

# **THE OSCE AFTER THE LISBON SUMMIT**



**A Report Prepared by the Staff of  
the Commission on Security and Cooperation in Europe**

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### ***About the Organization (OSCE)***

*The Conference on Security and Cooperation in Europe, also known as the Helsinki process, traces its origin to the signing of the Helsinki Final Act in Finland on August 1, 1975, by the leaders of 33 European countries, the United States and Canada. Since then, its membership has expanded to 55, reflecting the breakup of the Soviet Union, Czechoslovakia, and Yugoslavia. (The Federal Republic of Yugoslavia, Serbia and Montenegro, has been suspended since 1992, leaving the number of countries fully participating at 54.) As of January 1, 1995, the formal name of the Helsinki process was changed to the Organization for Security and Cooperation in Europe (OSCE).*

*The OSCE is engaged in standard setting in fields including military security, economic and environmental cooperation, and human rights and humanitarian concerns. In addition, it engages in a variety of preventive diplomacy initiatives designed to prevent, manage and resolve conflict within and among the participating States.*

*The OSCE has its main office in Vienna, Austria, where weekly meetings of permanent representatives are held. In addition, specialized seminars and meetings are convened in various locations, as are periodic consultations among Senior Officials, Ministers and Heads of State or Government.*

### ***About the Commission (CSCE)***

*The Commission on Security and Cooperation in Europe (CSCE), also known as the Helsinki Commission, is a U.S. Government agency created in 1976 to monitor and encourage compliance with the agreements of the OSCE.*

*The Commission consists of nine members from the U.S. House of Representatives, nine members from the U.S. Senate, and one member each from the Departments of State, Defense and Commerce. The positions of Chair and Co-Chair are shared by the House and Senate and rotate every two years, when a new Congress convenes. A professional staff of approximately 15 persons assists the Commissioners in their work.*

*To fulfill its mandate, the Commission gathers and disseminates information on Helsinki-related topics both to the U.S. Congress and the public by convening hearings, issuing reports reflecting the views of the Commission and/or its staff, and providing information about the activities of the Helsinki process and events in OSCE participating States.*

*At the same time, the Commission contributes its views to the general formulation of U.S. policy on the OSCE and takes part in its execution, including through Member and staff participation on U.S. delegations to OSCE meetings as well as on certain OSCE bodies. Members of the Commission have regular contact with parliamentarians, government officials, representatives of non-governmental organizations, and private individuals from OSCE participating States.*

## EXECUTIVE SUMMARY

From November 4-22, 1996, the participating States of the Organization for Security and Cooperation in Europe (OSCE) met in Vienna, Austria for their biennial meeting to review implementation of agreed commitments.<sup>1</sup> This was followed by a preparatory meeting from November 25-29 in Lisbon, Portugal, that culminated in a two-day summit of Heads of State or Government.

The U.S. delegation to the meeting was led by Sam W. Brown, Jr., who serves as Head of Delegation to the OSCE in Vienna. During the course of the meeting, the delegation was also joined by Under Secretary of State Timothy Wirth (a former Helsinki Commissioner), and several public members or expert participants from the U.S. Government or government-affiliated agencies. Four Commission staff members also served on the delegation. All together, 46 participating States attended the meeting, along with 2 Partners for Cooperation, 5 Mediterranean Partners for Cooperation, 9 international organizations or United Nations organs, and numerous non-governmental organizations.

During the course of the Review Conference, delegations discussed the implementation of commitments in the main areas of OSCE concern: military security, economic and environmental cooperation, and the human dimension. In addition, during the third week, delegations focused on OSCE structures as well as miscellaneous subjects, such as the Stability Pact, the Court on Arbitration and Conciliation, and cooperation with other international organizations. The U. S. delegation also held a number of bilateral meetings on human dimension concerns on the margins of the meeting.

In three significant ways, the 1996 Vienna Review Conference fell far short of the work of previous implementation review meetings. First, the physical facilities were inadequate for their intended purposes. Second, the work of the implementation review was compressed, undermining delegations' abilities to prepare effectively and to engage in a thorough discussion on all issues. Finally, although the Review Conference is intended to be the principal forum for OSCE countries to review compliance with their existing commitments—which, in turn, is to guide the overall direction of OSCE work—the Vienna Review Conference was treated as a diversion from routine activities. In fact, none of the numerous regularly scheduled OSCE meetings that normally take place throughout the year were suspended to accommodate the implementation review schedule.

On December 2-3, representatives from 51 of the 54 fully participating OSCE countries gathered in Lisbon for the summit meeting. Vice President Al Gore led the U.S. delegation. At its conclusion, the summit adopted two main documents: an overall political statement of the Heads of State or Government, and a declaration on a new European security structure. In addition, the 30 states that are parties to the 1990 Treaty on Conventional Armed Forces in Europe (CFE) signed an agreement to launch negotiations to adapt the treaty to the new security architecture, a long-standing Russian demand. Drama was added to the otherwise low-key summit by Armenia's refusal to give consensus to draft language regarding Nagorno-Karabakh, ultimately adopted as a statement of the Chair-in-Office.

Reflecting the overall focus of the Lisbon Summit, the political statement concentrated heavily on security and stability in the OSCE region while reiterating the importance of OSCE principles and the critical role of human rights to democracy and to the democratization process. The declaration also paid tribute to the accomplishments of the OSCE Mission in Bosnia-Herzegovina and reaffirmed the need for the full implementation of the Dayton Peace Agreement. Other regions also received attention as the focus of security concerns, including Serbia and Montenegro, Georgia, and Moldova.

In other areas, the summit Declaration tasked the OSCE Permanent Council with drafting a mandate for an OSCE representative to address free media issues, and with strengthening the OSCE's focus on the economic dimension by drafting a mandate for an OSCE coordinator for economic and environmental activities. (Both are to be fulfilled by the end of 1997.)

The accompanying Declaration on the Security Model for Europe in the 21st Century underscores the OSCE's concept of *comprehensive* security—which, at least in theory, goes beyond solely military

security to encompass also the commitments to human rights, democracy and the rule of law, market economy, and social justice. The Lisbon summit, having failed to imbue the security model with real substance, agreed to continue work in this area.

Parallel to the summit meeting (and perhaps more significantly), the 30 participating States that are parties to the CFE Treaty defined the scope and parameters of negotiations to adapt the Treaty to a new security arrangement, paving the way for changes to the Cold War-era treaty that reflect more recent political developments.

Judged by past standards, the Vienna Review Conference and Lisbon Summit were disappointing. Although the failure to conduct a very effective review meeting or to convene a particularly momentous summit has not posed an immediate threat to the integrity of the OSCE, it reflects broader underlying problems that may. In particular, the overarching framework for the participating States' work is undermined by their failure to ensure that the management of OSCE operations includes adequate attention to detail and is based on a well-reasoned, internally consistent set of goals and priorities. More to the point, beyond the narrow confines of the security field, the goals and priorities of the OSCE community are in need of heightened attention and more coherent articulation.

## THE EVOLUTION OF THE REVIEW PROCESS

*The Follow-up Meetings: Belgrade, Madrid, and Vienna.* From roughly 1975 to 1990, during the early phase of the Helsinki process, the participating States met three times (Belgrade, 1977-78; Madrid, 1980-83; and Vienna, 1986-89) for major “Follow-up Meetings.” These meetings were full-scale gatherings charged with reviewing the implementation of agreed commitments in all areas of the Helsinki process (military security, economic and environmental cooperation, and what has ultimately come to be called the human dimension). More significantly, the founding document of the Conference on Security and Cooperation in Europe, the 1975 Helsinki Final Act, stipulated that follow-up meetings would not only negotiate new commitments, but also review the actual implementation of existing ones. This led—unwittingly, to be sure—to the evolution of the Helsinki process as a forum where human rights issues were pressed, ultimately adding momentum to the historic forces which toppled Communist regimes in Eastern Europe and the Soviet Union.

Significantly, the initial follow-up meetings had no specified end date: once one began, consensus had to be reached among all (then 35) participating States in order to conclude a meeting. As a consequence, these follow-up meetings were often long, drawn out affairs, but with a certain amount of brinkmanship, as countries jockeyed to achieve an agreement that could be presented as a victory in the Cold War. The duration of these meetings also meant that the United States and other Western countries had an almost permanent forum in which to raise significant human rights violations including, most importantly, those that occurred during the course of the meeting.

### *The Paris Summit and the End of the Cold War*

In 1990, at the urging of Soviet President Mikhail Gorbachev, the participating States convened an extraordinary summit in Paris,<sup>2</sup> reflecting the profoundly changed circumstances in Europe following the collapse of repressive regimes in Eastern Europe and the unification of Germany. (It was the first meeting in the Helsinki process of Heads of State or Government since the signing of the Helsinki Final Act in 1975.) In their summit document, The Charter of Paris for New Europe, the participating States began institutionalizing the Conference on Security and Cooperation in Europe—a process that is still underway today—and agreed to a more regular schedule of meetings. In particular, they mandated that follow-up meetings would be held every two years, were not to exceed three months in length, and would conclude with summits of Heads of State or Government.

This important decision to hold regular summit meetings was designed to symbolize how very different Europe had become: no longer would meetings at the highest level be impeded, if not made impossible, by the fundamental divisions of the Cold War; instead, discourse among the leaders would become a regular and normal affair. But, while the 1990 Paris Summit reflected the seismic political shifts then underway and culminated in a seminal document on human rights and democratization, merely agreeing to hold regular summits every two years by no means guaranteed that summit-worthy agreements would materialize biennially.

*The Helsinki Follow-up Meeting: from Public Diplomacy to Conflict Prevention.* The Helsinki Follow-up Meeting opened on March 24<sup>3</sup> and concluded on July 10, 1992 (just skirting the three-month time limit established by the Paris Charter) with a summit of Heads of State or Government.

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<sup>1</sup>In years in which there is no full-scale review conference such as this, a review of human dimension implementation is held in Warsaw, Poland.

<sup>2</sup>This meeting was preceded by a preparatory conference in Vienna, where most OSCE participating States already had delegations in place for on going military-security negotiations (Confidence- and Security-Building Measures and Conventional Armed Forces in Europe). The preparatory meeting met periodically on the margins of the military-security talks over a five-month period to prepare the summit declaration.

<sup>3</sup>The mandate for this meeting was set forth in the 1989 Vienna Concluding Document.

As the first major OSCE meeting to be held after the unification of Germany, after the fall of Communist regimes throughout the region, and after the dissolution of the Soviet Union, the return of the participating States (by then expanded from its original 35 to 52<sup>4</sup>) to the city which had given their work its name was viewed as an opportunity to promote its new identity and a new role. But the Helsinki Follow-up Meeting marked the end of the euphoria which had characterized the Paris Summit. Reflecting the participating States' emerging preoccupation with violent conflicts in the former Yugoslavia, Nagorno-Karabakh, Trans-Dniestria, and Ossetia, the meeting introduced the catch-phrases that have continued to characterize the participating States' work: "managing change" and enhancing "concerted action."

During the Helsinki Follow-up Meeting, the review of compliance with existing commitments was spread out over the course of the three-month meeting; drafting was conducted in tandem with implementation review; 63 formal proposals were vetted in four separate working groups, in plenary, and at the summit. Significantly, by the time of Helsinki, much of the meeting had shifted from the East-West negotiations that characterized the Cold War period into West-West negotiations—largely about what to do with conflicts and other developments in the East.

Among the most consequential achievements of the Helsinki Follow-up Meeting was the agreement to establish a High Commissioner on National Minorities<sup>5</sup> as a tool of conflict prevention. In addition, a meeting of the Committee of Senior Officials held in tandem with the Follow-up Meeting took the unprecedented step of sanctioning a participating State, the Federal Republic of Yugoslavia, for gross human rights violations by suspending its participating in OSCE decision-making. Conversely, at the other end of the spectrum, the decision to re-style the Follow-up Meetings as "review conferences"<sup>6</sup> is typical of the institutional tinkering—a substitution of form for substance—that has crept into a number of recent OSCE negotiations.

Procedurally, the participating States at Helsinki struggled to shape the relationship between the on-going review process and the meetings of the relatively newly established Committee of Senior Officials (CSO).<sup>7</sup> Although the CSO normally met in Prague, it was decided to hold the CSO meetings in Helsinki during the Follow-up Meeting, since so many Senior Officials were already there. The CSO held eight meetings in Helsinki, including convening in an emergency session on one occasion; some of these meetings, which focused primarily on the conflicts in the former Yugoslavia and Nagorno-Karabakh, stretched over several weeks. These CSO meetings occasionally encroached on the review process, forcing the cancellation of scheduled plenaries and working group sessions.

