

## The CSCE at Its Inception: 1975 in Myth and Reality

I confess to having had a thirty-year love-hate relationship with the CSCE.

Perhaps I am unique among those who were responsible for the negotiation of the Final Act of 1975 because of my long association with the CSCE in the years that followed. After the Final Act was signed in Helsinki, I returned to Washington to head the State Department office responsible for the CSCE. In that capacity, I pursued the commitments of the Final Act by establishing an annual report on their implementation and pressing NATO to commission a similar report. I then returned to the first follow-up meeting of the CSCE in Belgrade in 1979. I published a book entitled “To Helsinki”<sup>1</sup> on the negotiation of the Final Act. And I returned once again to the CSCE as head of the US Delegation when the Conference re-convened in Vienna in 1989. In Vienna, we negotiated the “Charter of Paris for a New Europe”, signed at the Summit in 1990 to symbolically close the Cold War.

On the one hand, my involvement in the CSCE was clearly one of the dominant experiences of my diplomatic career. But the ambiguity of American views towards this sprawling negotiating process, the political battles related to it in Washington, and the effects of all this on me personally, left scars each time I worked directly with the CSCE. And the ups and downs of successes and dead-end failures in the CSCE process itself have been difficult not only to judge, but also to live through.

It was always professionally and psychologically dangerous – a kind of high-wire act – because the American negotiators had virtually no instructions, no real communication with the political leadership in Washington and no back-up. If you made a misstep, there would be no one there to catch you. And in the end it became physically dangerous too, at least for me.

In the early 1990s I flew “nap of the earth” style into war zones in the Caucasus in rickety old Russian Army helicopters. “I’ll be back at five o’clock”, my Russian Army pilot said to me once, as I disembarked on a CSCE mission in the middle of God-only-knew-where. “And I’ll wait for five minutes.” Few people in Washington knew what I was doing, and even fewer cared. The result for me has been that, while sharing the fascination that other Helsinki hands have felt for this sporadic negotiating process, I have also tried to distance myself from it.

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1 John J. Maresca, *To Helsinki: The Conference on Security and Cooperation in Europe, 1973-1975*, Durham, NC 1985.

It was August 1975 in Helsinki and I was indeed “the only American who understood what was going on in the negotiations”, as the Assistant Secretary of State for European Affairs, Arthur Hartman, put it to Henry Kissinger at the time of the Summit. And Hartman was right – I understood it all: the complex relationships between the different issues, the key personalities involved, what was at stake and how to resolve the various Gordian knots so that the result would be acceptable. The Final Act was acceptable, it was done and Gerry Ford and Leonid Brezhnev and all the others signed it.

Unfortunately for me, the CSCE was always something of a political football in Washington – the Republicans embarrassedly disowning it despite the fact that the main events happened on their watches; the Democrats trying hard to blame the Republicans for ignoring the CSCE’s potential, while also trying desperately to take the credit for making it work, particularly with respect to Russian Jewish emigration and East European hopes for independence, issues that resonated among the American electorate.

Looking back over the thirty years that have passed since the Final Act was signed, during many of which I was deeply involved in CSCE negotiations and activities, I ask myself again that question we all posed in Helsinki in the summer of 1975: What is the real significance of the Final Act?

This remains the central question for those of us who participated in the negotiations, who observed them and measured the results against the historical forces at work in Europe at the time. The heart of the matter is the extent to which this negotiation, this event, this document, this historical episode, had something to do with the unraveling of the Communist system in the USSR and its satellite governments in what was then called Eastern Europe.

The specifics of what was negotiated were modest, especially to the experienced analytical reader. In the autumn of 1975, I was invited to speak on the Helsinki Final Act to an assembly of interested professors at the Harvard Faculty Club. The first question after my presentation was from an indignant professor who had only heard of our negotiations when President Ford announced that he would participate in the signing: “Why were we not informed that these negotiations were going on?” In reply, I said that everything we were doing was public and that at least two American professors I knew had followed the negotiations closely, out of personal interest. The real question, I threw back, was why American academics in general, so focused on nuclear negotiations and other strategic matters, were not interested in our conference.

