



The Diplomacy of Détente: The CSCE from Helsinki to Vienna 1973–1989

Volume I

Victor-Yves Ghebali



Schweizerische Eidgenossenschaft
Confédération suisse
Confederazione Svizzera
Confederaziun svizra

Swiss Confederation

Federal Department of Defence,
Civil Protection and Sport DDPS



**The Diplomacy of Détente:
The CSCE from Helsinki to Vienna
1973–1989**

First published in French by Etablissement Bruylant, Brussels 1989
Original title: La Diplomatie de la détente: La CSCE, d'Helsinki à Vienne (1973-1989)

© VBS/DDPS

Distribution

BBL, Verkauf Bundespublikationen, CH-3003 Bern
www.bundespublikationen.admin.ch, Art.-Nr. 81.085.ENG

ISBN 978-3-906969-93-0

Premedia

Zentrum elektronische Medien ZEM
81.085 e 09.2021 700

Published by The Library am Guisanplatz BiG
www.big.admin.ch

Printed in Switzerland

Timelines and reference validation: Alice Němcová

**The Diplomacy of
Détente:
The CSCE from
Helsinki to Vienna
1973–1989**

Volume I

Victor-Yves Ghebali

To Nicole, with the utmost affection

“The nations are as foreign to each other as people of different characters, ages, beliefs, customs and needs. They watch each other anxiously and curiously; smile, sulk, admire and imitate some detail but despise the whole; are gnawed with envy or inflated with disdain. However sincere sometimes their desire to understand and draw together, their relations always become clouded and are broken off at a certain stage. There are certain limits of intercourse, both in depth and duration, beyond which they cannot go.”

Paul Valéry

Reflections on the world today

(London: Thames and Hudson, 1951, translated by Francis Scarfe)

Preamble by Thomas Greminger
Secretary General of the OSCE [2019]

“The Legacy Project” by Col. Thomas Schmidt
Counsellor, Politico-military Advisor at the Permanent Mission of Switzerland to the OSCE [2019]

Acknowledgments by Anne-Marie Ghebali [2018]

Introductory Remarks by Benoît d’Aboville
Deputy Undersecretary for Political Affairs (French Ministry of Foreign Affairs) [1989]

Foreword by H el ene Carr ere d’Encausse
Professor at the Sorbonne and Paris Institute of Political Studies [1989]

Preface by Jean Klein
Head of Research at the French National Centre for Scientific Research (CNRS) [1989]

Introduction by Professor Victor-Yves Ghebali [1989]

Preface of the OSCE Secretary General

“History doesn’t repeat itself but it often rhymes.” This aphorism by Mark Twain is a fitting introduction to this impressive set of reference publications by Professor Victor-Yves Ghebali on the history and evolution of the CSCE and the OSCE. His comprehensive, three-volume history begins in 1973, when an assembly of brave diplomats from both sides of the Iron Curtain had the vision and the courage to create an inclusive multilateral forum where they could engage in dialogue and negotiations on security and co-operation in Europe. Professor Ghebali chronicles the maturing of the CSCE in the détente period of the Cold War, and then the transition towards an organization entrusted with many new responsibilities in the post-communist world, which was soon confronted with an array of new realities following a period of hope after the end of the Cold War.

I am delighted that this extraordinary “ouvrage” of Professor Ghebali, whom I got to know personally while attending a diplomatic training course at the Graduate Institute of International Studies in Geneva many years ago, is now available in English. I am confident that these volumes will contribute to the understanding of the historic context and underlying political foundations of the OSCE, its evolution and achievements. They also reveal failures and windows of opportunities for the Organization’s engagement and work over time. In this sense, these publications not only serve as a reference for academics and students alike, but also as an anthology of the OSCE’s accomplishments and track record for use by politicians, diplomats and practitioners.

I would like to thank the Swiss Government for generously supporting the translation of the trilogy from the original French into English.

I would also like to extend my sincere gratitude to all those who have contributed to the translation, including the copy-editors, project manager and project coordinator. The excellent co-operation between the OSCE Conflict Prevention Centre and the OSCE Documentation Centre in Prague also deserves to be highlighted.

Furthermore, the electronic version of this trilogy will enable global dissemination, and I hope that this will heighten the visibility of the OSCE beyond the expected target audience.

With this eminent work, now available in both French and English, the OSCE’s acquis, its history and its work are preserved for future generations, who can draw on its experience to promote peace and security in Europe and beyond.

Thomas Greminger
Secretary General of the OSCE
Vienna, July 2019

“The OSCE Legacy Project”

Despite its uniqueness and comprehensiveness in terms of its geographical expanse or its thematic approach, the OSCE does not seem to be very well known or acknowledged for what it stands for among the public. This involuntary public image has had a deleterious effect on the relevance academicians and scholars see in the OSCE: specific and analytic literature on the OSCE remains rare and articles about the OSCE’s current agenda are published rather seldom.

Among the leading-edge experts who covered OSCE matters over a span of time, one name stands out, that of the late Prof. Dr. Victor-Yves Ghebali, excellent lecturer of political science at the Graduate Institute of International and Development Studies in Geneva, Switzerland, and director of the former OSCE Cluster of Competence. His research interests included the League of Nations, the United Nations and its specialized agencies, East-West relations, the Mediterranean region, national minorities and multilateral negotiations.

Professor Ghebali was the first and so far remains the only expert in this field to have authored a comprehensive collection of writings on the history, the development, as well as the aims and achievements of the OSCE, in the following three volumes: “*The Diplomacy of Détente: The CSCE from Helsinki to Vienna 1973–1989* (volume I); “*The OSCE in a Post-Communist Europe: Towards a Pan-European Security Identity 1990–1996*”(volume II) and “*The Role of the OSCE in Eurasia: From the Lisbon Summit to the Maastricht Ministerial Council 1996–2003*” (volume III).¹

This trilogy is not only one of a kind; it is also an excellent academic reference textbook on the OSCE. This work was originally written in French and no English version had ever been published. Consequently, this remarkable piece of work has not been widely disseminated or acknowledged within the OSCE community.

It was not until the aftermath of the Swiss OSCE Chairmanship in 2014 that the International Relations Division of the Swiss Armed Forces launched the so-called “OSCE Legacy Project” in view of the OSCE’s 40th anniversary celebration in 2015. The aim of this project was to make the three volumes available in English to an international public and thereby to “provide the OSCE with its own history”. The initiative was intended as a *post-mortem* tribute to the dedication and commitment of Prof. Victor-Yves Ghebali, who devoted a large part of his professional life to the OSCE and to Eurasian and Euro-Atlantic security in general.

1 The original titles of these three volumes are respectively: “*La diplomatie de la détente: La CSCE, 1973–1979*” (vol. I); “*L’OSCE dans l’Europe post-communiste, 1990–1996*” (vol. II) and “*Le rôle de l’OSCE en Eurasie, du sommet de Lisbonne au Conseil ministériel de Maastricht 1996–2003*” (vol. III).

The Swiss Armed Forces have a long tradition of engaging in academic and specialized publications related to security- and military policy, as has been the case, for example, with the Geneva Centre for Security Policy (GCSP), the Centre for Security Sector Governance (DCAF) or the Center for Security Studies (CSS). The Swiss Armed Forces have not only been providing information from national and international specialists to the Federal Administration for decades, but they have also been catering to the needs of the scientific community and responding to the interests of the public at large.

Switzerland thus undertook to publish and disseminate Prof. Ghebali's work in order to enhance the promotion of the OSCE by making knowledge about this co-operative security organization widely available. At the same time, it is providing the academic community with a valuable reference tool, which can serve as a reliable basis for further research. To this end, the project's editorial board recommended that the hard copies, as well as downloadable E-publications, be disseminated to the public free of charge, as a courtesy of the Swiss Confederation.

In sum, this publication is intended to be a meaningful source of reference on the OSCE as well as a source of inspiration, providing the opportunity of reading about the OSCE's achievements in the past and examining them in the light of the challenges that the near future may bring.

As the responsible head of the project and in the name of the team that completed this task, I have the privilege to deliver this contribution my country decided to offer to our OSCE community. Switzerland may be small and neutral, but it remains an active and hopefully innovative OSCE participating State, which aims at strengthening the co-operative and inclusive approach to security in the Eurasian and Euro-Atlantic region.

Colonel Thomas W. G. Schmidt

Counsellor, Politico-military Adviser

Permanent Mission of Switzerland to the OSCE

Vienna, July 2019

Acknowledgements

The enormous and extraordinary task, undertaken by an outstanding team of professional translators and copy editors, of translating what is most certainly the *opus magnum* of my departed husband, the professor Victor-Yveres Ghebali, is now complete.

Thanks to the unfailing engagement and support of the Swiss Federal Department of Defence, Civil Protection and Sport (DDPS), International Defence Relations, to whom I wish to express my sincere gratitude, a much larger and diverse public audience now has access to the product of more than thirty years of observation, research, analysis and synthesis, widely acclaimed by political scientists and diplomats.

Not only am I grateful, I am also proud to see the compiled works of Victor-Yves Ghebali more widely disseminated, so that the complex mechanisms at play in international relations – especially as seen through the prism of multilateral negotiations, which my husband considered the keystone of world peace – might be better understood.

The logistics that had to be put into place to produce the three works henceforth available to English-language readers required considerable resources. Like in a symphony orchestra, each member of the team played his or her role perfectly. From my vantage point as a spectator, I can only stand up and applaud.

My appreciation is immense, particularly as concerns the efforts of Ms. Alice Němcová, the official co-ordinator of this huge project and, in my eyes, conductor of the orchestra. She alone knows the extent to which her task was an enormous challenge, which she was determined unswervingly to meet. She alone, thanks to the finesse of her linguistic skills, was in a position to so ably organize and coordinate the team of translators. And she alone, thanks to the quality of the exchange that she maintained with my husband for almost 20 years, could transpose into the English language the intellectual and literary spirit that never ceased to animate my husband's mind.

May all those who immerse themselves into one of these three books, or into what now constitutes a whole trilogy, be enabled through the analysis of what has occurred in the quite recent past to create their own conceptual tools, capable of bringing about a “new détente”.

Anne-Marie Ghebali

Geneva, October 2018

Introductory Remarks

Fourteen years after the Helsinki Final Act was signed, the CSCE process is often still criticized or even disputed. Most of the time, its significance is confined to human affairs and humanitarian contacts. Although these issues are clearly important, they should not detract from the other aspects covered by the CSCE.

Professor Ghebali is the first scholar to examine all the different negotiations involving the 35 participating States over the course of the CSCE's history. His book offers an invaluable insight into how the process unfolded and explains the continuing importance of a "balance" between the different baskets.

The CSCE process was both one of the manifestations and one of the instruments of the *détente* of the 1970s. Paradoxically, it was at the Madrid Follow-up Meeting (11 November 1980 to 9 September 1983) – a low point for East-West relations – that its political significance in Europe became apparent. As a forum for denouncing what needed to be denounced, while maintaining a modicum of trust between the 35 participating States, the CSCE demonstrated that the relations between the countries of Western Europe and those of the "other" Europe were more than a simple by-product of dealings between Washington and Moscow.

Professor Ghebali's contribution also highlights the new element that the development of security aspects introduced into the process. However, this was problematic for the Western countries. In 1972, Martin Hillenbrand, US Assistant Secretary of State for European Affairs, told Congress that the CSCE could not tackle the key issues of European security directly. As for the Soviet Union, its preference for an alliance-to-alliance approach was well known. In Madrid, Stockholm and now Vienna, the role of the 35 participating States in the debate on Europe's security is still under discussion. This has direct implications for the notion of balance and thus the very future of the CSCE process.

Lastly, because it provides a detailed analysis of the negotiations, Professor Ghebali's book offers a more balanced view of the achievements of the past 13 years. It gives the lie to Sartre's belief that "once you hear the details of victory, it is hard to distinguish it from a defeat".

This book is a fitting response to those who, tired of the necessary complexity and essential minutiae of negotiations between the 35 participating States, tend to see the CSCE process as a diplomatic exercise whose sole purpose is to perpetuate itself. This type of misapprehension is not new.

The German writer Samuel von Pufendorf, a contemporary of Leibniz, once wryly said of the Diet of Regensburg that “some curious and inquisitive men must needs know to what purpose so many men were called together from all parts of *Germany*, and sat so many years; what good came of all the Sack they drank in the Forenoon, and the *Rhenish and Burgundy* Wine they drank after Dinner. To answer this, they put them [the legates] upon an inextricable business, that they might at their return be able, if need were, to swear they had not been wholly idle”.

By illustrating all of its achievements, Professor Ghebali has done a great service to the CSCE.

Benoît d’Aboville

Deputy Undersecretary for Political Affairs

French Ministry of Foreign Affairs

Paris

Foreword

Did the CSCE process radically transform the distrustful, Manichaeic East-West relations that emerged after the Second World War between the different political systems, which in turn were a product of the Russian Revolution of 1917? Was the CSCE the reason why the *détente* – the product of a short lived rapprochement and aspirations of leaders of the two superpowers (chief among them Nixon and Brezhnev) – survived the crises of the late 1970s to become a permanent feature of international relations? Has the CSCE ultimately improved international relations, despite the political uncertainties?

These are the fundamental questions for anyone with an interest in Europe's future and global relations between States. Professor Ghebali examines these questions in his meticulously researched book, which fills a gap in the study of international relations.

Despite being a staunch realist who takes a pragmatic approach, the author ultimately gives “broadly positive” answers to the questions raised by his study. He assumes that East-West relations are no longer – and will never again be – as radically antagonistic and dangerous as they were after 1945. This change was brought about by the dialogue established within the CSCE; dialogue that, beyond the Helsinki Conference, requires its participants to report back periodically and respect (however notionally) a common language and shared code of conduct, and to review periodically the practical implementation of a clear-cut programme for action. Arguably this programme is far from being achieved. Highly ambitious and covering multiple areas, it is perhaps in the military domain that it has reaped the most success. The notion of trust and the measures designed to underpin and develop this have given rise to a politico-military framework that now includes proposals for disarmament. It is doubtless other areas – such as economics, politics and human rights – that need to be revisited, taking the author's arguments a step further to ask two other fundamental questions.

Firstly, although the economic co-operation envisaged in the second basket was not as successful as had been hoped in 1975, no one imagined then that *'les trente glorieuses'*,¹ the period of miraculous economic growth between 1945 and 1975, was over and that the signatories to the Final Act faced a new, harsher world. Yet politically and in terms of human rights, the author's optimism seems somewhat misguided. Is Helsinki the reason why the prodigious *Solidarność* [Solidarity] movement was repressed by Poland, rather than being destroyed by any external factor? Or was it because the instruments for integration put in place

1 This term was coined by the French demographer Jean Fourastié, who released a book entitled: “The Glorious Thirty, or the Invisible Revolution from 1946 to 1975” and derived the title from the term ‘Les Trois Glorieuses’ (“The Glorious Three”), which was used in reference to the three days of the French Revolution of 1789, dated 27 to 29 July 1830 (Translator's note).

by the Soviet Union in the mid-1960s had taken effect, pre-empting a major crisis? It should be remembered that in 1968 the solution of self-repression had been carefully studied in Moscow to crack down on the Prague Spring, and that force had been used only as a last resort in recognition of the flawed integration policy. In the aftermath of the invasion, the Communist Party of the Soviet Union resolved, following careful consideration, to expedite the integration process to prevent any further clashes between Warsaw Pact countries. The same can be said of human rights, which once served as a form of protection (or perhaps a rallying cry) for dissidents across Eastern Europe. In the autumn of 1977, the Soviet Union drafted a new Constitution. This contained a precise definition of the communist vision of human rights and affirmed the superiority of the Fundamental (or Basic) Law and its principles over any definition agreed upon by the international community, hobbling the process that had begun in Helsinki.

Has the CSCE altered the nature of relations between States with different systems? Or was it the terms of those relations? In the long term, can it shape a European landscape that bridges ideological divides? Or does it simply contribute to a growing awareness of the need to live together on the same continent without major conflict? This raises another decisive question for understanding the historical impact of the Final Act and its Follow-up: with communist States accepting shared commitments and languages, has the CSCE changed the nature of their systems? Only time will tell. Professor Ghebali's book makes an invaluable contribution to the debate by explaining the links forged by the CSCE and the reasons for their survival. Europe's future demands a new pan-European approach to replace the warped vision of its past. The CSCE's mission is to turn this dream into a reality.

Hélène Carrère d'Encausse

Professor at the Sorbonne and at the Institute of Political Studies
Paris

Preface

The great merit of Victor-Yves Ghebali's book is that it contains the first systematic account in French of the negotiations linked to the CSCE process, whether it be the negotiations that led to the Helsinki Final Act, the meetings of experts on issues such as scientific co-operation and the peaceful settlement of disputes, the CSCE Follow-up Meetings in Belgrade (1977–1978), Madrid (1980–1983) and Vienna (1986–1989), or the talks on confidence-building measures and disarmament in Europe (Stockholm, 1984–1986). No one was more qualified than Professor Ghebali to undertake a task of this magnitude and to weigh up what has been accomplished and what remains to be done to strengthen European security and further the rapprochement between Eastern and Western Europe. Professor Ghebali is a lecturer at the Graduate Institute of International and Development Studies in Geneva, where he specializes in the study of international organizations. He has had the privilege of being able to follow the work of the CSCE from the start, and has therefore had access to first-hand information. He has since continued to have a keen interest in the Helsinki process. Over the years, readers of the magazine *Défense nationale* and the *Annuaire français de droit international* have benefited from his pertinent and rigorous analyses of various aspects of the multilateral debate on security and co-operation in Europe.

Making no secret of his bias towards an undertaking that purports to reflect Western aspirations and has already yielded results, Professor Ghebali seeks to present the evidence objectively, without glossing over the limitations of the exercise involving participating States of the CSCE since 1972. He is careful to separate the wheat from the chaff, dismissive of any rhetoric of *détente* that belies the actions of the States or maintains a false sense of security. Yet he is quick to emphasize the progress made towards the rapprochement of peoples, the increasing transparency of military activities and respect for human rights. His book is essential reading for anyone who, while not condoning the present situation in Europe, believes there is no alternative to the CSCE process if we are to bridge the artificial divisions inherited from the Cold War.

Admittedly this is not the prevailing view in the West: it is fashionable to criticize the illusions of *détente* and to ignore the co-operation achieved with the East, on the basis that the actions of socialist countries, particularly the USSR, are out of kilter with the commitments made in Helsinki. Before Gorbachev, Western and Soviet views of the matter were poles apart. Nowhere were their differences of opinion more apparent than on human rights, human contacts and the general principles of international law. In addition, the military aspects of security are frequently controversial. Although the Stockholm Conference ended in 1986 with the adoption of militarily significant confidence-building measures, developing a mandate for negotiations on “conventional stability” from the Atlantic to the Urals has not been easy. Ultimately, the international context must be considered. It would be disastrous if the CSCE process suffered a backlash from crises and

conflicts erupting in Europe (Poland) and on other continents (Afghanistan). The meagre results achieved since the signing of the Helsinki Final Act and the significance of arms in East-West relations are likely to fuel scepticism regarding the merits of the approach taken. However, upon closer examination, a more nuanced judgement can be formed of the results obtained, even in the sensitive field of humanitarian co-operation.

Firstly, the question of human rights is no longer a domestic matter, but has become a topic of discussion between States and is now an integral part of East-West dialogue. Citizens can take advantage of the commitments made within the CSCE to demand legislation protecting their fundamental freedoms and rights. In European socialist countries and in the Soviet Union, groups that monitor the implementation of the Helsinki Final Act are swift to use this leverage to their advantage. Overcoming their initial reluctance, the Soviet authorities now appear to recognize the merits of a public debate on human rights, since they no longer systematically invoke the principle of non-interference to dismiss the criticisms levelled at them. On balance, the CSCE and its follow-up have probably done more for freedoms than most (unimplemented) declarations. Since Helsinki, countries in Eastern Europe have enjoyed a previously unknown freedom of action. As such it would be unwise to write off the project, given that it has been reasonably successful.

An analysis of the data published by governments and specialized committees reveals that the CSCE has been a noteworthy success. Admittedly we cannot ignore the negative aspects of State policy. The aim of the CSCE Follow-up Meetings is precisely to diagnose deficiencies and failures so that they can be dealt with. The fact remains that co-operation and exchanges have developed both economically and commercially and in terms of culture and human contacts. Security, co-operation and respect for human rights are inextricably linked. Only by including all of these issues in the negotiating process will we advance the democratization of international relations in Europe.

Although the commitments undertaken within the CSCE have had only a marginal impact on the situation in Eastern European countries and the Soviet Union, progress has been made in recent years in the development of human contacts and the circulation of information. This has led in turn to an improvement in working conditions for journalists and a relaxation of emigration and travel restrictions. This trend, witnessed particularly in exchanges between East and West Germany, could become established in the Soviet Union if the reforms announced by Mikhail Gorbachev are implemented. On this, however, Victor-Yves Ghebali avoids making any predictions that history might prove wrong. He draws on the Marquis de Custine's Letters from Russia (1839) and Alain Besançon's writings to remind us that the "Soviet present" is an extension of the "Russian past" and that we should not expect sudden changes in the foreseeable future.

Now in January 1989, as the Third Follow-up Meeting of the CSCE is drawing to a close in Vienna, the question remains as to how to foster co-operation in all areas covered by the Helsinki Final Act and how to begin a dialogue on disarmament in Europe that is not based on a bloc system. At the current stage of negotiations, the NATO and Warsaw Pact countries have failed to overcome their differences. The wide-ranging views held by the neutral and non aligned countries suggest that they will not play an active role in negotiations on the military aspects of security. In the light of this, there is concern that the CSCE might in future become a battleground for a sterile debate on the violation of human rights, while the arms race continues and the political acquis of the détente is eroded. As for the problems concerning trade and economic co-operation, it is not for the CSCE to resolve these. Professor Ghebali freely admits that there is no direct operational relationship between trade flows and joint ventures, on the one hand, and the implementation of commitments made under the second part of the Helsinki Final Act on the other. It is hoped that the obstacles faced by the 35 participating States can be overcome and that the CSCE process will remain balanced. For although it cannot boast brilliant results, it offers the chance to build relations between Eastern and Western Europe, thereby helping to consolidate the fragile peace established on our continent through a balance of power.

Jean Klein

Head of Research

French National Centre for Scientific Research (CNRS)

French Institute of International Relations (IFRI)

Paris

Introduction

Since its inception in the early 1970s, the Conference on Security and Co-operation in Europe (CSCE) process has elicited a series of mostly negative reactions in Western public opinion, ranging from commiseration or scepticism to outright condemnation. Even today, its detractors remain. They deplore the “fool’s bargain” by which Western countries recognized – in return for derisory concessions – the status of European borders following the upheavals of the Second World War, and call for the repudiation of the “false contract”, as they regard the Helsinki Final Act.

As the author of this work, I cannot agree with that view.

In this book I argue that the Helsinki process stems from a grand political aim: to cast aside the legacy of the Cold War and gradually bridge the divide in Europe, establishing a set of fundamental principles and multifaceted co-operation to steer East-West relations towards ever-increasing stability and harmony. I seek to demonstrate that, over a 15 year period, the CSCE has provided both the structure and impetus for East-West relations, and that in general it has benefited the three groups of actors involved in the process.

What was originally a hazy Soviet idea has indeed been swiftly transformed into an enterprise broadly consistent with the interests of the Western world. Contrary to the expectations of Brezhnev’s USSR, the CSCE has helped to cement the diplomatic cohesion of the European Economic Community countries and to consolidate and legitimize the policy tethering the United States and Canada to Europe. In addition, by advocating the humanization of relations between the State and its citizens, the transparency of military activities and a clear economic policy, the texts adopted from Helsinki to Vienna made the values of liberal democracy an ideal for both sides of a divided Europe.

Moreover, the CSCE has given the neutral and non-aligned countries access to pan-European talks on an equal footing with the members of NATO and the Warsaw Pact, fostering a certain democratization of East-West relations and injecting a moderating, constructive and promising tone.

Lastly, for the countries of Eastern Europe, the CSCE offered what they saw (and continue to see) as the advantages of a general peace treaty in Europe. To put it another way, it allowed them to relax, without losing face, the strict laws and practices curtailing the fundamental freedoms of their citizens – not least of all freedom of movement. Under the pretext of the Helsinki recommendations, Brezhnev’s USSR began to overcome – with the help of modest but concrete measures – its hang-ups over its tsarist past, Stalinism and the Cold War. Since Gorbachev, the CSCE has taken on added importance: at home, it provides further justification for the legitimacy of efforts to overhaul Soviet society; to the outside

world, it serves to demonstrate the authenticity of perestroika and, in the long term, to promote Gorbachev's idea of the "common European home".

The criticisms levelled at the CSCE do not only result from a condemnation of the "illusion of détente"; they often stem from a lack of understanding of the rules, decisions or *acquis* of a somewhat esoteric process. Hence this book provides an overview of each stage of the process – from the preliminary consultations at Dipoli (1972–1973) to the Vienna Follow-up Meeting (1987–1989), through all the (main or subsidiary) follow-up meetings and the Stockholm Conference on Confidence- and Security-Building Measures and Disarmament in Europe.

I should like to express my sincere gratitude to the diplomats from the French Ministry of Foreign Affairs, the Swiss Federal Department of Foreign Affairs and the Belgian Ministry of Foreign Affairs for their invaluable assistance; to the Deutsche Gesellschaft für Friedens- und Konfliktforschung (Bonn), which funded the initial research; to Professor Karl E. Birnbaum, to whom I am indebted for my interest in the CSCE; lastly, to Mr. Jean-François Seguin, who was willing to take on the thankless task of proofreading the book.

Victor-Yves Ghebali
Geneva, 1989

List of Abbreviations and Acronyms

CBMs	Confidence-Building Measures
CDE	Conference on Confidence and Security-Building Measures and Disarmament in Europe
CFE	Conventional Armed Forces in Europe
CHD	Conference on the Human Dimension of the CSCE
CODIESEE	Co-operation in Research and Development for Educational Innovation in South-East Europe
Comecon	Council for Mutual Economic Assistance
CPSU	Communist Party of the Soviet Union
CSBMs	Confidence- and Security-Building Measures
CSCE	Conference on Security and Co-operation in Europe
ECA	Economic Commission for Africa
ECWA	Economic Commission for Western Asia
ECOSOC	United Nations Economic and Social Council
EEC	European Economic Community
EMEP	European Monitoring and Evaluation Programme (full name – Cooperative Programme for Monitoring and Evaluation of the Long-range Transmission of Air Pollutants in Europe)
EPC	European Political Co-operation
EUROCULT	Intergovernmental Conference on Cultural Policies in Europe
FAO	Food and Agriculture Organization of the United Nations
FRG	Federal Republic of Germany
GATT	General Agreement on Tariffs and Trade
GDR	German Democratic Republic
IAEA	International Atomic Energy Agency
ICAO	International Civil Aviation Organization
ICC	International Chamber of Commerce
ICJ	International Court of Justice
ICUN	International Union for Conservation of Nature and Natural Resources
IFRI	Institut français des relations internationales (French Institute of International Relations)
ILO	International Labour Organization
IMO	International Maritime Organization
INF	Intermediate Range Nuclear Forces
IPU	Inter-Parliamentary Union
ITU	International Telecommunication Union
MBFR	Mutual and Balanced Force Reductions
MINEDEUROPE III	Third Conference of Ministers of Education of Member States of the Europe Region (convened by UNESCO)

MINESPOL	Conference of Ministers of the European Member States for Science Policy (convened by UNESCO)
MINESPOL II	Second Conference of Ministers Responsible for Science and Technology Policies in the European and North American Region
MINEUROPE	Conference of Ministers of Education of European Member States of UNESCO
MUNOSYST	Multilateral system for the notification of laws and regulations concerning foreign trade
NAA	North Atlantic Assembly
NATO	North Atlantic Treaty Organization
N+NA	Neutral and Non-Aligned countries
NPMS	Non-participating Mediterranean States
PLO	Palestine Liberation Organization
PSD	Peaceful settlement of disputes
RFE/RL	Radio Free Europe/Radio Liberty
SALT	Strategic Arms Limitation Talks
UNCITRAL	United Nations Commission on International Trade Law
UNECE	United Nations Economic Commission for Europe
UNEP	United Nations Development Programme
UNESCO	United Nations Educational, Scientific and Cultural Organization
UNIDIR	United Nations Institute for Disarmament Research
UNISIST	United Nations International Scientific Information System
UNWTO	World Tourism Organization
USSR	Union of Soviet Socialist Republics
WEU	Western European Union
WHO	World Health Organization
WMO	World Meteorological Organization
WTO	Warsaw Treaty Organization

CHAPTER I

The CSCE as a Negotiating Forum

The origins of the Conference on Security and Co-operation in Europe can be traced back to the multilateral diplomacy of the 1970s. It represents a particular kind of diplomatic exercise, midway between the work of conventional international organizations and that of conferences tasked with periodically reviewing international agreements on arms control, such as the 1968 Treaty on the Non-Proliferation of Nuclear Weapons. Unlike the former, the CSCE had no permanent infrastructure and, unlike the latter, it did not meet at set intervals. For the purposes of this study, the CSCE is defined as a multilateral process of ongoing negotiations covering all questions relating to security and co-operation in Europe. This book will examine the tripartite structural, diplomatic and programmatic aspects of this negotiating forum.

I. Structure of the Process

The CSCE process was established and developed under extremely flexible conditions.

1. Establishing the Process

The emergence, rules of procedure and institutional nature of the CSCE are examined below.

A. Emergence of the Process

The idea of a pan-European conference emerged from Soviet foreign policy in the 1950s. With remarkable perseverance, it remained an intrinsic part of this for nearly twenty years. Following unsuccessful lobbying during the Cold War, the idea was revived, expanded and finally realized at the height of the *détente* policy. The Western countries only agreed to the idea in exchange for various demands, which transformed it into a radically different proposition consisting of a series of interrelated stages.

a) The Soviet plan and the West's preconditions

The idea behind the CSCE came from the draft *European Treaty on Collective Security in Europe* of 10 February 1954.¹

Proposed by the Soviet Foreign Minister, Vyacheslav Molotov, the text in question was a long-term (50-year) general non-aggression pact open to all European States, including the Federal Republic of Germany (FRG) and the German Democratic Republic (GDR) on an equal footing, with a view to creating a

1 For the text of the draft, see *The Proposed European Security Conference, 1954–1971* (Paris: WEU Assembly, General Affairs Committee, 1971), pp. 8–9. Brief prepared by Mr. E. Nessler, Rapporteur, hereinafter referred to as the “Nessler Report”.

hypothetical peaceful and democratic unified German State.² It envisaged a regional security system based on periodic conferences and advisory committees on political and military affairs.

The Molotov draft was rejected by the West, which believed it was timed to prevent the FRG from joining NATO. Furthermore, the draft had not included the United States in the process.³ In other words, the Western countries saw it as a two-pronged manoeuvre to neutralize Germany and separate the Europeans from the Americans. From a Western viewpoint, a security system was inconceivable until the German question had been settled on the basis of free elections under international supervision.

Eleven years later, the Soviet Union tried again, this time with a draft that had two new features: the collective sponsorship of members of the Warsaw Pact and the addition of (mainly economic) co-operation alongside the question of security.⁴

Suspecting the USSR of attempting to have a say in the affairs of Western Europe (hindering the development of European integration) and loosen ties between the United States and the European continent under the pretext of furthering the process of détente, the West was initially hostile and sceptical.

However, the gradual process of détente in Europe ultimately made it difficult to reject outright a draft whose principles chimed with the Harmel Report (“Report of the Council on the Future Tasks of the Alliance”), which would provide the foundation for NATO’s political philosophy after December 1967. Based on the complementarity of military security and the policy of détente, this fundamental document postulated that the role of the Alliance had to be both to “maintain adequate military strength and political solidarity” and to “pursue the search for progress towards a more stable relationship in which the underlying political issues can be solved” between East and West.⁵ It argued that “the ultimate political

2 It being understood “that after German unification, only the unified German State could become a party to this Treaty, in accordance with its general conditions,” see draft mentioned above, Article 1, § 2.

3 The United States took part in the process only as an *observer*, in its capacity as a permanent member of the UN Security Council.

4 See the Nessler Report for the references of the following releases: Warsaw Communiqué of 20 January 1965 (p. 14); Bucharest Communiqué of 5 July 1966 (pp. 17–18); Budapest Communiqué of 17 March 1969 (pp. 27–28); Prague Communiqué of 31 October 1969 (pp. 31–33); Moscow Communiqué of 4 December 1969 (pp. 34–36); Budapest Communiqué of 22 June 1970 (pp. 53–55); Moscow Communiqué of 20 August 1970 (p. 63); East Berlin Communiqué of 2 December 1970 (pp. 66–67); Bucharest Communiqué of 19 February 1971 (pp. 75–76); Warsaw Communiqué of 1 December 1971 and Prague Communiqué of 26 February 1972. See also the Declaration adopted on 26 April 1968 by the European Communist and Workers’ Parties at the Karlovy Vary Conference (pp. 19–24). From 1965 until 1972, the Conference took place on regular basis in Eastern European countries, except in 1968 – the year of military intervention in Czechoslovakia.

5 For the text of the Harmel Report, see the *NATO Handbook* (Brussels: NATO Information Service, 1975), pp. 60–63.

purpose of the Alliance is to achieve a just and lasting peaceful order in Europe accompanied by appropriate security guarantees” (§ 9 of the Harmel Report).

The West began to rethink its position after the North Atlantic Council issued a declaration following its meeting in Reykjavik on 27 June 1968.⁶ The idea of a pan-European conference no longer seemed wholly unacceptable, provided that a comprehensive approach was taken with the prospect of concrete results – that is to say, with the aim of tackling all major East-West problems without propaganda. The West officially declared its support for the first time at the meeting of the North Atlantic Council in Brussels on 5 December 1969.⁷

Before embarking on the negotiations proper, the West imposed four essential preconditions:

- *Full participation of the United States and Canada.* Easily arranged,⁸ this participation was intended to maintain the cohesion of the Alliance and avoid the danger of “decoupling”. It turned the Soviet plan for a European conference on security and co-operation into a conference on security and co-operation in Europe.
- *Substantial progress on the German question in general and on Berlin in particular.* This demand had the effect, at least indirectly, of expediting negotiations for bilateral treaties between the FRG and its neighbours to the east: indeed the prospect of a pan-European conference was both one of the factors of *Ostpolitik* and one of the reasons for its success.⁹ More importantly, however, it led to the signing of the Quadripartite Agreement on Berlin of 3 September 1971 – an instrument that upheld Western occupation rights, consolidated the de facto links between West Berlin and the FRG, and gave the three Western powers assurances regarding access to the former capital of the Reich.
- *Introduction of the idea of a mutual and balanced reduction of conventional forces in Europe.* The Warsaw Pact countries eventually agreed to this demand, although not without some procrastination. However, in a bid not to extend unduly the duration of the future pan-European exercise (which they wanted to be as short as possible), they proposed that the question of the reduction of forces should be addressed in a completely separate forum – what would later become the Mutual and Balanced Force Reductions (MBFR) talks in Vienna. Ratified at the Moscow Summit between the Soviet Union and the United States in May 1972, this had the effect of depriving the CSCE of one of the essential items on its agenda.
- *Consideration of the issue of the free movement of people, information and ideas.* The USSR objected to any prospect of “freedom of movement”, but expressed its willingness to contemplate an increase in cultural exchanges.

6 For the text of this communiqué, known as the “Reykjavik Signal”, see the Nessler Report (n.1), pp. 24–26

7 Ibid., pp. 36–39.

8 See the Budapest Communiqué of 22 June 1970 (ibid., p. 54).

9 See Aleth Manin, *La Conférence sur la sécurité et la coopération en Europe* (Notes et études documentaires, 4271–4272; Paris: La Documentation française, 1976), p. 18.

Welcoming the progress made in East-West relations since 1970, the North Atlantic Alliance countries – at a ministerial session in Bonn on 30 and 31 May 1972 – announced that they would enter into talks on the question of a conference on security and co-operation in Europe. However, this merely signalled the start of “multilateral conversations concerned with preparations for a Conference on Security and Co-operation in Europe,” rather than an agreement on *convening* one. The West simply sought “to establish that enough common ground existed among the participants to warrant reasonable expectations that a Conference would produce satisfactory results.”¹⁰

The “Helsinki Consultations on the question of the Conference on Security and Co-operation in Europe” took place from 22 November 1972 to 8 June 1973, in the Dipoli building of the Helsinki University of Technology, at the level of diplomatic representatives posted in the Finnish capital;¹¹ the choice of host country reflected the emerging role of Neutral and Non-Aligned (N+NA) nations in the CSCE process.¹² The Dipoli negotiations proved to be a success. They culminated in a series of fundamental decisions on the organization, agenda, date, venue and other rules of procedure of the CSCE, recorded in a “Blue Book” entitled the *Final Recommendations of the Helsinki Consultations*.¹³

At this stage, the West may have felt it had nothing to lose – and indeed everything to gain from a conference it had essentially managed to reshape.

10 See Bonn Communiqué of 31 May 1972, §§ 8 and 9, in: Texts of Final Communiqués 1949–1974, issued by the Ministerial Sessions of the North Atlantic Council, the Defence Planning Committee and the Nuclear Planning Group (Brussels: NATO Information Service, 1975), p. 296. The Bonn Communiqué was a response to the Prague Declaration on Peace, Security and Co-operation in Europe, published on 26 January 1972 by the Warsaw Pact Political Consultative Committee (Documents d’actualité internationale, 26 February to 3 March 1972, no 9), pp. 139–141.

11 See Götz von Groll, “East West Talks in Helsinki”, *Aussenpolitik. German Foreign Affairs Review*, vol. 23, no. 9 (1972), pp. 371–382; Luigi Vittorio Ferraris (ed.), *Report on a Negotiation. Helsinki Geneva Helsinki, 1972–1975* (Geneva: Institut universitaire de hautes études internationales, 1979), pp. 9–40. See Ljubivoje Acimović, Problems of Security and Co-operation in Europe (Alphen aan den Rijn: Sijthoff & Noordhoff, 1981), pp. 111–123. See also “Les propositions aux pourparlers d’Helsinki”, *Nouvelles de l’OTAN*, vol. 21, no. 2 (1973), pp. 3–6. Furthermore, see François Carle, “Les pourparlers exploratoires d’Helsinki”, *Etudes internationales*, vol. IV, no. 3 (September 1973), pp. 257–361 and no. 4 (December 1973), pp. 502–551; and the testimony of Soviet Ambassador Lev Mendelevich, “Notes diplomatiques sur les Consultations multilatérales d’Helsinki (1972–1973), pour la préparation de la Conférence européenne”, *La Vie internationale*, Moscow, no. 12/276 (December 1983), pp. 102–126.

12 The idea of convening a conference on security and co-operation was the subject of a fundamental dialogue between the members of the Warsaw Pact and NATO. However, two neutral countries (Austria and Finland) immediately took an active interest in the process. See the Austrian Government’s memorandum of 23 July 1970 in the Nessler Report (n. 1), pp. 60–61 and the Finnish Government’s memorandum of 5 May 1969 and *aide-mémoire* of 24 November 1970 (*ibid.*, pp. 30–31 and 65–66). See also Michael Palmer, *The Prospects for a European Security Conference* (P.E.P., European Series, no.19; London: Chatham House, 1971), pp. 41–42.

13 The key provisions of the Final Recommendations of the Helsinki Consultations (1973) are analysed further on this chapter.

b) The three official stages of the CSCE

In accordance with a provision of the Final Recommendations of the Helsinki Consultations (1973) sponsored by France, the CSCE took place in three official stages.¹⁴

i) Opening stage

Held in Helsinki at foreign minister level, the main purpose of Stage I (3–7 July 1973) was the formal adoption of the Final Recommendations of the Helsinki Consultations. The participating States set out their respective views.¹⁵ Some even put forward, for consideration during the next stage, proposals on different items on the CSCE's agenda.¹⁶ Intended as a simple formality, this initial stage came under pressure (behind closed doors) owing to the demands of the Maltese delegation concerning the participation of non-European Mediterranean States in the CSCE.¹⁷ The Ministers parted without a consensus having been reached on that particular issue,¹⁸ but having nevertheless set the date and venue for Stage II.

ii) Negotiating stage

Stage II began on 18 September 1973 and ended on 21 July 1975. Held in Geneva, the concrete results achieved over the 22 months represented a crucial stage in the process.¹⁹

As Table I shows, the negotiations took place within a somewhat complex framework, consisting of three main committees – informally known as “baskets”²⁰ – divided into 12 Subcommittees and five working groups

14 See Final Recommendations of the Helsinki Consultations (1973), §§ 6 to 12. The Soviets wanted a short conference, preceded by an equally short period of preparation. The United States was not opposed to a short conference, as long as it was meticulously prepared. France finally won the day with its idea of a sequential conference, with each stage depending on the successful completion of the previous one: at any given time, participants would thus have an element of control over the implementation and follow-up of the work, see Manin, *La Conférence sur* (n. 9), p. 26.

15 See CSCE/I/PV.1 (3 July 1973) to CSCE/I/PV.8 (7 July 1973). See also Götz von Groll, “The Foreign Ministers in Helsinki”, *Aussenpolitik. German Foreign Affairs Review*, vol. 24, no. 3 (1973), pp. 255–274; and Ferraris (ed.), *Report on a Negotiation ...* (n. 11), pp. 89–97.

16 See CSCE/I/1 (3 July 1973) to CSCE/I/30 (7 July 1973).

17 See CSCE/I/CM/PV.1 (3 July 1973) to CSCE/I/CM/PV.7 (7 July 1973). Closed sessions.

18 See Helsinki Consultations: Communiqué of 7 July 1973, § 7. For more details on the Mediterranean question, see chapter VII of this volume, pp. 319ff.

19 By contrast with the previous (and the next) stage, no official report was drawn up. However, the writings of four negotiators of the period can be consulted: Götz von Groll, “The Geneva CSCE Negotiations”, *Aussenpolitik. German Foreign Affairs Review*, vol. 25, no. 2 (1974), pp. 158–165 and “The Final Act of the CSCE”, *ibid.*, vol. 26, no. 3 (1975), pp. 247–269; see also Ferraris (ed.), *Report on a Negotiation ...* (n. 11), pp. 99ff.; Ćimović, *Problems of Security ...* (n. 11), pp. 124–136; and John Maresca, *To Helsinki. The Conference on Security and Co-operation in Europe, 1973–1975* (Duke: Duke University Press, 1985), xiii–292 p. See also François Carle, “La deuxième phase de la Conférence sur la sécurité et la coopération en Europe”, *Etudes internationales*, vol. VI, no. 2 (June 1975), pp. 165–187.

20 The term “basket” was coined by the Dutch and Swiss delegates during the Dipoli Consultations, see also Ferraris (ed.), *Report on a Negotiation ...* (n. 11), p. 13.

responsible for certain fundamental issues (Follow-up to the CSCE and the Mediterranean), or more technical issues (preparations for Stage III and format of the final documents). This complex framework was led by a Co-ordinating Committee,²¹ whose role was to a large extent purely formal. The real drafting work was done within informal “contact groups” systematically formed by delegates and following directly on from official sessions.²² The groups held *private* meetings where delegates could speak freely, without being constrained by their position as official representatives,²³ and negotiate on the basis of “non-papers” that were not considered formal CSCE documents.

They were led by *permanent* “co-ordinators” (Neutral countries), contrary to the rule of rotation normally applied at official working sessions.²⁴

The Geneva stage was essentially characterized by the “low profile” of the United States, the assertive role of the nine countries of the European Economic Community (EEC), the conciliatory measures of the Neutrals, the distinctiveness of Romania’s position as compared with other Warsaw Pact countries, and activism on the part of Malta. The work – which began only in February 1974 after four months of discussion – progressed slowly. This was partly as a result of the unprecedented nature of the negotiations and the wide-ranging and diverse issues at stake,²⁵ but more importantly due to the consensus procedure, taken to the extreme: drafting advanced by degrees, on the basis of documents “filed” with the Executive Secretariat of the Conference and littered with parentheses and square brackets that signalled its provisional and conditional nature. On the other hand, the pace of the work did not seem to be affected by world events outside the CSCE (the Yom Kippur War, the oil crisis, the American withdrawal from Vietnam, the Turkish invasion of Cyprus), nor by the domestic affairs of some participating States (such as the resignations of Richard Nixon and Willy Brandt and the death of Georges Pompidou).

The four Neutral countries of the CSCE helped to break the deadlock on various occasions (notably in February and July 1974). Bilateral diplomacy also played a part, with summits between Leonid Brezhnev and various Western leaders (Nixon, Schmidt, Wilson, Pompidou) in 1974, and two decisive

21 On the activity of the Co-ordinating Committee, see Ferraris (ed.), *Report on a Negotiation ...* (n. 11), pp. 385–439.

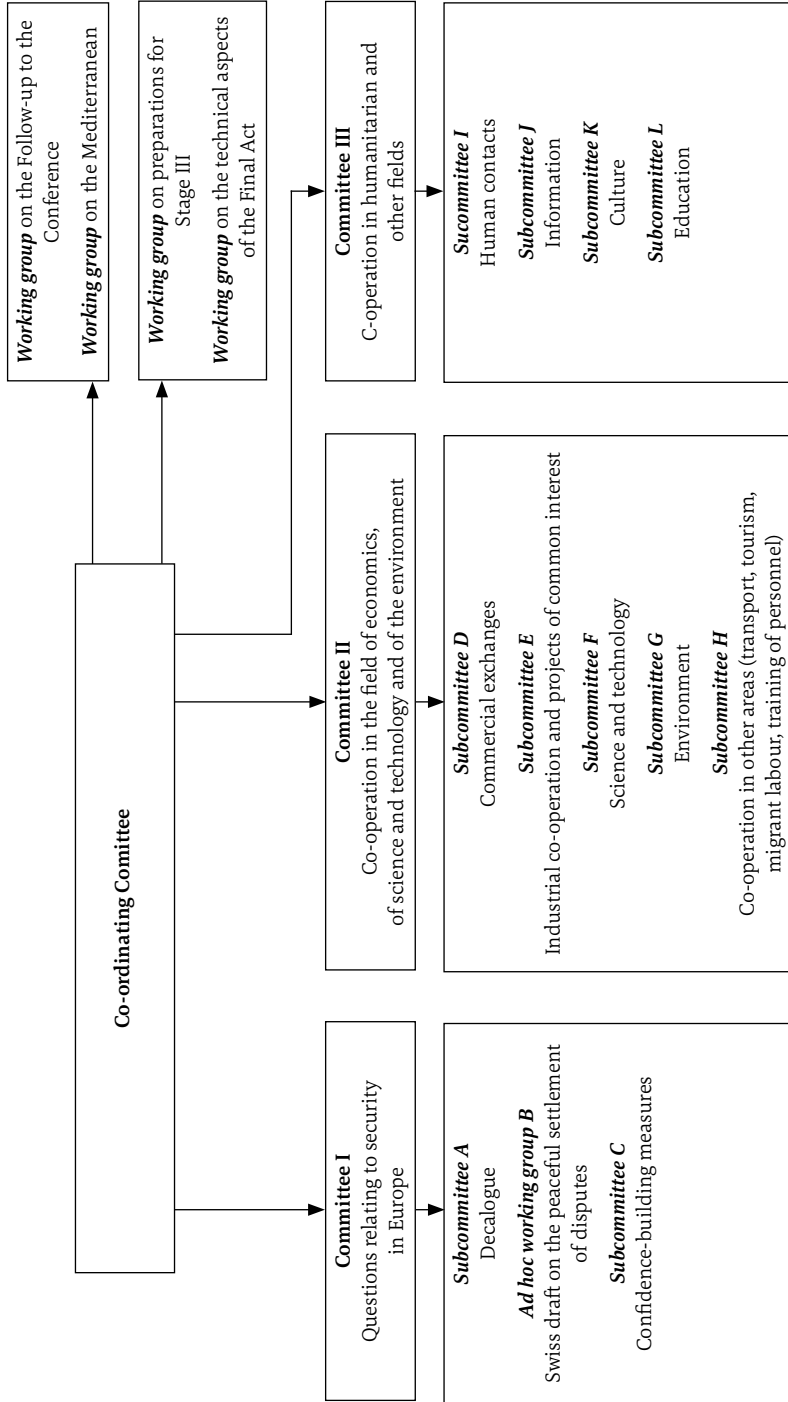
22 Delegates very often decided to close official sessions soon after they had opened, so that they could return to sit in the contact groups.

23 Participating States did not use nameplates in the contact groups.

24 The practice of forming contact groups was extended to the Follow-up Meetings. In Madrid, there were also “Coffee Groups”, “Sherry Groups” and “Mini Groups”. For more details, see Jan Sizoo and Rudolf Th. Jurrjens, *CSCE Decision-Making: The Madrid Experience* (The Hague: Nijhoff, 1984), pp 153ff.

25 The CSCE can hardly be reduced to the conceptual categories used in the theory of multilateral negotiations, see Kalevi J. Holsti, “Bargaining Theory and Diplomatic Reality”, *Review of International Studies*, vol. 8, no. 3 (July 1982), p. 169. In fact, the CSCE seems to be a “*nested negotiation*”, i.e., a mega negotiation, encompassing a kaleidoscope of interdependent micro issues and involving a multitude of structural or ad hoc coalitions.

TABLE I
**Organigram of the Geneva stage of the Conference on Security and
 Co-operation in Europe (1973–1975)**



meetings between Kissinger and Gromyko in Geneva (February 1975) and Vienna (May 1975).²⁶

In the final stage of the negotiations, after overcoming another Maltese crisis and a Finnish–Yugoslav dispute over the venue for the first meeting on the Follow-up to the Conference, the participating States finally adopted the various parts of what would become the Final Act of the CSCE between 16 and 20 July 1975.²⁷

iii) Closing stage

To add more lustre to the CSCE's final documents (particularly the provisions on the inviolability of frontiers), the Soviets wanted the CSCE's work to culminate as quickly as possible in a meeting at the highest political level. The Western countries did not share this concern. For them, a summit was not an end in itself; it could be justified only by meaningful and tangible results. This view prevailed, and it was agreed in Dipoli that the "level of representation at the third stage will be decided by the participating States during the Conference, before the end of the second stage."²⁸ The Eastern countries received a single assurance: "The Conference will adopt its final documents, in formal session, at the close of this third stage."²⁹ The question of the Summit (and its potential date) thus became another bargaining chip that the West exploited to maximize the concessions it obtained from the USSR.

The closing Summit, held in Helsinki from 30 July to 1 August 1975, was attended by the Heads of State or Government of the 35 CSCE countries, including Leonid Brezhnev, Gerald Ford, Helmut Schmidt, Makarios III, Harold Wilson, Valéry Giscard d'Estaing, Nicolae Ceaușescu and Josip Broz Tito.³⁰ Its prestigious guests and solemn nature at times inspired the media to draw unflattering historical comparisons with the Treaty of Westphalia (1648), the Congress of Vienna (1815) and the Pact of Locarno (1925). Despite the sour note introduced by the aftermath

26 The Vienna meeting was particularly decisive. Kissinger found himself in possession of a text of the Nine that set out suggested compromises for the unresolved problems. The final package deal between East and West was concluded on this basis.

27 Initially, the participating States had no precise idea of the shape the results reached by the CSCE would evolve into. § 8 of the Final Recommendations of the Helsinki Consultations (1973) refers only to "draft statements, recommendations and resolutions", and to "all other final documents". For the final texts recorded by the Committee, see CSCE/CC/101 (16 July 1975) to CSCE/CC/103 (18 July 1975) and CSCE/CC/105 (19 July 1975) to CSCE/CC/107 (20 July 1975).

28 See Final Recommendations of the Helsinki Consultations (1973), § 11. It was the Co-ordinating Committee's responsibility to make recommendations in this regard, see §§ 10 and 62; see also Ferraris (ed.), *Report on a Negotiation ...* (n. 11), pp. 399ff. For the work carried out by the Working Group of the Co-ordinating Committee on the preparation of Stage III, see CSCE/CC/WG/III/101 (9 April 1975) to CSCE/CC/WG/III/105 (17 July 1975).

29 See Final Recommendations of the Helsinki Consultations (1973), § 12.

30 For the official speeches, see CSCE/III/PV.1 (30 July 1975) to CSCE/III/PV.7 (1 August 1975). See also the comments of Ferraris (ed.), *Report on a Negotiation ...* (n. 11), pp. 433–439; and of Richard Davy, "The CSCE Summit", *The World Today*, vol. 31, no. 9 (September 1975), pp. 349–353.

of the Cyprus crisis of 1974, the meeting ended, as expected, with the signing of the Final Act (1975) of the CSCE.³¹

The event did not meet with a particularly warm reception in the West.³² With the notable exception of Samuel Pizar, who regarded it as “a step in the right direction”,³³ the Summit triggered negative reactions ranging from condemnation of this “new Munich”, a replay of the 1938 Munich Agreement, (Eugène Ionesco), to scepticism towards the Helsinki “comedy” (Raymond Aron). In the United States, the diplomat George Ball published a historic article.³⁴ *Détente*, it read, “has become more an obsession than a policy,” to the point that the West had handed Leonid Brezhnev a personal victory. The Final Act, claimed the article, recognized the territorial gains made unlawfully and without recompense by the USSR.³⁵ In going to Helsinki to sign unilateral commitments, the West had

31 Persuaded that Cyprus’s representation at the Helsinki Summit could not be “considered legal and therefore legitimate,” Turkey made a formal reservation “as to the validity and applicability” of the provisions of the Final Act in concerning this particular State. According to the Turkish delegates, the representation of Cyprus by the CSCE was not legitimate since 15 July 1974, as “in the bicomunal State of Cyprus, it is legally impossible for either community to represent the whole State without the consent of the other.” They concluded that “the provisions of the Final Act of the Conference on Security and Co-operation in Europe, to which Turkey will become a party by its signature are not valid as regards the relations with the State of Cyprus, and consequently will have no effects until such time that a government legitimately representing the two national communities is established in Cyprus,” see CSCE/III/1 (31 July 1975). For its part, the Cypriot delegation made a detailed interpretative statement, concluding that “any reservation concerning the validity of the provisions of the Final Act in the relations of each participating State with all or any other participating State is of no effect. It also constitutes an a priori refusal to assume obligations which the participating States undertake by the signing of the Final Act,” see CSCE/III/2 (1 August 1975). This incident had already taken place during Stage II of the CSCE, see the Co-ordinating Committee: Journal No. 83 of 21 July 1975, and was to be repeated, *mutatis mutandis*, at the Belgrade Follow-up Meeting, see Journal No. 66 of 5 August 1977. The same thing occurred during the Madrid Follow-up Meeting: Journals No. 318 and No. 319 of 20 and 21 July 1983, as well as during the Budapest Cultural Forum: CSCE/CFB/R.5 (17 October 1985), pp. 27–39. See also the Stockholm Conference on Confidence- and Security-Building Measures and Disarmament in Europe: Journal No. 379/Rev. 2 of 19 September 1986, pp. 3–5, and the Vienna Follow-up Meeting: CSCE/WT/VR.7 (7 November 1986), pp. 47–57.

32 For a review of the Western press, see Pavel Tigrid, *Helsinki Plus Four Months* (London: EUCORG, 1975), pp. 10–13.

33 *International Herald Tribune*, 30 July 1975.

34 See George W. Ball, “Capitulation at Helsinki”, *The Atlantic Quarterly*, vol. 13, no. 3 (Fall 1975), pp. 286–288.

35 For another piece of the anthology (predating the signing of the Final Act), see the article by Jean Lecanuet in the *Revue politique et parlementaire* (January 1972), pp. 33–39.

cemented Europe's division. Similar opinions were voiced by dissidents in Eastern Europe,³⁶ and by Albania and China.³⁷

In the Soviet bloc, there was a very different tone.³⁸ Eastern European governments presented the Helsinki Summit as a "victory for socialism" and justification of the "peace policy" advocated by the Warsaw Pact for a decade. On 2 August 1975, *Pravda* and *Izvestia* carried the full text of the Final Act,³⁹ swiftly followed by the press in other Warsaw Pact countries. When the Western press failed to follow suit,⁴⁰ the East revelled in a certain triumphalism, although this ceased upon discovering the devastating effect that the announcement had on its citizens.

B. Rules of Procedure of the Process

Procedural questions have perhaps never been given so much consideration in a multilateral diplomatic exercise as by the CSCE. As a key political issue, they remain one of its most original features.⁴¹

The CSCE process is governed by the Final Recommendations of the Helsinki Consultations (1973),⁴² which identify three major rules – adopted at the instigation of Romania with the support of Western countries – that stem from the principle of sovereign equality of States: the participation of States outside alliances, consensus and rotation.

36 See, for example, Alexander Solzhenitsyn's interview with the BBC, referred to in a report by Lord Lyell to the North Atlantic Assembly: T 1SS CIC (76) of 7 November 1976, pp. 5–7. The dissidents' position subsequently changed. While some of them called for the Final Act to be revoked (Vladimir Bukovsky, "Plaidoyer pour une autre détente", *Politique internationale*, no. 29 (Autumn 1985), p. 57), others recognized the beneficial nature of the CSCE process. With regard to the latter, see Denis Buican, "Une tribune à utiliser", *Le Monde*, 11 November 1980, and, particularly, Jiří Dienstbier (a member of Charter 77), "Sans Acte final, pas de Solidarnosc", *Journal de Genève*, 17 August 1985.

37 For Albania, see p. 36 of this chapter. For China's position, see the *Xinhua News Agency News Bulletin*, no. 5267 (4 August 1975), pp. 8–10, no. 5268 (5 August 1975), pp. 1–4, no. 5275 (12 August 1975), p. 5 and no. 5276 (13 August 1975), pp. 5–6; and the *Bulletin of Peace Proposals*, vol. XII, no. 4 (1975), p. 331.

38 See Tigrid, *Helsinki Plus ...* (n. 32) and Alan Wood, "Pravda, Europe and Helsinki Final Act: A Survey", *International Relations*, vol. VI, no. 4 (November 1979), pp. 645–661.

39 This was pursuant to § 2 of the final clauses of the Final Act, which stipulated that "the text of this Final Act will be published in each participating State, which will disseminate it and make it known as widely as possible." The Concluding Documents of the Madrid and Vienna Follow-up Meetings contained a similar provision.

40 The Western press provided its readers with only excerpts from the Final Act.

41 One of the Western negotiators of the Final Act regarded the rules and procedures as "one of the main political objectives of the CSCE and one of its most original results", see Ferraris (ed), *Report on a Negotiation ...* (n. 11), p. 65.

42 Decisions adopted by the preparatory meetings of the Follow-up Meetings are secondary only to the provisions of the Final Recommendations of the Helsinki Consultations (1973).

a) Participation of States “outside military alliances”

Paragraph 65 of the Final Recommendations of the Helsinki Consultations stipulates that “all States participating in the Conference shall do so as sovereign and independent States and in conditions of full equality.” It concludes with a fundamental point: “The Conference shall take place outside military alliances.” The political importance of this provision is clear: it gives the USSR’s allies diplomatic “breathing space”,⁴³ while recognizing the role of neutral and non-aligned countries in European affairs. Confirmation of this can be found in Stage II – the most important stage of all. The Geneva talks were not just an East-West dialogue. On more than one occasion, they were informed by other criteria advocating the emergence of (at times unexpected) *ad hoc* coalitions, for example on the “Berlin clause” of the Decalogue, confidence-building measures (CBMs), “Europe’s developing countries” and migrant workers, or even the Mediterranean. These *ad hoc* coalitions and the assertive actions of some States (Malta, Romania) are evidence enough that paragraph 65 of the Final Recommendations of the Helsinki Consultations was not a purely stylistic clause.⁴⁴

That said, the scope of the bloc veto rule should not be overstated: firstly, because military alliances are inevitable and, secondly, because the consensus procedure is naturally conducive to the aggregation of individual interests. In other words, although the CSCE did not set out to reinforce bloc politics, it could not ignore the existing political alignments or the tactical requirements of group diplomacy.⁴⁵

*b) Consensus decision-making*⁴⁶

It was inconceivable that the CSCE should apply the majority principle, given that Western countries outnumbered the other participating States; the unanimity principle was likewise impractical, given its strict requirements. Consensus thus

43 § 65 of the Final Recommendations of the Helsinki Consultations (1973) was originally based on an idea put forward by the Romanians and seconded by France.

44 On this subject, see the relevant remarks by Kalevi J. Holsti, “Who Got What and How: The CSCE Negotiations in Retrospect” in Robert Spencer (ed.), *Canada and the Conference on Security and Co-operation in Europe* (Toronto: University of Toronto Center for International Studies, 1985), pp. 146–147.

45 On the subject of the development of “caucus” politics within the Stage II negotiations, Holsti believed that “it was quickly understood that any substantive proposal tabled by a simple WTO or NATO delegation represented the views of the coalition.” See “Who Got What and How ...” (n. 44), p. 144. For their part, Sizoo and Jurjens in *CSCE Decision Making ...* (n. 24) p. 272, point out that at the Madrid Follow-up Meeting the caucuses of the Warsaw Pact and NATO “formed part and parcel of the Madrid decision-making process and were in fact the most important decisionmaking organs.”

46 On the general problem of consensus in multilateral diplomacy, see, in particular, Jean Charpentier, “La procédure de non objection”, *Revue générale de droit international public* (October–December 1966), pp. 862–877; Guy de Lacharrière, “Consensus et Nations Unies”, *Annuaire français de droit international* (1968), pp. 9–14; Suzanne Bastid, “Observations sur la pratique du consensus” in *Multitudo Legum in unum. Mélanges en l’honneur de Wilhelm Wengler zu seinem 65. Geburtstag. Band I* (Berlin: Inter Recht, 1973), pp. 11–25; Hervé Cassan, “Le consensus dans la pratique des Nations Unies”, *Annuaire français de droit international* (1974), pp. 456–485.

represented a compromise. Firstly, it gave each country the power to veto any decision deemed contrary to its fundamental interests, since consensus can come only from voluntary concessions. Secondly, it had the advantage of softening the tyrannical and confrontational nature of the unanimity principle. In effect, consensus does more than simply tolerate abstentions; it fuses them with favourable positions into “a single positive meaning”.⁴⁷ Lastly, it allows a general agreement to be reached through conciliation, rather than the test of strength that a formal vote represents.⁴⁸ Consensus is based on the desire of the parties to seek mutually acceptable solutions; in other words, it presupposes a political will for mutual concessions and negotiation.

At the time of the Dipoli Consultations (1972–1973), consensus was hardly a revolutionary method: some UN bodies had been routinely practising it for years. However, the CSCE was different in that it introduced the concept of *institutionalization*. Paragraph 69 of the Final Recommendations of the Helsinki Consultations expressly states that “decisions of the Conference shall be taken by consensus,” defining this as “the absence of any objection expressed by a Representative and submitted by him as constituting an obstacle to the taking of the decision in question.” Formal decision-making in the Helsinki process thus excluded voting.⁴⁹

Moreover, consensus should not be confused with unanimity. Unlike unanimity (which means the *absence of differing views*), it allows reservations to be expressed. According to paragraph 79 of the Final Recommendations of the Helsinki Consultations, “representatives of States participating in the Conference may ask for their formal reservations or interpretative statements concerning given decisions to be duly registered by the Executive Secretary and circulated to the participating States. Such statements must be submitted in writing to the Executive Secretary.” These reservations and statements do not signify non-acceptance; like abstention, they do not affect the validity of the decisions taken by consensus.⁵⁰ They are published in the Journal of the relevant meetings.⁵¹

47 Ibid., Cassan, p. 459.

48 Inasmuch as the vote generally results in a majority and a minority.

49 According to Aćimović, *Problems of Security ...* (n. 11) p. 118, “at first the NATO countries proposed a combined system: consensus on all major issues, and a qualified majority on procedural and less important questions. In the end, the rule of consensus was adopted for all decisions.”

50 This case is comparable to a situation in which “everyone agrees, but each explains that in principle he is against.”

51 All working bodies established within the framework of the initial CSCE and its Follow-up issue a Journal of each meeting they hold. Journals contain factual and concise minutes of the proceedings (meeting date, chairing country, subject discussed, speakers, etc.), whose interest is generally nil in the absence of such reservations or interpretative statements. A list of the most important of these (up to the Madrid Follow-up Meeting) can be found in Sizoo and Jurrjens, *CSCE DecisionMaking ...* (n. 24), pp. 74–75. See also Stockholm Conference on Confidence- and Security-Building Measures and Disarmament in Europe: Journal No. 379/Rev. 2 of 19 September 1986, and Vienna Follow-up Meeting: Journal No. 397 of 15 January 1989.

Although this working method is particularly suited to the spirit and objectives of the CSCE, there are some drawbacks to consensus. Its implementation entails a cumbersome and often time-consuming process of informal consultation, and the resulting texts can sometimes be vague and ambiguous. Indeed, the compromise reached is at times merely a facade. Similarly, consensus imposes no constraints on the parties concerned, other than negotiation: unlike voting, it does not necessarily lead to a concrete decision; it may result in deadlock, despite concerted efforts to the contrary.⁵² Lastly, it ceases to be relevant in borderline cases of “consensus under threat of non-consensus” – that is to say, when a State seeks to *impose* its particular views on all other parties to the negotiations, through a form of blackmail. In these cases, it ceases to be a mechanism for neutralizing extreme positions, and becomes indistinguishable from the paralysing – and regressive – unanimity principle.⁵³

c) Rotation principle

In negotiations that proceed by consensus, the chairpersons of the working bodies tend to play a decisive role. It is they who, in principle, clear the way for the main points of the final agreement.⁵⁴ To prevent any kind of monopolization, the participating States agreed to the rule of rotating chairpersons.

The Final Recommendations of the Helsinki Consultations accordingly stated that *any official working session* would be chaired on a basis of daily rotation, in French alphabetical order, starting from a letter drawn by lot.⁵⁵ A Romanian diplomat once described the CSCE as a “conference of one-day chairmen”, although this was not entirely accurate, since two working sessions held by a given body on the same day required a different chairperson.⁵⁶

The rotation principle also applied to the meeting *venue*; initially designed to be flexible,⁵⁷ it was enforced more strictly during the Follow-up Meetings.

52 This was the case at the Ottawa and Bern Meetings of Experts and at the Budapest Cultural Forum.

53 This is not just a hypothetical case: the “psychodramas” caused by Malta put the CSCE in this situation on more than one occasion.

54 On the role of the chairperson of a body based on consensus, see Cassan, “Le consensus dans la pratique des Nations Unies”, (n. 46), pp. 459, 475–476.

55 See Final Recommendations of the Helsinki Consultations (1973), §§ 70 to 73. These provisions were later extended to the CSCE Follow-up Meetings.

56 § 70 of the Final Recommendations of the Helsinki Consultations (1973) provided for such a provision for Stage I in these terms: “If the Conference should meet both in the morning and in the afternoon of the same day, the two meetings shall be regarded as constituting two distinct meetings.” However, the rotation principle was not applied to *informal* working sessions.

57 “Taking into account with appreciation the invitation by the Government of Finland” and “having in view *practical considerations* and rotation,” the participating States agreed that the three official stages of the Conference would take place, respectively, in Helsinki, Geneva and back in Helsinki again, see the Final Recommendations (1973), § 63. In view of provisions contained in that document and the fact that the Consultations took place in Dipoli, Finland acted as host country on three occasions between 1972 and 1975.

The egalitarianism of this system was underpinned by a provision ensuring that all participating States had access to all working bodies, without exception. In other words, smaller groups were not permitted; indeed the CSCE was unique in that it had only *plenary* official bodies.⁵⁸

However, the principle of equality among States did not apply to the distribution of the CSCE's expenses. Paragraph 90 of the Final Recommendations of the Helsinki Consultations recognizes seven tiers of financial contributions: 8.80 per cent (France, FRG, Italy, United Kingdom, United States, USSR); 5.52 per cent (Canada); 3.48 per cent (Belgium, GDR, Netherlands, Poland, Spain, Sweden); 2 per cent (Austria, Czechoslovakia, Denmark, Finland, Hungary, Norway, Switzerland); 0.80 per cent (Greece, Romania, Turkey, Yugoslavia); 0.60 per cent (Bulgaria, Ireland, Luxembourg, Portugal) and 0.20 per cent (Cyprus, Iceland, Malta and micro-States). This list is very different to the United Nations system, which explains why the Final Recommendations of the Helsinki Consultations state that "the distribution in question concerns the Conference only and shall not be considered as a precedent which could be relied on in other circumstances" (§ 89).

A major criticism can be made of the CSCE's rules of procedure: the closed nature of the proceedings. Under paragraph 80 of the Final Recommendations of the Helsinki Consultations, only the inaugural and closing plenary sessions of the CSCE were open. Applied to the Belgrade and Madrid Follow-up Meetings, this practice was not extended to the meetings of experts (which were always closed) until the Ottawa Meeting in 1985. Some progress was made after Mikhail Gorbachev came to power, in that the Vienna Follow-up Meeting was open to the press and public at specific times (in addition to the opening and closing meetings): namely, before the proceedings of each session were adjourned and when they resumed.

C. Nature of the Process

Although the CSCE had no permanent bodies,⁵⁹ it was still a *continuous* process, which evolved quite dramatically after Dipoli. The plan to give the Conference an institutional character – originally proposed by the USSR, but unpopular among Western nations – was later supported only by the N+NA countries and Romania.

The idea of a permanent organization for security and co-operation in Europe – originally envisaged in the Budapest communiqué of 22 June 1970 – was first raised by the USSR at Dipoli and later revived by Czechoslovakia in a document

58 See Final Recommendations of the Helsinki Consultations (1973), § 68. The CSCE has six official working languages: English, French, *German, Italian*, Russian and Spanish – this is including the languages of two countries defeated in the Second World War.

59 The "Executive Secretary for technical matters" is responsible for meeting services. The host country designates a national to assume this job. He or she benefits from the support of Secretariats from the previous stages or meetings. Responsible for purely administrative and financial matters, he or she plays a background role in the CSCE process, see the Final Recommendations (1973), §§ 74 to 76.

submitted following Stages I and II of the CSCE.⁶⁰ It called for the creation of a plenary “Advisory Committee” to provide a framework for “periodic exchanges of views and information on questions of general interest relating to the strengthening of security and the development of co-operation in Europe”, and to organize future multilateral meetings in the form of conferences, expert meetings and working groups. No specific timetable was set for the committee’s activities: instead this would be convened on an ad hoc basis and adopt “recommendations” on the issues addressed.

The Western countries refused to be drawn onto such dangerous ground: they believed that the existence of a pan-European mechanism would enable the USSR to make its ideas known to Western public opinion without reciprocity, in view of the “closed” nature of the Soviet system. Conversely, the idea of institutionalization benefited the N+NA countries,⁶¹ since it meant that they would remain involved in European affairs on an equal footing.⁶²

The Western nations were able to forestall the Soviets while affording a reasonable amount of satisfaction to the non-bloc countries. Their solution was to make the modalities of the Follow-up Meetings contingent on actual *progress* during the Stage II negotiations. This established a firm link between any follow-up and the *implementation* of the results of the CSCE. Finally, it emphasized the need (with a view to preventing any duplication and unnecessary financial burden) to use existing international organizations.⁶³

Under this arrangement, the chapter of the Final Act covering the Follow-up Meetings was drafted only at an advanced stage of the Geneva stage of the CSCE (in other words, after September 1974).⁶⁴ It is interesting to note that the negotiations were essentially based on a Western proposal and on two proposals from non-bloc countries.⁶⁵ The USSR had already lost interest in the idea of an institutional extension to a conference whose rules and results were beginning to take a different turn from what had originally been expected.

60 See proposals made by the USSR: CESC/HC/11 (13 December 1972) and CESC/HC/33 (8 February 1973); and Czechoslovakia: CSCE/I/5 (4 July 1973) – also reiterated as CSCE/CC/22 (18 October 1973).

61 In Dipoli, this included some Western countries, such as Spain; see CESC/HC/26/Rev. 2/Add. 1 (9 February 1973).

62 In this regard, for the ideas or plans submitted by the N+NA countries at Dipoli, see proposals by Switzerland: CESC/HC/10 (12 December 1972); Austria: CESC/HC/20 (14 December 1972); Yugoslavia: CESC/HC/23 (18 January 1973).

63 See Final Recommendations of the Helsinki Consultations (1973), § 53: “The Co-ordinating Committee shall consider, on the basis of the progress made at the Conference such measures as may be required to give effect to the decisions of the Conference ... In examining the Follow-up of the Conference, the Committee shall also consider the contributions which it believes could be asked from existing international organizations.”

64 For this purpose, the Co-ordinating Committee set up a “Working Group on Item IV”.

65 See proposals made by Denmark: CSCE/CC/WG/2 (26 August 1974); Yugoslavia: CSCE/CC/WG/1 (28 March 1974); Finland: CSCE/CC/WG/3 (7 June 1974).

The provisions finally adopted in Geneva were far removed from the wording originally envisaged by the USSR, or the wording supported by Yugoslavia and Finland during Stage II.⁶⁶ They proceeded from the Western idea that in order to “achieve the aims sought by the Conference” the participating States were required:

- To make “further efforts” to apply the Final Act at the unilateral, bilateral and multilateral level – particularly through “*meetings of experts*” from the participating States of the CSCE;⁶⁷
- To “continue the multilateral process initiated by the Conference” by organizing “*meetings among their representatives, beginning with a meeting at the level of representatives appointed by the Ministers of Foreign Affairs. This meeting will define the appropriate modalities for the holding of other meetings which could include further similar meetings and the possibility of a new Conference.*”⁶⁸

The Final Act provided a number of details about the first Follow-up Meeting, which was to be held in Belgrade in 1977.⁶⁹ The timing was a compromise for those who wanted the next meeting to be held shortly afterwards (Eastern and N+NA countries), and those who would have preferred to wait until 1978. The date, duration, agenda and other modalities of the Belgrade Meeting were to be decided at a “*preparatory meeting*” to take place from 15 June 1977. Lastly, the Meeting was to hold “a thorough exchange of views both on the implementation of the provisions of the Final Act and of the tasks defined by the Conference, as well as, in the context of the questions dealt with by the latter, on the deepening of their mutual relations, the improvement of security and the development of co-operation in Europe, and the development of the process of détente in the future.” The Follow-up Meetings were thus given the vital role of reviewing the implementation of the provisions of the Final Act. They were also allowed to

66 Yugoslavia had called for the creation of a Continuing Committee that would meet annually, taking responsibility for “co-ordinating, initiating and reviewing activities designed to implement the decisions of the Conference and further to develop co-operation among the participating States in all the areas it has considered,” see CSCE/CC/WG/IV/1 (28 March 1974), § 3. For its part, Finland proposed a “Committee on the Follow-up to the CSCE” with a similar, but more specific, remit, see CSCE/CC/WG/IV/3 (7 June 1974).

67 See Helsinki Final Act (1975), “Follow-up to the Conference”, § 1(c). This provision represents a major achievement reached by the Western countries. While it does not go as far as the measure proposed by Denmark, it does, however, suggest that participating States will, in the period following the Conference, ensure that its decisions have been carried out: “... unilaterally in *carrying out faithfully* those decisions which lend themselves to action by the States individually,” see CSCE/CC/WG/IV/2 (26 April 1974).

68 See Helsinki Final Act (1975), “Follow-up to the Conference”, § 2(b). It will be apparent that this provision establishes a distinction between the French concept of *rencontres* (more broadly defined) and that of *réunions* (meetings at the level of representatives appointed by the Ministers for Foreign Affairs). This distinction is also made in the Italian (*incontri/riunioni*) and German (*Zusammenkünfte/Treffen*) versions of the Final Act, but not in the English, Russian and Spanish documents, which use the single terms *meetings*, *vstretchy* and *reuniones* respectively.

69 See Helsinki Final Act (1975), “Follow-up to the Conference”, § 3. The choice of Belgrade prevailed over Helsinki, despite the insistence of the Finnish delegates, see Aćimović, *Problems of Security ...* (n. 11), pp. 135–137.

consider ways of improving this implementation and of deepening the CSCE process.

In short, the Follow-up to the CSCE envisaged, in increasing order of political importance, the possibility of three types of meetings: “*meetings of experts*”, to implement the recommendations of the Final Act intended for multilateral application, “*Meetings*” of plenipotentiaries (appointed by Ministers of Foreign Affairs) mainly responsible for evaluating and improving the Helsinki process, and the “*Conference*” proper.

Apart from convening the Belgrade Meeting, the Final Act contained few firm commitments on the continuation of the process. It contained no specific provisions on future meetings of plenipotentiary representatives,⁷⁰ while meetings of experts were only meant to involve “some participating States”.⁷¹ The highly flexible and conservative nature of these arrangements was due to the fact that the Western countries did not take pan-European regionalism lightly.

Following the signing of the Final Act, only Romania and Finland were officially in favour of further institutionalization.⁷²

2. Development of the Process

This section will review the changes in the various elements of the Follow-up to the CSCE (Follow-up Meetings, additional meetings and the Conference on Confidence- and Security-Building Measures and Disarmament in Europe) and the Post-Vienna programme.

A. Follow-up Meetings

The Follow-up Meetings represented the backbone of the entire process. They had two basic functions: firstly, they were an opportunity to review the implementation of the Final Act, preventing the CSCE from becoming a purely formal exercise; secondly, they had the power to adopt recommendations defining or deepening the work programme of the Final Act, and to decide on the principles and modalities of future multilateral meetings. It is important to note that these were *meetings* and not, as often reported in the media, conferences. The distinction is an important one: diplomatically less formal than *conferences*, meetings lead to a “Concluding Document” and not a “Final Act”, like the original CSCE.

70 This mainly stems from the distinction described in note 68 between the French words “réunions” and “rencontres”, while the English version of the Final Act mentions only a series of *meetings*.

71 See Helsinki Final Act (1975), “Follow-up to the Conference”, § 1(c). This paragraph is formal in this regard as it mentions “meetings of experts of the participating States” and not “all” participating States. The term “working methods” and the expression *mutatis mutandis* used in § 4 of the same section serve to reinforce this interpretation: “The rules of procedure, the working methods and the scale of distribution for the expenses of the Conference will, *mutatis mutandis*, be applied to the meetings envisaged” as part of the Follow-up.

72 See proposals made by Romania: CSCE/BM/F/3 (12 December 1977), CSCE/RM.1 (12 November 1980) and CSCE/RM.32 (15 December 1980), as well as by Finland: CSCE/RM.36 (17 December 1980). At the Belgrade Follow-up Meeting, Austria submitted a proposal to hold a Follow-up Meeting at the level of Foreign Ministers: CSCE/RM/71 (20 January 1978).

The Follow-up Meetings had a dual structure: a Plenary (where the general debate would take place) and subsidiary (*plenary*) working bodies dealing with the topics covered by the three baskets, as well as the Mediterranean.⁷³

Following the signing of the Helsinki Final Act (1975), three “Meetings” were held in the Follow-up to the CSCE, in Belgrade, Madrid and Vienna.

a) The Belgrade Meeting

The Belgrade Meeting was held from 4 October 1977 to 8 March 1978. A preparatory meeting in the summer of 1977 succeeded (with some difficulty) in agreeing on the modalities.⁷⁴ The proceedings were conducted against the inauspicious backdrop of Soviet intervention in Africa (in violation of the principle of the indivisibility of *détente*) and the Carter Doctrine on human rights (regarded by Eastern European countries as a systematic attempt to interfere in their domestic affairs). The two superpowers embarked on the Belgrade exercise with a very different attitude to before (1972–1975). The impact of the dissemination of the Final Act in the Eastern bloc had cooled Soviet enthusiasm for the CSCE; realizing that this was starting to backfire on them, Soviet representatives went to Belgrade with defensive objectives rather than a series of *requests*, as had been the case previously. The shift in attitude of the United States was equally significant: the new administration prioritized human rights and planned to indict the USSR in Belgrade.⁷⁵

From the opening of the “preparatory meeting”, East and West clashed over the methods of work of the *main* meeting. The Western countries insisted that matters pertaining to the past (review of the implementation of the Final Act) and the future (the deepening of mutual relations among participating States) should be covered separately during the main meeting. They considered it essential that working bodies be set up to conduct a comprehensive review of the various chapters of the Final Act. Lastly, they were opposed to setting a deadline for the main meeting, preferring at most a flexible reference date.⁷⁶ In addition, they wanted to adopt the principle of a new Follow-up Meeting and a concluding document containing substantive recommendations.

73 According to Sizoo and Jurrjens in *CSCE Decision-Making ...* (n. 24), p. 144, there is no real dialogue at the Plenary, but at most an exchange of monologues. Working bodies are meant to be guided in their task by the Plenary, but they do not report to it (*ibid.*, p. 146).

74 See opening statements, CSCE/BM.VR.1 to CSCE/BM.VR.9 (1977). Closing statements are transcribed in CSCE/BM.VR.1 to CSCE/BM.VR.4 (1978). See also the Belgrade Preparatory Meeting (1977): Decisions.

75 In Belgrade, the US delegation, which was larger than it had been in Geneva, was led by the pugnacious Ambassador Arthur J. Goldberg and composed of selected staff. For the US positions, see Commission on Security and Co-operation in Europe, *The Belgrade CSCE Meeting. Review of Implementation and Consideration of New Proposal. Preliminary Report. U.S. Delegation Statement, October 6 to December 22, 1977* (Washington, 1978), p. 136. See also Arthur J. Goldberg, “Human Rights and the Belgrade Meeting”, *Vanderbilt Journal of Transnational Law*, vol. 13, no. 2–3 (Spring–Summer 1980), pp. 317–321.

76 See CSCE/BMP/3 (15 June 1977).

Conversely, the USSR wanted a general discussion covering *both* the past and the future, and rejected the idea of working bodies. It preferred a short meeting or, at the very least, a meeting with a specified duration. It did not want Belgrade to be followed by other meetings, and called for a concluding document without concrete recommendations.⁷⁷ In short, the Soviets were proposing an unstructured meeting limited to a general overview for a period agreed in advance, so as to avoid an embarrassing review exercise. A fragile compromise was finally reached with the help of the N+NA countries.⁷⁸

The review of the implementation of the Final Act and the future prospects for relations among the 35 participating States were entered as a *single item* on the agenda of the main meeting (item 4), but as two *paragraphs*;⁷⁹ this (typographical) contrivance allowed the USSR to save face. Furthermore, to accommodate the wishes of the Western and N+NA countries, it was decided that five subsidiary working bodies would deal “systematically” with all aspects of item 4 of the agenda.⁸⁰ However, the work of the bodies in question was to be preceded by a general plenary debate lasting no more than two weeks.⁸¹ The meetings of the Plenary and subsidiary bodies were also precisely scheduled.⁸²

It was agreed (again according to the wishes of the Western and N+NA countries) that the main Belgrade Meeting would define the appropriate modalities for the holding of other meetings of the CSCE,⁸³ and that it would draft a concluding document containing the “decisions” relating to the various items on the agenda.⁸⁴ Lastly, it was agreed that the subsidiary bodies would complete their work by a specific deadline (16 December 1977), to give the Plenary time to draft the concluding document and adopt it on a set date (22 December 1977). The Decisions of the Preparatory Meeting stated that if this last objective was not achieved, the main meeting would resume its work for a month in 1978 – on the

77 For the Soviet position at the Belgrade Preparatory Meeting, see CSCE/BMP/4 (17 June 1977) and CSCE/BMP/8 (1 July 1977), as well as its Corr.1 (5 July 1977).

78 For the proposal of the N+NA countries, see CSCE/BMP/9 (14 July 1977) and Add. 1 (20 July 1977). See also Richard Davy, “Procedural Wrangles in Belgrade”, *The World Today*, vol. 33, no. 9 (September 1977), pp. 321-325.

79 The text of which, reads: “Thorough exchange of views both on the implementation of the provisions of the Final Act and of the tasks defined by the Conference, as well as, in the context of the questions dealt with by the latter, on the deepening of their mutual relations, the improvement of security and the development of co-operation in Europe and the development of the process of détente in the future.”

80 See Belgrade Preparatory Meeting (1977): Decisions, chapter II, “Organizational Framework, Timetable and other Modalities of the Meeting”, § 2 and 3.

81 *Ibid.*, see § 3 and 4.

82 See Belgrade Preparatory Meeting (1977): Decisions, Annex, “Working Programme”. It was also decided that “after the general debate, the Plenary should maintain a balance between the amount of time devoted to each chapter of the Final Act,” see Belgrade Preparatory Meeting: Journal No. 66 of 5 August 1977.

83 See item 5 of the agenda.

84 See item 6 of the agenda. According to the Chairman’s statement included in Journal No. 66 (n. 82), the term “decisions” implied the idea of “conclusions and recommendations”.

understanding that “the meeting will, in accordance with the agenda, end in any case by adopting its concluding document and by fixing the date and place of the next similar meeting.”⁸⁵

A statement by the chairperson of the closing session of the preparatory meeting clarified the terms of the compromise, which were largely in line with Western views.⁸⁶

This arrangement made it possible to convene the main meeting. However, there was still no guarantee that the meeting – which the Western media were calling the “Belgrade Conference on Human Rights” – would be a success. The “real” Belgrade Meeting ended in a stalemate. None of the 109 proposals submitted by participating States on the various topics of the Final Act were adopted, despite the conciliatory efforts of the N+NA countries⁸⁷ and a lone attempt by France.⁸⁸ The prospects for the second basket were more auspicious.⁸⁹ However, these could not be fulfilled without agreement on the (Western) cause of human rights and the (Soviet) cause of “military détente”.

On the surface, the Concluding Document of the Belgrade Follow-up Meeting (1978) resembles a communiqué. Yet despite the sparse content, it was not devoid of interest: it noted, for example, that “consensus was not reached on a number of proposals submitted to the meeting” (§ 9), but stressed the importance that the participating States – in spite of their differences – attached to détente and to the CSCE as an integral part of that process (§ 4). It reaffirmed the resolve of the participating States to implement fully all the provisions of the Final Act by acting at all levels (§ 6). It also proclaimed their determination to continue the CSCE process by organizing a new Follow-up Meeting in the Spanish capital in 1980 (§ 10) and, in the meantime, to convene three meetings of experts on the peaceful settlement of disputes, scientific co-operation and the Mediterranean (§§ 13–15).

The press regarded the Belgrade Meeting as a failure. Yet on closer examination, and taken in its historical context, it does not seem entirely deserving of that label.

85 See Belgrade Preparatory Meeting (1977): Decisions, chapter II, ‘Organizational Framework’, item 13. In order to prevent certain participating States from being tempted to close the meeting without reaching consensus on a final document, the Western delegates reiterated that nothing in the provisions thus adopted could undermine the principle of consensus, see Journal No. 66, (n. 82).

86 See the Chairman’s statement recorded in Journal No. 66 (n. 82) and appended to the Decisions of the Belgrade Preparatory Meeting (1977).

87 See CSCE/BM/65 (7 December 1977) and its Add.1 (14 December 1977).

88 See CSCE/BM/61 (2 December 1977) and CSCE/BM/73 (16 February 1978). For drafts submitted by the Western countries, see CSCE/BM/69 (16 December 1977), CSCE/BM/75 (21 February 1978), CSCE/BM/76 (2 March 1978) and CSCE/BM/78 (4 March 1978) and its corr. (6 March 1978). For drafts submitted by the Eastern countries, see USSR: CSCE/BM/70 (17 January 1978) and Rev. 1 to 3 (10, 14 and 17 February 1978); and Romania: CSCE/BM/77 (3 March 1978).

89 See Bettina HassHürni, “Economic Issues at Belgrade”, *Journal of World Trade Law*, vol. 12, no. 4 (July–August 1978), pp. 289–302.

Firstly, the review sought by the Western countries did in fact take place. The participating States conducted a thorough debate (the first of its kind) on the implementation of the recommendations of the CSCE. The Belgrade Concluding Document recognized in this regard that “the exchange of views constitutes in itself a valuable contribution towards the achievement of the aims set by the CSCE, although different views were expressed as to the degree of implementation of the Final Act reached so far” (§ 7). The legitimacy of the review was established: it represented a precedent on which the credibility of the CSCE after Belgrade would essentially be based. The participating States continued to remain *accountable* for their actions. As one of the members of the US delegation put it, the Soviets therefore failed to defang the Helsinki commitments.

Moreover, the decision to continue the process and develop it through meetings of experts was significant given the circumstances. It meant that in dealing with the uncertainties of *détente*, the CSCE would bend (by not adopting any new substantive provisions) but would not break. Political observers at the time lacked the hindsight to see that in its early stages, all the CSCE had to do was survive.⁹⁰

As limited as they may seem, the results achieved in Belgrade could not have been improved upon. The USSR did not go to Belgrade in search of concessions; its main mission was damage limitation. There was no question of it accepting new human rights commitments. For its part, the West had nothing to offer in support of its own calls to strengthen the Helsinki commitments, or (for the Americans) to force the Soviets to admit their transgressions.

The Belgrade Meeting left a bitter taste for all the participating States:

- The Eastern countries managed to avoid a worst-case scenario (additional human rights commitments), but this cost them their reputation and the ambitious “Brezhnev proposals” on the second basket, which were shelved;⁹¹
- Although united on the issue of human rights, the Western countries made no secret of their tactical differences. The US delegation expressed its views with a candidness and pugnacity that was in sharp contrast to the diplomatic and less evangelistic approach of the Western European delegations.⁹² Without a

90 For more on the Belgrade Follow-up Meeting, see Louis P. Peronne, “Helsinki, Belgrade, Madrid. La longue marche de l’Europe vers la paix”, *Etudes* (October 1978), pp. 293–308; and Victor-Yves Ghebaï, “La Réunion de Belgrade sur les Suites de la CSCE”, *Défense nationale* (June 1978), pp. 57–70. See also J. E. S. Fawcett, “The Belgrade Conference: Recycled Paper?”, *Millennium*, vol. 17, no. 1 (Spring 1978), pp. 52–60; Pierre Hassner, “Conférence de Belgrade”, *Universalia* (1978), pp. 221–223; and Geoffrey Edwards, “Belgrade and Human Rights”, *Government and Opposition*, vol. 13, no. 3 (1978), pp. 307–322. Furthermore see, Richard Davy, “No Progress at Belgrade”, *The World Today*, vol. 34, no. 4 (April 1978), pp. 128–135; Roger Denorme, “CSCE. After Belgrade, What?” *Studia Diplomatica*, vol. XXI, no. 5 (1978), pp. 613–620; and H. Gordon Skilling, “The Belgrade Follow-up” in Robert Spencer (ed.), *Canada and the Conference on ...* (n. 44), pp. 283–307. See also Aćimović: *Problems of Security ...* (n. 11), pp. 317–327; and the Hofer Report of 12 April 1978 (4150/1978 and Appendices), published by the Parliamentary Assembly of the Council of Europe.

91 On the “Brezhnev proposals”, see chapter V of this volume, pp. 224ff.

92 Arthur Goldberg displayed “a disorderly eloquence which had the merit of saying everything and the flaw of providing the USSR with an alibi. ... Mr. Goldberg cited names of dissidents; the

- joined-up approach, the Western countries could not fully exploit the advantage presented to them by the human rights potential of the Final Act;
- The N+NA countries had built on the cohesion established in Geneva.⁹³ However, like Romania, they were perhaps the most aggrieved by the Belgrade exercise. Particularly hard hit was the host country.

*b) The Madrid Meeting*⁹⁴

The Madrid Meeting differed from the Belgrade Meeting on account of its political context, duration and outcome.

Firstly, it took place in a hostile political climate: if the fires of détente had started to go out in 1977–1978, only the ashes remained by 1980. The Madrid Meeting opened against the backdrop of the Soviet invasion of Afghanistan. It continued in parallel with the deepening crisis in Poland, before ending in the wake of the KAL incident (when a Korean Air Lines passenger plane was shot down by a Soviet fighter). The turn taken by the proceedings at certain points prompted a Western diplomat to remark that the clock had been turned back almost thirty years, likening the situation to the Berlin crisis.⁹⁵ In Belgrade, harsh words may have been exchanged, but they questioned only the main purpose of the meeting; in Madrid, the very process of the CSCE seemed on the brink of collapse.

Secondly, the work took longer in Madrid than it had during the Geneva Conference, which of course resulted in the Final Act. The inaugural (“preparatory”) session took place on 9 September 1980. The Meeting was subsequently adjourned on numerous occasions before the Concluding Document was adopted on 6 September 1983.⁹⁶ The drawn-out process was due to three factors that emerged during the early, middle and latter stages of the negotiations:

French delegation and the delegations of the Nine did not do so, but unambiguously said the same thing,” see Peronne, “Helsinki, Belgrade, Madrid ...” (n. 90), p. 300.

93 According to Peronne, “looking closely, what could be more surprising to historians than observing that Belgrade, far from weakening Europe’s division into two camps, saw the emergence of a ‘third’ group of States, with no internal coherence, which strove to manoeuvre in concert, simply to fulfil the need to exist between the two military alliances?” See “Helsinki, Belgrade, Madrid ...” (n. 90), p. 308

94 See Sizoo and Jurriens, *CSCE Decision-Making ...* (n. 24). See also, H. Gordon Skilling: “CSCE in Madrid”, *Problems of Communism*, vol. XXX, no. 4 (July–August 1981), pp. 1–16, and another article by the same author, “The Madrid Follow-up” in Robert Spencer (ed.), *Canada and the Conference on ...* (n. 44), pp. 300–348. Furthermore, see Victor-Yves Ghebali, “Les résultats de la Réunion de Madrid sur les Suites de la CSCE”, *Défense nationale* (December 1983), pp. 123144; and Geoffrey Edwards, “The Madrid Follow-up Meeting to the CSCE”, *International Relations*, vol. VIII, no. 1 (May 1984), pp. 49–72. Finally see also Reports by Lopez Henares (4724/1981) and Van der Bergh (5132/1983), published by the Parliamentary Assembly of the Council of Europe.

95 See *Le Monde*, 13 November 1980. For example, the pretexts used by the USSR in its effort to prevent Western foreign ministers, who had travelled especially to Madrid, from speaking about the Polish crisis. See Sizoo and Jurriens, *CSCE Decision-Making ...* (n. 24), pp. 197–203.

96 For the various chronological stages of the Madrid Follow-up Meeting, see Sizoo and Jurriens, *CSCE Decision-Making ...* (n. 24), pp. 228ff.

- The initial ambiguity of the Soviet attitude and the traditional polarization of East and West, which largely explain why the work was so slow to begin with. Even at the “preparatory” stage, the USSR was fiercely opposed to the idea of a further review exercise and refused to commit to the follow-up principle. The other participating States may have wondered whether the Soviets had come to Madrid to put an end to a diplomatic enterprise that had ceased to be of benefit to them and brought only disappointment. The intransigence of the USSR over the human rights question and its calls for an immediate Conference on Disarmament in Europe, coupled with the ambition of the Western countries to produce a substantial and balanced Concluding Document, only contributed to the stalemate.
- The Polish crisis brought the negotiations to a virtual standstill. The imposition of martial law in Poland on 13 December 1981 threatened to undo what little progress had been made. The Western countries believed that Soviet pressure and the repression of the *Solidarność* movement violated the fundamental rights of the Polish people under the Final Act, and adjourned the Meeting for eight months.⁹⁷
- Malta’s opposition to the signing of the Concluding Document, which had been agreed upon on 15 July 1983, artificially prolonged the Meeting.⁹⁸ The closing session finally took place in September, but was overshadowed by the KAL incident.
- Thirdly, in marked contrast to Belgrade, the Madrid Meeting adopted a substantive and detailed Concluding Document. In effect:
 - The USSR was calling for a Conference on Disarmament in Europe, which it hoped would further its cause with the public in the Euromissile crisis. It could not afford to torpedo the multilateral symbol of détente and forego a strong argument for European pacifism. The pressure exerted by the N+NA countries (and to a certain extent by other Warsaw Pact members) for further CSCE dialogue played an important part. In Belgrade, Soviet obstruction had paid off: in Madrid, it was counter-productive.
 - The Western countries put on a show of solidarity, with foreign ministers travelling to Madrid to denounce the state of siege in Poland. The Western countries had managed to keep afloat their demands for a concluding document that would deepen the commitments of the Final Act (particularly on human rights) and secure the future of the CSCE process. They did not yield to Soviet intimidation and the prospect of a breakdown in talks. Above all, they did not make the mistake of helping the USSR by initiating such a breakdown. Ultimately, their determination would pay off.

97 Ibid., pp. 203–208.

98 Ibid., pp. 242–244 and 264–265.

- The N+NA countries fulfilled their role as constructive moderators. The last of their compromise proposals, adapted and refined by the Spanish Prime Minister himself, was instrumental in achieving the final agreement.⁹⁹

The Madrid Concluding Document represented a fundamental compromise between Eastern Europe's need for disarmament and the human rights championed by the West, while granting some concessions to the N+NA countries (the peaceful settlement of disputes for Switzerland, the Mediterranean for Malta). Most of the ninety or so official proposals submitted during the Meeting were incorporated to varying degrees in the document. The end result was significant – particularly as the text in question was the first East-West agreement since the Soviet invasion of Afghanistan. The Madrid baskets were full in every respect: inclusion of the issue of disarmament in the CSCE work programme, strengthening of the human rights commitments of the Final Act, and a new series of multilateral meetings that would make the Helsinki process near permanent from 1984 until 1986.¹⁰⁰

Despite this, the Madrid Meeting was inconclusive in its review of the implementation of the provisions of the Final Act after Belgrade.

From the outset, as it had been in Belgrade, the USSR was opposed to the idea of a detailed and prolonged review. However, the Western and Neutral countries attached particular importance to the review exercises, accentuated by the fact that the Final Act made no provision for any implementing mechanism or sanctions. For these countries, abandoning the exercise was out of the question. For the Western and Neutral countries, it was crucial that progress and deficiencies in implementation should be systematically identified.

The “preparatory meeting” ran into trouble on day one. After two months of fruitless discussions and on the eve of the “main meeting”, it was still unable to agree on the work programme. Faced with an unprecedented stalemate for the CSCE, the participating States resorted to the strategy of stopping the clock.¹⁰¹ However, the persistent intransigence of the Soviets forced the Western countries to abandon this expedient following a heated incident with the Eastern countries, which sought to oppose it on the basis of a specious interpretation of the CSCE's rules of procedure.¹⁰² Only two possible outcomes remained: either a breakdown

99 See CSCE/RM.39/Revised (14 March 1983). See also Sizoo and Jurrjens, *CSCE Decision-Making ...* (n. 24), pp. 239–242.

100 Out of five Chairman's Statements that supplemented the making of the Madrid Document, two appeared as annexes attached to the Concluding Document; the first contained the organizational modalities of the Venice Seminar on the Mediterranean and the second dealt with the convening of the Bern Meeting of Experts on Human Contacts. The other three were annexed to the Madrid Follow-up Meeting Journal No. 324 of 28 July 1983. For more details, see Sizoo and Jurrjens, *CSCE Decision-Making ...* (n. 24), pp. 261–265.

101 According to *Le Monde*, 12 and 13 November 1980, the Chairman stopped the clock at 23:58 on 10 November while the meeting continued. During the final negotiation marathon of the Stockholm Conference on Confidence- and Security-Building Measures and Disarmament in Europe, participating States resorted to the same procedure.

102 The Hungarian Chairman of that particular plenary meeting not only rejected the request made by the delegation of the Netherlands to restart the clock, but he further refused to give

in the negotiations, or the – legally notional – opening of the “main meeting”. The second solution was chosen, spurred on by Spain, which, as the host nation, was keen for the Meeting to be a success.¹⁰³

On 11 November 1980, Foreign Minister PérezLlorca declared the (main) Madrid Meeting officially open.¹⁰⁴ The following day, the Spanish Prime Minister gave his opening address, encouraging the heads of delegations to follow his lead – while the “preparatory meeting” continued its work in the guise of a plenary working group. The working group reached a compromise on the agenda of the “main meeting” only on 14 November, three days after it had opened.¹⁰⁵ From that point on, the review became possible.¹⁰⁶

The Western countries were willing to discuss all aspects – positive and negative – of their own track record. In other words, they were prepared to address any criticisms and to take on board those found to be justified. Spearheading this approach was the United States, which, in the words of US judge Griffin Bell, was “an open book, for all to read.”¹⁰⁷ They also applauded the fact that the review of some Eastern countries was not purely negative. Grave allegations were made against the USSR on three major counts – Afghanistan, Poland and the human rights situation. As in Belgrade, the Americans were both more thorough and more clinical than the Europeans: they had no qualms about citing actual cases or paying tribute to famous dissidents such as Andrei Sakharov, Anatoly Shcharansky and Yuri Orlov. The Neutral countries also expressed their views, with Sweden recalling the Wallenberg affair (in which a Swedish diplomat mysteriously disappeared in the USSR at the end of the Second World War).

up his seat to the next State representative according to the daily rotation rule of procedure. He argued that “what is decided by consensus could only be undone by consensus.” See *Le Monde*, 13 November 1980. See also Sizoo and Jurjens, *CSCE Decision-Making ...* (n. 24), pp. 194–197.

103 Spain had two advantages as host country. Firstly, the Meeting’s Executive Secretariat was to be set up and run by Spain; secondly, according to custom, it held the Chairmanship during the preparatory debates.

104 See CSCE/RM/VR.1 (11 November 1980).

105 During the fictitious opening of the “main meeting”, the USSR had already had to face precisely what it wanted to avoid most: condemnation for its breaches of the Helsinki commitments. Once the 35 delegations had delivered their opening statements, the Meeting was without an agenda and back at its starting point. Faced with either a breakdown in the negotiations or a compromise, the Soviets agreed, on 14 November 1980, to a solution proposed by the N+NA countries. The proposal consisted of four weeks of discussions on the review and two more weeks to examine new proposals and draft the Concluding Document. See CSCE/RM.2 (13 November 1980). See also the text of the Decisions of the Preparatory Meeting.

106 It would be pointless to discuss the legal opening date of the Madrid Meeting at any length. It should simply be noted that the participating States were extremely careful to preserve the appearance of legality. At the CSCE, procedural issues carry a particular weight, far greater than is generally the case with other multilateral frameworks. The governments preferred to retain the date initially fixed in Belgrade in the Concluding Document, clearly to avoid undermining the CSCE’s internal rules.

107 See CSCE/RM/VR.5 (13 November 1980). On this occasion, the United States had a lengthy report on its own record distributed, entitled *Fulfilling our Promises: The United States and the Implementation of the Helsinki Final Act*.

The Soviets tended to react to their critics with ostensible embarrassment, countering that Madrid was not a tribunal with judges and defendants, that the “Afghan question” had nothing to do with the CSCE, that human rights were afforded a high level of protection in the USSR, that Western insistence was contrary to the principle of Non-intervention in internal affairs, and that the real denial of human rights existed in the West, with its unemployment, racism, xenophobia, violence and terrorism.

In the euphemistic language of the CSCE, the Madrid Concluding Document recognized that the thorough exchange of views on the degree of implementation of the Final Act had given rise, as in Belgrade, to “different and at times contradictory opinions” (§ 8 of the general preamble). While “certain progress” was noted (but not specified), it unequivocally acknowledged the existence of serious deficiencies in the implementation of the Final Act.

It deplored the “serious violations” of the Decalogue (§ 9),¹⁰⁸ which demanded the strict and unreserved application of the ten principles in mutual relations between the participating States, notwithstanding their different systems (as in Poland’s case), and in their relations with the rest of the world (an indirect but clear allusion to Afghanistan). It also noted with regret that in some areas – confidence-building measures, economic exchanges and humanitarian co-operation – “the numerous possibilities offered by the Final Act had not been sufficiently utilized” (§ 11). Like the Belgrade Concluding Document, the Madrid Document also asserted that the review debate was in itself “a valuable contribution towards the achievement of the aims set by the CSCE” (§ 7). This comment had a major implication, in that it confirmed the central role of the review within the Helsinki process: review exercises tended to create a de facto verification mechanism, which the USSR would find increasingly difficult to avoid in the future. Lastly, while deploring the deterioration of the international situation since Belgrade, the participating States stressed the importance they continued to attach to détente, of which the CSCE process was an integral part: hence the heightened need for a full and balanced application of the Final Act which, by helping to restore confidence, would foster détente (§ 5).

One remarkable feature of the Meeting has yet to be mentioned – the presence in Madrid of dissidents from Eastern Europe and other parts of the world, who had assembled in the Spanish capital to air their grievances and concerns before an international audience.¹⁰⁹

c) *The Vienna Meeting*¹¹⁰

Unlike the previous two meetings, the Vienna Meeting got off to a promising start on 4 November 1986. The “preparatory meeting” decided on the agenda in a

108 See also Journal No. 324 of 28 July 1983.

109 On this point, see *Le Monde*, 12 November 1980; Sizoo and Jurrjens, CSCE Decision-Making ... (n. 24), pp. 119–123; and Skilling’s article in *Problems of Communism* (n. 94), pp. 6–7.

110 See G. Jonathan Greenwald, “Vienna: A Challenge for the Western Alliance”, *Aussenpolitik. German Foreign Affairs Review*, vol. 38, no. 2 (1987), pp. 155–167; William FriisMøller, “Réunion sur les

record time of two weeks (23 September to 6 October 1986). It included three new proposals: extending the duration of the review debate, greater transparency of the proceedings, and agreeing in principle to the continuation of the CSCE process.

The “preparatory meeting” decided to increase the period allotted for the review to seven weeks (instead of five); in Belgrade and Madrid, the amount of time set aside for this exercise had become a point of contention. Other provisions afforded greater access for the press and members of the public at certain times – namely before each session adjourned and resumed. Prior to that, access had been strictly limited to the formal opening and closing meetings. With better media coverage than before, the Vienna Meeting was also supported by a vast network of international non-governmental organizations (representing the Soviet Jews, the Crimean Tatars, Hungarians, Poles, Czechs, Balts and Ukrainians in exile, Helsinki Watch Groups, separated families, refuseniks with cancer, and so on), which increased the press conferences and various public demonstrations. Lastly, the adoption of a decision on a new Follow-up Meeting – even before any substantive negotiations had taken place – was a sign of the consensus that existed within the CSCE at that time.

The Vienna Meeting benefited from three political factors: the success of the Stockholm Conference on Confidence- and Security-Building Measures and Disarmament in Europe, improved US/Soviet relations (reflected in the Geneva and Reykjavik Summits), and the shift in Soviet policy (both domestic and foreign).

To strengthen the credibility of its “new political thinking”, the Soviet Union made several grand gestures both before the meeting opened and during the proceedings in Vienna: the release of Yuri Orlov – founder of the first Helsinki Monitoring Group (October 1986); the suspension of Andrei Sakharov’s internal exile and amnesty for 140 dissidents (December 1986); the enactment of new legislation on entering and leaving Soviet territory (January 1987); a commitment to cease jamming Western radio stations other than Radio Liberty and Radio Free Europe.¹¹¹

At the Vienna Meeting, the USSR was clearly concerned about its public image. Its delegation held Western-style press conferences, agreed to meet with private individuals (including the families of dissidents), unreservedly participated in a critical examination of the review, and submitted proposals regarding human rights. The tone was set by Eduard Shevardnadze in a shrewd and conciliatory

suites de la CSCE: les espoirs de réussite de l’Ouest”, *NATO Review*, vol. 35, no. 5 (October 1987), pp. 23–26; Victor-Yves Ghebali, “La Conférence sur la sécurité et la coopération en Europe à l’ère Gorbatchev”, *Défense nationale* (October 1987), pp. 63–93, and “Les résultats de la Réunion de Vienne sur les suites de la CSCE”, *Défense nationale* (April 1989), pp. 61–77.

111 The psychological effect of the first measures was, however, greatly attenuated by the death of the dissident, Anatoly Marchenko, in suspicious circumstances in Chistopol prison on 8 December 1986, after 15 years of detention. In fact, the measures adopted by Gorbachev were to a great extent clearly aimed at dispelling the fallout from this event.

opening statement.¹¹² After acknowledging the virtues of transparency, democratization and respect for human rights, the Soviet Foreign Minister played two cards: firstly, he let it be known that the Soviet Union was willing to align its policy on family reunification and binational marriage with the provisions of the draft final report that the Bern Meeting of Experts had been unable to adopt in 1986 owing to American opposition; secondly, he announced a surprise proposal for a conference to be held in Moscow covering all of the themes of the third basket.

Together, these various positive factors ensured that for the first time, the Meeting accomplished its fundamental task – to review the implementation of the Final Act – fairly satisfactorily. Nothing was taboo during the Vienna exercise. The Eastern countries hardly disputed any of the issues raised by the other participating States. Following the example set in Ottawa and Bern, they refrained from invoking the principle of non-intervention in internal affairs. In the general opinion of the Western delegations, the Vienna Meeting was the most liberal, direct and detailed exercise that had ever been undertaken within the CSCE. Although various questions addressed to the USSR and other Eastern European countries often went unanswered (or elicited no meaningful response), unlike in Belgrade or Madrid, there was no dialogue of the deaf, but rather the first signs of effective communication.

Three Western countries were notable for their frank and direct approach, each with its own particular brand of diplomacy. With a large delegation (involving diplomats, members of Congress and representatives of international NGOs), the United States systematically combed through nearly all the themes of the CSCE, citing numerous individual humanitarian cases which it demanded be resolved immediately to maintain the credibility of the Helsinki process. The United Kingdom and Canada adopted the same head-on approach, recalling that, as previously denounced in Madrid, the CSCE review had already notched up two black marks: Afghanistan and the human rights situation in Eastern Europe.

Other Western countries also voiced their criticisms, which were firm but expressed in more measured and moderate terms. The European Community frequently spoke with one voice (the United Kingdom in 1986; Belgium and Denmark in 1987). However, its various members also expressed their individual concerns over human contacts (the FRG), the peaceful change of frontiers (Ireland), the death of Anatoly Marchenko (France), and Turkish minorities in Bulgaria. For the first time within the CSCE, the Neutral countries – in the belief that silence fuelled oppression more than it benefited the victims' cause – were not afraid to place Eastern countries under the spotlight; the Swiss delegation in particular was notable for the clarity and zeal of its contributions.

At various points, the Neutral and Western countries (including the United States) welcomed the change in direction taken by the new Soviet leadership and the transformation under way within the bloc. Yet they felt that these were limited

112 See CSCE/WT/PV.3 (3 November 1986) pp. 21–40.

– “a drop in the ocean, given the ongoing abuses of freedoms”, as one Belgian delegate put it. For the West, it was unacceptable that at the end of the twentieth century, there should still be citizens in Europe who needed permission from their government to pray, marry or travel abroad. And while it was perhaps the case that the Soviet Union no longer presided over a regime of terror, as during the time of Stalin, it nonetheless continued to exercise complete control over its citizens using medieval laws criminalizing a host of political acts that would be commonplace in a democracy. Commenting on some of the manifestations of Soviet glasnost, the UK delegation carefully observed that true democracy began with the freedom of individuals to challenge the existence of democracy, without fearing for their safety or personal liberty. It was clear that despite paying lip service to change and making various grand gestures, Eastern Europe was continuing to infringe human rights.

In response to Western comments and questions, the Eastern countries switched from their previous tactic of positional warfare to one of mobile warfare. A sustained counter-attack was principally directed against the United States, the United Kingdom and Canada. Often clumsy and unsubtle, and relying on vague arguments, it haphazardly covered among other things the Nicaragua, Grenada, Libya and Ulster affairs; American “cultural imperialism” or even the “genocide” perpetrated against indigenous peoples; the support given to the “Afghan bandits”; the repression of pacifist movements; anti-communism or educational obscurantism (referring to the ban on Darwin’s theories in some US states); the violation of trade union rights (Canada); the “incitement” to terrorism against foreign diplomats.

The USSR and its allies also argued that the corpus of human rights did not solely consist of individual freedoms. Recalling the existence of economic, social and cultural rights, they gave a positive account of their own achievements in this area and criticized the West for the “massive violations” caused by unemployment, poverty, the plight of the homeless, the state of prisons, crime, racial discrimination, illiteracy and the Strategic Defense Initiative (which contravened the “right to peace”).

The review exercise had finally fulfilled its dual critical and constructive purpose. At one point during the proceedings, the US delegation observed that reviewing the practical implementation of the Helsinki commitments was like taking the pulse of the CSCE itself. In that sense, the experience in Vienna showed that the CSCE process was still alive and kicking.

Nevertheless, the review of the implementation of the CSCE commitments was not an end in itself. The Swiss delegation described it as a “periodic diagnosis”, designed not only to detect the weaknesses and shortcomings of the process, but to encourage the development of appropriate measures to strengthen it. Hence, the adoption of new recommendations could therefore be said to be an intrinsic part of the critical implementation review.

The work proposals submitted in Vienna were notable for three features: firstly, there was an impressive number of them (more than 160) for a meeting of this type; secondly, they envisaged numerous follow-up meetings in various forms

(conferences, forums, meetings of experts, working groups, symposia); thirdly, they involved a large number of *inter-group* projects – that is to say, texts submitted jointly by States not belonging to the same political group. For example, the Western and Neutral countries co-sponsored texts on the abolition of the death penalty, the treatment of minorities, the environment, compensation transactions in the economic area, cultural and educational co-operation, and privacy for postal and telephone communications. Similarly, some projects saw Eastern European countries (Czechoslovakia, the GDR, Hungary and Romania) partnering the three non-aligned countries (Cyprus, Malta and Yugoslavia) and Austria in areas such as *détente*, minorities, the environment and cultural co-operation. Even more remarkable was the existence of East/West/N+NA proposals on the rights of minorities (Austria, Canada, Hungary, USA) and scientific, cultural and environmental co-operation (Norway, Switzerland, USSR).

The closing session of the Vienna Meeting took place from 17 to 19 January 1989 at the foreign minister level. The work proceeded at a glacial pace on account of three main factors: firstly, the drafting of the terms of the mandate on conventional disarmament not only pitted East against West, but raised serious difficulties within the North Atlantic Alliance (Franco-American dispute), and between its members and the N+NA countries; secondly, the Soviet proposal for a human rights conference in Moscow became a bargaining chip to extract as many *immediate* concessions as possible from the USSR, even though the West could not agree on the extent of these; thirdly, the Soviet U-turn, especially on human rights, was tempered by the inflexibility of Romania, Czechoslovakia, Bulgaria and, most of all, the GDR: one of the remarkable features of the Vienna Meeting was the proof that the Eastern bloc was disintegrating in all non-military areas addressed by the CSCE.

The Meeting's success owed much to the reconciliation efforts and creativity of the N+NA countries. In July 1987, they were asked by the other participating States to act as (informal) "chairmen" in the drafting process. On 13 May 1988, after a ministerial session of their group members, they submitted an initial draft of the Concluding Document,¹¹³ later supplemented by proposals concerning the mandates of various Follow-up Meetings.¹¹⁴ Following the reactions of the Eastern and Western countries, they then suggested – in informal texts marked "chairman's perception" – the compromise proposed for each strand of the negotiations.¹¹⁵ A dispute between Greece and Turkey over the disarmament zone delayed the final phase of the negotiations, during which the N+NA countries submitted a new version of the full document.¹¹⁶ The Concluding Document was finally adopted by the heads of delegations on 15 January 1989.

113 See CSCE/WT.137 (13 May 1988).

114 CSCE/WT.137/Add. 1 to 8 (19 May to 4 August 1988).

115 The submission of informal documents took place between 21 October and 7 December 1988.

116 CSCE/WT.137/Revised (5 January 1989).

Running to some 50 pages (plus 11 detailed annexes), the Concluding Document of the Vienna Follow-up Meeting is a remarkable text. Not only is it written in fairly prescriptive terms, dispensing with archaic language, but its provisions raise the bar across all aspects of the CSCE – particularly for human rights, disarmament and the environment.

B. Additional Meetings

The Final Act provides for the multilateral implementation of some of its provisions, notably by means of “meetings of experts” from the participating States.¹¹⁷ After 1978, following decisions taken in Belgrade and Madrid, six of these meetings were held in Montreux, Valletta, Athens, Venice, Ottawa and Bern.¹¹⁸ Two other meetings of a different type (“forums”) were convened in Hamburg (on science) and Budapest (on culture); they were novel in that they brought together delegations composed of both diplomats and non-diplomats – in this case, academics or artists.¹¹⁹ In theory, the meetings of experts and forums concluded their work with a final report intended for the next Follow-up Meeting.

In practice, the eight additional meetings focused (until 1986) either on the first basket (peaceful settlement of disputes, human rights) or the third basket (scientific co-operation, cultural co-operation, human contacts). The second basket therefore tended to be sidelined. In fact, there was no real justification for meetings of experts on the second basket, given the existence and regular activities of the United Nations Economic Commission for Europe (UNECE).¹²⁰

In any case, the overall review was – with the sole exception of the Hamburg Scientific Forum – inconsequential to say the least.¹²¹ The main reason for this seems to have been the specialized nature of the meetings, which limits the potential for bargaining when none of the group members has any real interest in this. Therefore, the failure to achieve results in Ottawa and Bern is essentially because the Western countries had no bargaining chip to offer in exchange for their demands. Admittedly, the success of the CSCE negotiations is closely linked to the *interdependence* of the issues on the agenda. The additional meetings can probably lay claim to maintaining contact between the participating States in the interval between the Follow-up Meetings, and ensuring the balanced development

117 See Helsinki Final Act (1975), “Follow-up to the Conference”, § 1(c).

118 The Venice event was formally held as a “seminar” because it was so brief (it was foreseen to take ten days, rather than five or six weeks like the meetings of experts).

119 For additional comments on the Hamburg Scientific Forum and the Budapest Cultural Forum, see chapter VI of this volume, pp. 310ff.

120 However, the Valletta Meeting of Experts and the Venice Seminar on Co-operation in the Mediterranean related, to a certain extent, to the second basket. Furthermore, in the environmental sector, which is a part of this basket, the participating States held a special conference dedicated to the subject and set it outside the foreseen Follow-up framework. See chapter V of this volume, p. 204.

121 As no consensus was reached, the Budapest Cultural Forum and the Ottawa and Bern Meetings of Experts did not result in a final document.

of the different themes of the Final Act.¹²² However, their scant results, compounded by the deadlock reached in 1985–1986, cast a shadow over the CSCE process, the negative political fallout from which should not be underestimated.¹²³

C. The Conference on Confidence- and Security-Building Measures and Disarmament in Europe (CDE)

Instituted on the basis of the Madrid Concluding Document (and not the Helsinki Final Act), the Conference on Confidence- and Security-Building Measures and Disarmament in Europe is distinct from the CSCE while being “a substantial and integral part” of the CSCE process. The Conference was conceived as a two part exercise – the adoption of an enhanced regime of confidence-building measures (“Confidence- and Security-Building measures” – CSBMs), and disarmament.

122 In addition, since Ottawa (1985), the Western States had succeeded in making the opening and closing sessions of the *meetings of experts* open to the public.

123 Not to mention the financial costs of these meetings that were usually preceded by somewhat laborious “preparatory meetings”.

TABLE II
Chronology of CSCE meetings, 1972–1989 (*)

Consultations	Dipoli (Helsinki)	22 November 1972 to 8 June 1973
CSCE – Stage I	Helsinki	3 to 7 July 1973
CSCE – Stage II	Geneva	18 September 1973 to 21 July 1975
CSCE – Stage III	Helsinki	30 July to 1 August 1975
First Follow-up Meeting of the CSCE	Belgrade	4 October 1977 to 8 March 1978
Meeting of Experts on the Peaceful Settlement of Disputes	Montreux	31 October to 11 December 1978
CSCE Meeting of Experts on Co-operation in the Mediterranean	Valletta	13 February to 26 March 1979
Scientific Forum	Hamburg	18 February to 3 March 1980
Second Follow-up Meeting of the CSCE	Madrid	11 November 1980 to 9 September 1983
Conference on Confidence- and Security-Building Measures and Disarmament in Europe	Stockholm	17 January 1984 to 19 September 1986
Meeting of Experts on the Peaceful Settlement of Disputes	Athens	21 March to 30 April 1984
Seminar on Co-operation in the Mediterranean	Venice	16 to 26 October 1984
Meeting of Experts on Human Rights and Fundamental Freedoms	Ottawa	7 May to 17 June 1985
CSCE Tenth Anniversary Meeting	Helsinki	30 July to 1 August 1985
Cultural Forum	Budapest	15 October to 25 November 1985
Meeting of Experts on Human Contacts	Bern	15 April to 27 May 1986
Third Follow-up Meeting of the CSCE	Vienna	4 November 1986 to 19 January 1989

(*) Excluding preparatory meetings.

The first stage (Stockholm, 17 January 1984 to 19 September 1986) was crowned with success. The scope of this will be examined later on.¹²⁴ Following opposition from the United States, the Vienna Follow-up Meeting had decided that the next stage of the Conference on Confidence- and Security-Building Measures and Disarmament in Europe would again focus on CSBMs, while disarmament would be negotiated by the 23 CSCE participating States belonging to a military alliance – provided, however, that the two exercises took place under the aegis of the CSCE.¹²⁵

124 See chapter IV of this volume, pp. 127ff.

125 Ibid.

D. Post-Vienna follow-up programme (1989–1992)

Although an agreement in principle on the Follow-up Meetings had been reached in Vienna, several Western countries (including the USA, the UK and Belgium) raised serious objections to the large number of proposals submitted to that effect. The Americans in particular took a firm stance. Arguing that it would increase the budget, that more specialized international organizations existed, and that there was the risk of “trivializing” the process by holding a series of often futile meetings, they went as far as advocating quotas and the codification of the Follow-up Meetings.

After endless discussions and horse-trading,¹²⁶ the participating States agreed on a series of ten meetings covering all aspects of the CSCE programme – including the Mediterranean¹²⁷ and, for the first time, the economic basket – and divided among the Western countries (Denmark, France, FRG, Spain, UK), Eastern countries (Bulgaria, Poland, USSR) and N+NA countries (Austria, Malta, Finland). They also adopted decisions streamlining the follow-up process. Firstly, they agreed on the mandate and agenda of the various meetings in advance.¹²⁸ Secondly, they established the principle that there would be no more preparatory meetings in future and that the duration of each meeting would not exceed one month.¹²⁹

126 During which Italy (willingly) relinquished its plans for a scientific forum in Erice and Czechoslovakia saw its candidacy (for an economic forum) rejected due to human rights violations.

127 There was no Maltese “psychodrama” in Vienna.

128 The respective mandates of the Expert Meetings are attached as Annexes I to X to the Vienna Concluding Document.

129 However, the next Follow-up Meeting, held in Helsinki in 1992, would be preceded by a “preparatory meeting” lasting no more than two weeks. See Vienna Follow-up Meeting (1989): Concluding Document, “Follow-up to the Conference”, § 4.

TABLE III
Calendar of CSCE Meetings, 1989–1992

Conference on Confidence- and Security-Building Measures and Disarmament in Europe	Vienna	6 March 1989 (opening session)
Negotiation on Conventional Armed Forces in Europe	Vienna	6 March 1989 (opening session)
Information Forum	London	18 April to 12 May 1989
Conference on the Human Dimension of the CSCE (CHD/1)	Paris	30 May to 23 June 1989
Meeting on the Protection of the Environment	Sofia	16 October to 3 November 1989
Conference on Economic Co-operation in Europe	Bonn	19 March to 11 April 1990
Conference on the Human Dimension of the CSCE (CHD/2)	Copenhagen	5 to 29 June 1990
Meeting on the Mediterranean	Palma de Mallorca	24 September to 19 November 1990
Meeting of Experts on the Peaceful Settlement of Disputes	Valletta	15 January to 8 February 1991
Symposium on the Cultural Heritage of the CSCE participating States	Cracow	28 May to 7 June 1991
Conference on the Human Dimension of the CSCE (CHD/3)	Moscow	10 September to 4 October 1991
Fourth Follow-up Meeting of the CSCE	Helsinki	10 March 1992 (opening of the preparatory meeting) 24 March 1992 (opening of the main meeting)

Thirdly, they agreed that all host countries would uphold the customary “transparency” standards of the CSCE – such as access to open sessions of CSCE meetings for the media, NGOs, religious groups and private individuals (nationals of the host States and foreigners), unimpeded contacts between delegates or visitors and citizens of the host country, respect for CSCE-related activities (including the holding of peaceful gatherings), and the freedom of journalists.¹³⁰

¹³⁰ Annex XI to the Vienna Concluding Document included provisions that were drawn up for the USSR as the future host country of the third Human Dimension Conference.

II. The actors in the CSCE process

The CSCE is an exercise involving *participants* (State actors) and *contributors* (State and inter-State actors).¹³¹

1. Participating States

At the time of writing, the CSCE is composed of 35 “participating States” which represent geographical Europe and “non-European” Europe.¹³² It brings together 33 countries in territorial Europe¹³³ and two external countries whose security is closely linked to Europe’s (the United States and Canada). All of these States are full participants.¹³⁴

Two countries are missing from this enlarged “concert of Europe”: Andorra and Albania. Andorra did not join for legal reasons.¹³⁵ Albania’s absence was deliberate, in keeping with the country’s policy of isolation and systematic rejection of the “hegemony” of the superpowers¹³⁶ – although Enver Hoxha had stepped down as Albania’s leader, and despite signs that the country was beginning to open up to the outside world, there was still no prospect of it joining the CSCE [at the time of writing].

In view of the practical requirements of multilateral diplomacy, participation in the CSCE’s work required the aggregation of national interests. “Caucuses” were (regularly and informally) created, consisting, for example, of the five Nordic countries, the seven Warsaw Pact members, the four Neutrals, the seven (or nine) N+NA countries, the twelve Member States of the EEC, the sixteen NATO members, or the twenty-one countries with a market economy.¹³⁷ However, formal

131 The CSCE system includes a third category: *guests*, i.e., in this case, the Secretary-General of the United Nations (Final Recommendations of the Helsinki Consultations (1973), § 59). The role of guests is purely formal, unlike that of participants and contributors.

132 The expression is from the Portuguese delegate to the Budapest Cultural Forum: CSCE/CFB/R.2 (15 October 1985), p. 6.

133 These countries include three micro-States (Liechtenstein, Monaco and San Marino), as well as the Holy See.

134 None of these States availed themselves of § 54 of the Final Recommendations of the Helsinki Consultations (1973) which offered the option of *observer* status, involving attendance at meetings without participating in decisions.

135 Andorra is not a State within the meaning of international law, but a “principality” where sovereignty is held by two “Co-Princes”: the Bishop of Urgell and the French Head of State.

136 From the outset, Albania saw the CSCE as a US-Soviet “machination” designed to dominate the continent on the basis of the “fraud” of the *détente*. According to the Albanian newspaper *Zeri i Popullit*, 25 July 1975, Helsinki was merely “the Conference of Insecurity”. See *l’Europe de l’Est en 1975* (“Notes et études documentaires”, 4289–4291; Paris: La Documentation française, 1976), p. 27. See also *l’Europe de l’Est en 1976* (ibid, 4406–4409), p. 40; and the *Xinhua News Agency News Bulletin*, no. 5277 (14 August 1975), pp. 4–5 (analysis of an article from the Albanian newspaper *Bashkimi*).

137 See Sizoo and Jurjens, *CSCE Decision-Making ...* (n. 24), pp. 167–174. All the participating States belonged to several of these groups at once. Only Monaco and the Holy See were not part of any group.

diplomacy was conducted through triangular interactions between the Western, Eastern and N+NA countries.

A. Western Countries

The Western countries were the 17 members of NATO and/or the EEC.¹³⁸ Characterized by a certain duality at first, they gradually adopted a more unified approach.

It was apparent from the outset that the attitude and conduct of the United States differed from that of other Western countries.¹³⁹

The United States kept a low profile between Dipoli and Geneva. It was no secret that Richard Nixon and Henry Kissinger were prioritizing bilateral dialogue with the USSR over transatlantic relations. Engaged in crucial talks with the Soviets (on arms control, Vietnam and the Middle East), the US administration regarded the CSCE – favoured by the Soviet authorities – as a bargaining chip with no real intrinsic value. What counted was to prevent any blunder by this *regional* conference that might jeopardize the entente between the two superpowers. This attitude indicated a lack of political judgment; it completely overlooked the significance of what was potentially at stake in the third basket, which had been put forward by the Western European countries.¹⁴⁰

Lacking detailed instructions and weakened by three successive changes in its head of delegation, the US showed no leadership in Geneva; instead, it was content to provide discreet support to the allied countries on the basis of guidelines drawn up during the NATO consultations.¹⁴¹

Unlike the United States, the Western European countries (especially the FRG) did not underestimate the importance of the CSCE. After ensuring that this would largely take place on their own terms, and observing that the Soviet Union was keen (or even impatient) for its demands to be heard, they felt reasonably confident of reaping some of the rewards of the exercise: establishing a direct dialogue with the Soviet authorities; advancing a solution for bilateral humanitarian issues; increasing the diplomatic room for manoeuvre of the Warsaw Pact members in relation to the USSR. The self-effacement of the United States allowed the Western European countries to take a more active role and gave the EEC and its nine members a vital opportunity to assert themselves.

138 Except for Ireland, all the Community members belong to NATO, which Spain did not join until 1982.

139 For the Canadian position, see Peyton V. Lyon and Geoffrey Nimmo, “Canada at Geneva, 1973–5”, in Robert Spencer (ed.) *Canada and the Conference on ...* (n. 44), pp. 110–133.

140 See John Maresca, *To Helsinki ...* (n. 19), pp. 44–45. See also John C. Campbell, “European Security after Helsinki: Some American Views”, *Government and Opposition*, vol. 11, no. 3 (Summer 1976), p. 329.

141 See Maresca, *To Helsinki ...* (n. 19), pp. 45–46. The Americans, however, came to the rescue of the FRG during the negotiation of the famous “floating phrase” on the peaceful change of frontiers (ibid., p. 114 and chapter II of this volume, p. 61).

The CSCE signalled Eastern acceptance of the EEC on two levels. Firstly, representatives from the Commission of the European Communities were attached (with an indication of their status) to the delegation of the Member State holding the Presidency of the Council of Ministers, to negotiate the terms of the second basket on matters falling within the actual or potential competence of the Community, such as trade and the environment.¹⁴² This format (necessitated by the fact that the CSCE was a conference of States) was used in Geneva, Belgrade, Madrid and Vienna for the sole benefit of the EEC, with no reciprocity for Comecon.

Secondly, the EEC accepted the Helsinki Final Act, which was signed by Aldo Moro in his dual capacity as Italy's representative and President-in-Office of the Council.¹⁴³

For the nine EEC Member States, the CSCE was also a proving ground where the mechanisms for harmonization of "European Political Co-operation" (EPC) could be tested. Even before Dipoli, the EEC Member States had declared their intention to make a collective contribution to the CSCE.¹⁴⁴ With co-ordination taking place on a near daily basis, the Nine presented a remarkably united front against Eastern initiatives and pressure. The EEC was therefore able to speak with one voice and make the best use – with a sensible division of labour (among "chefs de file") – of the special expertise of its members, particularly in the areas covered by the third basket.¹⁴⁵ The CSCE continued to occupy a prominent place within European Political Co-operation, and [at the time of writing] is probably still its most successful forum.¹⁴⁶

142 In Dipoli, on 7 June 1973, the Belgian delegation drew the participants' attention to "the fact that in certain cases the Community may be involved, in accordance with its own competencies and procedures, in any future negotiations and that the application of any decisions on these subjects resulting from such negotiations will be dependent upon the agreement of the Community." During Stage I, on 3 July 1973, the President-in-Office of the Council of the Community (Denmark) adopted the terms of the Belgian statement. See CSCE/I/PV.2 (3 July 1973), pp. 34–35. See also Denmark's statement in Stage II during the work of the second basket in Commission II: Journal No. 1 of 18 September 1973.

143 "I shall sign the Final Act of the Conference in my dual capacity as representative of Italy and as President-in-Office of the Council of the Communities respectively. Third countries will have the assurance therefore that the conclusions of this Conference will be applied by the Communities in all matters which are within their competence, or which may come within their competence in future. As regards these matters, the expression "Participating States", mentioned in the Final Act, is to be considered therefore as applicable also to the European Communities. As for the implementation of the conclusions of the Conference, the points of view of the Communities will be expressed in accordance with their internal rules each time a matter within their competence is involved." See CSCE/III/PV.2 (30 July 1975), p. 41. See also Ferraris (ed.), *Report on a Negotiation* ... (n. 11), p. 373–384.

144 See point 13 of the Statement from the Paris Summit of October 1972 (*Bulletin of the European Communities*, 10 – 1972, part 1, chapter II).

145 See *ibid.* and Sizoo and Jurrjens, *CSCE DecisionMaking* ... (n. 24), pp. 171–172. France was the "chef de file" for culture, the UK for information and the FRG for human contacts.

146 On EPC, see Philippe de Schoutheete, *La Coopération politique européenne* (Brussels: Editions LaborNathan, 1980), p. 200.

The advent of the Carter administration – which had resolved to establish human rights as a pillar of its foreign policy – transformed Western attitudes towards the CSCE from the first Follow-up Meeting in Belgrade (1977–1978). By reaffirming one of the historical values of the American nation, the new President sought to restore confidence to a country traumatized by the Vietnam War and the Watergate scandal. Yet he also wanted to show the USSR that if détente had to involve an ongoing “ideological struggle”, this would not be one-sided: the West also had values to export.

The new American attitude had the effect of relegating the Nine to the background, breaking up the tactical unity of the West. The EEC Member States were unconvinced of the wisdom of using Belgrade as a tribunal to judge and stigmatize the Soviet Union for its failings.¹⁴⁷ They felt that they had more to lose than the US from a return to the Cold War and a deterioration in their relations with the Soviet Union. They also felt that an official crusade would be tactless and counter-productive: firstly, it could lead to a crackdown on dissidents across the Soviet bloc; secondly, it risked curbing the momentum of a process that was unexpectedly weighing in favour of Western values. Consequently, the Western European countries were reluctant to press their advantage too far.

In Belgrade, the pugnacity of the Americans was in contrast to the more nuanced approach of Western Europe. Frustrated by the lack of unity, France decided to submit its own draft final document separately from its transatlantic partners.

The steady deterioration in détente after Belgrade, the continuing “Helsinki effect” on human rights in the Eastern bloc, and the new leadership in the West (including the US) all helped to restore Western cohesion. This was unmistakable in Madrid and, to an even greater extent, during the Stockholm Conference on Confidence- and Security-Building Measures and Disarmament in Europe. At the time of writing (1988), the American approach and the Western European approach were beginning to converge, although with the United States adopting a tougher and more aggressive stance on Eastern Europe than its allies.

Co-ordination among Western countries was orchestrated through European Political Co-operation and through NATO. A similar dichotomy emerged in informal talks on the fringes of CSCE meetings, where a Western “caucus” and a NATO “caucus” both existed.¹⁴⁸ This arrangement, which inevitably resulted in duplication, was due to the need to safeguard the interests of Ireland, a member of the EEC but not of NATO. However, the drawbacks of this did little to hamper effective working relationships.¹⁴⁹

147 As Maresca points out in *To Helsinki ...* (n. 19), p. 207, the administration’s steadfast attitude was also influenced by pressure from the US Commission on Security and Co-operation in Europe, which was created shortly before Carter took up office. See further on in this chapter, pp. 53ff, for more on the Commission.

148 See Sizoo and Jurriens, *CSCE Decision-Making ...* (n. 24), pp. 169–173.

149 The relationship between the two “caucuses” was more harmonious due to the regularity of French participation in the NATO “caucus”. See Karl E. Birnbaum, “Alignments in Europe: The

Fourteen years after the Helsinki Summit, the CSCE – as originally conceived by the Soviets – had confounded all the alarmist predictions of its Western critics: instead of distancing the Americans from Europe, it had cemented the role of the United States on the continent;¹⁵⁰ instead of thwarting the development of the European Community, it had stimulated European Political Co-operation; instead of promoting Soviet ideology, it had championed the liberal concept of human rights.

B. Eastern Countries

Soviet designs for the CSCE were motivated by three factors: firstly, the importance of recognizing the territorial and political *status quo*. The USSR sought to legitimize both its territorial expansion and that of the regimes it had subjugated, and hoped that the future final document of the CSCE would bring all the advantages of a peace treaty; secondly, the need to develop the Soviet economy through co-operation, and technology transfer in particular; thirdly, the perennial objective of undermining internal cohesion within the EEC and NATO and having an official say in Western European affairs.

For other Eastern bloc countries (Bulgaria, Czechoslovakia, the GDR, Hungary, Poland and Romania), the CSCE was chiefly an opportunity to expand their diplomatic room for manoeuvre (disproving the humiliating “satellite” label), to reestablish with the West the economic and cultural exchanges that the Cold War had destroyed, and (for Hungary and Poland) to ease the way for internal reforms.

Romania’s case was unique and merits closer analysis. From Dipoli to Stockholm, the country consistently adopted its own positions, even where – as was so often the case – they differed from the Soviet position. Indeed, Romania had more in common with the N+NA countries. It was directly responsible for the procedural rules establishing a level playing field among the CSCE States, notably the rule on participation in the proceedings “outside military alliances”. During the Decalogue negotiations, it was conspicuous for its thinly veiled attacks on the Brezhnev Doctrine: hence its insistence on advocating the principles of non-use of force, non-intervention and self-determination. It also opposed the “Berlin clause” of the Final Act and any provisions likely to apply to “enemy States” under the Charter of the United Nations.

On the question of military CBMs, it regularly submitted proposals that were closer to the N+NA nations than to the Warsaw Pact countries.¹⁵¹ In Geneva – where together with Yugoslavia it backed the idea of a new international economic

CSCE Experience”, *The World Today*, vol. 37, no. 6 (June 1981), p. 222.

150 At the time of writing, this role is not even contested by the USSR. At the closure of the Vienna Follow-up Meeting, Shevardnadze specified that the “common European house” advocated by Mikhail Gorbachev “also includes both sides of the Atlantic and extends as far as the Pacific coasts.” See CSCE /WT/VR.13 (19 January 1989), p. 6.

151 The Romanians also distinguished themselves from the Soviets at the Montreux and Athens Meetings of Experts on the Peaceful Settlement of Disputes, see chapter III of this volume, p. 125 (n. 70).

order – it was involved in a lengthy dispute with the USSR over the second basket and the subject of “European developing countries”. It also remained more open towards the institutionalization of the CSCE than the Soviets.

The USSR appeared to tolerate – rather than accept – Romania’s rebelliousness. During Stage II of the CSCE, for example, the Warsaw Pact members went as far as excluding Romania from their “caucus” on more than one occasion.¹⁵² Yet there was always a natural limit to the expression of Romanian independence: it never crossed into the third basket, always stopping short of the question of human rights.

After 1985, Romania – whose internal political and economic problems were escalating – virtually ceased to play a constructive or active role within the CSCE. In 1985, the Romanian delegation was the only one to obstruct the adoption of the Final Document of the Budapest Cultural Forum.¹⁵³ The following year, it was passively involved in the final stages of the Stockholm Conference on Confidence- and Security-Building Measures and Disarmament in Europe – even though it had initially distinguished itself through the novel positions it had expressed during the negotiations. In 1988, the Romanians contributed to the deadlock at the CSCE Vienna Follow-up Meeting by refusing, for a time, to countenance new human rights commitments.¹⁵⁴

In short, the CSCE process cannot be hailed as a victory for Soviet diplomacy, nor as an instrument conducive to its plans:

- The USSR gained nothing from the signing of the Final Act that it had not *truly* had before; in this case, the territorial *status quo* already bilaterally recognized by the FRG’s *Ostpolitik*. In other words, the Soviet Union made concessions on human rights and the peaceful change of frontiers in exchange for an advantage that it already possessed and which no one dreamed of challenging by force;
- The USSR did not reap the economic and technological rewards from the CSCE that it had expected. For reasons that will be explained later on, the results of the second basket failed to make full use of the opportunities that existed for co-operation;
- The Helsinki Process bore no political dividends for the USSR, and did not give it a say in Western European affairs as it had hoped; indeed the opposite could be said to be true. The (fundamentally liberal) nature of the CSCE recommendations enabled the Western countries to claim, quite legitimately, that existing practices in the Eastern bloc had been altered. The spotlight that the Follow-up Meetings shone on the continuing human rights abuses also helped to inform international public opinion of the true nature of the Soviet regime, and helped to dispel some of the positive bias that still existed towards it in certain Western circles.

152 See Holsti, “Who Got What and How ...” (n. 44), p. 146.

153 See chapter VI of this volume.

154 See *Situation Report: Romania* (Radio Free Europe Research, vol. 14, No. 5, Part III; Munich: Radio Free Europe, 1989), pp. 19–24.

Arguably, the USSR paid a high price for the simple multilateral confirmation (but not recognition) of an existing state of affairs. This somewhat surprising result is largely due to the Soviets underestimating the Pandora's box that the third basket contained, together with clever timing by the Western countries – the USSR subsequently finding itself under *pressure* to give ground in the Geneva talks.

When it emerged that the Final Act had enough “bite for dissidents”,¹⁵⁵ the USSR was forced to introduce a damage limitation policy: hence its obstructive and negative attitude in Belgrade.

