Selected Essays on the Transition to a New Nuclear Order

Judith Reppy and Catherine McArdle Kelleher, eds.

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Cooperative Arms Control in Europe and the Global Nuclear Order: Rethinking Decision-Making and Institutions in Light of the Ukraine Conflict

Ulrich Kühn*

Abstract

In this paper, I focus on the interplay between the institutionalized system of cooperative arms control in Europe and the global nuclear order. The Ukraine conflict has underscored the close connections between the two systems and the negative ramifications of the conflict on both of them. I limit my analysis mostly to the policies of the two main states shaping and influencing both systems: that is, U.S. and Russian decision-making directed at certain critical institutions of international security. Analysis shows that both states lack a healthy mix of power and morality in their dealings with crucial elements and institutions of the European and the global nuclear order. Applying network-induced regime analysis, I explain the origins and the current state of decay of European security institutions in the first part of this paper. In the second part, I link the debate to the global nuclear order and outline the most pressing challenges the Ukraine conflict has generated at the multilateral nuclear level. I conclude by arguing for a preservation of existing institutions of stability and a return to a more balanced policy mix of arms control and cooperative security measures.

For more than a decade, Europe's security institutions have been in a state of decay. To different degrees, this development pertains to almost all institutions under the rubric of cooperative security. The realm of arms control, in particular, has been negatively affected. Significant legally and politically binding arms control agreements under the auspices of the Organization for Security and Co-operation in Europe (OSCE) are either stagnating, deadlocked, or in retreat. The most prominent example is the Conventional Armed Forces in Europe Treaty (CFE)¹. OSCE

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participating States remain unable or unwilling to successfully overcome the deadlock in arms control institutions. Mirroring this development, cooperative security institutions between the North Atlantic Treaty Organization (NATO) and the Russian Federation have largely ceased to function. With the Ukraine conflict on-going, prospects for reversing this trend are rather low for the moment. What is even more worrisome is that the deadlock of European institutions and the effects of the renewed West-Russian confrontation have begun negatively affecting the global nuclear order. The consequences of this negative interplay are not yet fully assessable. If the confrontation continues over a longer period, which it certainly looks like at the moment, their impact will most likely be severe.

The Institutions of Cooperative Arms Control in Europe

Cooperative arms control in Europe is basically a neologism consisting of the terms 'cooperative security' and 'arms control'. The concept of cooperative security is understood to include a number of central tenets.² It aims at increasing mutual security and predictability through reciprocity, inclusiveness, dialogue, a defensive orientation, transparency, confidence-building, and arms limitations.³ These central tenets are intended to help generate interstate relations 'in

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¹ The CFE Treaty – concluded in 1990 – limits five categories of heavy conventional military equipment of the former two blocs of NATO and the Warsaw Pact and eliminates the possibility of large-scale military surprise attack through specific geographical limitations. The treaty was updated to take account of NATO enlargement in 1999. The 1999 Adapted CFE Treaty (ACFE) has never been ratified by NATO member states due to insistence of prior withdrawal of Russian forces and equipment from the secessionist regions of Transnistria (Moldova), South Ossetia and Abkhazia (both Georgia) - a politically binding commitment Russia agreed to in conjunction with the signing of ACFE. Until today, Russia is in non-compliance with these so called 'Istanbul commitments'. In 2007, Moscow "suspended" the treaty because of NATO's continued non-ratification – an action not provided for by the treaty. For an account of these political linkages see Kühn, Ulrich. "From Capitol Hill to Istanbul: The Origins of the Current CFE Deadlock." CORE Working Paper 19, Hamburg: Centre for OSCE Research (December, 2009). Accessed January 19, 2015. http://ifsh.de/file-CORE/documents/CORE Working Paper 19 Kuehn.pdf.

² Cooperative security has been defined differently. For a good overview of the concept and its definitions see Mihalka, Michael. "Cooperative Security in the 21st Century." Connections, The Quarterly Journal, no. 4 (2005): pp. 113-4.

³ Cf. Carter, Ashton B., William J. Perry, and John D. Steinbruner. A New Concept of Cooperative Security. Washington, D.C.: The Brookings Institution, 1992; Nolan, Janne E., ed. Global engagement: Cooperation and security in the 21st century. Washington, DC: Brookings Institution, 1994; Dewitt, David B., and Amitav Acharya. Cooperative security and develop-mental assistance: The relationship between security and development with reference to Eastern Asia. Eastern Asia policy papers 16. North York: University of Toronto - York University Joint Centre for Asia Pacific Studies, 1996; Mihalka 2005. Robert Jervis has described a number of central tenets which increase the probability of institutionalized cooperation under anarchy. Most of them resemble central injunctions of

which disputes are expected to occur, but they are expected to do so within the limits of agreedupon norms and established procedures.' The politics of cooperative security in Europe have often been identified with the institution of the OSCE.

The concept of arms control is very closely related to this. Bull sees 'peace through the manipulation of force' as the grand scheme under which to place the concept theoretically. In relation to the early period of the bipolar arms race, arms control's foremost objective was the prevention of (nuclear) war. In a more operational sense, arms control is 'any agreement among states to regulate some aspect of their military capability or potential. The agreement may apply to the location, amount, readiness, or types of military forces, weapons, or facilities. Whatever their scope or terms, however, all plans for arms control have one common factor: they presuppose some form of cooperation or joint action among participants with respect to their military programs.' With the end of the Cold War standoff, the 'manipulation of force', that is power, gave way to a more normative connotation of shaping and governing peace through a whole range of institutions of which most of them – though not all – are found within the framework of the OSCE.

And this is where the two concepts meet. Combining the two is an attempt to analyze two concepts which are technically in very close proximity, but whose theoretical origins link the concept – strongly influenced by American realism – of manipulating power with the normative concept, originating in Europe, of governing peace. This effort is intended to help analyze two

the concept of cooperative security. See Jervis, Robert. "Realism, Neoliberalism, and Cooperation: Understanding the Debate." *International Security* 24, no. 1 (1999): 42–63.

⁴ Nolan, Janne E. "The Concept of Cooperative Security." In *Global engagement: Cooperation and security in the 21st century*. Edited by Janne E. Nolan, 3–18. Washington, DC: Brookings Institution, 1994: p. 5.

⁵ Krause, Joachim. *The OSCE and co-operative security in Europe: Lessons for Asia*. IDSS monograph 6. Nanyang: Inst. of Defence and Strategic Studies, 2003.

