

THE CFE TREATY: THE WAY FORWARD FOR CONVENTIONAL ARMS CONTROL IN EUROPE

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As the successor of the long lasting Mutual and Balanced Force Reductions (MBFR) negotiations which produced no results during the Cold War, the Conventional Forces in Europe (CFE) treaty, has become the first conventional weapons arms control treaty ever to be signed in Europe. Does this mean that it can be taken as a precedent, that future regional arms control regimes can be built on its success? To be able to answer this, one must first establish what the CFE's successes are, or if indeed it has had any success at all. After all one cannot forget the signing ceremony in Paris in November 1990, which also heralded the end of the Cold War, making the heavily piled up military stand-off in central Europe superfluous. Perhaps CFE in this context, proves the point that arms control agreements are only reached when they are no longer necessary.

However, by looking at the treaty itself one can see that the CFE is not entirely a useless exercise. The CFE treaty's objectives, as set out in the CFE mandate of 10 January 1989, are: to strengthen stability by securing a balance of conventional forces and to eliminate the capability of any one party to launch a surprise attack or initiate a large scale offensive action. These objectives have been fulfilled since the treaty came into force on 17 July 1992. This is because the reductions undertaken by both sides with substantial cuts on the part of former Warsaw Pact countries^ñ has by and large been implemented during the three reduction periods of the treaty.

ACHIEVEMENTS OF THE CFE REGIME

An important CFE achievement has been the elimination of the conventional imbalance which existed in Europe throughout the Cold War. Also by drastically reducing the number of weapons in five categories: tanks, artillery (of a 100 mm calibre and over), armoured personnel carriers, combat aircraft and helicopters, it has eliminated the capability of any one side or any one country to launch a surprise attack or large scale offensive. Also by imposing limits on Treaty Limited Equipment (TLE) on each side, each country and each ATTU (Atlantic To The Urals area) zone, the CFE treaty ensures the long-term durability of the objectives it has accomplished. The zoning concept eliminates the heavy concentration of conventional weapons in Central Europe, and allows for the flow of TLE away from and not towards Central Europe. Concerns that this would have led to a heavy flow of TLE from Central Europe to the flanks was also taken into account, and separate limits of TLE were imposed on each of the flanks to ensure a stable conventional balance throughout the ATTU area.

Even more significant for stability in the near future, are the individual national ceilings agreed to within each group. This ensures the commitment of each individual country not to exceed the limit of TLE equipment it is allowed under the treaty. Given that for the future, the framework of the treaty comprising of "two groups of states" (NATO and the ex-Warsaw Pact) is becoming less and less relevant, this is an important development in limiting TLE on an individual country basis throughout the ATTU.

It is therefore fair to assume that the objectives of the CFE treaty are of value and so far have been fulfilled. In this context, the essential objective of the treaty, which is to promote stability has come under some scrutiny. Whether stability can be achieved solely by removing the capabilities to launch a surprise attack with "heavy" conventional weapons is questionable, particularly more so as recent developments show that instability in Europe's periphery regions is born from localised ethnic conflicts. Here the word "periphery" becomes crucial in determining the future of the CFE regime. The CFE treaty was negotiated in a Cold War framework, based on the premise that all issues of stability in Europe evolved around central Europe.

In this sense it had inherited its parameters and working order from the MBFR negotiations. Once the CFE treaty was signed and the more tricky implementation stage began, at this point the centres of instability were already shifting away from Central Europe to the more distant regions of the Balkans and the Caucasus. Does this mean that the CFE treaty is out of date and therefore no longer of any relevance? Before jumping to such a conclusion, it must be pointed out that from the very start of the CFE negotiations, in March 1989, it was by no means certain that an agreement would be synonymously reached with the gradual ending of the Cold War. During the period of negotiations and the subsequent implementation of the treaty, the CFE has come up against serious obstacles and has had to adjust to significant changes in circumstances directly affecting the treaty framework. The fact that the CFE has survived such turbulent times, and that the original negotiating parties present in 1989, still uphold the value of the treaty and their obligations, proves the CFE as an unprecedented exercise in promoting stability and transparency.

