that its unilateral suspension is in conformity with international law. Article 57 of the 1969 Vienna Convention on the Law of Treaties, to which Russia is a party, provides that 'The operation of a treaty in regard . . . to a particular party may be suspended: (a) in conformity with the provisions of

‘noted with concern’ President Putin’s remarks and requested further clarifications while declaring their willingness to engage in discussions in ‘a positive spirit’.¹⁹ In a series of talks in the JCG and the NRC, NATO declared its openness to discuss all issues of mutual concern.

Disappointed by the West’s response to its suggestions, on 28 May 2007 Russia requested that an extraordinary conference of the states parties be convened in accordance with Article XXI of the CFE Treaty. Russia presented a number of ‘exceptional circumstances’ to justify its demand for the meeting, in particular, the serious consequences of NATO enlargement for the implementation of the treaty, NATO’s foot-dragging on ratification of the Agreement on the Adaptation, and the USA’s plans to deploy conventional armaments in Bulgaria and Romania.²⁰ However, the Russian Foreign Minister, Sergei Lavrov, made it clear that Russia was not going to withdraw from the treaty but simply wanted to spell out its concerns.²¹

The Extraordinary Conference of the States Parties to the CFE Treaty was held in Vienna on 12–15 June. Russia elaborated on the ‘failures’, numerical superiority and other ‘negative effects’ of the conduct of NATO states.

1. Bulgaria, the Czech Republic, Hungary, Poland, Romania and Slovakia have failed to formalize their move from one group of states parties to the other.

2. In the wake of the enlargement of NATO (‘the group of States Parties that signed or acceded to the Treaty of Brussels of 1948 or the Treaty of Washington of 1949’, in the wording of the CFE Treaty), its members exceed both the aggregate and flank limits.

3. The US deployments on the territories of Bulgaria and Romania violate not only Article V’s provisions on temporary deployment, but also NATO’s commitment regarding permanent deployments as set forth in its 1997 pledge.²²

4. States parties have failed to ‘expeditiously’ ratify the Agreement on Adaptation so that it could enter into force as soon as possible, as was pledged in the Final Act of the 1999 Istanbul CFE conference.²³ This is despite Russia’s claimed constructive approach within and outside the CFE regime.

the treaty; or (b) at any time by consent of all the parties’. The CFE Treaty provides for withdrawal but does not explicitly provide for suspension, so it is difficult to legally justify doing so using the content of the treaty itself. NATO and the USA have thus far opted for expressing ‘disappointment’, stopping short of challenging Russia’s right to suspend the treaty. For more detailed discussion of the legal implications of Russia’s move see Hollis, D. B., ‘Russia suspends CFE Treaty participation’, *ASIL Insight*, vol. 11, issue 19 (23 July 2007).

¹⁹ Joint Consultative Group, Statement by the delegation of Canada, document JCG.JOUR/627, 27 Mar. 2007, Annex 1.

²⁰ Dutch Ministry of Foreign Affairs, Notification pursuant to Article XXII of the Treaty on Conventional Armed Forces in Europe, Request for Extraordinary Conference, Russian Federation, 28 May 2007.

²¹ Dempsey, J., ‘Russia and U.S. back away from confrontation’, *International Herald Tribune*, 6 June 2007.

²² NATO (note 14). See also note 15.

²³ Final Act of the Conference of the States Parties to the Treaty on Conventional Armed Forces in Europe (note 5).

5. The Czech Republic, Hungary, Poland and Slovakia have failed to have their territorial ceilings adjusted, as promised in March 1999.²⁴

Accordingly, Russia proposed a schedule to 'restore the viability' of the treaty.²⁵ The deadlines are listed in table 10.2.

Some of Russia's concerns would be easily resolved by the entry into force of the Agreement on Adaptation, but Russia's failure to comply with its Istanbul commitments remains an obstacle. NATO has rejected Russia's successive attempts to de-link its CFE Treaty obligations and the political commitments made in Istanbul.²⁶ The claim that US deployments in Bulgaria and Romania would violate the treaty provisions was denied by both the USA and the two states concerned.²⁷

The differences proved irreconcilable and the Extraordinary Conference ended in failure, unable to agree on a final document. However, the NATO states and Russia left the conference declaring their openness to further talks.²⁸ European Union (EU) member states voiced disappointment over Russia's move and the OSCE Chairman-in-Office called on the states parties to overcome their differences.²⁹ Belarus shared Russia's concerns but stopped short of withdrawal from or suspension of the CFE regime. Instead, it proposed a provisional application of the adapted treaty until it enters into force. NATO's draft final document suggested that three forums be convened following the Extraordinary Conference: an informal meeting in the autumn of 2007 to examine the future of the CFE Treaty regime and potential accession procedures; another Extraordinary Conference prior to the November 2007 OSCE Ministerial Council; and a seminar in the winter of 2008 to pursue cooperative planning for the implementation of the adapted treaty. In addition, NATO encouraged a high-level dialogue on security and arms control in Europe.³⁰

²⁴ Joint Consultative Group, Decision on CFE Treaty Adaptation, document JCG.DD/4/99, 30 Mar. 1999, chart 2. See also Lachowski, Z., 'Conventional arms control', *SIPRI Yearbook 1999: Armaments, Disarmament and International Security* (Oxford University Press: Oxford, 1999), pp. 622–23. These 4 countries have lowered their TLE holdings well below the declared national ceilings under the Agreement on Adaptation (equal to their respective territorial ceilings) and have promised to meet their territorial ceiling commitments as soon as the adapted treaty enters into force. At the end of 2007 Russia quietly dropped its demand vis-à-vis these countries.

²⁵ CFE Extraordinary Conference, Delegation of Russia, Draft basic provisions of the Final Document of the Extraordinary Conference of the States Parties to the Treaty on Conventional Armed Forces in Europe, document CFE-EC(07).JOUR, 11–15 June 2007, Annex 33, attachment 2.

²⁶ See CFE Extraordinary Conference, Delegation of Italy, Statement, 15 June 2007, available at <<http://www.nato.int/docu/update/2007/06-june/e0615a.html>>.

²⁷ CFE Extraordinary Conference, Delegation of the United States of America, Statement, document CFE-EC(07).JOUR, 12 June 2007, Annex 4; and Joint Consultative Group, Delegation of Bulgaria, Statement, document JCG.JOUR/627, 8 May 2007, Annex 4.

²⁸ NATO, 'NATO response to Russian announcement of intent to suspend obligations under the CFE Treaty', Press Release (2007)085, 16 July 2007, <<http://www.nato.int/docu/pr/2007/>>.

