# Whither Conventional Arms Control in Europe?

*Gabriela Iveliz Rosa Hernández*[*]

*Abstract*

This paper shows how deteriorating relations between Russia and Western OSCE participating States have led to the erosion of conventional arms control in Europe. It also examines the potential of soft conventional arms control during heightened military tension, focusing on the period of 2021–2023, when Russia first prepared and then carried out its full-fledged invasion of Ukraine. The paper concludes with suggestions for future avenues for conventional arms control in Europe.

*Keywords*

OSCE, arms control, CSBMs, Russia, Ukraine

## Introduction

Russia's full-scale invasion of Ukraine has exacted a great human toll and has made any attempt to renew common European security futile.[1] Because of the war, the OSCE and its web of interlocking and mutually reinforcing arms control obligations and commitments find themselves in a political environment that is contrary to the founding principles and spirit of the Helsinki Final Act of 1975. This paper examines the utility and erosion of the OSCE's arms control instruments against the backdrop of heightened tension among participating States. It showcases how participating States have used soft conventional arms control tools to mitigate the risk of military incidents as a result of the Russian invasion of Ukraine.

Soft arms control agreements are focused on openness and transparency and are often linked to confidence- and security-building measures (CSBMs). They are likely to be politically binding documents with language that recommends specific actions. Political agreements do not raise legal obligations, and no ratification is needed. They are therefore more flexible. Hard arms control agreements tend to focus on concrete reductions and specific kinds of armaments. They are often legally binding, more rigid, and

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[*] Gabriela Iveliz Rosa Hernández
  Center for Naval Analyses (CNA)
  gabriela.i.rosa@outlook.com

more directive. Nonetheless, these terms are not mutually exclusive. An agreement can focus on openness and transparency but still be legally binding, such as in the case of the Open Skies Treaty. Both soft and hard arms control agreements may also serve as signaling tools for participating States.

This paper suggests that soft measures may be useful in times of inter-state military competition, to prevent misperception of military activities. Soft conventional arms control agreements tailored to prevent misinterpretation offer an attractive option for OSCE participating States in the foreseeable future as states can take advantage of the flexibility these agreements provide. By contrast, hard conventional arms control agreements with legal obligations are likely to be seen as intrusive and undesirable.

This paper first provides an overview of conventional arms control instruments in Europe: the Vienna Document (VD), the Open Skies Treaty, and the Treaty on Conventional Armed Forces in Europe (CFE). It then focuses on the erosion of the CFE Treaty and the Open Skies Treaty and the dilemma faced by participating States between legal obligations and military transparency, on the one hand, and deterrence needs, on the other. The third section chronicles the use of the VD as both a signaling tool and an early warning mechanism, showing how participating States used the VD to publicly call out Russia's obfuscation of its military activities on the eve of its full-scale invasion of Ukraine. The fourth section examines how participating States have used soft conventional arms control tools to mitigate military incidents arising from Russia's war against Ukraine and argues that incident management should be prioritized. In conclusion, the paper stresses that soft arms control tools remain a feasible option for lowering the temperature in times of high tension.

## Conventional arms control instruments

Conversations about conventional arms control can be traced back to the late 1960s. The 1975 CSCE Helsinki Final Act laid the foundations for CSBMs, breaking ground on the adoption of an agreement on prior notification of major military maneuvers in Europe exceeding a total of 25,000 troops.[2] Just over a decade later, in 1986, thirty-five countries met in Stockholm under the auspices of the CSCE and adopted the Stockholm Document. This marked the first time state parties agreed to concrete and verifiable CSBMs.[3] These provisions were then incorporated and expanded in the Vienna Document of 1990, perhaps the OSCE's most resilient instrument in the field of arms control. The VD is a series of CSBMs designed to allow participants to observe and notify each other, *inter alia*, of their military exercises. Its provisions include comprehensive military information exchange and military-to-military contacts, as well as other relevant activities intended to prevent the misinterpretation of military movements.[4] To this day, the VD has been updated four times, with the last iteration being adopted in 2011.

