

N A T O C O N F I D E N T I A L25th November, 1975ISD/119(Revised)

To: The Members of the Political Committee

From: Chairman

IMPLEMENTATION OF THE FINAL ACT OF THE CSCE: DRAFT REPORT

As agreed at the meeting of the Political Committee on Monday, 24th November, 1975, attached is a new working draft of the document ISD/119 incorporating all changes made at Monday's meeting.

2. This revision replaces all previous drafts and Corrigenda.

3. The section on CBMs is closely based on the text furnished by the German Delegation.

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This document includes: 2 Annexes

N A T O C O N F I D E N T I A L

IMPLEMENTATION OF THE FINAL ACT OF THE CSCE

Report by the Chairman of the Political Committee

1. At its meeting on 1st October, 1975, the Council agreed that a report on those aspects of the implementation of the Final Act of the CSCE which have a particular importance for the members of the Alliance could be prepared by the Political Committee, in collaboration with other relevant Committees, for the Council on the eve of each Ministerial meeting, within the larger framework of the examination of East-West relations and the general problem of détente. This is the first such report.

Summary and Conclusion

2. In the short time which has elapsed since the Helsinki Summit, there have been only a few examples of action by Warsaw Pact Governments which can be described with any certainty as constituting implementation of the Final Act. This lack of early progress is not altogether surprising given the complexity and political sensitivity of the subject. Moreover, the uncertain future of Mr. Brezhnev, the possible disagreement over policy among Soviet leaders, delays inherent in their policy-making machinery, and the high priority now being given to preparations for the Conference of European Communist Parties and Congress of the Soviet Communist Party, are all likely to be contributing to the difficulty of reaching decisions on implementation.

3. Nevertheless, there is already some evidence of the broad policy lines which the Warsaw Pact countries are adopting. These are emerging very much as was anticipated by the West when the Final Act was signed. The only surprise is their evident dilemma on how to deal with the Confidence-Building Measures.

4. The Warsaw Pact Governments have celebrated the Final Act as an historic stage in the policy of détente, which they describe as "irreversible". They have claimed that they will fully implement the provisions of the Final Act. But, at the same time, they have made clear that they intend to be firmly selective as regards degree, method and timing of implementation.

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5. A distinction is drawn between inter-State relations which are to be governed by the Final Act and "social development" which has a momentum of its own: their insistence that the ideological struggle against the West shall continue unabated puts a severe limitation on the potential for improvement of relations as a result of Helsinki. In addition, it has been implied that the Final Act only applies to relations between countries with different social systems.

6. The Declaration of Principles within Basket I is represented as the most important aspect of the Final Act, as having the status of virtual international law, and as fulfilling the functions of a peace treaty legitimizing the present territorial and political status quo in Eastern Europe. The importance placed on this section of the Final Act is consistent with the Eastern view that "security" was the most important subject addressed by the CSCE.

7. To date the Eastern countries have not taken steps towards implementation of Confidence-Building Measures. However, given the difficulties of arriving at reliable estimates with regard to the size of Eastern manoeuvres, it cannot be stated with certainty at this stage whether Eastern countries have deliberately avoided to honour their undertakings under the Final Act of Helsinki.

8. The response on the part of Warsaw Pact Governments on to the provisions of Basket II of the Final Act has so far been inconclusive. On the other hand, the overall interest of Eastern countries should be high in securing the benefits of Western science and technology and in economic exchanges on advantageous terms. There are no indications yet as to what their detailed approaches will be.

9. The initial reactions of Warsaw Pact Governments suggest that their interpretation of the controversial matters in Basket III, particularly humanitarian issues, is likely to

be, for the most part, legalistic and restrictive. The provisions of Basket III are being presented as requiring implementation through further bilateral and multilateral agreements, and as being governed by the general principle of non-interference in internal affairs.

10. Despite the generally defensive and restrictive nature of their initial reactions to and interpretation of the CSCE Final Act, there is still ground for hope that the Warsaw Pact countries are prepared to concede some gradual improvement in those areas of strong and persistent interest to the West.