²⁹ 'EU states join criticism of Putin's arms-treaty withdrawal', EurActiv.com, 16 July 2007, <<http://www.euractiv.com/en/security/article-165543>>; and OSCE, 'OSCE Chairman issues statement after CFE treaty conference ends in Vienna', Press release, 15 June 2007, <<http://www.osce.org/item/25158.html>>.

³⁰ CFE Extraordinary Conference, Delegation of Italy, Proposed Extraordinary Conference final document, document CFE-EC(07).JOUR, 11–15 June 2007, Annex 31, attachment.

Table 10.2. Russia's proposed schedule for restoring the viability of the Treaty on Conventional Armed Forces in Europe

Date	Event
1 October 2007	Bulgaria, the Czech Republic, Hungary, Poland, Romania and Slovakia transfer to the Western group of states. Estonia, Latvia and Lithuania participate in the treaty as members of the Western group. The ratification processes of the Agreement on Adaptation start.
1 January 2008	The states of the Western group adjust their MLHs of TLE and undertake to provide headroom for the MLHs of the 3 Baltic states within the group's aggregate limits.
1 March 2008	Estonia, Latvia and Lithuania accede to the treaty.
15 June 2008	The national and territorial ceilings of the Western group of states under the Agreement on Adaptation are adjusted. The Czech Republic, Hungary, Poland and Slovakia do not exceed their territorial ceiling parameters adopted under the 1999 CFE Final Act. A decision on non-application of provisions relating to territorial sub-ceilings (i.e. abolition of the flank regime) is adopted. Depositing of the instruments of ratification ends.
1 July 2008	If the Agreement on Adaptation does not enter into force by 25 June, provisional application begins until the official entry into force. Consultations in the JCG on the terms of accession of new states and negotiations on further modernization of the adapted treaty start.
1 October 2008	A draft common understanding of the term 'substantial combat forces' is submitted by Russia and the Western group of states to the JCG. The states parties refrain from additional 'substantial' deployments outside their territory.

CFE = Conventional Armed Forces in Europe (Treaty); JCG = Joint Consultative Group; MLH = maximum level for holdings; TLE = treaty-limited equipment.

Source: CFE Extraordinary Conference, Delegation of Russia, Draft basic provisions of the Final Document of the Extraordinary Conference of the States Parties to the Treaty on Conventional Armed Forces in Europe, document CFE-EC(07).JOUR, 15 June 2007, annex 33, attachment 2.

Soon after the Extraordinary Conference ended, Russia began to refuse inspections from NATO states, referring to the *force majeure* clauses of the CFE Treaty, and later stopped the provision of CFE-related information. However, on-site inspections were permitted again after a few days. On 13 July President Putin signed a decree on Russia's suspension (which was not meant to amount to withdrawal) of the operation of the CFE Treaty and associated international agreements, valid from 12 December 2007.³¹ In a legal sense,

³¹ The Presidential Decree 'on the suspension by the Russian Federation of the Treaty on Conventional Armed Forces in Europe and associated international agreements', Decree no. 872, was signed on 13 July 2007. The text of the decree is available at <<http://document.kremlin.ru/doc.asp?ID=040713>> (in Russian). The associated international agreements specifically mentioned include the Budapest Agreement of 3 Nov. 1990 on maximum levels for holdings of conventional armaments and equipment of the Warsaw Treaty Organization members (Bulgaria, Czechoslovakia, Hungary, Poland, Romania and the Soviet Union) and the 1996 Flank Document (note 11). The suspension also implicitly applies to other CFE-related documents.

Russia thereby risked placing itself in violation of the treaty.³² Russia's move was motivated by the 'exceptional circumstances' that it presented at the Extraordinary Conference. As conditions for resuming the operation of the treaty and related documents Russia demanded that 'concrete steps' be taken according to its proposals to 'eliminate Russian apprehensions and to restore the viability of the Treaty regime'.³³ Russia hinted that, if the CFE regime could not be adapted, then a new system of arms control and confidence-building measures should be developed.³⁴ The Russian threat caused Armenia, Azerbaijan, Georgia and Ukraine to consider the impact of such a change on their respective security situations.³⁵

Russia's tough rhetoric and the Presidential Decree of 13 July prompted negotiations in the following months. In July–September, the USA, in consultations with its allies and Russia, developed a plan for a set of 'parallel actions' that would lead to the Agreement on Adaptation entering into force by the summer of 2008 and the Istanbul commitments being met. An informal brainstorming session devoted to the future of the CFE Treaty was held on 30 September–3 October at Bad Saarow, Germany, which gathered delegations from the 30 states parties to the CFE Treaty and the four other NATO member states. The US plan—entitled 'CFE: a timeline for achieving Adapted CFE ratification and fulfilling the Istanbul commitments'—was presented.³⁶ In addition to a number of issues raised by Russia, two major obstacles to ratification turned out to be insurmountable: agreeing on the nature and substance of the Istanbul commitments and Russia's demand that the flank limitations be lifted.³⁷

During the autumn of 2007 the USA, in consultation with Georgia, Moldova and NATO allies, enhanced its diplomatic activity vis-à-vis Russia. 'New

³² See note 18.

³³ Joint Consultative Group, Memorandum, document JCG.JOUR/635, 17 July 2007, Annex 1, attachment 1.

³⁴ See e.g. Lavrov, S., 'Containing Russia: back to the future?', Russian Ministry of Foreign Affairs, 19 July 2007, <http://www.in.mid.ru/brp_4.nsf/sps/8F8005F0C5CA3710C325731D0022E227>. This article was originally intended to be published in *Foreign Affairs*. In this context, an article by a Russian analyst compared the original and current CFE entitlements and the actual ratio of US/NATO and Russian armed forces. Going against the Russian mainstream view of the CFE situation, he concluded that: (a) Russia cannot complain that is constrained by the treaty when it does not make full use of its quotas; (b) NATO and the USA are not building up their strength in Europe but have both considerably reduced their armed forces; and (c) Russia's claims for military equality are misled—the end of the CFE regime could result, if NATO so wished, in a NATO superiority of 10–15 times over Russia instead of the current 2–3 times. He also argues that talk in Russia about the creation of 'a potential for a surprise attack' is unrealistic. Even the problem of 'grey zones'—states that are not party to the CFE Treaty but are members of NATO (the Baltic states and Slovenia) or could join NATO (Albania, Croatia, Georgia, the Former Yugoslav Republic of Macedonia and Ukraine) is not serious enough to be worth abandoning the CFE regime. Khramchikhin, A. A., 'Kop'ya lomat' ne stoit' [It is not worth breaking lances], *Nezavisimoe voennoe obozrenie*, 31 Aug. 2007.

