THE OSCE IN THE MAINTENANCE
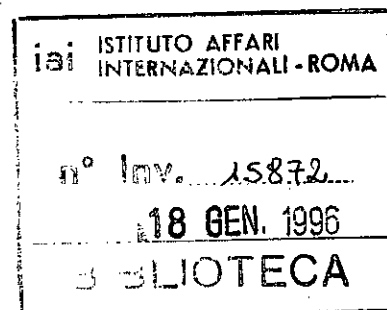# OF INTERNATIONAL PEACE AND SECURITY
Åbo Academy University. Department of Law
Turku, 16-18/VII/1995

TURKU WORKSHOP

THE OSCE IN THE MAINTENANCE OF INTERNATIONAL PEACE AND SECURITY

PROGRAMME

Venue - *Department of Law, Åbo Akademi University, Gezeliusgatan 2, Turku*

tel. 2654411/2654325

SATURDAY 15 July   Arrival of participants - *Hotel Arctia Marina Palace*

Linnankatu 32, tel. 336 300

SUNDAY 16 July   Arrival of participants - *Hotel Arctia Marina Palace*

11.00   Departure by boat for Nagu - *Guest harbour of the Aura River*

13.00   Lunch - *Restaurant L'Escale, Nagu*

16.00   Departure for the town of Naantali

18.00   Visit to Naantali

21.00   Departure for Turku

22.00   Arrival in Turku

MONDAY 17 July

10.00   Opening of the Workshop

10.15   Presentation of the Research Project

-Professor Michael Bothe, Faculty of Law, University of Frankfurt

Discussion

11.15   The OSCE: institutional and functional developments

-Kari Möttölä, Counsellor, Finnish Ministry for Foreign Affairs

13.00   Lunch - *Restaurant Teini, Uudenmaankatu 1, tel. 2330203*

15.00   The concept of "early warning" in the OSCE

             -Rauno Viemerö, Ambassador of Finland to the OSCE

16.00   OSCE Long-term Missions, with especial emphasis on Estonia

             -Allan Rosas, Armfelt Professor of Law, Åbo Akademi University

17.00   The HCNM: development of the mandate

             -María Amor Martín Estébanez, researcher, Åbo Akademi University

18.00   The conflict prevention and management role of the human dimension

             mechanism

             -Merja Pentikainen, researcher, University of Helsinki

20.00   Dinner - *Hotel Arctia Julia, Eerikink. 4, tel. 336311*

TUESDAY 18 July

10.00   Subject Area B: Military Mechanisms, in particular OSCE Peace-
             Keeping

             -The United Nations and the Regional Organisations (the role of
             regional organisations in conducting peace-keeping operations)
             -Peace-keeping in the OSCE (history of peace-keeping, interpretation
             of the relevant documents; attempts to create new peace-keeping
             structures)

-"Third Party" peace-keeping (authorisation by the OSCE to a member State to conduct peace-keeping operations or an OSCE peace-keeping operation in which armed forces of a member State are preponderant)

-Relations between OSCE-EU/WEU-NATO with regard to peace-keeping operations

-Division of labour between the UNO and the OSCE in connection with peace-keeping operations

-Financing OSCE peace-keeping operations

-The Mediterranean Dimension of the OSCE: Conflict Prevention and Management

11.00   Subject Area C: Formalized Peaceful Dispute Settlement Procedures

-Dispute settlement procedures in the OSCE - overview and genesis

-The concepts of various dispute settlement procedures - general international law and OSCE practice

-The role of arbitration in international dispute settlement and the OSCE procedures

-The role of conciliation and similar procedures in international dispute settlement and the OSCE procedures

-Case studies on the use and non-use of OSCE procedures (possibly Nagorno-Karabakh and the European-Canadian Fisheries Dispute)

-The OSCE Court

-Dispute settlement procedures and crisis management

12.00   OSCE Conflict prevention and management regimes: a general assesment

Lunch - *Restaurant Calamari, Arctia Hotel Marina Palace*
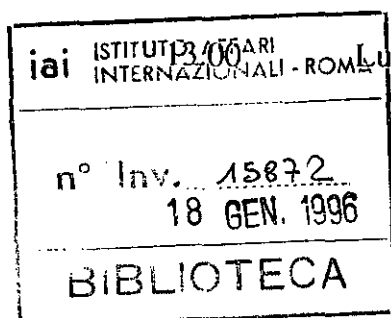
THE OSCE IN THE MAINTENANCE OF INTERNATIONAL PEACE AND SECURITY

Seminar in Turku/Åbo, 16 - 18 July 1995

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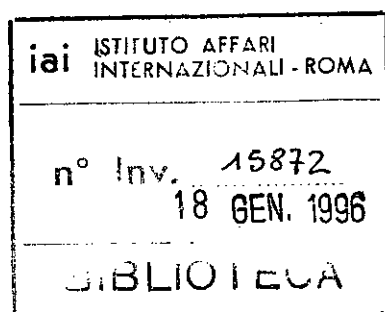
Draft

Paper prepared for the Turku Workshop on
"The OSCE in the maintenance of international peace and
security"
Turku, 16-18 July 1995

THE OSCE: INSTITUTIONAL AND FUNCTIONAL DEVELOPMENTS

THE OSCE: INSTITUTIONAL AND FUNCTIONAL DEVELOPMENTS

Kari Möttölä

MFA, Helsinki

Introduction: an OSCE security model

In the Budapest Document 1994, the participating States of the Organization for Security and Co-operation in Europe (OSCE) agreed to start "a discussion of a model based on the CSCE principles and [...] documents for a common and comprehensive security for the twenty-first century." A progress report of this "broad and comprehensive discussion on all aspects of security [...] aimed at devising a concept of security" is to be presented to the Ministerial Council in late 1995 and results "available at that time" to the Summit Meeting in 1996.

The model discussion within the OSCE is another phase in the process towards a sustainable and workable security order for the post-cold war Europe facing new risks and challenges. Since the euphoria and sweeping proposals of the immediate post-Wall period, the mainstream of this search has followed a gradualist and organic approach, stressing the integrity of the common normative basis and adapting existing institutions into new functions.

The exchange of views among the 52 OSCE participants will be devoted to determining, developing and asserting further the role of their joint institution in producing security, but it will have to be broader in scope.

Conceptual visions will be introduced, and political programmes of action will be launched, regarding the institutional and functional aspects of the European security order as a whole. The study will cover both the internal and external milieus of the OSCE.

The OSCE, as a community of values and as a security-policy organization, is performing both normative and operative tasks in European security.

The OSCE has an unquestioned position in codifying and setting norms of intra-state and inter-state behaviour for its participants, with the United Nations and the Council of Europe as other main norm-setters.

Together with the OSCE, several other institutions and organizations are involved in the verification of compliance with those common norms by state actors, and in concerted actions aiming at their implementation and enforcement. Practically all of these institutions, notably the European Union, the WEU and NATO, are survivors from the cold war adapting to the new circumstances and enlarging their spheres of contact and influence.

The multi-institutional order based on mutual reinforcement and complementarity has to fullfil a variety of functions in order to meet post-cold war challenges to security in Europe. Those functions can be set in three broad categories: (1) promotion of transition and stability; (2) conflict management; and (3) maintenance of military-strategic stability.

The wide field of security-policy action reflects the broad concept of security that has emerged in the post-cold war political and intellectual milieu. Security is not only determined by political and military factors

but it has also social, economic and ecological aspects. Accordingly, assessment of security concerns, risks and threats is likewise an exercise with a broad agenda.

In addition to its all-encompassing membership, one of the unique characteristics of the OSCE is the broad scope of its agenda and activity, covering all the aspects of comprehensive security. The OSCE has a broad normative basis combined with a narrow or "soft" operative capability in practice. Enhancing that capability is not only an internal institutional matter for the OSCE, it involves also its relationship with other international institutions in the totality of the security order. Furthermore, it depends on the motivations and interests as well as contributions of states and their common institutions in developing the institutional and functional aspects of the OSCE.

The present and future role of the OSCE in the international security order is determined by its political and legal competence as an international institution, by its capability for concerted action dependent on its decision-making efficiency, institutional structure and material resources, and by its authority derived from the will of actors to use its services in attaining security goals and in meeting security challenges.

1. Institutionalist and realist theories of international security relations

The end of the cold war, the dissolution of the East-West divide and the post-cold war transformation toward unification of Europe have revived institutionalism as an international relations theory, in parallel and in

competition with the traditional realist theory.
(Goldmann, 1994; Möttölä, 1995a; Powell, 1994)

Institutionalism (neoliberal institutionalism, liberal
internationalism), as a political programme, promises
to make international relations less conflictual or
war-prone through international institution-building
and inter-state cooperation. It is a promise of change
in international relations in contrast with the
immutability stressed by realism.

Institutionalist thinking recognizes inter-state
anarchy - the lack of a central government with
distributive and coercive powers - as a central factor
in the international system. But institutionalism
relativizes the explanatory power of anarchy in shaping
motives and actions of states and the implications of
anarchy regarding the possibility of international
institutions and cooperation to have a significant
impact on international relations.

One need not choose between a world government and a
hierarchy in order to overcome or transcend the
problems inherent in the propensity of states under
anarchy to rely on self-help or reach for relative
gains at the expense of others or fear cheating by
others. "Governance without government" (Rosenau and
Czempiel, 1992) is the answer dominating the post-cold
war scene in theory and policy, "a half-way house"
between anarchy and hierarchy (Holsti, 1992, 55-56;
Deudney, 1995). Regimes, in particular, represent such
"non-hierarchical, voluntary, international collective
self-regulation and self-organization of states" (Mayer
et al., 1993, 398, 402).

Order and security in anarchy need not be based on
structure, relative power and security competition

among the actors; there can be an orderly and peaceful
as well as well-functioning system of independent
states based on cooperation and common institutions.
The burden of proof with internationalism is how "law,
organization, exchange, and communication may be
expected to protect international peace and security"
(Goldmann, 1994, 16).

Developments have given certain credence to the
political applications of institutionalism as a
programme for peace, security and stability. Norms and
institutions are seen as significant factors in
mitigating security dilemmas and creating confidence
among states in cooperation as a security strategy.

There are, however, strong counter-arguments to the
claims of theories relying on institutions (liberal
institutionalism, collective security, critical
theory). There are doubts about their distinctive
character from realism, their causal logic and the
empirical record pertaining to the role and impact of
international institutions in shaping state behaviour.

According to realists, cooperation is constrained and
inhibited by the role of the power structure in
motivating states' security policies, the logic of
security competition among states, their effort to
maximize their relative power positions and their
concern about security and survival caused by uncertain
intentions and offensive capabilities of others. Under
such conditions, institutions merely mirror the
distribution of power in the system, and common rules
agreed by states reflect their calculations of self-
interest based primarily on the international
distribution of power. (Mearsheimer, 1994/95; on the
other hand, Glaser, 1994/95)

Although the OSCE can be seen as an embodiment of
institutionalist thinking, in particular in the post-
cold war environment, it has never been nor will it be
isolated from the effects of power politics. The role
of the OSCE has to be analyzed in realist terms as
well.

The OSCE is an institution created by its participants
and, in most phases of its development, dominated by
great powers and alliances. Many of its key features,
such as the consensus rules in decision-making, limited
institutional resources and non-hierarchical relations
with other institutions demonstrate that the OSCE
remains in the hands of its members.

At the same time, the OSCE represents institutionalist
thinking, an idea of producing security for members
through an institution that becomes stronger and more
effective over time. In an earlier study (Möttölä,
1993), the CSCE was seen as representing the
rationalist or Groatian idea within Wight's three
philosophical schools of international relations
(Wight, 1991; Yost 1994), although realist or
revolutionary elements could not be excluded completely
due to the uncertainties of post-cold war
transformation. The OSCE cannot be placed in either end
of the realist-utopian or realist-idealist continuum
(Yost, 1994, 278-279); it represents a third, in-
between image. Consistent albeit limited steps
(analyzed below) have been made in consolidating its
legitimacy, strengthening its capability and enchancing
its prestige, opening the way for an accumulating
institutionalist effect.

The OSCE study of a security model will have to cope
with political and power-political developments. Its
results will be influenced by the rearrangement of

power relations in post-cold war Europe among the great powers and international institutions.

The question of the enlargement of NATO is the prime reminder of the presence of great-power politics in the development of the European security order. The enlargement of the European Union will affect the structure of the order in a fundamental manner, even though its political implications differ from those of NATO enlargement. Both of these enlargement policies have to be consistent with EU and NATO policies and goals regarding the position of Russia in Europe and great-power relations.

As a military alliance, NATO represents balance of power thinking as a security strategy. In the post-cold war period, NATO has enlarged its role beyond the core military function of collectice defence by establishing outreach programmes and adjusting its security strategies. It is becoming an instrument serving UN collective security and OSCE cooperative security operations and promoting stability out-of-area.

The EU represents integration as a security strategy. Political and economic integration involves transfer of sovereigny and use of shared sovereignty by independent states for promoting their security in the broad sense. As a process, integration leads to accumulation of economic and political power in a new centre; it can lead to deepening integration with concentric circles. The EU is becoming an increasingly important factor in the multi-institutional security order and also a driving force in the OSCE. (Dansk og..., 1995, 51-63)

The OSCE security study will, furthermore, reflect the national and regional diversity of security assessments regarding what the OSCE should do and what it cannot or

even should not try to do. The policies of states
striving for NATO membership is a case in point.

2. Complexity of the European security order

The mix of institutionalist and realist characteristics
in the European security order provides the framework
for the analysis of the OSCE role. The complexity of
European security is reflected in the conflict scene,
in institutional developments, in the policies of power
and interest, and in the variety of security
strategies. As an all-encompassing institution, the
OSCE is affected in its decision-making and concerted
action by the these complexities.

In terms of conflict formation, the OSCE space is
divided into a zone of democracy and stability (EU-
NATO) projecting stability eastward, a zone of
transition or instability with conflict risks (Central-
Eastern Europe-CIS) and a zone of conflict (former
Yugoslavia, parts of former Soviet Union). (Dansk
og..., 1995, 72)

Causes for conflict are multiple; they can be
structural, having to do with such factors as power,
sovereignty, territory, national interest, and they can
be functional, having to do with uncertainties,
difficulties and instabilities connected with social,
political and economic transformation, integration, and
transnationalism. Structural and functional processes
are both part of the change underway in the security
order which involves simultaneously a rearrangement of
power relations and a peaceful systemic change.

A list of root causes or background factors behind the
new kind of intra-state, intra-federal, and inter-state

conflicts is long: implementation of national self-determination; status of national minorities, determination of the society-state relationship, identity and ethnicity, formation of new states.

In terms of power politics, Europe is dominated by three main actors, the United States, the EU and Russia. Today, this triangle is characterized by cooperation and partnership in all its sides, even though instability in Russia brings uncertainty into its functioning. In the long term, various combinations of competition and rivalry in the triangle can be envisaged in future scenarios. The EU is a centre projecting stability through integration but its disintegration could also be a possibility leading to a traditonal system of European power politics. (Dansk og..., 1995, 75)

In terms of inter-institutional relations, the basic solution registered in the Helsinki CSCE Document 1992 recognizes "mutually reinforcing institutions, each with its own area of action and responsibility." This doctrine provides a basis for cooperation and a rational division of labour between institutions. The situation where no institutions are being dismantled allows also for competition and overlapping. Making institutions work better together is part of future security.

The main institutions, the EU, NATO and the OSCE, can be seen placed in a triangle where they perform different security functions, bring different capabilities and security strategies to the functioning of the security order (Wæver, 1994):

- the OSCE, an all-European organization, performing norm formulation and having limited capabilities for

transition support, stability promotion and conflict management, representing collective security/cooperative security/concert as a security model;

- the (EU) a regional organization, molding the political-economic order, supporting transition and promoting stability through its resources, representing integration;

- (NATO), a regional organisation, leading the military transformation with its resources, performing conflict management tasks through its capabilities, representing alliance/balance of power.

The three organizations are connected as a triangle by side organizations or processes: the WEU as a link between the EU and NATO; the stability pact initiated and run by the EU and turned over to the OSCE for review and implementation; NATO's NACC/PfP programmes aimed at improving the capabilities of states to military crisis management within an OSCE mandate.

3. Significance of the Budapest decisions for the role of the OSCE (1)

In changing the name of the institution from "Conference" to "Organization", the Budapest Summit underlined the "new political impetus" given to the OSCE so that it can play "a cardinal role" in meeting the security challenges facing the participating States in the next century.

Although the change in name altered neither the political character of the OSCE commitments nor the status of the organization, the decisions in Budapest

are aimed at strengthening the joint decision-making capability and the impact of concerted action through the OSCE on security and stability in Europe.

The results from the Budapest meeting will affect the security role of the OSCE in all its aspects: competence, capability and authority.

Competence

The competence, set in formal rules, is determined by the political and legal character of the common provisions and commitments and the scope of the tasks and functions ascribed and delegated to the common organization.

After Budapest, the fundamental politically binding character of OSCE commitments remains unchanged. The issue of legal competence was touched upon and will remain part of the future agenda. The idea of turning OSCE commitments into a security treaty remains a non-starter.

The coverage of OSCE norms was extended to collective policies in the institutions and organizations where the participating States belong and which share the values and objectives of the OSCE. Even though the OSCE has no power over the decisions or actions of other institutions, its special status as the provider of legitimacy through its norms and principles is further strengthened in the multi-institutional order.

The adoption of the Code of Conduct on politico-military aspects of security has extended the normative OSCE guidance to inter-state and intra-state military relations and the use of military force in general. The Code has a special relevance for internal conflicts and

internal security operations. (Lucas, 1995)

The Code of Conduct acts as a reference document on the
military transition, including the democratic control
of armed forces for states and societies on their way
to pluralistic democracy, complementing the Bonn
Document (1990) on the economic dimension and the
Copenhagen Document (1990) on the human dimension.

Furthermore, the Code of Conduct will have an important
normative role guiding decisions on future independent
or collective defence arrangements, a likely important
theme in the security model discussion. Based on the
principle of sovereign equality, the Code of Conduct
confirms the right of each state freely to choose and
change its security arrangements, in accordance with
international law and OSCE commitments. Such decisions
should, however, be taken bearing in mind the
legitimate security concerns of other states; stressing
the indivisibility of security, the participants
reconfirm in the Budapest Document their commitment not
to pursue their security interests at the expense of
others.

Another application of the principle of sovereign
equality in security policy is found in the Budapest
mandate on further development of arms control within
the OSCE. The decisions stresses that the work towards
a framework and an agenda for new measures will take
"into account the specific characteristics of the armed
forces of individual participating States." The
provision refers to differences in defence systems, in
particular between those based on standing forces and
those based on force generation through mobilization.
The principle of equal security and the goal of
increasing defensiveness are at play here.

Capability

Capability has to do with the structure of the
organization. It is the measure of the efficiency of
the OSCE's decision-making and joint action.
Increasingly, the focus is placed on the operational
capability of the OSCE in various forms of conflict
management, early warning, conflict prevention, crisis
management, political solution.

The political management side of OSCE decision-making
is strengthened by emphasizing the contribution of
capitals in the Senior Council, making the Permanent
Council the regular Vienna-based body for political
consultation and decision-making, also for emergency
purposes, and encouraging a more assertive role by the
Chairman-in-Office. The reforms are aimed at enhancing
OSCE executive action in conflict management.

With the decision on Nagorno-Karabakh implemented,
peacekeeping (military crisis management) would be
taken from the OSCE arsenal of instruments into real
use. It would enlarge the role of the OSCE in conflict
management, complementing its innovative functions in
early warning (HCNM), conflict prevention (HCNM,
missions) and political crisis management through
missions. The first multinational OSCE peacekeeping
operation will be launched once the political
preconditions (a ceasefire agreement, a supporting UNSC
resolution) are met and the military planning is
concluded.

A stronger capability for the OSCE in conflict
management will enhance its position in the functioning
of the multi-institutional security order.

The Chechen crisis has demonstrated the status of the

OSCE as a forum available for co-operative crisis management with Russia in sensitive situations which have an impact on its territorial unity and reform process. The OSCE fact-finding and assistance missions have ensured an international political and diplomatic presence on the conflict scene and facilitated humanitarian aid. Furthermore, through Permanent Council discussions in Vienna and good offices by the mission on site, the OSCE has acquired a role in the political settlement of the conflict.

Authority

Authority of an organization, in the sense of prestige and influence, flows from deeds, action and results, from the performance of the OSCE in fullfilling its functions. The competence and capability of an institution sets certain limits to its performance but room remains for political will. Consequently, authority is the measure of the will of the participants to comply with OSCE norms and decisions and to use, or cooperate with the use of, its institutional structures and instruments for security tasks.

The authority of the OSCE as a norm-setter and norm-provider is unquestioned. But in addition to the moral or static authority, the OSCE is in need of dynamic or operative authority.

A succesful operation in Nagorno-Karabakh would increase the OSCE's prestige as it applies to a major conflict in the region. The OSCE as other institutions suffers from the loss of credibility in former Yugoslavia.

The OSCE's actions in the Chechen crisis will be an

important indication of its capacity in the political
management of difficult issues. It can enhance its
authority as a lead institution in situations involving
the CIS zone.

Both the Nagorno-Karabakh and Chechen cases highlight
the role of the OSCE as an institution for dealing with
conflicts in the former Soviet Union and for
integrating Russia within the common security order.
Furthermore, the discussion on a security model will
provide a forum for addressing Russian security
concerns in the light of the issue of NATO expansion.

The position of the OSCE as the only or principal forum
for future arms control in Europe will keep it in the
focus of national or collective security policies.
Important challenges will be the interface of arms
control and conflict management as well as the
integration of regional solutions and specific national
characteristics into a future arms control programme.

Summarizing the Budapest results, the competence of the
OSCE is reconfirmed with an option for further
refinement. The capability of the OSCE is strengthened
through small steps in its present fields of activity
and through enlargement to peacekeeping. New prospects
are opened for enhancing the authority of the OSCE as a
security institution by succesful conflict management
activities.

4. The OSCE: institutional and functional developments

The discussion on a future security model will make the
participants to review the potential in the OSCE's
institutional and functional developments, its role in
the evolution of the relationship among the European

and transatlantic security institutions and the future transformation of the European security order as a whole.

The institutional development of the OSCE has been slowing down recently. There are political limits which can be demonstrated by assessing the feasibility of such more radical ideas as: transcending or revoking the rule of consensus in decision-making; giving the OSCE a legal competence; making the OSCE into a full-fledged international organization with an independent secretariat and large permanent organs; creating a European security council with the authority of making binding decisions; entrusting the OSCE with a coordinating role or an authority over other European and regional organizations in a hierarchical system.

In addition, the participants realize that institutional limitations are not the only obstacle to results. The emphasis has been for some time on efforts to make the participants use the existing institutions and mechanisms. Furthermore, there is no consensus on the advisability of a uniform - such as an OSCE-centred - security structure. The complexity and flexibility of the security order may be beneficial to European security, in particular as long as uncertainties and instabilities in post-cold war scene continue.

Yet, in the institutional development of the OSCE, both the normative and operative aspects remain open for further qualitative or quantitative steps.

In the three functional areas of security policy, stability promotion, conflict management, military stability,(2) the OSCE has performed varying roles. (Höynck, 1995)

In stability promotion, the OSCE provides legitimacy
and support to countries in transition as the source of
common norms and principles of democracy, the rule of
law and economic liberty. Furthermore, the OSCE has
limited support programmes (ODIHR), cooperating with
the COE in promoting democratic security.

In conflict management, the OSCE has reached its best
results in early warning (HCNM) and conflict prevention
(HCNM, CIO, missions) as well as political crisis
management (CIO, missions). Early warning - which is a
growing academic industry - could be the most fruitful
area for further enhancement of the OSCE role. Another
instrument in demand is peaceful settlement of disputes
for which the OSCE offers a number of mechanisms -
which have remained unused. The OSCE may be a more
acceptable tool of the international community in
internal conflicts and disputes than some other,
politically exclusive institutions.

It is likely that the OSCE remains a key forum for
dealing with issues related to Russia's security
interests and its geopolitical place in the new
unifying Europe (Arbatov, 1995) and also security
problems within the CIS region. This perspective
underlines the OSCE's role as the main instrument in
preventing new divisions in Europe.

Mechanisms for conflict management are meant not only
for implementation but also for deterring violations of
common norms. A stick-and-carrot policy is more
effective with countries that have other, broader
interests to attend in their relations with the
reviewers; this rule affects the Central European
candidate countries' relationship with the EU
(stability pact) and NATO. On the other hand, the
effect is weaker with countries that have no

perspective of membership or other tangible rewards of norm-abiding behaviour. The policy of accountability and conflict management may create its own structure with zones of different accountability in reality.

In military crisis management, the first OSCE peacekeeping operation remains under preparation and planning. An important factor for the future role of the OSCE in conflict management is further operationalization of its cooperation with the UN under Chapter VIII.

In military stability, the OSCE will act as the only forum for future European arms control. The OSCE norms set guidelines for further reforms and changes in defence systems and security arrangements and for military partnerships.

The place of the OSCE in the various functional areas of the complex security order can be tentatively summarized.

