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The CSCE Follow-up Mechanism from Belgrade to Madrid

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THE CSCE FOLLOW-UP MECHANISM FROM BELGRADE TO MADRID

*Dante B. Fascell**

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I. INTRODUCTION

The on-going nature of the Final Act has given the endeavor initiated at Helsinki the characteristics of an active process, one intended to grow and intensify as its commitments are fulfilled, and, in turn, expanded by the participating states. It is this sense of an on-going process which makes the Final Act unique among international documents. Unlike many treaties or other legally binding documents, the Final Act, which is non-binding, provided for a mechanism which allows periodic review of implementation progress in a series of multilateral forums. This review mechanism, in many respects, makes the issue of compliance, if not a

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legal requirement, then a matter of high political and moral concern to each of the signatories.

The political and moral commitment to fulfill the provisions of the Final Act stems from different sources. Primary is the diplomatic pressure deriving from the signing of the Final Act at the highest political level, the head of state. Another is the decision by all signatories, especially the East, to avoid embarrassment at review meetings by being singled out for lack of compliance. Also important is the feeling among many signatories, especially the neutral and non-aligned countries, that the Helsinki process represents the highest stage of detente and that, as such, it must constantly be reinvigorated, by strengthening its provisions.

The final portion of the Final Act, entitled "Follow Up to the Conference," provides for activities after the Helsinki summit. In these provisions, the participating states declare their resolve both to continue the multilateral process initiated by the CSCE in Helsinki and to implement provisions of the Final Act unilaterally, bilaterally and multilaterally. The multilateral aspect has several dimensions, including periodic meetings of experts of the participating states, work within the framework of existing international organizations such as the United Nations, ECE and UNESCO, and periodic review meetings held at the level of representatives of foreign ministries such as the one held in Belgrade from November 1977 to March 1978 and the one scheduled for Madrid in November 1980. These pivotal meetings are called "review" meetings, but in fact have several important functions: conducting a thorough exchange of views on implementation of the provisions of the Final Act; invigorating the development of security and cooperation in Europe through consideration and adoption of new proposals designed to elaborate or extend existing provisions of the Final Act without actually amending the Final Act; and continuing the CSCE process by determining the date and place of the next review meeting and establishing other multilateral ventures, for example, international groups and forums within the participating states.

An integral feature of the CSCE process has been its lack of institutionalization. Unlike the U.N. and other international organizations, the CSCE process has no permanent executive body to carry on its work between follow-up activities. All decisions regarding any facet of the CSCE process must be made by consensus either at conferences held at the head of state level—to date there has been one, the founding Conference at Helsinki in

1975—or at review meetings such as Belgrade. CSCE business between these meetings is carried on either through bilateral contacts, through experts groups mandated at the review session, or within the framework of existing international organizations. The necessary executive functions of the process are assumed by the host country for each CSCE review meeting. Some signatories, neutral and non-aligned countries and Romania in particular, wishing to strengthen the process have urged a greater degree of institutionalization. These efforts have been resisted by other signatories which have been reluctant to burden the process with a permanent administrative mechanism. Such a mechanism, it is felt, would tend to take on a life of its own and eventually diminish the forward momentum of the process by over-shadowing the periodic review meeting, the focal points of the process.

The Final Act is the fruit of over two years of intensive negotiations conducted in Geneva and Helsinki. In June of 1973, the participants developed a series of agreements on general rules of procedure and operation called the *Final Recommendations of the Helsinki Consultations*, also known as the “Blue Book.”¹ The rules set down in the Blue Book have become the basic operating procedures guiding all follow-up activities in the CSCE process. These include:

- the composition of the CSCE, *i.e.*, thirty-three European states, the United States and Canada;
- the principle of consensus necessary for the adoption of any decisions or agreements;
- the opportunity to involve various non-participating states, *i.e.*, non-members of CSCE bordering on the Mediterranean and members of international organizations, in the discussion of various agenda items;
- the conduct of CSCE meetings through working groups or committees;
- the principle of rotation which applies to the chairmanship of every working body established at a CSCE meeting of any kind; and
- the principle that the basic rules of procedure, the working methods and scale of distribution for expenses of the conference set forth in the Blue Book will be applied *mutatis mutandis* to subsequent follow-up meetings held as part of the Helsinki

1. The designation “Blue Book” derives from the color of the document’s cover.

process.

II. THE PREPARATORY PHASE

The Belgrade meeting was the first multilateral review meeting held in accordance with the follow-up section of the Final Act. As such, it was a unique meeting, for it marked the first time in diplomatic history that the representatives of nearly all European states, the United States and Canada had gathered for the explicit purpose of reviewing compliance with an international document. The United States delegation, reflecting broad public concern for CSCE-related matters, consisted of public members as well as both career diplomats and members and staff of the congressionally-based Commission on Security and Cooperation in Europe. Members of the staff of the Commission had been fully integrated into official United States government planning and preparations for the meeting.

From the start there were differing perceptions of the meeting on the parts of both East and West. The Western countries viewed the meeting as an opportunity to review the full record of compliance, both what had been done, positively and negatively, and what had not been done to implement the Final Act's provisions. The Western nations also looked on the meeting as an opportunity to make modest progress by strengthening pre-existing Final Act commitments and to continue the CSCE process by deciding on the time and place for the next review meeting.

