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## A European Security Architecture for the 21st Century

### *A Continuing Story*

Three OSCE Yearbooks have preceded the present one. Each one of them contains a chapter on the development and state of a pan-European security order.<sup>1</sup> Hence the subject has a history that does not begin in the reporting period covered by this volume. Anyone who wants to look into the changes it has undergone must, unavoidably, take the earlier accounts into consideration. That is the only way continuity and change in the development of a pan-European Security Charter can be made clear without repeatedly presenting all the details of past stages. This article, therefore, stands in a close relationship to its predecessors in respect to both content and procedure. One of the objectives of a future Security Charter is to avoid duplication of work between the organizations engaged in security work in Europe and the Atlantic area. This will also be the guiding principle for the thoughts contained in this article.

Some of the matters discussed in the previous stages can in 1998 be regarded as settled or at least as having no further topical importance. This somewhat sweeping statement rests on a well-founded view of the matter which, however, is in the final analysis also subjective. It is offered to the reader as the premise which underlies what follows: there is no one "model" of a European security order that can be used to measure progress, stagnation or retrogress. This report supports the interim conclusion of the two Swiss diplomats - drawn after one and a half years of discussion on a European Security Model - that the Security Model cannot be a "ponderous new collective security structure".<sup>2</sup> The concept of a collective security order is not the only standard by which past and future developments ought to be measured.

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1 Cf. Dieter S. Lutz, Die OSZE im Übergang von der Sicherheitsarchitektur des Zwanzigsten Jahrhunderts zum Sicherheitsmodell des Einundzwanzigsten Jahrhunderts [The OSCE in Transition from the Security Architecture of the Twentieth Century to the Security Model of the Twenty-First Century], in: Institut für Friedensforschung und Sicherheitspolitik an der Universität Hamburg [Institute for Peace Research and Security Policy at the University of Hamburg]/IFSH (Ed.), OSZE-Jahrbuch [OSCE Yearbook] 1995, Baden-Baden 1995, pp. 63-96; Benedikt von Tscharnier/Linus von Castelmur, The Work on a Security Model for Europe for the 21st Century, in: Institute for Peace Research and Security Policy at the University of Hamburg/IFSH (Ed.), OSCE Yearbook 1995/1996, Baden-Baden 1997, pp. 227-240; Heinrich Schneider, The "European Security Model for the 21st Century" - A Story without an Ending?, in: Institute for Peace Research and Security Policy at the University of Hamburg/IFSH (Ed.), OSCE Yearbook 1997, Baden-Baden 1998, pp. 235-255.

2 Von Tscharnier/von Castelmur, cited above (Note 1), p. 239.

### *The View in 1997*

Heinrich Schneider concludes his article with a look ahead that includes the following three assumptions:

- "We can (...) assume that the agreement between NATO and the Russian Federation of 27 May 1997 on the 'Founding Act on Mutual Relations, Cooperation and Security' will also alter the terms of the discussion on the 'Security Model'."
- "It is possible that the agreement between NATO and Russia will lessen the significance of the OSCE's reform efforts (...) OSCE reforms, viewed as 'bargaining chips' for Russian acceptance of NATO enlargement, would thus have lost some of their value."
- "But another interpretation is possible, namely that Russia - because it entered into the agreement of 27 May 1997 only  *nolens volens*  - is all the more interested in not having that agreement be the only significant basis for East-West developments."<sup>3</sup>

Our intention is to use these hypotheses of Schneider as a point of departure. Once again they make very clear that the arrangements reached in a European Security Charter depend on the surrounding political circumstances. Of particular importance here are changes in security institutions and the related interests of state actors - first and foremost those of the United States and the Russian Federation.

### *NATO as the Motor of American Security Policy in Europe*

The communiqué of the NATO Summit Conference in Rome in November 1991 states that "(...) our Alliance will continue to play a key role in building a new, lasting order of peace in Europe (...)".<sup>4</sup> This formulation did not exclude the possibility of opening NATO to new members, but that was not its intention. Four and a half years later, however, the members of the Alliance, at their meeting in Noordwijk in May 1995, stated confidently and without beating around the bush: "We have worked to make the Alliance an *agent of change*, even as it promoted security and stability *throughout Europe*."<sup>5</sup> These are the salient points in a line of development during which the United

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3 Schneider, cited above (Note 1), pp. 254-255.