CHALLENGES TO THE CFE REGIME

The first challenge to the treaty came with the dissolution of the Warsaw Pact. However, this did not alter the general negotiating framework of the treaty, which continued as two groups of party states for implementation purposes. At this stage the two groups of party states framework finds itself less and less relevant, however, the individual country ceilings within each group point the way towards the longevity of the treaty.

The CFE Treaty faced a greater challenge with the break up of the USSR before the treaty was ratified. The unpredictability of the situation in the Soviet Union at the time, added an urgency for the CFE treaty to be implemented without much delay. The task of adjusting the CFE to these circumstances fell upon NATO. NATO had already established military and political contacts with the former Warsaw Pact countries in the framework of the North Atlantic Cooperation Council (NACC). It was at the first meeting of the NACC in December 1991, that ministers from NATO and the cooperation countries agreed to establish a High Level Working Group (HLWG) to deal with the issues of CFE ratification.

As a result, the eight successor states to the Soviet Union -Armenia, Azerbaijan, Belarus, Georgia, Kazakhstan, Moldova, Russia, the Ukraine and the three Baltic states²- took part in the first HLWG meeting in January 1992, together with the remaining former Warsaw Pact states from Central and Eastern Europe and the sixteen NATO members. It was decided at this meeting that the treaty obligations assumed by the former Soviet Union would be "wholly accounted for by all the newly independent states in the area of application and apportioned among them"³ By February 1992, the eight states had been defined as equal successors to the Soviet Union. What followed was the more technical task of adjusting the treaty to these changes, which was carried out by the Joint Consultative Group (JCG) -the body set up by the treaty to specifically deal with its implementation. However the reapportionment of the USSR's treaty obligations among the successor states could only be reached in an agreement between the eight states themselves. This was not a straightforward procedure, given that Georgia and Azerbaijan were already involved in regional conflicts and were burdened with security concerns overriding the CFE treaty. Also during this time, Georgia, Kazakhstan, Azerbaijan and Belarus were absent from NACC meetings which addressed the issue of CFE implementation.⁴

However, the successor states to the USSR reached an agreement on the division of their treaty obligations at a summit in Tashkent in May 1992. A month later at a NACC "Extraordinary Conference", the modifications were adopted, as the treaty came into force on 17 July 1992. This was also the commencement of the reduction period which was due for completion in November 1995.

These adjustments in such a short space of time did lead to certain anomalies in the treaty. The most important of these remaining anomalies is the two groups. For example, changing membership from one so called group to the other is a serious matter for the legitimacy of the treaty. The treaty in fact does take account of this in the provision of exceptional

circumstances, in the event of one state party announcing its intention to leave its group and join the other group.

One must be reminded that NATO, as one of the original two groups is still very much alive and kicking, and presently has former Warsaw Pact states knocking at its door for future membership. Under the treaty provisions, if one state party should decide to leave its group to join the other, any state party directly affected by this can call an extraordinary conference. This may lead to a review of the treaty. In the case of Central and Eastern European party to the treaty states joining NATO, the state party most likely to call upon this provision would be Russia. Also a state may withdraw from the treaty giving 150 days notice, if its supreme interests are jeopardised by extraordinary events related to the treaty. All of these pose a threat to the longevity of the treaty.

CFE: A BLUEPRINT FOR ARMS CONTROL REGIMES IN THE FUTURE?

If the CFE itself is beset with the above mentioned anomalies, then how is it supposed to be a building block for further conventional arms control regimes in Europe? Yet this is precisely what the OSCE Forum for Consultation (FSC) which was created at the CSCE Helsinki summit in July 1992, has been trying to do by harmonising CFE obligations with future regional arms control measures involving OSCE states which are not CFE signatories. The FSC also works on the harmonisation of CFE obligations with the 1992 and 1994 Vienna documents on Confidence and Security Building Measures (CSBMs).