A second, only slightly more respectful question was this: “With all this paper, all this complex language, was this two-year negotiation really worth it?” As it happened, just the week before the State Department had arranged for the reunification of two Czechoslovak children with their parents, on the basis of the family reunification provisions of the Final Act. I told the story, and then added: “If one child is reunited with his or her parents because of our effort, then it was worth it.”

But such reunifications were rare, sporadic successes in a much broader situation, which had not changed, and did not change in any fundamental way for another dozen years.

It is tempting, now that the Cold War is over and Europe has evolved into such a different place, to exaggerate the importance of the Final Act and its role in bringing about the historical changes that took place towards the end of the century. I have heard many people do this, especially those who were involved in the CSCE negotiations of that period. It is also tempting to exaggerate the importance of the roles played by oneself or one's group. I have also observed this recently, at so-called "oral history" sessions, and in myself, too. But is it correct?

Certainly the CSCE had its place in the historical evolution of that time, but was it a force for change or a reflection of it?

The content of the Final Act is, in fact, rather thin. Taking a look at what was vaunted by the Western group at the time as the Basket Three "Family Package" of freer travel, marriages between nationals of different states, family contacts, and reunification, one wonders why these modest points should have been considered so threatening by the Communist countries that they resisted accepting them at the negotiating table for two years. And the Final Act's simple allusion to human rights must be contrasted with the fact that human rights were already laid out very fully in the Universal Declaration of Human rights of 1948, which is legally binding for all signatories of the United Nations Charter, unlike the commitments of the CSCE, which were purely political. The CSCE really added very little to the existing obligations in this field.

And yet the Soviet Union did indeed ferociously resist every positive adjective, every clarifying comma, and carefully sought to add qualifiers and weaken the verb forms to avoid any sense of real obligation in the "freer movement" sections of the document. The Soviets, so it appeared, deeply feared those adjectives and verb forms. The reality was that the low priority attached to these initiatives by Western governments, particularly the administration in Washington, had led the Soviets to conclude that they did not need to accept them and could get to Helsinki without doing so. These "freer movement" ideas had been dreamed up and drafted on paper at the working level, primarily in the Political Committee at NATO, in Brussels. While they had been officially endorsed by Western governments, no senior Western political personality was in a position to argue them out with the Soviet leadership.

The Soviet Basket Three negotiator took advantage of this situation. He was a master of the techniques of bullying, ridiculing, and humiliating his Western counterparts and did so whenever possible. He held the line against all those threatening stronger adjectives and verb forms right up to the last moment. He even resisted the urging of his fellow delegation members, even the chief of his own delegation. This was recounted to us regularly by his

colleagues in the corridors of the negotiation and afterwards. And it was also noted in an article I published in 1996, in the now-defunct magazine “Transition”, by the chief Soviet negotiator, Anatoly Kovalev, shortly before his death. The Soviet Basket Three negotiator resisted those adjectives until he was overruled by the Kremlin and the Politburo of the Communist Party itself, at the very last moment, in order to make way for the Summit Meeting in Helsinki that Leonid Brezhnev so ardently wanted. Why such fierce resistance? It seems absurd today.

Ironically, though, it almost did not matter what we put into the Final Act. All of our efforts on specific proposals and airtight wording were irrelevant. What mattered – perhaps the only thing that mattered – was that there was a Final Act and that it seemed to represent some sort of consensus agreement on human rights and “freer movement of people and ideas”. As we learned in the months and years that followed, the dissidents in the USSR and Eastern Europe would have agitated on the basis of almost any CSCE document. And it was, finally, the agitation of the dissidents and the yearnings of ordinary people that brought down the Communist system.

This real impact of the Final Act was only revealed later, and it was both dramatic and singular, as well as complex, multi-faceted, subtle, and unexpected. What we found as the Cold War drew to a close was that the Final Act had created a new dynamic, based on a newly universalized set of values. And, perhaps most importantly, it had created a new dimension, a new space, in which to pursue these values.

The Final Act created a new space, a space in which new kinds of events were possible. And we did not realize this until history demanded such a space, because the events that took place later were unthinkable in 1975.

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The drama came in Central Europe in the sultry summer days of 1989. At that time, a number of East Germans, on vacation in Hungary, sought exit visas to cross the border into Austria. They knew that if they could reach the West German Embassy in Vienna, a short distance from the Austro-Hungarian frontier, they would immediately be issued West German passports, and be free. Free.