It is curious, perhaps, that the Soviets did not withdraw altogether from the process. Doubtless they would have paid a higher political price had they destroyed the CSCE instead of continuing to cushion its impact. In any case, the inherent flexibility of the process probably acted as an entry point for future negotiations on disarmament and economic co-operation.

From 1986 onwards, as part of the *aggiornamento* of Soviet foreign policy undertaken by Mikhail Gorbachev, the USSR changed tack within the CSCE, adopting a far more conciliatory and positive tone. The Helsinki process was a point-scoring opportunity for the Gorbachev regime, both internally and externally: firstly, by helping to establish the credibility of the “new political thinking” among the governments and peoples of the “common European home”; secondly, by providing further evidence of the perestroika and glasnost reforms.

When it came to *human rights*, the USSR had ceased to hide behind the conventional argument of non-intervention in internal affairs. Having recognized the (internal) need for a “socialist State under the rule of law” and the (external) need for the primacy of international law, the new Soviet leadership could no longer object in principle to the human dimension of détente. The proposal made in 1986 for a Moscow conference on the themes of the third basket shows how much the Soviet mindset and approach had changed.

The turnaround on *military* CBMs is equally remarkable. The success of the Stockholm Conference (September 1986) owes much to Gorbachev's *aggiornamento*. The USSR came around to the idea of military “transparency” and ceased to regard CBMs as a “form of espionage”.

The change in the Soviet approach is also evident in the *second basket*. This was inevitable, given the USSR's desire to fit into the global economy.

By this point, the Soviet Union was openly admitting that “today, the preservation of any kind of ‘closed’ societies is hardly possible.”¹⁵⁶ It came as no surprise therefore when Mikhail Gorbachev himself said that “the Helsinki process is a great process. ... Its philosophical, political, practical and other dimensions

155 See Peronne, “Helsinki, Belgrade, Madrid ...” (n. 90), p. 228.

156 Speech by Mikhail Gorbachev to the United Nations General Assembly in New York on 7 December 1988. See also the *Press Bulletin* of the USSR's permanent mission in Geneva, no. 226 (1726) of 8 December 1988, p. 3.

must all be preserved and enhanced, while taking into account new circumstances.”¹⁵⁷

C. Neutral and Non-Aligned Countries

The N+NA countries form the least homogeneous diplomatic constellation of the CSCE. They encompass three different categories of States: neutral countries under international law (Switzerland and Austria), countries voluntarily (Sweden) or involuntarily (Finland) practising a policy closer to neutralism than neutrality, and countries belonging to the Non-Aligned Movement (Yugoslavia, Cyprus and Malta) – excluding Liechtenstein and San Marino, two micro-States which subsequently joined the group but which are not strictly speaking either neutral or non-aligned.¹⁵⁸

The N+NA group was unique to the Helsinki process – in other words, it existed only within the CSCE.¹⁵⁹ It emerged as a pragmatic response to talks on the military aspects of security (CBMs and disarmament) held during Stage II (Geneva).¹⁶⁰ Co-operation between the countries concerned then spread naturally, within the same negotiating framework, to the Decalogue, the peaceful settlement of disputes, the Mediterranean and the Follow-up. It took root during the tense and challenging atmosphere of Belgrade, before flourishing in Madrid and during the additional meetings held in the intervening years.¹⁶¹

157 *Ibid.*, p. 10. For more details on the new Soviet multilateral policy, see Victor-Yves Ghebali, “L’URSS de Gorbatchev et les Nations Unies”, *International Geneva Yearbook* (1989), pp. 26–33.

158 Regarding this heterogeneity, see Daniel Frei, *Neutrality and Non-Alignment: Convergencies and Contrasts* (Zurich: Kleine Studien zur Politischen Wissenschaft (no. 175), 1979) pp. 4–6; Harto Hakovirta, “The Soviet Union and the Varieties of Neutrality in Western Europe”, *World Politics*, vol. XXXV, no. 4 (July 1983), pp. 563–585; Max Jakobson, “La neutralité finlandaise”, *Politique étrangère* (June 1980), pp. 453–465. See, in particular, Karl Zemanek, “The European Neutrals: A Neutral’s View”, *The Atlantic Community Quarterly* (Spring 1987), pp. 25–30.

159 The only real precedent for co-operation before the CSCE relates to the activities of the “Group of Nine” at the UN between 1965 and 1968. The experience in question stemmed from Resolution 2129, adopted on 21 December 1965 by the 20th session of the General Assembly of the United Nations, at the joint initiative of three Eastern countries (Bulgaria, Hungary and Romania), two Western countries (Belgium and Denmark), three neutrals (Austria, Finland and Sweden) and one non-aligned country (Yugoslavia). Based on this text (entitled “Actions on a regional level with a view to improving good neighbourly relations among European States having different social and political systems”), the co-operation between the Nine (joined by the Netherlands in 1967) took the form of bilateral visits, multilateral consultations and joint resolutions within the international organizations. This initiative ended in 1968, after the Czechoslovakian crisis. See the following two articles by Jeanne Kirk-Laux, “Small States and InterEuropean Relations: An Analysis of the Group of Nine”, *Journal of Peace Research*, vol. 9, no. 2 (1972), pp. 147–160, and “Prélude à la CSCE : l’expérience du groupe des Neuf comme exemple de diplomatie indépendante des petits Etats”, *Politique étrangère* (1973), pp. 675–696.

160 Proposal CSCE/II/C/9, which was submitted collectively by the N+NA countries (not including Malta and the two micro-States) on 23 October 1973, was the first of its kind.

161 For more details, see Ljubivoje Aćimović, “The Role of Neutral and Non-Aligned Countries in the Process of the CSCE”, *Review of International Affairs*, vol. XXXVIII, no. 883 (Belgrade: 20 January 1987), pp. 3–7.

The convergence of such heterogeneous countries may seem unlikely, but diplomatic coalition was the only way for them to maintain their independence from the blocs and to play a full part in the CSCE. It was all the more crucial given that multilateral diplomacy is essentially a team game.

The cohesion among the N+NA countries was fundamentally variable, however, and depended on both the subject of the negotiations and the prevailing political climate.

During Stage II, the entente among the N+NA countries was initially fairly strong for the first basket, especially its military component. However, the experience of the Stockholm Conference (1984–1986) and the Vienna Follow-up Meeting (1986–1989) demonstrated the limits of this historically unifying question.

The group hardly featured in the second basket owing to the lack of common interests: except for Yugoslavia, all the other N+NA nations were market economy countries,¹⁶² although unlike the Neutrals, the Non-Aligned countries had low levels of economic development.

It is also interesting to note that the N+NA countries were not a separate entity within the UNECE, whose Member States were practically identical to those of the CSCE.

By contrast, the situation in the third basket had changed. At first, the majority of the N+NA countries (with the notable exception of Switzerland) chose to stay out of a difficult debate in which the Eastern countries invariably paid the price. However, the Vienna Follow-up Meeting saw the first collective group proposal, on the sensitive issue of information.¹⁶³

Although tangible, the group's unity essentially remained fluid. It is significant that N+NA co-operation has never acquired an institutional form.¹⁶⁴

Regardless, the N+NA countries performed two functions within the CSCE.

As one side of a triangular negotiation, they developed collective proposals during the preparatory co-ordination meetings or on the fringes of the main CSCE proceedings. Individual nuances were discernible in these proposals: the group's members could still adopt their own positions on issues such as the peaceful settlement of disputes (Switzerland) and minorities and migrant labour (Yugoslavia), or even extreme positions, as with Malta and the Mediterranean question.

162 The four Neutrals, with the seventeen Western States, were part of the "caucus" of market economy countries formed for the purposes of the second basket. See Birnbaum: "Alignments in Europe ..." (n. 149), p. 222; and Sizoo and Jurrjens, *CSCE Decision-Making ...* (n. 24), p. 173.

163 The new Maltese Government, which was formed after the 1987 election, believed that Malta should henceforth play a more active role in the third basket.

164 The delegations of the N+NA countries, however, held informal consultations before or on the fringes of the work of the CSCE. The first such meeting took place in Belgrade in January and February 1977; it was followed by meetings in Vaduz, Vienna, Stockholm, Belgrade, Nicosia, Valletta, Brioni and Limassol. See Aćimović, "The Role of Neutral and Non-Aligned Countries ..." (n. 161), p. 6.

As moderators accepted by the Eastern and Western blocs, the N+NA countries proved to be a constructive force. They were responsible for preparing weekly schedules of official meetings – a task that might seem technical, but in fact requires political alchemy.¹⁶⁵ They also had to draw up the final version of the agreed texts, often having to propose the basis for compromise themselves. Even more significantly perhaps, the Neutrals acted as permanent (non-rotating) “chairmen” at private meetings held on the fringes of the official negotiations in order to accelerate them. In short, they were the “honest brokers” of the CSCE. Yet there was a limit to this constructive role: it ceased to be effective as soon as East-West tension reached a crisis point – as in Belgrade, for example – or when the positions of the two blocs were too divergent (as in Ottawa and Budapest). Ideally, the N+NA countries acted as mediators rather than arbitrators. Their intervention helped to foster a climate psychologically conducive to compromise.¹⁶⁶ The USSR, for example, found it easier to negotiate on the basis of proposals that reflected the Western point of view, but were presented by the N+NA countries.

The co-operation of N+NA countries did not extend as far as the United Nations or other external forums. Any other alternative seems inconceivable, since the differences between neutrality and non-alignment appear more entrenched in a universal context.¹⁶⁷ The European N+NA group was essentially the offspring of a marriage of convenience imposed by the parameters of East-West relations and the CSCE. Its very existence is a testament to the fact that there was more to the CSCE than bloc-to-bloc negotiations.

2. Contributors

Two other types of actors were involved to a much lesser extent in the CSCE process: non-European Mediterranean States and some of the agencies within the United Nations system. Their participation consisted of what the Final Act calls “contributions”.

A. Non-European Mediterranean States

The CSCE recognized the special status of “non-participating Mediterranean States” (NPMS) for eight non-European Mediterranean countries: Algeria, Egypt, Israel, Lebanon, Libya, Morocco, Syria and Tunisia.¹⁶⁸

165 See Sizoo and Jurriens, *CSCE Decision-Making ...* (n. 24), pp. 147, 157–158.

166 During Stage II of the CSCE, Austria, Switzerland, Finland and Sweden were responsible for co-ordinating (i.e., managing) the *informal* debates relating, respectively, to human contacts, information, culture and education. Similarly, the *informal* working groups of the Stockholm Conference were managed by Sweden (B1), Finland (B2) and Switzerland (A2 and A3).

167 Regarding these differences, see Frei, *Neutrality and Non-Alignment ...* (n. 158), pp. 9–11. See also Harto Hakovirta, “Effects of Non-Alignment on Neutrality in Europe. An Analysis and Appraisal”, *Co-operation and Conflict*, vol. XVIII, no. 1 (1982), pp. 57–75.

168 See Final Recommendations of the Helsinki Consultations (1973), §§ 56 to 58 and §§ 15 and 28. See also Helsinki Final Act (1975), general preamble, § 3.

This is not the same as observer status.¹⁶⁹ It only allows the countries concerned to express – orally and in writing – their views on agenda items relating to security and co-operation in the Mediterranean. Established during the Geneva stage of the CSCE, the practice of NPMS hearings was later expanded to include the Follow-up Meetings (Belgrade, Madrid and Vienna), some additional meetings (the Valletta Meeting of Experts and the Venice Seminar), and the opening meetings of the Stockholm Conference. As will be explained later, the role of the NPMS remained marginal within the CSCE.¹⁷⁰

B. Agencies within the United Nations System

From the outset, the involvement of universal institutions in the Helsinki process was necessary out of principle and for practical reasons.

Firstly, it mattered to all States that the enterprise of security and co-operation in Europe was, in one way or another, linked to the United Nations. For Western countries, this had the advantage of avoiding any potential misunderstanding about a final document that would have applied only to Europe. For other States, it was a case of ensuring that the CSCE would help to reinforce the moral authority of the United Nations: this was particularly the position of Eastern Europe,¹⁷¹ Sweden¹⁷² and, more importantly, Yugoslavia.¹⁷³

These two considerations were behind the multiple references to the United Nations contained in the Final Act.¹⁷⁴ They also account for the privilege granted to the UN Secretary-General to address the CSCE as the only “guest of honour”: the solemn invitation extended to the most senior UN official introduced a symbolic universal dimension which reflected the shared commitment of the participating States to the Organization.¹⁷⁵ Moreover, it justified the official transmission of the text of the Final Act to the UN Secretary-General for distribution to all Member States.¹⁷⁶

169 §54 of the Final Recommendations of the Helsinki Consultations (1973) provided for the status of observer.

170 The Mediterranean question at the CSCE is discussed in chapter VII of this volume, pp. 319ff.

171 CSCE/I/3 (4 July 1973).

172 CSCE/I/PV.4 (4 July 1973), p. 2.

173 CSCE/I/28 (6 July 1973).

174 For more details, see Victor-Yves Ghebali, “L’Acte final de la CSCE et les Nations Unies”, *Annuaire français de droit international* (1975), pp. 80ff.

175 For the text of Kurt Waldheim’s speeches (as the *lead speaker*) at the opening sessions of Stages I and III respectively, see CSCE/I/PV.1 (3 July 1973), pp. 8–15 and CSCE/III/PV.1 (30 July 1975), pp. 4–8. See also Final Recommendations of the Helsinki Consultations (1973), § 59 and Helsinki Final Act (1975), general preamble, § 2. The Secretary-General of the United Nations also spoke, directly or through a representative, at the following meetings – Belgrade Follow-up Meeting: CSCE/BM/PV.1 (4 October 1977), pp. 41–44; Madrid Follow-up Meeting: CSCE/RM/VR.6 (14 November 1980), pp. 1–4; Stockholm Conference on Confidence- and Security-Building Measures and Disarmament in Europe: Journal No. 80 of 6 July 1984 (86th plenary session); and Vienna Follow-up Meeting: CSCE/WT/VR.1 (4 November 1986), pp. 9–11.

176 See Helsinki Final Act (1975), final clauses, § 3.

It also demonstrated that there was no need for new institutions for multilateral co-operation: existing UN agencies were equipped to handle – *mutatis mutandis* – the requirements of détente.¹⁷⁷ Behind the technical argument of duplication, there was (for Western countries) the political aim of preventing the institutionalization of a process that had an unpredictable future. It was therefore agreed that, for the implementation of the recommendations of the Final Act requiring multilateral action, the CSCE States would act “within the framework of existing international organizations, such as the United Nations Economic Commission for Europe and UNESCO.”¹⁷⁸

The UNECE was given the task of applying the relevant provisions of the economic basket. UNESCO’s mandate was limited to certain provisions of the third basket on culture and education (but not information).¹⁷⁹ As a result, the two international institutions were called upon to make “contributions” at the Follow-up Meetings (Belgrade, Madrid and Vienna), the additional meetings on cooperation in the Mediterranean (Valletta and Venice), the Scientific Forum in Hamburg and the Cultural Forum in Budapest. These “contributions” consisted of an oral presentation and the distribution of summary reports prepared by the Executive Secretary of the UNECE and the Director-General of UNESCO, describing, respectively, the progress and future prospects of their institution’s pan-European activities.

The Final Act *expressly* authorized the UNECE and UNESCO to act purely as instruments for the implementation of some of its provisions. However, the expression “such as”, which is used to describe their role, implied that the list of contributing international organizations was not exhaustive. The meetings of experts on co-operation in the Mediterranean thus involved other UN agencies, including the United Nations Environment Programme (UNEP), the World Health Organization (WHO) and the International Telecommunication Union (ITU).¹⁸⁰ The Concluding Document of the Vienna Follow-up Meeting (1989) assigned the latter (and UNESCO) specific tasks in the field of information.¹⁸¹ It also extended the list of contributors to the CSCE by adding two new United Nations agencies –

177 The idea of developing East-West co-operation through the United Nations mechanism was envisaged in 1955 at the Quadripartite Summit in Geneva. See *Documents relatifs à la Conférence des Quatre Chefs de Gouvernements. Geneva, 18–23 July 1955* (Notes et études documentaires, 2082; Paris: La Documentation française, série internationale CCCXXV, 1955), p. 20. The same idea resurfaced when the CSCE was starting to be a subject for public debate. See *International Organizations in Europe and the Changing European System* (Geneva: Carnegie Endowment for International Peace, 1970), p. 56.

178 Helsinki Final Act (1975), “Follow-up to the Conference”, § 1(c). This provision stemmed from §§ 27, 38, 48 and 53 of the Final Recommendations of the Helsinki Consultations (1973).

179 The more restricted role assigned to UNESCO was due to the reservations of some Western countries about the nascent “politicization” of the Organization and even the personality of its Director-General (René Maheu). See Ghebali, “L’Acte final de la CSCE et les Nations Unies” (n. 174), pp. 121–122 and 78, note 30.

180 See chapter VII of this volume, pp. 319ff.

181 As part of the CSCE Information Forum in London (April and May 1989).

the International Maritime Organization (IMO) and the International Civil Aviation Organization (ICAO)¹⁸² – and two international *non-governmental* organizations: the International Chamber of Commerce (ICC) and the International Union for Conservation of Nature (IUCN).¹⁸³

III. CSCE Programme

It is worth examining the general content of the CSCE programme at this point, together with the question of its implementation and external evaluation.

1. Programme Content

The scope of the CSCE programme is defined by the provisions of the Helsinki Final Act (1975), the Madrid Concluding Document (1983) and the Vienna Concluding Document (1989), and the Document of the Stockholm Conference on Confidence- and Security-Building Measures and Disarmament in Europe (1986). Before reviewing the various elements of this programme, it is worth considering the general question of the nature of the instruments concerned.

A. The Nature of the CSCE Final Texts

As a British barrister once wittily observed, the Helsinki Final Act “is a new kind of animal. It has the body of a treaty, the legs of a resolution, and the head of a declaration of intent.”¹⁸⁴ In other words, its exact nature is not immediately apparent.

The Final Act is not a legal instrument. At the start of the enterprise, the Western countries categorically stated that they would not agree to commitments equivalent to those of a peace treaty or likely to create a European *lex specialis*. The Americans also wanted to avoid having to submit the final text of the CSCE to the US Senate. For its part, the USSR was keen for the Decalogue to be legally binding (so that the principles of inviolability of frontiers and territorial integrity were enshrined in law), but not the text on the confidence-building measures or the third basket.

The non-binding nature of the Final Act is clearly inferred from some of its provisions. Paragraph 6 of the general preamble affirms that the participating States have “adopted” all of its constituent texts.¹⁸⁵ Paragraph 2 of Principle X of the Decalogue (good faith) makes an eloquent distinction between respect for

182 The ICAO and the IMO are mentioned in relation to the provisions on terrorism in the Decalogue. The IMO was also asked to make a “contribution” at the Palma de Mallorca Meeting on the Mediterranean.

183 The ICC and the IUCN contributed, respectively, to the Bonn Conference on Economic Cooperation in Europe (March and April 1990) and the Sofia Meeting on the Protection of the Environment (October and November 1989).

184 J. E. S. Fawcett, “The Helsinki Act and International Law”, *Revue belge de droit international*, vol. XIII, nos. 1–2 (1977), p. 5.

185 The verb “adopt” also appears (in the past participle) in the final paragraph of the preamble to each basket.

“legal obligations under international law” and the *application* of the “provisions in the Final Act.”¹⁸⁶ More specifically, paragraph 3 of the final clauses asks Finland – where the original document was to be archived – to transmit the Final Act, “which is not eligible for registration under Article 102 of the Charter of the United Nations,” to the Secretary-General of the Organization with a view to its circulation to all the members of the Organization as an official document of the United Nations.¹⁸⁷

From a cursory reading of the Final Act, it is evident that its preambular parts share certain similarities with the resolutions adopted by international organizations and that its operative parts employ the vocabulary of treaty law. However, a closer examination reveals that the term “participating States” is consistently used instead of the conventional term “High Contracting Parties”. In addition, the verbs that define the force of the commitments leave little room for doubt: they affirm that the participating States “are resolved,” “recognize the importance,” “will encourage,” “will proceed,” “note the importance,” “will foster,” “consider it appropriate,” “will give due attention,” “express their willingness,” “express their view,” “recommend,” “declare themselves in favour,” “express the desire,” “will endeavour,” “are of the opinion,” “declare their resolve,” “would seek,” “confirm,” “reaffirm,” “intend to further,” “will facilitate,” “will view,” and so on.

The notion of a “Final Act” is scarcely any more enlightening, since it refers to any document or set of documents validating the work of an international conference. As Jean-François Prévost observed, the Final Act has no standard scope or content: “signed by international negotiators, it contains what they want it to contain.”¹⁸⁸ They may be texts of a conventional nature (Final Act of the Congress of Vienna of 9 June 1815, Final Act of the London Conference on Germany of 3 October 1954), non-conventional nature (Final Act of the Second United Nations Conference on the Law of the Sea of 26 April 1960), or a combination of the two (Final Act of the Geneva Conference on Indochina of 21 July 1954, Final Act of the Paris International Conference on Vietnam of 2 March 1973).¹⁸⁹

186 “The participating States confirm that in the event of a conflict between the obligations of the members of the United Nations under the Charter of the United Nations and their obligations under any treaty or other international agreement, their obligations under the Charter will prevail, in accordance with Article 103 of the Charter of the United Nations.”

187 The letter of transmittal addressed to the UN Secretary-General by [the Government of] Finland, after its wording was approved by the Co-ordinating Committee at the Geneva stage of the CSCE, clearly stated that any parts of the Final Act or the text as a whole “were not eligible for registration under Article 102 of the Charter of the United Nations, since the Final Act was neither considered to be a Treaty, nor an international agreement, as implied by this article.” See Co-ordinating Committee: Journal No. 80 of 18 July 1975.

188 Jean-François Prévost, “Observations sur la nature juridique de l’Acte final de la Conférence sur la sécurité et la coopération en Europe”, *Annuaire français de droit international* (1975), p. 137.

189 *Ibid.*, pp. 131ff.

Some have argued that the Final Act was “somewhere in-between”.¹⁹⁰ While lacking the force of a treaty, there can be no doubt that it is more than a simple official record of an international meeting. First and foremost, it is an instrument produced by consensus and signed, at the highest level, by the two superpowers and by virtually the whole of Europe. As Fawcett points out, “those who refer to the Act as the Helsinki Agreement are legally inexact but politically correct.”¹⁹¹ There is no Helsinki “Agreement”, unless that term is interpreted as referring to a novel category of infralegal commitments or metapolicies derived from the notion of *programme*.¹⁹²

Yet it has to be said that the Final Act reaffirms (particularly in the Decalogue) the rules inferred from the generally accepted principles of international law and that the interpretation of its provisions requires legal expertise and reasoning.

The Madrid and Vienna Concluding Documents (and the Document of the Stockholm Conference) are not fundamentally different in nature. They differ from the Final Act only from a formal point of view, in that they have a less official-sounding title. Nevertheless, they act as a type of “codicil” to the Final Act, given their interpretative, adjunctive and substitutive provisions. Those in the first category clarify the meaning of the original Helsinki recommendations, while specifying the implementing conditions (as in the case of the Madrid and Vienna provisions on Principle VII of the Decalogue); in some ways they equate to an authentic interpretation of the Final Act. Those in the second category make recommendations in areas not directly covered or addressed by the Final Act (disarmament). Those in the third category modify the nature and/or substance of the previous recommendations (provisions of the Document of the Stockholm Conference). In short, the Follow-up Meetings perform a similar role with regard to the Helsinki Final Act as conferences convened for a periodic review of arms control agreements.

B. The “Security” Component

The primary objective affirmed by the participating States at the start of the Final Act is to ensure “conditions in which their people can live in true and lasting peace free from any threat to or attempt against their security.”¹⁹³ This general

190 Gonella Report on “Some legal aspects of the Final Act (Implementation of the CSCE Final Act)”, Parliamentary Assembly of the Council of Europe Report No. 3959 (26 April 1977), § 5. In § 6 the author sees the significance of the Final Act as similar to that of the 1948 Universal Declaration of Human Rights.

191 Fawcett, “The Helsinki Act and International Law” (n. 184), p. 9.

192 See Alexandre Charles Kiss and Mary Frances Dominick, “The International Legal Significance of the Human Rights Provisions of the Helsinki Final Act”, *Vanderbilt Journal of Transnational Law*, vol. 13, no. 3 (Spring–Summer 1980), p. 313.

193 Helsinki Final Act (1975), “Questions relating to Security in Europe”, § 1. This provision, taken from § 13 of the Final Recommendations (1973), is Romanian in origin. The words “true and lasting peace” were inserted by the Western States to indicate that security also implies justice. See also Helsinki Final Act (1975), “Declaration on Principles Guiding Relations between Participating States”, § 1.

statement of intent belies a less conventional approach based on three main elements: confidence, human rights and the indivisibility of security.

The Final Act recognizes the importance of the psychological dimension of security – that is to say, the need for participating States to try to move beyond “the confrontation stemming from the character of their past relations”¹⁹⁴ with a view to “overcoming distrust and increasing confidence”¹⁹⁵ and “better mutual understanding”.¹⁹⁶ This vision, which emphasizes the importance of trust, is akin to the philosophy behind the Constitution of UNESCO.

The Final Act also states that security in Europe must be based on respect for human rights. The issues it raises apply to individuals as well as States. They are not confined to the simple guarantee of frontiers or internal social structures. The safety of people is integral to the security of States. As Principle VII of the Decalogue clearly states, respect for human rights is an essential and direct factor of international peace and co-operation.

Lastly, the Final Act affirms the indivisibility of security in Europe – an affirmation that has a double meaning. Firstly, it implies that the Helsinki provisions cover Albania (a non-participating State) and apply to the unique situation of Berlin.¹⁹⁷ Secondly, it highlights the special relationship between European security and security in the Mediterranean as a whole.

The work programme resulting from this general approach (the first basket) consists of three strands:

- The Declaration on Principles Guiding Relations between Participating States, which (based on the universal principles of the Charter of the United Nations) sets out the ten commandments of détente, otherwise known as the “Decalogue”,¹⁹⁸
- A system of military confidence-building measures (later renamed “confidence- and security-building measures”, in the Document of the Stockholm Conference) and a nascent conventional disarmament programme;¹⁹⁹
- A proposal for a complementary and “generally acceptable method for the peaceful settlement of disputes”, which originated from a Swiss idea.²⁰⁰

194 Helsinki Final Act (1975), “Questions relating to Security in Europe”, § 3. This phrase is an oblique reference to the Second World War (although the Soviets would have preferred it to be more explicit) and to the Cold War. Two other allusions were included in relation to this context: the reference to “the common history” of the participating States (“Questions relating to Security in Europe”, § 3) and the reference to “experience of the past” (“Declaration on Principles Guiding Relations between Participating States”, § 2), which is a vestige of a Soviet proposal mentioning the *two* World Wars.

195 Helsinki Final Act (1975), “Questions relating to Security in Europe”, § 4.

196 *Ibid.*, § 3.

197 *Ibid.*, §§ 5 and 6. See also chapter II of this volume, pp. 61.

198 See chapter II of this volume, pp. 61 ff.

199 See chapter IV of this volume, pp. 127 ff.

200 See chapter III of this volume, pp. 111 ff.

C. The “Co-operation” Component

The CSCE’s general approach is essentially derived from Principle IX of the Decalogue. It shares the same basic elements as security – the need for confidence,²⁰¹ the role of the individual,²⁰² the concept of indivisibility,²⁰³ and the notion of equality.²⁰⁴

The co-operation advocated under the Helsinki Final Act is also distinguished by two other features.

Firstly, it is not seen as an end in itself, but as an objective directly linked to peace (with a nod to Samuel Pizar’s idea that trade could be used to further détente between the Soviet Union and the West). Indeed, paragraph 2 of Principle IX affirms that co-operation between the 35 participating States seeks to promote “friendly and good-neighbourly relations ... international peace, security and justice.”²⁰⁵

Its scope is equally striking, given that the CSCE sought to foster multidimensional co-operation. This spanned the political, military and economic fields (in the broadest sense of the term – in other words, including science and technology, as well as the environment, transport, tourism, migrant labour and training of personnel) and the “humanitarian” field, as well as the – once taboo – subject of human rights.²⁰⁶

With its political, military, technological, economic, social, humanitarian and cultural components, the CSCE programme encompassed virtually all aspects of contemporary multilateral co-operation. Its diversity was further accentuated by the composite nature of the commitments involved. The Final Act juxtaposed universal rules (the Decalogue) with statements of intent (such as the text on the Mediterranean) and more or less binding recommendations for unilateral action (second and third baskets). Its merit lay in the *interdependence* binding its various components: the CSCE programme formed an indivisible whole that required parallel and balanced progress.²⁰⁷

201 Helsinki Final Act (1975), “Declaration on Principles Guiding Relations between Participating States”, Principle IX, § 2.

202 Co-operation is not reserved for governments: the Final Act states that non-governmental organizations and *persons* have “a relevant and positive role” to play in this regard. See *ibid.*, § 3. See also Madrid Follow-up Meeting (1983): Concluding Document, Principles, § 18.

203 Helsinki Final Act (1975), “Declaration on Principles Guiding Relations between Participating States”, Principle IX, § 1. See also Helsinki Final Act, “Questions relating to Security and Co-operation in the Mediterranean”.

204 Helsinki Final Act (1975), “Declaration on Principles Guiding Relations between Participating States”, Principle IX, § 2.

205 The co-operation aims to promote “friendly and good-neighbourly relations ... international peace, security and justice” (*idem*). Remember that the principles of the Decalogue also govern “Co-operation in the Field of Economics, of Science and Technology and of the Environment” (§ 9 of the preamble) and “Co-operation in Humanitarian and Other Fields” (§ 4 of the preamble).

206 Helsinki Final Act (1975), “Declaration on Principles Guiding Relations between Participating States”, Principle IX, § 1.

207 It was this interdependence that enabled the United States to bring up the Sakharov case at the Stockholm Conference on Confidence- and Security-Building Measures and Disarmament in

2. Implementation and Evaluation of the Programme

The CSCE programme raises two main issues here – its degree of implementation and its evaluation.

A. Degree of Implementation of the Programme

Given its wide-ranging scope and the equally diverse nature of its provisions, the CSCE programme could be implemented at three parallel levels – unilateral, bilateral and multilateral.²⁰⁸

The Decalogue and various provisions of the second basket (business contacts and facilities) and third basket (human contacts) required unilateral implementation. However, other provisions (industrial projects of common interest, exchanges in the field of science and technology, migrant labour, cultural exchanges, and improvement of working conditions for journalists) called for reciprocal action by the participating States. The UNECE and UNESCO were of course responsible for implementing some of the economic, scientific and cultural provisions.

The unilateral level is probably the most important of all, since there is no better yardstick for measuring respect for the CSCE commitments.

At the bilateral level, the evaluation of the results raises an entirely different problem. Although “quantifiable”, the exact significance of these results is not always evident: any bilateral agreement or arrangement entered into after 1 August 1975 is not *ipso facto* a direct result of Helsinki.

The advantage of the multilateral dimension was that, unlike the previous two, it kept the Helsinki process alive between the Follow-up Meetings.

B. External Evaluation of the Programme

As explained earlier, the review of the implementation of the CSCE commitments featured prominently at the Follow-up Meetings. This section will therefore focus on the *external* evaluation. This took place at the national, intergovernmental and non-governmental level by organizations with no *official* link to the CSCE: the United States Commission on Security and Co-operation in Europe, the Council of Europe, the North Atlantic Assembly and the Inter-Parliamentary Union.²⁰⁹

a) The United States Commission on Security and Co-operation in Europe

The Commission was established jointly by the executive and legislative branches of the United States Government. It consisted of twelve members of the US Congress (six Representatives and six Senators) and three other members

Europe (statement by Ambassador James Goodby of 21 June 1985).

208 See Helsinki Final Act (1975), “Follow-up to the Conference”, first operative paragraph. See also Evgeny Chossudovsky, *The Helsinki Final Act Viewed in the United Nations Perspective* (New York: UNITAR, 1980) pp. 35ff.

209 To all these bodies should be added the various national “Watch Groups” and, in particular, the *International Helsinki Federation for Human Rights*, which is addressed in chapter II of this volume, p. 54.

(appointed by the President of the United States) from the US Department of State, Department of Defense and Department of Commerce.

The idea for the Commission is credited to US Representative Millicent Fenwick following an official visit to Moscow by members of Congress after the Helsinki Summit.²¹⁰ It immediately garnered support in Congress, which was particularly interested in the third basket and at the same time concerned about the lack of interest shown by the Ford administration in the CSCE process. With some reluctance (and with his own electoral agenda), President Ford finally agreed to sign Public Law No. 93304 establishing the Commission.²¹¹ Only with the advent of Jimmy Carter would the Commission find interlocutors who were willing to listen and play more of an active part in the CSCE forums.

The Commission's role is "to monitor the acts of the signatories which reflect compliance with or violation of the articles of the Final Act of the Conference on Security and Co-operation in Europe, with particular regard to the provisions relating to human rights and Co-operation in Humanitarian Fields." Its mandate also allows it "to monitor and encourage the development of programs and activities of the United States Government and private organizations with a view toward taking advantage of the provisions of the Final Act to expand East-West economic co-operation and a greater interchange of people and ideas between East and West."²¹²

Initially chaired by US Representative Dante Fascell (followed by Steny Hoyer and Dennis DeConcini), the Commission boasts numerous achievements.

The information it has amassed over the past decade (from hearings, contact with human rights NGOs and through its own research unit, for example) probably represents the most comprehensive material there is on the CSCE, together with that from the *International Helsinki Federation for Human Rights* [which was dissolved on 27 November 2007]. In addition to a regular newsletter (CSCE Digest), it has produced various publications, notably two reports on the implementation of the Helsinki Final Act by the United States²¹³ and the positive aspects of the CSCE review from 1975 to 1984.²¹⁴

210 This visit allowed her to observe at first hand the extent of the hopes raised by the third basket in certain Soviet circles. See Virginia Leary, "The Implementation of the Human Rights Provisions of the Helsinki Final Act. A Preliminary Assessment, 1975-1977", in Thomas Buergerthal (ed.), assisted by Judith R. Hall, *Human Rights, International Law and the Helsinki Accord The Helsinki Process* (1977), pp. 117-118.

211 The law in question was submitted to the Chamber by Millicent Fenwick and to the Senate by Clifford P. Case. For the objections expressed by the State Department, see *Establishing a Commission on Security and Co-operation in Europe, 94th Congress, 2nd Session, Report No. 94756*, pp. 3-5.

212 *Ibid.*, p. 6.

213 See Commission on Security and Co-operation in Europe, *Fulfilling our Promises. The United States and the Final Act. A Status Report* (Washington, 1979), p. 381.

214 See Commission on Security and Co-operation in Europe, *The Helsinki Process and East-West Relations. Progress in Perspective. A Report on the Position Aspects of the Implementation of the Helsinki Final Act, 1975-1984* (Washington, 1985), p. 266.

The Commission influenced government policy on the CSCE, with its members regularly joining official US delegations. *Public Law* No. 93304 also requires the President of the United States to submit semi-annual reports on the implementation of the Final Act to the Commission.²¹⁵

The United States remains unique in this respect: no other parliament has established a similar commission.²¹⁶ Similarly, no other Western country has seen fit to publish its own regular review of the process.²¹⁷ The Eastern countries have published some self-laudatory volumes, but these are hardly comparable to the documentation distributed by the United States Commission on Security and Co-operation in Europe.²¹⁸ Lastly, after Mikhail Gorbachev took office, the Soviet bloc States were able to enter into official contact with the Commission and with the *International Helsinki Federation for Human Rights*.

b) The Council of Europe

The Council of Europe was created at a time of heightened Cold War tension by the pioneers of European unification. It was conceived as an association of States committed to “individual freedom, political liberty and the rule of law, principles which form the basis of all genuine democracy.”²¹⁹ From the outset, it was openly hostile to Eastern European communist regimes. This was symbolized by the work of the *Special Committee on European Nations Not Represented in the Council*, established in 1950 within the Council’s Parliamentary Assembly.²²⁰ In 1964, under the leadership of Sir Peter Smithers, Secretary General of the Council of Europe, it introduced a pragmatic policy which sought in vain to offer Eastern countries the opportunity of collaborating in certain legal or technical fields. The interest shown in the CSCE by the Council of Europe (or rather its *Parliamentary Assembly*) reflected this open-door policy.

On 24 June 1973 (in other words, around the time of Dipoli), the Parliamentary Assembly adopted a recommendation recognizing that “the main conditions for a relaxation of tension in Europe expressed in its previous recommendations have now been met” and affirming that the Council of Europe should “now make

215 [At the time of writing], the Commission had received approximately twenty such reports since December 1976.

216 On the activities of national parliaments (e.g., debates and questions) concerning the implementation of the Final Act, see the Report by von Bothmer in Council of Europe, *Implementation of the CSCE Final Act* (Strasbourg, 1977), pp. 179–199. See also the activities of the Inter-Parliamentary Union mentioned further on this chapter, pp. 59.

217 With the notable exception of the United Kingdom, see *Progress Towards Implementation of the Final Act of the Conference on Security and Co-operation in Europe* (London: HMSO, 1977), xlvii–98 p.

218 See, for example, Hungarian Committee on Security and Co-operation in Europe and Hungarian Peace Committee, *A Magyar Népköztársaság és a Helsinki Záróokmány [The Hungarian People’s Republic and the Helsinki Final Act]* (Budapest, 1978), p. 45; *Ten Years After Helsinki. The Results and Prospects of the Process of European Security and Co-operation. Report of the Soviet Committee for European Security and Co-operation*. (Moscow: Progress Publishers, 1985), p. 197; and *Poland and the Implementation of the CSCE Decisions*. (Warsaw: Interpress, 1986), p. 201.

219 Statute of the Council of Europe, preamble, § 3.

220 It has since become the Committee on Relations with European Non-Member Countries.

a more active contribution to East-West détente which is entering a multilateral phase.”²²¹ Members of the Parliamentary Assembly envisaged two sides to this contribution: firstly, using the Committee of Ministers as a forum for consultation and co-operation between Member States in view of the Geneva negotiations and to monitor the CSCE Follow-up Meetings – in the field of cultural co-operation, for example;²²² secondly, the CSCE allocating the Council of Europe tasks related to the implementation of its conclusions “in specific fields in which it is recognised as having special competence.”²²³

These ambitions proved difficult to fulfil. In effect, the political aims of the majority of members of the Council of Europe (Member States of the European Economic Community and North Atlantic Alliance) differed from those of the minority (the Neutral and Non-Aligned countries).²²⁴ More importantly, the idea of a formal association between the Council and the CSCE stood little chance of being endorsed by the Eastern countries, which saw the Strasbourg institution as a reminder of the Cold War.²²⁵

Although its attempt failed, the Assembly did not give up hope of providing the Council of Europe – the Cinderella of European organizations – with a renewed political life through the détente process. In 1975, it decided to keep the issue of the Follow-up on the agenda of its plenary meetings and special committees,²²⁶ which immediately began to analyse the various aspects of the Final Act. Two major debates were held in 1976²²⁷ and 1977.²²⁸ These were an opportunity for a preliminary review of the Helsinki process, which members of the Parliamentary Assembly viewed as their contribution to the preparations for the Belgrade Meeting. The Assembly held further debates on the CSCE during the Belgrade²²⁹ and Madrid²³⁰ Follow-up Meetings.

221 Consultative Assembly of the Council of Europe: Recommendation 692 (1973), §§ 1 and 7. See also 3230.

222 See Recommendation 692 (1973), § 8(ii); Recommendation 729 (1974), § 11(i); and Recommendation 739 (1974), § 7(b) ii and 7(c).

223 Recommendation 704 (1973), § 9.

224 [At the time of writing], the Council of Europe consisted of 22 countries: 15 Western countries and 7 N+NA countries (Austria, Finland, Sweden, Switzerland, Malta, Cyprus and San Marino).

225 During the speeches in Stage I of the CSCE, only one country – Austria – mentioned the Council of Europe: CSCE/I/PV.5 (5 July 1973), p. 51.

226 See Resolution 595 (1975), § 7(a) and Directive 352 (1975), § 5.

227 See 3781, Resolution 625 (1976) and the official report for the 4th sitting (5 May 1976) of the 28th session of the Assembly.

228 See *Implementation of the Final Act of the CSCE. General policy of the Council of Europe* (n. 216), Resolution 654 (1977) and the official report for the 4th, 5th and 6th sittings (27–29 April 1978) of the 29th session of the Assembly.

229 See 4150 (and appendices), Resolution 672 (1978) and the official report for the 3rd, 4th and 5th sittings (25 and 26 April 1978) of the 30th session of the Assembly.

230 See 4724, Resolution 750 (1981) and the official report for the 6th and 7th sittings (14 and 15 May 1981) of the 33rd session of the Assembly; 4772, Resolution 759 (1981) and the official report for the 14th and 15th sittings (5 August 1981) of the 33rd session; 4981; 5132 and

Although critical of infringements of the Final Act by Eastern countries, the resolutions and recommendations adopted by the Council of Europe Assembly after 1975 were not disparaging of the CSCE. They stemmed from the belief that certain elements of the Helsinki process were undeniably positive, and that its results could be assessed only over the long term.²³¹

The Assembly's initiatives were not entirely in vain. They encouraged member countries to hold regular exchanges of views on the CSCE (at ministerial and permanent delegate level, with the assistance of qualified experts).

The advent of Mikhail Gorbachev opened up new prospects for the Council of Europe. On two successive occasions, in 1987 and 1988, the Parliamentary Assembly met in the Austrian capital during the Vienna Follow-up Meeting, together with representatives from all CSCE participating States – including the Eastern countries. The Assembly and Secretary General of the Council of Europe established direct political contact with Romania,²³² Poland²³³ and especially Hungary.²³⁴ Even the Soviet Union was involved: in April 1988, exchanges of views took place in Strasbourg between a delegation from the Supreme Soviet and the extended Bureau of the Parliamentary Assembly. Following these discussions, the participants agreed on co-operation between the two assemblies in the “general field” (including periodic inter-parliamentary meetings and the invitation of Soviet experts to some of the Parliamentary Assembly's conferences and hearings), in the political arena (exchanges of views on the progress of the CSCE and coordination in the fight against terrorism and air piracy), and in areas such as the environment (protection of soil, air and water; special measures for the safety of nuclear power plants), culture and education, health and, finally, law.²³⁵

The Parliamentary Assembly took these signs to mean that “the Council of Europe is, for the first time, accepted as an interlocutor by all participants in the CSCE process.”²³⁶ It considered that the Organization could and should make a

5137, Resolution 806 (1983), Recommendation 973 (1983) and the official report for the 18th sitting (1 October 1983) of the 35th session.

231 See, for example, Resolution 732 (1980), § 3 and Resolution 750 (1981), § 4.

232 See the Lalumière Report (5937) on the *General policy of the Council of Europe* (Parliamentary Assembly, 15 September 1988), pp. 6–7.

233 *Ibid.*, p. 7.

234 *Ibid.*, pp. 4–6. In May 1988, the bodies of the Parliamentary Assembly sat in Budapest. In fact, it is important to be aware that Hungary had engaged in political dialogue with the Council of Europe before Mr. Gorbachev's arrival. In May 1984, the Vice-President of the Hungarian parliament had reported to the Strasbourg Assembly. As part of the co-operation already established, the Committee of Ministers of the Council of Europe – in 1989 – invited Hungary to join the Convention on the Conservation of European Wildlife and Natural Habitats and the European Convention on Information on Foreign Law (Parliamentary Assembly, 5993, p. 2).

235 *Ibid.*, pp. 18–19. The exchanges of views were seen very positively by the Soviets. See Albert Grigoriant, “La maison européenne dans le jardin européen. Des impressions du voyage des parlementaires soviétiques à Strasbourg”, *Temps nouveaux*, no. 29 (1988), pp. 15–16.

236 Resolution 887 (6 October 1987).

contribution to the CSCE in the areas of the third basket and the Mediterranean.²³⁷ It advised the Committee of Ministers to consider “the possibility of sending an official of the Council of Europe Secretariat to any CSCE meeting dealing with culture, because of the Council of Europe’s vocation to promote Europe’s cultural identity.”²³⁸ For its part, the Committee of Ministers expressed support for co-operation with Eastern countries, which would focus on “areas chosen from the programme of activities of the Council of Europe.” This would take place “according to a pragmatic and selective approach, taking into account the respect for human rights in each country” and would comply “with the statutory principles of the Organisation and with the commitments subscribed to in CSCE framework.”²³⁹

In May 1989, the Assembly created a “*special guest*” status to allow the legislatures of Eastern countries where progress had been made in CSCE human rights commitments to attend parliamentary debates of the Council of Europe (without voting rights). For the first time, members of the Soviet, Polish, Hungarian and Yugoslav parliaments were able to sit in the Strasbourg Assembly during its summer 1989 session, when – in a sign of the times – Mikhail Gorbachev shared his vision of the “common European home” on 6 July 1989.

c) *The North Atlantic Assembly*

The North Atlantic Assembly (NAA), now based in Brussels, is a special type of institution. Established in 1953 as an extension of NATO, it is not – strictly speaking – that organization’s parliament. It does, however, maintain working links with NATO, the formal arrangements for which were decided upon in 1968. Its main role is to act as an interface between the intergovernmental structures of the Alliance and national parliaments.²⁴⁰

Like the Council of Europe’s Parliamentary Assembly, the NAA soon realized that it could make its own contribution to the CSCE. In 1973, it assigned one of its bodies (the Education, Cultural Affairs and Information Committee) the task of monitoring human rights practices in Eastern Europe. The following year, a crucial step was taken with the creation of the *Subcommittee on the Free Flow of Information and People*,²⁴¹ responsible for the review of measures implementing the third basket. The Subcommittee first sought to identify existing East-West agreements in this area. Between May 1976 and March 1989, it produced a quarterly review (The Bulletin) on the third basket. Although this publication was essentially a Western press review, the specialized and systematic nature of its information and commentaries made it an invaluable tool.

237 Lalumière Report (5937) ..., (n. 232), p. iii (§ 9).

238 Ibid., p. iv (§ 16ii).

239 Final Communiqué of the 82nd session of the Committee of Ministers (5 May 1988), § 11 (ibid., p. 21).

240 Its 184 members are appointed by the parliaments of the Alliance countries, according to their respective procedures. The NAA is funded through voluntary contributions from certain governments and by NATO itself.

241 See Sarah Charman and Keith Williams, *The Parliamentarians’ Role in the Alliance. The North Atlantic Assembly, 1955–1980* (Brussels: North Atlantic Assembly, 1981), p. 91.

d) The Inter-Parliamentary Union

The work of the Inter-Parliamentary Union (IPU) on East-West détente originated from a resolution adopted in Paris in 1971 by the Inter-Parliamentary Conference (as it was then known) to bring nations closer together – particularly in Europe – to secure peace. Six regional conferences on “co-operation and security in Europe” were subsequently held in Helsinki (26 to 31 January 1973), Belgrade (31 January to 6 February 1975), Vienna (3 to 9 May 1978), Brussels (12 to 17 May 1980), Budapest (30 May to 4 June 1983) and Bonn (26 to 31 May 1986).²⁴²

The first two conferences were held in parallel with the CSCE negotiations and led to a “Final Act” whose structure and content prefigured those of the Final Act of the CSCE.²⁴³ The next three conferences adopted texts of a similar nature, but entitled “Final Resolutions”. They had the merit of continuing East-West dialogue (on the themes featuring on the CSCE agenda) at a time when this could only expand. The last IPU conference [at the time of writing] was held, appropriately enough, between the Stockholm Conference and the inaugural session of the Vienna Follow-up Meeting.

The links between the CSCE and IPU texts are worthy of further examination elsewhere. Suffice it to say that these inter-parliamentary meetings overshadowed the Council of Europe, since the IPU performed the role that the Strasbourg Assembly sought to fulfil itself – to be the parliament of “greater Europe”.²⁴⁴ Following perestroika and the changes this wrought, however, the Council of Europe unquestionably gained the edge over the IPU.²⁴⁵

242 For the documents of these meetings, see the bibliography thereto. On the origins of the process, see Jukka Huopaniemi, *Parliaments and European Rapprochement. The Conference of the Inter-parliamentary Union on European Co-operation and Security, Helsinki, January 1973* (Leiden: Sijthoff, 1973), viii–138 p.

243 The third Conference took place two months after the “draw” of the Belgrade Follow-up Meeting. The other two took place, respectively, before the opening and after the close of the Madrid Follow-up Meeting.

244 See *Le Monde*, 8 February 1975.

245 For example, it is significant that Poland stated, at the close of the Vienna Follow-up Meeting, that “it would well serve our common goal were the nature of such existing institutions as the Council of Europe to become truly European to the fullest possible extent” CSCE/WT/VR.11 (18 January 1989), p. 12. For its part, the FRG believed that the Council of Europe should “be invited to participate more in the pan-European dialogue on human rights” CSCE/WT/VR.12 (18 January 1989), p. 5.

CHAPTER II

Ten Principles of Détente

The Helsinki Final Act (1975) forms an indivisible whole in which the different chapters have equal value and importance. Yet within this system, whose centre is everywhere, the “Declaration on Principles Guiding Relations between Participating States” is of particular interest. This text sets out the ten rules – more commonly referred to as the “Decalogue” – which the participating States have undertaken to respect and apply at every level. It therefore has the distinction of governing the spirit and the letter of the three Helsinki baskets; in other words, it serves as a sort of basic law for the CSCE.¹ That being the case, the anatomy and physiology of the Decalogue merit careful analysis.

I. Anatomy of the Decalogue

After examining the basic approach taken by the various actors within the CSCE, this section will look at the issues and themes of the Decalogue.

1. Approach of the Various Actors

The Decalogue was negotiated during the Geneva stage of the CSCE on the basis of three key proposals submitted by the USSR,² France³ and Yugoslavia.⁴

A. Approach of the Eastern Countries

For the Soviet Union, the “basic principles of European security” were the mainspring of the CSCE – an enterprise through which it hoped to obtain similar benefits to a peace conference ratifying the territorial and political changes resulting from the Second World War. In other words, it sought official multilateral recognition of the rights secured under the bilateral treaties resulting from West German *Ostpolitik*. The Soviets wanted the future catalogue of principles to have a binding legal value or, at the very least, a higher status than the other final texts. When this idea encountered opposition from the Western countries, the Soviets tried to ensure that there was at least a *de facto* hierarchy among the various elements of the Decalogue.

1 The Helsinki Final Act (1975), “Co-operation in the Field of Economics, of Science and Technology and of the Environment”, preamble, § 9, and “Co-operation in Humanitarian and Other Fields”, preamble, § 4 state that co-operation should take place “in full respect for the principles guiding relations among participating States as set forth in the relevant document.”

2 See “General declaration on the foundations of European security and the principles of relations between States in Europe” in CSCE/I/3 (4 July 1973) or CSCE/II/A/1 (19 September 1973).

3 See “Draft declaration on principles governing relations among the States participating in the Conference on Security and Co-operation in Europe” in CSCE/II/A/12 (19 October 1973) and its Corr. 1 (24 October 1973).

4 See “Declaration of the principles guiding relations among the participating States” in CSCE/I/28 (6 July 1973) or CSCE/II/A/5 (28 September 1973).

For the USSR, the key principles were naturally the inviolability of frontiers and territorial integrity. Yet the Soviet camp also attached considerable importance to the principles of sovereign equality and non-intervention in internal affairs, in a bid to limit the scope of the human rights principle and to weaken the foundations of the third basket. Concerned about the Brezhnev Doctrine, Romania attributed particular importance to the principle of non-use of force, which it hoped would find concrete expression in an official treaty.

B. Approach of the Western Countries

The Western countries were somewhat less interested in a catalogue of principles. Nevertheless, they were driven by two main objectives: to secure recognition for the human dimension of international relations through careful wording of the human rights principle, and to erode the foundations of the Brezhnev Doctrine by inserting the relevant provisions in the majority of the principles. For the most part, the Western strategy remained essentially defensive. Its aims were to water down the principle of the intangibility of frontiers by including a provision to ensure that changes could be made by peaceful means, to establish the equal value of the principles, and to underline their non-regional (i.e., universal) character.

C. Approach of the Neutral and Non-Aligned Countries

The general strategy adopted by the N+NA countries – supported by Romania for objective reasons and with a view to erecting barricades against the Brezhnev Doctrine – was to ensure that the principles (particularly those on sovereign equality, non-intervention and co-operation) contained a host of provisions designed to legalize and encourage the democratization of international relations in Europe. The N+NA countries also sought to bind the Helsinki enterprise to the universal issue of the United Nations, to demonstrate that the CSCE would not be inward-looking or directed against another region of the world. Superimposed on these collective ambitions were various national objectives, for example to secure recognition for the principle of the peaceful settlement of disputes (Switzerland) or promotion of the rights of national minorities (Yugoslavia).

2. General Issues of the Decalogue

From an analysis of the preamble to the first basket and the preamble to and final clauses of the Decalogue, four key aspects emerge: the definition of détente; the value and universal scope of the principles; the equality and interdependence of the principles; the indivisibility of security in Europe.

A. “Definition” of Détente

Together the ten principles form a code intended to govern relations among the 35 participating States against the backdrop of *détente*. The word “détente”, which

hardly appears in the Helsinki Final Act, is not mentioned at all in the Decalogue.⁵ However, the general preamble to the first basket (“Questions relating to Security in Europe”) affirms that the participating States are convinced of “the need to exert efforts to make *détente* both a continuing and an increasingly viable and comprehensive process, universal in scope” and that the implementation of the Final Act “will be a major contribution to this process” (§ 2).

Admittedly, this provision verges on jargon. However, it merits close attention because it enshrines the Western concept of *détente*. For the Soviet Union, *détente* was a situation (rather than a process) whose “irreversibility” depended on unquestioning acceptance and recognition of the territorial *status quo* in Europe. The idea of irreversibility was unacceptable to the Western countries. It presented an image of *détente* that was static, narrow and incomplete, which would have implicitly bolstered the Brezhnev Doctrine and marginalized the human dimension of international relations in Europe. Its major flaw was that it ruled out the possibility of a deeper, more diversified development of East-West relations.

The definition contained in the Helsinki Final Act describes *détente* as an *evolutionary process* (“both a continuing and an increasingly viable” – but not irreversible – process) to which it also attributes a *comprehensive* nature and a *universal scope*. In other words, it portrays *détente* as a dynamic process requiring an ongoing effort, inextricably linked to the human and State dimension of international relations, and universally applicable.⁶

The notion of “*détente*” was subsequently reaffirmed by the participating States, without further clarification, in the Concluding Documents of the Belgrade, Madrid and Vienna Follow-up Meetings.⁷

5 The word “*détente*” appears in the Helsinki Final Act (1975), general preamble, § 5; in “Questions relating to Security in Europe, preamble, § 2; in the “Document on confidence-building measures and certain aspects of security and disarmament”, sections II and III; in “Human Contacts”, preamble, § 4 (which constitutes the first section of the third basket); and in “Follow-up to the Conference”, § 2(a). The word “*détente*” also appears in § 22 of the Final Recommendations of the Helsinki Consultations (1973).

6 § 5 of the general preamble to the Helsinki Final Act (1975), by contrast, juxtaposes Western and socialist concepts by affirming the determination of the CSCE States to, on the one hand, “broaden” and “deepen” the process of *détente*, and, on the other, make it “continuing and lasting”.

7 Belgrade Follow-up Meeting (1978): Concluding Document, § 4. The participating States stressed “the importance they attach to *détente*, which has continued since the adoption of the Final Act in spite of difficulties and obstacles encountered.” Similarly, at the Madrid Follow-up Meeting, they emphasized “the importance they attach to security and genuine *détente*, while deploring the deterioration of the international situation since the Belgrade Meeting 1977” (general preamble, § 5). At the Vienna Follow-up Meeting, they “welcomed the favourable developments in the international situation since the conclusion of the Madrid Meeting” (general preamble, § 7) and reaffirmed the definition of *détente* formulated in the Helsinki Final Act (“Questions relating to Security in Europe”, preamble, first indent).

B. Value and Universal Scope of the Ten Principles

From the very beginning of the Dipoli consultations, the Western countries expressed their unequivocal opposition to the possibility of a regional catalogue that would inevitably fall somewhere between general international law and a “socialist international law”.⁸ The adoption of a *lex specialis* for Europe would have resulted in a corpus built around a vague concept (*détente*) and aimed at a limited number of recipients (35 countries with different political, economic and social systems). It would potentially allow the USSR to interfere in transatlantic relations and create obstacles to the development of European integration. Furthermore, it would have implicitly sanctioned the application of different rules (including those of “proletarian internationalism”) for the socialist States, thus exacerbating the division within Europe.

Paragraphs 19 and 20 of the Final Recommendations of the Helsinki Consultations (1973) allayed Western fears by stating that the catalogue of principles would essentially be “the reaffirmation, with such clarifications and additions as may be deemed desirable” of the purposes and principles of the United Nations, taking into account the Declaration on Principles of International Law concerning Friendly Relations and Co-operation among States in accordance with the Charter of the United Nations.⁹

The Decalogue summarized the seven principles of the Declaration on Friendly Relations: sovereign equality (Principle I), refraining from the use of force (Principle II), peaceful settlement of disputes (Principle V), non-intervention in internal affairs (Principle VI), equal rights of peoples and their right to self-determination (Principle VIII), co-operation among States (Principle IX), and fulfilment in good faith of obligations under international law (Principle X). It also included three other elements of the Declaration on Friendly Relations, which it incorporated as *fully-fledged* principles: the inviolability of frontiers (Principle III), territorial integrity of States (Principle IV), and respect for human rights and fundamental freedoms (Principle VII). However, it would be misleading to suggest that the CSCE text is simply a reaffirmation of the Declaration on Friendly Relations. Applied to Europe, the concepts of self-determination, non-intervention or co-operation – to name but a few – do not have the same connotations as they do at the universal level.¹⁰

8 See proposals by the FRG: CSCE/I/PV.3 (4 July 1973), p. 27; Belgium and Ireland: CSCE/I/PV.6 (5 July 1973), p. 67 and p. 80 respectively; the Netherlands and Greece: CSCE/I/PV.7 (6 July 1973), p. 9 and p. 35 respectively. For its part, France caustically remarked, through the voice of Michel Jobert, that the CSCE was “a special zone where international law did not fully apply.” See CSCE/I/PV.4 (4 July 1973), p. 77.

9 The text of the “Declaration on Principles of International Law concerning Friendly Relations and Co-operation among States in accordance with the Charter of the United Nations” appears as an annex to Resolution 2625 (XXV) adopted by the UN General Assembly on 24 October 1970.

10 For a detailed comparison of the Declaration on Principles Guiding Relations between Participating States (also known as the Decalogue) and the Declaration on Friendly Relations, see Victor-Yves Ghebali, “L’Acte final de la Conférence sur la sécurité et la coopération en Europe et les Nations Unies”, *Annuaire français de droit international* (1975), pp. 73–127.

The Decalogue itself clearly recognizes the general conformity of its principles with the Charter of the United Nations and expresses the common will of the CSCE participating States “to act, in the application of these principles, in conformity with the purposes and principles of the Charter of the United Nations.”¹¹ It does not directly refer to the Declaration on Friendly Relations.¹² However, it mentions the Universal Declaration of Human Rights of 1948 and the two International Covenants of 1966,¹³ “pertinent documents concerning development”,¹⁴ the Stockholm Declaration of 1972 and “relevant resolutions of the United Nations General Assembly and the United Nations Economic Commission for Europe Prague symposium” on the environment.¹⁵

It is also worth noting that the Charter of the United Nations is the text most frequently cited in the Decalogue and in its ancillary provisions.¹⁶ The Charter is explicitly mentioned,¹⁷ through some of its specific provisions¹⁸ and by reference to the “purposes and principles of the Charter of the United Nations”,¹⁹ the “purposes and principles of the United Nations”,²⁰ and the “purposes of the United Nations”.²¹ These apparently secondary nuances hint at a dual debate.

The drafting of the Decalogue saw those opposed to a dynamic interpretation of United Nations law ranged against those who supported it. For some States (the

11 Helsinki Final Act (1975), “Declaration on Principles Guiding Relations between Participating States”, preamble, § 4.

12 The Declaration on Friendly Relations is mentioned only once in the Final Act: in “Questions relating to Security and Co-operation in the Mediterranean”, first operative paragraph. According to the competent working body for the Geneva stage of the CSCE (Subcommittee 1 of Committee I), the general conformity of the principles of the Decalogue with the Charter of the United Nations included conformity with the Declaration on Friendly Relations. See Subcommittee 1: Journal No. 337 of 19 July 1975.

13 Helsinki Final Act (1975), “Declaration on Principles Guiding Relations between Participating States”, Principle VII, § 8.

14 Helsinki Final Act (1975), “Co-operation in the Field of Economics, of Science and Technology and of the Environment”, general preamble, § 6.

15 Ibid., “Environment”, *Forms and methods of co-operation*.

16 As well as in the Decalogue, the Charter is mentioned in “Questions relating to Security and Co-operation in the Mediterranean”, § 1, and in the final clauses of the Final Act, § 3.

17 See Helsinki Final Act (1975), “Declaration on Principles Guiding Relations between Participating States”, preamble, § 3, and Principle X, § 3.

18 The Helsinki Final Act (1975), “Matters related to giving effect to certain of the above Principles”, (i), § 2, seventh indent refers to Article 33 of the Charter. The final clauses of the Final Act, § 3 mentions Article 102 and Principle X mentions Article 103.

19 See Helsinki Final Act (1975), “Declaration on Principles Guiding Relations between Participating States”, preamble, § 4; Principle IV, § 2; Principle VII, § 8; Principle VIII, § 1; Principle IX, § 1; and “Matters related to giving effect to certain of the above Principles”, (i), § 2, second indent. See also “Questions relating to Security and Co-operation in the Mediterranean”, first operative paragraph.

20 See Helsinki Final Act (1975), “Declaration on Principles Guiding Relations between Participating States”, preamble, § 3.

21 See Helsinki Final Act (1975), “Declaration on Principles Guiding Relations between Participating States”, Principle II, § 1; and “Matters related to giving effect to certain of the above Principles”, (i), § 2, sixth indent.

Non-Aligned countries and a few others), this law was not confined to the original San Francisco text: it also covered a certain number of resolutions and subsequent declarations on decolonization, development and so on. However, this view was unacceptable to the other participating States (the Western countries), which had refused to consent to such texts.

The second aspect of the debate concerned the opposition of some States to substantive and repeat references to the Charter proper, that is to all its provisions, including Articles 53 and 107 on the legality of the use of force against former “enemy States” of the United Nations.²²

In reality, these Articles are fundamentally flawed: they set no limit on the period for which the countries defeated in the Second World War remained subject to preventive military action. Given the lack of precision in the preparatory work for the Charter, common sense dictated that “enemy” status became moot once the States concerned were admitted to the United Nations: they could not qualify for membership of the UN and at the same time be an “enemy” of the organization. Nevertheless, doctrine remains divided on the subject. Article 107 refers to *former enemy states*; in other words, any State that “*has been*” the enemy of the United Nations. Based on the official wording of this provision and according to a strict interpretation of the law, several authors have argued that the admission of the States in question to the United Nations cannot affect the validity of Article 107 because it cannot erase their past as enemies.²³ Regarding their relations with the Federal Republic of Germany (FRG), the Allied powers surrendered their rights under Article 107.²⁴ As for the USSR, it threatened to use Articles 53 and 107 against the FRG in response to that country’s alleged measures and aggressive intentions during the Czechoslovakia crisis of 1968,²⁵ since then, however, the

22 Under the Charter, any enemy State is subject to preventive measures, taken either by the parties to “regional arrangements directed against renewal of aggressive policy on the part of any such state” (Article 53, § 1), or directly or indirectly (“taken or authorized”) by the five great powers (Article 107). The term “enemy State” applies, according to Article 53, § 2 to “any state which during the Second World War has been an enemy of any signatory of the present Charter.” It therefore refers to Germany, Japan, Italy, Finland, Bulgaria, Hungary and Romania. For further details of the contents and practice of Article 107, see Victor-Yves Ghebali, “Article 107”, in Jean-Pierre Cot and Alain Pellet (eds.), *La Charte des Nations Unies. Commentaire article par article* (Paris: Economica, 1984), pp. 1413–1416.

23 See, in particular, Hans Kelsen, *The Law of the United Nations. A Critical Analysis of its Fundamental Problems* (London: Stevens, 1951), p. 813 (“the ex-enemy states are, in principle, outside of the law of the Charter. This outlawry is permanent.”). In contrast, see Jaroslav Žourek, *L’interdiction de l’emploi de la force en droit international* (Leiden: Sijthoff, 1974), p. 95.

24 By deciding to include the FRG in their military and political alliance system, the Western States waived the benefit of Articles 53 and 107, mentioned by name in the respective preambles to the treaties of Dunkirk (4 March 1947) and Brussels (17 March 1948).

25 See the Soviet aide-mémoire to the FRG of 5 July 1968 analysed in the *New York Times*, 13 July 1968 (p. 3, column 1). This communication was preceded by a note along similar lines, which Willy Brandt rejected as being without a legal or political basis. See *Keesing’s Contemporary Archives* (7–14 March 1970), p. 23857.

Ostpolitik treaties have rendered meaningless the Soviet interpretation of the Articles in question.²⁶

However, for another exenemy State – Romania – the potential threat still existed. During the drafting of the CSCE Decalogue, the Romanians routinely sought to avoid any reference to the Charter that might lend weight to the Soviet interpretation and have the same dangerous consequences as the Brezhnev Doctrine.²⁷

Combined pressure from the Western countries and Romania finally resulted in the phrase “purposes and principles of the Charter of the United Nations” being used, rather than “Charter of the United Nations”.²⁸

Yet the Decalogue does not just derive its foundations from the general principles of the United Nations: it recognizes United Nations dogma in the most direct way possible. For one thing, the participating States reaffirmed “their full and active support for the United Nations and for the enhancement of its role and effectiveness in strengthening international peace, security and justice, and in promoting the solution of international problems, as well as the development of friendly relations and co-operation among States.”²⁹ They also expressed their intention to be guided by the principles of the Decalogue in their relations with other States.³⁰ Last but not least, the participating States confirmed that “in the event of a conflict between the obligations of the members of the United Nations under the Charter of the United Nations and their obligations under any treaty or other international agreement, their obligations under the Charter will prevail, in accordance with Article 103 of the Charter of the United Nations.”³¹ Given the unmistakable similarity between the principles of the CSCE and the United Nations, and the solemn tribute paid to the UN, this provision has the effect of reaffirming, as Yugoslavia had hoped, “the universal validity and primacy of the

26 The *Ostpolitik* treaties are expressly based on the purposes and principles of the Charter and not on the Charter itself – referring to the provisions of Articles 53 and 107.

27 See Harold S. Russell, “The Helsinki Declaration: Brobdingnag or Lilliput?”, *American Journal of International Law*, vol. 70, no. 2 (April 1976), pp. 261–262; and Luigi Vittorio Ferraris (ed.), *Report on a Negotiation. Helsinki-Geneva-Helsinki, 1972–1975* (Geneva: Institut universitaire de hautes études internationales, 1979), pp. 103, 114, 126, 145 and 155.

28 The reference to the “Charter of the United Nations” was retained only in a purely declaratory provision (Declaration on Principles Guiding Relations between Participating States, preamble, § 4) and in the context of a reaffirmation of Article 103 of the Charter (Principle X, § 3).

29 This provision of § 3 of the preamble to the “Declaration on Principles Guiding Relations between Participating States” includes a reservation (“in conformity with their membership in the United Nations”), which takes into account the position of Switzerland and the four CSCE micro-States. The phrase was introduced at the request of the Swiss in order to show consideration for their domestic public opinion that had its reservations about the UN [at the time].

30 Helsinki Final Act (1975), “Declaration on Principles Guiding Relations between Participating States”, final clauses, § 5.

31 Helsinki Final Act (1975), “Declaration on Principles Guiding Relations between Participating States”, Principle X, § 3.

obligations deriving from the Charter of the United Nations.”³² At the same time, it neatly sidesteps any risk of a *lex specialis*.³³

C. Equality and Interdependence of the Ten Principles

The Decalogue affirms that all its principles “are of primary significance” and accordingly “will be equally and unreservedly applied, each of them being interpreted taking into account the others.”³⁴

To avoid a Decalogue “à la carte” – which would have allowed the Soviets to prioritize Principle III on the inviolability of frontiers to the detriment of other principles such as human rights – the Western countries wanted a specific provision ensuring the strict equality of the principles. Soviet intransigence meant that the phrase “equal value” could not be used. However, the same idea is conveyed by the word “all”, which qualifies the expression “of primary significance”.³⁵

The interdependence of the principles stems from their equal importance. Like the Declaration on Friendly Relations, each element of the Decalogue must be interpreted in the light of the other elements.³⁶ This interdependence is more than a simple political expedient: it is only logical that non-intervention should proceed from sovereign equality and involve the non-use of force; that self-determination should be linked to respect for human rights and presuppose non-intervention; that refraining from the use of force should ensure the inviolability of frontiers and territorial integrity while requiring the peaceful settlement of disputes.

D. Indivisibility of Security in Europe

In the preamble to the first basket, the participating States explicitly acknowledge “the indivisibility of security in Europe”, as well as their common interest in the development of co-operation among themselves and “throughout Europe”.³⁷ These expressions were intended to extend the scope of the Final Act to Albania

32 See CSCE/II/A/5 (28 September 1973), § 8. The then UN Secretary-General addressed the CSCE States as the “guest of honour” during Stages I and III (see Final Act, general preamble, § 2) and the Helsinki Final Act was transmitted by Finland (the depositary State) to the UN Secretary-General “with a view to its circulation to all the members of the Organization as an official document of the United Nations” (see Final Act, final clauses, § 3).

33 All that remained of the idea of institutionalized pan-European regionalism was the vague possibility of the development of “political contacts” between the CSCE States (see “Declaration on Principles Guiding Relations between Participating States”, final clauses, § 4).

34 Helsinki Final Act (1975), “Declaration on Principles Guiding Relations between Participating States”, final clauses, § 1.

35 This interpretation is reinforced by § 5 of the preamble to the Decalogue, which presents the ten principles as being “all ... of primary significance”.

36 The Declaration on Friendly Relations, “General Part”, § 1 stipulates that “in their interpretation and application the above principles are interrelated and each principle should be construed in the context of the other principles.”

37 Helsinki Final Act (1975), “Questions relating to Security in Europe”, preamble, § 5.

– the only European country that [at that time] was not a participating State of the CSCE – and to Berlin.

Albania's absence was a concern for countries like Yugoslavia: hence the provision contained in the general preamble to the Final Act affirming the determination of the participating States "to give full effect to the results of the Conference and to assure, among their States and throughout Europe, the benefits deriving from those results."³⁸

In Berlin's case, this point was formally raised on 28 September 1973, during the Geneva stage of the CSCE, by France together with the United States and the United Kingdom. The three countries claimed that acceding to the Decalogue, then in the process of being drawn up, "can in no way affect the rights and responsibilities of the Four Powers and the corresponding, related Quadripartite agreements, decisions and practices referred to in the Quadripartite Declaration of 9th November 1972."³⁹ France later proposed that Principle X (fulfilment in good faith of obligations under international law) should include a provision stipulating that the participating States "note" that the Decalogue "cannot and will not affect their rights, obligations or *responsibilities* nor the treaties, agreements or arrangements in conformity with international law which reflect them, previously entered into by those States or which concern them."⁴⁰

The French draft drew criticism from the N+NA countries, Romania and some of the smaller Western countries. The text, indeed, no longer mentioned the Quadripartite Declaration of 9 November 1972: deprived of this reference to Berlin's status,⁴¹ the provision in question became laden with ambiguity. The expression "which concern them" is extremely broad and could, for example, be interpreted as favourable to the Brezhnev Doctrine.

The powers concerned agreed to delete the words "responsibilities" and "which concern them", making the entire provision subject to the principle of good faith and inserting it in the final clauses of the Decalogue so as to highlight its general derogating character: "The participating States, paying due regard to the principles above and, in particular, to the first sentence of the tenth principle, 'Fulfilment in good faith of obligations under international law', note that the present Declaration does not affect their rights and obligations, nor the corresponding treaties and other agreements and arrangements."⁴²

The "Berlin clause" of the Helsinki Final Act has a dual meaning. On the one hand, it affirms that the Decalogue did not affect the status of Germany as a whole and Berlin in particular; therefore, the German Democratic Republic (GDR) could

38 Helsinki Final Act (1975), general preamble, § 5.

39 CSCE/II/A/6 (28 September 1973).

40 CSCE/II/A/31 (12 December 1974) and CSCE/II/A/31/Rev.1 (13 December 1974).

41 Focusing on the status of Berlin, and therefore on Germany, was out of the question in a general text such as the "Declaration on Principles Guiding Relations between Participating States". The CSCE was not, in any way, a conference on Germany.

42 Helsinki Final Act (1975), "Declaration on Principles Guiding Relations between Participating States", final clauses, § 3.

not be justified in claiming, for example, that Berlin's status was obsolete owing to its incompatibility with a particular principle of the Decalogue. From this perspective, it can be said that the provision in question represented a significant departure from the principle of the primacy of the obligations of the Charter of the United Nations set forth in Principle X of the Decalogue. On the other hand, the "Berlin clause" meant that the outcome of the CSCE agreements applied to Berlin, like the rest of Europe, without prejudice to the rights and responsibilities of the Four Powers.⁴³

Some ten years later, once the work of the Conference on Confidence- and Security-Building Measures and Disarmament in Europe was concluded (1986), France issued – on behalf of the three Western powers – an interpretative statement clarifying that "the points of agreement which have emerged during this Conference do not affect and can in no way affect the quadripartite rights and responsibilities relating to Berlin and to Germany as a whole";⁴⁴ the USSR issued a slightly more detailed statement of the same nature.⁴⁵ In 1989, at the end of the Vienna Follow-up Meeting, similar statements were made by the United Kingdom (on behalf of the Western countries) and by the Soviet Union.⁴⁶

3. Theme of the Decalogue

The simplest way of presenting the content of the Decalogue would perhaps be to examine the principles in their original order, comparing each one against the corresponding United Nations principles. However, it was decided that a thematic approach would be more effective in highlighting the key issues of the Decalogue, namely: the status of European frontiers; the human dimension of détente; the invalidation of the Brezhnev Doctrine; the democratization of international relations in Europe.⁴⁷

A. Status of European Frontiers

Through the CSCE, the USSR hoped to obtain multilateral recognition of the status of existing European frontiers – recognition that it considered the condition

43 For the formal reservations issued by some participating States (Sweden, Spain, Romania, Cyprus and Portugal), see Subcommittee 1 of Committee I: Journals No. 332 of 14 July 1975 and No. 337 of 19 July 1975.

44 Conference on Confidence- and Security-Building Measures and Disarmament in Europe: Journal No. 379/Rev.2 of 19 September 1986, item j. The Western countries reintroduced the notion of "responsibilities" (previously regarded as unacceptable by some participating States), citing Berlin.

45 "Nothing in the Stockholm Conference Document affects the rights and responsibilities of the four powers, the relevant quadripartite agreements, decisions and practices, nor the rights and duties of the participating States under the Charter of the United Nations and the treaties and agreements that they have previously concluded" (ibid., item m).

46 See Conference on Confidence- and Security-Building Measures and Disarmament in Europe: Journal No. 397 of 15 January 1989, pp. 4–5.

47 For a report on the negotiation of the Decalogue, see Ferraris (ed.), *Report on a Negotiation ...* (n. 27), pp. 99–164.

sine qua non of the sustainability (or “irreversibility”) of détente.⁴⁸ For the Soviets, recognition of the territorial and political situation following the Second World War in Europe was such a high priority that it explains most of the concessions made by the Eastern countries in the three Helsinki baskets. The objective was to proclaim that the existing frontiers were and would always be *immutable*, obtaining in a single stroke both the legitimization of the *status quo* and the explicit guarantee of its inviolability and integrity.⁴⁹

However, there was no appetite in the West for such concessions. For one thing, the annexation of the Baltic States by the USSR was still not recognized by the United States,⁵⁰ Canada or the majority of Western European nations. Not only that, but the CSCE was not intended to be a peace conference. That said, consideration had to be given to the possibility of a *peaceful change of frontiers*, in other words territorial changes without the use of force. Not only did this concern Spain (Gibraltar), Ireland (Ulster) and Cyprus, it also had implications for the prospect of the political unification of the European Community and the reunification of Germany. In short, the Western countries were only willing to recognize the inviolability of frontiers without expressing an opinion on their legal status, subject to a provision ensuring peaceful change.⁵¹

The compromise finally reached in Principles I, III and IV of the Decalogue consists of two main elements:

- *Protection of the inviolability of frontiers and territorial integrity against any threat or use of force.* Principle III stipulates that the participating States “regard as inviolable all one another’s frontiers as well as the frontiers of all States in Europe and therefore they will refrain now and in the future from assaulting these frontiers” and that “accordingly, they will also refrain from any demand

48 See, for example, the statements made, respectively, by the USSR, Poland and the FRG at the ministerial stage of Helsinki: CSCE/I/PV.2 (3 July 1973), pp. 18, 43 and 46, and CSCE/I/PV.3 (4 July 1973), pp. 13 and 15.

49 In its initial draft of the Decalogue, the USSR presented the *inviolability of frontiers* as the principle “in accordance with which the participating States regard the existing frontiers in Europe as inviolable now and in the future, will make no territorial claims upon each other and acknowledge that peace in the area can be preserved only if no one encroaches upon the present frontiers.” Similarly, the Soviets saw *territorial integrity* as the principle “in accordance with which the participating States will unreservedly respect and observe the territorial integrity of all States in Europe within their present frontiers.” See CSCE/II/A/1 (19 September 1973), p. 2.

50 For the speech delivered by the US delegation at the Madrid Follow-up Meeting on 3 March 1982, see Leonard R. Sussman (ed.), *Three Years at the East-West Divide: The Words of U.S. Ambassador Max M. Kampelman at the Madrid Conference on Security and Human Rights* (New York: Freedom House, 1983), pp. 85–86.

51 § 3 of the draft Decalogue submitted by France proposed that “the participating States regard one another’s frontiers, in their existing form and irrespective of the legal status which in their opinion they possess, as inviolable. The participating States consider that their frontiers can be changed only in accordance with international law, through peaceful means and by agreement, with due regard for the right of peoples to self-determination.” See CSCE/II/A/12 (19 October 1973).

for, or act of, seizure and usurpation of part or all of the territory of any participating State.”⁵²

As inferred from the word “assault” and the expression “seizure and usurpation”, inviolability was defined as protection against any change by unlawful and violent means. Indeed the word “assault” – not a term commonly found in international law – is defined as a “criminal act”.⁵³ In addition, “seizure and usurpation” can be regarded as the illegal manifestation of a demand or claim.⁵⁴ The protection instituted by Principle III extended to all frontiers of the participating States (including, therefore, those of the United States and Canada) and all European States (including Albania, a non-participating State) *regardless of its legal status*. This status thus remained *unchanged* from the situation prior to Helsinki. Furthermore, inviolability did not equate to immutability, since a change freely made by lawful and peaceful means would in no way contravene the principle.

Similar remarks can be made about Principle IV on the territorial integrity of States. The basis of this principle lies in refraining from the threat or use of force. The participating States undertook to *respect* their mutual territorial integrity, but not to *recognize* the legal status of the territories concerned.⁵⁵ This respect entails (“accordingly”) the obligation to refrain from “any action inconsistent with the purposes and principles of the Charter of the United Nations against the territorial integrity, political independence or the unity of any participating State, and in particular from any such action constituting a threat or use of force.”⁵⁶ Lastly,

52 Helsinki Final Act (1975), “Declaration on Principles Guiding Relations between Participating States”, Principle III, § 2.

53 The 1970 Moscow Treaty states that the High Contracting Parties “share the realization that peace can only be maintained in Europe if nobody disturbs the present frontiers” and that “they regard today and shall in future regard the frontiers of all States in Europe as inviolable such as they are on the date of signature of the present Treaty” (Article 3, introductory sentence and third paragraph).

54 The term “requirement”, which expresses the idea of an imperative claim and ambition, encompasses that of the “claim” contained in the 1970 Moscow Treaty, in which the second paragraph of Article 3 states that the High Contracting Parties “declare that they have no territorial claims against anybody nor will assert such claims in the future.”

55 “The participating States will respect the territorial integrity of each of the participating States.” See Helsinki Final Act (1975), “Declaration on Principles Guiding Relations between Participating States”, Principle IV, § 1. The first paragraph of Article 3 of the 1970 Moscow Treaty, meanwhile, stated that the High Contracting Parties agree to “respect *without restriction* the territorial integrity of all States in Europe *within their present frontiers*.”

56 Helsinki Final Act (1975), “Declaration on Principles Guiding Relations between Participating States”, Principle IV, § 2 presents an absolute ban on the use of force as the pivot of the entire principle, while specifying that this ban aims to protect the “unity” of the participating States as much as their territorial integrity and their political independence. It therefore extends the scope of the principle to all three constituent elements of the State and directly relates the principle in question to that of self-determination. In the Declaration on Friendly Relations, protection related only to territory (“integrity”) and government (“independence”). The notion of “unity” also allows the Decalogue to include the element of population. The negotiators hesitated between different expressions (“political unity”, “natural unity” and “territorial unity”. See CSCE/

Principle IV prohibits any “territorial acquisition resulting from the threat or use of force” and states that “no such occupation or acquisition will be recognized as legal.”⁵⁷ The verb “will”, used at the express request of the USSR, seems to suggest that such a sanction will apply only to situations after Helsinki. Arguably, the commitment has a retroactive effect (concerning the Baltic countries, for example) – which again means that the *intangibility* of frontiers does not imply their recognition.

- *Legality of the peaceful change of frontiers.* The Decalogue unequivocally provides that the participating States “consider that their frontiers can be changed, in accordance with international law, by peaceful means and by agreement.”⁵⁸

This provision would be expected to appear under Principle III. However, the USSR categorically objected to it being included under the inviolability of frontiers, territorial integrity or the right of peoples to self-determination.⁵⁹ Known as the “floating sentence” in CSCE jargon, the provision in question was eventually placed in the first paragraph of Principle I on sovereign equality. However, this did nothing to lessen its scope, since the idea of peaceful change was still satisfactorily conveyed. Presented as a general rule of international law, it is without question a corollary to the principle of the inviolability of frontiers, given the provision of the final clauses affirming the equality and interdependence of the ten principles.

A clear conclusion emerges from all this: contrary to a certain received idea based on a cursory knowledge of the Helsinki process, *the CSCE made no changes to the status of European frontiers*, the intangibility (and not the immutability) of which is enshrined in the Decalogue.

B. Human Dimension of Détente

Drafting the general provisions on respect for human rights was one of the main objectives of the Western countries during the Geneva stage of the CSCE. For the Western countries, it was crucial that the East recognize that détente should not

II/A/27 (2 May 1974) and CSCE/II/A/129 (21 May 1974). Principle VIII, § 1 also stresses the interdependence between self-determination and territorial integrity.

57 Helsinki Final Act (1975), “Declaration on Principles Guiding Relations between Participating States”, Principle IV, § 3.

58 This wording was itself a compromise between the basic text CSCE/II/A/126 (5 April 1974), which had been drafted in a more negative form at the request of the USSR – the frontiers “can be changed *only* in accordance with international law” – and a very different US proposal CSCE/II/A/30 (26 July 1974) that emphasized the general compliance with international law of such a change: “In accordance with international law, the participating States consider that their frontiers can be changed.” The definitive compromise CSCE/II/A/30/Rev.1 (17 March 1975) places the burden of proof on the States opposed to such a change, rather than on those requesting it.

59 Marked by the events of Munich (1938), the Eastern countries considered that the wording of Principle III should include only negative duties and prohibitions. The memory of the consequences of the Munich Agreement partly explains why the Final Act refers to peace, security and *justice*, just as the Charter of the United Nations did.

be limited to intergovernmental relations, but that individuals should also reap tangible benefits from it.⁶⁰ It was a delicate path to tread, raising philosophical and political questions over issues such as the nature of humanity, the perception of the world, the source of individual freedoms and, crucially, relations between the State and its people.

The “dualistic” Western premise (that a person’s freedom is paramount and must be respected by the State as an end in itself) contrasted with a strictly “monistic” Soviet model. This was based on the unenforceability of individual rights against the socialist State: in a society where class differences no longer existed, there could be no abuse of rights; individual rights could not, moreover, be considered *in abstracto* (i.e., independently from the social context in which they were exercised) or separated from a person’s duties towards the State. This gave people a unique means of self-fulfilment as members of a community built on solidarity, rather than egocentric beings isolated from their fellow creatures.

Principle VII (*respect for human rights and fundamental freedoms, including the freedom of thought, conscience, religion or belief*) took no fewer than 55 working sessions of Subcommittee 1 on the first basket.⁶¹ Its wording is, however, unquestionably Western:

- It establishes the primacy of *the individual* by affirming that human rights all “derive from the inherent dignity of the human person” and are “essential for his free and full development.”⁶²
- It recognizes that human rights are a *universally* applicable principle and are not dependent on the social context.⁶³
- It establishes a direct relationship between respect for human rights, peace, co-operation and *détente*.⁶⁴ At the same time, it explicitly makes such respect an area of co-operation between the participating States of the CSCE.⁶⁵
- It encompasses “civil, political, economic, social, cultural and other rights and freedoms”.⁶⁶ Yet as the title of Principle VII suggests, it identifies the four individual freedoms cherished by the Western countries: thought, conscience, religion and belief.⁶⁷

60 See proposal by the United Kingdom: CSCE/11/A/7 (3 October 1973).

61 On the difficulties of drawing up Principle VII, see Ferraris (ed.), *Report on a Negotiation ...* (n. 27), p. 139.

62 Helsinki Final Act (1975), “Declaration on Principles Guiding Relations between Participating States”, Principle VII, § 2. The phrase “inherent dignity of the human person” is taken from § 2 of the preamble to each of the two International Covenants of 1966.

63 The universality of human rights is emphasized on three occasions (§§ 5, 6 and 8).

64 Helsinki Final Act (1975), “Declaration on Principles Guiding Relations between Participating States”, Principle VII, § 5.

65 *Ibid.*, § 4.

66 *Ibid.*, § 2.

67 Freedom of religion and freedom of belief are also the subject of a specific provision of Principle VII (§ 3) inspired by the Holy See: CSCE/II/A/10 (9 October 1973).

- It affirms the primacy of the *Universal Declaration of Human Rights (1948)* – particularly revered by the Western countries – over the International Covenants of 1966, which were favoured by the Eastern countries.⁶⁸
- It stipulates that the participating States “confirm the right of the individual to know and act upon his rights and duties in this field”⁶⁹ – a crucial provision intended, from the Western countries’ perspective, to encourage Eastern European governments to make public the modalities for exercising certain rights (including emigration), considered “State secrets”, and to refrain from hindering access of foreign diplomatic representations to their own nationals.⁷⁰

However, owing to Eastern opposition, the modalities for the *practical exercise* of Principle VII were conceived in a narrow sense. Having failed to impose its view of human rights, the USSR sought to limit the scope of the Principle. This is seen in the type of verbs expressing the degree of commitment of the participating States: “promote,” “encourage,” “recognize,” “respect,” “endeavour” and “confirm” – but not “guarantee” or “ensure”. The Soviets also tried to water down the provision on freedom of belief through a disingenuous translation in the Russian version of the Final Act.⁷¹

68 § 8 of Principle VII stipulates that the participating States “will act in conformity” with the 1948 Declaration. A separate phrase adds that they will “also” fulfil their other international obligations in this field, “including *inter alia*” the 1966 Covenants. The USSR had initially wanted to shape Principle VII according to the “template” of Article 18 of the International Covenant on Civil and Political Rights or, failing this, to obtain, by mentioning the Covenants, a sort of general safeguarding clause. In fact, the scope of Principle VII goes beyond that of the Covenants (see the phrase “and other” in § 2); moreover, § 8 does not even recommend ratification of the Covenants.

69 Helsinki Final Act (1975), “Declaration on Principles Guiding Relations between Participating States”, Principle VII, § 7.

70 The UK proposal CSCE/II/A/29 (5 July 1974) forming the basis of the text read as follows: The participating States “will encourage the dissemination of and access to information concerning human rights and fundamental freedoms, and the participation of governmental and non-governmental bodies and individuals in efforts made to promote them at the United Nations and elsewhere.”

71 § 3 of Principle VII obliges the participating States to acknowledge and respect the freedom of the individual “to profess and practice, alone or in community with others, religion or *belief* acting in accordance with the *dictates of his own conscience*.” In principle, this provision addresses freedom of religion and belief. However, the introductory phrase, “within this framework, the participating States will recognize,” places the freedom in question within the general body of rights described in § 2, giving the word “belief” a political, as well as a religious, meaning. When the text was finalized in the various CSCE languages, the USSR attempted to rid the term “belief” of its political content by using the Russian word “vera” (which has mainly religious connotations). Several Western delegations would allow the Decalogue to be included in the document only on the condition that the word “vera” in the Russian text had the same broad meaning as the word “belief”, or its equivalent, as it appears in the English and all the other texts of the third paragraph and in Article 18 of the International Covenant on Civil and Political Rights. See Committee I: Journal No. 46 of 20 July 1975.

In any event, the wording of the principle of respect for human rights as an integral part of the Decalogue – reinforced by a specific provision of Principle IX⁷² – gave the Western countries a solid foundation for the texts pertaining to the third basket.

In the interests of completeness, it is worth mentioning that Principle VII contains a provision – of Yugoslav origin – relating to *minorities* (§ 4). This issue was paramount for Yugoslavia, which wanted to secure *direct* rights for Europe's ethnic and linguistic minorities. However, the other participating States refused to be drawn into territory that, given the experience of the League of Nations, could only be a minefield. Consequently, the Decalogue only recognizes rights for national minorities through the individuals who make up these minorities.⁷³

Ultimately, the Decalogue can be credited for clearly establishing a dual interdependence between the security of States and the safety of their people, and between the quality of inter-State political relations and general respect for human rights. This respect was enshrined as a principle directly applicable to international relations in Europe, in the same way as refraining from the use of force or the inviolability of frontiers. As a result, the CSCE posited that a dialogue on this issue between countries with different political, economic and social systems was possible and that any gross or repeated violation of the principle would undermine the very process of détente. The principle of respect for human rights could thus legitimately feature in the Report of the Scientific Forum of Hamburg (1980)⁷⁴ and in the Document of the Stockholm Conference on Confidence- and Security-Building Measures and Disarmament in Europe (1986).⁷⁵

C. Refutation of the Brezhnev Doctrine

The theory of limited sovereignty – generally referred to as “the Brezhnev Doctrine” in the West – had been hastily concocted by the Soviets in 1968 following the intervention of Warsaw Pact forces in Czechoslovakia.⁷⁶ A souped-up version of the “defence of the conquests of socialism” idea (1956), it essentially postulated the existence of a socialist area in international relations, where the

72 Helsinki Final Act (1975), “Declaration on Principles Guiding Relations between Participating States”, Principle IX; § 3.

73 See CSCE/II/C.I/7 (29 November 1973), CSCE/II/C. I/11 (15 February 1974) and CSCE/II/C.I/17 (1 May 1974).

74 In the Report of the “Scientific Forum” of the Conference on Security and Co-operation in Europe (Hamburg, 1980), the Western States were thus able to recognize that it was “necessary to state that respect for human rights and fundamental freedoms by all States represents one of the foundations for a significant improvement in their mutual relations, and in international scientific co-operation at all levels” (§ 9, third paragraph).

75 Document of the Stockholm Conference on Confidence- and Security-Building Measures and Disarmament in Europe (1986), § 23. See chapter IV of this volume, p. 157.

76 See the article by S. Kovalev in *Pravda*, 25 September 1968, whose ideas were taken up by Leonid Brezhnev in a speech to the Fifth Congress of the Polish United Workers' Party on 12 November 1968.

rules of conventional international law no longer applied since the internal development of a country in the international socialist community would be detrimental to socialism in that country and to the interests of the community as a whole.⁷⁷ Put differently, the theory held that in certain circumstances, the sovereignty of each socialist State ceased to outweigh the interests of global socialism.⁷⁸

However, the Doctrine was not a purely circumstantial theory: with a conventional basis (the Treaty of Friendship, Co-operation and Mutual Assistance between Czechoslovakia and the Soviet Union of 6 May 1970), it redefined inter-socialist relations. Clearly contrary to international law (“which bases relations between States on permanent principles defined consistently by an impartial author”),⁷⁹ it was naturally unacceptable to the Western countries, which therefore sought to undermine it – assisted by Yugoslavia and Romania – during the negotiation of the Decalogue.

Although the Decalogue makes no mention of the theory of limited sovereignty, it does contain various provisions that obliquely refer to it:

- The *preamble* to the Decalogue expresses the determination of each participating State to respect and put into practice the ten principles in its relations with *all* other participating States, irrespective of their political, economic or social systems (§ 5). Paragraph 2 of the *final clauses* of the Decalogue contains a similar commitment, motivated by the need “to ensure to *each participating State* the benefits resulting from the respect and application of these principles by all.”
- *Principle I* sets out, in the context of sovereign equality, the right of each participating State freely to choose and develop its political, social, economic and cultural systems (§ 1) and the right to conduct as it wishes its relations with other States (§ 2).
- *Principle II* states that no consideration may be invoked to serve to warrant resort to the threat or use of force (§ 1). Any act constituting a threat of force or direct or indirect use of force against another participating State is forbidden, as is “any manifestation of force for the purpose of inducing another participating State to renounce the full exercise of its sovereign rights” (§ 2).⁸⁰
- *Principle IV* prohibits, in relation to territorial integrity, any military occupation or other direct or indirect measures of force against a participating State in contravention of international law – moreover no such occupation could be recognized as legal (§ 3).
- *Principle VI* is the most unequivocal in this regard. It roundly condemns “any intervention, direct or indirect, individual or collective, in the internal or

77 See Hélène Carrère d’Encausse, *Le grand frère. L’Union soviétique et l’Europe soviétisée* (Paris: Flammarion, 1983), pp. 262–268.

78 On this theory, whose very existence was denied by the USSR, see Mario Bettati, “Souveraineté limitée ou internationalisme prolétarien? Les liens fondamentaux de la communauté des Etats socialistes”, *Revue belge de droit international* (1972), pp. 455–481.

79 *Ibid.*

80 See also the Romanian proposal mentioned further on in this chapter, pp. 80.

external affairs falling within the domestic jurisdiction of another participating State, *regardless of their mutual relations*" (§ 1). It requires the participating States not only to refrain from "any form of armed intervention or threat of such intervention" (§ 2), but also "in all circumstances refrain from any other act of military, or of political, economic or other coercion designed to subordinate to their own interest the exercise by another participating State of the rights inherent in its sovereignty and thus to secure advantages of any kind" (§ 3).⁸¹

- *Principle VIII* cogently states that "*all peoples always have the right, in full freedom, to determine, when and as they wish, their internal and external political status, without external interference, and to pursue as they wish their political, economic, social and cultural development*" (§ 2).⁸²

There is no doubt that the provisions adopted by the CSCE neutralized the Brezhnev Doctrine.

The Document of the Stockholm Conference on Confidence- and Security-Building Measures and Disarmament in Europe, adopted a year after the advent of Mikhail Gorbachev (1986), went even further by stipulating that the participating States "will abide by their commitment to refrain from the threat or use of force in their relations with *any State*, regardless of that State's political, social, economic or cultural system and irrespective of whether or not they maintain with that State *relations of alliance*."⁸³

81 Relying on the title of the principle itself (Non-intervention in *internal* affairs), the USSR and its allies tried to use non-intervention in the same way as the idea of sovereign equality, i.e., to reduce the scope of the commitments that it would have to take on after the work of the third basket. In its basic proposal, the USSR presented non-intervention as the "principle in accordance with which no participating State will intervene in the internal affairs of other States, and each participating State will respect the political, economic and cultural foundations of other States." See CSCE/II/A/1 (19 September 1973). Backed by Yugoslavia and Romania, the Western countries, for their part, insisted in particular on non-intervention in the "external affairs" of the States. See proposals by Yugoslavia and France respectively: CSCE/II/A/5 (28 September 1973) and CSCE/II/A/12 (19 October 1973). As regards Romania, see the statement made by its representative on the concept of "armed" intervention in Subcommittee 1: Journal No. 337 of 19 July 1975.

82 The words in italics indicate additions compared to the corresponding text of the Declaration on Friendly Relations. At Dipoli, the Soviets had questioned the very need to retain a principle relating to a phenomenon that, they said, did not exist in Europe. The Western countries did not share this view, arguing that the principle of self-determination did not only apply to classic colonial situations. The West believed that the principle in question had an internal dimension as well as an external one. As the transposition to the collective level of individual freedom, the principle had to recognize "the inalienable right of every people, freely ... to choose, develop, adapt or *change* its political, economic, social or cultural system, without interference of any kind on the part of any State or group of States." See the proposals by the Netherlands: CSCE/II/A/8 (3 October 1973) and CSCE/I/PV.7 (6 July 1973), pp. 24–25. The link between the principles of self-determination and human rights is reflected in Article 55 of the Charter of the United Nations. The protection of human rights seems conceivable only in communities that can exercise their right to self-determination.

83 Document of the Stockholm Conference on Confidence- and Security-Building Measures and Disarmament in Europe (1986), § 15. In his speech to the Parliamentary Assembly of the Council of Europe on 6 July 1989, Mikhail Gorbachev specified that the philosophy of the concept of

D. Democratization of International Relations in Europe

The theme of the democratization of international relations in Europe, raised by the N+NA countries and Romania, is also reflected in various parts of the Decalogue, particularly Principles I and IX.⁸⁴

Principle I affirms that the participating States “will respect each other’s sovereign equality and individuality as well as all the rights inherent in and encompassed by its sovereignty” (§ 1). It also provides that “within the framework of international law, all the participating States have equal rights and duties” and that “they will respect each other’s right to define and conduct as it wishes its relations with other States in accordance with international law and in the spirit of the present Declaration” (§ 2). It recognizes that the participating States have the right to belong or not to belong to international organizations, to be or not to be a party to bilateral or multilateral treaties (including treaties of alliance), and also have the right to neutrality.⁸⁵ This last point is obviously in recognition not only of the active role that the neutral States played in the preparations for the CSCE, but also of the contribution that those States can, in general, make to East-West relations. The idea of neutrality as a catalyst for peace is certainly not new; however, until then it had been recognized and applied only in special cases. The interesting thing about Principle I of the Decalogue is that it establishes a general right to neutrality.

As for *Principle IX*, it provides that the development of co-operation between the 35 States will allow each participating State to make its own contribution “in conditions of full equality” (§ 1).⁸⁶

E. Refraining from the Use of Force and Peaceful Settlement of Disputes

Principle II (refraining from the threat or use of force) and Principle V (peaceful settlement of disputes) should be analysed together on account of their natural and logical interdependence, as emphasized by the Decalogue itself.⁸⁷

Principle II states that no consideration may be invoked to serve to warrant resort, in any form and under any circumstances whatsoever, to the threat or use of force, either against the territorial integrity or political independence of any

the “common European home” excluded any possibility of the use or threat of force, particularly “within alliances”.

84 And in Helsinki Final Act (1975), “Declaration on Principles Guiding Relations between Participating States”, Principle VI (non-intervention).

85 The right to membership of international organizations originally came from Malta, see CSCE/II/A/20 (29 January 1974) and CSCE/II/A/113 (22 February 1974), while the right to belong to alliances was inspired by France, see CSCE/II/A/12 (19 October 1973) and CSCE/II/A/21 (31 January 1974).

86 § 2 of Principle IX of the Helsinki Final Act (1975) again underlines that the co-operation between the CSCE States will be “as equals”.

87 “The peaceful settlement of disputes is a complement to refraining from the threat or use of force, both being essential though not exclusive factors for the maintenance and consolidation of peace and security” (Helsinki Final Act (1975), “Matters related to giving effect to certain of the above Principles”, (ii), preamble, § 2).

State, or in any other manner inconsistent with the purposes set forth in Article 1 of the Charter of the United Nations or with the Decalogue as a whole.⁸⁸ This is essentially a reaffirmation of the general ban established by Article 2(4) of the Charter of the United Nations and developed in the relevant principle of the Declaration on Friendly Relations. Principle II would need no further comment had it not included – in accordance with paragraph 21 of the Final Recommendations of the Helsinki Consultations (1973) – additional provisions on its *practical application*.

Determined to move beyond the division of Europe into blocs and to loosen the grip of their Soviet neighbour, the Romanians had called for a draft of concrete measures at the very beginning of the CSCE, including “concluding a treaty on refraining from the use or threat of force in Europe” and the obligation for participating States to “hold consultations at both multilateral and bilateral levels regarding any action posing a threat to peace and security in Europe and jointly to seek appropriate means.”⁸⁹ While sensitive to the fundamental concerns of Romania, which later scaled back its original ambitions, the Western countries could not bring themselves to lend decisive support to a text aimed at laying the foundations for a regional security system.

All that ultimately remained of the Romanian draft was a watered-down version, the preamble to which affirms that the participating States “will respect and give effect” to refraining from the threat or use of force, convinced of “the necessity to make it an effective norm of international life.” This declaration of intent borrows from Principle II without really adding anything new. What is interesting, however, is that it eloquently reaffirms and highlights certain aspects of the Decalogue, such as respect for territorial integrity, refraining from any manifestation of force for the purpose of inducing another participating State to renounce the full exercise of its sovereign rights, or any act of economic coercion in breach of the principle of sovereign equality and non-intervention.⁹⁰

The question of the peaceful settlement of disputes, meanwhile, appears on two separate occasions in the final texts of the first basket. It represents the theme of Principle V of the Decalogue, the wording of which echoes the provisions of the Charter of the United Nations and the Declaration on Friendly Relations. More significantly, it is the subject of section (ii) of the supplementary text to the Decalogue (“Matters related to giving effect to certain of the above Principles”), as part of a Swiss plan which will be examined in more detail at a later stage.⁹¹

88 Helsinki Final Act (1975), “Declaration on Principles Guiding Relations between Participating States”, Principle II, § 1.

89 CSCE/II/B/2 (19 September 1973), §§ 2 and 3.

90 After the signing of the Helsinki Final Act (1975), the Romanian idea was taken up by the Soviets, first at the UN and later at the Stockholm Conference on Confidence- and Security-Building Measures and Disarmament in Europe, see chapter IV of this volume.

91 See chapter III of this volume, pp. 111 ff.

II. Physiology of the Decalogue

The Decalogue should be assessed in the light of its practical implementation and in view of both the contributions made in Madrid and the remarkable progress achieved in Vienna.

1. Implementation of the Decalogue

In practice, the Decalogue has proven to be both an invaluable tool for promoting human rights and a catalyst for disputes.

A. Promotion of Human Rights: the Helsinki Monitoring Groups⁹²

Principle VII established the minimum benchmark for rights and freedoms pertinent to the East-West context. In doing so, it gave rise to a new phenomenon: the emergence of groups set up to monitor the implementation of the Helsinki Accords.

The provision of Principle VII relating to the “right of the individual to know and act upon his rights and duties in this field” triggered an unprecedented movement, as the phenomenon of these monitoring groups demonstrates. There were five main aspects to this unexpected development:

- *The spontaneous emergence of the phenomenon in the Soviet Union.* The movement began in Moscow on 12 May 1976 (even before the first anniversary of the Helsinki Final Act) with the creation of the “Public Group to Promote Fulfillment of the Helsinki Accords in the USSR”. It was formed by a handful of seasoned activists – including Yelena Bonner (the wife of Andrei Sakharov), Alexander Ginzburg, Petro Grigorenko, Anatoly Marchenko, Naum Meiman, Yuri Orlov, Tatiana Osipova and Anatoly Shcharansky. Under Orlov’s leadership, the Group immediately applied itself to the task of compiling complaints from Soviet citizens, investigating human rights abuses and reporting these to the Soviet Government and other signatories to the Helsinki Final Act. Following the systematic repression suffered by its members, the Group was dissolved in 1982. It had notched up an impressive record: some 200 reports (not counting numerous letters and appeals) had been sent to the Belgrade Follow-up Meeting (26 documents) and Madrid Follow-up Meeting (138 documents) on emigration restrictions, living conditions in labour camps, religious persecution and other human rights violations.⁹³

92 On this question, see the special edition of the *Vanderbilt Journal of Transnational Law* vol. 13/2-3 (Spring–Summer 1980), and in particular the article by Virginia A. Leary, “The Right of the Individual to Know and Act upon his Rights and Duties: Monitoring Groups and the Helsinki Final Act”, pp. 375–395. See also, by the same author: “The Implementation of the Human Rights Provisions of the Helsinki Final Act” in Thomas Buergenthal (ed.), assisted by Judith R. Hall, *Human Rights, International Law and the Helsinki Accord* (Montclair: Allanheld, Osmun & Co, 1977), pp. 111–160.

93 See International Helsinki Federation for Human Rights, *The Moscow Helsinki Group. Ten Years* (Vienna, 1986), p. 51; and Commission on Security and Co-operation in Europe, *A Thematic Survey of the Documents of the Moscow Helsinki Group* (Washington, 1981), p. 35.

The movement was not confined to Moscow: it soon spread to Ukraine and Lithuania (November 1976), Georgia (January 1977) and Armenia (April 1977). Nevertheless, the Moscow Helsinki Group remained the largest and most active. This was chiefly because Moscow was the only Soviet city that was home to foreign press correspondents, and their co-operation was essential.

For the activists of the groups in question – concerned about the apparent victory claimed by the Soviet Union after the signing of the Helsinki Final Act – it was a case of passing “from legitimate co-operation to indictment through legal channels”.⁹⁴

Other more *specialized* groups also gradually emerged in the USSR, including various committees for religious freedom: the Christian Committee for the Defence of the Rights of Believers, led by Father Gleb Yakunin (December 1976); the Working Commission to Investigate the Use of Psychiatry for Political Purposes (under the leadership of Dr. Anatoly Koryagin, January 1977); the Working Commission on the Rights of Persons with Disabilities (Moscow, October 1978; Ukraine, January 1982); the Free Interprofessional Association of Workers (SMOT); the Baltic Nuclear-Free Zone Group; the Group to Establish Trust Between the US and the USSR.⁹⁵ Most of these organizations coordinated their actions with the Moscow Helsinki Group, for example through joint statements.

– *Extension of the phenomenon across the Soviet bloc* (especially in Poland and Czechoslovakia). In Poland, a Workers’ Defence Committee (KOR) was set up in September 1976 by around twenty intellectuals (including Jacek Kuroń and Adam Michnik), whose unorthodox ideas had already landed them in trouble with the authorities. It was originally intended as a one-off initiative to defend several hundred workers arrested following riots sparked by the increase in the price of basic commodities. However, in September 1977 the KOR was renamed the “Committee for Social Self-Defence” and gradually became the backbone of democratic opposition. As such, it contributed to the formation of the Polish Helsinki Committee (1979) and, more importantly, the *Solidarność* movement (1980).

Czechoslovakia had Charter 77 (1 January 1977) and the Committee for the Defence of the Unjustly Persecuted (VONS). Charter 77 takes its name from the year of the Belgrade CSCE Follow-up Meeting and Amnesty International’s Prisoners of Conscience Year, also in 1977. The movement it represented (established by prominent intellectuals such as Jan Patočka, Václav Havel and Jiří Hájek) had no formal structure; it was basically intended to establish a dialogue

94 Marie Samatan, *Droits de l’homme et répression en URSS L’appareil et les victimes* (Paris: Éditions du Seuil, 1980), p. 74 [in French].

95 See Commission on Security and Co-operation in Europe, *The Helsinki Process and East-West Relations. Progress in Perspective. A Report on the Position Aspects of the Implementation of the Helsinki Final Act, 1975–1984* (Washington, 1985), p. 11; and International Helsinki Federation for Human Rights, *The Moscow Helsinki Group* (n. 93), pp. 14–18

with the authorities of a country whose “conscience” had been paralysed since the Soviet military intervention in August 1968.⁹⁶

The Final Act had similar, more or less structured and systematic effects in all the other Eastern bloc countries.⁹⁷

Protest took on a new dimension in the wake of Helsinki. It differed from earlier dissident movements “by the fact that for the first time, the resurgence of the tide of opposition occurred simultaneously in several countries and converged with the renaissance of social solidarity, a direct consequence of the *unified demands for human rights*.”⁹⁸

– *Systematic repression of the phenomenon under Brezhnev and his epigones.* Repression was brutal throughout the Eastern bloc. In the USSR, the judiciary sentenced activists from the Helsinki monitoring groups under Article 70 of the Criminal Code (anti-Soviet agitation and propaganda, an offence punishable by up to seven years in prison – or even ten years for repeat offenders – and with an additional penalty of two to five years of internal exile) or Article 1901 on defamation of the Soviet State and social system.⁹⁹ These arbitrary sentences – handed down in violation of the provisions of Articles 50 to 52 of the Soviet Constitution of 1977¹⁰⁰ – were then followed by equally arbitrary prison treatment: malnutrition, forced labour, inadequate medical care, ban on family visits, confiscation of mail, ill-treatment and even automatic extension of detention at the end of the sentence.¹⁰¹ By the time the Madrid CSCE Follow-up Meeting drew to a close in 1983, the Helsinki movement had been virtually stamped out in the Soviet Union.

96 The text of the Charter appears in Georges Mink, *L'opposition ouvrière et intellectuelle en Europe de l'Est (RDA, Hongrie, Tchécoslovaquie, Pologne)* (“Problèmes politiques et sociaux”, 311; Paris: La Documentation française, 1977), p. 37. On Charter 77, see Roger Errera, “Un combat pour la vérité: La Charte 77 en Tchécoslovaquie” *Projet*, no. 116 (1977), pp. 656ff. See also H. Gordon Skilling, *Charter 77 and Human Rights in Czechoslovakia* (London: George Allen & Unwin, 1981), p. xv–363.

97 See Thomas E. Heneghan, “Human Rights Protests in Eastern Europe”, *The World Today*, vol. 33, no. 3 (March 1977), pp. 90–100; François Fejtó and Georges Mink, “La nouvelle contestation en URSS et dans les pays de l'Europe de l'Est”, *Universalia* (1978), pp. 111–117 and Mink, *L'opposition ouvrière et intellectuelle ...* (n. 96).

98 Fejtó and Mink, “La nouvelle contestation ...” (n. 97), p. 111 [in French]. In October 1986, dissidents from five Eastern countries (Hungary, the GDR, Czechoslovakia, Poland and Romania) published a joint appeal for democratic liberalism. See *Twenty-Second Semiannual Report. Implementation of Helsinki Final Act, October 1, 1986–April 1, 1987* (Special Report No. 168; Washington: US Department of State, Bureau of Public Affairs, 1987), p. 11.

99 See Yuri Belov, *Helsinki Victims in the Soviet Union. Documents, 1975–1985* (Frankfurt/Main: International Society for Human Rights, 1985), p. 56.

100 *Ibid.*, p. 9.

101 “On grounds of a new paragraph of the Soviet Criminal Code dating from October 1st, 1983, detainees can be sentenced to an additional punishment up to 5 years for ‘malicious disobedience to orders of the personnel of educative and working institutions’ ... Article 188-3 enables the authorities to rearrest and to re-sentence a prisoner within a camp on grounds of evidence by a prison or camp supervisor, and not on grounds of investigation by the public prosecutor” (*ibid.*, p. 46).

- *Sustainability of the phenomenon and its development in the Gorbachev era.* Despite ruthless repression, the Helsinki movement did not disappear altogether – other activists filled the shoes of those who had been arrested; new organizations sprang up when existing ones were dismantled.¹⁰² Remarkably, Charter 77 is the only network to emerge after Helsinki that is still in existence [at the time of writing].¹⁰³ Each year, the Charter appoints three new spokespersons.¹⁰⁴ Recent actions have included a call for the withdrawal of Soviet troops from Czechoslovakia, an open letter to Mikhail Gorbachev, an appeal for European solidarity with the Romanian people, and the position taken on the 20th anniversary of the Soviet intervention in Czechoslovakia.¹⁰⁵

After Mikhail Gorbachev came to power, most of the members of the Helsinki monitoring groups – including leaders such as Shcharansky and Orlov (1986), Koryagin, Begun and Yakunin (1987) – were released, either individually or under the amnesty granted to 140 prisoners of conscience in February 1987. Andrei Sakharov's internal exile in Gorky, to where he had been banished in 1980, was also lifted.¹⁰⁶ Initially adopted on the eve of the Vienna Follow-up Meeting, these measures were expedited by the death of Anatoly Marchenko in Chistopol prison under suspicious circumstances on 9 December 1986.

Protest movements continue to this day in a less repressive and changing society.¹⁰⁷ At the end of the 1980s, the organizations no longer resemble those of the previous decade. Not only is their strategy more aggressive,¹⁰⁸ but they seem less focused on human rights and more concerned about political and social reform and environmental protection.¹⁰⁹ Their campaign has begun to assume a

102 *Twenty-Second Semi-annual Report ...* (n. 98), for example, describes the creation of a new Lithuanian monitoring group in July 1986 (Helsinki 86).

103 See *A Decade of Dedication: Charter 77, 1977–1987* (New York: US Helsinki Watch, 1987).

104 For the names of the spokespersons for the past two years [at the time of writing], see *Le Monde*, 5 January 1988 and 3 January 1989.

105 See *Le Monde*, editions dated 31 December 1986; 5 and 6 April, as well as 16 and 17 July 1987 and finally 12 January and 18 August 1988. On dissident activity in 1988, see “Situation Report: Czechoslovakia”, *Radio Free Europe Research*, vol. 13, no. 42, part II (Munich, 1988), pp. 19–24.

106 Sakharov was later authorized to join an international NGO (“International Foundation for the Survival and Development of Humanity”), see *Pravda*, 16 January 1988, to disseminate his ideas in the USSR, see Andrei Sakharov, “Acquérir le sens de la démocratie”, *Temps nouveaux*, no. 45 (October 1988), pp. 32–33, and to travel abroad for demonstrations relating to the 40th anniversary of the Universal Declaration of Human Rights.

107 See, in particular, Vladimir Tismaneanu, “Dissent in the Gorbachev Era”, *Orbis*, vol. 31, no. 2 (Summer 1987), pp. 234–244; Vladimir Kusin, “Reform and Dissidence in Czechoslovakia”, *Current History* (November 1987), pp. 361–364; and Julia Wishnevsky, “Reappraisal of Dissent in the Soviet Era”, *Radio Liberty Research*, RL 459/88 (Munich, 1988), p. 3.

108 Vladimir Kusin, “Overview of Dissent in Eastern Europe”, *Radio Free Europe Research*, RAD Background Report/234 (Munich, 1987), p. 1. See also Jiří Pehe, “Independent Movements in Eastern Europe. An Annotated Survey”, *ibid.*, RAD Background Report/100 (1989), p. 29 and “Independent Civic Activity in Eastern Europe”, *ibid.*, RAD Background Report/1 (1989), p. 11.

109 Kusin, “Overview of Dissent ...” (n. 108), p. 1. See also Vladimir Sobell, “The Ecological Crisis in Eastern Europe”, *Radio Free Europe Research*, RAD Background Report/5 (Munich, 1988), p. 17; and

transnational dimension – as evidenced, for example, by the collective statement issued by dissidents in four Eastern bloc countries (Hungary, Poland, Czechoslovakia and the GDR) to mark the 30th anniversary of the Hungarian uprising.¹¹⁰

- *Development of the phenomenon in the West.* Around the time of the Belgrade Follow-up Meeting (1977–1978), Helsinki monitoring groups began to emerge in the United States and Western Europe. There are [at the time of writing] ten groups in operation (from the FRG, Austria, Canada, Denmark, the United States, the United Kingdom, Norway, the Netherlands, Sweden and Switzerland) which coordinate their actions under the aegis of the *International Helsinki Federation for Human Rights*, set up in 1982 [and dissolved on 27 November 2007].¹¹¹ Based in Vienna, this performs various functions, not least of all publishing detailed reports on human rights abuses committed both in Eastern and in Western countries.

B. Controversy over the Principles

Unlike other chapters of the Final Act, the general and abstract provisions of the Decalogue have no *quantifiable* effects; indeed its principles for the most part urge restraint. As a result, the Decalogue tends to be evaluated in a negative sense – in other words, on the basis of infringements of its principles. It should come as no surprise therefore to learn that – apart from the beneficial effects of Principle VII – the CSCE’s fundamental text was contentious.

The following aspects of the Decalogue were controversial:

- *Equality of the principles*, in view of several provisions on frontiers contained in the Treaty of Friendship, Co-operation and Mutual Assistance signed by the GDR and the Soviet Union on 7 October 1975. Concluded barely two months after the Helsinki Summit, the Treaty stipulated that the contracting parties “consider the inviolability of frontiers in Europe as a prerequisite for European security and express their firm intention to defend, jointly or in alliance with the signatory States of the Warsaw Pact ... and in accordance therewith, the inviolability of the frontiers of the Warsaw Pact countries, as established at the end of the Second World War and during the post-war period, including those between the FRG and GDR” (Article 6). From the West’s perspective, the Treaty undermined the Decalogue since it postulated

Vera Tolz, “Informal Groups in the USSR in 1988”, *Radio Liberty Research*, RL 487/88 (Munich, 1988), p. 12.

110 See *Le Monde*, 22 October 1986. See also the two analyses by Vladimir Socol, “Independent Groups in Eastern Europe Urge Support for People of Romania”, *Radio Free Europe Research*, RAD Background Report/30 (Munich, 1988), p. 6 and “Eastern Europe’s Opposition Groups Cooperate Across Borders”, *ibid.*, RAD Background Report/195, p. 6.

111 See International Helsinki Federation, *International Citizens Helsinki Watch Conference* (Vienna, 1982), p. 122. During the Paris Conference on the Human Dimension of the CSCE, a *French committee* was created in June 1989 to monitor the Helsinki undertakings (affiliated to the Vienna-based International Helsinki Federation for Human Rights). See *Le Monde*, 3 June 1989.

that the intangibility of frontiers amounted to their immutability, ignoring the possibility of peaceful change mentioned in Principle I of the Decalogue. In response, the Soviets countered that peaceful change was valid only for minor frontier changes.

- *Applicability of the Decalogue to relations between Soviet bloc countries.* The Western countries were critical of the fact that the 1975 USSR/GDR Treaty lent weight to the Brezhnev Doctrine because of the clear distinction it made between the principles of fraternal assistance applicable to inter-socialist relations (§ 7 of the preamble and Article 4), and those of peaceful coexistence for relations with capitalist countries (§ 9 of the preamble and Article 5). It was equally apparent that Soviet policy towards Poland was contrary to the principles of sovereign equality and non-intervention.
- *Universal scope of the Decalogue.* The invasion of Afghanistan by Soviet troops violated nearly all of the Helsinki principles.

The Decalogue's principles also sparked controversy at times:

- *Principle I* (sovereign equality) was invoked by the East to denounce alleged attempts by NATO to deprive Cyprus of its sovereignty¹¹² and by Western countries to reject the Soviet proposal for non-enlargement of alliances.¹¹³
- *Principle VI* on non-intervention was cited by Franco's Spain following the outrage caused in Europe by the execution of ETA militants;¹¹⁴ by the West to deplore Soviet interference in the Portuguese revolution and Angolan affairs;¹¹⁵ by the East to condemn the "pressure" exerted by NATO and the European Community on Portugal (the conditions attached to any Western aid given to the country in August 1975) and Italy (a statement by Chancellor Schmidt expressing Western opposition to the idea of communists joining the Italian Government);¹¹⁶ by the European Community to repudiate Soviet criticism of sections of the Tindemans Report on defence matters;¹¹⁷ and, above all, by the East to stigmatize the "Carter Doctrine" and any representation on the subject of human rights.
- *Principle VII* (human rights) was frequently cited by the West to denounce the repression of various dissident movements in the East, the violation of the rights of minorities (Turkish minorities in Bulgaria, and Croatian and Slovenian

112 Oleg Stroganov, "La troisième corbeille : composante naturelle ou 'Cheval de Troie' de la détente", *Etudes soviétiques*, no. 338 (Moscow, May 1976), p. 17.

113 The Western countries made it clear to the Eastern countries, whose proposal was aimed at preventing Spain's accession to the North Atlantic Treaty, that "the right of States to participate or not to participate in alliance treaties was confirmed in the Helsinki Act", i.e., in Principle I. See NATO press communiqué M2(76)19, § 3, second paragraph.

114 *Le Monde*, 28 and 29 September 1975.

115 *Nouvelles atlantiques*, no. 799 (6 February 1976).

116 *Le Monde*, 16 August 1975; *Izvestia*, 21 July 1976; *Pravda*, 30 July 1976.

117 *Nouvelles atlantiques*, no. 792, (1 January 1976).

minorities in Austria),¹¹⁸ and the historical case of missing Swedish diplomat Raoul Wallenberg. The Eastern countries, meanwhile, used it to condemn the West German practice of *Berufsverbot* [disqualification from certain professions], the human rights situation in Ulster and the treatment of racial minorities in America, and to criticize the non-ratification of the 1966 International Covenants by the United States.¹¹⁹

- Lastly, the East accused the European Community of practising a policy of “discrimination” contrary to Principle IX (co-operation) and Principle X (good faith).¹²⁰
- Given the universal value of the Helsinki principles, few major acts by the participating States in their international relations could avoid being measured against the yardstick of the Decalogue.¹²¹

On a more positive note, the resolution of the Italo-Yugoslav dispute over the status of Trieste under the Osimo Accords of 10 November 1975 is one example of the peaceful change of frontiers, respect for human rights (through their provisions on the protection of minorities) and co-operation.¹²² In reality, however, this owes more to the general climate of détente than to the CSCE itself.¹²³

118 See Bogdan Osolnik, “International Aspects of Austrian Responsibility for Non-fulfillment and Violation of the State Treaty”, *Review of International Affairs*, no. 639, (Belgrade, 20 November 1976).

119 [At the time of writing], the United States and eight other CSCE States (Ireland, Turkey, Switzerland, Malta and the micro-States) have not yet ratified the Covenants. The Eastern countries set great store on their own ratification of these documents, but do not mention the fact that they have not signed up to the Optional Protocol to the International Covenant on Civil and Political Rights, which establishes a special monitoring mechanism. On the other hand, the two Covenants contain restrictive safeguard clauses and provide a less extensive protection regime than the (Western European) Convention for the Protection of Human Rights and Fundamental Freedoms of 4 November 1950 and its additional protocols. On the US attitude towards the Covenants (instruments signed by the United States in 1977, when the Belgrade Follow-up Meeting opened, but not ratified by it), see Commission on Security and Co-operation in Europe, *Fulfilling our Promises: The United States and the Helsinki Final Act. A Status Report* (Washington, 1979), pp. 168–174.

120 See Stroganov, “La troisième corbeille ...” (n. 112), p. 17. See also the article by János Nyerges in *Népszabadság* (Budapest), 6 February 1977.

121 Thus, the United States believed the destruction of the South Korean Boeing by the Soviet fighter aircraft (1983) to be a violation of Principle V of the Helsinki Final Act (1975). Previously, the Soviets had criticized the boycott of the Moscow Olympics by the Americans in 1980, claiming that it was contrary to Principle IX.

122 See Vladimir Vugdelić, “Yugoslavia’s and Italy’s Contribution to the CSCE”, *Review of International Affairs*, vol. XXXVII, no. 641 (Belgrade, 20 December 1976), pp. 25–27; and Budislav Vukas, “Solution définitive de la question de Trieste par la conclusion des accords entre l’Italie et la Yougoslavie à Osimo (Ancona), le 10 novembre 1975”, *Annuaire français de droit international* (1976), pp. 77–95.

123 This also applies to gestures such as the return by the United States of the Holy Crown of Hungary (1978) and the 18.4 tons of Czechoslovakian gold (1981) held in the US since the Prague coup. These gestures were regarded as a demonstration of Principle IX. See Commission on Security and Co-operation in Europe, *The Helsinki Process ...* (n. 95), p. 10.

This was perhaps inevitable: the Decalogue was negotiated between actors using a common formal vocabulary, but the words often represented different realities for the Eastern and Western countries. It is arguably the most ambiguous part of the Final Act and the one most open to interpretation.¹²⁴ What makes it so valuable also constitutes its weakness: the Decalogue seeks to codify the uncodifiable – détente. Using a patchwork of often vague concepts and phrases, it purports to translate the principles of an arrangement whose aim was never fully agreed upon by Eastern and Western countries.

Few words in the modern lexicon of international relations are suffused with as much vagueness and ambiguity. The term (which has no equivalent in English, but translates in Russian as *razryadka*) conveys the notion of the easing of tension.¹²⁵ It is neither synonymous with peace nor with understanding, and implies neither the end of international tensions nor the resolution of conflicts.¹²⁶ At best, it might allow for better communication, potentially leading to limited agreements in areas of mutual interest.

The Western countries saw détente as a way of ensuring better stability for inter-governmental relations (on the basis of a reciprocal moderation of East-West confrontation) and facilitating the movement of people, information and ideas. From this point of view, détente was conceived as a process that was *universal* (applicable worldwide), *comprehensive* (including individuals), *indivisible* (leading to an easing of tension on all fronts, including the ideological struggle) and *dynamic* (requiring continued efforts and progress).

Yet for the Eastern European countries, détente was a means of avoiding nuclear war while allowing Soviet influence to continue to spread across Europe and throughout the rest of the world. It amounted to “a phenomenon that occurs between States, without addressing the ideological struggle, the social situation within States, the fight for national liberation.”¹²⁷ In other words, this interpretation

124 Even more than the texts of the third basket, which have the advantage of targeting concrete situations.

125 See Coexistence pacifique, special edition of the Tiers Monde review, vol. IX, nos. 35–36 (July to December 1968); G. Tunkin, “Coexistence pacifique et droit international”, *Droit international contemporain* (Moscow: Progress Publishers, 1972), pp. 5–50; Vadim K. Sobakin, “L’URSS et la détente: Réalités, obstacles et perspectives”, *Studia Diplomatica*, vol. 39, no. 6 (1976), pp. 731–741; William E. Griffiths, “East West Detente in Europe”, in F. A. M. Altling von Geusau (ed.), *Uncertain Détente* (Alphen aan den Rijn: Sijthoff & Noordhoff, 1979), pp. 5–25; Lawrence Freedman, “Requiem for Detente?”, *The World Today*, vol. 36, no. 2 (February 1980), pp. 41–44; Daniel Frei (ed.), *Definitions and Measurement of Détente. East and West Perspectives* (Cambridge, Massachusetts: Oelgeschlager Gunn and Haim, Publishers, Inc., 1981), p. 216; Michel Tatu, “Démythifier la détente”, *Politique internationale*, no. 24 (Summer 1984), pp. 53–88.

126 And therefore, even less, the “convergence” of the systems. On this notion, see Théofil Kis, “Etat des travaux sur la problématique de la convergence: Théories et hypothèses”, *Etudes internationales*, vol. II, no. 3 (September 1971); and Daniel N. Nelson, “Political Convergence: An Empirical Assessment”, *World Politics*, vol. XXX, no. 3 (April 1978), pp. 411–432. See also L. Leontiev, *Mythe sur le rapprochement de deux systèmes. La théorie de la convergence et son sens réel* (Moscow: Novosti Press Agency Publishing House, 1972), p. 200.

127 Sobakin, “L’URSS et la détente ...” (n. 125), p. 731 [in French].

ignored the “human dimension” of international relations and was based on a one-sided ideological war waged against the West: the Soviet bloc had to remain inviolable, since any social change could take place only in capitalist countries; likewise, only national liberation movements supported by Eastern countries were legitimate.¹²⁸ Soviet theories justified this unilateralism by “the idea that social development (including the ideological struggle) is an objective factor, inherent in the evolution of different social systems, which does not depend on the will, intentions or acts of a particular government.”¹²⁹ To put it another way, this situation was a direct consequence of the fact that the existing systems were not only opposed, but were also *irreconcilable*. Détente between these systems swung between co-operation and competition, the end goal being to eliminate the opponent in an “us or them” dialectic.¹³⁰

In these circumstances, it is understandable why, in the political arena of the CSCE, the Decalogue had only the semblance of a code constructed from a loose definition of détente. The Decalogue was condemned, so to speak, to crystallize tensions and controversy. The Angolan affair, which took place in the wake of the Helsinki Summit, is a case in point. The USSR’s active support for the Popular Movement for the Liberation of Angola (MPLA), which was an attempt to extend Soviet influence in Africa, was regarded in the West as a *violation of the Decalogue*. What was the point, it argued, of preaching non-intervention in Europe while brazenly interfering in Angola?¹³¹ Before Helsinki, the substance of the debate would have been no different perhaps, but it would doubtless have taken place amid less ambiguity and fewer mutual frustrations.

The policy of détente was described by some as a decoy allowing the Soviet Union to manipulate and mislead naive Westerners,¹³² or as a zero sum game in the USSR’s favour. It was no secret that the Soviets saw this policy as a means of furthering their global ambitions.¹³³ Evidently, the policy might occasionally backfire on the West, but this had nothing to do with the concept of détente itself: rather, the blame tended to lie with those responsible for managing Western policy. Despite its flaws, and considering the positive points (human rights, the universal nature of the principles and the peaceful change of frontiers), the Decalogue represents one of the dividends of the détente. It puts paid to the idea that the West won the Cold War, but lost the

128 Ibid., p. 732.

129 Tunkin, “Coexistence pacifique et droit international” (n. 125), p. 20 [in French].

130 The “new peaceful coexistence” (Michel Tatu in *Le Monde*, 5 January 1989) advocated by Gorbachev, meanwhile, stems from an entirely different problem: “us and them”.

131 See press communiqué M2(76)19, published by NATO after the Brussels session, in December 1976 (§ 2, second paragraph).

132 See, for example, Patrick Wajzman, *L’illusion de la détente* (Paris: PUF, 1977), p. 228; and Constantin Melnik, *La troisième Rome. Expansion ou déclin de l’Empire communiste* (Paris: Grasset, 1985), p. 477. See, in particular, pp. 430ff.

133 See Tunkin, “Coexistence pacifique et droit international” (n. 125), pp. 5ff. See also Evgeny Chossudovsky, “Genoa Revisited: Russia and Coexistence”, *Foreign Affairs*, vol. 50, no. 3 (August 1972), pp. 554ff.

détente.¹³⁴ Few would deny that the Decalogue blazed a trail for the human rights cause, or that the content and effects of Principle VII “redeem” a text that is woolly and ambiguous. Principle VII (which not only covers commitments between governments, but also commitments on the part of the State towards its own citizens) is the crowning achievement of the Helsinki process, and its credibility and value owe much to the way in which it has been maintained and developed.

2. Contributions of the Concluding Document of the Madrid Follow-up Meeting (1983)

Various proposals for the Decalogue had been submitted in Belgrade, to no avail.¹³⁵ By contrast, the Madrid exercise yielded improvements and provided further clarification for several principles, including Principle VII.

A. Principle VII¹³⁶

The human rights question was one of two key issues raised at the Madrid Follow-up Meeting (the other being disarmament). It was of fundamental concern not only to protesters in Eastern Europe, but also to dissidents in all countries.¹³⁷ The Concluding Document of the Madrid Follow-up Meeting (1983) devotes 16 provisions to Principle VII (§§ 8 to 23 of the “Principles” section). Their aim was twofold: to strengthen commitments towards the protection of human rights, and to foster co-operation by convening a special meeting.

a) Strengthening the implementation of Principle VII

With a single caveat, the Madrid Concluding Document confirms the Western substance of Principle VII.¹³⁸ However, it essentially reiterates – in more binding terms than the Final Act – the need to ensure effective respect for human rights.

134 See Alain Besançon, *Présent soviétique et passé russe* (“Pluriel” collection; Paris: Le livre de poche 1980), p. 237.

135 *Western proposals*: CSCE/BM/14 (4 November 1977), CSCE/BM/60/Rev.1 (13 December 1977) and CSCE/BM/67 (13 December 1977); *Eastern countries’ proposals*: CSCE/BM/5 (24 October 1977), CSCE/BM/9 (28 October 1977), CSCE/BM/40, CSCE/BM/41, CSCE/BM/54, CSCE/BM/55 (all 11 November 1977), CSCE/BM/S/2 (17 November 1977), CSCE/BM/62, CSCE/BM/63 and CSCE/BM/64 (all 2 December 1977), CSCE/BM/62/Rev.1 (5 December 1977); *N+NA countries’ proposals*: CSCE/BM/21 (4 November 1977) Switzerland, CSCE/BM/47 (8 November 1977), Yugoslavia and CSCE/BM/S/3 (12 December 1977) by the Holy See.

136 See Victor-Yves Ghebali, “La question des droits de l’homme à la Réunion de Madrid sur les Suites de la Conférence sur la sécurité et la coopération en Europe”, *Annuaire français de droit international* (1983), pp. 71ff.

137 See *Le Monde*, 12 November 1980.

138 §§ 8 and 9 of the Madrid Concluding Document (1983) reaffirm the provisions of §§ 5 and 2 of Principle VII of the Helsinki Final Act (1975). § 15, however, places the 1948 Declaration and the 1966 Covenants on the same level and recommends to States “which have not yet done so, to consider the possibility of acceding to the covenants.” See also CSCE/RM.35 (17 December 1980). This idea had already been put forward by the Eastern countries at the Belgrade Follow-up Meeting, see CSCE/BM/64 (2 December 1977).

In general, it reflects the determination of the participating States to ensure, regardless of their political, economic and social system, “constant and tangible progress in accordance with the Final Act, aiming at further and steady development in this field.”¹³⁹ This provision was intended to stymie those who, like the Soviet Union, might seek to justify their patchy record by claiming to afford full protection to human rights at home. The Western countries felt that real progress could be achieved by the gradual removal of legal, administrative and other measures hampering the effective exercise of human rights.¹⁴⁰ However, this idea was rejected in favour of a less meaningful commitment based on the internal development of “laws and regulations in the field of civil, political, economic, social, cultural and other human rights and fundamental freedoms”.¹⁴¹

Conversely, more specific commitments were made regarding the effective exercise of three specific rights and freedoms:

- *The right of the individual to know and act upon his rights and duties in the field of human rights.* In this connection, the Madrid Concluding Document stipulates that the participating States “will take the necessary action in their respective countries to effectively ensure this right”¹⁴² – a right that the Final Act simply “confirmed” and whose scope had burgeoned with the appearance (in the Eastern countries) of the “Helsinki monitoring groups” described earlier. In Madrid, the Western countries were keen to introduce a clause legalizing the right of citizens, individually or in groups, to “monitor the implementation of the provisions of the Final Act or make public their views on the question of implementation whether or not these are critical of the authorities in their own country or in other participating States.”¹⁴³ In the end, however, the entrenched opposition of the USSR only allowed the “relevant and positive role” of persons in the achievement of the aims of the CSCE to be confirmed¹⁴⁴ and “genuine efforts” to implement the Final Act to be encouraged.¹⁴⁵
- *The freedom of the individual to profess and practise, alone or in community with others, religion or belief acting in accordance with the dictates of his own conscience.* The participating States agreed to take the necessary measures to “ensure” this freedom, which the Final Act recognized in only general and abstract terms.¹⁴⁶

139 Madrid Follow-up Meeting (1983): Concluding Document, “Principles”, § 9.

140 See CSCE/RM.19 (11 December 1980).

141 Madrid Follow-up Meeting (1983): Concluding Document, “Principles”, § 10.

142 Ibid., § 11.

143 See CSCE/RM.19. At the Belgrade Follow-up Meeting, the Western countries had already made a similar proposal, see CSCE/BM/14 (4 November 1977).

144 Madrid Follow-up Meeting (1983): Concluding Document, “Principles”, § 18. This recognition was in fact a reaffirmation of § 4 of Principle IX (Co-operation among States) of the Decalogue.

145 Madrid Follow-up Meeting (1983): Concluding Document, “Principles”, preamble, § 5. The adjective “genuine” could give the USSR grounds to interpret this provision in a restrictive sense, but the Western countries (the United States) were disposed to regard as “real” any initiative of any kind relating to the implementation of the Final Act.

146 Madrid Follow-up Meeting (1983): Concluding Document, “Principles”, § 12. The Final Act obliged the CSCE States only to “recognize and respect” the freedom in question (Principle VII, § 3).

At the request of the Holy See,¹⁴⁷ two important clarifications were made. The first involved the consultation, by governments, of religious institutions and organizations acting within the national constitutional framework.¹⁴⁸ The second paved the way for the legal recognition of “religious communities of believers practising or prepared to practise their faith within the constitutional framework.”¹⁴⁹

- *Freedom of association.* This was a brand new provision, the Final Act having been silent on this point. The Western countries were particularly concerned about the deterioration of the situation in Poland following the suppression of the *Solidarność* movement and its free trade unions. The Madrid Concluding Document provides that the participating States “will ensure” the rights of workers freely to establish and join trade unions, the right of trade unions freely to exercise their activities and other rights as laid down in “relevant international instruments”.¹⁵⁰ It adds that the 35 participating States “note that these rights will be exercised in compliance with the law of the State and in conformity with the State’s obligations under international law.”¹⁵¹ Politically significant, these provisions essentially borrow from a fundamental text on the matter – the ILO Convention concerning Freedom of Association and Protection of the Right to Organise, 1948 (No. 87), which Poland ratified in 1957.¹⁵² However, the Madrid Concluding Document further clarifies that the participating States “will encourage, as appropriate, direct contacts and communication among such trade unions and their representatives.”¹⁵³ This is a fairly transparent reference to *Solidarność*, in the sense that the phrase “such

147 See CSCE/RM/S.1 (11 December 1980). At the Belgrade Follow-up Meeting, the Holy See had submitted a more general proposal on this question, see CSCE/BM/S.3 (12 December 1977).

148 Madrid Follow-up Meeting (1983): Concluding Document, “Principles”, § 13. The States’ commitment is quite clear (“they will consult”), but is nevertheless reduced by the reservation “whenever necessary”.

149 *Ibid.*, § 14. Here, the commitment is stronger: “They will favourably consider applications by religious communities.” Noting that the phrase “believers practising or prepared to practise” had been incorrectly translated into Russian, the Western countries specified, in a statement by the chairman of the session, that the words in question must be interpreted as having “the same meaning” as the corresponding words in the other versions of the Madrid Concluding Document (Madrid Meeting: Journal No. 324 of 28 July 1983). Madrid Concluding Document, “Co-operation in Humanitarian and Other Fields”, “Human Contacts”, §10 also adds that the 35 States “will further implement the relevant provisions of the Final Act, so that religious faiths, institutions, organizations and their representatives can, in the field of their activity, develop contacts and meetings among themselves and exchange information.”

150 Madrid Follow-up Meeting (1983): Concluding Document, “Principles”, § 17.

151 *Ibid.*

152 See Articles 3, 8 and 11 of the Convention. This instrument, which entered into force on 4 July 1950 and [at the time of writing] is ratified by nearly one hundred States, broadly defines freedom of association for trades unions and workers’ rights and guarantees, subject to the legal formalities that exist for associations in general and for trade unions in particular. Poland suspended its co-operation with the ILO following the latter’s appointment, on 23 June 1983, of a commission of inquiry concerning the non-application of Conventions No. 87 and No. 98.

153 Madrid Follow-up Meeting (1983): Concluding Document, “Principles”, § 17.

trade unions” refers only to unions established and operating in accordance with ILO standards – in other words, freely.

Lastly, the Madrid Concluding Document also refers to the rights of persons belonging to national minorities¹⁵⁴ and the need for the effective participation of men and women in political, economic, social and cultural life.¹⁵⁵

*b) The Ottawa Meeting of Experts on Human Rights (7 May to 17 June 1985)*¹⁵⁶

The Madrid Concluding Document reprised and expanded upon an idea that the United States had tried in vain to submit in Belgrade, providing for the implementation of Principle VII “bilaterally and within the context of the CSCE and other multilateral fora.”¹⁵⁷

The participating States agreed to “give favourable consideration to the use of bilateral roundtable meetings” to discuss issues of human rights and fundamental freedoms, with a view “to achieving greater understanding and co-operation based on the provisions of the Final Act.”¹⁵⁸ The meetings were purely optional (“on a voluntary basis”) and were to be based on an agenda agreed “in a spirit of mutual respect”.¹⁵⁹ Each participating State was allowed to choose the members of its delegation, a freedom that seemingly encouraged the Western countries to invite representatives from non-governmental organizations concerned about the implementation of the Final Act.¹⁶⁰

In addition, the participating States agreed to the principle of a meeting of experts of the CSCE on “questions concerning respect, in their States, for human rights and fundamental freedoms, in all their aspects, as embodied in the Final Act”, to be held in Ottawa in 1985.¹⁶¹

These provisions are in themselves quite remarkable, considering that the term “human rights” did not even feature in the Concluding Document of the Belgrade Follow-up Meeting (1978). Furthermore, they yielded tangible results, such as the

154 *Ibid.*, § 15. Inspired by Yugoslavia, this provision merely reaffirms § 4 of Principle VII of the Decalogue.