Before the OSCE's Budapest summit in December 1994, there had been a suggestion put forward by Hungary that a regional arms control regime-based on the CFE -be created for the former Yugoslavia, but to include surface to surface missiles and artillery below the calibre of 100 mm.⁵ So far measures of this detail have not been incorporated into the FSC's work. Instead the Budapest document tasked the FSC to "develop a framework which will serve as a basis for an agenda for establishing new measures in arms control.." and " to address specific regional security problems, with special emphasis on longer term stability in South-Eastern Europe"⁶

The problem with using the CFE as a basis for future arms control frameworks, is that force levels have become less significant in creating or destroying stability, particularly in the case of the Balkans and Caucasus. The recent war in the former Yugoslavia, and the ongoing conflicts in the Caucasus show that it does not require a great amount of equipment to sustain a regional conflict. This poses the question as to what if any contribution arms control can make in securing regional stability? The general framework of the CFE also comes into question, since TLE categories would still leave out artillery below 100 mm calibre. Smaller, lighter weapons are far more widespread in use in conflicts like those in the former Yugoslavia and the Caucasus. One then is faced with the question as to how low equipment limits imposed under an arms control regime on these regions can realistically go. If stability is not entirely dependent on force levels, then there is an increased role for preventative diplomacy, transparency and exchange of information, which have been incorporated in the CFE regime and the work of the OSCE.

THE CFE FLANK ZONES: A RECURRING PROBLEM

Under the CFE treaty's zoning system, there are four zones, each with their own sub-limits. There are three nested central zones, which enable the distribution of TLE away from and not towards Central Europe. When the CFE treaty was being negotiated there was concern on all sides that this may lead to a build up of TLE from Central Europe in the flanks. To overcome this separate limits were imposed on the flank zones. The subsequent limits negotiated for the Flanks Zones were incorporated in Article V of the treaty. The northern flank of the ATTU consists of Norway, Iceland and part of Russia (the former Leningrad military district) and the southern flank consists of Romania, Bulgaria, Greece, part of Turkey, Georgia, Armenia, Azerbaijan and part of Russia (the former North Caucasus military district).⁷ Now, Russia and to a lesser extent Ukraine are both arguing that the

flank limits are no longer relevant to their security requirements in the post Cold War era. The arguments put forward by Russia on this issue are that since the break-up of the Soviet Union, 30 per cent of the USSR's flank entitlements have been shared between Armenia, Azerbaijan, Georgia and Moldova. In fact, Moscow has now for some time been putting pressure on Azerbaijan, Armenia and Georgia to transfer some of their entitlements to Russia. Secondly, Russia has been arguing that the ethnic turmoil in the Caucasus and the spill over effect this could have on the internal affairs of the Federation, is the main rationale behind its desire to deploy a heavier military presence in the region.⁸ Ukraine's position on revising Article V is less clear and its demands for altering the treaty provisions have not been as forceful as Russia's. A further complication added to the Ukrainian stance on the issue, is the status of the Black Sea Fleet -still an issue of contention between the Ukraine and Russia, which also based in the flank zone.

However, the flank zones have not been the only stumbling block for Russian fulfilment of CFE obligations. The CFE treaty, since the moment it was signed, has evolved synonymously with the changes presented at the end of the Cold War and a subsequent re-evaluation of Russian security concerns. The first of these security concerns came with the reunification of Germany in 1990, when the USSR was still intact. During this time, Moscow saw the CFE as an unnecessary hindrance to enhancing future Soviet security concerns in the wake of German unification, and sought various ways to circumvent its CFE obligations.⁹ This included such measures as reassigning TLE to coastal defence units and naval infantry, making them exempt from the treaty.

The second stage of re-evaluation of Russian security concerns came with the actual break-up of the Soviet Union itself, and the substitution of Russian security concerns for Soviet ones, and a definition of the "near abroad". This led to Russian requests for raising the limits of the CFE flanks. The definition of the "near abroad" is linked to traditional Russian security concerns of maintaining control over its bordering regions and the Russian diaspora.

