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BOSNIA AND HERZEGOVINA CONTACT GROUP

19 JULY 1994 - 21 OCT 1995

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INTERNATIONAL CONFERENCE  
ON THE FORMER YUGOSLAVIA

1/21

TO: Mr. Louis Sell Fax No.: (41-22) 917-0542

FROM: P.C. Szasz

DATE: Germantown, 21 October 1995

SUBJECT: Updating of the 20 December 1994 draft of the proposed  
BH Union Constitution

1. Attached hereto, as requested in our telephone conversation on the 19th, is a revision of the last previous draft of a proposed BH Union Constitution -- i.e. that considered by the Contact Group on 20 December 1994, as slightly revised in accordance with proposals by the British member of the Group on 29 March 1995 -- to take into account the Agreed Basic Principles of 8 September (Geneva) and 26 September (New York) that you faxed to me on the 19th.

2. As explained at the top of the annexed draft, I have reflected the Agreed Principles in the draft by adding passages in *italics* and deleting passages by ~~striking-them-out~~; matters that were not touched on in the Agreed Principles I have [bracketed]. In the footnotes I have indicated the provisions of the Agreed Principles that I relied on in making changes, and in some cases have added some further explanations.

3. I trust that the attached will meet Mr. Bildt's requirements in preparation for the meeting scheduled for the 25th. I have arranged to arrive in Geneva on the morning of the 24th, and will be able to participate on the 25th until 15:45, when I shall have to rush for the airport.

4. On Monday, the 23rd, I expect to be reachable in Germantown until 13:30, when I take a train to NYC. Should I take an earlier train, I will be reachable in my NYC apartment (1-212-986-9529) some of the time from 11:00 until 17:00.

5. Looking forward to seeing you soon.



21 October 1995

Adaptation of the 20 December 1994  
"Draft Constitutional Agreement of the BH Union"  
prepared under the auspices of the Contact Group  
to take account of the Basic Principles agreed to by the Parties  
in Geneva on 8 September and in New York on 26 September 1995  
(Texts to be added are in *italics*; texts to be  
deleted are ~~struck-out~~; and texts referring to matters  
not dealt with in the Basic Principles are [bracketed]<sup>1</sup>)

\*\_\*\_\*\_\*\_\*\_\*\_\*\_\*\_\*\_\*

DRAFT CONSTITUTIONAL AGREEMENT ~~OF THE UNION~~<sup>2</sup>  
OF FOR BOSNIA AND HERZEGOVINA

I. ~~The Union of~~ Bosnia and Herzegovina

Article 1

~~The Union of~~ Bosnia and Herzegovina is composed of the  
Federation of Bosnia and Herzegovina (*hereinafter the*  
"Federation") and the Republica Srpska (together *hereinafter the*  
"Constituent Entities")<sup>3</sup> [, and represents the Bosniacs, the  
Serbs and the Croats, as well as Other peoples.] [*Bosnia and*  
*Herzegovina* ~~The Union~~ will remain a Member of the United Nations,  
and as such it shall maintain or apply for membership in other  
organizations of the United Nations system.]<sup>4</sup>

Article 2

(1) *The common institutions of Bosnia and Herzegovina provided  
for in Chapter III hereof shall have responsibility for the  
foreign relations of the state and for other matters agreed to by*

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<sup>1</sup> Some of these are matters as to which the parties have  
agreed to negotiate further by paras. 6.5 and 6.6 of the  
26 September 1995 New York Agreement (*hereinafter "para.  
N.\_\_\_\_"*).

<sup>2</sup> For the proposed name of the state, see paras. 1 & 2 of  
the 8 September 1995 Geneva Agreement (*hereinafter "para.  
G.\_\_\_\_"*).

<sup>3</sup> See para. G.2.

<sup>4</sup> But see para. G.1.

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the parties and consistent with the Geneva and New York Agreed Basic Principles.<sup>5</sup>

(2) All governmental functions and powers, except those assigned by this Constitutional Agreement to ~~the Union or to any of its institutions~~ of Bosnia and Herzegovina, or such as may be required to be carried out by the common institutions ~~Union~~ in order to fulfil the responsibilities of Bosnia and Herzegovina under this Constitutional Agreement or its international obligations, shall be those of the ~~Constituent~~ Entities.

### [Article 3]

The capital of Bosnia and Herzegovina ~~the Union~~ shall be Sarajevo.]

### [Article 4]

The flag and emblem of Bosnia and Herzegovina ~~the Union~~ shall be specified by the ~~Union~~ Parliament.]

### [Article 5]

Any citizen of either ~~Constituent~~ Entity shall be a citizen of Bosnia and Herzegovina ~~the Union~~.]

