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Practical confidence-building measures in the field of conventional arms

Working paper submitted by Greece on behalf of the European Union*

Introduction

1. The primary goal of confidence-building measures is to reduce the risk of armed conflict by building trust and reducing misperceptions and miscalculations in international relations, thereby contributing to international peace and security. The European Union (EU) believes that transparency, cooperation and predictability are key elements in all confidence-building measures. While the topic under consideration in Working Group II is limited to practical confidence-building measures within the field of conventional weapons, the European Union acknowledges the equal importance of a broad range of other measures which can contribute to conditions favourable to peace and security. In the face of new threats to international peace and security, including from terrorists, confidence-building measures should be enhanced and diversified. The States members of the European Union are actively engaged in the building of confidence and security within the Organization for Security and Cooperation in Europe (OSCE) and the United Nations.

Organization for Security and Cooperation in Europe

2. The work conducted within the framework of the Conference for Security and Cooperation in Europe, later the Organization for Security and Cooperation in Europe, has contributed significantly to the building of security and stability on the

* The countries acceding to the European Union — Cyprus, Czech Republic, Estonia, Hungary, Latvia, Lithuania, Malta, Poland, Slovakia, Slovenia — and the countries associated with the European Union — Bulgaria, Romania and Turkey — as well as Iceland, as a European Free Trade Association country, member of the European Economic Area, align themselves with this working paper of the European Union.
European continent, as well as from Vancouver to Vladivostok. More than a quarter of a century ago, in 1975, the Helsinki Final Act was signed, which in itself was an important confidence-building measure. Over time, new documents and new tools and instruments have been developed in order to meet new challenges and threats. Today, a primary task of OSCE is conflict prevention, inter alia, through giving support to the process of democratization in member States. OSCE has also enhanced its conflict management structures with regard to Eastern Europe and Central Asia.

3. The “first generation” of confidence-building measures from Helsinki has been reviewed and improved several times. The notion of confidence- and security-building measures was introduced at the Stockholm Conference in 1984-1986. The adoption in the early 1990s of the Treaty on Conventional Armed Forces in Europe, the Vienna Document 1992, and the Open Skies Treaty, which entered into force in 2002, constituted a big step in OSCE work in this area. The Conventional Armed Forces in Europe (CFE) Treaty and the Vienna Document have subsequently been improved, the most recent version adopted in Istanbul in 1999.

4. In addition to those documents, an important achievement of OSCE is the Code of Conduct on Politico-Military Aspects of Security, adopted in Budapest in 1994. The Code breaks new ground by formulating norms, particularly regarding the role of armed forces in democratic societies. The Code is the most important example of a new category outside the more traditional confidence- and security-building measures, sometimes referred to as norms and standard-setting measures. In November 2000, OSCE adopted the Document on Small Arms and Light Weapons, which includes important norms on transparency measures. A further significant development is the agreed and approved coordination between OSCE and EU on the “war against terrorism”. Following the events of 11 September 2001, OSCE has intensified its efforts to enhance the cooperation between member States to combat terrorism and adopted a Charter on Preventing and Combating Terrorism in December 2002.

5. The system of confidence- and security-building measures in OSCE now constitutes a stable and effective foundation for a culture of cooperation, transparency and predictability as regards military-political matters for the 55 States Members of the organization.

United Nations

6. On a global level, the European Union is committed to the work carried out within the United Nations system. All States members of the European Union contribute to the United Nations Register of Conventional Arms. The European Union advocates the widest possible participation in the Register and is also committed to improving its effectiveness.

7. The EU is actively engaged in the implementation of the Programme of Action which resulted from the 2001 United Nations Conference on the Illicit Trade in Small Arms and Light Weapons in All Its Aspects.

8. The European Union is also engaged in important confidence-building work, which is conducted within the framework of the 1980 Convention on Prohibitions or Restrictions on the Use of Certain Conventional Weapons Which May Be Deemed to Be Excessively Injurious or to Have Indiscriminate Effects (CCW). Provisions
requesting reports and annual meetings of States parties to Revised Protocol II of the Convention constitute a framework for information-sharing.

