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CONFERENCE ON SECURITY AND COOPERATION IN EUROPE: RETROSPECT AND PROSPECT

*Matthew Nimetz**

After five years of experience with the Helsinki Final Act, the thirty-five signatory countries are about to hold in Madrid a second follow-up conference to assess the record of implementation and consider what new steps might be taken to further the purposes of the Conference on Security and Cooperation in Europe, hereinafter CSCE. Now is a good time to take stock of where CSCE has been and where it is likely to go in the future.

The Helsinki process seeks to address the United States basic foreign policy dilemma: how can two competing and largely antagonistic systems co-exist in a manner that protects United States security and at the same time creates opportunities to increase areas of cooperation. The Final Act itself seeks to address the universal desire of all peoples for basic human rights and freedoms. For this reason, the United States does not conceive of the Helsinki process as a bloc-to-bloc confrontation, although we have no illusions that the problem of the East is at present our central consideration. By taking account of the various wishes and hopes of the signatory nations, the Helsinki process helps to keep open channels of communication on sensitive issues in a way which shows promise of encouraging the improvements the United States seeks. This process, however, can only be kept alive through our commitment to make it work and to use its potential continuously to attain our objectives.

Let me first briefly review the genesis of the Final Act. We are all familiar with the post-war situation as it developed in Europe following the World War II victory of the Allies over Nazi Germany. The nature of the post-war division of territory, people and value systems is still, more than a generation later, at the heart of the current political strains in Europe. In the period after the Soviet Union consolidated its control over Eastern Europe, Moscow

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devoted its efforts to legitimize its post-war sphere of domination. To achieve this end, and to exclude the United States from Europe, the USSR sought a conference solely of European states to finalize the frontier arrangements which had existed *de facto* since the end of World War II. The West stood firm against these Soviet desires, since we had no interest in unilaterally granting legal recognition to the USSR's territorial gains. The United States and our Allies, in addition, saw that such a Soviet-sponsored European conference would be used by them to weaken the relationship between the United States, Canada and Western European nations, as institutionalized in the NATO alliance.

In the late sixties, as a part of the general relaxation of tensions, a European conference became of greater interest throughout the West. The NATO alliance expressed cautious interest in such a conference, provided the United States and Canada took part. Simultaneously during this period, the Federal Republic of Germany introduced its Ostpolitik in part to ameliorate various intra-German problems, and the United States was working directly with the Soviet Union on a number of specific questions such as improvements in the Berlin situation, SALT I, non-proliferation and various other issues.

The policy of Western nations in the early seventies was to work toward a relaxation of political tension and a reduction of the all too real risks of nuclear war. This effort, of course, is now known by the short-hand term — detente. One of the concrete and continuing results of detente was the Conference on Security and Cooperation in Europe. Preparatory talks opened in Helsinki in late 1972 and negotiations continued there and in Geneva to work out the outlines of the Final Act.

Since security concerns such as SALT, the Mutual Balanced Force Reduction negotiations and other such specific topics were being handled separately in their own restricted forums, the concept of security embodied in the Final Act was understood to be a much broader one. The Helsinki negotiators sought to enhance the sense of security among all the participating nations by expanding cooperation among them, especially between Eastern and Western nations, in a wide range of areas including economic, humanitarian, educational and cultural. The practical expression of this organizational concept resulted in the division of the Final Act into three basic areas which have commonly been called Baskets. Basket I contained a Declaration of Principles of Interstate Behavior, such as sovereign equality and restraint from the use of

force, principles which were consistent with the UN Charter and other declarations of international law.

Basket I also contained a very important affirmation of human rights and fundamental freedoms, including religious practice, as one of the ten principles governing the relations among the participating states. The inclusion of this principle was a difficult achievement and was accomplished by careful drafting which produced wording similar to, and consistent with, earlier statements in such documents as the UN Charter, the Universal Declaration of Human Rights and the UN covenants on human rights. In restating this principle, the Helsinki signatories not only affirmed their commitment to such freedoms, they also specifically reaffirmed the earlier and more basic documents. The signatories implicitly affirmed the principle that true detente—and true security—rested in the final analysis upon respect for human rights. It is important to keep in mind that this part of Basket I, rather than the well-publicized Basket III, contains the major human rights provisions of the Final Act.

Also included in Basket I is an innovative and important security component called "Confidence Building Measures." Realizing that the building of trust is an important component of security, the Final Act provides for the prior notification of certain troop maneuvers and movements, and exchange of observers among the signatories at military maneuvers.

Basket II deals with economics, science and technology, and Basket III with cooperation in cultural, humanitarian and other fields. These Baskets outline specific areas of cooperation which nations should pursue to strengthen interchange and improve the conditions of life for their people.