The Hungarian government, itself evolving in response to popular demands, was caught in a dilemma. A bilateral treaty with the German Democratic Republic (GDR) precluded it from issuing such exit visas to GDR citizens without the prior consent of the GDR government. But Budapest’s reading of the Helsinki Final Act was that the Hungarian government was required to allow persons to leave the country if they wished to do so. For whatever combination of reason and rationale, the Hungarian government decided that it was more important in 1989 to respect their commitments under the Final Act than it was to respect their bilateral obligations to the GDR.

The result was that thousands of East German vacationers joyously crossed the border into Austria and made their way, as fast as they could, to Vienna and the West German Embassy. At the time, I was the American ambassador to the CSCE meeting in Vienna, and I well recall the astonishment and pleasure we all felt at seeing those tiny East German “Trabant” cars left by the side of the road. The East German families that had been driving them simply abandoned them when they ran out of gas, and hitchhiked the rest of the way to Vienna and the West German Embassy, where the queues of passport applicants stretched around the corner.

But those East Germans abandoned more than just their cars. They were so anxious to reach freedom that they left behind all of their possessions, their apartments, and their relatives, without any real hope of ever seeing them again. It was a moving historical moment. One could sense that this was indeed the tiny trickle coming through the dyke and that the dyke itself would collapse very soon.

Events rushed ahead that year as East Germans clambered over the walls of the West German Embassy in Prague, leading to the collapse of East Germany, of Soviet domination of Eastern (now again called Central) Europe, and even the disintegration of the USSR itself. My Austrian colleague sent me a section of the demolished barbed wire fence that had sealed the frontier with Hungary. I still have it, twisted and rusty, in my office. Farmers once again began ploughing long-unused fields that crossed the border.

In 1989, I participated in a meeting of American ambassadors in Europe, held in Berlin, where the discussion was on the implications of these events. Most of the ambassadors present thought that Moscow would crack down and suppress this latest round of agitation for freedom, as it had in the past. But three of us, Henry Grunwald, Dick Walters, and I, argued that there was something different at work here and that it would be very difficult for the Soviets to walk this cat back.

Even more surprising developments began to take place in this new space. One day, Albania, isolated from the rest of Europe since the 1940s, asked to become a member of the CSCE. In Vienna the Conference was caught by surprise by this unexpected *démarche*. Albania had been invited to join the original CSCE negotiations in 1973, but had never responded; no one doubted that they were eligible to join. But how to admit them to the CSCE space after so much had happened on the basis of commitments taken years before?

The key ambassadors conferred at the Hofburg Palace, where the CSCE met. We decided we needed a “snapshot”, meaning a report, of conditions in Albania at that moment, to be able to judge how the country would implement its commitments after becoming a member. But how to do this on behalf of the CSCE? Easy, I told my German colleague, since Germany held the rotating CSCE Chairmanship at the time: We will send a CSCE mission

to Albania to report on conditions there. How can we do that, he responded; the CSCE has never had a mission. If we decide to do it, I said, we can do it. That was the first CSCE mission. Since that time CSCE missions (now sometimes called “centres” of “offices”) have multiplied all over Europe and Central Asia, with different mandates and wide-ranging specialist staffing, giving the CSCE an entirely new dimension for encouraging respect for its values.

I was sent to Albania and the Newly Independent States as a special envoy, to evaluate the situation on behalf of the United States and to explain the basis for our bilateral relations. I met with the leaders of these governments, most of them quite surprised to find an American ambassador in their midst. In Tirana, the defence minister, a sophisticated engineer in his fifties, told me I was the first American he had ever seen.

The Charter of Paris for a New Europe, signed in 1990, established the CSCE’s Office for Democratic Institutions and Human Rights (ODIHR) in Warsaw, an important institution in its own right, which now helps to ensure, through election monitoring and other devices, that the democratic and human rights standards optimistically referred to in the Final Act of 1975, and in later CSCE agreements, are respected in practice.