Stability promotion

- security strategy: integration, cooperation
- main institutions, actors: the European Union, EU-Central European countries, OSCE-CIS countries
- goal: democratic security
- the role of the OSCE: normative guidelines, legitimacy, limited operative functions

Conflict management

- security strategy: cooperation
- main institutions, actors: the OSCE, members
- goal: accountability in conflict behaviour
- the role of the OSCE: normative guidelines, operative functions in early warning, conflict prevention, crisis management

Military stability

- security strategy: balance of power
- main institutions, actors: NATO, NATO-Russian relationship, militarily non-aligned
- goal: stability, defensiveness, deterrence
- the role of the OSCE: normative guidelines, operative functions in CSBM, arms control negotiations

The OSCE security model will be constructed as a combination of common goals, strategies, institutions and functional activities.

OSCE security model; functional areas

Stability promotion

- security strategy: integration, cooperation
- main institutions, actors: the European Union, EU-Central European countries, OSCE-CIS countries
- goal: democratic security
- the role of the OSCE: normative guidelines, legitimacy, limited operative functions

Conflict management

- security strategy: cooperation, partnership
- main institutions, actors: the OSCE, members, NATO
- goal: accountability in conflict behaviour
- the role of the OSCE: normative guidelines, operative functions in early warning, conflict prevention, crisis management

Military stability

- security strategy: partnership, balance of power
- main institutions, actors: NATO, NATO-Russian relationship, militarily non-aligned
- goal: stability, defensiveness, deterrence
- the role of the OSCE: normative guidelines, operative functions in CSBM, arms control negotiations

Notes

1. This section follows closely my paper on "Neonormativism and the OSCE: A Commentary on the Theory and Practice of Producing International Security", presented at the 36th Annual ISA Convention, Chicago, Ill., 21-25 February 1995.

2. The model of three functional areas in security policy is developed in (Möttölä, 1995b).

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OSCE LONG-TERM MISSIONS

A Preliminary Outline

Allan Rosas

In the Helsinki Decisions of 10 July 1992, there is a separate Chapter (III) entitled rather cumbersomely "Early Warning, Conflict Prevention and Crisis Management (Including Fact-Finding and Rapporteur Missions and CSCE Peacekeeping), Peaceful Settlement of Disputes". The basic objectives of the arrengements agreed upon under this Chapter are set out in paragraph 1 as follows:

> (1)   The participating States have decided to strengthen the structure of their political consultations and increase their frequency, and to provide for more flexible and active dialogue and better early warning and dispute settlement, resulting in a more effective role in conflict prevention and resolution, complemented, when necessary, by peacekeeping operations.

It is evident already from this wording that what is envisaged here is above all a political and flexible system, rather than specific institutional mechanisms such as the OSCE High Commissioner on National Minorities, the Convention on Conciliation and Arbitration or the human dimension mechanisms and the role of the Office for Democratic Institutions and Human Rights. Specific reference in Chapter III is, on the other hand, made to "fact-finding and rapporteur missions", but the language employed seems to suggest missions of an *ad hoc* and at the same time more or less temporary character.[1]

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[1] For instance, paragraph 8 of Chapter III of the Helsinki Decisions states that the then Committee of Senior Officials (later replaced by the Senior Council) may, *inter alia*, decide to set up a framework for a negotiated settlement, or to "dispatch a rapporteur or fact-finding mission". A. Bloed, *The Conference on Security and Co-operation in Europe: Analysis and Basic Documents, 1972-1993* (Dordrecht 1993), pp. 37-38, refers to such missions, including the long-term missions considered in this paper, as *"ad hoc* CSCE missions". Cf. A. Bloed, "CSCE Preventive Diplomacy in Operation", *Helsinki Monitor - Quarterly on Security and Cooperation in Europe*, vol.

Only a month after the adoption of the Helsinki Decisions, the worsening situation in the former Yugoslavia caused the then Committee of Senior Officials (CSO), at its 15th meeting on 13-14 August, to adopt a series of decisions, including a "Decision on Missions of Long Duration".[2] The CSO decided to establish, "in co-operation with the relevant authorities, a continuous presence in Kosovo, Sandjak and Vojvodina, in the form of missions of long duration". This "continuous presence", in a Memorandum of Understanding signed between the CSCE and the Federal Republic of Yugoslavia (Serbia/Montenegro) on 28 October 1992, implied an initial period of six months. In April 1993, this period was extended until 28 June 1993 only, whereafter there was no further agreement on extension and the Missions to Kosovo, Sandjak and Vojvodina had to be withdrawn.[3] This illustrates the fact that the functioning of a field mission depends on the consent of the party on whose territory the mission is to be deployed.[4]

It is noteworthy that in the Decision of 13-14 August 1992 establishing these three Missions, reference is made to paragraphs 6-11 of Chapter III of the Helsinki

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4, no. 1 (1993), 46-51, at 48, where reference is made to missions *ad hoc* "or on a longer term basis").

[2] Text in Bloed, op.cit., *supra* n. 1, pp. 958-959. See also W. Höynck, "CSCE Missions in the Field as an Instrument of Preventive Diplomacy - Their Origin and Development", in *The Challenge of Preventive Diplomacy: The Experience of the CSCE* (Stockholm 1994), pp. 55-71, at pp. 60-61.

[3] See, e.g., *Survey of OSCE Long Term Missions and Sanctions Assistance Missions*, CPC, Vienna, 20 January 1995, Doc. 93/95, p. 1.

[4] The so-called consensus-minus-one principle, adopted by the Prague meeting of the Council of Ministers in January 1992, only applies to "cases of clear, gross and uncorrected violations of relevant CSCE commitments" and can only consist of political declarations or other political steps "to apply outside the territory of the State concerned" (Bloed, op.cit., *supra* n. 1, p. 832). In addition, there is the possibility, mentioned in paragraphs 9-12 of the 1991 Document of the Moscow Meeting of the Conference on the Human Dimension of the CSCE to establish missions of up to three OSCE rapporteurs, who should be able to visit a country even if it has not agreed to the mission in advance (see also paragraph 6).

Decisions ("Political Management of Crisis") but not to paragraphs 12-16 ("Fact-Finding and Rapporteur Missions") or paragraphs 17-56 ("CSCE Peacekeeping"). These "missions of long duration" were thus grounded in a quite general and flexible OSCE mandate rather than in the provisions on specific instruments of conflict prevention and crisis management, namely fact-finding and rapporteur missions and peacekeeping operations.[5] At the same time, as will be elaborated later, it is clear that the long-term missions, too, may perform certain both fact-finding and peacekeeping functions.

Shortly after the establishment of the three "missions of long duration", the CSO (on 18 September 1992) decided to establish a "CSCE Monitoring Mission to Skopje", that is the "Former Yugoslav Republic of Macedonia". This decision was taken in the context of the efforts by the European Union to extend the European Community Monitoring Mission (ECMM) to the neighbouring countries of Serbia and Montenegro, to help avoiding a spillover of the conflict. The ECMM has provided a small team to work under the operation command of the OSCE Head of Mission. The periods of operation of this Mission has been six months or more.[6]

Subsequent long-term missions have simply been called "CSCE (OSCE) Mission to...", with the exception of the most recent mission to Chechnya, which is called "OSCE Assistance Group". The term "long-term mission" has gained ground as a term of art designating such missions in the field, as distinct from short-term fact-finding and rapporteur missions, visits by a personal representative of the Chairman-in-Office, etc.[7] This term does not, on the other hand, appear in the actual names of the missions

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[5] Wilhelm Höynck (who is Secretary-General of the OSCE), has even stated that the type of mission established for Kosovo, Sandjak and Vojvodina in August 1992 "was, strictly speaking, not provided for by the inventory codified at the Helsinki Summit Meeting of July 1992", Höynck, loc.cit., *supra* n. 2, p. 60.

[6] *Survey*, op.cit., *supra* n. 3, pp. 3-4.

[7] See, e.g. Guidelines for Financing of CSCE Missions, adopted in September 1992, which make a distinction between "short-term missions" and "long-term missions", text in Bloed, op.cit., *supra* n. 1, and the *Surveys of OSCE Long Term Missions and Sanctions Assistance Missions* published regularly by the Conflict

in questions (apart from the expression "missions of long duration" which was used with respect to the abortive missions to Kosovo, Sandjak and Vojvodina), nor in the 1992 Helsinki or 1994 Budapest Decisions. The latter document, in a list of OSCE institutional arrangements, refers more broadly to "CSCE missions".[8]

Apart from the three missions of long duration to Serbia and Montenegro which have been withdrawn, the OSCE has established the following long-term missions:[9]

OSCE LONG-TERM MISSIONS 1992-1995

	Date of establishment
Skopje	18 September 1992
Georgia	6 November 1992
— Estonia	13 December 1992
Moldova	4 February 1993
Latvia	23 September 1993
Tajikistan	1 December 1993
Sarajevo	2 June 1994
Ukraine	15 June 1994
Chechnya	March 1995

These missions have usually been established for a period of around six months at a time, with some deviations in both directions. Compared with United Nations missions to countries such as El Salvador, Cambodia, Rwanda and Haiti, the OSCE long-term

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Prevention Centre. See also I. Tersman, *Small Steps in the Right Direction: A Report on the CSCE Long-term Missions*, Working Paper, National Defence Research Establishment (Stockholm 1994). Compare M. af Ugglas, "Conditions for Successful Preventive Diplomacy", in *The Challenge of Preventive Diplomacy: The Experience of the CSCE* (Stockholm 1994), pp. 11-32, at p. 22, who speaks of "local missions", and W. Höynck, loc.cit., *supra* n. 2, p. 55, who speaks of "missions in the field".

[8] Chapter I, paragraph 22, of the Budapest Decisions of 6 December 1994.

[9] The missions and their basic modalities are listed in the *Surveys of OSCE Long Term Missions and Sanctions Assistance Missions* published by the CPC.

missions are quite small, normally being composed of less than 10 persons.[10] The mission to Georgia is somewhat larger, as was the combined mission to Serbia and Montenegro. In so far as the mission has a task of political mediation at the highest level, the small size may not be a disadvantage. But if the missions, as is ususally the case, are supposed to fulfil various functions with respect to information gathering and assistance, including contacts with political and popular movements, local authorities and non-governmental organizations, etc., their small size will necessarily affect their ability to make a real impact on developments in the field (much will, of course, also depend on the size of the country, the political and factual situation at hand, the personal qualities of the Head of the Mission and her/his staff, and so on).

The flexible and *ad hoc* nature of the long-term missions is underscored by the fact that there is no uniform pattern for defining their mandates.[11] All mandates imply in one form or another to a general conflict prevention and/or crisis management role, by referring, for instance, to the need to establish contacts with the various actors, promote a dialogue between the parties and gather information. Depending on the situation at hand, there is an emphasis on either conflict prevention or crisis and conflict solution.[12] It will be noted that the existence of an armed conflict, unlike

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[10] According to Tersman, op.cit., *supra* n. 7, p. 14, there was in August 1994 a total number of 49 OSCE mission members (divided between the six missions considered by Tersman, this makes in average around eight members per mission).

[11] See also Tersman, op.cit., *supra* n. 7, pp. 4-11.

[12] Margaretha af Ugglas (then Minister for Foreign Affairs of Sweden amd in that capacity OSCE Chairman-in-Office 1993) distinguishes between three types of missions: 1) missions with a purely preventive task (e.g. Estonia, Latvia); 2) missions to prevent a spillover of military hostilities from adjacent countries (e.g. Macedonia) and 3) missions deployed after the cessation of military hostilities (e.g Georgia, Moldova), af Ugglas, loc.cit., *supra* n. 7, p. 23. The conflict solution and dispute settlement role of the mission can sometimes be spelled out in quite explicit terms, as in the original mandate of the Mission to Georgia, which sets as the objective of the Mission "to promote negotiations between the conflicting parties in Georgia which are aimed at reaching a peaceful political settlement". See also Tersman, op.cit., *supra* n. 7, p. 4.

what is the case with respect to the OSCE High Commissioner on National Minorities,[13] does not seem to preclude the dispathing of a long-term mission, as is illustrated by the missions to Georgia, Sarajevo and Chechnya in particular (although there is then an underlying assumption that open armed hostilities have ended or are coming to a close and that the OSCE mission's task is to help the parties to reach a political solution). Nor do long-term missions, again differing from the mandate of the High Commissioner, preclude a human dimension, including human rights monitoring, or even a certain military role for the mission.

With respect to the human dimension, the mandate of the abortive Serbia/-Montenegro missions is very explicit as far as a human rights monitoring is concerned, referring as it does to the task of the missions to "collect information on all aspects relevant to violations of human rights and fundamental freedoms and promote solutions to such problems". The mandate of the Mission to Georgia refers to the need to "promote respect of human rights and fundamental freedoms", that of the Mission to Moldova to providing a "framework for ... effective observance of international obligations and commitments regarding human and minority rights...", that of the Mission to Latvia to the gathering of information and reporting on developments "relevant to the full realization of CSCE principles, norms and commitments", that of the Mission to Tajikistan to the need to "actively promote respect for human rights", that of the Mission to Sarajevo to reporting to the OSCE "on matters pertaining to the Human Dimension, in support of the Ombudsmen's activity" and that of the Mission to Ukraine to "preparing reports on the situation of human rights and rights of persons belonging to national minorities in the Autonomous Republic of Crimea (Ukraine)".

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[13] According to Chapter II, paragraph 3, of the 1992 Helsinki Decisions, the High Commissioner "will provide 'early warning' and, as apppropriate, 'early action' at the earliest possible stage in regard to tensions involving national minority issues which have not yet developed beyond an early warning stage, but, in the judgement of the High Commissioner, have the potential to develop into a conflict within the CSCE area, affecting peace, stability or relations between participating States, requiring the attention of and action by the Council or the CSO".

The mandates of the Missions to Skopje and Estonia contain no express reference to human rights monitoring. Many of the mandates refer, in addition to a human rights monitoring role, to technical assistance in the building of democratic institutions and a rule of law. The main purpose of the Mission to Sarajevo, in fact, is to support the activities of the Ombudsmen in Bosnia-Herzegovina (a task which, of course, has a tragicomical ring especially in the light of recent events).
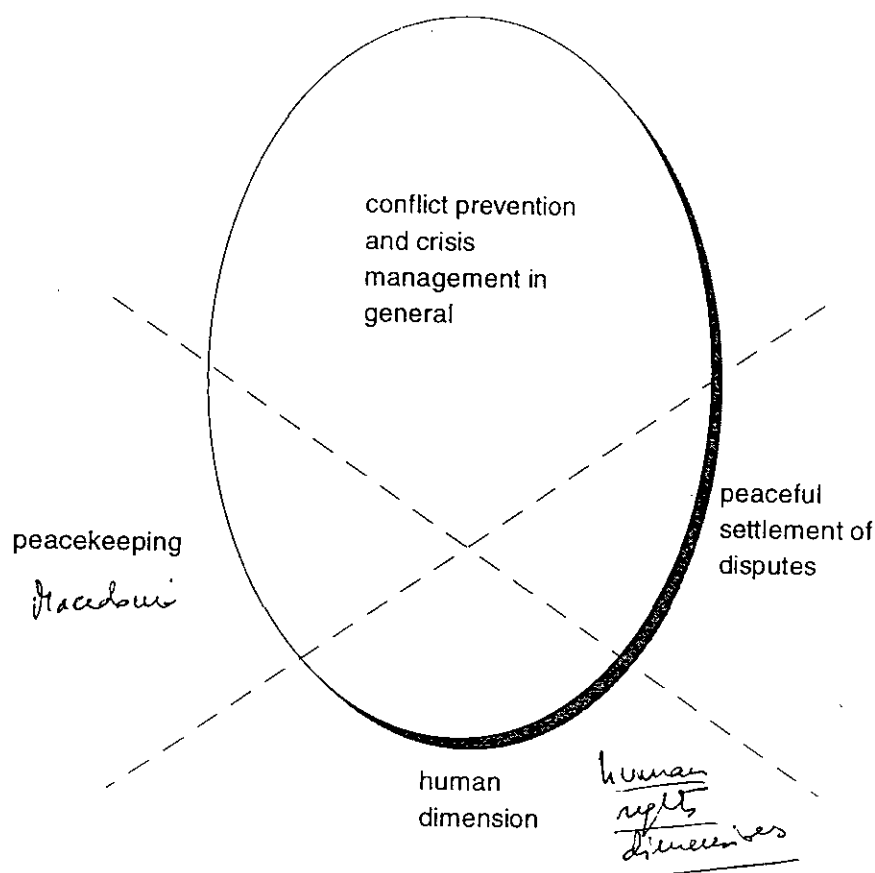
Sometimes there is also an explicit reference to a military dimension, which is a reminder that the line between political long-term missions and peacekeeping operations is thin indeed.[14] Thus the mandate of the Mission to Georgia refers to the objective not only to facilitate co-operation with and among the parties concerned but also, "with their consent, to monitor the joint peacekeeping forces established under the Sochi Agreement of 24 June 1992, in order to assess whether their activities are carried out in conformity with CSCE principles". This mandate also makes an explicit reference to the inclusion of military personnel as members of the Mission.[15] The Mission to Moldova, again, is asked to gather and provide information on the situation, "including the military situation", in the region.

In relation to the different dimensions of OSCE activities, the different roles of the long-term missions can be summarized as follows:

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[14] It will be noted that, according to Chapter III, paragraph 18, of the 1992 Helsinki Decisions, an OSCE peacekeeping operation "will involve civilian and/or military personnel" and "may assume a variety of forms including observer and monitor missions and larger deployments of forces".

[15] In a decision of the CSO of 6 November, reference is made to the "Personal Representative of the Chairman-in-Office to Georgia, to be assisted by a staff of two diplomatic advisers and a military team of four officers", Bloed, op.cit., *supra* n. 1, p. 976.

ROLES OF OSCE LONG-TERM MISSIONS

conflict prevention
and crisis
management in
general

peaceful
settlement of
disputes

peacekeeping

Macedoui

human
dimension

human
right
dimensions

This figure, of course, gives a rough average picture only and does not bring out the differences between the various mandates.

How effective have the OSCE long-term missions been? Any comparison with recent United Nations field missions is problematic, given the considerable differences in the situations at hand, the tasks and size of the missions, etc. It should be noted that the biggest failures of the UN relate to armed conflict situations (former Yugoslavia, Somalia, Rwanda), which also nearly applies to the clearest failure of an OSCE long-term mission (Serbia-Montenegro). On the other hand, the OSCE Assistance Group to Chechnya seems to have been able to play a useful role. Most of the OSCE field missions have been to countries where tensions have not erupted in open conflict.

which has facilitated a conflict prevention role (Estonia, Latvia, Macedonia, etc.). In the latter type of situation there has usually also been involvement of the OSCE High Commissioner on National Minorities and the OSCE political bodies, as well as of other international institutions, notably the UN, the Council of Europe and the European Union. This makes it more difficult to assess the specific role of the OSCE long-term missions.

Even with these reservations, it is evident that at least some of the OSCE long-term missions have played a useful role in helping to calm down tensions, furthering contact and dialogue, and dispelling misconceptions and disinformation.[16] The continued presence of the mission is obviously an advantage, as compared to short visits by *ad hoc* missions. While the missions have had a fairly high profile as a focal point providing good offices and sometimes also mediation, their role in the human dimension field, and concerning human rights monitoring in particular, sems to have been more limited. This may partly be due to the fact that the OSCE long-term missions have usually not included staff trained in human rights monitoring. It will be noted, in this context, that Chapter VIII (Human Dimension) of the 1994 Budapest Decisions contains a commitment to enhance the Office for Democratic Institutions and HUman Rights (ODIHR), in order to increase "its involvement in the work of the Permanent Council and mission activity" (paragraph 2). The ODIHR must on the basis of the Budapest Decisions "be consulted on a CSCE mission's mandate before adoption" and the Office will also "contribute to the follow-up of mission reports as

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[16] See af Ugglas, loc.cit., *supra* n. 7, pp. 22-26; Höynck, loc.cit., *supra* n. 2, pp. 70-71 (who observes that the long-term missions, together with the High Commissioner and the ODIHR, "are often cited as the CSCE's success stories"). On the long-term mission to Estonia, see the contributions by two of the Heads of this Mission, K: Törnudd, "The Role of the CSCE Mission in Preventive Diplomacy: The Case of Estonia", in *The Challenge of Preventive Diplomacy: The Experience of the CSCE* (Stockholm 1994), pp. 73-86, and T. Lahelma, "The Role of the CSCE Missions in Preventive Diplomacy: The Case of Estonia (August 1993 - June 1994)", in ibi., pp. 87-99 (according to Lahelma, at p. 98, the presence of the OSCE Mission to Estonia "may be a major stabilizing factor").

decided by the Permanent Council". Moreover, the ODIHR's knowledge of experts on the human dimension should be used to help to staff OSCE missions, which will designate a mission member to liaise with the ODIHR and with NGOs on human dimension issues" (paragraph 11). This may point to an increasing operational integration between conflict prevention and crisis management in general and more specific human dimension-related tasks.

The normative basis of the OSCE long-term missions is not entirely clear. Already for this reason, their establishment and presence in a country will depend on consent. From a normative point of view, they can be seen as "soft institutions" in a broader "soft law" framework. Maybe this is an advantage rather than a disadvantage? On the other hand, the OSCE missions are nowadays able to function in, and subordinated to, a fairly organized and firm institutional framework, namely the Permanent Council, the Chairman-in-Office and the Secretary-General with the Secretariat. This seems to enable a certain orderliness, continuity and institutional memory. This seems to compare favourably with UN field missions, which are even more of an *ad hoc* nature and which are often planned and carried out under conditions of disarray.

Objectives and tasks to pursue:

* more in-depth analysis and critical discussion of the OSCE missions and their practical impact, possibly by selecting three case-studies representiving three different types of missions (e.g. Macedonia, Estonia and Georgia)

* elaboration of the normative basis of the missions

* more systematic comparison of the mandates

* questions of co-ordination between long-term missions and other OSCE institutions as well as missions from other international organizations

* comparison between OSCE long-term and UN field missions

* field missions as steps towards international governance regimes?

The High Commissioner on National Minorities (HCNM): development of the mandate

María Amor Martín Estébanez

A Working Hypothesis: The High Commissioner on National Minorities is becoming a conflict prevention institution of the Human Dimension.

I. Introduction

The HCNM was established in 1992, in a separate Chapter II of the Helsinki Decisions, entitled: 'CSCE High Commissioner on National Minorities'. The mandate, profile, appointment, early warning and early action functions, accountability, sources of information, parties directly concerned with his/her action, conditions of travel, involvement of experts and budget of the HCNM were regulated within this chapter. Other references to the High Commissioner were included under Chapter III: 'Early Warning, Conflict Prevention and Crisis Management (including Fact-finding and Rapporteur Missions and CSCE Peacekeeping), Peaceful Settlement of Disputes'. In the latter, the HCNM was mentioned among those entities which could draw the attention of the CSO, through the Chairman in Office,[1] to "situations within the CSCE area which have the potential to develop into crises, including armed conflicts...".[2] In the Budapest Decisions, the only references to the HCNM are contained in Chapter VIII, which deals with the Human Dimension. In the section entitled 'Enhancing Compliance with CSCE Commitments and Promoting Cooperation and Dialogue in the Human Dimension' the participating States "reconfirm their appreciation for the HCNM, who has, fully in line with his mandate, been able to focus on, and to successfully address a number of national minority issues, taking also into account specific situations of participating States and of parties directly concerned"[3] and "encourage the HCNM to continue his present activities, and support him on taking up new and further ones, including those related to his recommendations. They will increase their efforts to implement these recommendations".

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[1] Helsinki Decisions, III, 5.
[2] Ibid., III, 3.
[3] Budapest Decisions VIII, 7.

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In addition, the participating States encourage "the Chairman-in-Office to inform the Permanent Council of serious cases of alleged non-implementation of human dimension commitments, including on the basis of .... reports and recommendations ..." of the HCNM.[4] Another reference to the HCNM activity is provided in the section dealing with national minorities. The inclusion of these references to the HCNM in the chapter of the Budapest Decisions dealing with the Human Dimension, when in the Helsinki decisions the HCNM had received a separate treatment, while being defined as an "instrument of conflict prevention at the earliest possible stage"[5] may not be coincidental, or the mere expression of the positive effects that the conflict prevention activities of the HCNM have had on the implementation of human dimension commitments. It may also be the - probably involuntary - reflection of a process whereby the HCNM besides its security based characteristics is increasingly becoming a Human Dimension institution. This would entail a crystallisation of the comprehensive approach to security which characterises the OSCE and determines its uniqueness. It would also entail a practical materialisation of this approach, leading to the establishment of a solid bridge linking the security and human dimension aspects of the OSCE.

II. The Dynamic Aspects of the Mandate: Early Warning and Early Action

The mandate of the HCNM indicates that the latter "will provide 'early warning' and, as appropriate, 'early action' at the earliest possible stage in regard to tensions involving national minority issues which have not yet developed beyond an early warning stage, but, in the judgement of the High Commissioner, have the potential to develop into a conflict within the CSCE area, affecting peace, stability or relations between participating States, requiring the attention of and action by the Council or the CSO".

The Helsinki decisions provide for a description of the 'early warning' and 'early action' activities of the HCNM. The differentiation between both types of activities is relevant to delimit the scope for independent action by the HCNM. However, this differentiation cannot be easily established on the basis of the description of the activities being provided. 'Early warning' includes the obtention of first-hand information from all

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[4] Ibid., VIII.6.