Conventional arms control rose on the agenda following the signing of the Intermediate-Range Nuclear Forces Treaty in 1987, as non-nuclear forces assumed greater military importance following the removal of land-based theater-range missiles in Europe.[5] In 1989, President George H. W. Bush revived the idea of an agreement between the United States and the USSR allowing aerial flights over each other's territory. This became the basis for the 1992 Open Skies Treaty, which would allow the state parties to conduct short-notice, unarmed reconnaissance flights over each other's entire territory to collect data on military forces and activities.[6]

Analysts have noted that the history of conventional arms control and CSBMs runs parallel to the improvement of inter-state relations in Europe, changes in force postures, and reduced threat perceptions.[7] These improvements heralded the way forward for what had been an idea in the making for years: the CFE Treaty, signed in 1990. Often hailed as the "cornerstone of European security," it established agreed-upon ceilings for holdings of battle tanks, armored combat vehicles, artillery pieces, combat aircraft, and attack helicopters. By reducing this "treaty-limited equipment," the Treaty followed the logic of an offensive-defensive relationship: a stable balance of (offensive) conventional forces between NATO and the Warsaw Pact would eliminate both sides' ability to launch a surprise attack and to initiate large-scale offensive action in Europe.

The three agreements described above were linked together by the 1996 Framework for Arms Control (the Lisbon Document), which was designed to give conceptual and structural coherence to the OSCE's arms control efforts.[8] It acknowledged that the CFE Treaty established a core of military stability and predictability, that the VD brought increased transparency and mutual confidence in regard to military activities, and that the Open Skies Treaty was a tool that could make a major contribution to transparency and openness. The Lisbon Document underlined the role of these agreements as the basis of a web of interlocking, mutually reinforcing arms control obligations and commitments that linked existing and future arms control efforts in a comprehensive structure.

## The erosion of legally binding conventional arms control mechanisms

Analysts and scholars alike have long argued that the deterioration of conventional arms control correlates with worsening Western-Russian relations.[9] Worsening tensions and heightened periods of inter-state competition have put participating States in a difficult position, where they must weigh the benefits of transparency and the fulfillment of their legal obligations against military utility. Given these developments and heightened tensions between Russia and Western states, Western participating States moved to emphasize the signaling and monitoring aspects of these agreements. For instance, NATO members used the Open Skies Treaty to document Russian adventurism at least until the United

States exited the Treaty in 2020 and Russia's 2021 withdrawal. In 2014, the United States and its allies used more than ten Open Skies Treaty overflights covering "thousands of square miles" of Ukrainian and Russian territory to collect photos of Russian forces and their movements.[10] In 2018, the United States also used the Treaty to signal its commitment to Ukraine after Russia seized three Ukrainian vessels off Crimea.

Moreover, the selective implementation of agreements by some participating States in periods of enmity has led others to worry that military transparency and restraint could undermine their own flexibility and overall deterrence needs. For instance, Russia's suspension of its obligations under the CFE Treaty in 2007 prompted NATO members to announce that while they would continue to implement the Treaty in relation to all other Treaty members, they would cease carrying out their Treaty obligations towards Russia.[11] At this time, the Treaty remained a viable tool with which NATO members could signal reassurance towards one another.

Nonetheless, neither reassurance nor good intentions were enough to salvage the Treaty when war broke out. Shifts in threat perceptions with regard to Russia and Belarus put several states in a dilemma.[12] In June 2022, Belarus announced that it was ready to resume verification activities. This may have been what led NATO members to suspend their co-operation with Belarus under established CSBMs. In March 2023, Poland announced that it would cease implementing certain articles of the CFE Treaty in relation to Belarus. According to Belarus, the Czech Republic also suspended CFE co-operation with the country in August 2022. In turn, Belarus retaliated in October 2023 by suspending its Treaty obligations toward the Czech Republic and Poland.[13] NATO CFE signatories were left with a choice: either fulfill their legal obligations despite their deterrence needs or suspend the Treaty. Similarly, Lithuania, which is not a member of the CFE Treaty, suspended the practical implementation of an additional bilateral agreement on CSBMs with Belarus, citing Minsk's role in Russia's full-scale invasion of Ukraine.

