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# THE IMPLICATIONS OF THE STATE OF CONVENTIONAL ARMS CONTROL FOR EUROPEAN SECURITY

By Wolfgang Richter



## *Increasing threat perceptions*

In spring 2018, as no end to the conflict in Eastern Ukraine is in sight, tensions between Russia and NATO remain at a worrisome level. Both sides have accused each other of violating key principles of the European security order and arms control agreements as well as increasing political pressure and mounting military threat. Escalatory rhetoric and military action such as the introduction of new weapons systems, restructuring and stationing of additional military units adjacent to critical areas, enlarged sizes and numbers of military manoeuvres, reconnaissance and show of force combined with brinkmanship in and above High Seas have added to threat perceptions in a number of NATO countries as well as in Russia. Thus, an additional layer of tensions and potentially dangerous developments have grown beyond the territorial conflict in Ukraine as such which indicates a larger geopolitical rift in Europe between the United States and its allies on the one side and Russia on the other.

### *Western threat perceptions and motives for action*

The West perceives Russia's military intervention in Ukraine and the enforced control of Crimea as a breach of fundamental principles of the agreed European security order such as the respect for territorial integrity, sovereignty and independence of states, inviolability of borders, the ban of the threat or use of force and the commitment to peaceful resolution of conflicts. In particular, the Russian claim to have the right and obligation to protect countrymen and pro-Russian minorities in an exclusive sphere of influence ("near abroad") has caused concern in Europe that such action could be repeated. Covert tactics carried out by proxies and disguised special operation forces that initially evade attribution to a state have generated the fear of "hybrid" aggression, particularly in neighbouring countries that harbour large Russian-speaking minorities such as the Baltic States and other post-Soviet states.

Against this background, and with uncertainty about the future intentions of the Kremlin, western "frontline countries" regard any Russian military activity in geographical vicinity a reason for immediate concern. That pertains to the restructuring and modernization of Russian forces, the deployment of Iskander ballistic and cruise missiles at Russia's Western periphery or large-scale manoeuvres such as ZAPAD 2017 and unannounced snap exercises. Moreover, there is the impression that frequent hazardous incidents seem to increase the likelihood of escalatory responses. Even intended conflict scenarios such as Russian hybrid or surprise attack against the Baltic States are seriously considered. Recent announcements by the Russian President about the introduction of new nuclear weapons have further alerted western capitals.

In consequence of such perceptions, NATO provided military reassurances to the alarmed Baltic States and Poland. That included an "Enhanced Forward Presence" of four "rotating" battle groups, eight small NATO Force Integration Units, further elements for a training brigade in Romania and Bulgaria, increased readiness and enlargement of NATO's Response Force (NRF) to 40,000 personnel with its "spearhead", the Very High Readiness Joint Task Force (VJTF) of up to 20,000, to be deployable within 2-3 days.<sup>1</sup> It entails a 5,000 strong land component. Almost uninterrupted series of national and multinational military exercises at different command levels and in various regions complement such measures.<sup>2</sup>

Nevertheless, while reassuring allies Germany, France and other western European states have insisted to keep the door open for dialogue with Russia and maintain the commitment enshrined in the NATO-Russia Founding Act of 1997<sup>3</sup> to forgo additional permanent stationing of substantial combat forces. This view is reflected in the Warsaw NATO Summit decisions of July 2016 that limit the "Enhanced Forward Presence" to the combined level of

one combat brigade in the Baltic States and Poland despite various political pressures to station permanently several heavy brigades in this region. However, in the framework of the national “European Reassurance Initiative”<sup>4</sup> the U.S. moved additional brigade combat groups to “frontline countries” on a rotational basis. Furthermore, the U.S., U.K., Canada, Poland and Lithuania support Kiev with military assistance such as training, information exchange, joint exercises, equipment and armaments.<sup>5</sup>

### *Russian threat perceptions and motives for action*

On the other side, Russia for a long time has repeatedly expressed concern that the West undermined Russian security interests and parameters of the European power balance that were agreed in the accords of 1990/92 and 1997/99. Russian concerns focus on NATO’s enlargement towards Russian borders, the failure to create a common OSCE space of equal security without dividing lines (a “common European house”) and action in contravention to the agreed security cooperation, such as the blockade of the Adaptation Agreement to the CFE-Treaty, the inefficiency of the NATO-Russia Council and the build-up of strategic missile defence. In particular, the deployment of *Aegis ashore* systems in Romania and soon in Poland, U.S. “prompt global strike” concepts, fielding of long-range stand-off weapons, adversarial rhetoric of the U.S. National Security Strategy of December 2017 and the planned introduction of low yield precise nuclear warfighting options have added to Russian threat perceptions and fuelled suspicion about U.S. strategic purposes. Russian risk perceptions also pertain to western military interventions violating international law (Kosovo 1999, Iraq 2003, Libya 2011) and the perceived support for regime change policies in Russia’s neighbourhood.<sup>6</sup>

Moscow’s action in Ukraine started in March 2014 when European mediation between the government and the street opposition in

Kiev had failed and the Maidan revolution had ousted President Yanukovich. Expecting that the new Maidan government would turn to the West, the Kremlin sought to prevent a further shift of geopolitical realities to the detriment of Russian security interests. While Moscow believed to react in “strategic defence” under exceptional circumstances, it unleashed far-reaching aspirations in South and Eastern Ukraine towards autonomy or separation. However, securing the Black Sea Fleet bases and preventing the U.S. and NATO from extending defence commitments and military bases to the Don River seem to have been of highest strategic importance while the claim to protect Russian minorities referred to historical bonds and satisfied feelings of national dignity rather than fulfilling separatist ambitions in Eastern Ukraine.

Accordingly, Moscow lent military and logistical support to Eastern Ukrainian militias when the new government in Kiev in May 2014 ordered an “Anti-Terror Operation” and deployed regular formations and volunteer battalions to crack down on oppositional and separatist movements by force. In contrast to Russian action in Crimea and Sevastopol, Moscow did not accept local attempts to gain independence or join the Russian Federation. Instead, it agreed to the Minsk Accord that the Normandy format had brokered. The Accord provided for a general ceasefire, withdrawal of heavy weapons from the line of contact, amnesty for militias, release of prisoners, and disbandment of foreign fighters and irregular units. It also stipulates, *inter alia*, that the conflict areas in the Donetsk and Luhansk regions acquire a special constitutional status within Ukraine and, subsequently, Kiev regain control over the borders to Russia.<sup>7</sup> However, Crimea is no subject to the agreement.

Neither the political nor the military provisions of the Minsk Accord have been fully implemented. However, while the number of victims of the conflict has risen to more than 10,000 fatalities and the OSCE Special Monitoring Mission (SMM) is reporting daily frequent violations of the ceasefire, no major

offensive operation was launched since spring 2015. Recently, Moscow and Kiev made proposals to field a UN peacekeeping operation (UN PKO). However, significant differences as to purposes and mandates of such UN mission hamper progress. Moscow wants a lightly armed UN PKO to protect the SMM along the line of contact and calls upon Kiev to talk directly to the leaders of the Luhansk and Donetsk “People’s Republics” with a focus on implementing the political provisions of the Minsk accord. In contrast, Kiev wants to avoid freezing the status quo or giving the rebels any status and, therefore, asks for a heavily armed UN PKO with a robust mandate that can take full control in the entire rebel areas including the borders to Russia, and eventually, return control to the capital.<sup>8</sup>

### *Addressing political and military threat perceptions: The OSCE Structured Dialogue*

While attempts by the Normandy format to hedge the hot war in Eastern Ukraine were only partially successful, the Russian military intervention deepened the political rift with the West and added a wider threat dimension to the sub-regional conflict. With political tensions growing, NATO countries now regard any Russian large-scale manoeuvres and snap exercises or flights in international sea and airspace in the Baltic, North or Black Sea as aggressive moves against allied countries prone to provoking further escalation. In turn, Moscow receives NATO’s “*Enhanced Forward Presence*”, the United State’s “*European Reassurance Initiative*” along its western borders and *Aegis*-ships cruising close to Russian territorial waters with sea-launched cruise missiles (SLCM) aboard as further indications of Western anti-Russian policies and confirmation of earlier national risk assessments. In consequence, both sides have developed diverging, even contradictory and increasingly hostile narratives that seem to fortify threat perceptions and confrontation, often based on interpretations rather than facts. This is a reason for concern as bellicose

rhetoric in itself might pose a serious escalation risk.

In such a crisis, arms control and CSBM instruments designed to ensure stability, strategic restraint and military predictability are needed urgently. However, the fact that such instruments have eroded over the last decade or proven insufficient to hedge today’s risks and threat perceptions has significantly aggravated the situation. Against this background, the German OSCE Chairmanship in 2016 had announced the objective to “*renew dialogue, rebuild trust and re-establish security*”. To that end, it suggested to revitalize conventional arms control.<sup>9</sup> While this proposal attracted wide support, in particular by the group of like-minded states<sup>10</sup>, it also met with scepticism by the United States and NATO “frontline states”. They stated that the time was not ripe for new agreements as Russia violated treaties and principles. Return to security cooperation was not possible before Russia fully complied with international obligations, respected the sovereignty and territorial integrity of neighbouring countries, and withdrew from occupied areas. In contradiction to such arguments, the same group of states focused on the need to “modernize” the Vienna Document that is the backbone of security cooperation in the OSCE area.<sup>11</sup>

The OSCE Ministerial Council Meeting in Hamburg in December 2016 adopted an OSCE Declaration in which participating States (pS) agreed to launch a broad and “structured” dialogue that tackles all security concerns including OSCE principles, international law, compliance with treaty obligations, arms control and CSBM and military activities in order to lay the ground for “moving forward”.<sup>12</sup> The declaration is interpreted by Germany and Western European states as a mandate to create the basis for renewal of conventional arms control as the Hamburg declaration referred to the Lisbon “OSCE Framework for Arms Control” adopted in 1996 and underlined the value of arms control and CSBM for the security in Europe.



The Austrian OSCE Chairmanship in 2017 initiated the “structured dialogue” and entrusted the German OSCE ambassador to begin with the work in an open-ended Informal Working Group (IWG). In January 2018, under Italian OSCE Chairmanship, Belgium has assumed the chair of the IWG to continue the dialogue. Starting in spring 2017, several meetings dealt with current threat perceptions, principles of the European security order, violations of international law, compliance with international obligations, including arms control and CSBM, as well as military doctrines, defence budgets, unusual military activities, restructuring of forces, hazardous incidents and military-to-military contacts. Although no short-term breakthrough is in sight, the fact that such dialogue takes place is positive news in itself. As NATO has decided to sever expert talks in the NATO-Russia Council, the “Structured Dialogue” in the OSCE has filled this gap in communication.