[5] Helsinki Decisions, II, 2.

the parties directly involved, the discussion of the questions with the parties, and where appropriate, the promotion of dialogue, confidence and cooperation between them.[6] 'Early action' includes the entering "into further contact and closer consultations with the parties concerned with a view to the possible solutions".[7] From a substantial perspective both types of activities are rather similar. The fact that 'early warning' activities are placed in the framework of a visit to a participating State does not seem to introduce any relevant clarification as to the character of its activity. The use of the words "and, as appropriate" however, seem to determine first, that both types of action may succeed each other and secondly, that 'early action' does not have to follow necessarily the existence of 'early warning'.

However, what seems to draw the dividing line between both types of activity is the formal and intermediate stage of the provision of early warning, i.e. the issuing of a formal 'early warning' and its prompt communication by the Chairman-in-Office to the CSO. This takes place if, on the basis of exchanges of communications and contacts with relevant parties, the High Commissioner concludes that there is a *prima facie* risk of potential conflict. Therefore, in the context of the action of the HCNM, the ultimate factor determining the 'early warning', or 'early action' character of its activities is the HCNM's own assessment. In addition, under 'early action' the CSO may change the mandate of the HCNM.[8]

The importance of the distinction between both phases of the activity of the HCNM, lies on the establishment of who is the holder of the power of initiative and decision-making with regard to the preventive diplomacy exercise concerning tensions involving minorities. Whenever "a particular national minority issue has been brought to the attention of the CSO, the involvement of the High Commissioner will require a request and a specific mandate from the CSO".[9] The power of initiative and decision-making of the HCNM is then restricted to the possibility of recommending "that he/she be authorised to enter into further contact and closer consultation with the parties concerned with a view to possible solutions, according to a mandate to be decided by the CSO".[10] This implies

[6] Helsinki Decisions, II, 12.

[7] Ibid., II, 16.

[8] Ibid., II, 16.

[9] Ibid., II, 7.

[10] Ibid., II, 16.

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that once the CSO becomes involved in a minority issue, the functions of the HCNM are determined by the decision of the CSO.[11] The preventive diplomacy exercise which follows loses its HCNM specificity, to become an exercise of Inter-state relations falling within the highly political 'main road' of OSCE activity.

The specificity of the preventive action of the HCNM lies precisely on the fact that disputes dealt with under its initiative and decision-making power do not constitute Inter-state disputes in a proper sense. They constitute instead disputes and tensions between State and Non-state actors, and this determines that they are dealt with by a separate body whose decisions are not dependent of Inter-state and political relations. Once a situation concerning minorities has become object of attention of an OSCE body whose decision-making is determined by Inter-state relations, the 'early warning' and 'preventive action' activities must be carried out in accordance with Chapter III of the Helsinki Decisions.

The present HCNM has defined his own mission as two-fold: "first, to try to contain and de-escalate tensions concerning minority issues, and second, to alert the CSCE whenever such tensions threaten to develop to such a level that I would not be able to contain them with the means at my disposal".[12] The means at the disposal of the HCNM, have been large enough so far as to prevent the exercise from its second function. They have reassembled more the CSO initial activities of 'Political management of crisis' under Chapter III of the Helsinki decisions, including the promotion of steps to avoid any action which could aggravate the situation, the seeking of independent advice from relevant experts, institutions and international organisations, or the setting up of frameworks for negotiated settlements. This wide interpretation of the means at the HCNM disposal fits within the provisions regarding 'early warning' activities contained in Chapter II, 12 of the Helsinki Decisions. The means that the HCNM has used so far can be considered as falling within the scope of the reference to the 'promotion of dialogue, confidence and cooperation between the parties', contained in this provision. The only element which could introduce any doubts is the 'during a visit' requirement. However, the latter restriction, as well as other light-weight restrictions contained in Chapter II can

[11] For a detailed analysis, see Rob Zaagman "The CSCE High Commissioner on National Minorities: An Analysis of the Mandate and the Institutional Context" in Arie Bloed (ed.), *The Challenges of Change: The CSCE after the Helsinki Follow-up Meeting*, 1992. Martinus Nijhoff, 1994.

[12] Max van der Stoel: 'Preventing conflict and building peace: a challenge for the CSCE' in *NATO review* no. 4, August 1994.

be easily overseen both on the basis of the 'discouraging' attitude with which 'the provision of early warning' has been approached within the HCNM mandate[13] and on the wide acceptance and support for the HCNM activity, and the implementation of his mandate reflected in the Budapest Decisions.

In conclusion, the assessment by the HCNM of its possibilities to contain an escalation with the wide means at its disposal, seems to determine the character and content of its own competence. It also determines when a dispute starts to be considered mainly as a dispute 'Étatique', then "the CSO will promote steps by the State or States concerned".[14] The Senior Council has the monopoly of action for this type of disputes. The field of action of the HCNM would seem to be restricted, instead, to those disputes which may not be qualified as 'mainly' or 'already' 'Étatiques'. This also means that other subjects, minorities, are considered of relevance *per se* to the security concept of the OSCE and occupy a specific and separate position within this concept.

III. The Static Aspects of the Mandate: the institutional character of the HCNM

According to the Helsinki Decisions: "The High Commissioner will be an eminent international personality ... from whom an impartial performance of the function may be expected"[15] and he HCNM "will act under the aegis of the CSO and will be an instrument of conflict prevention at the earliest possible stage".[16]

The institutional character of the HCNM has been rejected on the basis of the fact that in the Helsinki decisions he was not designated as such and that the High Commissioner was conceived as one person. Also on the fact that all OSCE institutions have Directors who are instructed to do certain things, inter alia as regards openness. Also the characterisation of the HCNM as a mechanism has been ruled out "since that notion refers to certain procedures like the Vienna, Moscow and emergency mechanisms and not to bodies or officials".[17]

The fact that the HCNM has been established as a unipersonal organ, and the

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[13] See for example, Ibid., II, 15 and II, 21.

[14] III, 6.

[15] II, 8.

[16] II, 2

[17] R. Zaagman, op. cit.

profile of the person called to exercise such function has been determined, does not offer enough ground to deny the institutional character of the HCNM. References to the institutional character of OSCE institutions which have Directors, such as the CPC, or the ODIHR, Secretary General, are not a feature common to OSCE documents. Although the political character of the CSCE process may lead to doubts as to the institutional character of any of its results from a strictly legal perspective, the institutional character of the HCNM encounters the same support than that of any of the bodies aforementioned.[18] The unipersonal character of the HCNM, and the lack of a hierarchical internal structure, do not offer grounds to deny its institutional character. On the other side, on the basis of its 'sui generis' position and capacity of initiative, its independence in the decision-making field, its capacity to relate to other organs in a specific manner, and to create independent interrelations and links among other bodies, some of which are endowed with internationally recognised legal character, strong legal character, seem to point, as a minimum, to an 'OSCE institutional' character.

This character should be promoted rather than considered restrictively, as a guarantee of the independent existence of the HCNM and of the independent exercise of its functions. Also as a basis for the development of an institutional memory, which could support its line of action.

In addition, the protection or 'guardianship' exercised by the CSO would point to an institutional rather than organic type of relation between the HCNM and other of the OSCE bodies. Besides the HCNM capacity of initiative and assessment, its decisions and recommendations are not subordinated to the decisions of other bodies and cannot be overridden by them.

However, it should be noted that this 'sui generis' institutional independence applies clearly only with regard the 'early warning' stage in which the HCNM has developed its activity so far. Were a minority issue going to be brought to the attention of the CSO, the relations of the HCNM with this organ would immediately acquire a more 'organic' character of subordination. The HCNM would then have to exercise its function on the basis of a specific mandate which may be subject to change. However, this would not seem to override the characterisation of its activities as 'HCNM activities'.

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[18] For an analysis of the institutional character of the OSCE, see Aire Bloed, 'Institutional Aspects of the "New" CSCE' in A. Bloed and W. de Jonge (eds.), *Legal Aspects of a New European Infraestructure*, Utrecht 1992.

III. The Conflict Prevention and Human Dimension Aspects of the HCNM Activity

The Dutch initiative for the creation of the HCNM and enshrined in the Helsinki document was closely linked to the inability of the international community to take effective action in relation to the Yugoslav conflict. Also to the increasing awareness of the preferability of reducing tension before it leads to open armed conflict and of the fact that the majority of potential conflicts which could be identified at present appear to be rooted mainly in questions concerning national minorities.[19]

The strong link established within the OSCE between the Human Dimension and conflict-prevention related security aspects is illustrated by the fact that the Human Dimension is one of the areas of OSCE concern where increasing intrusiveness has largely developed. However, in the constitution of the highly intrusive institution of the HCNM as 'an instrument of conflict prevention at the earliest possible stage' the security aspects have seemed to prevail. This has served as a basis for analysts to emphasise the role of the HCNM as a 'facilitator' of the settlement of conflicts supporting an 'instrumentalist' view of its mandate.[20] This has led to the affirmation that "the HCNM's goal is not to resolve conflict ... While changes in policies or legislation might ameliorate a situation, they cannot solve what is at root a problem in the fundamental relationship between the parties".[21]

Admittedly, the mandate of the HCNM does not say that the HCNM should promote the application of CSCE commitments. The attempts by the Russian Federation to introduce a non-contentious reporting system on the violations of human dimension commitments in relation to persons belonging to minorities in which the HCNM was intended to play a protagonist role - on the line of the implementation system provided under some of the International texts providing for minority protection within the Budapest Decisions - did not find sufficient support. However, the limitation of the role of human

[19] See Hannie Zaal, 'The CSCE High Commissioner on National Minorities' in *Helsinki Monitor*, special issue, Helsinki II.

[20] See for example Diane Chigas, 'The CSCE High Commissioner on National Minorities' in *Helsinki Monitor*, 1994, no.3 and Conflict Management Group and Harvard Negotiation Project: 'Early Warning and Preventive Action in the CSCE. Defining the role of the High Commissioner for National Minorities. A Report of the CSCE Devising Session, October 19, 1992', Cambridge, Massachusetts, 1993.

[21] Chigas, loc. cit. at p.3.

dimension commitments to a mere 'framework of reference' for the HCNM[22] may prove too restrictive.

The HCNM has referred to the close interrelationship "between peace and security and respect for democracy, the rule of law and human rights, or, in short, the human dimension of the CSCE. Human dimension concerns are often a critical component of conflict prevention in the short term, although it is in particular from the longer-term perspective that the intimate relationship between conflict prevention and the human dimension becomes apparent. Violations of human dimension commitments lead to tensions, social conflicts and distrust. At times, they may have cross-border consequences, such as involuntary migration. Especially if large groups, such as minorities are affected, the stability of states or even a region may be at risk".[23]

The consideration of minorities as an important element of the security concept of the OSCE, which as served as a basis for the creation of a separate conflict prevention system to address the conflicts in which they are involved, points to the need to address minority situations taking into consideration their specific characteristics. The OSCE has enshrined what considers as legitimate aspirations of minorities in relation to State actors. The preventive diplomacy possibilities of the HCNM with regard to minority conflicts is largely determined by the minority groups consideration of the possible role that the HCNM, as a OSCE institution, could play in the realisation of what has been established as legitimate goals by the organisation. These include not only security, but also human dimension, and even economic aspects. Even under the assumption that the HCNM is a mere facilitator of dialogue on minority issues, the action of the HCNM cannot leave aside the implementation of human dimension commitments, no matter the stage of the conflict, or at least one of the parties to the tensions will consider to be to deceived in relation to the framework in which the de-escalating efforts have been undertaken. If human dimension commitments do not offering a perspective for a long lasting solution to minority questions, the HCNM action could be assumed as never-ending.

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[22] Rob Zaagman, 'The CSCE High Commissioner on National Minorities: An Analysis of the Mandate and the Institutional Context' in A. Bloed (ed.), The Challenges of Change: The Helsinki Summit of the CSCE and its Aftermath, Martinus Nijhoff, 1994.

[23] Max van der Stoel: 'The Role of the CSCE High Commissioner on National Minorities in CSCE Preventive Diplomacy, in The Challenge of Preventive Diplomacy - The experience of the OSCE, Ministry for Foreign Affairs, Stockholm, p. 35.

Only through the progressive establishment of the durable basis on which the international organisation the HCNM is accountable to considers 'solutions' can be provided, the action of the HCNM can be legitimate. If the OSCE does not consider that it could provide for the means to give a durable solution to minority questions it should have restrained from become involved. The insistence of the HCNM on linking its accountability to the OSCE as such and not to particular OSCE organs maybe placed within this framework. Also the wide interpretation of the HCNM mandate in relation to minority groups which have been object of its attention. (Ref. to the case of Roma and religious groups)

Similarly, requirements of impartialy and equity on the election and treatment of the minority issues which that the HCNM addresses seems to derive from the essence of the OSCE, as a security forum based on the principle of equality among the different participating States. However, the non-involvement of the HCNM in certain 'minority situations' is also justified on the basis of the discretionality in the exercise of its powers. However, it should be noted that this discretionality extends only to the HCNM judgement. Once the HCNM decides that, tensions have the potential to develop into a conflict, the obligation exists for the HCNM under his mandate, to provide for 'early warning' and as appropriate 'early action'. The question subsists as to whether the OSCE is granting enough support for the HCNM activities so that the HCNM can adequately fulfil its mandate. (Ref. Albanian minority in Greece case).

IV. Conclusions

The OSCE has addressed the minority question specifically, within the framework of its security concept. It has also included 'ethnic' conflicts under a separate category to which a specific conflict prevention system has been assigned, provided by the HCNM. The Human Dimension of the OSCE addresses directly minority questions. The institution of HCNM has an important human dimension aspect which not only affects its preventive diplomacy exercise but it also provides for guidelines as to desirable outcomes of the of this exercise. The achievement of these outcomes becomes such a relevant constituent of the security building process, that the HCNM progressively becomes a conflict prevention institution of the Human Dimension and a full new system of conflict prevention emerges within the security concept of the OSCE.

CONFLICT PREVENTION AND MANAGEMENT ROLE OF THE HUMAN DIMENSION MECHANISM OF THE OSCE

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1. THE SCOPE OF THE PAPER

A specific machinery designated to monitor the implementation of the human dimension commitments of the OSCE[1] is generally known as the "Human Dimension Mechanism". The purpose of this paper is to consider the role of this mechanism for conflict prevention and management. To provide the basis for the discussion on this role the structure and the functioning of the human dimension mechanism are presented, in addition to which the existing practise is shed some light on. At the end some remarks on the role of the human dimension mechanism in conflict prevention and management are put forward.

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[1] The human dimension of the OSCE covers the issues of human rights and fundamental freedoms, human contacts and other issues of related humanitarian character as well as the issues relating to democracy, democratic institutions and the rule of law considered within the OSCE.

2. THE HUMAN DIMENSION MECHANISM

The human dimension mechanism of the OSCE consists of two main elements that are generally known as the Vienna mechanism and the Moscow mechanism (the latter partly consituting a further elaboration of the Vienna mechanism and partly introducing new supervisory procedures). Together these two mechanisms consitute a permanent machinery for supervising the implementation of the OSCE human dimension commitments.

2.1 The Vienna Mechanism

2.1.1 Structure

The Vienna mechanism, the basis of which was laid down in the Concluding Document of the Vienna Follow-up Meeting (1986 - 1989), consists of four phases. It has been further elaborated, in particular, at the meetings of the Conference on the Human Dimension in Copenhagen (1990) and Moscow (1991) and at the Helsinki Follow-up Meeting (1992). At present, the mechanism consists of the following elements:

The mechanism requires the OSCE States

(1) to exchange information and to provide in the shortest possible time, but no later than 10 days[2], a written response to requests for information and to representations made to OSCE States (in writing) by other participating States on questions relating to the human dimension of the OSCE. Such communications may be forwarded through diplomatic channels or be addressed to any agency designated for the purposes[3];

(2) to hold bilateral meetings with other participating States that so request, in order to examine questions relating to the human dimension of the OSCE, including situations and specific cases, with a view to resolving them. The date and place of such meetings will be arranged as soon as possible by mutual agreement through diplomatic channels, as a rule, within one week of the

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[2] In the Copenhagen Meeting of the Conference on the Human Dimension the time limit for a written response was fixed on the maximum of 4 weeks (para. 42.1 of the Copenhagen Document). The 10-day limit was agreed upon in the Moscow Meeting of the Conference on the Human Dimension (para. 2 of the Moscow Document).

[3] According to the decisions made in the 1992 Helsinki Follow-up Meeting this agency is the ODIHR (Chapter VI para. 7 of the Helsinki Decisions).

date of the request[4]. In the course of a bilateral meeting, the OSCE States shall refrain from raising situations and cases not connected with the subject of the meeting, unless both sides have agreed to do so.[5] The ODIHR (Office for Democratic Institutions and Human Rights) may serve as a venue for such bilateral meetings.[6]

In addition,

(3) Any participating State which deems it necessary may bring situations and cases relating to the human dimension of the OSCE, including those which have been raised at the bilateral meetings described in paragraph 2, to the attention of other participating States through diplomatic channels or through the ODIHR[7];

(4) Any participating State which deems it necessary may provide information on the exchanges of information and the responses to its requests for information and to representations (para. 1) and on the results of the bilateral meetings (para. 2), including information concerning situations and specific cases, at OSCE meetings, in particular at meetings of the Senior Council (formerly the CSO), the biennial review conferences and at the human dimension implementation meetings.[8]

2.1.2 Features/Characteristics

The Vienna mechanism
- functions on a permanent basis: it is available for use at all times;
- is of a non-voluntary character; when a State is faced with requests for information from any of the OSCE States within the framework of the mechanism, it is under an obligation to respond

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[4] In the Copenhagen Meeting of the Conference on the Human Dimension the time limit for the agreeing upon the meeting was 3 weeks (para. 42.2 of the Copenhagen Document). The one-week limit was agreed upon in the Moscow Meeting of the Conference on the Human Dimension (para. 2 of the Moscow Document).

[5] This addition was made in the Copenhagen Meeting of the Conference on the Human Dimension (para. 42.3 of the Copenhagen Document).

[6] This addition was made in the Helsinki Follow-up Meeting (Chapter VI paras 5 and 7 of the Helsinki Decisions).

[7] The role of the ODIHR in this connection was added in the Helsinki Follow-up Meeting (Chapter VI paras 5 and 7 of the Helsinki Decisions).

[8] Review Conferences and implementation meetings on human dimension issues as new forms of OSCE meetings were created at the Helsinki Follow-up Meeting (Helsinki Decisions Chapter I paras. 4 - 5 and 26 - 30).

to these requests. It must also comply with a subsequent request to hold bilateral meetings;
- the bilateral phase is confidential; if the requesting State is not satisfied with the requested State's response, the information can be made public (the multilateral phase); only if this public information does not change the attitude of the country in question should OSCE structures be involved. Decision-making power on follow-up actions is entrusted to the Senior Council and the Permanent Council.[9]

2.2 The Moscow Mechanism

At the Moscow Meeting of the Conference on the Human Dimension of the CSCE (CHD) in 1991 the Vienna mechanism was supplemented by a system of missions of independent experts or rapporteurs in the field of the human dimension of the OSCE. These modifications introduced an independent element, the possibility of an independent investigation into violations of human dimension commitments, into the human dimension mechanism that had been functioning at a strictly intergovernmental level.[10]

The supervisory system set up in Moscow, and labelled as the Moscow mechanism, was subsequently streamlined at the Rome Council Meeting in December 1993. The Moscow mechamism is rather complicated encompassing five separate procedures which may be used independently of one another to set up missions of rapporteurs or experts.

2.2.1 Structure

Two of the procedures introduced in Moscow are linked to the Vienna mechanism:

a) <u>After the first or second phase of the Vienna mechanism, the initiating State (the requesting State) may suggest that the other State (the requested State) should invite a mission of experts:</u> one or more participating States, having put into effect para. 1 or para 2 of the Vienna mechanism (a written response to requests for information and bilateral meetings), may suggest that the requested State invite a mission of experts "to address a particular, clearly defined

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[9] See also the remarks on decision-making power in respect of implementation under the next heading.

[10] The system of human dimension missions of independent experts or rapporteurs marked also the first major deviation from the hitherto strictly intergovernmental supervisory procedures of the OSCE.

question on its territory related to the human dimension. (para. 8 of the Moscow Document).[11]

b) If the requested State refuses to establish a mission of experts within 10 days from the request, or if the initiating (requesting) State judges that the issue in question has not been resolved as a result of a mission of experts, the requesting State may initiate the establishment of a mission of rapporteurs[12]. For the establishment of the mission the requesting State needs the support of at least five other OSCE States. The consent of the requested State is not needed. (Para. 9 of the Moscow Document)

Furthermore, **the Moscow mechanism encompasses three other procedures** which may be used to establish missions. These procedures, which are not linked to the application of the Vienna mechanism, are:

a) The voluntary invitation of a mission of experts by a OSCE State: Any participating State can voluntarily invite a mission of experts to "address or contribute to the resolution of questions in its territory relating to the human dimension of the OSCE". (Para. 4 of the Moscow Document)[13]

b) The decision by the Senior Council or the Permanent Council to establish a mission of experts or rapporteurs: The Senior Council or the Permanent Council[14] may establish a mission of experts or a mission of rapporteurs upon the request of any participating State. (Para. 13 of the Moscow Document)

c) The establishment of an 'emergency' mission of rapporteurs in cases of a "particularly serious threat" to the fulfilment of human dimension provisions: In these serious situations any

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[11] A mission of experts may consist of up to 3 experts selected by the requested State from the OSCE's resource list. (Paras 8 and 4 of the Moscow Document). In accordance with para. 4 of the Document the experts chosen cannot be the appointing State's own nationals or residents or any of the persons this State appointed to the resource list. In addition, there should be no more that one national or resident of any particular State in a mission.

[12] A mission of rapporteurs consists of up to 3 members drawn from the OSCE's resource list, one appointed by the requesting State(s), one by the requested State (if it so chooses) and one by the first two rapporteurs, or by the ODIHR in case of their disagreement. Rapporteurs cannot be nationals or residents of, or persons appointed to the resource list by any of the States concerned. (Para. 10 of the Moscow Document).

[13] The State concerned itself selects up to 3 members of the mission from the OSCE's resource list. (Para. 4 of the Moscow Document). For the restrictions in the selection of experts, see the remarks in footnote 11 above.

[14] The role of the Permanent Council (formerly the Permanent Committee) as the initiator of a mission was agreed upon at the 1993 Rome Council Meeting (Chapter IV para. 5 of the Rome Document).

participating State may activate this procedure with the support of at least 9 other OSCE States. (Para. 12 of the Moscow Document)

2.2.2 Features/Characteristics

- The **mandate** of expert and rapporteur missions may vary according to the procedure from which these missions arose. In general it may be noted that the powers of missions of experts go beyond those of missions of rapporteurs.

a) Missions of rapporteurs establish the facts, report on them, in addition to which they may also give advice on possible solutions to the question raised.[15]

b) Missions of experts: The purpose of a mission of experts is "to facilitate resolution of a particular question or problem relating to the human dimension of the CSCE". For that purpose these missions may gather information and, as appropriate, use its good offices and mediation services to promote dialogue and co-operation among interested parties. The State concerned will agree with the mission on the precise terms of reference and may thus assign any further functions to the mission of experts, *inter alia* fact-finding and advisory services, in order to suggest ways and means of facilitating the observance of OSCE commitments.[16]

- **Reports of missions and the follow-up actions**

a) Missions of rapporteurs: The rapporteur(s) submit(s) a report to the participating State(s) concerned and to the OSCE (the ODIHR) within 3 weeks after the last rapporteur has been appointed. The requested State may submit any observations on the report within 3 weeks after the submission of the report. The ODIHR will transmit the report and the possible observations on it to all OSCE States without delay. The report may[17] be placed on the agenda of the Senior Council or the Permanent Council, which may decide on any possible follow-up action.[18] The report will remain confidential until after the meeting of the Council.[19]

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[15] Para. 11 of the Moscow Document.

[16] Para. 5 of the Moscow Document.

[17] Note! In the ODIHR's handout on the human dimension mechanism the word must is used in this connection. The word may is used in the Moscow Document, para. 11. The author of this paper did not find any indication to the compulsory submission of the reports to the OSCE organs in the subsequent OSCE documents either. Is there a mistake in the ODIHR's handout or did the author miss the relevant modification of the rules?

[18] The authorisation of the Senior Council to decide on follow-up actions based upon rapporteurs' reports, see para. 11 of the Moscow Document. The authorisation of the Permanent Council to take follow-up actions based upon rapporteurs' reports, see Chapter IV para. 5 of the Document of the Rome Council.

b) <u>Missions of experts</u>: A mission of experts has to submit its report within 3 weeks after the completion of the mission to the inviting State and to the OSCE within further 2 weeks.[20] Reports of missions of experts <u>may</u> be discussed by the Senior Council or by the Permanent Council for possible follow-up action.[21] The observation and comments will remain confidential until brought to the attention of the Council.[22]

2.3 Practice

2.3.1 The Vienna Mechanism

- The Vienna mechanism has been operative since the end of the Vienna Meeting, e.g. since January 1989.

<u>The years of the active usage; 1989 and 1990</u>[23]
- The mechanism was frequently used at the beginning of its functioning, in 1989 and 1990. Between January 1989 and April 1990 the Vienna mechanism was used about 100 times.[24] The predominant usage was in the East-West context, most often by Western States (including the European Community) against Eastern ones.
- The mechanism was used e.g. against the following States:
  - Czechoslovakia (the treatment of participants in a peaceful meeting to commemorate

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[19] Para. 11 of the Moscow Document.