The dilemma between deterrence needs and legal obligations was ever-present in the reasoning behind the suspension of the Treaty by NATO signatories to the CFE. For instance, some officials noted that suspending participation in the treaty allows for greater flexibility in deploying forces on NATO's northern and southern flanks, including in Romania and Bulgaria. It also enables Ukraine's Western allies to avoid sharing information on the deployment of their forces with nations close to Russia.[14] The suspension of the Treaty means that Ukraine's Western allies will not be adhering to the Treaty's ceilings, nor will they be participating in the information exchange or inspection regime. In addition, they will not be observing the 1992 CFE 1A agreement, which created individual, politically binding limits for military personnel based on land.[15]

## The Vienna Document: More than a fair-weather instrument

With the Russian withdrawal from the CFE Treaty and NATO signatories' decision to suspend their participation as well, the Vienna Document is the last remaining piece of the web of interlocking agreements of the post–Cold War conventional arms control security architecture. During the 2021–2023 period, the VD was consistently used as a mechanism for signaling and early warning. Nonetheless, the current dilemma between deterrence needs and obligations and Russia's selective application of the agreement is antithetical to its spirit. Yet the political character of the VD has allowed participating States to exercise flexibility in their implementation of the agreement. This flexibility without legal repercussions may have fostered resentment between participating States, but it has also likely contributed to the agreement's resilience.

Prior to the war, Russia's violations of its neighbor's territorial integrity and its dissatisfaction with the European security architecture created a dynamic between participating States in which NATO members became highly suspicious of Moscow's military maneuvers and in which Moscow, in return, justified its exercises and brinkmanship by claiming they were necessary for Russia's security.[16] These dueling narratives fed the force postures and self-images of both sides. This is perhaps best evidenced by the VD issues that arose between NATO members and Russia, which was accused of exploiting loopholes in the agreement. NATO member states have argued that Russia's approach to exercise notification was opaque, noting in particular Moscow's pattern of breaking down its large exercises into small components and classing them as a mix of regular and snap exercises, thus circumventing the 13,000-troop limit.[17] Meanwhile, Moscow declared that "snap exercises" were necessary surprise tests for their participants and that notifying other participating States would undermine their value. Moscow raised its own grievances regarding the VD following 2014, particularly in relation to military exercises held by NATO members near its border and Swedish and Finnish participation in NATO military maneuvers.[18]

As it became clear that participating States were unable to separate confidence- and security-building instruments from the underpinnings of the decaying security environment, participating States began to emphasize their signaling and monitoring functions. The VD, for example, sounded the alarm about Moscow's military maneuvers in 2021–2022, thus serving as a tool for preventing attempted deception.[19] In 2021, Russian forces amassed near Ukraine, prompting Ukraine's allies to support its request, under the VD, for clarification regarding its military activities.[20] Russia maintained that its activities did not require notification.[21] Nevertheless, in March, Moscow reportedly agreed to a Swiss inspection conducted within the VD framework. According to Russian media, a team of Swiss specialists conducted an inspection in the Voronezh and Belgorod regions to ascertain the extent of Russia's military

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activities. Although it would have been difficult to ascertain Moscow's intentions in the spring of 2021, this case suggests that activity notification and inspection still has potential as a mechanism for monitoring aggression.[22]

The VD proved its worth once more in early 2022 as it provided participating States yet another public opportunity to call out Moscow's obfuscation of its military maneuvers as it prepared to carry out a full-scale invasion of Ukraine. In January 2022, signaling its seriousness regarding its demands, Russia first communicated its decision not to share its national data in the Annual Exchange of Military Information, which takes place every December.[23] Nonetheless, in accordance with the VD, Latvia submitted a request for an OSCE inspection to be held on February 2, 2022, to determine the scale of Moscow's military exercises and whether Russia was obligated to report its activities. While Russian news reports suggested that the inspection would proceed, Latvian officials disclosed that Russia had refused their request, allowing officials to publicly document their suspicions regarding Moscow's plans for aggression towards Ukraine. Moscow also noted that it would no longer take part in inspection and evaluation visits for an indefinite period, allegedly due to COVID-19 restrictions.[24]