155 *Ibid.*, § 16. Originally proposed by Romania: CSCE/RM/S.3 (15 December 1980), this provision is new in relation to the Final Act. At the Belgrade Follow-up Meeting, Bulgaria had already proposed the recognition of women’s rights, see CSCE/BM/63 (2 December 1977).

156 See Victor-Yves Ghebali, “La Réunion d’experts d’Ottawa sur les droits de l’homme”, *Défense nationale* (March 1986), pp. 89–101.

157 See CSCE/BM/60 (1 December 1977), known as the “Goldberg proposal” (after the head of the US delegation).

158 Madrid Follow-up Meeting (1983): Concluding Document, “Principles”, § 20.

159 *Ibid.*

160 The Western basic draft CSCE/RM/26 (12 December 1980) proposed that the delegations be made up of experts in foreign affairs, the parliamentary world and the private sector.

161 *Ibid.*, §§ 21 to 23. See also the proposal submitted by Canada, Spain and the United States: CSCE/RM/16 (12 December 1980)

roundtable meeting held between the United States and Romania in Washington in February 1984,¹⁶² not to mention the Ottawa Meeting itself.

Like the Follow-up Meetings, the Ottawa Meeting of Experts conducted a thorough *evaluation* exercise, with the notable difference that for the first time this was a *specialized review*. The human rights situation in the Soviet Union (which had deteriorated after the Madrid Follow-up Meeting) dominated the proceedings. The Soviets were criticized for restrictions on the movement of people, information and ideas, as well as the repression of the Helsinki monitoring groups. The criticisms also concerned the barriers to religious freedom and the treatment of national minorities.

The United States – which was the most belligerent of the Western delegations – pointed out that in the USSR, only propaganda for atheism was freely allowed, while the practice of religion depended on the goodwill of the authorities. Although any religious association could apply for registered status, the State could deny (or cancel) this privilege without citing a reason. In any event, the status in question was extremely limited. For example, the State designated specific times and places for religious worship. This allowed the authorities to keep a close eye on the religious life of citizens (through a network of informants) and to crack down immediately on the illegal exercise of religion by groups such as Jehovah's Witnesses, Evangelists, Baptists and Pentecostals. Moreover, the State failed to uphold the provisions of its own legislation, including those that obliged it to make places of worship available to any group with more than 20 believers that requested it: Jews, for example, had no more than fifty or so official synagogues throughout the entire Soviet Union. Lastly, the State discouraged religious instruction (particularly of children) and engaged in *de facto* discrimination against believers in the workplace (by not hiring them, not promoting them, or firing them).¹⁶³

162 This was, in fact, the second such exercise: it was preceded by another bilateral round table, between the same parties, which took place in Bucharest in February 1980. See Commission on Security and Co-operation in Europe, *The Helsinki Process ...* (n. 95), p. 9. The results of the two round tables do not seem to have met the expectations of the United States. See *The Ottawa Human Rights Experts Meeting and the Future of the Helsinki Process. Hearing before the Commission on Security and Co-operation in Europe. 90th Congress, 1st Session* (Washington: US Government Printing Office, 1985), pp. 194–195.

163 See the text of the speech by Ambassador Richard Schifter of 17 May 1985 and that of the documentary dossier distributed by the US delegation on the same day. See also *Implementation of the Helsinki Accords. Hearing before the Commission on Security and Co-operation in Europe. 99th Congress, 1st Session* (Washington: Government Printing Office, 1986), pp. 149–164; and M. -A. Freudiger et al., *La communication bafouée. Les accords d'Helsinki et les Eglises* (Geneva: Labor et Fides, 1985), p. 46, and *Pour les Chrétiens en URSS: une analyse, un dossier documentaire* (Paris: Commission française Justice et paix, 1985), p. 228. On the state of the question since Gorbachev, see the analyses prepared by Oxana Antic in 1987–1988 for Radio Liberty Research (RL 450/87, RL 472/87, RL 9/88); and Parliamentary Assembly of the Council of Europe: *Report on the situation of the Church and freedom of religion in Eastern Europe*, 5944 (20 September 1988); rapporteur: Mr. Atkinson.

The US delegation also presented an equally bleak picture of the policy of Russification (language and demographics) conducted in the Baltic provinces and Ukraine. For example, Latvia was served by three Russian language television channels and one bilingual channel. In addition, following the 1979 census, the proportion of citizens from Russia and other non-Baltic States had risen by 22 per cent in Lithuania, 35 per cent in Estonia and 54 per cent in Latvia. Any sign of resistance to Russification resulted in brutal repression or, at best, discriminatory measures in areas such as employment and education. Jews were also a prime target because, for the authorities, they were guilty of a serious offence – that of wanting to leave the country.¹⁶⁴

With the exception of Hungary, other Eastern countries also came under fire for their policies on religion (Czechoslovakia, Romania), repression of dissent (Poland, Czechoslovakia), and treatment of minorities¹⁶⁵ (Romania,¹⁶⁶ Bulgaria¹⁶⁷).

Yet it was not only the Eastern countries that were held to account during the evaluation exercise. The USSR and its allies launched a counterattack, citing the treatment of black, Hispanic and Native American minorities in the United States, denouncing the plight of homeless people in the United Kingdom and the “massacre” of civilians in Ulster, and challenging France on the state of its prisons. They also condemned unemployment, poverty and racial discrimination in the Western world, insisting that such evils infringed the *rights of the masses* and were therefore far graver transgressions than the individual violations alleged by the Western countries.

Nevertheless, the general debate in Ottawa was, on the whole, positive. In a break with the past, the Soviet Union and its allies abandoned their defensive stance based on the traditional argument of non-intervention, and instead engaged in dialogue. For the first time in the CSCE, the Soviets waded into the debate, attempting to offer *justification* in the face of criticism. They asserted that dissidents were involved in acts contrary to the interests of socialism, that Jewish emigration applicants in fact wanted to settle somewhere other than Israel and, above all, that the improvement in the human rights situation depended on the progress of *détente*.¹⁶⁸ The UK delegation responded that such arguments were

164 See the speech by Ambassador Schifter (and documentary appendix) of 28 May 1985: *The Ottawa Human Rights Experts Meeting ...* (n. 162), pp. 179–193.

165 On the current question of European minorities, see *Notes et études documentaires*, 4793 (1985), pp. 41–79.

166 On this question, see International Helsinki Federation for Human Rights, *Romania and the Human Rights. Minority Requests* (Vienna, 1987).

167 As part of its policy of total assimilation, from late 1984 the Bulgarian Government carried out a systematic campaign to force members of the Turkish minority (numbering about one million) to adopt Slavic patronymics: described as “voluntary and spontaneous” by the authorities, the operation was in fact accompanied by acts of violence and abuse. See North Atlantic Assembly: Report by the Sub-Committee on the Freedom of Information and of Persons, AD 172 CC/FF [86]6 (November 1986), pp. 9–11; rapporteur: Ludivina Garcia Arias.

168 That is, *détente* would promote human rights while, by contrast, international tension would cause them to deteriorate.

worthy of the enlightened despots of the eighteenth century. The United States observed that a State could not claim a cause-and-effect relationship between détente and human rights, unless it wished its citizens to be held hostage by its foreign policy. On this point, France had fittingly observed at the beginning of the meeting that “it is not the State, or any other political party or authority, that grants these rights and freedoms, or that can deny them should this be in its own interests. Any political power is only legitimate if it recognizes them for all. Self-evidently, it is for the government to define, in the general interest, the conditions for the exercise of these rights and freedoms, but it does not create them, nor may it deny anyone their enjoyment.”¹⁶⁹

Ultimately, as France also declared, “questions have been asked and there have been answers, even if they did not always address the precise nature of the question or sidestep the issue. As negative as they may have seemed at times, there have been exchanges – both on fundamental freedoms and on economic and social rights – and comparisons of the prevailing situation in each country, and this in itself constitutes progress ... The exchanges of views that have taken place are a testament to the fact that dialogue is possible on respect for human rights in our States. This in itself is a positive result.”¹⁷⁰

By contrast, the Meeting of Experts proved far less successful in its attempts at drafting a final document: after examining 45 written proposals on human rights (more than in Madrid in three years), and contrary to normal CSCE practice, it concluded its work without adopting a final text, even in the form of a simple communiqué.¹⁷¹ The impasse was largely a result of the new strategy adopted by the Eastern countries, which caught the Western countries off guard and forced them to abandon the idea of publishing a concluding document.

In Ottawa, the overall aim of the Western countries was to use practical recommendations on key points to facilitate a possible transition from East-West dialogue on human rights to *co-operation*.¹⁷² Four types of measures were put forward:

- *Measures to legitimize international human rights interventions.* The first recommendation proposed that the participating States respond to “inquiries and representations” from other governments or private individuals and groups on matters concerning human rights within their respective States; such interventions would be sent to the foreign ministry or any other body

169 Text of the French statement of 9 May 1985, p. 5. During the debate, the French delegate would also argue that the freedom of individuals to freely leave and return to their country could not reasonably be subject to conditions of the kind invoked by the Soviets: “What does the final destination of emigrating persons have to do with the authorities of the State of departure?” (Text of the French statement of 24 May 1985, p. 2.)

170 Text of French statements of 28 May 1985 (p. 2) and 17 June 1985 (pp. 1–2).

171 Since Ottawa, [at the time of writing], this situation has been repeated three times: at the CSCE’s tenth anniversary meeting, at the Budapest Cultural Forum and at the Bern Meeting of Experts on Human Contacts.

172 Like Belgium, various countries wanted to introduce a concept here that had been tried and tested in another area: *confidence-building measures*. See CSCE/OME.38 (3 June 1985).

designated for that purpose by governments.¹⁷³ The second recommendation suggested that the participating States should, to the maximum extent possible, admit observers to political proceedings or provide “full explanations” as to why such observers may not be admitted.¹⁷⁴

- *Measures to increase the publicity of the final texts of the CSCE and other international human rights instruments.* The Western countries suggested that the participating States should disseminate these documents in their entirety, make them known as widely as possible, and render them permanently accessible to all individuals in their countries.¹⁷⁵
- *Measures to legalize the action of private individuals and movements in the protection of human rights.* The Western countries argued that institutions, organizations and persons had a relevant and positive role to play in contributing to the achievement of the full exercise of human rights. From this premise, they deduced two basic requirements: firstly, to facilitate co-operation *with and among* all entities concerned about the national or international protection of human rights (humanitarian organizations, churches, professional groups, cultural organizations, women’s organizations and youth organizations) with a view to the development of “common professional and ethical standards”;¹⁷⁶ secondly, to authorize and encourage the activities of the Helsinki monitoring groups and to remove the legal, administrative and practical measures that interfere with the right of citizens to effectively monitor, individually or collectively, the implementation of the CSCE final texts.¹⁷⁷
- *Measures for the reaffirmation, development or extension of the rights and freedoms of the CSCE.* Some of the recommendations addressed existing issues within the Helsinki process: freedom of movement, religious freedom, minorities, trade union rights and the fight against terrorism.¹⁷⁸ Other proposals suggested the inclusion of new themes such as the elimination of torture and other cruel, inhuman or degrading treatment or punishment,¹⁷⁹ improving the conditions of prison regimes (reducing the duration of incommunicado detention, granting access for non-governmental humanitarian organizations, relatives and friends to persons in detention)¹⁸⁰ or the protection of individuals against psychiatric abuse – in other words, psychiatric practices that violate human rights.¹⁸¹

173 See CSCE/OME.43 (4 June 1985).

174 See CSCE/OME.27 (31 May 1985).

175 See CSCE/OME.24 (30 May 1985) and Add. 1 (31 May 1985).

176 See CSCE/OME.20 (30 May 1985) and Add. 1 (31 May 1985).

177 See CSCE/OME.22 (30 May 1985) and CSCE/OME.38 (3 June 1985).

178 See CSCE/OME.28 (31 May 1985), CSCE/OME.23 (30 May 1985), CSCE/OME.46 (4 June 1985), CSCE/OME.29 (31 May 1985) and CSCE/OME.44 (4 June 1985).

179 See CSCE/OME.25 (31 May 1985).

180 See CSCE/OME.37 (3 June 1985).

181 See CSCE/OME.31 (31 May 1985).

The Western programme received wide support from the N+NA countries; countries from both groups also submitted joint proposals.¹⁸² Except for Yugoslavia (whose primary concern was minorities), the N+NA countries advocated similar measures to the West. They also called for the CSCE to convene regular meetings of human rights experts.¹⁸³

For their part, the *Eastern countries* drew up three sets of proposals:

- *Proposals on the rights of peoples* focusing on the issue (peripheral to human rights) of disarmament – or in this case, the “the right to life as the supreme human right”, introduced by the GDR – to discredit the US Strategic Defense Initiative (SDI).¹⁸⁴
- *Proposals on economic, social and cultural rights* (right to education, health, an adequate standard of living, employment, worker participation, housing; right to gender equality; rights of young people) submitted with a view to rebalancing the liberal content of Principle VII of the Decalogue.¹⁸⁵
- *Proposals of a polemical nature* concerning the prohibition of propaganda for war, the elimination of racial discrimination, the prevention of the return of fascism and Nazism in all their forms and expressions, and condemnation of the “politicization” and “biased approach” of the activities of certain psychiatric associations “running counter to medical ethics” – an allusion to the threatened expulsion and subsequent withdrawal of the USSR from the World Psychiatric Association in 1983.¹⁸⁶ Similarly, from a Soviet perspective, religious freedom had to involve “the right of every person ... not to profess any religion [or] to conduct ... atheist propaganda”, and include safeguards against “encroachment on the fundamental rights and freedoms of other persons in the guise of performing religious rites, or forcing them to refrain from the performance of their civic duties.”¹⁸⁷

In a special working document, the Eastern countries took the unusual step of systematically laying down the possible foundations of co-operation on human rights under the aegis of the CSCE. They formulated five commitments:¹⁸⁸ to set

182 Some N+NA countries (Austria, Finland and Sweden) submitted, together with various Western countries, official proposals concerning the role of organizations and individuals CSCE/OME.20 (30 May 1985), on the progressive elimination of capital punishment in peacetime CSCE/OME.21 (30 May 1985) and Add.1 (31 May 1985), Add.2 (3 June 1985) and Add.3 (4 June 1985), and on religious freedom CSCE/OME.23 (30 May 1985).

183 See CSCE/OME.2 (27 May 1985), plus Add.1 (29 May 1985) and Add.2 (31 May 1985).

184 “The participating States express their determination to take effective steps to safeguard peace, to ward off the danger of a war, especially a nuclear war, to end the arms race on earth and not to permit its extension into space.” CSCE/OME.16 (29 May 1985).

185 See CSCE/OME.12 (29 May 1985), CSCE/OME.13 (29 May 1985), CSCE/OME.41 (3 June 1985), CSCE/OME.19 (30 May 1985), CSCE/OME.34 (31 May 1985), CSCE/OME.40 (3 June 1985), CSCE/OME.10 (28 May 1985), CSCE/OME.33 (31 May 1985) and CSCE/OME.32 (31 May 1985).

186 See CSCE/OME.11 (29 May 1985), CSCE/OME.16 (29 May 1985), CSCE/OME.38 (3 June 1985) and CSCE/OME.41 (3 June 1985)

187 See CSCE/OME.42 (3 June 1985).

188 See CSCE/OME.9 (28 May 1985).

goals for co-operation that were both strict and general (contribution to peace, security and justice; prevention of nuclear war, development of détente); to make it dependent on respect for the traditional principles of sovereignty and non-intervention; to refrain from using human rights for ideological purposes or to foment tension and political misunderstanding; to ensure that co-operation addressed problems relating to the rights of the masses (including social and national inequality, unemployment, housing, discrimination against women); to ensure that all participating States ratified the two International Covenants of 1966 on human rights.

For the first time in the CSCE's history, Romania broke ranks to suggest various forms of co-operation between the East and West in the field of human rights, including more frequent use of the bilateral approach to resolve humanitarian issues, recourse to the roundtable practice (also on a bilateral basis), and the conclusion of conventions or specific arrangements between the States concerned.¹⁸⁹

In short, the Eastern countries imposed conditions on co-operation that were unacceptable to the Western countries, and proposed an (equally unacceptable) *order of priorities*: the right to disarmament, collective rights, and individual rights in the strict sense.¹⁹⁰

The real aim of the Soviet bloc countries was to make any progress in the field of human rights conditional on the *rebalancing* of the content of Principle VII, through an influx of economic, social and cultural rights or, in other words, to weaken the liberal slant of the CSCE texts.

This strategy unnerved the Western countries and presented them with a major dilemma: to accept a dubious compromise consisting of a handful of concessions obtained at a high price, or to settle for a factual and descriptive final communiqué, as in Belgrade. Finding themselves in this awkward predicament, and in view of the Soviet rejection of the idea of another meeting of experts, the Western countries finally opted for a third way: dispensing with a final text altogether.¹⁹¹ However, the deadlock did nothing to detract from the intrinsic value of a meeting that would have been inconceivable ten years earlier.¹⁹²

189 See CSCE/OME.8 (28 May 1985).

190 In the end, the Eastern bloc put forward 19 proposals, i.e., more than the N+NA countries (11) and even more than the Western countries (15).

191 The Western countries, however, decided in principle to put forward a draft ideal concluding document based on all their combined proposals, see CSCE/OME.47/Rev.2 (15 June 1985). Objectively speaking, the Ottawa stalemate is also (at least in part) the result of the inherent limitations of CSCE *specialized* meetings, in which, unlike the Follow-up Meetings, where the *interdependence* of the subjects addressed favours compromise by definition, the requesting States have nothing to offer to the purely defending States.

192 This does not take account of the fact that the Ottawa Meeting introduced an innovation to the procedure for CSCE meetings of experts: the *public nature* of the opening and closing sessions.

B. Other Principles

Besides developing Principle VII even further, the section of the Concluding Document of the Madrid Follow-up Meeting concerned with the Decalogue contains three new concepts.

Adopted on the initiative of the Eastern countries, the first reflects the determination of the participating States to “promote by all means, both in law and practice, their increased effectiveness” with regard to the ten principles set forth in the Final Act.¹⁹³ Here the Madrid Concluding Document envisages the possibility of giving the Decalogue a “legislative expression” appropriate to the customs of each country¹⁹⁴ and incorporating the spirit or the letter of the principles in the treaties concluded by the participating States in their international relations in general.¹⁹⁵

The second concerns Principle VI (non-intervention in internal affairs), to which it adds four new provisions relating to *terrorism*. Here the Madrid Concluding Document establishes the principle of co-operation between the participating States for the prevention and elimination of acts of terrorism.¹⁹⁶ It requires them to take measures to prevent their respective territories from being used for terrorist activities in the broadest sense of the term,¹⁹⁷ and to refrain from financing, encouraging, fomenting or tolerating any activity directed towards the violent overthrow of the regime of another participating State.¹⁹⁸ Lastly, it translates the commitment of governments to “do their utmost” to ensure the security of all foreign representatives present on their soil.¹⁹⁹ With a single exception, the provisions correspond to the proposals submitted in Madrid by the Western countries.²⁰⁰

The third new concept stems from a provision that identifies one of the participating States by name – Malta. At the request of the Maltese, and under Principle I of the Decalogue (sovereign equality) which recognizes the right of the participating States to neutrality and to be or not to be a party to treaties of alliance, the participating States acknowledged the declaration by which the Republic of Malta proclaimed its status as a neutral country practising a policy of non-alignment.²⁰¹

193 Madrid Follow-up Meeting (1983): Concluding Document, “Principles”, § 1.

194 Ibid. See also the proposal by Poland and the Soviet Union: CSCE/RM/S.2 (12 December 1980).

195 Madrid Follow-up Meeting (1983): Concluding Document, “Principles”, § 2. See also the proposal by Bulgaria and the GDR: CSCE/RM/23 (1 December 1980).

196 Madrid Follow-up Meeting (1983): Concluding Document, “Principles”, § 4.

197 Ibid., § 5.

198 Ibid., § 6. This provision directly extends § 4 of Principle VI of the Decalogue.

199 Ibid., § 7.

200 The idea of extraditing persons accused of terrorism or who have committed terrorist acts, which appears in the Western basic proposal CSCE/RM/14 (11 December 1980), was not retained. On the Western proposal, see the statement of 9 February 1981 by the head of the US delegation to Madrid in Sussman (ed.), *Three Years at the East-West Divide ...* (n. 50), pp. 25–27.

201 See chapter VII of this volume, p. 331 (no. 43).

3. The Vienna Provisions or the Trumpets of Jericho

Like the Madrid Concluding Document, the “Principles” section of the Concluding Document of the Vienna Follow-up Meeting (1989) contains provisions specifically concerning Principle VII and, to a lesser extent, the other principles of the Decalogue.

A. Principle VII

The question of human rights features prominently in the Vienna Concluding Document. It is referred to both in the general preamble to the Document (§ 6), in the preamble to the first basket (fourth “indent”), in the respective provisions of the *three baskets*²⁰² and in the section entitled “Human dimension of the CSCE”.²⁰³ The provisions in question have the triple merit of consolidating the achievements of Principle VII, expanding the catalogue of rights and freedoms of the CSCE considerably, and establishing a specific protection mechanism.

a) Consolidating the achievements of Principle VII

The Vienna Concluding Document introduces more binding obligations in three key areas:

- *The right of the individual to know and act upon his rights and duties (in the field of human rights).* To effectively ensure this right, the participating States undertook to make accessible “all laws, regulations and procedures relating to human rights”.²⁰⁴
- *The freedom of the individual to profess and practise religion or belief.* The Vienna Concluding Document lists (without limitation) 11 recommendations which in effect nullify the discriminatory and repressive policies of Eastern countries in religious matters. Of particular note are the provisions concerning non-discrimination against believers in all fields of social life;²⁰⁵ granting legal status to communities of believers;²⁰⁶ respecting the right of those communities to organize their own religious practice;²⁰⁷ respecting the liberty of parents to

202 Vienna Follow-up Meeting (1989): Concluding Document, “Co-operation in the Field of Economics, of Science and Technology and of the Environment” addresses, for the first time, the question of a minimum exchange obligation for foreign tourists (§ 39) and recognizes that “questions relating to migrant workers have a human dimension” (§ 44). It should also be noted that *all* sections in “Co-operation in Humanitarian and Other Fields” (and no longer only those relating to human contacts and information) include human rights provisions.

203 This new text was placed after the third basket (“Co-operation in Humanitarian and Other Fields”), as it extends both the provisions of Principle VII and those of the third basket.

204 Vienna Follow-up Meeting (1989): Concluding Document, “Principles”, § 13.4.

205 *Ibid.*, § 16.1.

206 The CSCE States “*will grant* upon their request to communities of believers, practising or prepared to practise their faith within the constitutional framework of their States, recognition of the status provided for them in their respective countries” (*ibid.*, § 16.3).

207 The CSCE States will respect the right of the communities in question to “establish and maintain freely accessible places of worship or assembly”, to “organize themselves according to their own hierarchical and institutional structure”, to “select, appoint and replace their personnel in accordance with their respective requirements and standards as well as with any freely accepted

ensure the religious and moral education of their children as they see fit;²⁰⁸ allowing the training of religious personnel in appropriate institutions;²⁰⁹ respecting the right of individual believers and communities of believers to acquire, possess, and use sacred books and religious materials;²¹⁰ allowing religious faiths, institutions and organizations to produce, import and disseminate religious publications and materials;²¹¹ granting the possibility for religious communities to speak publicly, including through the mass media.²¹² Added to this is a provision of the third basket allowing believers, faiths and their representatives the possibility of direct contacts and communication at a national and international level.²¹³

- *Protecting the rights of persons belonging to national minorities.*²¹⁴ The Vienna Concluding Document introduces two new concepts here. Firstly, it obliges the participating States to take all the necessary legislative, administrative, judicial and other measures to implement the provisions of the Helsinki Final Act and the Madrid Concluding Document.²¹⁵ Secondly, it prescribes the protection of “ethnic, cultural, linguistic and religious identity” and the creation of “conditions for the promotion” of that identity.²¹⁶ The text of the third basket also extends to persons belonging to national minorities the benefit of provisions relating to human contacts (§ 31), information (§ 45), culture (§ 59) and education (§ 68).

b) Expanding the catalogue of rights and freedoms of the CSCE

The Vienna Concluding Document adds a further ten items to the rights and freedoms already enshrined in the Helsinki and Madrid texts. Several of these summarize the provisions of the International Covenant on Civil and Political Rights (1966):

arrangement between them and their State” and to “solicit and receive voluntary financial and other contributions” (ibid., § 16.4).

208 Ibid., § 16.7. See also § 16.6, which respects “the right of everyone to give and receive religious education in the language of his choice, whether individually or in association with others.”

209 Ibid., § 16.8.

210 Ibid., § 16.9.

211 Ibid., § 16.10. See also “Co-operation in Humanitarian and Other Fields”, “Human Contacts”, § 32, second sentence.

212 Vienna Follow-up Meeting (1989): Concluding Document, “Principles”, § 16.11.

213 Vienna Follow-up Meeting (1989): Concluding Document, “Co-operation in Humanitarian and Other Fields”, “Human Contacts”, § 32 allows them: “in groups or on an individual basis, to establish and maintain direct personal contacts and communication with each other, in their own and other countries, *inter alia* through travel, pilgrimages and participation in assemblies and other religious events.”

214 Owing to the dispute between Turkey and Bulgaria, and particularly between Hungary and Romania, this was one of the main topics for debate at the Vienna Follow-up Meeting. See CSCE/WT.46 and CSCE/WT.47 (both 13 February 1987).

215 Vienna Follow-up Meeting (1989): Concluding Document, “Principles”, § 18.

216 Ibid., § 19.

- The publication, dissemination and accessibility (particularly through public libraries) of any relevant international instruments in the field of human rights²¹⁷ and all related national laws, regulations and procedures.²¹⁸
- The legalization of action taken (individually or collectively) to promote human rights in general²¹⁹ and the commitments of the CSCE in particular – which obviously covers the case of the Helsinki monitoring groups.²²⁰ The principle of non-retaliation by the State against any person (or member of his family) seeking to exercise his rights and fundamental freedoms is also expressed.²²¹
- Ensuring human rights to everyone within the territory of the participating States and subject to their jurisdiction, whether *foreign* or *stateless*.²²²
- Ensuring that effective remedies are available (as befits any lawful society) when human rights are violated. This allows the individual the right to appeal to executive, legislative, judicial or administrative organs of the State, the right to a fair and public hearing within a reasonable time before an independent and impartial tribunal, and the right to be promptly and officially informed (as a rule in writing) of the decision taken on any appeal.²²³
- The right of everyone to freedom of movement and residence within the borders of each State and the right to leave any country, including their own, and to return to their country.²²⁴ Like the International Covenant on Civil and Political Rights, the Vienna Concluding Document thus reaffirms the right to emigrate. In addition, it specifies that the participating States “will allow all refugees who so desire to return in safety to their homes.”²²⁵
- The right of every individual to personal safety, in other words not to be subjected to arbitrary arrest, detention or exile.²²⁶

217 *Ibid.*, § 13.3. See also CSCE/WT.38 (13 February 1987).

218 Vienna Follow-up Meeting (1989): Concluding Document, “Principles”, § 13.4.

219 *Ibid.*, § 13.5.

220 *Ibid.*, § 26.

221 *Ibid.*, § 13.8.

222 *Ibid.*, § 13.7. This provision corresponds to Article 2(1) of the International Covenant on Civil and Political Rights.

223 Vienna Follow-up Meeting (1989): Concluding Document, “Principles”, § 13.9. See also Article 3 and Article 14 of the International Covenant on Civil and Political Rights. See also CSCE/WT.110 (10 March 1987) and Add.1 (8 May 1987).

224 Vienna Follow-up Meeting (1989): Concluding Document, “Principles”, § 20. This provision corresponds to Article 12(1) and (2) of the International Covenant on Civil and Political Rights.

225 This provision of § 22, which is based on the idea of “authorization” by the State, is less satisfactory than that of Article 12(4) of the International Covenant on Civil and Political Rights, which affirmed: “No one shall be arbitrarily deprived of the right to enter his own country.” § 22 is, in fact, what was left of a Cypriot proposal on the return of “displaced persons”, which was unacceptable to Turkey in its original form.

226 Vienna Follow-up Meeting (1989): Concluding Document, “Principles”, § 23.1. See also Article 9(1) of the International Covenant on Civil and Political Rights, although the notion of “exile” does not appear here.

- The humane treatment of all individuals deprived of their liberty.²²⁷
- The ban on torture and other cruel, inhuman or degrading treatment or punishment.²²⁸
- The protection of individuals from any psychiatric or other medical practices that violate human rights.²²⁹
- The limitation of capital punishment (in participating States where it has not been abolished) only for the most serious crimes, it being understood that the question of capital punishment “will be kept under consideration.”²³⁰

In addition to these ten items, a further two appear in the text of the third basket – the non-interference of the State in private postal and telephone communications,²³¹ and the right of individuals to freely choose their sources of information.²³²

Despite the remarkable progress that this list represents, it does contain two weak points.

Firstly, the provisions concerning some of the most fundamental rights are accompanied by a specific safeguard clause authorizing *restrictions* on their exercise. Even so, the Western countries were able to limit the damage through the use of less restrictive wording than the Covenant on Civil and Political Rights. Thus, the exercise of rights relating to the freedom of religion or belief may be subject only to such limitations as are provided by law and consistent with the legal obligations and political commitments of the participating States – it being understood that “they will ensure in their laws and regulations and in their application the full and effective exercise of the freedom of thought, conscience,

227 Vienna Follow-up Meeting (1989): Concluding Document, “Principles”, § 23.2. See also Article 10(1) of the International Covenant on Civil and Political Rights. § 23.3 also required the CSCE countries to comply with the rules established in this regard by the UN – the Standard Minimum Rules for the Treatment of Prisoners and the Code of Conduct for Law Enforcement Officials.

228 This provision of § 23 of the Vienna Concluding Document (which corresponds to the first sentence of Article 7 of the International Covenant on Civil and Political Rights) also stipulates that the CSCE States must take effective measures (legislative, administrative, judicial and other) to prevent and punish such practices. See also CSCE/WT.39 (13 February 1987).

229 Vienna Follow-up Meeting (1989): Concluding Document, “Principles”, § 23.6. See also the second sentence of Article 7 of the International Covenant on Civil and Political Rights (which, however, does not bring up the question of psychiatric abuse). § 23.6 also requires the CSCE States to take “effective measures” (with no further details) to prevent and punish such practices.

230 *Ibid.*, § 24. This provision, *mutatis mutandis*, like Article 6(2) of the International Covenant on Civil and Political Rights, stipulates that capital punishment may be imposed only in accordance with the law in force at the time of the crime, whose provisions must not be contrary to the international commitments of the CSCE States. See also CSCE/WT.128 (5 June 1987).

231 Vienna Follow-up Meeting (1989): Concluding Document, “Co-operation in Humanitarian and Other Fields”, “Human Contacts”, § 29. See also Article 17 of the International Covenant on Civil and Political Rights.

232 Vienna Follow-up Meeting (1989): Concluding Document, “Co-operation in Humanitarian and Other Fields”, “Information”, § 34, third paragraph. See also Article 19(2) of the International Covenant on Civil and Political Rights.

religion or belief.”²³³ The restrictions on the exercise of rights concerning the freedom of internal movement and emigration must also be enshrined in law and be compatible with the 1966 Covenant and with the Universal Declaration of Human Rights: “These restrictions have the character of exceptions. The participating States will ensure that these restrictions are not abused and are not applied in an arbitrary manner, but in such a way that the effective exercise of these rights is ensured.”²³⁴

Secondly, to balance the reaffirmation of this set of civil and political rights, the Vienna Concluding Document requires the participating States to develop their legislation in the field of *economic, social and cultural rights* – particularly on issues such as employment, housing, social security, health, education and culture,²³⁵ and the equally effective participation of men and women in all areas of society.²³⁶

Subject to these two caveats, the Vienna provisions – modern trumpets of Jericho – could be said to reflect the U-turn by the Eastern countries on this question.

c) Establishing a mechanism for the international protection of human rights: the Conference on the Human Dimension of the CSCE

The most significant progress recorded in 1989 is probably the text on the “Human dimension of the CSCE”, which provides a mechanism for the protection of human rights in each of the 35 participating States. The Vienna Concluding Document defines the expression “human dimension” as encompassing both “commitments” relating to Principle VII of the Decalogue and “co-operation” in the areas that make up the third basket.²³⁷ This broad definition is in fact a compromise between the Western idea of an operating mechanism equal to Principle VII and the provisions relating to human contacts, and the Soviet idea of a conference held in Moscow to deal with all aspects of the third basket. As such,

233 Vienna Follow-up Meeting (1989): Concluding Document, “Principles”, § 17. The corresponding provision of the International Covenant on Civil and Political Rights stipulated: “Freedom to manifest one’s religion or beliefs may be subject only to such limitations as are prescribed by law and are necessary to protect public safety, order, health or morals or the fundamental rights and freedoms of others” (Article 18(3)).

234 Vienna Follow-up Meeting (1989): Concluding Document, “Principles”, § 21. The corresponding provision of the International Covenant on Civil and Political Rights (Article 12(3)) incorporated the content of Article 18(3) cited in the preceding footnote.

235 Vienna Follow-up Meeting (1989): Concluding Document, “Principles”, § 14. This provision was, however, formulated in somewhat vague terms: it affirms that the States “will continue their efforts with a view to achieving progressively the full realization of economic, social and cultural rights by all appropriate means, including in particular by the adoption of legislative measures.”

236 *Ibid.*, § 15. It should also be noted that § 13.2 invites States (that have not yet done so) to accede to the two International Covenants of 1966, including the Optional Protocol to the International Covenant on Civil and Political Rights. See also CSCE/WT.71 (17 February 1987), CSCE/WT.75, CSCE/WT.76, CSCE/WT.79, CSCE/WT.82 (all 18 February 1987) and CSCE/WT.108 (6 March 1987).

237 Vienna Follow-up Meeting (1989): Concluding Document, “Human Dimension of the CSCE”, preamble, § 1 and 2.

it has the merit of providing a conceptual link between the political part of the first basket and the whole of the third basket.

The text establishes procedures for information, consultation and *bilateral* meetings. Firstly, it requires each participating State to respond to requests for information and to representations made to them by other participating States on questions relating to the “human dimension” of the CSCE.²³⁸ In a sense, this provision gives each participating State a say in the human rights practices and actions of the other States.²³⁹ It was first applied with a request for information sent by the Netherlands to Czechoslovakia on 30 January 1989. Secondly, it requires each participating State to agree – upon request – to bilateral meetings to examine questions relating to the human dimension of the CSCE, including “situations” and specific “cases”, with a view to resolving them.²⁴⁰ The idea of notifications or *multilateral* meetings was dismissed owing to opposition from the Eastern countries. However, three elements of multilateralism were retained. Firstly, each participating State was free to refer situations or individual cases to “other participating States” through diplomatic channels.²⁴¹ Secondly, each State was permitted to disclose the outcome of its consultations and bilateral meetings, as well as data on other situations and specific cases, to all participating States at the Follow-up Meetings.²⁴² Lastly, and most importantly of all, the Vienna text provided for the convening of a “Conference on the Human Dimension of the CSCE” (CHD) to review the implementation of the relevant commitments and to evaluate the functioning of the procedures and envisage their improvement.²⁴³ The CHD was to take place over a three-year period in three stages: Paris (1989), Copenhagen (1990) and Moscow (1991).²⁴⁴ The Western countries secured this arrangement at the seemingly exorbitant price of the Moscow stage. However, this also cost the Soviets dearly: it meant the release of all political prisoners and prisoners of conscience (including members of the Helsinki monitoring groups still under detention), the end of the jamming of foreign radio stations, the resolution of the situation of refuseniks (“zero option”) within six months of the end of the Vienna Follow-up Meeting, the easing of the ban on foreign travel for “reasons of national security”, assurances regarding the revision of Soviet criminal

238 Vienna Follow-up Meeting (1989): Concluding Document, “Human Dimension of the CSCE”, § 1.

239 Contrary to the wishes of the Western countries, the procedure remains reserved for States: it is not open to private individuals and groups within the jurisdiction of the CSCE countries.

240 Vienna Follow-up Meeting (1989): Concluding Document, “Human Dimension of the CSCE”, § 2.

241 *Ibid.*, § 3.

242 *Ibid.*, § 4.

243 In addition, the 4th CSCE Follow-up Meeting (Helsinki, 1992) would assess the functioning of the procedures and the progress made by the Conference on the Human Dimension of the CSCE, particularly with a view to strengthening and improving them (Vienna Concluding Document (1989), “Human Dimension of the CSCE”, final §).

244 The CSCE’s mandate and agenda are set out in Annex X to the Vienna Concluding Document (1989).

legislation, and guarantees on the subject of the transparency of the proceedings and open access to the Conference.²⁴⁵

As a result, the Eastern countries no longer seemed to challenge the universal nature and practical implications of Principle VII. Only Romania, dogmatic almost to the point of paranoia, still remains the exception in 1989. In a lengthy official statement issued at the end of the Vienna Meeting, it declared its intention not to implement the provisions of the Vienna Concluding Document deemed “inadequate” – namely those deemed to be a violation of the principles of sovereignty and non-interference (the “Human dimension of the CSCE”), encourage “manifestations of obscurantism that are retrograde” (rights relating to religious freedom), or even encourage a brain drain (the right to emigrate); Canada and Austria challenged the Romanian statement by asserting, quite rightly, that all provisions of a document adopted by consensus were binding for *all* participating States.²⁴⁶

The progress made in Vienna can chiefly be explained by what can only be termed a *new Soviet approach to human rights*. This consisted of two key points: firstly, the Soviet Union had come to realize that civil and political rights were inseparable from economic, social and cultural rights. It acknowledged that it had neglected those in the first category for the exaggerated and ultimately questionable benefit of those in the second. According to a Soviet public law specialist, “a citizen of a civilized country should enjoy a whole range of freedoms, without which the citizen is deprived of all rights, or the State is not civilized”, because “democracy still entails a certain amount of guarantees of sovereignty and personal independence. If this is only a modest amount, democracy is meaningless.”²⁴⁷ Secondly, it recognizes that international co-operation in human rights is both an intrinsic need and in the interests of international security. To quote a Soviet representative to the United Nations Commission on Human Rights, “co-operation of States in the field of human rights benefits all nations. No State may arrogantly claim that it has nothing to gain from international efforts in this field ... It is not possible to humanize international relations or establish a nuclear free and non-violent world without international co-operation in the area of human rights protection and without its qualitative improvement.”²⁴⁸ The USSR had come to the conclusion that in the modern world, human rights issues

245 On the latter point, see Annex XI to the Vienna Concluding Document (1989).

246 The text of the Romanian, Canadian and Austrian statements appear in Vienna Follow-up Meeting: Journal No. 397 of 15 January 1989, pp. 2–4, 7 and 9.

247 Alexander Pumpyansky, “Un débat ardu. Pour un Etat de droit”, *Temps nouveaux*, no. 33 (August 1988), p. 20 [in French]. See also Aaron Trehub's analysis “Human Rights in the Soviet Union: Recent Developments”, *Radio Liberty Research*, RL 67/88 (Munich, 1988), p. 7.

248 Taken from an article by Professor R. Mullerson, published by *Pravda* on the 40th anniversary of the 1948 Declaration (which the USSR had not approved at the time) and translated in no. 235 (1735) of the *Press Bulletin* of the Soviet Union Permanent Mission to Geneva, 22 December 1988.

had ceased to be the preserve of States.²⁴⁹ In short, the philosophy of the new Soviet leadership seemed to proceed from the idea that “establishing the rule of law in the USSR is not an internal matter,” but “the prerequisite for participation in civilized international relations”.²⁵⁰ The reforms introduced or planned under perestroika were aimed at establishing a “socialist rule of law”. This led the Soviet Government to enact a law on the conditions and procedures for psychiatric confinement,²⁵¹ to embark on a reform of the Criminal Code,²⁵² and to set up a special body for the resolution of bilateral humanitarian cases according to the principles of the CSCE.²⁵³

B. Other Principles

At the request of the Eastern countries, the Vienna Concluding Document reaffirmed one of the elements of Principle I on sovereign equality: the right of every sovereign State “freely to choose and develop their political, social, economic and cultural systems as well as their right to determine their laws, regulations, *practices and policies*.”²⁵⁴ However, the Western countries wanted this reaffirmation to be counterbalanced by a detailed provision of Principle X on good faith²⁵⁵ and a

249 “Naturally, there is no need to deny that attempts to interfere in our internal affairs under the pretext of human rights protection did occur. There is no guarantee that there will be no such attempts in the future. But it does not mean that we should regard human rights as our exclusive internal matter. Moreover, we are not able to treat them like that even if we wanted to. Since individual rights and freedoms have become subject to international settlement – and within the limits set forth in the international instruments – they do not belong to the exclusive competence of States” (ibid., p. 4).

250 Pumpyansky, “Un débat ardu. Pour un Etat de droit” (n. 247), p. 20 [in French].

251 The “special hospitals” will no longer be the responsibility of the Ministry of the Interior but the Ministry of Health; two million people should be removed from the mental patient lists (*Le Monde*, 13 February 1988). In addition, the USSR expects to be readmitted to the World Psychiatric Association at the Athens Congress in October 1989 (*Le Monde*, 20 September 1989). On the practice of the Soviet State since 1919, see George F. Will’s article in the *International Herald Tribune*, 25 May 1987.

252 See Julia Wishnevsky, “Draft Principles of Soviet Criminal Code Published”, *Radio Liberty, Report on the USSR*, vol. I, no. 2 (13 January 1989), pp. 1–4. See also the editorial published by *Le Monde*, 20 December 1988.

253 The Public Commission for Humanitarian Questions and Human Rights was established in November 1987. Chaired by Professor Fedor Burlatsky, it has [at the time of writing] around thirty members, including writers, legal experts and trade union leaders. See Viktor Yasman, “An Official Human Rights Organization in the USSR: New Thinking or Propaganda?”, *Radio Liberty Research*, RL 10/88 (Munich, 1988), p. 5. Some specialists have pointed out that the ideas put forward in this body are not unlike those of the Committee on Human Rights, which was founded in the early 1970s by Sakharov, Chalidze and Tverdokhlebov. See Julia Wishnevsky, “Burlatsky on Goals of Soviet Human Rights Commission”, ibid., RL 68/88, p. 2. See also Trehub, “Human Rights in the Soviet Union ...” (n. 247), pp. 3–4.

254 Vienna Follow-up Meeting (1989): Concluding Document, “Principles”, § 3. The notions of “practices” and “policies” did not appear in the Helsinki text. They were introduced at the request of the FRG.

255 This element stipulates that, in exercising the rights relating to Principle I, the participating States will ensure that their laws, regulations, practices and policies are both in line with their

reminder of the main provision of Principle VIII concerning the self-determination of peoples.²⁵⁶

At the request of Cyprus, and with some difficulty, Principle IV concerning the territorial integrity of States was also reaffirmed.²⁵⁷

In addition to Principle V on the peaceful settlement of disputes, which is dealt with elsewhere,²⁵⁸ two other principles were developed in more detail.

The first was Principle VI on non-intervention. The Vienna Concluding Document devotes three detailed provisions to the issue of *terrorism*.²⁵⁹ These go further than the Madrid provisions insofar as they *unreservedly condemn*²⁶⁰ terrorism and consider the possibility of *extradition* or prosecution of persons implicated in terrorist acts.²⁶¹

The second is Principle IX on co-operation, and specifically a provision legalizing the Helsinki monitoring groups. The Vienna Concluding Document requires the participating States to respect the right of persons to observe and promote the implementation of CSCE provisions and to associate with others for this purpose; to facilitate direct contacts and communication among these persons, organizations and institutions within and between participating States; to remove, where they exist, legal and administrative impediments inconsistent with the CSCE provisions; to facilitate access to information on the implementation of CSCE provisions and the free expression of views on these matters.²⁶²

international legal obligations and harmonized with their politically binding CSCE commitments ("Principles", § 3). The idea of "harmonization" came from Switzerland.

256 Vienna Follow-up Meeting (1989): Concluding Document, "Principles", § 4.

257 Ibid., § 5. Turkey would only accept the wording of the last sentence in the text ("No action or situation contravening this principle will be recognized as legal by the participating States") if the reference in § 22 to the right of "displaced persons" to return to their country was removed. See also CSCE/WT.52 (13 February 1987).

258 Vienna Follow-up Meeting (1989): Concluding Document, "Principles", § 6 and 7. On the content of these provisions, see chapter IV of this volume, p. 127.

259 Ibid., § 8 to 10. See CSCE/WT.99 (27 February 1987), CSCE/WT.116 (13 March 1987) and CSCE/WT.126 (22 May 1987).

260 Vienna Follow-up Meeting (1989): Concluding Document, Principles, § 8. "The participating States unreservedly condemn, as criminal, all acts, methods and practices of terrorism ... and agree that terrorism cannot be justified under any circumstances."

261 Ibid., § 10.5. For purely constitutional reasons (and as with the European Convention on the Suppression of Terrorism), Portugal formulated a reservation here, stipulating that it could not authorize the extradition of a person subject to the death penalty or life imprisonment in the requesting State, see Vienna Follow-up Meeting: Journal No. 397 of 15 January 1989, p. 7.

262 Vienna Follow-up Meeting (1989): Concluding Document, "Principles", § 26.

CHAPTER III

In Search of a Method for the Peaceful Settlement of Disputes

The cornerstone of any collective security system, the peaceful settlement of disputes is enshrined in Principle V of the Helsinki Decalogue. It has been a permanent feature of the CSCE's programme of work since Switzerland first submitted a draft European convention on the subject. The draft – and what became of it – are examined below.

I. The Swiss Draft Convention on a European System for the Peaceful Settlement of Disputes

In the summer of 1972, the Swiss Government sent a diplomatic memo to the countries that were going to be participating in the Dipoli Consultations, advocating the establishment of a European system for the peaceful settlement of disputes (PSD).¹ Despite a mixed reception, they agreed in principle to the Swiss idea. Paragraph 21 of the Final Recommendations of the Helsinki Consultations (1973) states that the CSCE committee in charge of questions relating to security in Europe “shall study proposals for and undertake the elaboration of a method for the peaceful settlement of disputes among participating States.” At the start of Stage II of the CSCE, Switzerland officially submitted its “Draft Convention on a European System for the Peaceful Settlement of Disputes”.² This chapter looks at the reasons for the draft and its general outline, together with the relevant provisions of the Helsinki Final Act (1975).

1. Switzerland's Motives

The Swiss draft was essentially the brainchild of legal expert Rudolf Bindschedler. It addressed three major concerns:

- *The need for the CSCE to tackle the issue of security in practical terms.* Switzerland did not believe that the Conference could fulfil its primary purpose (to strengthen security in Europe) simply through a solemn declaration of fundamental principles, such as refraining from the use or threat of force. To

1 Text reproduced in the *Annuaire suisse de droit international*, vol. XXIX (1973), pp. 373–377.

2 CSCE/II/B/1 (18 September 1973) and Corr. 2 (26 November 1973). See also Rudolf Bindschedler, “Le règlement pacifique des différends: une constante de la politique suisse”, *Gazette de Lausanne*, 25 April 1973; “La Conférence sur la sécurité en Europe et le règlement pacifique des différends”, *Comunicazioni e studi*, vol. XIV (1975), pp. 101–108; and “Der schweizerische Entwurf eines Vertrages über ein europäisches System der friedlichen Streiterledigung und seine politischen Aspekte”, *Europa-Archiv*, vol. 31, no. 12 (25 January 1976), pp. 57–66.

be meaningful, any such declaration had to include provisions ensuring its effective implementation.³

- *The need to clarify the general ban on the use of force in international relations.* Switzerland considered it unnecessary, and in a sense harmful, to reaffirm a principle already enshrined in international law through the Charter of the United Nations, because “by constantly reasserting principles, they are ultimately weakened.”⁴ Moreover, the actual scope of the principle had become hazy owing to the increasingly divergent interpretations of the notions of “force” and “intervention”.⁵ At best, such a principle could only offer protection: its virtue was that it maintained the *status quo*, rather than resolving actual conflict situations.
- *The need to adapt the principle of peaceful settlement of disputes to the specific case of Europe.* Switzerland had concluded that the principle of refraining from the use of force would be tangible only if effective machinery existed for the peaceful settlement of disputes. In effect, peaceful settlement gave the law the power to mend political relations between sovereign States; it contained the necessary seeds for lasting peace and security.⁶ For Switzerland, however, the various existing methods of peaceful settlement were all in one way or another unsatisfactory. Universal arrangements such as the Hague Conventions of 1899 and 1907, Chapter VI of the Charter of the United Nations and the revised version of the General Act for the Pacific Settlement of International Disputes (1949) gave little consideration to the situation on the Continent.⁷ As for European mechanisms – the European Convention for the Peaceful Settlement of Disputes of 29 April 1957, for example, or the Treaty establishing the European Economic Community – their scope was subregional and therefore only partial.⁸ Furthermore, they all required States to give their voluntary

3 “If these principles were merely subject to consent and no additional provisions foreseen to sustain them, one could hardly justify the existence of a conference convened specifically for that purpose. If the Security Conference were to end without such sustaining provisions, it would not change the state of anarchy that characterizes the community of States today and it would not yield any headway.” Bindschedler, “La Conférence sur la sécurité en Europe ...” (n. 2), p. 101 [in French].

4 *Ibid.*, p. 102 [in French].

5 The Brezhnev Doctrine of limited sovereignty was clearly a striking illustration of how the scope of the principle of non-use of force can be eroded and how to cast a halo of confusion around it.

6 The PSD was a prerequisite for collective security to exist in the context of Nicolas Politis’s classic trilogy (arbitration/security/disarmament), which Rudolf Bindschedler considered to be equally valid in his days: “the terms of this sequence cannot be inverted. Consequently, a system for the peaceful settlement of disputes must first be established in order to move beyond the embryonic stage of disarmament and the reduction of forces.” Bindschedler, “La Conférence sur la sécurité en Europe ...” (n. 2), p. 105 [in French].

7 *Ibid.*, pp. 105–106.

8 Article 41(1) of the 1957 European Convention stipulates that the latter is open only to the Member States of the Council of Europe. For an analysis of the entire instrument, see Jean Salmon, “La Convention européenne pour le règlement pacifique des différends”, *Revue générale de droit international public* (1959), pp. 21–54.

consent, either in advance or for individual disputes. In other words, no existing procedure could be considered truly binding. The Swiss approach seized on the unique opportunity presented by the CSCE to adapt the principle of peaceful settlement to détente in Europe by means of a new procedure which, at the same time, would constitute progress in relation to existing arrangements.

The ideas that Switzerland developed for the future participating States of the CSCE were derived from a foreign policy that, since 1919, had seen the country become one of the most ardent supporters of the peaceful settlement of disputes in the context of international relations.⁹ The Swiss tradition of arbitration was in reality much older: it dated back to the origins of the Confederation, which, owing to its permanently neutral status, had renounced the right to use force except in the case of legitimate self-defence. The Swiss initiative was thus seen as one of those natural reflexes peculiar to smaller States, particularly those “that do not belong to any alliance and therefore can only rely on the right to assert their interests in the international community.”¹⁰

2. General Outline of the Swiss Draft

According to Article 5, the system envisaged by Switzerland was based on the classic distinction between justiciable disputes – as defined in Article 36(2) of the Statute of the International Court of Justice (ICJ) “those which involve the interpretation and application of existing international law” – and non-justiciable – defined in a negative way: “all other disputes are nonjusticiable disputes”. The former were to come under the jurisdiction of an independent and neutral body – a permanent Arbitral Tribunal – and the latter an institutionalized negotiating mechanism: a Permanent Commission for Investigation, Mediation and Conciliation.¹¹ The procedure depended on the nature of the original application: the system was mandatory at the referral stage, in that any dispute could be

9 See the Federal Council’s report to the Federal Assembly regarding international arbitration treaties (11 December 1919).

10 Reply by Pierre Graber, President of the Swiss Confederation and Head of the Federal Policy Department, to an inquiry by Mr. Hefti, member of the Council of States, on 18 September 1975, published in *Annuaire suisse de droit international*, vol. XXXI, p. 154 [in French]. § 4 of the preamble to the Swiss draft Convention also stipulated in this regard that the principles of sovereign equality and the equality of rights of States could only be guaranteed “if each of them, without regard to size, wealth or power, is able to uphold its rights and interests before independent and neutral international bodies on a footing of legal equality.”

11 Article 4(1). The Commission and the Tribunal were to set up a special chamber for each dispute (Article 11(1) and Article 25(1)), comprising five commissioners nominated by the parties to the dispute and neutral members designated by the commissioners (Article 11(2) and Article 25(2)). The Commission, whose proceedings – written and oral – would be adversarial, would rule on the basis of fairness and expediency (Article 14(1) and Article 18(2)). The Tribunal’s proceedings would only be written and adversarial (Article 28(1)). The two bodies could order provisional measures, mandatory in the case of the Tribunal (Article 30(1)) but not in that of the Commission (Article 16(1)).

submitted to either of the two bodies on the basis of a unilateral request of one of the parties to the dispute (Article 9(1) and Article 23(1)). The arbitral award would be a *final* settlement of justiciable disputes (Article 35(1)), whereas the Commission's rulings would not be binding on the parties unless otherwise agreed (Article 20). In the explanatory comments accompanying the draft, Switzerland admitted that in many cases the distinction between justiciable and non-justiciable disputes might appear "to be a theoretical one."¹² To give proper consideration to the frequent existence of "mixed" disputes, the Convention provided that "the parties shall be free at any time to submit a justiciable dispute to the Commission also," on the understanding that in such cases, "their right is fully reserved to appeal subsequently to the Arbitral Tribunal" (Article 4(2)).¹³

The entire procedure thus defined had to remain *subsidiary* in nature, since the system applied only to disputes that could not be settled by other peaceful means within a reasonable time, or for the settlement of which they had not chosen a different procedure (Article 1(1)). Nevertheless, the scope of the draft was quite ambitious:

- The proposed system covered disputes "of whatever type" arising among and between the 35 CSCE States (Article 1(1)) and did not allow any reservations to be expressed.¹⁴ Its scope could therefore be considered virtually *unlimited*.
- It involved the introduction of a *legal instrument* within the (purely political) space of the CSCE, which, by force of circumstances, would have constituted the rudiments of a pan-European system.¹⁵

12 CSCE/II/B/1 (18 September 1973), p. 8.

13 According to Switzerland, the solution of submitting a justiciable dispute to the Commission presented certain political advantages, in that "there are neither winners or losers in procedures before the Commission" (*ibid.*, p. 9); these proceedings nevertheless required the consent of *all* the parties in order not to harm States believing that they had a clearly established claim in law. Conversely, non-justiciable disputes could not be taken to the Arbitral Tribunal. But if a dispute submitted to the Commission included justiciable questions, this aspect could, on unilateral request, be passed to the Tribunal (Article 17(1)); if proceedings before the Commission were already under way, they would be suspended until the end of the arbitration process (Article 17(2)).

14 Article 56 states that "this Convention shall be subject to no reservations." Switzerland wished to avoid any "juridical uncertainties" in this respect and to prevent the Convention becoming, in practice, a mere model of a convention. See CSCE/II/B/1 (18 September 1973), p. 78. Furthermore, the issue of reservations regarding this proposal related obviously only to the compulsory part of the procedure, governing *justiciable* disputes.

15 The Swiss draft could be compared to "an undertaking to systematically and exhaustively rationalize, within the European framework, the usual procedures of inquiry, mediation, conciliation and arbitration," see Roger Jeannel, "La Conférence de Montreux sur le règlement des différends dans le cadre de la CSCE", *Annuaire français de droit international* (1978), p. 374 [in French]. The Convention should be open to all CSCE States and to all international organizations "whose membership is restricted to these selfsame States" (Article 60(1)). The multilateral system which it sought to establish was intended to enable *any contracting party* (other than those that were party to the dispute) to intervene in the proceedings of the Commission (Article 10(2)) or the Tribunal (Article 24(2)). The Convention could be repudiated with one year's notice (Article

- It laid down stricter rules than the Charter of the United Nations or the 1957 European Convention, given the *mandatory* binding nature both of the arbitral award (which under Article 37 could be issued *by default*) and of the referral to the Tribunal and the Commission.¹⁶
- Lastly, it required the creation of two *permanent* judicial bodies.¹⁷

3. Provisions of the Final Act Relating to the Swiss Draft

Welcomed by the N+NA countries and some of the smaller Western nations, the Swiss ideas received a lukewarm, if not downright hostile, reception from the other participating States. Given the Marxist assumption regarding the political essence of any inter-State dispute, the USSR viewed the peaceful settlement of disputes through the prism of direct treaty procedures, based on the free choice of means by the parties and with no involvement of a third party: considering arbitration to be antithetical to *diplomatic negotiation*, the Eastern countries (except for Romania) refused to use the Swiss draft as a working basis.

Without being quite so categorical, the Western countries – traditionally open to the principle of mandatory peaceful settlement – still raised serious objections. The very philosophy of the draft seemed to them to invite criticism. It ran counter to the development of positive law, with governments increasingly reluctant to assume general obligations in the matter.¹⁸ However, the draft provisions could allow a contracting State to *impose* arbitration on any other contracting State, since the procedure depended on the type of application lodged by the applicant. In addition to the artificial nature of the distinction between justiciable and non-justiciable disputes – as demonstrated by international practice¹⁹ – the Swiss draft could, at a push, lead to judicial activism.²⁰

Moreover, the existence of permanent bodies would have the effect of significantly undermining the principle of free choice of the third-party mediator,

59). Any amendments to the Convention would have required ratification by two thirds of the participating States in order to become effective (Article 58).

16 As pointed out by Jeannel, “La Conférence de Montreux sur le règlement des différends ...” (n. 15), p. 374, the aim of the Swiss draft was to go beyond the attempts made during the interwar period to encourage the States to undertake to accept in advance the intervention of a *third party* in the settlement of their disputes.

17 The Convention proposed establishing the seat of the Tribunal and the Commission in The Hague and envisaged the possibility of entrusting – for reasons of efficiency – the secretariat activities of the two bodies to the International Bureau of the Permanent Court of Arbitration at The Hague (Article 45 and Article 48(3)).

18 See Jeannel, “La Conférence de Montreux sur le règlement des différends ...” (n. 15), p. 374.

19 *Idem*.

20 The scope of the law applicable by the Arbitral Tribunal had been defined by a general enumeration of the sources of international law similar to that of Article 38(2) of the Statute of the ICJ. Furthermore, Article 33(3) of the Swiss draft stipulated that the chamber of the Tribunal could not refuse to render a judgement by invoking silence or the obscurity of international law “the legitimate wish to avoid *non liquet* would thus lead to the government of judges,” see Jeannel, “La Conférence de Montreux sur le règlement des différends ...” (n. 15), p. 375 [in French].

not to mention the fact that the Arbitral Tribunal would in reality be no different from an international court.²¹ Lastly, from a political viewpoint, the proposed system was dangerous: owing to the *lex specialis* it constituted for the CSCE area, it would have furthered Soviet plans.²²

Since the Bindschedler draft proved unacceptable – even in the form of an informal compromise proposed by Yugoslavia²³ – Switzerland wisely decided to temper its ambitions for a while, hoping to gain wider acceptance for the principle of peaceful settlement of disputes at a later stage of the CSCE. The agreement reached on this point in the Helsinki Final Act urged the participating States to “pursue the examination and *elaboration* of a generally acceptable method for the peaceful settlement of disputes aimed at complementing existing methods.”²⁴ The work in question had to deal not only with the Swiss draft (specifically mentioned) but also “other proposals relating to it and directed towards the elaboration of such a method”²⁵ – a clarification introduced by the Western countries to preempt any Soviet proposals on regional security. Lastly, the Final Act established the principle of a meeting of experts on the peaceful settlement of disputes (to be held in the Follow-up to the CSCE to ensure the participation of all 35 participating States), which was to be convened by Switzerland after the first Follow-up Meeting to take place in Belgrade in 1977.²⁶ In short, the principle of the Swiss enterprise had been saved at the price of a significant mutilation: it was

21 *Idem*.

22 The USSR proposed that participating States “expand and deepen *political consultations* and exchange of information on a bilateral and multilateral basis on questions which are of common interest and concern the strengthening of peace, security and co-operation in Europe” as early as the first stage of the CSCE. See CSCE/I/3 (4 July 1973) and CSCE/II/A/3 (22 March 1974). The idea of such a type of political consultations, regarded by Western countries as propitious for a situation of “Finlandization”, eventually appeared only in a watered down form in § 4 of the final clauses of the Declaration on Principles Guiding Relations between Participating States: “The participating States ... also express the conviction that respect for these principles will encourage the development of political contacts among them which in time would contribute to better mutual understanding of their positions and views.”

23 Yugoslavia suggested, in a “Non-Paper” dated 27 February 1974, that “a possible system of multiple purpose application of a convention be adopted on the basis of the Swiss proposal.” This proposal implied, *inter alia*, that the participating States wishing to sign up to it had to agree to the Convention in its totality or at least consent to certain well-defined categories of disputes.

24 Helsinki Final Act (1975), “Matters related to giving effect to certain of the above Principles”, (ii), first operative paragraph. This first provision merely repeated the substance of § 21 of the Final Recommendations of the Helsinki Consultations (1973).

25 Helsinki Final Act (1975), “Matters related to giving effect to certain of the above Principles”, (ii), first operative paragraph.

26 *Ibid.*, §§ 2 and 3. For the preparatory work on this section of the Final Act carried out by the Special Working Body of Committee I, see CSCE/II/B/4 (28 May 1974) and Rev.1 (30 May 1974); CSCE/II/B/5 (11 April 1975); CSCE/II/B/111 (1 October 1974); CSCE/B/112 (4 October 1974) and Rev.1 (10 October 1974); CSCE/II/B/119 (21 May 1975); CSCE/II/B/120 and Rev.1 (both 4 July 1975); and CSCE/II/B/121 (16 July 1975).

no longer a question of establishing a “system”, but of elaborating a simple “method” for the peaceful settlement of disputes.

II. Follow-up to the Swiss Initiative

Montreux (1978), Athens (1984) and Vienna (1989)

After the signing of the Helsinki Final Act (1975), the Swiss enterprise made no real progress, despite two successive meetings of experts. Granted, the CSCE participating States adopted a “common approach” after the first meeting in Montreux. The second meeting (in Athens) highlighted the gulf that continued to exist between the proponents of a diversified method with a mandatory element and (until the advent of Mikhail Gorbachev) the proponents of a method that amounted to institutionalized political “consultations”. Nevertheless, the measures taken at the CSCE Vienna Follow-up Meeting (1989) seemed to herald a new and more promising start.

1. “Common Approach” of Montreux

In accordance with the mandate of the Final Act, the Belgrade Follow-up Meeting tasked Switzerland with convening a meeting of experts on the peaceful settlement of disputes.²⁷ This took place in Montreux between 31 October and 11 December 1978, when a substantive debate was held on a pared-back version of the Swiss draft and the Eastern and Western counter-proposals.²⁸ As the Report of the CSCE Montreux Meeting of Experts (1978) confirms, “divergent views were expressed and no consensus was reached on a method.”²⁹ Despite this, the participating States adopted a “common approach to the elaboration of a method for peaceful settlement of disputes” based on three criteria inspired by the Eastern countries and five others, borrowed from the N+NA and Western countries.³⁰

The first criterion (from the USSR) expresses a requirement which may seem quite natural: the *compatibility* of the method envisaged with the principle of peaceful settlement as it appears in the chapter on the purposes and principles of the Charter of the United Nations and in the Helsinki Final Act. It needs no further

27 See Belgrade Follow-up Meeting (1978): Concluding Document, § 13. This section had been based on a proposal by Switzerland: CSCE/BM/21 (4 November 1977).

28 See Jeannel, “La Conférence de Montreux sur le règlement des différends ...” (n. 15); and the analysis by Victor-Yves Ghebali in *Défense nationale* (March 1979), pp. 25–39 on the Montreux Meeting of Experts. For a Soviet point of view, see Y. Rybakov and E. Vylegjanina, “Formes et méthodes de règlement des litiges”, *La Vie internationale*, no. 6 (222), (Moscow, June 1973), pp. 79–83.

29 See Report of the CSCE Montreux Meeting of Experts (REM/8) of 9 December 1978, § 3. Recommendations contained in the Report invited governments to consider “the possibility of promoting and extending the existing practice of including, in appropriate treaties among and between them, provisions for the peaceful settlement” (*ibid.*, § 8). It should be noted that the experts were not even able to agree on the idea of compulsory arbitration on the basis of the classic arbitration clause.

30 *Ibid.*, § 6.

comment, only that the Soviets may have seen it as encouragement for the idea of a regional regime under the Charter.

“Consistency with sovereign equality of States and the free choice of means” – the pivotal criterion for the Eastern countries – came next. The Western countries had refused to recognize the free choice of means by the parties as a formal “principle”, but agreed to mention the principle of sovereign equality, from which freedom of choice could logically be inferred.³¹

The third criterion concerned “experience and the treaty and diplomatic practice and the views of all the participating States in this field.” The general wording masked a fundamental disagreement. It set East and West at odds with each other: while the socialist countries interpreted it as a reaffirmation of the free choice of means of peaceful settlement of disputes by the parties to the dispute, the Western countries understood it in the sense of arbitration.³²

Originally proposed by Yugoslavia, the other five criteria (referred to as the “Aćimović criteria”) reflected the point of view both of the N+NA countries and of the Western countries.

Firstly, it was a question of the *acceptability* of the future method by all participating States irrespective of their system, size, geographical location or level of economic development. The N+NA countries associated the idea of acceptability with consistency between the method and their pet principle: sovereign equality. For the Western countries, the concept was seen as a potential means of refuting the Brezhnev Doctrine: “acceptability to all” equated in this perspective to “applicability to all” – which encompassed internal relations between Soviet bloc States. For the latter, the idea of “acceptability” meant the free choice of means without third parties.

Secondly, the method had to be *subsidiary* in relation to existing methods and institutions. This served a dual purpose: on the one hand, to preserve existing institutional regimes and instruments (first and foremost the ICJ, for the Western countries), on the other, to ensure the freedom of choice of the parties, who would be free to agree to a different method at any time.

31 The Eastern countries argued that each specific area of international law called for a specific PSD method: hence the importance of taking into account the “inherent link between, on the one hand, the subject and character of a dispute in any given sphere and, on the other, the methods freely selected by the States in order to settle it” (proposal submitted by Hungary: REM/6 (4 December 1978), § 7.6). The West would retort that “there is no principle of international law called freedom of choice. What has been described as the principle of choice is nothing more than a particular exercise of sovereignty in light of several alternatives open to States” (statement by the delegation of Canada of 4 December 1978, pp. 2–3).

32 In Montreux, the Eastern countries maintained that *contemporary* conventional and diplomatic practice (a word not retained in the final Report) was shifting away from arbitration towards bilateral procedures for direct agreement without third party involvement. For more details, see Rybakov and Vyleganina, “Formes et méthodes de règlement des litiges” (n. 28), pp. 79–80. The East also considered it essential that account be taken of *historical* experience (another word that was omitted) and the divergence of views between States with different social and legal systems. See REM/6 (4 December 1978), §§ 7.1 and 7.5.

Thirdly, there was the need for *complementarity* in relation, once again, to existing methods. For the Western countries, this criterion meant that the method “should not merely add a single new element or means, but should represent an advance in efficiency and effectiveness over the current state of implementation of existing methods.”³³ In other words, the West expected the CSCE method to increase respect for international law. This was not the interpretation of the Eastern countries, for whom the notion of “complementarity” meant the idea of a *lex specialis*: it opened up the possibility of a method “applicable to European conditions”.³⁴ As for the N+NA countries, they simply felt that “the method to be elaborated should complement existing methods in such a way as to promote the peaceful settlement of disputes *effectively*.”³⁵

Fourthly, the method to be elaborated had to meet the criterion of *flexibility*, both with regard to its internal structure and with regard to its areas and modalities of application. The Western countries felt in particular that it should be elaborated “in a pragmatic spirit”, include appropriate *mandatory* features, and should be balanced in its use of the means enumerated in Article 33 of the Charter of the United Nations.³⁶

In the fifth and final place, the Montreux common approach referred to the “*capacity for progressive development*” of the method. This had to be conceived in such a way as to permit the gradual implementation of its means and their further advancement, in parallel with the development of East-West détente.³⁷

The eight Montreux criteria were clearly generic, laconic and ambiguous. Yet it was on this basis that the CSCE experts returned to the question six years later.³⁸ The Athens Meeting of Experts (21 March to 30 April 1984) came to the same fundamental conclusion as Montreux: “divergent views were expressed and no consensus was reached on a method.”³⁹ The Report of the Athens Meeting (1984) affirmed that “some progress was made in the examination of a generally acceptable method for the peaceful settlement of disputes” and stated that “particular emphasis was put on ways and means of including a third party element.”⁴⁰ During the informal negotiations with the States most directly concerned (the United States, France on behalf of the ten Member States of the European Economic Community, and Switzerland), the USSR was prepared to

33 REM/5/Rev.4 (1 December 1978), § 5.iii.

34 REM/6 (4 December 1978), § 7.3 in particular.

35 REM/7 (5 December 1978).

36 REM/5/Rev.4, § 5.IV

37 See REM/7, p. 2 and REM/5/Rev.4, § 5.V.

38 In addition to the “common approach”, the Montreux Report (1978) proposed a new meeting of experts, see REM/8, § 9. The decision to convene this meeting in Athens was taken at the Madrid Follow-up Meeting of the CSCE on the basis of a proposal by the N+NA countries: CSCE/RM/20 (12 December 1980). See Madrid Follow-up Meeting (1983): Concluding Document, “Principles”, § 24.

39 Report of the Athens Meeting of Experts (1984), § 3.

40 Report of the Athens Meeting of Experts (1984), § 3.

accept the principle of involvement of a third party at the unilateral request of one of the parties in the event of failure of the consultations after a period of six to twelve months.⁴¹ Considering this concession inadequate (it made no mention of compulsory arbitration), the US delegation halted the informal talks. Switzerland reluctantly acquiesced. However, against the advice of the Americans, it insisted that the Soviet concession be – at least indirectly – referenced in the Report of the Athens Meeting.

2. Proposals for Compulsory Arbitration

This section takes a look at how Western ideas and Swiss ideas on this subject developed.

A. Development of the Swiss Ideas

After the Bindschedler draft ran aground in Geneva, Switzerland decided to proceed in stages with a more cautious and modest approach. The proposal it submitted in Montreux pragmatically summarized the various opinions it had gathered since 1975. It envisaged a mandatory negotiation phase prior to referral to the Tribunal or the Commission.⁴² It offered the parties to the dispute the possibility of calling on – instead of the Commission – “one or more States not members of an alliance and to entrust to them the tasks of investigation, conciliation and mediation.”⁴³ By removing the distinction between justiciable and non-justiciable disputes, it immediately limited the scope of the disputes that could be referred to the Arbitral Tribunal to certain specific matters.⁴⁴ Lastly, it envisaged periodic review conferences to develop the method, for example by expanding the list of legal disputes that could be referred to arbitration.⁴⁵ Eclipsed by the East-West debate polarized around the Soviet idea of “consultations”, the Swiss working paper was not properly discussed in Montreux.

Switzerland reconsidered its position for the Athens Meeting. While retaining the substance of the Montreux draft, this time it focused mainly on mediation

41 The Soviet “Non-Paper” of 25 April 1984 contained the following suggestion: “If the consultations will not lead to an agreement between the parties to a dispute within 6 (12) months, in cases when a dispute relates to violations of international obligations in economic, scientific or technological spheres of international co-operation, in particular protection of environment, energy, transport connections and other cases of similar character, a *procedure of conciliation will be used on the request of either party to the dispute.*”

42 See REM/1 (31 October 1978), § II.5. The arbitration proceedings could only have been opened if the parties had failed to reach a settlement of the dispute “at the end of a year following the declaration of the final stage of the negotiations” (ibid., § IV.13).

43 Ibid., § III.12.

44 Subjects not of a political nature and not involving the vital interests of law governing the rights of neighbouring States (international servitudes, establishment of frontiers, regulation of international waterways, and so on), transport law, environmental problems, diplomatic and consular law, drug trafficking, and the interpretation and application of international agreements other than treaties of alliance (ibid., § IV.13)

45 Ibid., § V.15.

and conciliation, which were tackled separately.⁴⁶ Both procedures could be set in motion on the basis of a simple unilateral request from one of the parties to the dispute, in the event of failure of prior attempts at direct negotiation and one year after the diplomatic negotiations had begun. To avoid a potential impasse, Switzerland proposed from the outset that if the parties could not come to an agreement on the choice of a mediator, the latter would be appointed by a college composed of a number of States designated in advance.⁴⁷ Mediation would be purely advisory in nature and not binding. As for conciliation, the parties could have recourse to it automatically or in the event of failure of the mediation proceedings. Each party would choose one or two members to make up the Conciliation Commission, whose chairman would be appointed by the college (§ III.13) if no agreement could be reached on this point. The recommendations of the Commission would remain confidential and would not, in principle, be binding on the parties. Yet this time the Swiss proposal went even further: it stated that the CSCE's method of peaceful settlement of disputes should include an appropriate procedure leading to decisions binding on the parties – a procedure which would initially be restricted to a certain number of questions accepted by the parties within a specified time.⁴⁸

B. Development of the Western ideas

In *Montreux*, the Western countries approved of the philosophy behind the new approach taken by the Swiss Government. They considered the Swiss document to be satisfactory, subject to amendments that would give more weight to arbitration. At the instigation of the United States, the Western countries submitted their own proposal containing two specific suggestions.⁴⁹

The first recommended the mandatory submission of certain categories of disputes defined in advance to a settlement procedure. If a dispute could not be settled by means of bilateral efforts (negotiations or consultations), it would – depending on which category it came under – be submitted in a mandatory way to arbitration in which the award was binding on all parties, or to inquiry, mediation or conciliation, the results of which would not be binding.

The second suggestion was to insert in the treaties – which in future would be binding on the CSCE participating States – arbitration clauses providing, on the basis of a unilateral request, for the settlement by a third party of any dispute concerning the interpretation or application of a specific treaty and not settled by means of negotiation. Lifted from the Swiss document, this recommendation merely proposed the continuation and development of a practice commonly applied in conventional international relations. It opened up the modest prospect

46 CSCE/REA.2 (22 March 1984), sections II and III.

47 In addition, according to a formula to be agreed, such as, for example, two Western States, two Eastern States and one neutral or non-aligned State (*ibid.*, § II.8).

48 *Ibid.*, § IV.20.

49 See REM/5/Rev.4 (1 December 1978), sponsored by the United States, Canada, Portugal and six EEC countries (Belgium, Denmark, the FRG, Italy, the Netherlands and the UK, but not France).

of compulsory arbitration, either automatically (at the request of either party) or by special arrangement.

In Athens, the ten EEC Member States and the United States again felt it necessary to submit (individually, this time) separate proposals from Switzerland.

Careful to avoid any suggestion that might provoke the Eastern countries, the EEC Member States were keen from the outset that, in seeking a solution to their disputes, the parties should be free to choose the peaceful means most appropriate to the circumstances and the nature of the dispute.⁵⁰ They acknowledged that direct negotiations might suffice for the settlement of a dispute.⁵¹ However, they thought it inconceivable that any method for the peaceful settlement of disputes should stop there. If direct agreement proved unsuccessful, recourse to the range of existing procedures would be necessary.⁵² Resurrecting one of the Western proposals from Montreux,⁵³ the ten EEC Member States advocated a method for disputes not settled by means of negotiation within a reasonable period of time. Certain disputes, belonging to categories to be defined, would be submitted to a court whose award would be binding on the parties in the case considered.⁵⁴ Other disputes, not falling within these categories, would be submitted to a mediation or conciliation procedure at the request of one or other of the parties. The results would not normally be binding.⁵⁵ In the event of disagreement over the facts of a dispute, an inquiry procedure could be opened.⁵⁶ Like Switzerland, the ten EEC countries also hoped that the method in question would be reviewed and gradually developed in the Follow-up to the CSCE.⁵⁷ In short, the EEC proposal remained modest. It did not call for automatic recourse to arbitration or the standard application of this to all disputes generally categorized as "legal". It merely hoped that "arbitration should be used as the normal means of settling disputes concerning matters determined in advance."⁵⁸

The United States stepped into the debate with a proposal that constituted a somewhat more elaborate version of the EEC approach. Any dispute that could

50 CSCE/REA.3 (28 March 1984), § II.3 in particular.

51 *Ibid.*, § II.9.

52 In this respect, the ten EEC countries attached particular importance to the "role of the International Court of Justice as the main judicial organ of the United Nations" (*ibid.*, § II.7).

53 REM/5/Rev.4, § II.

54 CSCE/REA.3, § II.11. However, the parties could, by common consent, have recourse to mediation or conciliation before proceeding to arbitration or agreeing on another procedure to settle the pending dispute (*ibid.*, § I.10(a)).

55 *Ibid.*, § II.12. This provision stipulated, for the sake of flexibility, that any participating State could exclude categories of disputes from its choice of such mediation or conciliation procedures. It should also be noted that the EEC text did not make a clear distinction between mediation and conciliation, which in international practice constitute separate procedures, the first being generally more political and less legal in nature than the second.

56 *Ibid.*, § II.10.

57 In particular, they envisaged the gradual extension of the method to new categories of disputes (*ibid.*, §§ I.9 and I.11).

58 Statement by the head of the French delegation of 2 April 1984, p. 6

not be settled by *direct negotiations, good offices, inquiry, mediation or conciliation* – five procedures defined in detail in the text – would be referred to an arbitral tribunal, which would issue final awards without appeal by a majority vote of its five members.⁵⁹ Initially this method would remain limited to disputes other than those concerning the security of the participating States – that is to say, disputes which did not affect their vital interests. The States would be required by a formal declaration to resort to the procedure proposed for all disputes concerning the interpretation and application of any international agreement binding upon them. By agreeing to this formula, they would nevertheless remain free to opt in or out.⁶⁰

3. Soviet Ideas before Gorbachev

Before the Gorbachev era, the Soviet view continued to be based on the refusal of any procedure involving a general mandatory feature: each dispute was unique and required an appropriate method of settlement. Accordingly, this could not stem from a general presumptive obligation or apply to matters not determined in advance.⁶¹ The USSR considered arbitration to be outmoded and that the attitude of sovereign States towards it would be “doubtful, even distrustful”.⁶² It viewed compulsory arbitration as a counterproductive idea which, were it to be widely adopted, “would disrupt the system of existing means of peaceful settlement of disputes and, on a whim of one of the parties, could become the only means imposed on the other party.”⁶³ The Soviets took the view that the inability to draw a clear line between the legal and political interests of States in the international arena was, by definition, diametrically opposed to the guaranteed impartiality of an independent arbitrator. Arbitration would thus violate the freedom of choice of means, which, in the current international climate, was the only universally acceptable basis for the principle of peaceful settlement of disputes. The contemporary political landscape required an alternative to the “counterproductive” involvement of a third party – namely diplomatic negotiation in its various forms.

59 CSCE/REA.5 (4 April 1984), p.7. Each party would appoint two arbitrators (including one non-national); the four arbitrators thus appointed would be responsible for appointing the umpire.

60 Thus, any participating State could limit the obligation to disputes relating to the interpretation of such international agreements, to those entering into force after a certain date, to those registered with the Secretariat of the United Nations or only to future agreements. Similarly, the States concerned might exclude certain specific treaties or limit the obligation in time, to a period of not less than five years (*ibid.*, p. 8).

61 “A compulsory, judicial, arbitral or other procedure with the participation of a third party is unacceptable, insofar as it entails developing a method whose application would not be reduced or limited but which would be presented as a European means of peaceful settlement of all disputes of any kind,” see Rybakov and Vylegjanina, “Formes et méthodes de règlement des litiges” (n. 28), p. 79, [in French]. The USSR only accepts, in *specific* cases, recourse to judicial, arbitral, mediation or conciliation procedures (*ibid.*, p. 80).

62 Plenary speech by the head of the Soviet delegation of 26 March 1984, p. 8 [in Russian].

63 *Ibid.*, p. 10 [in Russian].

The *consultation* “method” proposed by the USSR in Athens basically amounted to the following provision: “a participating State, to which another participating State proposes the holding of consultations, shall *enter* into such consultations if it recognizes the existence of a dispute between them and the subject of the dispute.”⁶⁴ The consultations would begin no later than two months after the proposal to hold them. The parties would jointly determine the place and arrangements for holding the consultations and could, by mutual agreement, decide to invite third parties to take part in the negotiations under certain conditions. At the end of the procedure, “a closing document shall be drawn up laying down conditions for the settlement of the dispute or specifying the agreed measures required for settling it.”⁶⁵

This approach raised serious objections. If a State refused to accede to a request for consultations, or if these were unsuccessful, the parties – according to the Soviet proposal – would be forced to continue negotiating without being able *unilaterally* to resort to other methods of peaceful settlement. Clearly, the USSR was confusing a “means” – and a unique one at that – with a “method” of peaceful settlement.⁶⁶ The idea of institutionalizing consultations had some merit, but was impracticable unless it included unilateral recourse to other methods. As the head of the Greek delegation pointed out, the free choice of means was an obligation to use all reasonable *endeavours* and was secondary to the obligation to achieve a specific *purpose*, implied by the principle of the peaceful settlement of disputes. In addition, the consultation procedure might work in the absence of real disputes, whereas the opposite was not true: in any event, it was a formidable weapon in the hands of a large State with malicious intentions towards less powerful States. It had the twofold disadvantage of leaving the smaller States more vulnerable than ever in the face of arbitrary power politics, and of making no real contribution to the development of international law. In short, it risked paving the way for a legalized process of intervention in international relations.⁶⁷

64 CSCE/REA.4/Rev.1 (3 April 1984), p. 3, § 3.

65 *Ibid.*, p.4 (§ 12). The “mutual consultation” procedure proposed at the Montreux Meeting (REM/4/Rev.2 of 16 December 1978) differed from the Athens procedure in two ways. Firstly, it was of a more compulsory nature: a State to which a request for consultations had been addressed had in principle to reply within two months. Secondly, the scope of the consultations included *any dispute*, with the sole exception of “matters which are essentially within the competence of each State.”

66 The Soviet proposal did not, in this sense, fulfil the mandate of the Meeting of Experts, which was to study a PSD method aimed at “supplementing”, that is to say, strengthening and improving, the existing methods. In fact, the consultation procedure made nothing other than the “free choice of means” rule binding, while completely ignoring the progress made in compulsory jurisdiction.

67 At the Montreux Meeting, Romania differed from the USSR in two respects: it believed that if the consultations reached an impasse, an automatic conciliation procedure should take over, and that any PSD method should apply to relations between *all* the participating States (an oblique allusion to the Brezhnev Doctrine). For more details, see the text of the speech by the Romanian delegation of 3 November 1978 and the Romanian “Non-Paper” of 24 November 1978. In Athens, Romania also stood alone, see CSCE/REA.6 (6 April 1984) and the statement by the Romanian delegation of 30 March 1984.

4. The Vienna Provisions

The Soviet objections ceased to apply once Mikhail Gorbachev took office. In 1987, as part of the *aggiornamento* of Soviet foreign policy, the new head of the Kremlin spoke openly in favour of the primacy of international law in international relations and the concomitant strengthening of the role of the United Nations International Court of Justice.⁶⁸ The following year, several concrete ideas were put forward to that effect in a Soviet memorandum submitted to the UN General Assembly: one advocating acceptance by all States – under conditions of reciprocity – of the compulsory jurisdiction of the Court, and the other proposing that all future agreements concluded under the auspices of the United Nations should include a specific provision recognizing the jurisdiction of the ICJ in any dispute concerning their interpretation and application.⁶⁹ In 1988, the permanent members of the UN Security Council held informal consultations on the question of the compulsory jurisdiction of the ICJ; the United States under Reagan and the USSR even went so far as to exchange memoranda listing the categories of bilateral disputes that would be subject to compulsory jurisdiction.⁷⁰

Given this positive climate, the CSCE Follow-up Meeting in Vienna (1989) adopted two significant provisions on the peaceful settlement of disputes. The first stated that the participating States should “accept, in principle, the mandatory involvement of a third party when a dispute cannot be settled by other peaceful means.”⁷¹ The second convened another meeting of experts in Valletta in 1991. Unlike previous meetings, however, the purpose of this was not simply the “examination” of the issue. Its mandate was to draw up a preliminary list of certain categories of disputes that could be subject to peaceful settlement with the mandatory involvement of a third party, together with the relevant procedures and mechanisms.⁷² Conversely, the idea of binding decisions that could be taken by a third party was still to be fully accepted.⁷³

68 See Mikhail Gorbachev, *Reality and Guarantees for a Secure World* (Moscow: Novosti Press Agency Publishing House, 1987), p. 14. Originally published in *Pravda* and *Izvestia*, 17 September 1987, this text was also reproduced in *La Vie internationale*, no. 11 (September 1987), pp. 3–11; and by the United Nations: A/42/574-S/19143, Annex.

69 See UN: A/43/629, Annex (22 September 1988).

70 See *International Herald Tribune*, 7 October and 4 November 1988. Subsequently, in March 1989, the USSR informed the UN that it was withdrawing its previous reservations concerning the compulsory jurisdiction of the ICJ with regard to six international human rights agreements, including the 1948 Convention on Genocide and the 1984 Convention against Torture (UN: A/44/171).

71 Vienna Follow-up Meeting (1989): Concluding Document, “Principles”, § 6. This provision of Swiss origin was adopted thanks to the N+NA countries and the USSR, but without excessive enthusiasm from the West in general and the United States in particular. The phrase “accept, in principle” precisely reflects the US reluctance.

72 *Ibid.*, § 7. This is a preliminary list, as it may be subject to “subsequent gradual extension”. The mandate and other modalities of the Meeting of Experts are set out in Annex I to the Vienna Concluding Document.

73 The antepenultimate sentence of § 7, which is of US origin, thus asserts that the Meeting of Experts “will also consider the possibility of establishing mechanisms for arriving at binding third-party decisions.”

CHAPTER IV

From Confidence-Building Measures to Confidence- and Security-Building Measures

Measures designed to inspire, strengthen or build confidence in inter-State relations have a long tradition.¹ However, the idea of “confidence-building measures” (CBMs) is unique to the CSCE. Originally introduced as a kind of experimental “tool”, the CBMs later took on special importance – both universally within the United Nations² and at the Stockholm Conference on Disarmament in Europe, which was tasked with repackaging them as “confidence- and security-building measures” (CSBMs). This chapter will look at the process by which CBMs became CSBMs, and the provisions adopted at the CSCE Follow-up Meeting in Vienna in 1989.

I. The Helsinki Confidence-Building Measures

Following an agreement reached by the United States and the Soviet Union in 1972, the political and military aspects of security in Europe were the subject of two entirely separate sets of negotiations: the CSCE handled the political aspects of security, while the Mutual and Balanced Force Reductions (MBFR) talks in Vienna covered the military aspects (an exercise involving select participants and based on a “bloc approach”).³ In Dipoli, however, the EEC Member States insisted that the programme of work of the future CSCE should at least include the examination of “appropriate measures, including certain military measures, to strengthen confidence and increase stability with a view to reducing the risk of military confrontation,” such as the prior notification of military movements and manoeuvres in Europe and the exchange of observers at military manoeuvres.⁴

1 Throughout the history of international relations, there have been signals of trust that constituted “confidence-building measures” before these became a reality. For some authors, however, the use of such measures would start to be systematized only during the Cold War, i.e., from the mid-1950s. See Abbott Brayton, “Confidence-Building Measures in European Security”, *The World Today*, vol. 36, no. 10 (October 1980), pp. 382ff.; and also Kevin Lewis and Mark Lorell, “Confidence-Building Measures and Crisis Resolution: Historical Perspectives”, *Orbis*, vol. 28, no. 2 (Summer 1984), pp. 281–306.

2 See the “Comprehensive Study of the Group of Governmental Experts on Confidence-building Measures” (A/36/474, Annex, 6 October 1981), drawn up after resolution 34/87 B, which was adopted on 11 December 1979 by the United Nations General Assembly on the basis of a West German initiative. See also United Nations: A/34/416 (1979) and Addenda 1 to 3; A/CN.10/42 (1983), A/CN.10/46 (1983), A/CN.10/50 (1983), A/CN.10/58 (1984), A/CN.10/60 (1984); A/CN.10/1986/CRP.7; A/35/397 (1980), A/35/422 (1980), A/35/474 (1980); A/41/42 (1986); CD/380 (1983).

3 See Jean Klein, *Sécurité et désarmement en Europe* (Paris: Institut français des relations internationales, 1987), pp. 60ff.

4 See proposal by Italy: CESC/HC/18 (15 January 1973). It repeated the wording of the press communiqué issued by NATO at the end of the ministerial meeting in Bonn on 30 and 31 May 1972, see § 11. See NATO Information Service, *Texts of Final Communiqués 1949–1974* (Brussels,

The idea was initially outlined in paragraph 23 of the Final Recommendations of the Helsinki Consultations (1973). This chapter will examine, in turn, the basic approach taken by the various actors, the provisions of the Helsinki Final Act (1975), and the implementation of CBMs during the period 1975–1986.

1. Approach of the Various Actors

During the Geneva stage of the CSCE, three different approaches were taken regarding the question of CBMs – political for the Western countries, military for the Eastern countries, and politico-military for the N+NA countries backed by Romania.

A. Approach of the Western Countries

NATO conceived the idea of CBMs during exchanges of views between Member States on the prospect of a possible reduction of forces in Europe and the related conditions.

The Western approach stemmed from the debate on certain types of military activity: *military manoeuvres and movements*. Conducted as routine exercises, these risked fuelling tension and insecurity on account of their frequency, scale and ambiguity. The introduction of CBMs offering greater transparency would defuse potential misunderstandings, and mitigate or prevent the risks of escalation; the idea of war in Europe seemed more likely to result from a fatal mistake than a deliberate act of aggression. Alongside this general aim, the CBMs would have the added benefit of discouraging any show of force or military pressure for intimidation purposes by raising the political cost of armed intervention by the Soviet Union in Eastern Europe. The measures envisaged by the Western countries did not involve a reduction in military forces or potential; they sought only to exchange information that was already common knowledge thanks to *national technical means* such as observation satellites and radio monitoring.⁵

B. Approach of the Eastern Countries

The member countries of the Warsaw Pact – except for Romania – took a very different approach to the question of CBMs. Traditionally keen for their military activities to remain shrouded in secrecy, they opposed the idea of “transparency”, which they considered a roundabout way of forcing them to reveal their security apparatus.⁶ To the numerous suggestions put forward by the Western and N+NA countries during the Geneva stage of the CSCE, the Eastern countries invariably

n.d.), p. 296; and also the Brussels Communiqués of 10 December 1971 (*ibid.*, p. 283) and 8 December 1972, § 7 (*ibid.*, p. 302).

5 The West’s concept of CBMs is set out in the following documents: CSCE/I/18 (5 July 1973), §§ 2, 3 and 5 (United Kingdom); CSCE/II/C/12 (4 February 1974), preamble (United Kingdom); CSCE/II/C/4 (26 September 1973), part I (Norway); CSCE/II/C/10 (7 December 1973), introductory section, §§ 2 and 3 (Belgium); and CSCE/II/C/11 (21 January 1974), part I (FRG).

6 On this point, see Luigi Vittorio Ferraris (ed.), *Report on a Negotiation. Helsinki. Geneva. Helsinki, 1972–1975* (Geneva: Institut universitaire de hautes études internationales, 1979), p. 189.

responded with military objections. They challenged the idea of notifying military manoeuvres above a level of 10,000 troops, arguing that a conventional war in Europe could not be started or conducted with such numbers. It is extremely telling that, throughout the negotiations, the Soviet Union remained on the defensive and submitted no official counterproposals. A prisoner of its own intrinsically military vision, it was only willing to accept CBMs based on limited and non-binding parameters.⁷

C. Approach of the Neutral and Non-Aligned Countries

Based on the idea of the interdependence of the political and military aspects of security, the N+NA countries and Romania – occasionally joined by Western nations such as the Netherlands, Spain and Turkey – took a more comprehensive view of the issue than the two blocs. With defences that were both autonomous and isolated, they saw CBMs as a way of sharing valuable military information. Supportive of the general approach of the Western countries, they felt that consideration should also be given to:

- *Additional CBMs*, such as prior notification of major and smaller-scale military movements,⁸ publicizing official figures relating to national defence expenditures,⁹ and exchanges of military missions and other forms of contacts among military personnel;¹⁰
- The extension to the *Mediterranean* of the prior notification regime adopted for Europe;¹¹
- The adoption of *constraints* so that participating States “as a sign of goodwill refrain from any activities by their armed forces which are liable to cause misunderstanding or tension.”¹² Two countries led the way in this regard: Romania, which called for the non-deployment of nuclear weapons on foreign territory, the dismantling of foreign military bases, the reduction of military budgets, and the creation of nuclear free zones in various parts of Europe;¹³ and Yugoslavia, which argued for measures to reduce the scale and frequency of national and multinational manoeuvres, non-deployment of military activities in frontier zones, and the elimination of foreign military forces stationed in Europe and the Mediterranean.¹⁴

7 On the official Soviet position – expressed in particularly vague and general terms, see CSCE/I/3 (4 July 1973), submitted again, as is, in Stage II as CSCE/II/C/1 (19 September 1973).

8 See the joint proposal by the four Neutral countries and Yugoslavia: CSCE/II/C/13/Rev.1 (13 March 1974), § I.(c)1., and the proposal by Yugoslavia: CSCE/II/C/3 (24 September 1973), § 5.

9 See CSCE/II/C/13/Rev.1., § I.(d).2, and the proposal by Sweden: CSCE/II/C/9 (23 October 1973).

10 See CSCE/II/C/13/Rev.1, § I.(d).3.

11 See CSCE/II/C/13/Rev.1, §§ I.(a).1 and I.(c).1.

12 Ibid., § I.(d).1.

13 See CSCE/II/C/2 (21 September 1973) and CSCE/II/C/8 (28 September 1973).

14 See CSCE/II/C/3 (24 September 1973).

- The establishment of an appropriate link between the CSCE and the MBFR talks.¹⁵ The N+NA countries were highly critical of the fact that a question as important as arms control had been taken out of the hands of the CSCE.¹⁶ In favour of “general and complete disarmament under strict and effective international control”,¹⁷ they wanted the option of making a direct contribution at the European level.¹⁸

2. Provisions of the Helsinki Final Act

The Helsinki Final Act (1975) contains a section entitled *Document on confidence-building measures and certain aspects of security and disarmament* (hereinafter referred to as the “Document”).¹⁹ The vagueness of the expression “certain aspects” was at the insistence of the French delegation, which roundly objected to the inclusion of the word “military” in the title – despite it being widely used in the main body of the text. France felt it was misleading to suggest that the CSCE had addressed the military question or indeed the question of disarmament – which it believed required a universal and non-regional approach.²⁰

The general philosophy of the Document is encapsulated in two preambular provisions, which, inspired by the Western conception, assign a dual function to the CBMs: reducing the risks of accidental armed conflict in Europe²¹ and – more ambitiously perhaps – fostering the conditions for confidence-building.²² In a sense, the latter goal ties the CBMs to the spirit of the Helsinki third basket: the Document sets a long-term objective – confidence – whose attainment depends on the combined effects of multilateral information and direct contact between

15 See the proposals by Yugoslavia: CSCE/II/C/13/Rev.1 (28 September 1973), § II.4 and CSCE/II/C/7 (28 September 1973), § 3; Romania: CSCE/II/C/8 (28 September 1973), § 6. See also the proposal by Turkey: CSCE/1/30 (7 July 1973).

16 This removal was also criticized in the Council of Europe, see Parliamentary Assembly: 3768 (22 April 1976), §§ 6ff, often referred to as the “Koster Report”.

17 CSCE/II/C/13/Rev.1, § III.2.

18 See the proposals by Romania: CSCE/II/C/5 (26 September 1973) and CSCE/II/C/8; and Yugoslavia: CSCE/II/C/7.

19 The term “Document” was, in fact, a compromise between “Resolution” and “Declaration”, respectively, deemed by the Western countries to be too weak or too strong. The word finally adopted had the merit of separating the military and political aspects of the first basket, which the USSR would have liked to incorporate into a *single* text.

20 See the “general reservation” made by the French delegation on the subject of the Document, to be found in Subcommittee 2 of the Geneva stage of the CSCE: Journal No. 74 of 27 March 1974.

21 Helsinki Final Act (1975), “Document on confidence-building measures and certain aspects of security and disarmament”, preamble, § 4. The CBMs were thus intended to “contribute to reducing the dangers of armed conflict and of misunderstanding or miscalculation of military activities which could give rise to apprehension, particularly in a situation where the participating States lack clear and timely information about the nature of such activities.”

22 *Ibid.*, § 2. The other function of the CBMs is to “strengthen confidence” among the participating States, thereby contributing to “increasing stability and security in Europe”. *Ibid.*, § 9, which emphasizes the “political importance” of major military manoeuvres, reaffirms these objectives, adding that of “the promotion of mutual understanding”.

the military apparatus of the CSCE participating States.²³ The purpose of the CBMs betrays a Western influence, in other words, a political and psychosemiotic approach with no significant military element.

The Helsinki parameters and their shortcomings are examined below.

A. *The Helsinki Parameters*

The Document contains recommendations on three sets of CBMs: prior notification of major military manoeuvres and smaller scale manoeuvres as well as military movements; the exchange of observers at military manoeuvres; the exchange of military personnel (including visits from military delegations). However, only *major military* manoeuvres are covered by specific parameters, as defined in the first part of the text in question.²⁴ These parameters are as follows:

- *Scale and categories of notifiable manoeuvres.*²⁵ The Document defines a major manoeuvre as any manoeuvre exceeding a total of 25,000 troops, independently or combined with any possible air or naval components. The parameter of 25,000 troops is a compromise between the figures of 10,000, 18,000 and 45,000 troops proposed by the NATO, N+NA and Warsaw Pact countries respectively.²⁶ This total includes amphibious and airborne units, but ignores *the number of naval and air force personnel*. In other words, the following are subject to notification in this context: independent ground force manoeuvres, independent amphibious manoeuvres, independent airborne manoeuvres, and combined manoeuvres in which the land forces alone involve more than 25,000 troops. By contrast, the following are *excluded* from the prior notification system and quantified parameters: independent naval manoeuvres, independent air manoeuvres, and naval air manoeuvres. These complex and cryptic provisions were adopted to reconcile conflicting demands. It was a case of including amphibious and airborne manoeuvres – at the request of the

23 On the general notion of confidence, see Ronald Inglehart and Jacques-René Rabier, “La confiance entre les peuples: déterminants et conséquences”, *Revue française de science politique*, vol. 34, no. 1 (February 1984), pp. 5–47; and E.M. Chossudovsky, “Confidence Building and Confidence-Building Measures in East-West Interactions”, *Coexistence*, vol. 21, no. 1 (April 1984), pp. 23–36.

24 Helsinki Final Act (1975), “Document on CBMs ...”. Part I, which is the longest section, addresses CBMs proper. Parts II (*Questions relating to disarmament*) and III (*General considerations*), which form a whole, return to the main demands of the N+NA countries, but in a much reduced way and using language that is often cryptic, due notably to the absence of any direct reference – rejected by France – to the MBFR talks.

25 *Ibid.*, part I, *Prior notification of major military manoeuvres*, § 2.

26 At the start of the negotiations, the Western countries were thinking in terms of *divisions*, the Eastern countries in terms of *army corps* and the N+NA countries in terms of *reinforced divisions*. The Warsaw Pact noted that the composition of its divisions was numerically smaller than that of NATO. However, it was only after 18 months that the USSR agreed to discuss quantitative proposals. On the negotiations of the CBMs during the Geneva stage of the CSCE, see Ferraris, *Report on a Negotiation ...* (n. 6), pp. 179–203.

Turks backed by the N+NA countries – while allowing the superpowers to have complete freedom when it came to naval operations.²⁷

- *Zone of application.* The notification regime covered any major manoeuvre taking place on the European territory of any participating State and in the adjoining sea area and air space, if applicable;²⁸ the territory of the United States and Canada, and European overseas territories, including Greenland, were therefore exempt.

In the case of participating States whose territory extended beyond Europe (that is, the USSR and Turkey, although they were not specifically named), a dual exemption applied.²⁹

Firstly, the area of manoeuvres notifiable by the countries concerned was *limited to 250 kilometres* from its frontier facing or shared with any other European participating State. This provision was adopted at the request of the USSR owing to the size of its European territory and the fact that the whole of North America (the United States and Canada) was excluded from the notification zone. The parameter adopted (250 kilometres) was the result of a hard bargain – the USSR having initially suggested 50 to 100 kilometres and the Western countries 700 to 500 kilometres; the Western countries fully understood the USSR's Asian (i.e., Chinese) concerns and were minded to be generous.³⁰

Secondly, the notification requirement was *abolished* in cases where the 250 kilometre zone bordered or faced a non-European non-participating State.³¹ This second exemption was requested by Turkey. It concerned the area contiguous to Turkey's frontier with Iran and two Arab countries (Syria and Iraq), the stretch of Turkish coastline opposite Syria with the ports of Mersin and İskenderun (formerly Alexandretta), and the Soviet zone contiguous to Iran. Given how vague the expression "contiguous zone" was, the exemption gave Turkey considerable leeway – a fact that Cyprus regarded as detrimental to its interests in view of the problem posed by Mersin and İskenderun, which had served as a springboard for the 1974 intervention. Following the negotiation of the "Document on CBMs ..." the Cypriot delegation inveighed against this provision, which it considered

27 The Turkish claim was not upheld because the Soviet manoeuvres in the Black Sea – the direct object of its claim – were generally *below* the prescribed threshold of 25,000 troops. In such a case, the Document merely provides for *voluntary* notification: "in the case of combined manoeuvres which do not reach the above total but which involve land forces together with significant numbers of either amphibious or airborne troops, or both, notification can also be given" (§ 2 above). For the position of the two superpowers, see the US and Soviet interpretative statements, to be found in Subcommittee 2: Journal No. 246/bis of 19 July 1975.

28 See Helsinki Final Act (1975), "Document on CBMs ...", *Prior notification of major military manoeuvres*, § 3.

29 *Ibid.*, § 4.

30 This zone could have been more extensive if Secretary of State Henry Kissinger, after bilateral negotiations with the USSR, had not put pressure on the NATO members that were demanding a depth of 500 to 700 kilometres.

31 See Helsinki Final Act (1975), "Document on CBMs ...", *Prior notification of major military manoeuvres*, § 4.

“detrimental to confidence-building in a sensitive part of the world”. However, in the end Cyprus grudgingly accepted the provision following assurances that the country concerned would not abuse its exemption and would duly notify it of manoeuvres that reached the prescribed threshold.³²

- *Recipients of the notifications and channel of communication.* Major manoeuvres conducted by a participating State within the scope of these parameters were notifiable to all other CSCE participating States through the usual diplomatic channels.³³ This multilateralism – which reflected the Western philosophy – had posed a challenge for the negotiators. The USSR, still held hostage by its intrinsically military stance, sought to make a distinction between national manoeuvres (to be notified only to “neighbouring States”, without further explanation) and multinational manoeuvres, notifiable to all CSCE participating States. The use of diplomatic channels was also a Soviet concession. The Soviets had initially suggested that ministries of defence could simply issue press releases, but the Western countries countered that this would cause undue public alarm.
- *Prior notification period.* Notification had to be given 21 days in advance of the start of the manoeuvre, or in the case of a manoeuvre arranged at shorter notice (alerts), “at the earliest possible opportunity prior to its starting date.”³⁴ This was a compromise between the proposals for “approximately 60 days” (NATO countries), “at least 30 days” (N+NA countries) and “not less than 5 days” (Warsaw Pact countries).³⁵ The parameter finally agreed upon was less than 28 days – generally regarded as the time it took to put a spy satellite into orbit.
- *Contents of notifications.* Each notification had to contain information about the designation (or general purpose) of the manoeuvre, the States involved in it, the type or types and numerical strength of the forces engaged, the area and estimated timeframe of its conduct. Conversely, “additional relevant information, particularly that related to the components of the forces engaged and the period of involvement of these forces” was optional³⁶ (a vague reference to movements of troops before or after a manoeuvre, following opposition from the Eastern countries). Adopted at the request of the Western countries, these points were inspired by the equivalent NATO practice, which generally tended to be fairly transparent.

In addition to these binding parameters, the Final Act gives the CSCE participating States complete discretion over whether to notify, particularly to neighbouring

32 See the interpretative statement by Cyprus, to be found in Sub-Committee 2: Journal No. 246/Rev.2 of 19 July 1975.

33 See Helsinki Final Act (1975), “Document on CBMs ...”, *Prior notification of major military manoeuvres*, § 1.

34 *Ibid.*, § 5.

35 CSCE/11/C/105 (18 March 1974).

36 Helsinki Final Act (1975), “Document on CBMs ...”, *Prior notification of major military manoeuvres*, § 6.

States, “*smaller scale*” manoeuvres (involving fewer than 25,000 troops),³⁷ as well as “*other military manoeuvres conducted by them*” – in other words, those outside the mandatory regime on account of their nature or zone.³⁸

Similarly, no parameter was set for *major military movements* owing to the reluctance of the United States and opposition from the USSR. The Document envisages only voluntary notification in this case.³⁹ However, it affirms that “further consideration will be given” by the participating States to the question, bearing in mind the experience gained from implementing the (politically) binding CBMs.⁴⁰

As for the *exchange of observers at military manoeuvres*, irrespective of their scale (which the Eastern countries reluctantly agreed to), this was conceived on a bilateral and voluntary basis.⁴¹ It was for the host State to determine in each case the number of observers to invite, the procedures and conditions of their participation and to give information, as well as providing appropriate facilities and hospitality.⁴² Invitations had to be given as far ahead as possible through diplomatic channels⁴³ “in a spirit of reciprocity and goodwill towards all participating States”.⁴⁴ The reciprocity is tempered here by goodwill: invitations were to be issued even to those States whose military activity tended to be infrequent or small scale.

Lastly, the Document states that the list of CBMs is not exhaustive;⁴⁵ it leaves open the prospect of developing and expanding the measures. In the meantime, the participating States will “promote exchanges by invitation among their military delegations.”⁴⁶ Similarly, when conducting their military activities in the area covered by the provisions for the prior notification of major military manoeuvres (European territory with the Soviet/Turkish exemption), the participating States were expected to duly take into account and respect the objective of confidence-building;⁴⁷ this provision was a watered down version of the idea of military “restraint” proposed by Yugoslavia and Romania.

37 Helsinki Final Act (1975), “Document on CBMs ...”, *Prior notification of other military manoeuvres*, § 1.

38 *Ibid.*, § 2.

39 See Helsinki Final Act (1975), “Document on CBMs ...”, *Prior notification of major military movements*, § 1.

40 *Ibid.*, § 2.

41 See Helsinki Final Act (1975), “Document on CBMs ...”, *Exchange of observers*, § 1.

42 *Ibid.*, § 2.

43 *Ibid.*, § 3.

44 *Ibid.*, § 1.

45 See Helsinki Final Act (1975), “Document on CBMs ...”, *Other confidence-building measures*, § 1.

46 *Ibid.*, § 2.

47 See Helsinki Final Act (1975), “Document on CBMs ...”, part I, final clauses, § 1, indicated by three asterisks.

B. Critical Appraisal of the Helsinki Parameters

There are five key points to be made regarding the provisions of the Final Act that deal with CBMs.

Firstly, the Helsinki CBMs were not a comprehensive package. For example, the prior notification of military exercises did not automatically imply an obligation to invite foreign observers. On the other hand, observers could (in theory) be invited to manoeuvres not subject to notification. Lastly, the Document made no provision for inviting observers to military movements.

Secondly, there were significant gaps in the provisions relating to the prior notification and observation regimes. The Document defined neither the concept “manoeuvre” nor the concept “movement”.⁴⁸ It failed to provide sufficient details of the contents of notifications, and did not establish specific modalities for invitations for observers to attend manoeuvres; instead this task was left to the complete discretion of the inviting State.

Thirdly, the commitment behind the CBMs was not uniformly binding. The Document stated that invitations for observers to attend military manoeuvres would be issued “voluntarily”. It stipulated that the participating States “may” notify smaller scale military manoeuvres and major military movements, and that governments “will promote” exchanges of military personnel. In other words, these CBMs were all *optional* and could be considered elements of an “à la carte” programme. Only the notification of major military manoeuvres was *politically binding*.⁴⁹ However, even in this case, the Final Act expressly noted that “this measure deriving from political decision rests upon a voluntary basis.”⁵⁰ Established as a condition sine qua non by the Soviet military leadership – which had a strong influence on the USSR delegation in Geneva – the words “voluntary basis” served as a safeguard clause. It allowed the USSR to abandon its political commitment to this CBM without falling foul of the Final Act.⁵¹

48 During the Geneva stage of the CSCE, the concept of “manoeuvre” was at one time defined provisionally in CSCE/II/C/103 (15 March 1974), in square brackets, as follows: “[activity by/ training under simulated warlike conditions with war organized units] of [land troops together with any possible air or naval components ...]”. In the same context, in CSCE/II/C/109 (25 March 1974) the concept of “movement” was regarded as referring to an “activity” or a “transfer” of troops “[outside their permanent garrison or base area] the purpose of which is a new disposition or redeployment, permanent or temporary, of those units for any primarily military purpose.”

49 Helsinki Final Act (1975), “Document on CBMs ...”, *Prior notification of major military manoeuvres*. The participating States “will notify” (§ 1); “notification will be given” (§§ 2, 3, 5); “notification will contain ...” (§ 6). The preamble (§ 10) to the Document also states that the participating States “[accept] the responsibility” of implementing this measure.

50 Helsinki Final Act (1975), “Document on CBMs ...”, preamble, § 11. It should be noted that, at the instigation of the Western countries, the phrase in question was included in the *preamble* and not in the operative part of the Document, which obviously reduces its scope. Furthermore, owing to the sensitivities of [the US] Congress, the United States also insisted that the “Document on CBMs ...” would not be legally binding, see Committee I: Journal No. 46 of 20 July 1975.

51 In private, the Soviets argued that their soldiers were marked not only by memories of the Second World War, but also by much less recent historical events, such as the Napoleonic ... (or the Swedish!) campaigns.

Fourthly, the binding parameters relating to the prior notification of major military manoeuvres were not in themselves particularly meaningful. The notifiable level had been set relatively high (25,000 troops), while the prior notification period was not particularly long (“21 days or more in advance”). At the same time, various categories of manoeuvres were exempt from notification despite involving the agreed number of troops – not to mention the significant exemption granted to the USSR and Turkey concerning the zone of application for the CBMs.

For the fifth and final point, the CBMs failed to address disarmament or arms control – unlike the MBFR, where they were “associated measures”.

The existence of these various shortcomings can be blamed on Soviet intransigence. Hostile towards the prospect of any “transparency” of their military apparatus, the Soviets refused to give way on the CBMs. As a result – and given that the real security debate was taking place elsewhere (within the MBFR talks) – the Western countries were less concerned with imposing an overly restrictive system on the Warsaw Pact members than with securing recognition for the fundamental principle of CBMs within the CSCE.

3. The Helsinki Confidence-Building Measures in Practice, 1975–1986

The “Document on CBMs...” is one of the CSCE final texts with the least contentious implementation. It would be no exaggeration to say that its provisions were generally upheld by all the participating States. The information available for the period between September 1975 (the month following the signing of the Helsinki Final Act) and November 1986 (two months before the entry into force of the Stockholm Document) can be summarized as follows:

	West	East	N+NA	Total
<i>Notifications</i>	77	32	21	130
<i>Invitations to observers</i>	50	10	12	72

Nevertheless, each of the three groups of CSCE participating States had a different approach and attitude towards implementing the CBMs.

A. The Western Countries

Members of the North Atlantic Alliance tended to interpret the Helsinki commitments – which were largely inspired by their own military practices – as broadly as possible.

For instance, the Western countries notified 39 military activities (including those of Spain prior to its admission to NATO) that were below the prescribed threshold of 25,000 troops. Seven of these activities were on a very small scale: the French exercises *Farfadet* (4,000 troops), *Jourdan* (5,000 troops) and *Damoclès* (7,500 troops); the Norwegian exercises *Batten Bolt* (8,000 troops), *Black Bear* (8,200 troops) and *Barfrost* (9,000 troops); the Spanish exercise *Podenco* (8,000 troops). The other 32 exercises involved between 10,000 and 24,500 troops. In 35

cases, the prior notification period was longer than the prescribed period of 21 days: 34 days for *Certain Trek* (57,000 troops); 50 days for *Express Barfrost 86* (11,000 troops); 53 days for *Podenco*. Notifications were issued by ten countries: the FRG, Belgium, Denmark, Spain, the United States, France, the United Kingdom, Norway, the Netherlands and Turkey.⁵²

They also invited observers from CSCE participating States to 50 of these notified activities. The observers were provided with extensive facilities: fixed or mobile observation posts, means of transport, visits to the exercise areas, an embassy hotline and direct contact with the command.⁵³

B. The Neutral and Non-Aligned Countries

The N+NA countries also interpreted their commitments broadly. Six military exercises out of a total of 21 were notified at levels of 5,000 troops (Austria), 10,000 troops (Sweden) and 18,000 troops (Yugoslavia). The advance notice given was *generally* (that is to say, in practically all cases) more than 21 days, namely between 23 and 45 days. In 12 of the 21 cases, observers were provided with extensive facilities. Four countries issued prior notifications and invitations to observers: Austria (five notifications), Sweden (six notifications), Switzerland (seven notifications) and Yugoslavia (three notifications).⁵⁴

C. The Eastern Countries

The Eastern countries adhered strictly to the *letter* of the Final Act – an attitude that stemmed from a misplaced fear of revealing their military apparatus. For example:

- Twenty-nine of the 32 notifications concerned only exercises involving more than 25,000 troops. Between 1976 and 1980, Hungary notified three exercises involving 10,000, 15,000 and 18,000 troops⁵⁵ – a gesture made virtually without any advance notice.⁵⁶ In 1983, the Soviet Union voluntarily notified a manoeuvre involving 23,000 troops (Dniester), giving the customary advance notice of 21 days. Notifications were issued by all Warsaw Pact countries except Romania;
- The prior notification period of 21 days was rigorously observed until 1983, when it occasionally increased to 23, 24, 25 or 28 days;

52 The other NATO countries that did not notify any exercises were: Canada, Greece, Iceland, Italy, Luxembourg and Portugal.

53 See Commission on Security and Co-operation in Europe, *Fulfilling our Promises: The United States and the Implementation of the Helsinki Final Act* (Washington, 1979), p. 26.

54 Finland, Malta and Cyprus did not notify any military activity and did not invite observers.

55 According to the Western European Union (WEU) report 1090 of 31 March 1987 by Mr. Amadei, rapporteur, Hungary continued this practice in 1983. This information could not be verified.

56 The Western countries and the N+NA countries sometimes shortened the prior notification period for some smaller scale exercises (for which notification was not mandatory), but did not go as far as to remove it altogether.

- Invitations were few and far between (10 invitations for 32 exercises). Usually addressed to neighbouring countries only, they took place in conditions that allowed hardly any meaningful observation (i.e., comprehension) of the exercises concerned. During the Soviet exercise *Berezina* (February 1978), for example, Western observers were banned from using their own equipment and were given faulty binoculars. It was the same during the *Druzhba* exercise in September 1986 (notified by Czechoslovakia), where Western observers could not have direct contact with the troops or the operational command post; the observation was also limited to three hours.⁵⁷ In addition, between 1979 (the year of the invasion of Afghanistan) and 1985 (when Mikhail Gorbachev took office), no invitations were sent to the NATO countries.

Upon closer scrutiny, the practices were found to be even more censurable.⁵⁸

Firstly, the host countries of *multinational* military activities (that is to say, those conducted jointly by two or more participating States on the territory of one of the States) sometimes considered themselves exempt from the notification requirement. For instance, the exercise that took place in the GDR from 25 to 27 July 1983 (no designation) was notified only by the USSR.

Secondly, it should be noted that 13 of the 32 exercises notified by Warsaw Pact members had *no official designation*. The Western countries deplored this anonymity as incompatible with the objective of transparency in military activities.⁵⁹

Thirdly, the content of the notifications was not always in conformity with the provisions of the Final Act requiring the disclosure of information on “the general purpose of and the States involved in the manoeuvre, the type or types and numerical strength of the forces engaged, the area and estimated timeframe of its conduct.”

As a case in point, the notifications issued by Bulgaria in 1982 and Czechoslovakia in 1984 did not provide the *detailed list of the States involved*, instead simply mentioning the involvement of “Warsaw Pact forces”.

Bulgaria and Czechoslovakia also claimed that the exercises covered their entire territory (42,823 square miles and 49,371 square miles respectively). The same applies, *mutatis mutandis*, to the Czechoslovak exercise *Druzhba* which took place in September 1986, as well as the unnamed Soviet exercises carried out in June and July 1983 (covering an area of 90,000 square miles) and June and July 1984 (covering an area of 50,000 square miles in “certain parts” of the GDR,

57 See *The Vienna Review Meeting of the CSCE Compilation of Speeches (November 4, 1986 – December 20, 1986)* (Washington: US Government Printing Office, 1987), pp. 197–205.

58 *Ibid.*

59 In fact, the Helsinki Final Act (1975), “Document on CBMs ...”, *Prior notification of major military manoeuvres*, § 6 states that “notification will contain information of the designation, if any ... of ... the manoeuvre.” It should also be noted that some exercises notified by Yugoslavia (October 1975), Switzerland (November 1975) and Austria (November 1978, November 1979 and October 1982) were not named.

Poland and Czechoslovakia). Evidently, the definition of such extensive areas can hardly be considered meaningful from a military perspective.

Furthermore, in some cases *the timeframe of the notified military exercises* was too vague: “September 1976” (Poland), “mid-May 1979” (Hungary) or “early September 1984” (Czechoslovakia).⁶⁰

The Soviet exercise *Zapad81*, conducted from 4 to 12 September 1981 – clearly related to developments in Poland’s internal crisis – is even more significant. On this occasion, the Soviet Union failed to mention the *name* of the exercise (which was disclosed by the Soviet press). It also failed to specify the *scale* of the manoeuvre, which, according to the Moscow press, was considerable: numbering about 100,000 troops, it was on a scale not seen since the end of the Second World War.⁶¹ Moreover, it simply stated that the exercise would take place in the Belorussian and Baltic Military Districts – an area of 150,000 square miles, three times the size of Czechoslovakia.⁶²

Lastly, one anomaly is peculiar to Soviet practice: instead of sending its notifications by the “usual diplomatic channels” (as required under the Final Act) – that is to say, through foreign ministries – the USSR chose to send memoranda via its Ministry of Defence to the *military attachés* of the CSCE participating States.

There are three final points to make regarding the general assessment of the Helsinki CBMs.

The first concerns the striking difference between the military tables for each of the two blocs: 77 military activities for the Western countries – 29 of which involved 40,000 to 132,000 troops – and 32 military activities for the Eastern countries, including six involving 40,000 to 100,000 troops. There are two reasons for this: firstly, the NATO countries needed to carry out manoeuvres more frequently and on a larger scale than the Eastern countries, given the number of countries concerned (16), the non-standardization of their armaments and their geostrategic asymmetry; secondly, the Warsaw Pact members *deliberately* scaled back their military activities after the signing of the Helsinki Final Act so that they had only a limited number of exercises to notify.

The second point concerns the nature of the activities notified in Europe under the Helsinki provisions. While the Western and N+NA countries went beyond the

60 On the Western side, there were also notifications stating “October–November 1975” (United States: *Reforged 75*) and “October 1981” (United Kingdom: *Red Claymore*; France: *Farfadet*), “September 1982” (FRG: *Carbine Fortress 82* and *Starke Wehr*; France: *Langres 82*). Similarly, some notifications from the N+NA countries mentioned “October 1981” (Switzerland: *Cresta*) or “September 1982” (Sweden: *Sydfront*).

61 Subsequently, in September 1984, the Western countries broke this record with the US-German exercise, *Lionheart 84* (132,000 troops).

62 On the *Zapad-81* exercise, see Leonard R. Sussman (ed.), *Three Years at the East-West Divide: The Words of U.S. Ambassador Max M. Kampelman at the Madrid Conference on Security and Human Rights* (New York: Freedom House, 1983), pp. 53–57.

mandatory requirements, none of them wanted to go as far as notifying military movements or independent naval and air manoeuvres.⁶³

The third point concerns the attitude of the Warsaw Pact members towards the CBMs. On balance, the Eastern countries can be said to have observed the letter – if not the spirit – of Helsinki. Yet the incomplete notification of *Zapad81* and the non-notification of militarily significant exercises such as *Soyuz81*⁶⁴ showed that they had not fully embraced the philosophy behind the CBMs.

II. The Stockholm Confidence- and Security-Building Measures

At the CSCE Follow-up Meeting in Belgrade, the three groups of participating States planned to make various improvements to the Helsinki CBMs:

- The USSR proposed the *limitation* of military manoeuvres to a maximum of 50,000 to 60,000 troops and the extension of the CBMs to the southern part of the Mediterranean;⁶⁵
- The Western countries advocated lowering the level of notifiable manoeuvres to 10,000 troops and notifying *military movements* involving 25,000 troops or more;⁶⁶
- The N+NA countries (excluding Malta) suggested the notification of *smaller scale manoeuvres* (particularly those carried out close to each other in time and space), the notification of military movements (major or otherwise), as well as openness with regard to military budgets;⁶⁷
- Romania called for the extension of the prior notification procedure to major military movements involving upwards of 25,000 troops and to *independent air and naval manoeuvres*. Similarly, it wanted to prevent the participating States from conducting *multinational* manoeuvres near the frontiers of other participating States and a commitment not to establish *new military bases or increase the number of troops* on the territory of other participating States.⁶⁸

None of these proposals were adopted. However, the worsening climate of détente after the Belgrade Follow-up Meeting meant that the idea of confidence – which was the foundation for the CBMs – had to be put to better use. At the Madrid Follow-up Meeting, the question of the CBMs was reintroduced in more auspicious circumstances. Firstly, the Soviet position was changing: although in principle

63 It should be noted, however, that the members of the Atlantic Alliance communicated information about the *movements* of troops taking place in the context of certain notifiable military manoeuvres.

64 The Soyuz exercise took place from 17 March until 7 April 1981 in three Polish military districts. This major military activity, which involved four Warsaw Pact armies (the USSR, Poland, the GDR and Czechoslovakia), was not reported on the pretext that the required threshold of 25,000 troops had not been reached. For further details in the form of Ambassador Kampelman's remarks, see Sussman (ed.), *Three Years at the East-West Divide ...* (n. 62), pp. 54–56.

65 See CSCE/BM/5 (24 October 1977).

66 CSCE/BM/11/Rev.1 (11 November 1977).

67 CSCE/BM/6 (25 October 1977).

68 CSCE/BM/S/1 (24 October 1977).

still hostile towards the idea of “transparency”, the USSR believed that the CBMs had already yielded some positive elements.⁶⁹ Secondly, the Western countries had finally agreed to take the initiative on the pet subject of Soviet propaganda – disarmament. In Madrid, an agreement was reached to expand the issue of CBMs by linking the concept of *security* to the notion of confidence. The task of elaborating the modalities for second generation CBMs (“confidence- and security-building measures”) was entrusted to a special conference linked to the CSCE – the Stockholm Conference on Confidence- and Security-Building Measures and Disarmament in Europe (CDE). The decisions taken in Madrid, as well as the negotiations and outcome of the Stockholm Conference, are examined below.

1. Decisions of the Madrid Follow-Up Meeting (1983)

At the Madrid Follow-up Meeting, the debate on the military aspects of security centred more on convening a Conference on Confidence- and Security-Building Measures and Disarmament in Europe than on the technical issue of CBMs.⁷⁰

There were five official proposals for such a Conference:

- A *Polish proposal* containing a very general description of the topic of the negotiation, without defining the zone for the CSBMs and disarmament. The only detailed aspects were the conference venue (Warsaw), its opening date (20 October 1981) and its participants (the CSCE participating States).⁷¹
- A *French proposal* calling for a conference in two interdependent phases, the first to adopt a set of qualitatively new or improved CBMs (politically binding, militarily significant, verifiable and applicable from the Atlantic to the Urals), and the other to tackle disarmament. The text contained a fairly precise definition of the nature and scope (zone) of application of the measures to be taken by the Conference on Confidence- and Security-Building Measures and Disarmament in Europe as well as its links to the CSCE.⁷² The proposal reflected France’s willingness to rejoin the disarmament negotiations on a constructive basis and to move beyond the Western “bloc approach” of the MBFR talks.⁷³ The French Government had initially envisaged a conference that was

69 CSCE/BM/5 (24 October 1977). The “Programme of action with a view to the consolidation of military détente in Europe”, presented by the USSR in Belgrade, stated that “the experience of two years shows that these measures do in fact contribute to a certain extent to confidence-building and to military détente.”

70 At Madrid, there were only two official proposals on CBMs, which were quite similar to those submitted at Belgrade: a collective text from the N+NA countries, excluding Malta (CSCE/RM.21 of 12 December 1980); and a Romanian draft (CSCE/RM.33 of 15 December 1980).

71 See CSCE/RM.6 (8 December 1980).

72 See CSCE/RM.7 (9 December 1980).

73 On the origins of the French draft, see Benoît d’Aboville, “Le projet de Conférence européenne sur le désarmement et l’échéance de Madrid” in Pierre Lellouche (ed.), *La sécurité de l’Europe dans les années 80. Les relations Est-Ouest et le théâtre européen* (Paris: Institut français des relations internationales, 1980), pp. 393–400; and Jean Dehaime, “Le projet français de Conférence de désarmement en Europe et la Réunion de Madrid”, *Défense nationale* (November 1980), pp. 95–106.

independent from the CSCE.⁷⁴ After reconsidering its position, it secured the backing of its EEC, NATO and Council of Europe partners.⁷⁵

- The remaining three proposals were from *Yugoslavia, Sweden and Romania*.⁷⁶ Each of them proposed a conference in two phases linked to the CSCE, but according to their own modalities. However, any resemblance to the French proposal ended there: Yugoslavia proposed measures for the limitation of military activities and military disengagement in the first phase; likewise the Swedish proposal included nuclear disarmament as well as conventional disarmament in the second phase. All three proposals were linked to other negotiations on arms control in Europe, although neither the Romanian text nor the Yugoslav text defined the zone for the measures that the future conference would adopt.⁷⁷

The Madrid Concluding Document of 6 September 1983 contains a section entitled “Conference on Confidence- and Security-Building Measures and Disarmament in Europe”, largely inspired by the French draft mandate. This section contained two major innovations: the introduction of the theme of disarmament to the CSCE and the enlargement of the conceptual framework of the Helsinki CBMs.

A “substantial and integral part” of the CSCE, the Madrid mandate envisaged the Conference on Confidence- and Security-Building Measures and Disarmament in Europe as a dynamic process involving two successive stages – first the rapid adoption of the CBMs, and second the more distant – and indeterminate – goal of disarmament. It was agreed that the initial “progress” in the negotiations for the new CBMs would be assessed at the CSCE Follow-up Meeting in Vienna commencing in November 1986. This meeting – or a subsequent meeting of the same type – would have to reach a decision in the light of the final “results” of the first stage of the Conference on Confidence- and Security-Building Measures and Disarmament in Europe (“and also in the light of other relevant negotiations on security and disarmament affecting Europe”). However, the modalities of this second stage were quite vague. The Madrid mandate specified neither the procedure to follow⁷⁸ nor the object of the proposed disarmament. The Western

74 The idea of the Conference on Confidence- and Security-Building Measures and Disarmament in Europe was first presented on 23 May 1978 by the French President at the special session on disarmament of the United Nations General Assembly.

75 The United States did not approve the French idea until Ronald Reagan took office: for the speech by Max Kampelman, head of the US delegation, at the plenary session of 16 February 1981, see Sussman (ed.), *Three Years at the East-West Divide ...* (n. 62), pp. 30–32.

76 See the proposals by Yugoslavia: CSCE/RM.27 (12 December 1980); Sweden: CSCE/RM.34 (15 December 1980); and Romania: CSCE/RM.31 (15 December 1980).

77 For more details of the respective contents of the five draft mandates, see Jean Klein, “Les aspects militaires de la sécurité à la Conférence de Madrid”, *Annuaire de l’URSS et des pays socialistes européens* (1981/1982), pp. 517–534. See also David S. Yost, “Maîtrise des armements et Conférence de Madrid”, *Défense nationale* (October 1982), pp. 111–125.

78 The Madrid Concluding Document stated only that the Follow-up Meeting after that of Vienna “will consider ways and appropriate means for the participating States to continue their efforts

countries hoped to limit the negotiation to conventional armaments, whereas the Eastern and N+NA countries wanted it to be extended to nuclear weapons.

The venue for the first stage was to be Stockholm – in other words, the capital of one of the five participating States that in Madrid had submitted a draft mandate for the Conference on Confidence- and Security-Building Measures and Disarmament in Europe. Situated within the geopolitical sphere of the blocs, the French, Polish and Romanian capitals were not suitable. That left Belgrade and Stockholm; since Belgrade had already been the venue for the CSCE Follow-up Meeting in 1977–1978, Stockholm was chosen according to the rotation principle.

Scheduling the opening date of the Stockholm Conference posed a major political problem. The Eastern countries wanted the meeting to be convened as soon as possible after Madrid, and in any event before the deployment of the Euromissiles in December 1983. The Western countries took the opposite view. A compromise was reached whereby the Stockholm Conference would commence on 17 January 1984, immediately *after* the deployment of the Euromissiles;⁷⁹ however, the *preparatory meeting* of the Stockholm Conference was scheduled for 25 October 1983,⁸⁰ before the fateful month of December.

The sixth, seventh and eighth paragraphs of the Madrid mandate contain three major substantive provisions.

The sixth paragraph states that the CSBMs “will cover the whole of Europe as well as the adjoining sea area and air space. They will be of military significance and politically binding and will be provided with adequate forms of verification which correspond to their content.”⁸¹

The definition of the *geographical area* of the Stockholm regime of CSBMs thus consisted of two key elements:

- The CSBMs “*will cover the whole of Europe.*” This initial clarification resulted from Soviet acceptance of the abolition of the exemptions granted to it under the Helsinki Final Act (1975). It meant that all Soviet territory in Europe would be included (and no longer just a 250 kilometre zone from its western frontiers). Strikingly, the text stated that the CSBMs “will cover,” rather than “will apply to.” Deliberately intended to be vague, the verb “to cover” introduced a certain ambiguity: did it mean that each individual CSBM would “cover” Europe, or that all of them would? The first interpretation seems more likely, especially as the idea of “application” specifically features in the next two paragraphs (§§ 7 and 8).
- “*As well as the adjoining sea area* and air space.*” Apart from the phrase “if applicable”, this wording is taken from the Helsinki Final Act. The omission in question stemmed from a major political debate over the nature of the

for security and disarmament in Europe” (§ 11).

79 Madrid Follow-up Meeting (1983): Concluding Document, “Conference on Confidence- and Security-Building Measures and Disarmament in Europe”, (Madrid mandate), § 5.

80 Ibid., § 12

81 The following was specified under an asterisk: “In this context, the notion of adjoining sea area is understood to refer also to ocean areas adjoining Europe.”

compensation claimed by the Soviet Union in exchange for its agreement to extend the scope of the CSBMs to the Urals. The Soviets interpreted this provision in the strict *geographical* sense – in other words, assigning equal value to the European landmass and its adjoining areas. However, the Western countries understood it in a *functional* sense, whereby the Madrid mandate envisaged a different regime for the adjoining areas, as inferred from the conjunction “as well as” and the provisions of paragraph 7.

- “*In this context, the notion of adjoining sea area is understood to refer also to ocean areas.*” This phrase, which appears in the footnote, was inserted at the request of the USSR to clarify that the concept of adjoining area encompassed both oceans and seas.
- The second sentence of the sixth paragraph enumerates the three fundamental criteria that (with the extensive definition of the area) defined the new regime:
 - “*Militarily significant.*” This criterion gave a military dimension to the CBMs that had previously been lacking. In other words, the new CBMs had to express the military actions of States and no longer simply reflect their apparent *intentions*;
 - “*Politically binding.*” This expression put an end to the “à la carte” regime of the Final Act. All CSBMs would be subject to a politically binding *uniform* regime;
 - “*With adequate forms of verification which correspond to their content.*” This was a logical requirement, since militarily significant and politically binding measures were pointless without the means to monitor their implementation. This criterion was designed to be flexible: all CSBMs would be verifiable, each one incorporating the appropriate means of verification.

The seventh paragraph of the mandate stated that: “As far as the adjoining sea area* and air space is concerned, the measures will be applicable to the military activities of all the 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 as referred to above, which they will agree to notify. Necessary specifications will be made through the negotiations on the confidence- and security-building measures at the Conference.”

This provision offered vital clarification concerning the applicability of the CSBMs to the military activities taking place in the adjoining sea area (as defined in the footnote for the previous paragraph) and air space. This applicability depended on two *simultaneous* conditions:

- *It had to concern military activities affecting the security of Europe.* This condition was somewhat vague. It gave the participating States complete discretion, subject to the second condition.
- *It had to concern military activities directly related to notifiable land-based activities.* Inspired by the Western countries, this condition meant that there was no obligation to notify independent naval and/or air activities in adjoining areas. This was because the mandate clearly stated that the military activities concerned must “constitute a part” – rather than “be part” – of the notifiable activities; in other words, they had to be notifiable land-based activities by

definition and design. Put differently, the USSR failed to impose its definition of compensation in purely geographical terms (the Atlantic Ocean in an area corresponding to the whole of Europe), the effect of which would have been to complicate US intervention on the continent and place its naval and air operations – such as the US Rapid Deployment Force in the Gulf or the Middle East – under surveillance. The phrase chosen is based on *functional* criteria, although the footnote states that the expression “adjoining sea area” includes the ocean areas along Europe’s coastline.

In any event, the fact that the two conditions are linked by the phrase “as well as” confirms that their *simultaneous existence* – and it alone – makes activities conducted in adjoining areas notifiable.

Given the lack of precision of the various concepts expressed in this subtle compromise, the seventh paragraph of the mandate ends with a provision stipulating that “necessary specifications will be made through the negotiations on the confidence- and security-building measures at the Conference” – in other words, during the Stockholm stage.

Lastly, the eighth paragraph of the Madrid mandate states that: “Nothing in the definition of the zone given above will diminish obligations already undertaken under the Final Act. The confidence- and security-building measures to be agreed upon at the Conference will also be applicable in all areas covered by any of the provisions in the Final Act relating to confidence-building measures and certain aspects of security and disarmament.”

This provision is cryptically worded. Considering the provisions of the Helsinki Final Act on the obligations of participating States whose territory “extends beyond Europe,” it implies that the 250 kilometres on either side of the USSR/Turkey border still applies. As such, it places an obligation on the two countries concerned to notify their major manoeuvres in an area extending for 250 kilometres into their *non-European territory*.⁸²

2. Negotiations at the Stockholm Conference on Confidence- and Security-Building Measures and Disarmament in Europe (1984–1986)

The Stockholm Conference on Confidence- and Security-Building Measures and Disarmament in Europe opened on 17 January 1984 and officially closed on 19 September 1986.⁸³ It consisted of four meetings per year, or 12 sessions in total.

82 In this regard, Turkey issued the following interpretative statement on 28 July 1983, to be found in Journal No. 324: “We have noted with satisfaction the understanding, that the zone of application of the CDE (Conference on Disarmament in Europe), does include the area referred to under major Military manoeuvres Section of the Final Act. It was understood, without doubt, that all the CSBMs to be decided at the CDE Conference will also be applied in this area of the Zone. However, it has not been found possible to include this understanding with the same clarity in the written text of the Document that we are going to adopt. Therefore, my Government deems it necessary to unilaterally register this understanding in the Journal of the day.”

83 In reality, the Stockholm Conference ended on 22 September 1986, thus, the clocks were stopped on 19 September.

The negotiating strategies of the three groups of political actors were implemented very gradually: initially outlined in 1984, they began to take shape only in late 1985, at the end of the second (and penultimate year) of the Conference.

A. The North Atlantic Alliance “Package Deal”

In the very first week, the 16 member countries of the North Atlantic Alliance submitted an elaborate working document containing a “package” of six information and communication measures.⁸⁴

The first measure recommended an *annual exchange of structural military information* – that is, information on the composition of ground forces and land-based air forces in Europe (command organization, designation of the units and their size, headquarters location), as well as the regulations for accredited military attachés.

The second measure called for an *annual exchange of forecasts of military activities notifiable in advance*, with an indication of their purpose, approximate date and number of troops. The purpose of such “calendars” (as the N+NA countries called them) was to show whether the notifications made during the year concerned pre-planned exercises, so that any deviation from the normal peacetime situation would be immediately apparent.

The third measure concerned the *adjustment of the Helsinki parameters on notification*. This suggested that the distinction between military “manoeuvres” and “movements” be replaced by a single phrase – “*out-of-garrison land activity*”⁸⁵ – which had already been proposed within another negotiating framework (the MBFR talks). The Western proposal called for the politically binding notification of independent or combined land activities, mobilization activities, amphibious activities, alert activities (without notice) and transfers from outside the zone to a point located within the zone.⁸⁶ This measure envisaged different levels for *numerical strength* (6,000 troops for land activities, 25,000 troops for mobilization activities and 3,000 troops for amphibious activities), *organization* (divisions) and *equipment* (battle tanks or armoured carriers). It also proposed to extend the prior notification period to 45 days and to expand and *standardize* the contents of notifications.

The fourth measure concerned *changes to the observation regime*. The Western countries suggested that invitations should be sent to all participating States, for all notifiable activities and extended to alert activities exceeding a certain

84 CSCE/SC.1 (24 January 1984).

85 CSCE/SC.1/Working Document-III (12 February 1985), § B. 2: “Ground forces ... will be considered to be out-of-garrison when they are away from their normal peacetime locations and are in the zone.”

86 Ibid. “Ground forces normally garrisoned outside of the zone will be considered to be out-of-garrison when they leave their arrival base within the zone to engage in a military activity on land within the zone.” § B.4 also stipulated: “A participating State will give notification at the start of ground force movements in the case of an out-of-garrison land activity to carry out an activity outside the zone from a point of embarkation within the zone.”

duration. At the same time, they defined the duties of the host State – particularly regarding the facilities for observers – in more detail than under the Helsinki regime.

The fifth measure dealt with *verification*. It proposed the legalization of “national technical means” on a similar basis to the Strategic Arms Limitation Talks Agreement (SALT I) between the United States and the Soviet Union. It also introduced the principle of on-site inspections, subject to limits and modalities to be agreed.

The sixth and final measure outlined the practical arrangements “which will enhance the means of communication between participating States,” in other words, allow *rapid communication* in normal and crisis situations.

The result of three years of internal negotiations, the Western “package” set out concrete, pragmatic, synergistic and “militarily significant” measures, as stipulated in the mandate for the Stockholm Conference.

In 1985, the NATO countries elaborated on each of the measures of the initial “package” in six separate working documents. These were eventually consolidated into a single “amplified package”.⁸⁷ However, the only really new contribution that this final version made was in the field of verification.

In effect, the amplified document described the modalities for *inspections upon request*. The Western countries were proposing an inspection procedure from the ground and/or air. The participating States would be expected to grant any reasoned request for an inspection within 24 to 36 hours, and to provide inspectors with transport, logistical support, telecommunications and other facilities. At the end of the procedure, the inspecting State would prepare a report of its inspection and provide a copy of that report to all participating States. The Western countries envisaged two inspections per participating State per calendar year. Each inspection would consist of no more than four inspectors and last for no more than 48 hours; inspections could take place anywhere in the zone of application for CSBMs, except for areas to which access by the public was restricted or denied: naval bases, dockyards, garrisons, military airfields, firing ranges, defence research development or production establishments, naval vessels, military vehicles or aircraft.

B. The Soviet Position and its Development

As soon as the Stockholm Conference opened, all the Eastern countries (apart from Romania) used it as a platform to denounce the deployment of Euromissiles by the Western countries⁸⁸ – a measure that they believed subjected Warsaw Pact members to a direct threat of first strike and put Europe on the brink of armed

87 CSCE/SC.1/Amplified (8 March 1985).

88 CSCE/SC/R.2 (17 January 1984), pp. 25–34 (GDR) and pp. 41–48 (Czechoslovakia); CSCE/SC/R.3 (18 January 1984), pp. 13–25 (USSR) and pp. 41–51 (Bulgaria); CSCE/SC/R.4, (18 January 1984), pp. 17–25 (Poland); and CSCE/SC/R.6 (19 January 1984), pp. 15–22 (Hungary).

conflict. The formal submission of the Western “package” only strengthened their discontent.

It came under a barrage of criticism based on three key arguments.