[20] The ODIHR's handout on the human dimension mechanism. These additions were made in the Rome Council meeting (Annex A to the Rome Document).

[21] The authorisation of the Senior Council to decide on follow-up actions, see para. 6 of the Moscow Document. For the auhtorisation of the Permanent Council, see Chapter I para. 22 and Chapter VIII para. 5 of the Budapest Decisions in the Concluding Document of the Budapest Review Conference.

[22] Para. 6 of the Moscow Document.

[23] The information concerning this period is mainly from: Brett, Rachel: The Development of the Human Dimension Mechanism of the Conference on Security and Co-operation in Europe. Papers in the Theory and Practice of Human Rights, No. 1, Human Rights Centre, University of Essex, England 1991; and from: Bloed, A.:"Monitoring the CSCE Human Dimension: In Search of its Effectiveness". Monitoring Human Rights in Europe: Comparing International Procedures and Mechanisms. (Eds.) A. Bloed, L. Leicht, M. Nowak, A. Rosas. Martinus Nijhoff Publishers, The Netherlands 1993. Pp. 45 - 91.

[24] Brett, op.cit., p. 22. Bloed, op.cit., p. 72. See also McGoldrick, D: "Human Rights Developments in the Helsinki Process". 39 IVLQ. pp. 923 - 940 (925).

the self-immolation of Jan Palach and the subsequent treatment of those detained, including Vaclav Havel)[25],
- Bulgaria (expulsion of members of the ethnic Turkish minority[26]; Turkish minority and detention of two members of Ecoglasnost[27])
- East-Germany (repressive measures against dissidents; incidents at the Berlin Wall),
- Romania (general human rights situation and specific cases)[28],
- USSR (refusal of exit permit[29]; refusal to allow Lithuanian Americans into the USSR[30])
- The Netherlands (information on police treatment of anti-apartheid demonstrators)[31],
- Turkey (the Kurdish question)[32],
- UK (the operation of the Immigration Act 1988)[33],
- in addition to prominent violations of human rights, the mechanism was also used repeatedly to raise specific cases of humanitarian hardship.[34]

The period after 1990:
- After the revolutionary changes in Central and Eastern Europe, the mechanism has been resorted to very rarely.
- Examples:
    - In 1991: to raise serious situations, such as the civil war in Yugoslavia, and military

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[25] This was the first activation of the Vienna mechanism and it was done by The Netherlands. The Netherlands used all four phases of the mechanism, ultimately placing the matter on the agenda of the first meeting of the Conference on the Human Dimension (Paris 1989). See Brett, op.cit., p. 22. Brett refers to Arie Bloed: "Institutional Aspects of the Helsinki Process after the Follow-up Meeting in Vienna". XXXVI NILR 1989, p. 354.
        In 1989 the UK invoked the mechanism in relation to Czechoslovakia three times.

[26] The mechanism was triggered by Turkey.

[27] The mechanism was triggered by the USA.

[28] The first time to apply the Vienna mechanism within Eastern bloc occurred in November 1989, when Hungary activated the mechanism in relation to Romania in order to raise the issue of violations of the rights of the Hungarian minority in Romania. See Bloed, op. cit., p. 73.

[29] The mechanism was triggered by the UK.

[30] The mechanism was triggerd by the USA.

[31] The mechanism was triggered by Czechoslovakia (May 1989).

[32] The Mechanism was triggered by Bulgaria.

[33] The mechanism was triggered by the USSR.

[34] It has been said that it was particularly in this category of interventions in connection with which positive results were achieved. See Brett, op.cit., p. 20.

actions by the Russians in Lithuania[35],
- March 1992: Austria - Turkey: Austria asked Turkey to provide information on its
military actions in regions the Kurdish minority of Anatolia live (South Eastern Turkey)
and the treatment of Kurdish civilians by Turkish security forces. This is also an example
of a use of the machanism by a 'non-interested' party.[36]
- spring 1992: Russia - Estonia: Russia activated the first phase of the Vienna
Mechanism (exchange of information) in order to get information on Estonian legislation
on citizenship.[37]

2.3.2 The Moscow Mechanism

- The Moscow mechanism became operational in May 1992 after the registration of the required
number of experts at the OSCE's resource list.[38]

- missions have been sent to the following States:

1. <u>Mission of rapporteurs to Croatia/the former Yugoslavia</u> (30 September - 5 October 1992)
- This mission was established upon the initiative of the United Kingdom on behalf of the
European Community States with the support of the USA pursuant to para. 12 of the Moscow
Document, i.e. it was an "emergency mission".
- The mandate of the mission was to investigate reports of atrocities against unarmed civilians in
Croatia and Bosnia, and to make recommendations as to the feasibility of attributing
responsibility for such acts. The additional mandate enabled the rapporteurs to visit areas which
may be under threat of ethnic cleansing, and to investigate allegations of the arbitrary arrests of
Serbs and Croats.
- The report contained a detailed description of atrocities committed by Serbian and Croatian
authorities, proposals for the establishment of a system for storing information concerning the
cruelties in the former Yugoslavia and for the creation of an international tribunal for
procecuting the perpetrators of war crimes.

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[35] Bloed, op. cit., p. 73.

[36] Austria resorted only to the first phase of the Vienna mechanism, i.e. to the exchange
of information. As a kind of 'retaliatory' action, Turkey for its part invoked the Vienna
mechanism in order to raise the alleged Austrian support to 'terrorists' on its territory. Turkey
did not proceed beyond the first phase of the mechanism either. See Bloed, op. cit., p. 74. See
also Buchsbaum, Thomas: "The Future of the Human Dimension". Helsinki Monitor, Vol. 4,
1993, No. 2, pp. 5 - 24 (17).

[37] Bloed, op. cit., p. 75. This was followed by the Russian efforts to make Estonia to
invite a mission of experts and to send a mission of rapporteurs to Estonia. For more, see
footnote 40 below.

[38] In accordance with para. 3 of the Moscow Document.

- The report was released after the 17th meeting of the CSO in November 1992. The rapporteurs' report was well-received, and consequently, the Stockholm Council Meeting in December 1992 authorized the rapporteurs to refine its proposals on personal accountability, including by way of the establishment of an *ad hoc* war crimes tribunal.[39]

2. Mission of Experts to Estonia (2 - 5 December 1992)[40]
- A mission of experts was invited by the Estonian Government on the basis of para. 4 of the Moscow Document.
- The mandate of the mission was very broad: the misson was invited to study Estonian legislation and compare it, and its implementation, not only with the OSCE standards, but with universally accepted human rights norms in general. The mission studied particularly the Estonian legislation in the areas of citizenship and language, especially regarding minority rights.
- The report of the mission of experts contains a number of detailed recommendations e.g. on the filling of gaps in legislation and the strengthening of the judiciary and administration, and on nationality issues.
- The report of the mission was made public after the 19th meeting of the CSO in February 1993.

3. Mission of experts to the Republic of Moldova (31 January - 3 February 1993)
- The mission was established at the request the Moldovan government on the basis of para. 4 of the Moscow Document.
- The mandate of the mission was to investigate current legislation, implementation of minority rights and inter-ethnic relations.
- The mission met with the representatives of all political parties as well as with officials of the self-proclaimed Republic of Trans-Dniestria and that of Gaugaz Republic. Representatives of the Bulgarian minority in the Teraclia district were also consulted.
- The final report (submitted in February 1993) contains comments and recommendations on constitutional and legal questions, the language law, citizenship law, and the law on religious freedom.
- The report was discussed at the 20th meeting of the CSO and released thereafter.

Other initiatives to activate the Moscow mechanism:
- July 1992: Austria - Turkey: during the Helsinki Follow-up Meeting, Austria requested Turkey

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[39] Chapter 1 para 14 of the Summary of Conclusions of the Stockholm Council Meeting.

[40] This mission was preceded by the Russian effort to make Estonia to invite a mission of experts in accordance with para. 8 of the Moscow Document in order to investigate the Estonian legislation on citizenship in June 1992. (This request was the Russian follow-up to the application by Russia of the Vienna mechanism in this same case (exchange of information)). Like Russian first effort, also the second attempt by Russia to persuade Estonia to invite a mission of experts made in August 1992 was rejected by Estonia. After these frustrated efforts Russia tried to activate the Moscow mechanism under para. 9 of the Moscow Document, i.e. it tried to get a mission of rapporteurs established. This plan failed due to Russia's failure to get the support of five other participating States as required by the respective provision. See Bloed, op. cit., p. 75.

to invite a mission under the Moscow mechanism in accordance with para. 8 of the Moscow Document. Turkey rejected this attempt by referring to the fact that Austria had already invoked the first phase of the Vienna mechanism, and also because Turkey considered a mission of experts to be unnecessary as it supposedly only had problems with terrorism by Kurdish nationalists.[41]

- January 1993 Uzbekistan rejected the request of Americans (that was channelled through the CSCE Chairman-in-Office) to create a mission of experts at its own initiative in accordance with para. 4 of the Moscow Document.[42]

- June 1993: at the 22nd meeting of the CSO in June 1993 the CSO decided to sent a rapporteur mission to Serbia in accordance with para. 13 of the Moscow Document to investigate human rights violations.[43] The mission could not be carried out due to the refusal of the Serbian authorities to grant visas to the members of the mission.[44]

- In 1994 the Nordic countries used the Permanent Committee meeting to request Turkey to consider invoking the human dimension mechanism.[45]

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[41] Bloed, op. cit. pp. 80 - 81. Bloed refers to Rachel Brett's paper on "The Challenges of Change. Report of the Helsinki Follow-up Meeting of the Conference on Security and Co-operation in Europe (CSCE) (24 March - 10 July 1992)". Papers in the Theory and Practice of Human Rights, No. 2, University of Essex, England 1992. P. 14.

[42] This refusal is said to be partly due to the lack of proper preparation of this diplomatic initiatiative on the part of the USA. Bloed, Arie: "CSCE Process in Progress". Helsinki Monitor, Vol. 4, 1993, No. 2, pp. 43 - 48 (45). On the other hand, if Uzbekistan had consented to the request, it would have resulted in the setting up a special ad hoc ODIHR mission instead of the establishment of a mission under the Moscow mechanism. Consequently, formally this effort does not relate to the Moscow mechanism. See Bloed, op. cit. p. 81.

[43] The Document of the 22nd Meeting of the CSO, Prague (29 - 30 June, 1993). The text on the former Yugoslavia: Human Rights in Serbia.

[44] Bloed, A.:"The CSCE between Conflict Prevention and Implementation Review". Helsinki Monitor, Vol. 4, 1993, No. 4, pp. 36 - 43 (37).

[45] Harris, Martin: "Human Rights Monitoring and the CSCE: Perspective from Budapest". Helsinki Monitor, Vol. 6, 1995, No. 1, pp. 18 - 22 (19).

2.4 Some Remarks on the Functioning of the Human Dimension Mechanism; Assessment of its Role in Conflict Prevention and Management

2.4.1 Remarks/Summaries

- Drastic drop in the use of the human dimension mechanism:

The Vienna mechanism: the practice between 1989 and 1990 reveals the predominantly confrontational East-West nature of the human dimension procedure. During the time when the cold war still prevailed willingness (or even desire) to act in confrontational way simply outweighed the usual reluctance of States to resort to inter-State complaint procedures. This view on the confrontational East-West nature of the human dimension mechanism is supported by the drastic drop in the number of the activation of the human dimension mechanism since the end of the cold war.[46]

The Moscow mechanism: Two cases out of three in which the Moscow mechanism has been used the missions were initiated by the State itself (Estonia, Moldova). In these cases the human dimension mechanism could be said to be used in non-confrontational response to outside allegations of non-compliance with OSCE commitments (especially in the case of Estonia).

Among the reasons for the present non-usage of the human dimension mechanism, especially the Vienna mechanism, put forward are:
* the lack of political will,
* the new political situation,
* a general reluctance among Western States to apply the OSCE mechanism in their mutual relations. As a rule, in this connection references are made to the existence of other human rights mechanisms, like the mechanism of the European Human Rights Convention, and to their better suitability in the solving of human rights problems, etc.[47]

- No binding decisions within the framework of the mechanism: No binding decisions, only recommendations can be made in the framework of the mechanism (compare e.g. to the inter-State procedures established by international conventions).
- A binding decision is possible as a follow-up to the procedures: the decision of the Senior Council or the Permanent Council. However, in these cases the consensus principle is applicable, and consequently, no action against the will of the State(s) concerned is possible.

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[46] See also Brett, op.cit. p. 24.

[47] The question of the limited use of OSCE mechanisms was discussed in the Seminar on Early Warning and Preventive Diplomacy organized by the ODIHR in January 1994 in Warsaw.

The consensus-minus-one principle is the only, but largely theoretical exception to this rule.[48]

- **the lack of any sanctions in cases of proven violations of human dimension commitments.**

- **Political nature of the mechanism contributes to flexibility in its operation:** The political framework of the OSCE mechanism is more flexibile than more rigid judicial procedures of the similar kind; the potential for innovation.

- **A short duration of the missions of experts and rapporteurs: The success of the mission presupposes good preparation.**

2.4.2 Role in Conflict Prevention and Management

Using the human dimension mechanism
- may indicate inplementation shortcomings that, for their part, might be early indicators of potential conflicts;
- qualified experts can be used to assess the conformity of the internal law and practice with the State's international commitments;
- the mechanism enables the participating States to acquire speedily information on specific human dimension questions in some OSCE State;
- may indicate international concern;
- may provide for an immediate/speedy international presence;
- may be used to gather information, to prepare for longer-term involvement;
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Examples of questions to be discussed:

- The non-usage of the human dimension mechanism invites the question whether one could consider that the mere existence of the mechanism promote conflict prevention.

- The appropriateness of the human dimension mechanism in situations of armed conflicts?

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[48] The consensus-minus-one principle was adopted at the Prague Council Meeting in January 1992. According to the principle, in situations of massive and gross ("clear, gross and uncorrected") violations of human rights the OSCE is entitled to adopt political measures against the State in which the violations occur, even without the consent of this State. The application of this principle is, however, limited to political measures (political declarations or other political steps) only. In addition, these political measures may be applied only "outside the territory of the State concerned". (Chapter IV para. 16 of the Prague Document on Further Development of CSCE Institutions and Structures).

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THE UNITED NATIONS AND PREVENTIVE DIPLOMACY: THE NEED OF NEW

APPROACHES

1. Prevention and enforcement

The United Nations Charter reflects many basic characteristics of the traditional international system, yet also departs from them in some significant ways. David Held has observed that the "UN Charter Model" is state-centric, but it relies more on norms and rules than the "Model of Westphalia" by, for example, stressing human rights, balanced economic development and the peaceful resolution of disputes.[1] The world of the United Nations is not anarchic in the first place, but regulated by various principles, conventions and mutually agreed understandings.

The state-centricity of the "UN Charter Model" is reflected, among other things, in the importance allotted to national self-defense which, in a decentralized state system, is considered both an unalienable right and a major responsibility of state. In the decentralized international system collective decision-making tends to be inertial and starts only when the status quo is seriously challenged. Therefore, collective prevention of security threats does not have a place of pride in "anarchic" international relations.

Collective decisions are also context-dependent; they cannot be made if in a particular situation or structure major powers are opposed to them. The nature of the international system is thus said to favor the policy of "self-help". In this view the collective security by the United Nations does not add any new element to international relations, but it is rather a continuation of the balance-of-power politics.[2] For a political realist, collective security is based on the aggregation of national power to defend the status quo.

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[1] David Held, 1993, "Democracy: From City-States to a Cosmopolitan Order", in David Held (ed.), Prospects for Democracy: North, South, East, West. Cambridge: Polity Press, pp. 27-37.

[2] Kenneth N. Waltz, 1979, Theory of International Politics. Reading, MA: Addison-Wesley p. 164. Waltz devotes only five lines of his book to the analysis of the political functions of the United Nations.

The effectiveness of collective security cannot, of course, be taken for granted as its credible application is always an up-hill struggle. Yet, for many small states it is the only hope against a major adversary as neither "self-help" nor alliance guarantees are available for them. The inherent difficulty to conduct a reliable policy of collective security may be one reason for which the UN Charter so strongly stresses the non-use of military force and its prevention.
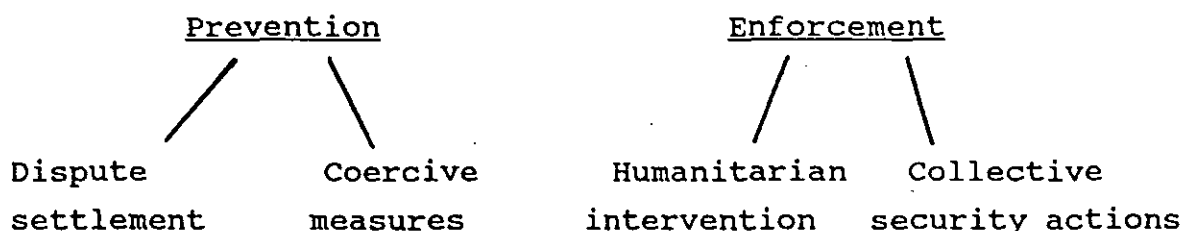
Indeed, the Charter points out that "armed force shall not be used, save for common interest" (Preamble) and that member states "shall settle their international disputes by peaceful means" (Art. 2:3) and that its membership is open to "peace-loving nations" (Art. 4:1). Clearly, states are expected under all conditions to refrain from the use of military force, except for self-defense and, as later stipulated, to get rid of colonialism and racial oppression. The right to self-defense exists, however, only until "Security Council has taken measures necessary to maintain international peace and security" (Art. 51).

Although the Charter expresses a strong preference for peace, it cannot be taken for granted. To prevent the outbreak and escalation of violent conflicts and, should this effort fail, to end them, the Charter contains several means to tackle the problem. Most importantly, it makes a clear distinction between prevention and enforcement. Preventive measures are spelled out in Chapter VI concerning the pacific settlement of disputes, while enforcement actions are conducted under Chapter VII.

Preventive measures can be used when the Security Council has determined that "the continuance of the dispute or situation is likely to endanger the maintenance of international peace and security" (Art 34). Enforcement measures are in order when the Council has determined the existence of a "threat to the peace, breach of the peace, or act of aggression" (Art. 39). Conflict prevention is thus related to the peaceful settlement of disputes, but is not the same thing. Inis L. Claude, Jr., suggests that preventive diplomacy represents an outgrowth of the peaceful

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settlement.[3]

Conceptually, prevention and enforcement as the UN peace-making strategies can be divided into components in the following manner:

Prevention		Enforcement	
Dispute settlement	Coercive measures	Humanitarian intervention	Collective security actions

Conceptually, these distinctions should be quite clear, with one potential exception; in the interpretations of the UN Charter only enforcement actions have been usually thought to contain coercion, while preventive actions are supposed to be peaceful by their nature. Such an interpretation is, though, incompatible with international practice in which coercive diplomacy has been used also for conflict prevention. As I will show later on, this problem depends partly on how the concept of prevention is defined.

It is a commonly accepted argument that the United Nations should stress prevention over intervention, i.e. enforcement. Preventive diplomacy is easy to use in political jargon, but if taken seriously it has fundamental consequences; "what is required is nothing less than a shift in the dominant way that the international community attacks problems. In formulating responses, new policy lenses should be tinted with preventive peacebuilding rather than intervention in and management of conflicts once they have erupted".[4] In other words, prevention will work only the in-built inertia of international relation is overcome and collective

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[3] Inis L. Claude, Jr., 1971, Swords into Plowshares. The Problems and Prospects of International Organization. New York: Random House (4th ed.), p. 317.

[4] Thomas G. Weiss, 1994, "Intervention: Whither the United Nations". The Washington Quarterly, vol. 17, no. 1.

decisions are made and implemented more quickly and effectively than today.

There might be an international trend towards quicker reaction. Recently, policy makers have started to stress the importance of early warning and prevention of violent conflicts. It is argued that conflicts are easier to prevent and resolve at an early phase when issues are still specific and hence more amenable to transformation, the number of parties to the conflict is limited, thus reducing its complexity, and early measures are cost-effective.[5]

On the other hand, the emphasis on conflict prevention has been criticized for being both irrelevant and unrealistic. It is also said to omit the creative role of conflicts in society, be illusory in assuming that preventive actions are inexpensive and riskless and to overlook various problems of implementation.[6]

2. Dimensions of preventive action

Traditionally, preventive action by the United Nations has been associated with neutralization. Preventive diplomacy has been exercised or troops have been deployed in the trouble spots to "obviate the competitive intrusion of the major powers".[7] Dag Hammarskjöld, who pioneered the UN preventive diplomacy, had a similar conception of it. In his view it was particularly needed when cases where the conflict threatens to create a "power vacuum

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[5] Gareth Evans, 1993, Cooperating for Peace. The Global Agenda for the 1990s and Beyond. St. Leonards, Australia: Allen & Unwin, pp. 66-70

[6] Stephen John Stedman, 1995, "Alchemy for a New World Order. Overselling 'Preventive Diplomacy'". Foreign Affairs, vol. 74, no. 3, pp. 14-20. This criticism can be refuted by noting that conflict prevention focuses on violent rather than non-violent conflicts, of which only the latter is creative. The rejection of prevention should be based on a counterfactual analysis of the costs of this choice which would probably show that the costs of inaction are, as a rule, higher than those of imperfect preventive action.

[7] Claude op.cit. 1971, p. 317.

between the main blocs". In such cases preventive action "must in the first place aim at filling the vacuum so that it will not provoke action from any of the major parties".[8]

Today, the concept of preventive action has acquired a much broader meaning; in fact three different meanings. Preventive action can be defined either; (a) as a short-term diplomatic or military operation which tries to avoid the outbreak or escalation of violence; (b) a medium-term political or constitutional arrangement to share power in a generally acceptable manner in order to mitigate tensions in society; or (c) as a long-term policy by which structural inequities and ideological tensions are reduced and preconditions for peace are thus strengthened. The last two approaches are embraced by the Commission on Global Governance which concludes in its recent report that "a comprehensive preventive strategy must focus on the underlying political, social, economic, and environmental causes of conflict".[9]

While constitutional and structural policies of conflict prevention make an important contribution to peace over a long term, its preservation usually requires more immediate political and diplomatic action. These 'proximate' measures of conflict prevention are undertaken here and now and are in this respect more effective than more 'remote' structural reforms. It would be erroneous, though, to expect the 'proximate' measures of conflict prevention to produce immediate and successful results. Such expectations easily overlook problems associated with indirect effects and nonlinear relationships.

In a complex international system outcomes do not, because of various indirect effects, necessarily correspond to intentions. Therefore, a policy instrument can yield insufficient results which

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[8] These reflections are contained in Hammarskjöld's introduction to the 1959-60 annual report of the United Nations, reproduced in Joel Larus (ed.), 1965, From Collective Security to Preventive Diplomacy. New York: John Wiley & Sons, p. 402.

[9] Our Global Neighborhood, 1995. The Report of the Commission on Global Governance. London: Oxford University Press, pp. 93-98.

may, in turn, lead to calls for increased efforts.[10]   Early attention to and action in a potential crisis, which both are standard elements in preventive diplomacy, may, for instance, encourage the parties to define their interests in sharper terms and crystallize their incompatible identities more strongly than might have been the case otherwise. Therefore, the agents of preventive action should always pay special attention to its unintended and unpredictable consequences.

For the first time since Hammarskjöld's days, the United Nations is now taking preventive diplomacy truly seriously. In 1992, An Agenda for Peace by Boutros-Ghali defined preventive diplomacy as

> action to prevent disputes between parties, to prevent existing disputes from escalating into conflicts and to limit the spread of the latter when they occur.[11]

A main trait of this definition is its focus on the objectives of preventive diplomacy and the neglect of its instrumental aspects that can be both ethically problematic and politically contested. A broader definition has been adopted by Michael Lund:

> Preventive diplomacy involves governmental and non-governmental diplomatic, political, economic, military, or other efforts that are taken deliberately at an early stage to keep states or communal groups from threatening or using armed force or coercion as the way to settle political disputes that arise from the destabilizing effects of national and international change. It aims to discourage or minimize hostilities, reduce tensions, address differences, create channels for resolution, and alleviate insecurities and

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[10] Robert Jervis, 1993, "Systems and Interaction Effects", in Jack Snyder & Robert Jervis (eds.), Coping with Complexity in the International System. Westview: Boulder, pp. 31-33.

[11] Boutros Boutros-Ghali, 1995, An Agenda for Peace. With the New Supplement and Related UN Documents. New York: United Nations, p. 45.

material conditions that tempt violence.[12]

Adopting the definition of An Agenda for Peace as a starting point one can say that preventive action has two main components; conflict prevention and escalation prevention. To them I would like to add a third element; the prevention of the re-emergence of postconflict disputes thus making sure that peace will last. This classification, yielding three modes of prevention, is based on the idea of a conflict cycle in which each stage of conflict has its characteristic methods of prevention.

