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THE HELSINKI AGREEMENT:
SOVIET AND WESTERN INTERPRETATIONS

I. Background

On August 1st of this year, two years will have passed since the signing of the Conference on Security and Cooperation in Europe (CSCE) Final Act. A follow-up conference will open in Belgrade, Yugoslavia in order to review how well the state-signatories have put into effect various provisions of the Helsinki Agreement.

The June 15 meeting at Belgrade will mark only the beginning of the conference's preparatory phase of producing an agenda and the format of handling discussions and working groups as well as setting the date for the conference's actual start.

It is anticipated that these preparatory meetings will last into July and then adjourn for August vacation, so that the substantive conference will not start before mid-September or even later. The entire conference could thus stretch out for six months or longer, depending upon the political climate at that time. The main reason for this uncertainty as to the outcome of what was once viewed as a routine follow-up meeting is the recent sharp focus on implementation of the Helsinki Agreement's human rights provisions.

II. Objective of the Helsinki Agreement

The CSCE opened at Helsinki on July 3, 1973 and continued at Geneva from September 18, 1973 to July 21, 1975. The CSCE Final Act was solemnly signed at Helsinki by the representatives of thirty-two European states, the Holy See, the United States and Canada.

Its Preamble describes the broad intentions and objectives of the signatories as

motivated by the political will, in the interest of peoples, to improve and intensify their relations and to contribute in Europe to peace, security, justice and cooperation as well as to reapproachment among themselves and other states of the world.

Consequently, they expressed their determination

to give full effect to the results of the Conference and to assure, among their states and throughout Europe, the benefits deriving from those results and thus to broaden, deepen, and make continuing and lasting the process of detente.

It is well known that the original French word "detente" has become one of the most ambiguous and controversial terms in international diplomatic language, with its meaning adjusted to the needs of the user as his world outlook dictates. The so-called spirit of detente has largely contributed to the prevalent optimistic misreading by the non-communist participants of their communist counterparts' interpretation of the Final Act. According to the Final Act, relaxation of tension in Europe between the states belonging to different or, better, antagonistic social systems was to be promoted in three ways:

First, by defining Principles Guiding Relations Between Participating States, with a view to improving the security of European states (the so-called Basket I);

Secondly, by encouraging Cooperation in the Field of Economics, of Science and Technology and of the Environment (Basket II); and

Thirdly, the most publicized, Basket III, on Cooperation in Humanitarian and Other Fields.

III. Helsinki and Human Rights

Controversy over implementation of the Final Act's human rights provisions contained in the so-called Basket III has been brought to the forefront, at least temporarily, by President Carter's human rights stance and recent gestures favoring the Soviet dissidents and by the no less resolute response of Soviet authorities who recently arrested several prominent Soviet citizens for the crime of "monitoring" the Helsinki Agreement within the USSR.

To be sure, no one familiar enough with the Soviet political and legal system should have expected that the Soviet government would accept the non-communist interpretation of the human rights' concept. This would require scrapping

the whole edifice of the "socialist state" and rebuilding it on the model of pluralistic democracy which, with all its human defects, gives a much broader range for the exercise of inalienable rights and protects the individual from the state machinery's awesome power. For the ruling communist parties to do this would be political suicide.

In the opinion of many prominent Western statesmen, the best expectation was that Western public opinion pressure might bring about some mitigation of the harsh methods used by the communist-controlled states against dissenters, who, taught by life experience, have found inadequate protection of human rights in a "socialist" society despite constitutional guarantees.¹ Hence the post-Helsinki proliferation of monitoring committees or commissions in the non-communist countries.

IV. Helsinki and Interstate Relations

Public excitement about the Final Act's human rights provisions has, unfortunately, helped to obscure the semantic problems of even greater consequence in the largely ignored Basket I. This, despite the fact that the interpretation of its ten principles guiding relations between states reflects the greatest gap between communist and non-communist states-parties to the Final Act.