Firstly, the “package” was criticized for its ill-considered “military and technical” approach, regarded as inappropriate given the gravity of the international situation. They felt that confidence could not be restored in Europe by technical CSBMs alone, but required political solutions, starting with a mutual commitment to refrain from the use of force. The “package” was also viewed as being biased towards transparency, potentially legalizing military espionage. Lastly, they suspected the “package” of seeking unilateral advantages for the NATO countries insofar as it excluded independent naval and air manoeuvres.

During the first four months of the Stockholm Conference, the Eastern countries were content to rely on this argument and submitted no written proposals. This attitude of “non-negotiation” reflected the paralysis of the Soviet regime and, in particular, the inability of the leadership of the Communist Party of the Soviet Union (CPSU) to make major diplomatic decisions. The status quo continued until 8 May 1984, when the USSR submitted a formal, six-point proposal providing for:

- An undertaking from the States possessing nuclear weapons not to be the first to use them. This idea (translated by the NATO countries by the acronym “NOFUN”, or “No First Use of Nuclear Weapons”) was not new: it had already been raised by the Soviets in 1977 at the Belgrade Follow-up Meeting;
- The conclusion of a multilateral treaty on the non-use of military force. Presented as a “major confidence-building measure”, this proposal was also not new. It was based on an old Romanian idea dating back to the Geneva stage of the CSCE (1973–1975), which had been on the agenda of the United Nations General Assembly since 1976 at the behest of the Soviets themselves;
- The freezing and reduction of military spending in percentage points or absolute figures;
- The elimination of chemical weapons in Europe;
- The creation of nuclear free zones in the Balkans, Scandinavia and Central Europe;
- The “elaboration of additional confidence-building measures, more significant in nature and broader in scope”. Here the USSR envisaged, in general terms, the introduction of *constraints* (limitation of the numerical scale of independent or joint ground force military manoeuvres), the extension of the prior notification regime to *independent air and naval manoeuvres* and *major movements and transfers of forces*, and the “development” of the existing practice of inviting observers to attend major military manoeuvres.⁸⁹

The Soviet document strengthened the conviction of the Western and N+NA countries that the Eastern countries intended to maintain their position of “nonnegotiation”.

⁸⁹ CSCE/SC.4 (8 May 1984).

Firstly, measures such as “NOFUN” and refraining from the use of force were neither militarily significant nor – more importantly – open to concrete verification; they came under the heading of “declaratory”.

Secondly, most of the other measures were outside the mandate: nuclear weapons were not included in the terms of reference of the Stockholm Conference; the idea of subjecting territories to a special regime was contrary to the definition of the geographical zone (from the Atlantic to the Urals); the question of reducing military expenditures and getting rid of chemical weapons was a matter for the United Nations.

Thirdly, the technical measures envisaged for enhancing the Helsinki regime were too vague (the document only mentioned the principle of verification in passing), restrictive (invitations to observers only applied to major military manoeuvres), unfair for NATO countries (regarding the constraints) and contrary to the functional interpretation of the zone of the Stockholm regime of CSBMs (notification of independent air and naval manoeuvres).

It was only in 1985 that the Eastern countries finally decided to formulate their negotiating position in three sets of documents on the non-use of force, constraints and notification.

On 29 January 1985, the USSR submitted a working document entitled “Basic provisions for a *treaty on the mutual non-use of military force* and the maintenance of peaceful relations”.⁹⁰ The Soviets abandoned their other proposals from 1984, which most of the participating States regarded as outside the mandate. Nevertheless, the Western countries felt that the Soviet initiative warranted several objections:

- A legal instrument would be contrary to the (exclusively political) practice of the CSCE and would introduce an unacceptable hierarchy into the final documents of the Stockholm Conference;⁹¹
- The proposed text was a backward step from the provisions of the Charter of the United Nations and Principle II of the Helsinki Decalogue, since it limited the reaffirmation of the principle of non-use of military force to its actual use (and not the threat) and only to the mutual relations (and not the international relations) of the participating States – which did not cover situations such as Afghanistan or Poland;
- By providing for a commitment that would cover “the *territories of all parties to the treaty* as well as their military and civilian personnel, naval, air and space craft, and other facilities belonging to them, *wherever situated*,” the draft treaty violated the provisions of the Stockholm Conference mandate relating to the geographical zone of the CSBMs (from the Atlantic to the Urals);
- Paragraph 10 of the draft treaty stipulated that no provision “in the treaty would affect the rights and duties of the participating States under the ...

90 CSCE/SC.6 (29 January 1985) and CSCE/SC.6/Rev.1 (30 January 1985).

91 The legal form of the proposal was in fact “window dressing” allowing the USSR to support the “concrete” nature of the enterprise.

treaties and agreements previously concluded by them.” This clause implicitly legitimized the bilateral treaties of the USSR proceeding from the Brezhnev Doctrine;

- According to the Soviet text, the treaty would enter into force only upon accession to it by all Member States of the Warsaw Pact and the North Atlantic Alliance (§ 12). The Western countries rejected any bloc approach, which, moreover, marginalized the role of the N+NA countries within the Stockholm Conference process.

The following month, the USSR submitted – jointly with Bulgaria and the GDR – a working document on measures of *restraint*.⁹² Arguing that large scale manoeuvres are difficult to distinguish from the preparatory stages of the deployment of armed forces for the purpose of commencing hostilities, the three Warsaw Pact countries proposed the *limitation of large scale military manoeuvres* (national and multinational) to a maximum of 40,000 troops in ground force manoeuvres conducted independently or jointly with any possible air or naval components throughout the zone of the Stockholm regime of CSBMs. This proposal was clearly intended to embarrass the NATO States, which, on account of their number and the non-standardization of their equipment, were conducting joint exercises involving larger numbers than those of the Warsaw Pact countries.

Only after Mikhail Gorbachev became leader of the CPSU did the Warsaw Pact countries finally agree, in May–June 1985, to submit concrete proposals on the question of the notification of military activities. Together with various members from its bloc, the USSR proposed setting the level of *notification* at 20,000 troops and the prior notification period at 30 days.⁹³ Emphasizing the policy of a broader functional interpretation of the Madrid mandate with regard to the zone of the Stockholm regime of CSBMs, it submitted two formal proposals for air and naval manoeuvres. The former were to be subject to notification from the level of 200 military aircraft,⁹⁴ compared with 30 warships and 100 military aircraft for the latter.⁹⁵ The Soviet Union also proposed the notification of movements and transfers (including by sea and by air) of formations and units of more than 20,000 troops in the area covered by CSBMs “as well as into and out of that area”;⁹⁶ air forces would be covered separately above the level of 100 aircraft.

C. The Position of the N+NA Countries and Romania

The approach taken by the N+NA countries and Romania tended to be sympathetic –accommodating, to varying degrees, aspects of the Western military vision and the Eastern political vision.

92 CSCE/SC/WGA.1 (7 February 1985).

93 See proposal by the USSR, Poland and Czechoslovakia: CSCE/SC/WGB.1 (20 May 1985).

94 See proposal by the GDR, Hungary and the USSR: CSCE/SC/WGB.2 (20 May 1985).

95 See proposal by the USSR, Bulgaria and Poland: CSCE/SC/WGB.3 (20 May 1985).

96 See proposal by Hungary, Czechoslovakia and the USSR: CSCE/SC/WGB.4 (21 June 1985).

With a limited and defensive military potential, the N+NA countries had formed a natural group within the CSCE, particularly during the drafting of the chapter of the Helsinki Final Act on CBMs. The formulation of a common position was relatively easy at the time because the question of CBMs was less military than political to begin with. In Stockholm, however, it was a question of adopting “militarily significant” CSBMs. Yet the military aspect did not have equal importance for each of the N+NA nations. Some members of the group had to take into account the existence of a shared frontier with the Soviet Union (Finland) or with other Warsaw Pact countries (Yugoslavia, Austria). Others (Sweden, Finland, Yugoslavia) had naval concerns. Still others, such as Switzerland and Sweden, based their defence on particular mobilization systems and not on maintaining permanent armed forces. In addition, Yugoslavia differed from the rest of the group in sharing the Eastern countries’ aversion to an annual exchange of structural information, while joining Sweden (unlike Switzerland, for example) in calling for the adoption of significant CSBMs of restraint. Malta, on the other hand, was only concerned about the naval question, while Cyprus was focused on the non-use of force. Moreover, Sweden was often tempted to play the activist in view of its status as host country, advocacy of nuclear free zones and the personal views of Prime Minister Olof Palme on disarmament.

Despite these various obstacles, and after three months of intense internal consultations, the N+NA group finally submitted a common document.⁹⁷ There are three key points to note on this subject.

Firstly, unlike the Western “package” it did not contain genuine proposals, but merely “considerations” enumerating the areas on which the N+NA were in agreement.

Secondly, its contents overlapped with the Western “package” on several key issues. For instance, it called for an improvement in the notification parameters (earlier prior notification, more detailed information, lower parameters in relation to the organizational level, the number of troops and the capacity of their specialized means of transport), improved conditions for observers, the exchange of “calendars” on major military activities planned a year in advance, arrangements for a rapid exchange of views among participating States. It also evoked the principle of verification. However, upon closer inspection, various differences emerged between the proposals of the N+NA countries and those of the Western nations. The N+NA countries wanted prior notification of smaller scale military manoeuvres but which “are carried out close to each other in time and space,” if the total forces committed exceeded the levels agreed for major manoeuvres.⁹⁸ They envisaged the notification of the “redeployment of major military units as well as of major rotations of military personnel.” They proposed that governments

97 CSCE/SC.3 (9 March 1984).

98 The idea of the N+NA countries here was to prevent the States from evading the obligation of notifications by splitting their military exercises. This proposal had already been made by the N+NA countries at Belgrade (CSCE/BM/6 of 25 October 1977) and at Madrid (CSCE/RM.21 of 12 December 1980).

should undertake to “apply the standardized reporting system on military expenditure” of the United Nations.⁹⁹

Thirdly, the N+NA document – which referred expressly to “the complementary nature of the political and military aspects of security” – embraced several aspects of the Soviet position. The N+NA countries believed that adopting concrete CSBMs would encourage a reaffirmation of the duty to *refrain from the use of force*. More importantly, they advocated CSBMs that served as *constraints*. Firstly, they recommended ceilings for forces engaged in a major military manoeuvre or manoeuvres close to each other in time and space, as well as for combined, amphibious, airborne and airmobile forces, on the basis of parameters (to be defined) concerning the organizational level, the number of troops and the capacity of their specialized means of transport. Secondly, they called for *limitations* on the deployment, in areas to be determined, of military units and/or equipment of vital importance for sustained offensive operations.

At the request of *Malta*, it was declared that the Stockholm Conference should “bear in mind” the close link between security in Europe and security in the Mediterranean area as a whole. However, Malta submitted its own working document specifically devoted to the Mediterranean.¹⁰⁰

After a further nine months of laborious internal wrangling, the group managed to resolve its differences and finally submitted collective proposals.¹⁰¹

The N+NA States proposed the prior notification of military manoeuvres carried out outside the normal locations of military formations in combat exercises, between these same locations and the exercise zones, and between zones where the different phases of the exercises took place.¹⁰² The document also contained more or less detailed provisions concerning the *observation* of notifiable military activities, the exchange of annual calendars and the introduction of a *rapid communication system* for the participating States.

There were four other striking features about the document:

- *Constraints*. The document called for a numerical ceiling on the numbers and duration of notifiable manoeuvres,¹⁰³ as well as an annual quota on both notifiable¹⁰⁴ and non-notifiable manoeuvres.¹⁰⁵

99 The idea of making national defence spending public had been raised by Sweden during the Geneva stage of the CSCE (CSCE/II/C/9).

100 CSCE/SC.5 (8 November 1984). See chapter VII of this volume, pp. 339 (n. 91).

101 CSCE/SC.7 (15 November 1985).

102 This coincided, to a degree, with the Western idea of land-based out-of-garrison activities.

103 See CSCE/SC.7, p. 12, § 2: “No individual military manoeuvre will exceed five times the notifiable level and its duration at or above notifiable level will not exceed 17 days.”

104 *Ibid.*, § 3: “The States will neither permit on their own territory nor carry out nor participate in more than a total of five military manoeuvres per calendar year which are of a size less than two times the notifiable level; moreover, the States will neither permit on their own territory nor carry out or participate* in a total of more than one such manoeuvre at the same time.”

105 *Ibid.*, § 4.

- *Verification.* The N+NA countries proposed a procedure consisting of “*observation upon request*”. It differed quite significantly from the inspection procedure outlined in the Western “package” on two points. Firstly, it involved the intervention of third States: “In view of the fact that the CSCE process takes place outside military alliances, the requested State will in addition invite observers from a third participating State with which it does not maintain relations of military alliance.”¹⁰⁶ Secondly, and more importantly, a State could *refuse* an observation request for “reasons of supreme national security interests”.¹⁰⁷
- *Political consultations.* The N+NA document established the principle of short meetings between participating States on the implementation of the CSBMs. Such meetings could be convened on an ad hoc basis (at the request of any participating State, in exceptional circumstances) and at regular intervals for the purpose of an exchange of views on the implementation of the CSBMs.
- *Political CSBMs.* Recalling the complementary nature of the military and political aspects of security within the CSCE/Stockholm Conference, the N+NA countries reaffirmed the Mediterranean dimension of security in Europe, the principle of non-use of force, the principle of human rights, the principle of the peaceful settlement of disputes and the need to eliminate terrorism.

Romania, meanwhile, proposed as of 1984 a series of information and communication measures, measures of restraint and declaratory (or political) measures:¹⁰⁸

- *Information and communication CSBMs.* Romania called for a system of regular multilateral consultations among participating States, mainly within a standing consultative body,¹⁰⁹ as well as the creation of a mechanism of rapid communication and other emergency procedures to prevent nuclear conflict by error or accident. Like the Western and N+NA countries, Romania had a practical attitude towards the parameters. The Romanians proposed the notification of major military movements and manoeuvres and “the placing in a state of alert of national or foreign armed forces or of important components of such forces.” In the case of manoeuvres, the document recommended earlier prior notification than the Final Act (one month) with different levels for land or combined forces (18,000 to 20,000 troops), airborne or amphibious special forces (5,000 troops), naval forces (10 to 12 battleships having a total displacement of 50,000 to 60,000 tons) or air force units (45 to 50 aircraft

106 Ibid., § 5.

107 Ibid., § 4: “If, for reasons of supreme national security interests, a State which has been requested to receive observers would find itself compelled not to grant the request, it will state the reasons which in the particular situation have caused the refusal in an answer addressed to the requesting State within twelve hours after receiving the request.”

108 CSCE/SC.2 (24 January 1984).

109 Romania had already proposed this idea in two different forms – at Geneva, in connection with a pan-European treaty on the ban on the use of force (CSCE/II/B/2 of 9 September 1973), and at Madrid, with a view to an institutionalization of the CSCE (CSCE/RM.32 of 15 December 1980).

fighters). The same timeframe was envisaged for major military movements for which the *organizational* level was fixed at two or more divisions or their equivalent. As for alert exercises, these had to be notifiable “as soon as possible”. Conversely, no proposals were made on the subject of verification.

- *CSBMs of restraint*. In addition to the limitation of military manoeuvres to a numerical ceiling (40,000 to 50,000 troops) and organizational ceiling (to be determined), the Romanians put forward a whole series of measures aimed at creating various *security zones* free of multinational manoeuvres, nuclear weapons, additional troops and military bases, or indeed any kind of military activity.
- *Political CSBMs* such as the conclusion of a treaty on refraining from the threat or use of force, the freezing of military expenditures at the level of 1984 and the prohibition of “war propaganda”.

3. The Outcome of the Conference on Confidence- and Security-Building Measures and Disarmament In Europe: The Stockholm CSBMS

The Stockholm Conference did not exist in a vacuum. The progress it did achieve was largely due to developments in East-West relations. Three external events had a particular impact on the Conference:

- *The American “signal” from Dublin*. In a speech before the Irish Parliament on 4 June 1984, President Reagan made a pointed reference to the Stockholm Conference. Indirectly addressing the Soviets, he declared that the United States would not oppose a reaffirmation of the principle of refraining from the use of force, provided it was an integral part of a comprehensive agreement on concrete CSBMs. The Dublin speech sent out a clear signal: it established the principle of a comprehensive agreement combining military and political CSBMs.¹¹⁰
- *Resumption of US/Soviet dialogue*. Broken off abruptly by the Soviets following the installation of Western Euromissiles, dialogue between the two superpowers resumed in September 1984. This was accompanied by the announcement of the increase in US grain sales to the USSR, conciliatory remarks addressed by the US President to the Soviets at the United Nations General Assembly, and meetings between Soviet Foreign Minister Andrei Gromyko, US Secretary of State George Shultz and President Reagan. President Reagan’s reelection, to which the Soviets resigned themselves, provided further clarity. In December 1984, the United States and the Soviet Union agreed in principle to bilateral talks on nuclear and space weapons. The talks began in Geneva in March 1985. A Reagan-Gorbachev Summit, held in Geneva at the end of the same year (19–21 November 1985), was a powerful reminder that dialogue had resumed.

110 However, this unilateral opening (which seems to have caught the European allies off guard) came too early; beset by internal difficulties, the Soviet leadership did not yet have the means to provide an adequate response.

The joint statement adopted at the end of the Geneva Summit mentioned the Stockholm Conference. It affirmed the intention of the two superpowers to facilitate the rapid success of the Stockholm Conference on the basis of a document that would include CSBMs and give concrete expression and effect to the principle of refraining from the use of force. This part of the statement raised hopes in Stockholm – not only because it expressed Soviet acceptance of the Dublin “signal”, but because for the first time, it (formally) announced a convergence between the two States, whose commitment was essential if any real agreement were to be reached at the Stockholm Conference.

– *The advent of Mikhail Gorbachev as leader of the CPSU.* The change in the Soviet leadership had at least three positive repercussions for the Stockholm Conference. Firstly, the Soviets “shelved” all their declaratory proposals, apart from the non-use of force. This proposal was kept almost as a matter of form, although the tone was softened. The Soviets carefully articulated their real negotiating demands (constraints and notification of air and naval manoeuvres, in addition to transfers). Ultimately the new Soviet leadership was prepared to be more open by announcing a series of concrete and public concessions: agreeing to the idea of annual calendars when Mikhail Gorbachev visited France (October 1985); deferring the question of the notification of naval manoeuvres until a later stage of the Stockholm Conference (January 1986); outlining the principle of on-site inspections in the Budapest Appeal (June 1986); suspending the requirement for the notification of independent air manoeuvres during President Mitterrand’s visit to Moscow (July 1986).

During the ninth session, which commenced on 28 January 1986, five informal working groups were established on top of the formal working structure. These operated outside the normal rules of procedure of the CSCE/Stockholm Conference. Contrary to the rule of rotation, the co-ordination (chairing) of each working group was entrusted to one country: Austria (non-use of force), Sweden (notification), Finland (observation) and Switzerland (information/verification/communication; annual calendars and constraints). The drafting process tentatively got under way in early 1986 under the permanent co-ordination of the four neutral countries.

On 30 June 1986, the Canadian Ambassador W. T. Delworth announced that the 16 participating States had relaxed their position on notification (level of notification, non-inclusion of mobilization exercises), observation and verification (one inspection per country per year, instead of two).

In the summer of 1986, the Politburo moderated its instructions for the Soviet delegation in Stockholm. Soviet Ambassador Oleg Grinevsky first weighed up the concessions made by the Eastern countries (level of notifiable ground force activities, acceptance of the principle of inspection, inclusion of a provision on human rights in the text on the non-use of force) and what they expected in return (a “sublevel” for air manoeuvres within the agreed level for notifiable ground force activities, notification of transfers of forces and adoption of measures of restraint). Marshal Sergei Akhromeyev then went to the Stockholm Conference in

person. In a key speech given on 29 August 1986, the Chief of Staff of the Soviet Armed Forces (and Deputy Minister of Defence) set out the USSR's position on each of the main chapters of the negotiations (particularly verification) and on the issue of the coverage of US territory by the CSBMs.

Marshal Akhromeyev's speech marked the start of the final stage of the negotiations. It had been arranged the previous year that the Conference would close on 19 September 1986, a few days before the start of the preparatory meeting for the follow-up to the CSCE in Vienna. The deadline was met only by resorting to the old trick of stopping the clocks. The Stockholm Conference did not complete its work until 22 September, adopting its concluding document on 19 September 1986.

The Stockholm Document runs to 104 provisions accompanied by four annexes,¹¹¹ plus 12 interpretative statements and one reservation, recorded in the Journal (No. 379/Rev. 2) of the last plenary meeting.¹¹²

The provisions of the agreement create a new generation of confidence-building measures – confidence- and security-building measures (CSBMs) – the regime for which was established on the basis of the four criteria of the Madrid mandate. In addition to a general preamble (§§ 1–8) and final provisions (§§ 99–104), the Stockholm Document includes a section on refraining from the use of force (which is a political explanatory statement, in a sense) and five sections covering notification (§§ 29–37), observation (§§ 38–54), annual calendars (§§ 55–58), military restraints (§§ 59–62) and verification (§§ 63–98).

The entire Stockholm Document can be tackled from three main angles: the recasting of the Helsinki notification and observation regimes, qualitatively new CSBMs (calendars, constraints, verification), and the reaffirmation of the principle of refraining from the use of force.¹¹³

111 Annex I reproduces, in their entirety, the Madrid provisions on the zone of application for CSBMs (on the reasons for its inclusion, see below in this chapter, p. 160). The following three annexes are – in line with the practice at Madrid – statements by the Chairman of the last plenary meeting: Annex II introduces certain interim measures pending the entry into force of the Document; Annex III affirms that any question consistent with the Madrid mandate may be raised in subsequent stages of the Conference on Confidence- and Security-Building Measures and Disarmament in Europe; and Annex IV specifies a particular provision of the inspection regime (see further on in this chapter, p., 160).

112 The reservation, made by Turkey, concerned the case of Cyprus (see chapter I of this volume, p. 9 (n. 31)). Interpretative statements were made on the subject of the Turkish reservation (Cyprus, Greece), the question of mobilization (Switzerland, see below, Annex IV on inspection (Italy, Romania, Hungary), the possible agenda for the next stage of the Conference on Confidence- and Security-Building Measures and Disarmament in Europe (USSR, Italy), Berlin (France, USSR, see chapter II of this volume, p. 61), the general verification regime (France) and the section on the non-use of force (France).

113 See Victor-Yves Ghebali, *Mesures de confiance de la CSCE: documents et commentaires* (New York: UNIDIR, 1989), v–114 pages.

A. Recasting the Notification and Observation Regimes

a) The new notification regime

The Document of the Stockholm Conference put an end to the Helsinki distinction between military “manoeuvres” and “movements”, although it did not adopt the Western term “out-of-garrison military activities”, for want of an agreed definition of the word garrison.¹¹⁴ The text refers to “military activities in the field” (§ 31) – which, from a practical point of view, amounts to more or less the same thing. Several military activities were subjected to politically binding notification: independent or combined land-based activities (§§ 31.1.1 and 31.1.2), amphibious and airborne operations (§ 31.2), transfers and concentrations (§ 31.3) and – in certain conditions – alert activities (§ 32.1). All these categories were notifiable, whether national or multinational activities, manoeuvres or movements.

The Stockholm regime does not cover *independent naval and air activities*. Like Helsinki, it essentially deals only with ground force activities, which in reality dominated the military situation in Europe and would have had the largest impact in the event of armed conflict on the continent. The participating States were content simply to expand the category of notifiable ground force activities to include amphibious activities (militarily significant due to their extreme mobility, diverse equipment, offensive nature and transport capability, for example), alert activities (a traditional “cover” for hostilities, especially if large scale and long-term), concentrations (with their known potential for political intimidation) and transfers (arrival in Europe of American/Canadian reinforcements or Soviet reinforcements from Mongolia).¹¹⁵

The Stockholm Document makes no provision (as the Western countries had hoped) for the notification of mobilization activities – that is, activities involving the recall of reservists. Switzerland, a country whose national defence is based on a militia system, managed to block this. However, it was unable to secure a provision specifically excluding the activities in question from the notification regime. As a last resort, the Swiss delegation issued an interpretative statement formally ruling out “mobilization exercises”, “partial mobilization” and “general mobilization”.¹¹⁶ At the end of the CSCE Follow-up Meeting in Vienna (1989),

114 In the West, a garrison is the permanent location, well defined in space, of troops in peacetime. In the USSR, it was an area circumscribed by several towns or a geographical area delimited by the command of a military district; in other words, this zone may have included areas for military exercises: troops carrying their equipment could thus travel tens of kilometres without leaving their “garrison”. It should also be pointed out that the USSR regarded the concept of out-of-garrison activities as “intrusive”, as this would have obliged it to notify certain activities, such as agricultural activities or disaster relief operations, carried out by *military personnel* outside their garrisons.

115 It should be specified that only movements of troops within the zone, and not their transit for the requirements of missions outside the zone, are notifiable.

116 For the text of the Swiss interpretative statement, see Journal No. 379/Rev.2 of 19 September 1986, p. 4. As partial and general mobilization is equivalent to placing all or part of the army on a war footing, observation of a mobilization exercise would allow (according to Switzerland) the basic principles of the mobilization system to be “understood” without difficulty.

Switzerland reiterated its 1986 statement while clarifying that “depending on the possible results of the efforts in the field of confidence- and security-building measures and disarmament within the framework of the CSCE process”, it reserved the right to “reaffirm in due course and in an appropriate manner the validity of the abovementioned statement.”¹¹⁷

The prior notification period set by the Stockholm Conference was 42 days (§ 29), double that of Helsinki. This figure was suggested by the N+NA countries as a compromise between the 45 days proposed by the Western countries and the 30 days proposed by the Eastern countries. The prior notification period of 42 days applied to all categories of military activities, apart from alert activities, which were notifiable at the time they commenced (§ 32.1).

The duration of the new prior notification period is significant. It offered an additional assurance by confirming the normal (i.e., non-threatening) character of the notified activity, while making it harder for a State to camouflage its real intentions in a crisis.

The Helsinki level of notification was based on a single numerical element. The Stockholm level of notification was much more sophisticated however: it simultaneously combined *numerical/military hardware* parameters (in response to concerns voiced by Switzerland, which attached particular importance to the criteria of “mobility” and “firepower”) and *structural* parameters (sought by the Western countries and various other countries such as Austria, Finland, Switzerland and Ireland).

The *numerical level* was lowered from 25,000 to 13,000 troops for independent or combined ground force activities, and 3,000 troops in the case of amphibious and airborne activities (generally modest in size). As for the level of *military hardware*, this was set at 300 battle tanks. Lastly, the *structural level* was established on a *divisional basis* or the equivalent in brigades/regiments, not necessarily subordinate to the same division. The need for a divisional level is self-evident. Firstly, the division is the most elementary combat unit that can operate independently, and is the major ground-force combat element of any large modern army. Although its numerical size varies from country to country (and even within the same army at times), it is undoubtedly one of the most significant criteria for military comparison and assessment. The organizational aspect was perhaps even more important than the numerical potential: a few thousand troops organized in divisions (with their equipment) posed a greater military threat than 20,000 dispersed or unorganized troops. Secondly, the division is a reasonably verifiable indicator: it is easier to establish whether a division is away from its peacetime location than to count the number of soldiers on the ground.

Independent ground force activities were thus notifiable from 13,000 troops or 300 battle tanks, *on condition* that they were organized in divisions or the equivalent in brigades/regiments (§ 31.1.1); *transfers and concentrations* of land forces were covered by the same provisions (§ 31.3.1). The same applied to

117 Journal No. 397 of 15 January 1989, p. 7.

combined ground force activities, although these were subject to an *air sublevel – 200 sorties* by aircraft, excluding helicopters (§ 31.1.2). This provision can be considered a gesture of goodwill by the Western countries towards the Warsaw Pact countries, which had long called for the notification of *independent* air (and naval) activities. In the case of *amphibious activities* (landings from the sea towards land) and *airborne activities* (transport of troops and equipment by air), only a *numerical level of 3,000 troops* applied (§ 31.2.1). Lastly, the level of notification (without notice) of *alert activities* could vary depending on whether these activities were land-based or not.

The simultaneous existence of three types of levels not only reflected the need for a compromise acceptable to the Eastern, Western and N+NA countries, but also served a practical purpose: the need to cover military activities not organized in divisions or carried out at a level numerically lower than a division.

In addition, and unlike the Helsinki regime, the Stockholm regime envisaged the *standardization* of the contents of notifications. It stated that these would be based on an “agreed form” (§§ 29 and 33) – in other words, that they would provide information of a certain nature and in a certain order. The “form” consisted of four main sections with some 30 pieces of information.

Lastly, in view of the highly sensitive issues raised by the demarcation of the zone of application for CSBMs, the participating States abandoned the idea of making changes to the compromise reached in 1983 in Madrid. Paragraph 29 thus merely refers to Annex I of the Stockholm Document, which reproduces in full the three relevant provisions of the Madrid mandate.¹¹⁸

b) The new observation regime

The purpose of observation is twofold: to confirm the non-threatening character of a notified military activity and to ensure that it is carried out in conformity with the appropriate provisions of the notification. In this respect, the Stockholm Conference made four improvements to the Helsinki regime.

Firstly, invitations to observers were *politically binding* (§ 38) and no longer optional; the participating States were thus obliged to invite observers even in times of crisis. Nevertheless, observation was a right but not an obligation: any participating State was free to decide whether or not to make use of it. If the invitation was not expressly accepted 21 days after it was sent, “it will be assumed that no observers will be sent” (§ 44).

Secondly, the invitations had to be sent to *all* other participating States (§ 38), and no longer to those cherry-picked by the host country.

Thirdly, the Document made notification and observation *interdependent*. Invitations to observers were to be sent at the same time as notifications and according to the same diplomatic procedure (§ 39). More importantly, all notifiable activities were observable in certain conditions.

In addition, the *obligations of the host country* were no longer “à la carte”, so to speak. Instead they comprised two sets of duties: firstly, they required a *preliminary*

¹¹⁸ See above in this chapter, pp. 141.

general observation programme to be drawn up (§ 45) containing seven practical items of information, including possible authorization for observers to use their own special equipment (§ 45.6); secondly, they made provision for various *practical facilities* during the observation exercise (§ 53).¹¹⁹

Lastly, each invited State could send up two military and/or civilian observers, including its military attachés if necessary (§ 42); the idea put forward by the N+NA countries to make the number of observers proportional to the scale of the military activity was not adopted. Observers were accorded the customary privileges and immunities (§ 51). They had to be treated without discrimination and offered equal opportunities to carry out their functions (§ 50) – a provision that amounted to a criticism of the implementation of the Helsinki regime by the Eastern countries.

All notifiable activities were in principle observable. The interdependence between observation and notification, however, was not all-encompassing, since each regime had *different thresholds*. The level set for observation was *higher* than for notification (§ 38.4): 17,000 troops (instead of 13,000) for ground force activities (including transfers and concentrations), and 5,000 troops (instead of 3,000) for amphibious and airborne activities. This provision was adopted to avoid adding unnecessarily to the *financial burden* for the host country, which had to provide various practical facilities (domestic transportation, board and lodging, and so on) potentially for up to 68 observers (two from each participating State).

The regime allowed two exceptions: firstly, the observation of restricted locations, installations or defence sites did not have to be permitted (§ 52); secondly, activities that were carried out without advance notice to the troops involved were observable only if their duration exceeded 72 hours (§ 54), and not 48 hours as initially proposed by the Western countries.

B. Qualitatively New CSBMs

a) Annual calendars

The exchange of annual calendars of notifiable military activities was a qualitatively new confidence-building measure compared with Helsinki. The idea originated from the Western “package” and the collective proposal submitted by the N+NA countries in November 1985. The term “annual calendars” was suggested by the N+NA countries; it was ultimately preferred to the “forecasts” proposed by the Western countries and the “provisional plans” advanced by the Eastern countries.

119 The provisions adopted provide for appropriate observation equipment, means of transportation to the area of observation and back (§§ 48 and 53.6), daily briefings (§ 53.3), the opportunity for the observers to visit some units in order to communicate with commanders and troops (§ 53.4) and, lastly, opportunities for timely communication with their diplomatic representatives (§ 53.7). The host State will need to treat all the observers equally and grant them the privileges and immunities accorded to diplomatic agents (§§ 50 and 51). Furthermore, the observers will be allowed to use their personal binoculars, which will be subject to examination and approval by the host State (§ 53.2).

The need for annual calendars was closely linked to the need for prior notification of military activities on a “case-by-case basis”. It required the participating States to send each other, a year in advance, their respective programmes of notifiable military activities. This multilateral exchange had to be done in writing, through diplomatic channels (as for notifications and invitations to observers), not later than 15 November each year (§ 55).

The calendar was not intended to duplicate ad hoc notifications, but to provide them with a comprehensive reference framework that would increase their political and military significance. Through advance notification of military activities planned for the following calendar year, any possible deviation from the normal peacetime situation could be detected immediately, whether this concerned an activity not already in the calendar, or one not conducted as originally notified. The annual calendar thus enabled the participating States to distinguish clearly between impromptu activities (threats) and preplanned activities.

Given its *provisional* nature, the annual calendar was inevitably less accurate than an ad hoc notification. According to paragraph 56, it had to be presented in the form of a *chronological list* of ten items of information, including “the 14day period, indicated by dates, within which [the military activity] is envisaged to start” (§ 56.5).

The calendar was not meant to be a constraint preventing the participating States from making changes to their forecasts; it was designed to be flexible so that it could accommodate two potential scenarios. Firstly, any *changes* made by a participating State to the content of any initial element of its annual calendar had to be communicated to all other participating States no later than on the normal date of the military activity concerned (§ 57). Secondly, activities other than those contained in the calendar (*unscheduled*) had to be communicated to all participating States “as soon as possible” in accordance with the model provided in the annual calendar (§ 58). This provision was supplemented by paragraph 62, which advised the participating States that unscheduled military activities should be “as few as possible”.

b) Constraints

The Stockholm Document does justice to some of the measures requested by the USSR, Yugoslavia and Sweden in relation to direct and concrete limitations on military activities in Europe.

For example, the text refers to “constraining *provisions*” and not “*measures of restraint*” – this term was considered too strong by the US delegation, which wanted to avoid any criticism from Congress.

The provisions agreed in Stockholm were the result of informal proposals submitted by the only EEC country that was not a member of NATO: Ireland. They set out a complicated joint regime of prior notification and proscription:

- Any ground force military activity (independent or combined) involving more than 40,000 troops had to be announced *two years in advance* (§ 59); the Eastern countries refused to countenance a longer prior notification period (three

- years), alleging that their military planning was more short-term than that of NATO countries;
- Activities involving more than 75,000 troops were *prohibited* unless notified two years in advance (§ 60). The parameter adopted here represented a major constraint for NATO members, but also affected certain Soviet military activities (such as *Zapad81*);
 - Activities involving more than 40,000 troops, but fewer than 75,000 troops, were also *prohibited* unless they had been included in an annual calendar – that is to say, notified *a year in advance* (§ 61). The parameter of 40,000 troops not only imposed a constraint on NATO and Warsaw Pact countries, but also affected the military activities of neutral countries such as Switzerland;
 - *Unscheduled* military activities covered by the normal notification regime (42 days) “should be as few as possible” (§ 62). This vague and limited provision was all that the N+NA countries could ultimately obtain in response to their request to set precise *quotas* for unscheduled activities.

c) Verification

Verification was essential if any agreement in the military arena was to be credible. It was basically intended to dissuade the parties concerned from breaching their obligations. For NATO countries, a provision relating to concrete means of verification was a condition *sine qua non* of any overarching compromise agreed within the framework of the Stockholm Conference. The “Compliance and verification” section was essentially inspired by Measure 5 of the Western “package”, and as such met with Western approval.

The Stockholm Document authorized the use of “national technical means” and introduced an on-site inspection regime.

The principle of the lawful use of national technical means for verification purposes was not entirely new: it had already featured in the 1972 SALT I agreement (Article XIII1 of the Anti-Ballistic Missile Treaty and Article VI of the Interim Agreement) and the 1979 SALT II agreement (Article XV1 of the Treaty) between the United States and the Soviet Union. However, the Stockholm Document gave it multilateral recognition, albeit less clearly and precisely than the NATO countries had proposed. Directly inspired by the wording contained in the SALT agreements, Measure 5 of the Western “package” provided that “each participating State will use available national technical means of verification in a manner consistent with generally recognized principles of international law.” The provision contained in paragraph 64 is more restrictive. It does not expressly legalize national technical means, but merely makes the simple assertion that the participating States “recognize” that national technical means “*can*” be used for the verification of CSBMs. In effect, it acknowledges the simple truth that nothing can stop countries with national technical means from using them. It does not say that such use is legal under international law, and thus falls short of the equivalent provisions contained in the SALT agreements. The reason for this was that the

N+NA countries were opposed to the explicit legalization of means that very few participating States had.¹²⁰

It is the on-site *inspection* regime that makes this section of the Document of the Stockholm Conference so important.

The Document grants each participating State “the *right* to conduct inspections on the territory of any other participating State” (§ 65), upon simple request, if it has doubts as to the conformity of the military activities carried out within the CSBMs regime (§§ 66, 70, 78). The participating State receiving the request is required to reply in the affirmative (§ 71) – even if it disputes the validity of the alleged reasons (§ 72) – at the latest within 24 hours; in any event, the team of inspectors must be permitted to enter its territory within 36 hours after the issuance of the request (§ 79).

The inspection can be done on the ground and/or from the air (§ 76). In the former case, the host State must in principle provide all-terrain vehicles, unless any other arrangement is agreed with the inspecting State and justified by the geographical features of the area to be inspected (§ 93). Similarly, in the latter case, the nationality of the aircraft used will be chosen by mutual agreement between the two countries concerned (§ 89). Although the inspecting State is allowed to make use of its own land vehicles or aircraft, it must agree to an accompanying crew from the inspected State (§ 94) and incur the inspection expenses which would otherwise be borne by the inspected State (§ 96).

No participating State is obliged to accept more than three inspections, each time carried out by a different participating State (§§ 67 and 68). It was agreed – to avoid any abuse of the regime – that there would be no inspections *between members of the same alliance*: countries belonging to the same treaty of alliance (NATO or the Warsaw Pact) would not be able to exercise their right to inspect one another.¹²¹ Furthermore, each inspection team would not include more than four inspectors at a time (§ 84).

The host State would grant the inspectors the customary diplomatic privileges and immunities (§ 85). In addition to various facilities of a material nature (§ 86), it would allow the inspection team the use of its own maps, cameras, binoculars, dictaphones and aeronautical charts (§ 87); access to appropriate telecommunications equipment, including the opportunity for continuous communication between the members of an inspection team (§ 88); to deviate from the approved flight plan, provided it did not fly over areas normally

120 The N+NA countries had, in fact, wanted this provision to be removed. Similarly, they advocated, in vain, the idea of “access to the data of surveillance satellites relevant to military activities within the framework of the Stockholm regime of CSBMs.” See Josef Schärli, “Verification of Confidence- and Security-Building Measures”, p. 2, a paper presented at the 1989 UNIDIR/IFRI symposium on conventional disarmament in Europe.

121 See Document of the Stockholm Conference on Confidence- and Security-Building Measures and Disarmament in Europe (1986), Annex IV, and the interpretative statements issued by Italy (on behalf of the NATO members), by Hungary (on behalf of the Warsaw Pact members) and by Romania, to be found in Journal No. 379/Rev.2 of 19 September 1986, p. 5.

prohibited or restricted (§ 90); to verify at any time the exact location of the aircraft provided by the inspected State during the inspection flight (§ 91); to return to the inspection zone (or “specified area”) as often as necessary (§ 92).

In short, inspectors had the right of access, entry and unobstructed survey in the area of the exercises (whether multinational or national – § 75), except for “areas or sensitive points to which access is normally denied or restricted, military and other defence installations, as well as naval vessels, military vehicles and aircraft” (§ 74).¹²² The same provision also states that the (number and extent of) restricted areas should be as limited as possible and should not be used to prevent inspection of notifiable military activities.

C. The Reaffirmation of the Principle of Refraining from the Use of Force

The Stockholm text contains a section reaffirming the principle of refraining from the use of force. It is the sole vestige of the various “declaratory” measures proposed by the Eastern countries, which were abandoned since they were unverifiable and not within the mandate. The section in question is not strictly part of the enacting terms of the Document of the Stockholm Conference; in a sense it is merely a political explanatory statement. For example, it is preceded by the following sentence: “consequently the participating States *have declared* the following” (§ 8), whereas the other sections are preceded by the statement that “the participating States *have adopted* the following measures” (§ 28).¹²³

In any event, there is no trace in this section of the loophole that existed in the original Soviet draft treaty on the non-use of force. The provisions reaffirm the existing commitments (whether in Article 2(4) of the Charter of the United Nations or Principle II of the Helsinki Decalogue) without diluting them. The Western and N+NA countries sought to make clear that the principle of refraining from the use of force applied to the mutual relations of the participating States, including *between members of the same alliance*,¹²⁴ and in “their international relations in general” (§§ 15 and 19), in a bid to preempt any acts similar to the invasions of Czechoslovakia and Afghanistan.

Moreover, the text contains a reference to the universal importance of *human rights*, as well as the dialectic between respect for these and co-operation in Europe, in accordance with Principle VII of the Helsinki Decalogue (§ 23). The idea was originally conceived by Switzerland, which fought hard to get the N+NA countries to accept it, before it was later taken up again by the Western countries. This timely reminder was justified by the interdependence of the various elements of the Helsinki programme, of which the Conference on Confidence- and Security-Building Measures and Disarmament in Europe was clearly an integral part.

122 Switzerland and Sweden requested the inclusion of “military and other defence installations”. See Schärli, “Verification of Confidence- and Security-Building Measures” (n. 120), p. 4.

123 The verb “declare” was retained at the insistence of Cyprus.

124 This specification is noteworthy: it implies the renunciation of the Brezhnev Doctrine by the new Soviet leadership.

For the record, the text also includes a provision on relations between security in Europe and security “in the Mediterranean area as a whole” (§ 24),¹²⁵ as well as a provision on the need to prevent and combat terrorism (§ 25).

The first substantive result achieved in the CSCE process following the unproductive talks in Ottawa, Bern and Budapest (1985–1986), the Document of the Stockholm Conference is both the first East-West military agreement since the “stillborn” SALT II agreements and the first agreement on arms control covering the whole of Europe.

The Stockholm Document was an unqualified success for the Western countries in general and for France in particular (as the principal author of the mandate for the Stockholm Conference), since it essentially consisted of four measures from the Western “package” (Measures 2 to 5). The Soviets refused to consider an annual exchange of structural information on the basis of a – specious – distinction between “dynamic” information (relating to notifiable activities) and “static” information (relating to structural information); only the former, they claimed, had anything to do with the objective of confidence-building. The Eastern countries also rejected the idea of a rapid communication system – like telex with “accessible” or “restricted” numbers – on the grounds of financial cost. In the end, the Document of the Stockholm Conference merely stated that diplomatic channels would be used “for communications concerning compliance and verification” (§ 97).

From the Eastern countries’ perspective, the Stockholm text could hardly be hailed as a victory for Soviet diplomacy. The provisions on refraining from the use of force, the notification of transfers of forces and constraints seem less significant than the concessions made on notification and – more importantly – inspection. Under Mikhail Gorbachev, the Soviet Union decided to compromise during the first stage of the Conference on Confidence- and Security-Building Measures and Disarmament in Europe and to save its trump cards for the next stage.

Conversely, the reaction of the N+NA countries can only be described as mixed. This is true not only of individual countries such as Switzerland (formal inclusion of the notification of mobilization exercises), Malta (inconsistency of the provisions on the Mediterranean) and Yugoslavia (watered down constraining provisions), but for the group as a whole. It lamented the fact that the Document of the Stockholm Conference had not established a *multilateral* regime for aerial inspections, in other words entrusting direct responsibility for these to third States (in this case, the Neutrals).

Following Soviet opposition to any inspection of its territory by NATO aircraft, the West German delegation suggested that all inspections by air could be entrusted to one of the neutral countries participating in the Conference. The

125 § 102 of the Document of the Stockholm Conference on Confidence- and Security-Building Measures and Disarmament in Europe (1986) also provides for the transmission of the Document to the non-European States in the Mediterranean region.

countries concerned (Austria, Finland, Sweden and Switzerland) welcomed the suggestion and immediately began studying the possible modalities.¹²⁶ However, the USSR – although seemingly interested to begin with – rejected the proposed solution.¹²⁷ The United States jettisoned the plan for inspections by the Neutrals at the request of the United Kingdom and the FRG, which did not want to jeopardize the chances of a satisfactory overall agreement. The Western argument was fundamentally sound. However, the U-turn in Washington soon came to the attention of other Stockholm Conference delegations – including the US delegation – which learned of it through the *New York Times*. Switzerland had invested a great deal in the matter, and was therefore highly critical of the inspection modalities that were finally settled upon:

In an area we regard as crucial – the verification of confidence-building measures – choosing a verification method seems to have eschewed the common regime we established among the 35 participating States, instead becoming the subject of bilateral arrangements, on a case-by-case basis, between the two parties directly concerned. We regard the solution ultimately adopted as a poor substitute for the one proposed by the Neutrals – namely an impartial inspection aircraft that all participating States can use. This proposal was rejected by some and abandoned by others who initially supported it, undermining both the credibility and effectiveness of the inspection regime we agreed upon.¹²⁸

Generally speaking, the Stockholm exercise was less than satisfying for the N+NA countries, which had struggled to reach an agreement within the group. In addition, during the final stages of the Stockholm Conference, the negotiations descended into bilateralism (USA/USSR, NATO/Warsaw Pact countries) and the N+NA countries were, in a sense, excluded from the real dialogue. This was against the rules of the game of the CSCE/Stockholm Conference, especially the rule regarding the participation of States “outside of military alliances”.

4. Implementation of the Stockholm CSBMs, 1987–1988¹²⁹

The Stockholm Document took (political) effect on 1 January 1987 and was successfully implemented with regard to annual calendars, notification, observation and inspection.

A. Annual Calendars

In accordance with the transitional arrangements set out in Annex II to the Stockholm Document, 15 calendars were exchanged between the participating

126 On these modalities, see the speech of 15 September 1986 by the head of the Swedish delegation in Working Group A and B of the Stockholm Conference.

127 The USSR was, however, apparently prepared to grant the inspecting State the authority to invite representatives of third States to participate in the inspection.

128 Closing speech by Ambassador Blaise Schenk of 22 September 1986 [in French].

129 See Victor-Yves Ghebali, “Mesures de confiance et de sécurité en Europe: le bilan de 1987”, *Défense nationale* (March 1988), pp. 91–101, and “Mesures de confiance et de sécurité en Europe: le bilan de 1988”, *ibid.* (February 1989), pp. 95–104.

States from the end of 1986: six Western calendars, six Eastern calendars, and three N+NA calendars. The six Western calendars came from the United States, the three major European members of NATO (France, United Kingdom, FRG), one northern country (Norway) and one southern country (Turkey).¹³⁰ They envisaged a total of 18 military activities. The six calendars from the Eastern countries were from all Warsaw Pact members, except for Romania.¹³¹ They announced a series of 25 military activities, nearly half of which (11) were in the USSR. There were only three calendars from the N+NA countries (Austria, Switzerland, Yugoslavia) listing five notifiable military activities, three of which were in Switzerland.¹³²

Exchanged between 27 October and 13 November 1987, the calendars of notifiable military activities for 1988 came from eight NATO countries (Belgium, Denmark, France, FRG, Netherlands, Norway, United Kingdom, United States), from all Warsaw Pact countries except for Romania (as in 1987), and from two neutral countries (Switzerland and – for the first time since the Helsinki confidence-building measures were introduced – Finland). The following table compares the situation in each year:

	1987	1988
<i>East</i>	6 calendars totalling 25 military activities	6 calendars totalling 22 military activities
<i>West</i>	6 calendars totalling 18 military activities	8 calendars totalling 14 military activities
<i>N+NA</i>	3 calendars totalling 5 military activities	2 calendars totalling 3 military activities
<i>Total</i>	15 calendars totalling 48 military activities	16 calendars totalling 39 military activities

Two new elements were introduced in 1988.

The first was the notification of what could be described as negative calendars: nearly all countries that had not planned any notifiable military activity for 1988 informed the other participating States of this, even though this was not expressly provided for in the Stockholm Document.¹³³

130 Therefore, the countries of the Atlantic Alliance that had not planned notifiable military activities in 1987 were Canada, Greece, Italy, Iceland, Luxembourg and Portugal (these countries had not issued any notifications throughout the period 1975–1986), as well as Spain, Denmark, Belgium and the Netherlands.

131 During the years 1975 to 1986, Romania had also been the only Warsaw Pact country not to carry out notifiable military activities.

132 Compared with the period 1975–1986, only Sweden had not planned notifiable military activities in 1987.

133 In fact, some military experts had criticized the absence of any communication of calendars by States that had not planned any military activity for 1987. See Josef Schärli, “Annual Calendars and Constraining Measures”, in Simon Palmisano and Heribert Fernau (eds.), *Military confidence- and security-building in Europe at present and in future: symposium May 27/28, 1988* (Vienna: Institute for Military Security Policy, Austrian National Defence Academy, 1988), p. 47.

The second was the inclusion in the annual calendar of certain *military activities below the prescribed threshold for notification* – or in other words, military activities not subject to mandatory notification. For example, while informing the participating States that its military calendar for 1988 was “negative”, Italy also disclosed – on a purely voluntary basis and without seeking to create a precedent – the information normally required under the Stockholm notification regime concerning a multinational exercise involving 9,500 troops to take place on its territory (*Display Determination 1988*).

B. Notifications and Invitations to Observers

As expected, the notifications issued in 1987 and 1988 included numerous changes compared with the calendars – for example, concerning the designation of the activity, the number of troops engaged or the area of the manoeuvres. The list of notifications and invitations to observers for the two years in question can be summarized as follows:

	1987	1988
<i>East</i>	17 notifications and 4 invitations to observers	20 notifications and 7 invitations to observers
<i>West</i>	17 notifications and 9 invitations to observers	13 notifications and 9 invitations to observers
<i>N+NA</i>	5 notifications and no invitations to observers	3 notifications and 2 invitations to observers
<i>Total</i>	39 notifications and 13 invitations to observers	36 notifications and 18 invitations to observers

a) Military activities of the Western countries

In 1987, the NATO countries notified six multinational activities (four in the FRG and two in Norway), eight national activities (in France, Turkey, the United Kingdom and the FRG) and three bilateral activities – two US-German exercises and one Franco-German exercise (*Moineau Hardi*).¹³⁴

Except for two *amphibious* exercises (*Cold Winter*: 3,600 troops; *Purple Warrior*: 6,750 troops), all the others were ground force activities. Of these, one 20-hour alert exercise was notified the day it took place. In addition, one transfer (*Compass Point 287*) and one concentration activity (*Reforger 87 Deployment*) were carried out.

134 With 75,000 troops deployed, *Moineau Hardi* was considered sufficiently exceptional to merit a joint visit on the ground by President Mitterrand and Chancellor Kohl. It was also the first time that the French Rapid Action Force (formed in 1983) crossed the Rhine with so much equipment and so far ahead of its rear, see *Le Monde*, 11 September 1987. See also Lothar Ruehl, “Franco-German Co-operation – Supportive of the Alliance and of Europe”, NATO Review (December 1987), p. 12.

Seven of the ground force activities notified involved 25,000 troops or more (the former Helsinki threshold for notification), with a special mention for *Moineau Hardi* (75,000 troops) and *Certain Strike* (78,220 troops).

Two of the activities notified by the Western countries involved numbers below the prescribed numerical threshold (12,000 troops for *Compass Point 287* and 11,650 troops for *Iron Forge*): their notification was therefore purely *voluntary*.

In accordance with the provisions of the Stockholm Document establishing the “observability” of notifiable military activities above 17,000 troops, nine of the 17 Western exercises resulted in invitations to observers from all participating States.

Lastly, the NATO countries cancelled three planned exercises, which were partly offset by two *unscheduled* exercises: *Cold Winter 87* (amphibious exercise) and the US alert activity in the FRG.

In 1988, the Western countries notified (in addition to one Italian national exercise and two US exercises in the FRG) multinational activities in Italy, Denmark, Norway and the FRG.¹³⁵ These activities comprised two *amphibious exercises* (*Dragon Hammer*: 3,015 troops; *Teamwork*: 8,420 troops) and 11 *ground force activities* – two of which were *alert exercises* notified without advance notice (*Active Edge*), and one a *concentration* movement (no designation) carried out jointly with *Certain Challenge* (a notifiable activity) and *Reforger* (a non-notifiable activity). The total number of troops engaged was significantly *higher* than in 1987: alongside seven activities involving between 14,000 and 30,000 troops and two activities involving 43,000 to 45,000 troops (*Free Lion and Caravan Guard*), two activities involved 125,150 troops (*Certain Challenge*) and 156,921 troops (*Active Edge*, in the FRG). Lastly, the list of military activities actually notified differed somewhat from the activities indicated in the annual calendars, since five of the scheduled activities were ultimately carried out below the level of 10,000 troops (so were no longer subject to notification) and four others were *unscheduled* (*Active Edge* in the FRG and in Italy; *Dragon Hammer* and the unnamed concentration movement).

b) Military activities of the Eastern countries

In 1987, the Eastern countries notified a total of 17 exercises: one multinational activity in Poland, five bilateral activities in Czechoslovakia, Hungary and the GDR (involving Soviet troops each time) and 11 national activities (nine in the USSR, one in Poland and one in Hungary). The following six points are worth noting.

Firstly, the Warsaw Pact members reduced their military activities from 25 exercises (the total announced in the calendars) to 17; the number of notifications was therefore exactly the same as the Western countries.

Secondly, they pointedly refrained from carrying out *unscheduled* activities.

¹³⁵ For more details, see Victor-Yves Ghebali, “Mesures de confiance et de sécurité en Europe: le bilan de 1988”, *Défense nationale* (February 1989), pp. 97–98.

Thirdly, the exercises carried out were all – except for one Soviet airborne manoeuvre – ground force activities. They were on a significantly smaller scale than those of the Western countries. For example, the largest manoeuvre involved 25,000 troops. It is also striking that the only multilateral activity carried out by the Warsaw Pact countries involved no more than 13,500 troops. This was no doubt a deliberate ploy to lend weight to the Soviet argument for a cap on major military manoeuvres in Europe – in reality, those of NATO members.

Fourthly, only four of the 17 notified activities were officially – given that they involved more than 17,000 troops – subject to mandatory observation. However, it appears that observation took place in conditions that were generally more satisfactory than during the period 1975–1976.

The fifth point to note is that Hungary (as in the previous decade) was the only country to make a *voluntary* notification concerning the *Bazalt 87* exercise (around 8,000 troops).

Lastly, only three of the 17 activities had an official designation (*Opal*, *Przyjazn and Bazalt*).

In 1988, the Warsaw Pact countries notified *two multinational activities* (*Druzhba and Tarcza*), *six bilateral activities* – all without a designation and conducted outside the USSR (three GDR/USSR, one Czechoslovakia/USSR, one Poland/USSR, one Hungary/USSR) – and *12 national activities*: one Czechoslovak activity (no designation), one Bulgarian activity (*Maritza*) and ten Soviet activities (no designation). It is noteworthy that these military activities – all land-based, except for one Soviet *airborne* exercise involving 3,000 troops (Odessa Military District) – were conducted with numbers ranging from 13,000 to 21,000 troops, in other words on a *smaller* scale than in 1987 (13,250 to 25,000 troops); only *seven* of these activities came under the Stockholm observation regime. As in 1987, the Eastern countries carried out *no unscheduled activities*; 16 of their 19 notified activities had no *designation*.

c) Military activities of the N+NA countries

There is not much to say about the five notifications from the N+NA countries in 1987 (one for Austria, one for Yugoslavia and three for Switzerland). The military activities in question involved between 10,000 and 15,000 troops – significantly less than in the period 1976–1986, when Switzerland organized manoeuvres involving 40,000 to 50,000 troops. None of the exercises in 1987 were therefore subject to mandatory observation in conformity with the provisions of the Stockholm Document.

In 1988, the N+NA countries notified – as announced in their respective calendars – three military activities: one Finnish exercise not subject to observation (*Tuisku*, 13,000 troops), and two observable Swiss exercises involving 23,200 troops (*Rotondo*) and around 27,000 troops (*Feuerdorn*).

C. Constraining Measures

In November 1987, under paragraph 59 of the Stockholm Document requiring the communication of the list of notifiable military activities involving more than

40,000 troops for the *second subsequent calendar year*, four countries (all from the North Atlantic Alliance – FRG, United States, France, Turkey) announced that military activities were likely to be organized on this scale in 1989: *Heeresübung 89* (multinational activity involving 55,000 troops in the FRG), *Caravan Guard 89* (US activity involving 45,000 to 60,000 troops in the FRG), *Reforger 89* (multinational activity involving 50,000 to 70,000 troops in the FRG), *Mehmetcik 89* (Turkish military activity involving more than 40,000 troops) and one French military activity (no designation, 40,000 troops).

D. On-site Inspections

The inspection procedure was set in motion five times in 1987 and 13 times in 1988:

1987

- Inspection by the USA in the USSR: Belorussia, no designation (28–30 August).
- Inspection by the UK in the GDR: no designation (10–12 September).
- Inspection by the USSR in Turkey: *Display Determination* (5–7 October).
- Inspection by the USSR in the FRG: *Iron Forge* (28–30 October).
- Inspection by the GDR in the FRG: *Sichere Festung* (11–13 November).

1988

- Inspection by the USA in Hungary: multinational activity *Barátság* (4–6 February).
 - Inspection by the USSR in Norway: *Arrowhead Express* (13–15 March).
 - Inspection by the UK in the USSR: Odessa, no designation (10–11 April).
 - Inspection by the USA in the GDR: GDR/USSR, no designation (10–12 April).
 - Inspection by Bulgaria in Italy: *Dragon Hammer* (2–4 May).
 - Inspection by the USA in Poland: Poland/USSR, no designation (25–27 July).
 - Inspection by the FRG in the GDR: no designation (12–14 August).
 - Inspection by Turkey in the USSR: Transcaucasia, no designation (23–25 August).
 - Inspection by the USSR in the FRG: *Certain Challenge*, *Landesverteidigung* and *Reforger* (7–9 September).
 - Inspection by the USSR in the UK: *Drake's Drum* (5–7 October).
 - Inspection by the USA in the USSR: Baltic, no designation (14–16 October).
 - Inspection by Poland in the FRG: *Iron Hammer* (7–9 November).
 - Inspection by the GDR in the FRG: *Sachsentrass* (28–30 November).
-

Five points should be made concerning the activities in 1987–1988.

Firstly, the inspection procedure was employed only by NATO and Warsaw Pact countries. For practical reasons (lack of adequate means) and political reasons (to avoid inspections of their own military activities), the N+NA countries were careful to maintain a low profile.

Secondly, the inspections carried out were essentially aimed at verifying the conformity of *notified but non-observable military activities* (such as *Arrowhead Express*, *Dragon Hammer* and Soviet activities in the Transcaucasian and Baltic Military Districts), and *non-notifiable military activities* (such as *Display*

Determination, Barátság, Drake's Drum and *Sachsentross*), and to a lesser extent notified and observed military activities (*Certain Challenge* and *Verteidigung*).

Thirdly, in almost all cases the direct communication between inspectors operating on the ground and those operating by air (§ 88 of the Stockholm Document) left a lot to be desired.

Fourthly, the co-operation of the inspected State was generally considered satisfactory by the inspecting State. The exemption for "restricted areas" (§ 74 of the Stockholm Document) was reasonably applied, with one exception in 1988. In this instance, during the inspection of a GDR/USSR military activity (in the GDR, no designation), US inspectors could only gain access to the manoeuvre practice area after lengthy negotiations with the Soviet liaison officers, who felt they lacked the authority to make a decision in the absence of their superiors.¹³⁶ The same inspectors were also denied access, after three hours of uncertainty, to an area where a Soviet Scud missile unit was deployed. Another area was also – temporarily – decreed a restricted area for the simple reason that an airdrop was to take place there.¹³⁷

Lastly, the inspecting State generally recognized the conformity of the activity it inspected, except for three exercises in the FRG inspected in September 1988 by the USSR (*Certain Challenge, Landesverteidigung* and *Reforger*). The Soviets alleged that there had been a violation of the Stockholm Document: firstly, because the number of troops involved in the *Certain Challenge* exercise was higher than the figure given in the prior notification of that exercise (130,000 troops, instead of 125,000 troops); secondly, because the three inspected exercises in fact constituted a single military activity; lastly, because the requirement under paragraph 60 of the Stockholm Document (prohibiting participating States from conducting a notifiable military activity involving more than 75,000 troops without announcing it in an annual calendar two years in advance) had not been met, since the FRG had not included *Certain Challenge* in the calendar for 1986. In response to these allegations, the Western countries argued that the number of troops involved in *Certain Challenge* did not exceed those mentioned in the notification; that the three exercises were simultaneous activities but were each carried out under a separate command; that there had been no need to include *Certain Challenge* in the FRG calendar for 1986 for the simple reason that the restriction imposed under paragraph 60 relates to carrying out activities involving more than 75,000 troops, and not to participating in those activities with fewer troops.¹³⁸

136 The inspectors stated in their report that "any significant delay in permitting inspectors' access to an entire training area creates a de facto restricted area which, in our view, is inconsistent with paragraph 74."

137 In this regard, the inspectors noted: "as parachute assaults which exceed agreed thresholds are activities subject to prior notification, we trust that this sets no precedent for future practice in the conduct of inspections. Such a precedent would contradict the Stockholm Document's stipulation that restricted areas will not be employed in a way inconsistent with the agreed provisions on inspection."

138 For more details on the problems involved in implementing the inspection regime, see Schärli, "Verification of Confidence- and Security-Building Measures" (n. 120), pp. 9ff.

III. The Vienna Provisions: the CSCE Evens the Score with the MBFR Talks

The Concluding Document of the Vienna Follow-up Meeting (1989) contains a dual mandate: one for the Conference on Confidence- and Security-Building Measures and Disarmament in Europe and the other for the Negotiation on Conventional Armed Forces in Europe linked to the CSCE. This section will examine the military question as it was presented in Vienna, before looking at the respective mandates of the two negotiations in question.

1. The Vienna Follow-up Meeting and the Military Question

In military terms, the fundamental question on the agenda in Vienna was what the follow-up should be to the agreement reached in Stockholm. In other words, it was case of deciding whether to proceed to the second phase of the Conference (disarmament) and defining the practical modalities.

Of the three groups within the CSCE, only the Eastern countries disclosed their general position from the outset. On 8 December 1986, Poland formally proposed that the mandate for the Conference on Confidence- and Security-Building Measures and Disarmament in Europe should be supplemented “so that it would cover ... consideration and taking of steps to reduce armed forces and conventional armaments in Europe,” together with consideration of CSBMs to facilitate the achievement of this goal.¹³⁹ This somewhat vague proposal suggested that the Soviet bloc was considering abolishing the MBFR talks, transferring the whole issue of conventional disarmament to the Conference on Confidence- and Security-Building Measures and Disarmament in Europe and developing CSBMs. The communiqué issued at the end of the meeting of the Warsaw Pact Political Consultative Committee in East Berlin on 29 May 1987 showed in fact that the Eastern countries were quite flexible on the question of the negotiating framework: the document stated that although the CSCE was the best forum to deal with disarmament, other variants, including “the convening of a special forum”, remained perfectly feasible.

It was months before NATO members responded, the French and Americans being deeply divided on the issue. The United States called for two *separate* negotiations, one on CSBMs (among CSCE participating States) and the other on “conventional stability” (between the two blocs). It maintained that it would be unrealistic to negotiate an agreement on conventional forces with the participation of the N+NA countries, some of which might be tempted into “consensus blackmail” to win support for more extremist proposals. The “Maltese syndrome” was only one part of the problem. In reality, sidelining the N+NA countries, contrary to the CSCE’s rules of procedure, was intended to encourage a bloc negotiation strictly based on alliance – in effect enlarged MBFR talks. Yet this idea had been consistently rejected by France since 1973. French diplomats also cautioned the nation’s allies not to casually ignore the traditionally useful and

139 CSCE/WT.1 (8 December 1986).

effective support of the N+NA countries, which would be tantamount to depriving the Helsinki process of one of the most reliable elements of its political dynamism. At the same time, to divest the Conference on Confidence- and Security-Building Measures and Disarmament in Europe of the disarmament question would be to weaken the CSCE itself, given that its programme of work was based on the linkages between all its components.

The N+NA countries were similarly divided. For Sweden, Yugoslavia, Finland, Malta, Cyprus and, to some extent, Austria, the outcome of the Stockholm Conference proved that involving all 35 participating States was a sound approach which deserved to be continued and extended. Any “demilitarization” of the CSCE would not only constitute a return to the days of the Helsinki Final Act (1975), but would be a violation of the Madrid mandate, which officially linked disarmament to the CSBMs. In any event, the full participation of the N+NA countries was necessary to ensure the indivisibility of security in Europe and the equal rights of all European nations. Switzerland did not subscribe to this view, which it saw as overly “fetishistic” towards the CSCE. As a purely political forum, the CSCE hardly seemed the appropriate venue for the conclusion of agreements whose credibility relied on commitments that were legal in nature. In addition, given their limited and purely defensive military potential, it did not believe that the N+NA countries should have to disarm at the same time and according to the same criteria as the NATO and Warsaw Pact countries. As a result, it would have been inappropriate to take part in a negotiation that conferred rights on them without imposing any obligations. For Switzerland, the principle of two separate negotiations was acceptable, provided that a system of information and consultation was established to safeguard the legitimate interests of the N+NA countries.

Reconciling the French and American positions was a laborious process. With the Brussels Declaration on Conventional Arms Control, issued by the North Atlantic Council on 11 December 1986, France accepted the principle of two separate negotiations; it also agreed to join its allies in direct talks with the Warsaw Pact countries. These informal negotiations involving 23 States, which began on 17 February 1987 in Vienna, *on the fringes of the CSCE Follow-up Meeting*, were of a factfinding nature. As France had requested, each State was able to express its views individually. The talks remained at a standstill until the Statement on the Ministerial Meeting of the North Atlantic Council of 12 June 1987 was issued, referring to “cohesion” among NATO members. The internal negotiations dragged on until a text proposing *two separate but interdependent mandates* was officially submitted to the CSCE on 10 July.¹⁴⁰

The first mandate proposed a negotiation among all 35 participating States. This would tackle the development of CSBMs on the basis of the Madrid criteria and with a view to establishing a verification regime that included “arrangements for comprehensive exchanges of information” (a measure rejected by the Eastern countries during the Stockholm Conference) and “on-site inspection going

140 See CSCE/WT.129 (10 July 1987).

beyond those provided for in the Document of the Stockholm Conference.” The second mandate envisaged a negotiation among 23 of the participating States (“between the countries whose forces bear most immediately upon the essential security relationship in Europe”) on conventional stability.

As requested by the Americans, the Western countries thus adopted the principle of two different negotiations. However, to placate the French, they acknowledged at the same time that this would be part of the CSCE process. According to the Western proposal, the two negotiations would be held at the same time and in the same venue. Above all, it confirmed that the 23 States would arrange *periodically* for meetings at the start of each session with the 12 other CSCE participating States (the nine N+NA countries, Ireland, the Holy See and Monaco) to *exchange views* and *information*. The negotiating mandate would feature in the Journal of the Vienna Meeting;¹⁴¹ the outcome of the negotiation among the 23 States would be transmitted for simple *information*, and not for *assessment*, to the next CSCE Follow-up Meeting.

Since the Eastern and Western countries had tacitly agreed to a twin-track negotiation, meaning that conventional stability would be negotiated outside the Conference on Confidence- and Security-Building Measures and Disarmament in Europe, the N+NA countries were in effect presented with a *fait accompli*. The group was left with only one logical option: to demand that the future negotiations among the 23 States and 35 States be as closely linked as possible. At the ministerial meeting in Limassol in May 1987, they called for a proper structure which, *within the institutional framework of the CSCE*, would safeguard their national security interests. At the Vienna Meeting, Sweden, Yugoslavia and Cyprus submitted various proposals providing for access to official meetings (or participation in the negotiations and the presentation of proposals when their interests were directly at stake), the organization of exchanges of views and information at least once a month within the Conference on Confidence- and Security-Building Measures and Disarmament in Europe (or within the framework of a special advisory body), the inclusion of the mandate for negotiations within the 23State format in the Concluding Document of the Vienna Follow-up Meeting, and an assessment of the progress made on disarmament by the Conference on Confidence- and Security-Building Measures and Disarmament in Europe or by a CSCE Follow-up Meeting.¹⁴²

2. Vienna's Dual Mandate

The military chapter of the Vienna Concluding Document (“Confidence- and Security-building Measures and Certain Aspects of Security and Disarmament in Europe”) is complex. There are five sections devoted to the assessment of the

141 But this was not the case in the Vienna Concluding Document (1989), which contained only a *summary* of the mandate.

142 See the proposals by Sweden: CSCE/WT.131 (31 July 1987); Yugoslavia: CSCE/WT.133 (22 September 1987); and Cyprus: CSCE/WT.134 (22 September 1987).

progress achieved at the Stockholm Conference, the announcement of “new efforts” for security and disarmament,¹⁴³ the opening of a Negotiation on Conventional Armed Forces in Europe, and the principle of meetings to exchange views and information on the course of the Negotiation on Conventional Armed Forces in Europe.¹⁴⁴ Added to this is the text of the Mandate for Negotiation on Conventional Armed Forces in Europe – which forms Annex III to the Vienna Concluding Document¹⁴⁵ – and four statements inserted in the Journal of the 162nd plenary session of the Vienna Meeting.¹⁴⁶

The Vienna Concluding Document welcomes the CSBMs regime adopted in Stockholm and its initial implementation (1987–1988).¹⁴⁷ Reaffirming the validity of the Madrid mandate, it expresses the determination of the participating States to continue the work of the Conference on Confidence- and Security-Building Measures and Disarmament in Europe “with a view to achieving further progress towards its aim.”¹⁴⁸ However, given that the arrangements finalized in Vienna did not fully address the Madrid issue, the participating States referred to these arrangements as “*New efforts for security and disarmament in Europe*”. Indeed, the Vienna Concluding Document establishes two negotiating structures – the Negotiations on CSBMs and the Negotiation on Conventional Armed Forces in Europe.

A. Stage 1a of the Conference on Confidence- and Security-Building Measures and Disarmament in Europe

The Vienna Concluding Document stated that the Conference on Confidence- and Security-Building Measures and Disarmament in Europe would resume in Vienna, “commencing in the week beginning on 6 March 1989,”¹⁴⁹ to “build upon” and “expand” the results achieved in Stockholm, in other words to elaborate, on the basis of the Madrid criteria, *a new set of mutually complementary CSBMs*.¹⁵⁰ This exercise was not the second stage of the Stockholm Conference, but another

143 This section was itself supplemented by the text of Annex II to the Vienna Concluding Document (1989).

144 This section was itself supplemented by the text of Annex IV to the Vienna Concluding Document (1989).

145 The Mandate for Negotiation on Conventional Armed Forces in Europe itself contains two annexes, followed by five unilateral statements.

146 These comprised two statements issued on behalf of the Warsaw Pact countries and the Atlantic Alliance countries, and two other statements by the Chairman of the meeting, see Journal No. 397 of 15 January 1989, pp. 5–6.

147 See Vienna Follow-up Meeting (1989), Concluding Document, *Stockholm Conference: Assessment of progress achieved*, penultimate §.

148 *Ibid.*, final §.

149 For the meaning of this phrase in the Vienna Concluding Document (1989), Confidence- and Security-Building Measures and Certain Aspects of Security and Disarmament in Europe, *Negotiations on Confidence- and Security-Building Measures*, § 4, see below on in this chapter, p. 180 (n. 173).

150 *Ibid.*, §§ 1 and 2.

Stockholm: an intermediate stage that could be called “stage 1a”. This was to take place along the lines of the Stockholm Conference procedure.¹⁵¹ The progress achieved in the negotiations would be assessed at the fourth CSCE Follow-up Meeting in Helsinki, in 1992.¹⁵²

Following the adoption of the Document of the Stockholm Conference, there was reason to question whether the CSBMs had in fact reached their natural limits, at least for a time. There was no suggestion then that the various measures rejected in Stockholm would sooner or later be negotiable.¹⁵³ However, this idea ceased to hold water after the Eastern countries published two key documents – the Warsaw Treaty Statement about Talks on Reduction in Armed Forces and Conventional Armaments in Europe (16 July 1988) and, more importantly, the Budapest Statement on Confidence- and Security-Building Measures and Disarmament in Europe (28 October 1988).

The interesting thing about these documents is that they highlight the change in Eastern attitudes towards the concept of CBMs (formerly treated with suspicion) and hint at a reconciliation with Western ideas. The Warsaw Pact countries now went further than recognizing the existence of a close correlation between conventional disarmament and CSBMs: they accepted that these must lessen the risk of surprise attack and increase transparency, openness and predictability in the military field.¹⁵⁴ They voiced their support both for the development of existing CSBMs and for the elaboration of new CSBMs within the framework of the Conference on Confidence- and Security-Building Measures and Disarmament in Europe. Admittedly, a whole series of their proposals clashed with Western interests – particularly on constraints¹⁵⁵ and the extension of the Stockholm regime to North America, as well as to independent naval and air activities.¹⁵⁶ However, other ideas, such as the regular exchange of structural military information, the establishment of rapid means of communication among participating States

151 *Ibid.*, § 3. See also Vienna Follow-up Meeting (1989): Concluding Document, Annex II.

152 *Ibid.*, § 5.

153 See Victor-Yves Ghebali, “Mesures de confiance et de sécurité en Europe: le bilan de 1987”, *Défense nationale* (March 1988), p. 101.

154 Warsaw Statement, penultimate §. See Conference on Disarmament: CD/842 (16 July 1988), p. 13.

155 The Budapest Statement recommends limiting the duration and frequency of military activities in general, limiting the numerical size and number of military activities conducted simultaneously, as well as troop movements and alert exercises, or prohibiting military activities on a certain scale and those carried out at the borders of neighbouring countries. See Conference on Disarmament: CD/876 (31 October 1988), p. 5.

156 See CD/876, “New confidence and security measures”, p. 5. At the end of the Vienna Meeting, Poland reaffirmed the willingness of the Eastern countries to raise these issues at the next stage of the Conference on Confidence- and Security-Building Measures and Disarmament in Europe. The countries of the Atlantic Alliance promptly responded, through Denmark, that their interpretation of the Madrid mandate on these questions had not changed. See Journal No. 397 of 15 January 1989, p. 5.

and the extension of the inspection procedure¹⁵⁷ accorded with the general interests of the Western countries. Given these areas of convergence (which had previously been inconceivable), the outlook for the Conference on Confidence- and Security-Building Measures and Disarmament in Europe seemed brighter than it had in 1984.

B. Negotiation on Conventional Armed Forces in Europe

The Negotiation on Conventional Armed Forces in Europe was a sort of restricted CSCE, an exercise for the 23 CSCE participating States that belonged to a military alliance (the 16 members of the North Atlantic Treaty Organization and the seven Warsaw Pact members).¹⁵⁸ Its links with the CSCE and the key provisions of its mandate are examined below.

a) The link between the CSCE and the Negotiation on Conventional Armed Forces in Europe

The Negotiation on Conventional Armed Forces in Europe was characterized both by its functional autonomy and by its various links to the CSCE.

The Negotiation was completely *autonomous* with regard to its agenda, programme of work, rules of procedure and so on.¹⁵⁹ Likewise, “the results of the negotiation will be determined only by the participants.”¹⁶⁰ However, it was not independent of the CSCE, as the United States would have liked.

Firstly, there was the negotiating mandate. Although the Americans had hoped that the Negotiation on Conventional Armed Forces in Europe would simply be recorded in the Meeting’s Journal, it was in fact an integral part of the Vienna Concluding Document (Annex III). The preamble of the text underscores this link: it recalls that the 23 are participants in the CSCE,¹⁶¹ evokes Principle I of the Decalogue granting the participating States the right to be or not to be a party to treaties of alliance,¹⁶² and expressly states that the Negotiation on Conventional Armed Forces in Europe is “*in the framework of the CSCE process.*”¹⁶³

157 See CD/876, “Measures to increase the openness and predictability of military activities: inspection, exchange of information and consultations”, p. 6.

158 Vienna Follow-up Meeting (1989): Concluding Document, Annex III: Mandate for Negotiation on Conventional Armed Forces in Europe, § 4. The mandate expressly cites the North Atlantic Alliance and the Warsaw Treaty (Warsaw Pact), but also, at France’s request, the “[Treaty] of Brussels (1948)” on which the WEU was based.

159 See Vienna Follow-up Meeting (1989): Concluding Document, Confidence- and Security-Building Measures and Certain Aspects of Security and Disarmament in Europe, *Negotiation on Conventional Armed Forces in Europe*, § 1.

160 Vienna Follow-up Meeting (1989): Concluding Document, Annex III: Mandate for Negotiation on Conventional Armed Forces in Europe, “Procedures and Other Arrangements”, § 7.

161 Vienna Follow-up Meeting (1989): Concluding Document, Annex III: Mandate for Negotiation on Conventional Armed Forces in Europe, preamble, §5.

162 *Ibid.*, § 6.

163 *Ibid.*, § 7.

Secondly, it was agreed that the Negotiation on Conventional Armed Forces in Europe would commence at the same time as the Negotiations on CSBMs “in the week beginning on 6 March 1989”¹⁶⁴ and that they would take place in the same conference facility, the Vienna Hofburg.¹⁶⁵

Thirdly, an *information link* institutionalized the relationship between the two negotiations. It was proposed that the 23 States would hold meetings with the 12 other CSCE participating States to exchange views and substantive information concerning the course of the Negotiation on Conventional Armed Forces in Europe.¹⁶⁶ These meetings, to be chaired by each of the 35 CSCE participating States in turn,¹⁶⁷ would be held at least twice during each session.¹⁶⁸ The 23 States also agreed to “take into consideration” the views expressed by the 12 other participating States concerning their security interests.¹⁶⁹ From these provisions, it was clear that the joint meetings of the 35 States would not be the purely formal exercise that the Americans had wanted.¹⁷⁰

Fourthly, it was proposed that the Negotiation on Conventional Armed Forces in Europe would inform the next CSCE Follow-up Meeting (Helsinki, 1992) of the

164 The two sets of negotiations were inaugurated by a meeting of the 35 States, held at the level of Foreign Ministers, from 6 to 8 March 1989. The working sessions of each of the two sets of negotiations began separately on 9 March.

165 The United States, which had requested different buildings, obtained *separate facilities* for the two sets of negotiations.

166 See Vienna Follow-up Meeting (1989): Concluding Document, Confidence- and Security-Building Measures, *Meetings in order to Exchange Views and Information concerning the course of the Negotiation on Conventional Armed Forces in Europe* and Annex IV to the same Document, which sets out its practical arrangements. See also the Mandate for Negotiation on Conventional Armed Forces in Europe, “Procedures and Other Arrangements”, § 2 and Annex 2 to the Mandate. The Vienna Concluding Document and the Mandate for Negotiation on Conventional Armed Forces in Europe also expressly provide for bilateral exchanges of information.

167 See the Mandate for Negotiation on Conventional Armed Forces in Europe, Annex 2, § 4 and Vienna Concluding Document (1989), Annex IV, § 4.

168 See Vienna Follow-up Meeting (1989): Concluding Document, Confidence- and Security-Building Measures, *Meetings in order to Exchange Views and Information concerning the course of the Negotiation on Conventional Armed Forces in Europe*, § 2 and the Mandate for Negotiation on Conventional Armed Forces in Europe, “Procedures and Other Arrangements”, § 2. It was understood (as the United States wanted) that these meetings would “not be extended beyond the day on which they convene,” see Vienna Concluding Document (1989), Annex IV, § 3. But it was also stipulated, at the instigation of France, which wanted to prevent any circumvention, that the 23 States and 35 States would establish the timetables for their respective work “taking due account of the practical needs of all delegations” (Journal No. 397 of 15 January 1989, p. 6). See also the Mandate for Negotiation on Conventional Armed Forces in Europe, Annex 1, Section II, § 3.

169 See Vienna Follow-up Meeting (1989): Concluding Document, Confidence- and Security-Building Measures..., *Meetings in order to Exchange Views and Information concerning the course of the Negotiation on Conventional Armed Forces in Europe*, § 5 and the Mandate for Negotiation on Conventional Armed Forces in Europe, “Procedures and Other Arrangements”, § 3.

170 According to the Vienna Concluding Document (1989), Annex IV, § 2, the first of these joint working meetings would take place on 21 March 1989.

progress achieved for the purpose of a simple exchange of views¹⁷¹ – the Americans being opposed to any idea of an assessment. Nevertheless, the Helsinki Meeting was entitled to review the link between the CSCE and the Negotiation on Conventional Armed Forces in Europe.¹⁷² More importantly, the Vienna Concluding Document implied that the doubletrack approach established in 1989 was only a temporary arrangement. In other words, the 35 States had not completely abandoned their disarmament goals: “a future CSCE follow-up meeting will consider ways and appropriate means for the participating States to continue their efforts for security and disarmament in Europe, *including the question of supplementing the Madrid mandate* for the next stage of the Conference on Confidence- and Security-Building Measures and Disarmament in Europe.”¹⁷³ It was even specified, at France’s behest, that the Helsinki Meeting in 1992 would be able to exercise this option.¹⁷⁴ A general review of the Mandate for Negotiation on Conventional Armed Forces in Europe therefore seemed possible.¹⁷⁵

The final wording of the provisions on the link with the CSCE resulted in lengthy and intense bargaining between France and the United States. The N+NA countries applied external pressure on all the NATO members while the Eastern countries looked on. Although France and the N+NA countries shared some of the same goals, their fundamental interests differed: on one side, it was a question of principle over the outright rejection of a solution that would foster a bloc approach within the “enlarged MBFR”; on the other, it boiled down to the fundamental issue of information and its inherent challenges. Ultimately French persistence paid off: the transparency, handling and review of the two negotiations were finally linked.¹⁷⁶

171 See Vienna Follow-up Meeting (1989): Concluding Document, Confidence- and Security-Building Measures..., *Negotiation on Conventional Armed Forces in Europe*, § 3 and the Mandate for Negotiation on Conventional Armed Forces in Europe, “Procedures and Other Arrangements”, § 5. The latter provision stipulates at France’s request that, in the light of the circumstances at the time, the 23 States will provide in their timetable for a temporary suspension necessary for the Helsinki exchange of views.

172 See Vienna Follow-up Meeting (1989): Concluding Document, Confidence- and Security-Building Measures..., *Meetings in order to Exchange Views and Information concerning the course of the Negotiation on Conventional Armed Forces in Europe*, § 7..

173 *Ibid.*, § 8.

174 See the statement by the Chairman of the 162nd plenary meeting in Journal No. 397 of 15 January 1989, p. 6.

175 Vienna Follow-up Meeting (1989): Concluding Document, Annex III: Mandate for Negotiation on Conventional Armed Forces in Europe, “Procedures and Other Arrangements”, § 7. The mandate clearly stipulates that sole responsibility for modifying it rests with the 23 States, but at the same time specifies “whether they modify it themselves or concur in its modification at a future CSCE Follow-up Meeting.” At the closing of the Vienna Meeting, some neutral countries (Switzerland and Sweden) wanted to emphasize that the CSCE/CFE dichotomy was, in their view, merely *temporary*. See CSCE/WT/VR.10 (17 January 1989), pp. 14–15 and CSCE/WT/VR.12 (18 January 1989), p. 33.

176 France and the United States reached an agreement on the “link” in June 1987 (Reykjavik Declaration), but, in view of the Americans’ interpretation of this ambiguous compromise, France decided (at the highest level of the State) to reopen the debate in November 1988. A new compromise,

*b) Provisions of the mandate for the Negotiation on Conventional Armed Forces in Europe*¹⁷⁷

The title of the negotiation includes neither the Western term “stability”, nor the word “reduction”, which was the preference of the Eastern countries. Nevertheless, *stability* was retained as one of the objectives of the negotiation and *reduction* as a possible means of achieving this.¹⁷⁸

The mandate lays down the three fundamental objectives advanced by the Western countries: the establishment of a stable and secure balance of forces at lower levels, the elimination of disparities prejudicial to stability and security, and the elimination, as a matter of priority, of the capability for launching a surprise attack and for initiating large scale offensive action.¹⁷⁹ On the subject of disparities, it states that measures should be pursued “for the whole area of application with provisions, if and where appropriate, for regional differentiation to redress disparities within the area of application and in a way which precludes circumvention.”¹⁸⁰ This meant that the elimination of asymmetries had to be negotiated both on a global and on a subregional level, so that no improvement introduced at the central level would later be offset by a new local disparity.¹⁸¹ In short, the Warsaw Pact countries eventually came around to the Western view that “military forces should only exist to prevent war and to ensure self-defence, not for the purpose of initiating aggression and not for the purposes of political or military intimidation.”¹⁸²

As for the *methods* envisaged for achieving the objectives of the negotiation, the mandate suggests a list of militarily significant measures directly inspired by the experience of the MBFR talks: reductions, limitations, redeployment provisions, and related stabilization measures.¹⁸³

The negotiation would focus on the armaments and equipment of conventional *ground forces*.¹⁸⁴ As the Western countries had hoped, the mandate specifically

largely favourable to the French argument, was reached in December and recorded in the mandate.

177 The mandate was drawn up by the 23 States at informal meetings that took place on the margins of the Vienna Meeting, from 17 February 1987 to 19 January 1989. For an analysis of the draft mandates proposed by the USSR on 22 June 1987 and by the Western countries on 27 July 1987, see Victor-Yves Ghebali, “Les négociations sur le désarmement conventionnel en Europe: le bilan de 1987”, *Arès* (1988/1), pp. 195–204.

178 See Vienna Follow-up Meeting (1989): Concluding Document, Annex III: Mandate for Negotiation on Conventional Armed Forces, “Objectives and Methods”, §§ 1 and 2.

179 See *ibid.*, § 1.

180 *Ibid.*, § 3.

181 For the Turkish point of view on this issue, see CSCE/WT/VR.9 (17 January 1989), p. 11.

182 Atlantic Declaration in Brussels of 11 December 1987, § 7.

183 See Vienna Follow-up Meeting (1989): Concluding Document, Annex III: Mandate for Negotiation on Conventional Armed Forces, “Objectives and Methods”, § 2.

184 The title of the mandate includes an asterisk stipulating that “conventional Armed Forces include conventional armaments and equipment.” “Scope and Area of Application”, § 1 adds that conventional armed forces “based on land” are involved.

excluded *nuclear weapons*,¹⁸⁵ as well as *naval forces* and *chemical weapons*.¹⁸⁶ As the Eastern countries had requested, it did not exclude systems with *dual capabilities* – although neither did it single them out in a separate category.¹⁸⁷

On *verification*, the mandate established the principle of an “effective and strict” regime, including some on-site *inspections* as a matter of right¹⁸⁸ and *exchanges of information* “in sufficient detail so as to allow a meaningful comparison of the capabilities of the forces involved”¹⁸⁹ – the modalities of which would be determined during the Negotiation on Conventional Armed Forces in Europe.¹⁹⁰

The *area of application* defined by the mandate was significantly larger than the one adopted for the MBFR (Central Europe). Like the Conference on Confidence- and Security-Building Measures and Disarmament in Europe, it extended *from the Atlantic to the Urals* – but also included all *European island territories*: the Faroe Islands (Denmark), the Canary Islands (Spain), the Svalbard archipelago including Bear Island (Norway), the Azores and Madeira (Portugal), Franz Josef Land and Novaya Zemlya (USSR).¹⁹¹

The inclusion of equivalent parts of the Soviet Union and Turkey in Asia was particularly laborious. The Soviets eventually accepted the solution put forward by the Western countries, covering its military districts located *to the West of the Ural River and the Caspian Sea*.¹⁹² Initially, they had offered to include Transcaucasia in exchange for all of Turkey’s territory. However, this proposal proved unacceptable to the Turks, who wanted the strip of territory facing Iran, Iraq and more importantly Syria to be exempt from any international supervision. The Turkish Government’s demands meant that the zone excluded the Mediterranean port of Mersin – the departure and supply point for the Turkish troops that had occupied Northern Cyprus since 1974. To safeguard the interests of Cyprus (which, as an N+NA country, was not involved in the elaboration of the mandate),

185 “Scope and Area of Application”, § 2, second indent: “Nuclear weapons will not be a subject of this negotiation.”

186 *Ibid.*, § 4: “Naval forces and chemical weapons will not be addressed.”

187 *Ibid.*, § 2: “The existence of multiple capabilities will not be a criterion for modifying the scope of the negotiation.” The first indent of the same paragraph specifies that “no conventional armaments or equipment will be excluded from the subject of the negotiation because they may have other capabilities in addition to conventional ones. Such armaments or equipment will not be singled out in a separate category.” This formula allows for the inclusion of dual capability weapons, but without opening the way to a negotiation on shortrange nuclear weapons (strategic nuclear forces), which the Western countries were considering upgrading.

188 Vienna Follow-up Meeting (1989): Concluding Document, Annex III: Mandate for Negotiation on Conventional Armed Forces in Europe, “Exchange of Information and Verification”, § 1.

189 *Ibid.*, § 2. Exchanges of information of the same type will also serve to verify compliance with the provisions of the future agreement concluded as part of the Negotiation on Conventional Armed Forces in Europe.

190 *Ibid.*, § 3.

191 See the text of the unilateral statements (issued by Denmark, Norway, Portugal, Spain and the USSR) after Annex 2 to the mandate.

192 Vienna Follow-up Meeting (1989): Concluding Document, Annex III: Mandate for Negotiation on Conventional Armed Forces in Europe, “Scope and Area of Application”, § 5.

Greece opposed the exclusion of Mersin.¹⁹³ Awkwardly coinciding with the final days of the negotiation, the dispute between Greece and Turkey was resolved on 14 January by an ingenious provision stipulating that “in the case of Turkey the area of application includes the territory of Turkey north and west of the following line: the point of intersection of the border with the 39th parallel, Muradiye, Patnos, Karayazi, Tekman, Kemaliye, Feke, Ceyhan, Dogankent, Gozne *and thence to the sea.*”¹⁹⁴ Turkey initially objected to this wording (which Greece had accepted), but was persuaded following written assurances from several powers (the United States, the United Kingdom, the FRG and the USSR) that Mersin would be excluded from the area of application of the mandate.

Lastly, the mandate stated that the agreements reached during the Negotiation on Conventional Armed Forces in Europe would be “internationally binding”,¹⁹⁵ without elaborating on their legal or political nature. This (deliberate) vagueness implied that the nature of the future commitments would be established during the negotiation.

The dual mandate proposed by the Vienna Concluding Document represented a step change in the negotiations, perhaps even more so than in Madrid in 1983. In a sense, the 1989 arrangements redressed the balance following the 1973 solution, which had assigned the entire question of conventional disarmament to the MBFR talks, leaving the CSCE with only the CBMs from the Helsinki regime.

Fundamentally questionable, this dichotomy was undermined by the success of the Stockholm Conference, in stark contrast to the torpid and unproductive round of MBFR talks in 1986. The CSCE was vindicated when a terse press release announced that the negotiations had run aground on 2 February 1989.¹⁹⁶

193 The problem of Mersin was not new: it had already been raised by Cyprus in 1975, when the Helsinki CBMs regime was adopted, see this chapter, pp. 131.

194 Vienna Follow-up Meeting (1989): Concluding Document, Annex III: Mandate for Negotiation on Conventional Armed Forces in Europe, “Scope and Area of Application”, § 5.

195 Vienna Follow-up Meeting (1989): Concluding Document, Annex III: Mandate for Negotiation on Conventional Armed Forces in Europe, “Character of Agreements”.

196 It should be added that, thanks to France’s efforts, the rules of procedure of the Negotiation on Conventional Armed Forces in Europe are closer to those of the CSCE than those of the MBFR talks. Thus, for example, the 23 States participate in negotiations “as sovereign and independent States and on the basis of full equality”. The French version of the text is a direct quotation from § 65 of the Final Recommendations of the Helsinki Consultations (1973) whereas the English version has slightly different wording.

ANNEXES

TABLE IV

Implementation of the Helsinki CBMs, 1975–1986**A. NATO countries**

Period of the manoeuvre	Notifying country or countries	Name of the manoeuvre	Scale of the manoeuvre (number of troops)	Advance notification period (days)	Invitation to observers
15–19.9.75	FRG	<i>Große Rochade</i>	68,000	23	–
12.–28.9.75	Turkey	<i>Deep Express</i>	18,000	21	–
3.–7.10.75	Norway	<i>Batten Bolt</i>	8,000	24	–
14.–23.10.75	United States	<i>Certain Trek</i>	57,000	34	+
28.10.–6.11.75	Netherlands	<i>Pantersprong</i>	10,000	14	–
Oct.–Nov. 75	United States Norway	<i>Reforger 75</i>	53,000	21	–
24.2.–23.3.76	Norway	<i>Atlas Express</i>	17,000	21	–
6.–10.9.76	FRG	<i>Großer Bär</i>	50,000	21	+
7.–11.9.76	United States	<i>Gordian Shield</i>	34,000	21	–
10.–24.9.76	Norway	<i>Teamwork</i>	13,500	21	+
13.–17.9.76	United States	<i>Lares Team</i>	44,000	21	+
11.–21.10.76	Denmark/FRG	<i>Bonded Item</i>	11,000	21	–
2.–11.11.76	United Kingdom	<i>Spearpoint</i>	18,000	23	+
1.–8.5.77	United States	<i>Certain Fighter</i>	24,000	23	–
12.–13.9.77	Belgium	<i>Blue Fox</i>	24,500	21	–
12.–15.9.77	FRG	<i>Standhafte Chatten</i>	38,000	21	+
13.–23.9.77	United States	<i>Carbon Edge</i>	58,700	21	+
19.–23.9.77	Denmark	<i>Arrow Express</i>	16,000	21	+
24.9.–1.9.77	Netherlands	<i>Interaction</i>	12,000	21	+
8.–15.10.77	Spain (*)	<i>Podenco</i>	8,000	53	+
13.–14.10.77	Turkey	<i>Tayfun 77</i>	15,000	30	+
1.–6.3.78	Norway	<i>Arctic Express</i>	15,300	30	+
17.–21.9.78	FRG	<i>Blaue Donau</i>	46,000	24	+
18.–28.9.78	United States	<i>Certain Shield</i>	56,000	24	+
18.–29.9.78	Netherlands	<i>Saxon Drive</i>	32,500	24	+
19.–22.9.78	FRG	<i>Bold Guard</i>	65,000	24	–
22.–26.9.78	Norway	<i>Black Bear</i>	8,200	30	–
30.1.–6.2.79	United States	<i>Certain Sentinel</i>	66,000	25	+

Period of the manoeuvre	Notifying country or countries	Name of the manoeuvre	Scale of the manoeuvre (number of troops)	Advance notification period (days)	Invitation to observers
17.–22.3.79	Norway	<i>Cold Winter 79</i>	10,000	30	–
10.–21.9.79	United States	<i>Constant Enforcer</i>	29,000	21	+
17.–21.9.79	FRG	<i>Harte Faust</i>	60,000	21	+
28.9.–14.10.79	Turkey	<i>Determination 79</i>	18,000	32	–
1.–7.10.79	France	<i>Saône 79</i>	16,000	21	+
15.–27.10.79	United Kingdom	<i>Keystone</i>	18,000	21	–
14.–19.3.80	Norway	<i>Anorak Express 80</i>	18,200	31	–
15.–19.9.80	FRG	<i>St Georg</i>	44,000	24	+
15.–24.9.80	United States	<i>Certain Rampart</i>	40,000	21	+
15.–25.9.80	United Kingdom	<i>Spearpoint</i>	90,000	24	+
18.–24.9.80	Norway	<i>Teamwork 80</i>	16,800	28	+
6.–10.10.80	France	<i>Marne 80</i>	17,000	10	–
13.–18.3.81	Norway	<i>Cold Winter</i>	11,000	21	–
14.–18.9.81	FRG	<i>Scharfe Klinge</i>	48,000	21	+
14.–23.9.81	United States/FRG	<i>Certain Encounter</i>	70,000	24	+
18.–23.9.81	Norway	<i>Barfrost</i>	9,000	21	–
20.–25.9.81	Denmark	<i>Amber Express</i>	22,000	21	+
14.–23.10.81	Belgium/FRG	<i>Cross Fire</i>	21,000	21	+
26.10.–4.11.81	Spain (*)	<i>Crisex 81</i>	32,000	25	+
Oct-81	United Kingdom	<i>Red Claymore</i>	23,000	21	–
Oct-81	France	<i>Farfadet</i>	4,000	14	–
12.–17.3.82	Norway	<i>Alloy Express</i>	14,200	30	–
20.–24.9.82	Denmark/FRG	<i>Bold Guard 82</i>	47,200	24	+
Sep-82	United States/FRG	<i>Carbine Fortress 82</i>	73,000	24	+
Sep-82	FRG	<i>Starke Wehr</i>	35,000	21	+
Sep-82	France	<i>Langres 82</i>	17,000	4	–
16.–27.9.83	France	<i>Moselle 83</i>	22,000	25	+
19.–21.9.83	FRG	<i>Wehrhafte Löwen</i>	50,000	21	+
20.–27.9.83	Denmark	<i>Ample Express</i>	10,000	21	+

Period of the manoeuvre	Notifying country or countries	Name of the manoeuvre	Scale of the manoeuvre (number of troops)	Advance notification period (days)	Invitation to observers
20.-29.11.83	FRG/Netherlands	<i>Atlantic Lion</i>	41,000	21	+
20.-29.9.83	FRG/United States	<i>Confident Express</i>	62,000	21	+
27.10.-2.11.83	FRG/United Kingdom	<i>Eternal Triangle</i>	25,000	21	+
163-22.3.84	Norway	<i>Avalanche Express</i>	25,000	29	+
3.-29.9.84	FRG/United Kingdom	<i>Lionheart 84</i>	132,000	24	+
8.-14.9.84	France	<i>Doubs 84</i>	20,000	33	+
13.-20.9.84	FRG	<i>Flinker Igel</i>	55,000	22	+
14.9.84	France	<i>Damoclès</i>	7,500	?	+
15.-20.9.84	Denmark	<i>Bold Gannett</i>	21,000	22	-
17.-28.9.84	FRG/United States	<i>Certain Fury</i>	50,000	21	+
21.-31.1.85	FRG/United States	<i>Central Guardian</i>	72,000	21	+
15.-25.3.85	Norway	<i>Cold Winter 85</i>	10,000	21	+
11.6.85	France	<i>Jourdan</i>	5,000	?	+
2.-13.9.85	United Kingdom	<i>Brave Defender</i>	65,000	28	+
12.-21.9.85	FRG	<i>Trutzige Sachsen</i>	60,000	21	+
20.-30.1.86	FRG/United States	<i>Certain Sentinel</i>	73,000	27	+
6.-12.3.86	Norway	<i>Anchor Express 86</i>	20,000	28	-
9.-15.9.86	Norway	<i>Express Barfrost 86</i>	11,000	50	-
22.-25.9.86	FRG	<i>Fränkischer Schild</i>	58,000	21	+
22.-26.9.86	FRG	<i>Bold Guard 86</i>	65,000	21	+
		<i>Total: 77</i>			Total: 50

(*) Spain was not yet a member of NATO.

B. Warsaw Pact countries

Period of the manoeuvre	Notifying country or countries	Name of the manoeuvre	Scale of the manoeuvre (number of troops)	Advance notification period (days)	Invitation to observers
25.1.–6.2.76	USSR	<i>Kavkaz</i>	25,000	21	+
6.5.76	Hungary	–	10,000	1	–
14.–18.4.76	USSR	<i>Sever</i>	25,000	21	+
Sep-76	Poland	<i>Tarcza 76</i>	35,000	21	+
18.–23.10.76	Hungary	–	15,000	0	–
31.3.–5.4.77	USSR	–	25,000	21	–
11.–16.7.77	USSR	<i>Karpatia</i>	27,000	21	+
6.–10.2.78	USSR	<i>Berezina</i>	25,000	21	+
3.–8.7.78	USSR	<i>Tarcza 78</i>	30,000	21	–
5.–20.9.78	USSR	<i>Kavkaz II</i>	25,000	21	–
2.–7.2.79	USSR/ Czechoslovakia	<i>Druzhiba</i>	26,000	21	–
2.–7.4.79	USSR	–	25,000	21	–
MidMay 79	Hungary	<i>Shield 79</i>	25,000	?	+
23.–27.7.79	USSR	<i>Neman</i>	25,000	21	+
10.–16.7.80	USSR	–	30,000	21	–
23.–30.8.80	Hungary	<i>Dyna 80</i>	18,000	1	–
1.–15.9.80	GDR	<i>Brotherhood in Arms 80</i>	40,000	21	–
4.–12.9.81	USSR	<i>Zapad 81</i>	100,000	21	–
25.–30.1.82	USSR/ Czechoslovakia	<i>Druzhiba 82</i>	25,000	21	–
25.9.–1.10.82	Bulgaria	<i>Shield 82</i>	60,000	21	
28.6.–4.7.83	USSR	–	50,000	21	–
25.–30.7.83	USSR	–	26,000	21	–
5.–10.9.83	USSR	<i>Dniester</i>	23,000	21	–
28.6.–5.7.84	USSR	–	60,000	22	+
Early September 84	Czechoslovakia	<i>Štít</i>	60,000	(around 21)	–
25.–31.5.85	USSR/ Czechoslovakia	–	25,000	25	–
6.–14.7.85	GDR	–	25,000	23	–
15.–21.7.85	USSR	<i>Kavkaz 85</i>	25,000	21	+
10.–17.2.86	USSR	–	50,000	24	–
17.–21.2.86	USSR	–	25,000	21	–

Period of the manoeuvre	Notifying country or countries	Name of the manoeuvre	Scale of the manoeuvre (number of troops)	Advance notification period (days)	Invitation to observers
8.-12.9.86	Czechoslovakia	<i>Druzha 86</i>	25,000	28	+
8.-13.9.86	USSR/GDR	-	25,000	24	-
		<i>Total: 32</i>			Total: 10

C: Neutral and Non-Aligned countries

Period of the manoeuvre	Notifying country or countries	Name of the manoeuvre	Scale of the manoeuvre (number of troops)	Advance notification period (days)	Invitation to observers
21.-25.10.75	Yugoslavia	-	18,000	25	-
10.-18.11.75	Switzerland	-	40,000	31	+
20.-23.9.76	Yugoslavia	<i>Golija</i>	24,000	24	+
2.-6.11.76	Sweden	<i>Poseidon</i>	12,000	30	-
4.-9.3.77	Sweden	<i>Vönn 77</i>	10,000	21	+
11.-19.11.77	Austria	<i>Herbstübung 77</i>	12,000	37	-
13.-17.11.78	Austria	-	5,000	20	-
5.-9.3.79	Switzerland	<i>Knacknuss</i>	51,000	28	+
1.-6.10.79	Switzerland	<i>Forte</i>	27,000	33	+
19.-22.11.79	Austria	-	27,500	45	+
Oct-81	Switzerland	<i>Cresta</i>	25,000	33	-
1.-10.3.82	Sweden	<i>Norrskan</i>	23,000	30	+
15.-19.3.82	Switzerland	<i>Panzerjagd</i>	30,000	?	+
Sep-82	Sweden	<i>Sydfront</i>	25,000	30	-
15.-22.10.82	Austria	-	14,000	?	-
13.-15.9.83	Yugoslavia	<i>Unity 83</i>	22,000	42	+
25.9-6.10.83	Sweden	<i>Ostkust</i>	20,000	31	-
18.2.-5.3.85	Sweden	<i>Västgräns</i>	22,000	42	+
7.-17.10.85	Switzerland	<i>Tornado</i>	25,000	42	-
9.-17.10.86	Austria	<i>Raumverteidigung Herbstübung 86</i>	30,000	43	+
3.-21.11.86	Switzerland	<i>Dreizack 86</i>	40,000	43	+
		<i>Total: 21</i>			Total: 12

TABLE V
Implementation of the Stockholm CSBMs, 1987–1988

A. NATO countries

Period of the manoeuvre	Notifying country or countries	Name of the manoeuvre	Parameters	Invitation to observers
13.–30.3.87	Norway, United Kingdom, Netherlands, United States	Cold Winter 87, in Norway	Activity involving 14,600 troops, 20 tanks and 20 antitank missile launchers	–
17.–25.3.87	Norway, United Kingdom, Netherlands	Cold Winter 87, in Norway	(Amphibious) activity involving 3,600 troops and 16 artillery pieces	–
21.5.87 (04:00–24:00)	United States	..., in the FRG	Alert exercise (no notice) involving 21,400 troops, 431 tanks and 234 antitank missile launchers	–
14.–24.7.87	FRG, United States	Compass Point 287, in the FRG	Activity involving 12,000 troops, 250 tanks and 160 antitank missile launchers	–
6.–13.9.87	United States	Reforger 87, in the FRG	Activity involving 35,000 troops and 267 tanks	+
12.–20.9.87	France	Creveceur/Extel	Activity involving 25,000 troops, 280 tanks and 12 antitank missile launchers	+
13.–17.9.87	FRG, United States, Belgium, France	Goldener Löwe, in the FRG	Activity involving 22,000 troops, 364 tanks, 154 antitank missile launchers	+
14.–25.9.87	FRG, United States, United Kingdom, France, Netherlands, Belgium	Certain Strike, in the FRG	Activity involving 78,220 troops, 668 tanks and 592 antitank missile launchers	+
17.–26.9.87	FRG, France	Moineau Hardi, in the FRG	Activity involving 75,000 troops, 800 tanks and 450 antitank missile launchers	+
21.–27.9.87	Turkey	Mehmetcik	Activity involving 38,000 troops and 427 tanks	+
24.11–4.10.87	France	Moselle/Extel 1	Activity involving 35,000 troops, 250 tanks and 24 antitank missile launchers	–

Period of the manoeuvre	Notifying country or countries	Name of the manoeuvre	Parameters	Invitation to observers
26.9-17.X.87	United States	Reforger Deployment 87, in the FRG	Activity involving 35,000 troops and 267 tanks	+
11.-22.10.87	FRG, Belgium, United Kingdom	Keystone 87, in the FRG	Activity involving 32,120 troops, 193 tanks and 30 antitank missile launchers	+
23.-30.10.87	United States	Iron Force, in the FRG	Activity involving 11,650 troops, 132 tanks and 27 antitank missile launchers	-
30.10.-7.11.87	FRG, Denmark, United Kingdom	Brisk Fray 87, in the FRG	Activity involving 13,600 troops, 130 tanks and 30 antitank missile launchers	-
4.-18.11.87	United Kingdom	Purple Warrior	(Amphibious) activity involving 6,750 troops	+
9.-13.11.87	FRG, United States	Sichere Festung, in the FRG	Activity involving 13,200 troops, 240 tanks and 117 antitank missile launchers	-

B. Warsaw Pact countries

Period of the manoeuvre	Notifying country or countries	Name of the manoeuvre	Parameters	Invitation to observers
24.2.-1.3.87	USSR	... Carpathian Military District	Activity involving 14,000 troops, 400 tanks and 350 antitank missile launchers	-
1.-7.3.87	USSR	..., Belorussian Military District	Activity involving 14,000 troops, 430 tanks and 180 antitank missile launchers	-
9.-14.3.87	Poland	Opal 87	Activity involving 18,000 troops, 150 tanks and 110 antitank missile launchers	+
10.-16.3.87	USSR	..., Kiev Military District	Activity involving 16,000 troops, 360 tanks and 260 antitank missile launchers	-

Period of the manoeuvre	Notifying country or countries	Name of the manoeuvre	Parameters	Invitation to observers
16.-22.5.87	USSR	..., Leningrad Military District	Activity involving 14,000 troops, 360 tanks and 190 antitank missile launchers	-
21.-28.5.87	GDR, USSR	..., in the GDR	Activity involving 15,000 troops, 350 tanks and 170 antitank missile launchers	-
15.-21.7.87	Czechoslovakia, USSR	..., in the GDR	Activity involving 25,000 troops, 500 tanks and 500 antitank missile launchers	+
26.-31.7.87	Poland, USSR, GDR	Przyjazn	Activity involving 13,500 troops, 235 tanks and 135 antitank missile launchers	-
17.-22.8.87	USSR	..., Carpathian Military District	Activity involving 18,000 troops, 345 tanks and 170 antitank missile launchers	+
25.8.-1.9.87	USSR	..., Belorussian Military District	Activity involving 16,000 troops, 425 tanks and 355 antitank missile launchers	-
27.8.-1.9.87	USSR	..., Baltic Military District	(Airborne) activity involving 3,500 troops	-
1.-7.9.87	Hungary, USSR	..., in Hungary	Activity involving 14,500 troops, 351 tanks and 194 antitank missile launchers	-
6.-12.9.87	GDR, USSR	..., in the GDR	Activity involving 14,500 troops, 260 tanks and 173 antitank missile launchers	-
22.-27.9.87	USSR	..., Caucasus Military District	Activity involving 18,000 troops, 250 tanks and 230 antitank missile launchers	+
25.-30.10.87	Hungary	Bazalt87	Activity involving 8,000 troops, 120 tanks and 12 antitank missile launchers	-

Period of the manoeuvre	Notifying country or countries	Name of the manoeuvre	Parameters	Invitation to observers
1.-6.2.88	USSR	..., Belorussian Military District	Activity involving 14,000 troops, 340 tanks and 12 antitank missile launchers	-
29.2.-6.3.88	USSR	..., Kiev Military District	Activity involving 13,000 troops, 200 tanks and 53 antitank missile launchers	-
22.-28.3.88	Czechoslovakia, USSR	..., in Czechoslovakia	Activity involving 17,300 troops, 400 tanks and 320 antitank missile launchers	+
1.-7.1.88	USSR	..., Carpathian Military District	Activity involving 14,000 troops, 171 tanks and 162 antitank missile launchers	-
8.-13.4.88	USSR	..., Odessa Military District	Airborne activity involving 3,000 troops	-
8.-15.4.88	GDR, USSR, Poland	Druzhba 88	Activity involving 20,000 troops, 300 tanks and 320 antitank missile launchers	+
15.-20.4.88	USSR	..., Odessa Military District	Activity involving 13,000 troops, 195 tanks and 130 antitank missile launchers	-
4.-10.4.88	Poland, USSR, GDR, Czechoslovakia	Tarcza 88, in Poland	Activity involving 14,100 troops, 65 tanks and 129 antitank missile launchers	-
6.-10.4.88	Czechoslovakia	...	Activity involving 17,459 troops, 252 tanks and 155 antitank missile launchers	+
21.-27.7.88	Poland, USSR	..., in Poland	Activity involving 13,735 troops, 245 tanks and 309 antitank missile launchers	-
24.-30.7.88	GDR, USSR	..., in the GDR	Activity involving 17,800 troops, 500 tanks and 330 antitank missile launchers	+

Period of the manoeuvre	Notifying country or countries	Name of the manoeuvre	Parameters	Invitation to observers
8.-14.8.88	GDR, USSR	... in the GDR	Activity involving 14,500 troops, 303 tanks and antitank missile launchers	-
12.-17.8.88	Bulgaria	Maritza 88	Activity involving 13,000 troops and 120 tanks	-
20.-26.8.88	USSR	... Transcaucasian Military District	Activity involving 13,100 troops, 190 tanks and 180 antitank missile launchers	-
17.-22.9.88	USSR	... Belorussian Military District	Activity involving 21,000 troops, 292 tanks and 368 antitank missile launchers	+
19.-25.9.88	USSR	... Carpathian Military District	Activity involving 16,000 troops, 400 tanks and 350 antitank missile launchers	-
19.-25.9.88	USSR	... Odessa Military District	Activity involving 14,000 troops, 260 tanks and 250 antitank missile launchers	-
10.-16.10.88	USSR	... Baltic Military District	Activity involving 15,000 troops ...	-
15.-20.10.88	Hungary, USSR	... in Hungary	Activity involving 17,000 troops, 321 tanks and 284 antitank missile launchers	+
17.-23.10.88	GDR, USSR	... in the GDR	Activity involving 17,700 troops, 578 tanks and 537 antitank missile launchers	+

C. Neutral and Non-Aligned countries

Period of the manoeuvre	Notifying country or countries	Name of the manoeuvre	Parameters	Invitation to observers
16.-20.2.87	Austria	Wintersturm 87	Activity involving 13,000 troops and 150 tanks	-
5.-10.10.87	Switzerland	Cormoesa	Activity involving 10,000 troops	-
20.-26.10.87	Yugoslavia	Jesen 87	Activity involving 15,000 troops and 57 tanks	-
26.-29.10.87	Switzerland	Diana	Activity involving 12,000 troops	-
2.-5.11.87	Switzerland	Eiger	Activity involving 11,500 troops	-
7.-16.4.88	Finland	Tuisku	Activity involving 13,000 troops	-
2.-29.9.88	Switzerland	Rotondo	Activity involving 23,200 troops	+
21.-24.11.88	Switzerland	Feuerdorn	Activity involving 27,000 troops	+

CHAPTER V

The Economic Basket of the CSCE

Of all the topics featuring in the CSCE's programme of work, economic co-operation is perhaps the least "original". The early forms of détente were economic: during the time of General de Gaulle, France pioneered a form of co-operation with the USSR that Eastern countries have long regarded as exemplary. In addition, the United Nations Economic Commission for Europe (UNECE) has encouraged a multilateral approach towards East-West economic relations since 1947. Yet the second basket still has a legitimate place in the CSCE process, the very aim of which (to treat East-West relations as an interdependent whole) meant that the economic dimension had to be included somehow. In any case, this was an inevitable outcome of *co-operation*, whether considered in isolation or juxtaposed with security. Lastly, economic relations between the two blocs could not realize their full potential without a *political* decision to this effect – the framework and opportunity for which were provided by the CSCE. This chapter will examine the question of the second basket, its practical implications and the new provisions adopted in Vienna.

I. The Second Basket

The Eastern countries first came up with the idea of the second basket. It initially featured in the Bucharest Declaration (5 July 1966), in which the Warsaw Pact members proposed convening a conference aimed not only at ensuring security in Europe, but at "organising general European co-operation" in the economic, technical, scientific and cultural fields.¹ The same idea resurfaced in the Budapest Appeal of 17 March 1969 and in the Prague Declaration of 31 October of the same year.² The Western nations welcomed the idea, expanding it to include environmental protection (particularly in the marine environment) and linking it to the circulation of people, ideas and information.³ In 1970, the Eastern countries agreed to extend it to the environment.⁴ The mandate of the working bodies responsible for drafting the provisions of the second basket was subsequently established (without major difficulty) in Dipoli.⁵

The issues and content of the second basket are examined further.

1 Bucharest Declaration (5 July 1966), § 7. See E. Nessler, rapporteur, *The Proposed European Security Conference, 1954–1971*, (Paris: Western European Union Assembly, General Affairs Committee, 1971), p. 19.

2 Ibid., pp. 28 and 32–33.

3 Ibid., pp. 38–39, Declaration, §§ 11 and 12, appended to the press communiqué issued by the North Atlantic Council in Brussels on 5 December 1969, and *ibid.*, p. 55, Rome Communiqué of 27 May 1970, § 16 (b).

4 Ibid., p. 55, Memorandum appended to the Bucharest Communiqué of 22 July 1970.

5 See Final Recommendations of the Helsinki Consultations (1973), §§ 25 to 41. For the negotiation of this text and an analysis of its content, see François Carle, "Les pourparlers exploratoires d'Helsinki", *Etudes internationales*, vol. 4, no. 3 (September 1973), pp. 343–347; and Luigi Vittorio

1. The Issues of the Second Basket

The theme of the second basket was, from the outset, far less important than that of the Decalogue or the third basket. However, the objectives of the CSCE's various protagonists were no less divergent.

A. Objectives of the Eastern Countries

For the USSR, economic, trade, scientific and technical co-operation was the other major issue of the CSCE after the Decalogue. The Soviets pursued three objectives during the negotiation of the second basket:⁶

- Incorporating general provisions in the Final Act (1975) to ensure most-favoured-nation treatment, while calling for the abolition of restrictive business practices. The Eastern countries regarded these as the main obstacles to the development of trade in Europe, owing to their “discriminatory” nature.⁷ The Soviets had previously made this demand in 1956 and 1961 before the UNECE and the United Nations Economic and Social Council (ECOSOC). Its motives were not just economic: the most-favoured-nation clause is an extension of the principle of the sovereign equality of States. According to the USSR, its value owed “less to its role in the development of trade as to the fact that it insists on equal treatment, which must result in friendly relations.”⁸ For the Eastern countries, therefore, the aim was to achieve *political* success within the CSCE, before putting forward new arguments in economic forums for better trading terms with the Common Market (by abolishing quotas, for example).⁹
- Reaching a political decision on major industrial co-operation projects (such as energy, transport and the exploitation of mineral resources) at the pan-European level.
- Defining an appropriate framework for the development of scientific and technical co-operation, which would allow the Soviet Union to modernize its infrastructure and exploit its natural resources by securing equipment loans.

Ferraris (ed.), *Report on a Negotiation. Helsinki-Geneva-Helsinki, 1972–1975* (Geneva: Institut universitaire de hautes études internationales, 1979), pp. 47–52.

6 This objective emerges quite clearly from the Soviet proposal at Dipoli: CSCE/HC/30 (5 February 1973).

7 See Article V of the Soviet draft pan-European agreement submitted to the UNECE in 1956 (UN: E/ECE/270 of March and April 1957) and Article 3 of the Soviet draft declaration on international economic co-operation (UN: E/3467 of 3 April 1961). See also the discussions devoted since the 1950s to the most-favoured-nation clause by the UNECE Trade Development Committee. For an analysis of these various aspects, see E. Sauvignon, *La clause de la nation la plus favorisée* (Grenoble: Presses universitaires de Grenoble, 1972), pp. 169–172 and 175–178.

8 Sauvignon, *La clause de la nation ...* (n. 7), p. 186.

9 Except for the USSR and the GDR, the other countries in the Soviet bloc were parties to GATT. Czechoslovakia (original member), Romania, Poland and Hungary had joined GATT on 20 April 1948, 18 October 1967, 14 November 1967 and 9 September 1973 respectively. After the CSCE, the USSR tried in vain to obtain the status of observer (1982, 1984, 1986) and even contracting party (1987). On this point, see Kevin C. Kennedy, “Access of the Soviet Union to GATT”, *Journal of World Trade Law*, vol. 21, no. 2 (1987), pp. 23–306.

As with the first basket (but unlike the third basket), Romania pursued its own agenda, seeking recognition from the CSCE of its special status as one of “Europe’s developing countries” (see below).¹⁰

B. Objectives of the Western Countries

For the Western countries, the nine Member States of the Common Market (“the Nine”) were key players in the economic negotiations within the CSCE, from Dipoli to Geneva.¹¹ They venerated the second basket because it tackled issues over which the EEC had exclusive competence (such as the environment, transport and trade).¹² They were keen to avoid any provision that could prevent further European integration, or be viewed as a substitute for the provisions of the General Agreement on Tariffs and Trade (GATT) or an alternative solution to bilateral agreements.¹³

In the *commercial sphere*, the Nine initially rejected the concept of most-favoured-nation treatment granted on an unconditional basis – which would have meant unilateral concessions for the Eastern countries – and put forward the idea of effective *reciprocity* of trade.¹⁴ Their primary concern was the adoption of *practical measures* offering more transparency over the state of each country’s economy and facilitating contacts between economic operators.¹⁵ To that end, and with a view to reducing the most common obstacles encountered by Western partners in Eastern countries, they proposed improving aspects such as business contacts and facilities, information available on the conditions of the market, commercial arbitration practices and the marketing of products for export.¹⁶

10 See further on in this chapter, pp. 200.

11 The basic position of the Western countries had, however, been formulated by NATO’s economic services. See Yann de L’Écotais, “Le volet économique de la Conférence européenne de sécurité et de coopération”, *Revue du Marché commun* (1972), p. 707.

12 The Commission of the European Communities participated directly in the negotiations through representatives incorporated within the delegation of the Member State holding the annual Presidency of the Council of the EEC.

13 On the initial negotiating position of the Nine, see CSCE/ HC/17 (15 January 1973), the proposal submitted at Dipoli by Belgium. See also L’Écotais, *Le volet économique de la Conférence ...* (n. 11), pp. 707–709.

14 The application of the most-favoured-nation clause between countries with different economic systems favours those skilled in State trade: the Eastern countries have nothing worthwhile to offer in exchange for access to Western markets, as their tariffs and even the level of their imports are predetermined by the Plan and, in any case, remain dependent on political decisions.

15 The objective of the Nine therefore related here to the philosophical purpose of the third basket and, in a sense, to confidence-building measures in the military domain.

16 In most of the Eastern countries, the activities of Western business enterprises – when they are authorized – come up against a multitude of obstacles, such as problems with renting adequate premises, obtaining appropriate telecommunication facilities and accessing information or economic leaders.

On *industrial co-operation*, the Nine – especially the smaller countries – rejected the Soviet proposal for pan-European joint ventures.¹⁷ They would agree only to draw up general guidelines (on the role of private initiative, fair treatment of small and medium-sized enterprises, reduction of bureaucratic obstacles and protection of Western investors' interests, for example) and to explore the possibilities of co-operation in the area of raw materials and energy resources.

Lastly, the Nine wanted to involve the Eastern countries in co-operation on the *environment* – unprecedented at the time – and on tourism, transport and communications.

C. Objectives of the Neutral and Non-Aligned Countries

The N+NA countries did not present a united front, as they had done during the negotiations for the Decalogue or confidence-building measures. Since they were all market economies (except for Yugoslavia), their interests were aligned with those of the Western nations. The difference was that they were not part of the Common Market, which predisposed them to be more flexible (or less intransigent) towards the Eastern bloc.

The second basket resulted in an informal coalition of interests among the Non-Aligned countries (Cyprus, Malta, Yugoslavia), Romania and some of the Western nations (Greece, Portugal, Spain, Turkey). They regarded the differences in economic development among the participating States as the most important issue. Together they wanted the CSCE to recognize that *Europe's developing countries* had specific interests – particularly in areas such as migrant labour, tourism and science and technology. In addition, Yugoslavia, which considered itself the *chef de file* of the plan, had a separate agenda: to introduce into the Final Act the idea that the CSCE participating States had a collective responsibility towards developing countries *worldwide*.¹⁸

2. The Content of the Second Basket, from Helsinki to Madrid

The provisions of the second basket form the longest chapter of the Helsinki Final Act (1975),¹⁹ although some thirty or so provisions have been added since the Madrid Concluding Document was issued in 1983.²⁰ A detailed examination of these texts is not fitting here; instead, a description of the main content and guidelines will be sufficient to provide a meaningful overview of the second basket.

17 This attitude was due to a refusal to embark on the path of intensive economic planning and to encourage a possible intervention by the USSR in the economic policies of the Western world.

18 This second objective was in line with Yugoslavia's systematic approach of giving the CSCE a global dimension.

19 The text of the second basket takes up 22 pages (pp. 89–110 of the English text and pp. 217–238 of the French text) of the official version of the Helsinki Final Act (1975).

20 The Madrid Concluding Document (1983) contains 31 provisions on "Co-operation in the Field of Economics, of Science and Technology and of the Environment".

A. Guidelines for Economic Co-operation

The Helsinki Final Act is based on the premise that differences between economic and social systems are not in themselves an obstacle to the development of co-operation in the various fields of the second basket.²¹ The provisions of the second basket represent the first such charter between countries with a market economy and those with a centrally planned economy. The key points of this “charter” are as follows: the objectives of economic co-operation; the principle of the reciprocity of advantages and obligations; the different levels of economic development among the participating States and worldwide; the role of the UNECE as a vehicle for the multilateral implementation of the provisions of the second basket.

a) Objectives of economic co-operation

The Final Act clearly states that the second basket serves a dual purpose.

Firstly, the second basket addresses a political imperative: the “reinforcement of peace and security in Europe and in the world as a whole”.²² As with the third basket, the Decalogue in this case, is the fundamental link between the issues of co-operation and security tackled by the CSCE.²³

In addition, the second basket is naturally motivated by domestic and global economic concerns. Co-operation among the participating States was seen as promoting “economic and social progress and the improvement of the conditions of life”;²⁴ it also sought, in the name of “worldwide economic interdependence”, to

-
- 21 In the general preamble to the second basket of the Helsinki Final Act (“Co-operation in the Field of Economics, of Science and Technology and of the Environment”), the participating States stated that they were “aware of the *diversity* of their economic and social systems” (§ 3) and reaffirmed their will to intensify co-operation “between one another, *irrespective of their systems*” (§ 4). The notion of “diversity” was included at the request of Romania and Yugoslavia, which wanted to avoid an overly bipolar approach in the second basket. The phrase “irrespective of their systems” is a compromise between those who wanted to emphasize the *fundamental difference* between the systems (the USSR, the GDR and some Western countries) and those who preferred to blur it. It should be noted, however, that the various official versions of the Final Act are not all concordant: although the English, French, Italian and Spanish texts refer to “*diversity*”, “*diversité*”, “*diversità*” and “*diversidad*”, the German and Russians texts retain the idea of difference (“*unterschiede*” and “*razlichiya*”).
- 22 *Ibid.*, § 1. This provision was reaffirmed by the Madrid Concluding Document (1983), “Co-operation in the Field of Economics, of Science and Technology and of the Environment”, § 1. The phrase “in the world as a whole” is Yugoslav in origin.
- 23 According to the Helsinki Final Act (1975), “Co-operation in the Field of Economics, of Science and Technology and of the Environment”, general preamble, § 9, co-operation in economic fields “should take place in full respect for the principles guiding relations among participating States as set forth in the relevant document.” A provision in the same vein appears in § 4 of the general preamble to the third basket (“Co-operation in Humanitarian and Other Fields”). In the context of the Declaration on Principles Guiding Relations between Participating States, particular attention should clearly be paid to Principle IX, relating to “Co-operation among States”.
- 24 Helsinki Final Act (1975), “Co-operation in the Field of Economics ...”, § 2. This formulation is a compromise between the idea of “improving the *quality of life*” (CSCE/II/C.2/13, submitted by the Netherlands on 26 February 1974) and the more materialistic notion of “raising the standard of living” found in the preamble to the Comecon Charter (1959). Moreover, the preamble to the subsection entitled *General provisions* in the section on “Commercial Exchanges” in the second

promote stable and equitable international economic relations, thus contributing to the continuous and diversified economic development of all countries.²⁵ In Madrid, the participating States renewed this commitment.²⁶

b) Principle of reciprocity of advantages and obligations

In the Final Act, the participating States recognize that economic co-operation can be developed “on the basis of equality and mutual satisfaction of the partners, and of reciprocity permitting, as a whole, an equitable distribution of advantages and obligations of comparable scale, with respect for bilateral and multilateral agreements.”²⁷

The principle of reciprocity was established as the market economy countries had wanted. Moreover, it featured in the *general preamble* to the second basket. It therefore applied to all the texts of the second basket and not just to the provisions on trade.

However, this provision does not specifically recognize – as the Nine in particular had hoped – the need for *equivalent* advantages and obligations.²⁸ The notion of equivalence is there: it is clearly implied by the fact that the concessions made on either side must, “as a whole”, be of “comparable scale”.²⁹ Yet having defined the principle of reciprocity, it then qualifies this.

Firstly, reciprocity must take into account the “different levels of economic development” and involve an “*equitable distribution*” of advantages and obligations. This safeguard clause was imposed by “Europe’s developing countries”, which felt

basket refers to the “growing role of international trade as one of the most important factors in economic growth and social progress” (§ 1).

25 Helsinki Final Act (1975), “Co-operation in the Field of Economics ...”, § 7. The Eastern countries had put forward the idea of “fuller use of the *international division of labour*” (CSCE/II/C.2/1, submitted by the GDR and Hungary on 15 September 1973). But this idea was unacceptable for the market economy countries – and even for Romania, given its known objections to the implementation of such a division within Comecon. In the end, the participating States opted to talk about *interdependence* and the need for joint efforts to resolve the world’s main economic problems. The idea of the *stability* of international economic relations is a substitute for that of *harmony*, rejected by the USSR in Geneva as contrary to the Marxist vision, but nevertheless retained in the Madrid Concluding Document (1983), “Co-operation in the Field of Economics ...”, § 3. The concept of *equity* stems from the globalist (or UN) vision of Yugoslavia and Romania. See, for example, the proposal by Romania: CSCE/II/C.2/103 (1 May 1974). Finally, it should be noted that the preamble to the section of the Helsinki Final Act (1975) entitled “Industrial co-operation and projects of common interest” refers to the possibility of creating “lasting ties” in the long term and leading to “the mutually advantageous utilization of economic complementarities through better use of all factors of production” (§ 1, first and fourth indents).

26 Madrid Follow-up Meeting (1983): Concluding Document, “Co-operation in the Field of Economics ...”, § 31.

27 Helsinki Final Act (1975), “Co-operation in the Field of Economics ...”, § 5.

28 The aforementioned Dutch document (CSCE/II/C.2/13) envisaged the development of economic co-operation “under conditions ... which *assure* equivalence of advantages and obligations.”

29 The Eastern countries also welcomed the notion of equity. It allowed them to avoid the possibility of compulsorily *balanced* concessions in favour of the market economy countries.

that their economic situation did not justify the full application of reciprocity of advantages and obligations, even of “comparable” scale.³⁰

Secondly, the principle of reciprocity is tempered by the “equality and mutual satisfaction of the partners”. Proposed by the Eastern countries, this phrase still stops short of recognizing their cherished concept of equal treatment – in other words, non-discrimination against countries with a centrally planned economy. The ambiguity of these terms meant that the Western countries could interpret it as referring to *trading partners* rather than States.

c) Different levels of economic development

Economic co-operation, as envisaged in the context of the CSCE, purports to take into account the different levels of economic development of the participating States and other countries around the world. A provision to this effect was inserted in the general preamble (§ 5) to the second basket of the Final Act,³¹ following discussions in Geneva on “Europe’s developing countries” and the New International Economic Order (NIEO).

The question of defining a new category of States (“Europe’s developing countries”) essentially pitted Romania against the Soviet Union, which refused to admit that the concept of underdevelopment could apply to a socialist country.³² After nine months of negotiation, the Comecon members finally reached a compromise with a provision recognizing the “interests of the developing countries throughout the world, including *those* among the participating countries as long as they are developing from the economic point of view.”³³ The Final Act thus acknowledges the formal existence of a new category of participating States. Yet it stops short of recommending that the specific interests of the countries in question should be given special consideration: the demonstrative pronoun “those” refers to the term “developing countries”, and not to the word “interests”. The provision in question also stresses that underdevelopment is both purely

30 It should be noted that this text uses the phrase “as a whole” rather than “global reciprocity” – an idea rejected by the Eastern countries in order not to strengthen the position of those who, within the Western world, were trying to make the application of most-favoured-nation treatment provisional upon the prior obtention of non-economic concessions: the negotiation of the Final Act was, in fact, contemporaneous with the turmoil caused by the Jackson-Vanik Amendment, which linked the granting of the clause to the emigration of Soviet Jews.

31 § 5 of the same preamble recommends taking into account differences in levels of economic development when implementing the principles of the reciprocity of benefits and obligations. Furthermore, Principle IX of the Declaration on Principles Guiding Relations between Participating States (“Co-operation among States”) affirms that the participating States “will take into account the interest of all in the narrowing of differences in the levels of economic development, and in particular the interest of developing countries throughout the world” (§ 2).

32 According to Marie Lavigne, *Les relations économiques EstOuest* (Paris: PUF, 1979), p. 90, the Eastern countries – other than Romania – argued that “within the European socialist grouping, we cannot talk about underdevelopment, as Comecon tends to bring closer together, and then equalize, levels of development” [in French]. For the text of the Romanian proposal, see CSCE/II/C.2/102 (7 March 1974). At the time, the Romanians were negotiating the granting of generalized preferences with the United States and the EEC.

33 Helsinki Final Act (1975), “Co-operation in the Field of Economics ...”, § 6.

economic and *limited* in duration (“as long as they are developing from the economic point of view”).³⁴ The other countries concerned (the Non-Aligned countries, Greece, Turkey, Spain and Portugal) ultimately agreed to this compromise.³⁵

As for the – then nascent – question of the New International Economic Order, this was mainly raised by Romania.³⁶ For its part, true to its vision of a CSCE open to universal concerns, Yugoslavia suggested that the participating States give their collective backing to several UN resolutions on development.³⁷ However, the joint project met with opposition from the Eastern countries and from some Western countries (particularly the United States and the FRG).³⁸ The participating States settled for reaffirming their will to “co-operate for the achievement of the aims and objectives established by the appropriate bodies of the United Nations in the pertinent documents concerning development, *it being understood that each participating State maintains the positions it has taken on them.*”³⁹ This situation has since evolved: at the end of the Madrid Follow-up Meeting (1983), the participating States pledged “to contribute to common efforts towards the establishment of a new international economic order and the implementation of the Strategy for the Third United Nations Development Decade, as adopted,” while recognizing “the importance of the launching of mutually beneficial and adequately prepared global negotiations relating to international economic co-operation for development.”⁴⁰

d) Involvement of the UNECE

To give effect to the various provisions of the second basket involving multilateral enforcement measures, the participating States agreed to take advantage of the possibilities offered by international organizations such as the UNECE.⁴¹

34 This clarification was introduced by the USSR to stress that Romania could not invoke underdevelopment in order to distance itself *politically* from the socialist bloc.

35 See, for example, Portugal’s statement to be found in Committee II of the Geneva stage of the CSCE: Journal No. 73 of 2 July 1975.

36 See CSCE/II/C.2/105 (18 November 1974).

37 See CSCE/II/C.2/10 (15 November 1973).

38 As we know, the Eastern countries refused to take part in the debate – which they saw as artificial – between poor countries and rich countries.

39 Helsinki Final Act (1975), “Co-operation in the Field of Economics ...”, § 6.

40 Madrid Follow-up Meeting (1983): Concluding Document, “Co-operation in the Field of Economics ...”, § 32. § 31 also confirms the determination of the participating States to “participate equitably in promoting and strengthening economic co-operation with the developing countries, in particular the least developed among them” and recognizes “the usefulness, *inter alia*, of identifying and executing ... concrete projects with a view to contributing to economic development in these countries.” By virtue of its generality, the term “developing country” can be interpreted as applying to *Europe’s* developing countries. This provision of the Madrid Concluding Document derives from a Yugoslav draft (CSCE/RM/E.21 of 18 December 1980). In Belgrade, it was Romania that had made a proposal along similar lines (CSCE/BM/58 of 11 November 1977).

41 Helsinki Final Act (1975), “Co-operation in the Field of Economics ...”, § 8 states that the participating States have “taken into account the work already undertaken by relevant

It is perhaps only natural that the Helsinki Final Act should mention the UNECE by name. Of all the elements of the United Nations system, the UNECE – founded in 1947 to help rebuild Europe – was the only institution able to maintain permanent “bridges” between East and West, even at the height of the Cold War.⁴² For example, various European States regularly participated in the Commission’s activities, even before the UN admission process was opened up in the mid-1950s – that is, despite the political obstacles that prevented them from joining the global organization. During Stage II of the Helsinki process, the members of the UNECE and the CSCE were identical, even down to the micro-States (Holy See, Liechtenstein, Monaco, San Marino).⁴³ Like the CSCE, the UNECE adopted decisions by consensus. Lastly, its work encompassed all the key aspects of East-West economic relations.⁴⁴ In general, the UNECE has always been noted for having a flexible organization and mandate, as well as pragmatic working methods.

Together these factors explain why the question of the UNECE’s contribution to the CSCE process was uncontroversial, which could not be said for UNESCO. The only international institution mentioned by name in the Final Recommendations of the Helsinki Consultations (§ 27), the UNECE was also the first external agency that the working bodies of Stage II of the CSCE decided to consult.⁴⁵ As for the Final Act, it contains numerous provisions directly aimed at the UNECE.

international organizations” and wish to “take advantage of the possibilities offered by these organizations, in particular by the United Nations Economic Commission for Europe, for giving effect to the provisions of the final documents of the Conference.”

- 42 This success is mainly due to the pragmatic approach of the UNECE and to the actions of Gunnar Myrdal, who headed the Commission’s Executive Secretariat in the period 1947–1957. According to one UNECE expert, this “allows the East and West to better understand the limitations of the economic system of the other side and, by virtue of this, to define the negotiating possibilities more precisely.” See Norman Scott, “La diplomatie économique multilatérale Est-Ouest: la Conférence sur la sécurité et la coopération en Europe et la Commission économique pour l’Europe des Nations Unies”, *Relations internationales*, no. 40 (Winter 1984), p. 417.
- 43 The admission of the GDR in 1973 eliminated the last hurdle that the UNECE might still encounter in this regard. At the time of writing, the only signatory to the Helsinki Final Act that does not belong to the UNECE is Monaco.
- 44 It is enough to compare the subjects that appear in the second basket of the Final Act with those mentioned in the booklet entitled *The work of the Economic Commission for Europe 1947–1972* (UN: E/ECE/831). According to Norman Scott, “La diplomatie économique multilatérale ...” (n. 42), p. 416, the Declaration adopted by the UNECE in 1967 (on its 20th anniversary) can be regarded as “the precursor to the CSCE economic agenda”, as the four main sectors defined on this occasion effectively correspond to the programme of the second basket.
- 45 At Yugoslavia’s recommendation, the Executive Secretary of the UNECE (Yugoslav J. Stanovnik) was invited by the Stage II Co-ordination Committee to submit a report on the activities of the UNECE in relation to the subjects addressed in the second basket. See CSCE/II/ C.2/6 (30 October 1973), CSCE/II/C.2/DEC.2 (22 October 1973) and Committee II: Journal No. 7 of 2 November 1973. For the text of the report presented orally by Mr. Stanovnik, see CSCE/II/C.2/7 (2 November 1973): the Helsinki Final Act refers to this hearing in § 2 of its general preamble.

In general terms, the Final Act proposes the “encouragement” or “development” of co-operation within the UNECE with a view to the harmonization of statistical nomenclatures,⁴⁶ trade and marketing promotion,⁴⁷ dissemination of information on the possibilities for industrial co-operation,⁴⁸ promotion of international scientific meetings,⁴⁹ and general development of co-operation in the field of environmental protection⁵⁰ and transport and inland waterways.⁵¹

It also calls on the participating States to commission two concrete studies from the UNECE – one on the possibility of a multilateral system of notification of laws and regulations concerning foreign trade,⁵² and the other on government experience in predicting the environmental consequences of economic activities and technological development.⁵³ It also invites the Commission to take part in preparations for the “Scientific Forum” proposed by the FRG under the provisions of the third basket on education.⁵⁴

The importance of the role assigned to the UNECE was confirmed by the Concluding Document of the Madrid Follow-up Meeting.⁵⁵

B. Areas of Economic Co-operation

The second basket covers a particularly wide area: economic exchanges, industrial co-operation, science and technology, environment, transport, tourism, migrant labour and training of personnel.

a) Commercial exchanges

On the question of trade, the Final Act starts with a dual premise: the “growing role” of international trade as a factor in “economic growth and social progress”,⁵⁶ and the fact that the volume and structure of existing trade does not generally correspond to the possibilities on offer.⁵⁷ It goes on to express the *political will* of the participating States to “promote, on the basis of the modalities of their economic co-operation” – in other words, from the perspective of a reciprocity of

46 See Helsinki Final Act (1975), “Co-operation in the Field of Economics ...”, “Commercial Exchanges”, *Economic and commercial information*, § 8. This provision was in fact intended to bring the Brussels and Comecon nomenclatures closer together.

47 Ibid., “Commercial Exchanges”, *Marketing*, § 5.

48 Ibid., “Industrial co-operation and projects of common interest”, *Industrial co-operation*, § 17.

49 Ibid., “Science and technology”, *Forms and methods of co-operation*, § 4, first indent.

50 Ibid., “Environment”, *Forms and methods of co-operation*, § 3, third indent.

51 Ibid., “Co-operation in other areas”, *Development of transport*, §§ 3, 8 and 10.

52 Ibid., “Commercial Exchanges”, *Economic and commercial information*, § 7.

53 Ibid., “Environment”, *Forms and methods of co-operation*, § 4, second indent.

54 On the question of the Scientific Forum, see chapter VI of this volume, pp. 310.

55 See further on in this chapter, p. 224 (n. 158).

56 Helsinki Final Act (1975), “Co-operation in the Field of Economics ...”, “Commercial Exchanges”, *General provisions*, § 1.