To summarize, preventive action comprises three different, but interrelated approaches: (a) conflict prevention, i.e. preventing violent disputes from arising between parties; (b) escalation prevention, i.e. preventing both the vertical and horizontal escalation of hostilities; and (c) post-conflict prevention, i.e. preventing the re-emergence of disputes. This notion of three temporary successive strategies of prevention, taken in use if the preceding strategy fails, deviates from the standard terminology in which prevention is said to consist only of pre-conflict actions and the intra-crisis prevention is called either conflict regulation or management. Conflict ending, including a ceasefire and peace settlement, is not usually considered to include preventive actions.[13]

Preventive diplomacy can be either bilateral or multilateral. in bilateral prevention, one state tries to forestall a particular action by another state either by reassurance, inducement,

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[12] Michael S. Lund, 1994, Preventive Diplomacy and American Foreign Policy. A Guide to the Post-Cold War Era. Washington, D.C.: The United States Institute of Peace, p. 52. A problem with this comprehensive definition is that it mixes the notion of preventive diplomacy, as traditionally understood, with conflict resolution (or peace-making in the parlance of An Agenda for Peace) and peace-building.

[13] For a standard approach, see Hugh Miall, 1992, The Peacemakers. Peaceful Settlement of Disputes since 1945. New York: St. Martin's Press, pp. 40-43

deterrence, compellence or pre-emption.[14] These methods fall in two broad categories depending on whether the objective is to act before the adversary (Pre-emption), discourage by threats the other side from undertaking specific actions (deterrence and compellence) or prevent the crisis by increasing the incentives to cooperate (reassurance and inducement). Reliance on pre-emptive action and threats in bilateral prevention comes close to the realistic interpretation of international relations in general. A liberal approach to preventive diplomacy would probably rely more on positive incentives, cooperation and confidence-building to persuade the other state not to resort to the use of force or other destabilizing policies.

Multilateral prevention of conflicts and their escalation requires the organization of collective action by several states and international organizations. The United Nations can, for instance, call parties to a conflict to settle their disputes in a peaceful manner. Multilateral prevention usually relies on various bilateral influences between relevant states, but involves, in addition, collective measures taken by the United Nations or other international organizations. These measures can use both negative or positive means of preventive influence (e.g. economic sanctions vs. economic aid). In international efforts to prevent North Korea from acquiring nuclear weapons, both of these measures have been on the political agenda.

The tools of preventive action range from verbal appeals not to use force to pre-emptive military moves. Verbal exhortations are seldom weighty enough and, therefore, preventive action should also try to alter, either by diplomacy or coercion, the payoffs of the parties to a conflict. In that way they could be persuaded or compelled to give up the option of violence to achieve their goals. Apart from verbal appeals, preventive diplomacy can rely both on

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[14] The use of these different methods of deterrence in U.S.-Soviet crises is explored in Richard Ned Lebow & Janice Gross Stein, 1994, We All Lost the Gold War. Princeton, N.J.: Princeton University Press, pp. 291-323.

reassurance and compellence. In <u>reassurance</u> the parties try to increase incentives to cooperate and persuade each other about the futility to use force or to make it otherwise unattractive.

In a <u>deterrence</u> relationship the preventing actor conveys a message to the target country that the use of force would have intolerable costs and that is why irrational. In <u>compellence</u> the target country is demanded to change its behavior to comply with the values or interests of the compeller. This forces the target country to search for more information on the threats and their credibility, estimate consequences of potential concessions and create an internal consensus to back up the decision to yield and commitments it requires.[15] Compelling threats have a preventive function, but they also contain a risk of escalation which, if realized, may leave every party worse off in comparison with the original situation in which conflict was controlled.

While compellence may require action, <u>pre-emption</u> always does so. In pre-emption the preventing actor makes a positive or a negative move that reduces the need or the opportunity of other actors to use force against it. In Michael Lund's terminology "pre-emptive initiatives" are early political measures to prevent the outbreak of violence, while "pre-conflict peacebuilding" aims to create a societal, institutional and legal milieu defusing conflict dynamics. Finally, "crisis prevention means efforts intended to halt the escalation of hostilities, or contain their spread, in order to prevent them from becoming a crisis or war".[16] <u>Preventive war</u> is the most far-reaching measure in preventive action in which force is used in the expectation that it is unavoidable and that the quicker side will gain initiative and suffer less damage.

All these approaches are based on the manipulation of payoffs and incentives to persuade or compel parties to change their

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[15] Alexander L. George, 1991, Forceful Persuasion. Coercive Diplomacy as an Alternative to War. Washington, D.C.: The United States Institute for Peace, pp. 5, 12-14.

[16] Lund op.cit. 1994, pp. 59-61.

behavior. In practice, the prevention of violence by using coercive measures is seldom successful. It tends to elicit counterreactions and thus lead to the escalation of violence. In addition, the inertial processes of international relations and various domestic factors both constrain the effective preventive use of force in the manner that it really shapes the behavior of the target government. This means that diplomacy is the main instrument of conflict prevention.

3. The UN preventive action

Conflict prevention is associated with the <u>peaceful settlement of disputes</u>, but is not the same thing. Conflict prevention grows out from the pacific settlement by, for example, employing a greater variety of means.[17] The UN Charter makes it clear that the parties to a conflict have the primary responsibility to seek a solution by peaceful means. The Security Council can, in supervising this obligation, investigate the matter and call upon the parties to settle their dispute by such means (Art. 33 and 34). The parties have the obligation to refer the dispute to the Council if they fail to settle it by other means (Art. 37).

The primacy of the bilateral settlement is qualified by the reference to the possibility of third-party assistance and the right of any member state bring the dispute to the attention of the Security Council or of the General Assembly (Art. 35). If the effort at settlement fails, the Security Council has, in the case the dispute is "likely to endanger the maintenance of international peace and security", the right to "recommend appropriate procedures or methods of adjustment" (Art. 36 and 37).

In practice, the UN role in conflict prevention boils down to its early-warning and investigative functions on the one hand and its mediating role on the other. Since the 1980s, the organization has gradually developed its capacity of <u>early warning</u> to monitor destabilizing inter- and intranational developments that can

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[17] Claude op.cit. 1971, p. 317.

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potentially give rise to political, military and humanitarian crises. Despite many obstacles, some of them self-inflicted, the United Nations has made progress in this field.[18]

Early-warning is logically linked to the investigative role of the United Nations which in all likelihood has been under utilized in the past.[19] Although member states are not obliged to cooperate with the UN fact-finding and investigative activities, they are an important way to collect additional information and elicit cooperation from parties and in that way prevent the outbreak of conflict. The UN Secretary-General has complained in his Supplement to An Agenda for Peace that it is often difficult to find competent persons to act as his special envoys in crises as well as to establish and finance field missions for preventive diplomacy and peacemaking.[20]

The Secretary-General clearly sees early-warning, fact-finding and confidence-building as essential elements of preventive diplomacy and as preconditions for his ability to meet the responsibilities under Charter, including Art. 99. If preventive action is so defined, it tends of overlap with peacemaking which has the task of "bringing hostile parties to an agreement" by means specified in Chapter VI.[21] Peacemaking can be pursued both before and after the outbreak of conflict. That is why it partly overlaps with what I have termed escalation prevention.

Conflict prevention relies primarily on political and diplomatic means, but it may also utilize passive military instruments. Preventive deployment of UN forces and the

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[18] For a description of the UN early-warning activities, see Jürgen Dedring, 1994, "Early Warning and the United Nations". Journal of Ethno-Development, vol. 4, no. 1, pp. 98-104.

[19] N.D. White, 1993, Keeping the Peace. The United Nations and the Maintenance of International Peace and Security. Manchester: Manchester University Press, pp. 74-77.

[20] Boutros-Ghali op.cit. 1995, pp. 12-14.

[21] Ibid., pp. 45-49 and 51-53.

establishment of demilitarized zones are examples of peaceful military means by which a conflict situation can be stabilized and a cross-border aggression prevented. The preventive deployment of UN troops in the Former Yugoslav Republic of Macedonia provides one of the admittedly few examples of this approach. To be effective, preventive deployment must be in place early enough, the UN presence must be tangible, its task must be clearly defined and linked with the broader political process of dispute settlement and preferably be based on the consent of all relevant parties.[22]

Third-party <u>mediation</u> can be used both to prevent a conflict and its escalation by its quest to bring parties to a mutual agreement and in that way defuse the potential for violence. A critical distinction in third-party intervention is whether it is carried out by a neutral or a principal mediator, to use Thomas Princen's terminology. A neutral mediator has neither direct interest in the dispute nor capacity to force the parties to an agreement. It can only try to modify their mutual relations and create 'realistic empathy' between them. A principal mediator is involved in a three-way bargaining with parties with the intention to modify their payoff structures, either by remuneration or coercion, in order to bring them to an agreement.[23]

The United Nations does not possess capabilities to act as a principal intermediary in a crisis. Therefore, it only can try to prevent or settle the conflict by an impartial approach. The UN is not necessarily the only mediator in the conflict, but it may have to 'broker requests' for its assistance with member states or other actors.[24] In such cases coordination between different mediators is

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[22] Evans op.cit. 1993, pp. 81-85 and Boutros-Ghali op.cit. 1995, pp. 49-51.

[23] Thomas Princen, 1992, Intermediaries in International Conflict. Princeton, N.J.: Princeton University Press, pp. 18-31.

[24] The concept of brokered requests, totalling 13 in 1962-92, has been used by William J. Durch, 1993, "Getting Involved: The Political-Military Context", in William J. Durch (ed.), The Evolution of Peacekeeping. Case Studies and Comparative Analysis.

important. One possibility is that the UN will act as a neutral mediator, while its member states or a coalition of them assumes the role of a principal mediator using stronger instruments of influence than the United Nations.[25]

4. Escalation control

If the prevention of a violent conflict fails in the first place, then the next step is to embark upon the preventive diplomacy to stop the escalation of conflict. Escalation has been defined by Richard Smoke as

> consisting in the crossing of saliencies, which are taken as defining the limits of conflict. As a war escalated, it moves upward and outward through a pattern of saliencies that are provided situationally.[26]

Sometimes escalation is seen as a 'homogenous process' in which the stakes and means are gradually and reciprocally amplified. On the other hand Smoke, following Thomas Schelling, considers that individual steps, small or large, taken by parties to cross salient limits are the defining characteristics of an escalation process.[27]

In a gradual, reciprocal escalation process, preventive diplomacy has to be exercised consistently to stop the increase in the intensity and magnitude of violence. To stress such salient limits -- e.g. drawing new states into the dispute, breaking the laws of war or banning the use of especially lethal weapons --

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New York: St. Martin's Press, pp. 20-22.

[25] Such a division of labor between the UN Secretary-General as the principal diplomatic mediator and the Security Council as the agent of enforcement has been endorsed by Giandomenico Pico, 1994, "The UN and the Use of Force. Leave the Secretary-General Out of It". Foreign Affairs, vol. 73, no. 5, pp. 14-18.

[26] Richard Smoke, 1977, War. Controlling Escalation. Cambridge, MA.: Harvard University Press, p. 34.

[27] Ibid., pp. 30-32.

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conveys the point that preventive diplomacy will seriously try to stop efforts to violate these restrictions.

Preventive deployment is one relevant strategy as it tries to prevent the crossing of one salient limit, i.e. the territorial expansion of the dispute. Laws of war provide, in turn, normative standards against which the potential escalation of war can be judged and measures to prevent it undertaken. On the other hand the requirements of military necessity are used as an argument to justify the violation of these laws undermining thus their preventive function.

First-generation peacekeeping is a less effective mode of prevention than preventive deployment as peacekeepers are deployed only after a ceasefire has been achieved. Second-generation peacekeeping operations, of which Cambodia and Namibia are examples, are also based on prior agreements. Their main task is to stabilize the country and prevent thus the return to violence. In that sense second-generation operations share features with postconflict prevention of violence. The third option is to send UN troops to such crises areas in which no ceasefire or political agreement is in place. Unless the troops have a mandate to enforce peace, they have big difficulties to prevent the further escalation of violence. Rather the UN forces are caught in the horns of dilemma; to be effective, they should conduct enforcement operations in the spirit of collective security, while in reality they are involved in humanitarian operations. In that dilemma enforcement and humanitarian actions become alternatives to rather than mutually support each other.[28]

While escalation has been sometimes understood as aself-propelled process, it is more prudent to consider it a series of strategic moves by the parties involved. From the viewpoint of

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[28] This dilemma is discussed in greater detail in Raimo Väyrynen, 1995, "Enforcement and Humanitarian Intervention. Two Faces of Collective Action by the United Nations". Joan B. Kroc Institute for International Peace Studies, University of Notre Dame, Occasional Paper 8:OP:3.

prevention, the notion of escalation as a series of strategic moves is more appropriate both as a description of reality and as a basis for policy prescriptions. However, even if escalation is defined as a series of strategic moves, the escalation has interactive or reciprocal elements. It is often assumed that reciprocity drives escalation relentlessly towards a war, while its lack assures stability. It may make more sense to treat escalation and reciprocity as independent dimensions of conflict behavior. Obviously the combination of high escalation with high reciprocity ('Fight') or with low reciprocity ('Resistance') are the most difficult conflicts to manage, while the combination of low escalation either with high ('Standoff') or low ('Put-Down') reciprocity are easier to control.[29]

Escalation has basically two operational dimensions: vertical and horizontal ones. <u>Vertical escalation</u> means the increase in the magnitude or intensity of dispute in terms of the number of victims and amount of damage. The prevention of such escalation aims to limit the human and physical destruction caused by the use of military force. <u>Horizontal escalation</u> expands, in turn, the geographical and social domains of conflict and draws into the sphere of violence new groups, communities or states. Both vertical and horizontal escalation embody salient limits whose crossing third parties may try to prevent. In vertical escalation these limits are often legal and moral, while in horizontal escalation they are territorial.

Therefore, in the efforts to prevent vertical escalation the international community must stress, for instance, legal restraints embedded in the laws of warfare, ban the supply of arms, especially more lethal weapons, and convey in no uncertain terms the message that the resort to more destructive methods of warfare will lead to punitive measures. Horizontal escalation can be stemmed, for

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[29] Russell J. Leng, 1993, Interstate Crisis Behavior, 1816-1980: Realism versus Reciprocity. Cambridge: Cambridge University Press, pp. 74-84. Cf. Smoke op. cit. 1977, pp. 21-30.

instance, by the preventive deployment of third-party troops as well as the establishment of demilitarized zones and safe areas. It should be also possible to work for a peaceful territorial change in which divergent interests are adjusted, for example, by disaggregating sovereignty and separating it from the physical control of territory.[30]

The United Nations has a history of involvement in escalation control since at least the Congo crisis. During Hammarskjöld its diplomacy was almost solely geared to prevent the horizontal escalation of conflicts by localizing them and keeping the major powers out. More generally, it can suggested that this has been the overaarching objective of the UN preventive diplomacy by peacekeeping. The reason for this may be that the horizontal proliferation of hostilities is the greatest threat to the sovereignty of UN member states. Therefore, it is a legitimate mode of preventive action, while the efforts to stop the vertical escalation of intra-state crises can be criticized for amounting to interference with the internal affairs of states.

Preventive diplomacy strive either for limiting objectives of the perpetrators of violence or restricting the means used by them. The focus on objectives means that the agents of violence are persuaded to behave as status quo powers, while the emphasis on means is more concerned with the human and ethical consequences of a crisis. The prevention of horizontal escalation seems to make an effort to limit the objectives, while the prevention of vertical escalation leads to attempts to ban or restrict to use destructive methods of warfare.

5. Postconflict prevention

Peace agreement is only the first step to build a more stable peace within or between states. Several factors -- e.g. the lack of

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[30] For an in-depth study of these issues, see Arie Marcelo Kacowicz, 1994, Peaceful Territorial Change. Columbia, SC: University of South Carolina Press.

commitment and resources by the peacemakers, weak commonality of interests between the parties to a peace settlement or adverse economic situation -- can open the floodgates of violence again. The conflict in Angola and the Israeli-PLO peace process are the best-known recent examples on how the peace process can be very precarious, interrupted and even deteriorate to the resumption of hostilities.

The notion of postconflict prevention suggests that the United Nations should think violent conflicts in a long-term perspective, including the establishment of a stable framework of public power in the country. Postconflict prevention may require political and diplomatic actions to defuse an incipient crisis. More often the main needs are, however, in the social, economic and institutional strengthening of the countries ravaged by war. Namibia provides a positive example in which the UN operation supporting the country's independence through free elections was followed by the contributions from the international community to strengthen its political, legal and financial institutions.

To be successful, postconflict peacebuilding and prevention of violence call for concerted efforts by the international financial institutions, humanitarian agencies and interested governments. Their activities can be, however, at crosspurposes. First, the strengthening of peace may not serve the interests of one or more actors, governmental or non-governmental, and they may try to sabotage the efforts of other actors. Second, the activities of international agencies providing humanitarian and material support to national reconstruction may be undermined by international financial institutions which demand structural adjustments such as cutbacks in public spending and real decrease in salaries. The experiences in peacebuilding in El Salvador illuminates these problems.[31]

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[31] Alvaro de Soto & Graciana del Castillo, 1994, "Obstacles to Peacebuilding". Foreign Policy, no. 94, pp. 69-83.

6. The prevention of conflict and its escalation in Yugoslavia

The outbreak of violence in Yugoslavia in 1991 and the efforts to contain it illustrate different strategies of conflict prevention and their successes and failures. By the fall of 1990 it had become clear that the situation in Yugoslavia was worsening quickly. In fact, in 1987-89 the relentless efforts of Slobodan Miloševic to consolidate his power and, together with the deteriorating economic situation, were already paving way to a disaster.[32] Early warnings of impending conflicts were issued especially by France and the United States. However, instead of taking determined preventive action, major Western powers looked the other way and thus missed the opportunity to preventing the outbreak of conflict. Only in the summer 1991, when Slovenia and Croatia were already actively seeking independence, it was generally admitted that situation was turning serious.[33]

The Croatian quest for independence, and its declaration in October 1991, and the Greater Serbia project by Miloševic were at crosspurposes with each other because the Croatian Serbs would have been under Zagreb's control. This intensified the bilateral conflict between Belgrade and Zagreb in which two nationalisms confronted each other over the political and territorial question of Krajina. After the hostilities had started and resulted in the destruction of Vukovar and other cities, the United Nations became active. Following the diplomatic breakthrough that Cyrus Vance, the UN mediator, achieved, the world organization started deploying peacekeeping forces. The aim was to stop the fighting between the Yugoslavian National Army (JNA) and Croatia.

Meanwhile the Hague Peace Conference, chaired by Peter Carrington, the representative of the European Union, had come close to a political agreement based on a confederal Yugoslavia.

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[32] Paul Mojzes, 1994, Yugoslavian Inferno. Ethnoreligious Warfare in the Balkans. New York: Continuum, pp. 64-70.

[33] Michael Kelly, 1994, "Surrender and Blame". New Yorker, December 19, pp. 45-46.

True, Croatia and, to a lesser degree Serbia, were reluctant to accept the terms proposed by Carrington and Vance, because they would have made the Croatian independence and the Greater Serbia impossible. It has been argued, however, that in the Hague an opportunity for a negotiated compromise on a confederal Yugoslavia emerged as a serious option. The establishment of such a confederation would have required, however, persuasion and pressure by a united front of the permanent members of the Security Council or, at a minimum, the Western powers.

Such a collective, preventive pressure was not forthcoming, however, as in particular Germany defected from the common front. Germany did not oppose the European and the UN plans as such, but preferred diplomatic deterrence of Serbia rather than an multilateral mediation as the main means of influence. Foreign Minister Hans-Dietrich Genscher thought that Serbian expansionism could be best deterred by recognizing internationally first Slovenia and then Croatia. The strategy did not work; to the contrary the recognition of Croatia by the European Union, under German pressure, led to the deterioration of the situation.

Recognition encouraged the Croatian government, headed by Franjo Tudjman, to annex the parts of Bosnia that were controlled by the local Croats. The independence of Slovenia and Croatia meant that Bosnia-Herzegovina remained a part of the old Yugoslavia and, as a consequence of that, the Bosnian muslims would have been incorporated into Serbia should they not have searched independence. This increased the pressure on Alija Izetbegović to arrange a referendum and declare a sovereign, Muslin-inhabited state of Bosnia.[34] The European Union recognized Bosnia-in April 1992 fuelling in Izetbegović's mind the illusion that his bargaining position had now significantly strengthened and permitted the Bosnia to remain as a unified state despite Serbian

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[34] This interpretation relies, in the main, on Misha Glenny, 1995, "Yugoslavia: The Great Fall". New York Review of Books, March 23, pp. 56-65.

resistance.[35]

True, Izetbegović did not have any other real alternatives if he wanted to hamper the absorption of Bosnian muslims either into Croatia or Serbia. This explains why Izetbegović and the Macedonian President Kiro Gligorov tried actively to prevent the widening chasm between Croatia and Serbia; they knew full well that it would mean mounting problems for their countries. Their formula was to retain a loose Yugoslav confederation. Izetbegović wanted the United Nations to deploy peacekeeping forces within Bosnia to avoid the hostilities between its different nationalities.[36]

The Yugoslav experience in 1991 suggests that multilateral diplomatic mediation is potentially more effective in stemming the outbreak of violence than the policy of political deterrence by recognition. In any case it is clear that the European Union policies of recognizing the parts of former Yugoslavia as independent states and endorsing in November 1991 the principle that the old administrative borders without any possibility of adjustment should be state borders were less than helpful. Wiberg has suggested that there were eight potential solutions to the Yugoslavian conflict. Most of them were eliminated because of opposite preferences by Croatia and Serbia, but also because the actions by the European Union undermined them.[37]

One reason for the primacy for escalation prevention by diplomatic mediation over political deterrence seems to be that in a complex conflict like Yugoslavia, deterrence addresses only a limited set of interests and policy options. The threat of

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[35] Håkan Wiberg, 1994, "Krisernes dynamik", in Erik André Andersen & Håkan Wiberg (eds.), Storm over Balkan. Fra oldtidshistorie til stormagtsspil. Copenhagen: C.A. Reitzels forlag, pp. 34-35.

[36] David Rieff, 1995, Slaughterhouse. Bosnian and the Failure of the West. New York: Simon & Schuster, pp. 164-65 and Misha Glenny, 1995, "Heading Off War in Southern Balkans". Foreign Affairs, vol. 74, no. 3, pp. 98-99.

[37] Wiberg op.cit. 1994, pp. 38-40.

Croatia's recognition provided, for example, no incentives for Serbia to stop its support to the Bosnian Serbs and in that way prevent the escalation of conflict there. Multilateral mediation aimed, on the other hand, at a comprehensive solution in which various interests of several parties involved could be at least potentially balanced in a manner that none of them would have had overwhelming incentives to continue to wage war.

Thus, the Western policy failed to prevent war in Yugoslavia. It has also failed to prevent the recurrence of fighting. One main reason for this is that both in Bosnia and Croatia the UN forces have not been deployed at interstate borders, but at the battlelines between the adversaries (which in practice might have been the only feasible option). In so doing the UN peacekeeping policy has undermined the recognition of splinter states within their own borders (which was dubious as such). Political decisions behind peacekeeping have accepted the military gains of Croatia and Serbia as its point of departure despite the fact there is no agreement on their legitimacy among the parties to the conflict.

Thus, the lack of willingness by the leading member states to undertake effective enforcement operations and the refusal to deploy adequate ground forces have made the United Nations a prisoner of the strongest local parties. This has been justified primarily by the need to deliver humanitarian assistance to those in need (many of them being Bosnian muslims). The failure to prevent the vertical escalation of violence in Bosnia intensified thus the tension between the violations of international law and the imperative of humanitarian assistance.

The deployment of peacekeeping forces at the frontlines has exacerbated tensions between the United Nations and especially Croatia. In Krajina the UN forces have been acceptable to Serbia because they have, in reality, protected the Croatian Serbs against the Croatian army. Largely for the same reason Zagreb demanded last winter the withdrawal of UN forces and, as a compromise, approved their deployment to monitor border traffic between Krajina, Serbia and Serb-held territories in Bosnia. The UN troops are, however,

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too weak to handle this task effectively and, as Croatian attack in Western Slovenia in early May showed, Zagreb has little interest to respects international troops that are in its way. The response of the Krajina Serbs, shelling of Zagreb, shows that they are also ready to fight.

One of the lessons of the crisis in the former Yugoslavia is that peacekeeping can limit neither the objectives nor means of the parties which are determined to fight for their own cause. It can be successful only if the preventive actions have created a situation in which impartial operations support a status quo which is largely acceptable to all relevant local actors. Thus the failure in the early prevention of the outbreak of violent conflict leads also to the failure to patch up the problems by later measures. To compensate for the failure of prevention, coercive and enforcing actions would be needed, but there is little willingness in today's world to become involved in them. Therefore, prevention is a key to the control of international violence, and not only an alternative to intervention, but a precondition for a successful multilateral intervention.

Abstract

Neonormativism and the OSCE: A Commentary on the Theory
and Practice of Producing International Security

Focussing on the results of the Budapest Summit (5-6
Dec 1994), the paper deals with the role of the
Organization for Security and Co-operation in Europe
(OSCE; former CSCE) in providing security for the
participating States and the region as a whole.

The doctrine gives the OSCE a dual role as a community
of values setting and upholding norms for inter- and
intra-state behaviour and as a security institution,
based on equality and consensus among its participants
and mutual reinforcement with other European and
transatlantic institutions, for promotion of transition
and stability and for conflict management.