## II. The ~~Constituent~~ Entities and their Responsibilities

### Article 1

(1) The boundaries of the ~~Constituent~~ Entities shall be as set out in Annex A and may only be changed by the procedure provided for amending this Constitutional Agreement.<sup>6</sup>

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<sup>5</sup> See para. N.6.6.

<sup>6</sup> See para. G.2.1; see also bracketed Art. VII.1(1).



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[(2) There shall be no border controls at boundaries between the ~~Constituent~~ Entities affecting the freedom of movement of individuals throughout the territory of Bosnia and Herzegovina ~~the Union.~~]<sup>7</sup>

## Article 2

Each ~~Constituent~~ Entity shall ~~have its own~~ retain its existing constitution, amended as required to conform to this Constitutional Agreement ~~which shall provide for democratic forms of government, including democratically elected legislatures and chief executives and independent judiciaries, as well as for the highest standards of human rights and fundamental freedoms.~~<sup>8</sup>

## Article 2A

(1) Arrangements shall be made by both Entities to invite the [Organisation for Security and Cooperation in Europe (OSCE)]/[other IGO] to establish as quickly as possible an Observation Mission which shall station representatives in all principal towns within both Entities to observe compliance with the provisions of Chapter IV of the present Constitutional Agreement. The Mission shall issue monthly reports on the degree of such compliance and the extent to which (social) conditions are being restored to enable the conduct of free and democratic elections.

(2) Within 30 days after the Observation Mission has reported that free and democratic elections can be held within both Entities, the governments of both Entities shall conduct such elections for the common institutions referred to in Articles III.1(1) and III.2(1) [and for the legislatures and chief executives provided for in their own constitutions], and will

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<sup>7</sup> Paras. G.2.4(b) and N.5.1(a) require that both Entities "allow freedom of movement", but it is not clear whether this includes movement across the boundaries between them and whether border controls are to be abolished at such boundaries. See also Art. IV.1(1)(h).

<sup>8</sup> See GA para. 2.2.

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fully cooperate with a monitoring programme carried out by  
\_\_\_\_\_.

~~(2) -- The initial elections in each Constituent Entity after this Constitutional Agreement enters into force shall be supervised by the United Nations and the Organisation for Security and Cooperation in Europe (OSCE) --~~

[Article 3]

All acts taken by a competent governmental authority of either of the Constituent Entities shall be accepted as valid by the other Constituent Entity.]

[Article 4]

(1) Neither Constituent Entity shall threaten or use force against the other Constituent Entity, and under no circumstances shall any armed forces of either Entity enter into or stay within the territory of the other Entity without the consent of the government of the latter and of the Presidency of Bosnia and Herzegovina the Union.

(2) The Constituent Entities shall conclude, immediately after the signature of this Constitutional Agreement, an agreement limiting their military forces according to the principles and criteria accepted by relevant OSCE (including CSCE) documents, the Vienna Document 1992 and the CFE and CFE-1A treaties. Any military forces existing on the date of the entry into force of this Agreement that exceed the limits set as above for either Constituent Entity, shall be progressively disarmed and demobilized under the supervision of the United Nations and the [European Union]/[OSCE].]

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\* See para. N.5.3, and also para. G.2.4(a). Those paragraphs do not indicate what offices are to be filled by the initial elections, but from paras. N.6, 6.1 and 6.2 it would appear that at least the BH Parliament and the Presidency are to be elected. It might, however, be opportune also to hold elections for the corresponding organs of both Entities at the same time.



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Article 4A

Both Entities shall jointly and severally honour the international obligations of Bosnia and Herzegovina, except for financial obligations that had been incurred by either Entity without the consent of the other.<sup>10</sup>

Article 4B

Any disputes between the two Entities shall be resolved by an Arbitral Tribunal established as follows: \_\_\_\_\_<sup>11</sup>

III. The Common Institutions of Bosnia and Herzegovina the-UnionArticle 1

(1) The Parliament of Bosnia and Herzegovina the-Union shall be composed of \_\_\_\_ 120 representatives: \_\_\_\_ 80 to be elected from the territory of the Federation by-the-Federation-Legislature-of the-Federation-of-Bosnia-and-Herzegovina and \_\_\_\_ 40 to be elected from the territory of the Republica Srpska by-the-Bosnian-Serb Assembly.<sup>12</sup>

(2) The Union Parliament of Bosnia and Herzegovina shall take its decisions by simple majority (of those voting), provided that such majority includes at least one third of the votes cast by the representatives elected from the territory of each Entity may adopt-laws-within-the-competence-of-the-Union-by-a-two-thirds

<sup>10</sup> See para. N.4.