⁶ Bull, Hedley. *The control of the arms race: disarmament and arms control in the missile age.* Studies in international security 2. London: Institute for Strategic Studies, 1961: pp. 4-5.

⁷ Schelling, Thomas C., and Morton H. Halperin. *Strategy and arms control*. New York, NY: The Twentieth Century Fund, 1961; Bull 1961: pp. 3-4.

⁸ Larsen, Jeffrey A. "An Introduction to Arms Control and Cooperative Security." In *Arms control and cooperative security*. Edited by Jeffrey A. Larsen and James J. Wirtz, 1–20. Boulder: Lynne Rienner Publ, 2009: p. 1.

basic premises of international cooperation – that is that 'political action must be based on a coordination of morality and power.'9

The genesis of cooperative arms control in Europe can be traced back to the final days of détente. In 1973, Moscow accepted the long-standing U.S. demand to enter into talks about conventional forces in Europe to address the imbalance in the conventional realm, which was to the detriment of the United States and its NATO allies. The talks, known as Mutual and Balanced Force Reduction (MBFR) talks, continued for almost 16 years without any concrete result and were finally replaced by the CFE negotiations in 1989. For the Soviet Union, amongst the reasons for agreeing to MBFR was the start of formal negotiations on the mandate for a Conference on Security and Cooperation in Europe (CSCE) in 1972. MBFR and the CSCE can be seen as 'two sprouts from one bulb.'¹⁰ The one 'sprout', MBFR, dealt with manipulating power at a largely bilateral, U.S.-Soviet, level. The other was multilateral in nature and sought to create a normative framework for securing a "cold peace". The latter achieved a voluntary and, thus, fragile balancing act between the Soviet demand to devise status quo-cementing principles such as the 'indivisibility of security' and the 'non-interference in internal affairs'¹¹ and the Western demand for individual human rights.

Over the next forty years, and particularly in the first few years following the end of the Cold War, a dense network of overlapping agreements, a regime complex in the most recent understanding of complexity research¹², developed. Five elemental regimes form the complex of cooperative arms control in Europe.

The first regime evolved around conventional arms control and was kick-started by MBFR. It acquired its full shape with the end of the Cold War and the signing of CFE in 1990 and a

⁹ Carr, Edward Hallett. *The Twenty Years' Crisis, 1919-1939: An Introduction to the Study of International Relations.* London: Macmillan, 1939: p. 97.

¹⁰ Haftendorn, Helga. "The link between CSCE and MBFR: two sprouts from one bulb." In *Origins of the European security system: The Helsinki process revisited, 1965-75*. Edited by Andreas Wenger, Christian Nünlist and Vojtech Mastny, 237–58. CSS studies in security and international relations. Abingdon, Oxon, New York, NY: Routledge, 2008: p. 237.

¹¹ Conference on Security and Co-Operation in Europe Final Act, Helsinki 1975.

¹² Cf. Thakur, Ramesh, ed. *Global Governance: A Review of Multilateralism and International Organizations, Vol. 19, No. 1.* Boulder: Lynne Rienner Publ, 2013.

number of accompanying agreements, such as the Treaty on Open Skies, a monitoring instrument.¹³ The regime was updated at the end of the 1990s, but today it is extremely outdated technically and politically deadlocked due to disputes between Washington and Moscow.

The second regime developed in the realm of confidence- and security-building measures (CSBMs) and has its roots in the 1975 Helsinki accords. It evolved through the Stockholm Conference on CSBMs and Disarmament in Europe (1984-1986) and acquired its full shape during the early 1990s with the elaboration of a whole range of politically binding agreements – most prominently the Vienna Document (VD). Today, the regime is still functioning, but some of the instruments, such as the VD, are in need of a timely update to better address contemporary security challenges, such as the employment of forces without national insignia as seen in the Russian annexation of Crimea.

The third regime developed in the realm of political and military cooperation under the auspices of NATO. It includes cooperation mechanisms, such as the Partnership for Peace framework, the Euro-Atlantic Partnership Council, the NATO-Russia Founding Act, and the NATO-Russia Council (NRC).¹⁵ Today, the regime is functioning where military and political cooperation mechanisms involving third states are concerned. In NATO's political and military dealings with Russia, the regime is dysfunctional and politically deadlocked. The most obvious example is the NRC which has been suspended by NATO member states at the working level as a reaction to Russian actions in Ukraine.

The fourth regime emerged out of the need to achieve sub-regional stability for the war-torn countries of the Balkans.¹⁶ In a top-down approach led by the United States, important elements

 $^{^{13}}$ Further institutions of the regime are the CFE-1A agreement, the Flank Agreement, the ACFE Treaty, and the so called Talks "at 36" between NATO and Russia from 2010 to 2011.

¹⁴ Further institutions of the regime are the OSCE Forum for Security Cooperation, the OSCE Programme for Immediate Action Series, the OSCE Framework for Arms Control, the OSCE Document on Small Arms and Light Weapons, and the OSCE Document on Stockpiles of Conventional Ammunition.

¹⁵ Further former institutions of the regime were the North Atlantic Cooperation Council (1991-1997) and the NATO-Russian Permanent Joint Council (1997-2002).

¹⁶ The institutions of the regime are the Agreement on Confidence- and Security-Building Measures in Bosnia and Herzegovina, the Agreement on Sub-Regional Arms Control, Article IV, the Regional Arms Control Verification and Implementation Assistance Centre, and the Concluding Document of the Negotiations Under Article V of Annex 1-B of the General Framework Agreement for Peace in Bosnia and Herzegovina.

of the regime were designed along the lines of the CFE Treaty and the VD. This regime is still functioning.

As inductive research has shown¹⁷, all four regimes share a significant number of principles and norms.¹⁸ Some of them were already listed almost word for word in the 1975 CSCE Helsinki Decalogue. The conclusion is that the historical roots of the regime complex are in the Helsinki accords. This influence on the meta-level of key principles and norms did not stop with the Helsinki stipulations, but was continuously fostered through their repetition and extension in the declaratory agreements of the CSCE and later the OSCE, particularly in the Charter of Paris for a New Europe (1990) and the Charter for European Security (1999) and in the organization of the OSCE itself. Their significance for the overall regime complex points to a special position within this complex, which can be described as a 'meta-regime'. Thereby, the fifth and most important regime is a meta-regime in the sense of a constant multiplier and reinforcer of principles and norms, informing the whole complex.