Reviewing the practice, the paper shows that the
Budapest Document brings moderate advances in
strengthening the competence and legitimacy of the
OSCE, without changing the fundamental political
character of its commitments, and enhancing its
capability to political conflict management and
peacekeeping. Their effects on the authority of the
OSCE will depend on its success in preventive diplomacy
and in such cases as Nagorno-Karabakh and Chechnya and
post-war reconstruction in former Yugoslavia.

As a contribution to the neorealism-neoliberalism
debate in international relations theory, the paper
comments on the role of the OSCE in facilitating co-
operation among the participating States in security.
Noting that the institution meets many of the arguments
of institutionalist and regime theories, the paper
concludes that the effectiveness of the OSCE will be
determined by its ability to promote neonormativism and
support transition in a security order where
parochialism in intentions and decline in structures
appear as parallel and contending phenomena.

The OSCE as a topic needs further study among the
research efforts aimed at establishing a workable
theory on post-cold war international security.

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Introduction

> "The CSCE will be a forum where concerns of
> participating States are discussed, their
> security interests are heard and acted upon.
> We will further enhance its role as an
> instrument for the integration of the States
> in resolving security problems. Through the
> CSCE, we will build a genuine security
> partnership among all the participating
> States, whether or not they are members of
> other security organizations. In doing so, we
> will be guided by the CSCE's comprehensive
> concept of security and its indivisibility, as
> well as by our commitment not to pursue
> national security interests at the expense of
> others. The CSCE's democratic values are
> fundamental to our goal of a community of
> nations with no divisions, old or new, in
> which the sovereign equality and independence
> of all States are fully respected, there are
> no spheres of influence and the human rights
> and fundamental freedoms of all individuals,
> regardless of race, colour, sex, language,
> religion, social origin or of belonging to a
> minority, are vigorously protected."
>
> - Budapest Summit Declaration [par. 7],
> 6 December 1994

Building upon the decisions and guidelines of Paris
(1990) and Helsinki (1992), the third post-cold war
summit of the Conference on Security and Co-operation
in Europe (CSCE) in Budapest, 5-6 December 1994,
continued the effort of determining, developing and
asserting the institution's role in producing security
for the 53(52) participating States and the region
covering the transatlantic-European-Eurasian space from
Vancouver to Vladivostok.

To underline their 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", the leaders decided to change
its name into "the Organization for Security and Co-

operation in Europe (OSCE)" as of 1 January 1995
[Budapest Summit Declaration, par. 3, emphasis added].

Although the change in name altered neither the
political character of the CSCE/OSCE commitments nor
the status of the organization as one short of a full-
fledged organization, the Budapest decisions were aimed
at strengthening the efficiency of joint decision-
making and the impact of concerted action by the
participating States on their security and stability.

In a complex political environment, accentuated by the
most recent escalation of the war in Bosnia and the
ongoing contention over NATO enlargement, the meeting
took steps to widen the security role of the OSCE into
peacekeeping while promoting its relatively succesful
activities in conflict prevention and crisis
management. In addition, the meeting decided to start
discussion on a future model of security for the
region, building upon the fundamental idea of co-
operative security order created in the post-cold war
transformation.

Focussing on the Budapest meeting and its consequences,
this paper deals with the following questions:

What is the role of the OSCE in international security
and its future prospects?

What is the strategical-political thinking and the
programme of action behind the development and use of
the OSCE by the participating States for their security
(DOCTRINE)?

What are the results and achievements of the CSCE/OSCE
in its areas of activity, stability promotion and
conflict management (PRACTICE)?

How can the role of the CSCE/OSCE in international
security be explained, predicted and prescribed with
the help of international relations theory, in
particular by the dichotomy of neoliberalism and
neorealism (THEORY)?

1. Doctrine: Paris-Helsinki-Budapest

By the time of the Budapest Summit, a role for the CSCE
as an institution providing international security had
been formulated and determined by the participating
States in the path-breaking first two post-cold war
summits of Paris (1990) and Helsinki (1992).[1]

The growth of the CSCE has been part of the post-cold
war and post-division transformation of the European
domestic and international scene. It has entailed
common understanding by the participating States on
strategy (goals-means) and forms and areas of action
(targets-instruments).

The result of institution-building made possible by the
new political context has been a dual role for the
CSCE/OSCE, one as a community of values and the other
as a security-policy institution. The roles are
intertwined, with the latter accruing from the former.

(i) A community of values

As a community of values, the CSCE has a unique and
unchallenged role in setting and upholding common norms
and principles for inter-state and intra-state
behaviour.

The guiding principles of the _Final Act_ (1975) and
other components of the normative "acquis", formally

politically binding, are based on international law and the UN Charter and adapted for the political and geopolitical conditions in Europe.[2]

The Charter of Paris for a New Europe (1990), declaring "a new era of democracy, peace and unity in Europe," defines democracy, economic liberty and equal security as the common values for the participating States and sets overcoming the division of the cold war and unifying Europe as their common goals.

Reaffirming the validity of the guiding principles of the Final Act of Helsinki, after the dissolution of the ideological division of the cold war, all the nations participating in Paris were able to agree on their contents and practical consequences – democracy was declared "as the only system of government" for them. They could also determine, in more concrete terms, requirements for the functioning of democracy based on human rights and fundamental freedoms, the rule of law and minority rights (Copenhagen Document 1990) and those of market economy based on economic liberty, social justice and environmental responsibility (Bonn Document 1990).

The new consensus provided guidelines for the process of **political and economic transition** which, consequently, became an integral component of the new security strategy, otherwise unification would remain an elusive goal.

The community of principles and values would be of relevance if it would generate norm observance and rule compliance among the participants. Commitment would have to be followed by implementation, which became the focus of consequent meetings as instability and other problems surfaced in the post-cold war landscape.

In the CSCE Helsinki Document 1992 <u>The Challenges of</u>
<u>Change</u>, the leaders in their Summit Declaration
recognized that the guiding principles and common
values embody "responsibilities of States towards each
other and of governments towards their people" and
accepted their "accountability to each other for
complying with them." [Helsinki Summit Declaration,
par. 7] Accordingly, another key aspect of the CSCE
value community is its character as an **accountablity**
regime.[3]

In a normative undertaking unique in international
relations - and departing from the strict emphasis on
non-interference governing the UN regime - the CSCE
States emphasized that commitments undertaken in the
field of the human dimension are "matters of direct and
legitimate concern to all participating States and <u>do</u>
<u>not belong exclusively to the internal affairs of the</u>
<u>State concerned</u>." [par. 8, emphasis added] This deep
even though narrow penetration into the domestic domain
of sovereign nation-states has provided an important
and usable reference point for CSCE/OSCE states as they
act in cases of non-compliance using the CSCE/OSCE's as
a forum and an instrument.

(ii) A security institution

As a security institution, guided by the goals set and
responsibilities undertaken within the value community,
the CSCE can be defined as a regional arrangement for
co-operative security.

The concept "co-operative", implying non-hegemony, non-
enforcement and non-compellance, reflects several
aspects, both internal and external to the community of
states, of the way security will be produced through
the CSCE/OSCE. "Regional" refers to its relationship

with the UN and its place in the system of collective
security.

Three fundamental characteristics of the CSCE/OSCE as a
security institution should be noted.

Firstly, co-operative security for the region is based
on the **inclusiveness of participation**. The CSCE/OSCE is
the only institution where all the countries of the
region are represented. According to its rules, the
CSCE/OSCE is open to all states in the region,
"European States, the United States and Canada" (<u>Final
Recommendations</u>, 19) that subscribe to the common
principles and commitments.

All the eligible countries have joined since the cold
war: Albania as the only original refusal state, the
successor states to the former Soviet Union, former
Yugoslavia and former Czhechoslovakia; the only
exception is FYROM (Macedonia) whose admission has been
blocked by Greece, while FR Yugoslavia (Serbia and
Montenegro) remains suspended since 1992.

Secondly, the principle of **equality in decision-making**
is another key determinant of co-operative security.
Decisions are based on the rule of **consensus**,
understood as the absence of an expressed objection by
a participant to taking a decision (<u>Final
Recommendations</u>, 22).

As the CSCE/OSCE has become more operational since
Paris 1990, the basic rule of consensus, expressing the
principle of full equality, has been complemented by
additional rules stressing flexibility and efficiency.
They make possible the activation of specific OSCE
mechanisms and their various stages (the CSBM mechanism
regarding unusual military activities [1990], the

Berlin mechanism on emergency meetings [1991], the
Moscow mechanism on the human dimension [1991]) by one
country alone or with a limited number of sponsors,
without the consensus of all. These rules apply to
requesting and receiving information or clarification
regarding compliance with specific commitments as well
as to initiating discussion and consultation in joint
CSCE fora on such cases; they do not apply to the
taking of substantive decisions in those fora.
Accordingly, the procedures regarding the mechanisms do
not constitute an exception to the main consensus rule
as such. (Heraclides 1993, 22)

As an exception to the rule of consensus - albeit
limited in its scope - can be regarded the rule of
"consensus-minus-one" (Prague Council 1992). Referring
to safeguarding human rights, democracy and the rule of
law through peaceful means, the rule makes it possible
for the political CSCE/OSCE fora (CSO/SC or Council) to
take action "if necessary in the absence of the consent
of the State concerned, in cases of clear, gross and
uncorrected violations" of CSCE commitments.
Appropriate action would consist of "political
declarations or other political steps to apply outside
the territory of the State concerned." The rule was
first applied in 1992 for condemning Belgrade and the
JNA for violations of CSCE commitments in the ongoing
war in Bosnia-Herzegovina and later for suspending FR
Yugoslavia (Serbia and Montenegro) from CSCE bodies
(Heraclides 1993, 84).

Another exception to the consensus rule, "consensus-
minus-the disputants" or "consensus-minus-two", is
established within the mechanism for peaceful
settlement of disputes whereby parties to a dispute can
be directed by the OSCE to use the Court of
Conciliation and Arbitration or the Conciliation

Commission (Stockholm Council 1992; CSCE Facts 1994,
Heraclides, 179-180) None of the PSD mechanisms -
others being the Valletta mechanism and voluntary
conciliation - for peaceful settlement of disputes have
been used so far, however.

Thirdly, **the comprehensive concept of security**, defined
and adopted in the Helsinki 1992 Document [par. 22],
reaching beyond the political and military aspects of
security - which themselves are viewed as complementary
already in the Final Act -, in itself calls for co-
operation in attaining security that "relates the
maintenance of peace to respect for human rights and
fundamental freedoms ...(and) links economic and
environmental solidarity and co-operation with peaceful
inter-State relations." The comprehensive concept of
security provides a broad normative and political basis
for commitments and responsibilities as well as joint
actions.

As far as the role of the CSCE/OSCE in the wider
international security system is concerned, a few
fundamental aspects should be noted.

Within the international systemic framework, the key
indicator of the OSCE's "co-operative" security is the
character of its relationship with other security-
producing institutions, defining its **place in the
inter-institutional security order** among European and
transatlantic institutions as well as its status in the
UN system of collective security.

A constitutive decision included in the Helsinki Summit
Declaration prescribes "a lasting and peaceful order
... built on mutually reinforcing (European and
transatlantic) institutions, each with its own area of
action and responsibility." [par. 24 - emphasis added]

The multi-institutional model is non-hierarchical, relying on cooperation, a division of labour and mutual support, with none of the institutions being assigned powers over the others.

The decision in Helsinki - albeit merely reflecting the competence and character as well as the evident lack of resources of the CSCE - was of fundamental significance as NATO was adapting its role to post-cold war realities, the EU was acting as the main resource for stability policy and Russia was pushing for an equal role for the CIS. (Möttölä 1993)

As UN members, the CSCE states are bound by their obligations under the Charter which - in the event of a conflict - will prevail over any CSCE commitments. Through its participating States, the OSCE is part of the UN system of collective security but it is not an institution providing collective security for them. The OSCE does not have a mandate for economic sanctions or military enforcement action nor does it have a governing body entitled to make legally binding decisions on collective response against aggressors or other violators of joint undertakings.

In Helsinki 1992, the first step was taken to create and concretize for the CSCE a role as an institution in the functioning of the UN system. The CSCE was declared to be a regional arrangement in the sense of Chapter VIII of the Charter, which recommends (in Art. 52) "pacific settlement of local disputes" through such bodies. The status was consequently recognized by the UNGA and a framework agreement was concluded between the UN Secretariat and the CSCE on co-operation and co-ordination in their activities in 1993. (SIPRI Yearbook 1994, 241-242)

The emphasis of the CSCE work, according to the Helsinki decision, would be in preventing and settling conflicts and possibly peacekeeping, but it remained to be further developed how this could be co-ordinated with UN activities and what kind of a role the CSCE could have in other forms of conflict management. The Charter gives in Chapter VIII (Art. 53) the Security Council a further possibility to use regional arrangements for enforcement under its authority, although no enforcement action can be taken without its authorization.

The roles of the CSCE and other European and transatlantic organizations - above all NATO but also WEU, EU, CIS - and their interplay in the event of collective security actions - be they peacekeeping or peace-enforcement - by the UNSC for the CSCE region, remained to be further clarified and developed. The first attempt was made in Budapest, with limited results (see below).

(iii) Fields of activity

The **fields of activity** of the OSCE as a security-providing institution are, firstly, **promotion of peaceful change, transition and stability** and, secondly, **conflict management.**

As a strategy, support and solidarity to states undergoing transformation to democracy and market economy - enscribed as a common commitment in the Helsinki Document 1992 [par. 9] -, flows from the goal of a unified Europe, without old or new divisions. It is a security strategy, based on the peace-creating effect of democracy and markets.

A text-book case of the idea is the Balladur Plan

initiated by the EU and aiming at a <u>Pact on Stability in Europe</u> to be entrusted to the OSCE for evaluating and monitoring. The idea is to promote resolution of minority and border disputes and development of good-neighbourly relations among the Central European and Baltic states and their neighbours, thus preparing them for EU membership. (Paris Document 1994)

Beyond its norm- and policy-setting role, the OSCE has limited resources or means for stability policy, which is mainly carried out in bilateral or regional contexts or through institutions with pooled economic resources such as the EU. The OSCE has resources and instruments for such activities supporting democratic institutions and human rights as monitoring elections and providing expertise through ODIHR.

Enhancing the operational capability for conflict management has become an essential underpinning of the OSCE's role as a security institution. Since Paris, an array of mechanisms and instruments have been created for early warning, preventive diplomacy (fact-finding and rapporteur missions; the High Commissioner on National Minorities), peaceful settlement of disputes and political crisis management; rules have also been adopted for CSCE peacekeeping.

(iv) Defining and measuring the security role

For the sake of the present analysis, the role the OSCE has in providing security can be defined in terms of, and measured as the combined result of, its competence, capability and authority of the OSCE.

Competence, set in formal rules, is determined by the character of the common provisions and commitments and the scope of the tasks and functions ascribed and

delegated jointly by the participating States to their common organization.

The fundamental character of the OSCE commitments is that they are **politically** rather than legally **binding** (as opposed to the UN Charter).[4] The legal or political nature of commitments does not necessarily determine the respect for norms and their implementation in principle or in practice, in particular, having in mind the negotiation history and practice, compatibility with the Charter and adoption at the summit level of the CSCE norms.

As a result of post-Wall political changes, the legitimicy of the CSCE/OSCE "acquis" is not questioned. CSCE/OSCE norms and values are used as reference points for statements and actions towards other participating States. They are the common language of post-cold war politics.

The CSCE/OSCE norms and principles cover the whole spectrum of international relations, in accordance with the concept of comprehensive security. But the more innovative, relevant and recognized provisions deal with politico-military and human dimension aspects. The inroad made in piercing the non-interference principle with the "legitimate concern" rule is the special strength of the competence and legitimacy of the CSCE/OSCE in the inter-institutional order. Similar kinds of inroads have been achieved in creating and enlarging military openness and transparency.

The political character of the CSCE/OSCE competence has two principal corollaries: the exclusion of compellance or enforcement action such as economic or military sanctions; and the rule of consensus that provides safeguards for equality. A joint action by the OSCE is

bent on co-operation among the participating states, initiators as well as targets of such an action.

Capability has to do with structure. It is the measure of the efficiency of the OSCE's decision-making and joint action. Increasingly, the work has focussed on the operational capability of the CSCE/OSCE in conflict management.

Capability can be enhanced by modifying decision-making rules and developing the decision-making capacity allowed by those rules. It is, furthermore, dependent on the attention to, devotion to, and attendance in the joint fora of decision-making by the participating States themselves.

The main part of the work on capability has been in strengthening the structure of the CSCE/OSCE: institutions, organs, mechanisms and instruments. (For the structure of the OSCE, see _Annex I_)

Capability is also determined by the material resources available for missions and other actions as well as for the permanent organs. The CSCE/OSCE has been throughout its history a cost-effective institution.

Authority, in the sense of prestige and influence, flows from deeds, action and results. Autority is the measure of the will of the participating States to comply with the norms and decisions of the OSCE and of their will to use its structures or co-operate with the use of its structures for stability enhancement or conflict management.

Authority is not only a matter of political will, however. It is the consequence of the practical possibilities provided by the competence and capability

of the OSCE. But authority is also a matter of cognition - how the OSCE is viewed by the participating States as such - and one of credibility - how the OSCE is viewed as compared with other avenues and institutions. of the "alphabet soup" available, offered or wanted for the security task at hand. The relevance of the OSCE can be a self-fulfilling cycle; "you enhance the authority of the OSCE by using it - and vice versa!" Authority can become an accumulating condition - or a downwards spiral.

The authority of the OSCE is a case of governance without government; how and to what extent the OSCE as a regime will facilitate and generate norm-compliant behaviour. Authority is the measure of the impact, perceived or real, of the OSCE on security and stability - a question that was introduced in Paris and emphasized in Helsinki and was still haunting the leaders in Budapest.

Below is an analysis of the added value generated by the Budapest Summit to the competence, capability and authority of the OSCE as a community of values and a security institution.

2. Practice: results to and from Budapest

The Budapest Summit adhered to the fundamental aspects of the doctrine on the CSCE/OSCE's role as a community of values and a security institution and made only limited changes in norms or structures. The main aim was enhanced results and authority.

The Budapest negotiation history (The Budapest Review Conference was held from 10 October until the days of the Summit) tested, however, the edges of the

understanding on the CSCE/OSCE's role and the CSCE
Budapest Document 1994 "Towards a Genuine Partnership
in A New Era" contains ideas and suggestions as well as
steps and decisions affecting the normative and
functional aspects of the OSCE's role.

The result of the Budapest effort consists of the
common political assessment of the situation in the
region and the organization's achievements,
determination of the OSCE's role and status as a value
community and a security institution and definition of
new tasks (Budapest Summit Declaration). In addition,
more concrete and detailed decisions were made on rules
(competence), structure (capability) and actions
(authority) of the OSCE (Budapest Decisions).

(i) A community of values: the normative developments

Ever since Paris 1990, the emphasis of the CSCE/OSCE
has been on the operational capability and efficiency
whereas the normative work has been viewed as largely
completed. A few steps were taken in Budapest, however.

The "acquis" of CSCE norms of behaviour was expanded
with the <u>Code of Conduct on Politico-Military Aspects
of Security</u> dealing with the democratic political
control of, and the internal and external use of, armed
forces.

The code, in effect, complements with a common document
on the military-security dimension the <u>Bonn Document</u> on
the economic dimension (economic liberty) and the
<u>Copenhagen Document</u> on the human dimension (the rule of
law, human rights, political pluralism) as concrete and
detailed guidance for the participating States on their
responsibilities in the functioning of pluralistic
democracy and co-operative inter-state behaviour. The

code provides a reference document for military transition, which is in the practical level supported by NATO's NACC and PFP activities.

Reaffirming the recognition of sovereignty in security policy, derived from the Final Act principle on sovereign equality, the code of conduct spells out the right of each participating state freely to choose and change its security arrangements, in accordance with international law and CSCE commitments and bearing in mind the legitimate security interests of others. [par. 9-14] The code, furthermore, deals with the international humanitarian law, CSCE-normative and democratic-constitutional aspects of such sensitive issues as the assignment and use of armed forces in internal conflicts. [par. 34-37]

With the increased emphasis on tasks related to conflict management, co-operation and co-ordination with other institutions and organizations will take place under the OSCE normative umbrella. Such institutions as NATO and WEU and NACC have offered their contribution to peacekeeping under the OSCE mandate.

The Budapest Document 1994 registered the extension of the CSCE norms to the activities of other institutions by noting that the principles and shared values will guide the participating States' policies "individually and collectively, in all organizations and institutions to which (they) belong." [par. 2 - emphasis added] The connection is conditional - in line with the accountability principle - as those institutions and organizations with which the OSCE will co-operate "share its values and objectives." [par. 8] Even though the OSCE has no operative powers over other institutions, its status as the provider of legitimacy

gives it a special position within the inter-institutional order.

In preparing for the Budapest review conference, Russia suggested the transformation of the CSCE into "a fully fledged regional organization" and, consequently, elaboration of a "legally binding document" (i.a. a kind of Charter).[5] Although the idea is not alien to other countries either, the meeting was not ripe for tackling such a qualitative change in status, and the decision to change the name of the institution into an organization was made without altering "neither the character of (CSCE) commitments nor the status of the CSCE and its institutions."

The OSCE will, however, remain flexible in its development; the first decision on legal capacity has concerned the status of permanent organs (Rome Council 1993) and the possibility of "further arrangements of a legal nature" is not excluded in the Budapest Decisions (I Strengthening the CSCE). Renegotiation of the Final Act as a new "Charter" and ratification of a legally binding document in national parliaments are, however, tasks that may drain more political energy and entail more risks than any prospective or potential gains in competence and authority.

(ii) A security institution: the functional aspect

The decision to rename the institution from CSCE to the Organization for Security and Cooperation in Europe (OSCE), while reflecting the growth of the CSCE from a process in 1975 and an institution since 1990 into a de facto inter-governmental organization, was made above all to give a political push to the CSCE's authority in meeting security challenges.

Security functions
The non-hierarchical relationship of mutual
reinforcement between the OSCE and other security
organizations was left intact in Budapest. The Russian
pre-Budapest suggestion to give a "coordinating" role
for the OSCE was not adopted or under consideration in
the meeting. Even though the OSCE will continue to play
a "cardinal" role in the management of change or in
meeting the challenges of the future, it does not imply
a hierarchical but co-operative relationship, based on
equal partnership with other institutions in practical
tasks.

The question of the inter-institutional position of the
OSCE is linked with the dispute over NATO expansion.
For Russia, rejecting NATO's central role in the
creation of a new security architecture, a stronger
OSCE will act not only as the proper framework for
developing the security order but also as an
alternative and a counterforce to NATO's expansion.
(Kozyrev 1994) For the United States, a stronger OSCE
will as a reassuring factor facilitate NATO's
enlargement in a dual-track strategy for European
security. (Kornblum 1994) The NATO decision on
launching an evolutionary process of enlargement with
an examination of "how" was made only a couple of days
prior to the Budapest Summit. The decision was linked
to a number of preconditions regarding membership
criteria and broader co-operative security in Europe.
(NATO Final Communique 1994)

Accordingly, the OSCE is a factor used in smoothing the
efforts to create a Russian-NATO security partnership
which is "commensurate with (Russia's) weight and
responsibility as a major European, international and
nuclear power" (NATO-Russia 1994) but which does not
give Russia a veto over NATO's plans of evolution.

The efficiency of the OSCE in meeting security concerns
of the participating states is stressed by the title of
Budapest Summit Declaration of "genuine partnership" -
a concept familiar from NATO and WEU outreach
arrangements - and the commitment to keep the OSCE as a
forum where their "security interests are heard and
acted upon" and as an instrument for "the integration
of these States in resolving security problems." [par.
7] Equal security and indivisibility of security are
guiding principles - expressed in the promotion of "a
common security space" (I Strengthening the CSCE) -
and, furthermore, an explicit denial of spheres of
interest is included.

Such a security concern, to be addressed within the
OSCE, is visible in the Russian proposal on "a common
and comprehensive security model for Europe for the
twenty-first century" adopted in Budapest. The proposal
can be seen as an effort by Russia to make NATO's
enlargement superfluous or dilute its consequences to
the Russian strategic position by an enhanced OSCE-
based security order. Accordingly, although NATO and
the aspiring would-be members in Budapest eliminated
such a linkage, their response to the Russian proposal
will be a means of co-operating with Russia in future
security ordering and attending to its legitimate
security concerns.

The vagueness of the concept "model" and the tentative
nature of the decision on procedure and follow-up leave
open the concrete significance of the idea, which will
be affected by broader political developments. In the
decision - modified in the negotiation from the
original Russian proposal - the discussion as well as
the possible model is anchored within the OSCE co-
operative security order and CSCE/OSCE commitments as
well as in the inherent right of each state to choose

or change its security arrangements - eliminating any
constraining effect on NATO or its enlargement process.
The decision gives no mandate for changing the
fundamental character of the security order.

The CSCE/OSCE has a long history as a forum for
negotiation on confidence- and security-building
measures (CSBM) and broader arms control. After the
implementation of the CFE treaty in 1995 and its review
by the parties in early 1996, the OSCE will be the only
or principal forum for arms control in its region by
the 1996 Lisbon Summit. The OSCE Forum for Security Co-
operation (FSC) is tasked by the Budapest Summit to
prepare a framework for arms control providing a basis
for an agenda for future CSBM and arms control
measures.