The Eastern countries found themselves in a defensive and embarrassing position on the eve of the Belgrade meeting. The idea for an all-European conference had originally come from the Soviets who were interested in solidifying the post-war boundaries in Europe. Shortly after the signing of the Final Act, the unprecedented rise of organized dissent directly related to Helsinki principles in many Warsaw Pact countries put them on the defensive. The CSCE process was equated increasingly with human rights commitments rather than security arrangements. The Belgrade meeting, with its mandate to review compliance with all provisions of the Final Act, had clear and very negative implications for the Soviets. For this reason the East, whose implementation record left much to be desired, looked for an opportunity, in the words of Commission Co-Chairman Senator Claiborne Pell, "to escape forward." Wanting to avoid criticism of their shortcomings, they had no intention of engaging in a dialogue on implementation and instead insisted that each participating state be

permitted to talk only about the positive steps it had undertaken in the two-year interval since the Helsinki summit. Consistent with this attitude, the East showed little inclination to talk seriously about realizable new proposals, preferring instead to dwell on grandiose, propagandistic schemes in the security field.

The third major grouping of states in the CSCE process, the neutral and non-aligned, sought to reaffirm the promise of Helsinki by providing the necessary review of implementation in an amicable, low-key fashion. They also sought to adopt new measures to reinforce and expand existing provisions.

Differing views of the function of the Belgrade Meeting necessarily determined the three main state groupings' approach to the Belgrade preparatory meeting, which began on June 15, 1977. The Follow-Up section of the Final Act charged the preparatory meeting with the task of determining the working conditions, *i.e.*, the date and duration of the meeting, the agenda and other modalities for the main meeting. The preparatory meeting proceeded at a painfully slow pace because it was charting a new course. Each seemingly arcane technical point was the subject of extensive debate because of possible political ramifications these procedural decisions could have during the implementation review. The only points which were easily adopted were those basic points of procedure established in the Blue Book.

An important feature of the Geneva negotiation era was the habit of multi-country caucusing to coordinate positions within the three major blocs of countries. At Belgrade, the United States conferred with its fourteen NATO allies on a regular basis, meeting at least once a day and sometimes more frequently. In the NATO caucus, common positions on all levels of conference work were agreed upon. The European Community countries also met regularly and, as a rule, produced common positions which were later introduced in the NATO caucus. Similarly, the Warsaw Pact countries, dominated by the Soviet Union, carefully coordinated their positions, although Romania frequently maintained its maverick role. The nine non-aligned countries, a looser configuration than the other two blocs, also coordinated positions to a considerable extent. These caucusing mechanisms have become an integral part of the preparations, planning and conduct of all aspects of the CSCE process.

Most signatories came to the preparatory meeting in basic agreement that the main part of the Belgrade meeting would have three major tasks. These were set forth in the Follow-Up chapter

of the Final Act: to conduct a thorough exchange of views on implementation; to consider new proposals; and to determine the date and site of the next Belgrade-type meeting.

Particular significance was attached to the Belgrade preparatory meeting because procedural decisions for the landmark conference would set precedents for all subsequent review meetings. The procedure established would have broad significance for the whole CSCE process. In view of the Eastern desire for a "positive" Belgrade meeting, the major United States and Western concerns at the Belgrade preparatory meeting were to secure a firm agenda commitment to an adequate review of implementation, an organizational framework for carrying out this review, and a time schedule sufficiently flexible to effectively frustrate any attempts to filibuster or cause procedural delays. At the preparatory meeting, Western negotiators consequently had three primary objectives:

—the designation of separate agenda points for thorough review of implementation, consideration of new proposals, and determination of the date and place of the next review meeting;

—the establishment of working groups or committees to enable organized and effective review of implementation and consideration of new proposals according to the main subject areas of the Final Act; and

—the adoption of a flexible mechanism for ending the meeting which would ensure sufficient time to complete its work, including the taking of necessary decisions for the next Belgrade-type meeting.

The Soviet position was consistent with their desire to keep the meeting positive and bland, the review functions muted and "constructive." The Soviet representatives insisted that the meeting have a fixed closing date and that all its work be conducted in a single continuous plenary session.

The negotiations at the preparatory meeting continued for nearly eight weeks. Just as the neutral and non-aligned countries had played key roles in negotiating the Final Act itself, so they were crucial intermediaries in resolving both the important and the seemingly hair-splitting technicalities at the preparatory conference. Since the non-aligned countries shared the Western perception of the need for a thorough review of implementation and continuation of the CSCE process, the procedures eventually adopted reflected, by and large, Western positions. These organizational decisions, also known as the "Yellow Book," were con-

tained in nine pages of text published under the formal title *Decisions of the Preparatory Meeting to Organize the Belgrade Meeting*.

The outline for the Belgrade meeting had several prominent features. In its first phase, the main meeting would review implementation of the Final Act. It would consider new proposals to further the CSCE process in the second phase and in the third phase would draft a concluding document determining the date and place of the next review meeting. The division between these phases was flexible in order to allow past records to be raised as legitimate subjects for discussion. The work of the meeting would be carried out in five working groups or committees—under the direction of a plenary body—divided according to the three baskets² of the Final Act. Separate committees were established to deal with Mediterranean issues and the question of arranging further CSCE meetings (follow-up).