4 Rome Declaration on Peace and Cooperation. Issued by the Heads of State and Government participating in the meeting of the North Atlantic Council in Rome on 7th-8th November 1991, in: NATO's Sixteen Nations 7/1991, pp. 60-62, here: p. 60.

5 Ministerial Meeting of the North Atlantic Council, Noordwijk aan Zee, The Netherlands, 30 May 1995, in: NATO review 4/1995, pp. 31-34, here: p. 31 (author's emphasis).

States changed from a foot dragger into a determined advocate of opening NATO.

From the standpoint of the Alliance 1997 was a year in which much of what had still been a declaration of intent in 1994/95 was made good on. Among the events were the already mentioned "Founding Act"<sup>6</sup>, the "Charter on a Distinctive Partnership" with Ukraine of July 1997,<sup>7</sup> the transformation of the North Atlantic Cooperation Council into a Euro-Atlantic Partnership Council,<sup>8</sup> the decision to expand the concept of the Partnership for Peace<sup>9</sup> and finally, at the end of the year - and mentioned last only for that reason - the signing of Protocols of Accession with the Czech Republic, Hungary and Poland.<sup>10</sup> If one looks at all of these steps together it is hard to deny that the fly-wheel of security policy was turned by NATO in 1997. In the words of John Kornblum, whose long years of service as Head of the American Delegation in Vienna certify him as an OSCE expert and who is now Ambassador to Germany, "NATO is developing rapidly into a pan-European security organization"<sup>11</sup> which makes a new Security Charter appear anything but urgent.

In light of these developments during 1997 and of Kornblum's cogent summary, what was to be expected of an event intended to move the model discussion forward, i.e. the Ministerial Council meeting of the OSCE Foreign Ministers in Copenhagen on 18 and 19 December 1997? According to the (obviously accurate) evaluation of a participant in the negotiations that preceded the Copenhagen meeting, the US, following the Lisbon Summit Meeting of the OSCE in December, had dug itself in on the question of a European Security Model. Only with great reticence do the decisions of Copenhagen (see below) reveal that the United States and the countries that tend to follow its lead on the issue of a pan-European security architecture had dug themselves out again in time. In 1997 the Atlantic Alliance played the "central" role that Russia had originally wanted the OSCE to play and became the centre-piece of the European security discussion. If there ever was a competitive relationship between NATO and the CSCE/OSCE and a

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- 6 Founding Act on Mutual Relations, Cooperation and Security between the North Atlantic Treaty Organization and the Russian Federation. Issued in Paris, France, on 27 May 1997, in: NATO review 4/1997, Documentation, pp. 7-10.
  - 7 Charter on a Distinctive Partnership between the North Atlantic Treaty Organization and Ukraine. Issued in Madrid, Spain, on 9 July 1997, in: *ibid.*, pp. 5-6.
  - 8 Ministerial Meeting of the North Atlantic Council, Sintra, Portugal, 29 May 1997, Final Communiqué, in: *ibid.*, pp. 12-13; see also: Basic Document of the Euro-Atlantic Partnership Council. Issued in Sintra, Portugal, on 30 May 1997, in: *ibid.*, pp. 11-12.
  - 9 Cf. Ministerial Meeting of the North Atlantic Council, Sintra, Portugal, 29 May 1997, Final Communiqué, cited above (Note 8), p. 12.
  - 10 Cf. U.S. Information and Texts 051/1997, pp. 6ff.
  - 11 John C. Kornblum, *Amerika und Europa - eine unentbehrliche Partnerschaft* [America and Europe - An Indispensable Partnership], speech at the Friedrich-Ebert-Stiftung/Deutsche Atlantische Gesellschaft [Friedrich Ebert Foundation/German Atlantic Society], Bonn, 12 November 1997 (manuscript; own translation).

different security order than the one which took on increasingly clear form during 1997 had ever represented a realistic alternative, it was - that we can state right here - no longer on the agenda in the Copenhagen negotiations.