³⁵ On the reactions in the South Caucasus see below. See also Joint Consultative Group, Statement by Ukraine, document JCG.DEL/28/07, 9 Nov. 2007

³⁶ Socor, V., '“Action for action” on the CFE Treaty: opportunity and risk', *Eurasia Daily Monitor*, 9 Oct. 2007.

³⁷ Joint Consultative Group, Chairperson's summary of the informal meeting on the future of the CFE regime, held from 30 September to 3 October 2007, in Bad Saarow, Germany, document JCG.JOUR/640, 9 Oct. 2007, annex.

ideas' presented during the visit to Moscow of the US secretaries of State and Defense on 12 October resulted in little progress on missile defence and arms control in Europe.³⁸ Later that month a complex package of inducements on the CFE Treaty, Kosovo and Iran issues was reported to have been offered by the USA.³⁹ A challenge for the USA was to find ways to persuade Russia to fulfil its commitments while maintaining unity in NATO, some of whose members—such as Germany and France⁴⁰—sought to placate Russia with concessions while others insisted on the strong linkage between the Istanbul commitments and treaty ratification. By November the USA was 'rather encouraged' by the progress made.⁴¹ The US diplomacy pursued three goals: 'to maintain a common NATO approach; to identify ways forward to achieve fulfillment of remaining Istanbul commitments; and to establish conditions that will make it possible for Russia to continue full implementation of the current CFE Treaty, and allow NATO Allies, including the United States, to move forward to seek ratification of the Adapted CFE Treaty'.

A follow-up seminar to the Bad Saarow dialogue on the future of the CFE regime took place on 5–6 November in Paris and reportedly helped to promote further thinking on the sticking points.⁴² Another informal meeting of this type was held on the margins of the Madrid OSCE Ministerial Council in late November. Meanwhile, the two houses of the Russian Parliament voted unanimously in support of a law to suspend Russia's participation in the CFE Treaty, which was signed by President Putin on 29 November.⁴³

On 12 December, the day on which the suspension took effect, the Russian Ministry of Foreign Affairs issued a statement declaring that Russia will not be bound by restrictions on the number of its TLE.⁴⁴ However, it reiterated the assurance earlier made by Russian officials that Russia did not have plans for the massive build-up or concentration of treaty-related armaments and equip-

³⁸ Shanker, T. and Myers, S. L., 'Putin spars with top U.S. officials visiting Moscow', *International Herald Tribune*, 12 Oct. 2007.

³⁹ Dempsey, J., 'U.S. pushes to get Russia on its side', *International Herald Tribune*, 29 Oct. 2007.

⁴⁰ In a joint article the foreign ministers of France and Germany declared that the CFE Treaty must remain the anchor of European stability and that they were open to further changes and amendments. Steinmeier, F.-W. and Kouchner, B., 'Europa und seine Sicherheit' [Europe and its security], *Frankfurter Allgemeine Zeitung*, 29 Oct. 2007; and Kouchner, B. and Steinmeier, F.-W., 'L'Europe et sa sécurité' [Europe and its security], *Le Figaro*, 29 Oct. 2007.

⁴¹ Kramer, D. J., US Deputy Assistant Secretary of State for European and Eurasian Affairs, 'Twenty-first century security in the OSCE region', Testimony before the Commission on Security and Cooperation in Europe, Washington, DC, 5 Nov. 2007, <<http://www.state.gov/p/eur/rls/rm/94654.htm>>.

⁴² Joint Consultative Group, Declaration by France, document JCG.DEL/30/07, 13 Nov. 2007.

⁴³ The Russian Federal Law 'on the suspension by the Russian Federation of the effect of the Treaty on Conventional Armed Forces in Europe', Law no. 276 of 29 Nov. 2007, is available at <<http://document.kremlin.ru/doc.asp?ID=043061>> (in Russian). The Duma, the lower house of the Russian Parliament, voted on 7 Nov. and the Federation Council, the upper house, on 16 Nov. It is telling that, following the votes in the Russian Parliament, it emerged that the US Defense Secretary, Robert Gates, had decided to freeze plans to reduce the number of US troops stationed in Europe. Shanker, T., 'Gates halts cut in army force in Europe', *New York Times*, 21 Nov. 2007.

⁴⁴ Russian Ministry of Foreign Affairs, Statement regarding suspension by Russian Federation of Treaty on Conventional Armed Forces in Europe (CFE Treaty), 12 Dec. 2007. In a 'goodwill' gesture, in Dec. Russia circulated in the JCG 'summarized information' on the quantities of its TLE.

ment on its borders. At the same time, Russia expressed its readiness to continue a 'result-oriented' dialogue on the CFE Treaty.

Russian withdrawal from Georgia and Moldova

In 2005 Georgia and Russia agreed on the closure of the Russian military bases and other military facilities and withdrawal of Russian forces from Georgia by the end of 2008.⁴⁵ In March 2006 the two countries signed further agreements on the temporary operation of the Russian bases and the withdrawal and transit through Georgia of Russian troops and equipment. Despite all regional problems and disagreements between the two countries (including the crisis over the dropping of a Russian missile on Georgian territory on 6 August 2007), the pullout of Russian armaments and troops continued in 2007. Having withdrawn from the Russian headquarters in Tbilisi at the end of 2006, in 2007 Russia handed over its remaining principal military bases and installations in Akhalkalaki (on 27 June) and Batumi (on 15 November).⁴⁶

With some progress in Georgia, international attention has turned to Moldova, where Russian troops remain in the secessionist region of Trans-Dniester. Withdrawal of Russian TLE was completed in 2001, but the lack of a political settlement over Trans-Dniester caused Russia to delay the withdrawal of its troops and the disposal or withdrawal of its remaining 20 000 tonnes of stockpiled ammunition and non-CFE-limited equipment, part of its Istanbul commitments.

For some time during 2007 Moldova sought bilateral agreement with Russia on the settlement of the Trans-Dniester and related issues. In June the USA unsuccessfully sounded out the possibility—which was supported by Moldova—of creating an alternative multilateral peacekeeping force, with Russian participation.⁴⁷ In the autumn of 2007, Moldovan President Vladimir Voronin proposed 'full demilitarization' of Moldova on both banks of the Dniester River and the replacement of the existing military peacekeeping mechanism with an entirely civilian operation under an OSCE mandate.⁴⁸ Russia continued to make the withdrawal of its forces and ammunition contingent on a

⁴⁵ Joint Statement by the Ministers of Foreign Affairs of the Russian Federation and Georgia, Russian Ministry of Foreign Affairs, 30 May 2005. On the accord see Lachowski, Z., 'Conventional arms control', *SIPRI Yearbook 2006: Armaments, Disarmament and International Security* (Oxford University Press: Oxford, 2006), pp. 758–60.