Applying network analysis,²⁰ the normative CSCE/OSCE stipulations and their organizational manifestation (the OSCE) form an overarching canon of values which frames the whole regime complex. Below this meta-regime, a dense regime complex of four regimes with a high degree of

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¹⁷ See the forthcoming dissertation "Cooperative Arms Control in Europe (1973-2014): A Case of Regime Decay?" by Ulrich Kühn.

¹⁸ According to Stephen Krasner, 'regimes can be defined as sets of implicit or explicit principles, norms, rules, and decision-making procedures around which actors' expectations converge in a given area of international relations.' Krasner, Stephen D. "Structural Causes and Regime Consequences: Regimes as Intervening Variables." *International Organization* 36, no. 2 (1982): p. 2. The key principles and norms of the regime complex of cooperative arms control in Europe are: strengthening stability; sovereign equality; promoting arms control, disarmament, and CSBMs; indivisibility of security; peaceful settlement of disputes, peaceful cooperation; further developing measures; refraining from the threat or use of force; implementation of arms control, disarmament, and CSBM obligations; strengthening confidence and security; commitment to conflict prevention; territorial integrity of States; principle of military sufficiency. Quantitative assessment of 31 agreements from the realm of cooperative arms control in Europe shows that these twelve principles and norms are most often referred to in agreements of the CSCE/OSCE, NATO, and sub-regional arms control stipulations for the Balkans. Some of the principles and norms can be found word for word in the 1975 Helsinki Final Act. Cf. Kühn, Ulrich.

Cooperative Arms Control in Europe (1973-2014): A Case of Regime Decay? (forthcoming): pp. 220-87.

¹⁹ Aggarwal, Vinod K. *Liberal protectionism: The international politics of organized textile trade*. Studies in international political economy 13. Berkeley, Calif.: Univ. of California Press, 1985: pp. 18-20.

²⁰ Orsini, Morin and Young offer three modes of regime interaction (links): (1) dense networks where all nodes (the elemental regimes) are connected to one another, (2) centralized networks with one node having relatively more ties with other nodes than the remaining ones, and (3) fragmented networks where both centrality and density are low. See Orsini, Amandine, Jean-Frédéric Morin, and Oran R. Young. "Regime Complexes: A Buzz, a Boom, or a Boost for Global Governance?" *Global Governance* 19, no. 1 (2013): p. 33.

interaction among the different nodes (the regimes) of the complex is present. The nodes are interconnected through links at different levels. Links refer to interactions at the level of cross-shared principles and norms, political-historical linkages, direct references of a design and/or textual nature, and partially overlapping membership²¹. Latest basic research has shown that the complex displays a high degree of density and a low degree of centrality. On the one hand, interactions among the nodes are frequent and lively. On the other hand, no node has considerably more links than the others. The regime complex of cooperative arms control in Europe is, thus, neither centralized nor fragmented, but displays a high degree of density.

As already mentioned, the regimes on conventional arms control, CSBMs under the auspices of the OSCE, and political-military cooperation under the auspices of NATO, all show increasing signs of decay – though, to different degrees. During the last 15 years, signs of decay have rapidly increased and have reached a peak with the Ukraine conflict. In addition, the OSCE meta-regime of principles and norms is very badly affected. Every time a key principle or norm of cooperative arms control in Europe is violated, the meta-regime suffers indirectly. Almost all key principles or norms of cooperative arms control in Europe have been violated in the ongoing Ukraine conflict.²³ All in all, the whole complex itself is characterized by decay.

The Reasons for Decay

The decay of institutionalized cooperation can be approached from different theoretical angles. In order to stick with Carr's dictum of the importance of power and morality, let us first turn to a number of realist variables addressing questions of power.

The first variable is non-compliance. Non-compliance – or as rationalists would put it – the "incentive to cheat" – is a crucial factor furthering cooperation decay.²⁴ When speaking of cooperative arms control in Europe, increasing acts of non-compliance almost always involve Russia. Be it the illegal annexation of Crimea and the (covert) resort to force in Eastern Ukraine,

²¹ The complexity requirement of partially overlapping membership has been put forward by Orsini, Morin, and Young 2013.

²² See footnote 17.

²³ See footnote 18 for the key principles and norms of the regime complex.

²⁴ Grieco, Joseph M. "Anarchy and the Limits of Cooperation: A Realist Critique of the Newest Liberal Institutionalism." *International Organization* 42, no. 3 (1988): 485–507.

the five-day war with Georgia in 2008, or the "suspension" of CFE in 2007 (an action not in accordance with the formal stipulations of the treaty)²⁵, Russia has always been a problematic actor when it comes to compliance. However, non-compliance is usually only the final stage in a sequential process of political decisions culminating in the decision to exit from a cooperative agreement. Even more so, Russian non-compliance is neither the sole nor the most important reason behind institutional decay.

The second variable was the massive shift in U.S.-Soviet/Russian capabilities in conjunction with the end of the Cold War. This shift had a cooperation-enabling and (over the long term) a cooperation-disabling effect. On the one hand, it led the Soviet Union under Gorbachev to focus relatively more on the economic capabilities of the USSR than on the military. Against the background of rapidly declining economic capabilities, Moscow decided to prioritize the economy and seek cooperation with the West. Gorbachev's aim was to downsize the costly Soviet military and to get economic and financial aid from the West in return.²⁶ On the other hand, the loss of relative capabilities on the Soviet side left Washington with relatively more capabilities. Against the background of the relative Soviet – and later Russian – weakness, the United States could largely pursue its preferred policies in its dealings with Moscow while, at the same time, negating Russian core interests (such as not enlarging NATO further to the East). The results were Russian perceptions of inequality, dissatisfaction with the post-Cold War security design of Europe, continued calls for re-negotiation, protracted negotiations, and increasing acts of non-compliance. After another minor shift in economic capabilities with the relative recovery of the Russian economy during the 2000s, Russia started to (partially) exit from the institutions of cooperative arms control in Europe.

The third variable stems from the increasingly offensive orientation of the United States since the end of the Cold War. According to Robert Jervis, offensively-oriented states complicate cooperation.²⁷ From 1994 onwards, the United States acted in accordance with this orientation, which resulted in further change to the existing relative distribution of power in Europe – with

²⁵ See footnote 1.