*A Pan-European Security Order: A Russian Preference*

It is not really necessary to go back over everything that happened before the Budapest Summit of the (at that time, still) CSCE in December 1994 to agree with the view that the Budapest decision to discuss a "Common and Comprehensive Security Model for Europe for the Twenty-First Century"<sup>12</sup> was intended above all to assuage Russian concerns over the process of NATO enlargement, which had picked up speed and gained focus in the course of 1994. To put it crudely, the model debate initially had the function of a placebo.

The Russian Federation was not only the initiator of the model debate in 1994 but proved to be its motor during the succeeding years.<sup>13</sup> Given this background, what would be the consequences of the signing of the "Founding Act" in May 1997? Would it lend new force to the motor in Moscow or cause it to flag? The signers of the "Founding Act" did not reach any fundamentally new agreements with regard to the OSCE, but they did record their determination to go on developing the OSCE "as a primary instrument in preventive diplomacy, conflict prevention, crisis management, post-conflict rehabilitation and regional security cooperation" and to improve its "operational capabilities". In general, they attest to the fact that the OSCE plays a "key role in European peace and stability".<sup>14</sup>

By contrast, the statements in the "Founding Act" on a "Security Model for Europe for the Twenty-First Century" are reserved and vague. The project for a European Security Charter is referred to with the non-committal statement that "NATO and Russia will seek the widest possible cooperation among participating States of the OSCE with the aim of creating in Europe a common space of security and stability, without dividing lines or spheres of influence limiting the sovereignty of any state".<sup>15</sup> Thus both sides were able to make the point of importance to them. In connection with the term "dividing lines" Moscow was no doubt thinking mainly about NATO enlargement; the reference to possible "spheres of influence" doubtless reflects

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12 Budapest Document 1994, Budapest, 6 December 1994, in: Arie Bloed (Ed.), *The Conference on Security and Co-operation in Europe. Basic Documents, 1993-1995*, The Hague/London/Boston 1997, pp. 145-189, here: p. 173.

13 Cf. Schneider, cited above (Note 1), pp. 243ff.

14 Founding Act, cited above (Note 6), p. 7.

15 Ibid.

the concerns of Alliance members over Russian ambitions with regard to post-Soviet territory.

As was soon to be demonstrated, the signing of the "Founding Act" did not cause Moscow to lose interest in the model discussion and certainly not to signal its end. The document that had been agreed upon in Paris in May 1997 opened up for Russia an important field of action; it was not, in Moscow's view, meant as a substitute for a European Security Charter. In July 1997 the Russian government took the initiative and went public in the OSCE's Security Model Committee with a draft proposal for a European Security Charter.<sup>16</sup>

The unofficial English translation, to which my comments will refer, speaks of an "outline" rather than a "draft". It is impossible to say for sure whether and to what extent this term was intended to signal more openness. In his accompanying remarks the Russian representative to the OSCE, Yuri Ushakov, characterized the outline as a "preliminary vision of a new document"<sup>17</sup>, which can be taken as a restrictive term and as a signal for willingness to compromise.

The first thing that strikes one is that Ushakov avoids any direct reference to NATO and its enlargement intentions. Even so, the problems of enlargement become evident in the background. This happens as a result of expressions of dissatisfaction, held in general terms, about presumed efforts to divide Europe and to create artificial obstacles. The NATO enlargement process was doubtless also behind the call for dealing especially with the security interests of countries that belong to no military organization. Thus the shadow of NATO did not disappear with the signing of the "Founding Act". Still, the Russian draft is by no means focused solely on NATO. Rather, Ushakov makes clear that the project for a European Security Charter aims at far more than setting up a defensive wall against the enlargement plans of the Atlantic Alliance. One section of the draft is devoted to the problem that there are various organizations in the OSCE region which are concerned with different aspects of security and that the task of the future will be to organize their co-operation. "We see here a serious political meaning of the Charter."<sup>18</sup> Here, Ushakov refers specifically to the "Platform for Cooperative Security"<sup>19</sup> presented by the European Union at Lisbon in 1996 on which no unified position could be reached, primarily owing to American objections.

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16 Cf. Permanent Mission of the Russian Federation to the OSCE, Statement by the Permanent Representative of the Russian Federation, Ambassador Yu. Ushakov, at the meeting of the Security Model Committee, Document REF.PC/662/97 (17 July 1997); An Outline of the Charter on European Security, Document REF.PC/663/97 (17 July 1997).