11. In these circumstances, sustained pressure by Western Governments for implementation by Warsaw Pact countries is essential. On the other hand, at this stage it would seem premature to be too highly critical of the Eastern performance so far. Vigilance by Western Governments is also required to counter misinterpretations by Warsaw Pact countries of the Final Act, and in particular of the Declaration of Principles. Care must be taken to counter Eastern attempts to use multilateral institutions to advance Warsaw Pact interpretations of the Final Act.

12. Western countries are themselves only in the preliminary stages of planning how to follow up the Final Act, whether unilaterally, bilaterally or multilaterally. They have to consider not only how to obtain concessions from the Warsaw Pact countries and to take advantage of the Final Act to increase exchanges and contact, but also how to avoid laying themselves open to accusations of poor implementation. They should maintain their contact with the neutral CSCE participants.

13. The exchange and compilation of information on this subject, in accordance with the decision by the Council on 1st October, 1975, have already proved useful to the Allies and should be continued. Depending on the information made available by Allied authorities, future reports for the Council should be

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able to present more detailed tabulation of quantitative and qualitative information in respect of Eastern implementation of the Final Act, as well as some judgements about Eastern performance on the basis of this evidence.

14. The following paragraphs consider these questions in greater detail.

BASKET I - Declaration of Principles

15. The Warsaw Pact countries have emphasized the "Declaration of Principles Guiding Relations between States" over the other sections of the Final Act. They maintain that it is this Declaration which has met the primary concern of the Conference, security. The East has claimed for this "codex" of Principles of quasi-juridical status in international law.

16. Three Principles have been generally singled out for special emphasis by the Warsaw Pact: the inviolability of frontiers, territorial integrity, and non-intervention in internal affairs (Soviet statements use the word "non-intervention"). A fourth Principle, the sovereign equality of states, has been singled out by the GDR. This selective approach ignores the assertion within the Declaration of Principles that all the Principles are of primary significance and to be aequally applied. Of the Warsaw Pact countries, only Romania, in view of its relationship with the USSR, appears to be giving equal emphasis to all Principles in Basket I.

The four Principles listed above are viewed together by the Warsaw Pact as legalizing post-war borders as well as the régimes of Eastern Europe including their unimpeded legislative power. The peaceful change-formula is being described by the GDR as being relevant for them only in the context of smaller corrections of borders, since "socialism and capitalism could never be united". The "peaceful change" as well as the formula "they will conform with their legal obligations under international law" contained in the 10th Principle are carefully avoided by all Warsaw Pact countries when trying to insert selected Principles into bilateral agreements or declarations with Western countries.

17. The USSR/GDR Treaty of Friendship of October 1975 reflects this approach. Indeed, the Treaty represents a retreat from the terms of the Final Act in that it refers not only to the "inviolability" of frontiers, but also to their "immutability".

18. Warsaw Pact commentators maintain that the Principles of sovereign equality and of non-intervention in the internal affairs of states govern the application of other provisions of the Final Act, Basket III in particular. On the other hand, this Principle is not held to inhibit the pursuit of the ideological struggle against the West. The call by the French President on 14th October, during his visit to Moscow, for the application of détente in the ideological domain, received the firm rejoinder from Mr. Brezhnev that international détente in no way rules out the battle of ideas. Thus, the Principle of non-intervention is not held to apply to the Soviet Union's relationship with Western Communist Parties, nor with respect to its subversive activities in certain Western states. Two recent illustrations have been exhortation in the Soviet Press for revolutionary zeal on the part of the Western Communist Parties (Brezhnev gave public endorsement to the article by Zaradov in Pravda on 6th August, 1975) and praise for the use of the general strike to overthrow capitalist régimes (Pravda 19th October, 1975).

19. Although the Final Act applies to relations among all signatory states, the Soviet Union has made clear that in the case of East European states, the provisions are to be subordinate to the over-riding need "to protect and defend the historic achievement of socialism". The USSR/GDR Treaty contains this phrase, and may be a further indication of a move by the USSR to tighten its control over Eastern Europe in the post-Helsinki period. The Brezhnev doctrine is to remain in force.