On a superficial level, the conflict between CSO meetings and implementation review meetings was a scheduling conflict. More fundamentally, however, this conflict reflected the emerging tension between the OSCE's traditional role as a forum for public diplomacy (the Follow-up Meeting), and the OSCE's expanding role as a vehicle for engaging in conflict prevention, management, and resolution (the Committee of Senior Officials).

***The Budapest Review Conference: Goulash Diplomacy?*** From October 10 to December 6, 1994, the participating States met in Budapest for their first "review conference," which culminated in

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<sup>4</sup>Since the Helsinki Summit, this number has grown to 55, with the addition of the Czech and Slovak Republics as separate states after the dissolution of the Czechoslovak Federal Republic on January 1, 1993, and the addition of the Former Yugoslav Republic of Macedonia in October 1995 and Andorra in April 1996.

<sup>5</sup>Former Dutch Foreign Minister Max van der Stoep was appointed to this post in December 1993, and continues to serve in this capacity.

<sup>6</sup>Helsinki Decisions, chapter I, paras. 4 and 5. For a more detailed assessment of this meeting, see *The Helsinki Follow-up Meeting of the Conference on Security and Co-operation in Europe*, a 1992 report prepared by the staff of the Commission on Security and Cooperation in Europe.

a two-day summit. Reflecting a more modest agenda in comparison with the Helsinki Follow-up Meeting, implementation review was front-loaded onto the first six weeks of the schedule, followed by two weeks devoted exclusively to drafting the summit declaration and decisions.

By the time the Budapest Review Conference opened, the CSO had been augmented by a Permanent Committee which met on a weekly basis on the margins of the military security negotiations conducted under the auspices of the OSCE Forum on Security Cooperation in Vienna. In an effort to avoid the problems associated with holding the implementation review and CSO meetings simultaneously, as had been the case in Helsinki, agreement was reached in advance of the Budapest Review Conference to hold meetings of the Permanent Committee (as well as to continue meetings of the Forum on Security Cooperation<sup>8</sup>) in Vienna (where they would normally be held) on Mondays, and to hold Review Conference meetings in Budapest on Tuesdays through Fridays. In the end, however, the process of moving a significant number of delegates back and forth between Budapest and Vienna was deemed unwieldy, distracting, and expensive. Accordingly, the meeting ended with an agreement to hold future review meetings in Vienna (although the sites of summits might vary).

In general, the Budapest Review Conference provided a forum for a useful review of the implementation of human dimension commitments, although the time frame for discussion, shortened from the Helsinki Follow-up Meeting, resulted in representatives from non-governmental organizations having insufficient time to speak. During the negotiations, the bickering among Western delegates that marred the Helsinki negotiations in 1992 had subsided.

At the summit, the Heads of State or Government agreed to re-christen the *Conference on Security and Cooperation in Europe* (CSCE) as the *Organization for Security and Cooperation in Europe* (effective January 1, 1995), a change that was ostensibly designed to reflect the participating States' determination "to give a new political impetus to the CSCE, thus enabling it to play a cardinal role in meeting the challenges of the twenty-first century."<sup>9</sup> More substantive achievements hailed at the summit were: 1) agreement to establish the first OSCE multinational peacekeeping force in Nagorno-Karabakh, contingent upon the negotiation of a political agreement on the cessation of hostilities there; 2) elaboration of a code of conduct on politico-military aspects of security, which established standards for the conduct of military, paramilitary, police, and other security forces; and 3) the achievement of an agreement on extending the Strategic Arms Reduction Treaty (START), a critical nuclear reduction agreement, reached in Budapest on the margins of the OSCE meeting. Reflecting, perhaps, the strain that had gone into reaching even these agreements and foreshadowing a reconsideration of the Paris decision to hold biennial summits, the Heads of States and Government also stipulated that the next summit would reconsider the frequency of future summit meetings.

In spite of these successes, the Budapest meeting included a number of sharp disappointments and embarrassing moments, most clearly illustrated during the final drafting of the Budapest Declaration. When the Russian delegation nixed draft language (proposed by Bosnia-Herzegovina) that would have condemned the Serb attack on the U.N.-designated "safe haven" of Bihac, not a single delegation was prepared to pressure Russia to drop its opposition to language that was not only acceptable to all other delegations, but stood for hallowed Helsinki principles. In contrast, when the Bosnian delegation blocked a feckless substitute prepared by German Chancellor Helmut Kohl (deeming it to be, in essence, a mealy-mouthed response to genocide), the Bosnians were portrayed by many as the spoilers. As a result, a pan-European gathering of more than 50 nations concluded a major security review without agreement on the continent's worst military and humanitarian crisis since World War II.

Two other significant developments also led some observers to portray the meeting as a failure. First, Western capitals were taken aback when Russian President Boris Yeltsin resumed a harsh, confrontational posture, warning in his summit statement that, "Europe, having not yet freed itself from the heritage of the Cold War, is on the verge of plunging into a cold peace." It was not so much his undiplomatic tone but the unexpected nature of his verbal assault that led the *New York Times* to juxtapose his picture to that of Nikita Khrushchev at the United Nations, under the large-print headline

“Why Russia Still Bangs Its Shoe.”<sup>10</sup> The chummy atmosphere carefully cultivated at the previous two summits had been shattered.

Second, at almost the very moment the Budapest meeting was concluding, Russia initiated a military campaign in Chechnya designed to quash a separatist movement that had itself turned violent. More to the point, many of the specific military actions undertaken by Moscow’s forces in the region were in stark violation of the much heralded Code of Conduct that had been adopted as part of the Budapest Document. That Russia so blatantly violated this agreement before the ink was even dry led some to portray the document as worthless. (Others, however, argued that the Code of Conduct established or elaborated important new standards, enabling concerned countries to criticize Moscow’s actions in ways and at fora that would have otherwise been impossible.)

## **THE VIENNA REVIEW CONFERENCE AND LISBON SUMMIT**

*Key Political Developments Leading Up to Vienna.* In the two years leading up to the Vienna meeting, the OSCE remained an institution largely driven by and reactive to conflicts and crises in the region. In addition to its high-profile involvement in conflicts in Bosnia, Chechnya, and Nagorno-Karabakh, the OSCE sought to ward off potential conflicts through other, more discrete avenues, such as the work of the High Commissioner on National Minorities or the activities of the Office for Democratic Institutions and Human Rights (ODIHR). During this period, the continued development of the OSCE as an organization served, in some ways, to shift the emphasis of the Helsinki process away from its traditional main-stay of forging and articulating shared goals to managing the day-to-day affairs of its operations.

As the Vienna Review Conference approached, however, the issue that would most certainly determine the tenor of the meeting would be developments in Bosnia-Herzegovina. The conflict there, most appropriately characterized as one of aggression and genocide, had only stopped one year before, and had challenged the most fundamental principles of the Helsinki process. When the OSCE was handed the largest and perhaps the most difficult part of making the Dayton Peace Agreement stick—the task of overseeing a complex series of elections—the OSCE’s operational acumen was seriously tested and its political credibility stretched severely as difficult decisions had to be taken on how best to proceed. If those elections, which were held just a month and a half before the Vienna opening, had gone seriously wrong, perhaps leading to renewed violence, the OSCE’s Vienna and Lisbon meetings would have convened under a black shroud. The elections went smoothly, however, despite some controversies, and the result demonstrated that the OSCE can conduct operational activity on a large scale on the basis of international principles for which it is known. Unfortunately, a major international conference in London, where the question of a continued military presence in Bosnia was to be addressed, was scheduled to open the day immediately following the December 2-3 Lisbon Summit. Accordingly, greater awareness of the OSCE’s role in Bosnia among senior policy makers and the public at large was overshadowed by the London conference.

In Russia, political developments were also relatively favorable. Elections in that country had returned Boris Yeltsin to the presidency, avoiding the possibility of a President Zyuganov using an OSCE forum to advocate the merits of a reconstituted Soviet Union. Perhaps even more importantly for the OSCE, hostilities in Chechnya, the focus of an OSCE mission, appeared to have genuinely abated after an agreement reached in August for the withdrawal of Russian troops. This made it possible for delegations in Vienna and Lisbon to take up the Budapest mandate to develop the Russian-sponsored concept, the “security model for the 21st Century,” with at least a modicum of credibility. In addition, touchy issues surrounding the implementation of the Treaty on Conventional Armed Forces in Europe (CFE) were finessed, with the achievement on June 1, 1996 of modifications to the Treaty sought principally by Moscow.<sup>11</sup>

Unfortunately, developments in Nagorno-Karabakh were less positive. Although the Budapest Document was praised for including agreement to establish, in Nagorno-Karabakh, the first OSCE

multinational peacekeeping force, OSCE peacekeepers envisaged for the enclave were never even identified let alone dispatched. The pre-conditions required for peacekeeping by the Budapest Document, particularly the negotiation of a political agreement on the cessation of hostilities there, were not met; and OSCE negotiations have failed thus far to bring the parties to the conflict closer to the adoption of such an agreement.

***The Review Conference.*** The OSCE participating States opened their Review Conference<sup>12</sup> in Vienna to evaluate and discuss the implementation of previously agreed commitments. The Vienna Review Conference commenced ten years to the day after the opening of the historic Vienna Follow-up Meeting (November 1986-January 1989), the earlier OSCE meeting which coincided with and helped support the process of dramatic transformation in Eastern Europe and the Soviet Union.

The U.S. delegation to the meeting was led by Sam W. Brown, Jr., who serves as Head of Delegation to the OSCE in Vienna. During the course of the meeting, the delegation was also joined by Under Secretary of State Timothy Wirth (a former Helsinki Commissioner), three public members and three expert participants from the U.S. Government or government-affiliated agencies (with expertise in both the economic and human dimensions). Four Commission staff members also served on the delegation. All together, 46 participating States attended the meeting,<sup>13</sup> along with 2 Partners for Cooperation, 5 Mediterranean Partners for Cooperation, 9 international organizations or United Nations organs, and 96 non-governmental organizations.

During the course of the Review Conference, delegations discussed the implementation of commitments in all three main areas of the OSCE: military security, economic and environmental cooperation, and the human dimension. In addition, during the third week, delegations discussed OSCE structures and miscellaneous subjects, such as the Stability Pact,<sup>14</sup> the OSCE Court on Arbitration and Conciliation,<sup>15</sup> and cooperation with other international organizations. Members of the U.S. delegation also held a number of bilateral meetings on human dimension concerns on the margins of the meeting.

Discussions in the military security area were relatively uneventful, since those issues are also the subject of negotiations on a regular basis in Vienna. (The Forum on Security Cooperation, moreover, holds its own Annual Implementation Assessment Meeting.) At the Review Conference, delegations discussed implementation of numerous specific OSCE documents in the military security area, including the Global Exchange of Military Information, Principles Governing Conventional Arms Transfers, and Stabilizing Measures for Localized Crisis Situations (all adopted by the Forum on Security and Cooperation between 1992 and 1994); the Code of Conduct (part of the 1994 Budapest Document); and the Vienna Document 1994. Other subjects under review included the Forum on Security Cooperation itself and, the subject generating the most lively discussion, commitments relating to regional situations (such as the Balkans). Other issues which framed the Vienna military security negotiations included discussions on the possible expansion of NATO and plans for adapting the 1990 Treaty on Conventional Armed Forces in Europe to post-Cold War realities.

In the economic dimension, the participating States assessed developments since the first meeting convened specifically to review implementation of economic commitments contained in the 1991 Bonn Document, held in Geneva in January 1996. A number of delegations representing countries in transition offered frank assessments of difficulties encountered in implementing both macro and microeconomic reform policies. The continued existence of trade and technical barriers, protectionist policies, restrictive customs and travel procedures, and bureaucratic obstacles to reform was roundly criticized. While most countries in transition seek to join the European Union and have concluded partnership agreements with it, they also argued that European Union (EU) enlargement should not affect negatively the economic relations between new EU members and third countries.

During these discussions, representatives of Liechtenstein complained, as they had at several previous OSCE meetings, that the Czech Republic had failed to provide compensation or restitution for property confiscated by the Czechoslovak Government at the end of World War II.<sup>16</sup> The Czech del-

egate responded by noting that a restitution law had been passed, providing compensation for wrongful confiscations which occurred after 1948.<sup>17</sup> Some other countries, as well as non-governmental representatives, used the forum for a wide-ranging and frank discussion of implementation concerns.