57 Ibid., § 3. From the perspective of the Nine, this second consideration means that the insufficient development of international trade in Europe is due to the fact that Eastern countries do not adapt the structure of their exports well to demand from Western markets.

advantages and obligations – “the expansion of their mutual trade in goods and services” and at the same time to “ensure conditions favourable to such development.”⁵⁸

From a *general* point of view, the Final Act acknowledges that these favourable conditions involve:

- Recognition of the “beneficial effects which can result for the development of trade from the application of most-favoured-nation treatment.”⁵⁹ What is immediately striking is that this provision pays only lip service to the central demand of the Eastern countries, merely acknowledging the possible beneficial effects of the most-favoured-nation treatment,⁶⁰ without defining the scope of the treatment nor imposing any obligation on the participating States. Like the principle of reciprocity of advantages and obligations discussed earlier, the provision in question represents a triumph for the market economy argument made by representatives from the Commission of the European Communities in the second basket.⁶¹ In any event, the final wording was a disappointment for the Eastern countries.⁶²
- Multilateralism “on as broad a basis as possible”,⁶³ although still compatible with the existence of long-term bilateral intergovernmental agreements.⁶⁴

58 Ibid., § 4. The verb “promote” was retained here, given that market economy countries were unable to assume specific obligations in this regard.

59 Ibid., § 5.

60 In other words, the Final Act implies that this treatment does not *in all cases* contribute to the development of trade between East and West and therefore cannot be regarded as the main factor in this trade.

61 This provision was essentially negotiated between the European Economic Community (which since 1 January 1973 had been solely responsible for approving the most-favoured-nation clause) and the Eastern countries. The United States approved it only in its final form with a formal declaration stating that it could not extend the application of most-favoured-nation treatment on the basis of actual reciprocity (as defined in the general preamble to the second basket of the Final Act), and in some cases only in the context of bilateral trade agreements. See Committee II of the CSCE in Geneva: Journal No. 83 of 17 July 1975.

62 The Eastern countries wanted the CSCE to proclaim *unconditional* most-favoured-nation treatment among participating States as a basis for *general* trade relations, and not only in relation to customs tariffs. See, for example, the Hungarian draft CSCE/II/D/13 (25 February 1974). With the exception of some neutral countries, all the other market economy countries were unwilling to take the plunge. It should be remembered that Comecon members belonging to GATT enjoy most-favoured-nation treatment as a result; fearing a relativization of their rights, they would have preferred to avoid any reference in the Final Act to reciprocity or to the Clause (Hungary and Poland in particular).

63 Helsinki Final Act (1975), “Co-operation in the Field of Economics ...”, “Commercial Exchanges”, *General provisions*, § 6. The provision recommending “the expansion of trade on as broad a multilateral basis as possible” is an indirect criticism of the tendency towards autarchy in international economic relations.

64 Ibid., § 7. The Eastern countries wanted the reference to bilateral agreements in order to protect, to some extent, the arrangements concluded directly with the various Member States of the Common Market, which the Community’s common commercial policy was theoretically supposed to replace.

- Recognition of the “importance of monetary and financial questions for the development of international trade.”⁶⁵ Once again, the wording used shows that the Eastern countries were unable to impose their idea of a direct link between the development of trade and *credit* conditions.⁶⁶
- The reduction or progressive elimination of “all kinds of obstacles to the development of trade.”⁶⁷ This provision stems from Eastern insistence on the policy of “discrimination” reportedly practised by the United States on tariffs and the EEC on quotas.⁶⁸ However, the expression “*all kinds of obstacles*” has much wider implications, supporting the Western view that the barriers to East-West trade were caused by the very nature of centrally planned economies.
- The “steady growth of trade”, while avoiding, as far as possible, “abrupt fluctuations” in trade between participating States.⁶⁹ The Nine wanted to ensure that there would be continued expansion of East-West trade, rather than a patchwork of separate deals. At the same time – in the light of the 1973 oil crisis – they sought assurance from the Eastern countries that regular supplies of raw materials would not suddenly stop. The final provision adopted makes a veiled reference to both of these concerns.
- Non-disruption of the domestic market for such products in the importing country.⁷⁰ At the request of the Nine, this safeguard clause essentially expresses a political commitment to non-prejudice, modelled on Article XIX of GATT and its Protocols of Accession for Eastern countries.⁷¹
- The promotion of trade and its diversification⁷² – a provision based on the Western view that the lack of marketing in the Eastern countries was partly to blame for the stagnation of trade in Europe. More often than not, the specific recommendations of the Final Act are indirectly aimed at the Eastern countries.⁷³

65 Ibid., § 8.

66 The provision in question specifies only that the participating States “will endeavour to deal with” monetary and financial questions “with a view to contributing to the continuous expansion of trade” (*idem*).

67 Ibid., § 9.

68 See, in particular, the Hungarian proposal CSCE/II/D/13 (25 February 1974) advocating “appropriate and effective measures leading to the immediate and complete elimination of all kind [sic] of discrimination, still applied.”

69 Helsinki Final Act (1975), “Co-operation in the Field of Economics ...”, “Commercial Exchanges”, *General provisions*, § 10.

70 Ibid., § 11.

71 It was particularly important for the Nine that the bilateral agreements with the Eastern countries, which contained precisely such a safeguard, had lost their validity due to the entry into force of the common commercial policy.

72 Helsinki Final Act (1975), “Co-operation in the Field of Economics ...”, “Commercial Exchanges”, *General provisions*, § 12.

73 The “Commercial Exchanges” section includes a subsection devoted to marketing, which originated in proposals made by the three neutral countries, Switzerland, Austria and Sweden, namely in CSCE/II/D/9 (9 November 1973) and CSCE/II/D/15 (6 March 1974). In this subsection, the participating States recognize “the importance of adapting production to the requirements

Still on the subject of trade, the Final Act contains two groups of provisions inspired by the comprehensive approach of the third basket – that is to say, with a view to improving the free movement of people and information.

The first concerns *business contacts and facilities*.⁷⁴ The Eastern countries accepted a firm commitment to improving the “conditions for the expansion of contacts between representatives of official bodies, of the different organizations, enterprises, firms and banks concerned with foreign trade, in particular, where useful, between sellers and users of products and services, for the purpose of studying commercial possibilities, concluding contracts, ensuring their implementation and providing after-sales services.”⁷⁵ The improvements in question concerned: the acceleration of business negotiations;⁷⁶ the provision of the necessary information on legislation and procedures relating to the establishment and operation of permanent foreign trade representations;⁷⁷ the favourable examination of requests for the establishment from such firms (including the possibility of joint offices for two or more firms);⁷⁸ the provision of business facilities for foreign representations on an equal basis;⁷⁹ non-discrimination with respect to foreign small and medium-sized firms.⁸⁰ The Madrid Concluding Document (1983) reaffirmed some of these provisions.⁸¹

of foreign markets” (§ 1) and “the need of exporters to be as fully familiar as possible with and take account of the requirements of potential users” (§ 2). Here, the Final Act recommends an improvement in marketing knowledge and techniques (§ 3), the development of market research and advertising measures and, “where useful” (escape clause imposed by the Eastern countries), the creation of after-sales networks (§ 4); it also provides for the development of the work undertaken by the UNECE in this area (§ 5). See also Madrid Follow-up Meeting (1983): Concluding Document, “Co-operation in the Field of Economics ...”, § 10.

74 On the proposals that gave rise to these provisions, see CSCE/I/17 (5 July 1973) or CSCE/II/D/4 (17 October 1973) submitted by the United Kingdom; CSCE/II/D/11 (12 February 1974) by a group of Western countries (the FRG, the Netherlands, the UK and the US); CSCE/II/D/5 (17 October 1973) by Switzerland; and CSCE/II/D/21 (14 May 1974) by Czechoslovakia.

75 Helsinki Final Act (1975), “Co-operation in the Field of Economics ...”, “Commercial Exchanges”, *Business contacts and facilities*, § 2. The commitment is *firm* insofar as it stems from the phrase, seldom used in the Final Act, according to which the participating States “will take measures further to ...”. The phrase “where useful” is a safety clause enabling the Eastern countries to oppose, where necessary, the establishment of *direct* contacts between sellers and users.

76 *Ibid.*, § 3.

77 *Ibid.*, § 4, first indent.

78 *Ibid.*, § 4, second indent.

79 *Ibid.*, § 4, third indent. This provision touches on three problems: high hotel prices for foreigners in the Eastern countries, favourable conditions for non-Western nationals and the extreme difficulty faced by Western sales representatives with respect to physical working conditions.

80 *Ibid.*, § 5. A provision in the same vein appears in the subsection entitled *Industrial co-operation* (§ 20). It should be noted that trade with the Eastern countries is mainly done by large companies. See Claude Lachaux, *Le commerce Est-Ouest* (“Que sais-je” series, no. 2162; Paris: PUF, 1984), pp. 84–87.

81 See Madrid Follow-up Meeting (1983): Concluding Document, “Co-operation in the Field of Economics ...”, §§ 4 and 5.

The second concerns *economic and commercial information*.⁸² The Final Act states that economic information “should be of such a nature as to allow adequate market analysis and to permit the preparation of medium- and long-term forecasts, thus contributing to the establishment of a continuing flow of trade and a better utilization of commercial possibilities.”⁸³ On that basis, the participating States expressed their intention to “improve the quality” and “increase the quantity and supply of economic and relevant administrative information” for foreign investors.⁸⁴ Once again, the provisions are mainly intended for Eastern countries whose practices tended to be particularly restrictive.⁸⁵

Four recommendations were made in this regard: the publication of economic information at regular intervals and as quickly as possible, excluding – following fierce opposition from the USSR – balance of payment figures;⁸⁶ the development of exchanges of information through economic organizations such as joint commissions and chambers of commerce;⁸⁷ the possibility of a multilateral system of notification of laws and regulations concerning foreign trade;⁸⁸ encouragement for work on the harmonization of statistical nomenclatures, notably within the UNECE.⁸⁹

The Madrid Concluding Document reaffirmed and clarified these various provisions.⁹⁰

82 For the underlying proposals, see CSCE/I/16 (5 July 1973) and CSCE/II/D/6 (25 October 1973) submitted by the UK and CSCE/II/D/10 (25 January 1974) by four Common Market countries.

83 Helsinki Final Act (1975), “Co-operation in the Field of Economics ...”, “Commercial Exchanges”, *Economic and commercial information*, § 2.

84 *Ibid.*, § 3.

85 In the case of Romania and Czechoslovakia, for example, the dissemination of economic information has, since 1972, constituted a breach of the legislation protecting State secrets.

86 Helsinki Final Act (1975), “Co-operation in the Field of Economics ...”, “Commercial Exchanges”, *Economic and commercial information*, § 5. The corresponding commitments relate to statistics on production, national income, budget, consumption and productivity; foreign trade statistics; information on “the general orientation of national economic plans and programmes”; information presented in the form of periodical directories, lists and, “where possible”, organizational charts of firms and organizations concerned with foreign trade. The Eastern countries ceded on all these points, but refused to compromise on the balance of payments.

87 *Ibid.*, § 6. The aim of this idea, which originally came from Hungary (CSCE/II/D/110 of 12 March 1974), was to establish that joint commissions were the natural channel for circulating economic information. The Western countries succeeded in softening this provision by making it subsidiary to the preceding one (the participating States “will in addition to the above ...”) and introducing the idea of intervention by “other suitable bodies”.

88 *Ibid.*, § 7. The Final Act entrusts the study of this project to the UNECE.

89 *Ibid.*, § 8. This provision stems from the belief that “the value of statistical information on the international level depends to a considerable extent on the possibility of its comparability” (*ibid.*, § 4).

90 See Madrid Follow-up Meeting (1983): Concluding Document, “Co-operation in the Field of Economics ...”, §§ 6–10. The latter contains two recommendations on a subject not addressed in the Final Act: *compensation* (§§ 11 and 12). On compensation in East-West exchanges, see Lavigne, *Les relations économiques ...* (n. 32), pp. 237ff.; and Lachaux, *Le commerce Est-Ouest* (n. 80), pp. 48ff.

*b) Industrial co-operation*⁹¹

Industrial co-operation was conceived first and foremost from an economic perspective, rather than a political one.⁹² This accorded with the views of the market economy countries. However, the participating States were unable to agree on a common definition of the concept of industrial co-operation. The Final Act merely lists desirable forms of this: “joint production and sale, specialization in production and sale, construction, adaptation and modernization of industrial plants, co-operation for the setting up of complete industrial installations with a view to thus obtaining part of the resultant products, mixed companies, exchanges of ‘knowhow’, of technical information, of patents and of licences, and joint industrial research within the framework of specific co-operation projects” – without prejudice to “new forms” able to be applied with a view to meeting specific needs.⁹³

That said, the provisions on industrial co-operation – as in the case of commercial exchanges – mainly consist of recommendations on improving information at unilateral and multilateral level (UNECE)⁹⁴ and for business contacts and facilities.⁹⁵

Furthermore, the provisions on “Projects of common interest” are far removed from the ambitious vision outlined by the USSR at the start of the Dipoli talks.⁹⁶ Here it is suggested that the economic potential and natural resources of the participating States offer the possibility of “long-term co-operation in the implementation, including at the regional or subregional level, of major [projects]” in many areas.⁹⁷ However, the Final Act contains no specific commitment in this

91 For the ideas underlying this section of the second basket of the Final Act, see the proposals by the FRG: CSCE/II/E/3 (2 October 1973), CSCE/II/E/4 (9 October 1973) and CSCE/II/E/7 (16 October 1973); the Eastern countries: CSCE/II/E/2 (20 September 1973); and Yugoslavia: CSCE/II/E/5 (9 October 1973). See also CSCE/II/E/11 (18 January 1974) submitted jointly by four Common Market countries.

92 Helsinki Final Act (1975), “Co-operation in the Field of Economics ...”, “Industrial co-operation and projects of common interest”, *Industrial co-operation*, § 1 unequivocally states that here co-operation is “motivated by economic considerations.” This provision was reaffirmed by the Madrid Concluding Document (1983), “Co-operation in the Field of Economics ...”, § 13.

93 Helsinki Final Act (1975), “Co-operation in the Field of Economics ...”, “Industrial co-operation and projects of common interest”, *Industrial co-operation*, §§ 8 and 9. The Madrid Concluding Document (1983), “Co-operation in the Field of Economics ...”, § 15 refers to “new forms” of co-operation, “including those with organizations, institutions and firms of third countries.”

94 Helsinki Final Act (1975), “Co-operation in the Field of Economics ...”, “Industrial co-operation and projects of common interest”, *Industrial co-operation*, §§ 10 to 12 and 17. See also Madrid Follow-up Meeting (1983): Concluding Document, “Co-operation in the Field of Economics ...”, § 14.

95 Helsinki Final Act (1975), “Co-operation in the Field of Economics ...”, “Industrial co-operation and projects of common interest”, *Industrial co-operation*, §§ 3 to 16.

96 In fact, in Stage II of the CSCE, this approach had already evolved quite markedly, due in particular to the reexamination of Soviet energy policy in a more autarchic sense.

97 Helsinki Final Act (1975), “Co-operation in the Field of Economics ...”, “Industrial co-operation and projects of common interest”, *Projects of common interest*, § 1. This provision mentions energy and raw materials as priority areas for co-operation.

regard. It merely recommends that “States interested ... should consider under what conditions it would be possible to establish them, and if they so desire, create the necessary conditions for their actual implementation.”⁹⁸

Lastly, this particular section of the second basket of the Final Act contains a final set of provisions covering both trade and industrial co-operation. These concern:

- The international harmonization of standards and technical regulations (acceptance of “certificates of conformity”).⁹⁹
- The settlement through arbitration of disputes arising from commercial transactions or contracts for industrial co-operation.¹⁰⁰
- The possibility of bilateral arrangements with a view to avoiding double taxation and facilitating the transfer of profits and capital invested.¹⁰¹

c) *Science and technology, environment and other sectors*

Given the technical nature of their provisions, the texts on science and technology, the environment and other areas of co-operation of the second basket will be commented on only briefly here.

What is particularly interesting about the texts on *scientific and technical co-operation* is that they contemplate – almost from the perspective of the third basket – an improvement in the circulation of information and the development of direct contacts among scientists and technologists.¹⁰²

98 Ibid., § 8. For the texts underlying this subsection of the second basket, see the Western proposals: CSCE/II/6 (12 October 1973), CSCE/II/9 (26 October 1973) and CSCE/II/19 (25 March 1974); and the Eastern proposal: CSCE/II/E/17 (21 May 1974).

99 When the Final Act was being negotiated, there were no *certification* arrangements in place between East and West: hence the Austrian proposals CSCE/II/D/8 (12 November 1973) and CSCE/II/E/10 (14 November 1973), supported by Finland and Switzerland in CSCE/II/D/14 (6 March 1974). The Final Act merely encourages international co-operation, particularly at the multilateral level, in this area. The Madrid Concluding Document (1983), “Co-operation in the Field of Economics ...”, § 19 goes further, envisaging the conclusion of international arrangements “covering where appropriate the mutual acceptance of certification systems providing mutually satisfactory guarantees.”

100 In this subsection, initiated by the US in CSCE/II/D/12 (19 February 1974) and CSCE/II/E/18 (25 September 1974), it is recommended that the bodies, enterprises and firms of the participating States include arbitration clauses in contracts or special agreements concerning them. The most interesting provision envisages arbitration in a *third country*, that is to say, outside the Arbitration Commission that exists within the various Eastern countries. See also Madrid Follow-up Meeting (1983): Concluding Document, “Co-operation in the Field of Economics ...”, § 20.

101 This West German idea was accepted by the USSR after much hesitation. In order not to increase the importance of the two provisions finally adopted, they were extended to trade and, as it were, “diluted” in the section entitled “Provisions concerning trade and industrial co-operation”.

102 In this regard, the Western countries wanted to recommend the elimination of “obstacles” (14 in number) to scientific and technological co-operation. The Eastern countries would accept this idea only if it was expressed in “positive” (and not “negative”) terms in phrases such as “further improving” co-operation, “wider use”, and so on. Proposals by the Eastern countries (Hungary, GDR): CSCE/I/7 (5 July 1973) and CSCE/II/F/1/Rev.1 (20 September 1973); Western proposals: CSCE/II/F/2 to 9 (submitted between 20 September 1973 and 1 February 1974). The third basket also contains provisions relating to scientific co-operation in its section on education.

For example, the Final Act calls for the exchange and circulation of books, periodicals and other scientific and technological papers among “interested organizations, scientific and technological institutions, enterprises and scientists and technologists”, as well as participation in “international programmes for the abstracting and indexing of publications.”¹⁰³ It also lays down the principle of *individual* scientific and technical co-operation (rather than State-controlled co-operation) by affirming that “it is for the potential partners, i.e. the competent organizations, institutions, enterprises, *scientists and technologists* of the participating States to determine the opportunities for mutually beneficial co-operation and to develop its details.”¹⁰⁴ Similarly, in recommending the use of commercial channels and methods for the study and transfer of scientific and technological achievements, it directly recognizes the autonomy of private industry.¹⁰⁵ Lastly, at the multilateral level, the Final Act recommends more effective use of the relevant international organizations – in other words, the UNECE¹⁰⁶ and to a lesser extent UNESCO.¹⁰⁷

The content of the main scientific and technical provisions of the second basket of the Final Act was reaffirmed in the Madrid Concluding Document.¹⁰⁸

Given the unanimous agreement that existed on the eve of the CSCE concerning the need for co-operation on *environmental protection*, the relevant provisions of

103 Helsinki Final Act (1975), “Co-operation in the Field of Economics ...”, “Science and technology”, *Forms and methods of co-operation*, § 1, first indent. § 2 of the general preamble to the “Science and technology” section recommends “promot[ing] the exchange of information and experience” and *access* to scientific and technological achievements. Meanwhile, the first indent in the subsection entitled *Possibilities for improving co-operation* advocates “the improvement of opportunities for the exchange and dissemination of scientific and technological information among the parties interested in scientific and technological co-operation including information related to the organization and implementation of such co-operation.” See also the third indent, which recommends improving information on intellectual and industrial property rights.

104 Helsinki Final Act (1975), “Co-operation in the Field of Economics ...”, “Science and technology”, § 3. § 4 specifies that such co-operation can be developed and implemented bilaterally and multilaterally, at governmental and *non-governmental* level, for example by “utilizing also various forms of contacts, including *direct and individual contacts*.” See also Helsinki Final Act (1975), “Science and technology”, *Possibilities for improving co-operation*, first indent; *Fields of co-operation*, first indent and *Forms and methods of co-operation*, second and third indents.

105 Helsinki Final Act (1975), “Co-operation in the Field of Economics ...”, “Science and technology”, *Forms and methods of co-operation*, fifth indent. Commercial channels are also mentioned in “Science and technology”, § 4 and in *Possibilities for improving co-operation*, final indent.

106 See Helsinki Final Act (1975), “Co-operation in the Field of Economics ...”, “Science and technology”, *Forms and methods of co-operation*, first indent.

107 *Ibid.*, second indent. The Final Act refers specifically to the UNISIST programmes. Created by UNESCO in 1971 (UNESCO: SC/MD/25), UNISIST is an international programme for voluntary co-ordination between scientific and technological, regional or international, public or private, existing or future information services. Philosophically speaking, it constitutes “the reaffirmation in the language of the contemporary technology of communication, of the principle traditionally defended by scientists, namely that scientific information must give rise to unrestricted exchanges.” See UNESCO: S.70/D.74/F (1971), p. 20.

108 See Madrid Follow-up Meeting (1983): Concluding Document, “Co-operation in the Field of Economics ...”, §§ 21 to 25.

the Final Act were drafted without any difficulty.¹⁰⁹ Politically, these had the effect of involving the Eastern countries in international co-operation on the issue, which had already begun at the United Nations Conference on the Human Environment in Stockholm in 1972.¹¹⁰

From a technical perspective, the texts in question define the objectives, areas, forms and methods of co-operation envisaged by the participating States. Regarding the *objectives* of co-operation, the Eastern countries wanted the recommendations on the harmonization of criteria and standards for environmental protection to be restrictive.¹¹¹ When it came to the areas of co-operation, the Final Act contains a list of suggestions for an extensive programme, starting with the control of air pollution.¹¹² As to the *methods and forms of co-operation*, the participating States agreed to address the problems “on both a bilateral and a multilateral, including regional and subregional, basis, making full use of existing pattern[s] and forms of co-operation.”¹¹³ At the multilateral level, two institutions are mentioned by name: the UNECE and the United Nations Environment Programme (UNEP).¹¹⁴

The final section of the second basket of the Final Act is devoted to “Co-operation in other areas”; in other words, the development of *transport*, the promotion of *tourism*, the economic and social aspects of *migrant labour* and the *training of personnel*.

In the *transport* sector, the Final Act recommends an increase in exchanges of information among participating States, the simplification and harmonization of administrative formalities (particularly at frontiers, for example with customs procedures), the harmonization of administrative and technical provisions on

109 For the proposals underlying this section of the second basket, see CSCE/II/7 (5 July 1973) or CSCE/II/G/1 (22 October 1973). For the Western proposals, see CSCE/I/12 (5 July 1973) and CSCE/II/G/2, CSCE/II/G/3 and CSCE/II/G/5 to 10 (submitted between 25 October 1973 and 5 March 1974). For proposals by the N+NA countries, see CSCE/I/22 (5 July 1973) by San Marino and CSCE/II/G/4 (26 October 1973) by Finland.

110 The Eastern countries had boycotted the Stockholm Conference in retaliation for the non-admission of the GDR. It should be noted that the Stockholm Declaration on the environment is not mentioned in the general preamble to the section on the environment, but in § 1 of the subsection *Forms and methods of co-operation*.

111 The recommendations for such harmonization are accompanied by phrases such as “if appropriate” (Aims of co-operation, second indent), “where ... possible” (*ibid.*, third indent) and “where appropriate and necessary” (*Forms and methods of co-operation*, fifth indent).

112 Then there are the problems relating to water pollution control, the protection of the marine environment, land utilization and soils, nature conservation, and so on.

113 Helsinki Final Act (1975), “Co-operation in the Field of Economics ...”, “Environment”, *Forms and methods of co-operation*, § 1.

114 The UNECE, which had been studying a series of environmental protection issues since 1956, is cited in general terms in *Forms and methods of co-operation*, § 3, third indent and in relation to two concrete actions concerning, respectively, a study of longrange transport of air pollutants and a study of the predicted environmental consequences of economic and technological activities in § 4. See also Madrid Follow-up Meeting (1983): Concluding Document, “Co-operation in the Field of Economics ...”, § 2.

safety, the development of international inland transport of passengers and goods, the elimination of disparities arising from the legal provisions applied to traffic on inland waterways and the reciprocal railway transport of passengers and goods. In general, the participating States envisaged the development of transport and the solution of existing problems using appropriate national and international means, including – at the multilateral level – the possibilities offered by the UNECE.¹¹⁵

The text on the promotion of *tourism* on an individual and collective basis to some extent complements the corresponding provisions of the third basket.¹¹⁶ In this respect, two provisions are worth mentioning. The first expresses the intention of the participating States to deal “in a positive spirit” with questions connected with the “allocation of financial means for tourist travel abroad, having regard to their economic possibilities, as well as with those connected with the formalities required for such travel, taking into account other provisions on tourism adopted by the Conference.”¹¹⁷ The second refers – even more vaguely – to the facilitation of the “activities of foreign travel agencies and passenger transport companies in the promotion of international tourism”:¹¹⁸ the Western countries could only secure an agreement that private agencies would be allowed to advertise and operate normally in the Eastern countries.¹¹⁹

The question of *migrant labour* raised by Yugoslavia, Spain and Turkey was of interest to various participating States, not least of all Switzerland, Italy and the

115 For the proposals that led to these arrangements, see CSCE/II/H/7 (20 November 1973) by France; CSCE/II/H/13 (29 January 1974) by the Netherlands; CSCE/II/H/115 (6 May 1974) by Austria. There have not been many studies of this section of the second basket. See, however, Marian Milkowski, “Waterway and Inland Navigation in the Light of International Law and the CSCE Final Act”, *Polish Western Affairs*, vol. XVIII, no. 1 (1977), pp. 125–143; and Ljubomir Jankovic and Mirko Ivkovic, “Vues sur la coopération internationale en matière de transports dans l’esprit d’Helsinki”, *Jugoslovenska Revija za Međunarodno Pravo* (organ of the Yugoslav Association of International Law), vol. XXIV, no. 1–2 (1977), pp. 105–114.

116 By recognizing “the interrelationship between the development of tourism and measures taken in other areas of economic activity,” § 2 of the preamble to the text clearly affirms, at the request of the Eastern countries, that it is aimed at the economic dimension of tourism. For the provisions of the third basket on tourism, see chapter VI of this volume, pp. 229ff.

117 Helsinki Final Act (1975), “Co-operation in the Field of Economics ...”, “Co-operation in other areas”, *Promotion of tourism*, § 3, fourth indent. The phrase “financial means” refers to the question of *foreign currencies*. In this respect, the weak commitment (“in a positive spirit”) and the presence of an escape clause of Romanian origin (“having regard to their economic possibilities”) should be noted. With regard to the question of *formalities*, the provision of this paragraph should be read in conjunction with the subsection on human contact in the third basket.

118 *Ibid.*, fifth indent.

119 For the Western proposals, see CSCE/II/H/12 (24 January 1974) submitted by Italy, Ireland, Luxembourg and the Netherlands. See also the proposal by the Netherlands: CSCE/II/2 (26 October 1973); Italy: CSCE/II/H/8 (22 November 1973); Italy and Ireland: CSCE/II/H/9 (22 November 1973); and Spain: CSCE/II/H/3 (29 October 1973) and CSCE/II/H/4 (29 October 1973). The Eastern countries also did not obtain recognition of their official offices – the Intourist agencies.

USSR.¹²⁰ Here the Final Act recognizes that movements of migrant workers in Europe had reached such a scale that they had given rise to a number of economic, social, human and other problems, both in the host countries and in the countries of origin. The main provision of the text is based on the complementarity of the two categories of States. It therefore sets out various general objectives of a social nature (equal rights, vocational training, family reunification), together with an economic objective (transfer of savings to the country of origin).¹²¹ The participating States agreed that the problems caused by the migration of workers should be dealt with bilaterally between the parties directly concerned.¹²²

The Concluding Document of the Madrid Meeting, for its part, recommended that host countries and countries of origin intensify their contacts with a view to improving the general situation of migrant workers and their families.¹²³

Inspired by a Romanian proposal backed by Yugoslavia, the text on *training of personnel* is inconsequential; its two provisions merely mention the possibility of exchanges of information and training courses.¹²⁴

II. Implementation of the Second Basket (before Perestroika)

An analysis of the effects of the second basket should not be confused with a review of the general development of East-West economic relations after 1975.¹²⁵ Clearly, such a review has no place here, not least of all because – as mentioned earlier – the phenomenon of economic co-operation predated Helsinki. It would

120 See the proposals by Yugoslavia: CSCE/II/H/5 (31 October 1973); Spain: CSCE/II/H/6 (31 October 1973); Turkey: CSCE/II/H/II (28 November 1973) and CSCE/II/H/15 (14 March 1974). The question concerned the USSR, notably for reasons relating to the negotiation of the provisions of the third basket on the *reunification of families*.

121 The “*introductory heading*” of § 4 was inspired by Switzerland, a country where, [at the time of writing], migrant workers made up 30 per cent of the working population and which was dealing with a large-scale xenophobic movement (the “Schwarzenbach initiative”).

122 Moreover, the participating States agreed only to take “due account of the activities of the competent international organizations, more particularly the International Labour Organization, in this area” (§ 3).

123 See Madrid Follow-up Meeting (1983): Concluding Document, “Co-operation in the Field of Economics ...”, §§ 27 and 28, inspired by proposals by Spain and Portugal: CSCE/RM/E.1 (9 December 1980); Yugoslavia: CSCE/RM/E.12 (12 December 1980); and Finland and Switzerland: CSCE/RM/E.20 (17 December 1980). At the Belgrade Follow-up Meeting, the question of migrant workers had been the subject of CSCE/BM/E/8/Rev.1 (10 November 1977), a text submitted jointly by Spain, Greece, Italy, Portugal, Turkey and Yugoslavia.

124 See the proposals by Denmark and France: CSCE/II/H/14 (5 March 1974); Romania: CSCE/II/H/106 (11 March 1974); and Yugoslavia: CSCE/II/H/110 (26 March 1974). The vast majority of the participating States refused to include a specific mention of *developing countries*. The Madrid Concluding Document (1983), “Co-operation in the Field of Economics ...”, § 29, however, recommended the organization of a specialized seminar, with the help of the UNECE and the ILO.

125 On this subject, see, for example, Marie Lavigne, “Les relations économiques Est-Ouest. 1975–1985: bilan et perspectives”, *Etudes internationales*, vol. XII, no. 4 (December 1981), pp. 733–748; Anita Tiraspolsky, “Dix ans de Commerce Est-Ouest”, *Le courrier des pays de l’Est*, no. 257 (December 1981), pp. 3–31; and North Atlantic Assembly, *Les relations économiques Est-Ouest* (Brussels, 1984), pp. vi–77.

be wrong therefore to assume that any developments in this regard should be credited to the CSCE. Accordingly, this section will not examine the effects of the second basket on each sector, but on the basis of the three levels of implementation (unilateral, bilateral and multilateral) proposed by the Final Act.

1. Unilateral Level

The second basket contains various groups of provisions calling for unilateral action. From a Western point of view, the most important of these relate to business contacts and facilities and the dissemination of economic information.¹²⁶

A. Business Contacts and Facilities

In a veiled criticism of the prevailing practices in the Eastern countries, the provisions on business contacts and facilities were primarily aimed at Soviet bloc countries, which subsequently made various improvements.

After the Helsinki Final Act was signed, Czechoslovakia and Bulgaria began following the example of other Comecon countries by allowing – admittedly in fairly strict conditions – Western firms to do business in their territory.¹²⁷ Buildings specifically designed to accommodate trade representations were constructed in Poland (October 1975), Hungary (February 1977), the GDR (September 1978) and the USSR (October 1980).¹²⁸ In 1977, the Soviets set up – under the aegis of the Chamber of Commerce and Industry – a special organization (*Expocenter*) to plan and coordinate trade fairs and facilitate the work of Western firms based in the country.¹²⁹ In 1979, Hungary likewise introduced new regulations allowing users of imported products to come into *direct* contact with Western exporters.¹³⁰

There were even positive developments in the field of industrial co-operation. In 1976, Czechoslovakia began a process of industrial decentralization.¹³¹ Hungary went even further by issuing a series of decrees between 1977 and 1982 authorizing joint projects with Western companies and establishing free zones and extraterritorial status for the personnel involved. It also set up a bank

126 The others relate, for example, to the progressive reduction of obstacles to the development of trade, marketing or tourism.

127 Since the Czechoslovak decision was announced on 11 November 1975, [at the time of writing] 40 enterprises have been established in the country, see Commission on Security and Co-operation in Europe, *The Helsinki Process and East-West Relations. Progress in Perspective. A Report on the Position Aspects of the Implementation of the Helsinki Final Act, 1975–1984* (Washington, 1985), p. 50. In the same period, on 3 December 1975, the Bulgarian decision allowed Western firms to establish offices in Bulgaria for a renewable two-year period (*idem.*).

128 *Ibid.*, p. 51.

129 *Ibid.*, p. 52. Bulgaria implemented a similar measure in 1980 (*idem.*).

130 *Idem.*

131 “A transaction of below \$500,000 thousand between a Czechoslovak enterprise and a western company can be conducted by the general manager of that enterprise, and only the approval of the relevant industrial ministry is needed for any transaction below \$1.7 million” (*ibid.*, p. 87).

predominantly funded using Western capital.¹³² Poland also enacted various decrees (1976–1979) authorizing joint projects with Western countries.¹³³ On 28 March 1980, it passed legislation that came to be regarded as the most liberal of its kind.

In reality, neither these improvements nor the reforms subsequently introduced in the USSR and elsewhere during perestroika fundamentally changed the situation in the East.¹³⁴

B. Dissemination of Economic Information

Less tangible progress was made with the dissemination of economic information. A survey of the various Eastern countries (other than Hungary and Poland) revealed hardly any significant improvement – in some cases the situation could even be said to have deteriorated.¹³⁵ In the USSR, for example, publications on the general state of the national economy or on foreign trade were less widely circulated than before Helsinki and contained fewer statistics.¹³⁶

132 “Changes in profit taxation, making joint ventures more attractive to Western companies, were implemented in 1979. And, in November 1982, decrees on customs free zones on the extraterritorial status of employees of a joint venture project effectively eliminated major administrative problems for Western firms involved in joint ventures with Hungary. According to the 1982 decrees, any joint venture project set up in [a] customs free zone is considered legally a foreign entity and may, therefore, import without paying duty and export without Hungarian customs clearance. The Central European International Bank was established in January 1980 as the first enterprise in Hungary with majority Western ownership, with six Western European banks holding 66 per cent as compared to the National Bank on [sic] Hungary’s 34 per cent” (ibid., p. 82).

133 Ibid., pp. 83–84.

134 On these reforms, see the comments by Reiner Weichardt and Otto Pick, *NATO Review*, vol. 36, no. 5 (October 1988), pp. 22–33; John Tedstrom, *Radio Liberty Research*, RL 449/88 (29 September 1988); and Karoly Okolicsanyi, *Radio Free Europe Research*, Hungary/15 (5 October 1988).

135 On the subject of Hungary, “business and commercial information, while not usually available in forms such as Western style annual reports, is disseminated fairly freely in newspapers, journals and specialized economic publications ... Hungarian co-operation with the IMF and the World Bank have resulted in a fundamental qualitative improvement in economic and financial information available in the West.” See *Seventeenth Semi-annual Report by the President to the Commission on Security and Co-operation in Europe on the Implementation of the Helsinki Final Act, April 1, 1984– October 1, 1984* (Special Report No. 119; Washington: US Department of State, Bureau of Public Affairs, 1984), p. 18. With regard to Poland, the same source states that “the Western business community has full access to organizational information, although the accounting methodology is different from that used in the West and as such, is sometimes of little use to the business visitors. The government publishes regular economic statistics, which include foreign trade and industrial production data ...” (idem.).

136 In 1979, a US source revealed that the “availability of useful commercial information, which declined during the last two review periods, was reduced further by a decision not to publish monthly production statistics. In the future, *Ekonomicheskaya Gazeta* will publish only aggregated quarterly figures.” See *Sixth Semi-annual Report by the President to the Commission on Security and Co-operation in Europe on the Implementation of the Helsinki Final Act, December 1, 1978–May 31, 1979* (Special Report No. 54; Washington: US Department of State, Bureau of Public Affairs, 1979), pp. 10–11.

Bulgaria's practices were even more restrictive. The country published virtually no information on its external financial position, which it regarded as a State secret. As for information on foreign trade, this covered only the value of trade (calculated in local currency without a conversion rate) and not its volume. The United States was of the opinion that the Bulgarian statistics were generally incorrect or contained significant omissions intended to mask the difficulties of the national economy, particularly in agriculture.¹³⁷

Despite some weak attempts at improvement, the situation in Czechoslovakia, the GDR and Romania remained fundamentally unsatisfactory from the point of view of the recommendations of the Helsinki Final Act. The information routinely available in these countries was, in any event, not conducive to any meaningful market research.

In short, glasnost and perestroika did little to alter the situation in the Soviet bloc.

By contrast, some Western countries – such as Portugal, Turkey, Greece and Italy – endeavoured to improve the presentation, accuracy and frequency of publication of their economic statistics after Helsinki.¹³⁸

2. Bilateral Level

At the bilateral level, the progress made after 1975 is difficult to pin down for two reasons. Firstly, the provisions of the Final Act calling for bilateral action laid down only basic and general guidelines.¹³⁹ Secondly, the multiple bilateral agreements concluded after Helsinki are, in most cases, a natural progression or renewal of earlier co-operation programmes.¹⁴⁰ Nevertheless, some of these agreements provided for mutual recognition of the most-favoured-nation

137 *Seventeenth Semiannual Report ...* (n. 135), pp. 15–16.

138 For the unilateral measures taken by the United States on the basis of the CSCE's recommendations, see Commission on Security and Co-operation in Europe, *Fulfilling our Promises: The United States and the Helsinki Final Act. A Status Report* (Washington, 1979), pp. 176ff.

139 The provisions of the second basket calling for bilateral action include some that affirm the importance of bilateral agreements in the longterm development of trade (Helsinki Final Act (1975), "Co-operation in the Field of Economics ...", "Commercial Exchanges", *General provisions*, § 7), some that recommend the development of exchanges of economic and commercial information through appropriate bilateral agencies (*ibid.*, *Economic and commercial information*, § 6), and some relating to the implementation of projects of common interest relating to the environment, migrant labour and suchlike.

140 For the list of bilateral economic agreements signed by 16 Western countries (Belgium, Luxembourg, Canada, Denmark, France, FRG, Greece, Iceland, Ireland, Italy, Netherlands, Norway, Portugal, Spain, Turkey, United Kingdom) and six N+NA countries (Austria, Cyprus, Finland, Malta, Sweden, Switzerland) with various Eastern countries between 1975 and 1984, see Commission on Security and Co-operation in Europe, *The Helsinki Process ...* (n. 127), pp. 69–76. For the agreements signed between the US and the Eastern countries, see *ibid.*, pp. 41ff.

clause.¹⁴¹ The majority advocated the creation of bilateral committees, which seemed to have an increasingly important role within the CSCE.¹⁴²

3. Multilateral Level

The most significant developments resulting from the second basket took place at the multilateral level, with the extension of the UNECE's role and co-operation on environmental protection.¹⁴³

A. Extension of the UNECE's Role

The CSCE had close links to the UNECE from the start. It was no secret that the work accomplished by the Commission before the 1960s provided the inspiration for the content of the second basket;¹⁴⁴ the nature of the *acquis* in question explains the relative ease with which the provisions of this basket were elaborated, both in Geneva and in Madrid. Furthermore, the CSCE process undoubtedly enhanced the political authority of the UNECE and gave new impetus to its work.¹⁴⁵

141 They include the US-Romanian trade agreement of 3 August 1975 and the US-Hungarian agreement of 17 March 1978 (*ibid.*, pp. 41–42). It should also be remembered that the United States suspended the granting of this treatment to Poland following the establishment of the state of siege in that country.

142 Originally, the Bilateral Commissions were mainly used to examine difficulties between the two parties directly concerned. Since Helsinki, their role has become more positive, as it mainly involves stimulating bilateral co-operation. Furthermore, the composition of these bodies – which generally meet every year – has diversified, with Western European countries introducing representatives from the private sector (*ibid.*, pp. 66–67). By contrast, in the case of the co-operation between the United States and the Eastern countries, the commissions do not include “mixed” elements (*ibid.*, p. 50).

143 To these two elements should be added the results of the Hamburg *Scientific Forum* (organized, as we know, in accordance with the provisions of the third basket, see chapter VI of this volume, pp. 310ff) and a draft inter-Balkan co-operation agreement (which did not come to fruition). With regard to this second point, it should be remembered that a *Balkan conference* took place in Athens, from 26 January to 5 February 1976, bringing together five CSCE countries: Greece, Turkey, Bulgaria, Romania and Yugoslavia. Some 120 projects were envisaged in the sectors of agriculture, trade, transport, telecommunications and suchlike. The enterprise – the first of its kind since the Second World War – was shortlived, due to Bulgarian reluctance. Inter-Balkan co-operation – with the participation of Albania – resumed in 1988 (Belgrade Conference) and 1989 (Tirana Conference).

144 The contents of the second basket corresponded closely to the programme of work adopted by the UNECE in 1969–1970. See Ilka BaileyWiebecke and Paul Bailey, “ECE and the Belgrade Follow-up Conference”, *Aussenpolitik* (English edition), vol. 28, no. 3 (1977), p. 260, note 9.

145 Addressing the States participating in the Belgrade Meeting on 10 October 1977, the Executive Secretary of the UNECE stated at the outset that the CSCE was “the most important political event in the 30-year history of the United Nations Economic Commission for Europe.” He also specified that the CSCE “not only confirmed the path taken by the ECE in the past; it also gave a powerful stimulus to strengthened co-operation through the ECE in the future ...” (UN: E/ECE/938, Annex I, p. 1. This text also exists, but in a slightly different translation, in CSCE/BM/VR.9 (10 October 1977), pp. 2ff.

The CSCE had the immediate effect of encouraging the UNECE to adapt its programmes to the political parameters introduced by the Final Act into East-West relations. At its thirty-first session (30 March to 9 April 1976) – the first session to take place after the Helsinki Summit – the UNECE held an in-depth debate on its future activities. For example, it decided to make changes to almost half of its programmes of work, which were adjusted to include projects linked to the provisions of the second basket ripe for multilateral application within the UNECE.¹⁴⁶

This amounted to a straightforward change in direction. Yet there was some disagreement over how important the Final Act would actually be for the Commission's future development. Eager to underscore its political importance, some countries sought to tie everything – directly or indirectly – to the CSCE, or somehow link the UNECE's *raison d'être* to the implementation of the Helsinki recommendations.¹⁴⁷ The main resolution adopted at the end of the session failed to endorse any alliance, which the Western countries were opposed to in any case.¹⁴⁸

At the time of the Belgrade Follow-up Meeting (1977), the UNECE's new programmes of work were already more operational,¹⁴⁹ less short-termist,¹⁵⁰ more affiliated with the programmes of the UN's other regional economic commissions,¹⁵¹ and more open to the business community.¹⁵²

146 The review of the programme was in fact undertaken prior to the signing of the Final Act. See Resolution 2 (XXX) of April 1975, recommending that the Executive Secretary draw up a report including specific proposals on the possibility of adapting the future activities of the UNECE.

147 Yugoslavia (the country of origin of the then Executive Secretary) and Poland had included two items on the agenda of the session, respectively entitled: "The Economic Commission for Europe and the Final Act of the Conference on Security and Co-operation in Europe: the objectives of the Commission in the implementation of the decisions of the Final Act of the CSCE" (UN: E/ECE/906) and "The role of the Economic Commission for Europe in the implementation of the provisions of the Final Act of the Conference on Security and Co-operation in Europe" (UN: E/ECE/907).

148 Resolution 1 (XXXI) of 9 April 1976 was entitled "Future activities of the Commission and implementation of the Final Act of the Conference on Security and Co-operation in Europe". Note that the Eastern delegations had proposed less specific wording: "The future activities of the Commission *in light of* the Final Act ...". For the implementation of this resolution, see UN: E/ECE/911 (13 January 1977) and Addenda 1 and 2.

149 The practical and operational activities stimulated by Helsinki include work on the planning of the European North-South motorway and the interconnection of the Balkan electric power networks, see UN: E/ECE/938, Annex I, p. 5.

150 This orientation would mainly be seen in the work of the "economic advisers to the governments of UNECE member countries" and also in the timber, coal, statistics or trade committees (or "principal subsidiary bodies").

151 The special emphasis placed on the problems facing the whole of the Mediterranean after Helsinki, enabled the Commission to establish new links with the developing regions of Western Asia and North Africa, see chapter VII of this volume, p. 332 (n. 72).

152 The Commission Secretariat strengthened its working relationship with the International Chamber of Commerce and, through the latter, with the chambers of commerce of the Eastern

The Economic Commission for Europe did not just seek to implement the provisions on which the Final Act had expressly given it a mandate; it extended its field of action to all clauses with a multilateral scope in the second basket, and to the economic provisions of the Helsinki Declaration on the *Mediterranean*.

The Commission went beyond its mandate with Decision D (XXXI) of 9 April 1976 entitled “Selected topics for special attention”. This text reminded the principal subsidiary bodies concerned that they were to focus not only on topics expressly mentioning the UNECE in the Final Act, but also on the multilateral application of other provisions contained in its economic section.¹⁵³ Of these, the provisions on migrant labour were the subject of a specific decision – Decision A (XXXIII) – dated 22 April 1978.¹⁵⁴

Decision A (XXXI) of 9 April 1976 on “Encouragement of economic co-operation in the Mediterranean in the light of the Final Act of the CSCE” extended the UNECE’s mandate to include the implementation of certain CSCE provisions on the Mediterranean. The decision was renewed and updated each year at the end of the UNECE plenary session.¹⁵⁵ Building on this momentum, the Commission was also asked to submit “contributions” to the two Mediterranean meetings held within the framework of the Follow-up to the CSCE: the Meeting of Experts in Valletta (1979) and the Venice Seminar (1984).¹⁵⁶

At the Belgrade Follow-up Meeting, some participating States proposed strengthening the role of the UNECE in implementing the provisions of the

countries. Moreover, business people increasingly formed part of the national delegations sent to the Commission. See UN: E/ECE/938, Annex I, p. 6.

153 See UN: E/ECE/909 (the UNECE’s report on the work of its thirty-first session, 1975–1976, p. 102). This decision was then confirmed by Resolutions 1 (XXXII) of 30 April 1977 (Part I, § 8) and 1 (XXXIII) of 22 April 1978 (Part I, § 7).

154 See UN: E/ECE/960, p. 120. See also UN: E/ECE/971 and Resolution A (XXXIV) of 27 April 1979. For the implementation of the provisions of the Helsinki Final Act by the UNECE, see UN: E/ECE/918 of 23 February 1977, E/ECE/935 of 13 February 1978, E/ECE/938 of 16 December 1977 (“contribution” to the Belgrade Meeting), E/ECE/1021 of 12 January 1981 (“contribution” to the Madrid Meeting) and E/ECE/1086 of 26 February 1985, pp. 26–31. It is worth specifying that this implementation was not conclusive in all cases. Thus, the recommendation on the possibility of a multilateral system for the notification of laws and regulations concerning foreign trade (MUNOSYST) proved to be impracticable. On this point, see UN: TRADE/R.335 of 28 October 1976 (and Addendum 1 of 4 November 1976); TRADE/AC.7/2 of 21 September 1977; TRADE/R.389 of 15 October 1979 (and Addendum 1); TRADE/R.406 of 7 October 1980; TRADE/R.427 of 14 September 1981; TRADE/R.426 of 21 September 1981; TRADE/R.447 of 27 September 1982; TRADE/R.448 of 15 October 1982; TRADE/R.466 of 31 October 1983 and TRADE/R.486). For a critical analysis of the MUNOSYST project, see Frédéric Muller, “La Suisse et la Commission économique pour l’Europe des Nations Unies”, PhD thesis (Institut universitaire de hautes études internationales (IUHED), Geneva, 1983), pp. 176–182.

155 See chapter VII of this volume, p. 332 (n. 72). The extension of the competence of the UNECE in this field is largely a direct consequence of the disappointment experienced by some CSCE States due to the weakness and slow progress made with the Mediterranean part of Helsinki.

156 For the “contribution” submitted in Valletta, see MEV.1 (13 February 1979) or UN: E/ECE/977 (21 December 1978); MEV.2 (13 February 1979) or UN: E/ECE/976 (4 December 1978); and MEV.3 (13 February 1979) or UN: E/ECE/977/Add.1 (22 January 1979). For the “contribution” to the Venice Seminar, see UN: E/ECE/1098 (18 January 1985).

Helsinki Final Act.¹⁵⁷ The failed talks on the first and third basket prevented these proposals from materializing, however, even though a consensus undeniably existed. By contrast, in the Madrid Concluding Document (1983), the participating States renewed their support for the UNECE and assigned it various extra tasks concerning the implementation of the programme for the second basket.¹⁵⁸

In short, the CSCE gave the UNECE a new lease of life, especially in the field of environmental protection.

B. Development of Co-operation in the Field of Environmental Protection

The development of environmental co-operation came about as a direct – and laborious – result of Soviet initiatives known as the “Brezhnev Proposals”.

On 13 March 1976, during the thirty-first session of the UNECE, the USSR officially submitted a proposal for European conferences on environmental protection, transport development and energy.¹⁵⁹

The idea – which was not entirely new¹⁶⁰ – received a lukewarm reception from the Western countries. Besides wanting to revive the idea (shelved until the Geneva stage of the CSCE) of major pan-European projects, the Soviets were suspected of having three ulterior motives: creating an economic diversion as a distraction from the third basket, obstructing the development of the European Community in areas where its competences were somewhat fragile, and gaining access to technological information on the cheap.

157 See the drafts presented by the Scandinavian countries: CSCE/BM/15 (4 November 1977); and Yugoslavia: CSCE/BM/19 (4 November 1977). The Western proposals for the concluding document, CSCE/BM/69 (16 December 1977) and CSCE/BM/75 (21 February 1978), also contained a positive assessment of the role of the UNECE. For the ideas of the Eastern countries, see CSCE/BM/E/5 (2 November 1977), CSCE/BM/E/7 (3 November 1977) and CSCE/BM/E/9 (7 November 1977). For the “contribution” presented by the UNECE in Belgrade, see UN: E/ECE/938 (16 December 1977); Annex I of this text reproduces the speech by the Executive Secretary, originally published in CSCE/BM/VR.9 (10 October 1977), pp. 2–15. See also Bettina HassHurni, “Economic Issues at Belgrade”, *Journal of World Trade Law*, vol. 12, no. 4 (July–August 1978), pp. 289–302; and Paul J. Bailey and Ilka Bailey Wiebecke, “All-European Co-operation: the CSCE’s Basket Two and the ECE”, *International Journal*, vol. XXII, no. 2 (Spring 1977), pp. 386–407.

158 The Madrid Concluding Document (1983), “Co-operation in the Field of Economics ...” contains 12 provisions that specifically refer to the UNECE (§§ 3, 10, 12, 16–19, 23, 25, 26, 29 and 30). On the implementation of these new provisions, see UN: E/ECE/1086 (26 February 1985), pp. 26–31. For the Commission’s “contribution” in Madrid, see CSCE/BM/VR.9 (10 October 1977), pp. 1–13 (speech by Executive Secretary Stanovnik at the plenary session of 18 November 1980) and UN: E/ECE/1021 of 12 January 1981 (summary report on the activities of the UNECE relating to the implementation of the Final Act, with the text of the aforementioned speech appended). Lastly, it should be pointed out that almost all the proposals submitted in Madrid on the subject of the second basket referred to the Commission: see, in particular, proposals by Czechoslovakia and the GDR: CSCE/RM/25 (12 December 1980); and the Scandinavian countries: CSCE/RM/E.11 (12 December 1980).

159 UN: E/ECE/908.

160 Leonid Brezhnev had already mentioned such a prospect at the Seventh Congress of the Polish Communist Party in December 1975 and at the 25th Congress of the CPSU.

Moreover, the “Brezhnev Proposals” posed a procedural problem with considerable ramifications: did they belong to the second basket, or to a completely different area of the CSCE Follow-up? They called for “conferences” to be organized at a high (ministerial) level with a view to the adoption of *political* decisions. Yet this type of enterprise was contrary to normal UNECE procedure, where co-operation generally took place at the expert level. In reality, the Soviet Union envisaged only a supporting role for the Commission in the form of a contribution to the preparations and Follow-up to the “conferences”.¹⁶¹ The “Brezhnev Proposals” to some extent influenced the role assigned to the Commission by the Final Act, which had been signed only a few months earlier. Any implementation of the proposals could have led to the UNECE being replaced by ad hoc mechanisms designed not to *implement* the existing provisions, but to extend co-operation in three areas of the economic basket.¹⁶² Was it appropriate to seek to enlarge the provisions agreed in Helsinki before they had even been put into effect? To do so before the Belgrade Follow-up Meeting would have jeopardized the very future of pan-European dialogue and its form, while failing to capitalize on the opportunities afforded by the Commission.

In the light of these various points, the Western countries concluded that the role of the UNECE had to be preserved above all else. Without fully rejecting the “Brezhnev Proposals” – which they could see had a certain intrinsic interest – they proposed that these should be submitted to the appropriate bodies of the Commission pending the recommendations of the Belgrade Follow-up Meeting on the second basket.¹⁶³ The thirty-first session (1976) welcomed this temporary solution, deciding that governments should continue to examine the Soviet proposal and that the Executive Secretary would survey the work completed or under way within the UNECE in the fields of the environment, transport and energy.¹⁶⁴

The survey concluded that the “Brezhnev Proposals” were achievable within the framework of the Commission. All the topics covered by the proposals in question were added to the agenda, except for two issues that were more universal than regional: marine pollution and international maritime transport. On the

161 See UN: E/ECE/909, § 66; E/ECE(XXXI)/SR.2, §§ 19 and 20; E/ECE(XXXI)/SR.5, §§ 39–49; lg/oes/77/2 a).

162 The Soviet delegate at the thirty-first session stated that his government’s proposal stemmed “directly from the recommendations contained in the Final Act of the CSCE, which referred to international conferences in general as forming part of the desirable forms and methods of multilateral co-operation,” UN: E/ECE(XXXI)/SR.5, § 44. Mr. Rodionov was thus alluding to, without citing, the fourth paragraph of the preamble to the section on the Follow-up to the Conference in the Helsinki Final Act, which stipulated that “in order to achieve the aims sought by the Conference,” the participating States were convinced that they should “make further unilateral, bilateral and *multilateral* efforts and continue, in the appropriate forms set forth below, the multilateral process initiated by the Conference.”

163 See UN: E/ECE/909, § 38; E/ECE(XXXI)/SR.2, §57; E/ECE(XXXI)/SR.5, § 18. On the position of the Nine, see, in particular, lg/oes/77/9 a).

164 See Resolution 1 (XXXI) of 9 April 1976 (UN: E/ECE/909, pp. 97–99).

subject of energy, it emerged that the UNECE had adopted a non-integrated, sectorial approach (gas, coal, electricity and suchlike). In any case, high-level meetings did not pose a major obstacle for an institution as pragmatic as the UNECE; indeed such meetings had occasionally taken place in the past.¹⁶⁵

In its final general resolution, the thirty-second session (1977) recognized that high-level meetings could make a useful contribution to the multilateral implementation of the second basket – provided they had “a precise and carefully prepared agenda” and “a high level of representation”, culminated in “important decisions”, dealt with issues likely “to be of concern to the region as a whole,” and did “not lead to unnecessary duplication of the work of other international organizations.”¹⁶⁶ Subject to those conditions, the principle of a conference on the environment was adopted.

The “stalemate” in Belgrade meant that no new decisions were reached on the second basket in general and the “Brezhnev Proposals” in particular.¹⁶⁷ The Soviets had to wait until May 1979 before a high-level meeting on the environment was officially convened.¹⁶⁸ The High-Level Meeting within the framework of the Economic Commission for Europe on the Protection of the Environment took place in Geneva from 13 to 15 November 1979. It adopted two instruments: the “Convention on Long-range Transboundary Air Pollution” and the “Declaration on Low and Non-Waste Technology and Reutilization and Recycling of Wastes”. The Convention was the first multilateral instrument on the issue (relatively new at the time) of “exporting” air pollution (including acid rain).¹⁶⁹ The Eastern and Western countries agreed to its terms. Conversely, it caused a rift between polluted and polluting countries, with conflicting interests between the Scandinavians (and Canada) on one side and the FRG, the United Kingdom, the United States and the Eastern countries on the other;¹⁷⁰ as for the USSR, it wanted the meeting to be a success, without it producing an overly restrictive instrument. Ultimately, the Convention adopted laid down the fundamental principles and defined a system for exchanges of information, consultation, research and monitoring.

While requiring the Contracting States to develop the best policies and strategies by using the best available anti-pollution technology, it also affirmed the need for the implementation and enlargement of an existing programme: the

165 The idea of strengthening the level of UNECE decisions had, moreover, been raised by the Executive Secretary himself. See UN: E/ECE/838, §§ 107–108.

166 Resolution 1 (XXXII), Part II, preamble, §5 – UN: E/ECE/928, pp. 101–102.

167 The “Brezhnev Proposals” were the subject of an official Soviet draft: CSCE/BM/7 (26 October 1977).

168 Resolution A (XXXIV) of 27 May 1979 – UN: E/ECE/983, pp. 118–119.

169 See Alexandre Charles Kiss, “La coopération pan-européenne dans le domaine de l’environnement”, *Annuaire français de droit international* (1979), p. 721. For the text of the Convention, see UN: E/ECE/1010.

170 See Muller, *La Suisse et la Commission ...* (n. 154), p. 377. By contrast, there was consensus between the Eastern and Scandinavian countries over the principle of convening the meeting (*ibid.*, pp. 369–370).

European Monitoring and Evaluation Programme (EMEP).¹⁷¹ Lastly, it appointed an executive body responsible for administering the Convention and monitoring its implementation.¹⁷²

Although the USSR gained the most from the meeting politically, it was also a technical success – especially since the unfolding energy crisis meant that countries might not be too particular about the quality of the fossil fuels they used and their sulphur content.¹⁷³ The Convention entered into force on 16 March 1982 and had 32 Contracting States at the time of writing (1988). It was supplemented by a Protocol on the Reduction of Sulphur Emissions or their Transboundary Fluxes by at least 30 per cent from 1980 levels (adopted in Helsinki in July 1985 and in force from 1987), and by a Protocol concerning the Control of Emissions of Nitrogen Oxides or their Transboundary Fluxes (adopted in Sofia in 1988).¹⁷⁴

To this day, the high-level meeting on the environment remains the sole achievement of the “Brezhnev Proposals”. In Madrid, the USSR sought in vain to rekindle the idea of an equivalent meeting on energy.¹⁷⁵ Its attempts to convince the UNECE proved equally unsuccessful. The truth was that the Western countries had doubts as to the extent of Soviet energy reserves. In any event, they did not want more economic co-operation in a political landscape blighted by the troubles in Afghanistan and Poland.¹⁷⁶

III. The Vienna Provisions (or the “Rise of Cinderella”)

Traditionally marginalized by the question of human rights and the military problem, the second basket – the Cinderella of the CSCE – was given more importance in 1989. Three key features immediately stand out: the predominance of environmental protection,¹⁷⁷ the adaptation of the second basket to concerns over respect for human rights,¹⁷⁸ and the loss of the UNECE’s monopoly on the

171 Article 9 of the Convention. Established in 1978, the EMEP (Cooperative Programme for Monitoring and Evaluation of the Long-range Transmission of Air Pollutants in Europe) is implemented by the UNECE in collaboration with UNEP and the WMO; it includes [at the time of writing] some 88 daily monitoring stations in border zones in 123 countries in the region.

172 See Article 10 of the Convention. The executive body meets for the first time, in Geneva, in June 1983.

173 Kiss, “La coopération pan-européenne ...” (n. 169), p. 722 [in French].

174 CSCE/RM.5 (8 December 1980).

175 This protocol was signed by 25 States. See press release ECE/ENV/14 (1 November 1988).

176 At the UNECE, the Western countries did not go beyond the creation of a new subsidiary body designed to “make an inventory of the possibilities for co-operation: advisers from the EEC countries for energy,” Resolution B (XXXIV) of 27 April 1979. For more details of how the question evolved, see Muller, *La Suisse et la Commission ...* (n. 154), pp. 299–326.

177 See further on in this chapter, pp. 227.

178 See Vienna Follow-up Meeting (1989): Concluding Document, “Co-operation in the Field of Economics, of Science and Technology and of the Environment”, §§ 16, 39, 41 and 44.

multilateral implementation of the CSCE's economic provisions.¹⁷⁹ In any case, the economic chapter of the Vienna Concluding Document (1989) is both better structured and more concrete and substantial than that of the Madrid Concluding Document (1983). This is true of all four sections of the text: trade and industrial co-operation, science and technology, environment, and co-operation in other areas.¹⁸⁰

1. Trade and Industrial Co-operation

In this section, four provisions are particularly noteworthy.

The first relates to *working conditions for business people*. It requires the CSCE participating States (namely the Eastern countries) to take measures for improvement "regarding, among other things, accreditation, accommodation, communications, and recruitment and management of personnel. They will also take measures to avoid unjustifiable delays in visa procedures and customs clearance."¹⁸¹

The second concerns *compensation* transactions. Without being openly critical of these, it nonetheless recommends measures that highlight their drawbacks.¹⁸²

The third concerns the *transparency* of the economic conditions of the market. It prescribes the publication and circulation of "comprehensive, comparable and timely" economic and commercial information. It calls upon the CSCE participating States to publish "up-to-date macroeconomic information and statistics", and for the first time recommends that they envisage "making balance of payment figures available."¹⁸³

The fourth provision convenes a Conference on Economic Co-operation in Europe. The Conference was scheduled to take place in Bonn from 19 March to 11 April 1990 and would "provide new impulses for economic relations between

179 The UNECE is mentioned several times in the second basket (§§ 4, 6, 10, 24), but much less than previously. § 2 of the preamble does affirm that the CSCE States are ready "to make further use of the existing framework, resources and experience of the UNECE in areas which are of significance for the implementation of recommendations of the CSCE." But this is merely formal language. The Vienna Concluding Document (1989) provides, for the first time, for Follow-up Meetings outside the UNECE: a conference on economic co-operation in Europe and a meeting on environmental protection. It also refers to international institutions other than the UNECE, such as the United Nations Commission on International Trade Law (UNCITRAL), the World Health Organization (WHO), the International Atomic Energy Agency (IAEA), UNEP, the International Chamber of Commerce (ICC) and the International Union for Conservation of Nature (IUCN).

180 For a systematic analysis of the second basket of Vienna, see Jean-Daniel Clavel, *Les résultats de la Réunion de Vienne sur les Suites de la CSCE: le volet économique* (Geneva: GIPRI, 1989), p. 50.

181 Vienna Follow-up Meeting (1989): Concluding Document, "Co-operation in the Field of Economics ...", § 2. See also CSCE/WT.117 (13 March 1987).

182 The participating States recommended that compensation proposals be "addressed at the beginning of negotiations and, when agreed upon, dealt with in a flexible way, especially regarding the choice of products." Vienna Follow-up Meeting (1989): Concluding Document, "Co-operation in the Field of Economics ...", § 4. See also CSCE/WT.115 (13 March 1987).

183 Vienna Follow-up Meeting (1989): Concluding Document, "Co-operation in the Field of Economics ...", § 6. See also CSCE/WT.118 (13 March 1987).

participating States, in particular by improving business conditions for commercial exchanges and industrial co-operation and by considering new possibilities for, and ways of, economic co-operation.”¹⁸⁴ The Conference was further distinguished by the fact that its participation was to be open to representatives both of the business community and of governments: despite its name, it would therefore be a “forum” type meeting.¹⁸⁵

Lastly, this section contains a provision underlining the growing importance of *services* in East-West economic relations,¹⁸⁶ and another that expresses support for perestroika in the Soviet Union by calling for *autonomy for enterprises*.¹⁸⁷

2. Science and Technology

This section is distinctive given the *area of co-operation* it opens up and its explicit reference to *human rights*.

The Vienna Concluding Document defines seven new areas of co-operation: the use of non-renewable energy sources; biotechnology; medical and related sciences (which include the fight against AIDS and research concerning the long-term consequences of radiation); research on environmentally sound technologies; mechanical, electrical and automation industries; research on alternatives to animal experimentation; the safety of nuclear facilities.¹⁸⁸

For all these areas of co-operation, the Vienna Concluding Document underlines “the importance of freedom of communication and exchange of views for progress in science and technology”, encourages “direct and individual contacts between scientists, specialists and interested business people” and recalls the need to respect human rights as “one of the foundations for a significant improvement in international scientific co-operation at all levels.”¹⁸⁹

184 Vienna Follow-up Meeting (1989): Concluding Document, “Co-operation in the Field of Economics ...”, § 13. The mandate and organizational modalities for the CSCE are contained in Annex V to the Vienna Concluding Document.

185 At a certain stage in the Vienna negotiations, the formula of a two-stage meeting (Prague and Bonn) was envisaged to reconcile competing ideas of a Forum in the East (CSCE/WT.3 of 15 December 1986 and Addenda 1 and 2 of 13 March and 9 October 1987) and a Conference in the West (CSCE/WT.58 of 18 February 1987). This formula was abandoned for technical reasons (business people were unlikely to take part for a long period of time) and political reasons (human rights violations in Czechoslovakia). The term “Conference” was finally retained for the single exercise, which took place in Bonn.

186 Vienna Follow-up Meeting (1989): Concluding Document, “Co-operation in the Field of Economics ...”, § 7.

187 *Ibid.*, § 5: “The participating States recognize that, within their respective economies, increased autonomy for enterprises can help achieve a better response to market needs and thus contribute to the development of trade and co-operation among them.” Similarly, the last phrase of § 1 of the preamble to the second basket stresses “the importance of policies aimed at promoting structural adjustments ...”.

188 Vienna Follow-up Meeting (1989): Concluding Document, “Co-operation in the Field of Economics ...”, §§ 17 to 23.

189 *Ibid.*, § 16. The idea of a scientific forum, to be held at Erice, in Italy, was put forward by the Western countries in CSCE/WT.64 (18 February 1987) and Addendum 1 and was subsequently

3. Environment

In Vienna, environmental protection was without question the central issue of the second basket. The provisions in question produce a remarkably comprehensive list of the issues at stake: air pollution (national emissions and transboundary fluxes of sulphur, nitrogen oxides and other pollutants), depletion of the ozone layer, climate change, marine pollution and pollution of watercourses, transboundary movement of hazardous wastes, effects of potentially hazardous chemicals, degradation of flora and fauna, and industrial accidents likely to cause transboundary damage to the environment.¹⁹⁰ In this context, it was recommended that the CSCE participating States adopt both national and international measures – in conjunction with the UNECE, EMEP, UNEP and the IUCN.

Somewhat astonishingly, the Vienna Concluding Document recognizes the importance of the role played by *individuals* and *organizations* dedicated to the protection and improvement of the environment. It urges governments to allow environmentalists, individually or collectively, “to express their concerns,” to “promote greater public awareness and understanding of environmental issues,” and to co-operate “in the field of environmental education.”¹⁹¹

Lastly, the CSCE participating States decided to hold a Meeting in Sofia from 16 October to 3 November 1989 tasked with elaborating “the principles and guidelines for further measures and co-operation in new and important areas of environmental protection.”¹⁹² The meeting agenda, with contributions from the UNECE, UNEP and the IUCN, includes a review of three major fields (prevention and control of the transboundary effects of industrial accidents, management of potentially hazardous chemicals, and pollution of transboundary watercourses and international lakes) – on the understanding that “the discussion will focus on legal, practical, technical and technological aspects, as well as on educational matters and public awareness.”¹⁹³ However, the decision to hold such a conference in Sofia triggered a dispute between Turkey and Bulgaria at the end of the Vienna Follow-up Meeting: arguing that any CSCE follow-up meeting had to have a certain political character, Turkey announced that its participation would be contingent upon the resolution, by the host country, of all outstanding humanitarian cases involving members of the Turkish minority; Bulgaria, which denied the existence of any such minority on its territory, reacted by declaring this position a violation of the consensus rule.¹⁹⁴

abandoned in order to limit the number of follow-up exercises. See chapter I of this volume, p. 34 (n. 126).

190 Vienna Follow-up Meeting (1989): Concluding Document, “Co-operation in the Field of Economics ...”, §§ 25 to 34 and 36.

191 *Ibid.*, § 35.

192 *Ibid.*, § 37. The mandate and organizational modalities for the Meeting are contained in Annex VI to the Vienna Concluding Document (1989). On the initial idea of an Ecological Forum, see CSCE/WT.4 (17 December 1986) and Addendum 1 of 31 March.

193 See points 3 to 5 of the mandate for the Meeting.

194 See Journal No. 397 of 15 January 1989, pp. 8–9.

4. Co-operation in Other Areas

This section is traditionally viewed as being of secondary importance. However, it is interesting to note that the question of human rights spilled over into tourism and migrant workers.

For example, the CSCE participating States pledged to facilitate “normal contacts between tourists and the local population” and to endeavour to diversify accommodation options, “including small-scale private accommodation”. Likewise, “they will also consider in a positive spirit the progressive phasing out, for foreign tourists, of minimum exchange requirements where they apply and allow the reconversion of legally acquired local currency.”¹⁹⁵

The Vienna Concluding Document expressly acknowledges that “issues of migrant workers have their *human dimension*.”¹⁹⁶ By the same token, it encourages CSCE participating States to consider favourably applications for *family reunification* as well as *family contacts* involving foreign migrant workers legally residing in their territory.¹⁹⁷

195 Vienna Follow-up Meeting (1989): Concluding Document, “Co-operation in the Field of Economics ...”, § 39. The question of the minimum exchange rate was also the subject of § 11 of the third basket of the Vienna Concluding Document.

196 Vienna Follow-up Meeting (1989): Concluding Document, “Co-operation in the Field of Economics ...”, § 44.

197 *Ibid.*, § 41. See also § 42, which deals with the *cultural* aspect of the question, and § 43, which concerns the *children* of migrant workers.

CHAPTER VI

The Third Basket: Freedom of Movement and the Free Flow of Information and Ideas

“Co-operation in Humanitarian and Other Fields” is the pivotal theme of the third basket. Introduced by the Western countries, the principle behind co-operation in humanitarian and other fields radically altered the spirit and scope of the CSCE project as conceived by the Eastern countries: the static vision of a conference aimed at securing recognition of the territorial situation in Europe became a dynamic process geared more towards the improvement of inter-State relations and the relations of States with their own citizens. The third basket is a partial but concrete extension of the general and abstract recommendations set out under Principle VII of the Decalogue, which it translates into practical consequences for freedom of movement and the free flow of information and ideas.¹ This chapter will begin by looking at the history of freedom of movement, before examining the CSCE’s contribution to this.

I. Freedom of Movement and the Free flow of Information and Ideas from the Cold War to *Détente*

Before it officially became part of the CSCE’s programme of work, the issue of freedom of movement was unsuccessfully broached at the Geneva Summit of 1955.

1. Geneva Summit of 1955

The Summit held in Geneva between the Four Powers (the United States, France, the United Kingdom and the USSR) shares some similarities with the CSCE. Firstly, it was conceived as a two-step process: a Conference of Heads of Government (Dwight D. Eisenhower, Edgar Faure, Anthony Eden and Nikolai Bulganin) and a Conference of Foreign Ministers (John Foster Dulles, Antoine Pinay, Harold Macmillan and Vyacheslav Molotov). At the end of the talks, the Heads of Government issued a “directive” authorizing the foreign ministers to Follow-up the general exchange of views with a detailed examination of the topics discussed. Secondly, the *programme of work* of the foreign ministers consisted of three types of issues, which would later reappear in the CSCE baskets: “European security”, “disarmament” and “development of contacts between East and West”.² This section will look at how the two Geneva conferences handled the question of the “development of contacts”.

1 The third basket does not, therefore, as is sometimes maintained, sum up on its own the human dimension of international relations, forming the basis of all the provisions of this basket and those of Principle VII.

2 The section entitled “Development of contacts” includes economic exchanges.

A. Geneva Conference of Heads of Government (18–23 July 1955)

Initiated by the Western countries, the Geneva Conference of Heads of Government was the first summit between the Four Powers since the Potsdam Conference in 1945.³ The easing of international tensions following Stalin's death, the armistice in Korea and Indochina, and the signing of the Austrian State Treaty all paved the way for the Conference. However, it did not seek to address specific issues, but to foster a positive working relationship between the East and West.

The Western countries introduced the topic of the "development of contacts" based on the idea that there was an inherent human dimension to international relations. They argued that the problems that the Eastern and Western countries needed to resolve not only entailed political action by governments in the interests of States, they also required specific measures to establish (or reinstate) direct communication between people who found themselves separated, regardless of the geographical situation and historical cultural ties.⁴ The Western countries felt that there was an urgent need for a gradual lowering of the existing artificial barriers, whether "of guns or laws or regulations".⁵ On 22 July 1955, France submitted a proposal for the adoption of an initial set of concrete measures.⁶

Nikolai Bulganin confirmed that the Soviets agreed in principle to the removal of existing barriers (which, from their perspective, were mainly in the field of *economic relations*) and the development of co-operation and cultural and scientific contacts.⁷

In the "directive" issued to their foreign ministers, the heads of government inserted a point 3 entitled "Development of Contacts between East and West". This was worded as follows:

The Foreign Ministers should by means of experts study measures, including those possible in organs and agencies of the United Nations, which could (a) bring about a progressive elimination of barriers which interfere with free communications and peaceful trade between people and (b) bring about such freer contacts and exchanges as are to the mutual advantage of the countries and peoples concerned.⁸

3 See the tripartite memorandum of 10 May 1955, which proposed a summit meeting to the USSR: *The Geneva Conference of Heads of Government. July 18–23, 1955* (International Organization and Conference Series I, 29; Washington: US Department of State Publication 6046, 1955), pp. 6–7.

4 See the statement by Edgar Faure at the session of 18 July 1955 (*ibid.*, p. 23).

5 This was President Eisenhower's phrase (*ibid.*, p. 20).

6 This proposal does not appear in the aforementioned US Department of State publication. It is included, however, in *Documents relatifs à la Conférence des Quatre Chefs de Gouvernements. Geneva, 18–23 July 1955* (Notes et études documentaires, 2082, série internationale CCCXXV; Paris: La Documentation française, 1955), p. 19.

7 See *The Geneva Conference of Heads of Government ...* (n. 3), pp. 36 and 42–43.

8 *Ibid.*, pp. 67–68. For the French version, see *Documents relatifs à la Conférence ...* (n. 6), pp. 20–21. See also "Conférences des Quatre Chefs de Gouvernement et des Ministres des Affaires étrangères", *Chronique de politique étrangère*, no. 1 (1956), pp. 86–87.

B. Conference of Foreign Ministers (27 October–16 November 1955)

Point 3 of the “directive” was examined by a committee of experts assisted by two working groups – one focusing on freedom of movement, the other on the question of trade.⁹ In this respect, France submitted an action plan containing 16 proposals on behalf of the three Western countries.¹⁰

Five of the proposals called for the removal of what the Western countries regarded as the most fundamental *restrictions* – namely those concerning information and ideas (censorship); foreign broadcasts (jamming); working conditions for foreign journalists (barriers to external news reporting and access to local information sources); individual tourism (exit visas and artificial rouble exchange rate); travel by diplomats within the country of accreditation.

Five other proposals outlined positive measures for *freedom of movement*: the development of exchange programmes (based on principles agreed by governments) in the professional, cultural, scientific and technical fields; the encouragement of contacts between leading scientists and researchers at international conferences; the organization of cultural and sports exchanges on a basis of reciprocity and under the auspices of existing institutions; student exchanges in various fields (especially those studying languages); the establishment of direct air routes between various cities in the Soviet Union and in the three major Western countries.¹¹

The last six proposals envisaged similar measures concerning the *flow of information and ideas*: the establishment of information centres in the capital cities of the four countries, access to which would be freely open to nationals of the host State; the free distribution of publications issued by foreign embassies (in the language of the host country) to public institutions and private individuals in the country in question; the exchange and sale to the public of foreign newspapers, books and periodicals; increased exchanges of official government publications; the organization of international exhibitions; the exchange of radio programmes (uncensored) on international events.¹²

9 See *The Geneva Meeting of Foreign Ministers, October 27–November 16, 1955* (International Organization and Conference Series I, 30; Washington: US Government Printing Office, Department of State Publication 6156, 1955), p. 279. See also pp. 228–283.

10 For the text of the document, circulated as MFM/DOC/19 Rev. 1 (31 October 1955), see *The Geneva Meeting of Foreign Ministers ...* (n. 9), pp. 245–248.

11 Touching on this last point, Antoine Pinay explained that “it is certainly surprising that, ten years after the end of the war, it is still not possible to go by plane direct from New York, London or Paris to Moscow, or vice versa,” *The Geneva Meeting of Foreign Ministers ...* (n. 9), p. 264.

12 Other proposals were included by France in the text of a draft that it submitted in its own name on 14 November 1955: the opening of foreign reading rooms, protection of copyright and industrial property, material facilities for foreign businessmen, and publication of statistics and other economic data. For the text of the document, circulated as MFM/DOC/61, see *The Geneva Meeting of Foreign Ministers ...* (n. 9), p. 267.

The Soviets refused to be drawn into a discussion on most of these proposals, arguing that they were internal matters for the Soviet Government.¹³ In several cases, they maintained that the proposals (information centres, dissemination and exchange of publications, films and students) were not conducive to a multilateral approach.

For the remaining proposals – exchanges and meetings between professionals, as well as cultural and sports events – the USSR was prepared to facilitate an increase in *collective* contacts based on bilateral agreements, assigning a specific socio-political purpose to such contacts and ensuring their compatibility with the national legislation of each of the countries concerned.¹⁴

For the Westerners, however, collective contacts and exchanges were of little interest: they could not constitute “a sufficient means of making our news and views, our national characteristics and our way of life available to the Soviet public – or theirs to ours.”¹⁵ As the French politician Antoine Pinay observed, peoples should be free to know one another as they were, not as they would like to be or appear.¹⁶ Choosing his words carefully, Harold Macmillan outlined the Western position as follows:

13 The Soviets believed that the real barriers were, in fact, the embargo measures affecting the export to the East of some strategic products and restrictions impeding their freedom to sail their ships in the seas of China. In response to the fundamental demands of the West, the USSR thus opposed the need for the effective application of the principle of the most-favoured-nation clause in the areas of trade and navigation, see *The Geneva Meeting of Foreign Ministers ...* (n. 9), pp. 235–236, 237–238 and 253–254. The Westerners then argued that USSR trade itself was politically driven, that the embargo measures (implemented for security reasons) involved too few products for their lifting to result in a significant increase in East-West trade, and that the refusal of some countries to supply fuel to Soviet ships carrying strategic goods to China was in accordance with a resolution of the United Nations General Assembly sanctioning the stance taken by the People’s Republic of China in the Korean War. See *ibid.*, pp. 279–208. See also pp. 229, 233, 243–245, 259–260 and 263–265.

14 For the text of the two Soviet proposals in Geneva, see MFM/DOC/18 (31 October 1955) and MFM/DOC/63 (15 November 1955), *The Geneva Meeting of Foreign Ministers ...* (n. 9), pp. 239–240 and 269–270. The Soviet draft was based on the Decree issued by the Supreme Soviet of 5 August 1955, following the Conference of Heads of Government, which stated that “the establishment of wider political, economic and cultural ties among countries, irrespective of their social and political structure, based on a *respect for sovereign rights, the non-interference in their internal affairs*, is in accord with the interests of people and will result in a strengthening of peace, friendship, and co-operation among them” (*ibid.*, p. 234). It is striking to note that 20 years later, Andrei Gromyko’s language during Stage I of the CSCE had not changed much; see CSCE/1/PV. 2 (3 July 1973), p. 24.

15 Statement by Harold Macmillan of 4 November 1955, *The Geneva Meeting of Foreign Ministers ...* (n. 9), p. 252.

16 Statement by Antoine Pinay of 31 October 1955, *The Geneva Meeting of Foreign Ministers ...* (n. 9), p. 229–230. On 14 November of the same year, Pinay also pointed out that “agreements extending only to what might be called privileged groups – businessmen, scientists, students and technicians selected on the basis of their presumed leanings as revealed by their opinions or, even more, by their private interests – or to limited exchanges of cultural media which do not first and foremost guarantee the free circulation of information required by the general public, such agreements, I repeat, do not seem to us adequately to fulfil the great hope that some day a

Free contacts imply to us something which is the very reverse of officially sponsored or arranged visits. They mean the spontaneous movement which enables millions – and I am not exaggerating – millions of private citizens in our world to travel freely and with the minimum of formality wherever their interests or their friendship lie. Equally, free communications mean to us, not the physical existence of railways or shipping lines, telephones or wireless systems, but the unhampered use of these facilities to develop travel, to exchange ideas, to express and to receive opinions.¹⁷

The USSR was clearly sceptical about a programme over which the triple spectre of *interference*, *subversion* and *ideological contamination* seemed to loom.

The Soviet Foreign Minister, Vyacheslav Molotov, claimed that several of the ideas put forward by the Western countries were attempts at direct intervention in Soviet internal affairs, since Soviet legislation and administrative regulations would have had to have been amended in order to implement them. This was the case, for example, with the proposal for the expansion of individual tourism, which called for a change in the rouble exchange rate.¹⁸ As for the proposal to establish information centres, he saw this as an attempt at espionage.¹⁹ Molotov believed that absolute freedom of movement would open the floodgates to antisocialist ideas (such as war or fascist propaganda, or hatred between peoples):

We in the Soviet Union do not disguise the fact that we never have in the past and never will in the future picture to ourselves such a ‘freedom in the exchange of ideas’ which would consist of ‘free’ war propaganda or the misanthropic propaganda of atomic attack. We cannot agree to such a ‘freedom’ which will lead to the unleashing of the harmful activities of all kinds of social scum, banished by people from the countries of socialism and people’s democracy even if, as is well known, it involves the expenditure of many millions of dollars.²⁰

As a result of Soviet intransigence, the Western countries reached three main conclusions: what was so striking was that these bore echoes of the nineteenth-century views of the Marquis de Custine on the subject of tsarist Russia.²¹

free exchange of spiritual and material values may be established between two large sections of the world” (ibid., p. 265).

17 Statement by Harold Macmillan of 31 October 1955, *The Geneva Meeting of Foreign Ministers ...* (n. 9), p. 232. For his part, Dulles observed that “visits to foreign countries are an instrument of Soviet policy designed to bring certain specific advantages to the Soviet state, especially for the acquisition of technical knowhow” (ibid., p. 259).

18 *The Geneva Meeting of Foreign Ministers ...* (n. 9), pp. 254 and 274.

19 Ibid., p. 273.

20 Statement by Vyacheslav Molotov of 14 November 1955, (ibid., p. 255). See also p. 275.

21 On the subject of the Marquis de Custine, historian Pierre Nora emphasizes that “the marquis that emerged from the skirts of *Delphine* seems to have anticipated the critique of Bolshevism by a century, and said what was needed (or almost everything) before Souvarine and Trotsky, before *Darkness at Noon*, before today’s Samizdat protesters; and there are many passages in his book that can be compared with Andrei Amalrik and Anatoly Marchenko, Yevgenia Ginzburg and Nadezhda Mandelstam,” see preface to the reprint of *Lettres de Russie. La Russie en 1839* (“Folio”

Firstly, they concluded that, decades after the October Revolution, the Soviet regime was still wracked with self-doubt:

We had thought that socialism was fully established within the Soviet Union so that it would not topple if perchance some contradictory ideas found their way into the Soviet Union. But apparently, socialism is not as strongly established in the Soviet Union as we have thought, and we must reconcile ourselves, I suppose, to the position now taken by the representative of the Soviet Union: that is, that it is dangerous to the Soviet Government to have in the Soviet Union any ideas which do not conform precisely to those of the Soviet Government. That nervousness and fear on behalf of the Soviet Government for its own future is something we will have to take into account when we consider the possibility of further contacts.²²

Secondly, they believed that given the considerable number of artificial constraints necessary to maintain the Soviet regime, it would not be able to cope with the free exchange of people and ideas:

The Soviet bloc system is based upon artificial conditions which cannot withstand free contact with the outer world. The Soviet rulers seem to fear lest their system would be endangered if the Soviet people had the kind of information which is available elsewhere; if they were free to join the many millions who constantly travel back and forth to get acquainted with each other; and if trade in consumer goods should bring the Russian people knowledge of the immense quantity and super quality of goods which are produced by societies where labour is free.²³

In the previous century, Custine had already prophesied that “the political regime [in Russia] would not survive 20 years of free communication with Western Europe.”²⁴

Thirdly, they observed that the Soviet regime appeared to fear friendship more than enmity with the outside world:

We are forced to conclude that really the Soviet Government does not want this uninhibited flow. They do not welcome it. They may even fear it. All this makes me wonder whether there is not some truth in the pregnant saying which I heard recently. I will quote it: ‘The terrible thing is that the Russian Government fears our friendship more than our enmity’. Yet this isolation cannot last for ever. Western books cannot always be excluded as subversive or Western newspapers always be banned as corrupting. Information cannot, year after year, be classed as

collection; Paris: Gallimard, 1975), p. 26. Meanwhile, George F. Kennan also noted that “even if we admit that *La Russie en 1839* was not a very good book about Russia in 1839, we are confronted with the disturbing fact that it was an excellent book, probably in fact the best of books about the Russia of Joseph Stalin, and not a bad book about the Russia of Brezhnev and Kosygin” in *The Marquis de Custine and his Russia in 1839* (Princeton: Princeton University Press, 1971), p. 124.

22 Statement by John Foster Dulles of 15 November 1955, *The Geneva Meeting of Foreign Ministers ...* (n. 9), p. 278.

23 Statement by John Foster Dulles of 14 November 1955 (*ibid.*, p. 261).

24 *Lettres de Russie ...* (n. 21), p. 119.

espionage or travel restricted to the handpicked groups. After all, *this is mediaevalism – or a parody of mediaevalism*. I believe that behind this facade of xenophobia and insularity there is a real longing of ordinary Russians to know more and see more of our folk. *All the suspicion is at the top. All the friendliness is down among the people.*²⁵

The Geneva Meeting of Foreign Ministers ultimately became a dialogue of the deaf, both on freedom of movement and on security and disarmament. Yet this meeting, like the Geneva Conference of Heads of Government, was not entirely in vain. The process outlined in Geneva enabled the Eastern and Western countries to review all the issues that had divided them since the start of the Cold War. At the same time, it was an opportunity for them to address the issues framing their world view. After Geneva, contacts and exchanges between the two blocs developed naturally, although more slowly and less intensively than the three Western powers had hoped.²⁶ It was not until the détente years and the CSCE that the seed planted at the two Geneva conferences finally germinated.

2. CSCE Negotiations (1972–1975)

Freedom of movement and the free flow of information and ideas formed part of the substantive negotiations of the CSCE. This section will examine the issues at stake and the nature of the compromise that was ultimately reached.

A. Issues of the Third Basket

The idea for the third basket seems to have taken root among NATO members in the early 1970s.²⁷ In 1969, in response to the Warsaw Pact Communiqué, which for the first time evoked the idea of economic and technical co-operation, the NATO countries declared that in the matter of economic, scientific *and cultural* exchanges “more could be achieved by freer movement of people, ideas, and information.”²⁸ Initially seen as a vehicle for the development of co-operation, the

25 Statement by Harold Macmillan of 16 November 1955, *The Geneva Meeting of Foreign Ministers ...* (n. 3), p. 296. Custine, for his part, had already noted at the time that “every foreigner is treated as guilty on arrival” in Russia, “a country of useless formalities”, see *Lettres de Russie ...* (n. 21), pp. 72 and 82.

26 The development of these contacts and exchanges began the day after the Geneva Summit. See Molotov’s statements of 31 October and 15 November 1955, pp. 237 and 268, and those of Dulles on 15 and 16 November 1955, pp. 278 and 287. See also Dwight E. Eisenhower, *The White House Years. Mandate for Change, 1953–1956* (New York: Doubleday & Co., 1963) p.530

27 The Final Communiqué of Lisbon (4 June 1971) mentioned in § 10 a report to the Ministers of the Atlantic Council on “the substance and procedures of possible East-West negotiations” [i.e., on the preparation of the future CSCE] while specifying that this report “also reviewed in detail the essential elements on which agreement would be desirable in order to promote the freer movement of people, information and ideas.”

28 See Declaration of the North Atlantic Council, § 11, Annex to the Final Communiqué of the Ministerial Session of the North Atlantic Council (Brussels, 4 and 5 December 1969).

Western countries later proposed that freedom of movement should be *separate* from the programme of work of the future CSCE.²⁹

The Warsaw Pact members were fairly willing to include culture among the other possible fields of co-operation – although without reference to any form of freedom of movement.³⁰

a) Objectives of the Western countries

After 1955, the Western countries honed their approach to focus on the idea that political and social organization should begin and end with a nation's people. They felt that governments should not hold a monopoly over détente, but that this should involve citizens since it had a direct and tangible bearing on their personal and professional life. No policy of détente, they said, would be meaningful unless people had the opportunity to meet and exchange views with a certain amount of freedom.³¹

Yet the effective enjoyment of human rights was not only an end in itself, the Westerners explained: the exercise of those rights was an integral part of the enterprise to increase security and co-operation in Europe. As the German politician Walter Scheel put it, “the inviolability of frontiers only assumes its full meaning if frontiers do not disrupt natural ties, and if it is possible to maintain and establish contacts across frontiers.”³² The Italian Foreign Minister Giuseppe Medici observed that “it is not treaties but men that make peace or war.”³³ As for France, its Foreign Minister Michel Jobert declared that “peace is achieved by exchange – exchange of ideas and goods – and by the free movement of individuals, as well as by their free self-determination.”³⁴ Ultimately, the preamble and even the terms of the Western argument coincided with the views expressed in 1955.

The concrete Western vision laid out at Dipoli proposed three sets of measures.³⁵

29 This change can be tracked by monitoring the specific paragraphs in the Rome Communiqué of 27 May 1970, § 16; the Brussels Communiqué of 4 December 1970, § 13; the Lisbon Communiqué of 4 June 1971, § 10 and the Brussels Communiqué of 10 December 1971, § 13.

30 The Communiqué published in Budapest on 22 June 1970 proposed “the extension of commercial, technical, scientific and cultural contacts on the basis of equality to develop co-operation between the European States.” In Dipoli, on 22 January 1973, the Warsaw Pact countries proposed an agenda containing two new elements: firstly, the dissociation of culture from the economic heading, and secondly, the wording “expansion of cultural co-operation, of contacts among organizations and people and of dissemination of information,” see CESC/HC/11 (13 December 1972). This text referred to the dissemination of information and did not address the question of access to information.

31 See, in particular, the statements made by the Foreign Ministers of Denmark in CSCE/I/PV.2 (3 July 1973), p. 36; the United Kingdom in CSCE/I/PV.5 (5 July 1973), p. 16; Belgium in CSCE/I/PV.6 (5 July 1973), p. 72; and Ireland in CSCE/I/PV.6 (5 July 1973), p. 90.

32 The West German Foreign Minister concluded here that: “Détente involves human practices along borders” (*ibid.*, p. 33).

33 CSCE/I/PV.6 (5 July 1973), p. 16.

34 CSCE/I/PV.3 (4 July 1973), pp 73–75.

35 CESC/HC/19 (15 January 1973), proposal submitted by Denmark on behalf of the EEC countries.

The first aimed to promote “greater freedom of movement and exchange of persons”, collectively or individually, officially or privately. In this field, now renamed “*human contacts*”, the Western countries advocated the improvement of conditions for marriage between citizens of different States, regular meetings between members of families living in different States, reunification of families, travel for personal and professional reasons, meetings among young people (especially in the professional field) and tourism.

The measures relating to *information* consisted of a three-part programme designed to facilitate the flow of information in all its forms (printed, oral, film, radio, television) between States while ensuring better access for their citizens, encourage exchanges of programmes and other forms of co-operation (including the possibility of co-productions), and improve the working conditions for foreign journalists.

When it came to the flow of *ideas*, the Western countries outlined a long-term programme of exchanges, contacts and co-operation – collectively, individually, officially and privately – in the fields of *culture* and *education*. The proposals submitted in this respect mainly comprised: the opening of foreign libraries and reading rooms; the development of translation companies, copublishing and mutual lending of documents; harmonization of documentation standards; the organization of film festivals; the exchange of students and teachers; the exchange of educational experiences; the study of the question of the equivalence of qualifications, and so on.

The Western programme unveiled at Dipoli differed from the tripartite proposals submitted in 1955 in two respects. Firstly, it was more realistic. The Westerners did not aspire to an unrealistic ideal such as “a return to the time when man could travel ‘round the world armed with nothing but a visiting card.”³⁶ For the third basket of the CSCE, it set the more modest target of encouraging the “*expansion*” of human contacts, the “*improvement*” of the circulation of information and an “*increase*” in cultural and educational co-operation. At the same time, it admitted that these objectives might be implemented through bilateral arrangements in some cases. Secondly, this new wish list was remarkably comprehensive and systematic: it distilled all the key ideas from 1955 and added various new elements such as the reunification of families and marriages between citizens of different States.

36 This comment was made by the Belgian delegate on 2 November 1948 at the General Assembly of the United Nations on the occasion of the adoption of Article 13 of the Universal Declaration of Human Rights, which relates to the right of the individual to leave any country, including his own, and to return thereto. See Official Documents of the third session of the Third Committee of the United Nations General Assembly, Part I, p. 322.

b) Objectives of the Eastern countries

In marked contrast to 1955, the Soviets showed no signs of yielding. Rather, they saw the third basket as an attempt to interfere in the bloc's internal affairs to foment subversion and "anti-culture".³⁷

The USSR and other Eastern countries (including Romania this time) employed various tactics to neutralize the third basket. They tried to invalidate the question of freedom of movement by arguing that the CSCE could not support the expansion of contacts and exchanges without mentioning their *content*: only contacts and exchanges conducive to international peace, understanding among peoples and "the spiritual enrichment of the human personality" were permitted – in other words, contacts and exchanges that embodied values whose "authentic" and "sound" character would be determined by the governments concerned. They also wanted to downplay the role of individuals and private initiative by proposing that contacts and exchanges occur under the auspices of the "*competent institutions*" – those sponsored or controlled by the State. Furthermore, they sought recognition that the extension of co-operation in humanitarian fields depended on the progress of *détente* – and not that *détente* required steady progress in the fields in question, which was the Western position.

Lastly, they demanded *safeguards* so that the implementation of the provisions of the third basket would be contingent on respect for the principle of sovereign equality of States – particularly their right to freely determine their internal "laws and customs" – as well as the principle of non-intervention in internal affairs.³⁸

c) Objectives of the Neutral and Non-Aligned Countries

During the negotiation of the third basket, the Eastern and Western countries worked together to establish a flow of exchanges and contacts, despite their differing views on the purpose and modalities of this. Whereas the Westerners wanted to establish *free trade* (or a close approximation of it), the Warsaw Pact members took a more *protectionist* stance. For the Western nations, the focus was on spontaneous and decentralized transactions, determined by the free will of the individuals; for the Eastern countries, only politically controlled barter transactions were envisaged, to ensure that trade was balanced and symmetrical. In this type of philosophical debate, the N+NA countries could only position themselves as an independent group and thus differentiate themselves from each of the blocs.

37 On this point, see the article published by Y. Zhukov in Pravda, 5 January 1973, and condensed in *The Current Digest of Soviet Press*, vol. XXV, No.1 (31 January 1973), p. 18.

38 See CESC/HC/32 (6 February 1972), CESC/HC/32 Corr. 1 (7 February) and WG/16 (29 March 1973) in reference to proposals made by the Soviet delegation at Dipoli. See also Poland: WG/20 (2 April 1973); Czechoslovakia: WG/22 (2 April 1973); GDR: WG/23 (2 April 1973) and Bulgaria: WG/31 (3 May 1973).

Some Neutral countries – such as Switzerland, Austria and Sweden³⁹ – supported the Western position. Finland likewise held the view that “security is not gained by erecting fences, security is gained by opening gates.”⁴⁰

For the *Non-Aligned* countries, the situation was less clear. Cyprus and Malta were content to follow the Western philosophy, but showed little interest in the issues of the third basket. The exception to this was Yugoslavia, which permitted freedom of movement even though it was a Marxist State.⁴¹ Its position within the CSCE was summarized thus: “Yugoslavia agreed with the broad approach of the West, although it disliked the attempts of the West to turn these issues into weapons for a bloc showdown.”⁴²

The Neutrals acted as mediators between the Eastern and Western countries. On two occasions, their intervention broke the deadlock in the negotiations.⁴³

39 Switzerland also stated that “if progress in regard to détente and security is not also felt at the level of the individual the Conference will only have served to make these notions even more abstract than they are today. It is not enough to proclaim détente. It has to be organized by attempting to take into account the aspirations of more than 500 million Europeans, particularly those of the younger generations, who are increasingly inquiring and keen to make new contacts, to travel and to acquaint themselves with other peoples,” see CSCE/I/PV.6 (5 July 1973), p. 38. Austria, meanwhile, stressed that “people are in the centre of our policy and not the State,” see CSCE/I/PV.5 (5 July 1973), p. 47. Sweden, meanwhile, also believed that “if this Conference does not lead to a broader exchange of information and improved human contacts its value will be greatly diminished,” see CSCE/I/PV.4 (4 July 1973), p. 16.

40 Saying quoted by President Kekkonen while inaugurating the work of Stage I, see CSCE/I/PV.1 (3 July 1973) p. 6.

41 After breaking away from the Soviet bloc in 1948, Yugoslavia quickly realized that its salvation depended to a great extent on its openness to the outside world. As Ljubivoje Aćimović pointed out, “the Yugoslav example, substantiated over many years, bears eloquent testimony to the fact that an open society is the best test of its viability and [an] important factor in strengthening international cohesion and ensuring its resistance to outside challenges.” See *Problems of Security and Co-operation in Europe* (Alphen aan den Rijn: Sijthoff & Noordhoff, 1981), p. 258. On Yugoslavia’s vision and practice with regard to the free movement of persons prior to the CSCE, see the United Nations Commission on Human Rights, Sub-Commission on Prevention of Discrimination and Protection of Minorities: *Study of Discrimination in Respect of the Right of Everyone to Leave any Country including His Own, and to Return Thereto. Summary of Information relating to Yugoslavia*, Conference Room Paper No. 10 (15 December 1961) and the Report of Branimir Janković at the International Colloquium on the Right to Leave and to Return, held at Uppsala in 1972. For a more recent approach, see Beno Zupančič, “L’homme d’Helsinki”, *Questions actuelles du socialisme*, vol. XXVII, no. 4 (1977), pp. 37–44.

42 Aćimović, *Problems of Security and Co-operation ...* (n. 41), p. 253. For the Yugoslav proposals, see CESC/HC/23 (18 January 1973), CSCE/II/J/4 (5 October 1973) and CSCE/II/J/4 Rev 1 (24 September 1974), CSCE/II/K/3 (9 October 1973) and CSCE/II/L/5 (16 October 1973).

43 The Neutral countries first succeeded in getting the two blocs to accept the principle of the parallelism of the work of the third basket, i.e., the simultaneous drafting of the operative part and the preamble (the latter being required by the Eastern countries), in February 1974. See Luigi Vittorio Ferraris (ed.), *Report on a Negotiation. Helsinki-Geneva-Helsinki, 1972–1975* (Geneva: Institut universitaire de hautes études internationales, 1979), p. 306. When the idea of a preamble was finally adopted, they favoured a compromise on its most controversial provision, namely the reference to the principles of the Decalogue. See *ibid.*, pp. 309–310 on this “package deal” of July 1974; and Aćimović, *Problems of Security and Co-operation ...* (n. 41), p. 253.

Individually, they acted as co-ordinators during the informal drafting of the texts on human contacts (Austria) and information (Switzerland). By submitting their own proposals, Austria,⁴⁴ Switzerland⁴⁵ and Sweden⁴⁶ also made a direct contribution.

B. The 1975 Compromise

Despite the intractability of the positions – and by contrast with 1955 – negotiations on the question of movement led to a substantive agreement, which largely met the Western demands.

At the CSCE, the USSR was a requesting party: determined to secure recognition of the territorial *status quo* in Europe, it made numerous concessions in the main areas of the third basket.

The Western countries achieved most of their goals, albeit in two stages. At Dipoli, they initially obtained a satisfactory definition of the mandate for the working bodies which in Geneva would elaborate the practical modalities of the third basket.⁴⁷ However, the general nature of this mandate meant that nothing had actually been achieved. Success came at the end of the Geneva stage, with the adoption of the relevant chapter of the Final Act (1975).⁴⁸ The content of this chapter – divided into four distinct sections (“Human Contacts”, “Information”, “Co-operation and Exchanges in the Field of Culture”, “Co-operation and Exchanges in the Field of Education”) – will be discussed later on.⁴⁹ For now, it is sufficient to examine its general spirit by making the following three points.

The provisions of the third basket define a programme of action which is striking for its comprehensive, systematic and, above all, *concrete* nature. This initial observation already demonstrates how the end result differed from the vague and general statements through which the Eastern countries sought to limit the basket’s content. Even during the first stage, the difference in approach was apparent. Faced with the 14 concrete proposals from the Western countries,⁵⁰ the Soviet bloc opposed only one document (from Poland and Bulgaria), which

44 See CESC/HC/20 (17 January 1973), CSCE/II/I/14 (November 1973), CSCE/II/J/18 (21 January 1974), CSCE/II/K/5 (30 October 1974), CSCE/II/K/17 (29 January 1974), CSCE/II/L/3 (20 September 1973), CSCE/II/L/6 (22 October 1973) and CSCE/II/L/19 (29 January 1974).

45 See CSCE/II/J/10 (19 November 1973) and CSCE/II/K/16 (24 January 1974).

46 See CSCE/II/K/12 (22 January 1974), CSCE/II/K/13 (22 January 1974) and CSCE/II/L/18 (23 January 1974).

47 See Final Recommendations of the Helsinki Consultations (1973), §§ 42 to 52. For the negotiation and an analysis of the content of these provisions, see Ferraris (ed.), *Report on a Negotiation ...* (n. 43), pp. 53–64.

48 For the negotiations on the third basket during Stage II, see *ibid.*, pp. 299–339.

49 See chapter VI of this volume, pp. 229ff.

50 These proposals were presented by Canada: CSCE/I/19 (5 July 1973); Denmark: CSCE/I/6 (5 July 1973); the FRG: CSCE/I/4, No. 2 to No. 4 (4 July 1973); France: CSCE/I/23 to CSCE/I/26 (5 July 1973); Italy: CSCE/I/9, CSCE/I/10 and CSCE/I/13 (5 July 1973); and the United Kingdom: CSCE/I/14 and CSCE/I/15 (5 July 1973).

was generic and focused on cultural and educational co-operation;⁵¹ following an avalanche of Western texts during the second stage,⁵² the Eastern bloc responded with the same unchanged proposal.⁵³ Covering wide-ranging areas, the final texts of the third basket met the expectations of the Western nations. In addition, as with the Western proposals from 1955, they envisaged a raft of measures addressing present and future concerns and aimed at gradually lowering the existing obstacles.⁵⁴

It is also interesting to note that the third basket proposed both a framework programme for intergovernmental co-operation and a set of *guidelines for unilateral action*.⁵⁵ It could be said that the notion of “co-operation” served as official justification for the inclusion of humanitarian issues in the CSCE’s programme of work: not only did the term feature in the basket’s general heading and in the subheadings (and further subdivisions) of the sections on culture and education, but it also appeared in various provisions explicitly or implicitly advocating

51 See CSCE/I/8 (5 July 1973).

52 The proposals were submitted by Denmark: CSCE/II/I/2 (19 September 1973), CSCE/II/I/15 (6 December 1973) and CSCE/II/I/23 (30 January 1974), CSCE/II/J/1 (18 September 1973); Norway: CSCE/II/I/3 (26 September 1973) and CSCE/II/I/16 (7 December 1973); Italy: CSCE/II/I/4 (4 October 1973) and CSCE/II/I/22 (16 January 1974), CSCE/II/J/3 (4 October 1973), CSCE/II/K/7 (6 December 1973) and CSCE/II/K/10 (22 January 1974), CSCE/II/L/1 (20 September 1973), CSCE/II/L/8 (12 November 1973) and CSCE/II/L/13 (11 December 1973); the Netherlands: CSCE/II/I/5 (11 October 1973) and CSCE/II/I/21 (15 January 1974), CSCE/II/K/11 (22 January 1974); the United Kingdom: CSCE/II/I/7 (15 October 1973) and CSCE/II/I/20 (12 December 1973), CSCE/II/J/5 (8 October 1973), CSCE/II/J/14 (10 December 1973), CSCE/II/J/15 (11 December 1973) and CSCE/II/J/16 (11 December 1973), CSCE/II/L/4 (15 October 1973) and CSCE/II/L/15 (21 January 1974); Belgium: CSCE/II/I/8 (19 October 1973), CSCE/II/I/17 (11 December 1973) and CSCE/II/I/18 (11 December 1973); Canada: CSCE/II/I/12 (19 December 1973); the FRG: CSCE/II/I/19 (12 December 1973), CSCE/II/J/17 (12 December 1973), CSCE/II/K/15 (23 January 1974), CSCE/II/L/7 (6 November 1973), CSCE/II/L/10 (6 December 1973) and CSCE/II/L/16 (22 January 1974); Greece: CSCE/II/J/6 (25 October 1973) and CSCE/II/J/9 (13 November 1973); Spain: CSCE/II/J/7 (29 October 1973); Ireland: CSCE/II/J/8 (7 November 1973) and CSCE/II/J/19 (23 January 1974); France: CSCE/II/J/13 (10 December 1973) and CSCE/II/J/20 (23 January 1974), CSCE/II/K/2 (18 September 1973), CSCE/II/K/8 (21 January 1974), CSCE/II/K/9 (21 January 1974) and CSCE/II/K/18 (21 May 1974), CSCE/II/L/11 (7 December 1973), CSCE/II/L/14 (18 January 1974) and CSCE/II/L/17 (23 January 1974); and Turkey: CSCE/II/L/12 (10 December 1973). The United States did not submit any written proposals in the third basket, which was in line with its low profile attitude in the CSCE and in accordance with Secretary Kissinger’s reservations towards linkage.

53 The original proposal of the Eastern countries was submitted as such during Stage II in the following documents: CSCE/II/C.3/1 (11 October 1973), CSCE/II/I/1 (19 September 1973), CSCE/II/J/2 (1 September 1973), CSCE/II/K/1 (20 September 1973) and CSCE/II/L/2 (19 September 1973) and CSCE/II/L/2Corr.1 (22 January 1974).

54 Helsinki Final Act (1975), “Co-operation in Humanitarian and Other Fields”, general preamble, § 3 outlines the determination of the CSCE States to “develop and strengthen *existing forms of co-operation* and to work out *new ways and means* appropriate to these aims.”

55 *Ibid.*, Human Contacts, preamble, § 6 very clearly expresses this idea, affirming that the participating States are ready “to take measures which they consider appropriate and to conclude agreements or arrangements among themselves, as may be needed.”

bilateral or multilateral measures.⁵⁶ Yet the key lay in the number of paragraphs urging the participating States unilaterally to adopt internal measures. These included simplifying existing procedures for issuing travel documents and visas, easing regulations on the movement of nationals from other States in their own territory, and encouraging the increase in sales outlets for foreign publications.⁵⁷

In essence, the texts of the third basket were more a reflection of Western liberal philosophy than of the restrictive and “protectionist” approach of the USSR. This is partly because the Eastern countries sought refuge behind inaction, without making constructive or detailed enough counterproposals.⁵⁸ Moreover, Soviet attempts to secure a dominant role for the State – through preambular provisions or safeguard clauses – came to nothing. Although the Eastern countries managed to secure preambular provisions that comprehensively covered the third basket and its four sections, the Western nations were able to neutralize the various texts. For example, the idea of establishing a prior link between contacts and exchanges and specific objectives was not adopted.⁵⁹ The same applied for the hierarchy of relations, which the Soviet Union wanted to establish between the development of co-operation in the humanitarian fields and the future of détente.⁶⁰ As for governmental and quasi-governmental organizations, these are mentioned at various points as the Eastern countries had requested. However, the role assigned to them seems very different to the role recognized for the individual, the real beneficiary of the third basket. The safeguard clauses were a further source of dissatisfaction for the Soviets: co-operation in the humanitarian fields was not subject to its two pet principles (sovereign equality and non-intervention),

56 The notion of co-operation explicitly appears, for example, in the general preamble to the third basket (“Co-operation in Humanitarian and Other Fields”), §§ 3 and 4. It can also be found in the preamble to the subsection on human contacts, § 4, which states that “the questions relevant hereto must be settled by the States concerned under mutually acceptable conditions.”

57 Almost all of the subsections under human contacts – being of primary interest for the Western countries – fall within this category.

58 Aćimović points out that in the third basket “the Soviet Union and other Eastern European countries obviously came to the Conference unprepared, or insufficiently prepared to make a genuine opening-up towards the other participating States,” *Problems of Security and Co-operation* ... (n. 41), p. 258.

59 In accordance with the wishes of the Eastern countries as regards the language to be used in the general preamble to the third basket (“Co-operation in Humanitarian and Other Fields”), the text starts with mentioning the desire of the participating States “to contribute to the strengthening of peace and understanding among peoples and to the spiritual enrichment of the human personality” (§ 1). But it then stipulates that “increased cultural and educational exchanges, broader dissemination of information, contacts between people, and the solution of humanitarian problems will *contribute* to the attainment of these aims” (§ 2) – which makes it difficult for contacts and exchanges to be maintained if they are the subject of a prior qualification.

60 In the preamble to the subsection on human contacts, § 2 affirms the desire of the participating States to “develop, with the continuance of détente, further efforts to achieve *continuing progress* in this field.” The need for continuing progress (a Western idea) also appears in the respective §§ 3 of the preambles to the subsections on information and culture, but without any explicit reference to *détente*.

but to respect for *the whole* of the Decalogue – including *Principle VII* on human rights.⁶¹

Even so, there are still flaws in the document: firstly, the degree of precision and practical scope of the recommendations is extremely variable;⁶² secondly, the commitments underpinning the third basket are loosely worded⁶³ – two shortcomings that are to some extent remedied by the Concluding Document of the Madrid Follow-up Meeting (1983).

II. The CSCE's Contribution to Freedom of Movement and the Free Flow of Information and Ideas

The document composed of the provisions of the third basket contains the first ever guidelines on freedom of movement and the flow of information and ideas between the East and West. This section will review the CSCE's specific contribution to the four sections of the humanitarian basket (reduced here to three): human contacts, information, and culture and education.

1. Human Contacts

Freedom of movement is covered in the third basket under the heading "Human Contacts". However, before examining the content and practical implications of the provisions concerned, it is worth clarifying the concept of freedom of movement across borders and the various structural obstacles that existed at the level of East-West relations prior to the CSCE.

61 See the general preamble to the third basket ("Co-operation in Humanitarian and Other Fields"), § 4. In exchange for this concession, the Eastern countries managed to get Principle I of the Decalogue (sovereign equality) to affirm the right of every State "to determine its laws and regulations" – but not its customs, a concept considered too imprecise and ambiguous. For their part, the Western countries successfully demanded that Principle X (good faith) stipulate that "in exercising their sovereign rights, including the right to determine their laws and regulations," the participating States "will pay due regard to and implement the provisions of the Final Act." These are the three aspects of the "package deal" reached in July 1974 through the good offices of the Neutrals.

62 The vagueness of the recommendations is especially reflected in sentences relating to the reunification of families, such as these: the participating States will deal with applications "in a positive and humanitarian spirit" and "as expeditiously as possible"; they will lower "where possible" the fees charged to "a moderate level", and so on.

63 The respective preambles to the four subsections on human contacts, culture, information and education affirm that the participating States "*express their intention now to proceed to the implementation of the following ...*", "*express their intention in particular*" or "*express to these ends their intention in particular.*" However, concerning the Decalogue, for example, the Final Act specifies that the participating States of the CSCE "*declare their determination to respect and put into practice ...*" the principles set out in the Final Act.

A. Concept of Freedom of Movement across Borders⁶⁴

Freedom of movement across borders is the freedom of individuals to leave their country of origin – on a temporary, unspecified or permanent basis – and to return there. Its two main forms are emigration and tourism.

Also known as expatriation, emigration implies a break with the country of origin. People usually take this decision for compelling or serious reasons: to escape unemployment or poverty, to protect their physical liberty or freedom of thought, or even to stay alive – in other words, to seek better economic conditions or asylum from political, religious, racial or other types of persecution.

In its broadest sense, tourism refers to a person travelling to a foreign country on a *temporary* basis, other than to find gainful employment. People may travel for personal reasons – for their own enjoyment (recreation), to receive medical treatment, or to visit family. Sometimes there may be professional considerations, such as travel required for work or to attend international sporting, scientific, cultural and other events.

Freedom of movement across borders is an ancient practice that dates back to Greek and Roman times. Worship of the same gods resulted in a steady flow of people travelling to sacred sites (pilgrimages), and even in the institutionalization of these movements, as in the case of the Olympic Games. Tradition has it that scholars such as Plato and Herodotus would embark on long journeys to learn the customs and institutions of foreign peoples. Travel for business (trade) or for medical reasons (cures) was also common at that time.⁶⁵ In general, it can be assumed that ancient rulers were not opposed to foreign travel by their citizens – that is, their *freemen*.⁶⁶ There were even institutions that specifically guaranteed

64 See Paul Fauchille, “Le droit d’émigration et le droit d’immigration”, *Revue internationale du travail*, vol. IX, no. 3 (March 1924), pp. 333–350; José D. Ingles, *Study of Discrimination in Respect of the Right of Everyone to Leave Any Country, Including His Own, and to Return to His Country* (E/CN.4/Sub.2/220/Rev.1; official sales no.: 64.XIV.2; New York: United Nations, 1963), vi–115 p.; Rosalyn Higgins, “The Right in International Law of an Individual to Enter, Stay in and Leave a Country”, *International Affairs*, vol. 49, no. 3 (July 1973), pp. 341–357; Casimir Libera, “Le tourisme et le droit international”, *Polish Yearbook of International Law*, vol. VI (1974), pp. 179–214; and Guy S. Goodwin-Gill, *International Law and the Movement of Persons between States* (Oxford: Clarendon Press, 1978), xxvii–324 p. All of the reports of the International Colloquium on the Right to Leave and to Return, Uppsala, 19–21 June 1972: see, in particular, the reports of Stig A. F. Jägerskiöld, “Historical Aspects of the Right to Leave and to Return”; Maurice Cranston, “The Political and Philosophical Aspects of the Right to Leave and to Return”; and Antonio Cassese, “International Implementation: Universal Level”. For more substantiating materials, see United Nations: E/CN.4/Sub.2/1985/9; E/CN.4/Sub.2/1987/10; E/CN.4/Sub.2/1988/35 (and Addendum1); E/CN.4/1042 (and Addenda 1 to 4); E/CN.4/Sub.2/1982/27 and E/CN.4/1984/10. See also Hurst Hannum, *The Right to Leave and Return in International Law and Practice* (Dordrecht: Nijhoff, 1987), xiii–185 p.

65 See Libera, “Le tourisme et le droit international” (n. 64), pp. 190–191.

66 Emigration – even temporary – was at one time prohibited on pain of death in Sparta (*ibid.*, p. 193).

freedom of movement between certain political centres, such as the law of private hospitality⁶⁷ and the law of public hospitality or “proxeny”.⁶⁸

In the Middle Ages, foreign travel was a perilous exercise, although freedom of movement did exist.⁶⁹ This benefited diplomats and other government envoys, pilgrims (who, under the protection of the Church, found free board and lodging in “hospices”), traders (who took advantage of “foundouks” and trading posts), and wealthy students studying at leading foreign universities. The situation was such that in the sixteenth century, the jurist Vitoria declared that any law prohibiting people from travelling outside their country would be unenforceable since it was “contrary to human dignity and reason”.⁷⁰

From the seventeenth century, the State appropriated – in the name of the principle of sovereignty – the absolute right to control all movement on its territory, whether by its own citizens or by foreign nationals. The introduction of the *passport* was emblematic of this new trend.⁷¹ Nevertheless, the situation eventually came full circle: after passport laws were abolished or became obsolete, freedom of movement across borders was restored throughout Europe at the beginning of the twentieth century, *with the notable exception of tsarist Russia*.⁷²

67 Any person arriving in a foreign city had the power to solicit hospitality from a native, which could not be refused. The host had a duty to house and even protect the foreigner against any threat to his safety. For more details, see Libera, “Le tourisme et le droit international” (n. 64), p. 192 and note 32.

68 Proxeny was based on the role of the Proxenes (hosts or benefactors) who, in certain cities, were officially responsible for helping, assisting and protecting foreign citizens during their stay. Proxenes were appointed by decree of the Senate or by the people of a *foreign* city, see Libera, “Le tourisme et le droit international” (n. 64), p. 192 and note 33. In the Roman Empire, proxeny was known as *hospitium publicum*, before becoming the degenerate form of “patronage”.

69 “Accepting and respecting the right of the individual to come and go, to undertake a temporary journey in countries within that ‘Universal Republic’ of Christendom, from which the Middle Ages inherited the idea of Antiquity. Between the Christian countries and others, travel was allowed by virtue of the old, but still very much alive, institution of hospitality, and was favoured, in particular, by treaties concluded or privileges unilaterally granted” (ibid., p. 195).

70 Francisco de Vitoria, *De Indiis*, cited by Libera in “Le tourisme et le droit international” (n. 64), p. 195 [in French].

71 The passport – a rudimentary form of which existed during the Roman Empire – was introduced in Europe in the sixteenth to seventeenth centuries. Originally conceived as a means of protection for the national citizen travelling abroad, it gradually became an instrument of police control. See Jägerskiöld, “Historical Aspects of the Right to Leave ...” (n. 64), p. 5; and Daniel C. Turack, *The Passport in International Law* (Lexington: Heath, 1972), xviii–360 p.

72 See Libera, “Le tourisme et le droit international” (n. 64), p. 208. Jägerskiöld also recognized that “it is evident that there was a general trend of liberalisation in most countries until the outbreak of the First World War in 1914. During that period of peace, the freedom of movement was, in fact, very great. People were, on the whole, free to [travel] where and when they liked. The Russian Empire and the Asiatic powers were exceptions,” see “Historical Aspects of the Right to Leave ...” (n. 64), p. 5. Another author points out that “passports were seldom needed before the First World War, and even people with a police record, such as Lenin and his fellow revolutionaries, had little difficulty in moving about Europe,” see Cranston, “The Political and Philosophical Aspects ...” (n. 64), p. 8.

The First World War marked a turning point in the history of the freedom of movement. Indeed, “the reintroduction in all countries – or the introduction in countries such as Sweden – of the obligation to hold a passport, the new obligation for foreign nationals to obtain an entry, transit or exit visa, the strict customs requirements, currency allowances and sundry taxes, have significantly hampered and reduced all forms of international travel.”⁷³ At the same time, legal restrictions were introduced on marriages with foreigners, and even citizenship (which sometimes had to be surrendered by those who emigrated). This clampdown intensified during the interwar period.⁷⁴ From an economic, demographic and social viewpoint, nationalist arguments prevailed: emigration could have the disastrous effect of depriving the State of future citizens, taxpayers and conscripts, as well as causing a “brain drain”.

In the aftermath of the Second World War, the Western members of the United Nations felt that the State should no longer hold a discretionary power over freedom of movement across borders. Article 13 of the Universal Declaration of Human Rights of 10 December 1948 addressed this concern: “(1) Everyone has the right to freedom of movement and residence within the borders of each state. (2) Everyone has the right to leave any country, including his own, and to return to his country.”⁷⁵ Since the 1948 Declaration was not binding, the substance of Article 13 was later incorporated into various universal or regional legal texts.

73 See Libera, “Le tourisme et le droit international” (n. 64), p. 209 [in French].

74 This brings to mind André Siegfried’s comments on the “new face” of the world in the twentieth century: “Even more impressive is the protectionist defence against human migration and even against simple movement by individuals. Owing to passports and exchange offices, emigration, like immigration, has become extremely difficult. It is hard to travel without the support of the State, and impossible if one comes up against the slightest official unwillingness. Phileas Fogg went round the world in 80 days, leaving on the evening of the day on which he made his bet. We would do this round-the-world trip in less than a week, but how many days would it take us to prepare for it? Nowadays, only a madman would think of leaving before night has fallen. Nessus was less entangled in his tunic than we are in our visas, our requests for exchange and our vaccinations,” *L’âme des peuples* (Paris: Hachette, 1950), pp. 21–22 [in French]. On national legislation and international treaty practice in the early twentieth century, see *Emigration et immigration* (Geneva: ILO, 1922).

75 For more on the preparation of Article 13, § 2 of the 1948 Declaration, see Ingles, *Study of Discrimination ...* (n. 64), pp. 82–87.

The most important of these was the 1966 International Covenant on Civil and Political Rights⁷⁶ and Protocol No. 4 (1964) to the Convention for the Protection of Human Rights and Fundamental Freedoms.⁷⁷

However, the adoption of these texts failed to have the desired effect, in the sense that they failed to address the philosophical debate on freedom of movement which had been rekindled by the Cold War but in fact dated back to the eighteenth century. Tackling the issue from the perspective of State sovereignty, some governments demanded that the State should have an unlimited right of control over the entry and exit of its citizens. This was the position of the USSR, which other Eastern countries were forced to support.⁷⁸ In contrast, the Western countries believed in the inalienable right of the individual to emigrate. They felt that the State could not prohibit or subject to prior authorization what was “the consequence of the right to life and the pursuit of happiness”;⁷⁹ at most it could prevent named individuals from leaving its territory, although only in special circumstances defined by law. Article 2(3) of Protocol No. 4 to the European Convention for the Protection of Human Rights and Fundamental Freedoms fully expresses this view,⁸⁰ which is based on historical documents such as Magna Carta (1215) and the French Constitution (1791).⁸¹

76 Article 12 of the Covenant is worded as follows: “1) Everyone lawfully within the territory of a State shall, within that territory, have the right to liberty of movement and freedom to choose his residence. 2) Everyone shall be free to leave any country, including his own. 3) The abovementioned rights shall not be subject to any restrictions except those which are provided by law, are necessary to protect national security, public order, public health or morals or the rights and freedoms of others, and are consistent with the other rights recognized in the present Covenant. 4) No one shall be arbitrarily deprived of the right to enter his own country.” See also Article 5 of the International Convention on the Elimination of All Forms of Racial Discrimination of 21 December 1965.

77 Article 2. See also Article 22 of the 1969 Inter-American Convention on Human Rights.

78 The USSR clearly expressed this view when the present Article 13 of the Universal Declaration of Human Rights was formulated. Arguing that an unrestricted right to emigration would encourage individuals to renounce their nationality, it believed that freedom of movement should only be granted in accordance with the procedure laid down by the legislation in force in the States, on pain of undermining their sovereignty by intervening in their internal affairs. The Soviet arguments and amendments were, each time, rejected within the various competent organs of the United Nations. See E/CN.4/AC.1/SR.36; E/CN.4/SR.55. Economic and Social Council: Official minutes of the 7th Session, 210th meeting and the United Nations General Assembly Third Committee, 120th meeting: Official Records of the Third Session (Part I).

79 Fauchille, “Le droit d’émigration ...” (n. 64), pp. 335 and 337.

80 The provision in question only authorizes “restrictions ... such as are in accordance with law and are necessary in a democratic society in the interests of national security or public safety, for the maintenance of *ordre public*, for the prevention of crime, for the protection of health or morals, or for the protection of the rights and freedoms of others.”

81 See also Plato’s *Crito* (51d) and Emeric Crucé, *Le Nouveau Cynée ou discours des occasions et moyens d’établir une paix générale et la liberté du commerce par tout le monde* (1623). See especially the writings of the founding fathers of international law – then called the “law of peoples” such as, Emer De Vattel, *Le droit des gens*, Book 1, chapter XIX, section 221 and chapter III, section 33; Francisco de Vitoria, *Relecciones sobre los Indios y el derecho de guerra*, section III; and Hugo

B. East-West Obstacles

At the opening session of the CSCE, freedom of movement was already enshrined in the constitutional law or case law of the Western countries.⁸² Multilateral agreements also recognized this freedom in relations between certain groups of States, such as the European Economic Community or the Nordic Council. However, the situation in the USSR was very different.

Foreign travel by Soviet citizens was governed by administrative law. Citizens had no automatic right to leave the country, even for a limited time. All travel required permission, which was a privilege granted by the bureaucratic apparatus. As Zhores Medvedev has commented (in his oft cited book), this was because any movement outside Soviet territory was considered an affair of the State.⁸³ However, this was further aggravated by the following factors:

- *Lack of regulatory transparency.* The regulations governing foreign travel were confidential and were not made public. It is interesting to note that after making various unsuccessful attempts to ascertain the legal basis for issuing passports for foreign travel, Medvedev bitterly acknowledges that “aspects of our everyday life, of the life of each Soviet citizen, are governed by a secret decision.”⁸⁴
- *Complex and cumbersome procedures.* The passport application process was particularly slow (taking months, if not years), as well as being intrusive, taxing and ultimately quite arbitrary. Soviet or not, Russia was as the Marquis de Custine had described it a century earlier: “the land of useless formalities”. To obtain a passport with the mythical exit visa, would-be emigrants had to submit dozens of documents, including a *visov* (an invitation from a first

Grotius, *De jure belli ac pacis*, Book II, chapter V, § XXIV/nos 1. ff. The freedom “to go, to stay and to leave” was guaranteed for the first time at the internal level by the French Constitution of 1791.

82 On this point, see the responses of the Western countries to the special survey undertaken by the United Nations in 1963, which formed the basis of Ingles’ report: *Study of Discrimination ...* (n. 64). See also the report by Karl Josef Partsch “National Implementation: Western Europe” at the aforementioned International Colloquium at Uppsala.

83 Jaurès [Zhores] Medvedev, *Savants soviétiques et relations internationales* (Paris: Julliard, 1973), pp. 219–220 and 228. The Soviet tourist “does not go abroad, he is sent there, instructed to engage in tourist activities and entrusted with the delicate mission of being a tourist” (*ibid.*, p. 258). Before departure, the tourist receives a special and confidential brochure from the international division of the Central Committee, setting out “recommendations and guidance for the Soviet citizen abroad” (*ibid.*, p. 255).

84 Medvedev, *Savants soviétiques ...* (n. 83), p. 230, note 1; see also pp. 240–243 [in French].

degree relative living abroad),⁸⁵ “family approval” from parents or grandparents in the USSR,⁸⁶ and a *kharakteristika* (character reference).⁸⁷

- *The prohibitive cost of the process.* An emigration visa could cost as much as 400 roubles, or roughly the equivalent of three months’ wages. In addition, applicants had to pay 500 roubles to surrender their Soviet citizenship – mandatory for any applicant over the age of 16.⁸⁸ In 1972, the government introduced a new tax ranging from 4,000 to 30,000 roubles (the latter equivalent to some 15 to 20 years’ wages) aimed at “compensating the State for the cost of education given to emigration applicants during their time in the USSR.”⁸⁹
- *The rejection or arbitrary blocking of applications.*⁹⁰ Applications could be rejected at any point in the process without written explanation or right of appeal: when an explanation was given (which was never in writing), various grounds were cited, the most common being “knowledge of State secrets”. This “confidentiality rule” might have been subject to specific criteria, since anyone in the Soviet Union with access to confidential material had to sign a “non-disclosure agreement”. However, many of those whose applications were denied due to their knowledge of State secrets had signed no such agreement.⁹¹ Applicants had six to twelve months in which to resubmit their application, although success was not guaranteed. Given that the documents submitted were only valid for six months, would-be emigrants were periodically required to submit a *completely* new set of documents. Consequently, applications could remain in the system for years.⁹² For applicants who were critically ill (such as cancer patients) and who wanted to seek medical treatment abroad, this situation was particularly egregious.

85 “With no *visov*, no application is granted. *Visovs* shipped from abroad by post are intercepted by authorities which sometimes wait several months, in violation of international postal agreements, before handing them over. In some cases, five or six *visovs* have had to be sent to get only one to the recipient. In some cities, no *visovs* are issued by post,” see Consultative Assembly of the Council of Europe: *Report on the situation of the Jewish community in the Soviet Union*, 3374 (17 December 1973), § 17; rapporteur: Mr. Ahlmark.

86 “All applicants must provide written proof that their parents (or grandparents) agree to their departure. This approval is required even when the interested party is the head of the household. This requirement has given rise to a growing number of catch-22 situations” (*ibid.*, § 19).

87 This certificate is issued by the establishment where the candidate for emigration works (*ibid.*, § 18).

88 *Ibid.*, § 55. In addition, emigrants are allowed to take only a small part of their belongings.

89 Decree 532–533 of 3 August 1972, which was effectively aimed at Soviet Jews, was applied on the following 14 August *before* its legal promulgation in December. Following a wave of international protests, the tax ceased to be levied from 22 March 1973 – although the decree was not repealed. For the text of the decree, see Anthony C. A. Dake, *Entraves à la libre circulation des informations entre l’Est et l’Ouest* (Paris: Association du traité atlantique, 1973), pp. 32–33 [in French].

90 See Ahlmark, *Report on the situation of the Jewish community ...* (n. 85), § 30.

91 *Ibid.* § 31.

92 See Parliamentary Assembly of the Council of Europe: *Report on the situation of the Jews in the Soviet Union*, 5445 (26 July 1985), § 25; rapporteur: Mr. Hugosson.

- *Reprisals against applicants.* Upon filing their application with the OVIR (the Visa and Registration Department at the Ministry of the Interior), or if their applications were denied, the economic and social situation of applicants would deteriorate rapidly: they were evicted from their homes, deprived of welfare benefits and lost their jobs (or at the very least faced significant pay cuts, demotion and professional isolation); their phone would be cut off and their private mail intercepted; they were subjected to police surveillance;⁹³ the children of would-be emigrants were frequently excluded from universities, and sometimes automatically enlisted in the army.⁹⁴ More importantly, being out of work, *refuseniks* would become liable to criminal prosecution for “parasitism.”⁹⁵ Applicants would thus become social outcasts, without hope of assistance.

The application process for a tourist visa (to visit the West) was equally complex and arbitrary, even more so than in tsarist Russia.⁹⁶ The Soviet authorities basically preferred *collective* tourism, which allowed them to control the movements of tourists: predefined programmes and itineraries effectively limited the opportunity for private contacts with the local population, as well as the risk of defection. Furthermore, to protect the country’s currency reserves, tourists were allowed to take only small sums of money with them. Conversely, maintaining an artificially high exchange rate meant that the USSR was an expensive place for foreigners to visit. In addition to the “currency barrier”, they faced considerable

93 “We have seen laboratory directors demoted to the rank of technicians in their own laboratory, tenured professors changed into librarians, and so on. Often the person concerned is simply dismissed. Many are now applicants for emigration, who, having submitted their applications, still do not have a job one or two years later. University professors are becoming night guards, porters, occasional translators, etc.” See Ahlmark, *Report on the situation of the Jewish community ...* (n. 85), § 22.

94 Because of this forced conscription, these individuals are automatically forbidden from leaving the USSR for a period of five years after demobilization (*ibid.*, § 25).

95 The Supreme Soviet Decree of 4 May 1961 obliges all citizens to work, on pain of one year of forced labour. However, “most people who have been dismissed cannot find work because few are willing to hire a person dismissed for applying for an exit visa. Emigration applicants are therefore constantly vulnerable to arrest” (*ibid.*, § 23). On this question, see Herbert Hausmaninger, “Soviet Parasites – Evading the Constitutional Duty to Work”, *Texas International Law Journal*, vol. 21, no. 3 (September 1986), pp. 425–440.

96 “I saw, at the Lenin Museum in Moscow, the imperial passport of Lenin in person, delivered, I suppose, by the Pskov police division. It contained fewer details than the modern passport of a USSR citizen,” Medvedev, *Savants soviétiques ...* (n. 83), p. 232. For more details see the chapter entitled “How to organize a trip outside the USSR” (*ibid.*, pp. 244ff.).

travel constraints.⁹⁷ Special *permanent* restrictions also applied to the movements of diplomats and journalists.⁹⁸

Yet the barriers to emigration and tourism were only a part of the picture: there were also restrictions on direct or indirect contacts between Soviet citizens and any local foreigners – whether residents or temporary visitors.⁹⁹ Access to foreign diplomatic representations was thus prohibited by the authorities and also required special permission.¹⁰⁰

How should such anachronistic practices be interpreted? The answer involves three interrelated factors: Russia's past, Stalin's Great Purge and the Cold War. As Valery Chalidze has pointed out, the USSR's restrictive and protectionist practices did not stem purely from the country's ideology, since the Soviet authorities did not encourage freedom of movement even with the people's democracies.¹⁰¹ Rather, they seemed to have a cultural origin, with the restrictions in question

97 "It is not uncommon to be suddenly informed that a certain region is temporarily inaccessible by road or does not have hotel rooms. In mid-1972, the territory to the east of the Volga – more than 75 per cent of the total territory – was declared closed to foreigners without warning," Dake, *Entraves à la libre circulation ...* (n. 89), p. 12 [in French]. Another Western author notes that "even today, many areas of the USSR are closed to foreigners, whether they are diplomats, journalists or tourists. These include – to cite just a few examples – a 25 km wide strip along the Norwegian, Finnish, Turkish, Iranian and Afghan borders, not to mention the three Baltic republics (with the exception of their capitals and some cities), and many regions in the republics of Russia, Ukraine, Azerbaijan, Kazakhstan, Kyrgyzstan, Uzbekistan and Turkmenistan. As well as restrictions regarding places and regions, there are also restrictions on means of transport (train, plane and car)." See Michel Pache, "L'information en Europe: de Helsinki à Madrid", in *Aspects du droit des médias, II* (Fribourg: Editions universitaires, 1984), p. 231.

98 Diplomats and journalists may move freely only "within a radius of 40 km around the city centre (Kremlin) with the exception of a region north of Minsk Chaussée, the region around the Sheremetyevo airport and parts of the city of Pushkino and Kaliningrad," Pache, "L'information en Europe ..." (n. 97), p. 231 [in French]. Similar retaliatory measures were applied to Soviet representatives in the West – but with much less effectiveness, due to the open character of Western societies, see Dake, *Entraves à la libre circulation ...* (n. 89), p. 13.

99 On 16 December 1947, a decree was adopted by the Presidium of the Supreme Soviet on "the reports of the ministerial departments and their officials with the ministerial departments and officials of foreign countries". According to Medvedev, *Savants soviétiques ...* (n. 83), p. 227, the word "officials" denotes "all employees in the service of the State who, in all public services and establishments, were banned from all contact with foreigners and all free correspondence with citizens of foreign countries" which "were to be established through the Ministry of Foreign Affairs" – on pain of criminal and administrative disciplinary sanctions. The decree in question was extended to all foreigners in the USSR.

100 Foreign embassies in Moscow are "protected" by the Soviet police, whose role is actually to intimidate applicants for emigration as mere requesters of information: "entering an embassy cannot go unnoticed, and that is sufficient to exclude visitors who might take the risk," Dake, *Entraves à la libre circulation ...* (n. 89), p. 8 [in French].

101 Dake, *Entraves à la libre circulation ...* (n. 89), pp. 12–13. While there are intergovernmental agreements in place between the Eastern countries that recognize the right of their citizens to visit their respective regions, such agreements are not generally made known to the Soviet public, notes Medvedev in *Savants soviétiques ...* (n. 83), p. 263. See also pp. 260–267.

being rooted in the traditions of tsarist Russia, which was opposed both to the *freedom of the individual*¹⁰² and to *internal freedom of movement*.¹⁰³

The development of Stalinism at a time when the Soviet Union was the sole bastion of communism could hardly encourage freedom of movement. Clearly, a nation engaging in such widespread purges could not remain open: the regime sought to prevent the outside world from knowing what was going on in the country, while preventing the victims' families from escaping repression or appealing to international public opinion.¹⁰⁴ Naturally, from the mid-1940s onwards, this self-imposed isolation was accentuated by the ideological confrontation engendered by the Cold War.

Although their cultural traditions were quite different from those of the USSR, the Eastern countries applied the principles of the Soviet system. However, the restrictions were generally less pronounced in the people's democracies than in the USSR.¹⁰⁵ Moreover, the Soviet design was not uniformly implemented: the severity of the practices varied from country to country, with Poland and Hungary being the least strict.

C. CSCE Provisions – from Helsinki to Madrid

On the question of freedom of movement, the Helsinki Final Act (1975) states that the overarching objective is to “facilitate freer movement and contacts, individually and collectively, whether privately or officially, among persons,

102 “I believe that these restrictions have their roots in the habits that prevent the free positioning of the person in a hierarchical structure... A little more than a century ago in Russia, even members of the privileged classes, the nobles, could not leave the service of the State without the permission of their sovereign, and the peasants could not leave their landlords. Old habits die hard. The rules of public bodies in the USSR (Komsomol, Trade Union, Party) permit voluntary recruitment but do not provide for the right and procedure for voluntary withdrawal; they only provide for expulsion,” Valery Chalidze, *The Humanitarian Provisions of the Helsinki Accord: A Critique of their Significance*, *Vanderbilt Journal of Transnational Law*, vol. 13, nos. 2–3 (Spring–Summer 1980), pp. 429–450.

103 At a time when the majority of the population consisted of serfs without any freedom of movement, the Russian people were divided between peasants and city dwellers – the latter being the only people with *internal passports* (as freemen). This distinction did not end when serfdom was abolished (1861). It disappeared when the internal passport was abolished after the October Revolution. The system was reestablished (with additional complications) from 27 December 1932, due to the collectivization of the countryside – that is to say, to keep in place the *kolkhozniki*, who were then being pushed towards urban areas by famine. See Medvedev, *Savants soviétiques ...* (n. 83), pp. 229ff. See also Henn-Jüri Uibopuu, “Freedom of Movement of Persons and Ideas in Soviet Doctrine and Practice”, *Osteuropa Recht*, vol. 30, no. 2 (1984), p. 118.

104 See Medvedev, *Savants soviétiques ...* (n. 83), p. 238.

105 See the report by Jiří Toman, “Mise en œuvre: Europe du Centre et de l’Est” circulated at the aforementioned Uppsala International Colloquium (n. 41); and Pierre Fleischmann, *East European Nationals’ Travel to the West. Bulgaria, Czechoslovakia, Romania, Poland, Hungary* (London: EUCORG – European Co-operation Research Group, 1973), p. 15. See also the responses provided by the Eastern countries during the preparation of Ingles’ report on the *Study of Discrimination ...* (n. 64): Poland: no. 9/Rev. 1 (7 December 1962); Romania: no. 29 (3 January 1962); Bulgaria: no. 47/Rev. 1 (6 December 1962); Hungary: no. 49 (6 December 1962); Czechoslovakia: no. 59 (14 December 1962); and Albania: no. 52 (17 December 1962).

institutions and organizations of the participating States, and to contribute to the solution of the humanitarian problems that arise in that connexion.”¹⁰⁶ The corresponding section of the third basket is divided into eight parts, each preceded by a brief preamble.¹⁰⁷ It is immediately apparent that none of these texts specifically mentions the freedom to come and go (and stay) as a basis for freedom of movement. The Final Act thus does not expressly reaffirm the right of each individual to be free to leave the country and return there – a right already proclaimed by the 1948 Universal Declaration and the 1966 Covenant on Civil and Political Rights. However, the eight sections in question do address the issues arising from emigration and from travel for personal and professional reasons.

a) Emigration

The word “emigration” does not feature at all in the text on human contacts. Nevertheless, emigration is dealt with indirectly through the provisions on the *reunification of families and marriage between citizens of different States*.

The provisions on the reunification of families are probably the most important text of the third basket. It is affirmed at the outset that the participating States “will deal” (a clear commitment) in “a positive and humanitarian spirit” (a vague phrase which dilutes the commitment in question) with the applications of persons who wish to be reunited with members of their family – although without specifying “living abroad” and “permanently”.¹⁰⁸

The Western countries made seven specific demands in this regard: priority treatment of the most acute humanitarian cases (such as requests submitted by persons who were ill or elderly); expeditious treatment of exit applications and lowering of the fees charged to a moderate level; the option for applicants to appeal and submit new requests in the event of refusal; permission for applicants to take their personal effects with them; the absence of government reprisals against persons applying for an exit visa; regular meetings between the interested

106 Helsinki Final Act (1975), “Co-operation in Humanitarian and Other Fields”, “Human Contacts”, preamble, § 5.

107 These headings are organized as follows: a) Contacts and Regular Meetings on the Basis of Family Ties; b) Reunification of Families; c) Marriage between Citizens of Different States; d) Travel for Personal or Professional Reasons; e) Improvement of Conditions for Tourism on an Individual or Collective Basis; f) Meetings among Young People; g) Sport; and h) Expansion of Contacts. Having stated that the development of human contacts is “an important element in the strengthening of friendly relations and trust among peoples” (§ 1) and expressed the intention of the participating States to achieve “continuing progress in this field” (§ 3), the preamble to the section indicates that provisions on human contacts involve unilateral measures and intergovernmental agreements, as may be needed (§ 6).