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BASKET I - Confidence-Building Measures

20. So far the Soviet Union and its Allies have not taken any step towards the implementation of confidence-building measures, although immediately after Helsinki there were some occasional favourable Eastern press commentaries with regard to these measures. None of the Warsaw Pact countries have so far sent any notification of military manoeuvres, nor did they respond to invitations to send observers to an Allied and to a Swiss manoeuvre. Major Soviet media have not only dismissed Allied notification and observer invitations as irrelevant, but have taken the line that NATO military manoeuvres notified according to the document on confidence-building measures were not compatible with the spirit of Helsinki.

21. Given the difficulties of arriving at precise estimates about the size of the Warsaw Pact manoeuvres, caution suggests that one must assume that the trend towards smaller scale manoeuvres apparent in recent years may have continued and that Warsaw Pact countries have indeed not carried out manoeuvres including more than 25,000 men. It ought to be noted, however, that unlike certain Allied countries the Warsaw Pact countries have not chosen to notify smaller scale manoeuvres of which there have been several. The document on confidence-building measures and certain aspects of security and disarmament leaves open the possibility of their notification.

22. By their non-acceptance of invitations to send observers to an Allied manoeuvre Warsaw Pact countries may have wanted to avoid creating an obligation on their part to invite Western observers to their manoeuvres, and in addition not to hamper their traditional propaganda campaigns against NATO manoeuvres. The Soviet refusal to send observers to the Swiss manoeuvre - to which in the past invitations have been accepted - indicates general uneasiness with respect to CBMs.

23. There are indications that some Warsaw Pact countries such as Romania may be more favourably disposed towards the implementation of CBMs within the Soviet Union. Romania at least has accepted the Swiss invitation to send observers to the Swiss manoeuvre. Neutral and non-aligned countries - Yugoslavia and Switzerland - have notified respectively a small and a large-scale manoeuvre.

BASKET II

24. As with the case of other provisions in the Final Act, the span of time which has elapsed since the end of the CSCE Conference in August 1975 is really too short to allow an evaluation of any progress which might have been achieved as a specific result of the provisions of the Final Act. This report only constitutes, therefore, a very provisional evaluation.

Commercial Exchanges

(a) Business contacts

25. In the GDR, Romania, Czechoslovakia and Bulgaria policies continue to be very restrictive as regards access of Western businessmen to end-users of their products. Little contact, if any, is allowed and foreign interests have to deal almost exclusively through the Foreign Trade Offices and the official agency firms. In Czechoslovakia no facilities are really offered to newcomers to the market, Romania clearly prefers to deal with large multinationals and has little time for medium or small sized firms and Bulgaria keeps businessmen at arms length, limits their contacts and generally keeps them ignorant of the decision making process which, ultimately, is likely to affect their marketing strategies.

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26. The situation in the Soviet Union would seem to be somewhat easier. In their report the United States Authorities state that there has been a steady improvement of conditions for expansion of business contacts between US firms and Soviet clients. However, this seems to be the result of an evolution which started a few years back and there does not seem to be any sharp identifiable change in prevailing conditions in the expansion of business contacts since August 1975. In Hungary the attitude is somewhat ambiguous. That country seems to allow businessmen to have contacts with end users and does not restrict access to foreign trading firms, but the authorities are less accommodating in the case of countries which have not granted Hungary the benefits of the MFN Clause. Poland seems to have greatly improved facilities over the last few years and is allowing a substantial expansion of Western business presence in the country.

(b) Working conditions for businessmen

(i) Possibilities for establishment of permanent representation and of offices

27. Czechoslovakia still applies strict prohibition as regards the opening by foreign firms and businessmen of permanent commercial offices, but a change to be implemented on 1st January, 1976, was announced in November. No official ban exists in other Warsaw Pact countries, but the degree of "liberalism" varies from one country to the other. In the GDR very few Western firms are allowed to have accredited offices and in Bulgaria, although the establishment of permanent representation is not prohibited, possibilities for doing so are practically non-existent and firms are actually discouraged from trying to do so. The Soviet Government grants permission to maintain representative offices, however approval is lengthy and applicants are never sure whether their request will be accepted. Hungary, and especially Poland, seem to be more willing to allow businessmen to set up offices locally.

(ii) Better provision of accommodation, means of communication and premises

28. In general working conditions for businessmen still leave much to be desired in Warsaw Pact countries with, perhaps, the possible exception of Poland. In Romania conditions have actually deteriorated as a result of acute shortage of office space and housing; rental arrangements can no longer be made privately but must be concluded with the state authorities. Telephone, telex and cable communications with the West vary from adequate to good but are generally very expensive.