In addition, the economic review focused on developing means by which the participating States could anticipate and address potential economic threats to security, as well as improve cooperation with international organizations, financial institutions and regional entities in order to assist countries undergoing economic transition. The United States and Russia renewed their efforts to focus and strengthen the economic work of the OSCE by, inter alia, creating an economic unit within the OSCE secretariat, and funding economic dimension seminars in the OSCE budget, as is the current practice for human dimension seminars.

In the human dimension, countries deciding to speak continued the practice of engaging in a generally frank and specific discussion of concerns. Issues relating to the media, free and fair elections, the rule of law, and national minorities generated the most lively discussions. In the discussion on the media and free expression, for example, specific examples were given of individuals whose rights in this area were being violated. The issue of free and fair elections, coming against the backdrop of the contentious role of the OSCE in the Bosnian elections, as well as recent controversial elections in Albania and Armenia, also sparked particular interest.

Belarus, where the human rights situation had deteriorated significantly in the months preceding the Review Conference, was singled out for pointed and repeated criticism more than any other country. Concern was intensified during the Review Conference itself, as Belarusian President Lukashenka sought to expand his already considerable powers through a November 24 referendum that was designed to tilt the constitutional balance of power even further towards Lukashenka's own ends. (A report prepared in October under the auspices of the OSCE Office for Democratic Institutions and Human Rights clearly outlined the many reasons that the referendum violated international standards.) Turkey also received strong criticism for a human rights record that has further declined. Of particular concern were continued and well-documented human rights violations, including the use of torture, in Turkey.

Significantly, the discussion on tolerance and non-discrimination was broadened this year to include preventing aggressive nationalism and ethnic cleansing. Interestingly, this led some delegations to portray their governments as the victims of abuses stemming from separatist elements. Not surprisingly, such views did not go unchallenged. A number of countries, including Hungary, Romania, and Slovakia, made positive reference to steps being taken to address minority concerns in connection with the European Stability Pact.

As at past OSCE meetings, the United States was criticized by some NGOs and other participating States for retention of the death penalty. A number of NGOs (including two American groups) also criticized the United States for what they portrayed as ballot access restrictions (i.e., allegations of unduly high barriers for third parties to become registered in certain states).

In comparison with past review conferences, discussion of human dimension proposals was limited.<sup>18</sup> Germany, for example, proposed the establishment of a high-level official to foster compliance with free media and freedom of expression standards, an initiative endorsed at the summit. Switzerland suggested convening an ODIHR seminar on "the role of women in conflict prevention and crisis management." The United States also proposed follow-up seminars on election monitoring (intended to draw lessons from the Bosnia experience) and on minority issues (to be coordinated with the High Commissioner on National Minorities). In general, delegations supported the work of the ODIHR, citing the rule of law programs, the programs of coordinated support, and the Contact Point for Roma and Sinti Issues.

Non-governmental organizations (NGOs) also actively participated in the human dimension dis-

cussions, albeit in reduced numbers from the Budapest Review Conference or the 1995 Human Dimension Implementation Review Meeting in Warsaw. There were no reports of problems of access for NGO representatives and, in comparison with the Warsaw implementation review, NGOs had greater latitude for their involvement. In one instance, a complaint was raised by a government representative against an NGO representative who was permitted to speak and, in that instance, the NGO representative was permitted to finish her intervention. Significantly, NGO representatives also participated in the economic dimension discussions for the first time; although they were not permitted to speak during the military security discussions, several NGOs submitted written contributions regarding that field as well.

Of course, convening a review conference on this scale invites consideration or intensified discussion of a broad range of themes, some new and some old, some silly and some sensible. Ideas floated during the course of the meeting (either quietly in the corridors or publicly in the conference halls) also included: ending the suspension of Serbia-Montenegro; adjusting the scale of distribution of the costs of the OSCE; changing status for Mediterranean Partners for Cooperation (with Malta proposing that they have observer status at meetings of the Forum on Security Cooperation and the Permanent Council); changing the status of the Partners for Cooperation; giving the OSCE legal status (an idea promoted by France); adopting a “charter” in the military security area (proposed by Russia); giving a military security “charter” legal status; formalizing relations between the OSCE and other international organizations into a rigid hierarchy (e.g., Swiss Chair-in-Office Cotti had argued—but he was opposed by the EU—for a distribution of tasks between the OSCE and Council of Europe in his final remarks); closing down some of the OSCE missions (with first-in-line candidates being Estonia, Latvia and Ukraine); and eliminating meetings of the Council of Senior Officials.

In one particular way, the implementation review discussions were arguably less constructive than in the past. During the early phase of the Helsinki process (roughly 1975 to 1990), NATO member states developed the practice of coordinating their negotiating positions not only in the military security discussions, but also in what came to be known as the human dimension. Member states of the European Union (then the European Economic Communities) coordinated their negotiating positions in the Basket II (economic) discussions. But during the review of implementation of compliance with Helsinki norms, Western countries were willing to speak out individually, depending on the specific concerns and interests of their capitals.

After 1990, however, the NATO bloc became less cohesive in discussions outside of the military security alliance. Meanwhile, the EU countries began to coordinate their positions at OSCE negotiations more closely, particularly in the human dimension.<sup>19</sup> By the time of the Budapest Review Conference, the twelve EU countries had initiated a practice whereby one member state would prepare a statement on any given agenda item, and present that statement on behalf of all the countries of the European Union. Thus, for example, while Germany (then holding the EU presidency) usually gave the statement on behalf of “the Twelve” (and sometimes but not always also on behalf of the EU applicants, Austria, Sweden, and Finland), Italy was sufficiently interested in the subject of religious liberties to make a separate, national intervention on that subject and the Netherlands spoke for itself and Norway against legal bans on consensual homosexual activity.

At the Vienna Review Conference, this practice was taken a step further. As at Budapest, a single EU statement was prepared for each agenda item. But in Vienna, only the country holding the EU presidency (in this case, Ireland) made any interventions.<sup>20</sup> The impact of this practice was heightened by the enlargement of the EU, which now includes 16 countries.<sup>21</sup> While all EU countries were still able to speak in their own right (according to the OSCE rules) and remained represented around the table, as a practical matter only a few EU countries spoke individually, and then only when they were themselves the subject of criticism (e.g., Germany and Greece) or to respond when an issue of special national interest had been raised (e.g., Germany).

Those defending this practice argue that it advances the impact of raising and protesting human

rights violations because, first, such statements are known to represent the views of not just Ireland, but of all 16 member states. Second, it is argued that the impact is stronger because these are not just any 16 countries, but those representing an elite club to which a number of OSCE countries aspire.

There are, however, several shortcomings to this approach. First, it can be argued that the EU countries had a greater impact when more of them spoke, even if not every single member did, on an issue of common concern. (In comparison, an objective of NATO coordination in the past had been to foster, not limit, discussion, albeit of a coordinated and reinforcing nature.) The current practice results in the representatives of 15 countries (even assuming that all the EU countries attend the meeting in question, which was not the case at the Review Conference) sitting silently around the table while the country holding the presidency does all the talking. An interesting by-product of this approach is that much of the spontaneous dialogue at the meeting takes place among the Central and East European countries.

EU countries assert that their coordinated efforts have a particularly constructive impact on would-be member states. While this may be so, other less beneficial consequences of this practice are already visible. Statements delivered by the country holding the presidency must be vetted and cleared by all sixteen. In many cases, this appears to have the effect of reducing any intervention to its weakest possible form. And while some of the EU interventions in Vienna were specific and strong, many were vague and full of bland generalities.

As it now stands, twelve additional OSCE countries<sup>22</sup> have applied for EU membership. Although it is unlikely another EU enlargement will take place before the turn of the century, that enlargement (among other things), combined with the EU countries' practice of limiting their interventions, raises questions about the nature of future OSCE implementation review meetings.<sup>23</sup>

### ***Rapporteurs' Reports***

The practice of preparing rapporteurs' reports originated at meetings and seminars convened by the ODIHR. After 1990, when the OSCE became more institutionalized, it was argued that seminars and other meetings that do not engage in decision making should, at least, be permitted to produce some kind of summary of the proceedings. (Proponents of this view also noted that seminars convened by other international organizations, such as the Council of Europe, also often produce summaries or reports of meetings or conferences.)

The United States, at least early on, opposed efforts to provide such summaries, arguing that the process of drafting a summary might degenerate into a negotiating exercise that would detract from the exchange of views at these meetings.<sup>24</sup> Moreover, such records might create a mistaken impression for the public because 1) by their summary nature, they cannot reflect the full views of all participating States; and 2) they tend to record all ideas, big and little alike, without regard to their real political viability. Eventually, however, the United States dropped its opposition, permitting this practice to emerge.

Accordingly, at the end of the Vienna Review Conference, four rapporteurs' reports were prepared in each of the working groups. These are not negotiated texts and do not represent agreements of the participating States. They do not name the names of countries criticized or praised. They do not identify which participating State or NGO made which proposals or suggestions,<sup>25</sup> nor do they include all proposals or suggestions or all instances of opposition to proposals or suggestions. In some instances, it may be difficult for those who were not actually present during the meeting to understand from these sketchy summaries exactly what occurred over the course of the meeting. Nevertheless, these reports do provide some record of the proceedings and are available to the public.

The summaries prepared at OSCE meetings convened by the ODIHR have been, as a rule, forwarded to the decision-making bodies of the OSCE such as the Permanent Council. This preserves the fiction that the Permanent Council benefits from the summary when, in fact, this is not the case. Any

national delegation to the Permanent Council with a vested interest in any action-oriented idea can certainly pursue the idea in Vienna on its own, without the benefit of being reminded of it by a written summary prepared by a rapporteur. (This seems to be the operating assumption of the seminars conducted in the military security field, which do not produce rapporteur reports.) In the case of the Review Conference, these reports are useless (notwithstanding the able work of their drafters), since the Lisbon Summit served as an immediate reflection of those ideas from the Review Conference that gained the consensus of the participating States; those that did not are simply absent from the agreements.

### *The Lisbon Summit and Agreements*

On December 2-3, representatives of fifty-one<sup>26</sup> of the fifty-four countries fully participating in the OSCE gathered in Lisbon for the organization's biennial summit—designed to be the capstone of the Vienna Review Conference. They were joined by five Mediterranean Partners for Cooperation, both Partners for Cooperation Japan and the Republic of Korea, and sixteen international organs or organizations.<sup>27</sup>

Vice President Gore led the U.S. delegation and, on the margins of the summit, had a series of bilateral meetings, including with Prime Minister Victor Chernomyrdin of the Russian Federation, Prime Minister Benjamin Netanyahu of Israel, President Leonid Kuchma of Ukraine, Chancellor Helmut Kohl of Germany, President Jacques Chirac of France and Prime Minister António Guterres of Portugal.

In his summit statement, the Vice President pointed out that the United States was willing to help develop cooperative relationships between OSCE states and NATO, and, as NATO enlargement was not a threat to anyone, there should be strong cooperation between Russia and NATO. Russian Prime Minister Chernomyrdin reiterated Moscow's rejection of NATO enlargement, averring that enlargement could create new fault lines in Europe, thereby undermining security and stability in the region.

Summit statements were generally cordial and collegial, although representatives from several countries singled out President Alyaksandr Lukashenka of Belarus for criticism. (In the weeks just preceding the summit, Lukashenka precipitated a constitutional crisis that risked degenerating into violence.) Lukashenka pointedly denied the charges leveled against him; using discredited Cold-War era rhetoric, Lukashenka stressed that other OSCE states should not interfere in Belarus' internal affairs.

At its conclusion, the summit adopted two main documents that reflected the OSCE participating States' current preoccupation with military security: an overall political statement from the Heads of State or Government (the Lisbon Summit Declaration), and a declaration on a new European security structure (the Lisbon Declaration on a Common and Comprehensive Security Model for Europe for the Twenty-First Century). The idea for a "comprehensive security model" grew out of a Russian proposal to transform the OSCE into an all-European security organization. (Indeed, some might argue that the Russian intent has been to transform the OSCE into *the preeminent* European security organization, superior to other organizations such as NATO and the Council of Europe.<sup>28</sup>) In any case, at this stage the Security Model remains largely an amorphous collection of generalized commitments, old and new, and the relevant Lisbon text reads more like a checklist of ideas than a plan of action.

More substantive progress was made in other military security areas, including agreement by the 30 states that are parties to the Treaty on Conventional Armed Forces in Europe (CFE) to launch negotiations to adapt the treaty to evolving post-Cold War conditions. The CFE Treaty had been drafted during the Cold War between the countries of the Warsaw Pact and the NATO alliance. It was opened for signature in 1990, and entered into force in 1992. Since then, however, the dissolution of the Warsaw Pact and the Soviet Union have changed the political landscape of the region. Accordingly, the new negotiations are designed to overcome (rather than merely reflect) old Cold War divisions.

