The OSCE Code of Conduct
Setting new standards in the politico-military field?

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Introduction
The Budapest Summit Declaration was adopted on 6 December 1994. Since then, the Code of Conduct on Politico-Military Relations, which constitutes an important part of the document, has not exactly been at the centre of discussion within the military, political, diplomatic and academic establishments of Europe and North America. Nevertheless, this document is a potentially important instrument in furthering the cooperation in security-related areas in Europe and increasing the transparency of the defence policies of the participating states of the Organisation for Security and Cooperation in Europe (OSCE). It was for this reason that the German and Netherlands Ministries of Foreign Affairs and Defence and their respective academic institutions in Germany and the Netherlands, Ebenhausen and Clingendael, decided to conduct a series of seminars on the Code of Conduct. The most recent gathering was held on 11 and 12 December 1995, at which the document had to endure a heavy battering, especially from the academic community. This calls for a serious evaluation of the Code. Where does it come from, what exactly is it, what does it mean, where does it stand, what can it do? Without wanting to cut the ground from under the feet of the forthcoming Clingendael report of the Hague seminar, I will try to answer these questions sufficiently.

The origins of the Code of Conduct
Clearly the roots of the Code of Conduct lie in the 1975 Helsinki Final Act, like every CSCE/OSCE document since then. Antecedents of the Code’s provisions can be found in Chapters I (respect for sovereignty), II (refraining from the use of force), III (inviolability of frontiers), IV (territorial integrity), VI (peaceful settlement of disputes), VII (respect for human rights), IX (cooperation) and X (fulfilment of international obligations). The first specific mention of Code-like commitments however, is paragraph 25 of the Moscow Docu-

1. The author is grateful to Way Fong Lee, Tim Sneek, Commander Cees Wierema and Lieutenant Annemiek Wissink for their insights and comments. The views expressed in this article are solely attributable to the author.
2. The Code of Conduct itself only mentions the Conference on Security and Cooperation in Europe (CSCE). Except when referring to historical events, I will use the term Organisation on Security and Cooperation in Europe (OSCE).
3. Nevertheless, the Netherlands Helsinki Committee correctly stated in August 1994 that 'a strong reaffirmation of the Helsinki Principles would be useful in the light of the ongoing discussions about a Code of Conduct, the relationship of which to the Decalogue has remained unclear'. Netherlands Helsinki Committee, A Focus on the Future: Using an Enhanced Conference on Security and Cooperation in Europe, Utrecht, 15 August 1995, p. 10.
ment of October 1991.4

In 1992 France proposed a Pan-European Security Treaty, which was to codify all existing CSCE norms with the addition of supplementary normative regulations reflecting the new post-Cold War situation. Due to fierce opposition from the United States, who feared a less prominent position of NATO, in the end this ambition diluted into a joint French-German proposal for a politically binding Code of Conduct. This proposition was tabled at the Helsinki Conference in July 1992 (Helsinki II). The newly established CSCE Forum for Security Cooperation (FSC) was mandated to work out a Code of Conduct on politico-military relations.5 The negotiations, held en marge of the FSC in Vienna, ran from the summer of 1992 until just before the Budapest Summit in December 1994. The Member States of the European Community (EC) were keen to display their newly acquired Common Foreign and Security Policy (CFSP).6 Moreover, the EC, like France earlier in 1992, had the intention to see pan-European security as an area in which it should play a fundamental role.7 This made the negotiating process a difficult one.

By 1993 proposals from Poland, the EC (in this context consisting of the NATO-countries minus the United States (US) and Turkey), Austria and Hungary, and Turkey were on the table. The chief element of the Polish proposal stressed the non-use of force. The one from the European Union (EU) emphasised the Code as a set of security-oriented norms. The Austrian-Hungarian proposition entailed a broad array of security-related subjects from

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4. Paragraph 25 of the Moscow Document reads 'The participating States will
1. ensure that their military and paramilitary forces, internal security and intelligence services, and the police are subject to the effective direction and control of the appropriate civil authorities;
2. maintain and, where necessary, strengthen executive control over the use of military and paramilitary forces as well as the activities of the internal security and intelligence services and the police;
3. take appropriate steps to create, wherever they do not already exist, and maintain effective arrangements for legislative supervision of all such forces, services and activities.'

5. The exact mandate was headed under the Programme for Immediate Action, Section B. Security Enhancement and Cooperation, paragraph 12. Security enhancement consultations, in which the participating States promised to work on 'Goal-oriented dialogue and consultations aimed at enhancing security cooperation, including through the further encouragement of responsible and cooperative norms of behaviour on politico-military aspects of security. The participating States will undertake consultations with a view to strengthening the role of the CSCE, by establishing a code of conduct governing their mutual relations in the field of security.' A. Bloed, ed., The Conference on Security and Cooperation in Europe. Analysis and Basic Documents, 1972-1993, Dordrecht-Boston-London, Martinus Nijhoff Publishers, 1993, p. 742.

6. A. Kobieracki, The Code of Conduct — Negotiating Experience. Written contribution at the Code of Conduct Seminar, The Hague, 11-12 December 1995, p. 1. Mr. Kobieracki is the Deputy Head of the Polish Mission to the OSCE. The Treaty on European Union ('Maastricht') came into force on 1 November 1993, with the ratification by Germany. From then on the name 'European Community' was replaced by 'European Union'.


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