108 Helsinki Final Act (1975), “Co-operation in Humanitarian and Other Fields”, “Human Contacts”, (b) *Reunification of Families*, § 1. This provision is characteristic of the language used in the third basket, where a precise commitment, expressed by a verb in the future tense, is simultaneously weakened by a more vague and general additional phrase. Originally proposed by the Canadian delegation as CSCE/II/1/115 (12 March 1974), the expression “in a positive and humanitarian spirit” is certainly very general but, all things considered, it seems in this case to be more suitable than the idea proposed by the Soviets, which suggested that the participating States “intend to consider in a spirit of goodwill,” see CSCE/II/1/111 (26 February 1974).

parties pending their final reunification; co-operation by the participating States with international organizations dealing with the issue of separated families.¹⁰⁹

Some of these demands were met in Geneva. For example, priority was to be given to urgent cases (§ 1); rejected applications would be reconsidered at “reasonably” short intervals, and with the understanding that fees would be charged only if the application was granted (§ 4); the presentation of an application would not modify the rights and obligations of the applicant or of members of his family (§ 8);¹¹⁰ until members of the same family were reunited, they might meet on a regular basis (§ 6). Elsewhere, progress was undermined by a lack of precision or by a watering down of the participating States’ commitments. Concerning the prompt handling of applications, for example, the Western countries were only able to ensure that national authorities would deal with them “as expeditiously as possible” (§ 2).

The same applies to the lowering of the fees charged to a “moderate level” (§ 3). Similarly, the participating States would support the appropriate efforts of the Red Cross and Red Crescent Societies, but not those of the International Committee of the Red Cross (§ 7). Lastly, the Soviets would not allow emigrants to take their personal savings or the proceeds from the sale of their property with them: they could take only household and personal effects (§ 5).

For their part, the Eastern countries made only one demand in this respect: that the host State take appropriate care with regard to the employment of immigrants and see that they are afforded opportunities equal to those enjoyed by its own citizens for education, medical assistance and social security (§ 9).¹¹¹

These provisions applied, *mutatis mutandis*, to anyone marrying a citizen of another participating State – whether it was a case of applying for exit or entry permits, issuing the documents required for the marriage, or requests submitted by the foreign spouse to transfer their permanent residence (and that of their minor children, if any) to a State in which either one was normally a resident.¹¹² The Western countries were unable to obtain recognition of the *right* of the individual to found a family in accordance with the Universal Declaration of Human Rights (Article 16) and the Covenant on Civil and Political Rights (Article 23) – an instrument ratified by the USSR and its allies. Indeed, the Eastern countries considered that marriages between their citizens and foreigners were a

109 See the proposal by the FRG: CSCE/I/4, No. 2 (4 July 1973) and the proposals by Canada: CSCE/II/1/12 (19 November 1973) and CSCE/II/1/115 (1 March 1974). See also the proposals submitted by Austria: CSCE/II/1/124 (28 June 1974) and CSCE/II/1/129 (27 November 1974).

110 Here, the Western countries sought broader safeguards: Canada had proposed that applications would not result in any arbitrary deprivation of civil rights, particularly with regard to employment.

111 See the proposal submitted by the USSR: CSCE/II/1/111 (26 February 1974) and the joint proposal by the USSR, Poland and the GDR: CSCE/II/1/114 (7 March 1974).

112 See Helsinki Final Act (1975), “Co-operation in Humanitarian and Other Fields”, “Human Contacts”, (c) *Marriage between Citizens of Different States*, §§ 1 to 3.

matter of internal policy, liable only to bilateral agreements under mutually acceptable conditions.¹¹³

At the Belgrade Follow-up Meeting, the Western countries submitted – to no avail – various proposals to strengthen the commitments on the reunification of families and marriages between citizens of different States.¹¹⁴ Their efforts paid off only at the Madrid Follow-up Meeting several years later. The Concluding Document adopted in Madrid replaced the original wording of the Final Act (“will deal in a positive and humanitarian spirit”) with a much more precise phrase: the participating States “*will favourably deal with applications ... and will decide upon them in the same spirit.*”¹¹⁵ In the wake of this seemingly minor alteration, five specific provisions – couched in stronger terms than those used in the Helsinki Final Act – were introduced with a view to:

- *Reducing the application response time.*¹¹⁶ The time limit became *six months* for family reunification and for marriage between citizens of different States, and as a rule was to be “gradually decreased” in other cases. As for urgent applications, these were to be dealt with “as expeditiously as possible” – although not within the seven days that the Western countries had wanted.
- *Protecting the applicants from any arbitrary penalties.*¹¹⁷ The Concluding Document of the Madrid Follow-up Meeting (1983) confirms the provision of the Final Act whereby the presentation of an application for an exit visa does not modify the rights and obligations of the applicant. It also extends this guarantee to renewals, while enumerating a (non-exhaustive) list of such rights and obligations: employment, housing, residence status, family support, and access to social, economic or educational benefits.
- *Improving the transparency of regulatory procedures.*¹¹⁸ Henceforth, States “will provide” applicants with the necessary information on the procedures to be followed for the presentation or renewal of applications and on the regulations

113 In this regard, see additional proposals submitted by Italy: CSCE/I/9 (5 July 1973); Norway: CSCE/II/I/3 (26 September 1973); Italy: CSCE/II/1/4 (4 October 1973); Norway: CSCE/II/1/16 (17 December 1973); Italy: CSCE/II/1/22 (16 January 1974); Norway: CSCE/II/I/112 (1 March 1974); USSR: CSCE/II/I/111 (26 February 1974); Poland: CSCE/II/I/113 (7 March 1974); USSR/Poland/GDR: CSCE/II/I/114 (7 March 1974); and Austria: CSCE/II/1/131 (11 December 1974).

114 See CSCE/BM/16, CSCE/BM/17, CSCE/BM/20 and CSCE/BM/28 (all dated 4 November 1977) and CSCE/BM/37 (9 November 1977). These proposals were submitted collectively by the various NATO and/or EEC countries.

115 Madrid Follow-up Meeting (1983): Concluding Document, “Co-operation in Humanitarian and Other Fields”, “Human Contacts”, § 1. In Belgrade, the Western countries had proposed that the phrase “in a positive and human spirit” should henceforth be interpreted as meaning the *approval* of exit requests, see CSCE/BM/37 (9 November 1977).

116 Madrid Follow-up Meeting (1983): Concluding Document, “Co-operation in Humanitarian and Other Fields”, “Human Contacts”, § 2.

117 *Ibid.*, § 3.

118 *Ibid.*, § 4.

to be observed. The same applies for the relevant forms, but at the express request of those concerned.¹¹⁹

- *Lowering the application fees.*¹²⁰ On this point, the progress was less conclusive; exit fees were to be gradually reduced (“where necessary”) to bring them “to a moderate level in relation to the average monthly income in the respective participating State.”¹²¹
- *Improving information about the follow-up to applications and the possibility of renewing them.*¹²² Applicants would in future be informed of the decision taken “as expeditiously as possible”. If the decision was negative, they would also be informed of their “right” to renew their application after a “reasonably short” interval – but not “immediately”, as the Western countries had hoped.

b) Temporary travel for personal or professional reasons

The Helsinki Final Act is more expansive on the subject of tourism (in the broadest sense of the word). At a very general level, it affirms the intention of the participating States to “facilitate wider travel by their citizens for personal or professional reasons.”¹²³ The aim here is twofold:

- Firstly, the gradual simplification of exit and entry procedures and a flexible approach towards their application. The Western countries would have liked an explicit reference to administrative obstacles such as discrimination according to the country of origin or destination and the cost of the procedures.¹²⁴ However, only the second of these points gained acceptance, with a provision stating that the participating States will endeavour “*gradually to lower, where necessary, the fees for visas and official travel documents*”;¹²⁵
- Secondly, the easing of regulations concerning the movement of foreign citizens, with due regard for “security requirements”. This commitment is a watered down version of the original Belgian idea proposing to minimize the

119 The Western countries had in fact proposed the publication of the relevant regulations in the *official journals* as well as the free provision of the forms.

120 Madrid Follow-up Meeting (1983): Concluding Document, “Co-operation in Humanitarian and Other Fields”, “Human Contacts”, § 5.

121 The Western countries tried unsuccessfully to reduce the costs of the proceedings to the equivalent of a week’s wages. The Eastern countries rejected this proposal and the proposal for hotel booking and foreign exchange requirements to be waived in the case of family reunions, as well.

122 Madrid Follow-up Meeting (1983): Concluding Document, “Co-operation in Humanitarian and Other Fields”, “Human Contacts”, § 6.

123 Helsinki Final Act (1975), “Co-operation in Humanitarian and Other Fields”, “Human Contacts”, (d) *Travel for Personal or Professional Reasons*, introductory provision.

124 See Belgian proposals: CSCE/II/I/8 (19 October 1973) and CSCE/II/I/123 (19 June 1974).

125 The subject of fees for visas was also retained in the Helsinki Final Act (1975), “Co-operation in Humanitarian and Other Fields”, “Human Contacts”, (a) *Contacts and Regular Meetings on the Basis of Family Ties*, § 2.

ban imposed on foreigners from accessing regions outside “clearly defined” security areas.¹²⁶

In addition, at the request of the Eastern countries, the participating States considered the possibility of adopting appropriate instruments to improve the arrangements for consular services, including legal assistance to nationals travelling abroad.¹²⁷

Travel for personal reasons is covered in the Final Act under the headings “Contacts and Regular Meetings on the Basis of Family Ties” and “Improvement of Conditions for Tourism on an Individual or Collective Basis”.

In the first case, the provisions adopted are more or less the same as those applicable to family reunification. Added to this is the idea of the *regularity* of direct contacts, with the interesting point that applications were to be dealt with without distinction as to the country of origin or destination.¹²⁸

In the second case, the participating States simply expressed the intention of promoting tourism in their respective countries by “the provision of appropriate facilities” and by the “simplification and expediting of necessary formalities.” This modest provision is in marked contrast to the bold ideas advanced by the Western countries in the second and third baskets: in effect, the Western countries wanted the participating States to grant their nationals “all the necessary facilities to travel freely and to establish contacts without hindrance,”¹²⁹ establish multinational touristic routes,¹³⁰ and even adopt a standard document enabling the holder to travel for touristic purposes, during a fixed period of time, to any place in Europe.¹³¹ The Final Act also somewhat vaguely envisages an increase in co-operation “on the basis of appropriate agreements or arrangements where necessary”: the Western idea of establishing tourist information bureaux was not followed up, for example. Indeed, the value of the tourism section probably lies in the Western declaration of the *benefits* of tourism: “a fuller knowledge of the life, culture and history of other countries, ... growth of understanding among peoples, ... *improvement of contacts and ... the broader use of leisure.*”¹³² Tellingly, no mention

126 See CSCE/II/I/11 (12 December 1973), CSCE/II/I/18 (11 December 1973) and CSCE/II/I/122 (19 June 1974).

127 See Romanian proposal: CSCE/II/I/119 (1 April 1974).

128 See proposals submitted by Denmark: CSCE/I/6 (5 July 1973), CSCE/II/I/15 (6 December 1973), CSCE/II/I/110 (25 February 1974). For proposals by Eastern countries, see the USSR: CSCE/II/I/111/Rev.1 (1 March 1974) and the GDR: CSCE/II/I/111/Rev.1/Add.1 (9 March 1974); Poland: CSCE/II/I/113 (7 March 1974); and the USSR, Poland and the GDR: CSCE/II/I/114 (7 March 1974).

129 United Kingdom: CSCE/II/I/7 (15 October 1973).

130 Spain: CSCE/II/I/9 (29 October 1973).

131 *Ibid.*

132 The phrase “improvement of contacts”, without specifying the word “humanitarian”, deserves clarification. When the text was being written, the Western countries often tried to ensure that it better reflected the idea of interpersonal contacts, namely by linking it to the Final Recommendations of the Helsinki Consultations (1973), § 45, which mentions “contacts among

is made of the economic benefits of tourism. This omission seems deliberate: the Western countries seemingly chose to ignore this aspect (which features among the provisions of the second basket) so as not to diminish the value of tourism as a means of improving human contacts.¹³³

With regard to *travel for professional reasons* (in the broadest sense) – other than travel covered under the economic, cultural and educational fields – the Final Act contains a series of provisions which, with a single exception, are of secondary importance for the Western countries since they mainly concern collective contacts. The sections on “Meetings among Young People”, “Sport” and “Expansion of Contacts” fall into this category. However, more interesting is the provision (inspired by the Holy See) on contacts and meetings for *religious purposes*.¹³⁴

D. Impact of the CSCE and Perestroika

a) Emigration

Following the Helsinki Summit, the Eastern countries adopted a package of unilateral measures to facilitate the emigration process.

In 1976, the USSR announced the following measures:¹³⁵

- Lowering of visa costs from 400 to 300 (then 200) roubles and abolition of the tax (30 roubles) on application fees if the application was unsuccessful;
- Replacement of the *kharakteristika* by a simple certificate of employment;
- Reduction in the time limit for resubmission of rejected applications from a year to six months;
- Handling of applications concerning children under 16 years old at no additional cost;
- More flexibility for local authorities to issue visas in routine cases.

persons”. The Eastern countries opposed this every time. See Subcommittee 8 (I): Journal No.164 of 24 April 1975 that contains the contradictory statements made by Italy and Bulgaria.

133 On the side of the Western countries, Italy had insisted since Stage I [of the Helsinki Process] that “the purpose of touristic exchanges is the cultural enrichment of mankind and that such exchange should lead to increased knowledge of the values, culture and achievements of other peoples. This premise should be constantly borne in mind so as to avoid the temptation to make tourism a purely commercial activity to the detriment to and loss of its cultural values, which must not be lost sight of, particularly in the new framework that the CSCE is establishing,” see CSCE/I/11 (5 July 1973).

134 The Holy See had sought to obtain a commitment from the participating States that they would “ensure that individuals and religious communities will enjoy freedom of contact, meeting and movement for religious purposes, both within and between different countries,” see CSCE/II/1/6 (15 October 1973). See also CESC/HC/4 (8 June 1973). This provision was finally adopted and included in the Helsinki Final Act (1975), “Co-operation in Humanitarian and Other Fields”, “Human Contacts”, (d) *Travel for Personal or Professional Reasons* and separated from the preamble text by three asterisks. This passage recalled the initial idea the Holy See had, with one restriction: “religious faiths, institutions and organizations, practising within the constitutional framework of the participating States, and their representatives can, in the field of their activities, have contacts and meetings among themselves and exchange information.”

135 See Commission on Security and Co-operation in Europe, *The Helsinki Process and East-West Relations Progress in Perspective. A Report on the Positive Aspects of the Implementation of the Helsinki Final Act, 1975–1984* (Washington, 1985), p. 115.

Other Eastern countries adopted similar measures or began to take a less rigid approach towards exit applications.¹³⁶

As a result of perestroika, new arrangements were introduced regarding the basic conditions of emigration from the Soviet Union. Decision No. 1064, adopted by the Council of Ministers on 28 August 1986, amended the Act of 1970 on entering and leaving the USSR by adding 11 articles forming a new section entitled “Examination of applications to enter and leave the USSR for personal reasons” (Articles 20–30).¹³⁷

The text clearly enumerated the *categories* that could be cited as “personal reasons” (Article 21): family reunification, marriage abroad, visits to close relatives (routine, during critical illness or to visit a grave), the settlement of inheritance matters and “other valid reasons”. This last point suggested that the list was not exhaustive.

The text also required the presentation of two specific documents (Article 24). The first was the *visov* mentioned earlier. This could only be provided by certain relatives, such as a spouse, parent, child or sibling. The second document was a (notarized) *approval* signed by members of the applicant’s family living in the USSR, including an ex-wife with children under the age of majority. Article 24 gave no reason for the *visov* requirement, although it stipulated that family approval was needed to establish that the applicant was free from obligations towards family members.

Article 28 of the text introduced two changes. Firstly, it set a precise deadline for the procedure: all requests would normally be processed within *one month*, although this process should not take longer than *six months* – as stipulated in the Concluding Document of the Madrid Follow-up Meeting (1983). Secondly, it stated that *reasons* would be given for any refusal.

Article 29 of the text codified the practice in use since Helsinki whereby the government accepted the resubmission of an application six months after it had been denied. The text was even a slight improvement on the previous situation, stipulating that – unless the applicant’s circumstances had changed – any supporting documents previously submitted would in principle still be valid.

Lastly, the text in question – *which entered into force on 1 January 1987* – was unusual in that it was *published*.¹³⁸

Despite these improvements, the new regulation contained some glaring defects and shortcomings. For example, Articles 21 and 24 use an arbitrarily narrow definition of the term “family”, which is confined to first degree relatives.

136 Ibid. In 1976, Hungary reduced the costs for obtaining a visa from 1,500 to 100 forints and subsequently adopted a decree easing the conditions for emigration. Czechoslovakia dealt more flexibly with cases involving minors: in 1977, it announced that Czechoslovakian citizens who had left the country without authorization could legalize their situation.

137 For a Soviet commentary, see the interesting interview with Rudolf Kuznetsov, head of the Visa and Registration Department (OVIR) at the Ministry of the Interior of the USSR in *Novoye Vremia* (*New Times*), no. 28 (Moscow, 10 July 1987), pp. 24–27.

138 The English version can be found in *International Legal Materials*, vol. 26 (1987), pp. 425ff.

Moreover, the second paragraph of Article 21 stated that the exit procedure from the USSR was governed not only by the Decree, but also by “other Soviet legislative texts” (unspecified) and regulations enacted by the Ministry of the Interior, the Ministry of Foreign Affairs and (in the case of marriages with foreign citizens) the Ministry of Justice. Lastly, Article 25 introduced far-reaching safeguards. For example, anyone privy to “State secrets” or other information that might compromise national security could not leave the country “until the circumstances preventing his or her departure ceased to exist” (paragraph A). Similarly, emigration was prohibited for anyone whose departure would undermine the fundamental rights and legal interests of the USSR (paragraph B), or who had not discharged all of his or her obligations towards the State and other public bodies (paragraph C). Paragraph F was even more objectionable, arbitrarily denying the right to emigrate for anyone who had submitted a *visov* from a relative who had left the Soviet Union illegally. Although this restriction was in theory temporary – it ceased once the relative’s status was legalized – it did not prevent “State reprisals” being taken against innocent citizens who were ultimately held hostage. Lastly, the Decree made no provision for appeal.¹³⁹

Compared with the previous Kafkaesque situation, this was undoubtedly a considerable improvement – although some experts feared it could be used as *legal* justification for denying citizens the right to emigrate. Fundamentally, the text cannot be considered as genuine progress: it only codified and, to some extent, liberalized practices based on an arbitrary, outdated philosophy. The real issue is not the increase in the number of emigrants, but respect for the right of the individual to be free to leave his or her country and to return to it.

In any event, emigration from the East saw a sharp increase after 1975, particularly among Soviet Jews.

Together with the Crimean Tatars and the Volga Germans, the community of 2 to 3 million Soviet Jews are often termed the “stateless persons” of the USSR.¹⁴⁰ The problems they face are twofold: the enormous difficulty of protecting their

139 For a critical legal analysis of the 1987 text, see Y. Eisenstat, “New Decision Concerning Departure from the USSR”, *Jews and Jewish Topics in Soviet and East-European Publications* (Jerusalem, Summer 1987), pp. 60–64. On the Soviet side, see Lev Yelin, “Permit to leave”, *Novoye Vremia* (*New Times*), no. 28 (Moscow, 10 July 1987), pp. 24–26. See also Parliamentary Assembly of the Council of Europe: *Report on the situation of the Jews in the Soviet Union*, 5868 (29 March 1988); rapporteur: Mr. Hassler.

140 See Hélène Carrère d’Encausse, *L’empire éclaté. La révolte des nations en URSS* (Paris: Flammarion, 1975), p. 196. Since 1928, the Jews have been theoretically endowed with a national territory in the Far East (Birobidzhan, an autonomous region since 1934). In fact, they represent only 8 per cent of the population of this region. See Ahlmark, *Report on the situation of the Jewish Community ...* (n. 85), § 84.

cultural and religious identity within the Soviet bloc,¹⁴¹ and anti-Semitism in the USSR.¹⁴²

Emigration was an alternative solution to forced Russification. Originally an isolated phenomenon (229 people emigrated in 1968), it began to snowball from 1971 as Soviet-American relations improved: poised to reach an agreement with the United States on the most-favoured-nation treatment, the USSR began to loosen its grip.¹⁴³ Jewish emigration can thus be said to reflect the state of relations between the two superpowers.¹⁴⁴

From 13,000 people in 1971, emigration more than doubled over the following two years before dropping back to its original level when the US Congress imposed conditions in return for granting the most-favoured-nation clause to the USSR.¹⁴⁵

141 The teaching of Hebrew and Yiddish is banned and repressed. Jewish culture – particularly Jewish theatre – has virtually disappeared. Maintaining a Jewish identity through religion is barely possible because of the anti-religious practices of the authorities, which favour the closure of synagogues and the decommissioning of cemeteries. See Ahlmark, *Report on the situation of the Jewish community ...* (n. 85), §§ 69 to 82.

142 *Ibid.*, pp. 60–68. On the Soviet point of view, see *Les Juifs en URSS. Comment vivent et travaillent les citoyens soviétiques d'origine juive* (Moscow: Editions de l'Agence de Presse Novosti, 1975), p. 62.

143 Emigration was then mainly from the Baltic countries and Georgia, where Jews were less “assimilable” than elsewhere in the USSR, see Ahlmark, *Report on the situation of the Jewish community ...* (n. 85), § 14.

144 The USSR and the United States have the two largest Jewish *diaspora* communities (*ibid.*, pp. 37ff.). See also Hugosson's *Report on the situation of the Jewish community in the Soviet Union*, 4936, and *Report on the situation of the Jews ...*, 5445 (n. 92).

145 This is the Jackson-Vanik Amendment (3 January 1975) to the Trade Act of 1974, conditional upon the application of the freedom of emigration clause. See William Korey, “The Jackson-Vanik Amendment in Perspective”, *Soviet Jewish Affairs*, vol. 18, no. 1 (Spring 1988), pp. 29–47.

The CSCE reversed this trend: by 1979, the number of people emigrating had reached a record 51,320, before declining in tandem with the deterioration in détente¹⁴⁶:

Year	Number of departures
1968	229
1969	2,979
1970	1,027
1971	13,022
1972	31,681
1973	34,733
1974	20,628
1975	13,221
1976	14,261
1977	16,736
1978	28,865
1979	51,303
1980	21,472
1981	9,448
1982	2,692
1983	1,314
1984	896

After Mikhail Gorbachev took office, the trend began to reverse:

Year	Number of departures
1985	1,140
1986	914
1987	8,155
1988	20,082

The resurgence is associated with dramatic gestures such as the release of all Jewish prisoners of conscience (under a general amnesty decreed for some 120 dissidents) – including the oldest and most famous *refusenik*, Iosif Begun – and the start of diplomatic talks with Israel for a negotiated settlement of the Middle Eastern conflict. As a leading influential American Jew observed following a working visit to Moscow, the change in Kremlin policy was clearly positive.¹⁴⁷

146 Source: Hugosson's *Report on the situation of the Jews ...* (n. 92), p. 15.

147 See Morris D. Abram, "A Sure Test of the Depth of Glasnost", *International Herald Tribune*, 25–26 July 1987. It should also be noted that the World Jewish Congress held its 1987 meeting in Budapest and its leaders established formal contacts with the GDR, see *Le Monde*, 19 October 1988. See also Robert O. Freedman, "Relations between the USSR and Israel since the Accession of Gorbachev", *Soviet Jewish Affairs*, vol. 18, no. 2 (Summer 1988), pp. 13–63.

However, Soviet Jews still made up the majority of *refuseniks*¹⁴⁸ and continued to endure various forms of anti-Semitism.¹⁴⁹

From the point of view of *family reunification*, the CSCE unquestionably boosted emigration. For example, the provisions of the Final Act encouraged governments to resolve various humanitarian cases, some of which dated from the Cold War.¹⁵⁰ In this respect, the United States achieved outstanding results with the various Eastern countries.¹⁵¹ The same can be said of the FRG, which can be considered one of the main beneficiaries of the third basket. From 1975 to 1983, the country took in some 437,000 people of German origin, mainly from the USSR, Romania and especially Poland – a country with which a major bilateral agreement had been signed on 2 August 1975.¹⁵² With the GDR, the numbers rose from 11,343 (1975) to 16,285 (1983), before rocketing in 1984.¹⁵³

The available data also paint a positive picture of the resolution of cases involving Austria (with the USSR, Czechoslovakia, the GDR and Poland), Denmark, Norway, France, Sweden, Canada and Greece.¹⁵⁴

Even greater progress was made concerning *marriage between citizens of different States*.¹⁵⁵ After the signing of the Final Act, these cases were resolved more frequently and expeditiously. This applied to all Eastern countries, including the USSR, which excelled itself in this area of the third basket.¹⁵⁶

148 It should be pointed out, however, that the Soviet authorities more or less tolerated the demonstrations by the *refuseniks*, see *Le Monde*, 26 March 1987, and even of the *regimentniks* (those whose applications were rejected on grounds of access to “State secrets”).

149 On this point, see David Greenberg, “Anti-Semitism Proves Deep Seated Despite Official Discouragement”, *Radio Liberty Research Bulletin*, RL 239/87 (Munich, 1987), p. 4; and Julia Wishnevsky, “Glasnost on Anti-Semitism in the Soviet Union”, *ibid.*, RL 254/87, p. 7. See also Hassler, *Report on the situation of the Jews ...* (n. 139), pp. 7–8.

150 See Commission on Security and Co-operation in Europe, *The Helsinki Process and East-West Relations ...* (n. 135), p. 118.

151 See *ibid.*, pp. 119–121.

152 Negotiated on the margins of the Helsinki Summit, the Agreement committed Poland to granting 120,000 to 125,000 emigration permits – spread over four years – to Poles of German origin, pursuant to certain criteria set out in an 1970 communication. In return, the FRG granted Poland a loan of 1 billion Deutschmarks at an advantageous rate and settled a former dispute by reimbursing the Polish Government for pensions it paid to officials who had worked for the Third Reich. See Klaus Huwe, “Les accords germano-polonais”, *Documents, Revue des questions allemandes* (June 1976), pp. 13–18.

153 There were 30,000 departures in 1984, see Commission on Security and Co-operation in Europe, *The Helsinki Process and East-West-Relations ...* (n. 135), p. 122.

154 *Ibid.*, pp. 123–125. For more details on recent practices, see Ann Herbst Oltmann, *Visits and Reunification of Families between Eastern and Western Countries* (Vienna: International Helsinki Federation for Human Rights, 1986), p. 105.

155 *Ibid.*, pp. 125–126.

156 The appropriate procedures require an average period of three months and no longer than one year. Since 1975, almost 90 per cent of rejected applications have been approved after renewal (*ibid.*, p. 125).

b) Temporary travel for personal or professional reasons

Ten years after the Final Act was signed, temporary travel between East and West was still not truly free. However, two developments are worth mentioning here.

Firstly, various bilateral agreements were signed, usually on a basis of reciprocity, to facilitate travel by diplomats, journalists, business people and tourists. This was the case, for example, with the agreements ending the restrictions on the movement of diplomatic personnel in the State of accreditation,¹⁵⁷ governing consular relations,¹⁵⁸ establishing co-operation in the area of tourism,¹⁵⁹ and improving the conditions for issuing diplomatic or non-diplomatic visas.¹⁶⁰

Secondly, several Eastern countries introduced a raft of unilateral measures to ease temporary entry and exit requirements for family visits or tourism:

- Reducing the timeframe for granting visas, prolonging the validity of passports to three years, written explanation from the authorities in the event of refusal;¹⁶¹
- Widening the categories of people eligible for an exit permit for family visits;¹⁶²
- Provision of certain facilities to former citizens wishing to visit their country of origin;¹⁶³
- Lifting of the obligation imposed on Western tourists to change a certain amount of currency each day (ten dollars);¹⁶⁴ granting of entry and transit visas on arrival at borders;¹⁶⁵ charging of preferential exchange rates¹⁶⁶ or tourist rates;¹⁶⁷
- Permission for nationals to make annual visits abroad, payable in national currency.¹⁶⁸

157 Agreements of this kind have, for example, been concluded by the United States with Czechoslovakia (1976) and Bulgaria (1977). See Commission on Security and Co-operation in Europe, *The Helsinki Process and East-West Relations ...* (n. 135), p. 127.

158 Thus, under the terms of the agreement with the GDR in 1981, the United States could freely communicate with its nationals who were arrested or detained in that country (*ibid.*, pp. 127–128).

159 *Ibid.*, pp. 136, 138–139.

160 Improvements in reducing deadlines, lowering procedural costs, granting multiple entry visas, and so on. See the agreements concluded by the United States and Hungary (1976–1978), Czechoslovakia (1976) and Bulgaria (1981). In 1977, Austria and Hungary concluded an agreement, which abolished the requirement of entry visas.

161 Decisions of Poland, 1981–1982 (*ibid.*, p. 128).

162 Decisions of the GDR (*ibid.*, p. 134).

163 From 1979 onwards, former Hungarian citizens were able to obtain a passport enabling them to return to the country without special permission (*ibid.*, p. 128). US citizens of Romanian origin were exempted (from 1977) from certain accommodation and exchange requirements normally imposed on foreign tourists (*ibid.*, p. 132).

164 Decisions of Bulgaria (*ibid.*, p. 136) and Hungary (*ibid.*, p. 128) in 1977.

165 Decision of Bulgaria in 1977 (*ibid.*, p. 136).

166 “Since 1978, tourists to Bulgaria are offered a 50 per cent bonus on currency exchange of Bulgarian *levs* to basic western currencies” (*ibid.*, p. 137).

167 *Ibid.*, p. 139.

168 Decisions taken by Hungary in 1978–1979 and 1982–1983 (*ibid.*, p. 137).

The Soviet Union subsequently announced that it would begin trialling tourist visas in the first half of 1988 based on *simplified procedures* for *groups* of citizens wishing to visit other Eastern countries.¹⁶⁹ Meanwhile, Czechoslovakia began allowing its citizens to leave the country temporarily if their travel and accommodation expenses could be paid by relatives or friends living abroad (deposit of 20 dollars per day and per person in a Czechoslovakian bank).¹⁷⁰ As for the GDR, in 1989 it introduced a new regulation to relax the visa application process for its citizens (for example, a response would be given within 30 days, any refusal would be in writing, and applicants had a right of appeal).¹⁷¹

In the West, the United States made various amendments to its McCarthy era *Immigration and Nationality Act*.¹⁷²

In short, the number of citizens from Eastern countries permitted by their country to travel privately to the United States increased in absolute terms after 1975. Despite some fluctuations – for both economic and political reasons – the number of entries more or less doubled for Hungary,¹⁷³ Czechoslovakia,¹⁷⁴ the USSR¹⁷⁵ and Bulgaria,¹⁷⁶ tripled for Romania,¹⁷⁷ increased fivefold for Poland,¹⁷⁸ and increased tenfold for the GDR.¹⁷⁹

169 Information published in *Izvestia*, 1 January 1988 and reported by *Le Monde*, 3–4 January 1988.

170 See “Situation Report: Czechoslovakia”, *Radio Free Europe Research*, vol. 12, no. 47, Part III (Munich, 1987), pp. 31–33 and *ibid.*, vol. 13, no. 42, Parts II & III (1988), pp. 33–35.

171 See *Le Monde*, 17 December 1988. For a critical commentary, see Barbara Donovan, “East Germany is Planning New Travel and Emigration Regulations”, *Radio Free Europe Research*, RAD Background Report, no. 241 (Munich, 8 December 1988), p.3.

172 Known as the McCarran-Walter Act, this law (passed by Congress in 1952, despite President Truman’s opposition) prevented anyone belonging to an organization banned in the United States from entering US territory without a special permit. On the revision debate, see Commission on Security and Co-operation in Europe, *Fulfilling our Promises: The United States and the Helsinki Final Act* (Washington, 1979), pp. 257–281. See also *Hearing Before the Commission on Security and Co-operation in Europe. 95th Congress, Second Session, 1952 McCarran-Walter Act* (Washington: US Government Printing Office, 1986), p. 99.

173 10,686 entries in 1982 (*ibid.*, p. 132).

174 5,115 entries in 1983 (*ibid.*, p. 131).

175 4,477 entries in 1979 (*ibid.*, p. 130).

176 855 entries in 1981 (*idem*).

177 3,066 entries in 1981 (*ibid.*, p. 131).

178 40,963 entries in 1981 (*idem*).

179 1,886 entries in 1983 (*ibid.*, p. 132).

In Europe, travel increased in both real and absolute terms,¹⁸⁰ with border crossings between the GDR and FRG soaring to 8 million a year between 1975 and 1978.¹⁸¹ In general, East-West tourism was regarded as a growing phenomenon.¹⁸²

Lastly, *collective contacts* also increased dramatically.¹⁸³

c) Bern Meeting of Experts on Human Contacts (15 April to 27 May 1986)

In accordance with a provision of the Concluding Document of the Madrid Follow-up Meeting (1983), a meeting of experts was held in Bern from 15 April to 27 May 1986 to review the situation regarding human contacts and to examine new opportunities.¹⁸⁴ It set up two subsidiary bodies, which considered 46 working proposals.

The USSR and its allies alone submitted half of the proposals. This confirmed the trend witnessed at the Ottawa Meeting of Experts on Human Rights and Fundamental Freedoms (1985), when the Soviets agreed to engage in frank talks on human rights after Mikhail Gorbachev came to power. The “foundations for co-operation among CSCE participating States in the development of contacts among persons, institutions and organizations” defined by the Eastern countries contained an array of traditional ideas, *without explicitly mentioning the principle of non-intervention*.¹⁸⁵

The Eastern countries proposed the following:

- To ensure that immigrants have rights equal to those guaranteed by law for their own citizens (in employment and education, for example),¹⁸⁶ and even to

180 In 1983, the FRG was visited by 35,000 Polish tourists (*ibid.*, p. 134) and 131,000 Hungarians, compared with 83,000 in 1975 (*ibid.*, p. 135). In the same year, Austria received 93,000 Czechoslovakian visitors (*ibid.*, p. 134) and 265,000 Hungarians, compared with 86,000 in 1975, (*ibid.*, p. 135). Conversely, 200,000 Austrians have been to Czechoslovakia since 1975 (*ibid.*, p. 134); Austrian tourism in Hungary increased from 353,000 visitors in 1975 to 1,604,000 in 1983 (*ibid.*, p.135).

181 The increase in the mandatory minimum exchange rate, again decided by the GDR in October 1980, obviously led to a reversal of this trend. In 1983, available sources reported 5,371,000 authorizations (*ibid.*, pp. 133–134). In 1987, five million East Germans – half a million of whom were under retirement age – visited the FRG, *Le Monde*, 27 December 1987.

182 Virtually all the Eastern governments made efforts to increase the scale and improve the quality of their tourism infrastructure (*ibid.*, pp. 135–136).

183 *Ibid.*, for ‘youth’ see: pp. 139–142; for ‘sports’: pp. 142–145; for ‘non-governmental organizations’: pp. 145–146; for ‘religious contacts’: pp. 147–159.

184 This event was preceded by a “preparatory” meeting that started on 2 April. During these preparatory talks, the question of making plenary sessions accessible to the public was a *stumbling block*. As in *Ottawa* – see *chapter II* of this volume p. 96 (n. 192) – it was finally decided to open the inaugural and closing sessions of the meeting to the public.

185 The text referred to the link between humanitarian co-operation and the pursuit of détente, “mutually acceptable conditions”, the right of States to determine their laws and regulations and the precise aims of human contacts: peace, mutual understanding, and so on. See CSCE/BME.35 (20 May 1986).

186 CSCE/BME.21 and CSCE/BME.22 (1 May 1986).

- conclude bilateral conventions for consular, legal (family and civil matters) and medical assistance;¹⁸⁷
- To ensure the security of the citizens and representatives of other countries (particularly within international organizations) on their territory;¹⁸⁸
 - To consider a mutual improvement of the procedures for granting entry visas for personal or professional reasons;¹⁸⁹
 - To promote tourism among young people on low incomes and organized travel;¹⁹⁰
 - To develop exchanges and contacts among students and teachers, as well as sporting events.¹⁹¹

The Western delegations submitted 20 proposals covering three categories.

The proposals for the first category concerned *family issues*. These focused on the priority treatment of urgent humanitarian cases (travel of the elderly or sick, travel for religious or civil ceremonies),¹⁹² the possibility for members of a family to travel together,¹⁹³ dealing favourably with applications from dual nationals,¹⁹⁴ reuniting minor children with their parents,¹⁹⁵ free choice (for applicants) of the country of emigration,¹⁹⁶ prolonging the validity of application forms and ensuring that they were easily accessible for renewed applications,¹⁹⁷ and the review, at regular intervals, of outstanding applications.¹⁹⁸

Those in the second category were much more ambitious. Concerning travel *procedures*, they urged the participating States to grant their citizens the right to be issued a passport without special conditions,¹⁹⁹ to abolish the requirement for their nationals to obtain an exit visa,²⁰⁰ to remove obstacles of any kind inhibiting contacts between their citizens and resident or visiting citizens of other States,²⁰¹

187 CSCE/BME.1; CSCE/BME.2 and CSCE/BME.3 (29 April 1986).

188 CSCE/BME.33 (2 May 1986) and CSCE/BME.40 (7 May 1986).

189 CSCE/BME.20 (1 May 1986); CSCE/BME.27 (2 May 1986); CSCE/BME.34 (2 May 1986) and CSCE/BME.45 (13 May 1986).

190 CSCE/BME.39 (7 May 1986) and CSCE/BME.42 (8 May 1986).

191 CSCE/BME.29 (2 May 1986).

192 CSCE/BME.4 (1 May 1986).

193 CSCE/BME.9 (1 May 1986).

194 CSCE/BME.14 (1 May 1986).

195 CSCE/BME.6 (1 May 1986).

196 CSCE/BME.5 (1 May 1986). Another proposal – CSCE/BME.12 (1 May 1986) – also recommended that in the event of an application to leave for the purposes of contact with an individual family member who has permanently left his country of origin, the participating States ensure “that the application will not be prejudiced by the circumstances in which this family member left his country of origin.”

197 CSCE/BME.18 (1 May 1986).

198 Ibid.

199 CSCE/BME.24 (1 May 1986).

200 CSCE/BME.25 (1 May 1986).

201 CSCE/BME.13 (1 May 1986).

and publishing “all laws, regulations and procedures – including criteria for refusal” governing the right of citizens to leave their country on a permanent or temporary basis.²⁰²

The third category included proposals on the *development of contacts* between believers,²⁰³ between persons belonging to national minorities or regional cultures,²⁰⁴ between individuals belonging to freely established non-governmental organizations,²⁰⁵ between the members or representatives of freely established trade unions²⁰⁶ and between citizens of twin towns.²⁰⁷ It also contained proposals on respect for the privacy and integrity of postal communications and telephone calls with other countries,²⁰⁸ as well as on the practice of periodically holding bilateral meetings and round tables between delegations, whose composition was to be freely determined by each participating State.²⁰⁹

The four Neutral countries co-sponsored two of these Western proposals: firstly on reuniting minor children with their parents,²¹⁰ and secondly on religious contacts.²¹¹ For their part, Austria and Switzerland submitted a fairly substantial text on “family visits”, which was very similar to Western views on the matter.²¹² Of the Non-Aligned countries, only Yugoslavia submitted specific proposals.²¹³

202 CSCE/BME.16 (1 May 1986).

203 CSCE/BME.26 (2 May 1986).

204 CSCE/BME.11 (2 May 1986).

205 Here the idea of the Western countries was to remove “existing impediments which prevent individuals and the institutions and organizations which they have freely established and joined from maintaining contact, communication and organizational ties with similar organizations in other participating States without need of official sponsorship or approval,” and to permit individuals invited by such groups “to travel to other participating States so that they are not replaced by another individual without the consent of the inviting organization,” see CSCE/BME.7 (1 May 1986).

206 CSCE/BME.15 (1 May 1986).

207 CSCE/BME.8 (1 May 1986).

208 CSCE/BME.17 (1 May 1986). This was an old claim, unsuccessfully submitted in 1973–1974 by the Netherlands: CSCE/II/I/5 (11 October 1973), CSCE/II/I/21 (15 January 1974) and CSCE/II/I/107 (22 February 1974).

209 The aim of these meetings and round tables was, in particular, “to bring about as promptly as possible a satisfactory solution to outstanding humanitarian cases,” and proceed to “a mutual exchange of exhaustive information and full details, and to their updating in the event of changes, on the laws, procedures and practices in force in the respective countries with regard to applications for travel abroad submitted by citizens with a view to contacts and regular meetings on the basis of family ties, reunification of families and marriages between citizens of different States,” see CSCE/BME.37 (5 May 1986).

210 This proposal was presented by the five Scandinavian countries in common accord, see CSCE/BME.6 (1 May 1986).

211 Austria, Switzerland and Liechtenstein also joined this proposal, see CSCE/BME.26 (2 May 1986).

212 CSCE/BME.36 (5 May 1986).

213 On the issue of rights of migrant workers, see CSCE/BME.43 (8 May 1986) and in reference to persons belonging to national minorities, see CSCE/BME.44 (8 May 1986).

The final text was negotiated on the basis of summary proposals submitted by the Neutral and Non-Aligned countries.²¹⁴ As the proceedings came to a close, an agreement seemed within reach. The participating States appeared to be on the verge of an agreement on a document composed of elements of the Austrian-Swiss proposal on family visits and the corresponding Western ideas (toned down to varying degrees), including the publication of national regulations, foreign postal and telephone communications, and bilateral round tables.²¹⁵ However, to general surprise, the US delegation, acting on last-minute instructions from high up in the State Department, withdrew its consent. It assumed sole responsibility for the collapse of the talks, arguing that the proposed compromise was too lacking in substance and was so ambiguous that it risked undermining the very credibility of the CSCE process.

The American argument does not stand up to close scrutiny. Although the concessions made by the Eastern countries might be considered insufficient,²¹⁶ they were a decisive step forward. The N+NA text lacked some of the basic ideas of the Western countries (considered by the Eastern nations as “unrealistic and idealistic”),²¹⁷ but was still an improvement on the Helsinki and Madrid provisions.²¹⁸ In what was an unexpected turn of events, the intransigence of the United States provided fuel for Soviet propaganda,²¹⁹ while disappointing its European allies (especially the FRG) and the two Neutral countries that had made every effort to facilitate a compromise.

However, the debate on the implementation of the provisions of the third basket on human contacts was generally regarded as substantive and dispassionate and, as such, one of the best in the CSCE process.²²⁰ On the fringes of the formal

214 See CSCE/BME.49 (23 May 1986).

215 For an overview of the Soviet concessions, see the draft Final Report submitted by the Eastern countries: CSCE/BME.48 (23 May 1986).

216 Characteristic of the USSR's psychological approach was the Soviet delegation's reply that the State could not be a tourist organization or a marriage agency for citizens of different nationalities. Here, again, is a passage from the statement made by the head of the French delegation on 26 May 1986: “One may wonder whether, while most governments are sure of themselves and their legitimacy, trusting their citizens to freely come and go, others are not, deep down, afraid of allowing their peoples this freedom to discover the reality of the outside world, to come into contact with other peoples, other cultures, other civilizations.”

217 This was the case with the French proposal on the abolition of exit visas for nationals.

218 This was due among other things to the introduction of a new provision on the guarantee of postal communications.

219 At the end of the Meeting, the USSR stated that it was authorizing 119 people to leave its territory for family reasons, *Le Monde*, 29 May 1986. See Yuri Kashlev, “Les leçons de la Conférence de Berne”, *Temps nouveaux*, no. 24 (June 1986), pp. 14–15 to get the Soviet point of view.

220 “Our debates here were honest; the spirit was candid. We argued mightily with one another. We showed clearly, over and over, those places, those practices, and those methods by which the noble ideals of Helsinki and Madrid, affirmed on paper, are frustrated in daily reality. Our implementation review was one of the best; veterans of past meetings have said, in CSCE history” from the statement delivered by the head of the US delegation at the closing session of the Meeting (27 May 1986).

negotiations, Western and Neutral countries agreed to settle thousands of humanitarian cases on their “representation lists”. Lastly, the confidentiality of the negotiations (which the Soviets had insisted on) was to some extent offset by the “counter-conference” organized in Bern at the same time and on the same theme by *Resistance Internationale* and the Andrei Sakharov Institute, attended by dissidents, writers and other human rights campaigners.²²¹

E. The Vienna Provisions

Compared with the Helsinki and Madrid texts, the provisions adopted in Vienna on human contacts represented a real breakthrough. Given the willingness of the new Soviet leadership to convince the West of the sincerity of perestroika, progress in this field (which the Western countries cleaved to) was to be expected. Yet the progress made exceeded expectations on account of the extra concessions that the Soviets were prepared to make in exchange for a meeting in Moscow on human rights. In any event, the section of the Concluding Document of the Vienna Follow-up Meeting (1989) on human contacts is remarkable for its length (33 paragraphs), substance, and clear and binding language.²²²

For the first time, the Vienna Concluding Document established a direct link between the application of the relevant provisions of the CSCE and respect, by the participating States, for the fact that “everyone shall be free to leave any country, including his own, and to return to his country.”²²³

It requires the participating States to resolve *all* applications based on the relevant CSCE provisions, still outstanding at the end of the Vienna Follow-up Meeting, within a period not exceeding *six months*;²²⁴ this concession made by the Soviets in exchange for a meeting in Moscow on human rights meant that *refusenik*

221 The counter-conference brought together representatives of the 35 CSCE countries: Vladimir Bukovsky, Yves Montand, Jeanne Hersch, Eugène Ionesco, Marek Halter, and others. Although it comprised a majority of dissidents from the Eastern countries, it announced – citing, in particular, the case of Nelson Mandela – that the fight for human rights was universal, *Le Monde*, 18 April 1986.

222 The whole of the chapter relating to the third basket is introduced by a provision in the preamble affirming that the participating States have adopted and *will implement* what followed. In the same preamble, § 4 specifies that in implementing the provisions of the third basket in the framework of their laws and regulations, the participating States “will ensure that those laws and regulations conform with their obligations under international law and are brought into harmony with their CSCE commitments.” It should be remembered that the Vienna Concluding Document (1989), “Principles”, § 3 contains a similar provision. See chapter II of this volume, p. 47.

223 Vienna Follow-up Meeting (1989): Concluding Document, “Co-operation in Humanitarian and Other Fields”, “Human Contacts”, § 1. It should be noted that, as the Eastern countries wanted, this provision refers to the “*freedom*” and not the “*right*” of any individual to leave and return to his country – a right expressly reaffirmed in “Principles”, § 20. See CSCE/WT.22 (10 February 1987) and CSCE/WT.132 (31 July 1987) for the wording initially suggested by the Western countries. See also proposal CSCE/WT/H.5 and Add.1 (24 March 1987), submitted by some of the Western countries (the FRG, Canada and Norway) in collaboration with Switzerland and Austria.

224 Vienna Follow-up Meeting (1989): Concluding Document, “Co-operation in Humanitarian and Other Fields”, “Human Contacts”, § 3.

cases had to be resolved by 15 July 1989.²²⁵ For subsequent applications – in other words, those submitted after the adoption of the Vienna Concluding Document on 15 January 1989 – the participating States would conduct *regular* reviews to ensure that those applications were dealt with in a manner consistent with the relevant CSCE provisions.²²⁶ Above all, they would decide upon such applications within a specific timeframe – *one month for family meetings*,²²⁷ *three months for family reunification or marriage between citizens of different States*,²²⁸ and *three working days for travel of an urgent humanitarian nature* (visits to a seriously ill or dying relative, the funeral of a relative, or the need for urgent medical treatment).²²⁹

Similarly, the participating States would in future have to take into account the applicant's wishes regarding the *timing* and *duration* ("sufficiently long") of family meetings and the possibility of travelling with other *family members*,²³⁰ and the *country of destination* in the case of family reunification or marriage between citizens of different States.²³¹ The participating States would also permit (for family meetings) visits to more distant relatives as well as visits from them,²³² and pay particular attention to the solution of problems involving the reunification of *minor children with their parents*.²³³

Furthermore, the Vienna Concluding Document recommends that the *rights of the applicant* should not be affected by any act or omission on the part of members of his family,²³⁴ that the documents necessary for the presentation of exit applications are easily *accessible* and will remain valid throughout the procedure

225 In a joint proposal CSCE/WT.9 (19 December 1986), Switzerland and Austria had initially suggested a period of two months, which was deemed impracticable by the Soviets.

226 That is to say, in a non-arbitrary way. This particular provision in the Vienna Concluding Document (1989), "Co-operation in Humanitarian and Other Fields", "Human Contacts", § 4 has its origin in a Western proposal: CSCE/WT.23 (10 February 1987), p. 2.

227 Vienna Follow-up Meeting (1989): Concluding Document, "Co-operation in Humanitarian and Other Fields", "Human Contacts", § 5.

228 *Ibid.*, § 6.

229 In the case of "travel by those who are seriously ill or by the elderly, and other travel of an urgent humanitarian nature," the obligation of the CSCE States is limited to deciding "as expeditiously as possible". But in all cases "they will intensify efforts by their local, regional and central authorities concerned with the implementation of the above, and ensure that charges for giving priority treatment to such applications do not exceed costs actually incurred" (§ 12). For the Western proposal on which this provision is based, see CSCE/WT.24 (10 February 1987).

230 See Vienna Follow-up Meeting (1989): Concluding Document, "Co-operation in Humanitarian and Other Fields", "Human Contacts", § 7. See also CSCE/WT. 24 (10 February 1987).

231 See Vienna Follow-up Meeting (1989): Concluding Document, "Co-operation in Humanitarian and Other Fields", "Human Contacts", § 9. See also CSCE/WT.53/Rev. 1 (17 February 1987).

232 See Vienna Follow-up Meeting (1989): Concluding Document, "Co-operation in Humanitarian and Other Fields", "Human Contacts", § 8.

233 See Vienna Follow-up Meeting (1989): Concluding Document, "Co-operation in Humanitarian and Other Fields", "Human Contacts", § 10. See also CSCE/WT.24 (10 February 1987).

234 See Vienna Follow-up Meeting (1989): Concluding Document, "Co-operation in Humanitarian and Other Fields", "Human Contacts", § 13. See also CSCE/WT.53/Rev. 1 (17 February 1987).

as well as in the event of its renewal,²³⁵ that administrative regulations and procedures are *simplified* and gradually *reduced*,²³⁶ that the grounds of any (legal) refusal are promptly *notified* in writing with an official notification and, in general, accompanied by information on the possible ways of appeal,²³⁷ and, lastly, that applications refused for reasons of *national security* are reviewed within six months and that in general refusals are not final.²³⁸

With regard to *temporary foreign travel*, the Vienna Concluding Document recommends the *publication* (and accessibility) of all legislative and regulatory provisions on the matter,²³⁹ dealing favourably with applications for travel abroad without *distinction* of any kind,²⁴⁰ reducing (“to a minimum”) the time for the consideration of such applications,²⁴¹ and above all the progressive phasing out of the *compulsory minimum exchange rate* imposed (in some Eastern countries) on foreign tourists.²⁴² On a more general level, it recommends that participating States facilitate and encourage the maintenance of *direct personal contacts* between their citizens,²⁴³ and allow foreigners to meet their citizens and to stay in private homes if need be.²⁴⁴

Three other provisions of the Vienna Concluding Document merit special attention.

235 See Vienna Follow-up Meeting (1989): Concluding Document, “Co-operation in Humanitarian and Other Fields”, “Human Contacts”, § 14. See also CSCE/WT.23 (10 February 1987).

236 See Vienna Follow-up Meeting (1989): Concluding Document, “Co-operation in Humanitarian and Other Fields”, “Human Contacts”, § 15.

237 See *ibid.*, § 16. See also CSCE/WT.9 (19 December 1986) and CSCE/WT.23 (10 February 1987).

238 If applications are rejected for such reasons, the participating States “will ensure that, within strictly warranted time limits, any restriction on ... travel is as short as possible and is not applied in an arbitrary manner. They will also ensure that the applicant can have the refusal reviewed within six months and, should the need arise, at regular intervals thereafter so that any changes in the circumstances surrounding the refusal, such as time elapsed since the applicant was last engaged in work or duties involving national security, are taken into account. Before individuals take up such work or duties they will be formally notified if and how this could affect applications they might submit for such travel” (§ 17).

239 See Vienna Follow-up Meeting (1989): Concluding Document, “Co-operation in Humanitarian and Other Fields”, “Human Contacts”, § 18. See also CSCE/WT.9 (19 December 1986).

240 See Vienna Follow-up Meeting (1989): Concluding Document, “Co-operation in Humanitarian and Other Fields”, “Human Contacts”, § 20.

241 See *Ibid.*, § 21.

242 The participating States “will consider the scope for gradually reducing and eventually eliminating any requirement which might exist for travellers to obtain local currency in excess of actual expenditure, giving priority to persons travelling for the purpose of family meetings. They will accord such persons the opportunity in practice to bring in or take out with them personal possessions or gifts.” The problem of the compulsory exchange rate is addressed more directly in § 39 of the text relating to the second basket (“Co-operation in the Field of Economics, of Science and Technology and of the Environment”) in the Vienna Concluding Document. See chapter V of this volume, p. 228.

243 Vienna Follow-up Meeting (1989): Concluding Document, “Co-operation in Humanitarian and Other Fields”, “Human Contacts”, § 25.

244 *Ibid.*, § 30.

The first relates to *postal and telephone communications*.²⁴⁵ This guarantees freedom of postal communications and recommends the “the rapid and unhindered delivery of correspondence, including personal mail and parcels.”²⁴⁶ Similarly, it affirms the privacy and integrity of postal and telephone communications and recommends that the participating States ensure “the conditions necessary for rapid and uninterrupted telephone calls, including the use of international direct dialling systems, where they exist, and their development.”²⁴⁷

The second extends the benefit of the CSCE texts on human contacts to persons belonging to *national minorities or regional cultures*.²⁴⁸

The third covers the religious dimension of human contacts. It goes further than the equivalent provision of the Final Act since it requires the participating States to allow “believers, religious faiths and their representatives, in groups or on an individual basis, to establish and maintain direct personal contacts and communication with each other, in their own and other countries, *inter alia* through travel, pilgrimages and participation in assemblies and other religious events.”²⁴⁹

Lastly, it should be noted that the Vienna text also contains several less interesting provisions inspired by the Eastern countries. These concern the reciprocal simplification of entry visa formalities,²⁵⁰ the improvement of consular, legal and medical assistance for foreign citizens temporarily on the territory of the participating States,²⁵¹ the protection of foreign citizens participating in cultural, scientific and educational events,²⁵² direct sports exchanges,²⁵³ cultural

245 See *ibid.*, § 29. See also CSCE/WT.74 (18 February 1987). See also earlier on this chapter, p. 271 (n. 208).

246 This condemns the Soviet practice of censoring or confiscating correspondence and parcels addressed to emigration applicants. On this practice, see the aide-mémoire distributed in 1986 to participants in the Vienna Follow-up Meeting by the US delegation (*Union of Soviet Socialist Republics' Interruption of Postal Communications*), p. 34.

247 This is mainly aimed at the USSR, which, after the Moscow Olympics (1980), had banned *automatic* telephone connections to foreign countries.

248 In particular, it recommends that the persons concerned establish and maintain contacts “through travel and other means of communication, including contacts with citizens of other States with whom they share a common national origin or cultural heritage” (§ 31).

249 The same provision specifies that “those concerned will be allowed to acquire, receive and carry with them religious publications and objects related to the practice of their religion or belief” (§ 32).

250 See Vienna Follow-up Meeting (1989): Concluding Document, “Co-operation in Humanitarian and Other Fields”, “Human Contacts”, § 22. The same provision envisages the possibility of agreements on the issuance of multiple entry visas and on the reciprocal abolition of the visa requirement. See also CSCE/WT.83/Rev. 1 (13 March 1987) and CSCE/WT.100 (27 February 1987).

251 See Vienna Follow-up Meeting (1989): Concluding Document, “Co-operation in Humanitarian and Other Fields”, “Human Contacts”, § 23. See also CSCE/WT.61 (18 February 1987).

252 See Vienna Follow-up Meeting (1989): Concluding Document, “Co-operation in Humanitarian and Other Fields”, “Human Contacts”, § 24.

253 See *ibid.*, § 26.

and other events by and for young people,²⁵⁴ and travel and tourism by young people.²⁵⁵

2. Information

Information is one of the major sources of contention between Eastern and Western countries, in the sense that the written word has always been the weapon of choice of the Cold War and of ideological confrontation.²⁵⁶ This section will look at the concept of the flow of information across borders and the obstacles to this that existed immediately prior to the Helsinki process, before reviewing the CSCE texts and examining their practical effect.

A. Concept of the Free Flow of Information across Borders

The flow of information across borders raises two major issues. The first concerns information that enters States via the international media and foreign radio and television programmes. The second concerns information gathered and transmitted from a State by foreign journalists. In both cases, the information is intrinsically linked with human rights and international goodwill.

In the catalogue of human rights, freedom of information takes pride of place alongside the freedom of opinion and freedom of expression that it implies. Its history is intertwined with the long struggle in Europe from the seventeenth century onwards to ensure freedom of printing – and in particular the freedom of the press.²⁵⁷ It was established in 1789 with the Declaration of the Rights of Man and of the Citizen, Article 11 of which stated that “the free communication of thoughts and of opinions is one of the most precious rights of man” and that any citizen thus may “speak, write, print freely, except to respond to the abuse of this liberty, in the cases determined by the law.”²⁵⁸ Of all the arguments for freedom of thought and information, two classic texts deserve mention: *Areopagitica* (1644), a pamphlet by the poet John Milton,²⁵⁹ and *On Liberty* (1859), an essay by the philosopher John Stuart Mill.²⁶⁰

254 See *ibid.*, § 27. See also CSCE/WT.66 (18 February 1987).

255 See Vienna Follow-up Meeting (1989): Concluding Document, “Co-operation in Humanitarian and Other Fields”, “Human Contacts”, § 28. See also CSCE/WT.28 (10 February 1987).

256 Secretary of State John Foster Dulles is said to have declared during the Cold War era: “if I were to be granted one point of foreign policy, and no other, I would make it the Free Flow of Information,” cited by Kaarle Nordenstreng in “Detente and Exchange of Information between East and West”, *Yearbook of Finnish Policy* (1975), p. 58.

257 This battle was initiated in the United Kingdom in response to the Long Parliament’s censorship order in 1643.

258 In the same period, the First Amendment of the American Constitution (1791) laid down the principle that Congress would not pass any law that would restrict freedom of speech or freedom of the press.

259 From the text of Milton – whose exact title was *A Speech for the Liberty of Unlicensed Printing*.

260 It is in this text that we find the well-known idea that society has no right to silence the voice of even one of its dissidents.

The idea of freedom of information as a factor in international goodwill can be attributed to another British philosopher, Jeremy Bentham (1748–1832). The fourth part of *Principles of International Law* (posthumous, 1843) by the father of utilitarianism contained “A Plan for a Universal and Perpetual Peace”, which advocated publicity in foreign policy and freedom of the press: the people of the world, Bentham argued, would not fight each other if they knew the true causes of wars. Bentham’s views were largely ignored until the advent of broadcasting and the First World War. At the Versailles Peace Conference, various suggestions were made to include provisions in the peace treaties of 1919–1920 on the freedom of the press and, more generally, on the need to remove obstacles to the flow of information across borders.²⁶¹ Nothing came of these proposals. However, from the outset and on several occasions, the League of Nations took an interest in the problem of disinformation, which risked undermining international goodwill, and the ways and means to tackle this. The only concrete result of its efforts was the elaboration of the International Convention concerning the Use of Broadcasting in the Cause of Peace (1936).²⁶²

By showing the intellectual and psychological damage caused by total control of the media, the Second World War simultaneously highlighted the dialectical link between human rights and international peacekeeping efforts in relation to information. Thus, “freedom of speech and expression everywhere in the world” was the first of the “Four Freedoms” declared by President Roosevelt in 1941. At the end of the Second World War, the universal protection of the freedom of information naturally became one of the goals of reconstruction. In 1945, the Act of Chapultepec, adopted by the Inter-American Conference on Problems of War and Peace, established the free flow of information for the first time.²⁶³

261 See the two memoranda – of 17 November 1918 and 12 February 1919 – drawn up by Walter S. Rogers, Chief Communications Adviser to President Wilson. Excerpts from these texts appear in “The Freedom of the Press. Some Historical Notes Prepared by the Secretariat”, United Nations Conference on Freedom of Information, E/CONF.6/4 (11 February 1948), pp. 7 ff. See also the suggestions made by Kent Cooper, Director of the Associated Press Agency, and reported in his book *Barriers Down* (New York: Farrar & Rinehart, 1942), chapter II.

262 See League of Nations: E.R.P. 1 to E.R.P. 27; Conf. E.R.P./P.V. 1(1) to Conf. E.R.P./P.V. 9(1); C. 399.M.252.1936.XII; C.399(a).M.252(a).1936.XII; A.68.1937.XII; A.19.1938.XII and A.57.1938.XII. The Convention, which entered into force in 1938, has remained a dead letter. For an analysis of this text, see Roger Pinto, *La liberté d'information et d'opinion en droit international* (Paris: Economica, 1984), pp. 261–265. Following a protocol transferring the powers of the League of Nations to the United Nations (which entered into force on 7 December 1953), the Secretary-General of the United Nations now acts as depositary in respect of the 1936 Convention, the amended text of which accordingly took effect on 7 July 1955; see UN: A/2435 (and Addenda 1 to 3); General Assembly, eighth plenary session, pp. 268–269 and *ibid.*, Sixth Committee, pp. 48–56; A/2517 and A/C.6/L.304; Resolution 794 (VIII) of 23 October 1953.

263 The text stated, in particular, that “the Governments of the American Republics take measures, individually and in co-operation with one another to promote a free exchange of information among their peoples” – that is to say, “free transmission and reception of information, oral and written, published in books or by the press, broadcast by radio or disseminated by any other means, under proper responsibility and without need of previous censorship, as in the

The following year, UNESCO was established on the premise that “since wars begin in the minds of men, it is in the minds of men that the defences of peace must be constructed.”²⁶⁴ At the same time, the United Nations General Assembly proclaimed that “freedom of information is a fundamental human right and is the touchstone of all the freedoms to which the United Nations is consecrated.”²⁶⁵ In 1948, freedom of information was enshrined in the Universal Declaration of Human Rights, Article 19 of which clearly states that “everyone has the right to freedom of opinion and expression; this right includes freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers.” The International Covenant on Civil and Political Rights officially ratified this in 1966,²⁶⁶ as did various regional conventions.²⁶⁷

This universal recognition remained largely symbolic, both internally and internationally. As with freedom of movement, two conflicting views existed based on arguments derived from the diametrically opposed issues of free trade and protectionism.²⁶⁸

The Western philosophy is enshrined in Article 19 of the Universal Declaration of Human Rights.²⁶⁹ Presented in the guise of the *free flow of information*, it calls for the removal of all barriers that hinder research, reception and broadcasting of news and ideas within States as well as across their borders. Philosophically, the

case within private correspondence by letters, telegrams or any other means in time of Peace” (Department of State Publication 2497, Conference Series 85, p. 17).

264 This famous phrase opens the preamble to the UNESCO Constitution. The same preamble also expresses the determination of the Member States to ensure “the unrestricted pursuit of objective truth and ... the free exchange of ideas and knowledge” (§ 6). Article II of the Constitution assigns UNESCO the objective of advancing “the mutual knowledge and understanding of peoples”, particularly through international agreements that aim to “promote the free flow of ideas by word and image.”

265 Resolution 59 (I). Calling of an International Conference on Freedom of Information (14 December 1946).

266 “Everyone shall have the right to freedom of expression; this right shall include freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any other media of his choice” (Article 19, § 2). § 3 reminds us that the exercise of the various freedoms in question entails special duties and responsibilities and that, consequently, it may be subject to certain restrictions – mandatorily fixed by law – necessary for “respect of the rights or reputations of others” and “the protection of national security or of public order (*ordre public*), or of public health or morals.”

267 See Article 10 of the European Convention for the Protection of Human Rights and Fundamental Freedoms (1950) and Articles 13 and 14 of the 1969 Inter-American Convention on Human Rights (Pact of San José, Costa Rica) See also Article 9 of the African Charter on Human and Peoples’ Rights (1981).

268 This will not take into account the third way proposed by the Third World since 1976 within the framework of the calls for a New World Information and Communication Order (NWICO).

269 The Western countries regarded Article 19 as perfectly satisfactory and did not approve the idea – put forward by UNESCO – of a “new” human right: the right to communication. See Victor-Yves Ghebali, “L’UNESCO et le problème de la formulation d’un droit à la communication”, in *Aspects du droit des médias, II* (Fribourg: Ed. universitaires, 1984), pp. 245–257.

Western view is based on the premise that people are rational beings with powers of judgement, are capable of self-determination and have the right to *make mistakes*. It postulates that nothing is more precious than the freedom of opinion and expression, as epitomized by the freedom of information.²⁷⁰ This freedom cannot be a privilege granted by the State and managed at its discretion; it is a freedom inherent in the human condition. The State has a duty to respect it; the sole exception is in special circumstances that are time-limited and defined by law.²⁷¹

The Soviet conception had nothing in common with these ideas, inherited from the liberal and individualist philosophy of the West. The Soviet media were a State-owned monopoly with political, economic and social objectives defined exclusively by the State: “promote economic and cultural progress,” “strengthen friendship between peoples” or “inculcate the highest moral values in the individual.”²⁷²

From this perspective, information was the “party’s sharpest weapon”²⁷³ at home and an instrument for conquering minds in the international ideological struggle. The Soviets argued that people could not claim an absolute (or inherent) right to information. It all depended on the content: only information consistent with socialist criteria was permitted – otherwise it only demobilized, corrupted and misinformed socialist citizens.²⁷⁴

In addition, the Soviets levelled two major criticisms at the Western standpoint. The first was that the autonomy of the individual in such a field inevitably led to dangerous abuses: “fascist or war propaganda,” “the spread of disinformation” or “hostility between peoples.”²⁷⁵ The second was that the free flow of information would serve as ideological justification for “Cold War nostalgia” directed at global

270 It is no coincidence that these freedoms are often the first to disappear when a dictatorship is established.

271 For an excellent analysis of the foundations of the Western thesis, see Fred S. Siebert, Theodore Peterson, Wilber Schramm, *Four Theories of the Press* (Urbana: University of Illinois Press, 1956), chapters 2 and 3.

272 Yassen N. Zasursky and Yuri I. Kashlev, “The mass media and society: a Soviet viewpoint”, *The UNESCO Courier* (April 1977), p. 24. See also Paul Lendvai, *Les fonctionnaires de la vérité. L’information dans les pays de l’Est* (Paris: Laffont, 1980), p. 351.

273 The wording is used in the title of the first chapter of Lendvai’s book, *Les fonctionnaires de la vérité. L’information dans les pays de l’Est* (Paris: Laffont, 1980). As Lenin said, journalism is not a mere profession but a social function: the journalist informs in order to educate and must remain an agitator of ideas. See *Lénine et la presse* (Prague: Organisation internationale des journalistes, 1971), p. 487.

274 On the literature relating to the Soviet concept, see International Mass Media Research Center, *Marxism and the Mass Medias* (New York: International General Edition, nos. 3 and 4, 1974).

275 UN: E/CONF.6/69 (18 April 1948). To allow the individual to freely use any means of expression would be to recognize that he has “the right of recourse to all means, including criminal practices such as blackmail, slander and intimidation, to publicize information and ideas” (first part of the statement by Soviet Ukraine during the debate on the future Article 19 of the Universal Declaration of Human Rights: Official minutes of the third session of the Third Committee of the United Nations General Assembly, p. 418).

communism and thus introduce “psychological warfare” into East-West relations.²⁷⁶

The USSR countered the idea of free flow with the *controlled exchange* of information, carried out on the basis of intergovernmental agreements concluded in accordance with the principles of sovereignty, non-intervention and full respect for the laws, customs and cultural traditions of each State.

After Mikhail Gorbachev came to power, two developments occurred in the USSR. Firstly, reporting by a nascent independent press began to take place.²⁷⁷ Secondly, a law on the press and information was submitted for consideration, inspired by the principles of perestroika.²⁷⁸ However, neither the business community nor intellectuals such as Andrei Sakharov were satisfied with the draft version published in 1988.²⁷⁹

B. East-West Obstacles

In the aftermath of the Second World War, East-West differences over the question of information were ignited within the United Nations during the elaboration of Article 19 of the Universal Declaration of Human Rights,²⁸⁰ particularly at the United Nations Conference on Freedom of Information held in Geneva (1948).²⁸¹ Prior to the CSCE, three types of problems existed.

a) Dissemination of the foreign press

Western publications were allowed into Eastern countries in the form of imports authorized by the relevant official bodies. Access to this material – considered confidential – was reserved for individuals with express permission to read it.

276 See Y. Kolossov and Botsepov, “Mass medias internationaux: idéologie et droit”, *La Vie internationale*, no. 12/252 (Moscow, December 1981), p. 69; V. Korobeinikov, “Que cache la liberté de l’information?”, *La Vie internationale*, no. 2/182 (Moscow, February 1976), pp. 112 and 114. See also Lendvai, *Les fonctionnaires de la vérité ...* (n. 272), p. 255.

277 The many informal groups responsible for these publications are not subject to any penalty due to the legal vacuum resulting from the lack of press laws. As stated in *Le Monde*, 5 November 1988, previously the authors of *samizdat* literature were prosecuted under the sinister Articles 70 and 1901 of the Criminal Code.

278 See Viktor Yasmann, “Drafting a Press Law: Glasnost as an Alternative to the Free Flow of Information”, *Radio Liberty Research Bulletin*, RL 14/87 (Munich, 1987), p. 6; and “Soviet Jurists Discuss Draft Press Law”, *ibid.*, RL 208/87. See also Vera Tolz, “Controversy over Draft Law on the Press”, *ibid.*, RL547/88.

279 The draft law envisages introducing the notion of the right to information into Soviet legislation. At the same time, however, it would give the State a press monopoly and impose harsh penalties, particularly on any attempt to undermine “the existing social system”, and so on. See *Le Monde*, 5 November 1988.

280 The amendments proposed by the Soviets to Article 19 (UN: E/800, pp. 33 and 34) were all rejected.

281 For the conference documentation, see, in particular, UN: E/CONF.6/1 to 79 and E/CONF.6./SR 1 to 13. See also *Report of the United States Delegates to the United Nations Conference on Freedom of Information* (International Organization and Conference Series III, 5; Washington: Government Printing Office, Department of State, Publication 3150, 1948), p. 45.

Barring a few official foreign Communist Party publications,²⁸² Western newspapers were not readily available. Official foreign periodicals could not be freely distributed without a bilateral agreement.²⁸³ Western reading rooms existed in some Eastern countries other than the USSR, although access to these was hindered by the host country's police apparatus.²⁸⁴

b) Working conditions for journalists

Accredited Western correspondents had no professional facilities in other parts of the world. This situation seemed to date from March 1946, when the Glavlit (the CPSU body responsible for the administration, publication and dissemination of literary works) took over responsibility from the Press Department at the Foreign Ministry for the censorship of information transmitted by the foreign press.²⁸⁵ From then on, Western journalists were systematically treated like dangerous and unwanted guests trying to obtain "sensitive" information and to spread a "tendentious" image of the USSR.²⁸⁶ Numerous obstacles made journalists' work vastly more complicated:

- There were two major obstacles to *information gathering*. The transmission of information on a large number of topics (economic, agricultural, scientific, as well as military) was prohibited; offenders faced prosecution for espionage.²⁸⁷ Moreover, the draconian ban imposed on Soviet citizens from engaging with foreigners meant that journalists were cut off from natural sources of information; permission had to be obtained for any interview, whether with a senior official or the manager of a new bookshop;²⁸⁸

282 In particular, *L'Humanité* and Canada's *Morning Star*, see Mary Mauksch, *Distribution of Western Newspapers in Eastern Europe* (London: EUCORG, 1974), p. 15. These periodicals could be censored or withdrawn from the kiosks, depending on the circumstances. Individual subscriptions were virtually non-existent due, among other things, to currency restrictions.

283 This is the case with the magazines *Anglia* (a quarterly published in Russian), *Britanica* (a bimonthly in Polish) and *America*. See Mauksch, *Distribution of Western Newspapers ...* (n. 282), p. 13; and Dake, *Entraves à la libre circulation ...* (n. 89), pp. 13–14.

284 Hungary and Poland are nevertheless more liberal than the other countries in the bloc. On the Polish case, see Mauksch, *Distribution of Western Newspapers ...* (n. 282), pp. 17–18.

285 "When referring to their previous experience of the USSR (until 1946), correspondents stressed the relative ease of an earlier period when they were permitted to travel more freely in the country, to speak to people at random, to have discussions (sometimes successful) with the censor, and even to avoid the requirements of censorship by telephoning a report to a location bordering the Soviet Union ... Correspondents working in the USSR in 1946 allude to these possibilities, which have now disappeared. One of them, talks of a six-week journey through the south of Russia and the Caucasus, almost all of which was accomplished without an escort," *L'information sur l'URSS* (Zurich: International Press Institute, 1952), pp. 8–9.

286 The aforementioned booklet by the International Press Institute refers to a statement by Andrei Gromyko affirming that "the objectives of an entire army of foreign correspondents serving the major newspaper trusts were determined according to the political criteria of the ruling circles of States that have taken a path leading to the outbreak of a new war" (*ibid.*, pp. 7–8).

287 Law on State Secrets of June 1947 (*ibid.*, p. 10).

288 Dake, *Entraves à la libre circulation ...* (n. 89), p. 15. Access to public libraries requires special authorization, see *L'information sur l'URSS* (n. 285), p. 10. The social contacts of journalists were,

- *The transmission of information to the outside world* came under increasing restrictions, such as the ban on radio broadcasts and censorship of telephone calls;²⁸⁹
- *Domestic travel* by journalists was restricted to certain parts of Soviet territory from 1948;²⁹⁰
- *Entry into Soviet territory and return to the USSR* became a hazardous undertaking. Increasingly, accreditation requests from new correspondents were categorically denied or delayed.²⁹¹ In addition, from January 1945, journalists returning from leave in their own country were no longer automatically eligible for visas;²⁹²
- *Deportation* or threats of deportation increased for arbitrary reasons, for example if an article deemed “tendentious” appeared in the publication represented by the accredited journalist.
In June 1956, there were only six Western correspondents in the USSR.²⁹³

c) Radio jamming

In the USSR, listening to foreign radio stations was not in itself a crime. However, listeners were liable to prosecution for dissemination of “anti-Soviet propaganda”, given that the information from these radio stations was legally considered “war propaganda”.²⁹⁴ Similarly, in other Eastern countries, the law prohibited citizens from spreading “false information”.²⁹⁵

The Cold War heralded major developments in international broadcasting. Barely five years after the end of the war, there were already 66 broadcasters worldwide transmitting around 6,600 hours of programmes each week. Initially top of the list, the United Kingdom (643 hours) was soon overtaken by the USSR and the United States.²⁹⁶ The quantity of Soviet broadcasts seemed to increase, first in relation to the Yugoslav split in 1948, before being motivated by the

by necessity, limited to the foreign community in Moscow (ibid., p. 11).

289 Ibid., p. 10.

290 A series of decrees (30 September 1948 and 1 January 1952) greatly extended the size of the prohibited areas, preventing access to more than a third of the territory of Moscow as well as various regions of the province of Moscow. Correspondents were allowed to travel only within 40 km of the centre of the capital and were now able to use only four roads for these journeys (ibid).

291 Ibid.

292 Ibid.

293 Ibid., p. 15.

294 See Dake, *Entraves à la libre circulation ...* (n. 89), pp. 18–19. Listening to foreign radio stations is often one of the charges made against dissidents, who are then sentenced to time in prison or psychiatric incarceration, see Lendvai, *Les fonctionnaires de la vérité ...* (n. 272), p. 230.

295 Dake, *Entraves à la libre circulation ...* (n. 89), p. 19.

296 In 1955, the United States, the USSR and the United Kingdom had a total of 1,274, 658 and 558 hours respectively. See Bernard Bumpus, *International Broadcasting* (Volume 60 of International Commission for the Study of Communication Problems; Paris: UNESCO, no date), Annex I.

ideological struggle against the Western world. From that point on, the Eastern bloc countries quadrupled their foreign programmes.²⁹⁷

As for the United States, it developed its foreign programming after the Korean War. In the early 1950s, the CIA set up two *private* stations in Munich: Radio Free Europe (RFE) and Radio Liberty (RL). Established in 1950, RFE broadcast to people's democracies (except for the GDR) in nine languages. From 1953, RL targeted the USSR with its broadcasts in Russian and a dozen local languages. For the 1985 fiscal year, the two stations – which merged in 1976 – had a combined budget of 108 million US dollars. Together their broadcasts totalled more than a thousand hours a week.

In addition to RFE and RL, various official Western stations broadcast to the East, including Voice of America, the BBC, Deutsche Welle, Radio Sweden, Kol Israel, Vatican Radio and Radio Canada.²⁹⁸

Owing to the nature of their programmes, Eastern radio stations had little impact in the West.²⁹⁹ Western broadcasts attacking the State monopoly on information in the Soviet bloc were a different matter altogether, since Western radio stations represented an “alternative” network.³⁰⁰

Indeed this was the stated objective of RFE and RL. Established at a time when international tensions were running high, they began broadcasting in the spirit of the Cold War – if not in the spirit of casual indifference, as during the Hungarian uprising of 1956.³⁰¹ Yet the stations soon saw the error of their ways and adopted a more realistic approach. Following their reorganization, RFE and RL were officially subsidized by the United States Congress. They were managed by a *Board of International Broadcasting* with seven members appointed by the President of the United States and confirmed by the Senate.³⁰² RFE and RL no

297 With some 2,000 hours of weekly programmes in 80 languages, the USSR is [at the time of writing] at the top of the broadcasting countries, well ahead of the United States, China, the FRG and the United Kingdom, see Bumpus, *International Broadcasting ...* (n. 296), Annex I; and Lendvai, *Les fonctionnaires de la vérité ...* (n. 272), pp. 250–252.

298 See Lendvai, *Les fonctionnaires de la vérité ...* (n. 272), p. 198. According to this author, the BBC is generally regarded in the East as “the most credible voice of the West” (*ibid.*, p.191).

299 On the radio programmes of the Eastern countries, see Lendvai, *Les fonctionnaires de la vérité ...* (n. 272), pp. 250ff.

300 Lendvai describes them as an “indispensable lifeline” for the 362 million citizens living in the closed Eastern societies (*ibid.*, pp. 189–190) and quotes this statement by a Hungarian intellectual: “If the West believes in the power of its ideas, then many transmitters and funds for official radios for the Eastern countries are more important than missiles” (*ibid.*, p. 189). See also Jean Krause, “Radio Free Europe. Le diable et ses démons”, *Le Monde*, 24–25 February 1985, p. 4.

301 Lendvai believes that RFE played a “negative, harmful and irresponsible” role: “incendiary and vengeful comments not only complicated life in Imre Nagy’s government, but also led the young insurgents and many dissatisfied Hungarians, including many intellectuals, to believe that the West was preparing for military intervention in favour of their country, when the Soviet army struck,” see *Les fonctionnaires de la vérité ...* (n. 272), p. 203

302 The existence of RFE and RL was questioned in particular by Senator Fulbright, who saw in it a vestige of the Cold War. It was following this debate, and on the basis of the conclusions of a special presidential commission, that the President of the United States established the Board

longer saw themselves as the mouthpiece of opposition movements and acted increasingly like local and international *alternative* radio stations. By law they were strictly forbidden from invective, fervour and rabble-rousing.

Although hard to quantify, Western radio stations had a sizeable audience in Eastern Europe. According to some estimates, 40 to 45 per cent of the adult population in RFE's target countries tuned in to its broadcasts at least once a week or once a month.³⁰³ In addition, one third of the Soviet adult population on average listened to Western programmes.³⁰⁴ The listeners were mainly students and intellectuals.³⁰⁵ According to a recent report by the North Atlantic Assembly, RFE and RL had an audience of between 15 and 22 million listeners.³⁰⁶

Evidence of the widespread interest in Western broadcasts is attested to by *jamming* – a technique designed to “cause deliberate interference to a broadcast by transmitting [unbearable] noise on the same frequency in order to make reception impossible.”³⁰⁷ This was first attempted by the Soviet Union in February 1948 after the Czechoslovak coup, and then adopted by other countries in the bloc from 1950.³⁰⁸ After five years, 2,000 transmitters were already operating in Eastern Europe.³⁰⁹

Jamming has always depended on the state of East-West relations. Suspended during the brief lull in hostilities between the USSR, the United States and the United Kingdom, it reached a peak during the Berlin Crisis and the Cuban Missile Crisis. After the signing of the Partial Test Ban Treaty in Moscow (1963), the Soviets stopped jamming radio stations (other than RL), although they resumed

for International Broadcasting. See Lendvai, *Les fonctionnaires de la vérité ...* (n. 272), pp. 203–204 and 236; and *Books, East and West*, (London: EUCORG, 1974) pp. 16–17.

303 According to the collection entitled *East Europe Area Guidance and Operational Research*, published by RFE in 1979 and quoted by Lendvai in *Les fonctionnaires de la vérité ...* (n. 272), pp. 218, note 7. See also Dake, *Entraves à la libre circulation ...* (n. 89), p. 18; and *Books, East and West*, (n. 302), pp. 17–18.

304 According to the Fifth Annual Report of the Board for International Broadcasting, p. 219, note 24.

305 See Lendvai, *Les fonctionnaires de la vérité ...* (n. 272), p. 215. Some well-known dissidents who have since come to the West have acknowledged the importance of RFE and RL in their struggle. This is the case with Vladimir Bukovsky, Paul Goma, and even Solzhenitsyn (*ibid.*, p. 213); and Dake, *Entraves à la libre circulation ...* (n. 89), p. 18.

306 See North Atlantic Assembly: Report by the Subcommittee on the Freedom of Information and of Persons, AD 172 CC/FF [86]6 (November 1986), §52; rapporteur: Ludivina Garcia Arias. See also §59.

307 Stanley Leinwoll, “Jamming – Past, Present and Future”, *North Atlantic Assembly, The Bulletin*, no. 26 (1 October–31 December 1982), p. 44. There are two types of interference stations – terrestrial or local jammers (installed in urban centres with a population of 250,000, with a range of 25–30 km), and aerial or high-frequency jammers covering much larger areas (*ibid.*, p. 45). It is also necessary to distinguish between sound interference (conventional) and “Radio Mayak”, (Radio Beacon), which was created by the Soviets, transmits on the same wavelength as the jammed station (*ibid.*, pp. 47–48); and Dake, *Entraves à la libre circulation ...* (n. 89), pp. 17.

308 Dake, *Entraves à la libre circulation ...* (n. 89), p. 16.

309 Lendvai, *Les fonctionnaires de la vérité ...* (n. 272), p. 222.

this in August 1968 following the Czechoslovak crisis.³¹⁰ In September 1973, as Stage II of the CSCE got under way, the USSR again stopped jamming official Western radio stations.³¹¹ The truce ended on 20 August 1980 following the worsening of the situation in Poland.³¹² Other Eastern countries had stopped blocking the reception of Western programmes in 1973,³¹³ but continued jamming RFE – apart from Romania (which stopped in 1963) and Hungary (1964).³¹⁴

The Eastern bloc was pushing for the dismantling of the Munich-based stations.³¹⁵ These were accused of being Cold War instruments manipulated by “subversive centres of imperialism” and facilitated by CIA agents, “renegades”, former war criminals and other Nazi nostalgists.³¹⁶ In general, the East justified jamming by the need to protect the socialist people from permanent “ideological aggression”.

Conversely, the Western countries saw jamming as a violation of international law under a resolution adopted by the United Nations General Assembly during its Fifth Session³¹⁷ and under the Convention of the International Telecommunication Union. They called for the abolition of a practice they considered contrary to human rights, economically questionable and ecologically harmful.³¹⁸

310 Ibid.

311 See Lendvai, *Les fonctionnaires de la vérité ...* (n. 272), p. 224. According to some sources, this measure was partly motivated by the need to reallocate the jammers to Chinese broadcasts to the USSR and to interference with Kol Israel, see Leinwoll, “Jamming ...” (n. 307), p. 44, note 1.

312 It should be added that high-frequency interference stations cover Czechoslovakia, Bulgaria, Poland and even Afghanistan, see Leinwoll, “Jamming ...” (n. 307), p. 48.

313 Bulgaria, on the other hand, did not stop jamming Voice of America until 1975, see Lendvai, *Les fonctionnaires de la vérité ...* (n. 272), p. 198. On the Polish case, see *ibid.*, p. 46.

314 “Presumably because it would cost Mr. Ceauşescu too much, and because Mr. Kadar believes himself capable of taking up the challenge,” see Jean Krause, “Radio Free Europe ...” (n. 300), p. 4. See also Lendvai, *Les fonctionnaires de la vérité ...* (n. 272), p. 200.

315 The programmes are broadcast not only from the FRG but also from Spain and Portugal, where the most powerful transmitters are, in fact, located, see Lendvai, *Les fonctionnaires de la vérité ...* (n. 272), pp. 211 and 235.

316 See, for example, Y. Alliochine, “Contre la détente. Les diversions radiophoniques de l’impérialisme”, *Les nouvelles de Moscou*, no. 5, 1535 (31 January 1976), p. 4; and Oldrich Bures, “Il y a radio et radio”, *Le journaliste démocratique*, no. 6 (1981), pp. 7–9. In 1984 RFE and RL were criticized by the US Congress for broadcasting anti-Semitic and undemocratic remarks on the station.

317 Resolution 424 (V) of 14 December 1950, “Freedom of information: interference with radio signals”.

318 As Leinwoll emphasizes in “Jamming ...” (n. 307), p.49, this is a real “economic and energy drain” for the Eastern countries. The cost of the network of some 2,500 Soviet jammers would amount to about 250 million dollars, or three times the United States’ investments in radio broadcasting. Energy expenditure would reach 43 million dollars a year for one billion kilowatt hours. In 1983, the UN Commission on Human Rights found that jamming was a harmful use of a scarce natural resource (the radio frequency spectrum), which penalized developing countries and threatened

C. CSCE Provisions – from Helsinki to Madrid

The provisions of the section of the Final Act on information are more akin to Western views than those of the Eastern bloc. Paragraph 6 is quite clear in this regard, since it affirms that the aim of the participating States is to facilitate “the freer and wider dissemination of *information of all kinds*”. The words in italics suggest that this means information in the broadest and general sense of the term, without limitation regarding its scope or purpose.

The section in question contains three distinct categories.

a) Improvement of the circulation of, access to, and exchange of information

Regarding *printed information*, the Final Act expresses the “intention” of the participating States to increase and diversify “gradually” the *dissemination*, on their territory, of foreign newspapers and printed publications (periodical and non-periodical) and to improve the conditions of this dissemination (use of national distribution channels, determination of the forms and means of payment). The competent firms and organizations of the participating States are urged to conclude agreements and contracts for this purpose. The Western countries had hoped for a stronger commitment, but could only extract a vague promise from the Eastern countries that “where necessary, they will take appropriate measures to achieve the above objectives and to implement the provisions contained in the agreements and contracts.” On the subject of improving the conditions of *access*, the text provides for an increase in the number of sales outlets of foreign publications, the availability of these publications during certain defined periods (such as international events or the tourist season), the encouragement of subscriptions (“according to the modalities particular to each country” – a phrase that limits the scope of the concession wrested from the USSR) and the improvement in the accessibility of these publications for reading and borrowing at large public libraries and university libraries (safeguarding the right of government control). A final provision, of UK origin, envisages improving the “possibilities for acquaintance with bulletins of official information issued by diplomatic missions.”

The Final Act stops short of encouraging the participating States to “facilitate” or even “improve” dissemination, merely recommending that they “facilitate the *improvement of the dissemination*” and “contribute to the *improvement of access by the public*.”³¹⁹ Moreover, the proposed improvement in dissemination is subject to the conclusion of specific agreements. The situation regarding the improvement of access is not much better: subscriptions depend on “modalities particular to

the viability of the international broadcasting regime. Very often, the interference also disrupts stations that transmit on frequencies adjacent to the jammed channel.

319 “Access by the public” was the least unsatisfactory wording that the Western countries were able to obtain. Originally, the East did not even envisage qualifying access conditions, see CSCE/II/J/118 (26 April 1974). It then proposed the expression “public access”, CSCE/II/J/132 (4 October 1974), which the Western countries in turn refused, as the adjective “public” may have the meaning of “official” in Russian.

each country” and the distribution of bulletins published by diplomatic missions is subject to “arrangements acceptable to the interested parties.”

The provisions on *audiovisual information* (filmed, broadcast and televised information) are even less satisfactory. The text mentions only broadcasting, and not the possibility of access. Furthermore, broadcasting concerns only information “received on the basis of such agreements or arrangements as may be necessary between the organizations and firms directly concerned.” Imports of recorded audiovisual material were to be handled by accredited firms and organizations. Lastly, the Helsinki Final Act avoided the issue of jamming, referring to this only in a circular provision stating that “the participating States note the expansion in the dissemination of information broadcast by radio, and express the hope for the continuation of this process, so as to meet the interest of mutual understanding among peoples and the aims set forth by this Conference.”³²⁰

b) Co-operation in the field of information

The Final Act affirms the intention of the participating States to encourage co-operation in the field of information on the basis of short- or long-term agreements or arrangements. The Western countries deliberately intended this to be a soft commitment, as conveyed by the verb “to encourage”: the prospect of co-operation on these issues was unpalatable to them, since any enterprise organized directly at the level of governments or government-controlled organizations might facilitate precisely what they sought to avoid.

The Final Act envisages five different forms of co-operation on information:

- Co-operation among mass media organizations and among publishing houses;
- Co-operation among radio and television organizations, in particular through the exchange of programmes and through joint production;
- Meetings and contacts between journalists’ organizations;³²¹
- Arrangements between periodical publications and newspapers for the purpose of exchanging articles. There is a good reason why their content is not

320 The United Kingdom had proposed “the removal of artificial obstacles to the reception ... of broadcasts from the territory of other participating States”, see CSCE/II/J/5 (8 October 1973), CSCE/II/J/15 (11 December 1973) and CSCE/II/J/120 (17 May 1974), and Switzerland “free and unhindered reception of radio and television programmes originating in other participating States,” see CSCE/II/I/10 (19 October 1973). On the other hand, the Eastern countries suggested that “the participating States will be responsible for ensuring that, regardless of whether the transmitting stations are or are not State-owned, radio and television broadcasts transmitted from their territory to the territory of other participating States do not prejudice the easing of tension, are of a sympathetic character, and serve the interests of peaceful co-operation between peoples and States.” Proposal by Bulgaria and the GDR: CSCE/II/J/122 (24 May 1974).

321 This provision is the vestige of a French project (inspired by a well-known *Le Monde* reporter) with a view to a “European press club”, see CSCE/II/J/13 (10 December 1973). The idea was not adopted in Geneva due to opposition from some Western countries and neutral Sweden. A “European journalists’ club” will emerge, however, thanks to Jean Schwoebel of *Le Monde*, in 1976; it will operate until just before the Madrid Follow-up Meeting. See Victor-Yves Ghebali, “L’Acte d’Helsinki et la collaboration transnationale entre journalistes”, in Société française pour le droit international, *La circulation des informations et le droit international* (Paris: Pedone, 1978), pp. 340–342.

specified: the Western countries wanted articles on international subjects³²² and the Eastern countries on “current cultural, scientific and technological aspects”.³²³ The UK idea of a “New International Magazine”, edited in turn by journalists in the 35 participating States, could not be used for political and technical reasons,³²⁴

- Exchange of information and experience among media experts.

c) Working conditions for journalists

Most of the Western countries’ demands were accepted in this field, which was particularly important to them. However, the Eastern countries imposed various safeguard clauses and restrictions.

On balance, the text is loosely formulated – as denoted by the word “intend”, for example.³²⁵ It also adopts a narrow definition of the concept of “journalist”: although this (conditionally) covers foreign technical staff, it excludes local personnel.³²⁶

The Final Act’s provisions on journalists apply to the following:

- *Entering and leaving the host country.* The participating States decided not to permit the free entry of foreign journalists, but merely to examine requests for visas “in a favourable spirit and within a suitable and reasonable timescale”. They nevertheless agreed to grant permanently accredited journalists multiple entry and exit visas for specified periods, although only on the basis of arrangements. Lastly, in the event of the expulsion of accredited journalists, they would be informed of the reasons for this act and would be able to submit an application for reexamination of their case;³²⁷
- *Staying in the host country.* The Final Act recommends facilitating procedures for issuing accredited journalists permits for stay in their country of temporary residence and other appropriate official papers;

322 FRG: CSCE/II/J/17 (12 December 1973).

323 Hungary: CSCE/II/J/105 (18 February 1974).

324 See CSCE/I/15 (5 July 1973), CSCE/II/5/16 (11 December 1973) and CSCE/II/J/126 (24 June 1974).

325 This wording prompted Switzerland to issue formal reservations in Subcommittee 9 (J), see Journal No. 143 of 17 February 1975 and Journal No.146 of 25 February 1975.

326 Switzerland proposed defining a journalist as “any person ... whose professional occupation involves the acquisition, working-up and transmission of information,” a definition that includes technical and administrative assistants, see CSCE/II/J/10 (19 September 1973). The FRG, meanwhile, included in the category of journalists “journalists, television and radio commentators and correspondents”, see CSCE/II/J/17 (12 December 1973). The Eastern countries refused to expand on the idea, as the text of the Final Act shows: “While recognizing that appropriate local personnel are employed by foreign journalists in many instances, the participating States note that the above provisions would be applied, subject to the observance of the appropriate rules, to persons from the other participating States, who are regularly and professionally engaged as technicians, photographers or cameramen of the press, radio, television or cinema.”

327 The Final Act does not explicitly condemn the practice of arbitrary expulsions. It simply states that the participating States “reaffirm that the legitimate pursuit of their professional activity will neither render journalists liable to expulsion nor otherwise penalize them.”

- *Travel in the territory of the host country.* The CSCE States agreed to consider easing, on a basis of reciprocity, the procedures for arranging domestic travel by journalists to offer them “progressively greater opportunities” for such travel, subject to the “observance of regulations relating to the existence of areas closed for security reasons.” This fairly modest commitment was accompanied by an undertaking to “ensure that requests by such journalists for such travel receive, in so far as possible, an expeditious response, taking into account the timescale of the request”;
- *Information gathering.* The Final Act encourages the participating States to “increase the opportunities” for journalists to communicate *personally* with their sources, including organizations and official institutions. It likewise grants journalists the right to import their technical equipment, subject to its being taken out again;
- *Transmission of the information gathered.* The Final Act expresses the commitment of the participating States to enable journalists (whether permanently or temporarily accredited) to transmit the results of their professional activity “*completely, normally and rapidly*” by means recognized by the host country to the information organs which they represent.

These provisions bear some resemblance to the FRG-GDR agreement signed in conjunction with the Basic Treaty of 1972.³²⁸

To conclude, the text of the Final Act on information is less satisfactory than the one on human contacts. Its provisions are more restrictive, while leaving the participating States considerable room for interpretation. In addition, a few tentative measures envisaged for the *dissemination* of information do not include the corresponding provisions on *access* to such information.³²⁹ Furthermore, many of the provisions require the conclusion of prior “agreements and contracts” or “arrangements” on a basis of reciprocity. Lastly, the issue of jamming is left unresolved.

At the Belgrade Follow-up Meeting, the EEC Member States submitted four proposals designed to improve the section on information in the Final Act. The

328 This agreement goes further than the Final Act, insofar as it guarantees journalists from both countries the right to *equal* treatment with national correspondents and correspondents from third countries. It also gives them the right to enter and leave at any time. For more details, see Roland Muller, “Vers une protection internationale des correspondants de presse étrangers”, in Société française pour le droit international, *La circulation des informations et le droit international* (Paris: Pedone, 1978), pp. 266 and 268. See also Pinto, *La liberté d’information ...* (n. 262), pp. 302–303.

329 It is important to note that the word “access” does not appear in the *preamble* to the section on information. It is rendered by the phrase “improvement of circulation” (§ 4). In fact, the word “access” is used very sparingly in the operative part, where it appears only twice: firstly, in the title of the section on “Improvement of the Circulation of, Access to, and Exchange of Information” (the word “access” could be mentioned here only if it was accompanied by the concept of “information exchange” cherished by the USSR); and secondly, in one of the provisions of the subsection on printed information (the introductory heading for the second paragraph, which envisages the improvement of “access by the public” to printed publications).

first urged States “not to impede the satisfaction of the demand existing on their territory for the newspapers and printed publications” from the other participating States and encourage the possibilities for taking out subscriptions.³³⁰ The other three related to the working conditions for journalists. They concerned the right of journalists to import and take back out again the reference material necessary for the exercise of their profession (in addition to the necessary technical equipment).³³¹ They recommended that correspondents should not be expelled or penalized as a result of “news or opinions, published or broadcast in the media they represent, whether or not they are the authors.”³³² Lastly, they asked the participating States to encourage the establishment of Foreign Press Associations in their capital cities to facilitate co-operation among journalists, and between them and the authorities of the host country, for the purpose of a better exercise of their profession.³³³

Meanwhile, Switzerland proposed convening a meeting of experts tasked with preparing an all-European *convention* on the working conditions of foreign journalists and examining concrete measures for the wider dissemination of printed information, including model contracts between publishing houses and distributors, exchanges of editorial material and the opening of reading rooms.³³⁴

The Eastern countries submitted two proposals on information: a classic Czechoslovak proposal calling for governments to exercise direct control over the media and journalists in the name of *détente*³³⁵ and an East German proposal advocating better dissemination of the Final Act.³³⁶

In 1978, talks at the Belgrade Follow-up Meeting ended without reaching a consensus on any of the proposals submitted by the participating States. This was not the case at the Madrid Follow-up Meeting, whose Concluding Document (1983) introduced changes to the section of the Final Act on information:

- *Improvement of the circulation of, access to, and exchange of information.*³³⁷ The changes introduced in this regard are not particularly far-reaching. In reality they simply reaffirm the statements of intent contained in the Final Act while improving the wording slightly. For example, the Concluding Document of the Madrid Follow-up Meeting (1983) reiterates the aim of increasing the number

330 CSCE/BM.22 (7 November 1977).

331 CSCE/BM.34 (8 November 1977).

332 CSCE/BM.35 (14 November 1977).

333 CSCE/BM.59 (14 December 1977).

334 CSCE/BM.8 (31 October 1977). Although it was in keeping with the Western philosophy, the Swiss proposal was not backed by the Western countries, which were generally opposed to any conventional regulation in this area. It should be noted, for example, that the draft of a “European Convention relating to Foreign Correspondents”, envisaged in the framework of the Council of Europe in the early 1970s, was unsuccessful. See CM(74)67 – DH/Exp.(74)2; and Pinto, *La liberté d’information ...* (n. 262), pp. 309–311.

335 CSCE/BM/H/2 (1 November 1977).

336 CSCE/BM/51 (11 December 1977).

337 See Madrid Follow-up Meeting (1983): Concluding Document, “Co-operation in Humanitarian and Other Fields”, “Information”, §§ 1 to 3.

of places where printed publications (periodical and non-periodical) imported from other participating States are on *public sale*: whereas the Final Act (1975) merely recommended improving facilities for reading and borrowing, the Madrid Concluding Document states that the publications in question “will be accessible” in large public libraries and similar institutions. In addition, the Madrid Concluding Document discusses the possibility of *agreements and contracts* between competent firms to increase the quantities and number of titles of foreign newspapers and other publications. At the insistence of the Western countries, it was envisaged that these agreements and contracts would be “long-term”; however, the idea that the choice of available publications should reflect the various currents of opinion in the exporter countries was rejected, as was the idea of opening “CSCE reading rooms” in the capital cities of the participating States. Lastly, the Madrid Concluding Document confirms the willingness of governments to further extend the possibilities for the “public” to take out *subscriptions* (not mentioned in the Final Act). However, following opposition from the Eastern countries, it does not specify whether these subscriptions will be available to individuals or payable in local currency.³³⁸ Ultimately, the only genuinely new provision concerns the *retail price* of foreign publications.³³⁹ This is not particularly binding, however, since it states, without further explanation, that the participating States “consider it desirable” that this price should not be excessive in relation to prices in the country of origin.

- *Co-operation in the field of information.*³⁴⁰ The changes to this section are also fairly minor and require only two brief comments. Firstly, the Eastern countries secured acceptance of the need to improve, on a basis of reciprocity, “material and technical services” for permanently or temporarily accredited television and radio reporters in the participating States. Secondly, the Westerners successfully made the case that contacts between journalists should be direct as well as within the framework of professional organizations.
- *Improvement of working conditions for journalists.* The progress made here is more tangible. The Madrid Concluding Document goes further than the Helsinki Final Act, where the section on the treatment of foreign journalists contained only statements of intent. The Concluding Document contains several provisions that strengthen the original Helsinki commitments, based on Western proposals inspired mainly by journalists specializing in East-West affairs:³⁴¹

338 Further to the desire of the Western countries and as formulated in CSCE/RM.12 (10 December 1980), § 1.

339 It originates in a proposal submitted jointly by Switzerland, Austria and Spain: CSCE/RM.3 (11 December 1980), p. 1

340 See Madrid Follow-up Meeting (1983): Concluding Document, “Co-operation in Humanitarian and Other Fields”, “Information”, § 4.

341 See Madrid Follow-up Meeting (1983): Concluding Document, “Co-operation in Humanitarian and Other Fields”, “Information”, §§ 5 to 13.

i) *Visa applications* submitted by foreign journalists would no longer be, as stipulated in the Final Act, examined “within a suitable and reasonable time scale”: instead the participating States would “decide without undue delay”. In addition, for the first time they would “reexamine” applications that had been refused, although in this case only “within a reasonable timeframe”. Following opposition from the Eastern countries, the suggestion was dismissed that journalists would not have to agree to be accompanied during their stay by an official guide from the host country as a condition of their visa. For the same reason, the Madrid Concluding Document does not stipulate that a detailed explanation should be given for rejected applications. Conversely, it provides that foreign journalists wishing to travel for personal reasons will enjoy the same treatment as other visitors from their country of origin – a change that the Western journalists themselves had demanded.

ii) The Madrid Concluding Document ensured that permanently accredited foreign journalists – and family members accompanying them – would be granted *multiple entry and exit visas valid for one year*. The Final Act only provided for such visas (without specifying the duration) on the basis of bilateral arrangements. The reciprocity requirement was therefore removed.

iii) Another new provision opened up the conditional prospect (in other words, on the basis of full reciprocity) of *co-accreditation* and related facilities for journalists from other participating States who were already permanently accredited in CSCE participating States. The Western media in particular welcomed this, since often only one or two journalists were able to cover Eastern Europe. No such possibility was envisaged in the Final Act.

iv) The Madrid Concluding Document also proposed that restrictions on the *travel* of foreign correspondents within the host country should be eased. The participating States would take “concrete measures” – even without the reciprocity provided for in the Final Act – to allow journalists to travel “more extensively”, with the exception of areas closed for security reasons. In any case, foreign journalists would be informed in advance, but only “whenever possible”, if new areas were closed for security reasons.

v) The Madrid Concluding Document also improved on the Final Act in that it expressly authorized foreign journalists to “maintain personal contacts” with their *sources*. Regrettably, the scope of this provision is undermined by its vagueness (the participating States “will further increase”) and by the partial reservation that accompanies it (“and, when necessary, improve the conditions”). Furthermore, the Eastern countries were not open to the idea of a commitment on respect for the foreign reporter’s privilege or protection from any reprisals taken against foreign journalists as a result of their normal reporting or research.

vi) As a rule, radio and television journalists would, at their request, be authorized in future to use their own *technical equipment* and to be accompanied by their own technicians.

vii) Foreign journalists would be given, and carry with them, their own *personal documents*, to be used strictly for professional purposes. However, it was agreed that this authorization should not be seen as repealing local regulations on the import of printed matter.

viii) The participating States would facilitate the establishment, in their capitals, of *press centres* with suitable working facilities, mainly intended for use by the foreign press.

ix) The governments of the 35 participating States agreed to consider “further ways and means” to help foreign correspondents perform their duties and to tackle the various practical issues. However, reluctance among the Eastern countries meant that the Madrid Concluding Document did not recognize the right for accredited journalists in the participating States to establish a professional association that would protect their interests.

There are two striking omissions from the Madrid Concluding Document. The first concerns the *expulsion* of journalists. No compromise could be reached on this point on account of the views of the Eastern countries: they argued that the violation of certain norms (such as the promotion of the goals of détente and non-dissemination of false or misleading information) justified the restriction of the rights accorded to journalists under the Helsinki Final Act and even expulsion in cases of “slander”.³⁴² The second relates to jamming. The Western countries proposed that the participating States refrain from *jamming* foreign radio broadcasts.³⁴³ As usual, the Eastern countries responded to this proposal by calling for the closure of Radio Liberty and Radio Free Europe, whose activities were, from their point of view, contrary to the spirit of détente and the CSCE.³⁴⁴ The Western countries ultimately abandoned any reference to jamming in return for the Soviets agreeing to a meeting of experts on human contacts being held in Bern in 1986.³⁴⁵

342 Proposal by the USSR and the GDR: CSCE/RM.28 (12 December 1980).

343 On this point, see the statement delivered on 26 May 1983 by the head of the US delegation: Leonard R. Sussman (ed.), *Three Years at the East-West Divide. The Words of US Ambassador Max M. Kampelman at the Madrid Conference on Security and Human Rights* (New York: Freedom House, 1983), pp. 108–110.

344 Proposal by the USSR: CSCE/RM/4/17 (15 December 1980).

345 On this meeting, see earlier on this chapter, pp. 272.

D. Effect of the CSCE and Perestroika

On balance, the implementation of the CSCE provisions on information was less successful than those on human contacts.

a) Printed and broadcast information

With regard to *printed information*, the situation stayed more or less the same. The distribution of the Western press in Eastern Europe remained fairly unsatisfactory, except in Hungary.³⁴⁶ Despite a few tentative – not to mention shortlived – efforts, there was no significant increase in imports of newspapers and other periodicals.³⁴⁷

Concerning *broadcast information*, transmissions by Radio Free Europe and Radio Liberty remained highly controversial, with the CSCE being frequently used either to justify jamming or to condemn it. As soon as the Final Act had been signed, the Eastern countries embarked on a new campaign against “subversive” stations. This culminated in Leonid Brezhnev’s speech at the Conference of Communist and Workers Parties of Europe in Berlin in 1976.³⁴⁸ The management of RFE/RL responded to the attack by offering its critics a right of reply in a form to be agreed. The offer was rejected as a “deliberate provocation” and the jamming continued. It intensified in August 1980, reflecting the spread of the *Solidarność* movement in Poland and the continuation of Soviet military intervention in Afghanistan.

It was not until Mikhail Gorbachev’s glasnost policy that things changed. In 1987, the USSR ceased jamming the BBC World Service and Voice of America’s Russian language broadcasts.³⁴⁹ From 1 January 1988, the Soviets also stopped jamming the BBC’s Polish language broadcasts. From 29 November 1988, the

346 In Hungary, some Western periodicals were sold in *local currency* (50–60 copies and only in large hotels). Since 1983, this country has allowed its citizens to subscribe directly to such periodicals and to pay for them in forints. See Commission on Security and Co-operation in Europe, *The Helsinki Process and East-West Relations ...* (n. 135), p. 167. During the Cultural Forum in Budapest (1985), the sale of foreign newspapers was authorized at certain kiosks in the capital; see *Le Monde*, 22 October 1985. A new press law was adopted in March 1986. The end of the Communist Party’s monopoly on the press was announced in 1989; see *International Herald Tribune*, 4 April 1989.

347 In 1976, the USSR announced that 18 Western newspapers, including the *New York Times* and the *Washington Post*, would be distributed on its territory, in addition to the three titles already available (*International Herald Tribune*, *Le Monde*, *The Times*). Three years later, the total number of imported copies increased from 1,100 to 1,300. See J. M. Crouzatier, “D’Helsinki à Madrid: la circulation des personnes et des informations en Europe”, *Revue générale de droit international public*, no. 3 (1980), p. 788. The perestroika era USSR signed an agreement that tripled the daily distribution of the *International Herald Tribune* from 80 to 250 copies; the paper could be paid for in foreign currency by foreigners and in roubles by the Soviet public. See *International Herald Tribune*, 15 October 1988.

348 See North Atlantic Assembly, Press Release T 300 PR (76) 22 of 16 November 1976, pp. 1–2; and *Soviet News*, no. 5827 of 23 March 1976. See also Commission on Security and Co-operation in Europe, *Fulfilling our Promises ...* (n. 172), pp. 287–288.

349 On the situation relating to jamming in 1987, see Jonathan Eyal, “Recent Developments in the Jamming of Western Radio Stations Broadcasting to the USSR and Eastern Europe”, *Radio Liberty Research Bulletin* RL Supplement 8/87 (Munich, 1987), p. 17.

jamming of Radio Liberty (as well as Deutsche Welle and Kol Israel) also ended.³⁵⁰ Jamming ceased altogether with the decision taken by Czechoslovakia (on 15 December) and Bulgaria (around Christmas) to allow Radio Liberty to broadcast freely. Such positive developments were essentially because an end to jamming was one of the conditions imposed by the Western countries in exchange for a conference on human rights in Moscow in 1991.³⁵¹ In the summer of 1989, Hungary even went as far as allowing RFE to open a bureau in the country.

b) Co-operation in the field of information

This gave rise to various specific enterprises of limited scope, mainly between publishing houses, film companies and TV stations.³⁵² Before Mikhail Gorbachev took office, the Eastern countries were in a condemnatory mood, criticizing the Western countries for their lack of interest in these collective exchanges. This was demonstrated in both quantitative and qualitative terms: using UNESCO statistics, the Soviet bloc countries argued that when it came to exchanges of televised programmes, the socialist *Intervision* accepted 65 per cent of the material from *Eurovision*, compared with only 10 per cent the other way around.³⁵³ The Western countries responded, quite rightly, that the Final Act did not advocate strict reciprocity in co-operation, asymmetry being a natural consequence of the laws of supply and demand.

c) Working conditions for journalists

Three developments took place within a year of the Final Act:

- *The signing of bilateral arrangements on the granting of multiple entry and exit visas valid for one year.* At the end of January 1976, the USSR concluded such arrangements with five Western countries (United States, France, United Kingdom, FRG, Italy) and two Neutral countries (Sweden and Finland);³⁵⁴ for a long time, multiple entry and exit visas had been one of the key demands of Western journalists in Moscow.³⁵⁵ The Soviet Union subsequently decided to

350 See *International Herald Tribune*, 1 December 1988 and *Le Monde*, 2 December 1988.

351 See Jonathan Eyal, "The Jamming of Western Radio Broadcasts to Eastern Europe and the Soviet Union: The CSCE Compromise and its Future", *Radio Free Europe Research*, RAD Background Report/26 (Munich, 1989), p. 13.

352 For more details, see Commission on Security and Co-operation in Europe, *The Helsinki Process and East-West Relations ...* (n. 135), pp. 164ff.

353 Oleg Stroganov, "La troisième corbeille: composante naturelle ou 'Cheval de Troie' de la détente?", *Etudes soviétiques*, no. 338 (May 1976), p. 18. On the general question of exchanges between *Eurovision* and *Intervision*, see Ernest Eugster, *Television Programming Across National Boundaries: The EBU and OIRT Experience* (Washington: Artech House, 1983), p. 246.

354 The GDR, Czechoslovakia, Poland and Hungary then followed the Soviet example. See Commission on Security and Co-operation in Europe, *The Helsinki Process and East-West Relations ...* (n. 135), p. 178

355 *Ibid.* According to one American journalist, these types of bilateral agreements "had an important psychological impact on correspondents and their families. It reduced their sense of isolation from the outside world by reassuring them that it would be possible to leave the Soviet Union or return to it quickly in the event of professional or personal emergency."

extend this measure to all foreign journalists, including those from countries that did not have a special arrangement with the Soviet Government.

- *The easing of restrictions on domestic travel by foreign journalists.* In late 1975, the USSR notified the three other major powers of its intention to grant Western journalists in Moscow the same rights as diplomats in post on a reciprocal basis from 1 March. Journalists would be able to move freely between the eight towns of the Moscow administrative district, an area with a radius of around 70 km (compared with 40 km previously). They would also be able to travel, without prior authorization, to areas and cities open to tourism in the rest of Soviet territory, provided they gave one day's notice of their travel plans.³⁵⁶
- *The easing of restrictions on access to official information sources.* In June 1976, the USSR unilaterally decided that journalists in Moscow could contact government officials directly, without going through the Foreign Ministry. A decree published on 20 July formally authorized contacts with ministry officials and trade union leaders.³⁵⁷

Other less extensive measures were also adopted. From 1 July 1976, the families of accredited journalists in the GDR were able to receive documents allowing them to travel between East and West Germany and between East and West Berlin. In 1978, the Soviet Union decided that Western journalists could send their films or recordings abroad without prior authorization and cover Soviet news on behalf of their colleagues (pool coverage).³⁵⁸ In June 1984, the Soviet Foreign Ministry began holding regular press briefings for foreign correspondents.³⁵⁹

The various measures seemed promising. However, the progress they represented was shortlived, with conditions for journalists soon deteriorating again.

Refusals to issue or renew accreditation and arbitrary expulsions resumed. Internal travel and contact with government officials once more became subject to restrictions. Lastly, the transmission facilities enjoyed by foreign journalists after the 1980 Moscow Olympic Games ceased in 1982 following the Soviet decision to restore *manual* connections for international communications.³⁶⁰

356 See *Le Monde*, 2 January 1976; and Commission on Security and Co-operation in Europe, *The Helsinki Process and East-West Relations ...* (n. 135), pp. 178–179. According to one author, “the benefit is limited, however, given that two-thirds of this area is made up of sectors for which access is prohibited. But the change is noticeable ... There is not complete freedom of movement, but at least an expansion of the accessible areas,” Muller, “Vers une protection internationale des correspondants ...” (n. 328), p. 269.

357 See *Le Monde*, 22 July 1976; and Muller, “Vers une protection internationale des correspondants ...” (n. 328), p. 269. This possibility already existed in Hungary.

358 See Commission on Security and Co-operation in Europe, *The Helsinki Process and East-West Relations ...* (n. 135), p. 179.

359 *Ibid.*

360 Officially motivated by technical requirements relating to the modernization of telephone installations, this decision had the effect of subjecting all Western editors to an average waiting time of one hour, says Michel Pache in “L’information en Europe ...” (n. 97), p. 231. The same author writes that if correspondents “wish to send telephoto footage, they must go through the

As with freedom of movement, the absence of a well-defined course of action is striking. The Eastern countries dealt with virtually every case on its own merits and according to the general state of East-West relations.³⁶¹ It can be concluded – as the United States Commission on Security and Co-operation in Europe did – that the implementation of the provisions on information was particularly unsatisfactory compared with other areas of the CSCE.³⁶² Yet the overall situation did not simply remain at a standstill; in some cases – such as working conditions for journalists – it actually deteriorated.³⁶³

E. The Vienna Provisions

As with human contacts, the progress made here was more substantial than expected. This was particularly the case for the recognition of freedom of information, the improvement of working conditions for journalists, and the convening of an Information Forum.

The most remarkable provision is probably found in paragraph 34, which reaffirms – in the spirit of the International Covenant on Civil and Political Rights and the *Universal Declaration of Human Rights* – the right of individuals to freely choose their sources of information.³⁶⁴ This reaffirmation is followed by two

Tass Agency, which will not hesitate to report a technical defect in order to prevent reproductions of daily life deemed to be ‘incorrect’ to leave Soviet territory. Finally, television crews wanting to broadcast a film quickly have to use the technical facilities of Gosteleradio. This State institution has to be told the subject of the broadcast in advance, making it impossible, in this case, to broadcast a programme on dissidents, for example. However, these same teams can send their films by express airmail” [in French].

361 Pache observes, for example, that it is frequently the case “that the authorities, having refused to issue an accreditation or a visa to a specific journalist, state that they are prepared to grant these facilities to another journalist from the same press organ. If the editorial team refuses to designate another journalist, the authorities often reverse their decision and finally grant the accreditation or visa,” see “L’information en Europe ...” (n. 97) p.234 [in French]. For the Soviet point of view, see V. Eline and V. Konstantinov, “Helsinki et les conditions de travail des journalistes”, *La Vie internationale*, no. 8/212 (Moscow, August 1978), pp. 133–137.

362 See Commission on Security and Co-operation in Europe, *The Helsinki Process and East-West Relations ...* (n. 135), p. 161

363 It should also be noted that the CSCE had – at least after the signing of the Final Act – some positive effects on relations between journalists and journalists’ organizations: working relations between the International Federation of Journalists (Brussels) and the International Organization of Journalists (Prague), the activity of the European Journalists’ Club founded by Jean Schwoebel, and so on. For more details, see Ghebali, “L’Acte d’Helsinki et la collaboration transnationale ...” (n. 321), pp. 337ff. On the journalism and détente theme, see Tapio Varis (ed.), *Journalists and Detente 30 Years after the end of World War II* (Tampere: Institute of Journalism and Mass Communication, 1975), p. 114; and Michael Haltzel (ed.), *Helsinki, Belgrade and Detente. Report of an East-West Journalists Conference* (Berlin: Aspen Institute of Humanistic Studies, 1976), p. 59.

364 Vienna Follow-up Meeting (1989): Concluding Document, “Co-operation in Humanitarian and Other Fields”, “Information”, § 34, third paragraph recalls that participating States “in accordance with the International Covenant on Civil and Political Rights, the Universal Declaration of Human Rights and their relevant international commitments concerning seeking, receiving and imparting information of all kinds, ... will ensure that individuals can freely choose their sources of information.”

concrete commitments. The first concerns an end to the *jamming* of foreign radio broadcasts³⁶⁵ – one of the many conditions imposed by the Western countries in exchange for a meeting in Moscow on human rights. The second is designed to allow both *individuals* and institutions and organizations “to obtain, possess, reproduce and distribute information *material of all kinds*.”³⁶⁶ Both commitments are unequivocally confirmed in the final sentence of paragraph 34: “To these ends [the participating States] will remove any restrictions inconsistent with the abovementioned obligations and commitments.”

Six provisions are devoted to *the improvement of working conditions for foreign journalists*. The first calls upon the participating States to refrain from taking, against journalists in the legitimate pursuit of their professional activity, restrictive measures such as withdrawal of accreditation or expulsion “because of the content of the reporting of the journalist or of his information media.”³⁶⁷ The second lays down, in less restrictive terms, the principle of the freedom of the journalist to maintain contacts with public and private sources of information and the principle of respect for professional confidentiality.³⁶⁸ The third prescribes respect for a completely new element: journalists’ *copyright*.³⁶⁹ The fourth envisages – on the basis of bilateral agreements – accreditation and the issuance of multiple entry visas to foreign journalists, regardless of their domicile.³⁷⁰ The fifth is intended to facilitate access by journalists, on request, to import regulations, taxation and accommodation and other matters of practical concern.³⁷¹ The sixth states that accredited journalists can have access to press conferences and other official press events organized by the host country.³⁷²

Another notable change introduced by the Concluding Document of the Vienna Follow-up Meeting was the convening of an *Information Forum* in London from 18 April to 12 May 1989. The aim of the Forum was to bring together representatives of the participating States and “personalities from the participating States in the field of information”;³⁷³ the participants could circulate “written contributions on the subjects for consideration ... in order to allow a thorough

365 *Ibid.*, § 34, third paragraph, first indent states that the participating States will “ensure that radio services operating in accordance with the ITU Radio Regulations can be directly and normally received.”

366 *Ibid.*, § 34, third paragraph, second indent.

367 *Ibid.*, § 39.

368 *Ibid.*, § 40.

369 *Ibid.*, § 41.

370 *Ibid.*, § 42.

371 *Ibid.*, § 43.

372 *Ibid.*, § 44.

373 *Ibid.*, § 46. See also Vienna Follow-up Meeting (1989): Concluding Document, Annex VIII for the timetable and other organizational modalities of the Forum. The idea of such an exercise was simultaneously put forward by the nine N+NA countries as CSCE/WT.44 (13 February 1987) and by the 17 Western countries as CSCE/WT.45 (13 February 1987).

preparation of the relevant discussions.”³⁷⁴ The Forum’s programme of work included all CSCE provisions on information,³⁷⁵ the idea being that participants could indicate “any necessary improvements or possible new developments in those fields.”³⁷⁶ Two international organizations were expressly invited to make “contributions”: the International Telecommunication Union (ITU) and – a sign of the times – UNESCO.³⁷⁷ It was also decided that if the Forum did not reach any agreed conclusions, the proposals and projects submitted during the proceedings would be forwarded to the Helsinki Follow-up Meeting in 1992.³⁷⁸

Other interesting provisions include those advocating the use of “every opportunity offered by modern means of communication, including cable and satellites, to increase the freer and wider dissemination of *information of all kinds*,”³⁷⁹ the free distribution of *official information bulletins* by foreign diplomatic missions,³⁸⁰ and freedom of information for persons belonging to *national minorities* or regional cultures.³⁸¹

3. Culture and Education

The Final Act (1975) covers the flow of ideas across borders with two sets of provisions relating to co-operation and cultural and educational exchanges. This section will describe the nature of East-West obstacles before examining the CSCE provisions and their practical effect.

A. Concept of the Free Flow of Ideas across Borders

This concept links freedom of movement to the flow of information. The term “ideas” refers here to all intellectual output which is then circulated by the media³⁸² and through direct (individual or collective) human contacts. In short, the flow of ideas covers *cultural material* of any kind (on a commercial and non-

374 See Vienna Follow-up Meeting (1989): Concluding Document, Annex VIII, part II, timetable and other organizational modalities, item 6.

375 See *ibid.*, Annex VIII, part III for the indicative list of themes for discussion within three subsidiary working bodies.

376 *Ibid.*, Annex VIII, part I, agenda, item 3

377 *Ibid.*, item 2. Since UNESCO’s General Conference in Sofia in 1985, which had blunted the two most controversial work programmes, and particularly since the departure of Director-General M’Bow in 1987, UNESCO has been much less problematic for the Western countries.

378 See Vienna Follow-up Meeting (1989): Concluding Document, Annex VIII, part II, timetable and other organizational modalities, item 7. This provision was clearly inspired by the experience of the Budapest Cultural Forum. For additional details on the London Information Forum, see the article by Victor-Yves Ghebali in *Le Trimestre du monde* (4th quarter 1989).

379 See Vienna Follow-up Meeting (1989): Concluding Document, “Co-operation in Humanitarian and Other Fields”, “Information”, § 35.

380 *Ibid.*, § 36.

381 *Ibid.*, § 45.

382 Insofar as every idea carries information, it can be argued that the circulation of ideas is an extension of the circulation of information (or, conversely, that the latter is a specific case of the former).

commercial basis) and *producers, animators and “consumers” of culture* (such as artists, publishers and the public).

Prior to the CSCE, the principle of the free flow of ideas featured in various international instruments, such as the Universal Declaration of Human Rights (1948), the International Covenant on Economic, Social and Cultural Rights (1966), and the UNESCO Constitution (1945). However, as with freedom of movement and the flow of information, it is predicated on two opposing views of the role of culture in society and globally – in other words, on the precise meaning of culture as a human right and as a means of bringing peoples together.³⁸³

The Western countries viewed culture through the prism of individual freedoms. Since they considered the individual as the source and ultimate beneficiary of all intellectual creation, they concluded that culture implied an inherently personal approach. It was one of the ways in which individuals could achieve self-fulfilment. For that to happen, freedom was necessary at all levels of creation, access and exchanges. Culture could not be constrained: artists had to be able to create spontaneously, even if this challenged the existing social order. If an open society owed its vitality to “mutineers” and “mutants”, then the flow of ideas across borders was surely essential. Only freedom of individual initiative would ensure that the right to culture was fully exercised and facilitate reconciliation among peoples. The flow of ideas across borders thus depended on individuals being free to search for and receive cultural messages, regardless of their origin, form or content.

The Soviet position was based on a completely different philosophy. It considered the creative activities of individuals as an expression of the political community to which they belonged. Therefore, the freedom of artists could not be absolute, since it was indistinguishable from their social responsibility.³⁸⁴ The State would be remiss if it did not intervene to organize and control the cultural life of the nation. Given that culture was always a direct reflection of class relations, it followed that international cultural relations could only be ideological,³⁸⁵ and

383 There is no agreement on the precise content of the term “culture”, which in its contemporary sense encompasses all the forms of creativity of a given social group. Here, Denis de Rougemont’s definition should be mentioned: “Culture is the set of values ...; valuation processes ... and languages ... in which the individual is born, grows up, which he absorbs day by day, which form his mind and which he assumes more or less completely and combines more or less actively according to his innate disposition ... and according to his education,” “Qu’est-ce que la culture? “Quatre thèses et une hypothèse”, *Alliance culturelle romande*, Book no. 18 (June 1972), p. 7. See also Louis Dolot, *Culture individuelle et culture de masse* (“Que sais-je?” series, 1552; Paris: PUF, 1978), p. 128.

384 Stalin used the expression “engineers of human souls” to refer to the Soviet writers. Andrei Zhdanov retained this statement in order to point out “the enormous responsibility of Soviet writers in the education of people and that of Soviet youth”, see *Sur la littérature, la philosophie et la musique* (Paris: Edition de la Nouvelle Critique, 1950), p. 28.

385 “Culture in general and international cultural relations are not only a fertile ground for co-operation, but also a bridgehead for the battle between opposing world views” states, for example, K.Yuriev, in *Le langage de la paix est celui de la raison* (Moscow: Novosti Press Agency Publishing House, 1976), p. 56.

thus represented a separate strand of foreign policy.³⁸⁶ Their significance stemmed from the permanent ideological struggle between socialism and capitalism. Between two such fundamentally opposed worlds, the flow of ideas could never be truly “free”: it required intergovernmental agreements ensuring respect for the sovereignty, laws and customs of each country, as well as non-interference in their internal affairs and the circulation of “authentic” cultural values on a basis of strict reciprocity.³⁸⁷ As with freedom of movement or the flow of information, the debate was between free-traders and protectionists, although with two salient differences:

First of all, many of those who advocate freedom of movement accept the principle of limited cultural intervention by the State.³⁸⁸ During the interwar period, cultural affairs ceased to be the preserve of private initiative. Many countries began establishing official bodies in this area, including France (1920), Italy and Spain (1926), Germany (1933), Japan and the United Kingdom (1936).³⁸⁹ After 1945, cultural affairs were increasingly regarded as the “fourth dimension” of foreign policy. The encroachment of the ideological aspect into international relations was not unconnected with this phenomenon.³⁹⁰ Indeed, politicians could not ignore the spread of mass culture and the broad meaning given to this term.³⁹¹ Given that culture had become a badge of national prestige, government intervention was inevitable. Four main models can be identified depending on the extent of this intervention: State monopoly (Eastern countries), State-led (Latin countries such as France, Italy and Spain), State-sponsored (United Kingdom), and the absence of any State intervention or sponsorship (Sweden).

386 “The intensity of cultural relations is a function of political relations between States,” see Yuriev, *Le langage de la paix ...* (n. 385), p.42. See also Hungary’s point of view: “historical or linguistic traditions or geographical location (so-called ‘affinity’) are important, but are nevertheless likely to take a back seat to political reach,” Pál Berényi, “Relations culturelles et détente,” in: *Continuer Helsinki* (Budapest: Agence Budapest, 1977), p. 127.

387 See Yuriev, *Le langage de la paix ...* (n. 385), p. 64; and Berényi, “Relations culturelles et détente” (n. 386), p. 137. “Whatever can be the object of cultural exchange between States with different social systems are the only truly and universally recognized acquisitions of culture and art, knowledge of which would promote spiritual enrichment and better mutual understanding between peoples,” Yuriev, *Le langage de la paix ...* (n. 385), p. 61. Another Soviet commentator emphasizes that “as an advocate of genuine, enduring exchanges of value, the Soviet Union will never allow propaganda, through the medium of culture and art, for ideas of war, violence or the preaching of immorality,” see Vladimir Popov, “La détente et les échanges culturels” in *La détente. Le point de vue soviétique. Les relations Est-Ouest après Helsinki* (Moscow: Novosti Press Agency Publishing House, 1977), p. 97.

388 This analogy is subtly developed by Peter Wiles in “The Principles of Cultural Exchange”, *Millennium*, vol. 4, no. 2 (Autumn 1975), pp. 164–172. See also p.165: “culture is very unlike commodities, but economics is also the science of exchange, and all exchanges are similar.”

389 See Louis Dollot, *Les relations culturelles internationales* (“Que sais-je?” series, 1142; Paris: PUF, 1968), p. 8.

390 See Sulwyn Lewis, *Les principes de la coopération culturelle* (“Etudes et documents d’information”, no. 61; Paris: UNESCO, 1971), p. 21.

391 Until 1939, the concept of culture still had an elitist connotation, reflected in the phrase “intellectual co-operation” used by the League of Nations.

Federal States were a separate matter.³⁹² Advocates of freedom of movement who accepted the role of the State still recognized the overriding interests of the individual. For protectionists, however, only an increase in *official* exchanges was justified.

Furthermore, East-West cultural co-operation (unlike co-operation in the field of human contacts and information) did exist prior to the CSCE, even at the multilateral level. UNESCO laid the foundations for this in the 1950s through regional conferences organized by European national commissions,³⁹³ specialized regional centres³⁹⁴ and, above all, a cycle of *ministerial conferences* in UNESCO's three main sectors: the 1967 Conference of Ministers of Education of European Member States of UNESCO (MINEUROP) in Vienna,³⁹⁵ the 1970 Conference of Ministers of the European Member States Responsible for Science Policy (MINESPOL) in Paris;³⁹⁶ and the Intergovernmental Conference on Cultural Policies in Europe (EUROCULT) in Helsinki, 19–28 June 1972.

EUROCULT is particularly interesting. The first pan-European meeting on the subject, it was attended by almost all participating States (as participants or observers) of the future CSCE, plus Albania.³⁹⁷ It was particularly notable for the fact that it tackled the issue of co-operation from the specific angle of the CSCE, talks for which were due to start at the end of that year: its Recommendation 32 stated that participants should take into account the results of the Conference during the talks.³⁹⁸ Lastly, it fostered greater awareness of the issue of European culture, regardless of the division of the continent.³⁹⁹

392 See Dollot, *Les relations culturelles ...* (n. 389), p. 33.

393 The Aix en Provence Conference, held at the instigation of the French national commission in 1956, was followed by conferences in Dubrovnik (1957), Taormina (1960), Sofia (1968), Monaco (1968) and Bucharest (1972).

394 European Centre for Coordination, Research and Documentation in the Social Sciences (Vienna, 1964), European Centre for Recreation and Education (Prague, 1968), European Centre for Higher Education (Bucharest, 1972).

395 See UNESCO: ED.68/D.38/F (1968). For MINEUROP II (Bucharest, 1973), see UNESCO: ED/MD/30 (1974).

396 See UNESCO: SC/MD/21 (1970).

397 UNESCO: Final Report, SHC/MD/20 (1972). Working documents: SHC/EUROCULT series, 3 to 10 (17–21 March 1972).

398 *Ibid.*, p. 49. See also *ibid.*, p. 8. UNESCO hoped to be given an important role in relation to the preparation of the cultural component of the CSCE, see the Parliamentary Assembly of the Council of Europe: Report 3185 (12 October 1972), § 9; rapporteur: Mr. Kahn-Ackermann. It should be noted that § 48 of the Final Recommendations of the Helsinki Consultations (1973) as well as the proposal submitted by Denmark on behalf of the EEC Nine in Dipoli (CESC/HC/19 of 15 January 1973) mentioned EUROCULT. See also Ferraris (ed.), *Report on a Negotiation ...* (n. 43), pp. 61–62.

399 According to the Kahn-Ackermann Report “for the majority of its participants, something happened in Helsinki. This undeniable something, the moral of the event: there is a cultural Europe to which participants were aware of belonging” (n. 398), p. 10, § 16. See also SHC/MD/20, pp. 8, 9, 62 and 63.

B. East-West Obstacles

Like freedom of movement across borders (but unlike the flow of information across borders), the flow of ideas has a very old history. This ranged from the “universalism” of the Middle Ages, the role of prominent intellectuals (such as Francis Bacon, René Descartes and Denis Diderot) outside their own country, and the influence of English ideas on the French Encyclopedists.⁴⁰⁰ Until the end of the nineteenth century, a genuine transnational trade in ideas existed. As Director General René Maheu said at the opening session of EURO CULT, “throughout its dramatic history, the only real and lasting unity that Europe has known has been in the things of the mind.”⁴⁰¹ Indeed:

Firstly, the unity of the Christian faith, which still underlies its enduring shared values ...; then the unity of the humanism of the Renaissance, which perpetuated the belief in the natural dignity of man and the primacy of his rights up to the time that our age put all in question; and lastly the unity of that rational enlightenment from which sprang the great advances in science and technology that have, in a few generations, revolutionized the world. Each of these successive unities of the mind created its own network of institutions: universities, academies, learned societies, laboratories and research centres, producing a complex structure which still forms the warp and woof of European cultural life.⁴⁰²

Yet in 1972, as preparations were under way for the CSCE, Mr. Maheu observed that “although in the Europe of today a great many cultural exchanges take place, most remain confined within systems between which there is little interpenetration and each of which covers only a larger or smaller part of the European continent.”⁴⁰³ In other words, the flow of ideas between East and West ran into a *combination* of obstacles impeding freedom of movement and the flow of information.

As previously observed, the flow of ideas requires a basic amount of freedom of movement for persons engaged in cultural activities. The situation that existed in Eastern countries in this respect was already well known. Travel permits were granted only to official cultural representatives. Official culture had such a monopoly that in the USSR, intellectual works were the property of the State.⁴⁰⁴ Authors had no legal means of directly contacting foreign publishers in order to have their works translated.

400 See Dollot, *Les relations culturelles ...* (n. 389), pp. 7–8.

401 SHC/MD/20, p. 56.

402 Ibid. On the Eastern European position in the continent’s cultural tradition, see George Schöpflin, “Culture and Politics in Eastern Europe”, in College of Europe, *Symposium Europe, 1950–1970. Liber discipulorum* (Bruges, 1971), pp. 357ff.

403 SHC/MD/20, p. 59. See also Frans A. M. Alting von Geusau and I. Bartalits, “Cultural Exchanges and East-West Detente: a Preliminary Assessment of Data Derived from Bilateral Arrangements”, in College of Europe, *Symposium Europe ...* (n. 402), pp. 328ff.

404 See Anthony Smith, *Books: East and West. A report on the Availability of Printed Material* (London: EUCORG, 1973), p. 3.

Scientific researchers had equally few privileges. Invitations sent to scientists for international conferences or research in the Western world were frequently declined, mostly for arbitrary reasons.⁴⁰⁵ According to Zhores Medvedev, in 1966 only one in thirty Soviet researchers was able to attend international scientific meetings.⁴⁰⁶ In addition, Soviet researchers could not share documents directly with their foreign colleagues – such exchanges were planned centrally, with all the attendant delays and duplication this entailed.⁴⁰⁷ Medvedev sensibly refuted the two arguments most commonly used by the East to justify this restrictive policy: the shortage of currency and the need to prevent a brain drain.⁴⁰⁸

In reality, the obstacles were essentially political, since their intensity generally depended on the state of East-West relations. Technically there were two types of difficulties. The first related to the Soviet demand for formal intergovernmental agreements, which ruled out the possibility of private, non-collective contacts.⁴⁰⁹ The second was the inadequate working conditions offered to Western researchers who had been granted official authorization in terms of timescales, documentary materials, and so on.

When it came to the circulation of cultural works, the obstacles (both commercial and non-commercial) were more egregious still. They resulted from the State monopoly that advocated the use of censorship both for internal circulation and for international circulation. Consequently, the publication, translation and dissemination of any printed or audiovisual material were centralized by agencies under the supervision of the Ministry of Culture and the Party's cultural department. Authors who resorted to *samizdat* – or the unauthorized publication of their works in other countries – faced harsh

405 “A quick calculation shows that out of a hundred invitations received by our researchers from laboratories, institutes, conference organizers and organizing committees for conventions abroad, at least eighty are not notified to the administrations of the bodies where they work, and are not subject to authorization requests as such requests would have no hope of success. Of the remaining twenty, for which permission is sought to travel, one or two at most will succeed, with the other applications being rejected at one stage or the other of the process,” Medvedev, *Savants soviétiques ...* (n. 83), pp. 147 and 162ff. [in French]. See also the letter addressed to an imaginary Soviet scientist by the British physicist John Ziman, which was published in the journal *Nature* (13 January 1968) and summarized by Medvedev in his above-mentioned book, p. 167, note 1.

406 Medvedev, *Savants soviétiques ...* (n. 83), pp. 166 and 170. In 1974, an American academic pointed out that “the USSR and USA – with combined populations of almost half a billion souls and the most extensive research and university establishments in the world – are exchanging fewer than 200 scholars a year and fewer than ten for purposes of lecturing and teaching,” Allen H. Kassof, “The Exchange of People and Ideas”, *The Annals of the American Academy of Political and Social Sciences* (July 1974), p. 75.

407 Medvedev, *Savants soviétiques ...* (n. 83), pp. 153 and 157.

408 *Ibid.*, pp. 182 and 195. The USSR's isolation must also be understood in the light of another feature: the illusion maintained at the outset by the Soviets of achieving scientific self-sufficiency without the help of the outside world: at one time, this gave rise to a spate of pseudoscientific theories, such as Lysenkoism. Until 1966, the USSR also refused to comply with international patent regulations (*ibid.*, p. 210); it did not join the Universal Copyright Convention until 1973.

409 See Kassof, “The Exchange of People and Ideas” (n. 406), p. 76.

reprisals.⁴¹⁰ In the USSR, these ranged from telephones being cut off to deportation;⁴¹¹ in the GDR, offenders were guilty of “public defamation”, which under Article 220 of the Criminal Code carried a prison sentence of up to three years.⁴¹²

Conversely, censorship was evident at customs control, where publications sent from abroad and whose content matched the list of proscribed topics were automatically confiscated. The rigid enforcement of these practices varied from State to State: while the USSR prohibited its citizens from possessing any kind of technical equipment intended for the reproduction of printed matter, Hungary had a much more flexible approach with a degree of self-censorship.⁴¹³

Non-commercial obstacles applied to the exchange of books between public or non-governmental institutions,⁴¹⁴ the functioning of foreign cultural centres (reading rooms and libraries)⁴¹⁵ and – at least until the early 1970s – the Soviet practice of mass reproduction of all kinds of documentary material without permission or financial compensation.⁴¹⁶

Glasnost was not without its cultural implications, with the rehabilitation and publication of banned authors such as Boris Pasternak, Mikhail Bulgakov, Osip Mandelstam and Alexander Solzhenitsyn,⁴¹⁷ the admission of the USSR to the Pen Club, and the announcement of the future opening of Western cultural centres in Moscow.

410 Clandestine literature is a universal phenomenon. It already existed in the tsarist period, as evidenced, for example, by Lermontov's famous poem about the death of Pushkin. The *samizdat* phenomenon (first exclusively literary, then increasingly political) developed in the USSR in the 1960s with the trials of Sinyavsky, Daniel, Ginzburg, Solzhenitsyn and others.

411 See *Contribution au bilan de la CSCE* (Zurich: Comité d'action pour le Groupe d'Helsinki européen, no date), p. 9.

412 *Ibid.*, p. 5.

413 See Smith, *Books: East and West ...* (n. 404), p. 7.

414 Book exchanges with the USSR took place quite correctly until 1972, when the Soviet libraries demanded a significant increase in the exchange rate in their favour (*ibid.*, pp. 14–16).

415 These are restrictions placed on access by citizens of the host country to reading rooms or libraries located in foreign diplomatic premises. Cultural centres that are autonomous, i.e., outside embassies or consulates, pose a different kind of problem, as their opening is based on bilateral agreements.

416 Before joining the 1952 Universal Copyright Convention (in 1973), the USSR reproduced more than 640 scientific journals – to meet the needs of its scientific institutions – at an annual rate of 2 to 2.5 million copies, one third of which were re-exported. See *The State of the Soviet Copyright Laws Since the Accession of the USSR to the Universal Convention on 27 May 1973, Including a Note on Reprints of Scientific Journals in the USSR* (London: EUCORG, 1973), pp. 12–13.