In particular, the new talks will seek to establish the limits of military equipment on a national basis thereby, theoretically at least, promoting the security of all CFE party States equally. The adaptation negotiations began in January 1997, and should be completed in 1999. The current Treaty remains in force until any agreed adaptation enters into force.

Although the Lisbon documents devote little attention to human rights and democratization issues, the fundamental importance of OSCE principles, as well as the need for improvement and constant review of the implementation of these commitments by the participating States, was reiterated. In addition, the summit tasked the Permanent Council to create a mandate for an OSCE representative to address free media issues and to extend the work of the ODIHR Migration Advisor to deal with problems of forced migration.

As has become the practice at OSCE summits, special attention was given to regions where the OSCE has been engaged in conflict prevention, management, or resolution. Not surprisingly, then, the political statement paid tribute to the accomplishments of the OSCE Mission in Bosnia-Herzegovina, reaffirmed the need for the full implementation of the Peace Agreement, and declared the participating States' intention "to forge a sustainable peace" in Bosnia-Herzegovina. A reference to cooperation with the International Criminal Tribunal on the Former Yugoslavia offered by the United States was included, but watered down by Russia.

Other regions also received attention because of their current or potential threats to security. The Declaration called for the reestablishment of the OSCE Mission in Serbia and Montenegro, specifically to foster democratization, independent media, and free and fair elections. OSCE support for the territorial integrity of Georgia was reaffirmed, and the destructive acts by separatists in Ossetia and Abkhazia were condemned. OSCE leaders also cited their concern that an earlier agreement between Moldova and Russia on the withdrawal of Russian troops had not been implemented, and called for a complete withdrawal of those troops. The summit welcomed the very recent steps toward a peaceful settlement between the Chechens and the Russian Federation and reaffirmed support for the OSCE Assistance Group in Chechnya. The States also committed themselves to developing increased OSCE involvement in Central Asia.

While most issues were fairly non-controversial, one section of the document addressing the conflict between Armenia and Azerbaijan over Nagorno-Karabakh threatened to undermine agreement on the product of the entire summit's negotiations. Armenia refused to accept a reference to the basic principles for a peaceful settlement as set out by the Minsk Group Co-Chairman.<sup>29</sup> For its part, Azerbaijan insisted that it would not accept the summit document *without* such a reference. The compromise—brokered in part by the U.S. delegation—was to provide a statement of the Chair-in-Office referring to these basic principles as an annex at the end of the final text of the summit document, with the notation that the Chair-in-Office statement was supported by all countries but one.

In the economic area, agreement was reached to establish a post for an economic coordinator.

Finally, the summit Declaration also laid out plans for the future leadership and meetings of the OSCE. Poland will assume the role of Chair-in-Office in 1998 (succeeding Denmark, which assumed the Chair in January 1997). The next OSCE Ministerial meeting will be held in Copenhagen in December 1997. Participating States took note of—but did not accept—Turkey's offer to host the next summit.<sup>30</sup> Continued concern over Turkey's poor human rights record prompted Commission Chairman Christopher H. Smith and Co-Chairman Alfonse D'Amato to write to Secretary of State Christopher, urging the United States to reject this proposal.

#### **IV.A Candid Evaluation of the Vienna Review Conference and Lisbon Summit**

In three significant ways, the 1996 Vienna Review Conference fell far short of the work of previous Follow-up Meetings or Review Conferences. First, the physical facilities were inadequate for their intended purposes. The meetings were held in Vienna's Hofburg Palace, where permanent delegations

to the OSCE conduct on-going negotiations and day-to-day oversight of OSCE operational activities. This site, however, was insufficient for the expanded activities of the Review Conference. Unlike at previous conferences, there were no facilities at the meeting site for delegations' offices, nor was there adequate space for informal consultations among delegates or between delegates and NGO representatives.<sup>31</sup> Technical support at the site was also inadequate; for example, there was only one photocopy machine available for the 46 delegations from States. In the conference hall itself, used for plenary and other meetings, space was so cramped that delegates were unable to sit in the customary circular formation which enables them to see each other. Instead, a "theater" formation was used. This meant, for example, that the U.S. delegation made its interventions to a row of flags rather than to the faces of other delegates; representatives of non-governmental organizations were forced to present their interventions to the backs of the heads of everyone in the room. During the third week of the meeting, construction noise from a neighboring site was so loud that proceedings had to be suspended.

Second, the work of the implementation review was compressed, undermining delegations' abilities to prepare effectively and to engage in a thorough discussion on all issues. For example, 13 human dimension meetings were restricted to a two-week period. In contrast, these discussions were held over a three-month period at the 1992 Helsinki Follow-up Meeting and almost the same number of meetings were held over a nine-week period at the 1994 Budapest Review Conference. At Budapest, 15 plenaries were available for delegations to outline overarching themes and to underscore high priority goals; at Vienna, there were five plenaries. (Plenaries remain the only sessions open to the press during the review conference, heightening the significance of this restriction.) Significantly, from a human dimension perspective, there was even less time available for review than at the human dimension implementation review meetings that are held in Warsaw in alternating years.

Finally, although the Review Conference is intended to be the principal forum for OSCE countries to review compliance with their existing commitments—which, in turn, is to guide the overall direction of OSCE work—the Vienna Review Conference was treated as a diversion from routine activities. Symbolizing the Conference's second-class status, delegates coming to Vienna were given the nameless, faceless blank visitors' badges that are normally issued to temporary or short-term delegates attending the permanent meetings held there.

None of the regularly scheduled OSCE meetings that normally take place throughout the year were suspended to accommodate the implementation review. In contrast, all other negotiations were suspended during the 1992 Helsinki Follow-up Meeting. During the 1994 Budapest Review Conference, Mondays were set aside to enable delegations to attend Permanent Council meetings (which oversee the necessary day-to-day operations of, for example, on-going missions) and meetings of the Forum on Security Cooperation. In Vienna, there were times when as many as a half dozen OSCE meetings<sup>32</sup> were held at the same time that review conference meetings convened. Reflecting the priority attached to the review conference relative to the other work, work on the review conference was often left to delegates sent from capitals (few OSCE Heads of Delegation attended the meetings) and many smaller delegations simply had to forego participation in the implementation review altogether.

At least two factors led to this state of affairs. First, during the period between the Budapest and Vienna Review Conferences, the OSCE participating States were increasingly pre-occupied with various regional conflicts, not the least of which was the war in Bosnia. But as delegations struggled to find the personnel and resources to manage the OSCE's unprecedented operational role, driven by the OSCE's imperative need to fulfill the mandate set forth for it in the Dayton peace accords, a number of participating States were heard to complain of "mission-fatigue" and "election-fatigue." Bosnia absorbed ever increasing amounts of attention in various major capitals, causing a host of other important-but-not-as-important policy concerns—including almost everything that wasn't directly Bosnia-, Chechnya-, or Nagorno-Karabakh-related at the OSCE—to receive less and less attention. As a consequence, preparations for the review conference and the Lisbon Summit were sacrificed in response to shorter-term pressures.

Second, since the 1992 Helsinki Follow-up Meeting, a number of OSCE countries have sought more far-reaching changes to the way the OSCE conducts its work. In the context of larger discussions on the institutionalization of the OSCE, some countries have gone so far as to advocate a complete end to the process of holding implementation review meetings, arguing that they are merely relics of the Cold War and unnecessarily confrontational. Others have suggested they are too expensive. (Not coincidentally, some of the countries opposed to convening implementation review meetings are also countries that don't particularly like having their own records reviewed.) For these countries, the less attention paid to the Vienna Review Conference the better; and the more unsuccessful the Review Conference, the easier it will be for them to argue for its ultimate demise.<sup>33</sup>

As for the summit itself (and negotiations leading up to it), it could have been worse. The West-West quarrels that marred parts of the 1992 Helsinki negotiations were not repeated; the conflicts (Bosnia and Chechnya) that discredited the Budapest Summit had been quieted; the worst or silliest or least constructive proposals were put off for another day. Admittedly, the style of final agreements may leave a reader with the sense that the drafters were preoccupied with something else—two separate sections were given almost identical, and consequently confusing, titles<sup>34</sup>—but, for the most part, the adage that they “do no harm” seems to have prevailed.

### **V. Is There Life after Lisbon?**

As demonstrated by the OSCE participating States' weak preparations for and uneven engagement in the Vienna Review Conference and Lisbon Summit, a certain degree of sloppiness seems to have crept into their work. For example, *two* summit documents which are *both* identified as Lisbon declarations were produced; despite a 1994 Budapest mandate to re-visit the issue of the frequency of summits, they failed to do so; and they seemed to forget that biennial implementation reviews had been rechristened review *conferences*, not review *meetings*. While the failure to conduct a very effective review meeting or to convene a particularly momentous summit has not posed an immediate threat to the integrity of the OSCE, it reflects broader underlying problems that may. When many small things start falling through the cracks, it is a warning sign that more significant things may likewise be at risk.

One example of this problem manifested itself in early 1996, when the time came to appoint a replacement for retiring Secretary General Wilhelm Hoeynck—arguably the highest ranking officer of the OSCE. Many delegations seemed to take it for granted that a consensus would emerge around the Hungarian candidate, Istvan Gyarmati, and therefore did not actively work to build support for his candidacy. When this consensus, fairly predictably, failed to emerge, an Italian diplomat largely unknown to the OSCE community, Ambassador Giancarlo Aragona, was offered as a last-minute candidate and selected only ten days before the departure of Ambassador Hoeynck.<sup>35</sup> While Secretary General Aragona may prove to be a highly competent Secretary General, the appointment seemed more by accident than by design.

This is not to suggest the onset of inertia, complacency or carelessness has set in. On the contrary, diplomats posted to the OSCE no doubt find themselves running as fast as they can just to stay in one place. Clearly, the overwhelming preoccupation with various *crises du jour*, the on going management of chronic conflicts, and the perennial press of the operational business that has come with the OSCE's new role as an *organization* rather than a mere *conference* have seriously stretched the collective resources, energy and attention span of the OSCE participating States. In fact, if the OSCE participating States are to be successful in managing their responsibilities, a coherent and sound institutional framework and, equally importantly, an overarching set of goals and priorities are needed to guide the OSCE's work. The current framework is undermined by the failure of the participating States to ensure that the management of OSCE operations includes adequate attention to detail and is based on a well-reasoned, internally-consistent set of goals and priorities. More to the point, beyond the narrow confines of the security field, the goals and priorities of the OSCE community are in need of heightened attention and

more coherent articulation. In this context, the following section identifies some of the institutional issues that the OSCE participating States may need to address in the near term.

### ***The Frequency of Summits of Heads of State or Government***

Regularizing the schedule of OSCE summits was designed to serve at least two purposes. First, biennial summits would demonstrate the normalcy of European-Transatlantic relations in the post-Cold War period. Second, the prospect of an impending summit would inspire diplomats in Vienna and in other capitals to produce summit-worthy decisions. But the hope that high-level meetings would spur significant political breakthroughs (that could be duly celebrated by the Heads of State and Government) has simply not been realized.

As a consequence, the OSCE participating States have devalued the currency of summits by issuing too many bland decrees that are too soon forgotten (even by their own diplomats). If the current practice of biennial summits were maintained, future summits risk more than just being relegated to small-print, below-the-fold stories under anodyne headlines like “OSCE Heads Approve Communique”; they risk undermining the credibility of, and public support for, the OSCE as a whole.

This problem could be ameliorated if summits of Heads of State or Government were held only when truly merited by events or decisions. The decision to convene the Heads of State or Government could be made by foreign ministers who, in any case, should continue to meet on an annual basis. The foreign minister-level meetings would sufficiently preserve the symbolic value of improved post-Cold War relations at a level that is suitable for more routine business.

### ***The Future of Review Conferences***

Review conferences have traditionally been the cornerstone of the Helsinki process. They are the principal vehicle through which compliance with existing commitments is fostered and the central forum in which new commitments are negotiated. Although the OSCE has changed significantly since its founding, the review conferences—at least potentially—still fulfill several key functions.