A critical preliminary decision was the agreement that the main meeting could not adjourn until adoption, by consensus, of a concluding document and specification of the time and place for the next similar meeting. Through this formula, the Western and non-aligned countries succeeded in introducing a necessary element of ambiguity about the timing of the meeting. It was agreed that the main meeting would attempt to complete its work by December 22, 1977. If this goal proved impossible—as nearly all participants knew it would—the meeting would reconvene in mid-January 1978 and work until mid-February or until a concluding document setting the date and site of the next follow-up meeting was adopted. This language permitted the prolongation of the meeting for the purpose of negotiating the follow-up activities of the Helsinki process. It also committed the signatories to a continuation of that process even before the substantive meeting had begun.

III. THE MAIN PHASE

The main Belgrade meeting began on October 4, 1977. After the first week of introductory speeches, it was closed to the public and its proceedings were unrecorded. Consistent with the agenda set forth in the Yellow Book, the meeting developed in three well-

2. CSCE participants informally designated the three main sections of the Final Act "Baskets."

defined phases. The section-by-section review of Final Act implementation lasted nearly eight weeks, while the introduction and detailed discussion of new proposals lasted approximately four weeks. Finally, the protracted effort to reach an agreement on a concluding document occupied the last phase of the meeting, about seven weeks.

The United States and its allies, as well as most of the non-aligned countries, sought primarily to establish a serious and constructive dialogue on all aspects of Final Act implementation, but especially on human rights where the Eastern performance record had been the poorest. Shortcomings, deficiencies and outright violations were to be raised not for the sake of scoring propaganda points but to identify problems as a first step toward resolving them. Ambassador Arthur J. Goldberg, head of the United States delegation, declared that the United States was prepared to admit that our own record was also in need of improvement.³

Consistent with this approach, the West, with the United States usually in the lead, raised sharp questions about the lack of implementation by the Warsaw Pact countries—the Soviet Union and Czechoslovakia, in particular—of the human rights and humanitarian provisions of the Final Act. It was an agreed allied position that the mention of specific names and countries in illustrating particular points during this review was an acceptable, indeed, useful procedure. Accordingly, the United States protested Soviet repression against members of the Helsinki Monitoring Groups, including Yuri Orlov, Anatoly Shcharansky, Alesksandr Ginzburg, Oleksiy Tykhy and Mykola Rudenko, as well as the treatment of Charter 77 signatories in Czechoslovakia. The United States delegation was not the only signatory to mention specific names and countries in its discussion of human rights violations, yet this policy came to be identified as a United States tactic.

The Soviet and East European conception of the meeting was fundamentally different from the Western and non-aligned views, however. They felt that ideally the Belgrade Meeting would serve as an international forum in which each participating state would offer its own record of compliance and describe the positive steps it had undertaken to implement the Final Act. The Soviet-bloc response to Western criticism of its record, therefore, was either

3. The Belgrade CSCE Meeting: U.S. Delegation Statements, October 6—December 22, 1977, at 6.

to ignore questions when the issues were obliquely raised or to reject penetrating or overtly critical interventions as interference in internal affairs. This was a deliberate attempt to distort the meaning of Principle VI of the Final Act's Declaration of Principles, "Non-Intervention in Internal Affairs." This provision was intended above all to prevent military or other coercion and was not applicable to verbal, printed or other comments on a nation's internal development.

Initially the Warsaw Pact delegates, led by Soviet Ambassador Yuli Vorontsov, refused to be drawn into a dialogue on human rights or any other violations. They accused the United States of "poisoning the atmosphere" of the meeting and of trying to turn it into a forum for propaganda and polemics. The consistency of this position, however, was considerably diluted during the review of implementation as well as later phases of the meeting when the Eastern delegations counterattacked with allegations of human rights violations by Western signatories. The earlier Soviet position that no country had the right to raise questions about the manner in which another country was implementing the Final Act was undermined by Soviet attacks on the United States for violations involving racism, crime, unemployment, Vietnam and CIA activity.

The United States and its allies viewed the Soviet change of tactics as a welcome development, for it represented the first step toward the creation of a dialogue—even if polemical—on important CSCE concerns. By raising questions about Western implementation, the East had tacitly accepted that such inquiry did not constitute unwarranted or illegal interference in the internal affairs of others. The Soviet counterattack helped to legitimize the Western position that diplomatic inquiry into domestic conduct was a legitimate, indeed, integral part of the Helsinki process.

The hoped for debate on all aspects of the Final Act signatories never materialized at Belgrade. The Soviet Union and its allies refused to be drawn into any discussion of the merits of the human rights cases cited by the West or of the general practices which those cases evidenced. Even so, the multilateral diplomatic discussion of human rights at Belgrade—a major Western concern throughout the protracted negotiations of the Helsinki Final Act—was an unprecedented event in East-West relations. It has become a primary Western concern to preserve these human rights discussions as an integral and unique aspect of the ongoing CSCE process.