17 Ibid.

18 Ibid.

19 Presidency of the European Union, Platform for Cooperative Security, OSCE Common Concept for the Development of Cooperation between Mutually-reinforcing Institutions, Document REF.RM/182/96 (12 November 1996).

Noteworthy in connection with this question of co-operation between security-related institutions is the role intended for the OSCE: "The OSCE which has gathered under its auspices all other less universal and more limited in membership groupings and alliances acting in Europe could make its contribution to the co-ordination of their efforts (...) The European security system should consist of mutually reinforcing and interacting organizations. None of them claim to be the sole leader."<sup>20</sup> This is not just the kind of language found in NATO communiqués; it is at the same time no more than a weak echo of the "central role" once proposed for the OSCE or of the leading position within a hierarchy of security institutions which, at least for a short while, was intended for it.

The introductory remarks of the Russian Ambassador, like the draft of a Security Charter, concern themselves with a subject that remains controversial and has a certain explosive potential. "It is also necessary", Ushakov says, "to enhance the peace-making potential of the OSCE, to make it capable of carrying out its own peace-keeping operations and, to this end, to further develop its previously adopted decisions on relevant issues. In recent years the problem of peace-keeping has been actively studied by different organizations in Europe. The OSCE should not stay aloof from this important cause."<sup>21</sup>

Does Russia want to give life to the provisions of the 1992 Helsinki Document on "CSCE peacekeeping"<sup>22</sup> or perhaps even go beyond them? Ushakov speaks of the experiences of recent years which ought to be reflected in a Charter, but he gets no more precise than that. And so it must remain an open question whether among these experiences is the fact that the line between completely non-violent peacekeeping activities and the use of coercive measures below the threshold of peace enforcement measures under the terms of Chapter VII of the United Nations Charter cannot always be clearly discerned. The draft paper for discussion of the Charter does, however, make clear that Russia wants things, in one respect at least, to remain as they were agreed in 1992 at Helsinki: measures to enforce peace are a matter for the United Nations as long as the Security Council has not expressly stipulated otherwise. Thus the problem of border-line cases remains unclear.

It can be assumed that it continues to be the intention of the Russian government not only to entrust the CIS with peacekeeping responsibilities but to assign a certain privilege it in the post-Soviet area, but this is not touched upon in the draft paper of summer of 1997. It is another matter that the CIS, or

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20 Ibid.

21 Ushakov, 17 July 1997, cited above (Note 16).

22 CSCE Helsinki Document 1992: The Challenges of Change, Helsinki, 10 July 1992, in: Arie Bloed (Ed.), *The Conference on Security and Co-operation in Europe. Analysis and Basic Documents, 1972-1993*, Dordrecht/Boston/London 1993, pp. 701-777, here: pp. 725-729.

what has become of it, lacks many of the prerequisites for such a role. It is also unclear whether and when the preliminary thoughts of the High Level Planning Group on a peacekeeping force in Nagorno-Karabakh will become an initial test case.

This article does not aim to present the Russian draft for a European Security Charter in full detail. The points raised here constitute a selection which, in the nature of the case, is not free of subjectivity and seeks above all to determine whether the Russian government has entered new territory with one or another of its proposals or whether it is holding or returning to familiar positions, even though they have been regarded as settled in OSCE agreements.

The draft repeats the arrangement, already embodied in the "Code of Conduct on Politico-Military Aspects of Security",<sup>23</sup> that no state may strengthen its security at the expense of other states' security. This assurance needs to be reinforced, according to the draft, with a number of additional provisions which are not elaborated upon. But the 1994 Code of Conduct goes on to say that every participating State has the right "freely to choose its own security arrangements".<sup>24</sup> There is no such reference in the Russian draft of 1997.