⁴⁶ Once again, Azerbaijan criticized the transfer of Russian equipment to the Russian base in Gyumri, Armenia, alleging that it is being handed over to rebels in Nagorno-Karabakh. Russia strongly rejected these charges. Mamedov, S., Litovkin, V. and Simonyan, Yu., 'Baku zhdet ob'yasnenii Moskvyy' [Baku expects explanations from Moscow], *Nezavisimaya gazeta*, 12 Sep. 2007.

⁴⁷ Associated Press, 'U.S. pushes for peace force in Moldova', *International Herald Tribune*, 5 June 2007. In a possible sequence, Russia would withdraw its troops from Trans-Dniester and Gudauta, Georgia, and would join an international peacekeeping force. The NATO member states would then expeditiously ratify and bring into force the Agreement on Adaptation, whereupon the Baltic states could join the adapted treaty. In the final stage, NATO could favourably consider Russian demands to raise the flank limits, especially those in North Caucasus. See Socor, V., 'Solution in Moldova—"key to Russia–West dispute" at CFE Treaty conference', *Eurasia Daily Monitor*, 14 June 2007.

⁴⁸ Socor, V., 'Voronin proposes full demilitarization of Moldova', *Eurasia Daily Monitor*, 16 Oct. 2007. On the peacekeeping operation in Trans-Dniester see appendix 3A in this volume.

'political settlement' over Trans-Dniester—a settlement which Russia itself makes impossible by supporting the Trans-Dniester authorities. The '5 + 2' format talks, which were launched in 2005 in an attempt to reach a political agreement concerning Moldova, did not resume in 2007.⁴⁹

The Armenia–Azerbaijan conflict

In the context of continuing tensions in their relations, until 2000–2001 Armenia and Azerbaijan both exceeded their maximum levels of TLE under the CFE Treaty.⁵⁰ The USA has also pointed to other improprieties by these countries in their compliance with the treaty,⁵¹ and both states have traded accusations of non-compliance by the other side.

In 2006 Azerbaijan notified the other states parties that it had exceeded its national maximum levels of holdings in battle tanks and heavy artillery pieces.⁵² Alongside sharp increases in military expenditure and accompanying militarization in the South Caucasian countries, this gave rise to international concerns.⁵³ The spectre of an accelerating arms race in the region coincided with the NATO–Russia crisis over the CFE Treaty. Azerbaijan initially argued that the increase in its holdings of TLE resulted from its armaments modernization process and delays in the removal of old equipment. At the same time it accused Armenia of keeping substantial amounts of TLE in the occupied territory of Nagorno-Karabakh—amounts higher than its entire national entitlements.⁵⁴

The mutual accusations were nothing new. Russia's move to 'suspend' its CFE compliance was used as a pretext by Azerbaijan to declare itself as being in a *force majeure* situation followed by an indirect suggestion that it would increase its national quotas.⁵⁵ Armenia immediately warned of a 'domino

⁴⁹ The talks involve 5 parties—Moldova, the OSCE, Russia, Trans-Dniester and Ukraine—plus 2 observers—the EU and the USA.

⁵⁰ Azerbaijan had fully met the CFE limits by 1 Jan. 2000. Armenia complied with its limits a year later.

⁵¹ See US Department of State, Bureau of Verification and Compliance, *Adherence to and Compliance with Arms Control, Nonproliferation, and Disarmament Agreements and Commitments* (Department of State: Washington, DC, Aug. 2005), <<http://www.state.gov/t/vci/rls/rpt/51977.htm>>, pp. 34–38.

⁵² Ukraine notified the other states parties of the transfer of these weapons to Azerbaijan under an information exchange on arms transfers in 2005. Reportedly, Azerbaijan exceeded its tank quota by 41 units and the artillery quota by 58. Later these numbers grew to 99 and 71 units, respectively. CFE Extraordinary Conference, document CFE-EC-(07).JOUR, 13 June 2007, Annex 26. See also chapter 5 in this volume, section IV.

⁵³ Mamedov, J., 'Azerbaijan flexes military muscles', Caucasian Reporting Service no. 402, Institute for War & Peace Reporting, 19 July 2007, <<http://www.iwpr.net/?s=f&o=337254>>; and Petrosian, D., 'Armenia concerned at Caucasus arms race', Caucasian Reporting Service no. 402, Institute for War & Peace Reporting, 19 July 2007, <<http://www.iwpr.net/?s=f&o=337252>>. On military expenditure in the South Caucasus see chapter 5 in this volume, section IV.

⁵⁴ According to Azerbaijani estimates, Armenia is 'hiding' up to 316 tanks, 324 armoured combat vehicles (ACVs) and 322 artillery pieces in Nagorno-Karabakh. The CFE entitlements of Armenia and Azerbaijan are 220 tanks, 220 ACVs and 285 artillery pieces each. CFE Extraordinary Conference, document CFE-EC-(07).JOUR, 13 June 2007, Annex 28.

⁵⁵ CFE Extraordinary Conference, document CFE-EC-(07).JOUR, 15 June 2007, Annex 35.

effect'.⁵⁶ Eventually, in one of the few political statements that came out of the Madrid OSCE Ministerial Meeting in November, the two states agreed to continue the ongoing negotiation on the settlement of the Nagorno-Karabakh conflict.⁵⁷

Subregional arms control in the former Yugoslavia

According to the Personal Representative of the OSCE Chairperson-in-Office for Article IV, the implementation of the 1996 Agreement on Sub-Regional Arms Control (Florence Agreement) is working very well in its two major dimensions: the exchange of information and notifications (which is being advanced) and the verification regime.⁵⁸ Armaments have been destroyed voluntarily since the end of the official reduction period on 31 October 1997, and by 2007 the parties had scrapped nearly 8900 items of heavy weapons.⁵⁹ In January 2007 the OSCE approved the use of its Communication Network in implementing the Dayton Agreement and tasked its Communication Group with the technical implementation of the decision.⁶⁰

Montenegro became a party to the Florence Agreement as of 16 January 2007 and in July the governments of Montenegro and Serbia agreed that the numerical limitations for both parties will not exceed the total limitations that held for the Federal Republic of Yugoslavia.⁶¹ A formal amendment to the agreement will be signed by the four parties—Bosnia and Herzegovina, Croatia, Montenegro and Serbia. In the meantime, Montenegro and Serbia will comply with the limitations contained in the bilateral agreement.

It is likely that an updated version of the Florence Agreement that incorporates all the amendments and changes will be finalized during its sixth review conference, to be held in June 2008. Given the positive developments in the region, more 'ownership' of implementation could be transferred from the international community and the OSCE to the parties to the agreement.

⁵⁶ CFE Extraordinary Conference, document CFE-EC-(07).JOUR, 15 June 2007, Annex 38.