The Final Act is not a treaty. It is instead a solemn agreement among the signatories to seek the political objectives outlined in the Act. Inherent in the Final Act's provisions was the desire to reduce the level of confrontation between East and West and to contribute to the spirit of detente. Also implicit in the provisions was a commitment to increase the dialogue among the parties, especially between Eastern and Western nations.

The negotiators created a delicately balanced document. They had to because CSCE works by consensus. The opposition of even one state is sufficient to block a decision. The Final Act contained items of importance to each participant. All thirty-five were, quite obviously, interested in a strengthened sense of security in Europe. For the Soviet Union, CSCE implied a certain degree of

acceptance of the post-World War II territorial frontiers in Europe, since the signatories agreed to seek no change in frontiers except by peaceful means. For many of the East European states, it established a framework that permitted greater interaction with Western countries than was previously possible. For the neutral and non-aligned states, CSCE provided a forum in which to pursue European-wide interests. Thus, Switzerland, which is not a member of the UN, plays a creative political role in Europe, the Vatican pursues its important moral and institutional goals, while Malta expresses its interests in Mediterranean issues. For the West, the Final Act gave us a means to promote the exchange of people and ideas and to seek peaceful evolution in the systems that govern the populations of the USSR and the countries of Eastern Europe, and provided as well a concrete affirmation of the right of states to raise humanitarian concerns in a diplomatic context. In the United States view, the Final Act achieved enormous success in making explicit the notion that improved human rights would be a permanent factor in the detente equation. This may have been an unexpected turn of events for the Soviet Union but it quickly became plain that the inclusion of the human rights concept was to be essential to the CSCE process.

Perhaps the most important aspect of Helsinki is that it created a process for continuous dialogue between the East and West. It also provided a platform from which the signatory nations legitimately could talk about sensitive concerns with their neighbors, concerns that previously were difficult to voice in a diplomatic context. This was accomplished through the establishment of a unique system of follow-up meetings which allows—or more accurately, requires—the signatory nations to review with each other on a continuing basis the progress being made toward the implementation of the Final Act's provisions. By establishing a mechanism to review implementation of the political objectives to which they had agreed, the Helsinki signatories initiated a process that is as important as the text of the Final Act itself.

The first of these follow-up meetings took place in Belgrade in 1977 and 1978. The Belgrade meeting showed our serious commitment to implementation and to the process itself. Under the distinguished leadership of Ambassador Arthur Goldberg, the United States delegation made a strong effort to enhance implementation of the Final Act by all signatories. Although some may have preferred a more anodyne approach to the meeting, we believed that it was important, at the first Helsinki follow-up meet-

ing, to articulate our determination that the commitments made at Helsinki be taken seriously. Our determination has not diminished.

Since the Belgrade meeting, there have been numerous bilateral and multilateral talks among the signatories as called for in the Final Act. Our Government has held CSCE consultations with nearly all the members of the Warsaw Pact, with all of our NATO allies and with most of the neutral or non-aligned signatories such as Austria, Sweden, Switzerland and Yugoslavia. We have also met on several occasions with the Spanish government, host for the next review conference in Madrid. Our experience in the bilateral discussions with Eastern countries has been moderately encouraging. The talks were frank, extensive and specific. We intend to continue these consultations with the hope that progress can be made in the period before the Madrid meeting. These regular and extensive bilateral meetings are an important development since Belgrade and the existence of these intensive talks has caused the Helsinki process to take on greater vitality.

The CSCE policy of the United States is conducted under the guidance of the Department of State. Work in preparation for Madrid has been underway since last summer in close collaboration with other Departments, agencies and government bodies, and the Commission on Security and Cooperation in Europe [hereinafter the Commission]. The Commission is an important partner in our preparations. It was established by the Congress in 1976 to monitor and encourage implementation of the Final Act. The Commission is composed of six Congressmen, six Senators, and three members of the Executive Branch, and is chaired by Congressman Dante Fascell. The staff of the Commission has participated in State Department working groups and taken part in bilateral consultations on CSCE. The staff produces a regular flow of reports to the Congress and the public on issues of Final Act implementation and CSCE-related events.

One of these reports, on implementation of the Final Act in the United States, will hopefully set an example for other CSCE participants to follow. The report examines the criticisms made of US implementation by foreign and domestic critics and is the first review of its kind to be conducted by any signatory. The Commission has had the full cooperation of the Administration in preparing this report, and we were gratified by the outcome. While the implementation record of the United States is not perfect, the basic conclusion of the Commission is that the United

States record is very good and that there is a demonstrated commitment, in keeping with the significance which President Carter attaches to full implementation of the Final Act, to pursue continued progress. This is a record which we will be proud to take to Madrid.