The Russian draft, without any further qualification, advocates confirmation of the principle of "non-intervention" in the internal affairs of states. It was presumably not unintentional that the wording leaves unclear whether only military actions are meant or whether all forms of "interference" are to be excluded. However, a comparison with the corresponding passage in the "Founding Act" strengthens the assumption that Russia - like the member states of the Atlantic Alliance - is interested in a general prohibition of interference, even if it does not involve "intervention" in the military sense. This interpretation rests on the statement in the "Founding Act" with regard to the "Permanent Joint Council" that consultations will not extend to the internal matters of either NATO, NATO member states or Russia.<sup>25</sup>

This taboo fails, as would a like proscription in a European Security Charter, to take account of the often made observation that the great majority of conflicts that have taken place in Europe - and not only there - since 1989/90 stem from internal causes. What was signed in May 1997 in Paris, which Russia in its draft seeks to extend to the entire OSCE area, lags behind the agreements on the "human dimension" of the CSCE which were achieved in Moscow back in October of 1991. The participating States declared on that occasion "categorically and irrevocably (...) that the commitments undertaken in the field of the human dimension of the CSCE are matters of direct

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23 Budapest Document 1994, cited above (Note 12), pp. 161-167.

24 Ibid., p. 163.

25 Cf. Founding Act, cited above (Note 6), p. 8.

and legitimate concern to all participating States and do not belong exclusively to the internal affairs of the State concerned".<sup>26</sup>

This reference to a status that was achieved years ago does not deny that it was only provisions in the area of the "human dimension" that were under discussion in Moscow in 1991. But it has to be asked which internal causes of conflict are at issue if they do not (also) involve "a particularly serious threat to the fulfilment of the provisions of the (...) human dimension",<sup>27</sup> for which the despatch of a mission of rapporteurs, even without the permission of the affected state, is foreseen explicitly.

On this point the Russian draft of July 1997 is contradictory, even though it contains a separate chapter entitled "Human Dimension" which goes into the question of how greater force can be given to observance of the commitments undertaken in the field of human rights and fundamental freedoms. Amongst the measures recommended in it there are two which deserve particular attention. They call for

- more active participation by non-governmental organizations in order to make greater progress in the area of the human dimension, and
- fuller use of existing mechanisms (but without saying whether the Moscow Mechanism of 1991 would be among them) and instruments.

The tension between these requirements, on the one hand, and the principle of non-intervention, on the other, is obvious. In any event, it is clear that the Russian draft does not constitute a step forward towards a "culture of intervention" of the kind that has been called for in a European security order.<sup>28</sup>

If the draft is read from the standpoint of what is *not* in it that had hitherto been a solid component in the catalogue of Russian policy demands, there are two points of particular interest which have disappeared. An Executive Council or Advisory Committee, in which only a limited number of OSCE participants are represented, no longer appears. And the idea of giving the OSCE a legally binding structure is not mentioned. It is unclear, however, whether these two aspects have been dropped permanently.

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26 Document of the Moscow Meeting of the Conference on the Human Dimension of the CSCE, Moscow, 3 October 1991, in: Bloed (Ed.) cited above (Note 22), pp. 605-629, here: p. 606.

27 Ibid., p. 611.

28 Waltraud Schoppe, Menschenrechte und Außenpolitik. Soll die Moral die Außenpolitik dominieren? [Human Rights and Foreign Policy. Should Morality Dominate Foreign Policy?], in: Internationale Politik 8/1995, p. 29.



*The Copenhagen Meeting of the Ministerial Council: An Intermediate Station on the Way to a Charter on European Security*

What could the sixth meeting of OSCE Foreign Ministers in Copenhagen on 18 and 19 December 1997 be expected to accomplish with regard to a pan-European security structure in view of American reservations and the lack of clarity in the Russian discussion draft of July 1997? No great breakthrough, in any event! While it is true that the United States jumped on the Charter wagon, it has not committed itself to the final objective. As a result Copenhagen became, at best, an intermediate station that bears the awkwardly opaque name "Guidelines on an OSCE Document-Charter on European Security". The determination not to commit to anything can be felt almost physically. The dual term "Document-Charter" reminds one of the discussion that preceded the agreement between NATO and the Russian Federation, in which Moscow's demand for a treaty under international law, on the one hand, and the willingness to accept a legally non-binding Charter, on the other, ended with the compromise of the "Founding Act". Even those who attach little importance to the political significance of concepts and judge them mainly by how they are given life in the ongoing process cannot deny that this choice of words serves as a kind of signal. The concept put together at Copenhagen signals nothing more than "an effort to move closer together". From the Copenhagen meeting there emerged something that was unofficially characterized as a broad menu. If we look back at the beginnings of the model discussion when the objective, as in a collection of materials, was to catalogue the conflicts and potential conflicts with which Europe currently had to deal or would have to deal in the future,<sup>29</sup> then one could say (holding to the metaphor) that in Copenhagen the menu was clearly enlarged. The participants at the Lisbon Summit had been unable even to agree that the "Platform for Cooperative Security. A Common Concept for the Development of Cooperation between Mutually-reinforcing Institutions"<sup>30</sup> which Ireland had presented in 1996 on behalf of the European Union, should be put on the agenda of the model discussion. In Copenhagen a version of it which had been only slightly modified was adopted in the form of an annex and expressly described as "an essential element of the Document-Charter". While the relationship between the discussion on the Security Model and the Platform had been initially unclear, the latter is now to be an integral part of a document which will one day (so its advocates say, at least) bear the name of a "Charter on European Security". The Foreign Ministers could not agree, however, to reduce the baroque multiplicity of concepts by half, retaining the