**European Union**

9. The European Union has several arrangements dealing with confidence-building measures in the field of conventional arms. The EU Programme for Preventing and Combating Illicit Trafficking in Conventional Arms, adopted in 1997, is one of them. It calls upon EU member States to strengthen their efforts against the illicit trafficking in arms, particularly small arms, on and through their territories. Its aim is to promote cooperation and coordination between law enforcement agencies and improve information exchange on illicit trafficking in arms. Another important example is the EU Code of Conduct on Arms Exports, adopted in 1998. The Code contains common criteria for arms exports and also certain practical elements where the focus is on exchange of information between member States and a consultation mechanism.

**Comments on the Chairman’s working paper**

**Structure**

10. The European Union thinks that the inclusion of regional and national experiences, including information on various confidence-building measures, their main characteristics, frequency, etc., in a separate annex is a very useful addition to the Chairperson’s non-paper.

**Chapter I**

**Introduction**

11. The EU agrees with the general context of paragraph 7 and believes that the elements included therein underline the interaction between the development of confidence-building measures and the international security environment.

**Chapter II**

**Scope**

12. The European Union proposes slightly revised versions of paragraphs 8 and 9, which would not change the message but put it forward in a more direct form, as follows:

*Paragraph 8*

“Confidence-building measures should not be regarded as a substitute or a precondition for disarmament measures, nor should they divert attention from them. On the other hand, they have considerable potential for creating favourable conditions for progress in the disarmament field.”

*Paragraph 9*

“Confidence-building measures can take various forms. Some confidence-building measures are intended by the parties to create legally

1 A/CN.10/2003/WG.II/WP.1.
binding obligations and to this extent they are considered to have the character of international treaty law as between those parties. In other cases, confidence-building measures may be agreed as politically binding commitments. Politically binding confidence-building measures may also evolve into obligations under international law.”

13. The European Union agrees with the general thrust of paragraph II and the different elements included therein and maintains that good governance, transparency and accountability facilitate the confidence-building process.

14. Paragraph II could be further improved by adding the word “cooperation” in the second part of the first sentence. The sentence would then read:

“The confidence-building process would be facilitated by good governance and the rule of law, particularly arms transparency, and by openness and cooperation in military matters.”

15. Paragraphs 12, 13 and 14 should be moved to chapter III.

Chapter III
Principles

16. First, as a general observation, the European Union proposes that chapter III be renamed “Principles and characteristics”, as some of the elements are of a more descriptive nature. The European Union considers it important to describe the characteristics of various confidence-building measures, and therefore it would like to see certain elements from chapters II and IV placed in chapter III.

17. The European Union wishes this paragraph to clearly reflect that all principles and purposes of the Charter of the United Nations should be fully respected without any selective quoting. The following amendment is proposed:

“Practical confidence-building measures in the field of conventional arms should fully respect the purposes and principles of the Charter of the United Nations. In particular, and as a prerequisite for enhancing confidence among States, all principles enshrined in the Charter must be strictly observed ...”

18. Regarding paragraph 16, the European Union suggests developing it to two separate paragraphs (16 and 17) in order to further state that confidence-building measures cannot be imposed on countries, as follows:

Paragraph 16

“Confidence-building measures, by their nature, cannot be imposed, and therefore must be developed and implemented on a voluntary basis. Confidence-building measures can be developed at different levels: unilateral, bilateral, subregional, regional and multilateral. Reciprocity can be an important aspect of confidence-building measures.”

Paragraph 17

“Confidence-building measures should be developed at a pace with which those States participating in the process are comfortable.
Implementation of confidence-building measures should be carried out according to the terms agreed among the parties to them and in good faith.”

**Chapter IV**

19. The European Union also proposes that paragraph 19 be moved to chapter III and amended as follows:

“The building of confidence is a dynamic process, and a gradual step-by-step approach will often prove more productive. While the implementation of far-reaching arrangements at an early stage may be possible in specific situations, it is more generally the case that experience and trust gained through the implementation of more narrowly focused, voluntary and less sensitive measures can facilitate agreement on further and more far-reaching measures in the longer term.”

20. The European Union is content for the non-paper to include a broad range of examples of confidence-building measures in this chapter, although it is understood that the list cannot be exhaustive.

21. With regard to the introductory paragraphs and as mentioned above, the European Union believes the introduction can be made clearer if it is confined to paragraph 21, which should be the starting paragraph.

22. Paragraph 20 should be deleted. The content of the deleted paragraph would then be included in the suggested amended version of existing paragraph 16 in chapter III, as described above, which clearly spells out the voluntary nature of confidence-building measures.