However, resistance to any revision of flank limits has come from two NATO allies -Norway and Turkey. Russia's desire for an increased military presence in the Caucasus has been viewed as a major security concern by Turkey, which neighbours Georgia, Armenia and Azerbaijan. The principle of non-revision of the CFE treaty has since been incorporated into NATO communiqués whilst at the same time Russia has continued its intransigence over not recognising the present flank limits. This has created a rather bizarre situation, with NATO adamantly standing by non-revision of the treaty and Russia staunchly denying the existence of the present limits, whilst both parties, conveniently ignore this irreconcilable difference in the milieu of Russia's relations with the West. This state of affairs is reciprocal. Whilst the Clinton administration's policy has been to support the Russian political leadership at the cost of ignoring the difficulties associated with Russia's compliance of the CFE (and, more significantly Russian policy in Chechnya, the Russian political leadership still expresses support for the CFE treaty although they may have little enthusiasm for it, due to the West's linkage of good Russian behaviour to economic aid and further development of a partnership on equal terms.

This brings us to the issue of linkage itself, which seems to be ubiquitous with CFE regime. Russia had linked the validity of the CFE treaty to NATO's expansion to the east. Some analysts have even suggested a renegotiation of the CFE treaty in favour of Russian endorsement of NATO's expansion eastwards. ¹⁰ This is not a feasible bargain: NATO's expansion should not be left in the hands of Russian demands, no matter how legitimate Russian security concerns may be. Linkage politics is a messy procedure which commits all parties involved to further linkages, thus diluting the issue at hand. The anomalies that exist in the CFE should be dealt with separately and not mixed with the issue of NATO's expansion. There should be no question of trading one for the other. However, this does not mean that both issues should not be looked into, nor does it mean that the points where the two issues overlap ought to be ignored. The overlap in this case, is the provisions made in the treaty in the event of one state party leaving its group to join the other group. Already in this paper, it has been pointed out that this could be a serious challenge for the

treaty's durability. When, at the end of 1990, the two original negotiating parties, NATO and the Warsaw Pact, were henceforth referred to as the two "groups of state parties" this was solely for implementation purposes, to maintain the treaty framework of two groups. Some analysts have argued that legally, because membership of one group is not the same as alliance membership, it would be perfectly acceptable for a state to join NATO, whilst remaining in its original group (i.e. the defunct Warsaw Pact) under the treaty framework.¹¹

This presents a very unclear situation. Whereas in the treaty it is referred to the two groups of party states, in essence, the original membership of the negotiating parties -NATO and the Warsaw Pact- have remained unchanged, except for the Soviet successor states, which still remain in their own group. For a state, to be a member of NATO, but remain a member of the other group in the CFE treaty, thus fulfilling its treaty obligations vis-à-vis NATO's presents an unprecedented situation. Although it may be legally possible, it still presents a problem for the longevity of the treaty, as well as for using the treaty as a building block for future regional arms control regimes, because the entire treaty framework comes under challenge.

Russia has made full use of this anomaly in its linkage policy. In April 1995, the Russian defence minister, Pavel Grachev, openly told his US counterpart, William Perry, that Russia would not meet its CFE obligations if NATO expanded, taking in as members the former Warsaw Pact states of Central and Eastern Europe.¹² One should not ignore the problems presented by the anomalies in the treaty for its durability in the long-term and its credibility as a building block for further arms control regimes in Europe, but this is a separate issue to the kind of automatic linkage that Russia had been making recently: NATO expansion? = No CFE treaty. This is a bargain which the West must not be compelled to accept. NATO's expansion requires consultation with all neighbouring countries in the region of expansion, however, it should not be open for negotiation on these terms. In other words, the CFE treaty should not be sold for NATO expansion. This would have a far greater consequence in undermining the credibility of the treaty as a future building block for further regional arms control measures, than the challenges posed by the existing anomalies in the treaty. If the CFE treaty is written off in this way, then there would be no point for the OSCE forum for Consultation (FSC) to continue its work on the harmonisation of CFE obligations with future regional arms control measures involving all OSCE states, or its work in harmonising CFE obligations with the 1992 and 1994 Vienna documents on CSBMs. This would have a drastic effect on the future of arms control in the region, as well as future stability throughout the region.