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29 On this, see Schneider, cited above (Note 1), p. 241.

30 See Note 19.

terms "Charter" and "Platform" while leaving the notions of "Common Concept" and "Model"<sup>31</sup> behind.

The clarification achieved in Copenhagen obviously rests on experience garnered by the OSCE in both Bosnia and Herzegovina and Albania. The decision, at first controversial, to entrust the American diplomat, Robert F. Frowick, with the leadership of the OSCE Mission based on the Dayton Agreement, and to choose another American as his successor, has a double significance. For one thing, it makes clear Washington's continuing interest in this particular OSCE responsibility. Beyond that, however, the Americans' experience on the scene appears to have strengthened the view that co-operation between security-relevant institutions, not least in the management of crises, requires understandings that go beyond the individual case. John Kornblum expressly regrets the competition between individual organizations, noting critically that "the OSCE and the EU had an unseemly dispute over the question of who bore responsibility for Albania".<sup>32</sup>

Even earlier, in the summer of 1997 at an OSCE seminar on experiences in Bosnia and Herzegovina, it had been observed that the individual organizations, at least at the beginning, were inadequately informed about the mandates of the other organizations.<sup>33</sup> Developments in Albania in early 1997 and the OSCE action there eased the way for the decision of Copenhagen. In this connection, the Danish Foreign Minister speaks of "*lessons learned*".<sup>34</sup> The "Common Concept" adopted in Copenhagen shows just how modest these lessons turned out to be. It mentions a "*first set of practical steps towards the development of co-operation*" which are essentially limited to agreeing on "regular contacts" and minimal organizational measures. In the event of "specific crises" the "relevant organizations and institutions are *encouraged* to keep each other informed".<sup>35</sup> This formulation is more an indication of reluctant willingness to "foster co-ordinated approaches" than it is an expression of determined action.

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31 On this concept, see Schneider, cited above (Note 1), p. 240.

32 John C. Kornblum, *Amerika und Europa - eine unentbehrliche Partnerschaft* [America and Europe - An Indispensable Partnership], speech by the Ambassador of the United States of America to the Federal Republic of Germany before the *Bundesakademie für Sicherheitspolitik* [Federal Academy for Security Policy], Bad Neuenahr, 27 January 1998, p. 4 (manuscript; own translation).

33 Cf. OSCE Seminar on Co-operation among International Organizations and Institutions: Experience in Bosnia and Herzegovina, Portoroz, 29-30 September 1997, Consolidated Summary, p. 22. "In this context the operation in Bosnia and Herzegovina represents a concrete contribution to the discussion going on in the Permanent Council on the elaboration of a Security Model for Europe, particularly the Platform for Cooperative Security." *Ibid.*, p. 24.

34 Organization for Security and Co-operation in Europe, Sixth Meeting of the Ministerial Council, Copenhagen, 18-19 December 1997, reprinted in this volume, pp. 431-457, here: Chairman's Summary, p. 433 (author's emphasis).

35 Decision No. 5 of the Sixth Meeting of the Ministerial Council in Copenhagen, in: *ibid.*, pp. 444-452, here: pp. 450 (author's emphasis).