The Western lack of interest in scrutinizing and comparing in depth the conflicting interpretations of the guiding principles listed in Basket I may be due to the fact that these principles, taken for granted in the West, formally restate the basic tenets of general international law with regard to interstate relations. Reconciling the interpretations of Basket I principles, nevertheless, by the communist and non-communist signatories of the Helsinki Final Act is a problem clearly acknowledged in the First Semi-annual Report by former President Ford to the US Commission on Security and cooperation in Europe:

The ten principles in the Declaration are general restatements of expected international behavior consistent with international law and such earlier general statements as the UN Declaration on Friendly Relations.

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As is well known, such disbelief is considered there in many cases to be a mental illness of a new kind, to use Vladimir Bukovskiy's expression, and the "afflicted" are placed in special psychiatric hospitals at state expense.

The fundamental ideological and political differences between East and West present the main difficulty in their implementation. Since Helsinki the Soviet Union and East European states have interpreted and emphasized various principles in a manner which differs from that of the West.²

The President's report stated, however, that

the United States insists upon the primary significance of all the principles and will continue to resist any effort to cloak the declaration with a special political significance divorced from the Basket III commitments.³

While emphasizing the importance of considering the Final Act in its entirety, the President's report stressed the non-legal nature of the Agreement, a result of a compromise consensus between East and West,

which leaves no doubt that the various documents reflect expressions of political will but not legal obligation.⁴

V. Soviet interpretations of terms of the agreement

This viewpoint has not, however, been shared by the communist-controlled governments who signed the Final Act and especially not by the Soviet government. The ink was hardly dry on the signed document when Secretary-General Brezhnev told visiting members of the U. S. House of Representatives that the Helsinki Agreement promoted "the best way for two competing social systems to live in peace."

² Report submitted to the Committee on International Relations, December 1976, Washington, D. C.

³ Ibidem.

⁴ Ibidem, p. 5.

Alluding to Basket I principles, especially to inviolability of frontiers and non-interference in internal affairs, he asserted that

In the Final Act of the Helsinki Agreement, some points are of a binding nature...while others will be fulfilled according to agreements on the part of the states.⁵

This attitude has been continually reaffirmed by the Soviets in statements by the leadership and in authoritative professional journals. Last September, for instance, in a lengthy study on the Final Act's nature and implementation, a Soviet international law specialist wrote that

....the adversaries of detente are making an effort to revise the Agreement's political-legal nature and distort its content and meaning.⁶

He quotes Brezhnev as saying in a report to the XXV Communist Party of the Soviet Union in February 1976 on the results of the CSCE: -

....the participants formulated a set of principles governing mutual interstate relations, fully reflecting -- in letter as well as in spirit -- the requirements of peaceful coexistence.⁷

Addressing "Western adversaries of detente," and particularly "the troubadours of the U. S. military-industrial complex and West German reactionaries from the CDU/CSU camp, embodying the spirit of confrontation of the two antagonistic social systems in the international area," Brezhnev remarked:

Some people are trying to emasculate and distort the very essence of the Final Act adopted in Helsinki and abuse this document as a cover for interference in internal affairs of the socialist countries and for anti-communist and anti-Soviet demagoguery in the cold war style.⁸

⁵ See Christopher S. Wren, "Brezhnev Hints Delay on Rights," New York Times, August 16, 1975, pp. 1,6.

⁶ See Mazov, V. A., "Principles of Helsinki--Principles of Cooperation Among the States of Europe," Soviet State and Law (in Russian), No. 9, 1976, pp. 101-107.

⁷ Ibidem.

⁸ Ibidem, p. 102.

The communists thus perceive the Helsinki Final Act as a document designed primarily to foster "relaxation of tension among European states belonging to antagonistic social systems", in order to facilitate their "peaceful coexistence." In this context, the effort of the communist-controlled governments to upgrade the importance of Basket I in contrast to Western attention to Basket III is easy to understand.