Russia's resistance to NATO's eastwards expansion is also linked to the issue of revising flank limits and the effectiveness of CIS peacekeeping, operations which Russia would like to see on an equal footing with NATO's prospective peacekeeping role, under the auspices of the OSCE. It is unclear whether the OSCE would give a mandate to Russian peacekeeping ventures in the CIS. A previous Russian request for this mandate was deferred at the CSCE Council meeting in Rome in December 1993.¹³ Russia would like to see a "genuine division of labour" between the CIS the NACC, European Union, Council of Europe, NATO and Western European Union, with the CSCE playing a coordinating role.¹⁴ The recent Russian military operations in Chechnya further complicates the issue of CIS peacekeeping under an OSCE mandate, when Russian actions in Chechnya constitute non-compliance with the provisions of the Vienna Document, exceed Russian CFE limits within that zone, and contradict the OSCE code of conduct.¹⁵ Since 17 November 1995, the level of Russian forces in the area also violate the CFE treaty, since this was supposed to mark the end of the third reduction period. The issue of CIS peacekeeping is not only for upholding Russian interests in the region, but also a means of re-interpreting the treaty to allow Russia to keep higher levels of forces than allowed under the flank ceilings. If Russia were to redefine its military forces in the Caucasus as peacekeeping units, the equipment held by those units may no longer be subject to CFE treaty limits.

However, there are many more feasible ways of allowing some flexibility on the flank issue, than CIS peacekeeping, which since Chechnya has become a controversial issue, to say the

least. There are in fact three provisions in the treaty itself which allow for flexibility on the limits.¹⁶ The three provisions in the treaty that allow for this flexibility are:

- i) the allowance for "temporary deployments" of forces above treaty limits;
- ii) the right to deploy armoured combat vehicles (ACV)s in the flank zones for internal security purposes, by re allocating them to internal security forces; and
- iii) the flexibility in the storage provisions which allows parties to bring certain amounts of TLE out of storage.¹⁷

Some flexibility of this kind to allow Russia to come terms with its treaty obligation in the short-run, without damaging the legitimacy of the treaty in the long run, is necessary. If Russia should decide to leave the treaty -and one of the reasons could be the admission of Eastern European states into the EU and NATOñ then it is hard to foresee any other party wishing to uphold the treaty. The end of the CFE regime in this fashion, would be detrimental to the success of other arms control negotiations. Of all the post Cold War arms control accords, the CFE treaty has been the first to be implemented. Its implementation has so far been a success, despite the drastic changes in the framework of the signatories. A breakdown of CFE at this stage, could affect the successful implementation of START 1, and create an obstacle to the ratification of START 2. Without the CFE to build upon, harmonisation within the OSCE will fall apart, and this could affect compliance with the Vienna Document, and even become a further hindrance to the ratification of the Open Skies treaty by all signatories.

CONCLUSION

Despite its drawbacks, the CFE treaty's most significant accomplishment has been its formalisation of military transparency. The CFE experience has proved to be a valuable exercise that has endured the demise of the Warsaw Pact, the break up of the Soviet Union and the emergence of new security concerns. It would be wrong to assume that the CFE has not contributed to stability in the ATTU because it has ceased to be relevant. On the contrary, by imposing national limits on TLE in the ATTU, it has ensured that individual states cannot amass a preponderant force in excess of these limits. The flank limits ensure that TLE moved away from the central zone do not end up in large numbers in the flank areas, and therefore should not be violated or revised. Challenges to the durability of the CFE treaty are likely to come from the altering framework of the two groups of states, in particular with the possible absorption of Central and Eastern European states into Western European organisations. This ought to be looked into an the Review Conference in May 1996. A further challenge to the relevance of the CFE treaty depends on how much progress is made in the harmonisation procedures worked out by the FSC. Although arms control must set realistic and limited goals in tackling the prospect of local ethnic conflicts, it nevertheless should work alongside other preventative measures such as diplomacy, early warning and crisis management. The adoption of CFE premises to these requirements spell out the future needs for conventional arms control measures in Europe.