The OSCE dialogue has to address both political and military threat perceptions that are closely interwoven. While political threat perceptions are rooted in mutual accusations of violations of international law, agreed principles of the European security order and mutual restraint commitments, military risk perceptions originate from controversial assessments of force postures and military activities. They have generated a high potential of additional misunderstanding of mutual intent, misperception of military activities and the danger of escalation, particularly where they lack convincing explanation, restraint, transparency and verification. As opposed to military routine activities in peacetime, today’s military activities are assessed against the background of actual use of force in current conflicts and the distrust regarding future intentions. Nevertheless, for analytical and practical reasons, one should distinguish these two layers of risk and threat perceptions in order to find appropriate responses.

The political conflict in and around Ukraine is characterized by a number of interlocking dimensions – local, bilateral, sub-regional and

European. Therefore, it seems highly unlikely that tackling only status issues of the Donbas region and local ceasefire arrangements can bring about an overall settlement of the security crisis in Europe without addressing its geopolitical dimension in parallel. Therefore, while it seems a *conditio sine qua non* that all involved actors implement the Minsk Agreements in good faith, such undertaking needs to be complemented by a more comprehensive dialogue on the principles and power balances of the European security order to distil a way out of the larger crisis.

In regard of military threat perceptions, it seems of utmost importance to gain a clearer and sober picture on current and planned force structures and capabilities as well as military activities, particularly in border areas. Risk scenarios need to be based on solid and comprehensive facts rather than on political interpretations of selected data while disregarding their context. Relevant criteria could be comparisons of doctrines and budgets, force structures and permanent peacetime locations together with military hardware, mobility and long-range strike capabilities as well as out-of-garrison-activities and deployments outside peacetime locations that could be used for cross-border operations.

In this regard, the OSCE “mapping exercise” conducted within an informal sub-group of the structured dialogue opens opportunities as it aims at collecting facts and evaluating current force postures and their development during recent years. As a first step, the OSCE Secretariat has provided compilations of data based on information exchanges in accordance with the Vienna Document (VD) and the Global Exchange of Military Information (GEMI). Although their evaluation would not tackle supposed violations of principles and compliance issues, a sober “mapping” could help avoiding further deterioration by exaggerated threat scenarios.

However, such positive outcome of the “mapping” process is far from assured. Open questions on its objectives, scope and time periods under review could still pose major obstacles to future progress. While many states hope for

the “mapping” results to lead to de-escalation, others have flagged that details of force postures cannot resolve questions of principle and that available data were already sufficient to justify existing threat perceptions. The scope of an acceptable database is subject to controversial discussions, too: While some states want to limit data to the narrow scope of the Vienna Document in its Zone of Application, others are inclined to include broader military capabilities taking into account other official government information. Furthermore, Russia wants to reflect developments during larger periods in the past including the 1990s and the beginning of NATO’s enlargement to the East while “frontline countries” prefer focusing on recent developments only.<sup>13</sup> While some states obviously want to delay or terminate proceedings soon to avoid complex discussions, others deem it important to accelerate the process and add military substance in order to produce viable outcomes for political consideration.

The crucial question is whether states are willing to develop and assess a full picture of current force postures and military capabilities that could help to indicate realistic risk scenarios. To that end, overall force balances, rapid reaction potentials, effects of far-reaching modern weapons as well as geostrategic advantages and disadvantages in and beyond Europe need to be taken into account. In contrast, limiting considerations on one selected sub-region with its specific geographical disparities and pointing at one side’s advantages to rapidly concentrate a number of land formations, would lead to unrealistic conclusions as to the chances and risks of waging coalition warfare. That is particularly true when neglecting both the roles of such troops in a wider conflict scenario and strategic escalation risks posed by overall military potentials. A case in point is the assertion that Russia is concentrating the bulk of the ground forces located in its Western Military District against the Baltic States as suggested by a number of studies of renounced institutes.<sup>14</sup> That ignores the following facts:

1. The Russian Western Military District (MD) is one of four MD which cover the whole land mass of the Russian Federation stretching from Eastern Europe to the Asia-Pacific region. (A fifth “Arctic” MD has been established by separating the Northern Fleet from the Western MD.<sup>15</sup>) The Western MD extends from the western borders of Russia to the Central MD, i.e. east of Moscow close to the Ural Mountains and from the High North, i.e. the Arctic region, down to the Don River in the south where it borders to the Southern MD. The latter covers the Caucasus and Black Sea region. Thus, the Western MD borders to eight states, namely Norway, Finland (with the longest border), Estonia and Latvia (with significantly shorter borders, mainly of the Pskov oblast), Lithuania and Poland (around the Kaliningrad exclave), Belarus and Ukraine. Therefore, it is contrary to facts and misleading when influential studies limit the geographical description of the Western MD to the term “adjacent to the Baltic States” only to suggest that ground forces located there are concentrating against NATO’s “frontline countries”. In fact, in the areas “adjacent to the Baltic States”, namely the Oblasts Kaliningrad and Pskov, no permanent stationing of additional substantial combat forces was observed since 1997/99, which is in line with respective reciprocal commitments made in context with the NATO-Russia Founding Act and the CFE Final Act (see below).
2. Such sub-regional threat perceptions also ignore the roles and functions of various Russian formations and units in the MD West. Kaliningrad, Kronstadt and Murmansk (Arctic MD) host important harbours, garrisons and airports of the Russian Baltic and Northern Fleet, including strategic nuclear submarines. Navy and naval air forces pursue maritime and strategic tasks, whereas naval infantry and coastal defence units have

to protect vital bases rather than leaving them behind and attacking neighbouring States. While NATO believes that Russian forces could block the 100 km broad corridor between Kaliningrad and Belarus (“Suwalki Gap”) and thus cut the Baltic States from land reinforcements, Russia regards the Exclave Kaliningrad threatened and difficult to defend as it is surrounded by NATO countries. Furthermore, also strategic nuclear missile units and airborne formations are located in the Western MD under separate operational command. They pursue special strategic tasks and clearly differ from ground forces as to offensive armoured capabilities and command structures. E.g., the lightly armed 76<sup>th</sup> air assault division in Pskov has been used in past and current conflicts outside the Western MD but is less suited for high intensity operations against capable foes.

3. A narrow focus on sub-regional force balances between the Baltic States and Russian forces in the Western MD ignores the fact that this MD is responsible for the defence of a vast territory including portions of the border to Ukraine. The partial return of Russian ground force postures from brigades back to the former division structures obviously focuses on the East-Ukrainian conflict and, therefore, takes place at Russia’s southwestern borders. Before 2014, no major formation was stationed at this borderline. Beginning in 2016, three new division structures have been created in this region (including one in the Southern MD)<sup>16</sup>, mainly by regrouping or relocating existing brigades and regiments with some reinforcements shifted from the Central MD to the West (approx. one brigade). In contrast, at the borders to the Baltic States no substantial reinforcement of Russian ground combat forces took place since the reciprocal restraint commitments of 1997/99.<sup>17</sup>
4. Limiting risk scenarios to ground force bal-

ances in the Baltic sub-region, which might geographically favour potential Russian deployment of ground units, misjudges the strategic situation: it neglects NATO’s overall conventional land, air and naval superiority, which favours flexible allied force projections in a wide geographical spectrum. It is not reasonable to assume that Russia ignores the strategic consequences of a coalition war given the fact that a narrow Russian focus on the Baltic States would leave vast areas of national territory unprotected and vulnerable to military counteraction – including exposed positions at and beyond the Russian periphery. A global war, however, is in nobody’s interest.

This example of balancing sub-regional against strategic threat assessments shows what difficulties the “Structured Dialogue” will still have to face. If the ambition is to unfold and evaluate reasonable military options and risks, not only a comprehensive data collection will be required but also an assessment of military capabilities and their potential use in realistic strategic scenarios. To that end, pS should initiate a dialogue between militaries that involves operational planners, strategic analysts and high-ranking decision makers.

Against this background, one can assume that even a highly sophisticated “Structured Dialogue” alone will not be able to eliminate all threat perceptions though it might promote more realism as to risks involved in selected scenarios. States should acknowledge that diverging perceptions will remain even if exaggerated concerns could be reduced. Rather than trying to convince partners that their perceptions are inappropriate, one should accept diverging risk assessments as facts without necessarily sharing those views. They do not stand in the way of cooperative measures but rather inform them to conceptualize risk reduction, design tailored confidence and security building measures (CSBM) and provide reciprocal reassurances enshrined in arms control instruments. Such outcome should be the eventual objective of the “Structured Dialogue” if its ambition is to deescalate the security situation in Europe.

Such an approach could take an example of the well-constructed conventional arms control instruments and CSBMs negotiated at the end of the Cold War. By combining sub-regional and pan-European military aspects, they reduced and limited offensive military capabilities, made military activities predictable, and thus dispelled concerns on underlying intentions. Such measures reflected military and political realities of the time and provided for the necessary degree of restrictions, transparency and verification of military potentials and deployments. Consequently, they contributed significantly to geostrategic stability and security cooperation in Europe with the CFE Treaty labelled the “cornerstone of European security”.<sup>18</sup>

### *Addressing potentially offensive force postures: Closing the arms control gap*

In the current security crisis in Europe, the repercussions of giving up on the “cornerstone of European security” are felt painfully, namely the failure to ratify the CFE Adaptation Agreement (ACFE)<sup>19</sup> that was signed by all CFE States Parties in November 1999 in Istanbul together with a political Final Act<sup>20</sup>. This adaptation had become necessary when NATO enlarged to the East, eventually including the territories of nine countries that formerly belonged to the “Eastern Group of CFE States Parties”. In consequence, the bloc-related limitation concept of the CFE Treaty had lost relevance.

However, the ACFE did not enter into force. The Alliance had established linkages between ratification processes and the complete fulfilment of Russian Final Act commitments on the withdrawal of all stationed forces from Georgia and Moldova. In particular, the status of forces in conflict areas was disputed were Russia was monitoring ceasefire agreements together with the OSCE and the UN. Having ratified the ACFE Russia suspended the 1990 CFE Treaty in December 2007. Thereafter, the CFE com-

munity failed to revitalize conventional arms control. That has left a significant gap as to mutual restraint, transparency and verification. Before 2008, Russia received approx. 40 regular and 10 additional declared site inspections in the former CFE “flank area” which included the Oblast Pskov adjacent to the Baltic States. The ACFE would have increased the number of regular declared site inspections by one third.