²⁶ Cf. Gorbachev, Mikhail S. *Memoirs*. New York: Doubleday, 1996.

²⁷ See Jervis 1999.

the three rounds of NATO enlargement (1999, 2004, and 2009). Direct cooperation between Washington and Moscow on enlargement did not take place due to the offensive orientation of U.S. policy. However, tacitly, Washington sought to cushion Russia's unease with enlargement through cooperative arms control in Europe. The establishment of the 1997 NATO-Russia Founding Act, the adaptation of CFE, and the adaptation of the OSCE were all measures designed to accommodate Moscow and to support the weak Yeltsin government at home. At the same time, Washington rejected Russian counterproposals (such as replacing NATO with the OSCE) and linked important strands of the defensively-oriented normative policy of cooperative security to a power policy which was offensive in nature (i.e. enlargement). These interlinked policies not only led, over time, to increased Russian frustration but deprived Russia de facto of an equal say in all European security matters.

The fourth variable responsible for decay was a loss of interest by both sides. Both states shared an overriding interest in cooperation throughout the Cold War due to – according to Realism – their mutual concern about survival in conjunction with the scenario of mutual assured destruction.³² The mutual interest in cooperation continued in the direct post-Cold War period – though for different reasons: Russia for economic reasons, the United States – under Bill Clinton – because it was concerned about possible backsliding of Russia into authoritarianism if the Yeltsin government would fail.³³ With the 9/11 attacks, the survival concern of Washington finally shifted away from Russia to the War on Terror and the Islamic World and, later, towards

²⁸ Ibid.

²⁹ Further measures to "buy in" Moscow were Russian accession to the G7 and the Asia-Pacific Economic Cooperation as well as U.S. promises to integrate Russia into the World Trade Organization and other global financial institutions. See Lippman, Thomas W. "Clinton, Yeltsin Agree on Arms Cuts and NATO." *Washington Post* March 22, 1997; cf. also Aggarwal, Vinod K. "Analysing NATO expansion: An institutional bargaining approach." *Contemporary Security Policy* 21, no. 2 (2000): 63–82.

³⁰ Shortly after the dissolution of the Soviet Union, Moscow started lobbying for an upgrade of the CSCE and the dissolution of NATO. Then-Foreign Minister of Russia, Kozyrev argued in an article from 1995: 'After all, it was the democratic principles of the 56-member CSCE that won the Cold War – not the NATO military machine.' Kozyrev, Andrei. "The Lagging Partnership." *Foreign Affairs* 73, no. 3 (1994): 59–71. As previously confidential material revealed, replacing NATO with the CSCE was never an option for Washington. In 1990, then- Secretary of State James Baker advised George H.W. Bush that the 'real risk to NATO is CSCE'. Quoted from Sarotte, Mary E. "Perpetuating U.S. Preeminence: The 1990 Deals to "Bribe the Soviets Out" and Move NATO In." International Security 35, no. 1 (2010): p. 112.

³¹ President of Russia. *Meeting of the Valdai International Discussion Club*. Moscow, 2014. Accessed January 4, 2015. http://eng.kremlin.ru/news/23137.

³² Cf. Bull 1961.

³³ Cf. Goldgeier, James M., and Michael McFaul. *Power and purpose: U.S. policy toward Russia after the Cold War.* Washington, D.C.: Brookings Institution Press, 2003: pp. 11 et seq.

a rising China. Russia dropped out of focus. Cooperation with Moscow was not a direct priority anymore. In turn, Moscow under Putin shifted its priority towards economic consolidation and strengthening its influence in the *Near Abroad*. This mutual diminished interest in cooperation led to the U.S. perception that issues of European security were basically non-problematic in nature and, later, to mutually non-compromising behavior when it came to issue-specific divergent interests, such as in the cases of CFE, the future of NATO, or the on-going conflict over Ukraine.

The fifth variable was the constant rejection of Russian core interests. Russian calls for renegotiating elements of the post-Cold War security architecture or the system as a whole have been apparent from the mid-1990s onwards.³⁴ They contributed to the adaptation of CFE, failed efforts to achieve a legal personality for the OSCE in the second half of the 1990s, and the establishment of the NRC in 2002. They increased within the OSCE during the 2000s and culminated in the two unsuccessful security treaty drafts by Dmitry Medvedev in 2008 and the ensuing so-called Corfu Process of the OSCE.³⁵ Russian calls for re-negotiation were, thus, partially successful. However, Moscow never achieved its (indirect) overriding goal of either subordinating NATO to a higher security institution or codifying an end to NATO enlargement. Washington and its allies continued to resist any such attempt. This fact only deepened Russian dissatisfaction.

Beyond realist power variables, aspects of morality contributed to institutional decay as well. Particularly with respect to the normative foundations of cooperative arms control in Europe, there is a precarious mix of divergent interpretations of norms, norm-challenging speech and behavior, and notions of injustice.

The first aspect stems from the inequitable distribution of gains from cooperation. Inequity can lead to dissatisfaction with cooperation.³⁶ As explained above, Moscow did not achieve its

³⁴ See footnote 17.

³⁵ See Kühn, Ulrich. "Medvedev's Proposals for a New European Security Order: A Starting Point or the End of the Story?" *Connections, The Quarterly Journal* 9, no. 2 (2010): 1–16.

³⁶ Cf. Hasenclever, Andreas, Peter Mayer, and Volker Rittberger. "Does Regime Robustness Require a Fair Distribution of the Gains from Cooperation?" In *Regime consequences: Methodological challenges and research*

preferred interest in the different processes of cooperation with the United States on the design of post-Cold War European security. Here, realism has little to offer, apart from insisting that the distribution of gains is always relative to the underlying relative distribution of power.³⁷ Nevertheless, this assumption does not change the fact that Russia feels it is being treated unfairly – an assessment which has led to increasingly negative ramifications. Identifying a pivotal moment of the start of Russian perceptions of inequity is extremely hard. In hindsight, the 1999 NATO air strikes against the Federal Republic of Yugoslavia seemed to have a crucial impact on Moscow.³⁸ Since then, Russian statements delivered to the OSCE have been full of complaints about double standards and the unevenly directed critique of the organization in relation to its so-called "third basket", which addresses human rights issues.³⁹ The continued calls by Russia for re-negotiation are indicative of the Russian perception of being treated unequally. The most prominent example of vocal dissatisfaction was the 2007 Munich Security Conference speech of Vladimir Putin.⁴⁰

The second aspect is the presence of institutional birth defects. According to institutionalists, intra-regime contradictions can significantly constrain successful institutionalized cooperation.⁴¹ Intra-regime contradictions are included in the 1975 Helsinki accords. The first Helsinki principle speaks of 'sovereign equality [and the] respect for the rights inherent in sovereignty'. This principle explicitly includes the right 'to be or not to be a party to bilateral or multilateral treaties including the right to be or not to be a party to treaties of alliance'. It follows directly after recognition in the preamble of the 'indivisibility of security in Europe'⁴². Over the years,

strategies. Edited by Arild Underdal and Oran R. Young, 183-216. Dordrecht: Kluwer Academic Publ, 2004: p. 184.