(c) Availability of commercial and economic information

29. No perceptible progress has been noted as far as the publication of scientific, economical and statistical reports are concerned. In all Warsaw Pact countries severe restrictions continue to exist on a whole range of statistical information which is generally freely available in the West. Here again there are substantial differences in the quality and the abundance of the data which are published by the individual countries.

Science, Technology and Environment

30. Information about the Warsaw Pact attitudes in the field of scientific, technological and environmental co-operation is patchy. The United States have reported that the USSR's attitude to scientific and technological co-operation has been consistently positive; this is also the case for co-operation on environmental matters.

31. In all of these fields Warsaw Pact countries have usually something to gain from co-operation with the West and, in addition, they are careful to eschew any items which, from their point of view, could be politically, economically or ideologically sensitive. It is not surprising, therefore, that co-operation is easier to achieve than in economic or commercial areas.

Conclusion

32. Three months after the close of the CSCE there is still considerable scope for obtaining, from Warsaw Pact countries, better facilities and greater freedom of action for businessmen as well as an improvement in the flow of commercial and economic information. Any progress which has been noted in the recent past cannot be considered as a direct consequence of the provisions of the Final Act of the CSCE. No definite patterns have as yet emerged and it will take time for these to develop.

33. There would seem to be a particular case for examination and assessment by the Economic Committee of the unilateral and bilateral efforts expected from the parties of the CSCE in order to implement the provisions of the Final Act (Basket II).

34. For multilateral aspects of implementation of Basket II provisions, see paragraph 42 below.

BASKET III

35. The Soviet leadership evidently feels vulnerable to Western criticisms of non-compliance in the humanitarian field, but is nevertheless determined to maintain tight control over the degree, method and timing of any implementation of Basket III. They have been concerned in the immediate aftermath of Helsinki to stress the limits on implementation, both for internal reasons and as a warning to the West. They argue that "security" was the major objective of the CSCE, that the security provisions are embodied above all in the Declaration of Principles, and that the implementation of other parts of the Final Act, such as Basket III, is not only of less importance but can only proceed on the basis of the Declaration of Principles, in particular the Principle of non-intervention in internal affairs. This approach ignores the 10th Principle which calls for implementation of the provisions of the Final

Act, that is treating them all as having equal status. They will implement these provisions "on the basis of reciprocity and in precise accordance with the spirit and letter of the document"; unilaterally in some cases, and in others on the basis of further agreements; but this requires efforts also by the West as "the practice that has developed there is ... still creating many obstacles ...". The Final Act does not constitute a pledge "to open wide the doors of anti-Soviet subversive propaganda ...". (Arbatov Izvestiya 4th September, 1975). Nothing in Helsinki gives the West the right to demand that the Soviet Union should alter its "established customs and practices". There have also been hints that implementation depends upon the creation of favourable conditions by furthering détente.

36. On the other hand, there is some evidence to suggest that Moscow is reconciled to some small steps, in areas of persistent interest in the West (e.g. Brezhnev's apparent hints to a US Congressional delegation). One concrete CSCE-related improvement has been the Soviet Union's agreements with the United States, France, Italy, Sweden, FRG and Finland on multiple entry visas for resident journalists. The CSCE has also evidently enabled the Polish Government to sign a protocol on the issuance of exit permits during the German Foreign Minister's visit to Warsaw on 9th and 10th October. In other instances, the link with CSCE is less clear; for example the favourable handling by the Soviet Union of some of the humanitarian cases pressed by Western Governments. The marriage approvals in the Spassky case and an Austrian case were treated in the Western press as resulting from the CSCE. Nonetheless the overall number of successful humanitarian cases has not markedly increased.

37. In some instances (e.g. the lists of outstanding personal cases presented by the United Kingdom to the Governments of Romania and Czechoslovakia, and those presented by the United States to Bulgaria and Hungary) there has been either no or very little

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progress since Helsinki. In other cases (e.g. on the part of Czechoslovakia, the resolution of a number of United Kingdom marriage cases, the increase in the number of visits to Canada and the resolution of some Canadian family reunification cases), the recent more favourable attitude is unlikely to have been influenced by the CSCE. The refusal by the Soviet Union to grant a visa to enable Sakharov to receive his Nobel prize is difficult to reconcile with the 7th Principle (respect of human rights and fundamental freedoms including freedom of thought, conscience, religion or belief). There are no signs yet of a more relaxed Soviet attitude to emigration by Soviet Jews and other groups.