417 In the summer of 1989, the Union of Soviet Writers decided to annul the decision that had banned Solzhenitsyn, one of its members, from publishing *The Gulag Archipelago* and recommended to the Supreme Soviet that the decree that had stripped the writer of his Soviet citizenship be revoked. See *Le Monde*, 4 July 1989. On the Soviet cultural thaw, see URSS: *l'explosion culturelle*, in the supplement to *Libération*, 3 July 1989.

C. CSCE Provisions – from Helsinki to Madrid

The texts on culture and education are among the most substantial of the Final Act. This section will look at some of the key themes they contain.

a) Culture

The section on culture defines the framework for long-term bilateral and multilateral co-operation in the light of the recommendations of the EURO CULT Conference.⁴¹⁸ However, it does not envisage the development of cultural relations among the CSCE's 35 participating States from a purely intergovernmental perspective.

The Western countries managed to obtain recognition of the fact that such relations were also a matter for individuals – that is to say, the increase in exchanges meant access for all to cultural works and the development of direct contacts among persons exercising an activity in cultural fields.⁴¹⁹ Various provisions related to the movement of *people* and the flow of *information* and cultural *objects*.

The provisions dealing with human contacts concern creative artists and “cultural animators” – a broad category that includes anyone engaged in cultural activities.⁴²⁰ For example, it recommends the development of co-operation, communications, meetings or direct contacts between representatives of the organizations concerned by international commercial exchanges of books,⁴²¹ between “authors and publishing houses,”⁴²² between publishing houses,⁴²³ between translators,⁴²⁴ between “creative artists and people engaged in cultural activities,”⁴²⁵ and between amateur theatre groups.⁴²⁶

The recommendations for the flow of information and cultural works are equally numerous: harmonizing and reducing customs charges relating to commercial exchanges of cultural materials,⁴²⁷ facilitating customs formalities

418 Helsinki Final Act (1975), “Co-operation in Humanitarian and Other Fields”, “Co-operation and Exchanges in the Field of Culture”, preamble, § 2 “confirms” the conclusions at the Intergovernmental Conference on Cultural Policies in Europe and § 5 also refers to “a consciousness of common values” between the respective cultures of the participating States.

419 See *ibid.*, preamble, §§ 6c and 6e.

420 Helsinki Final Act (1975), “Co-operation in Humanitarian and Other Fields”, “Co-operation and Exchanges in the Field of Culture”, *Extension of Relations*, third indent.

421 Helsinki Final Act (1975), “Co-operation in Humanitarian and Other Fields”, “Co-operation and Exchanges in the Field of Culture”, *Exchanges and Dissemination*, third indent.

422 *Ibid.*, Access, first indent, § 1. This provision derives from a Dutch proposal: CSCE/II/K/4 (15 October 1973), informally known at the CSCE as the “Solzhenitsyn Proposal”.

423 Helsinki Final Act (1975), “Co-operation in Humanitarian and Other Fields”, “Co-operation and Exchanges in the Field of Culture”, Access, fifth indent, first sub-paragraph.

424 *Ibid.*, Access, fifth indent, fifth sub-paragraph.

425 *Ibid.*, *Contacts and Co-operation*, introductory heading.

426 *Ibid.*, *Fields and Forms of Co-operation*, fourth indent, § 1.

427 *Ibid.*, *Exchanges and Dissemination*, first indent.

for cultural objects intended for artistic events,⁴²⁸ simplifying procedures for the international commercial exchanges of books,⁴²⁹ loan and exchange of films,⁴³⁰ and film libraries.⁴³¹ All of these provisions originated from a French proposal.⁴³²

At the same time, the Final Act recommends that participating States “promote” fuller mutual access by all to the achievements – works, experiences and performing arts – in the various fields of culture of their countries.⁴³³ For printed material, it envisages the increase in size of editions, taking into account demand from the other participating States,⁴³⁴ the increase in the number and diversity of foreign works in their libraries and bookshops,⁴³⁵ and the increase “where deemed appropriate” in the number of sales outlets of foreign books “imported in the original on the basis of agreements and contracts.”⁴³⁶ For audiovisual works, the Final Act provides for the expansion, diversification and more frequent programming of foreign films and documentaries, and the promotion of non-commercial showings (such as festivals, for example)⁴³⁷ and access for specialists, “within the framework of the existing rules”, to archives containing materials of a cultural character.⁴³⁸

Although not devoid of interest, these provisions are far from the “free access” that the Western countries had hoped for.⁴³⁹ For example, there are no recommendations covering the opening of foreign libraries, cinemas or reading rooms freely supplied and accessible to the citizens of the host country.⁴⁴⁰

428 Ibid., second indent.

429 Ibid., third indent.

430 Ibid., fourth indent.

431 Ibid.

432 CSCE/II/K/9 (21 January 1974).

433 Helsinki Final Act (1975), “Co-operation in Humanitarian and Other Fields”, “Co-operation and Exchanges in the Field of Culture”, *Access*, introductory heading.

434 Ibid., first indent, § 2.

435 Ibid., first indent, § 3.

436 Ibid., first indent, § 4.

437 Ibid., fifth indent.

438 Ibid., sixth indent.

439 The Netherlands proposed “recognizing the right of ... citizens to have free access to written works of both fiction and non-fiction, regardless of whether they exist in the shape of books, periodicals, or newspapers, or in any other objective form,” CSCE/II/K/4 (15 October 1973). France, meanwhile, extended the elements of this definition to all forms of culture, recommending “free access by all to their respective works, achievements and experiences in the field of culture”, CSCE/II/K/125 (5 April 1974).

440 France made a specific proposal in this regard: CSCE/II/K/125 (5 April 1974), which the USSR categorically refused to sign, see CSCE/II/K/135 (4 June 1974). See also CSCE/II/K/137 (12 July 1974). What was left of the French proposal was merely a watered-down and cryptic provision; see Helsinki Final Act (1975), “Co-operation in Humanitarian and Other Fields”, “Co-operation and Exchanges in the Field of Culture”, *Access*, second indent.

Various proposals on culture were submitted in Belgrade, then in Madrid. The former were shortlived.⁴⁴¹ However, the latter gave rise to six provisions of the Concluding Document of the Madrid Follow-up Meeting (1983) concerning the improvement of information on the possibilities offered by bilateral cultural agreements and programmes, wider dissemination and access to cultural works, the development of the translation of foreign works, the idea of a UNESCO conference on the preservation of cultural heritage and the environment, co-operation between broadcasting organizations and, most importantly of all, the convening of a Cultural Forum.⁴⁴²

b) Education

The section on education is more technical than the section on culture. It contains provisions on scientific co-operation (exact and natural sciences, medicine, humanities and social sciences), the study of foreign languages and civilizations, and teaching methods at all levels of education. Its general objective is “the further development of exchanges of knowledge and experience as well as of contacts”, on the basis of special arrangements “where these are necessary” between organizations, institutions and *persons* engaged in education and science.⁴⁴³ It is immediately apparent that in this context, where the exchanges had a more frequent and pronounced institutional dimension than in cultural relations, the participating States only intended to co-operate under “mutually acceptable conditions”.⁴⁴⁴

Yet the section contains provisions advocating direct contacts and communications among persons engaged in education and science, even in the absence of special arrangements for this purpose.⁴⁴⁵

More specifically, the Final Act envisages access for students, teachers and scholars to educational, cultural and scientific institutions by means of exchanges, scholarships and symposia.⁴⁴⁶

At the end of the Madrid Follow-up Meeting, new educational provisions were adopted to improve or clarify the recommendations of the Final Act.

Two further observations should be made concerning the cultural and educational provisions of the CSCE.

441 Proposals by the Eastern countries: CSCE/BM/33 (8 November 1977) and CSCE/BM/43 (11 November 1977); CSCE/BM/H/5 (3 November 1977) and CSCE/BM/H/6 (8 November 1977). Proposals by the N+NA countries: CSCE/BM/10 (14 November 1977); CSCE/BM/H/3 (2 November 1977) and CSCE/BM/H/4 (2 November 1977).

442 On the “Scientific Forum”, see further on in this chapter, pp. 310ff.

443 See Helsinki Final Act (1975), “Co-operation in Humanitarian and Other Fields”, “Co-operation and Exchanges in the Field of Education”, preamble, § 2.

444 This idea, so dear to the Eastern countries, was clearly captured and expressed in the section *Access and Exchanges*.

445 Helsinki Final Act (1975), “Co-operation in Humanitarian and Other Fields”, “Co-operation and Exchanges in the Field of Education”, *Extension of Relations*, third indent. (See also the first indent).

446 *Ibid.*, *Access and Exchanges*, introductory heading and second to fifth indents.

The first concerns “national minorities or regional cultures”. At Yugoslavia’s insistence, this issue is mentioned at the end of the section on culture and education.⁴⁴⁷ Given the reluctance of all the other countries to accept specific commitments in this area, the provision does not go very far. The participating States only *recognize* the *potential* contribution that national minorities or regional cultures (a clarification introduced by Spain)⁴⁴⁸ can make to “various fields” of cultural and educational co-operation. They only propose to “facilitate this contribution” taking into account the (individual) members of *existing* minorities that are not “recognized”.⁴⁴⁹

The second point concerns UNESCO’s role in the implementation of certain provisions relating to culture and education. The Final Act recognizes that the organization has a direct role in the preparation of the Scientific Forum mentioned earlier.⁴⁵⁰ In addition, through vague expressions referring to assistance from “appropriate international organizations” or “competent organizations”,⁴⁵¹ UNESCO is implicitly called upon to contribute to the creation of a bank of cultural data in Europe, a European inventory of documentary films,⁴⁵² a repertory of recorded television programmes,⁴⁵³ the study of archaeological conservation projects,⁴⁵⁴ equivalence between academic degrees and diplomas,⁴⁵⁵ and the development of multilateral co-operation in scientific research.⁴⁵⁶

447 See CSCE/II/K/3 (9 October 1973), § j and CSCE/II/K/168 (3 July 1975). See also Subcommittee 10 (K): Journal No. 182 of 3 July 1975 and Journal No. 183 of 4 July 1975.

448 Spain believed that it had no “national minorities” on its territory.

449 It should be remembered that the Final Act also contains a provision regarding minorities in the Declaration on Principles Guiding Relations between Participating States.

450 See Helsinki Final Act (1975), “Co-operation in Humanitarian and Other Fields”, “Co-operation and Exchanges in the Field of Education”, *Science*, fifth indent.

451 The absence of formal references to UNESCO was motivated by tactical and technical reasons. The Western countries did not wish to commit themselves on the role of UNESCO until a definitive final agreement had been reached on the overall problem of the “Follow-up Meetings” to the Conference. The late conclusion of this agreement did not allow the drafters of the Final Act to insert the word “UNESCO” in most of the relevant texts of the third basket. In any case, the explicit mention of UNESCO in the basic text on the “Follow-up Meetings” makes it possible to read the name of this organization whenever “appropriate” or “competent” international organizations in the fields of education, science and culture are referred to.

452 Helsinki Final Act (1975), “Co-operation in Humanitarian and Other Fields”, “Co-operation and Exchanges in the Field of Culture”, *Mutual Knowledge*, first and second indent.

453 *Ibid.*, *Access*, seventh indent

454 *Ibid.*, *Fields and Forms of Co-operation*, fourth indent, § 6. This is an area in which the USSR had particularly well-qualified experts.

455 *Ibid.*, *Access and Exchanges*, seventh indent.

456 *Ibid.*, *Science*, § 3. Furthermore, UNESCO is also referred to in the general preamble to the Final Act, § 2, as well as in § 4 of its final clauses, in the section on Follow-up to the Conference, (see § 1), as well as in “Science and Technology”, *Forms and methods of co-operation*, final indent.

D. Impact of the CSCE and Perestroika⁴⁵⁷

The implementation of the cultural and educational provisions of the CSCE has given rise to concrete bilateral and multilateral developments.

a) Bilateral level

The Final Act seems to have provided some impetus for the East-West bilateral co-operation that had existed since the 1950s. Various cultural agreements were concluded or renewed after 1975.⁴⁵⁸ These provided for an extension of government-sponsored official or unofficial exchanges. However, their essential merit was to promote a “new generation” of *direct* exchanges between institutions and other non-governmental organizations. The CSCE provided Western countries with the opportunity to establish active co-operation with those Eastern countries that had previously refused all private exchanges in the absence of formal bilateral agreements. It can also be said that the signing of the Final Act encouraged private groups in the West to develop their cultural and educational exchanges with the East.⁴⁵⁹

The positive aspects include the organization of “Cultural Weeks”,⁴⁶⁰ the opening of new Cultural Centres,⁴⁶¹ and even the development of direct exchanges between creative artists.⁴⁶² From 1979 to 1980, the invasion of Afghanistan and the crisis in Poland acted as a brake on the process. American-Soviet cultural co-operation only really resumed following the Reagan-Gorbachev Summit held in Geneva in November 1985.

Furthermore, and as in the field of information, the Eastern countries continually complained that cultural exchanges were imbalanced. Nothing is more emblematic in this respect than the detailed inventory they compiled of the number of foreign books translated, Western plays staged or films screened, and students specializing in foreign languages.⁴⁶³ As previously mentioned, there is some *statistical* basis to the asymmetry argument. However, various aspects must be taken into account: the West had the advantage of having two international vehicular languages – not to mention German, which was still spoken in some parts of Central Europe; its culture was remarkably diverse; its cultural imports

457 See earlier on in this chapter, p. 295.

458 For more details, see Commission on Security and Co-operation in Europe, *The Helsinki Process and East-West Relations ...* (n. 135), pp. 180–189.

459 *Ibid.*, p. 218.

460 *Ibid.*, p. 212.

461 For the list of new cultural centres, see Commission on Security and Co-operation in Europe, *The Helsinki Process and East-West Relations ...* (n. 135), pp. 214–216.

462 In 1977, American and Soviet writers met at a conference for the first time. This experience has since been repeated five times (*ibid.*, p. 189). On the European side, such exchanges have also taken place, but generally in a university context (*ibid.*, pp. 190–192).

463 See, for example, *La vérité sur les échanges culturels* (Moscow: Novosti Press Agency Publishing House, 1976), pp. 12–54.

depended on private market forces. In any event, it hardly seemed appropriate to evaluate cultural exchanges purely in quantitative terms.⁴⁶⁴

*b) Multilateral level: UNESCO's European activities*⁴⁶⁵

UNESCO's European programme continued to develop under the three pillars that existed before the CSCE.

After 1975, the European national commissions held three successive regional conferences, together with subregional meetings (in the Balkans, Northern and Eastern Europe) and meetings between the secretaries-general of the organizations in question.⁴⁶⁶ The cycle of ministerial meetings also continued with the 1978 Conference of Ministers Responsible for Science and Technology Policies in the European and North American Region (MINESPOL II) in Belgrade and the 1980 Conference of Ministers of Education of Member States of the Europe Region (MINEDEUROPE III) in Sofia.⁴⁶⁷ The regional centres and offices likewise remained active,⁴⁶⁸ although their network could not be extended since the plan for a Mediterranean Cultural Centre in Malta never materialized.⁴⁶⁹ The only significant development was the establishment of the Co-operation in Research and Development for Educational Innovation in South-East Europe (CODIESEE) programme in 1978.⁴⁷⁰

In addition, the CSCE invited UNESCO to submit "contributions" at the Belgrade Follow-up Meeting,⁴⁷¹ the Preparatory Meeting in Bonn and the Scientific Forum in Hamburg,⁴⁷² the Meeting of Experts in Valletta and the Seminar on Co-operation in the Mediterranean in Venice,⁴⁷³ the Madrid Follow-up Meeting,⁴⁷⁴ the Cultural

464 In this respect, the Hungarian attitude is more nuanced than that of the Soviets: "... in many areas, there is no question of seeking official reciprocity ... When we emphasize the imbalance of East-West cultural exchanges, we are talking about the most flagrant disproportions of these exchanges ... What we ask of our capitalist partners is the rectification of existing disproportions, a reciprocity of efforts to develop relations and the aspiration that the movement goes in both directions," *Continuer Helsinki* (Budapest: Agence Budapest, 1977), pp. 155–157 [in French].

465 The composition of UNESCO's "Europe" region is the same as that of the CSCE (not including Israel), with the exception of Liechtenstein (non-member) and the Holy See (observer).

466 See 22C/101 (22 September 1983), pp. 3–4.

467 *Ibid.*, pp. 20 and 7.

468 See CPX/77/WS/10 (1977), pp. 18–22 and UNESCO's Report presented at the Madrid Follow-up Meeting, pp. 11–12, 15–16, 26–27 and 35–36.

469 Resolution 4/1.2/9 of the 1978 General Conference envisaged the creation of the centre in Malta. The UNESCO Secretariat produced a draft statute, but was unable to convene a meeting to establish the Centre owing to lack of interest on the part of the Member States. See UNESCO's *Contribution* delivered at the Madrid Follow-up Meeting, pp. 45–46.

470 The CODIESEE is a co-operative network of research and development institutions. See 22C/101, pp. 17–18.

471 CPX/77/WS/10 (1977). See also the statement by Director-General M'Bow at Belgrade: CSCE/BM/PV.9 (10 October 1977) or UNESCO DG/77/13 (9 October 1977).

472 CPX-0/WS/1 (4 February 1980).

473 CPX-79/WS/3 (15 February 1979) and CPX-84/WS/6 (11 October 1984).

474 *UNESCO's contribution to the development of co-operation in the Europe region and to the implementation of the relevant provisions of the Final Act of the Conference on Security and Co-operation in Europe,*

Forum in Budapest⁴⁷⁵ and the Vienna Follow-up Meeting.⁴⁷⁶ Indeed, the Organization's implementation of the relevant provisions of the Final Act was much less extensive than in the case of the UNECE: even though in 1979, UNESCO adopted a Convention on the Recognition of Studies, Diplomas and Degrees concerning Higher Education in the States belonging to the Europe Region (which entered into force on 19 February 1982), it was able to complete neither the cultural databank project nor the inventory of cultural films and recorded television programmes.⁴⁷⁷ The reasons for this seem to be linked to differences in opinion among Eastern and Western countries over UNESCO's universal and European role.⁴⁷⁸

c) Multilateral level: the Scientific Forum in Hamburg (1980) and the Cultural Forum in Budapest (1986)

The idea of a *Scientific Forum* came from West Germany. It was first raised during Stage I of the CSCE by Walter Scheel, who said that:

There once existed a European community of scientists. ... Should this sense of unity among scientists not be even more important today?

The tasks of science have grown to immeasurable proportions. The success of scientific work governs the living conditions of our peoples. We realize more and more that many tasks can only be solved by co-operation among scientists from various disciplines and countries. Therefore we need a forum in which they can meet. ... The main thing in our view is to create a meeting place. We should then, however, leave it to the scientists themselves to determine the subject matter of their co-operation.⁴⁷⁹

The Forum was to establish or facilitate direct contacts and scientific exchanges "wherever existing institutions are inadequate," organize congresses and other international meetings (mainly of an interdisciplinary nature), issue publications freely accessible to scientists and the public in all participating States, and lastly encourage the work of young researchers.⁴⁸⁰ In this respect, the FRG envisaged a *permanent* institution created and funded by governments, leaving "its other aspects to be self-administered by the scientific community."⁴⁸¹

Helsinki, 1975 (Paris: UNESCO, 1980), p. 60. See also CSCE/RM/VR.9 (18 November 1980), pp. 14–23.

475 CLT85/WS/43 (October 1985). See also Ervin László and Iván Vitányi (eds.), *European Culture and World Development*. UNESCO Joint studies for the European Cultural Forum (Oxford: Pergamon Press, 1981), p. 160

476 CSCE/WT/VR.7 (7 November 1986), pp. 23–31.

477 See 22C/101 (1983), pp. 8 and 36.

478 When adopting its Resolutions 19C/7.11 (1976), 20C/7.12 (1978), 21C/7.06 (1980) and 22C/15.4 (1983) on European co-operation, the General Conference recommended that the States of the region submit proposals for new activities by mutual agreement: such proposals were apparently never made, see 22C/101 (1983), p. 1

479 CSCE/I/PV.3 (4 July 1973), pp 36–37.

480 See CSCE/I/4, No. 4 (4 July 1973).

481 *Ibid.*

During Stage II of the CSCE, the FRG set out its approach in more detail. It explained that it was proceeding from the principle that “such a forum will not prejudice existing contacts in the governmental and non-governmental fields but will usefully supplement and enrich relations, particularly in the non-governmental field.”⁴⁸²

The idea of the Forum was ultimately adopted, albeit in a watered down form. The Final Act stated that it would be a single meeting which would take place “in the near future”.⁴⁸³ The preparations for the Forum (similarly fixed “at an early date”) were entrusted to a meeting of experts of the CSCE in consultation with the UNECE and UNESCO.⁴⁸⁴ However, the FRG failed to obtain an express provision on the possibility of hosting the Forum in its territory.⁴⁸⁵

The decision to convene the preparatory meeting was taken in Belgrade in 1978.⁴⁸⁶ It met in Bonn from 20 June to 28 July of the same year to decide on the agenda, organization and other modalities of the Forum. The Bonn discussions proved to be hard going. The Eastern countries wanted the Forum to be placed within the framework of the second basket (which included a sector on science) and to have a purely intergovernmental character. However, the Western countries believed that it should remain within the framework of the third basket, with participants who would serve on an individual basis in accordance with the Final Act. The Western countries won, although their proposal that the proceedings should be public was not adopted.⁴⁸⁷

The Forum itself was held in Hamburg from 18 February to 3 March 1980. The atmosphere was strained by the Soviet invasion of Afghanistan and the internal exile of Andrei Sakharov. In accordance with the provisions of the Final Act, this was “a meeting of leading personalities in science” from the 35 participating States which discussed “interrelated problems of common interest concerning current and future developments in science” (exact and natural sciences, medicine, humanities and social sciences) and promoted the “expansion of contacts, communications and the exchange of information between scientific institutions and among scientists.”⁴⁸⁸

482 CSCE/II/L/10 (6 December 1973).

483 Helsinki Final Act (1975), “Co-operation in Humanitarian and Other Fields”, “Co-operation and Exchanges in the Field of Education”, “Science”, § 2, fourth indent.

484 Helsinki Final Act (1975), “Co-operation in Humanitarian and Other Fields”, “Co-operation and Exchanges in the Field of Education”, “Science”, § 2, fifth indent. The original West German draft provided for such a meeting, but for the different purpose of drawing up the legal statutes of the Forum.

485 In view of Romania’s opposition to any mention of a given State in this context, the FRG delivered a statement indicating its interest in making the necessary arrangements for the convening of the Forum, see Committee II: Journal No. 52 of 15 July 1975.

486 Belgrade Follow-up Meeting (1978): Concluding Document, § 14. See also CSCE/BM/H/7 (8 November 1977) and CSCE/BM/H/15 (12 December 1977).

487 For the Final Report of the Bonn Preparatory Meeting, see ET-WF/Dec. 2 (28 July 1978), which contains as an annex Journal No. 29/Rev. 1 of the Meeting.

488 See the Report of the “Scientific Forum” of the Conference on Security and Co-operation, preamble, § 5.

A high-level discussion took place among the 300 or so participants on working conditions for scientists, including – as a result of Western pressure – the need for freedom implicit in human rights.⁴⁸⁹ At the end of the proceedings, the Forum adopted various general technical conclusions and voted to convene another meeting of the same type. In Madrid, however, the governments merely “noted the usefulness” of the Forum’s achievements and invited international organizations and scientific organizations “to give due consideration to its conclusions and recommendations.”⁴⁹⁰

An idea raised separately by France⁴⁹¹ and Yugoslavia in Madrid, the *Cultural Forum* was modelled on the Scientific Forum in Hamburg. The terms of reference of the CSCE’s first meeting in Eastern Europe (Budapest, 15 October to 25 November 1985) were to “discuss interrelated problems concerning creation, dissemination and co-operation, including the promotion and expansion of contacts and exchanges in the different fields of culture.”⁴⁹² It was attended by more than 900 delegates, only a third of whom were diplomats – the rest were artists, composers, filmmakers and writers.⁴⁹³

The Forum set up four working bodies to deal with the plastic and applied arts (painting, graphic and photographic arts, sculpture, design, architecture, and preservation of cultural and historical monuments), the performing arts (theatre, dance, folklore, music and film), literature and mutual cultural knowledge.⁴⁹⁴

More than 250 proposals were submitted in Budapest – either in an official capacity by diplomats,⁴⁹⁵ or personally by non-governmental figures.⁴⁹⁶ The Eastern countries (led by Czechoslovakia and the Soviet Union) submitted around sixty official proposals. The most significant of these revived old Soviet ideas on the “role of culture and the arts in the shaping of peaceful attitudes and

489 The third conclusion of the Report of the “Scientific Forum” specifies that participants considered it necessary to state that “respect for human rights and fundamental freedoms by all States represents one of the foundations for a significant improvement in their mutual relations, and in international scientific co-operation at all levels.”

490 See Madrid Follow-up Meeting (1983): Concluding Document, “Co-operation in Humanitarian and Other Fields”, “Co-operation and Exchanges in the Field of Education”, § 4. The FRG unsuccessfully proposed introducing a reference to human rights into this provision in CSCE/RM/H.4 (11 December 1980).

491 See CSCE/RM.8 (9 December 1980).

492 See Madrid Follow-up Meeting (1983): Concluding Document, “Co-operation in Humanitarian and Other Fields”, “Co-operation and Exchanges in the Field of Culture”, § 6. For opening statements, see CSCE/CFB/R.1 (15 October 1985), CSCE/CFB/R.2 (15 October 1985), CSCE/CFB/R.3 (17 October 1985), CSCE/CFB/R.4 (16 October 1985) and CSCE/CFB/R.5 (17 October 1985).

493 Such as Günter Grass (FRG), Edward Albee (United States), Delphine Seyrig and Régis Debray (France). Switzerland was the only country to appoint a non-diplomat to head its delegation: Professor Jeanne Hersch.

494 This division was decided upon by the “preparatory meeting” which took place from 21 November to 4 December 1984 in Budapest.

495 See CSCE/CFB.1 to 118 (October 1985).

496 These proposals were not given an official ID, but a “job number”, preceded by the letters “BU” in capitals.

behaviour”,⁴⁹⁷ on the “democratization” of culture,⁴⁹⁸ on the “protection of mankind and the cause of peace through the medium of the cinema”,⁴⁹⁹ on the security of guest artists in the participating States,⁵⁰⁰ on encouraging the mass media “to make active use of cultural subjects in the interests of peace,”⁵⁰¹ and on taking measures that would penalize “the spreading of lies and of hatred against other countries as unlawful.”⁵⁰² Their non-governmental representatives were unusual in that they submitted only a limited number of individual proposals.⁵⁰³ Of all the Soviet bloc members, Romania was conspicuous by its absence, failing to submit a single working document either directly or with other delegations.⁵⁰⁴

The 30 official proposals from the Western countries were mostly inspired by the goal of freedom of movement and the flow of information and ideas. For example, they included proposals on unrestricted access to programmes transmitted via broadcasting satellite,⁵⁰⁵ on the abolition of the jamming of foreign broadcasts “in whatever language they may be transmitted,”⁵⁰⁶ on respect for cultural rights and freedoms,⁵⁰⁷ on the establishment of cultural institutions of each participating State in other participating States,⁵⁰⁸ on the removal of restrictions on the dissemination of cultural materials and equipment (books, films, videotapes, typewriters and copying machines),⁵⁰⁹ and on “unhindered travel, for personal or professional reasons, of those active in the different fields of culture.”⁵¹⁰

The Western proposals made by non-diplomats were more numerous and – despite reflecting a desire for direct contacts without government interference – more technical.⁵¹¹

497 Poland: CSCE/CFB.6 (25 October 1985).

498 GDR and USSR: CSCE/CFB.16 (30 October 1985).

499 USSR: CSCE/CFB.17/Rev.1 (31 October 1985).

500 USSR: CSCE/CFB.18 (31 October 1985).

501 Poland and USSR: CSCE/CFB.19 (31 October 1985).

502 Czechoslovakia: CSCE/CFB.70 (11 November 1985).

503 Approximately twenty.

504 Furthermore, the Romanian delegation was composed of diplomats only.

505 CSCE/CFB.27/Rev.1 (14 November 1985).

506 CSCE/CFB.55 (7 November 1985).

507 CSCE/CFB.58 (7 November 1985).

508 CSCE/CFB.65/Rev.1 (14 November 1985).

509 CSCE/CFB.66 (8 November 1985).

510 CSCE/CFB.75 (12 November 1985).

511 Here there were more than 80 proposals. See, in particular, Günter Grass on the creation of a panEuropean cultural foundation: BU146 (4 November 1985). A very few texts related to the Cultural Centres, see BU287 (14 November 1985) or the right to emigrate: BU291 (14 November 1985).

The N+NA countries submitted only 14 formal proposals (and seven informal proposals, usually technical). The most interesting of these concerned the “facilitation of direct contacts between persons active in the field of culture.”⁵¹²

These proposals were accompanied by those submitted jointly by the participating States or by individuals from different or even opposing political camps.

Switzerland supported the ideas of some Western countries concerning the circulation of religious materials as part of cultural heritage,⁵¹³ or the non-interchangeability of cultural personalities invited abroad;⁵¹⁴ all N+NA countries (except Yugoslavia) backed the Westerners in their bid to ensure that, regardless of their author, texts submitted by non-diplomats were considered an integral part of the Forum’s work.⁵¹⁵ The USSR co-sponsored a proposal with Greece on the preservation of national cultural heritage against certain unpredictable events such as conflicts between States, thefts or smuggling;⁵¹⁶ cultural personalities from all Eastern countries (except Bulgaria and Romania) endorsed various proposals submitted by their Western colleagues – on cinema, the role of women in cultural activities, literary periodicals, the translation of poetic works and regional cultures.⁵¹⁷ Lastly, Forum delegates from *across the political spectrum* (Eastern, Western and N+NA countries) submitted recommendations on cultural heritage common to all CSCE participating States, the dissemination of literary works produced in less used languages, the exchange of films and television programmes, architecture, the protection of monuments, student exchanges, the creation of a European association for cultural research, and so on.⁵¹⁸

The Eastern countries maintained a rigid stance throughout the Budapest talks. Opposed to any changes in the established procedure to take into account the mixed composition of the Forum, they were against the working groups

512 CSCE/CFB.57 (7 November 1985) – a proposal submitted by all the N+NA countries, excluding Malta.

513 CSCE/CFB.99 (15 November 1985).

514 “If a particular person is invited to participate in a cultural meeting in a foreign country, the authorities of his or her own country will not make such participation impossible by administrative measures. If the authorities consider that they cannot grant an exit permit to their citizen, such refusal does not entitle them to substitute another person on their own initiative,” see CSCE/CFB.109 (15 November 1985).

515 CSCE/CFB.105 (15 November 1985). There were also six informal proposals submitted by private individuals from Western countries, as well as Sweden, Finland and Yugoslavia: BU048, BU051 to 53, BU97, BU302.

516 CSCE/CFB.115 (21 November 1985) and Add. 1 (24 November 1985).

517 BU117 (1 November 1985), BU121 (1 November 1985), BU248 (12 November 1985), BU250 (12 November 1985) and BU303 (15 November 1985).

518 CSCE/CFB.106 and Add. 1 and 2 (15, 19 and 20 November 1985), as well as CSCE/CFB.82 and Add. 1 (12 and 15 November 1985). See also BU100 (30 October 1985), BU102 (30 October 1985), BU132 (1 November 1985), BU134 (1 November 1985), BU158 (1 November 1985), BU202 (8 November 1985), BU208 (8 November 1985), BU299 (15 November 1985), BU301 (15 November 1985) and BU302 (15 November 1985).

adopting a procedure conducive to a proper exchange of views.⁵¹⁹ Moreover, they categorically reaffirmed and systematically presented their traditional ideas on respect for sovereign equality and non-intervention, on the purpose of cultural relations (to “serve for the spiritual enrichment of the human personality” and not with “non-humane aims in order to propagate war, violence or racist, fascist and other inhuman ideas”) and on the ratification of the 1966 International Covenants.⁵²⁰ Their hostility even towards the simple reaffirmation of the provisions of the Final Act on direct contacts or the dissemination of culture undermined the conciliation efforts of the N+NA countries.⁵²¹

Given the impossibility of a substantive concluding document, the host country proposed the adoption of a purely factual and concise text on the progress made.⁵²² The text was endorsed by all except the Romanian delegation, which stepped suddenly out of its self-imposed reserve and opposed the consensus. This attitude reflected the deep resentment felt by the Romanians following various allusions during the Forum to the treatment of the Magyar minority in Transylvania.⁵²³

As in Ottawa and Bonn, the absence of a final report was made up for by several positive elements. Firstly, this “cultural assembly” enabled cultural representatives from the Eastern and Western countries to establish close personal contacts. Secondly, the Forum ratified the conclusions of UNESCO’s 1972 EURO CULT Conference – that is, the sense of a European cultural identity despite the continent’s political and ideological divides. Expressed by the Western nations,⁵²⁴

519 The UK delegation unsuccessfully proposed that “an agreed period be set aside, after each speech listed on the list of speakers, for the purpose of discussing any points arising from the speech in question,” in CSCE/CFB.1 (24 October 1985). One Hungarian diplomat justified the Eastern countries’ restrictive position thus: “The presence of cultural figures made it necessary also to maintain a sense of proportion in the formal and informal exchanges of views, adjusting them to the working rules and procedure of Helsinki. These rules – as evidenced by practice during earlier multilateral meetings – present a framework for forming flexible solutions. This objective however was hampered by those striving to affirm political aims with little or nothing to do with the work programme and procedure of the Forum by demanding possibilities for informal exchanges of views. However these attempts only stiffened the determination of the others that procedural rules should be strictly observed.” See Gyula Horn, “European Cultural Forum”, *Review of International Affairs*, vol. XXXVII, no. 858 (Belgrade, 5 January 1986), p. 12.

520 CSCE/CFB.71 (11 November 1985).

521 For the drafts of the Final Reports of the Eastern and Western countries, see CSCE/CFB.116 and 117 (25 November 1985). See also the “non-paper” of the N+NA countries of 20 November 1985.

522 CSCE/CFB.118 (25 November 1985).

523 According to the *Neue Zürcher Zeitung*, 27 October 1985, the opinion of the intellectuals present at the Forum was “manifestly pro-Hungarian”. The fate of the Hungarians of Romania was raised by Western countries in the working group on literature. It should be added that the question of the Turkish minority in Bulgaria (and the situation in Cyprus) provoked a long and serious incident at the opening of the Forum, see CSCE/CFB/R.3 (17 October 1985), p. 30 and, in particular, CSCE/CFB/R.5 (17 October 1985), pp. 27–39.

524 The main conclusions envisaged by the Western countries in their draft Final Report were as follows: “In the course of its history, Europe has developed a cultural identity of its own which is also part of the North American heritage. This identity is reflected in a basic unity of cultural

and even by some of the Eastern countries,⁵²⁵ the most striking example of this sentiment was probably the opening speech which the head of the Yugoslav delegation gave in Spanish.⁵²⁶

E. The Vienna Provisions

Although the texts approved in Vienna in the fields of culture and education were less far-reaching than those on human contacts and information, they represented considerable progress compared with Helsinki and Madrid.

The provisions on co-operation and exchanges in the field of *culture* (§§ 47 to 62 of the text relating to the third basket) clearly focus on the individual dimension of cultural exchanges. Thus, the participating States will facilitate and encourage “*direct personal contacts* in the field of culture, on both an *individual* and a collective basis”,⁵²⁷ and “co-operation between and joint artistic endeavours of *persons* from different participating States who are engaged in cultural activities.”⁵²⁸ They will assure “*unhindered access by the public* to cultural events organized on their territory by persons or institutions from other participating States” and ensure “that the organizers can use all means available in the host country to *publicize* such events.”⁵²⁹

Three other provisions of this section also deserve mention:

- The first, which addresses the question of *cultural institutes and centres*, reflects the changes made by the USSR in this area. It requires the participating States to favour the establishment of such institutions by mutual agreement, on the understanding that “unhindered access by the public to such institutes or centres as well as their normal functioning will be assured.”⁵³⁰
- The second concerns the abolition of a practice employed by the Eastern countries of which the Western countries were particularly critical. It affirms that “the *replacement* of persons or groups invited to participate in a cultural activity will be *exceptional* and subject to *prior agreement* by the inviting party.”⁵³¹

values which has survived and had proved its cohesion and resilience despite present political and ideological divisions,” see CSCE/CFB.116 (25 November 1985).

525 See Romania: CSCE/CFB/R.1 (15 October 1985), p. 18; and Poland: CSCE/CFB/R.3 (17 October 1985), p. 14. See also Horn, “European Cultural Forum” (n. 519), p. 10.

526 See CSCE/CFB/R.3 (17 October 1985), pp. 21–25.

527 Vienna Follow-up Meeting (1989): Concluding Document, “Co-operation and exchanges in the field of culture”, § 51. § 55 contains the recommendation for direct contacts between film directors and producers to take place, with a view to co-producing films.

528 *Ibid.*, § 53.

529 *Ibid.*, § 50.

530 *Ibid.*, § 49. This provision derives from a proposal submitted by some EEC countries, see CSCE/WT.54 (17 February 1987).

531 Vienna Follow-up Meeting (1989): Concluding Document, “Co-operation and exchanges in the field of culture”, § 54. This provision also derives from CSCE/WT.54.

- The third proposes a “Symposium on the Cultural Heritage of the CSCE participating States”, to be held in Cracow from 28 May to 7 June 1991.⁵³² The aim of this mixed meeting (like the Cultural Forum held in Budapest in 1985), to which UNESCO will make a “contribution”, is twofold: firstly, to have a “discussion of common features of the cultural heritage of the peoples of the participating States”; secondly, to “review the implementation of the relevant CSCE provisions, thus facilitating the identification of the scope for further action in these fields.”⁵³³

The section on co-operation and exchanges in the field of *education* is much more concise than the section on culture. Its nine provisions (§§ 63 to 71 of the text relating to the third basket) contain few significant items – except for some references to *direct personal contacts*⁵³⁴ and a paragraph recommending that participating States ensure that persons belonging to *national minorities* or *regional cultures* “can give and receive instruction on their own culture, including instruction through parental transmission of language, religion and *cultural* identity to their children.”⁵³⁵

532 Vienna Follow-up Meeting (1989): Concluding Document, “Co-operation and exchanges in the field of culture”, § 62. The mandate and practical modalities of the Symposium are set out in Annex IX to the Vienna Concluding Document.

533 Agenda item 3. As in the case of the Information Forum, it was envisioned that if the Symposium did not result in a final document, the projects and proposals submitted during the meeting would be forwarded to the Helsinki Follow-up Meeting in 1992.

534 See §§ 64 and 66.

535 § 68. The section on culture contained a corresponding provision recommending that the CSCE countries ensure that these persons “can maintain and develop their own culture in all its aspects, including language, literature and religion; and that they can preserve their cultural and historical monuments and objects” (§59).

CHAPTER VII

The Question of Security and Co-operation in the Mediterranean

At a *programmatic* and *negotiatory* level, the problems relating to security and co-operation in the Mediterranean are uniquely placed within the Helsinki process. The Mediterranean question – which pales into insignificance alongside the Decalogue, confidence-building measures, human contacts and information, for example – did not have a “basket”, yet was still a structural part of the CSCE programme of work under the iron law of consensus. Furthermore, the Mediterranean question was instrumental in stalling or blocking the CSCE talks: prior to 1983, whenever the participating States were on the verge of consensus, Malta would insist on concessions for the Mediterranean in exchange for its agreement. This crisis, now the stuff of diplomatic legend, played out during the Dipoli Consultations, the Conference of the Ministers for Foreign Affairs in Helsinki (Stage I), the Meeting of Ambassadors in Geneva (Stage II), and the Belgrade and Madrid Follow-up Meetings. This section will focus on outlining the background to the Mediterranean question, before looking at how it evolved within the development of the CSCE, from Belgrade to Vienna.

I. Background to the Mediterranean Dimension of the CSCE

The nub of the Mediterranean question can be approached from three angles: the idea that Europe’s interests were indivisible from those of the Mediterranean, the status of non-participating Mediterranean States, and the Mediterranean clauses of the Helsinki Final Act (1975).

1. The Indivisibility of European and Mediterranean Interests

The Mediterranean dimension of the CSCE came about as a result of internal and external pressure.

A. External Pressures

Long before the preparatory stage of the CSCE, during various bilateral or multilateral diplomatic meetings (the United Nations, ministerial conferences of the Non-Aligned countries or “Group of 77” developing countries), *Algeria* let it be known in no uncertain terms that it had a vested interest in the future pan-European talks. *Tunisia* followed suit around the same time. When the Dipoli Consultations opened in November 1972, the delegations of the participating States were presented with an Algerian written statement and a Tunisian memorandum outlining the various aspects of Euro-Mediterranean interdependence. To monitor the progress of the negotiations, Algeria had dispatched a delegation of senior officials from its Foreign Ministry. They were joined by Tunisia’s Ambassador to Sweden. Both countries called for pan-European dialogue to include a Mediterranean dimension on the basis of geographical, cultural, historical, economic and political considerations:

- The Mediterranean was a confluence point, a crossroads and a gateway to three continents;
- The Mediterranean Basin was a cradle for the ancient civilizations of both Europe and the Mediterranean;
- Twice in less than a century, Mediterranean countries, particularly in North Africa, had paid a high human and spiritual price for Europe's freedom. Having witnessed first-hand the recent crisis on the continent, it was only natural for them to be involved in an enterprise that sought to deal with the aftermath of the tragedy.
- Following decolonization, the complementarity and solidarity of their economic relations had become apparent, as evidenced by the volume of trade (particularly with the EEC). Moreover, no comprehensive energy policy was possible without some form of mutual agreement. Lastly, various joint issues (such as seabed exploitation and environmental protection) demanded greater co-operation.
- An explosive situation existed in the Mediterranean in the form of the Arab-Israeli conflict, which Europe had had no small hand in creating and which it continued to stoke by encouraging or remaining indifferent to the growing presence of foreign forces in the region. As détente spread throughout Europe, it would be both unfair and politically dangerous not to seek to extend it to the Mediterranean region, which remained the "soft underbelly" of the continent.

These arguments struck a chord: what was already being dubbed the "North African lobby" had amassed strong support from a wide range of delegations, both Mediterranean and non-Mediterranean alike.

B. Internal Pressures

The pro-Mediterranean wing of the CSCE consisted of three categories of actors:

- *Mediterranean Non-Aligned States.* Cyprus, Malta and Yugoslavia (despite some individual differences) represented the front line of the Mediterranean debate. They were critical of the fact that the superpowers used the region as both an arsenal and a battleground. They argued that the nature or consequences of détente could not be purely regional; there had to be a universal easing of tensions with less dominance by the major powers and blocs. Accordingly, there could be no security in Europe without security in the Mediterranean, and no consolidation of this security without co-operation at the Mediterranean level. In short, the Non-Aligned participating States of the CSCE wanted to transform the Mediterranean into an area of security and co-operation shielded from the influence of the blocs.
- *EEC and NATO Mediterranean States.* Next came the Western Mediterranean countries – Greece, Turkey, Spain and more importantly France and Italy, whose goal was to affirm the credibility of the "overall Mediterranean approach" of the Community. For France and particularly Italy (at that time the only Mediterranean country that was a full member of the EEC), the goodwill demonstrated by the non-European Mediterranean States could not be ignored.

Political expediency and the mutual interests of the parties demanded some kind of constructive response.

- *Non-Mediterranean States.* Neutral countries such as Austria¹ and Switzerland, as well as Eastern European countries like Romania, welcomed the idea of opening the CSCE to non-European countries.

Most of the other countries were either averse (the Scandinavians, for example) or openly hostile to the idea of a specific reference to the Mediterranean in the CSCE's work. The two superpowers found themselves united on the subject. The United States and the USSR were wary of the prospect of a debate in which the "police forces" they maintained in the region would inevitably be challenged. The United States and the United Kingdom could see no reason for legitimizing – indirectly or otherwise – the presence and interests of the USSR in the Mediterranean. As for the Eastern countries (except Romania), they wanted to avoid cluttering an already full agenda with issues they saw as peripheral and likely to hold up the negotiations. The USSR contended that the Mediterranean question came within the remit of the United Nations. In general, all of these States feared that the introduction of the Arab-Israeli conflict would compromise the East-West dialogue that had been so painstakingly constructed.

Between Dipoli and Geneva, the Mediterranean debate unfolded outside the strict East-West divide or tripartism of the CSCE (Eastern, Western and Neutral and Non-Aligned countries). It not only ranged States that were in favour of the Mediterranean dimension against those opposed to it, but maximalist pro-Mediterranean States against minimalist pro-Mediterranean States. Although in agreement over the need for a Mediterranean component, the Non-Aligned countries and the nine EEC Member States fundamentally disagreed on the importance it should have.

The Non-Aligned countries took a maximalist approach. Arguing that the economic and security interests of all Mediterranean States – European or otherwise – were identical, the countries in question demanded a blanket extension to the entire Mediterranean of the provisions on security and co-operation in Europe.²

The nine EEC Member States had more realistic and moderate demands. They simply proposed that the CSCE's final documents acknowledge the bonds that existed between Europe and the Mediterranean when it came to both security and co-operation.³

Following heated debates in Dipoli, it was agreed that, on the subject of security, the relevant committee of the future CSCE would proceed "from the premise that

1 Austria wanted a mediating European intervention in the Middle East, at that time. It proposed the creation of a Committee of Good Offices between the parties to the Arab-Israeli conflict within the future CSCE, as early as at the Dipoli preparatory consultations. See CESC/HC/20 (17 January 1973).

2 See CSCE/CC/40 (24 June 1974).

3 See CSCE/CC/39 (13 June 1974).

the strengthening of security in Europe is not directed against any State or continent and should constitute an important contribution to world peace and security" (§ 14 of the 1973 Final Recommendations of the Helsinki Consultations), and that therefore it would "bear in mind the broader context of world security and in particular the relationship which exists between security in Europe and in the Mediterranean area" (§ 15). This relationship would also be taken into account in the various fields of economic co-operation (§ 28).

2. Status of Non-participating Mediterranean States

Once the principle of the Mediterranean dimension was established, a delicate issue immediately arose: how to define the status of non-European Mediterranean States within the framework of the CSCE. In the end, it was defined by the Helsinki Recommendations and the measures adopted by the Co-ordinating Committee of the Geneva Stage of the CSCE.

A. The Helsinki Recommendations

In line with their goal – to make a direct contribution to the CSCE – Algeria and Tunisia wanted to be properly represented during the different stages of the pan-European diplomatic exercise. This was also the view taken by Malta, which, during the Dipoli Consultations, proposed the *full* participation of the two States. The Maltese initiative raised a near universal outcry. No one wanted a situation in which the parties to the Arab-Israeli conflict could block consensus within the CSCE. Furthermore, such a solution would have the disadvantage of encouraging countries in other parts of the world to make similar requests – with the result that the CSCE would become a mirror image of the United Nations. Following hard bargaining in Dipoli, and on the basis of a Romanian proposal, an initial consensus was finally reached on the issue. Paragraph 56 of the Final Recommendations of the Helsinki Consultations states that "the Conference and its working bodies will acquaint themselves, in such manner as they may determine, with the points of view held by non-participating States on the subject of the various agenda items." This was reasonable: firstly, it allowed non-European Mediterranean States to express their views at the various stages of the CSCE process; secondly, it protected the interests of East-West dialogue by giving the Conference and its working bodies complete freedom to determine the nature of the Mediterranean contributions, and by asking that such contributions relate to agenda items (which thus excluded the problems in the Middle East). In other words, the non-European Mediterranean countries were not granted any automatic right or privilege; instead, they would only be asked to express their "views" to the extent and in the manner decided upon by the CSCE.

Paragraph 57 of the Recommendations defines the concept of "non-participating States" as follows: "States situated in regions adjacent to Europe ... and in particular those of the Mediterranean States which have already expressed their interest in stating their views to the Conference, are especially envisaged ...". This provision was specifically aimed at Algeria and Tunisia, without mentioning them by name.

Undeterred, Malta tried again on the first day of the ministerial stage of the CSCE by formally proposing to allow the Algerian and Tunisian Foreign Ministers to speak.⁴ The debate was reignited, further complicated by Israel's request to be heard, which Malta, backed by Yugoslavia and other participating States, immediately opposed. Several Western countries that were inclined to be accommodating balked at what they regarded as discrimination against Israel. In response to Malta's intransigence, the Soviet Foreign Minister Andrei Gromyko declared that "the rule of consensus ... is fully justified. But it seems that this rule, which in itself is a good one, can be made to mean something which would be nonsensical, because if a given delegation blocked any decision of any kind this is what would happen."⁵ The communiqué issued at the end of the meeting specifically noted that no consensus had been reached on the issue at that time.⁶

B. Decisions of the CSCE Co-ordinating Committee

A solution to the problem was finally found during the Geneva Conference. Following an Italian proposal, and on the basis of paragraphs 56 and 57 of the Recommendations, the CSCE Co-ordinating Committee decided that Algeria and Tunisia should be invited to submit written documents, if necessary presented by representatives of their foreign ministers, to the committees responsible for security (political and military aspects) and economic co-operation.⁷ The same provisions would apply to other States bordering the Mediterranean, with a participating State – acting as a kind of "sponsor" – sending a formal request on their behalf to the Chairman of the Co-ordinating Committee by 18 September 1973.⁸ The Western countries were thus able to avoid Israel's exclusion through the purely formal mechanism of giving priority to Algeria and Tunisia.⁹

4 CSCE/I/1 (3 July 1973). Spain also made a proposal of the same kind, but was careful to limit any Algerian and Tunisian statements to the "items on the agenda", see CSCE/I/2 (3 July 1973). On the immediate discussion that followed, see CSCE/I/CM/PV.1 (3 July 1973), pp. 1–9.

5 CSCE/I/CM/PV.6 (7 July 1973), pp. 28–30.

6 On the extremely heated debate that took place on this subject during the ministerial stage of the CSCE, see CSCE/I/CM/PV.2 (5 July 1973), pp. 2ff. and CSCE/I/CM/PV.5 (6 July 1973), pp. 21ff. See also the official reservation expressed by Yugoslavia at the Geneva Conference in CSCE/CC/14 (19 September 1973) regarding Israel's participation.

7 Consequently, this excluded them from the Committee dealing with co-operation in humanitarian and other areas (or the "third basket"). Algeria and Syria expressed formal regrets in this regard in CSCE/II/C.1/2 (9 October 1973), p. 3 and CSCE/II/C.1/16 (28 March 1974), p. 16.

8 See the proposal by Italy: CSCE/CC/5 (30 August 1973); Denmark and the Netherlands: CSCE/CC/7 and CSCE/CC/7/Add.1 (1 September 1973); France: CSCE/CC/8 (1 September 1973); Spain: CSCE/CC/8/Add.1 (2 September 1973); Denmark and the Netherlands: CSCE/CC/8/Add.2 (2 September 1973); Spain: CSCE/CC/9 (3 September 1973) and CSCE/CC/13 (18 September 1973); Yugoslavia: CSCE/CC/14 (19 September 1973).

9 The USSR also supported the exclusion of Israel, in particular with the ulterior motive of compromising the entire Mediterranean dimension.

Six countries would immediately invoke the provisions on “non-participating Mediterranean States” (NPMS): Algeria, Tunisia, Syria, Egypt, Morocco and Israel.¹⁰ The only Mediterranean States that were missing were Lebanon and Libya.¹¹ Regardless, the role played by the NPMS at the Geneva Conference – which produced the Helsinki Final Act – was virtually zero. Despite their expressions of interest and the pressure they applied to the CSCE, the States in question did not enjoy the facilities normally accorded to observers: the modalities of their participation were reduced to occasional oral “contributions” made by a diplomatic representative and distributed to the participating States – a procedure that prevented them from having a meaningful – not to mention consistent – role. Summing up the general mood, the Algerians remarked somewhat bitterly during one of their hearings that their status at the Conference was a masterpiece of ambiguity.¹² In any event, the sometimes ambitious proposals contained in the contributions from the NPMS had no real impact on the elaboration of the Mediterranean clauses of the Final Act. The content of these clauses is examined below.¹³

3. The Mediterranean Clauses of the Helsinki Final Act¹⁴

The Helsinki Final Act contains a chapter on “Questions relating to Security and Co-operation in the Mediterranean” (hereinafter referred to as the “Declaration on the Mediterranean”). This was the result of a compromise between the proposals submitted in Geneva by Italy (on behalf of the nine EEC Member States) and by the Non-Aligned countries.¹⁵ It is a fairly concise text consisting of seven

10 The expression “non-participating Mediterranean States” (NPMS) appears in § 3 of the general preamble to the Final Act. The attendance of Israel was recommended by Denmark and the Netherlands in CSCE/CC/17 (1 September 1973); Syria was endorsed by Malta: CSCE/CC/10 (18 September 1973); Egypt’s attendance was seconded by Yugoslavia: CSCE/CC/11 and Add.1 (18 September 1973); and Morocco was endorsed by France and Spain: CSCE/CC/12 (18 September 1973). See also [the second stage] Co-ordinating Committee: Journal No. 7 of 18 September 1973.

11 These two countries joined the other NPMS later on – Lebanon at the Belgrade Follow-up Meeting (1977) and Libya at the Stockholm Conference on Confidence- and Security-Building Measures and Disarmament in Europe (1984).

12 CSCE/II/C.1 (28 September 1973), p. 5.

13 The hearing of the NPMS took place in three stages, the first between October and December 1973, the second on 28 March 1974 and the third between 1 and 5 April 1974.

14 These clauses were drawn up by a “Working Group on the Mediterranean” established by the CSCE’s Co-ordinating Committee on 20 June 1974, see Co-ordinating Committee: Journal No. 29. For the various stages of the preparation process, see CSCE/CC/WG/MED/101 (30 September 1974) to CSCE/CC/WG/MED/112 (14 July 1975). See also Working Group on the Mediterranean: Journals No. 2 (8 July 1974), No. 18 (3 December 1974), No. 29 (17 March 1975), No. 30 (2 April 1975), No. 33 (22 April 1975), No. 35 (12 May 1975), No. 36 (16 May 1975) and No. 47 (14 July 1975).

15 See CSCE/CC/39 (13 June 1974) and CSCE/CC/40 (24 June 1974). The States opposed to the Mediterranean dimension would, in fact, have wished to reduce it to a mere clause in the Final Act reaffirming the content of §§ 15 and 28 of the Final Recommendations of the Helsinki Consultations (1973). On this point, see Luigi Vittorio Ferraris (ed.), *Report on a Negotiation:*

paragraphs, four of which are preambular in nature. With a single exception, its economy reflects the overall economy of the Final Act, with its provisions on *security, co-operation and follow-up to the dialogue*.¹⁶

A. Security

The Declaration on the Mediterranean contains only a watered down version of the first basket, or the Declaration on Principles Guiding Relations between Participating States (or “Decalogue”) and the Document on confidence-building measures and certain aspects of security and disarmament (or “CBMs”). Regarding the *political aspects of security*, the Declaration emphasizes the concept of “good-neighbourly relations”, borrowed from the Charter of the United Nations (from the Chapter on Purposes and Principles, to be more precise) and its corollary – the United Nations Declaration on Principles of International Law concerning Friendly Relations and Co-operation among States. It only mentions the Decalogue *incidentally* and in a derivative manner: it is only “accordingly” – in other words, by virtue of the conformity of the Decalogue both with the Charter and with the Declaration on Friendly Relations – that the participating States intend to conduct their relations with the non-participating Mediterranean States in the spirit of *some of the principles of the Decalogue* (§ 1 of the Declaration on the Mediterranean, first indent). This limitation is due to the legal position of the NPMS vis-à-vis the Decalogue. Negotiated without their involvement, for them the text in question was simply a unilateral declaration: hence the need to anchor Euro-Mediterranean relations to the Declaration on Friendly Relations, a universal text, thereby introducing a certain degree of bilateralism and reciprocity. Added to this was a more basic requirement arising from the reservations expressed by the Arab Mediterranean States on the applicability of Principle III (inviolability of frontiers) to the settlement of the Arab-Israeli conflict.¹⁷

Regarding the *military aspects of security*, the participating States barely went beyond a formal declaration of intent to “seek, by further improving their relations with the non-participating Mediterranean States, to increase mutual confidence, so as to promote security and stability in the Mediterranean area as a whole”

Helsinki-Geneva-Helsinki, 1972–1975 (Geneva: Institut universitaire de hautes études internationales, 1979), pp. 360ff.

16 The Declaration contains no provisions on the subjects covered by the third basket (human contacts, information, culture, education) due to the particular opposition of the USSR, which feared that Israel would introduce problems relating to the emigration of Soviet Jews. The same fear explains the positioning of the Declaration in the body of the Final Act: situated at the end of the text on second basket, and therefore *before* the chapter devoted to the third basket.

17 See, for example, the Algerian proposed Declaration on relations between the CSCE States and the *Mediterranean Arab States*, CSCE/II/C.1/12 (28 March 1974), Annex 2. During their CSCE hearing, the NPMS, with the exception of Algeria and Israel, urged Europe to help establish a structure for peace in the Middle East. But the 35 participating States limited themselves in the Final Act to a vague statement of “their intention to contribute towards peace, security and justice in the region, in which ends the participating States and the non-participating Mediterranean States have a common interest,” see the Declaration on the Mediterranean, preamble, § 3.

(Declaration on the Mediterranean, § 1, second indent). This cryptic and almost meaningless provision stems from the campaign mounted by the three Non-Aligned countries to extend the “confidence-building measures” (such as prior notification of major military movements) to the Mediterranean.¹⁸ This prospect was unacceptable both to the USSR – which already had doubts about the idea of confidence-building measures in Europe – and to the Western nations (opposition of the major powers to the notification of independent naval manoeuvres, and the problem of Turkey’s relations with its non-European neighbours, among other things).

B. Co-operation

In their “contributions” to the CSCE, the Arab countries consistently referred to the concepts of interdependence and economic co-operation. Some (such as Tunisia) even advocated the adoption of a Mediterranean Marshall Plan in the form of a co-operation agreement based around a regional development strategy.¹⁹ Once again, however, the CSCE’s response failed to meet the expectations of the countries concerned.

The Declaration on the Mediterranean is careful to avoid the term “interdependence”. It recognizes the existence of non-specified common interests (§ 4 of the preamble) and defines the development of relations in various fields of economic activity, mainly on a basis of reciprocity (co-operation should be *mutually* advantageous). On the subject of *trade*, this reciprocity is undoubtedly tempered by the consideration given to the different levels of development of the partners, yet it is also qualified by “the necessity for stability and progress in trade relations”. Inspired by the 1973 energy crisis, this is a veiled criticism of the manipulation of economic resources for political purposes. As the Non-Aligned countries had wished, the provision on *industrial, scientific and technical co-operation* recognizes the necessary link between economic co-operation and development, but fails to specify any implementing measures. For the *environment* – probably the least controversial area of all – an intensification of co-operation is envisaged (particularly within existing international institutions such as the United Nations Environment Programme, or UNEP) to preserve what Malta described as the “blue waters of the Mediterranean”. Lastly, further contacts and co-operation are envisaged in “other relevant fields”: the generic wording seems to allow – at least theoretically – the issues of the third basket and those relating to migrant workers to be included here.

C. Follow-up to Euro-Mediterranean Dialogue

The draft declaration proposed by Italy on behalf of the EEC did not envisage the development of Euro-Mediterranean dialogue beyond the Geneva Conference.

18 On the position of the Non-Aligned countries, see CSCE/CC/40 (24 June 1974) and CSCE/CC/44 (11 September 1974). For the Algerian position, see CSCE/II/C.1/12 (28 March 1974), Annex I.

19 See CSCE/II/C.2/4 (10 October 1973), pp. 4ff.

The Non-Aligned countries disagreed. For them, the link between security and co-operation in Europe and the Mediterranean could not remain static: the Follow-up to the CSCE had to provide “means for regularizing the contacts and dialogue with the non-participating Mediterranean States, so as to strengthen security and widen the scope of co-operation.”²⁰ As the Geneva stage of the CSCE drew to a close, the Maltese declared that their consensus on the definitive version of the other chapters of the Final Act would be contingent on the inclusion of three specific concepts in the Declaration on the Mediterranean: the institutionalization of Euro-Mediterranean dialogue in the form of a permanent “Monitoring Committee”; the involvement of the Gulf States in this process; the gradual withdrawal of foreign forces from the Mediterranean region.²¹ Malta’s intransigence was not entirely in vain, since the other participating States were ultimately forced to concede. A diluted version of the Maltese proposals was incorporated into the Declaration, which affirms that dialogue will not only be *maintained*, but also *amplified*.

It was thus agreed that dialogue would continue within the framework of the follow-up to the CSCE, rather than within a special independent body. As a result, the Mediterranean question became a regular agenda item at all CSCE Follow-up Meetings, starting with Belgrade.²² As for the amplification of dialogue, this was envisaged in two ways. Firstly, it was clarified that dialogue would include “all the States of the Mediterranean” (§ 2 of the operative part of the Declaration): this wording was an invitation to the Arab States, which still remained outside the CSCE, while ensuring Israel’s participation. Secondly, the participating States declared their intention of contributing not only to “peace”, to “lessening tensions in the region” and to “widening the scope of co-operation” – formal elements already set out in the preamble – but also to “reducing armed forces in the region” and to “defining further common objectives” (§ 2 of the operative part of the Declaration).

In short, the content of the Declaration on the Mediterranean was reduced to an empty politico-military basket, a vaguely worded economic basket, a loose reference to a hypothetical reduction in foreign armed forces in the region and, crucially, the principle of continued dialogue. It was a poor, not to mention insignificant, achievement in the light of the affirmation that the participating States would have due regard for the contributions submitted by non-European Mediterranean States.²³ In these circumstances, it was evident that this extremely

20 CSCE/CC/40 (24 June 1974), § 8 of the operative part.

21 See CSCE/CC/44 (11 September 1974) and CSCE/CC/WG/MED/111 (26 May 1975). Malta’s plan was to promote the creation of a vast Euro-Arab federation, rendering the political and military presence of the superpowers in the Mediterranean Basin unnecessary.

22 “The participating States would seek, in the framework of their multilateral efforts, to encourage progress and appropriate initiatives and to proceed to an exchange of views on the attainment of the above purposes,” see § 3 of the operative part of the Declaration.

23 In § 5 of the preamble to the Declaration on the Mediterranean, the participating States affirm that they note “with appreciation the interest expressed by the non-participating Mediterranean

broad section of the Helsinki Final Act could scarcely lead to any remotely meaningful implementation. Indeed, the Declaration remained toothless – aside (somewhat obliquely) from the Osimo Accords relating to settlement of the Trieste territorial dispute²⁴ and the conventions resulting from the Conference of Plenipotentiaries of the Coastal States of the Mediterranean Region for the Protection of the Mediterranean Sea against Pollution from Land-based Sources.²⁵

II. Development of the Mediterranean Dimension of the CSCE

The follow-up to the CSCE yielded some practical developments for the Mediterranean question. Yet this progress had more to do with co-operation than with Euro-Mediterranean security, owing to the “dramatization” of the issue by the Maltese.

1. The Maltese Factor

By exploiting the consensus rule, the Maltese dramatized the Mediterranean question during the Belgrade Follow-up Meeting and, more importantly, the Madrid Follow-up Meeting.

A. The Mediterranean Question in Belgrade

Despite their disappointment at the inconsistency of the Mediterranean commitments in the Helsinki Final Act, the NPMS kept a close eye on preparations for the follow-up to the CSCE. In February 1977, during the second session of the General Committee of the Euro-Arab Dialogue between the EEC countries and the Arab League countries, the countries in question raised the issue of their participation in Belgrade.²⁶ At the opening Preparatory Meeting in Belgrade (15 June to 5 August 1977), Algeria and Tunisia officially declared that at the main Belgrade Meeting they hoped to make “a contribution which would be less episodic” and “more effective” than in Geneva²⁷ and to “participate” in it to make an “active contribution” and a “useful and constructive one”.²⁸

Yet this approach, together with Malta’s entreaties, had no effect. The Preparatory Meeting chose to follow standard CSCE procedure. Using Geneva as a

States in the Conference since its inception” and they have “duly taken their contributions into account.”

24 See Budislav Vukas, “Solution définitive de la question de Trieste par la conclusion des accords entre l’Italie et la Yougoslavie à Osimo (Ancona) le 10 novembre 1975”, *Annuaire français de droit international* (1976), pp. 77–95.

25 This conference was held in Barcelona from 2 to 16 February 1976 under the auspices of UNEP and well before Helsinki it adopted a convention and two annexed protocols on the protection of the Mediterranean Sea against pollution.

26 This claim, which was not included in the final communiqué, is mentioned in *Le Monde*, 15 February 1977.

27 Undated memo from the Algerian Ministry of Foreign Affairs to the Yugoslavian Federal Secretariat of Foreign Affairs and registered as CSCE/BM-P/G.1 (27 June 1977).

28 Letter dated 30 June 1977 from the Tunisian Ministry of Foreign Affairs to the Executive Secretariat of the Belgrade Preparatory Meeting and registered as CSCE/BM-P/G.2 (8 July 1977).

precedent, it decided that the NPMS would be “invited to make their contributions, if they so desire, in the Plenary and in the appropriate subsidiary working body, in the context of the relevant provisions of the Final Act”;²⁹ the working body in question had, moreover, the discretion if it deems it necessary, to “decide to invite these States to make further contributions during the course of the Meeting.”³⁰ It was on the basis of this arrangement that the contributions of the NPMS featured on the agenda of the Belgrade Follow-up Meeting (1977–1978).

The Executive Secretary of the Belgrade Follow-up Meeting accordingly sent the appropriate invitations to the NPMS. The six contributors to the Geneva stage, plus Lebanon, accepted;³¹ only Libya continued to go it alone. The NPMS hearing seemed to cause some embarrassment owing to the constant references by the Arab countries to the Middle East conflict.³² In addition, the Belgrade Follow-up Meeting rejected a request from the Palestine Liberation Organization (backed by Malta and the Eastern countries) proposing a Palestinian “contribution” on the same terms as the NPMS: the United States and the nine EEC countries argued that no provision of the Helsinki Final Act or the Belgrade rules of procedure could apply to a non-State entity.³³

Alongside this series of hearings – which remained a one-off, much to the frustration of the NPMS – the subsidiary working body “M” devoted its 19 working sessions (from 24 October to 15 December 1977) to evaluating the implementation of the Mediterranean clauses of the Final Act and to examining new proposals to foster dialogue with the non-European Mediterranean States.³⁴ On this last point, the Maltese Government officially revived and fleshed out its previous idea of a *standing committee* on security and co-operation in the Mediterranean, composed of all coastal States. The committee would be convened at the ministerial level and would transmit regular reports on the progress made to the CSCE Follow-up Meetings. It would have a secretariat with broad executive powers and would be

29 See Belgrade Preparatory Meeting (1976): Decisions on the Organizational Framework, Timetable and other Modalities of the Follow-up Meeting, part II, point 5.

30 Ibid.

31 See Executive Secretariat Information Circular No.3/Rev.1 (12 October 1977).

32 The contributions of the NPMS constituted item 3(b) on the agenda of the Belgrade Follow-up Meeting. They were submitted at Plenary Sessions and Consultative Committee meetings. See Plenary Session: Journals No. 21 of 18 October 1977 and No. 25 of 20 October 1977; Consultative Committee: Journals No. 34 of 27 October 1977, No. 40 of 1 November 1977 and No. 45 of 3 November 1977. Their content focused on the Arab-Israeli conflict, with the Arab States declaring the settlement of the conflict as the *sine qua non* condition for the consolidation of security in the region and Israel observing that the conflict did not fall within the competence of the CSCE. See also *Le Monde*, 11 November 1977. The Arab countries also criticized the EEC for the “protectionist” measures which, in their view, hampered their mutual trade.

33 Belgrade Follow-up Meeting, third session of Working Group “M”: Journal No. 34 of 27 October 1977; see also *Le Monde*, 11 November 1977; *Nouvelles atlantiques*, No. 969 (21 October 1977), p. 3; Parliamentary Assembly of the Council of Europe: AS/Pol(29)12 (3 November 1977), p. 2.

34 See Belgrade Follow-up Meeting: Journal No. 100/Corr.1 of 15 December 1977, which includes the report submitted by Working Group “M”.

composed of nationals belonging not only to the Mediterranean countries, but also to the two superpowers. Valletta was proposed as the seat of the future organization, whose long-term aim would be to allow the Mediterranean to fulfil its universal peacekeeping vocation.³⁵

The Maltese document was unacceptable to all the participating States. For their part, the other Mediterranean countries considered the idea of a permanent body to be premature and called for more limited actions. Some Western States (France, Italy, Portugal, Turkey, Spain), together with Yugoslavia, submitted a two-part counterproposal:³⁶ firstly, to convene a meeting of experts in Malta to consider “the possibilities and means of promoting concrete initiatives for mutually beneficial co-operation in various economic, scientific and cultural fields” and at which the NPMS would be invited to “contribute”;³⁷ secondly, to hold a political meeting of all Mediterranean States before the next Follow-up Meeting due to take place in Madrid in 1980.³⁸ However, the steady deterioration in the climate during the drafting of the Concluding Document of the Belgrade Follow-up Meeting was not conducive to a showdown on the Mediterranean.³⁹ The Maltese were no longer able, as in Geneva, to pose a threat to a meeting that had already reached an impasse. Malta resigned itself to endorsing the only provision acceptable to all participating States on the question of the Mediterranean: the holding of a meeting of experts in Valletta with a mandate covering the whole of the second basket and part of the *third basket* (cultural questions) – on the understanding, however, that questions relating to *security in the Mediterranean* would be “discussed” in Madrid.⁴⁰

35 See CSCE/BM/1 (10 October 1977) and CSCE/BM/66 (9 December 1977). In other words, Euro-Mediterranean dialogue had to be institutionalized, on pain of remaining “an inaudible whisper unnoticed by all of the Mediterranean peoples,” a phrase used by the Deputy Prime Minister of Malta, Anton Buttigieg, on the subject of the Euro-Arab dialogue in his statement to the CSCE Summit in Helsinki, in August 1975, see CSCE/III/PV.5 (1 August 1975), p. 18.

36 Two Mediterranean countries, Greece and Cyprus, refused to associate themselves with this initiative in protest against the absence of any mention of the Cyprus problem. See *Nouvelles atlantiques*, No. 986 (16 December 1977).

37 CSCE/BM/M/1 (12 December 1977).

38 CSCE/BM/M/1/Corr.1. (13 December 1977). The original text of the proposal had mentioned the possibility of convening a “conference” and not holding a “meeting”.

39 When submitting the Group’s final report to the Plenary Session, the Chairman of Working Group “M” noted that no consensus had been reached on any of the Mediterranean proposals. See Belgrade Follow-up Meeting Plenary Session: Journal No. 100/Corr.1 of 15 December 1977.

40 “Upon the invitation of the Government of Malta, a meeting of experts on the Mediterranean will be convened on 13 February 1979 in Valletta. Its mandate will be, within the framework of the Mediterranean Chapter of the Final Act, to consider the possibilities and means of promoting concrete initiatives for mutually beneficial co-operation concerning various economic, scientific and cultural fields, in addition to other initiatives relating to the above subjects already under way. The non-participating Mediterranean States will be invited to contribute to the work of this meeting. Questions relating to security will be discussed at the Madrid Meeting.” See Belgrade Follow-up Meeting (1978): Concluding Document, § 15. The sentence in italics is the original wording of a Maltese proposal: CSCE/BM/79 (8 March 1978).

B. The Mediterranean Question in Madrid

Madrid proved to be fertile ground for the development of the Maltese “crisis”. Inaugurated on 9 September 1980, the Madrid Follow-up Meeting reached an agreement on the content of the Concluding Document on 15 July 1983, after more than 30 months of negotiations. Malta intervened at this stage by refusing to sign the first East-West agreement since the Afghan crisis until the following five points had been resolved to its satisfaction: the institutionalization of Euro-Mediterranean dialogue with an inaugural meeting on security in the Mediterranean involving all riparian States;⁴¹ the continuation of economic, scientific and cultural co-operation, building on the foundations established by the Meeting of Experts in Valletta in 1979;⁴² recognition by the CSCE of Malta’s status as a Neutral and Non-Aligned country;⁴³ the extension of confidence-building measures in the military field to the Mediterranean region;⁴⁴ the inclusion in the Concluding Document of a provision on the need for arms reduction in all parts of the world.⁴⁵

Virtually all these demands were considered unrealistic by the other States, including the Mediterranean and N+NA countries.⁴⁶ Besides its political implications, the Maltese obstruction raised a thorny procedural issue: the reasonable limits of the consensus rule. It could legitimately be argued that this rule had been twisted, since a single delegation was ostensibly using it as a means of “blackmail” to ensure that its proposals were accepted against the will of the other participating States. For the latter, this dilemma was all the more difficult because an agreement among 34 States – theoretically possible and, moreover,

41 This requirement had been formulated in CSCE/RM/M.2 (12 December 1980).

42 See CSCE/RM/M.1 (12 December 1980).

43 See CSCE/RM/M.10 (10 December 1980). The Republic of Malta solemnly proclaimed in a declaration published in May 1981 the will of its people to change “their country’s unnatural role of a fortress into a centre of peace and bridge of friendship between the peoples of Europe and North Africa.” This text can be found in the *Italian Yearbook of International Law* (1980/81), pp. 352–353; see also *Documents d’actualité internationale*, no. 23 (1981), pp. 438–439; and UN: A/36/349 (26 June 1981). To this end, it was assumed that Malta was henceforth a neutral State practising a policy based strictly on the principles of non-alignment. Italy recognized in its declaration dated 15 May 1981 “the sovereignty, independence, neutrality, unity and territorial integrity of the island”, as mandated by the EEC, and apparently even by NATO; this recognition was accompanied by certain concrete guarantees and supplemented by a Protocol on financial, economic and technical assistance. See Natalino Ronzitti, “Malta’s Permanent Neutrality”, *Italian Yearbook of International Law* (1980/81), pp. 171–201; and Jean-François Flauss, “La neutralité de Malte”, *Annuaire français de droit international* (1983), pp. 175–193.

44 As far as the author is aware, this requirement was not presented in a formal document. See *Le Monde*, 31 July and 1 August 1983.

45 This requirement, which remained informal, is mentioned in the van den Bergh Report of 27 September 1983 (5132, § 16), as delivered to the Parliamentary Assembly of the Council of Europe.

46 During the Madrid Follow-up Meeting, Malta did not associate itself with the various proposals submitted collectively by the N+NA countries. See Ljubivoje Aćimović, “Madrid Meeting of the Conference on Security and Co-operation in Europe”, *Review of International Affairs*, No. 807 (Belgrade, 20 November 1983), p. 18.

contemplated – had the disadvantage of being unable to claim to be in the name of the CSCE.⁴⁷

The deadlock was resolved in two stages. Firstly, on 25 August 1983, Spain (the host country) took the decision to convene the closing summit of Ministers for Foreign Affairs through the normal diplomatic channel and not via the Meeting's Executive Secretariat.⁴⁸ It was a clever but risky move: Malta could have objected to the final meeting being convened or could have refused to take part. Fortunately, this risk did not materialize. Secondly, on the eve of the summit (6 September), the Maltese finally approved the Concluding Document in exchange for a formal statement from the Meeting's Chairman.

This text, contained in the Journal of the Madrid Follow-up Meeting (but not annexed to the Concluding Document), stated that the participating States were willing to lend their support (“where appropriate”) to future Maltese initiatives on maintaining and expanding dialogue with the NPMS.⁴⁹ This compromise served only to allow Malta to save face. The statement in question was followed by an interpretative statement – added by Austria on the basis of an American proposal – clarifying that any decision to convene a meeting on security in the Mediterranean within the framework of the CSCE clearly remained subject to prior consensus.⁵⁰ The Concluding Document contained only a vague declaration of intent from the participating States to “study further the possibility of *ad hoc* meetings of Mediterranean States aimed at strengthening security and intensifying co-operation in the Mediterranean.” The limited scope of this provision is evident. The text envisaged no institutionalization; it simply raised the *possibility* of periodic meetings.⁵¹

47 The technical details of an agreement between 34 countries, but not formally excluding Malta, was actually established within the Executive Secretariat of the Madrid Follow-up Meeting. It stipulated that the provisions of the Concluding Document (including provisions relating to the convening of the Stockholm Conference on Confidence- and Security-Building Measures and Disarmament in Europe) would be immediately applicable, pending the formal consensus of the Maltese. In an informal contact group, Romania was the last country to approve the idea of a 34 countries scenario, due to its particular commitment to compliance with CSCE rules of procedure.

48 See van den Bergh Report, (n. 45), § 11, and *Le Monde*, 1 September 1983.

49 “The Chairman ... noted that the participating States were ready to give support, when appropriate, to initiatives which Malta and other participating States concerned may launch in the post-Madrid period to maintain and amplify the contacts and dialogue ... as initiated by the CSCE with the non-participating Mediterranean States ...”, see Madrid Follow-up Meeting, 175th Plenary Session: Journal No. 333 of 6 September 1983. It should be noted that this solution had been suggested to Malta to no effect since 28 July 1983.

50 *Ibid.*, “no initiative taken on the basis of the Chairman's Statement on the Security in the Mediterranean would be considered to be a CSCE meeting unless it had obtained the consensus of all 35 participating States.”

51 Madrid Follow-up Meeting (1983): Concluding Document, “Questions relating to Security and Co-operation in the Mediterranean”, § 2, fourth indent. Faced with the repeated failure of its proposals for institutionalization, Malta did its utmost to take initiatives within the framework of the Non-Aligned Movement, however, without giving up on achieving its aims within the CSCE. In line with a decision taken in New Delhi by the Heads of State or Government of the

However, the Concluding Document of the Madrid Follow-up Meeting goes some way towards addressing Malta's other demands. For example, it states that a "seminar" will be convened in Venice to continue the work of the CSCE experts in Valletta. Moreover, it makes a purely formal reference – not to be confused with recognition – to Malta's new international status: under Principle I of the Decalogue ("Sovereign equality"), which recognizes the right of the participating States to neutrality and the right to be or not to be a party to treaties of alliance, the Concluding Document affirms that participating States "take note" of the unilateral declaration of Maltese neutrality and "call upon all States to respect that declaration."⁵² The Document also expresses the "will" of the 35 participating States "to take positive steps towards lessening tensions and strengthening stability, security and peace in the Mediterranean and, to this end, to intensify efforts towards finding just, viable and lasting solutions, through peaceful means, to outstanding crucial problems" in the region.⁵³ Lastly, it makes an equally vague and laconic reference to the prospect of CSBMs (confidence- and security-building measures) in the Mediterranean.⁵⁴

2. Euro-Mediterranean Co-operation

From 1979, Euro-Mediterranean co-operation developed as a direct result of two specific meetings which clarified and expanded the Mediterranean clauses of the Final Act: the Valletta Meeting of Experts and the Venice Seminar.

A. Valletta Meeting of Experts (13 February to 26 March 1979)

The Maltese delegation submitted a dozen or so ambitious technical proposals at the Meeting: establishing broadcasting and television services managed jointly by the Mediterranean States to develop the concept of a "Mediterranean identity" among the peoples of the region;⁵⁵ developing cultural and educational co-operation and exchanges to establish a "Mediterranean Community of Interests

Non-Aligned countries in March 1983, the Mediterranean States that belonged to the Movement met in Valletta on 10 and 11 September 1984. On the preparation and outcome of this meeting, see Ivan Kojić, "Activities of the Non-Aligned Members of Mediterranean Region", *Review of International Affairs*, No. 817 (Belgrade, 25 April 1984), pp. 7–10; and Živojin Jazić, "Non-Alignment in the Mediterranean. The Ministers' Conference of Non-Aligned Mediterranean Countries in Valletta", *ibid.*, No. 828 (Belgrade, 5 October 1984), pp. 6–7. The Final Declaration adopted on this occasion proposed, in particular, the holding of "periodic ministerial meetings of the non-aligned Mediterranean countries," see UN: A/39/626 (27 September 1984). See also UN: A/39/757 (12 December 1984) and A/RES/89/153 (20 January 1985).

52 Madrid Follow-up Meeting (1983): Concluding Document, "Principles", § 25. Once Libya and Malta signed the Treaty of Friendship and Co-operation on 5 December 1984, Malta declared that its agreement with Italy was null and void, see *Le Monde*, 7 December 1984.

53 Madrid Follow-up Meeting (1983): Concluding Document, "Questions relating to Security and Co-operation in the Mediterranean", § 2, first indent.

54 *Ibid.*, second indent.

55 The Maltese believed in this regard that it was "essential ... to revive the spirit of Mediterranean unity – prevalent in the ancient past – which has lain dormant in the turbulence of more recent history," see MEV.5 (19 February 1979), p. 2.

by the Year 2000" (bringing primary and secondary education closer together, equivalence of educational qualifications, scholarship plans, seabed archaeological exploration, and so on);⁵⁶ studying environmental geriatric care by Mediterranean countries;⁵⁷ setting up regional centres for advanced medical care "in ideally situated locations which can most easily be reached from a set number of populated areas averaging 10 million or more persons;"⁵⁸ establishing tourism and airline co-operation among Mediterranean countries (regular meetings of representatives of national airlines and tour operators, establishing an Air Academy, Commercial Aviation Institute and Computer Centres);⁵⁹ involving the European continent as a whole in the protection of the Mediterranean environment, particularly by accession to the 1976 Barcelona Convention for the Protection of the Mediterranean Sea against Pollution and its protocols;⁶⁰ co-operation in food and agriculture production in the Mediterranean region (training centres, centralized databank, regional reserve storage centre in Malta and a special FAO unit for Mediterranean island agriculture);⁶¹ establishing a Mediterranean Press Agency and disseminating publications devoted to Mediterranean affairs;⁶² co-ordinating the implementation of telecommunication plans for the Mediterranean and designating a Mediterranean Telecommunications and Electronics College "centrally situated to cater for the training needs, particularly of the underdeveloped countries of the Mediterranean;"⁶³ improving fisheries co-operation (marine fish, aquaculture, fish processing and marketing) within existing international organizations such as the General Fisheries Council of the Mediterranean, FAO and UNEP;⁶⁴ economic

56 "The concept of Mediterranean unity so far has only stirred interest among Mediterranean States, but has not yet been translated into a common objective. In order to reach the hearts and minds of the men of tomorrow, it has to be consciously implanted into the educational and cultural systems of the present, so as to inspire among the younger generation the foundations for a more peaceful and co-operative future," see MEV.6 (14 February 1979), p. 1.

57 See MEV.7 (13 February 1979).

58 MEV.8 (13 February 1979), p. 2, § 5.

59 See MEV.9 (13 February 1979).

60 According to Malta, "most European States are either direct polluters through their Mediterranean coastlines and through their use of the sea by maritime traffic, pleasure craft and as tourists. They are also indirect polluters through the freshwater and aerial routes which affect the Mediterranean," see MEV.10 (13 February 1979), p.3, § 7. To this, Malta adds that "the protection of the Mediterranean environment is an international, rather than a purely regional responsibility, in which, however, the European continent as a whole can be said to have a major share" (*ibid.*, p.1, § 2).

61 "Up to now Mediterranean island agriculture has not received the attention it deserves. The principal organization, FAO, that could deal with this matter, has not hitherto treated islands of the Mediterranean as a separate field of study," see MEV.11 (9 February 1979), p.7, § D.3.

62 See MEV.13 (14 February 1979).

63 MEV.16 (16 February 1979), p. 3, § 8, item (e).

64 See MEV.17 (16 February 1979).

co-operation in the Mediterranean (market information, regional investment promotion, and so on).⁶⁵

From a much more political perspective, Malta also proposed to institutionalize co-operation in the region with a “small, flexible and efficient body” (*Mediterranean Standing Committee*), which would meet at least once a year in a Mediterranean capital under the chairmanship of the Foreign Minister or the Minister of Development of the host country. The Committee would report regularly to meetings held within the framework of the CSCE. It would have a mandate to monitor the Valletta recommendations, to consider new activities, to ensure close co-operation with the NPMS, to co-ordinate its activities with those of other regional or universal organizations and to prepare *ad hoc* ministerial meetings of Mediterranean States. It would have a Secretariat (in Malta) responsible for the tasks of co-ordination, consultation, collection and dissemination of information, planning, programming and implementation. The Maltese proposal emphasized – probably in response to objections raised by the Western countries, traditionally opposed to any formal institutionalization of CSCE dialogue – that any agreement on this point would not create a precedent for the other chapters contained in the Helsinki Final Act.⁶⁶

Yet the Valletta Meeting was not the unqualified success that the Maltese had hoped for.

Firstly, the defection of most of the NPMS immediately curtailed the practical scope of the Meeting. Deeply divided over the Camp David Accords, the non-European States decided not to appear in Valletta: only Egypt and Israel contributed to the Meeting.⁶⁷ For its part, Syria addressed the plenary on 27 February 1979, although only to explain the reasons for its non-participation.⁶⁸ To the dismay of the Maltese, but to the relief of the Eastern and Western countries, no Euro-Mediterranean dialogue took place.⁶⁹

Secondly, the participating States refused to accept the Maltese terms of reference. Owing to lack of interest (in the case of the non-Mediterranean countries), reluctance to enclose the Mediterranean within a strictly subregional framework, and the cost of the proposals in general, the participating States were opposed to the idea of creating new institutional structures within the United Nations system and the CSCE: unlike Malta, they believed that Euro-Mediterranean

65 See MEV.4 (13 February 1979).

66 See MEV.21 (5 March 1979). It should also be noted that a synthesis of all the Maltese proposals was made and compiled in a single document for the preparation of the Final Report of the Meeting, see MEV.40 (19 March 1979).

67 See the Report of the Valletta Meeting of Experts (1979), preamble, §§ 5 and 6. For the Israeli “contribution”, see MEV.29 (8 March 1979) and MEV.29/Corr.1 (12 March 1979). The text of the Egyptian contribution appears not to have been submitted.

68 There were three reasons for this: (1) the failure to invite the PLO, (2) the Camp David Accords and (3) the unsatisfactory status of the NPMS. See V. Dragić, “La Valletta – une étape de la route de Belgrade à Madrid”, *Revue de politique internationale*, no. 698 (Belgrade, 5 May 1979), p. 6.

69 On this point, see Dragić, “La Valletta ...” (n. 68), p. 7.

co-operation would be more cost-effective and efficient if it took place within existing international institutions.⁷⁰

Nevertheless, the experts in Valletta identified 13 areas of co-operation: exchange of statistics, environment, tourism and vocational training, energy (including solar energy), transport, agriculture, fisheries and telecommunications, migrant workers, health (treatment of certain diseases prevalent in the Mediterranean), seismology, culture (establishment, under the aegis of UNESCO, of a general history of the Mediterranean and a Mediterranean Cultural Centre, for example) and media (exchanges of scientific and cultural radio and television programmes, exchange of films among film libraries).⁷¹ In most cases, it was envisaged that this co-operation would take place directly or in conjunction with the UNECE,⁷² UNESCO,⁷³ UNEP, WHO, ITU and other existing competent institutions.⁷⁴ It can thus be concluded that the Final Report is not a programme

70 Malta was as sensitive to the Mediterranean question as was Yugoslavia. See Dragić, (n. 68), p. 10; and MEV.34 (14 March 1979), MEV.35 and MEV.41 (20 March 1979).

71 As well as the Maltese drafts, various proposals were submitted to the Meeting, either separately or jointly, by various Mediterranean Western countries, such as France, Italy, Portugal, Spain and Greece: MEV.18 and 19 (22 February 1979), MEV.22, 23, 24, 25, 27 and 28 (8 March 1979), MEV.30 (9 March 1979), MEV.32 (12 March 1979), MEV.33 (13 March 1979), MEV.39 (19 March 1979), MEV.43 (20 March 1979) and by Yugoslavia: MEV.31 (12 March 1979), MEV.34 and 35 (14 March 1979), MEV.41 (20 March 1979). In addition, the EEC Nine submitted a proposal on economic statistics, MEV.26 (8 March 1979). Meanwhile, the Eastern countries submitted a working document containing "Considerations" that were much more general, see MEV.36 (14 March 1979).

72 The Helsinki Final Act entrusted the UNECE with a practical mandate relating to certain provisions of the second basket that lent them to multilateral implementation. But after 1976, driven by its own natural dynamic, the Commission broadened the scope of its intervention: firstly, to all the multilateral provisions of the economic basket; and secondly, to the economic provisions of the Declaration on the *Mediterranean* – which, however, made no explicit reference to the UNECE, even if it did leave the door open to multilateral co-operation in the field of the environment between CSCE participating States and the NPMS, "through the competent international organizations". See Resolutions A(XXXI) of 9 April 1976, B(XXXII) of 30 April 1977, G(XXXIII) of 22 April 1978, Q(XXXIV) of 27 April 1979, J(XXXV) of 26 April 1980, F(XXXVI) of 8 April 1981, G(XXXVII) of 2 April 1982, I(XXXVIII) of 22 April 1983, H(XXXIX) of 14 April 1984, H(40) of 27 April 1985, E(41) of 26 April 1986, J(42) of 10 April 1987, M(43) of 21 April 1988 and N(44) of 21 April 1989. The strengthening of the UNECE's Mediterranean activities took two forms: the development of co-operation between the Member States (which are practically the same as for the CSCE) with non-European bordering States; and transregional co-operation between the UNECE, ECA (Economic Commission for Africa) and ECWA (Economic Commission for Western Asia). See E/ECE/909, pp. 14–15; E/ECE/916 (and Add.1); E/ECE/928, p. 104; E/ECE/941; E/ECE/960, pp. 126–127; E/ECE/976; E/ECE/977 (and Add.1); E/ECE/983, pp. 99–100; E/ECE/1003; E/ECE/1008, pp. 81–83; E/ECE/1026; E/ECE/1030, pp. 72–73; E/ECE/1042; E/ECE/1046, pp. 79–80; E/ECE/1058; E/ECE/1062, pp. 63–64; E/ECE/1076; E/ECE/1083, p. 70; E/ECE/1097 and 1098; E/ECE/1108, pp. 66–68; E/ECE/1120; E/ECE/1130, pp. 60–62; E/ECE/1140 and E/ECE/1148, pp. 51–53.

73 For UNESCO's contribution to the Valletta Meeting, see MEV.12 (15 February 1979), or UNESCO: CPX/-79/WS/3 (15 February 1979).

74 According to the context, these are FAO and UNWTO (World Tourism Organization). On the role of all these international organizations, see Report of the Valletta Meeting of Experts (1979), §§ 9,

of activities, but a simple catalogue of *conceivable* practical measures. As V. Dragić notes, the Valletta exercise was important mainly because it was part of the CSCE Follow-up process and attested to the continuity of the Helsinki principles in the interval between Belgrade and Madrid.⁷⁵

B. Venice Seminar (16 to 26 October 1984)

At the Madrid Follow-up Meeting, the participating States reaffirmed the conclusions of the Valletta Report and agreed to be guided by them. In this respect, they decided to convene a Seminar in Venice to “review the initiatives already undertaken, or envisaged, in all the sectors outlined in the report of the Valletta Meeting and stimulate, where necessary, broader developments in these sectors.”⁷⁶ The Venice Seminar made few, if any, contributions to Euro-Mediterranean co-operation. The participating States refused to commit to the *ad hoc* meetings proposed by Malta.⁷⁷ In essence, the Report of the Venice Seminar recommended that governments, in virtually identical terms to Valletta, envisage “broader developments”, within their possibilities and interests – whether through their participation in the Mediterranean activities of the appropriate international organizations, or in bilateral and multilateral relations among the participating States and with the NPMS. As in Valletta, the near total absence of the NPMS limited the scope of the meeting, in which there was a widespread lack of interest.⁷⁸ The Seminar was nothing but a stylistic exercise essentially based on “contributions” from the competent international organizations, namely, the UNECE, UNESCO, UNEP and – for the first time – WHO and ITU.⁷⁹

3. The Mediterranean Question at the Stockholm Conference

The question of security in the Mediterranean did not fall within the mandate of the Stockholm Conference on Confidence- and Security-Building Measures and Disarmament in Europe. Nevertheless, in accordance with the practice followed between Geneva and Madrid, its agenda included a specific item on *contributions*

11 and 12.

75 See Dragić, “La Valletta ...” (n. 68), p.10.

76 Madrid Follow-up Meeting (1983): Concluding Document, “Questions relating to Security and Co-operation in the Mediterranean”, § 4. Additional details on the organization of the Seminar are provided in Annex I to the Concluding Document (Chairman’s Statement of 6 September 1983).

77 The Valletta Report contains no recommendations in this regard; § 35 merely stated that “[note was made of] the opinion expressed by some Mediterranean participating States as to the desirability of *ad hoc* meetings of Mediterranean States on co-operation in the fields of economy, science and culture.” See Maltese proposal, CSCE/SV/SG-E.7 (2 October 1984).

78 Only Israel and Egypt were present at the Venice Meeting of Experts, see Final Report, § 3. Apart from the three Non-Aligned countries, only Italy (host country), France and the FRG showed any interest in the work.

79 See Report of the Venice Seminar (1984), §§ 2 and 3. For the “contribution” submitted by UNESCO, see CPX-84/WS/6 (11 October 1986).

from the NMPS.⁸⁰ Furthermore, Malta took the initiative in submitting a formal proposal on the Mediterranean at the Stockholm Conference.

A. Views of the Non-participating Mediterranean States

All NPMS (including, for the first time, Libya) expressed their views at the Stockholm Conference on 23 January 1984 following opening statements by the 35 participating States in plenary.⁸¹

The Maghreb countries, which had the most to gain, again referred to Euro-Mediterranean interdependence. They deeply regretted that this principle, although enshrined in the Helsinki Final Act, had remained without any tangible results.⁸² They demanded “equal participation” in the work of the Stockholm Conference⁸³ and the adoption of CSBMs specific to the needs and problems of the Mediterranean – a key area for the deployment of foreign forces⁸⁴ – such as the regulation of foreign forces and military manoeuvres contributing to insecurity in the Mediterranean,⁸⁵ and the creation of a nuclear-free zone in the Middle East.⁸⁶ These ideas were not new – they had already been advanced at the United Nations, where the Mediterranean question had featured on the agenda of the General Assembly since Resolution 36/102 of 19 December 1981.⁸⁷

B. The Maltese Proposal

At the opening meeting of the Stockholm Conference, Malta’s Foreign Minister declared that his country wanted the Stockholm CSBMs to be extended to the Mediterranean:

Confidence-building measures in the more traditional mould have so far not been applied to the Mediterranean. In any efforts to extend and enlarge these measures on the continent it will be our objective to bring this application to the waters surrounding us. We will certainly fail to understand why nations which are prepared to open up their military activities for surveillance and monitoring, on land, as a measure aimed at inducing confidence in their adversaries on the

80 Helsinki Preparatory Meeting for the Stockholm Conference on Confidence- and Security-Building Measures and Disarmament in Europe (1983): Decisions, item II.B.2. “The Executive Secretary will invite the non-participating Mediterranean States to submit their contributions for item 2 on the agenda after the opening statements by the participating States.”

81 See Stockholm Conference on Confidence- and Security-Building Measures and Disarmament in Europe: Journal No. 5 of 23 January 1984. The “contributions” submitted by the NPMS are mentioned in the Journal, but are no longer published as official CSCE documents. They were nevertheless circulated among all participating States.

82 See Tunisian statement (in French), p. 2 and Algerian statement (in French), p. 3.

83 See Algerian statement (in French), p. 4. See also Moroccan statement (in French), p. 2 and Libyan statement (in French), p. 6.

84 See Algerian statement, p. 4.

85 Ibid.

86 See Moroccan statement, p. 9.

87 For the views expressed to the UN by Algeria, Morocco and Libya, see UN: A/37/355 (24 August 1982) and A/37/355/Add.1 (29 September 1982).

continent, should be reluctant to do likewise for naval activities, which very often affect directly the security concerns of both participating and non-participating States in the Mediterranean.⁸⁸

In November 1984, the Maltese delegation submitted a formal proposal envisaging:⁸⁹

- *Annual exchanges of information* on the number and structure of armed personnel stationed in the Mediterranean and on the number and type of amphibious and other troop-carrying seaborne units and surface combat units stationed in the Mediterranean;
- *Prior notification*, in conditions to be agreed, not only of certain military activities (naval movements, amphibious operations, naval manoeuvres), but also of any “exercise of the right of innocent passage” through the territorial waters of Mediterranean participating States;
- A series of *measures of restraint* concerning the number and scale of military activities as well as the exercise area; the restriction, in areas to be determined, of any deployment and manoeuvres involving naval units that could be used for sustained offensive operations; progressive scaling down of the annual number of major naval manoeuvres; setting a ceiling of an agreed number of armed personnel and surface combat units for any independent or joint naval exercise in the Mediterranean;
- A series of “*measures of security*” providing for commitments on the non-stationing of nuclear weapons in Mediterranean waters, the non-use of force against riparian States, and the renunciation of the threatening deployment of naval forces.

In addition, the Maltese wanted the Stockholm Conference to be open to the NPMS on an equal footing,⁹⁰ given that the Stockholm CSBMs “will also apply vis-à-vis non-participating Mediterranean states to the extent that these states accept them.”⁹¹

Rejected by the Western countries as being contrary to the functional interpretation of the Madrid mandate, the Maltese ideas – or the *general principle*, at least they were approved by the N+NA countries and to some extent by the

88 See CSCE/SC/R.4 (18 January 1984), p. 14.

89 See CSCE/SC/5 (8 November 1984).

90 Malta took the floor on this issue, albeit in vain, already during the preparatory meeting held in Helsinki in October and November 1983 for the Stockholm Conference on Confidence- and Security-Building Measures and Disarmament in Europe. The Maltese delegation described the status of the NPMS as an “intolerable arrangement” and called for “full and equal dialogue” to be established at the Stockholm Conference, in its statement of 12 November 1984, see pp. 6–7. In fact, Malta conceded that such a dialogue already existed within the framework of the ministerial meetings of the global Non-Aligned Movement: its objective was therefore, more specifically, “to lay the ground for bringing the two processes together when conditions for such a move become ripe and necessary” (*ibid.*, p. 7).

91 See CSCE/SC.5 (8 November 1984), section F.

USSR, given its demands concerning the prior notification of independent naval manoeuvres.⁹²

Malta's Prime Minister, Dom Mintoff, resigned before the work of the Stockholm Conference could be completed. The effect of this was visible in Stockholm: despite the meagre provisions of the Final Document on the Mediterranean and the naval issue, there was no outburst by the Maltese delegation.

4. The Vienna Provisions

The shift in attitude was also tangible at the Vienna Follow-up Meeting. With more realistic demands, the Maltese managed to secure the direct support of the other two Non-Aligned countries in the CSCE –Yugoslavia and Cyprus. The three countries submitted a joint proposal calling for a meeting of all 35 participating States to be convened in Valletta to take stock of the Mediterranean provisions adopted and implemented within the framework of the CSCE and to draw up new provisions on co-operation and *security*.⁹³ The text proposed a “Meeting of Representatives of the participating States of the Conference on Security and Co-operation in Europe”, which implied a different type of meeting to the Valletta Meeting of Experts or the Venice Seminar. On the question of security, it envisaged the adoption of CSBMs and the reduction of foreign forces. It also proposed expanding co-operation with the NPMS and closer involvement of the latter within the CSCE. Indeed this remained a key proposal for the NPMS: meeting in Brioni at the foreign minister level in June 1987, the Mediterranean countries of the Non-Aligned Movement (seven Arab States and three European countries) formally voted for a review of the status of the NPMS within the CSCE.⁹⁴ In November that year, all NPMS without exception submitted “contributions” to the Vienna Follow-up Meeting.⁹⁵

92 The Soviet position on the application of confidence-building measures in the Mediterranean had changed considerably since Belgrade. The Programme of Action with a view to the Consolidation of Military Détente in Europe, submitted by the USSR at the Belgrade Follow-up Meeting, stated that “if the countries of the southern part of the Mediterranean basin would also like the military confidence-building measures envisaged by the Final Act to embrace that region, which is adjacent to Europe, our approach to this would be sympathetic,” see CSCE/BM/5 (24 October 1977). More recently, in 1984, the Soviets officially notified the United Nations that they were in favour of “extending to the Mediterranean measures to increase confidence in the military field which have already proved their worth,” see A/39/517 (4 October 1984), p. 24, § 7.

93 See CSCE/WT.40 (13 February 1987).

94 The Brioni Conference adopted two declarations – one on the relationship between security and co-operation in the Mediterranean and Europe and the other on the interdependence between security and disarmament in Europe and the Mediterranean.

95 See Vienna Follow-up Meeting: Journals No. 8 of 13 November 1987, No. 9 of 14 November 1987, No. 10 of 17 November 1987 and No. 11 of 18 November 1987.

The USSR welcomed the Mediterranean proposals of the three Non-Aligned participating States, noting that the ideas were in the spirit of the proposal made by Mikhail Gorbachev in March 1986 on mutual withdrawal of the naval forces of the superpowers from the region.⁹⁶ Yet the extension of the “security” aspect of the CSCE’s Mediterranean component was still deemed inadvisable by the Western countries, which were reluctant to do more than convene a meeting of experts on the protection of Mediterranean ecosystems.⁹⁷

The new government majority in Malta following the 1987 election seemed unlikely to result in any significant easing of the pressure to develop the Mediterranean dimension of the CSCE. The new administration could not have been any clearer in this regard at the Vienna Follow-up Meeting,⁹⁸ which closed without any caprice by Malta. Even so, the Vienna Concluding Document (1989) incorporated few of the ideas put forward by Malta together with Cyprus and Yugoslavia. In point of fact the Mediterranean chapter adopted in Vienna contained nothing new: on the question of *security*, it merely reaffirmed or reprised certain provisions of the Helsinki and Madrid texts;⁹⁹ on the subject of *co-operation*, it conveyed the readiness of the participating States to “increase efforts in the economic, scientific and cultural fields, and in the field of environment,”¹⁰⁰ and “the need to maintain and amplify their contacts with the non-participating Mediterranean States as initiated by the CSCE”¹⁰¹ – that is, without changing the status of the NPMS.

The only concrete element of the Vienna Concluding Document is the provision that convenes a Meeting on the Mediterranean in Palma de Mallorca from 24 September to 19 October 1990 to consider “ways and means of further enhancing various aspects of co-operation, including the protection and improvement of Mediterranean ecosystems” and at which the NPMS and various international organizations (UNESCO, UNECE, UNEP, WHO, ITU, IMO) would be called upon to “contribute” in line with existing CSCE practices.¹⁰² By all accounts, this was a meeting on *co-operation* in the Mediterranean; however, the wording of

96 See the statement by Ambassador Yuri Kashlev at the Vienna Follow-up Meeting Plenary Session of 3 July 1987.

97 See CSCE/WT.50 (13 February 1987) and CSCE/WT.50/Rev.I (19 November 1987).

98 See Vienna Follow-up Meeting Plenary Session of 13 November 1987, statement by the Minister for Foreign Affairs of Malta and that of Ambassador Vella during the Closing Session of the Follow-up Meeting, see CSCE/WT/VR.14 (19 January 1989) pp. 27–28.

99 See Vienna Follow-up Meeting (1989): Concluding Document, “Questions relating to Security and Co-operation in the Mediterranean”, §§ 3 and 4.

100 *Ibid.*, § 6.

101 *Ibid.*, § 8.

102 *Ibid.*, §§ 9, 10 and 11. See Vienna Follow-up Meeting (1989): Concluding Document, Annex VII, for the mandate and organizational arrangements of the Meeting. The idea for this exercise stems from a proposal submitted by six Mediterranean countries (Spain, France, Greece, Italy, Monaco and Turkey) jointly with Belgium and the FRG, see CSCE/WT.50 (13 February 1987) and CSCE/WT.50/Rev.I (19 November 1987).

its mandate does not appear to prohibit the NPMS from raising security issues.¹⁰³ In any event, the Mediterranean question no longer appeared to be so pathologically divisive.

103 Item 3 on the Meeting agenda provided for an “exchange of views on issues raised in opening statements, taking into consideration the provisions of the Mediterranean chapters of the Final Act and the Madrid Concluding Document” and a “review of the existing practice of *contacts* and co-operation with the non-participating Mediterranean States.”

Conclusion

Having explored the realms of the CSCE, three natural conclusions emerge: firstly, the astonishing vitality of a diplomatic exercise that took place despite the sombre mood of the period (1975–1985); secondly, the impact that the CSCE had on East-West relations in the pre-Gorbachev era; lastly, the fresh momentum provided by the Concluding Document of the Vienna Follow-up Meeting (1989).

The Vitality of the CSCE

The CSCE appeared on the European scene as a direct result of *détente* and as its multilateral crowning achievement. On the surface, its future seemed intertwined with the vagaries of this ambiguous and recurring phenomenon. The disappointing results of the Belgrade Follow-up Meeting – which coincided with the shadow that fell over East-West relations – seemed to confirm this. A steady deterioration in *détente* ensued, which bogged down (but did not jeopardize) the process. Against all odds, the CSCE withstood the crises that followed the invasion of Afghanistan and the state of siege in Poland. Despite everything, it succeeded in maintaining some form of dialogue between the two blocs. The Concluding Document of the Madrid Follow-up Meeting (1983) was the first agreement of any real substance between the Eastern and Western countries during this period. Likewise, the Conference on Confidence- and Security-Building Measures and Disarmament in Europe was convened at the height of the Euromissile crisis (January 1984) and began to fulfil its mandate just when the Soviets had suspended or broken off other security talks (MBFR, INF, START). In September 1986, the Stockholm Document became the first military accord since SALT II and the first Europe-wide agreement of its kind. The dynamics of the CSCE were clearly such that it could handle certain elements of East-West relations even in the absence of *détente*.

This intrinsic vitality can be explained by two key factors.

Firstly, the CSCE was the product of meticulous planning and was not conceived in haste or out of necessity. Designed from the ground up and with no immediately pressing concerns, it had a two-part agenda: to catalogue East-West troubles and identify the long-term measures that might lead to a solution. In other words, it had no circumstantial objectives that might soon be blurred or rendered obsolete by the political climate.

Secondly, the CSCE was a unique effort to establish a dynamic order across the continent. The Helsinki question was based on an evolutionary vision of Europe: the provisions of the Final Act of 1975 call for peaceful territorial, military, economic and humanitarian change.

Fourteen years after it was signed, the Helsinki Final Act remains a *tour de force*. Given history's lessons on the ephemeral nature of diplomatic texts of this kind, this in itself is a remarkable feat.

The “Helsinki Effect”

The CSCE consistently redefined the parameters of East-West dialogue during the years 1975–1985.

Firstly, the dialogue became more *comprehensive*. Within the CSCE, East-West relations were no longer bilateral but multilateral: the CSCE “Europeanized” what had generally amounted to a tête-à-tête between the Americans and the Soviets, and trumped the bloc mentality by unveiling the N+NA countries as actors in their own right on the European stage.

Secondly, the dialogue became more *diversified*. Before Helsinki, a forum for multilateral meetings between the East and West did exist (UNECE), but it only dealt with economic relations. The CSCE immediately extended this to the political, military, environmental and humanitarian fields. The beauty of the Helsinki programme was not only its comprehensive character, but also the strict *interdependence* between the three baskets, in which East-West relations were an indivisible whole requiring parallel and balanced progress.

Thirdly, the dialogue ceased to be ad hoc: instead it became *regular* owing to the unique format of the CSCE, in which a series of interdependent negotiations took place without a permanent infrastructure or fixed frequency.

Lastly, the dialogue became more *impassive*. East-West relations – by now proliferous, wide-ranging and intensive – had become routine, enabling countless bilateral humanitarian issues to be resolved more swiftly and more frequently than ever before.

The first charter of multilateral relations among countries with conflicting political, economic and social systems, the Helsinki Final Act offered an alternative to the threat of force and the Manichean ideology which catered for both sides of a divided Europe. By providing a framework for dialogue, an international code of conduct and a long-term action plan, the CSCE process filled a void in East-West relations.

A Brighter Future in Vienna

In the light of the Vienna exercise and the two subsequent Follow-up Meetings, the Helsinki process can be identified with three trends.

The first was the erosion of the traditional dividing line between the CSCE’s three political groups and the simultaneous emergence of *intergroup convergence*. Already evident in Vienna, the trend gained ground at the Information Forum in London¹ and was in full swing by the time of the Conference on the Human Dimension of the CSCE in Paris.² The phenomenon, which stemmed from the

1 See CSCE/LIF.69 (10 May 1989) “Proposal on free flow of information and on co-operation between participating States in the field of information”, backed by the N+NA, Western and Eastern countries; and CSCE/LIF.67 (9 May 1989) proposal submitted jointly by the five Scandinavian countries.

2 Nine intergroup texts were submitted to the Paris Conference on the Human Dimension of the CSCE (eight times with the participation of Hungary and twice with each of the other Eastern countries), including CDHP.17 (16 June 1989) and CDHP.17 Add. 1 (21 June 1989) an important

ideological breakdown of the Eastern bloc and was reflected in the lethargy of the group of N+NA countries, was consistent with the fundamental rule whereby the CSCE's work took place "outside of military alliances" between sovereign and independent States.

The second trend concerned the increasingly *public nature* of the CSCE's proceedings. Until 1983, only the opening and closing sessions of the Follow-up Meetings had been open to the public. In 1985 this practice was extended to meetings of experts. From 1986 to 1989, the public were given access to several additional sessions at the Vienna Follow-up Meeting (just before each session adjourned and resumed). However, at the Information Forum in London (April–May 1989), the public were admitted to all working sessions, including *informal* proceedings of the subsidiary working bodies. This was accompanied by the decision – enshrined in the Vienna Concluding Document – to involve *non-governmental organizations* (the International Chamber of Commerce and the International Union for Conservation of Nature and Natural Resources) at some of the Follow-up Meetings.

The third trend was the improvement in the *human rights* theme. After the Vienna Concluding Document, this was reflected in the operative part of each of the *three baskets* and was underpinned by a protective *mechanism*. In addition, the text on the "human dimension" established a *conceptual link* between the political aspect of the first basket (the Decalogue) and the whole of the third basket. Lastly, the protection of *national minorities* became a major focus of the CSCE's work.

Adopted on 15 January 1989, the Vienna Concluding Document clearly provided new impetus for the CSCE process. Drafted without the usual political jargon and in far more binding terms than the earlier texts, it is probably the most elaborate expression to date of the spirit of the CSCE. The participating States unanimously acknowledged that it reflected the new face of a Europe full of promise, on the cusp of the most harmonious phase in the history of East-West relations.

Franco-Soviet proposal on the creation of a "common legal area" in the Europe of Helsinki. See the article by Victor-Yves Ghebali in *Défense nationale* of November 1989.

Bibliography

I. Sources

A. Official Documentation of the CSCE

1. Dipoli (1972–1973)

- CESC/HC/1 (23 November 1972) to CESC/HC/56 (8 June 1973).
- WG/1 (1 March 1973) to WG/73 (1 June 1973).¹
- CESC/HC/Journals No. 1 (22 October 1972) to No. 55 (8 June 1973).

2. Stage I (Helsinki, 1973)

- CSCE/I/PV.1 (3 July 1973) to CSCE/I/PV.8 (7 July 1973), open sessions.²
- CSCE/I/CM/PV.1 (3 July 1973) to CSCE/I/CM/PV.7 (7 July 1973), closed sessions.³
- CSCE/I/1 (3 July 1973) to CSCE/I/30 (7 July 1973), documents.⁴
- CSCE/I/INF.1 (3 July 1973) to CSCE/I/INF.3 (5 July 1973).
- Final Recommendations of the Helsinki Consultations (Helsinki: Valtion Painatuskeskus, 1973).
- Communiqué on the First Stage of the Conference on Security and Co-operation in Europe (Helsinki, 7 July 1973).

3. Stage II (Geneva, 1973–1975)⁵

a) Co-ordinating Committee

- CSCE/CC/1 (29 August 1973) to CSCE/CC/64 (21 July 1975).
- CSCE/CC/101 (16 July 1975) to CSCE/CC/108 (21 July 1975).
- CSCE/CC/DEC.1 (30 August 1973) to CSCE/CC/DEC.67 (21 July 1975).
- CSCE/CC/INF.1 (29 August 1973) to CSCE/CC/INF.3 (10 September 1973).
- Journals No. 1 (29 August 1973) to No. 83 (21 July 1975).

b) Co-ordinating Committee: Working Group on the Mediterranean

- CSCE/CC/WG/MED.1 (20 January 1975).
- CSCE/CC/WG/MED.101 (30 September 1974) to CSCE/CC/WG/MED.112 (14 July 1975).
- Journals No. 1 (1 July 1974) to No. 47 (14 July 1975).

1 Some documents in this series may have the reference *WG/P* (procedure) or *WG/F* (finance).

2 All these documents are available as a bound paperback volume.

3 All these documents are available as a bound paperback volume.

4 All these documents are available as a bound paperback volume.

5 Some of the documents from Stage II have been published in *Human Rights, European Politics, and the Helsinki Accord: The Documentary Evolution of the Conference on Security and Co-operation in Europe, 1973–1975*, eds. Igor I. Kavass, Jacqueline Paquin Granier and Mary Frances Dominick (Buffalo: W. S. Hein & Co., 1981), 6 vols.

c) Co-ordinating Committee: Working Group on the Technical Aspects of the Final Act

- CSCE/CC/WG/MAQ/101 (20 July 1975).
- Journal No. 1 (20 July 1975).

d) Co-ordinating Committee: Working Group on the Preparations for Stage III

- CSCE/CC/WG/III/101 (9 April 1975) to CSCE/CC/WG/III/105/Corr.1 (17 July 1975).
- Journals No. 1 (9 April 1975) to No. 21 (17 July 1975).

e) Co-ordinating Committee: Working Group on the Follow-up to the Conference

- CSCE/WG/IV/1 (28 March 1974) to CSCE/WG/IV/3 (7 June 1974).
- CSCE/WG/IV/101 (16 October 1974) to CSCE/WG/IV/108 (15 July 1975).
- CSCE/WG/IV/DEC/1 (28 February 1974) to CSCE/WG/IV/DEC/6 (14 July 1975).
- Journals No. 1 (28 February 1974) to No. 65 (14 July 1975).

f) Co-ordinating Committee: Working Group on Financial Matters

- WG.1(CC) 1 (7 December 1973) to WG.1(CC) 16/Rev.1 (5 June 1975).
- CC/DEC.1 on WG.1 (29 August 1973).
- Journals No. 1 (6 February 1974) to No. 9 (11 July 1975).

g) Executive Secretary

- CSCE/II/INF.1 (11 September 1973) to CSCE/II/INF.432 (19 July 1975).
- CSCE/II/EX.SEC/1 (16 October 1973) to CSCE/II/EX.SEC/22 (22 July 1975).

h) Committee I (First Basket)

- CSCE/II/C.1/1 (28 September 1973) to CSCE/II/C.1/18 (9 May 1974).
- CSCE/II/C.1/101 (31 January 1974) to CSCE/II/C.1/102 (20 July 1975).
- CSCE/II/C.1/DEC/1 (12 October 1973) to CSCE/II/C.1/DEC/4 (31 January 1974).
- Journals No. 1 (18 September 1973) to No. 46 (20 July 1975).

i) Committee I: Subcommittee A (Decalogue)

- CSCE/II/A/1 (19 September 1973) to CSCE/II/A/36 (6 June 1975).
- CSCE/II/A/101 (8 February 1974) to CSCE/II/A/140 (19 July 1975).
- CSCE/II/A/DEC/1 (20 September 1973) to CSCE/II/A/DEC/5 (13 February 1974).
- Journals No. 1 (19 September 1973) to No. 337 (19 July 1975).

j) Committee I: Special Working Body B (Peaceful Settlement of Disputes)

- CSCE/II/B/1 (18 September 1973) to CSCE/II/B/5/Rev.1 (16 April 1975).
- CSCE/II/B/101 (15 March 1974) to CSCE/II/B/123 (18 July 1975).
- CSCE/II/B/DEC/1 (19 September 1973) to CSCE/II/B/DEC/24 (20 September 1974).
- Journals No. 1 (19 September 1973) to No. 168 (18 July 1975).

k) Committee I: Subcommittee C (Confidence-Building Measures)

- CSCE/II/C/1 (19 September 1973) to CSCE/II/C/17 (12 March 1974).

- CSCE/II/C/101 (13 March 1974) to CSCE/II/C/121 (20 July 1975).
- CSCE/II/C/DEC/1 (21 September 1973) to CSCE/II/C/DEC/22 (23 September 1974).
- Journals No. 1 (19 September 1973) to No. 247 (20 July 1975).

l) Committee II (Second Basket)

- CSCE/II/C.2/1 (25 September 1973) to CSCE/II/C.2/13/Corr. 2 (6 March 1974).
- CSCE/II/C.2/101 (31 January 1974) to CSCE/II/C.2/108 (19 July 1975).
- CSCE/II/C.2/DEC/1 (18 September 1973) to CSCE/II/C.2/DEC/12 (19 July 1975).
- Journals No. 1 (18 September 1973) to No. 85 (19 July 1975).

m) Committee II: Subcommittee D (Commercial Exchanges)

- CSCE/II/D/1 (19 September 1973) to CSCE/II/D/21 (14 May 1974).
- CSCE/II/D/101 (1 February 1974) to CSCE/II/D/168 (17 July 1975).
- CSCE/II/D/DEC/1 (1 October 1973) to CSCE/II/D/DEC/5 (19 September 1974).
- Journals No. 1 (19 September 1973) to No. 170 (16 July 1975).

n) Committee II: Subcommittee E (Industrial Co-operation and Projects of Common Interest)

- CSCE/II/E/1 (19 September 1973) to CSCE/II/E/18 (25 September 1974).
- CSCE/II/E/101 (14 February 1974) to CSCE/II/E/135/Rev.1 (6 March 1975).
- CSCE/II/DEC/1 (2 October 1973) to CSCE/II/DEC/7 (17 July 1974).
- Journals No. 1 (19 September 1973) to No. 103 (26 March 1975).

o) Committee II: Subcommittee F (Science and Technology)

- CSCE/II/F/1 (20 September 1973) to CSCE/II/F/13 (5 April 1974).
- CSCE/II/F/101 (4 February 1974) to CSCE/II/F/130/Rev.1 (16 June 1975).
- CSCE/II/F/DEC/1 (1 September 1973) to CSCE/II/F/DEC/2 (16 January 1974).
- Journals No. 1 (20 September 1973) to No. 104 (27 June 1975).

p) Committee II: Subcommittee G (Environment)

- CSCE/II/G/1 (22 October 1973) to CSCE/II/G/16 (4 April 1974).
- CSCE/II/G/101 (8 February 1974) to CSCE/II/G/129 (27 June 1975).
- CSCE/II/G/DEC/1 (22 October 1973) to CSCE/II/G/DEC/4 (24 May 1974).
- Journals No. 1 (22 October 1973) to No. 50 (27 June 1975).

q) Committee II: Subcommittee H (Transport, Tourism, Migrant Labour, Training of Personnel)

- CSCE/II/H/1 (22 October 1973) to CSCE/II/H/18 (5 April 1974).
- CSCE/II/H/101 (5 February 1974) to CSCE/II/H/140 (5 July 1975).
- CSCE/II/H/DEC/1 (22 October 1973) to CSCE/II/H/DEC/2 (17 January 1974).
- Journals No. 1 (22 October 1973) to No. 99 (5 July 1975).

r) Committee III (Third Basket)

- CSCE/II/C.3/1 (12 October 1973) to CSCE/II/C.3/4 (21 February 1974).
- CSCE/II/C.3/101 (13 February 1974) to CSCE/II/C.3/108 (15 July 1975).

- CSCE/II/C.3/DEC/1 (18 September 1973) to CSCE/II/C.3/DEC/12 (11 September 1974).
- Journals No. 1 (18 September 1973) to No. 52 (15 July 1975).

s) Committee III: Subcommittee I (Human Contacts)

- CSCE/II/I/1 (19 September 1973) to CSCE/II/I/23 (30 January 1974).
- CSCE/II/I/101 (23 January 1974) to CSCE/II/I/139/Rev.1 (1 July 1975).
- CSCE/II/I/DEC/1 (26 September 1973) to CSCE/II/I/DEC/7 (18 November 1974).
- Journals No. 1 (19 September 1973) to No. 186 (2 July 1975).

t) Committee III: Subcommittee J (Information)

- CSCE/II/J/1 (18 September 1973) to CSCE/II/J/20 (23 January 1974).
- CSCE/II/J/101 (23 January 1974) to CSCE/II/J/149/Rev.1 (2 July 1975).
- CSCE/II/J/DEC/1 (27 September 1973) to CSCE/II/J/DEC/9 (20 May 1974).
- Journals No. 1 (19 September 1973) to No. 185 (2 July 1975).

u) Committee III: Subcommittee K (Culture)

- CSCE/II/K/1 (20 September 1973) to CSCE/II/K/18 (21 May 1974).
- CSCE/II/K/101 (28 January 1974) to CSCE/II/K/169/Corr. 3 (8 July 1975).
- CSCE/II/K/DEC/1 (27 September 1973) to CSCE/II/K/DEC/8 (21 May 1974).
- Journals No. 1 (20 September 1973) to No. 183 (4 July 1975).

v) Committee III: Subcommittee L (Education)

- CSCE/II/L/1 (19 September 1973) to CSCE/II/L/19 (29 January 1974).
- CSCE/II/L/101 (28 January 1974) to CSCE/II/L/142/Rev.1 (4 July 1975).
- CSCE/II/L/DEC/1 (26 September 1973) to CSCE/II/L/DEC/8 (10 June 1974).
- Journals No. 81 (20 September 1973) to No. 155 (4 July 1975).

4. Stage III (Helsinki, 1975)

- CSCE/III/PV.1 (30 July 1975) to CSCE/III/PV.7 (1 August 1975).⁶
- CSCE/III/1 (31 July 1975) to CSCE/III/2 (1 August 1975).⁷
- CSCE/III/Journals No. 1 (30 July 1975) to No. 3 (1 August 1975).
- Helsinki Final Act (1975).

5. Belgrade Follow-up Meeting (1977–1978)

a) Preparatory Meeting

- CSCE/BMP/1 (14 June 1977) to CSCE/BMP/12 (29 July 1977).
- CSCE/BMP/101 (18 July 1977) to CSCE/BMP/104 (22 July 1977).
- Journals No. 1 (15 June 1977) to No. 66 (5 July 1977).
- Decisions of the Preparatory Meeting (4 July 1977)

6 All these documents are available as a bound paperback volume.

7 Documents included in the bound paperback volume mentioned in the previous footnote.

b) Main Meeting

- CSCE/BM/VR.1 (4 October 1977) to CSCE/BM/VR.9 (10 October 1977).⁸
- CSCE/BM/VR.1 (8 March 1978) to CSCE/BM/VR.4 (9 March 1978).⁹
- CSCE/BM/1 (10 October 1977) to CSCE/BM/79 (8 March 1978).
- CSCE/BM/S/1 (24 October 1977) to CSCE/BM/S/3 (12 December 1977).
- CSCE/BM/E/1 (25 October 1977) to CSCE/BM/E/12 (7 November 1977).
- CSCE/BM/H/1 (20 October 1977) to CSCE/BM/H/15 (12 December 1977).
- CSCE/BM/F/1 (30 November 1977) to CSCE/BM/F/3 (12 December 1977).
- Journals No. 1 (4 October 1977) to No. 176 (9 March 1978).
- Concluding Document of the Belgrade Follow-up Meeting (1978).

6. Meeting of Experts on Peaceful Settlement of Disputes (Montreux, 1978)

- REM.1 (31 October 1978) to REM.8 (9 December 1978).
- REM/Doc. 1 (1 November 1978).
- Journals No. 1 (31 October 1978) to No. 31 (11 December 1978).
- Report of the Meeting of Experts (11 December 1978).

7. Meeting of Experts on Co-operation in the Mediterranean (Valletta, 1979)

- MEV.1 (13 February 1979) to MEV.43 (20 March 1979).
- MEV/DEC.1 (16 February 1979).
- Journals No. 1 (13 February 1979) to No. 29 (23 March 1979).
- Report of the Meeting of Experts (26 March 1979).

8. Scientific Forum (Bonn, 1978; Hamburg, 1980)

- ETWF.1 (12 June 1978) to ETWF.22 (5 July 1978).
- ET-WF/Dec.1 (28 June 1978) and ET-WF/Dec.2 (28 July 1978).
- Journals No. 1 (20 June 1978) to No. 30 (28 July 1978).
- International series (1-7); Natural Sciences/General (1-23); Natural Sciences/Energy (1-23); Natural Sciences/Food (1-23); Medicine/General (1-10); Medicine/Cancer (118); Medicine/Tumours (114); Medicine/Viral Diseases (1-5); Humanities/General (1-12); Humanities/Environment (1-13); Humanities/Urban Development (1-15).
- Report of the Bonn Preparatory Meeting to prepare the "Scientific Forum" (28 July 1978).
- Report of the Hamburg "Scientific Forum" of the CSCE (3 March 1980).

9. Madrid Follow-up Meeting (1980-1983)

a) Preparatory Meeting

- CSCE/RMP/1 (9 September 1980) to CSCE/RMP/10/Rev.1 (22 October 1980).
- Journals No. 1 (9 September 1980) to No. 47 (10 November 1980).
- Decisions concerning the organization of the 1980 Madrid Meeting (14 November 1980).

8 Opening statements (verbatim records available as a bound paperback volume).

9 Closing statements (verbatim records available as a bound paperback volume).

b) Main Meeting

- CSCE/RM/VR.1 (11 November 1980) to CSCE/RM/VR.9 (18 November 1980).¹⁰
- CSCE/RM/1 (12 November 1980) to CSCE/RM/56 (3 December 1982) and CSCE/RM/39/Revised (15 March 1983).
- CSCE/RM/S/1 (11 December 1980) to CSCE/RM/S/3 (15 December 1980).
- CSCE/RM/E/1 (9 December 1980) to CSCE/RM/E/21 (18 December 1980).
- CSCE/RM/H/1 (10 December 1980) to CSCE/RM/H/21/Add. 1 (19 December 1980).
- CSCE/RM/M/1 (12 December 1980) to CSCE/RM/M/5 (5 February 1981).
- CSCE/RM/F/1 (25 February 1981).
- Journals No. 1 (11 November 1980) to No. 333 (6 September 1983).
- Concluding Document of the Madrid Follow-up Meeting (1983).

10. Conference on Confidence- and Security-Building Measures and Disarmament in Europe (Stockholm, 1984–1986)

- Decisions of the Preparatory Meeting (...). Helsinki (1983).
- CSCE/SC/R.1 (17 January 1984) to CSCE/SC/R.7 (20 January 1984).¹¹
- CSCE/SC/1 (24 January 1984) to CSCE/SC/9 (19 September 1986).
- CSCE/SC/WGA.1 (7 February 1985).
- CSCE/SC/WGB.1 (20 May 1986) to CSCE/SC/WGB.4 (21 June 1986).
- Journals No. 1 (17 January 1984) to No. 379/Rev.2 (19 September 1986).
- Document of the Stockholm Conference (1986).

11. Meeting of Experts on Peaceful Settlement of Disputes (Athens, 1984)

- CSCE/REA.1 (21 March 1984) to CSCE/REA.7/Rev.2 (28 April 1984).
- Journals No. 1 (21 March 1984) to No. 27 (28 April 1984).
- Report of the Meeting of Experts (30 April 1984).

12. Seminar on Co-operation in the Mediterranean (Venice, 1984)

- CSCE/SV/SE-E.1 (18 October 1984) to CSCE/SV/SE-E.7 (22 October 1984).
- CSCE/SV/DEC.1 (16 October 1984).
- Report of the Venice Seminar (26 October 1984).

13. Meeting of Experts on Human Rights and Fundamental Freedoms (Ottawa, 1985)

- CSCE/OMEP/DEC.1 (23 April 1985).
- CSCE/OME.1 (7 May 1985) to CSCE/OME.50 (14 June 1985).
- CSCE/OME/DEC.1 (8 May 1985).
- Journals No. 1 (7 May 1985) to No. 30 (17 June 1985).

¹⁰ Opening and closing statements (verbatim records available as a bound paperback volume).

¹¹ Opening statements (all available as a bound paperback volume). The closing statements do not appear to have been indexed or published as a bound volume.

14. Tenth Anniversary Meeting of the Signature of the Helsinki Final Act (Helsinki, 1985)

- CSCE/TAM/VR.1 (30 July 1985) to CSCE/TAM/VR.7 (1 August 1985).¹²
- Journals No. 1 (30 July 1985) to No. 3 (1 August 1985).

15. Cultural Forum (Budapest, 1985)

- CSCE/CFB/PM.1 (21 October 1984) to CSCE/CFB/PM.2/Rev. (4 December 1984).
- CSCE/CFB/PM/DEC.1 (21 November 1984).
- Journals of the Preparatory Meeting No. 1 (21 October 1984) to No. 9 (3 December 1984).
- Report of the Preparatory Meeting (4 December 1984)
- CSCE/CFB/R.1 (15 October 1985) to CSCE/CFB/R.5 (17 October 1985).¹³
- CSCE/CFB/1 (24 October 1985) to CSCE/CFB/118 (25 November 1985).
- Journals No. 1 (15 October 1985) to No. 20 (25 November 1985)

16. Meeting of Experts on Human Contacts (Bern, 1986)

- Journals of the Preparatory Meeting, No. 1 (2 April 1986) to No. 9 (14 April 1986).
- CSCE/BMEPC/DEC/1 and CSCE/BMEPC/DEC/2 (14 April 1986).
- CSCE/BME.1 (29 April 1986) to CSCE/BME.49 (23 May 1986).
- Journals No. 1 (15 April 1986) to No. 30 (26 May 1986).

17. Vienna Follow-up Meeting (1986–1989)

a) Preparatory Meeting

- CSCE/WT.V.1 (22 September 1986) to CSCE/WT.V.4 (4 October 1986).
- Decisions of the Preparatory Meeting CSCE/WT.-V/DEC.1 (23 October 1986) and CSCE/WT.-V/DEC.2 (6 October 1986).

b) Main Meeting

- CSCE/WT/VR.1 (4 November 1986) to CSCE/WT/VR.8 (7 November 1986).¹⁴
- CSCE/WT.1 (8 December 1986) to CSCE/WT.141 (9 September 1988).
- CSCE/WT/S.1 (3 June 1987) to CSCE/WT/S.2 (11 June 1987).
- CSCE/WT/E.1 (10 February 1987) to CSCE/WT/E.12 (30 July 1987).
- CSCE/WT/H.1 (18 December 1987) to CSCE/WT/H.5/Add.1 (24 March 1987).
- Journals No. 1 (4 November 1986) to No. 400 (19 January 1989).
- Concluding Document of the Vienna Follow-up Meeting (1989).

12 All documents are available as a bound paperback volume.

13 Opening statements. (These verbatim records have been published as two bound paperback volumes: vol. I and vol. II).

14 Opening statements. (Verbatim records available as a bound paperback volume). For closing statements, see CSCE/WT/VR.9 (17 January 1989) to CSCE/WT/VR.14 (19 January 1989), also available as a bound paperback volume.

B. Governmental and Quasi-governmental Publications

1. Canada

Le Canada à Belgrade : passages de discours et interventions du Canada à la réunion de la Conférence sur la sécurité et la coopération en Europe tenue à Belgrade (Ottawa, 1978), ix–100 p.

- *Selection of Statements by the Delegation of Canada to the Human Contacts Experts Meeting*, n.p. (1986), 93 p.
- *Commentary on Canada's Implementation of Final Act and Madrid Concluding Document of the CSCE*, n.p. (1986), 117 p.

2. USA

a) Periodic publications

- *Semi-annual Report by the President to the Commission on Security and Co-operation in Europe (1975– ...)*.
- *CSCE Digest* (Commission on Security and Co-operation in Europe).

*b) Reports and hearings (in chronological order)*¹⁵

Basket II – Helsinki Final Act: East-West Economic Co-operation. Commission on Security and Co-operation in Europe. Hearings. 95th Congress, 1st Session, January 13 and 14, 1977 (Washington: Government Printing Office, 1977), 143 p.

Implementation of the Final Act of the Conference on Security and Co-operation in Europe: Findings and Recommendations. Two Years after Helsinki. House Committee on International Relations. 95th Congress, 1st Session, September 23, 1977 (Washington: Government Printing Office, 1977), 194 p. (and Revised Supplement, 1977, 168 p.).

Reports of Helsinki Monitors in the Soviet Union: Documents of the Public Groups to Promote Observance of the Helsinki Agreements in the USSR (Washington: Commission on Security and Co-operation in Europe, 1977–1978), 3 vols. (123 p., 80 p. and 183 p.).

Basket III: Implementation of the Helsinki Accord. Commission on Security and Co-operation in Europe. Hearings. 95th Congress (Washington: Government Printing Office, 1977–1979), XI vols.

- I. *Human Rights, February 23 and 24, 1977. Human Contacts: Family Reunification and Binational Marriages, March 15 and 17, 1977*, 233 p.
- II. *Religious Liberty and Minority Rights in the Soviet Union, April 27 and 28, 1977. Helsinki Compliance in Eastern Europe, May 9, 1977*, 439 p.
- III. *Information Flow, and Cultural and Education Exchanges, May 19, 24 and 25, 1977*, 193 p.
- IV. *Soviet Helsinki Watch Reports on Repression, June 3, 1977. U.S. Policy and the Belgrade Conference, June 6, 1977*, 104 p.

¹⁵ For an additional list, see *Helsinki Commission: The First 8 Years. Report to the Chairman of the Commission on Security and Co-operation in Europe by the U.S. General Accounting Office* (Washington: General Accounting Office, 1985), pp. 24ff.

- V. *The Rights to Citizenship in the Soviet Union, May 4, 1978*, 32 p.
- VI. *Soviet Law and the Helsinki Monitors, June 6, 1978*, 156 p.
- VII. *Repercussions of the Trials of the Helsinki Monitors in the USSR, July 11, 1978*, 112 p.
- VIII. *U.S. Compliance: Human Rights, April 3 and 4, 1979*, 498 p.
- IX. *U.S. Visa Policies, April 5, 1979*, 179 p.
- X. *Aleksandr Ginzburg on the Human Rights Situation in the USSR, May 11, 1979*, 21 p.
- XI. *Pastor Georgi Vins on the Persecution of Reformed Baptists in the USSR, June 7, 1979. On Human Rights Violations in Ukraine, June 19, 1979*, 150 p.
- The Belgrade CSCE Meeting: Review of Implementation and Consideration of New Proposals Preliminary Report, United States Delegation Statements Oct. 6 to Dec. 22, 1977* (Washington: Commission on Security and Co-operation in Europe, 1978), 136 p.
- The Right to Know, the Right to Act: Documents of Helsinki Dissent from the Soviet Union and Eastern Europe* (Washington: Commission on Security and Co-operation in Europe, 1978), 127 p.
- On Leaving the Soviet Union: Two Surveys Compared. A Statistical Analysis of the Patterns and Procedures in Soviet Emigration* (Washington: Commission on Security and Co-operation in Europe, 1978), 15 p.
- The Belgrade Follow-up Meeting to the Conference on Security and Co-operation in Europe: A Report and Appraisal. House Committee on International Relations. Print. 95th Congress, 2nd Session, May 17, 1978* (Washington: Government Printing Office, 1978), 105 p.
- Soviet Law and the Helsinki Monitors* (Washington: Commission on Security and Co-operation in Europe, 1978), 50 p.
- Activities Report 95th Congress* (Washington: Commission on Security and Co-operation in Europe, 1978), 34 p.
- On the Right to Emigrate for Religious Reasons: the Case of 10,000 Soviet Evangelical Christians* (Washington: Commission on Security and Co-operation in Europe, 1979), 29 p. (and Annexes, 167 p.).
- Fulfilling our Promises: The United States and the Helsinki Final Act* (Washington: Commission on Security and Co-operation in Europe, 1979), 382 p.
- Profiles: The Helsinki Monitors* (Washington: Commission on Security and Co-operation in Europe, 1979), no pagination.
- Fact Sheet: Update on the Soviet Helsinki Movement* (Washington: Commission on Security and Co-operation in Europe, 1979), 14 p.
- Implementation of the Final Act of the Conference on Security and Co-operation in Europe. Findings and Recommendations Five Years after Helsinki. Report submitted to the Congress of the United States by the Commission on Security and Co-operation in Europe* (Washington: Government Printing Office, 1980), ix-341 p.
- Review of Implementation of Basket II of the Helsinki Final Act. Hearing before the Subcommittee on International Economic Policy and Trade of the Committee on Foreign Affairs and the Commission on Security and Co-operation in Europe*,

96th Congress, 2nd sess., March 6, 1980 (Washington: Government Printing Office, 1980), iii–82 p.

A Thematic Survey of the Documents of the Moscow Helsinki Group (Washington: Commission on Security and Co-operation in Europe, 1981), 35 p.

The Helsinki Process and East-West Relations: Progress in Perspective. A Report on the Positive Aspects of the Implementation of the Helsinki Final Act, 1975–1984 (Washington, 1985), vii–252 p.

Implementation of the Helsinki Accords. Hearing before the Commission on Security and Co-operation in Europe. 99th Congress, 1st Session (Washington: Government Printing Office, 1986).

– *The Ottawa Human Rights Experts Meeting and the Future of the Helsinki Process*, 217 p.

– *Soviet Forced Labor Practices*, 85 p.

– *Human Rights and the CSCE Process*, 79 p.

– *The Stockholm Conference on Confidence- and Security-Building Measures and Disarmament in Europe and the Future of the CSCE Process*, xx–46 p.

Phase I of the Vienna Review Meeting of the Conference on Security and Co-operation in Europe (Washington: Government Printing Office, 1987), 27 p.

The Vienna Review Meeting of the Conference on Security and Co-operation in Europe. Compilation of Speeches (Washington: Government Printing Office, 1987), 3 vols. (397 p., 198 p. and 148 p.).

c) Miscellaneous

Three Years at the East-West Divide: The Words of U.S. Ambassador Max M. Kampelman at the Madrid Conference on Security and Human Rights, Introduction by Ronald Reagan and Jimmy Carter, (ed.) Leonard R. Sussman (New York: Freedom House, 1983), xix–133 p.

3. Belgium

La Belgique et l'Acte final d'Helsinki, 1975–1985 (Brussels: Ministry of Foreign Affairs, External Trade and Development Co-operation, 1985), 63 p.

4. United Kingdom

Selected Documents Relating to Problems of Security and Co-operation in Europe, 1954–1977 (Command 6932, Miscellaneous, no. 17/1977; London: Her Majesty's Stationery Office, 1977), x–362 p.

Progress towards Implementation of the Final Act of the Conference on Security and Co-operation in Europe (London: Her Majesty's Stationery Office, 1977), xlvi–98 p.

The Meeting held at Belgrade from 4 October 1977 to 9 March 1978 to follow-up the Conference on Security and Co-operation in Europe (Command 7126, Miscellaneous, no. 8/1978; London: Her Majesty's Stationery Office, 1978), 52 p.

5. Switzerland

Promotion des échanges commerciaux estoué: la contribution de la Conférence sur la sécurité et la coopération en Europe (CSCE) (Bern: Volkswirtschaftsdepartement, Handelsabteilung, 1976), 22 p.

6. Hungary

Continuer Helsinki. La politique étrangère et la vie culturelle hongroise. Faits, résultats et soucis (Budapest: Budapest, 1977), 176 p.

A Magyar Népköztársaság és a Helsinki Záróokmány La République populaire hongroise et l'Acte final d'Helsinki [The Hungarian People's Republic and the Helsinki Final Act] (Budapest: Hungarian Committee on Security and Co-operation in Europe/Hungarian Peace Committee, 1978), 45 p.

7. Poland

Poland and the Implementation of the CSCE Decisions (Warsaw: Interpress, 1986), 201 p.

8. Bulgaria

Zhivkov, Todor, *Garantir aux peuples la paix et la sécurité: dix ans depuis la Conférence d'Helsinki sur la sécurité et la coopération en Europe* (Sofia: SofiaPresse, 1985), 300 p.

9. USSR

Adamishin, A. L., et al., *From Helsinki to Belgrade. The Soviet Union and the Implementation of the Final Act of the European Conference: Documents and Material* (Moscow: Progress Publishers, 1977), 315 p.

La détente. Le point de vue soviétique. Les relations Est-Ouest après Helsinki (Moscow: Editions de l'Agence de presse Novosti, 1976), 136 p.

European Security and Co-operation: Premises, Problems, Prospects (Moscow: Progress Publishers, 1978), 405 p.

Helsinki: Bilan et perspectives. Collection of articles published in the Soviet press on the scope of the Conference on Security and Co-operation in Europe (Moscow: Editions de l'Agence de presse Novosti, 1976), 64 p.

Kashlev, Yuri, *La Conférence européenne: dans l'intérêt de tous les peuples* (Moscow: Editions de l'Agence de presse Novosti, 1975), 64 p.

– *Helsinki-Belgrade: le point de vue soviétique. Les voies de la détente. Reportage sur la rencontre de Belgrade* (Moscow: Editions de l'Agence de presse Novosti, 1978), 93 p.