³⁷ Cf. Grieco 1988

³⁸ According to Freedman, 'this was a key moment in Russia's disenchantment with post-Cold War security arrangements, especially in the context of the wider restructuring of the European state system, which had already begun and led to many post-communist states joining NATO and then the EU. This was largely beneficial to those countries, in terms of governance and economics as well as security, but was viewed from Moscow with increasing misgivings.' Freedman, Lawrence. "Ukraine and the Art of Crisis Management." Survival 56, no. 3 (2014): p. 15. ³⁹ Cf. qualitative assessment of Russian statements to OSCE Ministerials and Summits from 1990 to 2014 contained in Kühn. Cooperative Arms Control in Europe (1973-2014): A Case of Regime Decay? (forthcoming): chapter 7. ⁴⁰ President of Russia. Speech at the 43rd Munich Conference on Security Policy. 2007. Accessed July 17, 2009. http://www.securityconference.de/konferenzen/rede.php?sprache=en&id=179.

⁴¹ Cf. Young, Oran R. International cooperation: Building regimes for natural resources and the environment. Cornell studies in political economy, Ithaca, NY: Cornell Univ. Press, 1989; p. 96; Müller, Harald, Die Chance der Kooperation: Regime in den internationalen Beziehungen. Darmstadt: Wiss. Buchges., 1993: pp. 50-1.

⁴² Conference on Security and Co-Operation in Europe Final Act, Helsinki 1975.

both stipulations have become key principles of the regime complex of cooperative arms control in Europe. The agreements of the regime of political-military cooperation under the auspices of NATO, in particular, have made the principle of the 'indivisibility of security' a central declaratory element of the new post-Cold War order.⁴³ These two principles are still at the declaratory heart of the regime complex of cooperative arms control in Europe. In relation to each other, they form a classic paragon of an internal contradiction as every party could basically find any sovereign decision of any other party to join any treaty or alliance to be an infringement on its security and hence as contrary to the indivisibility of security. Lawyers call such discrepancy a contradictio in adjecto. This example shows that the Helsinki accords were designed to allow for a declaratory understanding against the background of strongly divergent interests. Since the Helsinki accords are at the heart of the normative basis of the regime complex, they continue to have declaratory validity 40 years later. Their partially contradictory nature allows for diverse understandings and divergent interpretations of the normative base, serves as a reference frame for continued Russian calls for re-negotiation, and even allows justifying acts of non-compliance with reference to divergent interpretations of the normative basis⁴⁴.

The third aspect is divergence in norm interpretation. Divergent interpretations of norms can complicate institutionalized cooperation. Nevertheless, they are quite common in international cooperative efforts. They are not a problem as long as states are able to bring their divergent interpretations in line constructively. On cooperative arms control in Europe, they have led to justifications of divergent interests and acts of non-compliance, most visibly in the on-going Ukraine conflict. As an example, Russia's occupation of parts of Ukraine has been interpreted by most Ukrainian and Western politicians as destabilizing, not just for Ukraine, but also for the

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⁴³ The North Atlantic Cooperation Council Statement on Dialogue, Partnership and Cooperation (1991), the Founding Act on Mutual Relations, Cooperation and Security between NATO and the Russian Federation (1997), and the NATO-Russia Relations: A New Quality, Declaration by Heads of State and Government of NATO Member States and the Russian Federation (2002), establishing the NRC, all recall the principle of the 'indivisibility of security'.

⁴⁴ See President of Russia 2014.

⁴⁵ See for an example from the realm of nuclear non-proliferation Brzoska, Michael. "Is the Nuclear Non-Proliferation System a Regime? A Comment on Trevor McMorris Tate." *Journal of Peace Research* 29, no. 2 (1992): 215–220.

Russian-Ukrainian relationship as well as for NATO-Russian relations.⁴⁶ From the Russian perspective, it is the possible prospect of future NATO membership of Ukraine which is perceived as de-stabilizing.⁴⁷ In essence, the two do not share a common understanding of the Helsinki norm of 'strengthening stability' and interpret "stability" quite differently. Qualitative assessment of U. S. and Russian statements to the OSCE shows that a number of key norms have constantly been subject to divergent interpretations since the late 1990s.⁴⁸ This fact leads to the assumption that Moscow and Washington (almost) never really shared a common understanding of key principles and norms of the regime complex.

The fourth aspect is what critical constructivists have identified as a cooperation-disabling interplay between norm-challenging speech and norm-challenging behavior. ⁴⁹ Acts of norm-challenging speech have occurred increasingly on the Russian side from the late 1990s onwards in the forum of the OSCE. ⁵⁰ Norm-challenging speech, as such, is already a problem because it incorporates the notion that something is fundamentally wrong with a certain norm. Norm-challenging speech in conjunction with justice claims is a particularly salient type of norm contestation. ⁵¹ Russian notions of injustice and inequality are linked to NATO enlargement, the U.S. foreign and security policy which, Russia claims, employs double standards, and the role of the OSCE. ⁵² The consequences of the Russian notions of being treated unfairly have been increasing acts of norm-challenging speech, a (partial) retreat from the institutional structures of cooperative security, and the (partial) ignoring of the normative basis of the regime complex.

The repeated and increasing use of norm-challenging speech has actively prepared the way for norm-challenging behavior. Both the United States and Russia have acted as norm challengers at different times. In conjunction with NATO enlargement (in the Russian perception a U.S.

⁴⁶ See NATO-Ukraine Commission. *Joint Statement of the NATO-Ukraine Commission*. Brussels, 2014. Accessed September 5, 2014. https://www.gov.uk/government/publications/nato-summit-2014-joint-statement-of-the-nato-ukraine-commission.