The interventions of the United States at Copenhagen and during the preparations for that meeting do not permit any sure conclusion about whether the experiences the Danish Foreign Minister was referring to had done anything to convince Washington of the usefulness of a European Security Charter within the OSCE framework which would not be limited to better co-ordination between organizations active in the security field. It is noteworthy that the Deputy Secretary of State, Strobe Talbott - unlike, for instance, his German colleague, Klaus Kinkel<sup>36</sup> - did not seem to think the project for a European Security Charter worth mentioning in his own remarks.<sup>37</sup> This American reserve,<sup>38</sup> which in its wake is shared by the Eastern and Central European NATO candidates and those interested in joining,<sup>39</sup> was also present at Copenhagen.

Of first importance amongst the issues which Washington, and other states as well, see as not being open to compromise is the strict rejection of any hierarchy of security-relevant organizations. In the words of the German Foreign Minister, this means that "synergy, not hierarchy" is the order of the day.<sup>40</sup> This position, shared by the United States and its allies in the Atlantic Alliance, has by now become unchallenged. The fact that NATO in practical fact enjoys a dominant position is another matter. Despite this development, the term "division of labour" appears still to be too sensitive for inclusion in the Common Concept of the EU. On the other hand, the discussions during 1997 and at Copenhagen make clear that the project for a Charter on European Security has taken on a dynamism that has become largely independent of the origins of the model discussion. The original Russian initiative, taken in the course of the enlargement debate, has developed into a process which is of importance for the future ability of the OSCE to act and for the completion of its normative superstructure.

#### *The Document-Charter: A Menu Offered in Copenhagen*

The Document-Charter, as is often the case with OSCE decisions, is in large part a repetition of earlier agreements and a restatement of fundamental principles. It *recalls* what the OSCE is and it *recalls* earlier statements. The fact that some things are not as self-evident as they sound in the concluding declaration can, however, be heard in conversations with participants. For ex-

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36 Cf. Speech to the OSCE Ministerial Council, MC.DEL/8/97 (18 December 1997).

37 Cf. Remarks to the OSCE Ministerial, in: <http://www.usis.dk/STROBE~1.HTM>.

38 See the letter to the editor by the American Deputy Assistant Secretary of State, Ronald D. Asmus, which says: "We would be happy if we made progress that justified the term 'Charter'", in: *Frankfurter Allgemeine Zeitung* of 3 January 1998, p. 7 (own translation).

39 The "intervention" of the Latvian Foreign Minister, Valdis Birkavs, was especially forceful. MC.DEL/62/97 (19 December 1997).

40 Kinkel, cited above (Note 36).

ample, it was obviously once again a matter of lively dispute in Copenhagen whether a Document-Charter should reconfirm the possibility of a free choice of alliances.

It is in keeping with the description of the results of Copenhagen as a menu offering that there is only a general indication of what might ultimately be put on the table or appear in a European Security Charter. The real work remains to be done. The difficulties associated with it are not new, however. Among them is the obligation of the participating States to reaffirm the OSCE's role as a regional arrangement in the sense of Chapter VIII of the Charter of the United Nations. But it remains an open question whether, in accordance with the Kinkel-Kooijmans proposal of May 1994,<sup>41</sup> this includes the right to bring a matter before the UN Security Council without the agreement of the parties to the dispute. Instead, there is the following generalization in the decision of Copenhagen: "A Document-Charter should continue to uphold consensus as the basis for OSCE decision-making."

There is obviously very little latitude on the question of voting procedures. There could be some trouble over the effort to draw substantial conclusions from the "observation", not being made for the first time, "that commitments assumed by States within the OSCE are matters of immediate and legitimate concern to all participating States". As a matter of principle, the participating States should "act in solidarity and partnership to ensure the implementation of, and respect for, OSCE principles and commitments and for decisions adopted by the OSCE". This is, in the first instance, a clear commitment to a co-operative view of security, *inter alia* with a view to a future Charter. But the participating States have also undertaken "to explore ways of increasing the effectiveness of the OSCE in addressing cases of clear, gross and continuing violations of OSCE principles and decisions" - a formulation which harks back to the consensus-minus-one decision of January 1992 which speaks of "clear, gross and uncorrected violations of relevant CSCE commitments".<sup>42</sup> This substantial similarity is presumably no coincidence. There is no desire and no possibility to do less than was accomplished by the formula of the 1992 Council Meeting in Prague. But it remains a question whether it will be possible to work out more precise language for the Charter.