First, while OSCE rhetoric constantly underscores the indivisible nature of security and human rights, much of the OSCE’s work is, in practice, compartmentalized: the Forum on Security Cooperation in Vienna, the human dimension work in Warsaw, and economic and environmental discussions in Prague—not to mention the increasing number of operational activities such as those in Bosnia. At the review conferences, the full scope of OSCE activities can be examined as a whole and rhetoric about the “indivisible” nature of security can be given real meaning. Second, the review conferences were designed to bring together decision makers from capitals who would provide oversight for OSCE activities and articulate overarching goals and priorities according to which operational activities could be executed. (This role is increasingly important as the Council of Senior Officials meets with diminished frequency.) Third, the review of implementation, a central element of the review conferences, has evolved as the “reality check” for the commitments the participating States have already undertaken—and the “laugh test” which any new commitments or agreements must pass if they are to be adopted in the future.<sup>36</sup> Finally, the review conferences ensure transparency for the Helsinki process by providing a forum which non-governmental organizations may attend. This is especially important given the decidedly opaque nature of the meetings of the Permanent Council, where some implementation review and most of the day-to-day decision-making takes place behind closed doors.

By any standard, the Vienna Review Conference was several notches below its predecessors and the review process is in need of major repairs. The premises were inadequate and the schedule was too compressed. But perhaps the worst feature was that the review conference was submerged in a sea of regular OSCE meetings, which were run parallel to the implementation review sessions. Because of the conflict between the review conference meetings and other OSCE meetings, government attendance at and engagement in the review conference was diminished in comparison with previous meetings of this kind. Worse still, having created the conditions under which it would be impossible to convene an

effective implementation review, many governments then justified their absence or diminished participation by blaming the conditions of the meeting.

Indeed, this outcome seems to suit some participating States which seem to prefer the pomp of summits to the circumstance of implementation review conferences, and who cite the shortcomings of recent review conferences as a rationale for jettisoning the review process altogether. In the long run, however, public support for the Helsinki process is likely to dwindle if the review meetings continue to be compromised or if those seeking their abolition prevail.

The format and context of such meetings should receive priority attention by the Permanent Council well before the next review conference. In particular, the relationship between the review conference and other OSCE activity should receive close scrutiny. While it may be necessary to continue some OSCE work during the review conference, such as that of the Permanent Council as it relates to OSCE operations, other work should be suspended.

### *Approach to the ODIHR and the Human Dimension*

In the human dimension area, the work of the OSCE community rests on a considerable foundation. The Helsinki provisions now include what is arguably the most extensive array of agreements relating to human rights and democracy of any regional or international organization. Moreover, there is substantial consensus among the participating States regarding what those agreements mean in practice. The kind of polemics that characterized the Cold War negotiations were, by and large, resolved with the adoption of the 1990 Copenhagen Document and the 1991 Moscow Document.

Today, the debate focuses on the questions of how the OSCE should foster compliance with these standards and how the OSCE should “operationalize” its human dimension activities. Unfortunately, discussions by Commission staff with a variety of delegations in Vienna, as well as with representatives in Washington, suggest that a consensus on compelling answers to these questions is lacking among the participating States.

Among the human dimension’s putative supporters, there appear to be at least two schools of thought regarding how to enhance the OSCE’s human dimension operational activity. (Some OSCE participating States belong to neither camp and pursue thinly veiled efforts to marginalize the human dimension work of the OSCE.) One school sees the ODIHR itself as a human rights advocate and would give increasing responsibility to the ODIHR for reporting on emerging problems within the OSCE region; this reporting function, it is argued, would lead in turn to greater attention on the part of the OSCE participating States and prompt criticized governments to undertake desired reforms.

Some countries which appear reluctant to resort to the “confrontational” practice of naming names during reviews of human dimension compliance argue that the ODIHR (or other proposed-but-not-in-existence mechanisms or institutions) should do exactly this. For example, several delegations have suggested giving the Director of ODIHR a monitoring role that would require the Director’s intercession with an offending government. Similarly, during the Vienna Review Conference, Germany proposed the establishment of a “special representative for media affairs,” with a mandate modeled on the mandate for the OSCE High Commissioner on National Minorities.<sup>37</sup> (This idea, in rough outline, was ultimately incorporated into the Lisbon Summit agreements.) According to a German paper describing the idea, this special representative would serve as a focal point for complaints, observe the development of the media situation in all participating States, and report to the Permanent Council. Significantly, however, during the year preceding Germany’s introduction of this proposal, Germany did not raise a single instance of concern regarding particular media developments at the meetings of the Permanent Council in Vienna, the Senior Council in Prague, or during the Vienna Review Conference itself (other than through its presumed support for the single statement on free speech delivered by Ireland on behalf of the European Union at the review conference).

The German proposal illustrates one of the challenges of promoting human dimension issues. On

the one hand, Germany's proposal reflected its genuine concern regarding a subject that is and should be an OSCE priority. But the method Germany proposed to advance this concern would, in effect, delegate responsibility for monitoring and reporting that belongs, first and foremost, to the participating States themselves. In fact, governments are generally unsuccessful when they seek to delegate to international civil servants the task of criticizing the very countries which pay the salaries and approve the budgets of those employees.<sup>38</sup> This would certainly be the case with the ODIHR, which must rely on the cooperation of all members of the OSCE to function—even if the wording of the ODIHR's mandate were “enhanced” to imply otherwise.<sup>39</sup> (In the end, Germany's general idea achieved consensus, but the task of putting flesh on the mandate remains for another day.)

A second school of thought among the human dimension's supporters emphasizes the ODIHR's potential in the field of democracy building and, in particular, concentrates on those areas where the ODIHR has received some cooperation. For example, during 1996 the ODIHR conducted training programs in Belarus, Georgia, Russia, Tajikistan, and Turkmenistan. By definition, these programs are initiated at the request of the country receiving assistance. By building on a demonstrated interest, the OSCE can target its limited resources to areas where they are likely to be well received and effectively utilized. In general, these programs, as well as other seminars and programs organized by the ODIHR, have been well regarded by both OSCE participating States and non-governmental representatives participating in them.

There is, however, one notable problem with the OSCE's activities in this area. In some instances, the ODIHR has been tasked to organize seminars on the basis of rather vaguely formulated proposals. For example, in 1995, the ODIHR convened a generic rule-of-law seminar for all participating States, based on a proposal put forward by the United Kingdom and Norway. Although the proposal was well-intended—no doubt the United Kingdom and Norway genuinely sought to advance the rule-of-law—the subject matter was too broad to be digested in the course of the relatively short seminar. Overall, the seminar did not contribute in any meaningful way to its established goals.<sup>40</sup> A Swiss proposal, introduced at the Vienna Review Conference, seems to set the stage for similar problems. Its vaguely-worded text calls for a four-day seminar on “women in conflict,” but leaves unclear its basic premises or underlying purpose.<sup>41</sup> (Like the Germans, the Swiss had not raised any substantive concerns related to their proposal at meetings of the Permanent Council or at the Review Conference. This fact is even more striking since the Swiss served as the OSCE Chair-in-Office during 1996.) Thus, even the relatively less controversial area of democracy building is not without its potential pitfalls.

### *Structure of the OSCE Architecture*

The work of the ODIHR makes it, of course, an important resource for OSCE decision makers in Vienna. As such, it should be fully integrated—arguably, much more than it has been to date—with OSCE missions in the field, the work of the Chair-in-Office and, most importantly, the decision-making process of the Permanent Council. Some observers have suggested, however, that the ODIHR's role in the OSCE is impeded by its location in Warsaw. This raises a larger question regarding the value of having the OSCE's institutions in different locations.

At the time of the institutionalization of the OSCE in 1990, the OSCE established offices in three locations: a Conflict Prevention Center and office of the Secretary General in Vienna; an Office for Free Elections (later renamed the Office for Democratic Institutions and Human Rights) in Warsaw; and a Secretariat—not to be confused with the Secretary General—in Prague (to support the meetings of the Council of Senior Officials, since renamed the Senior Council, and to provide information to the public).

Vienna was perceived as a logical and convenient choice for some operations, since the Austrians had done a successful job of providing the secretariat during the 1986-89 Vienna Follow-up Meeting, because agreement had been reached to continue military security negotiations there (Confidence- and Security-Building negotiations among all OSCE participating States and negotiations on Conventional

Armed Forces in Europe among the members of NATO and the Warsaw Pact), and because many countries already had an enhanced diplomatic presence in Vienna to support their work at other multi-lateral organizations. Poland and Czechoslovakia, then perceived as two of the most successful countries among those making the transition from communism, were “rewarded” for good behavior with an OSCE institution. (Similarly, Budapest was selected as the location for the 1994 summit of Heads of State or Government as a reward for Hungary’s perceived good behavior.)

Selecting three different locations for the OSCE’s work also served two other purposes. First, it was easier to pick three locations than to narrow the options to one, and that decision made at least three countries happy. A second rationale, which emerged only after this institutional arrangement had been established, argued that human dimension initiatives would flourish more readily if the ODIHR were distanced from the reach of the first Secretary General, German Ambassador Wilhelm Hoeynck, and his bureaucratic procedures.

New additions to the OSCE’s structure have been located elsewhere. In 1992, when the former Dutch Foreign Minister, Max van der Stoep, was chosen to serve as the High Commissioner on National Minorities, he set up shop in The Hague. A so-called OSCE “Court” on Arbitration and Conciliation is based in Geneva.<sup>42</sup> More recently, the OSCE also opened a regional office in Tashkent, Uzbekistan, in July 1995 to facilitate OSCE activities in the region and the integration of Central Asian states. The German proposal for a “special representative for media affairs”—a potentially independent post from the ODIHR—may create a new office in yet another location.

It is logical to place a regional office in the region it is to serve. The logic behind the other dispersed locations for OSCE offices is less compelling, and the evolution of the OSCE since 1990 may bring this original scheme into question. First, when the OSCE was initially institutionalized, there was no Permanent Council; that body was only created in 1993, at the Rome Ministerial meeting. The Permanent Committee (as it was originally called) grew, in effect, out of the delegations which were posted to Vienna for the ongoing military security negotiations but which, by necessity, had become increasingly involved in the much broader work of managing the growing number of operational activities.

The creation of this body has, over the past three years, had a significant impact on the overall work of the OSCE. First of all, the Permanent Council has assumed many of the duties originally ascribed to the Senior Council (formerly the Committee of Senior Officials).<sup>43</sup> This, in turn, has led to a diminished role for the Senior Council and, accordingly, a diminished need for the services of the Secretariat in Prague. Second, the establishment of a permanent body of OSCE diplomats in Vienna has created a central point of operation for OSCE decision making and consultations.

Not surprisingly, questions are increasingly raised both by governments and by some in the non-governmental human rights community regarding the effectiveness and efficiency of keeping the ODIHR in Warsaw. Some have argued that the human dimension is marginalized by its location in the Warsaw outpost; because the ODIHR is physically remote, it is said, OSCE decision makers in Vienna do not pay sufficient attention to human rights issues. Others have suggested that the distance between Vienna and Warsaw makes consultations between the Permanent Council (as well as the representative of the Chair-in-Office in Vienna) and the Director of the ODIHR more difficult and hinders the ODIHR Director’s ability to give input on decisions regarding the human dimension of missions and other operations. Following this logic, it is sometimes argued that the ODIHR should be moved to Vienna.

If the Permanent Council does not pay sufficient attention to the human dimension, however, the blame rests first and foremost with the participating States themselves. As a practical matter, during the past year the participating States have shown a greater willingness to discuss human dimension concerns at the meetings of the Permanent Council, such as the threats to the democratization process in Belarus. It remains to be seen whether the Permanent Council’s full potential as a vehicle to address human dimension issues will be realized, but it is not logistics that impede that goal.

Conversely, some suggest that moving the ODIHR to Vienna will result in its operations being micromanaged, to the detriment of its human rights activities, by the Permanent Council, the Secretary General, the Chair-in-Office—or all of the above. Moreover, if those who argue for consolidating OSCE offices in Vienna prevail, the ODIHR could be effectively “reorganized” out of existence. This is a particular danger if those countries which have traditionally been strong supporters of the ODIHR are inattentive to the discussion of consolidation.

This illustrates the need for vigilant attention to detail and a coherent, internally consistent approach to the OSCE’s operations. To date, the participating States have sent mixed signals. The United States, for example, has traditionally been a strong supporter of the ODIHR and has advocated keeping the ODIHR in Warsaw. At the Vienna Review Conference, though, the United States proposed moving the ODIHR’s migration expert to Vienna, a suggestion that appears inconsistent with its general support for the Warsaw office. (The reasons given for the proposed move for this human dimension office—the need for closer coordination with others in Vienna—would appear to be equally relevant to the ODIHR’s activities as a whole.) Similarly, Germany’s proposed special representative for media issues appears to be envisioned as a figure independent of the ODIHR structure in Warsaw. The German delegation to the Review Conference denied, however, that this reflected any lack of support for the ODIHR.