⁴⁷ President of Russia. *Press Conference following Talks with President of Ukraine Viktor Yushchenko and the Second Meeting of the Russian-Ukrainian Intergovernmental Commission*. Moscow, 2008. Accessed September 5, 2014. http://archive.kremlin.ru/eng/speeches/2008/02/12/2018_type82914type82915_160088.shtml.

⁴⁸ See footnote 39.

⁴⁹ See Rosert, Elvira, and Sonja Schirmbeck. "Zur Erosion internationaler Normen: Folterverbot und nukleares Tabu in der Diskussion." *Zeitschrift für Internationale Beziehungen* 14, no. 2 (2007): 253–288. ⁵⁰ See footnote 39.

⁵¹ Cf. Müller, Harald. "Where It All Began." In *Norm dynamics in multilateral arms control: Interests, conflicts, and justice*. Edited by Harald Müller and Carmen Wunderlich, 1–19. Athens: University of Georgia Press, 2013: pp. 6-7. ⁵² See President of Russia 2007; President of Russia 2014.

violation of the principle of the 'indivisibility of security'), the 1999 Yugoslavia bombing⁵³, the Russian CFE "suspension", the Russian-Georgian war of 2008, and the annexation of Crimea, both states have challenged existing normative injunctions, which are inherent parts of the regime complex. Since these states are the two main actors in the institutionalized system of cooperative arms control in Europe and since both have repeatedly and increasingly challenged existing norms, their actions are all the more serious.

The decay of the institutions of cooperative arms control in Europe was not the reason for the current Ukraine conflict. However, it provided fertile ground for the crisis to spiral out of control. Without CFE and its successor (ACFE), no meaningful transparency mechanisms or limitations for the Russian military buildup at the Ukrainian border are available. The politically binding stipulations of the VD are not designed to address the current situation. Efforts to craft more intrusive transparency measures for the VD have failed in the past. Suspending the NRC at the working level has deprived NATO member states of an important forum for communication with Russia. The deadlocked OSCE still provides the only forum. However, due to its consensus design, the OSCE is dependent on the general political climate between the West and Russia. In addition, the neglect of the security dimension of that organization by the United States during the last 15 years has left the OSCE with few and mostly outdated policy instruments to address the conflict.

Taken together, unconstrained power, conflicting ambitions for power, and a long process of normative erosion has led to the decay of the regime complex of cooperative arms control in Europe. The two key players in European security affairs have contributed substantially to that process. Since the end of the 1990s, the United States and NATO have failed to achieve a coordination of power with respect to Russia. By disengaging from the power realm of arms control – most notably through non-ratification of ACFE⁵⁵ – and the continued policy of

⁵³ Freedman concludes, '[The Kosovo crisis] qualified the principle of non-interference in internal affairs, elevated the principle of self-determination and reduced the standing of the Security Council'. Freedman 2014: p. 15.

⁵⁴ NATO allies have described the updated Vienna Document of 2011 as 'clearly less ambitious than we expected.' OSCE. *Interpretative Statement on 'Decision on Issues Relevant to the Forum for Security Cooperation', Annex to the Vienna Document 2011.* Vienna: OSCE, 2011.

⁵⁵ Here, one also has to quote U.S. withdrawal from the Anti-Ballistic Missile Treaty in 2002. Even though the agreement is not an integral part of the regime complex of cooperative arms control in Europe, U.S. withdrawal had

expanding NATO's frontiers the West has contributed to the whole system of cooperative arms control in Europe getting out of balance. At the same time, Russian policy has increasingly lacked any co-ordination of morality, as can be seen in the manifold norm violations in conjunction with the Ukraine conflict but also in earlier instances. As long as neither is able to adjust their diverging positions on power and morality, misunderstandings and the *de facto* potential for hidden or open conflict will continue to thwart meaningful cooperation on European security.

The Ramifications for the Global Nuclear Order

The European security crisis in conjunction with the Ukraine conflict is not an isolated case. What is additionally worrisome is the fact that the conflict is about to create a negative domino effect at the level of multilateral nuclear arms control, disarmament, and non-proliferation governance. The first effects will become obvious at the 2015 Review Conference of the Treaty on the Non-Proliferation of Nuclear Weapons (NPT). They might increase over time and could seriously affect the global nuclear order. Four aspects of the Ukraine conflict are particularly worrisome for the international community.

The first aspect concerns international efforts to prevent additional states from acquiring a nuclear weapons capability. Since the beginning of the nuclear age, nuclear weapons have, at least to some extent, promised an enhanced survival guarantee for the possessors against conventional attack. This perception notwithstanding, there are other powerful arguments to go nuclear, such as prestige, international status, and the political leverage that comes with nuclear weapons possession.⁵⁷ However, the survival concern will always be central to any possible international negotiations aimed at convincing states not to acquire a nuclear weapons capability. Negative security assurances by the official nuclear weapons possessors have been a meaningful political instrument in that process. In the past, this was particularly the case in conjunction with

a decisively negative impact on security relations with Russia. Cf. Zadra, Roberto. "NATO, Russia and Missile Defence." *Survival* 56, no. 4 (2014): 51–61.

⁵⁶ Russian norm violations happened in conjunction with the "suspension" of CFE – an action inconsistent with the cooperative arms control in Europe norm of the 'implementation of arms control, disarmament, and CSBM obligations'. Norm violations occurred also in the Russian-Georgian war of 2008 and in conjunction with the most recent Russian non-compliance with the INF Treaty (see below).

⁵⁷ Cf. Ritchie, Nick. "Valuing and Devaluing Nuclear Weapons." *Contemporary Security Policy* 34, no. 1 (2013): 146–173.

the breakup of the Soviet Union. The Russian annexation of Crimea and the covert incursions into Eastern Ukraine are, thus, not only violations of international and, particularly, European legal norms, they are also a breach of the negative security assurances Russia, the United States and the United Kingdom gave to the new Ukrainian state in 1994. Under the so called Budapest Memorandum⁵⁸, Kyiv gave up its approximately 1,800 nuclear warheads and joined NPT and the START I agreements in exchange for official recognition of its sovereignty and territorial integrity.⁵⁹ The Machiavellian impudence with which Russia has broken these promises in March 2014 sets an extremely negative precedent for the further value of negative security assurances. States such as Iran or North Korea will have closely watched Moscow devaluing these political instruments. They might already have drawn their lessons from this.