Following these developments, the Baltic states and Ukraine once more used the VD to publicly bring attention to Moscow and Minsk's behavior and obfuscation of their military activities, emphasizing the VD's monitoring function. For example, Belarus informed OSCE participating States that it would carry out a joint military exercise with Russia (called Allied Resolve) on February 8, 2022.[25] Minsk invited Latvian and Lithuanian observers, but no other OSCE participating States, to observe the exercise. As a result, Lithuania requested that Belarus explain its unusual military activities under paragraph 16.1 of the VD, especially since Minsk had publicly noted that nearly all of Belarus's armed forces would be participating in the exercise. Minsk then responded by claiming that it was exempt from the requirement of prior notification because it was conducting a snap exercise. It also highlighted that its military activities did not exceed the relevant VD11 thresholds for forces or weapons systems.[26] Lithuania then again pushed to expose Moscow and Minsk's obfuscation by making use of the VD, requesting that the OSCE Chairperson-in-Office organize a meeting, as provided for in paragraph 16.2 of the VD, to discuss their activities. Ukraine allied itself with Latvia, Lithuania, and Estonia under the VD query regarding Russia and Belarus's troop movements near its borders.[27] On February 14, the Polish Chair convened the requested meeting by Lithuania, but Belarus avoided giving clear answers and Russia refused to attend. Afterwards, on February 18, Ukraine called for a joint session of the Permanent Council and the OSCE Forum for Security Co-operation pursuant to VD11, paragraph 16, to evaluate the situation regarding Russia's unusual military activities, which Russia declined to attend.

These events occurred as Russia put forward two draft treaties while building

up troops near Ukraine: one treaty to be signed with the United States, and the other to be signed with the United States and member states of NATO. The drafts included numerous measures, among them the demand that NATO members commit to reversing all military deployments on the territory of states that were not alliance members in May 1997, a position Moscow still holds even as it continues to wage war on Ukraine.[28]

## Implications

The current security environment has deep repercussions for the OSCE's toolbox of conventional arms control instruments. Moscow has conditioned its engagement with post–Cold War arms control agreements on the withdrawal of participating States' support for Ukraine. In fact, Russia withdrew from the CFE Treaty in November 2023, noting that "clinging to outdated agreements that are not in sync with the new circumstances is a practice that is also doomed to failure."[29] Moscow has also repeatedly expressed its desire for a new security framework to establish a more favorable balance of power. On top of this, little trust exists between several participating States as Ukraine has called for the exclusion of Russia from the Organization. Diplomats have staged walkouts when Belarus or Russia have taken the floor, and Moscow and Minsk have publicly complained about feeling excluded in the OSCE.[30]

This has serious implications for any solutions that involve conventional arms control and CSBMs. Given the significant

troop and equipment losses Russia has faced in Ukraine, the intrusiveness of the VD and similar mechanisms is less attractive to Moscow, as maintaining ambiguity can provide military advantages. However, the Russian foreign ministry has noted that while Russia has not renounced its obligations under the agreement, "its actions will depend on how other countries fulfill the requirements."[31] More importantly, NATO members have also signaled via the CFE suspension that amidst Europe's deep insecurity, ambiguity is a far more useful tool than transparency for deterrence purposes. As the war rages on, the pressure to further limit the exchange of military information and to block access for inspection visits will increase. Even so, the consensus in Washington in late 2023 was to preserve the VD.[32]

Russia's actions have undoubtedly put pressure on Western states to implement countermeasures such as withholding information about their forces and military exercises. At least for now, however, most participating States, including Belarus, are continuing to implement certain aspects of the VD. In September 2023, for example, Minsk briefed the OSCE Forum for Security Co-operation regarding the Collective Security Treaty Organization's "Combat Brotherhood 2023" exercise.[33] Belarus also participated, with representatives of other OSCE countries, in a visit to an air base and military facility in Kazakhstan.[34]

While the selective implementation of the VD may not yield the security benefits participating States originally envisioned, the flexibility afforded by a political agreement may provide a viable

mechanism for signaling in a multilateral setting. By preserving the agreement, participating States are free to use its provisions to dispel concerns about military activities in their territories. For instance, participating States such as Moldova and Georgia could benefit from using VD 18.3, which allows a participating State to invite other participating States to take part in visits to areas in their territory to counter false claims about military activity within their borders. In addition, participating States could also use VD paragraph 17 regarding possible procedures to report and clarify hazardous incidents of a military nature. Designating points of contact in the case of a hazardous incident could prove useful even among non-adversarial states while simultaneously bolstering the VD.