IV. END PHASE: NEW PROPOSALS AND CONCLUDING DOCUMENT

Throughout the review phase, which the East found so uncomfortable, the Soviets pressed for the consideration of new proposals as part of their "escape forward" strategy. The West also had a vital interest in new proposals as a method of advancing limited, concrete measures which could further compliance with the Final Act. One United States proposal simply reaffirmed the participating states' commitment to respect and promote human rights. Jointly, the NATO countries worked out a comprehensive set of new proposals under each of the three baskets: under Basket I, new Confidence-Building Measures; under Basket II, better facilities for small and medium-sized businesses and other economic proposals; and under Basket III, speedier and less expensive visa procedures and improved working conditions for journalists, among others.

In all, nearly 100 new proposals were advanced at the meeting, many simply for propaganda or political purposes, but some as serious attempts to improve, expand or intensify the implementation process. In many respects, the debate on these proposals served as a second review phase enabling the West, in particular, to cite signatories' past records as reasons for seeking improvement in implementation.

The West was pledged to making balanced progress in all areas of the Final Act. This promise proved futile when the Soviets steadfastly refused to even discuss any new measures in the human rights field. Given the rule of consensus governing all decisions by the CSCE, there was never any realistic chance that the Soviets could be induced to accept any of these new measures. Instead, they indicated a readiness to discuss only their own vague and grandiose proposals in the military security area calling for a treaty among the CSCE signatories on non-first use of nuclear weapons and for "special joint consultations" on military issues to be held by the CSCE states sometime after Belgrade. Refusal by the Soviets to consider human rights proposals effectively blocked the efforts of the Belgrade Meeting to reach agreement on any new measures.

When the conference reconvened in mid-January after a holiday break, the Soviet delegation introduced a stark proposal for a concluding document devoid of any mention of human rights and presented it almost as an ultimatum. Sweeping aside all new proposals discussed in previous weeks, the document was intended in effect as a statement that the Soviet Union was prepared to adopt

only a grandiose proposal to establish a consultative committee for discussion of pet propaganda ideas in the security area.

In the face of Soviet intransigence, the final segment of the Belgrade meeting consisted of repeated efforts to produce a balanced concluding document containing at least some substance. The Soviets, however, continued to make it very clear that they would never agree to any mention of human rights in the concluding document. Since the adamant Soviet stance began to threaten the prospects for any post-Belgrade CSCE activity, it was decided to agree to a short and terse communique stating that the meeting had been held, that a review of implementation had taken place, that differences had been expressed and that the participants had agreed to meet again in Madrid in the fall of 1980 and, in the interim, to hold three experts meetings, two of which had already been mandated in the Final Act.

V. CONTINUATION OF THE PROCESS

Eastern displeasure over the tone and extent of the review of implementation phase of the Belgrade meeting was evident. Soviet negotiators were reluctant to agree on a date for the next follow-up meeting, although general agreement had already been reached on the site of the next review conference—Madrid.

While Western and non-aligned delegates pushed for another meeting at an interval of approximately two years after Belgrade, the Soviets were adamant that a four-year interval would be more suitable. Not wishing a repetition of the Belgrade meeting, the Soviets also deliberately played down the relevance of the Yellow Book procedures for subsequent follow-up activities. Most delegations considered that a four-year interval between follow-up meetings was much too long, believing that the momentum of the CSCE process would be lost unless Belgrade-type meetings followed at shorter intervals. Some non-aligned delegations advocated fixed two-year intervals between review meetings. The Western delegations, led by the United States, insisted that the Yellow Book procedures had worked well in Belgrade and that they should be preserved for future meetings, with necessary minor adjustments.

Since according to CSCE rules of procedure only at Belgrade-type review meetings could decisions by consensus be made on the date, place and function of various follow-up activities, the Soviet position called into question the continued viability of the CSCE process. This reluctance to support continued use of ex-

isting procedural rules was symptomatic of Soviet disillusionment with the direction the CSCE process had taken since 1975. In 1975, the Soviet authorities had hailed the Helsinki Final Act as a cornerstone of its foreign policy, even going so far as to incorporate the ten principles of the Final Act's "Declaration of Principles"—including respect for human rights—into the Soviet Constitution.⁴ In their view, Western insistence on the review aspects of the follow-up process and emphasis on those areas where compliance was the poorest, notably human rights, had shifted the focus of the Helsinki process away from security considerations, the primary Soviet interest.

By the end of the Belgrade meeting and as a result of Western and non-aligned insistence, the Soviets reluctantly agreed to another review meeting in Madrid in the fall of 1980, two and one-half years after the completion of the Belgrade meeting. They were also forced to acknowledge that the Yellow Book procedures—which had provided the mechanism for the review of implementation—would be among the basic documents upon which the modalities for the Madrid meeting would be based. Procedures for the Madrid meeting were to be determined in detail at a preparatory meeting which would precede the main meeting by about eight weeks.

During discussions on the follow-up to Belgrade, some signatories, especially certain non-aligned countries, stressed that the Madrid meeting ought to be held at a level higher than the meeting of Belgrade, *i.e.*, at the foreign minister level as opposed to representatives of foreign ministers. Some also advocated that another conference similar to the Helsinki summit be held at the head of state level sometime in the mid-1980's. Such a conference would reaffirm the commitment of the participating states to the CSCE process. Decisions on these aspects of follow-up, however, were deferred to later meetings.