38. There has been no appreciable improvement in the travel field, nor has there been any change in pre-CSCE levels of dissemination of Western information in the Warsaw Pact countries.

39. In general, there has been an increase in cultural and educational exchanges between Western and Warsaw Pact countries over the past few years, which is likely to continue irrespective of the CSCE Final Act. Nonetheless, with regard to the US/USSR exchanges for example, the CSCE may lead to increased activity in areas of mutual interest in existing bilateral exchanges. Moreover, it is expected that the provisions of the Final Act of the CSCE will be reflected in a new programme of cultural exchanges to be agreed during Anglo-Hungarian talks to be held at the end of November. As regards developments since Helsinki, the agreed minute on the conclusions of the Anglo-Polish Joint Commission in October included CSCE language in the section on science and technology. Norway has also completed cultural agreements with Hungary and Czechoslovakia which included references to the CSCE. During the visit of the FRG Foreign Minister to Warsaw in October it was agreed to accelerate negotiations for a cultural agreement.

40. During the visit by the French President to Moscow in October, in addition to the agreement for visas for journalists, the two sides declared their intention to apply all the provisions of the Final Act with respect to co-operation in humanitarian fields (contacts between persons, information, cultural co-operation and education exchanges) and to this end envisaged the conclusion of a cultural agreement, the development of meetings between young people and better Russian and French language instruction, and the improvement of work and visit facilities for specialists in all fields.

Military Détente

41. The Warsaw Pact countries are laying considerable stress on the need to complement political détente by military détente. However, there has so far been little or no sign of a greater readiness to make concessions in the MBFR or SALT negotiations since Helsinki. Nor has there been any other evidence of realistic Warsaw Pact proposals in the disarmament field. They are, however, continuing to press propaganda proposals in the United Nations and elsewhere. As the Review Conference in 1977 draws closer it will be worth watching to see if the Soviet stress on military détente remains constant, increases or diminishes.

Multilateral Implementation

42. The Final Act gives such international fora as the ECE and UNESCO a rôle to play in the implementation of the results of the CSCE. The Executive Secretary of the ECE has circulated a detailed list of activities which the Commission could pursue. Certain Western delegations have formed a working group in Geneva to examine this list in the light of the Final Act. As regards multilateral aspects of Basket II, Allied countries will need to consult carefully on the rôle the ECE should play, in order, inter alia, to frustrate any attempts by the Warsaw Pact countries to use that organization as a means of neutralizing demands addressed to them or of reneging on unilateral commitments accepted

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under the Final Act. Close contacts between the Economic Committee and the national representatives of Allied countries in Geneva would, therefore, seem to be particularly desirable in the post CSCE period(1).

43. In the frame of UNESCO the Romanians have prepared two lists on subjects which in addition to those explicitly mentioned in the Final Act should also be handled. The need for caution on the part of the Allies, which has been noted in the case of the ECE, applies with even greater force in the case of UNESCO. There has already been an example of Warsaw Pact countries attempting to use UNESCO to circumvent or retreat from provisions of the Final Act. This requires the closest collaboration among Allied delegations at UNESCO.

44. The Final Act also envisages the establishment of meetings of experts of participating states to discuss various questions, mainly of a technical nature. No proposals have yet been formulated by any CSCE participant.

Neutral

45. The Allies have begun to exchange views on implementation bilaterally with neutral participants in the CSCE. These exchanges should be continued.

Non-aligned: Yugoslavia.