Since their independence in 1991, the Baltic States have remained outside the CFE Treaty. They did not change this position after joining NATO in 2004. The unfulfilled Russian request to close the arms control gap in these new NATO areas close to St. Petersburg was one of the six declared reasons why Russia suspended the CFE Treaty, which it deemed obsolete. In consequence of such developments, no legally binding arms limitations apply in the most critical areas on both sides of the borders between the Baltic States and Russia. Moscow also withdrew from voluntary bilateral CSBMs with the Baltic States and Poland in response to their support for Kiev and “anti-Russian” politics after the beginning of the crisis in 2014.

The lack of viable arms control, verifiable limitations and full transparency has contributed to miscalculations and exaggerated threat perceptions. One example is the assumption that Russia has deployed additional significant combat formations in areas adjacent to the Baltic States in preparation for cross-border operations. If that was true, it would constitute a clear violation of the commitments enshrined in the NATO-Russia Founding Act (1997) and the Istanbul CFE Final Act (1999) to forego additional permanent stationing of substantial combat forces. NATO gave this pledge in view of its prospective enlargement of 1999. Russia reciprocated with a similar formula covering the Pskov and Kaliningrad oblasts.

However, neither the results of remaining CSBMs, such as Open Skies observation flights and rare Vienna Document evaluation visits, nor available data on permanent Russian ground and air force deployment support the assessment that Russia has violated that com-



mitment. Otherwise, NATO would have had no reason to consider such restraint pledge as a binding limit when deciding at the Warsaw Summit 2016 on an enhanced forward presence in the region.

Available data suggests that Russian troop formations in the areas of Pskov and Kalininograd and further north towards the Finnish border did undergo some modernizations but do not indicate significant restructuring and additional stationing of substantial combat forces.<sup>21</sup> However, the reciprocal commitment lacks formal definition, despite Russian request. Therefore, it needs contextual interpretation. The agreement was concluded in context with the expected entry into force of the ACFE, which would have replaced bloc limitations by national ceilings for five (land and air) CFE categories of armaments and equipment (TLE) and territorial ceilings for three land TLE categories.<sup>22</sup> Informal talks in the CFE Joint Consultative Group in Vienna in 2007/08 reflected the general understanding that definitions pertain to such five TLE categories but do not cover weapons systems beyond the scope of the CFE Treaty such as air and missile defence, short-range ballistic missiles and naval forces.<sup>23</sup>

In consequence, neither the stationing of *Aegis ashore* missile defence systems in Poland and Romania nor the modernization of air defence and the replacement of short-range *Tochka* ballistic missiles by *Iskander* missiles in Kaliningrad fall in the scope of those commitments. Whether such deployments run counter to its spirit might be questionable and should be subject to dialogue. However, in the absence of intrusive arms control regulations, the politically binding restraint commitment is a conceptual anchor that could and should be used and further elaborated to keep military stability in the Baltic region and avoid regional arms race.

In contrast, any additional permanent stationing of substantial heavy ground forces in the region would destroy this last anchor of predictability, provoke counter-action and lead to even more instability in critical times. The

fact that shortly before the NATO Summit in Brussels in July 2018, a concrete proposal was made to station permanently a complete U.S. tank division in Poland is a reason for concern.<sup>24</sup> If this was realized, Russia would probably react in kind. As the military situation has not changed since the Warsaw Summit in July 2016, NATO has no reason to correct its decision on reassuring allies by a limited enhanced forward presence on a rotational basis. Allies should clearly signal that also bilateral decisions on additional stationing would undermine not only regional stability but also agreed NATO policies.

In order to deescalate mutual threat perceptions regarding a destabilizing force build-up in the Baltic region, it seems a logic first step to agree on reciprocal regional limitations. They should provide reciprocal security assurances to prevent regional arms race without impeding legitimate defence requirements. This is one of the measures suggested by former German Foreign Minister Frank-Walter Steinmeier, who proposed in August 2016 to revitalize conventional arms control in Europe in order to re-establish military stability and predictability.

Such regional limitations do not have to be invented from scratch; one could rather build on the restraint commitments enshrined in both the NATO-Russia Founding Act and the Istanbul CFE Final Act. Notably, Russia committed to reciprocal self-restriction also in a bilateral agreement with Norway regarding the former military district of Leningrad. Taking the 1999 levels of categories of armaments limited by the CFE Treaty as a baseline, renewing such agreements more formally seems conducive to restore stability in this sub-region. Thereby, the term “*additional substantial combat forces*” needs clarification and an agreed definition. Furthermore, one could consider a limited margin for exceeding such thresholds for the purposes of exercises or crisis response, however, under strict transparency and verification obligations. The adapted CFE Protocol of Inspections, Section IX, provides pertinent precedence.

In view of today's advanced military potentials, which have significantly enhanced military capabilities, the scope of such commitments could be enlarged to meet current threat perceptions as they do not only envisage potential cross-border operations involving CFE armaments of the 1990s. They also refer to modern air and missile defence with its anti-access and area denial (A2/AD) capabilities, short-range ground-launched ballistic missiles and long-range precision-guided munitions such as air- and sea-launched standoff and cruise missiles (ASM/ALCM/SLCM) that can be fired from far outside the actual zone of conflict. Also strategic air mobility, rapid reaction forces and multinational cooperation should be taken into account. Therefore, it seems necessary for renewed conventional arms control to address both (sub-)regional force postures and operational capabilities in a wider geographical context to reflect realities of modern warfare and ensure military relevance. In sum, there is an urgent need to fill the gap that the failure to adapt the CFE Treaty, Russia's suspension of the Treaty in 2007 and the lack of arms control in the Baltic area have left.

### *Addressing large-scale exercises: Enlarging the limited scope of the Vienna Document*

The political and military importance of the arms control gap became obvious when the Ukraine crisis unfolded in 2014. The unraveling of legally binding limitations and intrusive transparency had resulted in a significant lack of verification of Russian armed forces by NATO member states and a minor one for Russia regarding NATO's activities in "frontline countries" and beyond. Since then, NATO and particularly the United States have emphasized the need of "modernizing" the politically binding Vienna Document (VD)<sup>25</sup> to close transparency "loopholes" while they remained sceptical on the German proposal to renew conventional arms control aiming at reciprocal military restraint.

However, the Vienna Document is not suited to substitute for conventional arms control. Being the primary instrument for security cooperation of the entire OSCE community it is geared to provide additional CSBMs and enhance military transparency for all OSCE pS. Its purpose is supplementing, not replacing, legally binding CFE limitations. Therefore, it offers only a few evaluation visits of active land and air combat units within a limited scope of information requirements. Only one out of 60 active combat units notified by pS in the annual VD information exchange can be evaluated per year.<sup>26</sup> By comparison, the CFE Treaty quota for declared site inspections amount to 15 % of all notified objects of verification within a much wider scope. The ACFE would have increased this figure to 20%.

Preventing preparations for offensive cross-border operations in the disguise of large-scale military exercises has been one of the dominating objectives of the Vienna Document since its inception. After the Georgian war in 2008 and the Russian intervention in Ukraine in 2014, this purpose stands again in the centre of current VD modernization efforts. The focus is on enhancing transparency of Russian large-scale and snap exercises, which figure high in Western threat assessments. A prominent example was the Russian exercise ZAPAD (WEST) 2017, which was conducted under the command of the Russian Western MD on 14-20 September 2017, mainly on the territory of Belarus with some phases carried out in Russia.

Alarming assessments of that exercise illustrated how a lack of relevant instruments in a tense atmosphere, charged with suspicion and demonization of the adversary, could lead to misperceptions. While the official numbers notified by Belarus, namely 12,700 personnel, remained just under the threshold of obligatory invitation to observation required by the Vienna Document, the estimated figures amounted to 70,000 or even 100,000 upwards. The Polish General Staff estimated 100,000

Russian troops, Lithuania put the figure at 140,000 and Ukraine claimed 240,000.<sup>27</sup> Consequently, various assessments were voiced as to the likely purposes of the exercise such as preparing offensive operations against the Baltic States, deploying a third frontline against Ukraine or initiating a long-term military occupation of Belarus.<sup>28</sup> The exercise even figured as one of the arguments justifying the stationing of a U.S. tank division in Poland.

While none of these exaggerated estimates materialised, they demonstrate the urgent need for a renewal of military-to-military dialogue, mutual information and transparency as well as verifiable limitations of force potentials and military activities, particularly in vicinity of sensitive borders. Furthermore, there seems to be a need to inform political decision makers and the public about the provisions of current transparency instruments as to their scope of information, notification and observation of certain military activities. This scope is significantly smaller than the overall size of a large-scale manoeuvre involving different branches and services of armed forces. This difference should be taken into consideration and not be used for unfounded accusations of violating such provisions thus fuelling additional threat perceptions.

The Vienna Document requires OSCE pS to notify 42 days in advance any exercise activity of formations of land forces, if applicable, also in combination with air or naval combat support, once 9,000 or more personnel are participating or 250 battle tanks or 500 armoured combat vehicles (ACV) or 250 artillery systems or 200 sorties by aircraft are involved.<sup>29</sup> For amphibious and air landing operations, personnel thresholds amount to 3,000 only.<sup>30</sup>

If the thresholds of 13,000 personnel (or 3,500 in cases of amphibious or air landing operations) or 300 battle tanks or 500 ACV or 250 artillery systems are reached in the exercise, any pS on whose territory such activities are planned to take place is obliged to invite other OSCE participating States for observation.<sup>31</sup>

When Belarus notified 12,700 personnel for the ZAPAD 2017 exercise (with 10,200

deployed on its territory and the rest in Russia), suspicion was voiced that such figures were artificially reduced to avoid obligatory observation by western states given that Russian government website statements seemed to contradict OSCE notifications. Furthermore, Russia did not notify those phases of the exercise that were planned to take place on Russian territory. Russia claimed that this part did not exceed VD notification thresholds. However, Russia briefed the NATO-Russia Council and Belarus informed the OSCE about the exercise beforehand and invited voluntarily military attachés, neighbouring states and OSCE officials for observation. Obviously, Belarus and Russia acted in accordance with VD requirements. However, such proceedings made clear that the scope of VD notification and observation is too limited to provide sufficient transparency in times of crisis.

The narrowly defined scope of the VD information and notification requirements is confined to exercises of land forces. Where applicable, it includes air combat support, amphibious and air landing.<sup>32</sup> In consequence, formations and units that do not fall under the term “land forces” (with their supporting elements) and pursue genuine purposes are not covered by the VD scope, e.g. naval, coastal, air, air defence, general service support, strategic or internal security forces and civil defence units. Thus, the real figures of personnel involved in exercises can be significantly higher than the numbers to be notified in accordance with VD rules. Therefore, it is no contradiction when notified numbers of participating personnel deviate from those announced in official government websites.