In more than five months spent at Belgrade, especially during the period of deadlock over the concluding document, it was easy to lose sight of the unique character of the meeting. Belgrade was a fundamentally new venture in East-West relations. It was not primarily a negotiating forum; its chief purpose was not to conclude new agreements or to revise the Final Act. Its mandate, as set forth in the Final Act, was to review compliance. From the

4. Article 29 of the 1976 Constitution of the USSR.

perspective of the United States and its allies, that mandate was effectively fulfilled. Moreover, the political cohesion and cooperation between the United States and its allies were important factors contributing to that effectiveness.

While the scope and depth of the review of compliance were satisfactory from the West's point of view, its tone was not. The United States and its allies had hoped to make Belgrade a forum not for confrontation, accusation or acrimonious debate, but for a genuine dialogue about the problems of implementation and interpretation of the provisions of the Final Act. No such dialogue developed, although the rudiments of constructive exchange sometimes appeared. In the absence of such a dialogue, it was unlikely from the beginning that Belgrade would end with a concluding document which was detailed and candid or which would contain a broad, balanced range of constructive new measures.

Some observers have interpreted the brevity of the concluding document and the lack of progress it implied as a serious disappointment and a setback to the CSCE process. This short-sighted view overlooks the important accomplishments of the Belgrade meeting. Through the comprehensive, probing review of implementation, it established the human rights issue as a legitimate element of East-West diplomacy and it provided for the continuation of the Helsinki process by scheduling another Belgrade-type review meeting in Madrid.

The mere holding of the Belgrade review meeting created pressures which helped bring about some progress in the human rights field in the Warsaw Pact countries. These countries, wishing to diminish possible criticisms of overt human rights violations, had taken steps—some significant, others cosmetic—prior to the meeting to ease repressive or restrictive practices subject to attack at Belgrade. In some countries, political prisoners were given amnesty, a number of long-standing family reunification cases were favorably resolved, and the rate of emigration increased. This pressure for compliance, induced by periodic review meetings like Belgrade, makes the Helsinki process a significant and unique tool of international diplomacy. Just as the Belgrade meeting provided the impetus for compliance, particularly with the human contacts provisions of the Final Act, it is expected that Madrid and subsequent review meetings will do the same.

Given the rather polemic, sometimes acrimonious atmosphere which prevailed at Belgrade, the question has been raised whether the United States and its allies should have adopted a

mented, more low-key approach on human rights in the hope of gaining Soviet agreement on new proposals. Some have also claimed that the firm Western stand on human rights jeopardized ongoing elements of East-West cooperation, including the CSCE process itself. Recent events in Afghanistan have proven how fragile the basis of East-West cooperation can be and suggest that the expectations of the benefits of detente are often enormously exaggerated. For the West, if the CSCE process is to have any significance at all, beyond meaningless promises, it was essential at Belgrade, as it will be at Madrid, to give human rights a prominent place in the deliberations. A softer Western approach at Belgrade would have meant a sterile meeting, full of the self-serving, self-congratulatory rhetoric which mark East-West exchanges at other international forums. Such a result at Belgrade would clearly have been unacceptable to the governments and people of the Western nations; they will not be prepared to accept such a result at Madrid.

VI. FROM BELGRADE TO MADRID

A. *Experts Meetings*

During the time between the Belgrade and Madrid meetings, CSCE follow-up activities have taken place on the three levels envisaged in the Final Act: unilateral, bilateral, and multilateral. The Belgrade concluding document⁵ provided for three meetings of experts to continue the multilateral process and East-West dialogue between the Belgrade and Madrid review meetings. Two of these, the Scientific Forum and the experts meeting on the Peaceful Settlement of Disputes were already called for in the Final Act. The third, an experts meeting on "Cooperation in the Mediterranean," was the one new measure adopted by the Belgrade meeting. These experts meetings, as their names indicate, were intended to be smaller-scale gatherings which would last from four to six weeks and deal with one or two specific CSCE issues. Assigned a status subsidiary to the Belgrade and Madrid review meetings, they were not empowered to make decisions but could only adopt recommendations, by consensus, for consideration at Madrid. They were, nevertheless, guided in their work by Blue and Yellow Book precedents. The caucusing mechanisms among

5. The Text of the Belgrade-Concluding Document is reproduced in Appendix B *infra*.

the three main country groupings continued as the primary means of coordination, as they have throughout the CSCE process.

The meeting of experts to prepare the Scientific Forum began in Bonn on June 20, 1978, and lasted six weeks. The Scientific Forum itself was a two week-long meeting in Hamburg during February 1980. Envisaged as a forum to bring together "leading personalities" in the scientific communities of the participating states, the Scientific Forum was originally intended to make a substantial contribution to scientific exchanges among the participants and their scientific institutions. Most delegations, including the one from the United States, consisted mainly of scientists representing a broad range of scientific concerns and endeavors. Unfortunately, the forum took place in a troubled atmosphere, coming on the heels of the Soviet invasion of Afghanistan and the arrest and internal exile of Soviet physicist and Nobel prize winner Andrei Sakharov. During the meeting itself, the Soviet Union was subjected to scathing criticism from a large number of countries for its treatment of its scientists including Sakharov, Shcharansky, Orlov and others. Significantly, in contrast to the previously held notion that sharp criticism of Soviet human rights shortcomings precluded progress in CSCE, the Final Report of the Scientific Forum contained an explicit reference to the role of human rights in dealings between states and in fostering cooperative exchanges. It was the first such reference since 1975 when the original commitment was made in the Final Act. The Soviet representatives' willingness to agree to this reference demonstrates their readiness to accept strong criticism when they perceive that it is in their interest to do so. In this case, the Soviets concluded that acceptance of criticism would help preserve scientific exchanges and insure the continuation of the CSCE process.