Special linguistic artistry on the part of the participating States gathered in Copenhagen is evidenced by this agreement: "They will explore further ways jointly to consider actions that may have to be undertaken, in accordance

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41 Cf. Gemeinsame deutsch-niederländische Agenda zur Vorbereitung des KSZE-Gipfels in Budapest [Common German-Dutch Agenda to Prepare the CSCE Summit in Budapest], in: Presse- und Informationsamt der Bundesregierung [Press and Information Office of the German Federal Government], Bulletin 46/1994, pp. 412ff.

42 Prague Meeting of the CSCE Council, 30-31 January 1992, in: Bloed (Ed.), cited above (Note 22), pp. 821-839, here: p. 832.

with the Charter of the United Nations (...). One can speculate on which "actions" the participating States, "in co-operation with other (...) organizations", might be able to agree on within the framework of a Security Charter in the event of the threat or use of force against one state. Should the OSCE, assuming that "enforcement action" (which was expressly prohibited by the participating States in Helsinki in 1992)<sup>43</sup> is not involved, be fitted out with a special mandate or be given a monitoring role? This question arises especially in view of the decision made in Copenhagen to "examine rigorously the OSCE's appropriate role in connection with peacekeeping operations". A Charter will have something to say on this matter and, here as well, will probably express the view that peacekeeping, which in 1992 was still viewed as "an important operational element of the overall capability of the CSCE", can no longer be carried out in the OSCE framework as the decade nears its end.

### *The Path Remains a Difficult One*

What was signed in Copenhagen was a declaration of intent. Nothing more! What that declaration might one day bequeath to a Security Charter continues to be a matter for tough negotiation. But some indications are already clear. A meeting of the Permanent Council at the end of March 1998, "reinforced" by representatives from the capitals, succeeded in structuring the decision of Copenhagen and distributing its catalogue of issues to the Security Model Committee and two other working groups for further treatment. That, however, was enough to exhaust the measure of existing agreement, which was not sufficient to permit a new, abbreviated description of the substance of the individual issues under negotiation. Russia was willing to assign paragraphs 1 to 4 and 5(d) of the decision of Copenhagen to the Security Model Committee. But, contrary to the draft of the Polish Chairman of the Council, agreement could not be reached to explicitly restate the fact that these numbers and letters, among other things, stood for such controversial subjects as the free choice of alliance and the conditions under which foreign troops could be stationed on the territory of a participating State.

Moscow's efforts to distance itself as far as possible from some points of agreement reached with great difficulty in Copenhagen mark only one stage of the journey begun in Budapest in 1994. But Russia's foot-dragging does provide a foretaste of what can be expected in future negotiations, and of their results.

The United States is not concerned primarily about a Security Charter. Copenhagen did not change this attitude in any way. However, Washington

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43 CSCE Helsinki Document 1992, cited above (Note 22), p. 725.

does want to develop the OSCE and make it more capable of acting in selected areas. Among these are a bigger role in connection with police tasks and an improved ability to react when states fail to meet their commitments. Moreover, the US has indicated that it would not be opposed in principle to peacekeeping operations within the OSCE framework. Thus Washington pursues a policy basically friendly to the OSCE but one which, if it were up to the United States, would not necessarily result in a Charter.

There is scarcely anything that points to rapid progress and even less that promises a result worthy of being called a "big achievement". Nor is the Polish Chairmanship calculated to introduce movement into the negotiations. In Warsaw it is only the NATO card that is a winner, at least until Poland's final entry into the Atlantic Alliance in April 1999. The Polish government will do everything necessary to ensure that this objective is not attenuated by a Charter on European Security. There is not even to be a meeting of the Foreign Ministers on Polish soil to bring Poland's Chairmanship of the Council to an end and hand the office over to Norway.

All of these difficulties notwithstanding, the OSCE participating States will finally agree on a document to which they will give the name "Charter". It will not satisfy idealistic notions or the high hopes of a number of participating States. But if the Charter succeeds in strengthening the OSCE's role and its instruments and in clarifying its place within the network of security-relevant institutions, then the effort will have been worth while.