46. Yugoslavia has tended to give equal emphasis to all the Principles in Basket I, since many protect its position of independence from Moscow. Yugoslavia has reacted positively to the Confidence Building Measures, [voluntarily notifying one sub-threshold military manoeuvre and responding to Western and

(1) In this connection it may be useful to recall that, traditionally, shortly before the Annual Session of the ECE (Geneva), the Economic Committee has had an exchange of views with members from Allied countries' delegations in Geneva who are invited to participate in a meeting specially arranged for that purpose.

neutral notifications and invitations for observers.⁷ Yugoslav officials have confirmed that they regard the CBMs as a most important aspect of the Final Act and have said it is one which they hope to have made more binding at the 1977 review conference in Belgrade. Yugoslavia is actively seeking to implement the Basket II provisions in accordance with their aim of improving its economic and technological relations with Western countries and avoiding too great economic integration with the Warsaw Pact. Regarding Basket III, there have been no significant developments to date to illustrate clearly Yugoslav intentions, but with the provisions in Basket III on minorities, the Yugoslav approach is likely to be cautious. Cultural and education provisions seem to present no problem. The UK hopes that the programme of cultural exchanges to be agreed with Yugoslavia next year will reflect the provisions of the Final Act.

Public Propaganda Campaign

47. It is evident that Warsaw Pact leaders are disappointed at the cautious and sceptical reaction among Western public opinion towards the Helsinki Summit. The Warsaw Pact seem to be about to launch a major propaganda campaign based on the call to implement the Final Act. For example, the "International Committee for European Security and Co-operation" in Brussels on 18th-20th September, 1975 which adopted an action programme for the "social forces", has been followed by other efforts in the European Council of Churches (meeting near Berlin, 27th-31st October) and through a Conference of European agrarian "peasant" parties in Varna, Bulgaria (30th-31st October) sponsored by the Bulgarian Agrarian Union, to focus international attention on Eastern interpretations of the Final Act.

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Annex A

Baskets I and II: Variations among Eastern European countries

Annex A discusses variations to positions taken by the Eastern European countries (excluding the USSR) to Baskets I and II of the Final Act.

Annex B

Publication of Final Act

Annex B gives an account of the publication of the Final Act by both Warsaw Pact and NATO countries.

Baskets I and III:

Variations among Eastern European countries

In the main, the positions taken in public and in discussions with Western representatives have been closely orchestrated. The principal exception is Rumania: for obvious reasons, they have been at pains to give equal emphasis to all the principles. They have also followed a marginally more forthcoming line on CBMs (see paragraph 23 above). They have been hardliners in Basket III. The Hungarians also show some initial signs of being rather more positively disposed towards follow-up than their fellows, perhaps because, together with the Poles, their general record on travel, marriage and information is less bad. They have informed the Canadians that they will soon present proposals based on the Final Act for bilateral discussion. The Polish Foreign Minister has told the Canadian and Netherlands Foreign Ministers that senior Polish officials would meet in the autumn to discuss the implications of the Final Act, and before the New Year would consult with the rest of the Warsaw Pact on how to bring the substance of the Act to life. They are already far out in front in Eastern Europe as regards their emigration policies, though their immediate post-CSCE position seems to be less rather than more flexible. The Czech position on implementation might be described as leaning towards a positive approach, but being aware constantly of Moscow's restrictions. It would seem to be Bulgaria that is taking the most unco-operative line on CSCE follow-up. They are apparently actively trying to frustrate family reunification efforts through the introduction of new regulations prohibiting Bulgarian nationals from direct contact with foreign missions.

Publication of the Final Act

The CSCE Final Act contains a paragraph according to which "the text of the Final Act will be published in each participating state which will disseminate it and make it known as widely as possible" (2nd final clause). In Rumania, the USSR, the GDR, Hungary and Czechoslovakia the party and governmental papers published the full text and gave it wide distribution. The Poles published the Final Act in the press only with appropriate deletions. Bulgaria disseminated only summaries and abridged versions but have announced that they will publish the full text.

There has been criticism by Warsaw Pact commentators of the failure of the West to publish the full text. The practice in Western countries in this respect has in fact been mixed: for example, the United Kingdom published the Final Act as a White Paper and gave it the same distribution as new legislation; Canada has a plentiful supply in English and French available at a nominal charge from "Information Canada"; the United States published it in the State Department Bulletin; France printed the Final Act in the publication "Le Documentation Française"; the Netherlands has issued it in an official journal and in a separate booklet in Dutch; Turkey is in the process of having it translated in Turkish. There is undoubtedly a need for wide dissemination of the Final Act in Western countries.