Another example of what was made possible by the creation of this new dimension through the Helsinki Final Act was an obscure but important document called the “Joint Declaration of Twenty-Two States”. This document, negotiated in the lead-up to the Paris Summit of 1990, was signed at the Elysee Palace by all the members of NATO and the Warsaw Pact. It declared that the Cold War was over, and that there was no longer any reason for hostility among them. If there is a document that confirms that the Cold War was over, this “Joint Declaration” is it. Such a document could perhaps only have been negotiated in the unique CSCE space.

The Final Act had also held the door open for the reunification of Germany, through its language on possible peaceful changes of borders: “They [the participating States] consider that their frontiers can be changed, in accordance with international law, by peaceful means and by agreement.” This sentence was negotiated personally by Andrei Gromyko and Henry Kissinger on behalf of the West German government, for this specific purpose. As one striking example of the low esteem in which Washington held the CSCE, the negotiation of this key clause of the Final Act was ridiculed publicly by Kissinger as a negotiation over the “placement of commas”, though it was the placement of the two commas in this phrase that gave it its full significance: changes in frontiers *are* in accordance with international law if they are brought about by peaceful means and mutual agreement.

When the Cold War ended, there were indeed many changes in European frontiers, some peaceful, some convulsive, as history caught up with the evolutions that had taken place between 1945 and 1990. In Germany, in the USSR, in Yugoslavia, and in Czechoslovakia, borders were changed. Some

established states disappeared, some new ones appeared, and some old ones reappeared. Of course, the Final Act was not used as the basis or the rationale for the actions that led to these national changes, but the Final Act nonetheless did foreclose many questions, or even possible obstacles, that might have been raised against them.

One day, my East German colleague, whose place at the conference table, in alphabetical order, was right next to mine, told me he was saying goodbye. He was an engaging man, to whom I had once tried to explain what “market forces” are. We wished each other well, as ambassadors do when one is transferred. But the next day there was no longer an East German at our conference table.

And the CSCE had not yet reached the limits of how it could surprise and respond to new developments. When the USSR dissolved into independent republics, the first issue posed for the CSCE was how to treat the Newly Independent States that had been parts of the USSR. The answer was clear for those new states that were physically within geographic Europe – Lithuania, Latvia, Estonia, Belarus, Ukraine, and Moldova, plus of course Russia. They were indisputably eligible for CSCE membership. But what attitude should the CSCE adopt towards the new states of the Caucasus and Central Asia – Georgia, Armenia, Azerbaijan, Kazakhstan, Turkmenistan, Uzbekistan, Tajikistan, and Kyrgyzstan?

Many Europeans argued that these new countries were “not European” and therefore could not rightly belong to a European conference. But my view was that these countries had been members of the CSCE from the beginning as parts of the USSR, which was one of the Conference’s original participating States. They had thus already accepted and were bound by the commitments of the Final Act, unless they chose to renounce them as independent countries. So not receiving them as CSCE participating States would be tantamount to throwing them out, an action for which there was no justification.

Moreover, I argued that if these countries had the vocation to adhere to the Final Act’s commitments, we should welcome that and seek to ensure that these commitments were respected after independence. In the end, these new countries were all invited to join the CSCE in their own right, and today the OSCE and its missions (or centres or offices) are active throughout these states, and in former Yugoslavia, giving the new states important ties with Europe and the West.

It can be argued, I believe, that the evolution of these states since their independence has been influenced by their membership of what is now the OSCE. OSCE observers from ODIHR in Warsaw have watched over and commented on their elections (as they have also done in the most recent American presidential election), and OSCE Centres and Offices in many of these states offer a glimpse of the system of values recognized in the Final Act. That these Newly Independent States should be linked – even by so

fragile a thread as the OSCE – with transnational standards of human rights and democratic governance is a positive element for their development. Indeed, we have heard echoes of Helsinki in events in the Baltic states, in the Caucasus, and most recently in Ukraine, as these countries have pursued their destinies.

Even the much ridiculed “arms control junk food” of CSCE military security commitments, the so-called Confidence and Security-Building Measures (first called Confidence Building Measures, CBMs, which later evolved into CSBMs), have had a certain underappreciated importance. This family of modest gestures towards military *détente* first appeared in the Final Act and was developed and expanded in later CSCE negotiations. It was in one of those later negotiations that agreement was first reached on a no-notice military inspection regime between NATO and the USSR, opening the door to other such inspection regimes in relation to nuclear missiles and conventional forces.