– and Borisovich, Yuri, *L'Europe cinq ans après la Conférence d'Helsinki: le point de vue soviétique* (Moscow: Editions de l'Agence de presse Novosti, 1980), 100 p.

Kuznetsov, Vladlen, *Europe: Ten Years after Helsinki* (Moscow: Progress Publishers, 1985), 262 p.

Nalin, Y. and Nikolayev, A., *The Soviet Union and European Security* (Moscow: Progress Publishers, 1973), 141 p.

Chernenko, Konstantin, *Un an après Helsinki* (Moscow: Editions de l'Agence de presse Novosti, 1976), 39 p.

Ten Years after Helsinki. The Results and Prospects of European Security and Co-operation. Report of the Soviet Committee for European Security and Co-operation (Moscow: Progress Publishers, 1985), 197 p.

La vérité sur les échanges culturels (Moscow: Editions de l'Agence de presse Novosti, 1976), 86 p.

II. Publications (Books and Articles)¹⁶

A. Background to the CSCE

1. Books

Aćimović, Ljubivoje, *Problems of Security and Co-operation in Europe* (Alphen aan den Rijn: Sijthoff & Noordhoff, 1981), x–349 p.

– *Evolution of the CSCE Process* (Belgrade: Jugoslovenska Stvarnost, 1986), 48 p.

– Andrén, Nils, and Birnbaum, Karl E. (eds.), *Belgrade and Beyond: The CSCE Process in Perspective* (Alphen aan den Rijn: Sijthoff & Noordhoff, 1980), xi–180 p.

– (eds.), *Beyond Detente: Prospects for East-West Co-operation and Security in Europe* (Leiden: A. W. Sijthoff, 1976), 199 p.

– Birnbaum, Karl E., *The Politics of East-West Communication in Europe* (Westmead: Saxon House, 1979), viii–182 p.

– and Neuhold, Hanspeter (eds.), *Neutrality and Non-Alignment in Europe* (Vienna: W. Braumüller, 1982), 202 p.

– Chossudovsky, Evgeny M., *The Helsinki Final Act Viewed in the United Nations Perspective* (New York: UNITAR, 1980), viii–102 p.

– Ferraris, Luigi Vittorio (ed.), *Report on a Negotiation: Helsinki-Geneva-Helsinki, 1972–1975* (Alphen aan den Rijn: Sijthoff & Noordhoff/IUHEI, 1979), 439 p.

– Frei, Daniel, *Neutrality and Non-Alignment: Convergencies and Contrasts* (Kleine Studien zur Politischen Wissenschaft, No. 175; Zurich: Forschungsstelle für Politische Wissenschaft, Universität Zürich, 1979), 15 p.

(ed.), *Definitions and Measurement of Détente. East and West Perspectives* (Cambridge, Massachusetts: Oelgeschlager, Gunn & Hain, Publishers, Inc., 1981), viii–213 p.

Ghebali, Victor-Yves (coord.), *Dix ans de Conférence sur la sécurité et la coopération en Europe: bilan et perspectives* (Geneva: IUHEI, 1986), 93 p.

Heuvel, Cornelis C. van den, and Praaning, Rio D. (eds.), *The Belgrade Conference: Progress or Regression: Eastern, Western and Non-Aligned Appraisals of an Unfinished Conference* (Leiden: New Rhine Publishers, 1978), 60 p.

Jones, Goronwy J., *The Rise, Breakdown and Future of the East-West Detente Process* (New York: Vantage Press, 1987), xi–240 p.

Manin, Aleth, *La Conférence sur la sécurité et la coopération en Europe* (Notes et études documentaires, 4271–4272; Paris: La Documentation française, 1976), 47 p.

¹⁶ Only French or English publications that are specifically about the CSCE are listed here.

- Maresca, John T. *To Helsinki. The Conference on Security and Co-operation in Europe, 1973–1975* (Durham: Duke University Press, 1985), xiii–292 p.
- Möttölä, Kari (ed.), *Ten Years after Helsinki: The Making of the European Security Regime* (Boulder: Westview Press, 1986), ix–184 p.
- Neuhold, Hanspeter, and Thalberg, Hans (eds.), *The European Neutrals in International Affairs* (Laxenburg: Austrian Institute for International Affairs, 1984), 134 p.
- Palmer, Michael, *The Prospects for a European Security Conference* (London: Chatham House/PEP, 1971), 107 p.
- Sizoo, Jan, and Jurrjens, Rudolf Th., *CSCE Decision-Making: The Madrid Experience* (The Hague: Nijhoff, 1984), 348 p.
- Spencer, Robert (ed.), *Canada and the Conference on Security and Co-operation in Europe* (Toronto: University of Toronto Centre for International Studies, 1984), xi–440 p.
- VillainGandossi, Christiane, and Stamatiou, Willem (eds.), *L'Acte final d'Helsinki (1975): L'analyse sémiotique dans la recherche comparative – Le vocabulaire des relations internationales* (Occasional Paper 3; Vienna: European Coordination Centre for Research and Documentation in Social Sciences, 1986), 160 p.

2. Articles

- Aćimović, Ljubivoje, “Madrid Meeting of the Conference on Security and Co-operation in Europe”, *Review of International Affairs*, vol. XXXIV, no. 807 (Belgrade, November 1983), pp. 17–23.
- Alting von Geusau, F. A. M., “From Yalta to Helsinki: Developments in International Law”, *Netherlands Yearbook of International Law*, vol. VIII (1977), pp. 35–72.
- Andreani, Jacques, “La Conférence sur la sécurité et la coopération en Europe”, in *Régionalisme et universalisme dans le droit international contemporain* (Paris: Pedone, 1977), pp. 113–128.
- Ball, George, “Capitulation at Helsinki”, *The Atlantic Community Quarterly*, vol. 13, no. 3 (Fall 1975), pp. 286–288.
- Birnbaum, Karl, “Les Etats membres du Pacte de Varsovie et la CSCE”, *Politique étrangère*, no. 6 (1973), pp. 665–674.
- “Alignments in Europe: The CSCE Experience”, *The World Today*, vol. 37, no. 6 (June 1981), pp. 219–223.
 - Bloed, Arie, “Détente and the Concluding Document of Madrid”, in Arie Bloed and Pieter van Dijk (eds.), *Essays on Human Rights in the Helsinki Process* (Dordrecht: Nijhoff, 1985), pp. 1–8.
 - Brunner, Edouard, “La CSCE véhicule de politique étrangère pour la Suisse”, in Emanuel Diez et al. (eds.), *Festschrift für Rudolf Bindschedler* (Bern: Verlag Stämpfli, 1980), pp. 611–616.
 - “Signification de la CSCE : aventure ou nécessité”, in *Dix ans de CSCE : bilan et perspectives* (Geneva: IUHEI, 1976), pp. 6–13.
 - Campbell, John C., “European Security after Helsinki: Some American Views”, *Government and Opposition*, vol. 11, no. 3 (Summer 1976), pp. 322–336.

- Carle, François, “Les pourparlers exploratoires d’Helsinki”, *Etudes internationales*, vol. 4, no. 3 (September 1973), pp. 297–367 and vol. 4, no. 4 (December 1973), pp. 502–551.
- “La deuxième phase de la CSCE”, *Etudes internationales*, vol. VI, no. 2 (June 1975), pp. 165–187.
- Colard, Daniel, “La Conférence sur la sécurité et la coopération en Europe: ses origines et la position du Gouvernement français”, *Chronique de politique étrangère*, vol. 26, no. 5 (September 1973), pp. 531–552.
- Davy, Richard, “The ESC and the Politics of Eastern Europe”, *The World Today*, vol. 28, no. 7 (July 1972), pp. 289–295.
- “The CSCE Summit”, *The World Today*, vol. 31, no. 9 (September 1975), pp. 349–357.
- “Helsinki Scoreboard”, *The World Today*, vol. 32, no. 8 (August 1976), pp. 279–281.
- “Procedural Wrangles in Belgrade”, *The World Today*, vol. 33, no. 9 (September 1977), pp. 321–325.
- “No Progress at Belgrade”, *The World Today*, vol. 34, no. 4 (April 1978), pp. 128–135.
- Denorme, Roger, “CSCE. After Belgrade, What?”, *Studia Diplomatica*, vol. XXXI, no. 5 (1978), pp. 613–620.
- Diaconu, Ion, “La règle de la rotation appliquée aux travaux préparatoires ainsi qu’à ceux de la Conférence sur la sécurité et la coopération en Europe”, *Revue roumaine d’études internationales*, vol. 7, nos. 2–3 (1973), pp. 85–94.
- Edwards, Geoffrey, “Quo Vadis? The New Proposals at the CSCE Follow-up Meeting in Belgrade”, *International Relations*, vol. VI, no. 4 (November 1978), pp. 645–661.
- “The Madrid Follow-up Meeting to the Conference on Security and Co-operation in Europe”, *International Relations*, vol. VIII, no. 1 (May 1984), pp. 49–72.
- “The Conference on Security and Co-operation in Europe After Ten Years”, *International Relations*, vol. VIII, no. 4 (November 1985), pp. 397–406.
- Fawcett, J. E. S., “The Helsinki Act and International Law”, *Revue belge de droit international*, vol. XIII, nos. 1–2 (1977), pp. 5–9.
- “The Belgrade Conference: Recycled Paper”, *Millennium*, vol. 7, no. 1 (Spring 1978), pp. 52–60.
- Galtung, Johan, “Europe: Bipolar, Bicentric, or Cooperative?”, *Journal of Peace Research*, vol. IX, no. 1 (1972), pp. 1–26.
- “European Security and Co-operation: A Skeptical Contribution”, *Journal of Peace Research*, vol. XII, no. 3 (1975), pp. 165–178.
- Ghebali, Victor-Yves, “Le bilan intérimaire de la CSCE à la veille de Belgrade”, *Politique étrangère*, no. 2, (1977), pp. 109–153.
- “La Réunion de Belgrade sur les suites de la CSCE à évaluation et perspectives”, *Défense nationale* (June 1978), pp. 57–70.
- “Les résultats de la Réunion de Madrid sur les Suites de la CSCE”, *Défense nationale* (December 1983), pp. 123–144.

- "Le processus de la CSCE : bilan d'une décennie (1975-1985)", *Regards sur l'actualité*, 113 (Paris: La Documentation française, July/August 1985), pp. 44-52.
 - "Le processus de la CSCE : la première décennie, 1975-1985", in *Dix ans de CSCE : bilan et perspectives* (Geneva: IUHEI, 1986), pp. 75-93.
 - "La Conférence sur la sécurité et la coopération en Europe à l'ère Gorbatchev", *Défense nationale* (October 1987), pp. 63-83.
 - "La Conférence sur la sécurité et la coopération en Europe", *Universalia* (1988), pp. 230-232.
 - "Les résultats de la Réunion de Vienne sur les Suites de la CSCE", *Défense nationale* (April 1989).
 - Groll, Götz von, "East-West Talks in Helsinki", *Aussenpolitik. German Foreign Affairs Review*, vol. 23, no. 3 (1972), pp. 371-382.
 - "The Foreign Ministers in Helsinki", *Aussenpolitik*, vol. 24, no. 3 (1973), pp. 255-274.
 - "The Geneva CSCE Negotiations", *Aussenpolitik*, vol. 25, no. 2 (1974), pp. 158-165.
 - "The Final Act of the CSCE", *Aussenpolitik*, vol. 26, no. 3 (1975), pp. 247-269.
 - Hakovirta, Harto, "Effects of Non-Alignment on Neutrality in Europe: An Analysis and Appraisal", *Co-operation and Conflict*, vol. XVIII, no. 1 (1983), pp. 57-75.
 - Hassner, Pierre, "L'Europe de la guerre froide à la paix chaude", *Défense nationale* (March 1973), pp. 35-45.
 - "Conférence de Belgrade", *Universalia* (1978), pp. 221-223.
 - Holsti, Kalevi J., "Bargaining Theory and Diplomatic Reality: the CSCE Negotiations", *Review of International Studies*, vol. 8, no. 3 (July 1982), pp. 159-170.
 - "Who Got What and How: The CSCE Negotiations in Retrospect", in Robert Spencer (ed.), *Canada and the Conference on Security and Co-operation in Europe* (Toronto: University of Toronto, Centre for International Studies, 1984), pp. 134-165.
- Howard, Michael, "Helsinki Reconsidered. East-West Relations Two Years after the Helsinki Final Act", *The Round Table*, no. 267 (July 1977), pp. 241-248.
- Ilionemi, Jaakko, "Finland's Role in the CSCE", *Yearbook of Finnish Foreign Policy* (1975), pp. 33-35.
- John, Ieuan G., "The Helsinki-Belgrade Connection", *International Relations*, vol. V, no. 6 (November 1977), pp. 137-153.
- Kalela, Jaakko, "The Final Act of the CSCE: Obligations, Implementation and Sanctions", *Instant Research on Peace and Violence*, vol. VII, no. 1 (1977), p. 1-10.
- Kampelman, Max, "The United States and the CSCE", in *Dix ans de CSCE : bilan et perspectives* (Geneva: IUHEI, 1986), pp. 14-20.
- Kirk-Laux, Jeanne, "Divergence ou coalition : la position des pays de l'Europe de l'Est à l'égard de la Conférence sur la sécurité et coopération en Europe,

- 1965–1972”, *Etudes internationales*, vol. IV, nos. 1–2 (March to June 1973), pp. 89–120.
- “Les négociations EstOuest: le rôle des pays d’Europe de l’Est au sein de la Conférence sur la sécurité et la coopération en Europe”, *Etudes internationales*, vol. VI, no. 4 (December 1975), pp. 478–500.
- Klein, Jean, “Enjeu et signification de la Conférence sur la sécurité et la coopération en Europe”, *Annuaire de l’U.R.S.S. et des pays socialistes européens* (1975), pp. 595–611.
- “De Helsinki à Madrid: Réflexions sur la sécurité et la coopération en Europe”, in Institut international d’études diplomatiques, *Sur l’état de la société internationale* (Paris: Economica, 1981), pp. 87–99.
- Lipatti, Valentin, “De Helsinki à Belgrade: Considérations sur la sécurité et la coopération en Europe”, *Revue roumaine d’études internationales*, vol. 10, no. 3 (1976), pp. 267–274.
- “Considérations sur les suites de la CSCE”, *Revue roumaine d’études internationales*, vol. 15, no. 5 (1981), pp. 433–442.
- Mendelevich, Lev, “Notes diplomatiques sur les consultations multilatérales d’Helsinki (1972–1973) pour la préparation de la Conférence européenne”, *La Vie internationale*, no. 12/276, (Moscow, December 1983), pp. 102–126.
- Mroz, John Edwin, “Remarks on the Development and Decline of the Helsinki Process”, *Revue roumaine d’études internationales*, vol. 16, no. 2 (1982), pp. 99–105.
- Nastasescu, Stefan, “Conference on Security and Co-operation in Europe: the Rule of the Discussion outside Military Alliances”, *Revue roumaine d’études internationales*, vol. 8, no. 2 (1974), pp. 23–28.
- Neuhold, Hanspeter, “Military, Economic and Ideological Ambiguities of Detente: Theory and Reality”, *Studia diplomatica*, vol. 32, no. 2 (1979), pp. 153–165.
- Palmer, Michael, “A European Security Conference. Preparation and Procedure”, *The World Today*, vol. 28, no. 1 (January 1972), pp. 36–46.
- Peronne, Louis P, “Helsinki, Belgrade, Madrid. La longue marche de l’Europe vers la paix?”, *Etudes* (October 1978), pp. 293–308.
- “Madrid: dialogue sur un fil”, *Etudes* (November 1980), pp. 437–445.
- Prevost, Jean-François, “Observations sur la nature juridique de l’Acte Final de la CSCE”, *Annuaire français de droit international* (1975), pp. 129–153.
- Skilling, H. Gordon, “The Belgrade Follow-up”, in Robert Spencer (ed.), *Canada and the Conference on Security and Co-operation in Europe* (Toronto: University of Toronto, Centre for International Studies, 1984), pp. 283–307.
- “CSCE in Madrid”, *Problems of Communism*, vol. XXX, no. 4 (July/August 1981), pp. 1–16.
- Wood, Alan, “Pravda, Europe and the Helsinki Act”, *International Relations*, vol. VI, no. 4 (November 1979), pp. 645–661.

B. The Decalogue, Human Rights and Détente

1. Books

- Bloed, Arie, and Dijk, Pieter van (eds.), *Essays on Human Rights in the Helsinki Process* (Dordrecht: Nijhoff, 1985), xiii–266 p.
- Buergenthal, Thomas (ed.), assisted by Hall, Judith R., *Human Rights, International Law and the Helsinki Accord* (Montclair: Allanheld, Osmun & Co, 1977), viii–203 p.
- Ghebali, Victor-Yves, *Les droits de l'homme dans les rapports Est-Ouest: l'apport du processus d'Helsinki* (Cahiers de recherche du GIPRI, 15; Geneva: GIPRI Foundation, 1987), 28 p.
- Mastny, Vojtech, *Helsinki, Human Rights and European Security: Analysis and Documentation* (Durham: Duke University Press, 1985), xvi–389 p.
- Mink, Georges, *L'opposition ouvrière et intellectuelle en Europe de l'Est (RDA, Hongrie, Tchécoslovaquie, Pologne)* (Problèmes politiques et sociaux, 311; Paris: La Documentation française, 1977), 59 p.
- Rubenstein, Joshua, *Soviet Dissidents: Their Struggle for Human Rights* (Boston: Beacon Press, 1980), xv–304 p.
- Samatan, Marie, *Droits de l'homme et répression en URSS: l'appareil et les victimes* (Paris: Éditions du Seuil, 1982), 342 p.
- Skilling, H. Gordon, *Charter 77 and Human Rights in Czechoslovakia* (London: George Allen & Unwin, 1981), xv–363 p.
- Szymanski, Albert, *Human Rights in the Soviet Union* (London: Zed Books, 1984), vii–338 p.

2. Articles

- Ácimović, Ljubivoje, "European Principles", *Review of International Affairs*, vol. XXVI, no. 613 (Belgrade, October 1975), pp. 5–7.
- Andreani, Jacques, "Le Dialogue d'Helsinki: espoir ou réalité", in *Dix ans de CSCE: bilan et perspectives* (Geneva: IUHEI, 1986), pp. 30–37.
- Apunen, Osmo, "The Principles of Relations between the States of Europe", *Yearbook of Finnish Foreign Policy* (1975), pp. 36–47.
- Arangio Ruiz, Gaetano, "Droits de l'homme et non-intervention: Helsinki, Belgrade, Madrid", *La Comunità Internazionale* (1980), no. 3, pp. 453–507.
- "Human Rights and Non-Intervention in the Helsinki Final Act", *Collected Courses of The Hague Academy of International Law*, vol. 157 (1977), IV, pp. 195–331.
- BaileyConwell, G. M., "Détente in Soviet Strategy", *NATO's Fifteen Nations* (December 1975 to January 1976), pp. 86–90.
- Blix, Hans, "The Helsinki Declaration of Principles guiding Relations between States in Europe", *Revue égyptienne de droit international*, vol. 31 (1975), pp. 1–15.
- Boiter, Albert, "Law and Religion in the Soviet Union", *The American Journal of Comparative Law*, vol. XXXV, no. 1 (Winter 1987), pp. 97–126.
- Carrère d'Encausse, Hélène, "Droits de l'homme à Belgrade: divergences d'interprétation entre l'Est et l'Ouest", *Paradoxes* (June/July 1977), pp. 60–83.

- Cassese, Antonio, "The Approach of the Helsinki Declaration to Human Rights", *Vanderbilt Journal of Transnational Law*, vol. 13, nos. 2-3 (Spring/Summer 1980), pp. 275-291.
- Chossudovsky, Evgeny, "Genoa Revisited: Russia and Coexistence", *Foreign Affairs*, vol. 50, no. 3 (April 1972), pp. 554-577.
- Edwards, Geoffrey, "Belgrade and Human Rights", *Government and Opposition*, vol. 13, no. 3 (1978), pp. 307-322.
- Fascell, Dante, "Did Human Rights Survive Belgrade?", *Foreign Policy*, no. 31 (Summer 1978), pp. 104-118.
- Ghebali, Victor-Yves, "L'Acte final de la Conférence sur la sécurité et la coopération en Europe et les Nations Unies", *Annuaire français de droit international* (1975), pp. 73-127.
- "Les dix principes d'Helsinki : interprétations et mise en œuvre", in Frans A. M. Alting von Geusau (ed.), *Uncertain Détente* (Alphen aan den Rijn: Sijthoff & Noordhoff, 1979), pp. 57-74.
 - "La question des droits de l'homme à la Réunion de Madrid sur les Suites de la CSCE", *Annuaire français de droit international* (1983), pp. 59-80.
 - "La réunion d'experts d'Ottawa sur les droits de l'homme", *Défense nationale* (March 1986), pp. 89-102.
 - "La Conférence de Paris sur la dimension humaine de la CSCE", *Défense nationale* (November 1989).
- Hannikainen, Lauri, "The Declaration of Principles guiding Relations between States of the European Security Conference from the viewpoint of International Law", *Instant Research on Peace and Violence*, vol. VI, no. 3 (1976), pp. 93-101.
- Kartashkin, Vladimir, "Les relations internationales et les droits de l'homme", *La Vie internationale*, no. 8 (Moscow, August 1977), pp. 31-37.
- "Les pays socialistes et les droits de l'homme", in Karel Vasak (ed.), *Les dimensions internationales des droits de l'homme* (Paris: UNESCO, 1978), pp. 680-701.
- Leary, Virginia A., "The Right of the Individual to Know and Act upon his Rights and Duties: Monitoring Groups and the Helsinki Final Act", *Vanderbilt Journal of Transnational Law*, vol. 13, nos. 2-3 (Spring/Summer 1980), pp. 375-395.
- Lesage, Michel, "L'URSS: de la légalité socialiste à l'Etat de droit", *Revue du droit public* (March/April 1989), pp. 271-298.
- Loescher, G. D., "Human Rights and the Helsinki-Belgrade Process", *Yearbook of World Affairs*, vol. 35 (1981), pp. 62-78.
- Mourgeon, Jacques, "La Conférence de Belgrade et les droits de l'homme", *Annuaire français de droit international* (1978), pp. 265-274.
- Movchan, Anatoly, "Problems of Boundaries and Security in the Helsinki Declaration", *Collected Courses of The Hague Academy of International Law*, vol. 154 (1977), I, pp. 1-44.
- Ninčić, Djura, "Les implications générales juridiques et historiques de la Déclaration d'Helsinki", *Collected Courses of The Hague Academy of International Law*, vol. 154 (1977), I, pp. 45-102.

- Niset, José, "Conceptions soviétiques en matière de droits de l'homme", *Studia diplomatica*, vol. XXVIII, no. 3 (1975), pp. 253–284.
- Ushakov, N. A., "Le développement des principes fondamentaux du droit international dans l'Acte final sur la sécurité et la coopération en Europe", in Jerzy Makarczyk (ed.) *Essays in International Law in Honour of Judge Manfred Lachs* (The Hague: Nijhoff, 1984), pp. 217–234.
- Przetacznik, Franciszek, "L'attitude des Etats socialistes à l'égard de la protection internationale des droits de l'homme", *Revue des droits de l'homme*, vol. VII, no. 1 (1974), pp. 175–205.
- "The Socialist Concept of Human Rights: Its Philosophical Background and Political Justification", *Revue belge de droit international*, vol. XIII, nos. 1–2 (1977), pp. 239–278.
- Russell, Harold, "The Helsinki Declaration: Brobdingnag or Lilliput?", *American Journal of International Law*, vol. 70, no. 2 (April 1976), pp. 242–272.
- Sobakin, Vadim K., "L'Union soviétique et la détente: réalisations, obstacles, perspectives", *Studia diplomatica*, vol. 39, no. 6 (1976), pp. 731–741.

C. The CSCE and peaceful Settlement of Disputes

- Aćimović, Ljubivoje, "Le système européen du règlement pacifique des différends", *Revue de politique internationale*, vol. XXX, no. 691 (Belgrade, 20 January 1979), pp. 19–22.
- "Peaceful Settlement of International Disputes – Current Initiatives and Perspectives", in Emanuel Diez et al. (eds.), *Festschrift für Rudolf Bindschedler* (Bern: Verlag Stämpfli, 1980), pp. 335–349.
- Bindschedler, Rudolf, "Le règlement pacifique des différends: une constante de la politique suisse", *Gazette de Lausanne*, 25 April 1973.
- "La Conférence sur la sécurité en Europe et le règlement pacifique des différends", *Comunicazioni e Studi*, vol. XIV (1975), pp. 101–108.
- Gheballi, Victor-Yves, "Anatomie de la Réunion d'experts de la CSCE sur le règlement pacifique des différends", *Défense nationale* (March 1979), pp. 25–39.
- Jeannel, Roger, "La Conférence de Montreux sur le règlement des différends dans le cadre de la CSCE", *Annuaire français de droit international* (1978), pp. 373–378.
- Monnier, Jean, "Le règlement pacifique des litiges internationaux. Diagnostic et perspectives", *Annuaire suisse de droit international* (1981), pp. 9–24.
- Račić, Obrad, "Meeting of Experts of the Conference on Security and Co-operation in Europe on the Peaceful Settlement of Disputes", *Review of International Affairs*, vol. XXXV, no. 828 (Belgrade, 5 October 1984), pp. 11–19.
- Rybakov, Yuri, "Principle of Peaceful Settlement of Disputes as One of the Most Fundamental Principles of Contemporary International Law", *Revue hellénique de droit international*, vol. 37, nos. 1–4 (1984), pp. 7–14.
- and Vilegjanina, E., "Formes et méthodes de règlement des litiges", *La Vie internationale*, no. 6/222 (Moscow, June 1979), pp. 79–83.

D. The Military Aspects of Security

1. Books

- Berg, Rolf, and Rotfeld, Adam Daniel, *Building Security in Europe. Confidence-Building Measures and the CSCE* (New York: Institute for East-West Security Studies, 1986), 181 p.
- Borawski, John, *From the Atlantic to the Urals. Negotiating Arms Control at the Stockholm Conference* (Washington: PergamonBrassey's, 1988), 261 p.
- Byers, R. B., Larrabee, Stephen, and Lynch, Allen (eds.), *Confidence-Building Measures and International Security* (New York: Institute for East-West Security Studies, 1987), viii–156 p.
- George, Bruce, *Special Report on Confidence-Building Measures: Next Steps for Stability and Security*; Brussels: North Atlantic Assembly, 1988), 77 p.
- Ghebali, Victor-Yves, *Mesures de confiance de la CSCE: documents et commentaires* (UNIDIR, "Travaux de recherché", 3; UNIDIR/89/14; sales number: G.V.F.89.0.5; New York: United Nations, UNIDIR, 1989), v–114 p. English translation forthcoming at the time of writing.
- and Junod, Benoît (coord.), *La conférence sur le désarmement en Europe: Les résultats de la première phase* (Geneva: GIPRI Foundation, 1989), forthcoming at the time of writing.
- Kaiser, Karl (ed.), *Confidence-Building Measures* (Bonn: Forschungsinstitut der Deutschen Gesellschaft für Auswärtige Politik e. V., 1983), iii–237 p.
- Larrabee, Stephen, and Stobbe, Dietrich (eds.), *Confidence-Building in Europe* (New York: Institute for East-West Security Studies, 1983), 221 p.
- Larrabee, F. Stephen, and Lynch, Allen, *Confidence-Building Measures and U.S. Soviet Relations* (New York: Institute for East-West Relations, 1986), 25 p.

2. Articles

- Acimović, Ljubivoje, "The CSCE and Military Aspects of European Security", in F. A. M. Altling von Geusau (ed.), *Uncertain Détente* (Alphen aan den Rijn, 1975), pp. 132–149.
- Brayton, Abbot A., "Confidence-Building Measures in European Security", *The World Today*, vol. 36, no. 10 (October 1980), pp. 382–391.
- D'Abouville, Benoît, "Le projet de conférence européenne sur le désarmement et l'échéance de Madrid", in Pierre Lellouche (ed.), *La sécurité de l'Europe dans les années 80. Les relations Est-Ouest et le théâtre européen* (Paris: IFRI, 1980), pp. 393–400.
- Dehaime, Jean [Desazars, Jean], "Le projet français de conférence de désarmement en Europe et la Réunion de Madrid", *Défense nationale* (November 1980), pp. 95–106.
- Ghebali, Victor-Yves, "Considérations sur certains aspects militaires de la détente: les mesures de confiance d'Helsinki", *Défense nationale* (April 1977), pp. 21–35.
- "La Conférence de Stockholm sur le désarmement en Europe: perspectives préliminaires", *Défense nationale* (June 1984), pp. 51–67.

- "Les progrès de la Conférence de Stockholm sur le désarmement en Europe", *Défense nationale* (June 1985), pp. 91-108.
- "La dynamique de la confiance militaire dans le processus de la CSCE : des MDC aux MDCS", *Arès. Défense et sécurité* (1984-1985), pp. 469-489.
- "Le succès de la première phase de la Conférence de Stockholm sur le désarmement en Europe", *Défense nationale* (January 1987), pp. 55-72.
- "L'achèvement de la première phase de la Conférence de Stockholm sur les MDCS et le désarmement en Europe", *Arès.*, vol. IX, (1978/1), pp. 213-222.
- "La dynamique négociatoire de la Conférence sur le désarmement en Europe", *Etudes de défense* (Strasbourg: Bulletin de documentation de l'ACEDES, 1988), pp. 39-51.
- "Mesures de confiance et de sécurité en Europe : le bilan de 1987", *Défense nationale* (March 1988), pp. 91-101.
- "Les négociations sur le désarmement conventionnel en Europe", *Arès* (1988/1), pp. 195-204.
- "Mesures de confiance et de sécurité en Europe : le bilan de 1988", *Défense nationale* (February 1989), pp. 95-104.
- "From MBFR to CAFE in Vienna", *International Defense Review*, vol. 22, no. 2 (February 1989), pp. 127-128.
- and Tanner, Fred, "Confidence-Building Measures in Arms Control: The Mouse That Roared", *International Defense Review*, vol. 21, no. 10 (October 1988), pp. 1269-1272.
- Goodby, James, "Security for Europe", *NATO Review*, vol. 32, no. 3 (June 1984), pp. 9-14.
- "Security for Europe: Stockholm Revisited", *NATO Review*, vol. 33, no. 1 (February 1985), pp. 12-16.
- Guilhaudis, Jean-François, "La Conférence de Stockholm : vers un compromis?", *Arès. La course aux armements et le désarmement* (1986), pp. 347-357.
- Holst, Johan Jørgen, "Confidence-Building Measures: A Conceptual Framework", *Survival*, vol. XXV, no. 1 (January/February 1983), pp. 2-15.
- and Melander, Karen Alette, "European Security and Confidence-Building Measures", *Survival*, vol. XIX, no. 4 (July/August 1977), pp. 146-154.
- Klein, Jean, "Mesures de confiance et sécurité en Europe", *Défense nationale* (October 1980), pp. 59-77.
- "Les aspects militaires de la sécurité à la Conférence de Madrid", *Annuaire de l'URSS et des pays socialistes européens* (1981/1982), pp. 517-534.
- "Les aspects politiques et militaires de la sécurité en Europe débattus dans le cadre de la première commission de la CSCE", *Annuaire de l'URSS et des pays socialistes européens* (1975), pp. 613-636.
- Lewis, Kevin N., and Lorell, Mark A., "Confidence-Building and Crisis Resolution: Historical Perspectives", *Orbis*, vol. 28, no. 2 (Summer 1984), pp. 281-306.
- Lipatti, Valentin, "Quelques considérations sur les aspects militaires de la sécurité en Europe", in *Dix ans de CSCE : bilan et perspectives* (Geneva: IUHEI, 1986), pp. 41-58.

- Mellbin, Skjold G., "The Helsinki Process: Issues of Security and of Confidence-Building", *NATO Review*, vol. 33, no. 4 (August 1985), pp. 7–13.
- Mevik, Leif, "La Conférence sur les mesures de confiance et de sécurité et le désarmement en Europe (CDE) La phase finale", *NATO Review*, vol. 34, no. 4 (August 1986), pp. 1–5.
- "The CDE: A Solid Achievement", *NATO Review*, vol. 34, no. 5 (October 1986), pp. 15–17.
- Toogood, John D., "Military Aspects of the Belgrade Review Meeting", *Survival*, vol. XX, no. 4 (July/August 1978), pp. 155–158.
- Yost, Daniel, "Arms Control: Prospects at Madrid", *The World Today*, vol. 38, no. 10 (October 1982), pp. 387–394.
- Yuriev, N., "Les Mesures de confiance et la sécurité en Europe", *La Vie internationale*, no. 1/277, (Moscow, January 1984), pp. 24–30, 39.

E. The second Basket

1. Books

- Chossudovsky, Evgeny M., "East-West" *Diplomacy for Environment in the United Nations* (Sales No. E.88.XV.ST.26; New York: UNITAR, 1988), xix–256 p.
- Clavel, Jean-Daniel, *Les résultats de la Réunion de Vienne sur les Suites de la CSCE: le volet économique* (Cahier de recherche, 22; Geneva: GIPRI Foundation, 1989), 50 p.
- Lachaux, Claude, *Le commerce EstOuest* ("Que saisje ? series, 2162; Paris: PUF, 1984), 127 p.
- Lavigne, Marie, *Les relations économiques EstOuest* (Paris: PUF, 1979), 304 p.
- Levcik, Friedrich, and Stankovsky, Jan, *Industrial Co-operation between East and West* (London: Macmillan Press, 1979), xii–287 p.
- Muller, Frédéric, "La Suisse et la Commission économique pour l'Europe des Nations Unies", PhD thesis (Institut universitaire de hautes études internationales (IUEHI), Geneva, 1983) 540 p.
- North Atlantic Assembly, *Les relations économiques Est-Ouest* (Brussels, 1984), vi–77 p.
- Pisar, Samuel, *Les armes de la paix. L'ouverture économique vers l'Est* (Paris: Denoël, 1970), 298 p.
- *Transactions entre l'Est et l'Ouest. Le cadre commercial et juridique* (Paris: Dunod, 1972), 335 p.
- Sauvignon, E., *La clause de la nation la plus favorisée* (Grenoble: Presses universitaires de Grenoble, 1972), 372 p.
- Sokoloff, Georges, *L'économie de la détente* (Paris: Presses de la Fondation nationale des sciences politiques, 1983), 225 p.

2. Articles

- Bailey, Paul J., and BaileyWiebecke, Ilka, "All-European Co-operation: the CSCE's Basket Two and the ECE", *International Journal*, vol. XXXII, no. 2 (Spring 1977), pp. 386–407.

- Bailey-Wiebecke, Ilka, "ECE and the Belgrade Follow-up Conference", *Aussenpolitik. German Foreign Affairs Review*, vol. 28, no. 3 (1977), pp. 257–273.
- Chossudovsky, Evgeny, "The Role of the United Nations Economic Commission for Europe in the Co-Existence Process – Some Notes on a Possible Case Study", *Coexistence*, vol. 4, no. 2 (1967), pp. 151–177.
- "Toward the ESC Conference: New Horizons for East-West Economic Co-operation", *Instant Research on Peace and Violence*, no. 3 (1972), pp. 128–144.
 - "The Role of International Institutions in All-European "ExtraPolitical" Co-operation: ECE and CSCE", *CoExistence*, vol. 14, no. 1 (1977), pp. 50–59.
- Clavel, Jean-Daniel, "Une nouvelle dimension des relations EstOuest: la protection de l'environnement", *Le Trimestre du monde*, no. 7 (1989/III), pp. 87–93.
- Courteix, Simone, "La coopération dans les domaines de l'économie, de la science, de la technique et de l'environnement", *Annuaire de l'URSS et des pays socialistes européens* (1975), pp. 637–654.
- Dutoit, Bernard, "Les relations entre la CEE et la CAEM ou le jeu de cachecache entre réalité et idéologie", in Emanuel Diez et al. (eds.), *Festschrift für Rudolf Bindschedler* (Bern: Verlag Stämpfli, 1980), pp. 457–478.
- Elzinga, W. J., "La dimension économique sousévaluée du processus de la CSCE", *NATO Review*, vol. 33, no. 4 (August 1985), pp. 14–18.
- Fallenbuchi, Zbigniew, "Economic Questions", in Robert Spencer (ed.), *Canada and the Conference on Security and Co-operation in Europe* (Toronto: University of Toronto, Centre for International Studies, 1984), pp. 228–255.
- Hakovirta, Harto, "Neutral States in East-West Economic Co-operation", *CoExistence*, vol. 18, no. 2 (October 1981), pp. 95–119.
- Hanson, Philip, "Economic Aspects of Helsinki", *International Affairs*, vol. 61, no. 4 (Autumn 1985), pp. 619–629.
- HassHürni, Bettina, "Economic Issues at Belgrade", *Journal of World Trade Law*, vol. 12, no. 4 (July/August 1978), pp. 289–302.
- Kiss, Alexandre Charles, "La coopération paneuropéenne dans le domaine de l'environnement", *Annuaire français de droit international* (1979), pp. 719–725.
- Lansing, Paul, and Rose, Eric C., "The Granting and Suspension of Most-Favored-Nation Status for Non-Market Economy States: Policy and Consequences", *Harvard International Law Review*, vol. 25, no. 2 (Spring 1984), pp. 329–354.
- Lavigne, Marie, "Les relations économiques EstOuest 1975–1985: bilan et perspectives", *Etudes internationales*, vol. XII, no. 4 (December 1981), pp. 733–748.
- L'Écotais, Yann de, "Le volet économique de la Conférence européenne de sécurité et de coopération", *Revue du Marché Commun*, no. 159 (November 1972), pp. 707–709.
- Matejka, Harriet, "Helsinki Ten Years On: Basket Two in Retrospect and Prospect", in *Dix ans de CSCE: bilan et perspectives* (Geneva: IUHEI, 1986), pp. 59–74.
- Milkowski, Marian, "Waterways and Inland Navigation in the Light of International Law and the CSCE Final Act", *Polish Western Affairs*, vol. XVIII, no. 1 (1977), pp. 125–143.

- Muller, Frédéric, "Modèles de prise de décision d'un Etat dans une négociation multilatérale: la Suisse face à la proposition de réunion à haut niveau sur l'énergie", *Relations internationales*, no. 40 (Winter 1984), pp. 495–504.
- Scott, Norman, "La diplomatie économique multilatérale Est-Ouest: la Conférence sur la sécurité et la coopération en Europe et la Commission économique pour l'Europe des Nations Unies", *Relations internationales*, no. 40 (Winter 1984), pp. 413–419.
- Siotis, Jean, "The United Nations Economic Commission for Europe in the Perspective of the Conference on Security and Co-operation in Europe", *Studia diplomatica*, vol. 17, nos. 5–6 (September/November 1974), pp. 791–816.

F. The third Basket

1. Books

- Brym, Robert J., and Zaslavsky, Victor, *Soviet Jewish Emigration and Soviet Nationality Policy* (London: Macmillan Press, 1983), vii–185 p.
- Dake, Anthony C. A., *Entraves à la libre circulation des informations entre l'Est et l'Ouest* (Paris: Association du traité atlantique, 1973), 33 p.
- EUCORG: *Broadcasting East and West* (Report no. 6; London: European Co-operation Research Group, 1974), 20 p.
- Eugster, Ernest, *Television Programming Across National Boundaries: The EBU and OIRT Experience* (Dedham: Artech House, 1983), xx–246 p.
- Flory, Maurice, and Higgins, Rosalyn, *Liberté de circulation des personnes en droit international* (Paris: Economica, 1988), 263 p.
- Goodwin Gill, Guy S., *International Law and the Movement of Persons between States* (Oxford: Clarendon Press, 1978), xxvii–324 p.
- Hannum, Hurst, *The Right to Leave and Return in International Law and Practice* (Dordrecht: Nijhoff, 1987), xiii–189 p.
- L'information sur l'URSS* (Etudes de l'IIP, 2; Zurich: International Press Institute, 1952), 56 p.
- Kashlev, Yuri, *The Mass Media and International Relations* (Prague: International Organization of Journalists, 1983), 169 p.
- Lendvai, Paul, *Les fonctionnaires de la vérité. L'information dans les pays de l'Est* (Paris: Laffont, 1980), 351 p.
- Mauksch, Mary, *Distribution of Western Newspapers in Eastern Europe* (Report no. 5; London: EUCORG, 1974), 23 p.
- Medvedev, Zhores [Jaurès] A., *Savants soviétiques et relations internationales* (Paris: Julliard, 1973), 364 p.
- Pinkus, Benjamin, *The Soviet Government and the Jews, 1948–1967: A Documented Study* (Cambridge: Cambridge University Press, 1984), xvi–612 p.
- Smith, Anthony, *Books: East and West. A Report on the Availability of Printed Material* (Report no. 1; London: EUCORG, 1973), 20 p.
- Wettig, Gerhard, *Broadcasting and Détente. Eastern Policies and their Implication for East-West Relations* (London: Hurst & Co., 1977), x–110 p.

2. Articles

- Ácímović, Ljubivoje, "Rôle du Forum culturel dans le processus de la CSCE", *Cadmos*, nos. 26–27 (Summer/Autumn 1984), pp. 55–59.
- Alting von Geusau, F. A. M., and Bartalits, L., "Cultural Exchanges and East-West Détente", in College of Europe, *Symposium Europa 1950–1970. Liber discipulorum* (Bruges, 1971), pp. 329–354.
- Altshuler, Mordechai, "Who are the Refuseniks? A Statistical and Demographic Analysis", *Soviet Jewish Affairs*, vol. 18, no. 1 (Spring 1988), pp. 3–15.
- Arzt, Donna E., "The New Soviet Emigration Law Revisited: Implementation and Compliance with Other Laws", *Soviet Jewish Affairs*, vol. 18, no. 1 (Spring 1988), pp. 17–28.
- Berenyi, Pal, "Relations culturelles et détente", in *Continuer Helsinki* (Budapest: Budapest, 1977), pp. 126–176.
- Bloed, Arie, and Wouters d'Oplinter, Pascale C. A. E. de, "Jamming of Foreign Radio Broadcasts", in Arie Bloed and Pieter van Dijk (eds.), *Essays on Human Rights in the Helsinki* (Dordrecht, 1985), pp. 163–180.
- Boisard, Marcel A., "After Helsinki: The Politics of the Cultural Centres", *Government and Opposition*, vol. 12, no. 3 (Summer 1977), pp. 293–305.
- "Une politique européenne de coopération culturelle: l'art de l'impossible?", *Studia diplomatica*, vol. XXX, no. 3 (1977), pp. 263–272.
 - "La presse européenne et la 'troisième corbeille' de l'Acte final d'Helsinki", *Studia diplomatica*, vol. XXXI, no. 1 (1978), pp. 69–97.
 - "Réalisme, patience et pragmatisme", *Cadmos*, nos. 26–27 (Summer/Autumn 1984), pp. 15–34.
- Chalidze, Valery, "The Humanitarian Provisions of the Helsinki Accord: A Critique of their Significance", *Vanderbilt Journal of Transnational Law*, vol. 13, no. 23 (Spring/Summer 1980), pp. 429–450.
- Charvin, Robert and Saul Brami, Gérard, "Notes sur la question juive en URSS et dans les Etats socialistes", *Annuaire de l'URSS et des pays socialistes européens* (1979/1980), pp. 263–288.
- Ceska, Franz, "La portée de la corbeille 3 de la CSCE. Répercussion et perspectives", *NATO Review*, vol. 33, no. 4 (August 1985), pp. 19–25.
- Crouzatier, J. M., "D'Helsinki à Madrid. La circulation des personnes et des informations en Europe", *Revue générale de droit international public*, no. 3 (1980), pp. 752–793.
- Edwards, Geoffrey, "Human Rights and Basket III Issues: Areas of Change and Continuity", *International Affairs*, vol. 61, no. 4 (Autumn 1985), pp. 631–642.
- Eline, V. & Konstantinov, V., "Helsinki et les conditions de travail des journalistes", *La Vie internationale*, no. 8/212 (Moscow, August 1978), pp. 133–137.
- Feldbrugge, F. G. M., "The New Soviet Law on Emigration", *Soviet Jewish Affairs*, vol. 17, no. 1 (Spring 1987), pp. 1–24.
- Gerrits, André, and Prakken, Joanka, "Helsinki, Madrid and the Working Conditions for Western Journalists in Eastern Europe", in Arie Bloed

- and Pieter van Dijk (eds.), *Essays on Human Rights in the Helsinki Process* (Dordrecht: Nijhoff, 1985), pp. 127–162.
- Gheballi, Victor-Yves, “L’Acte d’Helsinki et la collaboration transnationale entre journalistes”, in Société française pour le droit international, *La circulation des informations et le droit international* (Paris: Pedone, 1978), pp. 321–345.
- “Le débat sur la circulation internationale de l’information dans l’Europe d’Helsinki”, *Défense nationale* (March 1978), pp. 49–64.
 - “Helsinki An X: bilan de la troisième corbeille de la CSCE”, *Défense nationale* (December 1985), pp. 31–46.
 - “La CSCE et l’information: le bilan du Forum de Londres”, *Le Trimestre du monde*, no. 8, (1989/IV).
- Hausmaninger, Herbert, “Soviet Parasites: Evading the Constitutional Duty to Work”, *Texas International Law Journal*, vol. 21, no. 3 (September 1986), pp. 425–440.
- Heitman, Sidney, “The Third Soviet Emigration”, *Soviet Jewish Affairs*, vol. 18, no. 2 (Spring/Summer 1988), pp. 17–42.
- Horn, Gyula, “European Cultural Forum – Experiences and Perspectives”, *Review of International Affairs*, vol. XXXVII, no. 858 (Belgrade, 5 January 1986), pp. 10–13.
- Kirk-Laux, Jeanne, “Human Contacts, Information, Culture and Education”, in Robert Spencer (ed.), *Canada and the Conference on Security and Co-operation in Europe* (Toronto: Toronto University, Centre for International Studies, 1984), pp. 256–279.
- Korobeinikov, V., “Que cache la liberté d’information?”, *La Vie internationale*, no. 2/182, (Moscow, February 1976), pp. 111–119.
- Latey, Maurice, “Broadcasting to Eastern Europe”, *Survey*, vol. 19, no. 3 (Summer 1973), pp. 104–113.
- Leben, Charles, “La circulation internationale des personnes et le droit international”, *Annales de la Faculté de droit et de science politique de Clermont* (1978), pp. 629–652.
- Libera, Kazimierz, “Le tourisme et le droit international”, *Polish Yearbook of International Law* (1974), pp. 179–214.
- Lipatti, Valentin, “L’UNESCO et la coopération européenne”, *Revue roumaine d’études internationales*, vol. 6, no. 1 (1972), pp. 21–25.
- “Considérations sur le Forum culturel de 1985”, *Cadmos*, nos. 26–27 (Summer/Autumn 1984), pp. 39–45.
- Nezer, Zvi, “The Emigration of Soviet Jews”, *Soviet Jewish Affairs*, vol. 15 (February 1985), pp. 17–24.
- Nowak, Jerzy, “All-European Co-operation in the Field of Culture, Education and Human Contacts”, in Polish Institute of International Affairs, *Conference on Security and Co-operation in Europe* (Warsaw, 1976), pp. 179–220.
- Nordenstreng, Kaarle, “Détente and Exchange of Information between East and West”, *Yearbook of Finnish Foreign Policy* (1975), pp. 57–75.
- and Schiller, Herbert I., “Helsinki, the New Equation”, *Journal of Communication*, vol. 26, no. 1 (Winter 1976), pp. 130–134.

- Pache, Michel, "L'information en Europe: de Helsinki à Madrid", in *Aspects du droit des médias. II* (Fribourg: Ed. Universitaires, 1984), pp. 221–235.
- Pinkus, Benjamin, "The Emigration of National Minorities in the Post-Stalin Era", *Soviet Jewish Affairs*, vol. 13, no. 1 (Spring 1983), pp. 3–36.
- Regnaut-Labord, Caroline, "Vers la fin de la troisième émigration soviétique?", *Revue d'études comparatives EstOuest*, vol. XIV, no. 4 (December 1983), pp. 119–126.
- Rojkov, S., "Problèmes humanitaires et relations entre Etats", *La Vie internationale*, no. 4/280, (Moscow, April 1984), pp. 42–51.
- Schöpflin, George, "Culture and Politics in Eastern Europe", in *College of Europe, Symposium Europa. Liber discipulorum* (Bruges, 1971), pp. 357–371.
- Sergeyev, I. S., "Co-operation in the Humanitarian Fields", in *European Security and Co-operation: Premises, Problems, Prospects* (Moscow: Progress Publishers, 1978), pp. 252–277.
- Wiles, Peter, "The Principles of Cultural Exchange", *Millennium*, vol. 4, no. 2 (Autumn 1975), pp. 164–172.
- Zeman, Z. A. B., "The Final Act, its Implementation and Human Contacts", in F. A. M. Alting von Geusau (ed.), *Uncertain Détente* (Alphen aan den Rijn: Sijthoff & Noordhoff, 1979), pp. 250–258.
- Zupančič, Beno, "L'homme d'Helsinki", *Questions actuelles du socialisme*, vol. XX-VII, no. 4 (1977), pp. 37–44.

G. The CSCE and the Mediterranean

- Flauss, Jean-François, "La neutralité de Malte", *Annuaire français de droit international* (1983), pp. 175–193.
- Ghebali, Victor-Yves, "Le dialogue euroméditerranéen: une occasion manquée?", *Défense nationale* (June 1977), pp. 71–85.
- Ronzitti, Natalino, "Malta's Permanent Neutrality", *Italian Yearbook of International Law* (1980/1981), pp. 171–201.
- Vernant, Jacques, "La Conférence de Madrid et la Méditerranée", *Défense nationale* (August/September 1980), pp. 101–108.

Index

A

- Aćimović, Ljubivoje: 4, 5, 12, 16, 21, 43, 44, 118, 239, 242, 331
see also Peaceful Settlement of Disputes
- Afghanistan: 25, 26, 28, 149, 224, 283, 292
 and the Soviet intervention (1979): 22, 24, 86, 138, 164, 308, 311, 343
- Akhromeyev, Sergei: 155, 156
- Albania: 10, 218, 252, 30
 non-participation: 36, 51, 68, 69, 72
- alert exercises: 154, 169, 177
- Alexandretta (port of): 132
- Algeria: 45, 319, 322, 323, 324, 325, 328, 338
see also non-participating Mediterranean States
- alliances (general): 2–4, 10, 50, 66, 78, 79, 85, 86, 100, 113, 153, 219, 333
 military: 11, 22, 30, 40, 56, 136, 140, 146, 150, 153, 163, 164, 167, 168, 171, 173, 176–178, 345
 “outside of military alliances”: 11, 40, 120, 166
see also NATO; N+NA countries; Warsaw pact
- Andorra: 36
- annual calendars: 152, 155, 156, 160, 161, 166, 169
 implementation under CSBMs:
see also constraints; notifications; verification
- arbitration – *see* → *compulsory arbitration; PSD/arbitration (process)*
- Arab-Israeli conflict – *see* → *Israel/Middle East*
- Athens: 108, 218
 Meeting of Experts on Peaceful Settlement of Disputes (1984): 31, 33, 40, 117, 119, 120, 122, 124
see also PSD; Montreux and Valletta
- Austria: 14, 17, 87, 206, 213, 230, 254
 and the CBMs: 137, 138, 151, 155, 158, 166, 167, 170, 174, 188, 194
 and the N+NA countries: 4, 15, 30, 34, 43, 45, 98, 137, 138, 151, 167, 170, 174, 188, 194, 217, 239, 240, 269, 289, 321
 and the Eastern countries: 57, 107, 151, 210, 255, 263, 264, 266, 268, 271, 321
 and the Western countries: 85, 98, 107, 210, 213, 263, 264, 268, 332
see also Vienna

B

- Balkan countries: 148, 218, 219, 309
see also Albania; Bulgaria; Romania; Yugoslavia
- Baltic countries: 71, 73, 82, 95, 139, 171, 191, 193, 251, 261
- basket (principle): 5, 18, 24, 61, 71, 101, 229, 344, 345
see also first; second and third basket

- Belgium: 14, 197, 341
 and the CBMs: 128, 137, 167, 184, 185, 189, 190
 and the Western countries: 28, 34, 43, 64, 96, 121, 137, 167, 184, 185, 189
 217, 236, 241
- Belgrade: 31, 59, 309, 328
 Preparatory Meeting (1977): 16, 19, 27, 44, 328, 329
 Follow up Meeting (1977–1978): 9, 14, 16–28, 33, 38, 39, 42, 43, 45–47, 56,
 81, 82, 85, 87, 90, 91, 99, 116, 140, 141, 143, 148, 151, 202, 214, 218–
 223, 255, 287, 288, 306, 309, 311, 319, 324, 327, 329, 330, 337, 340, 343
 Concluding Document: 29, 21, 23, 26, 31, 63, 92, 117, 311, 330
- Berlin: 69, 156, 173, 292, 294
 ‘clause’: 11, 40, 69, 70
 quadripartite agreement (1971): 3, 22, 51, 69, 70
 status: 3, 22, 51, 69, 70, 282
- Bern: 270
 Meeting of Experts on Human Contacts (1986): 13, 24, 28, 31, 33, 96, 165,
 266, 291
see also Ottawa
- bi-national marriages – *see* → *marriage*
- Bindschedler, Rudolf: 111, 112
 draft project (on PSD): 111, 116, 120
see also PSD
- Bonn: 4, 59, 127,
 Preparatory Meeting for the Scientific Forum (1978): 309, 311, 315
 Conference on Economic Co-operation in Europe (1990): 35, 48, 225, 226
see also Hamburg/Scientific Forum
- borders [within/on]: 103, 177, 236, 251, 264,
 across: 243–246, 274–276, 297, 298, 301
see also frontiers/inviolability/peaceful change of; freedom of movement
- Brandt, Willy: 6, 66
- Brezhnev, Leonid: 6, 8, 9, 76, 221, 234, 292
 doctrine: 40, 62, 63, 67, 69, 70, 76, 78, 83, 86, 112, 118, 124, 150, 164, 221
 proposal: 21, 222–224
- broadcasting – *see* → *Radio*
- Budapest: 2, 3, 9, 14, 55, 57, 59, 87, 177, 155, 195, 236, 262
 Cultural Forum (1986): 9, 13, 31, 33, 36, 41, 45, 47, 96, 165, 292, 297, 312,
 314, 317
- budget [budgetary contributions] – *see* → *financial contributions*
- Bukovsky, Vladimir: 10, 270, 282
- Bulgaria: 14, 66, 93, 95, 138, 171, 187, 193, 217, 218, 227, 258, 264, 283, 285,
 293, 314, 315
 and the CBMs: 138, 147, 150, 171, 187, 193
 and the Eastern countries: 30, 34, 40, 43, 100, 138, 147, 150, 171, 187, 193,
 215, 238, 240, 285, 314

- minority issues: 28, 86, 102, 227
 - see also Sofia*
 - business: 196, 244,
 - contacts and facilities: 35, 197, 207, 209, 215, 216, 226, 244
 - community (“people”): 197, 216, 219, 220, 225, 264, 278
 - see also trade*
- C**
- Canada: 11, 14, 28, 29, 107, 118, 254, 281
 - and the CBMs: 132, 137, 167
 - and the USA: 3, 29, 36, 71, 72, 93, 132
 - and Western countries: 30, 71, 85, 121, 217, 223, 240, 241, 263, 270
 - see also Ottawa*
 - capital punishment (death penalty): 30, 98, 104, 109
 - capitalist (countries): 86, 89, 299, 309
 - Carter, Jimmy (administration): 18, 39, 54, 75, 86
 - Ceaușescu, Nicolae: 8, 283
 - chairman/chairperson: 13, 20, 24, 25, 54, 121, 322
 - statements/reports: 19, 20, 24, 30, 92, 156, 176, 182, 320, 332
 - of the Conference on CSBMs: 155, 156, 176, 179, 180, 336
 - Chairmanship (function): 25, 325
 - rotation principle: 6, 10, 13, 14, 25, 143, 155
 - “Charter 77”: 10, 82–84
 - see also dissident(s)/dissent; Czechoslovakia*
 - China: 10, 232, 281
 - Comecon: 38, 199, 200, 201, 204, 205, 215
 - commercial: 197, 258, 297, 302, 303, 304, 305
 - exchanges: 7, 199, 204–211, 217, 226, 236, 304, 305
 - information: 204, 208, 216, 217, 225
 - see also business/contacts; second basket; trade*
 - common market: 196, 197, 198, 205, 208, 209
 - compensation (transactions in the economic area): 30, 208, 225
 - compulsory arbitration – *see* → *Peaceful Settlement of Disputes/arbitration*
 - concentration (of troops): 157, 158, 160, 165, 168, 169, 179, 184–188
 - see also transfers (of troops)*
 - Concluding Document(s) of Follow-up Meeting(s) – *see* → *Belgrade; Madrid; Vienna*
 - Conference on Confidence and Security Building Measures [and Disarmament in Europe] / (1984–1986) – *see* → *Stockholm*
 - see also CBMs; CSBMs; Mutual and Balanced Force Reductions*
 - Conference on Confidence and Security Building Measures (1986–1989) – *see* → *Vienna*
 - see also CSBMs; Negotiations on Conventional Armed Forces*
 - Conference on Economic Co-operation in Europe (1990) – *see* → *Bonn*

- Conference on the Human Dimension (CHD): 35, 106
see also Copenhagen; human dimension; Moscow and Paris
- Confidence- and Security-Building Measures (CSBMs): 127, 333, 343
 implementation [of Stockholm provisions]: 166–171
 negotiations [at Stockholm]: 145–153
 and the Helsinki (provisions): 139, 127–140
 and the Madrid (provisions): 141–143
 and the Stockholm regime (conference/provisions): 9, 12, 17, 24, 27, 33, 39, 46, 48, 52, 70, 76, 78, 80, 140–172, 324, 332, 333, 337–340, 343
 and the Vienna regime (conference/ provisions): 27, 33, 35, 173–181
see also annual calendars; CBMs; chairman/of the Conference; constraints; inspection; Mutual and Balanced Force Reductions; notification; observation; verification; Stockholm/Conference/Document; Vienna/Conference/Document
- Confidence-Building Measures (CBMs) / [1975–1984]: 11, 40, 42, 43, 127–142, 144, 151, 177, 183, 184, 325
see also CSBMs; inspection; Mutual and Balanced Force Reductions; notifications; observation
- conscience – *see* → *freedom of; prisoners of*
- consensus (rule): 6, 10, 11, 12, 13, 25, 27, 50, 107, 173, 203, 221, 223, 319, 323, 327, 328, 331, 332
 non-consensus: 5, 20, 31, 117, 119, 227, 288, 315, 322, 323, 330
- constraints (as a CSBM measure): 13, 129, 148, 149, 152, 155, 156, 165, 177, 234, 251
see also annual calendars; notifications and verification
- consultations – *see* → *Helsinki Consultations and PSD*
- contributions(to the CSCE process): 14, 15, 28, 45, 47, 81, 102, 296, 297, 309, 328, 329, 338, 340
 by other international organizations: 48, 56, 58, 79, 147, 203, 220, 221 222, 227, 297, 309, 317, 336, 337
 by [Mediterranean] non-participating States: 220, 322, 324–329, 335
see also non-participating Mediterranean States
- convergence (of interests): 44, 88, 155, 178, 344
- Conventional Armed Forces in Europe – *see* → *Negotiations on Conventional Armed Forces*
- co-operation (among States): 16, 68, 199, 226, 232, 266, 334
 as in the Decalogue/Principle IX: 64, 67, 68, 91, 199, 203
 as in UN Declaration on Friendly Relations: 64, 65, 67, 68, 78, 325
see also Principle IX; UN Declaration on Friendly Relations
- co-operation (in specific fields) – *see* → *business; economic; education; industrial; Mediterranean; science; trade*
- Co-ordinating Committee (Stage II): 6, 8, 9, 15, 49, 322, 323, 324
- Copenhagen –
 Second Conference on the Human Dimension (1990): 35, 106
- Council of Europe (CoE) : 53, 55, 56, 57, 58, 59, 78, 112, 130, 142, 288, 329
 Parliamentary Assembly (of the CoE): 21, 22, 50, 78, 94, 249, 300, 329, 331

- Covenant on Civil and Political Rights – *see* → *International Covenant*
- Cracow –
 Symposium on Cultural Heritage (1991): 35, 317
- culture: 31, 38, 45, 47, 57, 58, 102, 105, 236, 237, 238, 241, 242, 243, 257, 258, 261, 297–317, 325, 337
 and education: 45, 47, 57, 102, 105, 237, 240, 241, 243, 297–317
see also Budapest/ Cultural Forum; Cracow/Symposium; education; regional cultures
- Cultural Forum – *see* → *Budapest*
- Custine, (Marquis de): 233, 234, 248
- Cyprus: 14, 133, 164, 182, 330
 and the CBMs: 133, 137, 152, 156, 164, 174, 175
 and N+NA countries: 30, 43, 56, 70, 151, 174, 198, 217, 239, 320, 340, 341
 and Turkey: 9, 109, 132, 156, 182, 183, 315
 and the Turkish intervention (in 1974): 6, 9, 71, 86, 109, 132, 182, 315, 330
see also Greece; Makarios III; Turkey
- Czechoslovakia: 14, 34, 106, 139, 207, 208, 221, 226, 259, 264, 266, 293, 313
 and the CBMs: 138–140, 147, 150, 169, 170, 187, 188, 191, 192
 and the Eastern countries: 15, 30, 40, 77, 82, 83, 85, 95, 138, 150, 170, 196, 215, 217, 238, 263, 283, 293, 312
 and the second basket: 207, 208, 221, 226,
 and the third basket: 259, 264, 266, 293, 313
 and the Soviet intervention (1968): 2, 66, 76, 84, 164
see also Charter 77; dissidents/Eastern countries; Prague
- D**
- death penalty – *see* → *capital punishment*
- Decalogue: 7, 11, 26, 50–53, 61–91, 93, 98, 101, 105, 178, 198, 199, 229, 239, 243, 319, 325
 implementation (of): 80–85, 90–100, 164, 178, 242, 320, 333, 345
 negotiations (on): 40, 43, 65, 70, 75, 76, 198, 229
 and the UN Declaration on Friendly Relations: 64, 65, 68, 72, 78, 80, 325
 and the UN Charter: 51, 64–68, 70, 72, 78, 80, 112, 149, 164, 325
 and the USSR: 48, 61, 62, 67, 68, 71, 75, 85, 86, 196, 242, 243
see also Final Act; Principles I to X; UN Declaration on Friendly Relations
- Declaration of Human Rights and Fundamental Freedoms – *see* → *Universal Declaration of Human Rights*
- democracy: 29, 55, 107, 233
- democratization (of relations): 25, 62, 70, 79, 213, 313
- Denmark: 14–16, 177, 182, 214, 217, 236, 257
 and the CBMs: 137, 167, 182 184–186, 190
 and Western countries: 28, 34, 38, 43, 85, 121, 169, 177, 184–186, 190, 214, 217, 236, 241, 263, 300, 323, 324
see also Copenhagen Conference on the Human Dimension

- détente (process): 2, 9, 16, 19–21, 26, 30, 47, 51, 59, 62–64, 76, 86–90, 113, 195, 229, 235, 236, 242, 291, 320, 343
 deterioration (of relations): 22, 26, 39, 63, 140, 261, 262, 330, 343
 policy/principles: 1, 18, 61–108, 236
 military: 20, 141, 340
 and the Human Dimension: 45, 70, 73–76, 95, 96, 235, 236, 238, 239, 266, 288, 290
 and the USSR: 20, 23, 36, 39, 52, 56, 63, 71, 88, 242
see also Decalogue; human rights; Principles I to X
- developing countries (in Europe): 11, 41, 197, 198, 200, 201, 202, 214, 283, 319
- Dipoli: 12–15, 33, 37, 38, 40, 55, 64, 78, 111, 127, 195–197, 209, 236–238, 240, 300, 329, 321, 322
see also Helsinki Consultations
- disarmament (in Europe): 24, 30–33, 42, 43, 50, 51, 63, 90, 98, 99, 112, 130, 131, 136, 141–143, 145, 151, 158, 163, 173–177, 180, 183, 229, 235, 325, 340
see also MBFR; CBMs; CSBMs
- discrimination (racial, religious, etc.): 29, 94, 95, 98, 99, 101, 160, 196, 201, 206, 256, 323
- dissemination (of information of all kinds): 75, 103, 211, 236, 242, 279, 284, 288, 297, 302, 306, 312–314, 335
 foreign press: 278, 279, 284, 287, 313
 broadcasted: 284, 285, 302
 of the Final Act: 18, 288
 of economic information: 204, 208, 215–217
see also information/free flow
- dissident(s)/dissent: 10, 86, 274
 in Eastern Europe: 10, 26, 83, 85, 90, 95, 270
 in the USSR: 21, 25, 27, 39, 42, 95, 262, 270, 280, 282, 295, 305
see also Bukovsky; Charter 77; Marchenko; Orlov; prisoners of conscience; Sakharov; Shcharansky; Solzhenitsyn
- Dulles, John Foster: 229, 234, 274

E

- East Germany – *see* → *German Democratic Republic (GDR)*
- economic co-operation: 42, 54, 195, 196, 199, 200, 202, 204, 214, 220, 224–226, 322, 323, 326, 334
see also Bonn/Conference; information/economic; second basket
- economic (social and cultural) rights: 29, 78, 98, 99, 105, 107
- Eden, Anthony: 22
- education (general): 45, 47, 57, 95, 98, 102, 105, 241, 243, 249, 254, 304, 341
 and the second basket: 227
 and the third basket: 204, 210, 237, 266, 306, 307, 316, 317, 325
see also culture (and education)
- Egypt: 45, 324, 335, 337
see also non-participating Mediterranean States

- emigration/emigrants: 248–256, 258, 259, 260, 261, 267, 273
 restrictions (to): 81, 95, 105, 246, 251, 325,
 right (to): 75, 201, 244, 247, 253, 259, 260, 263
see also freedom of/movement, migrant labour; Soviet Jews
- environment: 7, 30, 31, 38, 52, 222, 326, 341
 dedicated events: 65, 223, 306, 334, 336
 protection: 57, 120, 195, 212, 127, 306, 334
 and the second basket: 38, 195, 198, 204, 210, 212, 216, 222, 223, 225, 341
see also second basket; Sofia; UNEP
- EUROCULT (1973): 300, 301, 304, 315
- European Economic Community (EEC)/ member states: 6, 36–39, 56, 112, 119,
 121, 122, 205, 248
 and NATO: 36, 37, 40, 141, 142, 255, 320, 331
 and the first basket: 127, 142, 161
 and the second basket: 197, 201, 206, 224
 and the third basket: 236, 287, 300, 316
 and the Mediterranean: 320, 321, 324, 326, 328, 329, 331, 336
*see also Belgium; Denmark; France; [Greece]; Ireland; Italy; Luxembourg; the
 Netherlands; [Portugal]; [Spain]; the United Kingdom and FRG*
- European Political Co-operation (EPC): 38, 39, 40
- Eurovision: 293
- Executive Secretariat(s) of the CSCE: 6, 25, 203, 328, 329, 332
- exchange of (structural) military information – *see* → *military information*
- expert meetings – *see* → *Meetings of Experts*

F

- family reunification (family contacts): 28, 214, 228, 237, 243, 253, 255, 257, 259,
 263, 271
see also marriage
- Federal Republic of Germany (FRG): 1, 2, 3, 14, 59, 66, 71, 87, 108, 171, 172, 263,
 310–312
 and CSBMs: 66, 127, 139, 165–169, 171, 172, 183–186, 198, 190
 and the GDR: 1, 85, 171, 266, 287
 and Ostpolitik: 3, 41, 61, 67
 and the second basket: 202, 204, 207, 209, 217, 223,
 and the third basket: 236, 266, 269, 270, 281, 283, 286, 293, 294, 310–312
 and Western countries: 28, 34, 37, 38, 64, 85, 121, 128, 137, 166–169,
 183–186, 189, 190, 217, 240, 254, 269, 270, 293, 337, 341
see also Berlin; Bonn; GDR; Hamburg
- Final Act – *see* → *Helsinki Final Act*
- Final Recommendations (of the Helsinki Consultations) – *see* → *Helsinki
 Consultations*
- financial contributions: 14
- Finland: 14, 16, 17, 66, 116, 151, 166, 239, 293
 as host country: 4, 13, 49, 68

- and the CBMs: 137, 151, 155, 158, 166, 167, 174, 194
- and the N+NA countries: 15, 34, 43, 45, 56, 98, 155, 167, 174, 194, 210, 212, 214, 217, 239, 293, 314
- see also Helsinki; Stages I and III*
- first basket: 31, 44, 51, 62, 63, 68, 74, 80, 101, 106, 130, 197, 325, 345
- see also Decalogue; Principles I to X; PSD; CBMs; CSBMs; Stockholm/Conference*
- “floating sentence”: 37, 73
- see also Principles I and IV*
- Follow up Meetings (to the CSCE) – *see* → *Belgrade; Madrid; (Vienna)*
- Ford, Gerald: 8, 54
- Forum – *see* → *Cultural Forum; Budapest; Information Forum; London; Scientific Forum; Bonn and Hamburg*
- France: 5, 11, 14, 20, 28, 39, 61, 64, 78, 79, 96, 119, 130, 131, 139, 155, 156, 165, 174, 305, 312, 320,
 - and the CBMs: 130, 131, 137, 139, 141, 155, 156, 165, 167, 168, 171, 173, 174, 178, 179, 180, 185, 186, 189
 - and the Mediterranean: 320, 323, 324, 330, 336, 337
 - and the second basket: 213, 214, 217
 - and the third basket: 229, 230, 231, 236, 240, 241, 263, 293, 299, 305, 312
 - and Western countries: 34, 38, 69, 70, 71, 95, 119, 121, 137, 167, 168, 171, 173, 174, 179, 180, 185, 186, 189, 214, 217, 229, 231, 240, 241, 263, 293, 299, 305, 320, 336, 337, 341*see also Geneva/Quadripartite Summit; Paris*
- “free choice of means” – *see* → *PSD*
- freedom(s) –
 - fundamental: 28, 29, 33, 64, 74–76, 81, 91, 93, 96–98, 101–103, 105, 107, 108, 247, 266, 275–277, 312
 - individual: 29, 55, 74, 75, 78, 91, 95, 96, 101, 118, 123, 252, 298, 312
 - of contact/exchange/association: 92, 226, 229, 251, 269, 270
 - of expression/information/press: 35, 95, 229, 235, 236, 243, 274–278, 295, 296
 - of information/ideas (free flow of): 58, 229, 233, 235, 243, 244, 269, 264, 274–278, 296, 297, 298, 344
 - of movement: 3, 96, 97, 103, 105, 229, 231, 233, 235–239, 243, 245–248, 251–253, 276, 294, 295, 298–301, 313
 - of religion/or belief: 74, 75, 82, 91, 94, 97, 98, 101, 104, 105, 107, 258
 - of thought/conscience: 74, 75, 82–84, 91, 104, 106, 244*see also borders; Bern; fundamental freedoms; information; press; PSD/free choice of means; prisoners of conscience; Ottawa*
- frontiers (European): 51, 70, 71, 85, 120, 140, 143, 212, 236, 276
 - inviolability/intangibility (of): 8, 48, 62, 64, 68, 73, 76, 85, 86, 236, 325
 - peaceful change (of): 28, 37, 41, 71, 73, 86, 87, 89*see also borders; Principle III*

fundamental freedoms (rights): 33, 64, 74–76, 87, 91, 93, 96, 103, 247, 266, 267, 312

see also freedom(s)/fundamental; Principle VII; Universal Declaration of Human Rights

G

Germany – *see* → *German Democratic Republic (GDR) and Federal Republic of (FRG)*

General Agreement on Tariffs and Trade (GATT): 196, 197, 205, 206

German Democratic Republic (GDR): 14, 85, 86, 98, 212, 264, 265, 266, 287, 294, 303

and the CBMs: 138, 140, 147, 150, 169, 170–172, 187, 189, 191–193,

and the second basket: 196, 199, 200, 203, 210, 212, 215, 217, 221

and the third basket: 238, 254, 255, 257, 262–264, 266, 281, 285, 286, 288, 291, 292, 294, 303, 313

and the Eastern countries: 30, 40, 83, 85, 100, 140, 147, 150, 169, 170, 171, 172, 187, 188, 191–193, 200, 210, 212, 214, 217, 221, 254, 255, 257, 263, 265, 285, 288, 291, 292, 313

see also Berlin; FRG/Ostpolitik

Geneva: 8, 49, 223, 224, 278

bilateral Summit Regan/Gorbachev (1985): 154, 155, 308

quadrupartite Summit (1955): 229, 230, 231, 232, 233, 234, 235, 239

Stage II (1973–1975): 5–7, 15, 16, 18, 22, 27, 33, 38, 40, 42, 43, 46, 56, 61, 65, 67, 69, 73, 120, 128, 130, 131, 135, 148, 152, 153, 155, 197, 200–202, 205, 218, 221, 224, 225, 240, 319, 321–330, 337

see also Stage II

Gibraltar: 71

Giscard d'Estaing, Valéry: 8

Glasnost: 29, 42, 217, 292

Goldberg, Arthur Jr.: 18

good faith (fulfilment of obligations in): 48, 64, 69, 87, 108, 243

see also international law; Principle X

Gorbachev, Mikhail: 14, 40, 42, 55, 57, 58, 78, 84, 117, 125, 138, 150, 155, 165, 262, 266, 278, 292, 293, 341

see also Geneva/Bilateral Summit (1985); glasnost; Perestroika

Graber, Pierre: 113

Great Britain – *see* → *United Kingdom*

Greece: 14, 156, 202, 314, 330

and the CBMs: 137, 156, 167, 183

and Cyprus: 156, 182, 330

and the second basket: 198, 214, 214, 217, 278

and the third basket: 241, 263, 314

and Turkey: 30, 182, 183

and Western countries: 64, 137, 167, 198, 202, 214, 217, 218, 241, 263,
314, 320, 330, 336, 341

see also Athens

Greenland: 132

Grigorenko, Petro: 81

Gromyko, Andrei: 154, 232, 279, 323

H

Hamburg –

Scientific Forum (1980): 31, 33, 47, 76, 218, 309, 310, 311, 312

see also Bonn/Preparatory Meeting

Helsinki Consultations/Dipoli (1972–1973): 4, 5, 8, 10–15, 33, 37, 38, 40, 55, 64,
78, 111, 127, 195–197, 209, 236–238, 240, 300, 319, 321, 322

Final Recommendations: 4, 5, 8, 10–15, 36, 44, 46, 47, 63, 64, 80, 111, 116,
128, 183, 195, 203, 240, 257, 300, 322, 324

see also Dipoli

Helsinki CSBMs preparatory meeting (1983) – *see* → *Stockholm/preparatory*

Helsinki Federation for Human Rights – *see* → *International Helsinki Federation*

Helsinki Final Act (1975): 40, 42, 48–51, 59, 61, 68, 69, 72, 73, 74, 75, 76, 79, 80,

81, 82, 83, 196–216, 219, 220, 221, 222, 304–311, 324, 342, 343, 344

adoption/signing: 8, 9, 18, 41, 63, 82, 117, 136, 137, 218, 263, 295, 308

and the CBMs provisions: 32, 130–139, 143–145, 151, 153, 174, 340

and the Decalogue: 65, 65, 67, 72–80, 85, 87, 88, 100, 243

and the Mediterranean: 42, 52, 319, 324, 325, 327–330, 303, 335, 336, 338,
342

and Peaceful Settlement of Disputes: 111, 115–117

and the second basket: 54, 61, 196, 198, 199, 217, 219–222

and the third basket: 22, 23, 51, 52, 90, 22, 23, 51, 52, 90–93, 102, 240–243,
252–258, 263, 273, 284–293, 295, 297, 304–311, 315

dissemination/publication [in the East]: 10, 18, 288

drafting of (Committee I): 7, 19, 22, 63, 65, 70, 75, 116, 135

implementation: 54, 61, 196, 198, 199, 217, 219–222

transmission to the United Nations: 46, 47, 49, 117

tenth anniversary/ Helsinki (1985): 33, 146

Helsinki Final Recommendations – *see* → *Helsinki Consultations*

Helsinki monitoring groups: 28, 83–85, 91, 94, 97, 103, 106, 109

see also dissident(s)/dissent

Helsinki process: 12, 17, 24, 26, 40, 42, 43, 46, 53, 56, 73, 90, 97, 174, 203, 258,
274, 319

see also Stages I; II and III

Helsinki Summit (1975): 9, 10, 40, 54, 85, 89, 219, 258, 263

see also Stage III

Holy See: 36, 74, 90, 92, 175, 203, 258, 309

see also freedom of religion

- human contacts: 28, 38, 237, 243, 253, 269, 270, 273, 292, 297, 300, 304,
 Meeting of Experts – Bern (1986): 13, 24, 28, 31, 33, 96, 165, 266, 291
 Helsinki (provisions): 7, 24, 45, 53, 63, 237, 239–242, 253–258, 287, 304,
 319, 325
 Madrid (provisions): 94, 255, 256
 Vienna (provisions): 101, 102, 105, 270–274, 295, 316
*see also family reunification; freedom/of contact; information/and; marriage;
 third basket*
- human dimension: 42, 62, 63, 70, 89, 101, 105, 106, 228, 229, 230, 345
*see also Conference on the Human Dimension; third basket; Vienna/Follow-up
 Concluding Document*
- human rights: 33, 39, 40, 42, 51, 58, 78, 83, 84, 93–99, 105, 106, 125, 236, 266,
 275, 283, 293
 Final Act (provisions): 22, 31, 33, 39, 41, 50, 52, 54, 58, 62, 64, 68, 73–76,
 81, 86, 87, 89, 90, 91, 101, 153, 155, 164, 243
 at the Belgrade Follow-up (1977–1978): 18, 20, 21, 93
 at the Madrid Follow-up (1981–1983): 23–26, 91, 312
 at the Vienna Follow-up (1986–1989): 27–31, 41, 101, 103–108, 224, 226,
 228, 270, 274, 295, 345
*see also Bern and Ottawa/Meetings of Experts; Freedom of; Human Dimension;
 Principle VII; third basket; Universal Declaration of*
- Hungary: 14, 24, 30, 40, 43, 55, 57, 75, 66, 85, 87, 95, 102, 170, 208, 210, 259,
 266, 281, 283, 286, 292, 293, 294, 303
 and the CBMs: 137, 139, 147, 150, 156, 163, 165–171, 487, 191, 193
 and the Eastern countries: 30, 40, 43, 58, 83, 85, 118, 137, 139, 147, 150,
 156, 163, 169–171; 187, 191, 193, 196, 200, 205, 210, 215, 216, 252, 264,
 265, 279, 293, 305, 315, 344
 and the second basket: 196, 200, 205, 206, 208, 210, 215, 216, 218
 and the third basket: 252, 259, 264–266, 279, 283, 286, 292–294, 303
see also Budapest; PHARE

I

- Iceland: 14, 137, 167, 217
- implementation – *see* → *Helsinki Final Act; CBMs and CSBMs*
- individual freedoms – *see* → *freedom(s)*
- industrial co-operation: 196, 198, 204, 209, 210, 215, 225, 226
- information –
- free flow [of]: 3, 58, 88, 94, 195, 207, 229, 231–237, 243, 274–281, 297–
 299, 301, 304, 313, 335
 - economic information: 197, 204, 207–212, 214–217, 221, 223, 225
 - military information: 128–131, 133, 134, 136, 138, 140, 146, 151, 153, 155,
 159–161, 165, 168, 174–182, 339
 - and the Helsinki provisions: 7, 15, 45, 75, 92, 116, 130, 131, 133, 134, 136,
 138, 208–214, 217, 221, 236, 239, 255, 256, 258, 284, 285, 287, 288, 291
 - and the Madrid provisions: 255, 256, 288, 289

- and the Vienna provisions: 47, 101, 102, 104, 106, 109, 174, 175, 225, 272, 295–297, 316
- and the third basket: 44, 47, 229, 235–237, 239, 240, 242, 243, 258, 270, 272, 274, 275, 283–294, 300, 306, 308, 311, 319, 325
- see also dissemination; journalist(s); London/Forum; military information; press/freedom*
- Information Forum – *see* → *London*
- inspection (on-site): 147, 151, 153, 155, 156, 162, 163, 164, 165, 166, 171, 172, 174, 178
- see also CSBMs; national technical means; notification; observers/military; verification*
- institutionalization (of the CSCE): 12, 15, 17, 41, 47, 153, 244, 327, 331, 332, 335
- see also Madrid/Follow-up; Vienna/Follow-up*
- International Committee of the Red Cross (ICRC): 254
- International Court of Justice (ICJ): 113, 115, 118, 122, 125
- International Covenant on Civil and Political Rights (1966): 75, 87, 102–105, 247, 253, 254, 276, 295, 298
- International Helsinki Federation for Human Rights: 53, 54, 55, 81, 82, 85, 95, 263
- international law: 36, 42, 43, 49, 50, 64, 69, 71, 72, 73, 77, 79, 92, 112, 113, 115, 181, 119, 124, 125, 162, 247, 270, 283
- see also good faith; Principle X*
- International Maritime Organization (IMO): 48, 341
- International Telecommunication Union (ITU): 47, 283, 296, 297, 336, 337, 341
- Invasion – *see* → *Afghanistan, Cyprus, Czechoslovakia*
- inviolability of frontiers – *see* → *frontiers/inviolability*
- Iran: 132, 182
- Iraq: 132, 182
- Ireland: 14, 37, 71, 161
- and the CBMs: 155, 156, 158, 159, 161, 175
- and the Western countries: 28, 37, 39, 64, 87, 213, 217, 236, 241
- see also Ulster*
- Israel: 45, 95, 262, 281, 283, 293, 309, 321–325, 327, 335, 337
- and the conflict in the Middle East: 320–322, 325, 329
- see also non-participating Mediterranean States; Middle East; Soviet Jews*
- Italy: 14, 34, 38, 66, 86, 87, 127, 226, 258
- and the CBMs: 127, 137, 156, 163, 167, 168, 169, 171
- and the Mediterranean: 320, 323, 324–326, 330, 331, 333, 336, 337, 341
- and the second basket: 213, 214, 217, 226,
- and the third basket: 240, 241, 255, 258, 293, 299
- and the Western States/countries: 86, 121, 137, 163, 167, 169, 213, 214, 217, 226, 240, 241, 255, 258, 293, 299, 320, 323–326, 336, 341
- see also Mediterranean; Moro, Aldo; Osimo Accords; Venice*

J

Jackson-Vanik (amendment): 201, 261 jamming radio broadcasting – *see* → *radio jamming*

Japan: 66, 299

Jobert, Michel: 64, 236

journalists/journalism: 277, 285, 286, 290, 291, 293–295

working conditions (for): 53, 231, 237, 264, 279, 280, 288–296

freedom (of): 35, 251, 274, 280, 285–287

see also information/free flow of; press

Jewish [minority] – *see* → *USSR Soviet Jews; emigration; Jackson-Vanik*

K

Kekkonen, Urho: 239

Kissinger, Henry: 8, 37, 132, 241

Korea: 22, 87, 230, 232, 281

Koryagin, Anatoly: 82, 84

see also psychiatry

L

language(s): 14, 26, 31, 75, 95, 102, 131, 211, 225, 231, 232, 242, 253, 270, 281, 292, 298, 306, 308, 313, 314, 317

and CSCE texts: 14, 18, 31, 52, 57, 75, 131, 218, 225, 232, 342, 253, 270

Russian language: 75, 88, 95, 123, 232, 279, 281, 284, 292

translation [of literary or other works]: 237, 302, 306, 314

La Valletta – *see* → *Valletta*

League of Nations: 76, 275, 299

Lebanon: 45, 324, 329

see also non-participating Mediterranean States

libraries (access to): 103, 237, 279, 284, 289, 303, 305, 306

Libya: 29, 45, 324, 329, 333, 338

see also non-participating Mediterranean States

Liechtenstein: 36, 43, 203, 268, 309

see also micro-States

London: 49, 231

Information Forum (1989): 35, 47, 296, 297, 344, 345

Long-range Transboundary Air Pollution/Co-operative Programme (EMEP): 223, 224, 227

Luxembourg: 14, 137, 167, 213, 217

M

Madrid –

Preparatory Meeting (1980): 10, 22–25

Follow up Meeting (1980–1983): 6, 9, 11, 12, 14, 18, 22–28, 31, 33, 38, 39, 43, 46, 47, 56, 59, 63, 71, 83, 202, 288, 309, 319, 328, 319, 328, 330–332, 343

Concluding Document (1983): 10, 24, 26, 32, 48, 50, 52, 90–93, 100–102, 119, 142, 143, 198–200, 202, 204, 208–212, 214, 220, 221, 225, 243, 255, 256, 266, 270, 289–291, 312, 332, 333, 337

and the CBMs: 140–145, 150, 151, 153, 156, 159, 174, 176, 177, 180, 182, 192

and the second basket: 198–200, 202, 204, 207–212, 214, 218, 220, 221, 224, 225,

and the third basket: 94, 96, 102, 243, 252, 255, 256, 259, 266, 269, 270, 284, 285, 288, 289, 290–292, 304, 306, 309, 312, 316

and the Mediterranean: 319, 328, 330–333, 337, 339, 341

Maheu, René: 47, 301

Makarios III: 8

Malta: 14, 43, 79, 87, 100, 309, 314, 324–341

and the CBMs: 136, 140, 141, 151, 152, 165, 174, 340

and the N+NA countries: 30, 34, 43, 56, 100, 140, 141, 151, 165, 165, 174, 198, 217, 239, 314, 320, 330, 341

and the Maltese ‘factor’: 6, 11, 13, 23, 328–333, 338

and the Mediterranean questions: 24, 44, 152, 165, 319, 320, 322–339, 341

see also Mediterranean; non-participating Mediterranean States; Valletta

Marchenko, Anatoli: 27, 28, 81, 84, 233

marketing: 197, 204, 206, 207, 215, 334

marriages (between citizens of different States): 28, 45, 237, 253, 254, 255, 259, 263, 269, 271

McCarran Walter [Immigration Act – 1952]: 265

Mediterranean: 18, 31, 33–35, 47, 48, 51, 52, 58, 182, 309, 319–342

[CSCE] Mediterranean States: 320, 322, 330–337, 341

non-participating States: 45, 46, 319, 324, 325, 327, 328–330, 332, 335, 336, 337, 338, 339, 340, 341, 342

and the CBMs: 51, 129, 140, 152, 153, 165, 182, 320, 325, 330–333, 336–339

and the Helsinki/Geneva provisions: 6, 7, 11, 43, 44, 47, 52, 65, 219, 220, 321–326, 336, 340, 342

and the Belgrade provisions: 20, 319, 327, 329, 330

and the Madrid provisions: 24, 319, 328, 330–333, 337, 342

and the Vienna provisions: 34, 319, 340, 341

see also Malta; non-participating Mediterranean States; Palma de Mallorca; Valletta; Venice

Medvedev, Zhores: 248, 302

- Meeting of Experts –
 for Peaceful Settlement of Disputes – *see* → *Montreux; Athens; Valletta*
 for Human Rights – *see* → *Ottawa*
 for Human Contacts – *see* → *Bern*
 for the Mediterranean – *see* → *Valletta; Venice; Palma*
- Meeting on the Protection of the Environment – *see* → *Sofia (1989)*
- Mersin (port of): 132, 182, 183
- micro-States: 14, 36, 43, 67, 87, 203
see also Holy See; Liechtenstein; Monaco; San Marino
- Middle-East: 37, 145, 321, 322, 325, 329, 338
see also Israel/conflict in
- migrant labour/workers: 7, 44, 52, 53, 101, 198, 204, 212–214, 217, 220, 228, 268, 326, 336
- military activities: 128, 130, 134, 144, 159–172, 177, 178, 184–194, 338, 339
 and Eastern countries: 125, 137, 139, 150, 158, 259, 162, 167, 169, 170, 187, 188, 190–193
 and the N + NA countries: 129, 137, 142, 146, 152, 159, 162, 167, 170, 180, 188, 194
 and Western countries: 136, 138, 139, 151, 157–159, 162, 167–169, 184–186, 189, 190
see also annual calendars; concentration; constraint; CBM/CSBMs; military information; first basket; inspection; notification/prior; observation; national technical means; threat or use of force; verification
- military alliance(s) – *see* → *alliances/military*
- military budget(s): 129, 140
- military information (exchange): 129, 146, 151, 165, 177
- military maneuvers: 127–136, 138, 140, 148–152, 154, 170, 338
 airborne: 131, 152, 153, 157–160, 168, 169, 189, 190, 339
 amphibious: 131, 132, 146, 152, 153, 157–160, 168, 169, 190, 339
 naval: 131, 132, 135, 140, 144, 145, 147–151, 153, 155, 157, 159, 164, 176, 182, 326, 339–341
- military movements (of troops): 127, 129, 131, 134, 135, 140, 153, 154, 326
- military observers: 127, 131, 134–138, 147, 149, 151, 153, 159–169, 184–194
- minorities: 28, 30, 44, 76, 86, 87, 93, 95, 97, 98, 344
 national minorities: 62, 76, 94, 102, 268, 273, 297, 307, 317, 345
- Molotov, Vyacheslav Mikhailovich (proposal): 1, 229, 233
- Monaco (Principality of): 36, 175, 203, 300, 341
see also micro-States
- Montreux –
 Meetings of Experts on Peaceful Settlement of Disputes (1978): 31, 33, 40, 114, 115, 117, 118, 119, 120, 121, 122, 124
- Moro, Aldo: 38
- Morocco: 45, 324, 338
see also non-participating Mediterranean States

- Moscow: 2, 54, 139, 155, 250, 251, 262, 270, 273, 280, 282, 293, 294, 295, 304
 Olympic Games (1980): 87, 273, 294
 Third Conference on the Human Dimension (1991): 28, 30, 35, 42, 105, 106, 270, 296
 Treaty (1970): 72
see also Helsinki monitoring group; Union of Soviet Socialist Republics
- most-favoured-nation treatment (clause): 196, 197, 201, 205, 217, 232, 261
see also second basket
- Mutual and Balanced Force Reductions (MBFR): 3, 127, 130, 131, 136, 141, 146, 173, 180, 181, 182, 183, 343
- Myrdal, Gunnar: 203
- N**
- national minorities – *see* → *minorities*
- national technical means: 128, 147, 162
see also military activities; inspection; verification
- Negotiation on Conventional Armed Forces: 35, 172, 176, 178–183
 mandate (of the negotiation): 178, 180–183
- Netherlands: 5, 14, 24, 184, 186, 189, 199, 268, 305
 and the CBMs: 129, 137, 167, 184, 186, 189, 207, 213, 217, 241
 and the second basket: 199, 200, 207, 213, 217
 and the third basket: 241, 268, 304, 305
 and Western countries: 43, 64, 78, 85, 106, 121, 129, 137, 184, 186, 189, 207, 213, 217, 323, 324
- Neutral and Non-Aligned countries (N+NA): 23, 24, 25, 43, 44, 45, 62, 129–133, 136, 137, 140, 141, 146, 150–153, 160–163, 165–170, 173–175, 182, 198, 212, 238, 344
 as moderators: 4, 6, 19, 20, 22, 24, 45, 158, 159, 173, 315
 and the CBMs: 128–141, 143, 146, 148, 150–153, 158–175, 180, 182
 and Eastern countries: 16, 23, 28, 121, 143, 217, 306, 344
 and Romania: 14, 17, 22, 30, 40, 62, 69, 79, 128, 142, 150, 153
 and Western countries: 19, 24, 28, 30, 36, 44, 56, 121, 133, 139, 148, 151–153, 164, 180, 183, 217, 269, 296, 314, 344
- neutrality: 43, 45, 79, 100, 331, 333
- New International Economic Order (NIEO): 40, 201, 202
- Nixon, Richard: 6, 37
- non-consensus – *see* → *consensus*
- non-intervention (in internal affairs): 26, 28, 40, 42, 62, 64, 68, 78–80, 86, 89, 94, 99, 100, 109, 238
see also Principle VI
- non-paper(s): 6, 116, 120, 124, 315
- non-participating Mediterranean States (NPMS): 45, 46, 319, 324, 325, 327, 328, 329, 330, 332, 335, 336, 337, 338, 339, 340, 341, 342
see also Algeria; Egypt; Israel; Lebanon; Libya; Morocco; Syria; Tunisia

- non-use of force: 40, 62, 68, 112, 148, 149, 151, 153, 155, 156, 164, 339
see also Principle II; threat or use of force
- Nordic countries *see* → *Scandinavian countries*
- North Atlantic Assembly (NAA): 10, 53, 58, 95, 214, 282, 292
- North Atlantic Treaty Organization (NATO): 2, 4, 11, 12, 27, 36, 37, 39, 40, 58, 86, 89, 197, 216, 235, 255, 320, 331
 member States/countries [in the CSCE]: 12, 36, 37, 132, 133, 137–139, 147–148, 162, 163, 167–171, 173, 174, 180, 184–190, 234, 235
 and the CBMs: 127, 128, 131, 132, 133, 136, 137–139, 142, 147–150, 161–171, 173, 174, 178, 180, 184, 187, 189, 190
 and the Warsaw Pact countries: 131, 162, 171, 174
see also Warsaw Pact
- Norway: 14, 30, 85, 184, 185, 186, 189
 and the CBMs: 128, 137, 167, 168, 169, 171, 182, 184, 185, 186, 189
 and Eastern countries: 30, 171
 and Western countries: 85, 128, 137, 167–169, 189, 217, 241, 255, 263, 270
see also Scandinavian/Nordic countries
- notification (CSBMs): 131–138, 140, 146, 149–151, 153–162, 165–172, 184, 187, 188, 204, 208, 220, 272
 prior notification : 127, 129, 131–135, 138, 140, 146, 148, 150–153, 158, 161, 172, 326, 339, 340
see also inspection; military activities; observation; verification
- nuclear [power/war]: 4, 57, 88, 98, 99, 153, 226
 free zone(s): 82, 107, 129, 148, 151, 338
 weapons: 1, 129, 142, 143, 148, 149, 154, 182, 339
- O**
- observation (of military activities): 128, 135, 137, 138, 146, 152, 153, 155, 156, 157, 159, 160, 166, 170, 240
see also CSBMs; inspection(s); military observers; notification; verification
- observer (status): 2, 36, 46, 97, 196, 300, 309, 324
see also Albania; non-participating Mediterranean States
- Orlov, Yuri: 25, 27, 81
see also dissident(s); Helsinki monitoring group(s)
- Osimo Accords (1975): 87, 328
- Ostpolitik – *see* → *FRG*
- Ottawa –
 Meeting of Experts on Human Rights (1985): 13, 14, 28, 31–33, 45, 93–96, 99, 165, 266, 315
see also Bern; human rights

P

- Palestine Liberation Organization (PLO): 329
- Palma de Mallorca –
 Meeting on Co-operation in the Mediterranean (1990): 35, 48, 341
see also Mediterranean
- Paris: 38, 49, 59, 300
 First Conference on the Human Dimension (1989): 35, 85, 105, 106, 344
- peaceful change (of frontiers) – *see* → *frontiers*
- Peaceful Settlement of Disputes (PSD): 33, 35, 40, 79, 111–124
 “Aćimović criteria”: 118, 119
 Bindschedler draft proposal: 111, 116, 120
 free choice of means: 115, 118, 124
 and the Final Act: 115, 116
 and the Vienna provisions: 125
 arbitration (principle): 113–115, 117–123
see also Athens; Montreux; Valletta/ Meetings of Experts
- perestroika: 42, 59, 108, 214–217, 226, 258, 259, 261, 270, 278, 292, 308
- Pisar, Samuel: 9, 52
- politico-military (issues) – *see* → *first basket*
- Poland: 14, 59, 139, 171, 173, 177, 190, 216, 219
 and the 1980’s crisis: 23, 25, 26, 85, 92, 95, 139, 149, 218, 224, 225, 283, 292, 308, 343
 and the CBMs: 140, 147, 149, 150, 169–171, 173, 177, 187, 190, 191, 192
 and the Eastern countries: 34, 40, 55, 57, 71, 82, 83, 85, 86, 95, 100, 150, 169–171, 187, 190–192, 196, 205, 215, 216
 and the second basket: 106, 205, 215, 216
 and the third basket: 238, 240, 252, 254, 255, 257, 263, 265, 279, 293, 308, 313, 316
see also Cracow; Solidarność
- Portugal: 14, 86, 109, 182
 and the CBMs: 137, 167, 198
 and the Western countries: 70, 121, 137, 167, 198, 202, 214, 217, 283, 330, 336
- postal and telephone communications: 30, 104, 249, 268, 269, 273
- Prague: 2, 4, 65, 88, 195, 226, 277, 295, 300
- Preparatory Meeting(s) – *see* → *Belgrade; Bonn; Budapest; Madrid; Stockholm; Vienna*
- press (at CSCE events): 14, 20, 27, 183, 286, 291, 296
 in Eastern countries: 10, 133, 139, 278, 279, 292, 294, 295
 freedom (of): 274, 275, 279
 in Western countries: 9, 10, 27, 58, 82, 278, 286, 288, 291, 292
see also information; dissemination; journalist(s); public/opinion
- Principle I [of the Decalogue]: 64, 73, 77, 79, 86, 100, 108, 178, 243, 333
see also sovereignty of all States

- Principle II: 64, 65, 77, 79, 80, 149, 164
see also non-use of force; threat or use of force
- Principle III: 64, 68, 71, 72, 73, 325
see also frontiers/inviolability of
- Principle IV: 64, 65, 72, 73, 77, 109
see also territorial integrity
- Principle V: 64, 79, 80, 87, 109, 111
see also Peaceful Settlement of Disputes
- Principle VI: 64, 77, 79, 86, 100, 109
see also non-intervention (in internal affairs)
- Principle VII: 50, 51, 64, 65, 74, 75, 76, 81, 85, 86, 90, 91, 93, 98, 99, 100, 101, 105, 107, 164, 229, 243
see also human rights; freedom of; fundamental freedoms
- Principle VIII: 64, 65, 73, 78, 109
see also self-determination
- Principle IX (co-operation among States): 52, 64, 65, 76, 79, 87, 91, 109, 199, 201
see also co-operation among States
- Principle X: 48, 64, 65, 67, 69, 70, 87, 108, 243
see also good faith; international law
- prior notification (of military activities) – *see* → *notification*
- prisoners of conscience: 82, 84, 104, 106, 262
see also dissident(s)/dissent
- privacy (and integrity of) – *see* → *postal and telephone communications*
- procedure – *see* → *rules of*
- protection of the environment – *see* → *Sofia; UNEP*
- psychiatry (abuse of): 82, 97, 98, 104, 108, 280
- public (general): 23, 27, 75, 83, 103, 105, 147, 152, 211, 231, 245, 247, 276, 279, 284, 287, 289, 296, 298, 303, 316
 access (to CSCE proceedings): 13, 23, 27, 32, 91, 99, 133, 266, 310, 311, 345,
 opinion/awareness: 15, 41, 47, 67, 81, 227, 252
see also libraries; USSR/ Soviet public

R

- Radio Free Europe/Radio Liberty: 27, 41, 84, 85, 94, 107, 108, 216, 263, 265, 278, 281, 283, 291, 292, 293
- radio jamming: 26, 106, 231, 280–283, 285, 287, 291–293, 296, 313
- Radio Mayak: 282
- rapid means of communication (for CSBMs): 177
- reading rooms: 231, 237, 279, 288, 289, 303, 305
- Reagan, Ronald: 125, 142, 302
see also Geneva/Bilateral Summit (1985)
- reciprocity (East/West): 15, 38, 125
 and the CBMs: 134
 and the second basket: 197, 199, 200, 201, 204, 205
 and the third basket: 231, 264, 287, 289, 290, 293, 299, 309, 325, 326

Recommendations of the Helsinki Consultations – see → *Helsinki Consultations / Final Recommendations*

regional cultures: 268, 273, 297, 307, 314, 317

see also *Budapest/Cultural Forum; Cracow/Symposium; culture; minorities*

refraining from the use of force – see → *non-use of force; Principle III*

refuseniks: 27, 106, 250, 263

religion (or belief) – see → *freedom of*

right of the individual (to know and act upon his rights): 75, 81, 91, 101

right to leave a country – see → *emigration; freedom of/movement*

right of peoples to self-determination – see → *self-determination; Principe VIII*

Romania: 6, 10, 11, 14, 17, 20, 22, 30, 40, 41, 43, 57, 62, 66, 67, 69, 70, 77, 78, 79, 80, 83, 85, 93, 94, 95, 99, 102, 107, 115, 124, 128, 129, 130, 134, 137, 140, 142, 147, 150, 153, 156, 163, 167, 196, 197, 198, 199, 200, 201, 202, 208, 214, 217, 218, 238, 252, 263, 265, 283, 311, 313, 314, 315, 316, 321, 332

and the CBMs: 128–130, 134, 137, 140, 142, 147, 150, 153, 156, 163, 167

and Eastern countries: 6, 30, 40, 41, 43, 57, 83, 95, 128, 129, 137, 147, 150, 153, 156, 163, 167, 201, 202, 208, 217, 238, 263, 283, 321

and the Final Act: 10, 17, 20, 22, 62, 77, 79

and N+NA countries: 14, 17, 22, 30, 40, 62, 69, 79, 128, 142, 150, 153

and the second basket: 196, 198–202, 208, 214, 217, 218

and the third basket: 95, 99, 102, 238, 252, 263, 265, 283, 311, 314–316

and Western countries: 10, 20, 67, 69, 70, 77, 78, 80, 153, 156

rotating chairmanship – see → *Chairmanship*

Rougemont, Denis: 298

rules of procedure (CSCE): 1, 4, 14, 17, 24, 329, 332

during the CBMs negotiations: 155, 173, 178, 183

see also *Helsinki Consultations/Final Recommendations (1973)*

Russia (Tsarist): 89, 233, 234, 235, 245, 248, 250, 251, 252, 279

see also *language/Russian; USSR*

S

Sakharov, Andrei: 25, 27, 81, 84, 270, 278, 311

see also *dissident(s); Helsinki monitoring group(s)*

San Marino: 36, 43, 56, 203, 212

see also *micro-States*

scale of distribution – see → *financial contributions*

Scandinavian/Nordic countries: 36, 186, 221, 223, 268, 344

Schmidt, Helmut: 6, 8, 86

Scheel, Walter: 236, 310

science and technology: 7, 52, 53, 198, 204, 210, 225, 226, 301

co-operation (in the field of science and technology): 196, 210, 211, 326

Scientific Forum – see → *Hamburg*

see also *Bonn for the Preparatory Meeting*

Secretariat (of the CSCE) – see → *Executive Secretariat*

- second basket: 20, 21, 31, 38, 41, 42, 44, 53, 195–227, 258, 272, 311, 325, 330, 336
see also business; commercial exchanges; developing countries; industrial; co-operation; environment; marketing; migrant labour; most-favoured-nation clause; reciprocity; science and technology; training of personnel; transport; UN-ECE
- self-determination: 40, 64, 68, 71, 72, 73, 78, 109, 236, 277
see also Principle VIII
- Seminar on Co-operation in the Mediterranean – *see* → *Venice*
- Shcharansky, Anatoly: 25, 81
see also dissident(s); Helsinki monitoring group(s)
- Shevardnadze, Eduard: 27, 40
- Shultz, George: 154
- small and medium sized enterprises: 198, 207
- socialism: 10, 76, 77, 95, 233, 234, 299
- socialist (block/States): 42, 63, 64, 74, 76, 77, 86, 108, 118, 201, 202, 277, 283, 293
- Sofia: 224, 297, 300, 309
 Meeting on the Protection of the Environment (1989): 35, 48, 227
- Solidarność [movement]: 23, 92, 93, 292
- Solzhenitsyn, Aleksandr: 10, 282, 303, 304
see also dissident(s)
- sovereign equality (of States): 10, 62, 64, 68, 73, 77, 78, 79, 80, 86, 100, 108, 113, 118, 196, 238, 242, 243, 315
see also Principle I
- Soviet bloc (countries) : 10, 39, 55, 82, 86, 89, 99, 118, 173, 222, 215, 215, 217, 234, 239, 261, 281, 293, 313
- Soviet Jews: 27, 94, 95, 201, 249, 250, 260–263, 325
- Soviet public (people): 107, 232, 248, 251, 252, 260, 284, 292
see also Union of Soviet Socialist Republics (USSR)
- Soviet Union – *see* → *Union of Soviet Socialist Republics (USSR)*
- Spain: 14–16, 20, 24–26, 37, 58, 71, 86, 182, 213, 214, 257, 283, 289, 307
 and the CBMs: 37, 129, 136, 137, 167, 184–186
 and the Mediterranean: 320, 323, 324, 330, 332, 336, 341
 and the second basket: 198, 199, 202, 213, 214, 217
 and the third basket: 217, 241, 257, 283, 289, 299
 and the Western countries: 34, 70, 93, 129, 136, 137, 167, 182, 198, 199, 202, 213, 214, 217, 241, 299, 320, 323, 324, 330, 336, 341
see also Madrid; Palma de Mallorca
- Stage I of the CSCE (Helsinki, 1973): 5, 13, 33, 38, 56, 232, 239, 258, 310, 319
see also Dipoli; Helsinki Consultations
- Stage II of the CSCE (Geneva, 1973–1975): 5, 7, 9, 11, 15, 16, 33, 111
 and the CBMs: 7, 43, 44, 129, 131–134
 and the second basket: 7, 38, 203, 209
 and the third basket: 7, 41, 45, 240, 241, 283, 311

- and the Mediterranean: 240, 241, 283, 311, 319
see also Co-ordinating Committee; Geneva
- Stage III of the CSCE (Helsinki-1975): 6-10, 33, 40, 54, 85, 89, 219, 258, 263
see also Helsinki Summit
- Stockholm: 65
 [CSBM] regime: 140, 141, 143, 144, 149, 150, 156, 157, 159-163, 165-168, 170, 175-177
 Preparatory meeting of the CBM-CD/Helsinki: (1983): 143
 Conference on CSBMs and Disarmament in Europe (1984-1986): 9, 12, 24, 27, 33, 39, 41, 42, 44, 45, 46, 48, 50, 51, 52, 59, 80, 127, 136, 140, 141, 143, 145-150, 152-159, 162, 163, 165, 166, 174, 176, 177, 183, 212, 324, 332, 337-340.
 Document on the CSBMs (1986): 50, 51, 70, 76, 78, 136, 15, 157, 159, 161-167, 169, 170, 172, 175, 177, 343
 mandate [of the Conference]: 142-145, 147, 149, 165, 173, 175
see also annual calendars; constraints; CSBMs; inspection of military activities; MBFR; non-use of force, notifications; observation; verification
- stopping the clock(s) -
 in Madrid: 24
 in Stockholm: 145, 156
- Summit(s) - *see* → *Geneva Summit(s)/quadripartite (1955) and bilateral US/USSR (1985); Helsinki Summit (1975); Moscow/Summits (1972 and 1975); Stage III*
- Sweden: 14, 25, 46, 70, 151, 152, 155, 161, 164, 174, 175, 246, 263, 281, 285, 299, 319
 and the CBMs: 129, 137, 139, 142, 151, 152, 155, 161, 164, 166, 167, 174, 175, 180, 188
 and N+NA countries: 25, 43, 45, 46, 56, 98, 137, 139, 142, 151, 152, 155, 164, 166, 167, 174, 175, 180, 188, 206, 217, 239, 240, 285, 293, 314
 and the second basket: 202, 217
 and the third basket: 25, 45, 85, 98, 240, 263, 281, 393, 299, 314
see also Stockholm
- Switzerland: 14, 28, 29, 43, 44, 62, 67, 80, 87, 90, 111-122, 138, 139, 156, 157, 158, 162, 164, 174, 213, 214, 239, 285, 286, 288, 312, 314, 321
 and the CBMs: 137-139, 151, 155, 156-158, 162, 164-167, 170, 174, 180, 188, 194
 and the second basket: 30, 200, 207, 210, 213, 214, 217
 and the third basket: 28, 35, 239, 240, 268, 270, 271, 285, 286, 288, 312
 and the N+NA countries: 15, 16, 43, 44, 46, 56, 85, 90, 137, 138, 151, 153, 158, 162, 164-167, 170, 180, 188, 194, 207, 210, 217, 239, 240, 268, 270, 271, 289, 314, 321
 and the PSD (proposal): 7, 24, 44, 51, 62, 80, 111-117, 120, 121, 125
see also Bern; Bindschedler/draft convention; Geneva; Montreux; PSD
- Symposium on Cultural Heritage - *see* → *Cracow*
- Syria: 45, 132, 182, 323, 324, 335
see also non-participating Mediterranean States

T

- territorial integrity: 48, 62, 64, 68, 71–73, 77, 79, 80, 109, 331
see also inviolability of frontiers; Decalogue; Principle IV
- terrorism/terrorist: 26, 29, 48, 57, 97, 100, 109, 153, 165
- third basket: 31, 47, 48, 53, 58, 63, 101, 102, 104–106, 130, 196, 199, 207, 210, 213, 221, 228, 229, 235–243, 253, 269, 270, 316, 317, 323, 326, 330, 345
 and Eastern countries: 83, 213, 238, 242, 263, 301–303
 and the N+NA countries: 44, 213, 238, 239
 and Romania: 41, 197, 213
 and the USSR: 28, 45, 54, 62, 78, 105, 214, 221, 232–234, 240, 242, 258–263, 292–295, 303, 308, 309, 325
 and the Western countries: 37, 38, 54, 58, 76, 88, 105, 197, 204, 218, 229, 235–237, 240–242, 263, 269, 311
see also contacts between people; culture; education; freedom(s); human dimension; human rights; information; marriage; Principle VII
- threat or use of force (principle): 40, 62, 64, 66, 68, 71, 72, 73, 76, 77, 78, 79, 80, 111, 112, 148, 149, 151–156, 164, 165, 339
see also non-use of force; Principles II and IV
- torture (elimination of): 97, 104, 125
- tourism: 7, 215, 251, 256, 266
 provisions on: 253, 256, 257, 264, 267, 274
 and the second basket: 52, 198, 204, 212, 213, 258
 and the third basket: 228, 231, 233, 237, 244, 250, 251, 256–258, 264, 266, 267, 294
 and the Mediterranean: 334, 336
- trade (foreign/international): 52, 204–220, 225, 226
 provisions on: 200, 204, 205, 210
 and the second basket: 38, 196, 197, 200, 204–208, 210, 215, 216, 220, 225, 226
 and the third basket: 230–232, 234, 238, 244, 245, 276, 299, 301
 and the Mediterranean: 320, 326, 329
see also commercial/exchanges; most-favoured-nation treatment
- trade union (rights/leaders): 29, 92, 93, 97, 108, 252, 268, 294
see also Solidarność
- training of personnel: 52, 204, 212, 214
- translation – *see* → *language(s)*
- transfers (and concentrations of troops): 146, 148, 150, 155, 157, 158, 160, 165
- transport: 7, 52, 120, 196–198, 204, 212, 213, 218, 221, 222, 251, 336
 military (means of): 137, 147, 151, 152, 157, 159, 160
- Treaty on Conventional Armed Forces in Europe (CFE) – *see* → *Negotiations on Conventional Armed Forces in Europe*
- troops (number of): 84, 86, 140, 146, 150–154, 157–162, 168–173, 182, 184, 187–194
 under the CBM/Helsinki regime (1975): 129, 131–139

under the CSBM/Stockholm regime (1986): 138, 140, 146, 150–154,
157–162, 168, 169, 170, 171, 172, 173, 182, 184, 187–194
see also concentration of; constraints; notification; transfer of

Tunisia: 45, 319, 322, 323, 324, 326, 328

see also non-participating Mediterranean States

Turkey: 9, 14, 30, 87, 102, 103, 109, 129, 130, 132, 136, 137, 145, 156, 167, 168,
171, 182, 183, 184, 185, 189, 198, 202, 213, 214, 217, 218, 227, 241, 320, 326,
330, 341

and Bulgaria: 28, 86, 95, 102, 218, 226, 227, 315

and the CBMs: 30, 129, 130, 132, 136, 137, 145, 156, 167, 168, 171, 171,
182, 184, 185

and Greece: 30, 156, 183, 218, 320

and the intervention in Cyprus: 6, 9, 103, 109, 132, 156, 182, 183, 315

and the Mediterranean: 30, 320, 330, 367

and minorities: 28, 86, 95, 227, 315

and the second basket: 198, 202, 213, 214, 217, 218, 227

and the third basket: 241, 250

and the USSR: 132, 134, 136, 145, 171, 182, 214

and Western countries: 87, 129, 137, 167, 168, 171, 183–185, 189, 198,
202, 213, 214, 217, 218, 241, 367

see also Cyprus; Greece

U

Ulster: 29, 71, 87, 95

see also Ireland

Union of Soviet Socialist Republics (USSR)/Soviet Union: 9, 14–16, 19, 21, 26, 27,
39, 41, 42, 61, 62, 66, 70, 71, 73, 123, 132–141, 144–150, 161, 166, 167, 182,
200, 202, 208, 209, 221, 223, 224, 230–232, 247–252, 258–262, 273, 278, 279,
280, 284, 301–303, 305, 316, 340, 341

and the CBMs: 3, 24, 42, 48, 70, 127, 128, 130–141, 144, 145, 147–151, 154,
156, 157, 161, 162, 165–172, 181–183, 187, 188, 190–193, 340

and the Eastern countries: 20, 28, 34, 37, 40, 41, 77, 78, 85, 86, 147, 100,
129, 150, 167, 169, 170, 187, 188, 190–193, 195, 199, 216, 238, 247, 252,
254, 255, 257, 263, 266, 291, 303, 312

and the second basket: 30, 34, 40, 41, 195–198, 200, 202, 208–210, 214–
216, 221, 223, 224, 232

and the third basket: 3, 21, 23, 25, 27–29, 35, 41, 42, 48, 75, 81–84, 91,
94, 95, 98, 107, 108, 229, 233, 234, 238, 240, 242, 247, 248, 249, 250–252,
254, 255, 257–263, 265, 279–284, 287, 291–294, 301–303, 305, 307,
313, 314, 316, 326

and the Mediterranean: 321, 323, 325, 340

and the N+NA countries: 24, 34, 45, 125, 151, 341

and the PSD: 115–117, 119, 123–125

and perestroika: 27, 29, 41, 42, 84, 107, 108, 165, 214, 216, 226, 258, 278,
292, 308

- and the Regan/Gorbachev Summit (1985): 154, 155, 308
- and the Western countries: 2, 8, 22, 23, 24–26, 28, 30, 40, 41, 45, 64, 66, 71, 119, 156, 166, 171, 172, 181, 183, 198, 210, 215, 232, 242, 280, 281, 283, 314, 326
- and the USA: 18, 25, 27, 37, 71, 82, 94, 95, 125, 127, 134, 147, 154, 162, 167, 280–282, 302, 321
- see also Brezhnev; Decalogue; dissident(s); emigration; Geneva/Quadripartite Summit; glasnost; Gorbachev; Moscow; perestroika; Soviet bloc; Soviet Jews; Soviet public; third basket; Turkey; Warsaw Pact*
- United Kingdom (UK): 14, 29, 55, 85, 95, 274, 280, 299, 315
- and the CBMs: 128, 137, 139, 166, 167, 168, 170, 171, 183–187, 189, 190
- and the second basket: 207, 208, 217, 223
- and third basket: 38, 74, 75, 229, 240, 257, 274, 280–282, 284, 285, 293, 299, 315
- and the United States/Canada: 28, 29, 69, 166, 183, 223, 236, 240, 280–282, 321
- and the Western countries: 28, 29, 69, 70, 85, 121, 128, 137, 167, 168, 184–187, 189, 190, 207, 223, 229, 236, 240, 241, 280, 281, 285, 293
- see also Geneva/Quadripartite Summit; Gibraltar*
- United Nations (system/agencies): 12, 14, 43, 45, 46, 47, 62, 65–67, 75, 80, 104, 107, 122, 123, 125, 1277, 148, 152, 200, 202, 203, 212, 225, 230, 237, 246–248, 275, 276, 278, 283, 319, 321, 322, 326, 335, 338, 340
- Charter: 40, 49, 51, 64, 65–68, 70, 72, 73, 78, 80, 112, 115, 117–113, 149, 164, 325
- General Assembly: 42, 43, 64, 66, 125, 127, 142, 148, 154, 232, 237, 276, 277, 283, 338
- Secretary General: 36, 46, 49, 68, 275
- Security Council: 2, 125
- see also Helsinki Final Act/transmission; UNCITRAL; United Nations Declaration [...] on Friendly Relations; UNECE; UNESCO; UNEP; Universal Declaration of Human Rights*
- United Nations Commission on International Trade Law (UNCITRAL): 225
- United Nations Declaration [...] on Friendly Relations (1970): 64, 65, 68, 72, 78, 80, 325
- United Nations Economic Commission for Europe (UNECE): 31, 44, 47, 52, 65, 195, 196, 202, 202–204, 207–209, 212–214, 218–225, 227, 310, 311, 336, 337, 341, 344
- United Nations Educational, Scientific and Cultural Organization (UNESCO): 47, 51, 53, 203, 211, 276, 277, 280, 293, 297–300, 306, 307, 309–311, 315, 317, 336, 337, 341
- United Nations Environment Programme (UNEP): 47, 212, 224, 225, 227, 326–328, 334, 336, 337, 341
- United Nations International Covenant on Civil and Political Rights (1966) – *see* → *International Covenant*

- United States of America (USA): 2, 3, 9, 14, 18, 25, 40, 48, 54, 55, 71, 72, 83, 85–87, 92, 94, 95, 135, 142, 173, 178, 179, 180, 216, 241, 263, 264, 265, 269, 274–276, 280, 281, 283, 293, 295, 302, 312, 322, 329
 and Canada/UK: 3, 28, 29, 36, 69, 71, 72, 93, 121, 132, 166, 167, 183, 229, 280, 282
 and the CBMs: 33, 39, 127, 132, 134, 135, 137, 139, 142, 147, 154, 157, 162, 166, 167, 171, 173, 174, 177–180, 182, 125, 189, 190
 and the Regan/Gorbachev Summit (1985):
 and the second basket: 201, 202, 205, 206, 216, 309
 and the third basket: 18, 20, 24, 28, 52, 86, 93, 94, 96, 229, 241, 261–265, 269, 273, 278, 280–283, 291–293, 312
 and the Western countries: 2, 5, 6, 21, 28, 30, 34, 37, 39, 40, 69, 71, 84, 91, 93, 96, 119, 121, 122, 125, 137, 139, 154, 167, 173–175, 177, 179, 180, 184, 185, 189, 190, 202, 206, 293, 315, 329
 and the USSR: 3, 18, 20, 24, 25, 28, 70, 87, 120, 125, 127, 134, 147, 154, 157, 162, 182, 229, 260–262, 269, 280, 282, 302, 308, 320, 344
 and the US Commission on Security and Co-operation in Europe: 39, 53–55, 81, 82, 87, 94, 132, 215–217, 258, 263–265, 292–295, 308
 and the US delegation: 18, 21, 29, 71, 93, 94, 95, 100, 120, 142, 161, 166, 269, 312
see also Ford; Geneva/bilateral Summit; Nixon; Jackson-Vanik; McCarran-Walter Act; Moscow/bilateral Summits; Regan
- Universal Declaration of Human Rights and Fundamental Freedoms (1948): 50, 65, 75, 84, 105, 237, 246, 247, 254, 276–278, 295, 298
- use of force – *see* → *non-use of force*
- USSR – *see* → *Union of Soviet Socialist Republics*

V

- Valletta (La): 35
 Meeting of Experts on Co-operation in the Mediterranean (1979): 31, 33, 46, 47, 220, 309, 330, 331, 333, 335–337, 340
 Meeting of Experts on Peaceful Settlement of Disputes (1991): 35, 125
- Vatican – *see* → *Holy See*
- Venice –
 Seminar on Co-operation in the Mediterranean (1984): 24, 31, 33, 46, 47, 220, 309, 333, 337, 340
- verification: 26, 143, 144, 147, 149, 151, 154, 155, 156, 162, 165, 166, 174, 182
see also CSBMs; national inspections and technical means
- Vienna: 3, 8, 59, 179, 300
 Congress of (1815): 8, 49
 Preparatory meeting (1986): 156
 Follow-up Meeting (1986–1989): 14, 18, 26–31, 33, 38, 40, 41, 44, 46, 47, 57, 59, 63, 70, 89, 108, 109, 117, 127, 142, 173–175, 181, 195, 270, 310, 340, 341, 344, 345

- Concluding Document (1989): 10, 47, 48, 50, 101–109, 117, 125, 173–182, 225–228, 270–274, 294–299, 316, 317, 340, 341, 343, 345
 and the second basket: 195, 224–228
 and the third basket: 84, 106 270–274, 294–299, 316, 317
 and the Mediterranean: 34, 319, 340, 341
 and the Conference on CSBMs (1989-192): 35, 179
see also Austria; Mutual and Balanced Force Reductions
- Voice of America: 281, 283, 292
see also radio jamming

W

- Warsaw Pact (alliance): 2, 3, 4, 10, 11, 76, 85, 138, 147, 169, 173, 174, 176, 178, 187, 190, 235
 countries/members: 3, 4, 6, 10, 11, 23, 36, 37, 40, 41, 85, 128, 136–140, 150, 151, 159, 162, 163, 166, 167, 169, 170, 171, 173, 174, 176–178, 181, 187, 190, 195, 236, 238
 and the CBMs: 29, 40, 128, 131, 133, 136–140, 147, 150, 151, 159, 162, 163, 166–171, 173–178, 181, 187, 190
 and USSR: 37, 41, 140, 147, 150, 166, 167, 170
 and NATO: 11, 36, 131, 133, 136, 150, 162, 163, 166, 173, 174, 176, 178, 235
- West Germany – *see* → *Federal Republic of Germany*
- Wilson, Harold: 6, 8
- World Health Organization (WHO): 47, 225, 336, 337, 341

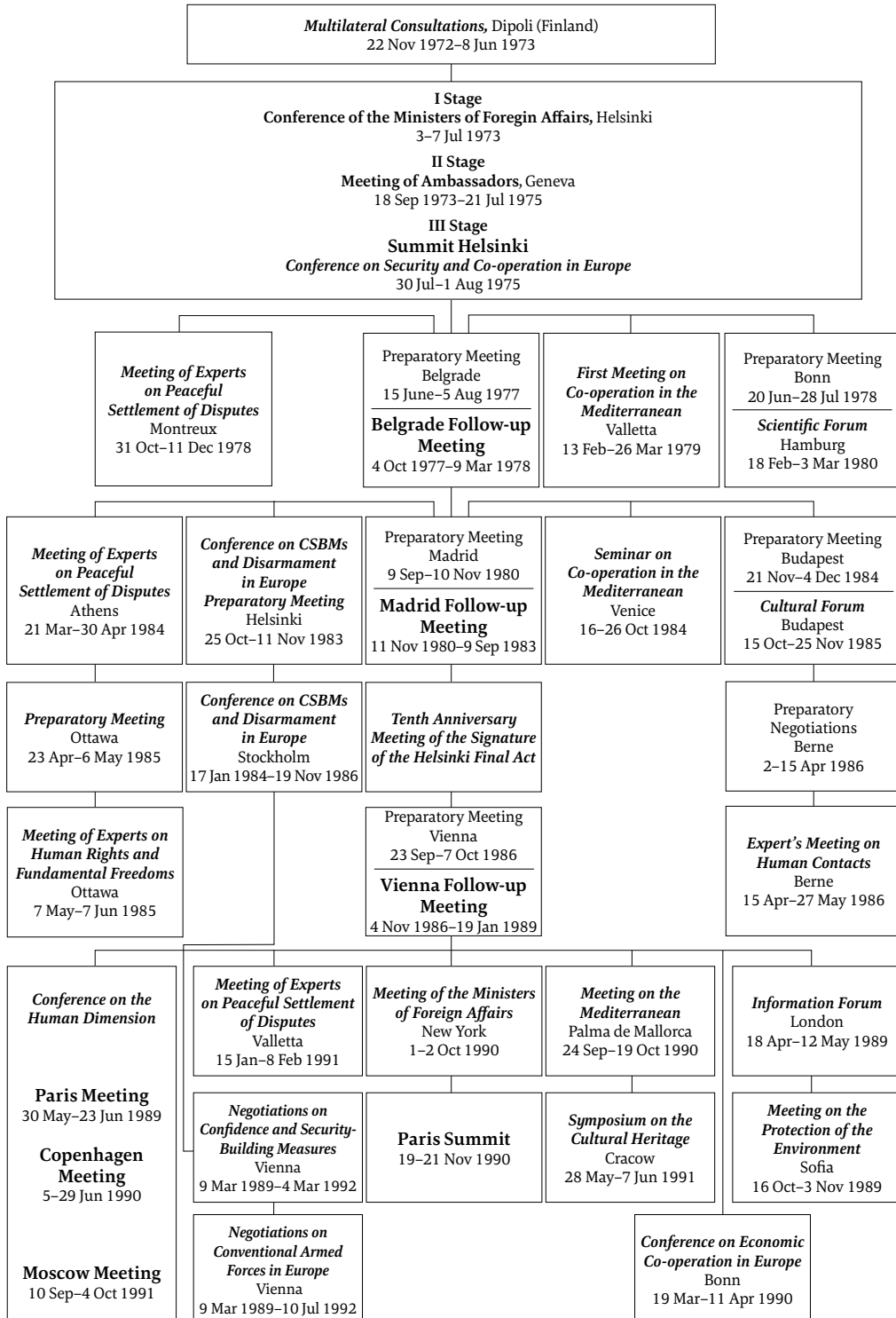
Y

- Yugoslavia: 14, 15, 16, 43, 44, 46, 61, 62, 67, 69, 76, 77, 78, 86, 87, 93, 98, 116, 118, 129, 130, 134, 137, 138, 142, 151, 161, 165, 198, 199, 200, 202, 203, 209, 213, 214, 218, 219, 221, 239, 268, 307, 312, 314, 330, 336, 340, 341
 and the CBMs: 129, 130, 134, 137, 138, 142, 151, 161, 165, 167, 170, 174, 175, 188, 194
 and the N+NA countries: 15, 16, 30, 40, 43, 44, 62, 90, 138, 151, 161, 165, 167, 170, 174, 175, 188, 194, 198, 268, 314, 323, 324, 336, 341
 and the second basket: 198, 199, 200, 202, 209, 213, 214, 218, 219, 221, 239
 and the third basket: 62, 76, 90, 93, 98, 268, 307, 312
 and the Mediterranean: 314, 320, 323, 324, 330, 336, 340, 341
see also Belgrade; Osimo Accords

Z

- Zapad 81 (manoeuvre): 187
- Zones – *see* → *nuclear-free*

CSCE Events 1972–1992*



* Also see the timeline at the end of Volume II for additional events that took place between 1990 and 1992.

Editor's Note

Professor Victor-Yves Ghebali's history of the OSCE was published in French, in three volumes, over a period of several years. Volume I, *The Diplomacy of Détente: The CSCE from Helsinki to Vienna 1973–1989*, was published in 1989, followed in 1996 by Volume II, *The OSCE in a Post-Communist Europe: Towards a Pan-European Security Identity 1990–1996*. Volume III, *The Role of the OSCE in Eurasia: From the Lisbon Summit to the Maastricht Ministerial Council 1996–2003*, was published posthumously in 2013 with the support of Dr. Alexandre Lambert.

These three volumes cover the (then) recent history of the OSCE and contain statements and outlooks made from the perspective of the point in time at which they were written, that is to say, shortly after the respective period that each volume covers. In order to respect the historical integrity of Victor-Yves Ghebali's writing, the text has been translated as it stands and the volumes have not been edited to reflect the perspective of the date of publication in English.

The publication of the text in English translation, some decades later, has raised a number of editorial issues that are briefly discussed here.

The first volume opens the way to the trilogy and covers the Cold War era, during which the CSCE evolved through its follow-up meetings and expert gatherings. Volume I posed fewer editorial challenges than the later volumes since the period 1973–1989 did not involve institutional name changes for the CSCE. There are, however, references to other international organizations or bodies that have since changed their name or no longer exist. The practice in this translation has been to use the official name in use at the time in question. Any editorial clarifications are provided in square brackets, as are all other editorial interpolations. A summary of events covered by this volume is provided in the timeline on the facing page.

All primary sources referenced by the author have been checked and any transcription mistakes corrected. Wherever possible, quotations from sources that were originally published in English have been sourced and reproduced verbatim. Our thanks belong to the Prague based "Legacy Helpdesk" assured by Alice Němcová for assistance with the retrieval of documents from the CSCE/OSCE archives and for the support of the translators' and copy-editor's reference needs encountered along the way.

This first volume was translated in a consorted effort by:

- Fiona White (for the flow text and bibliography)
- Abigail Beattie (for the footnotes)

Sally McMullen

Copy-editor of the English translation

List of Contents

Preamble by Thomas Greminger	i
“The OSCE Legacy Project”	iii
Acknowledgements	v
Introductory Remarks	vii
Foreword	ix
Preface	xi
Introduction	xv
List of Abbreviations and Acronyms	xvii

Chapter I

The CSCE as a Negotiating Forum

I. Structure of the Process	1
1. Establishing the Process	1
A. Emergence of the Process	1
a) The Soviet plan and the West’s preconditions	1
b) The three official stages of the CSCE	5
B. Rules of Procedure of the Process	10
a) Participation of States “outside military alliances”	11
b) Consensus decision-making	11
c) Rotation principle	13
C. Nature of the Process	14
2. Development of the Process	17
A. Follow-up Meetings	17
a) The Belgrade Meeting	18
b) The Madrid Meeting	22
c) The Vienna Meeting	26
B. Additional Meetings	31
C. The Conference on Confidence- and Security-Building Measures and Disarmament in Europe (CDE)	32
D. Post-Vienna follow-up programme (1989–1992)	34
II. The actors in the CSCE process	36
1. Participating States	36
A. Western Countries	37
B. Eastern Countries	40
C. Neutral and Non-Aligned Countries	43
2. Contributors	45
A. Non-European Mediterranean States	45
B. Agencies within the United Nations System	46

III. CSCE Programme	48
1. Programme Content	48
A. The Nature of the CSCE Final Texts.....	48
B. The “Security” Component.....	50
C. The “Co-operation” Component.....	52
2. Implementation and Evaluation of the Programme	53
A. Degree of Implementation of the Programme.....	53
B. External Evaluation of the Programme.....	53
a) The United States Commission on Security and Co-operation in Europe.....	53
b) The Council of Europe.....	55
c) The North Atlantic Assembly.....	58
d) The Inter-Parliamentary Union.....	59

Chapter II

Ten Principles of Détente

I. Anatomy of the Decalogue	61
1. Approach of the Various Actors	61
A. Approach of the Eastern Countries.....	61
B. Approach of the Western Countries.....	62
C. Approach of the Neutral and Non-Aligned Countries.....	62
2. General Issues of the Decalogue	62
A. “Definition” of Détente.....	62
B. Value and Universal Scope of the Ten Principles.....	64
C. Equality and Interdependence of the Ten Principles.....	68
D. Indivisibility of Security in Europe.....	68
3. Theme of the Decalogue	70
A. Status of European Frontiers.....	70
B. Human Dimension of Détente.....	73
C. Refutation of the Brezhnev Doctrine.....	76
D. Democratization of International Relations in Europe.....	79
E. Refraining from the Use of Force and Peaceful Settlement of Disputes.....	79
II. Physiology of the Decalogue	81
1. Implementation of the Decalogue	81
A. Promotion of Human Rights: the Helsinki Monitoring Groups.....	81
B. Controversy over the Principles.....	85
2. Contributions of the Concluding Document of the Madrid Follow-up Meeting (1983)	90
A. Principle VII.....	90
a) Strengthening the implementation of Principle VII.....	90
b) The Ottawa Meeting of Experts on Human Rights (7 May to 17 June 1985).....	93
B. Other Principles.....	100

3. The Vienna Provisions or the Trumpets of Jericho	101
A. Principle VII.....	101
a) Consolidating the achievements of Principle VII.....	101
b) Expanding the catalogue of rights and freedoms of the CSCE.....	102
c) Establishing a mechanism for the international protection of human rights: the Conference on the Human Dimension of the CSCE.....	105
B. Other Principles.....	108

Chapter III

In Search of a Method for the Peaceful Settlement of Disputes

I. The Swiss Draft Convention on a European System for the Peaceful Settlement of Disputes	111
1. Switzerland's Motives.....	111
2. General Outline of the Swiss Draft.....	113
3. Provisions of the Final Act Relating to the Swiss Draft.....	115
II. Follow-up to the Swiss Initiative Montreux (1978), Athens (1984) and Vienna (1989)	117
1. "Common Approach" of Montreux.....	117
2. Proposals for Compulsory Arbitration.....	120
A. Development of the Swiss Ideas.....	120
B. Development of the Western ideas.....	121
3. Soviet Ideas before Gorbachev.....	123
4. The Vienna Provisions.....	125

Chapter IV

From Confidence-Building Measures to Confidence- and Security-Building Measures

I. The Helsinki Confidence-Building Measures	127
1. Approach of the Various Actors.....	128
A. Approach of the Western Countries.....	128
B. Approach of the Eastern Countries.....	128
C. Approach of the Neutral and Non-Aligned Countries.....	129
2. Provisions of the Helsinki Final Act.....	130
A. The Helsinki Parameters.....	131
B. Critical Appraisal of the Helsinki Parameters.....	135
3. The Helsinki Confidence-Building Measures in Practice, 1975–1986.....	136
A. The Western Countries.....	136
B. The Neutral and Non-Aligned Countries.....	137
C. The Eastern Countries.....	137

II. The Stockholm Confidence- and Security-Building Measures	140
1. Decisions of the Madrid Follow-Up Meeting (1983)	141
2. Negotiations at the Stockholm Conference on Confidence- and Security-Building Measures and Disarmament in Europe (1984–1986)	145
A. The North Atlantic Alliance “Package Deal”	146
B. The Soviet Position and its Development.....	147
C. The Position of the N+NA Countries and Romania.....	150
3. The Outcome of the Conference on Confidence- and Security-Building Measures and Disarmament In Europe: The Stockholm CSBMS	154
A. Recasting the Notification and Observation Regimes	157
a) The new notification regime	157
b) The new observation regime.....	159
B. Qualitatively New CSBMs.....	160
a) Annual calendars.....	160
b) Constraints.....	161
c) Verification.....	162
C. The Reaffirmation of the Principle of Refraining from the Use of Force...	164
4. Implementation of the Stockholm CSBMs, 1987–1988	166
A. Annual Calendars.....	166
B. Notifications and Invitations to Observers.....	168
a) Military activities of the Western countries.....	168
b) Military activities of the Eastern countries.....	169
c) Military activities of the N+NA countries.....	170
C. Constraining Measures.....	170
D. On-site Inspections.....	171
III. The Vienna Provisions: the CSCE Evens the Score with the MBFR Talks	173
1. The Vienna Follow-up Meeting and the Military Question	173
2. Vienna’s Dual Mandate	175
A. Stage 1a of the Conference on Confidence- and Security-Building Measures and Disarmament in Europe	176
B. Negotiation on Conventional Armed Forces in Europe	178
a) The link between the CSCE and the Negotiation on Conventional Armed Forces in Europe	178
b) Provisions of the mandate for the Negotiation on Conventional Armed Forces in Europe.....	181
Annexes	184

Chapter V

The Economic Basket of the CSCE

I. The Second Basket	195
1. The Issues of the Second Basket	196
A. Objectives of the Eastern Countries.....	196
B. Objectives of the Western Countries	197
C. Objectives of the Neutral and Non-Aligned Countries	198
2. The Content of the Second Basket, from Helsinki to Madrid	198
A. Guidelines for Economic Co-operation	199
a) Objectives of economic co-operation	199
b) Principle of reciprocity of advantages and obligations	200
c) Different levels of economic development.....	201
d) Involvement of the UNECE.....	202
B. Areas of Economic Co-operation.....	204
a) Commercial exchanges	204
b) Industrial co-operation.....	209
c) Science and technology, environment and other sectors	210
II. Implementation of the Second Basket (before Perestroika)	214
1. Unilateral Level	215
A. Business Contacts and Facilities.....	215
B. Dissemination of Economic Information.....	216
2. Bilateral Level	217
3. Multilateral Level	218
A. Extension of the UNECE's Role.....	218
B. Development of Co-operation in the Field of Environmental Protection.....	221
III. The Vienna Provisions (or the "Rise of Cinderella")	224
1. Trade and Industrial Co-operation	225
2. Science and Technology	226
3. Environment	227
4. Co-operation in Other Areas	228

Chapter VI

The Third Basket: Freedom of Movement and the Free Flow of Information and Ideas

I. Freedom of Movement and the Free flow of Information and Ideas from the Cold War to Détente	229
1. Geneva Summit of 1955	229
A. Geneva Conference of Heads of Government (18–23 July 1955).....	230
B. Conference of Foreign Ministers (27 October–16 November 1955).....	231

2. CSCE Negotiations (1972–1975)	235
A. Issues of the Third Basket.....	235
a) Objectives of the Western countries.....	236
b) Objectives of the Eastern countries.....	238
c) Objectives of the Neutral and Non-Aligned Countries.....	238
B. The 1975 Compromise.....	240
II. The CSCE’s Contribution to Freedom of Movement and the Free Flow of Information and Ideas	243
1. Human Contacts	243
A. Concept of Freedom of Movement across Borders.....	244
B. East-West Obstacles.....	248
C. CSCE Provisions – from Helsinki to Madrid.....	252
a) Emigration.....	253
b) Temporary travel for personal or professional reasons.....	256
D. Impact of the CSCE and Perestroika.....	258
a) Emigration.....	258
b) Temporary travel for personal or professional reasons.....	264
c) Bern Meeting of Experts on Human Contacts (15 April to 27 May 1986).....	266
E. The Vienna Provisions.....	270
2. Information	274
A. Concept of the Free Flow of Information across Borders.....	274
B. East-West Obstacles.....	278
a) Dissemination of the foreign press.....	278
b) Working conditions for journalists.....	279
c) Radio jamming.....	280
C. CSCE Provisions – from Helsinki to Madrid.....	284
a) Improvement of the circulation of, access to, and exchange of information.....	284
b) Co-operation in the field of information.....	285
c) Working conditions for journalists.....	286
D. Effect of the CSCE and Perestroika.....	292
a) Printed and broadcast information.....	292
b) Co-operation in the field of information.....	293
c) Working conditions for journalists.....	293
E. The Vienna Provisions.....	295
3. Culture and Education	297
A. Concept of the Free Flow of Ideas across Borders.....	297
B. East-West Obstacles.....	301
C. CSCE Provisions – from Helsinki to Madrid.....	304
a) Culture.....	304
b) Education.....	306

D. Impact of the CSCE and Perestroika	308
a) Bilateral level	308
b) Multilateral level: UNESCO's European activities	309
c) Multilateral level: the Scientific Forum in Hamburg (1980) and the Cultural Forum in Budapest (1986)	310
E. The Vienna Provisions	316

Chapter VII

The Question of Security and Co-operation in the Mediterranean

I. Background to the Mediterranean Dimension of the CSCE	319
1. The Indivisibility of European and Mediterranean Interests.....	319
A. External Pressures.....	319
B. Internal Pressures.....	320
2. Status of Non-participating Mediterranean States	322
A. The Helsinki Recommendations.....	322
B. Decisions of the CSCE Co-ordinating Committee.....	323
3. The Mediterranean Clauses of the Helsinki Final Act.....	324
A. Security.....	325
B. Co-operation	326
C. Follow-up to Euro-Mediterranean Dialogue	326
II. Development of the Mediterranean Dimension of the CSCE	328
1. The Maltese Factor.....	328
A. The Mediterranean Question in Belgrade	328
B. The Mediterranean Question in Madrid	331
2. Euro-Mediterranean Co-operation.....	333
A. Valletta Meeting of Experts (13 February to 26 March 1979).....	333
B. Venice Seminar (16 to 26 October 1984)	337
3. The Mediterranean Question at the Stockholm Conference	337
A. Views of the Non-participating Mediterranean States.....	338
B. The Maltese Proposal	338
4. The Vienna Provisions	340
Conclusions.....	343
Bibliography.....	347
Index.....	375
Editor's Note.....	403

Professor Ghebali's three-volume history of the Conference on Security and Cooperation in Europe and later the OSCE, is the product of painstaking research and meticulous analysis. More than that, it is an anthology of 30 years of diplomatic struggles and, ultimately, cooperation and conciliation in Europe.

Volume I takes us from the diplomacy that led to the birth of the CSCE in the early 1970s, through confidence building measures and peaceful settlement of disputes, to the fall of the Berlin Wall in 1989.

Highly readable for the general reader, rigorous enough for the contemporary history researcher and the copious footnotes and references will satisfy the most demanding of academics.

ISBN 978-3-906969-93-0



9 783906 969930 >