⁵⁷ OSCE, Ministerial Council, Madrid, Ministerial statement, document MC.DOC/2/07, 30 Nov. 2007.

⁵⁸ Periotto, C. (Brig. Gen.), Personal Representative of the OSCE Chairperson-in-Office for Article IV, Report to the Fifteenth Meeting of the OSCE Ministerial Council on the Implementation of the Agreement on Sub-Regional Arms Control (Article IV, Annex 1-B, Dayton Peace Accords), document MC.GAL/4/07, 13 Nov. 2007. The Florence Agreement was agreed under Article IV of Annex 1B of the 1995 General Framework for Peace in Bosnia and Herzegovina (Dayton Agreement), which was signed on 14 Dec. 1995. The text of the Dayton Agreement is available at <<http://www.oscebih.org/overview/gfap/eng/>> and the text of the Florence Agreement at <<http://www.oscebih.org/public/document.asp?dep=4>>. For a summary of the Florence Agreement see annex A in this volume.

⁵⁹ Periotto (note 58).

⁶⁰ OSCE, Forum for Security Co-operation (FSC), 'Use of the OSCE communications network to support the implementation of Article IV of the Dayton Peace Accords', Decision no. 1/07, document FSC.DEC/1/07, 31 Jan. 2007. Many of the FSC documents cited in this chapter are available at <<http://www.osce.org/fsc/documents.html>>.

⁶¹ Periotto (note 58).

III. Building confidence and security in the OSCE area⁶²

For some time the focus of the OSCE community has remained on its unique dimension—military confidence and security building, in particular CSBMs, control, management and reduction of small arms and light weapons (SALW) and stockpiles of conventional ammunition, including rocket fuel components, and the 1994 Code of Conduct on Politico-Military Aspects of Security.⁶³

Alongside these central areas, the OSCE's Forum for Security Co-operation (FSC) has worked to support United Nations Security Council Resolution 1540 on non-proliferation of weapons of mass destruction by developing a best practice guide, with Canada and the USA as the lead countries;⁶⁴ explored a possible role for the OSCE in the area of civil–military emergency preparedness (CMEP); and decided to enhance the OSCE's role in combating anti-personnel mines (APMs) by holding a special meeting early in 2008.⁶⁵ In October 2007 a special FSC meeting on existing and future arms control and CSBMs in the OSCE area was held.

During 2007 Russia actively proposed several confidence-building measures relating to the Vienna Document 1999.⁶⁶ However, no CSBM was agreed during 2007 because many participating states considered that introducing new measures without first ensuring the effectiveness of existing CSBMs might weaken rather than strengthen the Vienna Document regime. In addition, the developing CFE crisis was not conducive to new agreements, but it did give a stimulus to consideration of enhancing arms control and CSBM efforts in 2008.⁶⁷

⁶² For a list of the states participating on the OSCE see annex B in this volume.

⁶³ OSCE, Code of Conduct on Politico-Military Aspects of Security, document DOC.FSC/1/95, 3 Dec. 1994, <<http://www.osce.org/fsc/22158.html>>.

⁶⁴ UN Security Council Resolution 1540, 28 Apr. 2004. See also Anthony, I., 'Arms control and non-proliferation: the role of international organizations', *SIPRI Yearbook 2005: Armaments, Disarmament and International Security* (Oxford University Press: Oxford, 2005), pp. 542–47; and Ahlström, C., 'United Nations Security Council Resolution 1540: non-proliferation by means of international legislation', *SIPRI Yearbook 2007* (note 15), pp. 460–73.

⁶⁵ OSCE, Forum for Security Co-operation, Danish Chairmanship, Letter from the Chairperson of the Forum for Security Co-operation to the Minister for Foreign Affairs of Spain, Chairperson of the Fifteenth Meeting of the OSCE Ministerial Council, document MC.GAL/5/07/REV. 1, 21 Nov. 2007.

⁶⁶ OSCE, Vienna Document 1999 of the Negotiations on Confidence- and Security-Building Measures, document FSC.DOC/1/99, 16 Nov. 1999, <<http://www.osce.org/fsc/22154.html>>. Russia's proposals included: prior notification of deployment of foreign military forces on the territory of an OSCE participating state in the CSBM zone of application; exchange of information on multinational rapid reaction forces (also proposed by Belarus); 'reopening' (i.e. updating) the Vienna Document 1999; prior notification of large-scale military transits in the CSBM zone of application; a single deadline for submission of information on defence planning; definition of the 'specified area' and the duration of evaluation visits under the terms of the Vienna Document; and prior notification of major military activities that are below the Vienna Document thresholds.

⁶⁷ OSCE, Ministerial Council, 'Issues relevant to the Forum on Security Co-operation', Decision no. 3/07, document MC.DEC/3/07, 20 Nov. 2007, <http://www.osce.org/conferences/mc_2007.html?page=documents&session_id=203>.

Small arms and light weapons

The 2000 OSCE Document on Small Arms and Light Weapons (SALW Document) and the other relevant documents remain an effective instrument for addressing the substance of SALW problems, fostering transparency and confidence among the participating states, and helping to combat terrorism and organized crime.⁶⁸ The OSCE *Handbook of Best Practices on Small Arms and Light Weapons* has been translated into several languages and is also being disseminated and promoted outside the OSCE area. In 2001–2006 OSCE participating states destroyed 6.4 million small arms, 5.2 million of which had been deemed as surplus and 1.2 million of which had been seized from illegal possession and trafficking.⁶⁹

In March 2007 the FSC held a special meeting in Vienna on combating the illicit trafficking of SALW by air. Presentations showed the close relationship between illicit trafficking in SALW and security threats, such as terrorism and regional conflicts. Experts and delegates from the participating states and representatives of the air transport sector and international, governmental and non-governmental organizations discussed ways of improving controls over the air-cargo sector through enhanced national implementation of international regulations.⁷⁰ A mechanism for exchanging information on national legislation and regulatory frameworks for import and export controls relating to the air transport sector as well as enhanced dialogue and increased synergy between states and the private sector were supported by participants.⁷¹ The meeting recommended that a best practice guide on combating illicit trafficking in SALW be developed.⁷² The initiative on reviewing the implementation of existing commitments on SALW export control resulted in the FSC adopting a decision in October on information exchange with regard to the 2004 OSCE