The experts meeting on the Peaceful Settlement of Disputes was held in Montreux, Switzerland from October 31 to December 11, 1978. This meeting was essentially a continuation of lengthy discussions held during the Geneva negotiations prior to the signing of the Helsinki Final Act. The Swiss and other neutral nations have had from the start of the Helsinki process particular interest in the concept of the peaceful settlement of disputes. This concept is embodied in the Final Act as Principle V of the Declaration of Principles in Basket I. The basis of work at Geneva, as at Montreux, was a "Draft Convention on a European System for the Peaceful Settlement of Disputes," the work of a Swiss legal

professor who headed his government's delegation to both Belgrade and Montreux.

Unfortunately, the discussions at Montreux demonstrated that the basic differences between East and West on the issue of dispute settlement had not changed very much since the Geneva stage. The Soviet Union and its allies continued to oppose any mechanism which would include mandatory legal procedures for the settlement of international disputes. Western and neutral countries insisted, on the other hand, that mandatory procedures were the only way to enhance already existing methods.

The Western countries presented a paper which proposed a graduated method for the peaceful settlement of disputes within specific subject areas. They concentrated on mandatory, binding procedures, including arbitration, for settling disputes of a justiciable or non-political nature. The Soviets rejected this approach and insisted on the concept of mandatory consultations and negotiations as the only possible method of peaceful dispute settlement.

Although the final report of the Montreux meeting contained a recommendation for the Madrid meeting that it consider the possibility of holding another meeting similar to Montreux, there seemed to be general agreement among the delegates that real progress on this issue was remote at best, at least for the foreseeable future. The non-aligned countries, including the Swiss, nevertheless appeared to take some satisfaction from the results of the meeting. Montreux not only successfully continued the CSCE process, but it resulted in small advances in the field, namely a statement of principles in the final report of the meeting on the peaceful settlement of disputes.

The most problematic of the three experts meetings was the meeting on Cooperation in the Mediterranean held from February to March 1979 in Valletta, Malta. From the start of the CSCE process, the Maltese have advocated that the participating states should pay more attention to the Mediterranean dimension of the Final Act. They have been particularly interested in involving the non-CSCE states bordering the Mediterranean—Algeria, Egypt, Libya, Tunisia, Lebanon, Syria, Israel and Morocco—in the CSCE process and in ventures undertaken under CSCE auspices. At Belgrade, the Maltese originally sought an experts meeting which would consider security in the Mediterranean in addition to cooperative ventures. The other participating states, however, balked at discussing security issues in Valletta and postponed the

consideration of this subject until Madrid. The meeting in Valletta was tasked solely with consideration of new cooperative initiatives in the fields of economics, education and science.

A procedural debate marked the initial phase of the meeting in Valletta because of Maltese insistence that non-participating Mediterranean states be afforded roles beyond those established by CSCE rules of procedure. They also attempted unsuccessfully to include the Palestine Liberation Organization as a non-participating state in contravention of the Blue Book rule stating that only sovereign states can participate in CSCE meetings. As it turned out, only Israel and Egypt attended the meeting.

After the procedural problems were resolved, delegates to the meeting considered a wide range of proposals for enhanced Mediterranean cooperation introduced most frequently by Malta but also by other Mediterranean countries. Many of these proposals were later adopted as recommendations to be presented at the Madrid meeting for consideration and possible adoption. A Maltese proposal recommending another Valletta-type meeting failed, however, as did their effort to revive the issue of permanent CSCE administrative mechanisms, *i.e.*, to institutionalize the CSCE process. Prominent among the new proposals tabled by the Maltese was one calling for the establishment of an on-going secretariat based in Malta to coordinate activities concerning Mediterranean cooperation. This proposal, as with similar ideas in the past, was vetoed by both East and West.

Despite its problematic beginning, the Valletta meeting succeeded in its main goal—trying to better relate Mediterranean issues to the rest of the CSCE process without upsetting the balance of the Final Act. It was successful in encouraging somewhat greater cooperation in the Mediterranean without burdening the CSCE process with new administrative machinery and without interfering in on-going Mediterranean projects of UNESCO and the ECE. On the whole, the meeting was conducted in a positive atmosphere which permitted a substantial degree of cooperation, consultation, and exchange of views between the participating states.

It is too early to determine what affect the Valletta meeting will have on future treatment of the Mediterranean chapter of the Final Act. It is certain, however, that the recommendations for cooperative ventures agreed upon at Valletta will be an integral aspect of new proposals considered at Madrid. Discussion of Mediterranean security issues will also be featured prominently at the the Madrid meeting.

B. *Other Multilateral Endeavors*

The CSCE process has been advanced within the multilateral framework of the ECE in Geneva as well as by the experts meetings. Soviet proposals for high-level meetings on the environment, energy and transport which were officially tabled at the Belgrade meeting have been referred to the ECE for consideration and action. A high-level meeting on the environment took place in November 1979, and resulted in the adoption of a Convention on the Prevention of Transboundary Air Pollutants, a matter of grave concern to many Nordic countries. The decision whether to hold the high-level meeting on energy, a less popular idea, will most likely be made at the next ECE plenary in April 1980. The proposal for a meeting on transport has little or no support at the present time.