This interpretation of VD transparency obligations is also demonstrated by the Swedish large-scale multinational exercise AURORA 2017, which took place on 11-29 September 2017, almost simultaneously with ZAPAD 2017. Similar to Belarus, Sweden notified 12,500 personnel participating in the exercise and thus stayed just below the threshold

requiring obligatory invitation for observation. Counting personnel numbers subject to VD notification and observation, Sweden like Belarus and Russia excluded naval, air and coastal defence forces and civil emergency units. The real number of personnel involved was about 21,500 including 19,500 Swedish personnel and approx. 2,000 participants from the United States (1,300+), France, Scandinavia and Baltic States.<sup>33</sup> Quite correctly, nobody accused Sweden to have “cheated” about the notified numbers of personnel participating in the exercise. Remarkably, however, Sweden established special communication lines including to Russia for incident prevention and extended voluntary invitations to a number of countries for observation.

This analysis leads to the conclusion that widening the scope of the VD would be more pertinent to enhance transparency of large-scale exercises than lowering the thresholds for notification and observation. Such approach would also solve another substantial problem: as opposed to the situation 30 years ago, certain units and weapon categories have acquired enhanced capabilities that can substantially alter the situation of the land battle and, therefore, cannot simply be qualified as “defensive” and subsequently excluded from the VD scope as it was done in 1990. E.g., what used to be air defence systems with limited capabilities and ranges have evolved to enhanced air and missile defence systems that can engage dozens of targets simultaneously at ranges of up to 500 km. As these systems are capable of covering a large airspace they have acquired A2/AD capabilities.

Rapid reaction forces and strategic air mobility require similar attention as they significantly increase the capability to reinforce troops on the spot over long distances in short time. Precise long-range standoff munitions launched by ships (SLCM) or aircraft (ASM/ALCM), have generated new force capabilities as well. In the framework of net-centric warfare they can impact heavily on potential battlefields although they might be located far outside the actual zone

of conflict. However, like A2/AD such new capabilities do not fall in the scope of VD information and verification. They should be taken into consideration when discussing the future scope of renewed conventional arms control and CSBM regimes in Europe if they were to keep military relevance. In this context, the definition of the VD zone of application needs clarification. It covers Europe between the Atlantic and the Urals, Central Asia and “*adjoining sea area and airspace*”, which also refers to “*ocean areas adjoining Europe*.”<sup>34</sup> In regard of these maritime spaces, the Document expressively states that CSBMs “*will be applicable to the military activities of all participating States taking place there whenever these activities affect security in Europe as well as constitute a part of activities taking place within the whole of Europe ...*”. However, these areas were never defined. With a view to cover naval capabilities and tackle hazardous air and sea incidents, which in most cases take place in international waters in Europe’s littoral seas, a definition is required urgently.

### *Addressing uncertain military activities: Tackling exceptions from transparency rules*

Current security concerns also refer to “loop-holes” in the Vienna Document that would be frequently exploited to evade notification and observation requirements. Such concerns aim at “snap exercises” and compartmentalized exercises that are suspected to be parts of the same exercise. However, such exceptional rules did not result from default; they were designed at a time when all states still conducted parallel and snap exercises.

VD 2011 rules do not count simultaneous exercises as one coherent exercise if they are not part of “*the same exercise activity conducted under a single operational command*.”<sup>35</sup> Whether simultaneous exercises pursue the same operational purpose under a “single operational command” depends on what one wants to define as “operational”. Certainly, all exercises



serve the same *strategic* purpose, namely training and demonstrating warfighting capabilities in order to defend and “deter”. But at the *operational* level quite different tasks have to be carried out and different branches and headquarters train their particular duties also independently.

Thus, it is not the parallel timing of exercises or their general *strategic* purpose, which defines the VD term “*single activity*” but their independent conduct and control by different *operational* commands. Therefore, NATO’s simultaneous or sequential exercises (on an average six per week in 2015<sup>36</sup>) with different formations and services, various operational purposes, in different countries and under alternate operational commands cannot be counted as the same exercise activity by VD terms even if most of them serve the same strategic purpose, namely reassuring allies and signalling preparedness.

In contrast, parallel Russian exercises under different operational command were often assessed as a single operational activity constituting violations of the Vienna Document even if such activities took place in quite different geographical areas and with units that do not fall in the scope of the document. That included naval operations, air defence training, strategic missile tests or railroad repair drills, and even exercises conducted outside the VD Zone of Application, i.e. beyond the Urals and in Russia’s Eastern MD (sometimes in combination with Chinese forces).<sup>37</sup> Such assessments misinterpret the limited scope of the Document and its zone of application between the Atlantic and the Urals (including Central Asia). Neither manoeuvres on Russian territory beyond the Urals in the Central or Eastern MD (TSENTR and VOSTOK) count under the Vienna Document nor U.S. exercises on the American continent or in the Asia-Pacific region including South Korea and Japan.

However, analysis of recent large-scale exercises suggests the need of devoting more attention to the principle of territorial respon-

sibility of participating States for notification and observation. It might blur the full size of multinational exercises under a single command that take place in various national territories and only in combination exceed VD thresholds. They should be made subject to notification and observation requirements.

Likewise, the day-to-day counting of personnel involved in sequential phases of one and the same exercise might pose another problem that needs clarification. It could imply that at no single day VD thresholds are exceeded while the overall numbers of personnel participating during a larger time frame might be significantly higher.<sup>38</sup>

Also frequent Russian snap exercises have contributed to rising concerns in Western countries. Their military purpose is testing the readiness of units at any given time without prior notice to the troops involved. For such cases, the VD allows exceptions for prior notification (regularly 42 days in advance) even if such drills exceed thresholds. Notifications are required, however, as soon as such activities commence.<sup>39</sup> If thresholds for obligatory invitations to observation are exceeded, the participating State conducting snap exercises does not need to invite observers unless the duration of such activities exceeds 72 hours.<sup>40</sup>

Certainly, one could consider enhancing transparency, e.g. through reducing such exceptions to 48 hours or promoting prior information of neighbouring countries, particularly in times of crisis. In many cases embassies were informed anyway and military attachés allowed to observe. However, for informing risk perceptions it seems also necessary to take a closer look at the actual operations carried out during snap exercises, the composition of forces and the locations of their activities. It makes a difference whether readiness tests involve single units in their peacetime locations or if combined arms capabilities of various formations, including logistics and air transport, are assembled in the field. Moreover, it is of highest relevance whether such operations are conducted in far-away places or in vicinity of international

borders. Assessments should distinguish accordingly and not ring the alarm bell anyway even if such tests do not fall in the scope of the VD or take place outside its area of application. The true core of the issue is not the alleged violation of the Vienna Document but the fact that both sides have increased frequency, levels and ambitions of exercises with a view to show preparedness for war and deter potentially aggressive military action of the opponent. This is not a question of how one would interpret Vienna Document provisions such as the term “single operational command” or exceptions for “snap exercises”; it is rather a worry at the strategic level which requires urgent action as both snap exercises and simultaneous military activities can lead to misinterpretation and might even suggest imminent offensive operations.

However, the Vienna Document also contains precautionary measures to provide transparency of large-scale military activities that either do not exceed VD thresholds or were not properly notified. For such cases, the Vienna Document allows for three passive area inspection quota per year in the territory of every OSCE pS no matter whether big or small.<sup>41</sup> Such inspections have become a longstanding routine in the VD Zone of Application. They were widely used during the current security crisis, including in Russian territory adjacent to Ukraine and the Baltic States, and complemented by frequent Open Skies observation flights.

Obviously, the limited number of such inspections does not substitute for regular and intrusive arms control verification required in crisis. Since more than 30 OSCE pS are competing for conducting inspections in Russia or the territories of its allies, three passive inspection quota are usually exploited early in the year, which does not leave any flexibility for verification later on. Better coordination and more quota would be necessary to enhance transparency in times of crisis. Eventually, a return to an intrusive conventional arms control arrangement would provide a more pertinent and comprehensive response to a strategic challenge.

In the meantime, voluntarily implementing regional measures as suggested in Chapter X of the Vienna Document could be a pertinent fast track response to deescalate the situation. They do not require consensus by all VD pS. Therefore, they can be implemented immediately once neighbouring states have agreed to reassure each other by reciprocal CSBMs, such as extra transparency and restraint of military postures and activities, particularly in border areas. Furthermore, states should make full use of the decision taken by the Forum for Security Cooperation (FSC) to provide voluntary notification of (at least) one exercise per year that does not exceed VD thresholds for notification of certain military activities.

### *Addressing incident prevention: International law and risk reduction*

Both NATO States and Russia have claimed frequent violations of “own sea and airspaces” and dangerous brinkmanship by the opponent that could lead to hazardous incidents and military escalation. Indeed, one can observe a significant increase in numbers of naval exercises and reconnaissance patrols of both sides predominantly in and above international waters, particularly in the Baltic Sea, the North Sea, the Black Sea and the North Atlantic. Such activities regularly trigger military counter-measures such as scrambling and “interceptions” of fighter jets and monitoring by warships. In several cases, parties claim intrusion of adversary aircraft or ships into own territorial waters or airspace, daring flight manoeuvres that might trigger unwanted accidents or hostile action such as close passes or locking-on of targeting radar and activation of laser-guidance systems, which could lead to military clashes.

Certainly, the high number of military activities in itself is a reason for concern as it demonstrates the current political tensions and enhanced military vigilance. In addition, every hazardous incident carries the danger of escalation, must be prevented or, once it had happened, deescalated through appropriate military channels and political consultations.

However, most of the “incidents” can be qualified as routine activities rather than dangerous encounters or violations of national airspace.<sup>42</sup> In this context, it seems necessary to clarify respective provisions of international law. The UN Convention on the Law of the Sea (UNCLOS) distinguishes between “territorial waters” and the open sea. “Territorial waters” regularly extend from the coastal “baseline” to a breadth of 12 nautical miles (22 km) toward the open sea, except for cases in which narrow sea spaces with close coastal baselines or narrow straits with international waterways require a division of territorial waters.<sup>43</sup> In addition, coastal countries are entitled to exercise certain limited rights in specified zones adjoining territorial waters. In the “Contiguous Zone” (24 nm from the “baseline”) they may conduct law enforcement operations to prevent or pursue violations of national laws in national territories; in the “Exclusive Economic Zone” (EEZ, 200 nm from the “baseline”) and the “Continental Shelf” they enjoy exclusive rights as to exploration and economic exploitation of natural resources.