Soviet international lawyers, therefore, in analyzing the Final Act, will lay stress on the distinction between its obligatory provisions and those of a non-binding character. Consequently, they argue,

...the Final Act has a complex multifaceted structure. In addition to legal principles regulating inter-state relations, it formulated the aims and intentions of the participants, as well as collectively prepared and agreed upon recommendations. The core of the Final Act is indisputably the Declaration of principles guiding the participating states in their mutual relations... These principles, incorporated in the UN Charter or following from its spirit and letter, are the generally recognized principles of international law, of a 'jus cogens' (imperative) character, i.e., universal principles legally binding all states which have no right to repudiate them in their bi- or multilateral relations.⁹

This selective interpretation, on the other hand, would tend at first glance to create problems for the Soviet government especially Principle VII of Basket I, which states:

The participating states will respect human rights and fundamental freedoms, including freedom of thought, conscience, religion or belief for all without distinction as to race, sex, language or religion.

This guarantee of the respect of human rights is elaborated in the so-called Basket III of the Final Act, containing specific measures facilitating cooperation in humanitarian and other fields, and the exercise of human rights of the citizens of participating states through human contacts, access to information, travel, cultural and educational exchange, etc.

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Ibidem.

VI. Soviet subordination of human rights provisions

In the arguments now raging about implementation of Basket III, Soviet lawyers, despite the apparent contradiction, are trying to separate Basket III from Basket I. They assert that Basket III provisions fall under the internal jurisdiction of the participating states and are therefore subject to their sovereign interpretation. They also claim that the protection of human rights is an inherent feature of any socialist legal system, where these rights are materially guaranteed in contrast to purely theoretical guarantees offered by capitalist law.

To understand this contradictory evaluation, it is necessary to look into the Soviet or Marxist-Leninist theory of international law as it affects the security and cooperation in Europe formalized by the Helsinki Agreement.

It should be stated beforehand that the communist world outlook functions in terms primarily of socioeconomic formations or system, not national states. It visualizes the world roughly divided between two systems of states, the socialists and the capitalists, with a grey area of the so-called third world countries.

Furthermore, the communists commonly assume that these two socioeconomic systems of states are engaged in a historic, revolutionary struggle. This confrontation is due to the fact that these systems are controlled by two antagonistic social classes, the working class in the socialist and the capitalist class in the capitalist or imperialist system. The socioeconomic system of a country, its basis, determines its superstructure, i.e., the nature of its state and governmental institutions as well as its legal system. This approach greatly affects not only the system of a state's internal laws, but also its interpretation of norms of general international law.

This Marxist-Leninist worldview in a nutshell is naturally also applied to the European continent, where the two systems are facing each other in the most clearcut way. In communist eyes, the Helsinki Agreement is an instrument agreed upon to regulate the confrontation of the two systems in Europe and to ensure that it will assume the form of their "peaceful coexistence." It is not by accident that Soviet lawyers coined the term "international

law of peaceful coexistence,"¹⁰ which they somewhat unilaterally equate with general international law.

The so-called international law of peaceful coexistence regulates only relations between states with antagonistic social systems. Relations between the socialist states, most of whom are located in Central and Eastern Europe, are regulated by

...qualitatively new socialist principles, corresponding to the new socialist type of international relations...

On the whole, these are no longer general democratic principles but completely different socialist international legal principles pertaining to the new, higher type of international law -- the socialist international law.¹¹

VII. The nature of "peaceful coexistence"

To repeat the communist viewpoint: the Helsinki Agreement's Basket I Principles are those of the international law of peaceful coexistence, applicable only to relations among states with antagonistic social systems.