A somewhat less sensitive question has also emerged regarding the viability of the Prague office. In light of the diminished role of the Senior Council—and some have advocated abolishing it altogether—the need for the Prague Secretariat is questionable. Significantly, some delegates in Vienna have suggested that the Czech Republic is a more technologically friendly state than Austria and, accordingly, running the OSCE’s database and electronic archiving is more cost efficient in Prague than Vienna. Some have also discussed further developing the Prague office (which currently hosts an annual economic meeting) as the base for additional OSCE activities in the economic arena. In any case, the participating States have not undertaken a comprehensive study of the relative advantages and disadvantages of the various locations.<sup>44</sup> Such factors should be given serious consideration as the institutionalization of the OSCE undergoes further refinement.

A question distinct from—but related to—the location of the various OSCE institutions is their relative degree of autonomy and their authority to act independently. In particular, this debate centers on the two offices which, to a great extent, personify the institutions of the OSCE: the Secretary General in Vienna and the Director of the ODIHR in Warsaw.

As suggested above, some participating States believe that the Director of the ODIHR should act as a public monitor of human rights violations—alerting the participating States to escalating problems and intervening directly with offending governments. Similarly, some participating States believe that the Secretary General should play a more active political role (similar to that of the U.N. Secretary-General).

Opponents of these views counter that such a hierarchy would divert both authority and accountability from the OSCE participating States themselves to the OSCE’s bureaucracy. Indeed, for those countries which seek to avoid being held accountable for their actions, this arrangement may be desirable, since those countries would have leverage to block the work of the Secretary General or the ODIHR Director through the OSCE’s consensus decision-making procedures (see below for a further discussion of the consensus rule).

An alternative view advocates the Secretary General as the chief administrative officer of the OSCE; the task of providing political leadership can be more appropriately exercised by the Chair-in-Office acting together with his or her predecessor and successor (together known as the “Troika”), a threesome whose membership shifts by one person on an annual basis. In practice, this arrangement appears to have met with success so far and to have provided the participating States with considerable political flexibility.

As for the Director of the ODIHR, both the first and second ODIHR Directors (Italian Ambassador Luchino Cortesse and U.K. Ambassador Audrey Glover respectively) appear to have demonstrated considerable skill in walking a fine line between the competing interpretations of their duties. Unfortunately, however, advocates of an “activist” Director probably create expectations (particularly among the public) that, in the end, cannot be effectively fulfilled. While the short-term interests of some participating States may be served by shifting the responsibility for raising human rights concerns from themselves to the ODIHR, long-term confidence in the OSCE as an institution will suffer if the ODIHR is blocked from taking appropriate actions or making appropriate statements. Moreover, thrusting the ODIHR into the role of aggressive public monitor and advocate may have the unintended consequence of damaging (perhaps fatally) its long-term institutional viability by encouraging opponents to deny consensus on budget and personnel matters as a form of retaliation against the ODIHR. Through this process, small cuts and minor obstructions can so weaken an institution that no publicly visible killing blow would need to be struck—at a later point, consensus would evolve on the termination of an ineffective organ, untroubled by any inquiry into what decisions made it ineffective or who were the moving parties behind the decisions.

### ***Consensus Decision Making: Those Who Are Not Against Us Are With Us.***

When the Helsinki process was established, the participating States decided that each and every decision, no matter how large or how small, whether procedural or substantive, would be decided by consensus. The founding rule book of the OSCE defines consensus as “the absence of any objection expressed by a Representative [of a participating State] and submitted by him as constituting an obstacle to the taking of the decision in question.”<sup>45</sup> Decision making by consensus is not a requirement that all decisions be reached unanimously. Unanimity means that each delegation has voted *for* each issue in question. In contrast, decision making by consensus means that each delegation has *withheld* a potential rejection of the substantive commitment or procedural matter under consideration—a critical distinction that can spell the difference between getting agreement and not getting agreement. Accordingly, every document adopted by the OSCE is binding on all the participating States. There are no reservations and no exceptions.<sup>46</sup>

This method of decision making has several advantages. First, the smaller, less powerful states are protected from more powerful States, as each country—no matter how small—has the right to block or permit the achievement of consensus. Second, most countries have greater incentives to participate in this process since the numerical minority is protected from the tyranny of the numerical majority. Most countries, big and small alike, would not have participated in this process if decisions could be imposed upon them by a mere majority vote. Third, the credibility of the process is enhanced, as no country can undermine the validity of a document by suggesting the commitments contained therein were imposed upon it. Finally, all the commitments adopted are universally binding on all the OSCE participating States.

There are, however, several drawbacks to consensus decision making and, in recent years, it has become commonplace among critics of the OSCE to focus on the consensus rule as a crack in the foundation of the OSCE. First, consensus slows down the decision-making process as negotiators must hammer out not merely an agreement among the majority but a collective will of the whole. This is of increasing concern as the OSCE community seeks to respond, on an urgent basis, to unfolding conflicts or crises. Consensus, it is argued, hobbles the OSCE’s ability to act decisively and quickly.

Second, consensus decision making often means no decision making, since any one state can block agreement on any decision at all, possibly holding the negotiation progress hostage in the process. For example, when Macedonia sought OSCE membership after the dissolution of the former Yugoslavia, Greece blocked Macedonia’s admission, although every other OSCE participating State was seemingly prepared to give consensus to Macedonia’s admission. The exclusion of Macedonia from the ranks of the OSCE community hampered efforts to address a variety of issues there and, notwithstanding sympathy for some of Greece’s bilateral concerns, it was widely felt that Greece had

used the consensus rule in a counterproductive manner.

Finally, consensus decision making requires considerable time and effort to reach agreement and such decisions may ultimately reflect commitments well below the standards which many States would accept on their own.

In light of these criticisms, a variety of alternative decision-making paradigms have emerged, including a weighted majority system proposed by the OSCE Parliamentary Assembly.<sup>47</sup> Others have proposed small “security councils” that would make decisions on behalf of the plenary of participating States. As a practical matter, however, decision making in the OSCE has already undergone subtle but significant changes since 1990. While the traditional consensus rule reigns supreme regarding the adoption of new standards, a kinder, gentler process of decision making now seems to apply to much of the operational work of the OSCE.

For example, the *Mechanism for Discussion and Clarification of Unusual Military Activities* (UMA), adopted in Vienna in 1990, created the first possibility for an OSCE meeting to be convened without consensus. In essence, the participating States gave advance consensus for a UMA meeting when certain specified conditions were met.<sup>48</sup> Similarly, the Emergency Meeting Mechanism, agreed to at the June 1991 Berlin Council of Ministers meeting, established a stream-lined procedure for convening emergency sessions of the Committee of Senior Officials.<sup>49</sup> To a great extent, these mechanisms became obsolete when the Permanent Council was established as a regularly sitting body in Vienna. Nevertheless, they demonstrated the OSCE’s earliest efforts to modify the strictures of the consensus rule, while still retaining its fundamental virtues.

The Moscow Mechanism and the “consensus-minus-one” procedure represent more significant modifications of the consensus rule. The Moscow Mechanism was established at a 1991 human dimension meeting in Moscow, held in the aftermath of the failed coup attempt. At that time, the participating States agreed that a state could request the formation of a panel based on a list of experts compiled by participating States; the panel of experts is then tasked with serving as a “good-offices” mission and is authorized to investigate human dimension concerns and to take whatever actions it deems desirable to further dialogue and a resolution of the problem. If the panel is not successful, or if a state refuses to invite a panel onto its territory as requested by another state, the mechanism provides for further, more intrusive mandatory steps. Specifically, a state may be forced to receive a rapporteur mission if six participating States support its creation for fact-finding, and, in extraordinary cases, to do so immediately if 10 participating States agree.

The “consensus-minus-one” provisions were adopted at the Prague meeting of the Council of Ministers in January 1992. There, the participating States adopted the following language, under the heading “Safeguarding human rights, democracy and the rule of law”:

16. The Council decided, in order to develop further the OSCE’s capability to safeguard human rights, democracy and the rule of law through peaceful means, that appropriate action may be taken by the Council or the Committee or Senior Officials, if necessary in the absence of the consent of the State concerned, in cases of clear, gross and uncorrected violations of relevant CSCE commitments. Such actions would consist of political declarations or other political steps to apply outside the territory of the State concerned. This decision is without prejudice to existing CSCE mechanisms. [Emphasis added.]

Thus far, the Moscow Mechanism has only been used in a handful of cases, and the consensus-minus-one provision has only been invoked once, to suspend the membership of the Yugoslav Socialist Federal Republic after that country ceased to exist. Some critics have argued that the infrequent use of these procedures only demonstrate how cumbersome they remain and highlight the need for further streamlining the decision-making process in the OSCE. Others have argued that the strength of the Helsinki process should not be judged by its ability to act when consensus does not exist, but by its success in building consensus among countries where no consensus previously existed.

Finally, it should also be noted that the OSCE has developed, on an ad hoc basis, opportunities for negotiations among somewhat fewer than the full plenary of all 54 fully participating States. For example, the Minsk Conference (which does not actually meet in Minsk but, at the time of its origin, was intended to) permits negotiations on the Nagorno-Karabakh conflict to take place among a group of the eleven OSCE countries most keenly interested in that issue. On those occasions when this smaller group is able to take proposed decisions back to the full OSCE community, the plenary acts largely to ratify the agreements reached among the smaller group. Similar arrangements have facilitated OSCE work in other areas, as well.

If the consensus rule were to be changed, two particularly sensitive issues would have to be resolved. First, many observers argue that a change in the consensus rule will inevitably entail an encroachment on the national sovereignty of the participating States. (Some observers argue this would be as a positive development; others as a negative one.) In fact, sovereignty concerns are among the reasons that OSCE efforts to develop peaceful settlement of disputes mechanisms (described in Appendix I: An Overview of the OSCE) have met with such consistent failure.

The second issue centers on the financial basis of the OSCE. If decisions are based on something less than consensus, would dissenting states continue to pay their dues? (Current funding mechanisms for the OSCE have been relatively noncontroversial.) Considering the ongoing debate over U.N. funding, including the basis on which expenditures are made and the rates assessed, and the pros and cons of withholding dues, this presents more than a rhetorical question.

### ***Public Outreach, Non-Governmental Access, and Institutional Transparency***

While access for non-governmental organizations to human dimension meetings and the economic and environmental work of the OSCE have increased over the past five years, these venues have become increasingly removed from the decision-making bodies of the OSCE. Thus, optical access for the public has increased but, arguably, practical access has decreased. Opening the meetings of the Permanent Council to the public—just as the decision-making plenaries of Follow-up Meetings (now Review Conferences) were opened up to the public in the waning days of the Cold War—would remedy the decreased access to decision-making meetings that has accompanied the evolution of the Permanent Council in Vienna.

One of the most important developments in the OSCE's public relations in 1996 was the establishment of an official homepage on the Internet,<sup>50</sup> providing access to OSCE documents, including the weekly decisions of the Permanent Council. Although this website is still under development and many OSCE documents are not yet available through this medium, it represents an important effort to increase the transparency of OSCE decision making and, accordingly, accountability of OSCE governments. This is also an important step given that the meetings of the Permanent Council remain closed.

## **APPENDIX**

### **AN OVERVIEW OF THE OSCE**

#### **THE TEN PRINCIPLES GUIDING RELATIONS AMONG STATES**

#### **The Decalogue from the 1975 Helsinki Final Act**

*Principle I:* Sovereign equality, respect for the rights inherent in sovereignty

*Principle II:* Refraining from the threat or use of force

*Principle III:* Inviolability of frontiers

*Principle IV:* Territorial integrity of states

*Principle V:* Peaceful settlement of disputes

*Principle VI:* Non-intervention in internal affairs

*Principle VII:* Respect for human rights and fundamental freedoms, including the freedom of thought,

conscience, religion or belief

*Principle VIII:* Equal rights and self-determination of peoples

*Principle IX:* Cooperation among States

*Principle X:* Fulfillment in good faith of obligations under international law

#### DECISION-MAKING BODIES OF THE OSCE PARTICIPATING STATES

##### **Summits of Heads of State or Government**

Heads meet every two years in rotating cities; their preparatory meetings, which may not exceed three months, are called “Review Conferences” and replace “Follow-up Meetings.”