However, all special zones beyond territorial waters, and the High Sea – alongside their superjacent airspace – are considered international space, where the freedom of navigation and aviation remains unrestricted. In consequence, coastal-lying countries may not interpret preferential rights in a way that would impede the freedom of navigation and aviation in these special zones.<sup>44</sup> In territorial waters, however, only the right of peaceful “innocent passage” of ships is guaranteed. That excludes action that violates national laws or endangers the security of coastal states such as military manoeuvres or intelligence gathering.

Against this backdrop, frequent public notions of alleged intrusions of bombers, fighters or warships in “*own sea or airspace*”<sup>45</sup> need qualification. In accordance with international law, there is neither a European nor NATO nor Collective Security Treaty Organization (CSTO) sea or airspace. While coastal countries may enjoy preferential economic rights in specified zones of international waters ad-

acent to their territorial waters, they are in no way entitled to qualify such zones as “own” or “national” sea and airspace.<sup>46</sup> In this context, also the so-called “*Air Defence Identification Zones*” (ADIZ) are often misinterpreted. Their purpose is identifying unknown flying objects in international airspace that might take course towards sovereign airspace of states. Accordingly, the objective of air patrols in the ADIZ is identifying foreign military aircraft and preventing illegal intrusion into national airspace through escorting (“shadowing” rather than “intercepting”) long before they approach national territories. To that end, fighter interceptors might signal to the opposing pilots that an incursion into national territories might trigger military countermeasures. In most cases, such operations serve surveillance, reconnaissance and intelligence gathering rather than preparing for hostile action. Sea patrols carry out similar operations.

Depending on the geography, an ADIZ can extend far into High Seas (e.g. up to 250 nm in the Atlantic and Pacific). However, narrow littoral seas and straits might limit their extension (e.g. in the Baltic Sea, the English Channel or the Danish Straits) as ADIZ operations above territorial waters of other countries would be illegal. While an ADIZ serves purely military purposes, it has no legal footing in the Law of the Sea other than making use of the residual right of free navigation and aviation. It does not change the legal character of international waters and its superjacent airspace. Therefore, flying in an ADIZ beyond national airspace or navigation and aviation in and above an Exclusive Economic Zone (EEZ) cannot be qualified as “assertive behaviour” or “aggressive incursions into national sea and airspace”.

In practice, when NATO and Russian warships and aircraft conduct flight or sea patrols and reconnaissance missions, they exercise the right of free navigation and aviation in and above international waters, irrespective of coastal countries’ ADIZ or EEZ. Neither Russian bomber flights in the North Sea and the Atlantic 100 km from the French

coast or 55 nm off the Canadian or American coast and their “shadowing” by allied jet fighters, nor allied reconnaissance flights in close proximity to Russian territorial waters and their escort by Russian fighters as such are “dangerous incidents”.<sup>47</sup> That is also true for most of the reported “incidents” in the English Channel or the Baltic Sea where the international sea and airspace is much smaller and more prone to errors or unwanted encounters.

In this context, one might note that supply flights of Russian transport aircraft between St. Petersburg and the Kaliningrad exclave routinely pass close to territorial waters of the Baltic States and are “shadowed” by NATO aircraft. In turn, Russian jet fighters patrol above international waters off the coast of Kaliningrad or in the Black Sea to identify foreign reconnaissance aircraft or ships crossing in the vicinity. Similarly, Russian transport and combat aircraft use the international waterways through the English Channel and the Danish Straits not only for sea patrols but also for reinforcements and logistical support of the Syrian campaign.

Against this backdrop, most of the 66 “incidents” that were recorded by the European Leadership Network (ELN) within the timeframe from March 2014 to March 2015 describe routine activities in various ADIZ’s rather than dangerous encounters.<sup>48</sup> Only five cases of unintended, mostly short violations of Swedish, Finnish and Estonian airspace were reported in which Russian, U.S. and French aircraft were involved. In one case, a U.S. reconnaissance aircraft patrolling off the coast of Kaliningrad was intercepted by a Russian fighter and sought refuge in Swedish airspace. Obviously, the overlapping civil air space control regime over the Estonian island of Vaindloo, which falls under the responsibility of St. Petersburg Flight Information Region, has guided Russian transport aircraft over the island in a number of cases. Russia also claimed a number of incursions by NATO aircraft into own airspace which were not recorded by the ELN. However, in no case

states claimed intended airspace violations in combination with hazardous incidents.

In a few cases, however, reconnaissance flights or ship patrols were associated with intended show of force. Russia expressed concern about an unsafe interception by Polish fighters of an aircraft carrying Russian Defence Minister Shoigu in June 2017.<sup>49</sup> The fighters were operating as part of NATO’s Baltic Air Policing Mission in international airspace. Russia also reacted nervously to the appearance of the USS *Donald Cook* in the Black Sea close to Crimea or the Baltic Sea off the coast of Kaliningrad. With its anti-submarine weapons, missile defence assets and long-range sea-launched cruise missiles (SLCM) the *Aegis* destroyer possesses an impressive intervention potential. From cruising positions in the Eastern Baltic Sea, it can hold Moscow at risk. On 12 April 2014 an unarmed Russian jet fighter carried out jamming operations and several high-speed passes at close range over the U.S. destroyer that cruised in the Black Sea after Russia had taken control of Crimea.<sup>50</sup> On 12 April 2016 a similar incident occurred when the *Donald Cook* exercised with the Polish navy 70 nm off the coast of Kaliningrad.<sup>51</sup>

On 7 September 2014, during a Russian naval exercise off Sevastopol, an unarmed Russian fighter buzzed the Canadian frigate *Toronto* that was “shadowing” these military activities. The warship reacted by locking on its targeting radar.<sup>52</sup> Differences in interpretation of the legal status of the territorial waters around Crimea and Sevastopol complicate the issue as the West does not recognize Russian sovereignty over these territories.<sup>53</sup> Enforcing the right of innocent passage in close proximity to the coastal baseline and interference in ongoing exercises can lead to clashes.

The downing of a Russian ground attack fighter SU-24 by a Turkish F-16 jet fighter on 24 November 2015 close to the Turkish-Syrian land border demonstrated the dangers of escalation. The Russian light bomber had engaged in repeated attacks against Turkmen rebel units in Syria and, thereby, had mistakenly flown for several seconds through a bulge of Turkish airspace.



Though the unintended short violation of national airspace was the official reasoning for this well-prepared interception it seems that support for “countrymen” was the predominant Turkish rationale. Nevertheless, both sides kept restraint, activated military and political communication channels and deescalated the situation. Meanwhile, the Turkish government had apologized and re-established friendly relations with Russia.

As daring flight manoeuvres and potentially hostile operations are exceptions from the reconnaissance, surveillance and identification routine, there is no reason to qualify the overall situation as “dangerous brinkmanship”. However, even the rare truly dangerous encounters demonstrate the urgent need of taking national and international action to prevent hazardous incidents and escalation in a crisis that is laden with high vigilance, nervousness and preparedness to react. To that end, states should consider tightening their rules of engagement (RoE) to comply with the “due regard” principle of international law and train pilots and commanders accordingly. 24/7 emergency communication lines between operational headquarters seem to be as necessary as the conclusion of agreements on the Prevention of Incidents at Sea (INCSEA) and the Prevention of Dangerous Military Activities (DMA) between Russia and littoral states in the Baltic and Black Sea that have not yet done so. NATO and Russia should resume military-to-military dialogue to increase transparency of military activities and prevent or deescalate incidents. OSCE participating States could consider enhancing risk reduction mechanisms including the use of the OSCE communication network and facilitating impartial fact-finding missions under the auspices of the Secretary General.

### *Preventing further erosion of CSBMs: Saving the Treaty on Open Skies*

The Treaty on Open Skies<sup>54</sup> offers a flexible and cooperative instrument for monitoring military sites and activities across its area of application, which covers the territories of all

34 States Parties “from Vancouver to Vladivostok”. As observation flights and image processing are carried out jointly by the observing and the observed party, a high degree of openness and reliability of fact-finding can be achieved. Multilateral sharing of images is possible. Furthermore, the high number of passive observation flight quota for larger countries (e.g. 42 each for Russia/Belarus and the U.S., 12 each for Canada, Germany, France, Italy, U.K., Ukraine) provides for frequent observation flights and thus carries the potential to further transparency, either independently or in support of other CSBM. Open Skies observation flights were frequently conducted in context with the security crisis in and around Ukraine and the Baltic region.

In addition to the optical film and video cameras in use for many years, observation aircraft are now being certified for the use of digital and electro-optical cameras. The treaty principally allows for further modernization of observation tools such as the introduction of infrared sensors (which is on its way in Russia, Germany and Canada) or sideways-looking synthetic aperture radar (SLAR). Russia has started the certification process for two new long-range open skies observation aircraft (Tu-214) and, thus, demonstrated the high value it attaches to the treaty. The U.S. Department of Defence has also signalled interest in replacing two outdated open skies aircraft by new models. Germany has decided to strengthen its observation capability by procuring a new open skies aircraft. The rollout of the Airbus 319 CJ is scheduled for 2019.<sup>55</sup>

Despite its successful implementation in the past 26 years, the treaty is now at risk. Already in the past, there were disputes about Russian flight range limitations in the Kaliningrad exclave while Russia complained that the U.S. would hamper Russian flights along the Aleut Islands and to Hawaii. However, it is the Russian-Georgian dispute over the territorial status of South Ossetia and Abkhazia, which now carries the potential to thwart observation flights in general. According to treaty

provisions, observation flights have to keep a minimum distance of 10 km to international borders of states that are no States Parties to the treaty. As Russia has recognized the independence of the two breakaway regions, it had insisted for observation flights over Russian territories to keep this minimum distance to the two entities. Georgia in turn has suspended the treaty implementation towards Russia in 2012 and rejected a Russian request for one observation flight over Georgia in the calendar year 2018. The dispute has resulted in a stalemate of the annual consensus-finding process of the Open Skies Consultation Commission (OSCC) on the observation flight schedule for 2018. In consequence, all Open Skies States Parties are prevented from using their rights enshrined in this important transparency instrument and no observation flights took place since the beginning of 2018.