In view of the semantic problems with Soviet concepts, a closer look at their understanding of "peaceful coexistence" is advisable. An enormous wealth of material concerning this concept exists in communist literature in practically all languages. In a typical encyclopedic entry explaining its actual meaning the reader is forewarned not to confuse peace with peaceful coexistence, since the former is attainable only

...after the victory of socialism in all countries social and national causes from which wars originate will be eliminated once and for all.¹²

Peaceful coexistence, on the other hand, designates

...interstate relations between socialist and capitalist countries based on mutual repudiation of war as a means of solving international conflicts.¹³

¹⁰ See N. M. Minasyan, The Law of Peaceful Coexistence (in Russian) (Rostov: Rostov State Univ.), 1966, p. 6.

¹¹ G. I. Tunkin, Theory of International Law (in Russian) (Moscow) 1970, pp. 490-6.

¹² Philosophical Encyclopedia (in Russian), Vol. III (Moscow: 1964), p. 451.

¹³ Ibidem, p. 452.

To achieve this aim, the states of the two antagonistic systems should be guided in their interstate relations by several peaceful coexistence principles, which for the most part formally coincide with Basket I Principles.

The same source, however, defines peaceful coexistence further as

...a specific form of class struggle in the international arena between socialism and capitalism, combined with the struggle of the peoples of all countries for peace and against war.¹⁴

While the first part of the definition restricts the peaceful aspects of peaceful coexistence to the communist effort of avoiding a global and, by necessity, thermonuclear, conflict with the capitalist states, and especially with the U. S., the contradictory, dual nature of the concept is clearly reflected in its explicit amplifications contained in the same entry and emphasizing that

...peaceful coexistence does not mean toleration of capitalist and imperialist oppression. It does not affect the field of ideology; /nor does it affect/ relations between antagonistic classes within the capitalist states and between oppressed peoples and the colonizers.¹⁵

To refine this point even more, the Encyclopedia describes the peaceful coexistence carried out by the socialist countries as

...a powerful factor accelerating the world revolutionary process.... Peaceful coexistence creates more favorable conditions for the struggle of the working class in the capitalist countries and for the unfolding of the national liberation movement. Peaceful coexistence between the two systems does not rule out revolutions in the form of armed uprisings and just national liberation wars taking place within the capitalist system.¹⁶

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Ibidem.

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Ibidem.

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Ibidem, pp. 453-44.

VIII. The communist revolution continues

It is no secret that the communist-controlled states, and especially the USSR, bound by the Marxist-Leninist principle of proletarian-socialist internationalism, consider it their duty to render all-conceivable support to the revolutionary struggle of the proletariat in capitalist countries and to the peoples waging wars of national liberation.

In his report to the XXIII CPSU Congress, L. I. Brezhnev stated only the obvious when he boasted:

...we have always been on the side of peoples subjected to imperialist aggression and have given them political, economic, and, when necessary, military support.¹⁷

Innumerable identical claims have been made since by Brezhnev as well as by numerous other high CPSU apparatchiks.

The question should be asked as to how the communist version of peaceful coexistence and its international law affects the principles of Basket I of the Helsinki Agreement. The answer is that their application becomes extremely restricted, if not altogether eliminated.

Sovereign equality of states, non-interference in their internal affairs, self-determination of nations, neutrality, etc. -- all generally recognized principles of international law -- are, to use Brezhnev's expression, "emasculated" by the communist commitment to support, promote, and stir up class struggle in the international arena. The international law of peaceful coexistence is in reality a revolutionary instrument used to turn detente -- which again according to Brezhnev "does not in the slightest way abolish, and cannot, abolish the laws of class struggle" --¹⁸ into a weapon of that struggle in interstate relations.

As its official title suggests, the Helsinki Agreement was concluded to guarantee collective security for the European states and promote their cooperation in various fields. Collective security is thus the core of the Agreement and its meaning within the context of the international law of peaceful coexistence is naturally of crucial importance. A prominent Soviet lawyer and

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See Materials of the XXIII CPSU Congress (in Russian), (Moscow: 1966), p. 24.