The second aspect is the prospect of a prolonged stalemate in further nuclear reductions between the United States and Russia. Article VI of the NPT binds all officially recognized nuclear-weapon states to pursue negotiations in good faith, with the aim of the total elimination of nuclear weapons. Today, U.S.-Russian arsenals still account for over 90 percent of all nuclear weapons worldwide. This fact alone increases the mutual responsibility of Washington and Moscow to continue to lead global nuclear disarmament efforts. Both have done so since the end of the Cold War. The latest New START agreement sets equal ceilings of 1,550 nuclear warheads for each side. New START stipulates that these limits be reached by February 2018. The Ukraine crisis has not only dashed hopes that both could pursue a follow-on agreement with even lower ceilings, as put forward in a public proposal by Barack Obama in 2013 but recent

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⁵⁸ Memorandum on Security Assurances in Connection with Ukraine's Accession to the Treaty on the Non-Proliferation of Nuclear Weapons sign by Ukraine, the Russian Federation, the United Kingdom of Great Britain and Northern Ireland and the United States of America.

⁵⁹ Garnett, Sherman W. "Ukraine's Decision to Join the NPT." *Arms Control Today* (January/February 1995). Accessed February 4, 2015. http://armscontrolnow.org/2014/03/08/ukraine-russia-and-the-npt/.

⁶⁰ According to the Center for Arms Control and Nonproliferation, the United States had 7,506 and Russia had 8,484 nuclear weapons in their inventories (April 2014). "Fact Sheet: Global Nuclear Weapons Inventories in 2014." Accessed February 4, 2015.

http://armscontrolcenter.org/issues/nuclearweapons/articles/fact sheet global nuclear weapons inventories in 201 4/.

⁶¹ See the information provided by the U.S. Department of State. Accessed February 4, 2015. http://www.state.gov/t/avc/newstart/index.htm.

⁶² The White House. *Remarks by President Obama at the Brandenburg Gate*. Washington, D.C.: U.S. Government Printing Office, 2013. Accessed September 27, 2014. http://www.whitehouse.gov/the-press-office/2013/06/19/remarks-president-obama-brandenburg-gate-berlin-germany. In his speech, Obama proposed to

voices from Moscow seem to indicate that Russia might reconsider its stance towards the agreement if the current conflict continues.⁶³ The stalemate and even possible erosion of the U.S.-Russian nuclear disarmament dialogue might well throw the precarious NPT bargain out of balance.

This bargain is of a rather inequitable nature with five states (China, France, Russia, the United Kingdom, and the United States) allowed to possess nuclear weapons, while the others are not. In order to alleviate concerns over this obvious double standard and allow for universal ratification, non-nuclear-weapon States have pressed for inclusion of the disarmament clause. In 1995, NPT Parties to the Treaty agreed to an indefinite extension of the treaty in exchange for increased commitments by the nuclear possessors to pursue nuclear disarmament and to contribute to negotiations on a Middle East zone free of nuclear weapons as well as other weapons of mass destruction (WMD).⁶⁴ Twenty years later, neither the complete disarmament commitment nor a Middle East WMD-free zone has become reality. For obvious reasons, the Arab States, in particular, have been dissatisfied with the general state of the treaty for a long time already. If, in addition, the two largest nuclear weapons possessors freeze their disarmament commitments, the NPT bargain and the treaty as a whole might erode more quickly than anticipated. A possible U.S.-Russian stalemate in disarmament efforts would serve as a good smokescreen for Arab states to voice their continued dissatisfaction and to seek – under worst circumstances – exit to the NPT.

The third factor is closely related to the NPT disarmament clause. Without a balanced and operational NPT in place, efforts to prevent the spread of nuclear weapons and nuclear materials might seriously suffer as well. What pertains to the level of state-led efforts to acquire a nuclear weapons capability (as in the case of Iran) applies as well to criminal trans-national networks and

response from Moscow.

reduce "deployed strategic nuclear weapons by up to one-third" with Russia. The initiative did not receive a positive

⁶³ On January 14, 2015, the Head of the Foreign Ministry's Security and Disarmament Department, Mikhail Ulyanov said in an interview with the RIA Novosti news agency that 'so far we have not taken any particular steps in this direction, but I cannot exclude that in the future Washington would force us into taking them, into making corrections to our policies regarding this direction.' 'This would only be natural, considering the unfriendly character of the US actions.'

⁶⁴ 1995 Review and Extension Conference of the Parties to the Treaty on the Non-Proliferation of Nuclear Weapons Final Document NPT/CONF.1995/32 (Part I).

terrorist groups struggling to obtain weapons-grade nuclear material. The latest decision by Moscow in 2014, obviously influenced by the Ukraine crisis, to end the last remains of nuclear security cooperation with the United States⁶⁵ is a serious setback for efforts to halt nuclear proliferation. Prior to the decision, Moscow had already refused to extend the 20-years old Cooperative Threat Reduction Program (CTR) in 2012. Under the program, initiated at the end of the Cold War, surplus Russian nuclear bombers, missiles, submarines and warheads were dismantled, fissile material safeguarded and sensitive sites upgraded with the newest security technology. In the midst of the chaotic breakup of the USSR this U.S.-sponsored initiative was key to preventing the uncontrolled spread of nuclear materials and knowledge. The end of CTR and the latest decision to cut off nuclear security cooperation with the United States signal the departure of Russia from multi-national efforts to secure nuclear materials and a return to the imperative of national safeguarding policies. Other states could follow this example, which would essentially mean that the successful U.S. policy of collecting nuclear weapon-grade materials under the framework of the Nuclear Security Summits might come to an end as well.

The fourth factor is the risk of a revival of nuclear power politics in the U.S.-Russian relationship. The on-going crisis surrounding the Intermediate-Range Nuclear Forces (INF) Treaty has the potential to lead to such a dangerous scenario. The treaty bans the United States and Russia from possessing, producing, and flight-testing intermediate- and shorter-range missile systems with maximum ranges between 500 and 5,500 kilometers. Recent allegations by the U.S. State Department imply that Moscow is in non-compliance with the treaty, having test-launched a "ground-launched cruise missile (GLCM)." Russia has countered the allegations with its own compliance concerns. So far, neither side has found the appropriate forum or a

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⁶⁵ Prior to the expiration of the Nunn-Lugar umbrella agreement in 2013, Washington and Moscow agreed to continue cooperation on nuclear security under the 2003 Framework Agreement on a Multilateral Nuclear Environmental Programme in the Russian Federation (MNEPR), and a related protocol. Russia cancelled these agreements in late 2014.