⁶⁸ OSCE, Forum for Security Co-operation, Document on Small Arms and Light Weapons, 24 Nov. 2000, <<http://www.osce.org/fsc/13281.html>>. The other documents include: OSCE, *Handbook of Best Practices on Small Arms and Light Weapons* (OSCE: Vienna, 2003), <http://www.osce.org/fsc/item_11_13550.html>; OSCE, Forum for Security Co-operation, 'Standard elements of end-user certificates and verification procedures for SALW exports', Decision no. 5/04, document FSC/DEC/5/04, 17 Nov. 2004, <<http://www.osce.org/item/1699.html?html=1>>; OSCE, Forum for Security Co-operation, 'Principles on the control of brokering in small arms and light weapons', Decision no. 8/04, document FSC/DEC/8/04, 24 Nov. 2004; and OSCE, Ministerial Council, 'OSCE principles for export controls of man-portable air defence systems', Decision no. 8/04, document MC.DEC/8/04, 7 Dec. 2004, <<http://www.osce.org/atu/13364.html>>. On these documents see Lachowski, Z. and Sjögren, M., 'Conventional arms control' and Anthony, I. and Bauer, S., 'Transfer controls and destruction programmes', *SIPRI Yearbook 2004: Armaments, Disarmament and International Security* (Oxford University Press: Oxford, 2004), pp. 726, 751–53; and Lachowski, Z. and Dunay, P., 'Conventional arms control and military confidence building', *SIPRI Yearbook 2005* (note 64), pp. 659–61.

⁶⁹ OSCE, 'Further implementation of the OSCE Document on Small Arms and Light Weapons', FSC Chairperson's Progress Report to the 15th Ministerial Council, Madrid, document MC.GAL/7/07, 14 Nov. 2007, <<http://www.osce.org/item/28669.html?html=1>>, p. 5.

⁷⁰ OSCE (note 69), p. 10.

⁷¹ See OSCE, Forum for Security Co-operation, 'Closing remarks made by the FSC Chairperson at the closing session of the Special FSC Meeting on combating the illicit trafficking of small arms and light weapons by air', 21 Mar. 2007, document FSC.DEL/101/07, 22 Mar. 2007.

⁷² OSCE, Forum for Security Co-operation, 'OSCE focuses on combating illicit trafficking of small arms, light weapons by air', Press release, 21 Mar. 2007, <http://www.osce.org/fsc/item_1_23696.html>.

Principles on the control and brokering in SALW.⁷³ The decision requests participating states to exchange information on their current regulations concerning brokering activities, with the OSCE's Conflict Prevention Centre to provide a summary report of the replies from participating states.

Section V of the SALW Document concerns requests for assistance from the OSCE states in the field of destruction, stockpile management and security. SALW projects for 2006–2008 in Tajikistan (phase II, on stockpile physical security and training outside Dushanbe) and for 2007–2008 in Belarus (on destruction) are being carried out.⁷⁴

Despite these achievements, SALW endeavours face considerable obstacles. The rate of implementation of information exchanges has decreased and the implementation of FSC decisions on export controls of SALW, including man-portable air defence systems (MANPADS), remains unclear. The total amount of money pledged for SALW projects declined considerably in 2007 compared with 2006 and only 18 of the 56 OSCE states donated or contributed to an SALW or conventional ammunition project in 2005–2007.⁷⁵ More cooperation and coordination within the OSCE as well as between the OSCE and other international organizations are needed. In addition, the potential of the OSCE field missions could be exploited more effectively.

Destruction of stockpiles of ammunition and toxic rocket fuel

Insecure or uncontrolled stockpiles of conventional ammunition and toxic liquid rocket fuel components pose cross-dimensional security, humanitarian, economic and environmental risks. Under the 2003 OSCE Document on Stockpiles of Conventional Ammunition (SCA Document), any OSCE state that has identified a security risk to its surplus stockpiles and needs assistance to address such a risk may request the assistance of the international community through the OSCE.⁷⁶

Up to the end of 2006, five requests had been submitted to the OSCE for assistance in disposal of conventional ammunition (by Belarus, Kazakhstan, Russia, Tajikistan and Ukraine) and five for assistance in the elimination of the rocket fuel components mélange and samine (by Armenia, Afghanistan, Kazakhstan, Ukraine and Uzbekistan). In 2007 new requests under the SCA Document were submitted by Georgia, Moldova, Montenegro and Ukraine, bringing the total number of requests to 14. The Ukrainian project, to overcome the consequences of the May 2004 explosion at the ammunition depot in Novobohdanivka, was successfully completed in August 2007. The project to eliminate mélange in Armenia was completed in September. Russia, which

⁷³ OSCE, Forum for Security Co-operation, 'An information exchange with regard to OSCE principles on the control of brokering in small arms and light weapons', Decision no. 11/07, document FSC.DEC/11/07, 17 Oct. 2007.

⁷⁴ OSCE (note 71), pp. 6–8.

⁷⁵ OSCE (note 71), pp. 9, 18–19.

⁷⁶ OSCE Document on Stockpiles of Conventional Ammunition, document FSC.DOC/1/03, 19 Nov. 2003, <<http://www.osce.org/fsc/13282.html>>.

had requested assistance in dealing with the disposal of obsolete ammunition, withdrew its request in March 2007. Phase I of the SALW and conventional ammunition project (on conventional armaments destruction) in Tajikistan was successfully completed in November 2006; phase II is ongoing (see above).⁷⁷

In 2007 the FSC Editorial Review Board completed its work on a best practice guide on ammunition marking, tracing and record-keeping (drafted by Germany) and worked on two more guides—on destruction and physical security of conventional ammunition—with the aim of finalizing the work in 2008.⁷⁸

The Code of Conduct on Politico-Military Aspects of Security

The 1994 Code of Conduct on Politico-Military Aspects of Security (COC) remains the normative document on the cooperative behaviour and mutual responsibilities of states in the OSCE region and the democratic control of their armed forces.⁷⁹ It also addresses politico-military relations within states. In 2007 several food-for-thought papers and draft decisions were presented on such issues as: updating the COC questionnaire, promoting public awareness of the COC and additional steps to implement the COC.

On 23 May, as a follow-up to the special meeting on the COC of 26 September 2006, a meeting of the FSC Working Group A on the Code was held. The debate was structured in three parts: (a) how to strengthen the implementation of the COC; (b) how to promote public awareness, publication and outreach of the COC; and (c) how to determine which supplementary measures could improve the implementation of the COC.⁸⁰

Following the May meeting, an FSC coordinator was appointed to collate ideas, views, proposals and input by delegations of OSCE participating states with regard to the COC, and to assist the FSC chairperson and the FSC Troika in developing modalities for various steps towards a better implementation of the Code.⁸¹ The drafting of an updated COC questionnaire and the consolidation of a register of proposals have progressed. In addition, the OSCE and its Conflict Prevention Centre organized a number of workshops and seminars during 2007—in Armenia (Yerevan), Azerbaijan (Baku), Bosnia and Herzegovina (Sarajevo) and Montenegro (Podgorica)—to support the operation of the Code of Conduct.