The CSCE has had its failures, too, but that is to be expected. The Final Act contained hopeful language on the peaceful settlement of disputes, later developed into a “mechanism” for resolving interstate disagreements. But this has remained on paper only, and the CSCE mechanism has never been used for specific dispute resolution.

It is true that the CSCE has sometimes been able to enter situations in a “good offices” role, when other organizations could not. This was true, for example, of its missions to Chechnya. But it has not done well at conflict mediation thus far. I can bear witness personally to this, since I was a part of the CSCE’s first mediation effort – between Armenians and Azerbaijanis in relation to the conflict over Nagorno-Karabakh. That initiative, oddly called the “Minsk Group”, is still going on, still without any real success. This mediation, which was politically – and also physically – dangerous at a time when the vicious conflict in the area was still raging, has been a failure, at least thus far. Or is this failure actually because the United States government has not really pressed for a settlement, in view of its own conflicting political interests in the region?

When Yugoslavia began its descent into the inferno of ethnic cleansing and ruthless civil conflict, the CSCE was unable to muster an adequate response. There were discussions in CSCE meetings, and resolutions were passed. But in those early days, the United States thought this should be a “European problem”, and pushed the European Union to take the lead in dealing with it. And the Europeans, who could not even agree on a general approach, were slow, inept, and lacking in the essential political will. Under the circumstances, the CSCE was reduced to adding some symbolic CSCE representatives to the EU’s all-but-useless “observer force”.

But perhaps the CSCE and its varied emanations have avoided conflicts, which have not surfaced because of the efforts of its institutions. This was the intent of the CSCE in establishing a position called the High Commissioner

on National Minorities. The two persons who have held this position, former Dutch Foreign Minister Max van der Stoep and, currently, Rolf Ekéus, a Swedish diplomat, have concentrated their work in countries where there is potential for internal conflict, and their interventions have apparently had positive effects. While it is of course impossible to know what might have happened without these efforts, even if only one conflict has been avoided this would be no small achievement in view of the number of wars that have broken out in Europe after the close of the Cold War.

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How should we understand this vast panorama of events in the CSCE's "space", which opened in August of 1975 and has not yet closed, though shifting priorities may yet sideline it? In my book about the negotiation of the Final Act, I suggested that the Final Act was a kind of ersatz peace treaty, substituting for the formal peace treaty, which would most likely never be signed, to close the Second World War. Now, many years later, I realize that I was at least partly wrong. My analysis at that time was too simple, too instantaneous, and perforce did not take account of the evolution that has taken place in the thirty years that followed.

The way I would summarize it now is this: The Final Act opened a vast political and historical dimension of opportunity, in which it became possible to settle the remaining issues from World War II. The Cold War, it now appears, was a lingering and long-unresolved final battle of that war. Only when the Cold War battle ended was it possible to say that the Second World War had truly been closed.

The "peace treaty" ending the Second World War is, in fact, a complex of documents that includes the Final Act, the Charter of Paris, the Joint Declaration of Twenty-Two States, the agreements on German reunification, and many other less central instruments. And now, when one can move freely across the German plains through Poland into Ukraine and even Russia, Europe is indeed whole again, free of the legacies of the war.

Much of this history took place within the new "space" created by the Final Act. Perhaps it would be an exaggeration to say it could *only* have taken place after the Final Act. The peoples of Europe are really the force that changed the situation from that of the Cold War to what Europe has now become. But I believe it is fair to say that the progression was eased thanks to the effects of the CSCE.

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From the time in 1973 when George Vest called me to ask if I would join him in the US Delegation to the negotiations in Helsinki, I was fascinated by the CSCE. I have always had a great admiration for Vest, a truly talented and original multilateral negotiator, with a folksy style all his own. "If you just sit there, and are prepared to listen to people," Vest used to say, "people will

come and talk to you.” I can see him now, straddling a backless leather bench in the lobby of the CSCE Conference Centre, with other ambassadors circling about, waiting to have a word with him.

And perhaps, after all, this is the main strength – and the legacy – of the CSCE: a place where people will listen, and therefore a place where people can talk. Is this a modest achievement, or is it the key to finding solutions?