⁶⁶ Cf. Woolf, Amy F. Russian Compliance with the Intermediate Range Nuclear Forces (INF) Treaty: Background and Issues for Congress. Washington DC: Congressional Research Service, 2014.

 ⁶⁷ U.S. Department of State. Adherence to and Compliance with Arms Control, Non-Proliferation, and Disarmament Agreements and Commitments. Washington DC: Bureau of Arms Control, Verification and Compliance, 2014: p. 8.
⁶⁸ The Ministry of Foreign Affairs of the Russian Federation. Comments on the report of the U.S. Department of State on Adherence to and Compliance with Arms Control, Nonproliferation, and Disarmament Agreements and Commitments. MID: Moscow, 2014. Accessed January 30, 2015.

workable formula to address their mutual compliance concerns. In a recent Congressional hearing, Brian McKeon of the Department of Defense pondered the idea of "countervailing strike capabilities to enhance U.S. or allied forces." Deploying U.S. GLCMs "would obviously be one option to explore" in response to Russia's actions, he added. In its very essence and under the worst circumstances, such deliberations might amount to a renewed missile deployment debate in Central Europe, with all the possible historical analogies to the NATO Dual Track decision of the early 1980s. A possible renewed nuclear arms race on the European continent would undoubtedly have negative ripple effects for the global nuclear order. It is very questionable whether the official nuclear-weapon states under the NPT still have the same political power to hold the global system of nuclear non-proliferation and arms control together as they did during the time of the Cold War. Particularly China with its long border with Russia would have to find a suitable response to a possible Russian arms buildup in the realm of INF systems.

In summary, the Ukraine conflict with all its intended and unintended consequences has the negative potential to seriously weaken and undermine the global nuclear order. The conflict comes at a time when further instruments of the global nuclear order are experiencing an almost constant state of deadlock. This pertains to the question of ratification of the Comprehensive Nuclear-Test-Ban Treaty, the unsuccessful efforts to craft a Fissile Material Cut-Off Treaty, or the equally unsuccessful attempts to agree on a conference with the aim of establishing a Weapons of Mass Destruction-Free Zone in the Middle East. This state of negative inertia, coupled with tectonic shifts in the international distribution of economic, military and political power and continued additional international crises, provides fertile ground to make any future effort to re-engage on these critical issues extremely difficult and time-consuming.

Re-Gaining Order

The Ukraine conflict is a formidable example of the interdependence of regional and global decision-making and institutions. It is also an example of their inherent brittleness. In order to strengthen existing institutions and to re-gain order, decision-makers should first internalize a number of crucial lessons learnt from the current conflict and its related root causes.

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⁶⁹ Quoted from Reif, Kingston. "U.S. Explores INF Responses." *Arms Control Today* (January/February 2015). Accessed February 4, 2015. http://www.armscontrol.org/print/6768.

At the regional level, the decay of the regime complex of cooperative arms control in Europe shows that even highly sophisticated institutional arrangements can go into reverse and disintegrate. The decay of certain nodes of such a network – take the CFE Treaty, for instance – should be a warning signal and should be treated more cautiously. The negative ripple effects of elemental regime decay can, under the worst circumstances, reverberate throughout the whole system, causing it to shatter into numerous pieces.⁷⁰

As the current example of the degeneration of the European security architecture shows, unconstrained power, divergent interpretations of norms, non-compliance and norm-challenging speech and behavior are sequential stages which can unleash powerful destructive forces. Whether the two main actors of Euro-Atlantic security, the United States and Russia, will be able to return to a stable, balanced and long-term policy mix of power and morality is not predictable. Both elemental concepts of European security – the Realist power element of arms control and the more normative element of cooperative security – have seriously suffered from short-sighted decisions in the past and tactical behavior in the present conflict.

To assume that either continued sanctions against Russia or continued Russian belligerence in Ukraine will solve the problem is a failed cost-benefit calculation. Under both assumptions it will be to the detriment of the Ukrainian people. Today, more than ever, Europe needs a real restart in the security realm. The upcoming 2016 OSCE Chairmanship of Germany – the only powerful European country with an equal interest in good relations with Washington and Moscow and, at the same time, the uncontested leader of the European Union⁷¹ – provides a possible window of opportunity to re-engage on the difficult issues of clarifying the normative European acquis, devising stabilizing measures in the realm of CSBMs and arms control, and achieving a stable, realistic and prosperous solution for the non-aligned states in the common NATO-Russia neighborhood.

⁷⁰ See the related findings by Alter, Karen J., and Sophie Meunier. "The Politics of International Regime Complexity." *Perspectives on Politics* 7, no. 1 (2009): 12–24 and by McGinnis, Michael D. "Issue Linkage and the Evolution of International Cooperation." *The Journal of Conflict Resolution* 30, no. 1 (1986): 141–170.

⁷¹ Cf. Bagger, Thomas. "The German Moment in a Fragile World." *The Washington Quarterly* 37, no. 4 (2015): 25–35

At the global level, the Ukraine conflict underscores how strongly the global nuclear order is still affected and shaped by the general state of U.S.-Russian relations and therewith, how closely it is connected to critical questions of European security. Barack Obama is basically right to portray Russia as a 'regional power', when it comes to cultural appeal or economic power. Nevertheless, in the nuclear realm, Moscow still has all the destructive potential of a superpower. And this assessment pertains not only to scenarios of nuclear holocaust, but also to the multilateral realm of institutionalized nuclear arms control, disarmament and non-proliferation. Without Russian acquiescence, efforts to hold the precarious global nuclear order together are extremely difficult to imagine.

The current and future U.S. administrations would, therefore, be well advised not to let go of the remaining institutions of stability. Preserving New START and the INF Treaty is in the national interest of America. It is even more so in the interest of the international community, which still depends on a functioning and reliable U.S.-Russian relationship.

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⁷² Quoted from Shear, Michael D. and Peter Baker. "Obama Answers Critics, Dismissing Russia as a 'Regional Power." The New York Times on-line. Accessed January 14, 2015.

 $[\]underline{\text{http://www.nytimes.com/2014/03/26/world/europe/hague-summit-focuses-on-preventing-trafficking-of-nuclear-materials.html.}$