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See Brezhnev's speech at the XXV CPSU Congress in Izvestiya, February 26, 1976.

high-ranking official in the Foreign Ministry, V.K. Sobakin, who, according to newspaper reports, took an active part in negotiating the Helsinki Agreement, has commented at length on the Soviet interpretation of the Final Act, stressing the peaceful coexistence concept as its basis. In his view, the most important Basket I Principle guaranteeing collective security is that of inviolability of European frontiers and inadmissibility of territorial claims against any member-state.

This principle, corollary of the sovereign equality of all states-members of the European security and cooperation system, is closely connected with that of non-interference in internal affairs, since

...every state participating in the Conference renounces not only territorial claims but also any pretensions of dictating to other countries and peoples how to live within their inviolable frontiers, what laws and regulations to adopt and which foreign policy to carry out.¹⁹

Sobakin's main concern is not intervention of the capitalist states in the internal affairs of their socialist counterparts, which

...possess necessary moral-political as well as material force...to stop any attempts...aimed at limiting their sovereign rights.²⁰

He has in mind another intervention, which would violate the Helsinki principles, namely, an effort of a Western democratic state to offer fraternal assistance to another state of the same type in case of internal, social, revolutionary upheaval.

Strict observation of the principles agreed upon in Helsinki which guide mutual relations among states is of vital necessity, precisely on an all-European scale, particularly in view of the fact that under the pretext of strengthening 'Western solidarity' or 'defense against the Soviet

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V. K. Sobakin, "After Important Gains Have Been Made. Interpretation by Bourgeois Propaganda of the Results of the All-European Conference", Komunist (in Russian), Nov. 1975, No. 17, pp. 104-13.

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Ibidem, p. 107.

aggression,' practical measures are often devised to suppress the desire of peoples for a better life and social progress. Was this not illustrated by Western interference in the affairs of the Portuguese people? Are not the planned NATO maneuvers proof of it? According to the scenario of these exercises, the armed forces of that block will have to deal with situations caused by the approaching collapse of the capitalist economy, food riots, inability of bourgeois governments to fulfill their social security obligations and to uphold law and order in general. Also with the situations resulting from the accession to power by the communists in Portugal, and later in Italy and France.²¹

As early as 1959, Sobakin, who has written extensively on the topic in the last twenty years stated that:

...the concept of collective security deals only with the internal aspect of the security of states, i.e., protection from external encroachments on their political independence, social system, and territorial integrity. Therefore, a European collective security system cannot and must not aim at giving the participating states the possibility to control the internal situation, to protect the social system of a member-state from actions of internal forces or to defend the territorial integrity of colonial powers against whom the peoples are carrying on a legitimate struggle for national independence.²²

Against this background certain recent statements by Soviet military experts sound rather ominous. One military specialist describes the foreign policy functions of the Soviet armed forces by listing its two conventional missions as "effectively guaranteeing the Soviet state's security" and "together with the fraternal armies of the socialist countries [effectively guaranteeing] the security of the whole socialist community."

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Ibidem.

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V. K. Sobakin, Questions of Theory and Practice of International Law (in Russian) (Moscow: 1959), p. 106.

He adds two functions:

- a) to serve as a mighty support for the peoples who have turned to revolution (civil war of liberation) in their fight against the intervention of the imperialists and have resorted to the liberation struggle against foreign intruders (war of national liberation);
- b) to be the steady bulwark of peace and security in the entire world.²³

Thus, one of the Warsaw Pact armies' main functions, in addition to protecting the revolutionary socialist conquests within the socialist system (as in Prague in 1968), is to prevent any NATO country from assisting a member-state threatened by internal aggression. In view of the correlation of forces between NATO and the Warsaw Pact, tilted heavily in favor of the latter at present, the Soviet ability to uphold "European collective security based on peaceful coexistence" and prevent "export of counter-revolution" in Western Europe is quite credible.

Written by Charles T. Baroch
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See V. Khalipov, "The Present and Its Basic Contradictions", Communist of the Armed Forces (in Russian), No. 9, 1975, p.88.