Coordination within the three traditional groupings of states continues between follow-up meetings. Between Belgrade and Madrid, as throughout the CSCE process, the Western allies have continued to consult and coordinate positions through NATO. Periodic meetings of the NATO countries' CSCE experts are held in Brussels in order to exchange views on CSCE-related matters and to coordinate a Western approach to the Madrid meeting. As at the Belgrade meeting, members of the CSCE Commission staff play an integral role in United States and Allied preparations for Madrid. They attend NATO experts meetings on a regular basis. The non-aligned countries also coordinate views on the preparations for Madrid but in a looser, less institutionalized fashion than either NATO or the Warsaw Pact. Within the non-aligned configuration, the four traditional neutral countries—Sweden, Switzerland, Austria, and Finland—find it easier to harmonize their positions than do other members with more disparate cultures and histories such as Yugoslavia, Cyprus and Liechtenstein. Little is known of the details of the Warsaw Pact coordinating process save that it seems to operate more effectively and more smoothly than the other two.

C. *Bilateral Measures*

Numerous Helsinki signatories make explicit references to the CSCE process in the course of their bilateral dealings. Some cite the Helsinki Final Act for most actions undertaken in their dealings with other CSCE signatories. More substantively, however, the CSCE process has provided additional stimulus needed to re-

solve many outstanding bilateral problems. For instance, in January of 1978, the United States formally returned the Crown of St. Stephen to Hungary. The crown, a symbol of the Hungarian nation for over a thousand years, came into United States hands for safekeeping during the last days of World War II. Return of the crown to its homeland symbolized the culmination of a process of better relations between Hungary and the United States. The United States decision was based in large part on Hungary's positive record of compliance with the provisions of the Helsinki Accord.

Since the close of the Belgrade meeting, the CSCE process has afforded the United States a useful and unique opportunity to deal bilaterally with the smaller Warsaw Pact states. These bilateral meetings not only provide the smaller countries an important and infrequent chance to operate independently in East-West dealing, they also give the U.S. a convenient forum in which to raise outstanding human rights problems and other CSCE-related issues which formerly could be raised only through embassies. Among other benefits, these bilaterals have resulted in the resolution of several long-standing and problematic family reunification cases. Thus far, United States delegations consisting of State Department and Commission representatives have held bilateral CSCE meetings in Hungary, Romania, East Germany, Poland and Bulgaria. A meeting was held with Bulgaria in Washington in December of 1979 and second round talks have been scheduled with the other East European countries for the spring and summer of 1980. The United States has held similar bilaterals with the non-aligned countries, including Sweden, Switzerland, Finland, Austria and Yugoslavia. There has been no formal CSCE contact with the Soviet Union or Czechoslovakia thus far, apart from Embassy contacts.

An unprecedented bilateral exchange between the United States and Romania was recently initiated under the aegis of CSCE. For three days in February, 1980, Romanians and Americans—including Commission representatives—participated in frank discussions in Bucharest on the subject of human rights. The idea for this human rights roundtable was first suggested by the Romanians during CSCE bilateral consultations in Washington in May of 1979. The Bucharest human rights roundtable was significant in that it marked the first occasion for in-depth and extensive human rights discussions between the United States and an East European country.

D. *Unilateral Efforts*

Each signatory state is bound by the Final Act to take unilateral as well as bilateral and multilateral steps to improve implementation. Among the most significant of those steps undertaken by the United States was a domestic compliance report published by the CSCE Commission last year. The report, a detailed examination of the United States record which took into account the criticisms of other signatories and private domestic groups, was the first survey of its kind by any CSCE country. Entitled *Fulfilling Our Promises: The U.S. and the Helsinki Final Act*, it demonstrates the sincerity of the United States in living up to its commitments under the Helsinki Agreement and hopefully will inspire other CSCE countries to take a similarly hard look at their own records. Twenty-two government agencies cooperated in this important review of United States compliance.

Private domestic monitoring groups have also become very active in calling attention to abuses of the Final Act in the United States. Helsinki Watch, a United States Citizens' Committee to Monitor the Helsinki Accords based in New York, seeks to monitor compliance of all the signatory states and devotes particular attention to human rights concerns. It has close working relationships with a number of representative civil rights organizations. The Washington Helsinki Watch Committee for the United States serves as an umbrella organization for a wide assortment of groups concerned with the rights of blacks, Indians, migrant workers, and prisoners, among others.

VII. TOWARD MADRID: SECURITY VS. HUMAN RIGHTS

The Madrid review meeting, scheduled to begin on November 11, 1980, will be the second major milestone in the follow-up to the Helsinki Conference. While its functions and purpose will be similar to those of the Belgrade meeting,⁶ there will be strong pressures to make the meeting less confrontational and more forward looking.