23. To further develop this chapter, the European Union suggests including a reference to politico-military aspects of security and proposes the following new subsection to be inserted under chapter IV (b):

“Politico-military aspects of security”

below which the following examples could be listed:

- Effective control over armed forces by constitutionally established authorities vested with democratic legitimacy
- Legislative approval of military expenditures
- Instruction of armed forces personnel in international humanitarian law and rules governing armed conflict
- Transparency and public access to information related to the armed forces

**Chapter V**

**The way ahead**

**Paragraph 1**

24. The EU believes that in chapter V various general elements should be included, which would reflect positive proposals for the future of disarmament, a reference to the role of the United Nations, as well as proposals at the national, regional and subregional levels. In this context, the EU proposes that the structure of
chapter V should include three subsections that would reflect each of those ideas. Those subsections should be:

(a) **General**

25. The European Union would like chapter V to include a recommendation encouraging States to continue building trust and reducing misperceptions and miscalculations in international relations, thereby contributing to international peace and security.

26. The examples of practical confidence-building measures provided in chapter IV (developed to include a new subsection, “Politico-military aspects of security” as proposed by the European Union) would, together with the additional **annex**, which contains experiences from different regions, constitute a broad range of measures that can serve as inspiration and possible guidance for countries and regions.

27. The European Union would recommend that all States, in their efforts to enhance the security situation of their respective regions, as well as their own security situation, should consider the possibility of applying confidence-building measures that have proved to be effective in other regions, taking into consideration the specificities of their own security situation.

28. The European Union considers transparency to be a key element in all confidence-building measures. To further develop transparency between nations, the resumption of work in the Conference of Disarmament on the agenda item “Transparency in armaments” would be instrumental.

29. Countries or regions that already have confidence-building measures in place should consider further consolidating them and, if applicable, should be encouraged to gradually change non-binding regimes into binding instruments. While it is recognized that confidence-building measures may start as voluntary actions, they may subsequently be transformed into politically binding documents or further developed into international legally binding agreements. This development can take place on a bilateral, subregional, regional or global basis.

30. Countries and regions that do not have confidence-building measures, in particular all States in whose regions military tensions exist or armed conflicts occur, should be especially encouraged to consider taking action with regard to such measures.

31. The recommendations should include a call for improved dialogue on all levels, including between regions, in an effort to learn from and be inspired by experience gained.

32. States should be encouraged to involve civil society and non-governmental organizations when considering possible new confidence-building measures as well as, when applicable, implementing such measures.

(b) **At the national, regional and subregional levels**

33. Regions should be encouraged to share information with other regions on their experience of various confidence-building measures through joint seminars and other activities.
34. Countries and regions should be encouraged to support various United Nations efforts to facilitate the broadest possible exchange of information.

(c) **Role of the United Nations**

35. The European Union proposes that paragraph 22 be further developed as follows:

“The primary purpose of the United Nations is to maintain international peace and security. To this end the United Nations provides a forum for Member States to engage in dialogue and cooperation in conflict prevention and resolution. It also undertakes a broad range of further measures which can contribute to conditions favourable to peace and security and to developing confidence-building measures. The United Nations also constitutes the only universal forum where all Member States contribute to the process of disarmament.”

36. The role of the United Nations should be enhanced with regard to arranging seminars and other events related to confidence-building measures. To this end, the United Nations could draw on the work of the United Nations Institute for Disarmament Research and the United Nations regional centres for peace and disarmament.

Regionally

37. The United Nations regional centres for peace and disarmament should be encouraged to facilitate work within their respective regions on confidence-building measures. They should also help with the compiling and submission of data from their respective regions, to be gathered on a global level, which would improve dialogue with other regions on confidence-building measures.

Globally

38. In the global context, the United Nations should be encouraged to explore ways to improve the collection and dissemination of information on confidence-building measures in order to avoid duplication and improve effectiveness.

39. Given the character of the confidence-building measures as valuable tools in pre-conflict and post-conflict situations, the United Nations should facilitate their voluntary adoption by concerned countries in all cases of conflict prevention and resolution as well as in post-conflict stabilization and rehabilitation.

40. The recommendations should include a call on States to actively improve the effectiveness of the United Nations Register of Conventional Arms, as well as the United Nations standardized system of reporting on military expenditures, so as to gain universal participation in these two instruments.