I wish I could report that all other signatories are doing as well. Ever since the signing of the Final Act the Soviet Union and certain of its allies in Eastern Europe have failed to implement the human rights commitments which they made at Helsinki. The expression of dissenting political views, including demands for basic human rights, respect for the Helsinki Final Act and even the national laws supposedly in effect in these countries, has been severely punished. The leaders of Helsinki Monitoring Groups in the Soviet Union—Orlov, Shcharansky, Rudenko, Petkus, Gajauskas and others—have been imprisoned or sent into exile. People seeking to emigrate from the Soviet Union have been denied employment as well as permission to exercise their right to leave their own country. The Catholic Church in Lithuania faces pressure from atheistic Soviet authorities in spite of pledges to allow freedom of worship. Other religions face similar difficulties. In Czechoslovakia, the leaders of the Charter 77 dissident group have been persecuted and imprisoned. Early in 1980 the Soviets culminated a severe campaign of repression by banishing Nobel Peace Prize winner Andrei Sakharov to a city where foreigners are not permitted.

Soviet aggression in Afghanistan, however, has called into question fundamental principles of international conduct—principles upon which East-West stability has rested since World War II and which are fundamental to the Helsinki agreement. The first Basket of the Final Act is a virtual catalogue of principles violated by the Soviet invasion.

- Principle One: Sovereign equality of nations
- Principle Two: Refraining from the threat or use of force
- Principle Three: Inviolability of frontiers
- Principle Four: Territorial integrity of states
- Principle Six: Non-intervention in internal affairs
- Principle Eight: Equal rights and self-determination of peoples

Afghanistan is not a party to the Helsinki Agreement, but we must ask ourselves whether the Soviet Union, which feels free to violate such basic principles of conduct in Afghanistan, is not undercutting the basic norms of international conduct embodied in

the United Nations Charter in a manner that threatens the peace and security of all regions of the world, including Europe.

Given this discouraging record, one must assess why it is in our interest to persevere in CSCE. We have made this assessment and conclude that there are important ways in which CSCE continues to serve our interests and the interests of human rights.

First, it has set a standard by which the actions of all participating states will henceforth be judged. We should not underestimate the importance of this fact. CSCE has made the human rights practices of our fellow signatories an object of legitimate concern and protest, heightening our awareness of our obligations to speak out and ensuring that abuses of fundamental human rights will no longer go unremarked and unchallenged. We can hope that the steady pressure of the world opinion, focused by CSCE on repressive practices, will gradually affect the actions of governments—first in marginal cases, but eventually in more fundamental ways.

We should also be aware that CSCE has helped to break down—however slightly—the bloc-to-bloc configuration of European politics which for years prevented us from establishing lines of communication to many countries of Eastern Europe. The Final Act is an agreement between thirty-five sovereign states, without regard to political or military alignment. It has become a palpable and growing element in European politics, one which promotes discussion over confrontation and provides new opportunities for the countries of Eastern Europe to establish—albeit tentatively—their separate identities as independent nations. We are encouraged by signs that the Eastern Europeans value their CSCE relationship with us and by the progress which has been made—in Hungary, Romania, Czechoslovakia, Bulgaria and the German Democratic Republic for example—in resolving family reunification and emigration issues. By helping put our relations with these countries on a more normal basis, CSCE is perhaps a harbinger of the future Europe we all hope to build.

CSCE has other benefits. It represents a definitive recognition of the fact that the United States plays a central role in the future of Europe and provides us with a forum which includes all the European states (except Albania), the United States and Canada, where we can meet to discuss political, economic and humanitarian issues of common concern. In the area of security, for example, CSCE has established a means of creating a regime of confidence-building measures which has the long-term potential

for enhancing the warning time of a surprise attack and helping to stabilize the security situation in Europe. In the area of economic and environmental cooperation, the Treaty on Transboundary Air Pollution signed last November is a good example of an agreement made possible by the existence of CSCE and the Helsinki process. We hope in the future to use this process to help us find systematic solutions to issues like family reunification which are of central concern to us.

Finally, CSCE serves to remind the free nations of the West of the principles and values which bind them together and, which in the end, are the source of their collective strength.

As we look forward to the Madrid meeting, we are conscious that the atmosphere of East-West relations has been gravely damaged by recent events. Nevertheless, the goals we have set for ourselves remain valid:

- To encourage substantive progress in human rights performance by Eastern countries before, during, and after the Madrid meeting;
- To ensure a thorough review of implementation, especially of the humanitarian and human rights elements in the Final Act;
- To promote US security and economic goals;
- To maintain a balance among the various Baskets of CSCE, and to ensure that all subjects receive full attention and exposure.

The United States is, however, realistic. What is possible at Madrid will depend to a large extent on actions taken by others. To ensure a useful and productive meeting at Madrid, we need action to resolve outstanding human rights cases like those of the Helsinki monitors and Charter 77 and an end to Soviet Union aggression in Afghanistan. For our part, we will continue to insist on a thorough review of implementation, not only at Madrid, but in our consultations with other signatories prior to Madrid.