⁷⁷ OSCE, 'Further implementation of the OSCE Document on Stockpiles of Conventional Ammunition', FSC Chairperson's Progress Report to the 15th Ministerial Council, Madrid, document MC.GAL/6/07, 14 Nov. 2007, <<http://www.osce.org/item/28668.html?html=1>>, pp. 8–17.

⁷⁸ OSCE (note 77), p. 19.

⁷⁹ OSCE (note 63).

⁸⁰ OSCE, Forum for Security Co-operation, Chair's perception/Summary, 347th (Special) meeting of Working Group A on the Code of Conduct on Politico-Military Aspects of Security, 23 May 2007, document FSC.DEL/319/07, 21 June 2007.

⁸¹ The FSC Troika consists of the current, previous and next chairpersons of the FSC.

IV. Global efforts to counter inhumane weapons

Anti-personnel mines

The 1997 APM Convention commits states parties to destroy their stockpiles of anti-personnel mines and to clear them from their territories.⁸² The list of states committed to banning APMs is growing on all continents. In 2007 Indonesia ratified the convention and Iraq, Kuwait and Palau acceded to it, bringing the number of parties to 156. Two signatory states—Marshall Islands and Poland—have not yet ratified the APM Convention.⁸³ In addition, 35 non-state armed groups have fulfilled their pledge to observe the ban on APMs.⁸⁴

Under the APM Convention, states parties agree to destroy their existing stockpiles within four years of ratification, and to clear deployed anti-personnel mines from their territory within 10 years. Of the 156 states parties to the APM Convention, 146 do not have stockpiles of APMs.⁸⁵ According to Landmine Monitor, 41.8 million stockpiled mines had been destroyed as of August 2007 while 46 states have 176 million APMs stockpiled. The vast majority of these stockpiles belong to China (*c.* 110 million), Russia (26.5 million), the USA (10.4 million), Pakistan (*c.* 6 million) and India (*c.* 4–5 million), which are not party to the convention.⁸⁶

Cluster munitions

During 2007 international action against cluster munitions gained momentum, comparable with the Ottawa process to ban landmines launched a decade before. Thirty-four countries are known to have produced more than 210 types

⁸² For a summary of the Convention on the Prohibition of the Use, Stockpiling, Production and Transfer of Anti-Personnel Mines and on their Destruction and a list of its parties see annex A in this volume.

⁸³ Having declared almost 1 million APMs at the end of 2006, Poland has announced that it will not join until 2015. International Campaign to Ban Landmines, *Landmine Monitor Report 2007: Toward a Mine-Free World* (Mines Action Canada: Ottawa, 2007), <<http://www.icbl.org/lm/2007/>>, 'Country and area reports'. The Marshall Islands gave a positive signal by voting in favour of UN General Assembly Resolution 61/84, 18 Dec. 2006, which calls for universalization of the convention. No state opposed the resolution but 17 abstained: Cuba, Egypt, India, Iran, Israel, Kazakhstan, South Korea, Kyrgyzstan, Lebanon, Libya, Myanmar (Burma), Pakistan, Russia, Syria, the USA, Uzbekistan and Viet Nam.

⁸⁴ These are the 35 groups that have signed the Deed of Commitment under Geneva Call for adherence to a total ban on anti-personnel mines and for cooperation in mine action, which was opened for signature on 4 Oct. 2001. The text of the deed and the list of its signatories are available at <<http://www.genevacall.org/>>. See also Geneva Call and Graduate Institute of International and Development Studies, Program for the Study of International Organization(s), *Armed Non-state Actors and Landmines*, vol. 3, *Towards a Holistic Approach to Armed Non-state Actors?* (Geneva Call: Geneva, 2007).

⁸⁵ The states parties destroying their stockpiles as at Aug. 2007 were Afghanistan, Belarus, Burundi, Greece, Indonesia, Sudan, Turkey and Ukraine. Ethiopia and Iraq are also thought to have stockpiles of APMs. Landmine Monitor estimates that 14 million APMs remain to be eliminated by these 10 countries. International Campaign to Ban Landmines (note 83), Executive summary, p. 15.

⁸⁶ International Campaign to Ban Landmines (note 83), Executive summary, pp. 15–16. Two countries—Myanmar (Burma) and Russia—actively deploy APMs. Most major producers of landmines refrain from exporting APMs. International Campaign to Ban Landmines (note 83), Executive summary, pp. 1, 14–15.

of cluster munitions and it is estimated that at least 75 countries stockpile these weapons.⁸⁷

In November 2006 the Third Review Conference of the 1981 Certain Conventional Weapons (CCW) Convention devoted a significant amount of time to addressing cluster munitions.⁸⁸ Twenty-seven states supported a proposal for a mandate to begin negotiations under the convention on a legally binding instrument addressing the humanitarian concerns posed by such munitions. The proposal was rejected by a number of states (including China, Russia, the United Kingdom and the USA) in favour of a weak mandate to continue discussions on explosive remnants of war, including cluster munitions. However, 25 states which advocated a strong negotiating mandate issued a declaration calling for an agreement that would prohibit the use of cluster munitions that 'pose serious humanitarian hazards because they are for example unreliable and/or inaccurate' and would require destruction of stockpiles of such weapons.⁸⁹ Norway, one of the leading states of this group, called for an independent process outside the CCW Convention to negotiate a treaty banning cluster munitions that have unacceptable humanitarian consequences.⁹⁰

The first meeting of the 'Oslo process' was held on 22–23 February 2007 in Oslo, Norway. At the meeting 46 states committed themselves in the Oslo Declaration to conclude a new international treaty banning cluster munitions 'that cause unacceptable harm to civilians' by 2008 and to establish a framework for cooperation and assistance to victims, clearance of contaminated areas, risk education, and destruction of stockpiles of prohibited cluster munitions.⁹¹ A draft treaty text was distributed and discussed at the first follow-up meeting, in Lima, Peru, on 23–25 May 2007, which gathered states and international and non-governmental organizations (such as the UN, the International Committee of the Red Cross and the Cluster Munitions Coalition).⁹² By that point, a total of 74 states had joined the Oslo process (i.e. stated support for the objectives of the Oslo Declaration).

The CCW Convention's Group of Governmental Experts (GGE) met in June 2007 with the sole substantive topic being action on cluster munitions. However, the outcome was modest.⁹³ At this meeting, the USA announced that

⁸⁷ Goose, S. D., 'Cluster munitions: ban them', *Arms Control Today*, vol. 38, no. 1 (Jan./Feb. 2008).