A specific attention in the decision is given to
specific characteristics of defence systems of
individual countries and to regional security problems,
implying complementary approaches to the pattern of
OSCE-wide measures.

Decision-making
Without creating any new institutions or instruments,
the Budapest decisions on structures (I Strengthening
the CSCE) are aimed at strengthening the political
consultation process and the joint management of issues
and conflicts by the OSCE - at "exploiting its
potential to the fullest."

Effective decision-making requires full attention and
contribution by the capitals in the Ministerial Council
and the Senior Council (preferably gathering together
political directors).

The main reform, however, is an increased emphasis on

the Vienna-based political forum, Permanent Council as
"the regular body for political consultation and
decision-making ... also for emergency purposes." The
Chairman-in-Office (CIO) is likewise encouraged to an
increasingly active role in his/her "executive"
functions, using the Troika and personal
representatives as well as in involving the Secretary
General in all activities. The first indication of the
use of such a broader room of manoeuvre is provided by
the Hungarian CIO's activities in the Chechen crisis
(see below).

(For OSCE activities within its structures, see <u>Annex
II</u>)

Consensus remains the main rule of decision-making
within the OSCE, providing legitimacy for its decisions
and actions. The pragmatic if sensitive flexibility is
reflected in the political <u>chapeu</u> of the decision on
structures which speaks of "consensus rule<u>s</u>". An effort
to broaden the area of flexibility to the OSCE-UN co-
operation failed in Budapest (see below).

Conflict management
The marginal role of the OSCE - as well as the debacle
of the international community as a whole - in the
conflict in former Yugoslavia was evident in the
dramatic failure of the leaders to agree on including a
joint statement to the Budapest Document[6] regarding the
ongoing war only hundreds of kilometres away. An
operative role for the OSCE is envisaged for post-war
reconstruction and arms control.

At the same time, the Budapest Summit could look back
with some satisfaction at the results of CSCE/OSCE
conflict prevention and political crisis management.

The OSCE has a moderately successful record of using, in an innovative and flexible manner, its instruments, the High Commissioner on National Minorities (HCNM) and various missions, in conflict prevention and political crisis management modes in the area of former Yugoslavia and former Soviet Union. (af Ugglas 1994)

(For means of conflict management, see Annex III; for a list of OSCE operations, see Annex IV)

HCNM was established in Helsinki 1992 as a "softly" intrusive instrument of early warning and early action regarding tensions involving national minority issues which have the potential to develop into a conflict. The approach of the HCNM is based on impartial, confidential and co-operative involvement. He acts independently and does not require the approval by OSCE bodies or the state concerned. HCNM aims at containing and de-escalating tensions and acting as a tripwire for the OSCE's preventive diplomacy. HCNM's expert advice has played a significant role in several cases such as Estonia and Albania. (van der Stoel 1994)

The instrument of a CSCE/OSCE mission has developed in an evolutionary manner from rapporteur missions to applicant countries to more targeted human rights and other missions to former Yugoslavia and to missions by personal representatives of CIO to conflict areas within the newly independent CIS states; the instrument of missions of long duration was first applied in 1992 to the regions of Kosovo, Sanjak and Vojvodina dominated by national minorities within Serbia. (Höynck 1994)

Among the OSCE missions of long duration (or resident missions) in the field (Höynck 1994, 72; Survey of OSCE Long Term Missions 1995):

- the missions to Kosovo, Sanjak and Vojvodina were deployed to promote dialogue between authorities and ethnic communities, collect information, act as a contact point, and give advice on legislation on human and minorities rights and democratic institutions; the function is preventing further or potential conflict within Serbia and Montenegro (there was no agreement with the Belgrade authorities to extend the mission in June 1993);

- the mission to Skopje is aimed at preventing spillover from the war in other parts of former Yugoslavia to Macedonia; its means are monitoring borders (the UN peacekeeping force to Macedonia has the similar preventive function) and dialogue, contacts and assistance within the country;

- the mission to Estonia is to further integration and understanding between the ethnic and national communities in Estonia by using contacts, collecting information and acting as a clearing-house and a source of expert advice with the aim of supporting re-creation of a civic society; the mission, together with the HCNM, played a role in settling the crisis that led to redrafting the Estonian Law on Aliens in June-July 1993, and it continues to monitor the naturalization process and implementation of Estonian citizenship legislation and other aspects of the problem of non-citizen population (Törnudd 1994; Lahelma 1994); the mission is of a temporary character and its function is conflict prevention;

- the mission to Latvia, also serving conflict prevention, is addressing citizenship issues and, as a further task, assisting Russia and Latvia in the implementation of agreements on retired Russian military personnel and dismantlement of the Skrunda radar station;

- the mission to Georgia is involved in facilitating a broader political settlement in the Georian-Ossetian conflict as well as, co-ordinating with the UN activities, in the Georgian-Abkhazian conflict; in Georgia as a wole the mission acts as a resource for democratic institutions;

- the mission to Moldova (Rotfeld 1994) is, in a political crisis management mode, facilitating a lasting and comprehensive political solution to the Moldovan-Trans-Dniestrian conflict;

- the mission to Tajikistan, where a peace process in not underway, is deployed to promote compliance with OSCE norms and development of democratic institutions;

- the mission to Ukraine is aimed at facilitating
political management of the dispute over the Crimea
between the central government and the regional
authorities and political forces, by providing
constitutional and economic expert advice and support;

- the mission to Sarajevo is deployed to support,
through assistance and advice, the establishment and
activities of Ombudsmen, as a first effort at
reconstruction in Bosnia-Herzegovina.

Among the OSCE missions of political crisis management
to the CIS region, those to Moldova and Georgia are
deployed in situations where a Russian-led peacekeeping
operation is in place after a military conflict; the
one to Tajikistan in a situation where a Russian-
dominated peacekeeping operation is in place, in
effect, to support the government, in addition to a
strong Russian regular military force in a
stabilization and border guarding function; whereas the
one to Ukraine is involved in a political dispute which
has not escalated to a military conflict.

In another area of conflict, in Nagorno-Karabakh, the
OSCE is since 1992 conducting a diplomatic effort
(Minsk Conference on Nagorno-Karabakh or the "Minsk
Group") aiming at a political settlement and is - on
the basis of the Budapest decision - in the process of
launching its first peacekeeping operation.

In its response to the Chechen conflict after the
Russian military intervention, the OSCE has, as its
first instrument, used the personal representative of
CIO.

After negotiations of the Hungarian representative with
Moscow, a mission to Moscow and to the conflict area,
including Grozny, by the personal representative and
four diplomatic experts from OSCE countries was
authorized by the Permanent Council and accomplished in
late January 1995. The purpose of the mission,
activating the "direct and legitimate concern" clause,
was to review the human rights situation, facilitate
humanitarian aid and discuss a future role of the OSCE
in stabilization and re-establishment of democratic
institutions and to report back to the OSCE. The task
of the mission did not include mediation of the
conflict; its political settlement should be based on

respect for the territorial integrity of the Russian
Federation, the Russian constitution and OSCE
principles. In the subsequent first decision, based on
the account and recommendations included in the report
by the mission to Chechnya, the Permanent Council,
commending Russia for its co-operation, presented the
role of the OSCE as a guardian of norms (concern over
"the disproportionate use of force by the Russian Armed
Forces", violations of human rights and respect of
international humanitarian law); a facilitator of
humanitarian aid (call for a humanitarian cease-fire,
unhindered delivery of aid, unhindered access by ICRC,
UNHCR); and a contributor to a political solution of
the crisis, based on "OSCE principles, respecting the
territorial integrity of the Russian Federation and its
constitution" (in discussions, restoration of
democratic institutions, building a civic society and
supporting and monitoring free and fair elections were
mentioned).[7]

Another type of OSCE operation in conflict management
is the deployment of Sanctions Assistance Missions in
order to facilitate the neighbouring countries in the
implementation of the UN sanctions imposed on Serbia
and Montenegro and the arms embargo against all
republics of former Yugoslavia. (Napolitano 1994)

Peacekeeping

Even though peacekeeping was constituted as a CSCE
instrument for conflict management in the Helsinki
Document 1992 (Helsinki Decisions, Chapter III), it had
remained unused until Budapest.

In Budapest, a step was made towards enlarging the
scope of the OSCE's security role to peacekeeping by
agreeing on a first OSCE "Chapter III" peacekeeping
operation to Nagorno-Karabakh. The implementation of
the decision remained subject to a ceasefire and a
supporting resolution by the UNSC, as well as to
concluding the required military-operative planning for
a multinational force.[8]

Another model of peacekeeping, OSCE monitoring of

"third-party" peacekeeping has been under negotiation in the CSCE/OSCE fora since 1993. The Budapest meeting failed to agree on such rules.[9]

The model was viewed necessary as Russia initiated - or was drawn into - peacekeeping operations unilaterally or within the CIS framework in several conflict situations in the former Soviet Union. The issue of peacekeeping in the CIS is of central importance for the OSCE's role as a security institution. The issue is linked more broadly with the integration of Russia and the establishmentof a recognized status for the CIS within the inter-institutional security order. (Allison 1994; Lucas 1994)

The model of co-operative peacekeeping, where individual countries or groups of countries would conduct the operations, was viewed necessary to place Russian/CIS peacekeeping in the CIS region within the OSCE normative framework and under an OCSE monitoring umbrella, as prospects for non-CIS countries participating in peacekeeping in the CIS area were negligible. The UNSC was the first to endorse a Russian/CIS peacekeeping operation as it established a UN observer mission (UNOMIG) to the Georgia-Abkhazia conflict. The solution includes determining the terms of co-operation between the two missions.[10]

The two models represent different engagement and participation by the OSCE in peacekeeping; the key issues are the mandate, command and control and resources. (For models for OSCE role in peacekeeping, see Annex V.)

Operations under the auspicies of the OSCE are mandated by the OSCE which is also in charge of command and control, whereas staff officers and troops are provided

by participating States as in the UN system. The
"Chapter III" model envisaged - with detailed
provisions - a UN-type operation of traditional
peacekeeping where the OSCE would, in effect, take the
place of the UN. At that time in 1992, a "Chapter III"
CSCE operation was viewed unlikely, however, due to the
inexperience and lack of organizational and material
resources of the OSCE. A more likely possibility was
seen in a "subcontracted" operation where an OSCE-
mandated operation would be conducted by more capable
institutions such as NATO. Unexpectedly, the parties to
the Nagorno-Karabakh conflict - after a ceasefire was
in place - in autumn 1994 chose to prefer a full-
fledged OSCE peacekeeping operation instead of other
models under consideration. On the oher hand, a
"subcontracted" ir any other NATO operation was not
seen possible in the CIS area.

Co-operative operations with third parties could be of
two types. An operation by third parties could be
merely commended by the OSCE which would have no need
for any active engagement as no problems in compliance
with UN/OSCE rules would be envisaged. This model -
which at times has seemed to be the Russian objective -
has not been under active consideration.

In the framework of the other co-operative model, the
OSCE would be overseeing and legitimating the mandate
and the command and control arrangement negotiated by
the parties to the conflict together with the third
parties providing the peacekeeping resources and, as a
result the first two conditions, monitoring the conduct
of the operation itself. This model which has been
under active negotiation since the Rome Council 1993.
Such a co-operative arrangement would be used on a
case-by-case basis and in exceptional cases; the rules
of OSCE and UN peacekeeping such as agreement on the

terms of reference by the parties, impartiality, ceasefire and an integral linkage with a political process would have to apply. A co-operative operation would not entail or prejudge a special position to any participating State.

The OSCE and the UN system of collective security
The Budapest meeting failed in an effort - based on the so-called Kinkel-Kooijmans initiative presented as a major proposal by the EU for the Budapest conference[11] - in reinforcing the OSCE's role as a regional arrangement in the functioning of the UN system of collective security.

The "OSCE first" model would strengthen the role of the OSCE - a regional arrangement in the sense of Chapter VIII/Art. 52 - as "a primary instrument for early warning, conflict prevention and crisis management in the region", which was adopted as a goal in Budapest Summit Declaration [par. 8]. The idea of joint referral of a dispute "in exceptional circumstances" - conflicts requiring solutions that would go beyond the competence and capability of the OSCE - to the UNSC was also accepted in principle.

Where the meeting failed, however, was in agreeing on procedural rules that would have made such a referral decision possible without the consent of the parties concerned - applying the "consensus-minus-the disputants" principle in activating a mechanism not in making a decision on substance. Furthermore, there was suspicion and disagreement on the idea of an OSCE report and recommendation to the UNSC attached to the referral decision. Another point of contention was the possible role of the OSCE regarding the implementation of a UNSC decision which might involve enforcement action under Chapter VII.

Countries involved in current or potential disputes
were wary of losing their freedom of action in the
choice of methods in the management of such disputes -
including the right, in accordance with Art. 35 of the
Charter, of bringing any dispute to the UNSC or to use
any other means os dispute settlement available. An
OSCE decision would not, however, affect any rights or
responsibilities under the Charter or the primary
responsibility of the UNSC in international peace and
security.

An operative OSCE-UN linkage in conflict management
would provide the OSCE with a new mechanism which would
strengthen its security role and emphasize the
importance of OSCE joint action.

(iii) Conclusions: significance of the Budapest
decisions for the OSCE's security role

The effects of the results from the Budapest meeting on
the security role of the OSCE can be concluded as
follows:

Competence

- The fundamental politically binding character of OSCE
commitments remain unchanged. The issue of legal
competence was touched upon and will remain part of the
future agenda.

- The coverage of OSCE norms was extended to collective
policies in institutions and organizations.

- The code of conduct enlarged the scope of the
normative OSCE guidance to military transition,

strengthening further its legitimacy and usability as a reference source for behaviour.

Capability

- The political management aspect of decision-making was strengthened and emphasized. It should enhance various forms of OSCE executive action in conflict management.

- With the decision on Nagorno-Karabakh, peacekeeping (military crisis management) will be added to the OSCE arsenal of instruments in conflict management, adding to its innovative and targeted role in conflict prevention and political crisis management.

- A stronger structure for the OSCE in conflict management will enhance its position in the functioning of the inter-institutional security order.

- The Chechen crisis has shown the status of the OSCE as a unique forum available for co-operative crisis management with Russia in sensitive situations which have an impact on its territorial unity and reform process.

Authority

- A succesful operation in Nagorno-Karabakh will increase the OSCE's prestige as it applies to a major conflict in the region.

- The OSCE's actions in the Chechen crisis will be an important indication of its capacity in the political management of difficult issues. It can lead to a higher public profile of the OSCE and enhance its authority as a lead institution.

- The position of the OSCE as the only or principal forum for future arms control in Europe will keep it in the focus of national or collective security policies. Important challenges will be the interface of arms control and conflict management as well as the integration of regional solutions and specific national characteristics into a future arms control programme.

- The dicussion on a future security model will give the OSCE an opportunity play a role in the future evolution of the relationship among the European and transatlantic security institutions. The OSCE can maintain its key normative and institutional function even in an evolving security order.

3. Theory: explaining, predicting and prescribing the OSCE's role in providing international security

Does the Organization for Security and Co-operation in Europe (OSCE) make the participating States co-operate in providing security for themselves and the region as a whole? If so, why and how?

(i) Dichotomy in theory

The study of international relations has recently produced two contending theories for explaining and predicting international co-operation, broadly categorized as **neorealism** and **neoliberalism**. Both of them are modern versions or modifications of their corresponding precursors, classical realism and liberalism. Neorealism stresses - in addition to the traditional variables of power and interest - the effects of the structure of the international system on the behaviour of nation-states (being, consequently,

called also structural realism). Within neoliberalism,
a dominant school of thought has focussed on the
facilitating role of international institutions - or
international regimes as a particular form of
institutions - in the peaceful behaviour of states as
actors and in the functioning of the international
system more broadly, thus being called neoliberal
institutionalism as distinguished from the more
idealistic or "naive" (Keohane 1993a, 285) versions of
liberalism such as commercial liberalism (linking
economic interdependence with co-operative behaviour
and, ultimately, peace), republican liberalism
(democracy) or sociological liberalism
(transnationalism). (Baldwin 1993, 3-4)

Although institutionalism can be presented as an in-
between theory which borrows elements from both realism
and liberalism (Keohane 1993a, 271-272) and is closer
to realism than liberalism (Grieco 1993, 123); and even
though the differences between neorealism and
neoliberalism can be seen more in terms of relative
emphasis or degrees than of diametrically opposing
arguments (Baldwin 1993, 4-8), the neorealist-
neoliberal dichotomy is a useful framework for
theoretical interpretation of the doctrine and practice
of the OSCE. Within the increasingly institutionalized
and organized international system, the role of such a
complex and hybrid undertaking in international co-
operation is a challenge to any theory.

(ii) Characteristics of the international system

The neorealist-neoliberal debate concerns propositions
about the fundamental characteristics of the
international system and their relationship with state
behaviour, such as the meaning of anarchy and the
position and nature of state as an actor; constraints
of, and prospects for co-operation; relative vs.
absolute gains as goals determining state attitudes

towards co-operation; the priority order of security
and welfare as objectives; intentions vs. capabilities
as predictor variables in co-operative behaviour; and
the significance of international institutions and
regimes in international relations in general and in
international co-operation in particular. (Baldwin
1993, 4-8)

Neoliberal institutionalism is close to or similar with
neorealism - and more distanced from liberalism - in
interpreting the state-anarchy aspects of the
international system; whereas in arguments about the
significance of institutions as an independent factor
as well as in optimistic evaluation of prospects for
co-operation, institutionalism aligns with classical
liberalism and differs from realism.

Liberalist thinking about institutions and co-operation
spills over to relativize the theses of structural
absolutism about state as the principal and unitary
actor and anarchy as the main shaping force in state
preferences and actions; international institutions can
mitigate anarchy's inhibiting effects on inter-state
co-operation. Joint decision-making based on common
interests allows for a variety of interactions, adding
to independent decision-making emphasized by realism.

Without going into a comprehensive or detailed
discussion of all aspects in the neorealist-neoliberal
debate, a few suppositions can be made, in an eclectic
manner, about the doctrine of the OSCE (as explained
above) as an individual of collective "theory" of its
participants and about the practice of the OSCE (as
outlined above) as an empirical indication of the
significance of an institution in facilitating co-
operation.

The OSCE is not merely an institution created by a
group of states; for its creators and users, the OSCE
embodies also an idea of producing security and,
consequently, represents an element - more or less
significant - in their security policy doctrines. In
the conclusion of an earlier study of the CSCE as a
framework for an international security order (Möttölä
1993, 29), it was seen as representing the rationalist
or Groatian idea within Wight's three philosophical

schools of international relations (Wight 1991; Yost
1994), although realist or revolutionary elements could
not be excluded due to the uncertain character of post-
cold war transformation. The OSCE cannot be placed in a
realist-utopian or realist-idealist two-school world
(Yost 1994, 278-279); it represents a third, in-between
image.

"Neonormativism" as an OSCE theory
The starting point in analyzing the theory or
philosophy behind the OSCE is, undoubtedly, not
neorealism but a parallel, alternative and
complementary model, namely neoliberalism or - more
specifically - "neonormativism".[12] A normative theory is
evident in the CSCE/OSCE's historic and unchallenged
norm-setting function, unifying the participants within
a pluralistic political culture. The role as a
community of values has, furthermore, been - in time,
in doctrine and in practice - a basis and precursor to
widening its role as a security-policy institution.

Despite the growing operational capability of the OSCE
and its growing activities in the field, a typical view
places the OSCE together with the more capable European
and transatlantic institutions in a triangle
relationship, prescribing a division of labour: the
function of the OSCE is norm-formulation and (soft
conflict management within the concept of co-operative
security, whereas the EU, with its power of
integration, is shaping the political-economic order
and NATO, with its military ability, is determining the
balance of power and performing common military-
political functions, with the Balladur Plan as the EU's
link with the OSCE and NACC/PFP as NATO's connection
with the OSCE. (Waever 1994)

The OSCE model of "mutually reinforcing" institutions

is not likely to change in the foreseeable future. The OSCE will not take over the core functions of, or build resources equivalent with, EU or NATO, but it will not remain a mere norm-formulator either. Its "niche" in security-enhancement and conflict management can grow in significance; recent examples being the Nagorno-Karabakh and Chechen crises.

The OSCE and the crisis of state

The OSCE is an effort in international governance without government; neither its decision-making rules nor its institutional structure are tuned to representing or reaching the competence or the capability of a world government. In fact, the legitimacy of its normative and operative decisions is largely based on the rule of consensus and the principles of sovereign equality, territoriality and equal and indivisible security. Attempts to dilute these norms are met with strict opposition. On the other hand, the OSCE as an institution reflects and manages the crisis of the state-centred international system and the inadequacy of the nation-state in providing its own welfare and security. The OSCE reflects and recognizes the complexity of the issues of state, sovereignty and identity.

The CSCE/OSCE norms, in line with post-WW II international law and the Charter, legitimize state (rather than national) sovereignty and subordinate, in effect, national self-determination (of peoples) to the principles of inviolability of borders and territorial integrity. These legitimizing principles are called into question by tumultous periods, crisis, wars, however, and the international order has oscillated between state and nationality as the legitimate basis of sovereignty. (Barkin and Cronin 1994)

One of the strengths of the CSCE <u>Final Act</u> has been the clause on peaceful change of borders (Apunen 1975), which has facilitated the birth and universal acceptance of the new independent states in post-cold war Europe. But the OSCE will have to tackle further with national or ethnic aspirations of self-determination, most urgently with several open cases in the areas of former Yugoslavia, former Soviet Union and the Russian Federation. No consensus is possible for an OSCE common action encouraging or legitimizing separatism or splitting sovereign states but the OSCE code of conduct in internal conflicts and its norms stressing the respect for human and minority rights constitute, in practice, a reaction against overly strict non-interference. Sovereignty claims for re-created "authentic" communities, as a romantic challenge to the status quo, and as an outcome of "decolonisation of the past" (Koskenniemi 1994, 258), can create situations where recognition policies escalate tensions rather than settle issues, unless those principles pertaining to the domestic domain are respected as well (Koskenniemi 1994, 267-268).

Another key aspect of the issue of sovereignty is the growing role of ethnicity as a conflict source, which may rise from a security dilemma among groups within states after the "imperial collapse" of the central authority, if their identity or cohesion is threatened, making them stress security and survival over co-operation. (Posen 1993) Ethnicity and nationalism, constituting cultural parochialism, lead to conflicts over territory and a return of geopolitics in a new form in Europe. (Chipman 1993) The OSCE is meeting these challenges in the stability policy and conflict prevention mode, through the "legitimate concern" principle and an advanced regime on the rights of national minorities. Demands for self-determination

will be satisfied by human rights and minority rights
aimed at preventing or diminishing a security dilemma
and not by creating new states. The OSCE is not
encouraging political solutions based on pure ethnicity
but it can use intrusive regimes in ethnic conflict
resolution.

Another means of mitigating the security dilemmas
around the faltering position of the nation-state and
the rise of the society into the security agenda is
provided by the norms and principles, as well as
mechanisms, that protect and support the identity of
national and ethnic groups against perceived pressures
such as migration. The dilemma is intensified as
societal insecurity as integration in West is producing
new foci of identification and fragmentation in East is
leading to re-nationalization of foreign policy or
ethnic politics.

The security of a state is about survival and its key
criterion is sovereignty, and the security of a society
is about identity. Both forms of security can be
supported by the OSCE in the framework of its
comprehensive concept of security, defusing factors
contributing to uncertainty, tension and instability
within societies. Societal security is, however, a
challenge to a state-based institution as identity can
be transferred to different levels from a group to a
nation to a community, while the OSCE - at least yet -
cannot be viewed as a focal point of identification. A
challenge for the OSCE would be to gain the position of
security expectation and identification of the
governments and publics. (Waever et.al. 1993, 196;
Waever 1994a)

Democratic peace
The normative emphasis in the OSCE doctrine leads to

republican liberalism: is the security philosophy
represented by the OSCE based on the theory of
democratic peace as an empirical, prudential and
normative argument? (Russett 1993, 4)

Clearly, the CSCE/OSCE post-cold war concept of
security is predicated on the effects of democratic
transition not only on the prospects of peace but on
security and stability in the broader sense. The
Kantian theory of perpetual peace among democracies is
not questioned in the CSCE/OSCE normative and political
"acquis". Furthermore, commercial liberalism - and, as
its modern version, political and economic integration
as a peace factor - has a strong place in the OSCE
policy promoting political and economic stability,
support to transition, and unification.

Enlarging the zone of democracy and civility is not
without its problems. The process of democratic
transition is uneven and uncertain in the OSCE region.
There are signs of parochialism and decline of the
authority of democratic norms and institutions even in
the established democracies. Furthermore, the theory of
democratic peace does not exclude conflicts between
democracies and undemocracies.

The road to security by democratization is long. Even
though normative and institutional constraints are
mutually reinforcing in producing the phenomenon of
democratic peace, the more powerful constraints to
violent behaviour are normative rather than
institutional, whereas institutions are easier to build
than normative traditions. (Russett 1993, 119-120)

Initially, creation of democratic institutions can lead
to ethnic or other internal conflicts - a paradox which
the post-cold war Europe has witnessed and the OSCE has

recognized. The answer must be stronger institutions and patient efforts at creating democratic traditions and introducing the political culture of non-violent conflict resolution. Democratic transition is a strategy of an international security order being socially constructed from bottom-up, with the norms of the domestic domain extended to the international arena. (Russett 1993, 137-138)

The issue of common interests

The crucial difference between the two main theories in explaining co-operation is focussed on the significance of intentions, motivations and objectives for states acting unilaterally or collectively through international institutions.