The tenor of the review of implementation at Madrid will depend on the extent of progress in implementing the Final Act. The United States intends to offer a calm, but frank, assessment. We must hope that in the time remaining before Madrid, governments will improve their performance. We will carefully assess the degree of implementation in areas such as family reunification, free movement of people and exchange of ideas, the rights of journalists to be free of constraints, the obligation of states to permit citizens to know and act upon the Final Act, and observance of Principle VII and the other Principles.

Follow-up meetings are also an opportunity to adopt new mea-

asures to improve implementation, increase cooperation, and further the goals of the Final Act. At Belgrade it proved impossible to win the thirty-five nation consensus necessary for agreement on new proposals. Of the many ideas presented, the only ones which were eventually adopted were for three experts' meetings, two of which had been foreseen in the Final Act. Some believe that a discussion of implementation had the effect of souring the atmosphere at Belgrade so as to make a broader agreement impossible. The United States believes that the critical issue at Belgrade and again at Madrid is whether there has been any implementation, and if so, where and how much. In our view the first priority of the CSCE must be to ensure that the agreement we have already reached through years of tough negotiations—the Final Act—is implemented. Enthusiasm for new proposals and “concrete results” should not lead us to overlook deficiencies in carrying out existing commitments.

That being said, we hope that at Madrid it will be possible to agree on a limited and balanced number of new proposals. The concept of balance is central here. It will be essential that Madrid provide for progress in all major aspects of CSCE. Some signatories, for example, are clearly less interested in one area than in others. We look for Madrid to produce agreement on an array of new proposals which will reflect the balance inherent in the Final Act and particularly the realization that respect for human rights is as much a basis for detente in the CSCE context as military security.

We have the proposals tabled at Belgrade to review before Madrid. The French proposal for a conference on Disarmament in Europe and the Eastern call for a conference on military detente have stimulated interest in some sort of meeting among the states participating in CSCE to discuss issues of military security. Holding post-Madrid meetings on concrete substantive aspects of economics and human rights as well as confidence-building measures might also be something to consider. The United States intends to consult widely with our allies and the other participants to gain a clearer picture of what might be suitable. In considering these initiatives for Madrid, one should not lose sight of the fact that they are all secondary to the main objective, namely to improve implementation of the commitments written into the Final Act.

There is a temptation in dealing with CSCE to indulge in righteous indignation about the failure of certain countries to live up

to their obligations — in the Final Act, in the Universal Declaration on Human Rights, in the UN Charter, and many other statements of basic human rights. There is also a temptation to use CSCE as propaganda; the failure of so many Eastern regimes to fulfill obligations is an indictment of the communist system in practice. The use of CSCE as propaganda is particularly attractive if one has no hope that Eastern governments can ever be influenced to change. I believe, however, if we give into these temptations we will be doing a disservice to our nation and to the hopes of mankind for universal respect for human rights. We must recognize that the Soviets and their allies can have little interest in a process which amounts to nothing more than periodic indictments of their performance. At the same time, the West can have little interest in a process in which the communist countries blatantly ignore obligations to human rights which are a fundamental element of the process.

All signatories must realize that CSCE is a fragile process which a single nation can terminate by refusing to agree to any further meetings of the participants.

If the CSCE process is to prosper, it will be essential for the United States to keep in mind the fundamental goal of our policy—to encourage concrete progress toward full implementation of the Final Act. Our aim is not to make propaganda against the communist system or to embarrass the Soviet Union and its allies. Our aim is to have the signatories of the Final Act honor the commitments they undertook freely at Helsinki. We recognize that for the Soviet Union and some of its allies which emulate its practices, honoring those commitments means making rather fundamental changes in traditional autocratic practices. We do not expect those changes to occur immediately. We do expect gradual progress and genuine commitment to their eventual realization. The events of the past year have raised serious doubts in our mind about whether certain signatories have any intention of honoring their commitments. They have stepped backward instead of forward. To continuing failures with respect to human rights, they have added a challenge to the most fundamental principles of peaceful relations among sovereign states. CSCE cannot continue to survive shocks like these.

Of all the methods we have for dealing with the East, of all the concrete means established to work out the parameters of detente, and of all the forums that have been constructed to improve what is, at best, a tense relationship with a strong and de-

terminated adversary, the Helsinki process is by far the broadest and potentially most promising. The Helsinki process can lead us beyond a bloc-to-bloc relationship to greater security for all. It can mean wider understanding of the concepts of openness, pluralism and human rights. Whether this promise can be realized is, at this point, an open question in view of Soviet actions. The United States is committed to doing its part to achieve the goals of Helsinki.