It is difficult to imagine that Georgia would block treaty functions without the backing of its strategic partner, the United States. Already in context with supposed violations of the INF-Treaty by Russia, the U.S. Congress had made the Treaty on Open Skies subject to possible sanctions. Thereby, several senators also accused Russia of using the treaty for spying purposes.<sup>56</sup> Russia lately has shown flexibility and announced to relinquish safety distances at Russian borders to the two breakaway entities. It is not clear yet whether and under which conditions Georgia would be willing to allow for the resumption of treaty operations.<sup>57</sup>

Obviously, the Open Skies Treaty has become subject to political bargaining over disputed territories. That might signal the beginning erosion of yet another cooperative stability instrument that is badly needed to temper the crisis of European security. If the stalemate could not be resolved and the treaty was used as a lever to enforce solutions to territorial status questions, it could suffer the same fate as the CFE Treaty and the ACFE. A failure to keep treaty operations alive would further reduce transparency of military activities in Europe and beyond and allow worst case threat

narratives to prevail over sober fact-finding. OSCE pS and States Parties to the Open Skies Treaty should unite to save the instrument.

### *Conclusions and recommendations*

Serious tensions between Russia and NATO are rooted in both mutual accusations of having violated principles of international law and the European security order and of engaging in multiple military activities that are interpreted as mounting political pressure and military threat even beyond the territorial conflict in Ukraine. Escalatory rhetoric and opposing narratives fortify mutual threat perceptions and deepen the geopolitical rift in Europe between the United States and its allies on the one side and Russia on the other. Western military threat perceptions focus on potentially offensive force postures and imbalances in a sub-regional context, Russian large-scale and snap exercises as well as dangerous encounters in and above sea areas. Russian military threat perceptions do not only concentrate on NATO's sub-regional force build-up, but also on allied rapid reinforcement capabilities and strategic imbalances as to NATO's overall force projection potentials.

Against this backdrop, stabilizing instruments such as arms control treaties and CSBMs, which were agreed in the 1990s, are needed urgently. However, they have eroded during the past decade or proven insufficient to hedge risks and maintain strategic stability. The absence of effective arms control at the sub-regional and pan-European level, limited transparency and verification of force postures and military activities as well as the lack of meaningful military-to-military dialogue have increased the feeling of insecurity and fuelled suspicion on the future intent of the respective opponent. This development combined with bellicose rhetoric resulted in frequently exaggerated threat perceptions, which in turn provide arguments for abandoning remaining cooperative security arrangements such as the mutual restraint commitment enshrined

in the NATO-Russia Founding Act or the overarching verification tool of the Treaty on Open Skies.

In this situation, it seems of utmost importance to hedge against additional escalatory developments, replace bellicose rhetoric by facts-based analysis, maintain existing instruments and prevent their further deterioration, restore a meaningful political and military dialogue and focus on most pressing security concerns. In particular, states should consider how to reduce risks emanating from potentially offensive force postures, exercises and unintended hazardous incidents of military aviation and navigation in international sea- and airspace.

The following measures are recommended:

**a. Returning to fact-based threat assessments: Strengthening the OSCE Structured Dialogue**

1. OSCE pS should support and accelerate the OSCE “Structured Dialogue”. It offers a most valuable forum for resuming a substantial dialogue on political and military security concerns.
2. The “Mapping” process seems conducive to gaining a clearer and sober picture on current and planned force postures and military activities and basing risk assessments on solid and comprehensive facts rather than on incompatible political narratives. Although the evaluation of military facts would not mitigate supposed violations of principles and compliance issues, a sober “mapping” could help avoiding further deterioration by exaggerated threat perceptions.
3. States should allow for enlarging the limited scope of data under evaluation (Vienna Document, Global Exchange of Military Information) in order to reflect today’s military capabilities more comprehensively and, thus, enable realistic assessments of risk scenarios. That requires a balanced approach taking into account sub-regional, regional and strategic potentials and risks.

4. States should acknowledge and actively pursue the objective to use the “Structured Dialogue” as a basis for hedging the dangers of misperceptions, developing deescalatory measures and returning to mutual security assurances, restraint and predictability. To that end, the dialogue should review available stability instruments with a view to identifying gaps, modernizing CSBMs and revitalizing conventional arms control.

**b. Addressing potentially offensive force postures: Closing the arms control gap**

1. In response to mutual threat perceptions in the Baltic Region, NATO Member States and Russia should recommit to reciprocal restraint commitments enshrined in the NATO-Russia Founding Act and the CFE Final Act.
2. Clarifying and defining the term “*additional permanent stationing of substantial combat forces*” would help to dispel doubts about its meaning. It would enhance sub-regional restraint and stability without formal negotiations on a new arms control regime.
3. For establishing stability benchmarks, states could take the 1999 levels of armaments limited by the CFE Treaty (TLE) as a baseline. In addition, some margin of flexibility could be considered allowing for modernization or reinforcement of existing units below the threshold of “*additional permanent stationing of substantial combat forces*”.
4. To satisfy the need for legitimate defence and training requirements, one could consider a limited margin for temporarily exceeding such thresholds for the purposes of exercises or crisis response, however, under strict transparency and verification obligations.
5. As current threat perceptions do not only refer to mobile ground operations, enlarging the scope of such restraint commitments seems advisable. There-

fore, restraint and verified transparency measures should also cover A2/AD capabilities, ground-launched short-range ballistic missiles, long-range air- or sea-launched precision-guided munitions as well as strategic air mobility, rapid reaction capabilities and multinational force cooperation and integration that can alter the sub-regional force balance.

6. Germany and like-minded states should make concrete proposals on conceptual approaches towards a future conventional arms control regime that is suited to contribute to military stability. To rally the widest possible support such concepts should be based on the principles of mutual strategic restraint, reciprocity of measures, military relevance as to scope and area of application, verifiable sufficiency, i.e. upper thresholds for forces not exceeding legitimate defence requirements, and full transparency also in times of crisis. Though such measures are not enough to solve territorial disputes, they can help to deescalate the wider crisis in Europe, prevent any further escalation in and beyond the actual conflict zone and reduce military tensions in other sensitive areas. This might pave the way for exploring new avenues towards a comprehensive conflict settlement with a view to rebuilding trust and eventually restoring security cooperation.

#### **c. Addressing large-scale exercises: Enlarging the limited scope of the Vienna Document**

1. In order to generate comprehensive transparency of large-scale exercises, enlarging the scope of the Vienna Document would be more pertinent than lowering the thresholds for notification and observation. It should cover also non-combat formations and units of armed forces beyond ground forces and their supporting elements.
2. Such extension of the VD scope would also take account of certain units and weapon categories, which have acquired

enhanced military capabilities but are not covered by VD provisions. That includes advanced air and missile defence systems and long-range precision-guided standoff munitions that can be launched by ships or aircraft from geographical positions far outside the actual zone of conflict.

3. In this context, the definition of the VD zone of application in Europe needs clarification as to the term “*adjoining sea areas*”.
4. Attention should also be devoted to rapid reaction forces and strategic mobility assets as they significantly increase the capability to reinforce troops in crisis areas over long distances in short time.

#### **d. Addressing uncertain military activities: Tackling exceptions from transparency rules**

1. Vienna Document exceptions from observation obligations for snap exercises could be reduced to 48 hours.
2. Prior information of snap exercises of neighbouring countries should be promoted, particularly in times of crisis, to avoid misperceptions and escalation.
3. States should consider providing more transparency and observation opportunities voluntarily in times of crisis and keep restraint in large-scale and snap exercises, particularly in border regions, to reassure neighbours and deescalate the situation as suggested in Chapter X of the Vienna Document.
4. States should also make a more generous use of the FSC decision to provide voluntary notification of one exercise per year that does not exceed Vienna Document thresholds for notification of certain military activities.
5. States should make proper use of VD inspections designed to monitor any area in which large-scale military activities take place that either do not exceed VD thresholds or are supposed to evade



proper notification. As three passive inspection quota per year do not substitute for regular arms control verification, better coordination among interested parties and more quota are necessary to enhance transparency in times of crisis.

6. More attention should be devoted to the principle of territorial responsibility of states for notification and observation. It might blur the full size of multinational exercises under a single command that take place in different national territories and exceed VD thresholds in combination only. Such activities should be made subject to notification and observation requirements.
7. Day-to-day counting of personnel involved in sequential phases of one single exercise also poses a problem that needs clarification. This practice might imply that at no single day VD thresholds are exceeded while the overall numbers of personnel participating during a larger timeframe could be significantly higher.

#### e. Addressing incident prevention: International law and risk reduction

1. In order to prevent unintended hazardous incidents in international sea- and airspace, all states should take “due regard” as required by international law and tighten their rules of engagement (RoE) accordingly. They should train pilots and navy captains to keep secure minimum distances from international borders as well as disputed territories and carry out responsible flight manoeuvres that neither endanger the safety of aviation nor trigger unwanted hostile action.
2. To that end, regional states should engage in a military dialogue with a view to enhancing the security of national territorial spaces and the safety of aviation and navigation in international space. They should install 24/7 emergency communication lines between operational headquarters, which are able to prevent and defuse incidents.

3. Neighbouring states should enhance sub-regional security cooperation and military contacts with a view to avoid misinterpretations as to unusual military activities. They should keep restraint as to military stationing, air and sea patrolling and large-scale exercises, particularly in border areas as suggested by Chapter X of the Vienna Document.
4. Russia and NATO states, that have not yet done so, should conclude bilateral Agreements on the Prevention of Incidents at Sea (INCSEA) and on the Prevention of Dangerous Military Activities (DMA).
5. NATO and Russia should resume military-to-military dialogue to increase transparency of military activities and prevent or deescalate potential incidents. To that end, they should keep direct military links operational at any time.
6. OSCE pS should use Vienna Document Chapter III (no. 17) provisions to avoid and deescalate hazardous incidents, *inter alia*, by informing all pS through the OSCE communication network and using OSCE mechanisms for risk reduction (VD, III., no. 16, 18).
7. OSCE pS should consider enhancing risk reduction mechanisms by facilitating impartial fact-finding missions under the auspices of the OSCE Chairman in Office or the Secretary General.
8. As most incidents take place in and above international waters, the definition of the VD zone of application in Europe needs clarification as to the term “*adjoining sea areas*”.

#### f. Preventing further erosion of CSBMs: Saving the Treaty on Open Skies

1. A failure to keep the Treaty on Open Skies operational would further reduce transparency of military activities in Europe and beyond. It would destroy another cornerstone of cooperative verifi-

cation and help worst-case-risk-narratives to prevail over sober fact-finding. OSCE pS and States Parties to the Open Skies Treaty should unite to save the instrument.

2. OSCE pS should make better use of the results of Open Skies observation flights for assessing military risks in the security dialogue of the Forum for Security Cooperation.