Admitting that relative capabilities are significant, institutionalism places a stronger emphasis on intentions, interests, information, and learning. In simple terms, the theoretical issue is highlighted by the dichotomy of relative and absolute gains in interest calculation and articulation. When neorealism maintains that relative gains, preventing others from achieving advances in relative capabilities - who gains more? - is the attitude guiding co-operation, in addition to the fear of cheating; neoliberal institutionalism maintains that states can articulate common interests in the pursuit of absolute gains from co-operation through institutions; the worry is not so much on being cheated or on one-sided losses but partners' compliance with common norms and, consequently, losses for the totality. (see, Grieco 1993, 132)

Institutionalist theory is rationalist; states are rational egoists. The theory does not predict universal co-operation or a common utility function simply from economic interests or values of democracy; what it says is that where common interests exist, and an opportunity to absolute gains in security and welfare exists, co-operation is possible and can be achieved and institutions are put to use. The institutionalist theory is conditional; mutual interests are taken as given. Co-operation and the survival of institutions is not only possible through hegemonic dominance or balancing by powers. (Keohane 1993a, 273-278)

The question of common interests is the key aspect in distancing institutionalism from realism. The OSCE states see common security interests and seek absolute gains, first of all, in the process of political and economic transition to democracy and markets. Another utility is accrued from the functioning of authoritative joint conflict resolution, a common goal which is, however, more contentious and sensitive in practice.

As a security-seeking institution run by the engine of common interests, the OSCE is predicated on peaceful change in the domestic and international order. Through neonormativist and institutionalist practices, the institution will change together with its environment. The strategy calls for preventing or overcoming the forces of parochialism or unilateralism, which may lead to stagnation or fragmentation of the evolutionary security order. As a form of structural change, transition is placed against decline in democratic domestic and co-operative international institutions.

Dynamics determining the success of neonormativist institutionalism works on the level of actor intentions and on the level of institutional structures:

> neonormativism ⁓ parochialism
> transition ⁓ decline

Institutions have a staying power and a capability for adaptation. The CSCE/OSCE is an example of this phenomenon. In the post-cold war transformation, where realism predicts an intensified security dilemma and conflict due to hypernationalism and multipolarity, institutions can have a stabilizing influence and facilitate self-interested co-operation. The end of the cold war has opened up a broad area of common interest

among the participants which has carried the CSCE/OSCE forward.

The OSCE has proved to be an adaptive institution, used by the participants, on the basis of a wide area of specific mutual interests, for co-operation leading to absolute gains. But the normative and political principle of sovereign equality, and the limited scope and soft nature of collective action have acted as safeguards against gains favouring some partners and hurting others; they have also guarded against the use of the OSCE for compellance actions threatening a partner's supreme interests of security and survival. Furthermore, even though transition and stability are in a common interest, the weaker partners are keen to ascertain that decision-making rules give them an adequate and equal voice.

The question for the future is whether the weakness of the OSCE, in terms of its competence and capability, is a crucial "strength". In its present shape, the OSCE will not produce a threat to survival, but it creates areas for common interest formation for the participants. Furthermore, one can ask whether a stronger OSCE, with an enlarged competence and capability for intrusive common action, would accentuate the realist aspects of world politics within the OSCE. With a greater potential for change through the common institution, risks of cheating and relative gains become greater, and more power and capability will be used by participants to secure their interests. The relative power differences will become more significant. The result may be a concert of powers within the OSCE. To prevent such a demise, a stronger OSCE as an institution based on inclusiveness, equality and consensus would call for a firm normative ground with a strong compliance pull.

(iii) The OSCE as a security regime

The theoretical question around the OSCE is what kind of "governance" it does or can deliver in the field of security. Does it as an institution, as an intervening variable make states search for co-operation instead of relying on self-help stragies in an international system which is constitutionally based on anarchy? A leading school in the "governance" field is regime analysis, which includes both a contract-oriented and a behaviour-oriented approach to explaining the will and capability to co-operation. (Rittberger 1993)

The OSCE can be presented as a security regime - or a number of regimes in specific issue-areas. It is a "set of principles, norms, rules and decision-making procedures"; actor expectations converge around the OSCE which has become a reference point for actor behaviour. Originally, the CSCE was a contract-oriented regime; gradually the CSCE/OSCE is becoming also a behaviour-oriented regime. The question is how strong the rules of legitimate or admissible behaviour within such a "voluntary, non-hierarchical self-regulation" (Mayer et.al. 1993, 398) are in producing norm compliance.

Characteristics of a regime
Regime theory is an institutionalist theory. The largest part of empirical and conceptual regime studies deal with economic welfare and other functional, non-security issues. In fact, this is the case with most institutionalist research whereas neorealism tends to concentrate on security - which is why the study of security regimes is - if not paradoxical at least - challenging.

The OSCE as a security regime with a broad normative

basis and a limited and narrow functional capability is both an easy and difficult case. The concept of comprehensive security will not pose such a challenge to the neorealist argument as it includes non-politico-military functional sectors. The OSCE as a security regime is not only about a specific politico-military issue-area but, in a holistic manner, about a broad field of activities which are perceived to be part of (comprehensive) security in the modern sense.

A study of another comprehensive security regime, The Iroquois League (1450-1777), concludes with a comparison among the categories of no regime, limited regime and strong regime. (Crawford 1994, 385) The OSCE is strong in the normative framework (strong norms, emphasis on co-operation) and institutionalization (high, regular consultation, conflict resolution procedures) and limited in membership (not all democracies), trust, community (not a pluralistic security community), ethnocentrism (moderate), response to threats (not collective security), but it is clearly a regime. The OSCE is not a league or an alliance created because of, or for, external challenges; the OSCE is aimed for relations among the participants.

Among the lessons drawn from the study relevant to conditions fostering a security regime (Crawford 1994, 378-380), many are present with the OSCE.

- A security regime is formed when the interests of actors converge around virtues of co-operation and its future prospects; not if imposed by a hegemon or by constraining the domestic or foreign policy autonomy of states. The post-cold war OSCE is part of a broader transformation process but there is no external force behind its growth or identity formation.

- The intensity of the security dilemma can be decreased gradually by reducing uncertainties and promoting economic interaction which may lead to an identity community strengthened by institutionalization. Gradualism is an inherent element in the OSCE strategy. The question of forming an identity community is open; its weakness is part of the credibility gap with the OSCE.

- The practice of renewal of mutual commitments can foster the maintenance of a security regime. This is being done by OSCE summits, but in the long run another Helsinki I-type conference may be needed.

- The breakdown of a security regime can be caused by experiences of wars being forgotten or by too limited a regime (lacking in institutionalization, identity community), by shifting capabilities or by exogenous shocks. A shift in capabilities could be a resurgent unilateralist Russia or a withdrawing isolationist United States.

Russia's choice in foreign policy between a more co-operative or unilateralist, between an integrative or isolationist direction is dependent upon the evolution of its domestic politics and power structure. The linkage is interesting in the light of the experience with perestroika. Is Russia's future behaviour neorealist or neoliberal?

A strong case has been made that the Soviet foreign policy change under Gorbachev cannot be accounted for by structural or funtional factors alone but the role of ideas has to be added. The end of the cold war is explained by transnationally - including through the espistemic communities - transmitted ideas of common security which won access to the political system.

(Risse-Kappen 1994; Powell 1994) Actors - and thus
domestic politics - can fundamentally transform the
international system by changing political conventions
more rapidly than structures can change. This cause-
effect chain can lead into a cold war (Stalin) or away
from a cold war (Gorbachev). (Koslowski and Kratochwil
1994)

Regimes - if they work - prove that governance without
government is possible. Normative institutions that
effectively regulate social interaction do not need a
central authority. Governance is a result of non-
hierarchical, voluntary, international collective self-
regulation and self-organization of states. Regime
theory conveys a notion of non-hierarchically ordered,
yet non-anarchical international politics where
collective action is possible. (Mayer et.al. 1993, 398;
402)

Governance is order plus intentionality; obligations do
no emanate from a hierarchical or compelling norm- and
rule-setting process (government) but from voluntary
agreements to play by a set of rules which are binding
in the sense that they convergent expectations and
govern behaviour. (Mayer et.al. 1993, 393)

Regimes can be identified on the basis of explicit
rules and procedures, or, on the basis of observed
behaviour. Rules need not be "effective"; regimes arise
when states recognize agreements as having continuing
validity. Regimes can be identified by the existence of
explicit rules that are referred to in an affirmative
manner by governments, even if they are not necessarily
scrupulously observed. (Keohane 1993, 27-28)

The sociological concept of institution as sets of
rules (formal and informal) that prescribe behavioural
roles, constrain activity and shape expectations;
formal IGOs, transnational, regimes, conventions;
international regimes are institutions with explicit
rules, agreed upon by governments, that pertain to
particular sets of issues in international relations.
(Keohane 1993, 28-29)

The OSCE is strong on legitimacy and it will grow as a
non-hierarchical and voluntary order. The role of the
OSCE as a guardian of explicit norms which are referred
to by participants will be sustained. But the

effectiveness of the OSCE as a security regime is a
question that cannot be avoided. The OSCE prescribes
roles and shapes expectations but it has to govern
behaviour as well.

Regime effectiveness

Regimes can be analysed and explained by neorealist or
neoliberal terms. This dualism is a key to the OSCE's
future as a community of values and a security
institution.

According to neorealism, regimes affect capabilities
and interests, serve as a source of influence, alter
the underlying power capabilities of states, and
calculations of interests. Within the neoliberal
framework, regimes affect state action by altering
bureaucratic practices and rules, by promoting
learning, by altering ideas about the legitimacy and
value of practices, by becoming embedded in normative
networks, by increasing the political salience of
issues and changing the domestic balance of power.
(Keohane 1993, 29-30) The dualism can also be
formulated by stating that the resolution of liberal
and realist arguments will depend on whether market
failure or distributional issues best describe the
range of issues involving international politics.
(Krasner 1993, 140)

In liberal regime analysis, the problem at hand is to
establish that laws and norms exercise a compliance
pull of their own, at least partially independent of
the power and interests which underpinned them and
which were responsible for their creation. Co-operative
behaviour can arise between self-interested actors,
based on reciprocal benefits. (Hurrell 1993, 52-53; 57)

Regimes are seen by realists as being created by, and
dependent on, power and distribution. International
regimes are produced to promote the interests of
particular actors. Regime creation and maintenance are
a function of the distribution of power and interests
among states. (Krasner 1993, 139-140) International
regimes on human rights depend on whether more powerful
states are willing to enforce the principles and norms
of the regime; only then are regimes consequential. A
case in point is the minority rights regime of the
League of Nations system. Human rights regimes are not
to rectify market failures but to alter relationships
between rulers and subjects. (Krasner 1993)

Security regimes need not cover the entire area of security; there are regimes in narrower sub-areas of security policy. Regimes exist when all four elements (principles, norms, rules, procedures) are present. A regime in a given area affects (if obeyed) parties' behaviour by channelling or terminating unilateral self-help. An example is the European military order (CSBMs, CFE, INF). (Müller 1993, 361)

The OSCE as a regime can be analyzed from the viewpoint of structure and power. Conflict management, in particular, military crisis management is an area where influence is accumulated and power used by such capable actors as NATO as an institution and Russia as a leader in its actions within the CIS region; crisis management creates its own "architecture".

Another angle is provided by the "stick and carrot" effect in norm compliance. The norms of democracy and market economy are applied if it is rewarded with the perspective of EU membership - like in the context of the Balladur Plan - whereas there are countries whose immediate security interests supplant any fears of sanctions from deviant behaviour.

A whole category of questions regarding regime effectiveness is provided by Russia's integration with the OSCE as a community of values as well as a security institution. The integration of the new independent CIS countries within the OSCE norms and practice is pursued through support programmes aimed at influencing domestic bureaucratic and political elites.

In the area of military security, the OSCE can be seen as a network of specific regimes on CSBMs and openness. In the future, the role of the OSCE will be enlarged to European arms control as a whole.

Within the OSCE, the effectiveness of the regime on

human and minority rights (see Packer 1993) is not
dependent on the use of power; compliance is sought by
persuasion and quiet diplomacy. On the other hand, the
ideological hegemony of Western democracy in the post-
division Europe can be seen as a factor in regime
formation.

The future of the OSCE as a security regime

The problem of regime effectiveness remains a central
issue for the future of the OSCE. In realist theory,
co-operation is a matter of convenience that can be
abandoned unilaterally if unilateralism gives greater
promises of net benefits. Effectiveness is not a linear
or accumulating phenomenon. In neoliberal theory,
however, regime effectiveness can be built and pursued
through a persistent doctrine and practice.

Within the neoliberal theory, four approaches promise
and predict ways through which regimes affect state
behaviour. (Müller 1993, 362-363)

- The <u>neoliberal-utilitarian</u> approach assumes that
states prefer certainty about the course of future
competition and calculate costs and benefits. States
review their cost-benefit analyses and the stability of
co-operation, draw conclusions and adjust their
behaviour. Within the European security order,
uncertainty about the architecture of various
institutions remain; the OSCE will play an important
networking and stabilizing function in its future
evolution.

- <u>Pure institutionalism</u> maintains that states comply
because regimes exist. Institutions assume a power of
their own and socialize members. Regime norms and rules
help states reduce the burden of decision-making by
creating incontestable rules of decision selection.

Even though the OSCE is weak on compellance, it is
strong on routine communication, consultation and other
procedures which provide a framework for partners'
policy-making within a permanent joint forum.

- According to theories of knowledge, regimes create a
framework for learning by states. States can test the
adequacy of co-operation instruments and improve regime
structures. This is a continuing process within the
OSCE.

- Complex institutionalist theory sees regimes embedded
in networks of norms and institutions. Compliance
occurs because the normative systems work as frames of
reference that reinforce compliance in regimes. The
future of the OSCE lies in producing a gradualist and
reinforcing impact on compliance.

Concluding remarks

The Organization for Security and Co-operation in
Europe (OSCE) is an effort in international security
torn between dichotomies and paradoxes in theory and
practice. The OSCE pursues governance without
government while being predicated on strengthening the
authority of its institutions. It follows
institutionalism while placing a strict emphasis on
sovereignty and equality of its participants. A product
of the state-centred system, it has created a strong
linkage between domestic and international norms of
behaviour. It conducts conflict management without
instruments of compellance.

The evolution of the OSCE as a community of values and
a security institution should be analyzed in
interdependence with its environment. The OSCE is

affected by the contending policies of neonormativism
and parochialism in the post-cold war order in Europe,
and by the outcome of the parallel changes of
transition and decline in its structures. At the same
time, the OSCE is in place to affect intentions and
mold structures.

The stronger the OSCE becomes as an institution in
terms of its competence, capability and authority, the
more intensified this challenge will become. The OSCE
will have to tackle forces that go against its own
logic of providing security.

Notes

1. I have developed the character and role of the CSCE
as an accountability regime and a security institution
in co-operative security for Europe in an earlier
article (Möttölä 1993). An account of the CSCE Paris
meeting 1990 and its aftermath is Lehne 1991 and of the
CSCE Helsinki 1992 meeting and its significance is
Heraclides 1993.

2. For the background and character of the decalogue of
the Final Act, see Apunen 1975.

3. For accountability, see Brown 1992, 160-167.

4. The only exception is the Convention on Conciliation
and Arbitration which is, however, binding only on
those countries that have ratified it; the Convention
which entered into force in the days of the Budapest
Summit (5 December 1994), is an exception to the OSCE
practice of inclusiveness - the decision was made
within the CSCE framework (Stockholm Council 1992) but
not to apply automatically to all but to those willing
to enter into the convention.

5. The Russian proposal is included in the compilation
of pre-Budapest proposals (CSCE Secretariat DOC. 621/94
Rev. 1).

6. Only a separate short appeal to conflicting parties
was issued, with Bihac as the most urgent concern.

7. The CIO's statement in the Permanent Council, 12 January 1995 (DOC. 40/95); Report of the Personal Representative of CIO, 1 February 1995 (DOC. 146/95); Decision by the PC, 3 February 1995 (DOC. 154/95 Rev. 1).

8. The High Level Planning Group (HLPG) is working on a plan of a multinational force of some 3.000 men. (See, CSCE'94. Bulletin of the Finnish Committee for European Security. No. 4, 8-9). The operation would receive technical advise and expertise from the UN. According to informal sources, the force could be one-third Russian, one-third other CIS and one-third non-CIS OSCE countries.

9. The chairman's perception of a possible compromise was communicated to the Budapest conference (DOC. 300/Rev. 11/3 December 1994).

10. UNSC resolution 937 (1994).

11. The original text issued as an OSCE document (DOC.828/94) and the EU proposal as (CSCE/BC/WG1/2/16 November 1994).

12. The concept "neonormativism" is used by Professor Osmo Apunen of the University of Tampere in a review of an article by the present author on the change in the Finnish security-policy doctrine from the cold war to the new Europe (Apunen 1994). Apunen's scepticism over the ability of a foreign policy based on "neonormativism" to overcome the iron laws of realism or the return of parochialism in Europe, including possibly within the EU, or a non-co-operating Russia prompted a reply outlining the security strategy within the OSCE framework as a rational form of such "neonormativism" (Möttölä 1994).

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INSTITUTIONAL STRUCTURE OF the CSCE

Fora for political consultation, management and decision making

Summit (next 1996 in Lisbon; further frequency open)
Ministerial Council (once a year)
Senior Council (twice a year)
                        Economic Forum
Permanent Council (PC)
                Chairman-in-Office (CIO); Troika

                        CSCE Parliamentary Assembly (PA)

Permanent organs and bodies

Secretary General (Vienna)
Secretariat (Vienna)
                Conflict Prevention Centre (CPC)
                Office (Prague)
Office for Democratic Institutions and Human Rights
(ODIHR) (Warsaw)
High Commissioner on National Minorities (HCNM) (Hague)
Office for Sanctions Co-ordinator (with EU, Brussels)

                        PA Secretariat (Copenhagen)

Fora for negotiation and discussion

Forum for Security Co-operation (FSC)
                CFE/Joint Consultative Group (JCG)
                Open Skies Consultative Commission (OSCC)

Fora for follow-up

Review of implementation (FSC, ODIHR) (annual)
Review meeting (Vienna) (pre-Summit)

ACTIVITIES AND OPERATIONS WITHIN THE OSCE STRUCTURE

Activities

Consultation, decision making (PC, SC, Council)
(policy, current issues, conflicts)
Negotiation (FSC) (politico-military issues)
Joint action (operations in early warning, conflict
prevention, crisis management, peacekeeping; peaceful
settlement of disputes)

Mechanisms

Emergency meeting (Berlin mechanism)
Unusual military activities (Measure 17)
Stabilizing measures for localized crisis situations
Human dimension (Moscow mechanism)
Peaceful settlement of disputes
        Valletta provisions
        Court of Conciliation and Arbitration
        Directed conciliation
        Voluntary conciliation
Peacekeeping

Operations

Missions under the human dimension mechanism
Missions under the unusual military activities
mechanism
Activities by HCNM
Elections monitoring by ODIHR

Missions by CIO
Personal representative of CIO
OSCE missions of long duration (fact-finding,
rapporteur, good offices, monitoring)

CONFLICT CYCLE AND MEANS FOR INTERNATIONAL CONFLICT MANAGEMENT

POLITICAL
RESOLUTION

peace-
building

reconstruction
of society

early warning
fact-finding

war-making

preventive
diplomacy

USE OF MILITARY
COUNTER-FORCE

CONFLICT
PREVENTION

peaceful
settlement
of disputes

military
sanctions

x

economic sanctions
peace-enforcement

assessment
mediation

humanitarian operations
peacekeeping
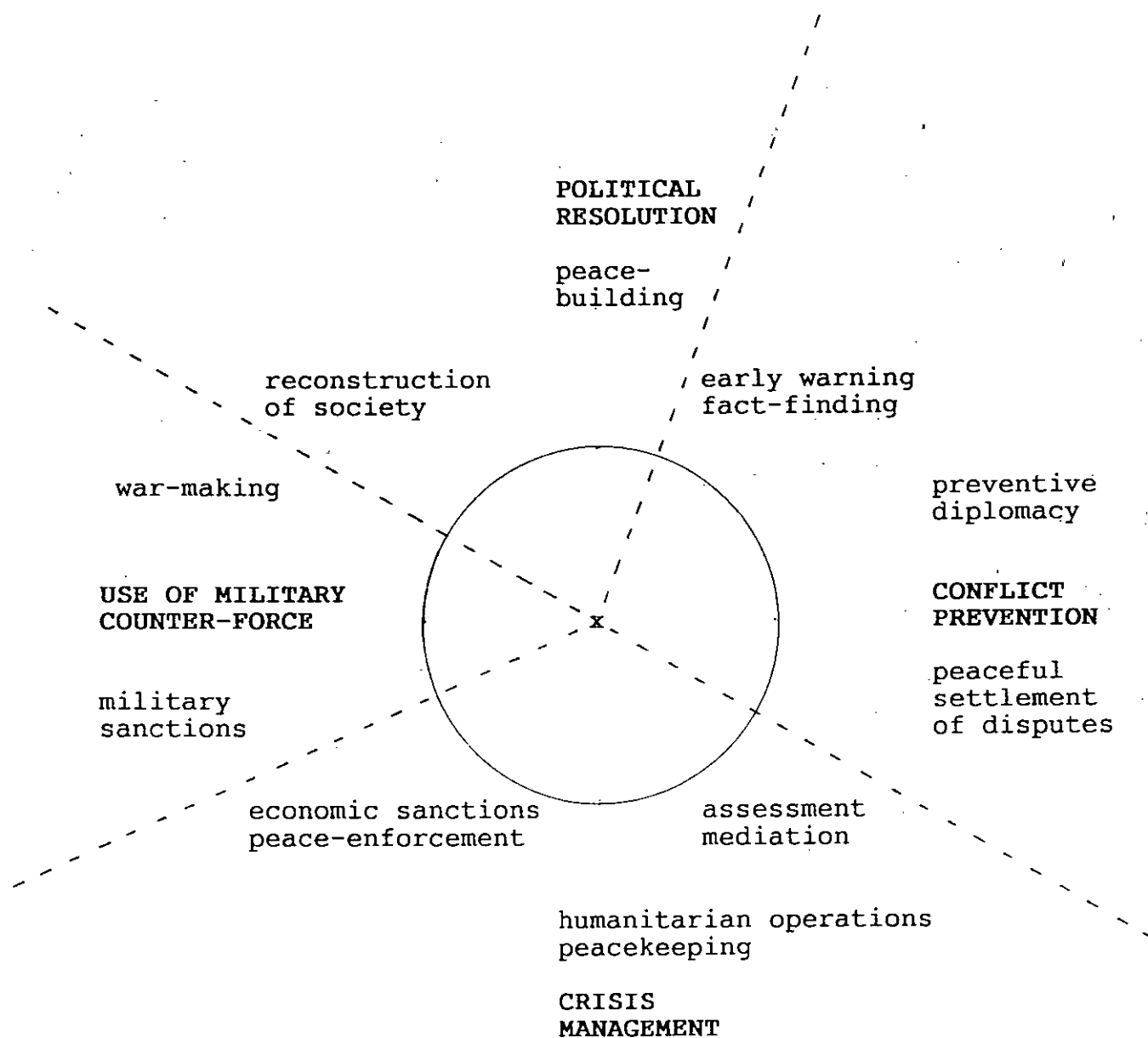
CRISIS
MANAGEMENT

OSCE MISSIONS IN PROGRESS

Area	Deployment	Profile
CSCE missions of long duration		
Kosovo Sanjak Vojvodina	1992-1993	conflict prevention
Skopje	1992	conflict prevention
Georgia	1992	crisis management
Estonia	1993	conflict prevention
Moldova	1993	crisis management
Latvia	1993	conflict prevention
Tajikistan	1994	crisis management
Sarajevo	1994	reconstruction
Ukraine	1994	crisis management
Missions by personal representative of CIO		
Chechnya	1995	crisis management
Mission under planning		
Nagorno-Karabakh		
- Minsk Group	1992	peace-building
- IOPG/HLPG	1993/1994	peacekeeping

MODELS FOR OSCE ENGAGEMENT AND PARTICIPATION IN PEACEKEEPING

Operations	Mandate(m)	Command and control(c2)	Resources Support(s) Troops(t)
OSCE role	Acceptance(a) Verification(v)	Monitoring(m)	

Operations under the auspices of the OSCE

Operations	Mandate(m)	Command and control(c2)	Resources Support(s) Troops(t)
1. Chapter III	OSCE (m)	OSCE (c2)	Part Stat + Sec inst (s) Part Stat (t)
2. Subcontracted	OSCE (m)	Sec inst (c2) OSCE (m)	Sec inst (s) Sec inst members (t)

Co-operative operations with third parties

Operations	Mandate(m)	Command and control(c2)	Resources Support(s) Troops(t)
3. Commended	Confl+ third parties (m) OSCE (a)	Third parties (c2)	Third parties (s) Third parties (t)
4. Third-party	Confl.+ third parties (m) OSCE (v)	Third parties (c2) OSCE (m)	Third parties (s) Third parties (t)