⁸⁸ For a summary of the Convention on Prohibitions or Restrictions on the Use of Certain Conventional Weapons which may be Deemed to be Excessively Injurious or to have Indiscriminate Effects (also known as the 'Inhumane Weapons' Convention) and a list of its parties see annex A in this volume.

⁸⁹ CCW Convention, Third Review Conference, 'Declaration on cluster munitions', CCW/CONF.III/WP.18, 20 Nov. 2006.

⁹⁰ Cluster Munitions Coalition, RevCon Daily Updates no. 9, 17 Nov. 2006, <<http://www.stopclustermunitions.org/news.asp?id=39>>.

⁹¹ Oslo Conference on Cluster Munitions, Declaration, 23 Feb. 2007, <<http://www.regjeringen.no/templates/RedaksjonellArtikkel.aspx?id=449312>>. Of the 49 states meeting in Oslo, only Japan, Poland and Romania did not support the Oslo Declaration.

⁹² Lima Conference on Cluster Munitions, Chair's discussion text, 23–25 May 2007, <<http://www.clusterprocess.org/limatext>>.

⁹³ United Nations Office at Geneva, 'CCW governmental experts recommend action on cluster munitions', Press release, 26 June 2007.

it would back negotiations on cluster munitions under the CCW Convention.⁹⁴ The EU also supported the adoption by the GGE of a negotiating mandate to conclude a 'legally-binding instrument that addresses the humanitarian concerns of cluster munitions in all their aspects' by the end of 2008.⁹⁵ On 13 November, acting on an EU–Germany initiative,⁹⁶ a meeting of the parties to the CCW Convention adopted a mandate that tasked the GGE to 'negotiate a proposal to address urgently the humanitarian impact of cluster munitions, while striking a balance between military and humanitarian considerations'. The meeting decided that the GGE should 'make every effort' to negotiate the proposal as rapidly as possible and to report on the progress made to the next meeting, in November 2008.⁹⁷ Not surprisingly, the modest outcome of the CCW meeting met with criticism from the Oslo process participants. However, proponents of a CCW protocol on cluster munitions claim that, if agreed, it would include more major powers, producers and users of cluster munitions.

On 5–7 December, 138 states and 140 representatives of advocacy groups from 50 countries gathered in Vienna for the third Oslo process conference.⁹⁸ The most contentious issues at the conference were the definition and prohibition of cluster munitions. Some countries demanded exemptions for munitions with characteristics such as self-destruct mechanisms or a supposed 1 per cent failure rate. There was also a call for a transition period during which the banned weapons could be used until alternative weapons become available. A meeting to develop the treaty was scheduled for Wellington, New Zealand, in February 2008, with a final conference for formal negotiations in Dublin, Ireland, in May 2008.

V. Conclusions

In 2007 conventional arms control in Europe fell victim to deepening disagreements between Russia and the other states parties to the CFE Treaty. Although disturbing, the brinkmanship over the CFE Treaty is simply a reflection of the wider spectrum of strategic, political, military and other issues that divide the OSCE community of states rather than a conflict in its own right.

⁹⁴ Boese, W., 'Cluster munitions control efforts make gains', *Arms Control Today*, vol. 37, no. 6 (July/Aug. 2007).

⁹⁵ German Presidency of the European Union, 'CCW-GGE on ERW and cluster munitions: EU statement', 19 June 2007, Geneva, <http://www.eu2007.de/en/News/Statements_in_International_Organisations/>.

⁹⁶ See German Presidency of the European Union (note 95).

⁹⁷ Meeting of the High Contracting Parties to the CCW Convention, Report, document CCW/MSP/2007/5, Geneva, 7–13 Nov. 2007, paragraph 37.

⁹⁸ Cluster Munitions Coalition, 'CMC report on the Vienna Conference on Cluster Munitions', 21 Dec. 2007, <<http://www.stopclustermunitions.org/news.asp?id=107>>. Following the example set by Belgium, which banned cluster munitions in Feb. 2006, and Norway, which announced a moratorium on use of cluster munitions in 2006, in early Dec. 2007 Austria passed a law banning these weapons. The Federal law on the ban on cluster munitions was promulgated in *Bundesgesetzblatt I*, no. 12/2008 (7 Jan. 2008). See also Cumming-Bruce, N., 'Austria bans cluster munitions', *International Herald Tribune*, 7 Dec. 2007.

With regard to the treaty regime itself, Russia's separation of its legal arms control obligations and its political commitments put it at loggerheads with states parties who insist on treating the CFE process as a whole. The 'suspension' of the implementation of the CFE Treaty in December effectively placed Russia in breach of critical disarmament-related obligations. The NATO states, wishing to cooperatively engage Russia, chose not to challenge it on the grounds of international law.

In the absence of a political compromise, the CFE Treaty is likely to remain in limbo. Two key issues dominate the CFE agenda: the nature and substance of the 1999 Istanbul commitments and the flank limitations dispute. The USA and other NATO member states have belatedly acknowledged the need to pay more serious attention to Russia's CFE-related concerns, both for the sake of the viability of the regime and for intra-NATO cohesion. However, if Russia hopes to disrupt NATO or weaken its stance, it risks miscalculation and overplaying its hand; prolonging the crisis may well result in the opposite outcome—solidifying NATO's ranks. The principal Russian demand—that flank limits be removed—would require a huge concession on the part of the two most interested NATO states, Norway and Turkey, not to mention the concerns of other flank countries and their neighbours. Given Russia's current behaviour and its own non-observance of the flank restrictions, agreement does not seem likely to be forthcoming. In addition, both the NATO members and states that are poised to join the agreed adapted CFE regime will be unwilling to accede to a treaty that is to be substantially changed to accommodate the demands of one party, at the apparent expense of others' sense of security.

The suspension of CFE implementation has already had a damaging effect on the adherence of other states parties. Some have begun to reassess their security position in the event that the CFE regime should collapse, while an arms race is already gaining momentum in the South Caucasus.

Paradoxically, the current crisis creates an opportunity to seriously rethink the current relevance of the CFE regime. Despite—or because of—the crisis, arms control has risen on the European security agenda. With the 'hard' arms control regime deadlocked, some OSCE states and experts suggest a 'soft' arms control regime of confidence- and security-building measures. However, with confidence being undermined in one place, it is difficult to restore and develop it in another. Nevertheless, the norm-setting Code of Conduct on Politico-Military Aspects of Security retains its relevance and importance, and other confidence- and stability-enhancing steps in the OSCE area continue to focus on the multiple dangers created by surplus stockpiles of small arms and light weapons, ammunition and toxic fuel.

In developments beyond Europe, the number of states adhering to the APM Convention rose to 156, thus taking it further towards universalization. Similar humanitarian concerns are drawing increasing interest in efforts to eliminate cluster munitions worldwide.