The Soviet Union and its East European allies, along with some neutral and even NATO states, maintain that failure to make progress in any area of the Final Act at Belgrade was due to the polemics over human rights which characterized much of the

6. The Madrid preparatory meeting will decide which portions of the main meeting will be open to the public.

meeting. The non-aligned countries and the West Europeans are particularly concerned that because of Belgrade and the Eastern reaction to the human rights issue, the CSCE process is in danger of becoming moribund. Those countries are anxious, consequently, to make substantial progress at Madrid in specific areas of the Final Act, most notably in the military security area. The Soviets have also vaguely indicated a readiness to move forward in the area of Confidence-Building Measures (CBMs) of Basket I. These CBMs include notification of troop maneuvers and movements, and the exchange of observers and military visits.

The Soviets, long interested in shifting CSCE towards security issues and anxious to avoid the human rights quagmire, have been quick to exploit this renewed interest in the security aspect of CSCE. They came forth with a wide-ranging package of CSCE-related security proposals at the latest session of the Warsaw Pact Foreign Ministers held in East Berlin in December 1979. This package includes both broad "declaratory," *i.e.*, propagandistic, ideas and specific proposals relating to CBMs. The "declaratory" proposals call for a post-Madrid Conference on Detente and Disarmament in Europe, a Non-Aggression Pact consisting of a convention on the non-first use of nuclear and conventional weapons, and a proposal to freeze the memberships of both NATO and the Warsaw Pact.

The Soviet idea for a post-Madrid security forum is similar in many respects to a French proposal for a Conference on Disarmament in Europe (CDE) to be held after Madrid. Originally presented by French President Giscard d'Estaing during the electoral campaign of January of 1978, the proposed forum for discussion of a wide range of confidence-building measures has now gained the approval of France's partners in the European Common Market. The innovative aspects of the French proposal are that its provisions, if adopted, would be binding and military activity in Soviet territory from its European borders to the Urals would be affected.⁷ Since there is very little which the Soviets would be offered which could induce them to make these unilateral concessions, the chances of gaining Soviet agreement to these desirable aspects of the French concept are not good. In addition, in many Western circles it is feared that a hasty, premature en-

7. Basket I of the Final Act on "Confidence Building Measures" provides that only territory within 250 kilometers of another signatory's borders is subject to requirements for prior notification of military maneuvers.

dorsement of any security proposals by the West will play into Soviet hands and will undermine our ability to negotiate new human rights proposals at Madrid. The danger inherent in both the Soviet and French security ideas is that they over-emphasize the security aspects of CSCE and consequently could serve the long-held Soviet goal of eventually separating the security dimension from the rest of CSCE, especially human rights.

The United States, recognizing the danger of this shift towards the security dimension of CSCE, has worked through the NATO coordinating mechanism to assert the principle of balance among all aspects of the Final Act, in particular, between human rights and security issues. The CSCE Commission and the United States Congress expect that Madrid, like Belgrade, will be the scene of a full and thorough review of implementation, with particular stress on the human rights provisions under which the Soviet and East European records are most in need of improvement.

The Soviet invasion of Afghanistan has added a new disruptive element in the planning for the Madrid meeting. Most signatories have agreed that the success of Madrid will be determined to a large extent by the climate of East-West relations at the time of the meeting. The invasion of Afghanistan and the recent arrest and internal exile of Nobel Laureate Andrei Sakharov have ensured that the atmosphere at Madrid will be tense unless remedial action is undertaken immediately.

While Afghanistan is not a CSCE signatory state, the Soviet invasion of that country violated both the spirit and the letter of the Helsinki Accord. The invasion was a direct violation of at least five of the ten principles of the Final Act's Declaration of Principles, most notably Principle II, "Refraining from the threat or use of force;" and Principle X, "Fulfillment in good faith of obligations under international law." In response to this invasion, the United States has undertaken a series of measures which will also have an impact on the CSCE process, including the suspension of negotiations on cultural exchange programs with the Soviets, the cut-off of the sale of high technology items, and the boycott of the 1980 summer Olympics.

The Soviet invasion of Afghanistan has set off a series of international events which in the view of some European observers has placed the continued viability of the CSCE process in grave jeopardy. Originally many signatories held out great hopes for success at the Madrid meeting. In expectation, some advocated that the Madrid meeting be held at the foreign minister level, with foreign

ministers participating at both the beginning and end of the meeting. Now, however, there is fear in some quarters that the Madrid meeting will not even take place. To be sure, recent events have added considerably to the problems facing the meeting. Despite inevitable disruptions, however, the CSCE process will undoubtedly continue due to the sustained interest of most of its participants.

For the West, the CSCE process continues to be a valuable tool for pursuing progress with the East on a wide range of issues including human rights, trade, information, cultural exchange, and military confidence-building measures. For the Soviets and their allies, the CSCE process continues to be an important symbol of detente, a matter of prestige, and an increasingly promising forum for the pursuit of their security interests. Soviet willingness to accept mention of the role of human rights in relations between states in the recently-completed Scientific Forum report seemingly indicates continued Soviet interest in the CSCE process. The neutral and non-aligned countries view CSCE as an important forum to reduce tensions in Europe and as a mechanism whereby the smaller, non-bloc countries in Europe can enhance their impact on key issues, especially those involving the participating states.

For the United States, the Helsinki review process has made the entire CSCE process a unique and important phenomenon in international relations. Despite current disruptions in United States-Soviet relations, the groundwork laid at Helsinki and Belgrade should provide a sufficient foundation to continue and reinvigorate the CSCE process at Madrid and beyond.