##### **Chair-in-Office (CiO)**

Every year the Foreign Minister of one OSCE country assumes the position of the OSCE’s Chair-in-Office, effectively acting as the organization’s political agent. Participating States volunteer for this responsibility and must provide significant staffing and resources to perform effectively. Currently the CiO is Niels Helveg Petersen of Denmark. The previous, current, and next-in-line Chairs are collectively known as the “Troika” (currently Switzerland, Denmark, and Poland).

##### **Ministerial Council**

Foreign Ministers meet every year, usually in the capital of the country about to assume the responsibility of Chair-in-Office.

##### **Senior Council (formerly the *Committee of Senior Officials*)**

The Senior Council usually meets twice a year in Prague and increasingly concentrates on high-level long-term issues (e.g., European security structures). It also holds rare emergency sessions.

##### **Permanent Council (PC, formerly the *Permanent Committee*)**

The Permanent Council meets weekly in Vienna, the site of regular OSCE military-security negotiations (the Forum on Security Cooperation); it has become the main OSCE decision-making body in all fields.

##### **Joint Consultative Group (JCG)**

Like the Permanent Council, the JCG meets weekly in Vienna; it is tasked with promoting implementation of the 1992 Treaty on Conventional Armed Forces in Europe.

#### OSCE INSTITUTIONAL STRUCTURES

##### **OSCE Secretariat**

based in Vienna with a small office in Prague; provides administrative support for most OSCE activities, including the weekly meetings of the Permanent Council; currently headed by Secretary General Giancarlo Aragona, from Italy

##### **High Commissioner for National Minorities (HCNM)**

based in the Hague with small staff; is *not* tasked to be an enforcer of minority rights but is supposed to find common ground between differing ethnic groups and to facilitate a resolution of their differences; current HCNM is Dutch former Foreign Minister Max van der Stoep

##### **Conflict Prevention Center (CPC)**

based in Vienna within the Secretariat; provides operational support for OSCE missions; maintains the OSCE military security data base and communications network; currently headed by Director Jan Kubis, from Slovakia

##### **Office for Democratic Institutions and Human Rights (ODIHR, formerly the Office for Free Elections)**

based in Warsaw; hosts OSCE seminars for representatives of the participating States; organizes Moscow mechanism missions; organizes Program of Coordinated Support for newly independent states and emerging democracies; currently headed by Director Gerard Stoudmann, from Switzerland

## **OSCE Liaison Office**

opened in Tashkent, Uzbekistan, in July 1995 with one year mandate to facilitate OSCE activities in the region and the integration of Central Asian states; mandate has been extended one year at a time

### **PARLIAMENTARY ASSEMBLY**

The Parliamentary Assembly is an independent body from the inter-governmental OSCE. It includes legislators from all OSCE participating States. The Assembly meets annually in different cities and has a permanent Secretariat based in Copenhagen. The current Secretary General is an American, R. Spencer Oliver.

### **OTHER OSCE MEETINGS**

*(Not empowered to adopt decisions)*

#### **Human Dimension meetings organized by the ODIHR in Warsaw**

- Implementation Review Meetings (held every year in which there is not a Review Conference; these meetings of all participating States consider implementation of all human dimension commitments)
- thematic meetings for all participating States (e.g., national minorities)
- meetings organized under the Program of Coordinated Assistance (held in a newly admitted state or emerging democracy that has requested the assistance)
- specialized regional human dimension seminars

#### **Economic Forum**

- organized by the Secretariat in Prague and usually held in Prague
- seminars may also be convened on a special theme (e.g., business and the environment, held in Tallinn)

#### **Meetings organized by or staffed out of the Conflict Prevention Center in Vienna**

- Forum for Security Cooperation (FSC)
  - oversees the Treaty on Conventional Armed Forces in Europe (CFE) and confidence-and security-building measures (CSBMs) agreements of the OSCE
  - negotiates new CSBMs and arms agreements
- seminars or expert meetings (e.g., on conversion of military production industries)

### **OTHER OSCE TERMS**

#### **Peaceful Settlements of Disputes**

- Valletta Mechanism** (adopted in February 1991; has not been used): Enables disputing parties to seek the creation of a special panel of people who are collectively if awkwardly called “the mechanism.” These people are selected by common agreement of the disputants from a register of qualified candidates. Their task is *not* to resolve the dispute, but to facilitate the resolution of a dispute peacefully by the parties themselves. The mechanism is restricted to disputes involving not more than two parties, both of whom must be OSCE participating States. The procedure is perceived as seriously flawed by some because it is potentially time consuming, does not provide for interim measures, does not result in binding decisions, and has an expansive exceptions clause.
- Directed Conciliation** (adopted in December 1992; has not been used): The OSCE Senior Council or Ministerial Council may direct two disputants to a conciliation procedure.
- Convention on Arbitration and Conciliation** (opened for signature in Dec. 1992, entered into force December 5, 1994; has not been used): sold by French drafters as the tool to end Europe’s minority problems; includes the Valletta exceptions clause and is limited to inter-state problems.
- Pact on Stability in Europe (also known as the Balladur Plan)** (adopted in March 1995): also a French brainchild, also touted as the answer to Europe’s minority problems; a framework designed to bring together EU aspirants with inter-state minority issues and pressure them to resolve their differences as an implicit prerequisite to EU membership; mandates oversight of bilateral minority

agreements to the OSCE.

### **Consensus-Minus-One**

Permits the adoption of limited political decisions without the consensus of one country; adopted at the meeting of the Council of Ministers in Prague, January 1992, under the heading “Safeguarding human rights, democracy and the rule of law”:

16. The Council decided, in order to develop further the CSCE’s capability to safeguard human rights, democracy and the rule of law through peaceful means, that appropriate action may be taken by the Council or the Committee of Senior Officials, if necessary in the absence of the consent of the State concerned, in cases of clear, gross and uncorrected violations of relevant CSCE commitments. Such actions would consist of political declarations or other political steps to apply outside the territory of the State concerned. This decision is without prejudice to existing CSCE mechanisms. [Emphasis added.]

Reflecting the extraordinary nature of this decision-making tool, it has only been used once, in 1992, to suspend Yugoslavia from participating in OSCE decision-making.

### **Emergency Meeting Mechanism**

In June 1991, the Council of Ministers met in Berlin and agreed that a participating State may request a clarification regarding an emergency situation that has developed and is of concern; the State in question is obligated to respond. If the situation remains unresolved, a request may be made to the Chair of the Senior Council, requesting a two-day emergency session of the Council. If 12 or more OSCE States second the request, the Chair will notify the participating States and a meeting will be held no earlier than 48 hours or later than three days from that time. The mechanism was invoked by Austria and Hungary (separately) in connection with an early phase of the war in Yugoslavia. The subsequent creation of a Permanent Committee/Council in Vienna and increasing centralization of work there undercuts much of the original impetus for establishing this tool.

### **Unusual Military Activities (UMA) Mechanism**

In Vienna in 1990, the participating States agreed that any state with a “security concern” about another state’s activities may address a request for clarification to that state and the requested state must reply within 48 hours. If the requesting state is not satisfied, it may call a meeting of the participating States at the Conflict Prevention Center to discuss its concerns. It was used during the early phase of the Yugoslavia war.

### **Human Dimension Mechanism, sometimes called the Moscow Mechanism**

- The original mechanism (established by the 1989 Vienna Concluding Document) provided for states to raise cases and situations with each other and to bring them to the attention of all participating States.
- As expanded in Moscow in 1991, a state may request a panel to be formed from a list of experts nominated by participating States to serve as a good-offices mission by investigating the human dimension problem of concern and to take actions it deems desirable to further dialogue and a resolution of the problem. If the panel is not successful, or if a state refuses to invite a panel onto its territory after it was requested to do so by another state, a state may be required to receive a rapporteur mission if six participating States support its creation for fact finding, and, in extraordinary cases, to do so immediately if 10 participating States agree. The Moscow Mechanism has been invoked regarding Croatia and Bosnia-Herzegovina, and was self-invoked by Estonia and Moldova.

### **Ad Hoc Missions**

- Sanctions Assistance Missions (SAMs); help enforce the sanctions against the former Yugoslavia; operated jointly by the OSCE and EU

- Missions of Long- or Short-Duration (currently in Bosnia-Herzegovina, Croatia, Estonia, Georgia, Latvia, Macedonia, Moldova, Tajikistan and Ukraine)
- Other kinds of ad hoc missions may be dispatched by the CiO

### **OSCE Participating States**

Albania Observer as of 6/90; fully participating State since 6/91  
 Andorra fully participating State since 4/96  
 Armenia fully participating State since 1/92  
 Austria original participating State  
 Azerbaijan fully participating State since 1/92  
 Belarus fully participating State since 1/92  
 Belgium original participating State  
 Bosnia-Herzegovina fully participating State since 4/92  
 Bulgaria original participating State  
 Canada original participating State  
 Croatia Observer as of 1/92; fully participating State since 3/92  
 Cyprus original participating State  
 Czech Republic as Czechoslovakia, original participating State; fully participating State as the Czech Republic since 1/93  
 Denmark original participating State  
 Estonia fully participating State since 9/91  
 Finland original participating State  
 France original participating State  
 Georgia fully participating State since 3/92  
 Germany originally participated as Federal Republic of Germany and the German Democratic Republic  
 Greece original participating State  
 The Holy See original participating State  
 Hungary original participating State  
 Iceland original participating State  
 Ireland original participating State  
 Italy original participating State  
 Kazakhstan fully participating State since 1/92  
 Kyrgyzstan fully participating State since 1/92  
 Latvia fully participating State since 9/91  
 Liechtenstein original participating State  
 Lithuania fully participating State since 9/91  
 Luxembourg original participating State  
 Malta original participating State  
 Macedonia observer as of 4/93; fully participating State as of 10/95  
 Moldova fully participating State since 1/92  
 Monaco original participating State  
 Netherlands original participating State  
 Norway original participating State  
 Poland original participating State  
 Portugal original participating State

Romania original participating State  
Russia succeeded Soviet Union (original participating State) as fully participating State, 1/92  
San Marino original participating State  
Slovak Republics Czechoslovakia, original participating State; as Slovak Republic, fully participating State since 1/93  
Slovenia Observer as of 1/92; fully participating State since 3/92  
Spain original participating State  
Sweden original participating State  
Switzerland original participating State  
Tajikistan fully participating State since 1/92  
Turkey original participating State  
Turkmenistan fully participating State since 1/92  
Ukraine fully participating State since 1/92  
United Kingdom original participating State  
United States original participating State  
Uzbekistan fully participating State since 1/92  
Yugoslavia original participating State; membership suspended as of 7/92

**Partners for Cooperation (formerly Observers)**

Japan

South Korea

**Mediterranean Partners for Cooperation  
(formerly Non-participating Mediterranean States)**

Algeria

Egypt

Israel

Lebanon

Libya

Morocco

Syria

Tunisia

<sup>1</sup>In years in which there is no full-scale review conference such as this, a review of human dimension implementation is

held in Warsaw, Poland.

<sup>2</sup>This meeting was preceded by a preparatory conference in Vienna, where most OSCE participating States already had delegations in place for on going military-security negotiations (Confidence- and Security-Building Measures and Conventional Armed Forces in Europe). The preparatory meeting met periodically on the margins of the military-security talks over a five-month period to prepare the summit declaration.

<sup>3</sup>The mandate for this meeting was set forth in the 1989 Vienna Concluding Document.

<sup>4</sup>Since the Helsinki Summit, this number has grown to 55, with the addition of the Czech and Slovak Republics as separate states after the dissolution of the Czechoslovak Federal Republic on January 1, 1993, and the addition of the Former Yugoslav Republic of Macedonia in October 1995 and Andorra in April 1996.

<sup>5</sup>Former Dutch Foreign Minister Max van der Stoep was appointed to this post in December 1993, and continues to serve in this capacity.

<sup>6</sup>Helsinki Decisions, chapter I, paras. 4 and 5. For a more detailed assessment of this meeting, see THE HELSINKI FOLLOW-UP MEETING OF THE CONFERENCE ON SECURITY AND CO-OPERATION IN EUROPE, a 1992 report prepared by the staff of the Commission on Security and Cooperation in Europe.

<sup>7</sup>This body was established by the 1990 Charter of Paris for a New Europe. Tasked with preparing meetings of the annual meeting of the Council of Ministers, it was also empowered to convene in emergency sessions and to review current issues.

<sup>8</sup>The Forum for Security Cooperation (FSC) oversees the Treaty on Conventional Forces in Europe (CFE) and confidence-and security-building measures (CSBMs) agreements of the OSCE, negotiates new CSBMs and arms agreements, and convenes seminars or expert meetings. It was established in 1992.