## Managing military incidents: An opportunity?

Although some believe that the OSCE's framework for arms control yields few security benefits in the current environment, others argue that conventional arms control tools are needed now more than ever. Participating States, particularly NATO members, have used soft conventional arms control tools on an ad hoc basis to handle military incidents emerging from Russia's invasion of Ukraine. Managing these incidents could be a promising area for conventional arms control efforts.

In 2022, for instance, a Russian pilot tried to shoot down a British RAF surveillance plane, believing he had permission.

The UK accepted that it was not a deliberate escalation by Moscow.[35] This was not the only close call, however. Ukrainian officials and some of their European backers accused Russia of intentionally firing a missile into Poland in November 2022. It was later revealed that the incident had likely been due to Kyiv's air defense systems. Missile debris had also landed in Moldova earlier that year after a Russian fusillade was intercepted by air defenses in Ukraine.[36]

Governments have handled these incidents with caution, often attempting to dispel misinformation during periods of acute tension. They have also made use of monitoring and documentation techniques to manage periods of tension, declassifying information or evidence of intent and publicly declaring that these incidents do not pose a direct military threat to their territories. An acute example of this is the attempt by Romanian officials to obscure the fact that the remains of a drone used in a Russian attack on a Ukrainian port were found on Romanian territory in September 2023. Although it did not offer an explanation of Romania's initial denial of the incident, Romania's Ministry of Defense noted that "at no point did the means of attack used by the Russian Federation generate direct military threats to the national territory or the territorial waters of Romania."[37]

Soft conventional arms control tools appear to remain a viable option for managing the risk of misinterpretation. The United States made use of these techniques in March 2023 when it declassified footage of a Russian fighter jet

striking the propeller of a US unmanned aerial vehicle over the Black Sea, as a result of which the unmanned aircraft was forced to crash into international waters.[38] Washington also released a statement noting that the incident had been the result of unprofessional behavior by Russian pilots.[39] As further incidents of this sort are likely to arise as the war continues, this may offer a viable model for the future—one that Western states can pursue while nonetheless holding Russia responsible for its aggression. The conflict has repeatedly shown that incident management is an issue that concerns not only NATO members, Ukraine, and Moscow but also non-NATO members such as Moldova. Other states could perhaps adopt a similar model to reduce the risk of misinterpretation and miscalculation among participating States.

## Outlook

Europe's security order will be based on defense and deterrence for the foreseeable future. Participating States will be forced to invest in more intelligence gathering and are set to expect the worst from Russia. The dilemma between deterrence needs and the security benefits of transparency is likely to persist as participating States continue to prioritize rearmament. Still, soft arms control tools remain a feasible option for lowering the temperature in times of high tension.

Thus, arms control experts face the difficult task of proposing measures that promote military transparency among participating States without conflicting with deterrence needs. In times of war and crisis, strategic ambiguity may seem more attractive, and thus a return to legal conventional arms control agreements is highly unlikely. The VD has proven to be the OSCE's most resilient instrument because of its political nature; however, its survival is not guaranteed. It is unclear how long participating States will resist political pressure to implement countermeasures given amplified threat perceptions.

Simultaneously, participating States have used soft conventional arms control tools during the war to cut through tension when false alarms and military incidents arise. As the war continues, the risk of further military incidents is bound to persist. Should participating States jointly develop a strategy for dealing with military incidents, or should such strategizing remain at the NATO level? While continuing to hold Russia accountable for its full-scale invasion of Ukraine, perhaps more discussions should be held between Russia and the West solely regarding military incidents stemming from the war. Further standardized collaboration between Kyiv, its partners, and non–NATO member states may also be necessary as the war continues.

Overall, discussing how to adapt arms control to a context of full-scale war is an important area of research. Documenting and understanding why and how conventional arms control tools and CSBMs have withered during periods of inter-state competition will be essential to crafting feasible arms control proposals for the future. Meanwhile, keeping track of debates regarding force postures

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and differing visions of the security order, as well as the impact that Russia's full-scale invasion has had on both, may be imperative to maintaining deterrence as institutional guardrails vanish.

## Notes

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