- 7 NATO: Wales Summit Declaration, issued by the Heads of State and Government participating in the meeting of the North Atlantic Council in Wales, 05 Sep. 2014, No. 5-8; Press Release (2014) 120 issued on 05 Sep. 2014, updated 26 Sep. 2016. [https://www.nato.int/cps/en/natohq/official\\_texts\\_112964.htm](https://www.nato.int/cps/en/natohq/official_texts_112964.htm); NATO: Warsaw Summit Communiqué, issued by the Heads of State and Government participating in the meeting of the North Atlantic Council in Warsaw 8-9 July 2016; No. 10, 35-41; Press Release (2016) 100 issued on 9 July 2016, updated 03 August 2016. [https://www.nato.int/cps/en/natohq/official\\_texts\\_133169.htm](https://www.nato.int/cps/en/natohq/official_texts_133169.htm)
- 2 In 2015, approx. 270 exercises were planned to be held under a NATO umbrella, with about 50 % devoted to reassuring Eastern allies. Joint press conference with Military Committee Chairman General Knud Bartels, SACEUR General Breedlove and SACT General Paloméros, 21 May 2015. [http://www.nato.int/cps/en/natohq/opinions\\_119868.html](http://www.nato.int/cps/en/natohq/opinions_119868.html) also quoted in: Thomas Frear, Ian Kearns, Lukasz Kulesa: "Preparing for the Worst: Are Russian and NATO Military Exercises Making War in Europe more likely?" ELN Policy Brief August 2015, p. 3. According to NATO's Warsaw Summit Communiqué of 9 July, 2016, No. 37 g. NATO and allies conducted 300 exercises in 2015 alone. (see Fn. 1)
- 3 NATO/Russian Federation: Founding Act on Mutual Relations, Cooperation and Security between NATO and the Russian Federation. Paris, 27 May 1997. [www.nato.int/cps/en/natolife/official\\_texts\\_25468.htm](http://www.nato.int/cps/en/natolife/official_texts_25468.htm)
- 4 U.S. Department of Defense (Office of the Under Secretary of Defense (Comptroller)): European Reassurance Initiative. Department of Defense Budget. Fiscal Year (FY) 2018. May 2017. See also Thomas Gutschker: "Der lange Treck". Frankfurter Allgemeine Sonntagszeitung, 13. May 2018
- 5 The United States, United Kingdom, Canada and Lithuania have deployed a total of 626 soldiers in Ukraine to support training of Ukrainian forces: Canada 200 (Operation Unifier), U.K. 100 (Operation Orbital), U.S. 310 (JMTG-U), Lithuania 16 (JMT-U). International Institute for Strategic Studies. The Military Balance 2018, p. 213.
- 6 Overview on Russian threat assessments in: Wolfgang Richter: "Return to Security Cooperation in Europe: The Stabilizing Role of Conventional Arms Control." Deep Cuts Working Paper No. 11, September 2017, p. 2-6
- 7 Package of Measures for the Implementation of the Minsk Agreements agreed by the Trilateral Contact Group at the Summit in Minsk on 12 February 2015 (Russian Text) [www.osce.org/cio/140156](http://www.osce.org/cio/140156) English text in: International Business Times, February 12, 2015 [www.ibtimes.com/minsk-ceasefire-deal-full-text-agreement-between-russia-ukraine-germany-france-1814468](http://www.ibtimes.com/minsk-ceasefire-deal-full-text-agreement-between-russia-ukraine-germany-france-1814468)
- 8 Overview on perspectives for a UN mission in Donbass contained in: Walter Feichtinger, Hanna Grininger: „UN-Mission im Donbass – Neue Perspektiven für das Krisen- und Konfliktmanagement in der Ukraine“. Institut für Friedenssicherung und Konfliktmanagement, Landesverteidigungsakademie Wien. IFK-Monitor Mai 2018
- 9 Frank-Walter Steinmeier: "Mit Rüstungskontrolle Vertrauen schaffen". Frankfurter Allgemeine Zeitung, 26. August 2016, p. 8
- 10 „Erklärung der Gruppe der Gleichgesinnten zur Unterstützung des Neubeginns auf dem Gebiet der konventionellen Rüstungskontrolle in Europa.“ Auswärtiges Amt, Pressemitteilung, 25 November 2016
- 11 Cf. Bruce I. Turner: "Revitalizing Military Confidence-Building, Risk Reduction and Arms Control in Europe". Remarks at the OSCE Security Days, 3 October 2016 <http://www.state.gov/t/avc/ris/262657.htm>; Rex W. Tillerson, Secretary of State: "At a time when existing arms-control agreements are being violated, we cannot seriously discuss new arrangements ..." in: "Remarks at OSCE Ministerial Plenary Session". Hofburg Palace, Vienna, Austria, December 7, 2017. See also Stephen Blank: "Mission impossible: Pursuing arms control with Putin's Russia." European Leadership Network, Euroatlantic Security Policy Brief. January 2018
- 12 Organization for Security and Co-operation in Europe, Ministerial Council: "From Lisbon to Hamburg: Declaration on the Twentieth Anniversary of the OSCE Framework for Arms Control" (MC.DOC/4/16), Hamburg, 9 December 2016 (MC(23) Journal no. 2, Agenda item 7)
- 13 Overview in: Wolfgang Richter: "Die OSZE zwischen Konfrontation und "Strukturiertern Dialog". Unter Österreichs Vorsitz bekennt sich die Organisation zu ihrer friedensstiftenden Rolle". SWP Aktuell 5, Januar 2018
- 14 Shlapak, David A. and Johnson, Michael. "Reinforcing Deterrence on NATO's Eastern Flank". RAND Corporation. 2016 [https://www.rand.org/pubs/research\\_reports/RR1253.html](https://www.rand.org/pubs/research_reports/RR1253.html) Scott Boston, Michael Johnson, Nathan Beauchamp-Mustafaga, Yvonne K. Crane: "Assessing the Conventional Force Imbalance in Europe. Implications for Countering Russian Local Superiority." Rand Corporation, Research Report, 2018; Edward Lucas: "The Coming Storm". Baltic Sea Security Report. Center for European Policy Analysis (CEPA), Washington 2015; Artur Kacprzik, Karsten Friis: "Adapting NATO's Conventional Force Posture in the Nordic-Baltic Region." In: The Polish Institute of International Affairs (PISM). Policy Paper No. 3 (156), August 2017, p. 2; Ivo H. Daalder: "Not quiet at the Eastern Front". In: Foreign Affairs November/December 2017 ("Responding to Russia's Resurgence"). Daalder asserts that "more than 300,000 (sic!) well-trained troops are deployed in Kaliningrad ... posing a significant military threat to Poland and the three Baltic states." The real number of military personnel in Kaliningrad (including fluctuating navy units) is less than 30,000 with approx. 15,000 professionals registered in the area with their families. The overall strength of active Russian military personnel amounts to approx. 900,000, the strength of the Russian army to approx. 280,000 including conscripts. International Institute for Strategic Studies. The Military Balance 2018, p. 192-193. <http://www.tandfonline.com/loi/tmib20>
- 15 Catherine Harris and Frederick W. Kagan. "Russia's Military Posture: Ground Forces Order of Battle". Institute for the Studies of War. Washington 2018, p. 24
- 16 Harris/Kagan. "Russia's Military Posture: Ground Forces Order of Battle". Loc. cit., p. 11, 12, 18-20. Two newly created division headquarters are located in Yelnya, Smolensk Oblast (144<sup>th</sup> Motor Rifle Division) and Boguchar, Voronezh Oblast (3<sup>rd</sup> Motor Rifle Division). They are subordinated to the 20<sup>th</sup> Guards Army in Voronezh (Western MD). A new division headquarter was established in Novocherkassk, Rostov Oblast (150<sup>th</sup> Motor Rifle Division) which is subordinated to the 8<sup>th</sup> Army (Southern MD). See also International Institute for Strategic Studies. The Military Balance 2018, p. 172. <http://www.tandfonline.com/loi/tmib20> Some authors incorrectly state that "three new Russian divisions in the Western MD" were postured "closer to the Baltic state borders". Thomasz K. Kovalik, Domink P. Jankowski: "ZAPAD 2017: NATO Should Be Keeping an Eye on Russia's Training Exercises" <http://nationalinterest.org/print/feature/zapad-2017-nato->

should-be-keeping-eye-russia-training-20540 The authors serve in the Polish Ministry of National Defence and Ministry of Foreign Affairs.

17 Harris/Kagan. "Russia's Military Posture: Ground Forces Order of Battle". Loc. cit., p. 12, 14, 20; the 6th Army in St. Petersburg controls two Motor Rifle Brigades only (138<sup>th</sup> in Kamenka north of St. Petersburg at the Finnish border, 25<sup>th</sup> in Luga, closer to the Pskov Oblast). The 76<sup>th</sup> Guards Air Assault Division in Pskov was located there since the end of the Cold War and never dissolved. It belongs to the Airborne troops. Ground force structures in the Kaliningrad exclave also did not change: The 79<sup>th</sup> Motor Rifle Brigade and the 7<sup>th</sup> Motor Rifle Regiment (11<sup>th</sup> Army Corps) together with the 336<sup>th</sup> Naval Infantry Brigade are subordinated to the Baltic Fleet.