<sup>9</sup>Para. 3, 1994 Budapest Summit Declaration. Other name changes included transforming the Permanent *Committee* into the Permanent *Council*, while the *Committee on Senior Officials* morphed into the *Council of Senior Officials*. Paras. 18 and 17 respectively, 1994 Budapest summit Declaration.

<sup>10</sup>Elaine Sciolino, "Why Russia Still Bangs Its Shoe," *The New York Times*, December 11, 1994.

<sup>11</sup>The ink was barely dry on the CFE treaty in 1990 when historic changes among the original drafters—particularly the dissolution of the Soviet Union and the termination of the Warsaw Pact—made the treaty as first designed somewhat obsolete. The new changes permit, i.a., Russia to keep larger numbers of tanks and artillery in its western "flank zones."

<sup>12</sup>There is some confusion about the actual title of the meeting as reflected by official OSCE materials circulated in Vienna. As noted above, a decision was taken at the 1992 Helsinki Follow-up Meeting to rename such meetings "Review Conferences" (versus "Follow-up Meetings"); the Budapest Review Conference accordingly bore such a title. Either this decision was so unimportant that no one remembered it or the rotation of diplomats is such that institutional memory of the decision was lost; it also suggests that too many of the diplomats drafting OSCE documents today are unfamiliar with the ones that have already been agreed. In any case, the Budapest Decisions (Chapter I, para. 25) states, "The review meeting before each Summit will be held in Vienna." This lower case reference was cited by the Vienna-based OSCE Secretariat as the reason the documents it circulated in Vienna were titled "Review Meeting." Materials circulated in Vienna by the Warsaw-based OSCE Office for Democratic Institutions and Human Rights (whose Director had participated in the Helsinki Follow-up Meeting as part of the British delegation) retained—correctly, in the view of the U.S. Delegation—the appellation "Review Conference."

<sup>13</sup>According to the final list of participants, the following countries did not even have their permanent delegations in Vienna accredited to the Review Conference: Andorra; Estonia; Luxembourg; Tajikistan; Turkmenistan, Ukraine, and Uzbekistan.

<sup>14</sup>The Stability Pact was a French initiative that sought to link admission into the European Union with stable inter-ethnic relations (as evidenced by the successful negotiation of bilateral treaties). When adopted in March 1995, signatories entrusted oversight of this Pact and its subsidiary bilateral treaties to the OSCE.

<sup>15</sup>The OSCE Court on Arbitration and Conciliation was the brainchild of former French Justice Minister Robert Badinter who has, not coincidentally, become the Court's first President. This badly drafted treaty, billed as the vehicle to end Europe's minority problems, entered into force in November 1994. The United States has not ratified the treaty and there is no support for eventual ratification. The Court has never been used.

<sup>16</sup>During the 1990 negotiations on the institutionalization of the OSCE, Liechtenstein declined to give consensus to the placement of an OSCE Secretariat in Prague until the Czechs agreed to hold discussions on the matter of compensation. After the Czechs gave their word—and Liechtenstein gave consensus for the Prague office—the Czechs failed to uphold

their end of the bargain.

<sup>17</sup>The point of the delegate from Liechtenstein was that this law was carefully drafted to avoid making compensation to Sudeten Germans, ethnic Hungarians, and, as it turns out, Liechtenstein citizens whose property was taken between 1945 and 1948 as a form of ethnically-based collective punishment for alleged collaboration with the Nazis.

<sup>18</sup>The 1992 Helsinki Follow-up Meeting was blessed by an embarrassment of riches: 26 formal, written, numbered proposals were submitted in the human dimension alone and a total of 63 proposals were introduced overall. By the Budapest meeting, participating States were coming to grips with the reality that standard-setting in the OSCE had, at least for the time being, exhausted its momentum.

<sup>19</sup>Symbolizing this coordination, since the 1990 Vienna preparatory conference for the Paris summit, the country holding the presidency of the EU has sat behind a nameplate reading “[name of the country]/European Union,” rather than a nameplate merely indicating the name of the country. Such seemingly minor technical matters often hold a high significance in the Helsinki process. The 1973 rules of procedure that still govern the OSCE, for example, specify that “[a]ll States participating in the Conference shall do so as sovereign and independent states and in conditions of full equality. The Conference shall take place outside military alliances.” Para. 65, FINAL RECOMMENDATIONS OF THE HELSINKI CONSULTATIONS (1973).

<sup>20</sup>EU countries that had been criticized by name, such as Germany and Greece, still used their rights of reply to respond to the criticism.

<sup>21</sup>The EU member states are: Belgium, Germany, France, Italy, Luxembourg, and the Netherlands (as of 1952); Denmark, Ireland, and the United Kingdom (as of 1973); Portugal and Spain (as of 1986); Austria, Finland, and Greece (as of 1991); and Sweden (as of 1995).

<sup>22</sup>Bulgaria, Cyprus, the Czech Republic, Estonia, Hungary, Latvia, Lithuania, Malta, Poland, Romania, Slovakia, and Slovenia.

<sup>23</sup>It is the view of the United States, and of the Commission, that the heart of effective implementation review remains frank interventions by the participating States and the open discussion that follows such interventions.

<sup>24</sup>This was, in fact, the disastrous experience of the 1991 Oslo Seminar on Human Rights and Democratization.

<sup>25</sup>Up to and at the Budapest Review Conference, “proposals” were ideas that were formally tabled, translated into all six official OSCE languages, and numbered by the Secretariat. The practice of introducing formal proposals appears to have been abandoned at the Vienna Review Conference, in lieu of the circulation of informal non-papers, drafts by the Chair, and other similar vehicles.

<sup>26</sup>Not represented, according to materials from the Secretariat, were the Holy See, the Slovak Republic, and Slovenia. The Federal Republic of Yugoslavia is suspended, and no representatives from Belgrade were present. Countries not represented by their Head of State or Government were Kyrgyzstan (represented by its State Secretary); San Marino (represented by two Captain Regents); Turkmenistan (represented by its Minister of Foreign Affairs); and the United States (represented by Vice President Gore).

<sup>27</sup>The International Commission of the Red Cross is included in this category for purposes of participating in the OSCE.

<sup>28</sup>The view was most strongly suggested by a Russian “food-for-thought” paper, circulated prior to the Budapest Review Conference.

<sup>29</sup>The Minsk Group, consisting of Armenia, Azerbaijan, Belarus, France, Germany, Italy, Russia, the Slovak Republic, Sweden, Turkey, the United States, and the country of the OSCE Chair-in-Office has sought to mediate the Nagorno-Karabakh dispute (known in OSCE vernacular as “the Conflict in the Area Dealt with by the Minsk Group”) since 1992. The group was intended to convene a conference on the conflict in Minsk, which proved impossible for a variety of reasons. Nevertheless, the “Minsk” name stuck.

<sup>30</sup>The Lisbon Summit document did not state when the next summit would be held, although it was explicitly mandated to do so by the Budapest Decisions. Para. 15, Chapter I, 1994 Budapest Decisions. It remains an open question whether the next ministerial meeting can decide this issue.

<sup>31</sup>Smoking was also permitted in the meeting hall, although no smoking was permitted in the main meeting halls in Budapest or in the main meeting hall used in Warsaw for the human dimension implementation meetings there.

<sup>32</sup>These meetings included, for example, the Working Group on Sensors; the Informal Financial group; meetings of the Troika (preceding, current, and succeeding representatives of the Chair-in-Office); Sub-Working Group of the Joint Consultative Group, Informal Consultations of the Friends of the ODIHR; the Working Group on Kosovo, Sanjak and Vojvodina; Review Meeting Drafting Groups; etc. In addition, on the margins of these meetings, a host of other

coordination meetings were held among like-minded countries (or countries at least supposedly sharing common interests), such as the member states of the EU or the Central European Initiative.

<sup>33</sup>Almost every single person sent by France to the Review Conference, for example, was from the Department for Security and Disarmament. This staffing choice does not reflect an interest in or commitment to holding a full and frank review in all areas.

<sup>34</sup>The Lisbon Document 1996 contains two subsections, both of which might be called the Lisbon Declaration for short: “the Lisbon Summit Declaration” and the “Lisbon Declaration on a Common and Comprehensive Security Model for the Twenty-First Century.”

<sup>35</sup>Early on, three candidates were formally named: a Slovak, a Pole, and a Hungarian. At a reasonably advanced point in the negotiations, the Slovak delegation in Vienna signaled that they would not give consensus to a Hungarian candidate in light of the Slovak candidacy. Moreover, despite sometimes strained relations with Hungary during this period, Slovakia had already given consensus for a major OSCE summit in Budapest and had accepted the year-long tenure of Hungary as Chair-in-Office. Accordingly, Slovak representatives indicated they were disinclined at that juncture to support Hungary’s bid for another high-profile role in the OSCE. Absent active diplomacy, a consensus could not be expected to emerge around one of the three publicized candidacies. When consensus failed to emerge, Italian Ambassador Giancarlo Aragona was chosen as the compromise candidate.

<sup>36</sup>For example, the Romanian Government, acting under the leadership of Nicolae Ceausescu, made various proposals during the 1986-89 Vienna Follow-up Meeting purporting to advance economic and social rights. In light of the brutal denial of these rights by the Ceausescu regime, these proposals did not pass the laugh test.

<sup>37</sup>There are, however, significant differences between the High Commissioner on National Minorities and the proposed special representative. In particular, the former is a tool of conflict prevention and management, not a human rights advocate and he works, as a rule, under conditions of confidentiality that most people in the human rights advocacy community would find objectionable.

<sup>38</sup>This conclusion is based not only on the OSCE’s relatively limited experience with this practice, but the fuller experiences at the United Nations. In this connection, it is important to note that OSCE operates under a consensus rule—a fact that might encourage self-censorship by OSCE officers concerned about securing consensus for their budgets.

<sup>39</sup>In a public briefing in Washington in 1996, then-ODIHR Director Audrey Glover emphasized the necessarily “cooperative” approach of the ODIHR.

<sup>40</sup>*See* SUMMARY OF THE OSCE RULE OF LAW SEMINAR, a report prepared by the staff of the Commission on Security and Cooperation in Europe, January 1996.

<sup>41</sup>In particular, it was unclear whether the Swiss were seeking to increase the role of women in conflict situations because they believe women are especially qualified to play such a role as the “fairer,” genteel sex; or whether they were seeking to increase the role of women in conflict situations because they believe women are no more genteel than men, but have been discriminated against in their efforts to address conflict situations; or because they believe women are often singled out for victimization in conflict situations (as was the case with gang rape and forced impregnation during the Bosnian war); or because they believe that women and children have a special protected status in conflict situations (and related situations, such as within refugee communities).

<sup>42</sup>So-called even though it is not truly an OSCE body, in the sense that it is not universally applicable to all OSCE countries, only those that have ratified the relevant convention, and even though it is not really a “court” but rather a procedure for selecting arbitrators. *See* UPDATE ON PEACEFUL SETTLEMENTS OF DISPUTES ON THE CSCE PROCESS, a report by the staff of the Commission on Security and Cooperation in Europe (March 1993).

<sup>43</sup>For a look at the expanded mandate of the Committee of Senior Officials, see the Prague Document on Further Development of CSCE Institutions and Structures, adopted at the 1992 Prague Ministerial meeting.

<sup>44</sup>The Swiss Chair-in-Office reportedly conducted some kind of study of the Prague office, but it has not been made public.

<sup>45</sup> Recommendation 69, Final Recommendations of the Helsinki Consultations (1973).

<sup>46</sup>A procedure permitting the adoption of “interpretative statements or reservations” is quite distinct from and should not be confused with the concept of “reservations” to treaties under international law.

<sup>47</sup>In the Ottawa Declaration of the OSCE Parliamentary Assembly, this is referred to as “approximate consensus.” *See* Chapter I, para. 21 (July 8, 1995).

<sup>48</sup>The UMA permits any state with a “security concern” about another state’s activities to request a clarification from that state and the requested state (as such states are called) must reply within 48 hours. If the requesting state is not satisfied, it may call a meeting of the participating States at the Conflict Prevention Center to discuss its concerns.

<sup>49</sup>According to this agreement, a participating State may request a clarification regarding an emergency situation that has developed and is of concern; the State in question is obligated to respond. If the situation remains unresolved, a request may be made to the Chair of the Committee of Senior Officials (now Senior Council), requesting a two-day emergency session of the Committee. If 12 or more OSCE States second the request, the Chair will notify the participating States and a meeting will be held no earlier than 48 hours or later than three days from that time.

<sup>50</sup>The OSCE website is: <<http://www.osceprag.cz/>>.