18 Treaty on Conventional Armed Forces in Europe (CFE Treaty), signed on 19 November 1990 in Paris, entered into force on 9 November 1992 [www.osce.org/library/14087](http://www.osce.org/library/14087)

19 Agreement on the Adaptation of the Treaty on Conventional Armed Forces in Europe, in: OSCE Summit 1999 (Istanbul Document). (PCOEW389), ed. OSCE (Istanbul OSCE, January 2000), p. 118-234

20 CFE Final Act, Istanbul, November 1999, in: loc. cit. p. 235-251  
21 See footnotes 14, 17

22 Land TLE categories are: (1) Battle Tanks (2) Armoured Combat Vehicles (3) Artillery Systems  
Air TLE categories are (4) Combat Aircraft (5) Attack Helicopters

23 The author participated in these talks representing Germany.

24 Edyta Zemla and Kamil Turecki: "Poland offers US up to \$2B for permanent military base". <https://www.politico.eu/article/nato-poland-offers-us-up-to-2-billion-for-permanent-american-military-base/>; Ministry of National Defence. Republic of Poland: "Proposal for a U.S. Permanent Presence in Poland." 2018 <https://g8fip1kplyr33r3krz5b97d1-wpengine.netdna-ssl.com/wp-content/uploads/2018/05/Proposal-for-a-U.S.-Permanent-Presence-in-Poland-2018.pdf>

25 Organization for Security Co-operation in Europe (OSCE): Vienna Document 2011 on Confidence- and Security-Building Measures. FSC.DOC/1/11, 30 November 2011 [www.osce.org/fsc/86597](http://www.osce.org/fsc/86597)

26 Vienna Document 2011, loc. cit., Chapter IX, No. (109), p. 38

27 Igor Sutyagin: "Zapad 2017: Why Do the Numbers Matter?", RUSI Commentary, 12 September 2017 <https://rusi.org/commentary/zapad-2017-why-do-numbers-matter>

28 Keir Giles: "Russia begins huge 'Zapad 2017' military drills". In: CNN: "Russia's military exercises: Could they turn into war?" September 14, 2017 <https://edition.cnn.com/2017/08/15/opinions/zapad-2017-keir-giles/index.html>; Alexander Smith, Mac William Bishop, Courtney Kube: "Russia Kicks Off Huge Zapad 2017 Military Exercises With Belarus", August 2, 2017 in: <https://www.nbcnews.com/news/world/russia-plans-huge-zapad-2017-military-exercises-with-belarus> Ukrainian President Poroshenko expressed concerns that Russia may be planning a "full-scale invasion". In: Simon Saradzhyan: "Yes, Russia's Military Is Training for a 'Mega War'. That's What Militaries Do." <http://nationalinterest.org/print/>

feature/yes-russias-military-training-mega-war-what-militaries-do Eric Schmitt: "Vast Exercise Demonstrated Russia's Growing Military Prowess". In: New York Times, October 1, 2017 <https://www.nytimes.com/2017/10/01/us/politics/zapad-russia-military-exercise.html> see also <https://nytimes.com/2017/07/31/world/europe/russia-military-exercise-zapad-west.html>

29 Vienna Document (VD) 2011, loc. cit., Chapter V, No. (38), (40.1), (40.1.1), (40.1.2), p. 20

30 VD 2011, loc. cit., Chapter V, No. (40.2), (40.2.1), p. 20

31 VD 2011, loc. cit., Chapter VI, No. (47), (47.1), (47.2), (47.4), p. 24

32 VD 2011, loc. cit., Chapter V, No. (40.1) with footnote 4, p. 20, 60; Chapter VI, No. (47.1) with footnote 6, p. 20, 60. Accordingly, "the term land forces includes amphibious, airmobile or heliborne forces and airborne forces." According to Chapter V, No. (40.2), footnote 5, "amphibious landing includes total troops launched from the sea by naval and landing forces embarked on ships or craft involving a landing on shore."

33 Colonel (GS) Johan Huovinen: "Topic 3: Incident Prevention and Response Mechanisms", in: Austrian OSCE Chairmanship 2017 (ed.): "Promoting Military Stability and Security. Key findings and documents of the Inter-Sessional Dialogue on Military Doctrines and the Breakout Workshops on CSBMs." December 2017, p. 211-213; see also: Government Offices of Sweden: "Swedish Armed Forces Exercise Aurora 17 will increase military capability". <http://www.government.se/articles/2017/09/swedish-armed-forces-exercise-aurora-17-will-increase-military-capability>

34 VD 2011, Annex I, loc. cit., p. 49

35 VD 2011, Chapter V, No. (40.1), loc. cit., p. 20

36 NATO and allies conducted 300 drills in 2015. Warsaw Summit Communiqué 9 July, 2016, No. 37 g. (Fn. 2)

37 Dave Johnson (NATO International Staff): "ZAPAD 2017 and Euro-Atlantic security". December 14, 2017. <https://www.nato.int/docu/review/2017/Also-in-2017/zapad-2017-and-euro-atlantic-security>; Daniel Brown: "Russia just finished the Zapad military exercises that freaked out NATO – Here's what we know." Business Insider Deutschland, 26.09.2017 <https://www.businessinsider.de/heres-what-we-learned-from-russias-zapad-military-exercises-2017-9?r=us&ir=t>

38 Such day-to-day counting is not limited to Russian practice. Johan Huovinen noted that in the course of the Swedish exercise AURORA 2017 altogether 19,500 Swedish personnel were involved but at no single day more than 15,500 simultaneously. J. Huovinen, loc. cit., p. 212

39 VD 2011, Chapter V, No. (41), (41.1), loc. cit., p. 21

40 VD 2011, Chapter VI, No. (58), loc. cit., p. 26

41 VD 2011, Chapter IX, no. (74) – (106), loc. cit., p. 32-38

42 Cf. Thomas Frear, European Leadership Network (ELN): "List of Close Military Encounters Between Russia and the West, March 2014 – March 2015"; see also Thomas Frear, ELN, "Lessons Learned? Success and Failure in Managing Russia-West Incidents 2014-2018". Euro-Atlantic Security Policy Brief. April 2018

43 UN Convention on the Law of the Sea (UNCLOS), Part I, Articles 1-4, 17-21



- 44 UNCLOS, Part II, Art. 33; Part V, Arts 55-58; Part VI, Arts 76-78, Part VII, Art. 87
- 45 Andrew Foxall (The Henry Jackson Society): "Close Encounters: Russian Military Intrusion into UK Air- and Sea Space Since 2005." Russia Studies Centre Policy Paper No. 7 (2015). Contrary to its title the study does not mention any violation of U.K. territorial waters or airspace by Russian aircraft or ships but interprets U.K. EEZ and U.K.-based Flight Information Regions as "UK Air- and Sea Space". A NATO study notes with concern that Russian fighters on 12 April 2016 made multiple high-speed passes above the USS Donald Cook in international waters in the Baltic Sea but at the same time expresses worries that Russian bombers on 22 September 2016 appeared less than 100 km from the French coast, i.e. in international waters as well. In: NATO. "How can the OSCE help to reduce the risk of hazardous military incidents?" <https://www.nato.int/docu/review/2016/Also-in-2016/OSCE-help-reduce-risk-military-incidents/>
- 46 U.K. Defence Secretary Gavin Williamson on 23 May 2018 highlighted "British tensions over increased Russian aggression" by referring expressively to the Royal Navy's and Royal Airforce's task to guard not only Britain's territorial waters (12 nm zone) but also "a 200-mile economic exclusion zone and NATO areas of responsibility within international waters" (sic!). Financial Times, 24 May 2018: "Royal Navy intercepted Russian military ships 33 times in 2017".
- 47 Cf. Alex Horton: "U.S. jets intercept pair of Russian bombers off Alaskan coast". The Washington Post, 14 May 2018
- 48 Cf. Thomas Frear, European Leadership Network (ELN): "List of Close Military Encounters Between Russia and the West, March 2014 – March 2015"
- 49 Thomas Frear, ELN, "Lessons Learned? Success and Failure in Managing Russia-West Incidents 2014-2018". Euro-Atlantic Security Policy Brief. April 2018, p. 7
- 50 Ibid., Incident No. 1, p. 9
- 51 NATO. "How can the OSCE help to reduce the risk of hazardous military incidents?" <https://www.nato.int/docu/review/2016/Also-in-2016/OSCE-help-reduce-risk-military-incidents/>
- 52 Frear, ELN: "List of Close Military Encounters Between Russia and the West, March 2014 – March 2015", loc. cit., (Fn. 41), Incident No. 7, p. 10
- 53 Thomas Frear, ELN, "Lessons Learned? Success and Failure in Managing Russia-West Incidents 2014-2018". Euro-Atlantic Security Policy Brief. April 2018, p. 7
- 54 Treaty on Open Skies, signed 24 March 1992, entry into force 2002 after 10 years of preliminary application. [www.osce.org/library/14127](http://www.osce.org/library/14127)
- 55 For a general overview cf. Hartwig Spitzer: "The Treaty on Open Skies – Status quo and Prospects". In: IFSH CORE OSCE Yearbook 2004, Hamburg 2005, p. 369-380 <https://ifsh.de/file-CORE/documents/yearbook/english/04/Spitzer.pdf>; see also Hartwig Spitzer: "Open Skies: transparency in stormy times." In: VERTIC: "Trust and Verify" July-September 2014, Issue Number 146, ISSN 0966-9221, London 2014; I owe my gratitude to Hartwig Spitzer for sharing his Power Point Presentation reviewing the status of the Open Skies Treaty in June 2018
- 56 On latest attempts by House Armed Services Chairman Mac Thornberry to struck funding for two U.S. Open Skies Treaty observation aircraft see Michael Krepon: "Crippling the Open Skies Treaty Punishes Allies and the US, not Russia.", May 23, 2018 <https://www.armscontrolwonk.com/archive/1205274/crippling-the-open-skies-treaty-punishes-allies-and-us-not-russia>
- 57 Cf. Open Skies Consultative Commission. Chairmanship: Czech Republic. 2<sup>nd</sup> Meeting of the 76th Session. Journal of 22 May 2018. (OSCC76.JOUR/256 22 May 2018), Annexes 1-4 with statements by the delegations of Georgia, the Russian Federation, Canada and Germany.



### *About the Author*

Wolfgang Richter (Colonel ret.) is Fellow at the German Institute for International and Security Affairs (Stiftung Wissenschaft und Politik, SWP) in Berlin, Research Group on Security Politics. His previous assignments include, inter alia, Head of the military section of the Permanent Representation of Germany to the Conference on Disarmament, Geneva, and to Disarmament fora of the United Nations, New York (1995-1999); Head of department (global and European arms control), Federal Armed Forces Centre for Verification Tasks (1999-2005); and Head of the military section of the Permanent Representation of Germany to the OSCE, Vienna.

Contact: [wolfgang.richter@swp-berlin.org](mailto:wolfgang.richter@swp-berlin.org)

### *About Deep Cuts*

The Deep Cuts project is a research and consultancy project, jointly conducted by the Institute for Peace Research and Security Policy at the University of Hamburg, the Arms Control Association, and the Institute of World Economy and International Relations of the Russian Academy of Sciences. The Deep Cuts Commission is seeking to devise concepts on how to overcome current challenges to deep nuclear reductions. Through means of realistic

analyses and specific recommendations, the Commission strives to translate the already existing political commitments to further nuclear reductions into concrete and feasible action. Deep Cuts Working Papers do not necessarily reflect the opinion of individual Commissioners or Deep Cuts project partners.

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Institut für Friedensforschung und Sicherheitspolitik  
an der Universität Hamburg (IFSH)  
Beim Schlump 83  
20144 Hamburg, Germany

Project Management  
Lina-Marieke Hilgert  
Götz Neuneck  
Email: hilgert@ifsh.de

Phone: +49 (0)40-86 60 77-70  
Fax: +49 (0)40-866 36 15