<sup>11</sup> See paras. G.2.4(c) and G.3.5. It is not clear therein whether the arbitration is to be by a standing Arbitral Tribunal or by an ad hoc one, but it is presumed that the former is intended. Presumably, too, the Chairman and perhaps some other neutral arbitrators will be foreigners, and will be appointed by an international appointing authority designated in this Agreement, unless the Entities themselves agree on such neutral arbitrators.

<sup>12</sup> See para. N.6.1, 1st sentence.

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~~majority, which shall include a majority each of the Bosniacs, of the Serb and of the Croat representatives.~~<sup>13</sup>

### Article 2

(1) The Presidency of Bosnia and Herzegovina ~~the Union~~ shall be composed of      members:      to be elected from the territory of the Federation and      to be elected from the territory of the Republica Srpska ~~consist of the President and the Vice-President of the Federation of Bosnia and Herzegovina and of the President of the Republica Srpska.~~<sup>14</sup> how?

[(2) The Chairmanship of the Presidency shall rotate every four months among the three members of the Presidency. The Chairman of the Presidency shall represent Bosnia and Herzegovina ~~the Union.~~]

(3) The Presidency shall take all its decisions by ~~consensus~~ a simple majority (of those voting), provided that if one-third of the members of the Presidency disagree and formally declare the decision to be destructive of<sup>15</sup> a vital interest of the Entity or Entities from which the dissenting members were elected, the decision shall be referred immediately to the legislature(s) of such Entity or of both Entities and shall be considered as not adopted if either legislature confirms the dissenting position by a two-thirds majority (of those voting).<sup>16</sup>

### Article 3

[(1) The head of the Council of Ministers of Bosnia and Herzegovina ~~the Union~~ shall be the Prime Minister, who shall be appointed and may be removed by the Presidency. The post shall rotate every year so as to be occupied in turn by the nominee of a different member of the Presidency.

<sup>13</sup> See para. N.6.1, 2nd sentence.

<sup>14</sup> See para. N.6.2, 1st sentence.

<sup>15</sup> The term "be destructive of" is used in para. N.6.2, 2nd sentence. However "threaten" would seem better.

<sup>16</sup> See para. N.6.2, 2nd and following sentences.



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(2) The Presidency shall also appoint and may remove a Foreign Minister and a Foreign Trade Minister. Each post shall rotate every year so as to be occupied in turn by the nominee of a different member of the Presidency.

(3) The Prime Minister, the Foreign Minister and the Foreign Trade Minister shall each be from different peoples.

(4) Other Ministers may be appointed and removed by the Presidency. They and the Prime Minister and the Foreign Minister and the Foreign Trade Minister shall constitute the Council of Ministers, with responsibility for the policies of Bosnia and Herzegovina ~~the Union~~ in relation to foreign affairs, international trade and the functioning of the common institutions, as well as any other functions and institutions that the ~~Union~~ Parliament may from time to time specify by law.]<sup>17</sup>

#### Article 4

(1) There shall be a Constitutional ~~Union~~ Court to resolve any disputes arising under this Constitutional Agreement ~~between the Constituent-Entities~~<sup>18</sup> ~~relating to the present Agreement or~~ [or actions taken by any of the common institutions pursuant thereto, and to decide such other matters as are specified in this Agreement or are submitted by the Presidency].

(2) Each member of the Presidency shall appoint one Judge to the Constitutional ~~Union~~ Court, from among the judges of either of the ~~Constituent~~ Entities. A fourth and a fifth Judge, one of whom shall be the President of the Court, shall be appointed by the Presidency or, if it is unable to reach a decision, by the President of the International Court of Justice at the request of

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<sup>17</sup> Para. N.6.3 merely states that there will be "a cabinet of such ministers as may be appropriate". See also para. N.6.5.

<sup>18</sup> According to paras. G.2.4(c) and 3.5, disputes between the Entities are to be settled by Arbitration (see draft Article III.4B); presumably, the Constitutional Court called for by para. N.6.4 will therefore not have jurisdiction over such disputes.

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any member of the Presidency; these Judges need not be citizens of Bosnia and Herzegovina ~~the-Union~~.

(3) Decisions of the Constitutional ~~Union~~ Court shall require the concurrence of a simple majority of the Judges. The Court shall adopt its own rules.]<sup>19</sup>

#### Article 5

The two ~~Constituent~~ Entities may by agreement establish jointly financed public corporations, to own and operate transportation and other facilities for the benefit of both Entities [as well as other authorities or enterprises, whose relations to the common institutions shall be as defined in such agreements, or they may be established by the Parliament].<sup>20</sup>

#### Article 6

[The Parliament shall] establish a Commission to Preserve National Monuments.<sup>21</sup>

### IV. HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS

#### Article 1

The application of normal international human rights standards ~~the-highest-level-of-internationally-recognized-rights and-freedoms-provided-in-the-instruments-listed-in-Annex-B~~ shall

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<sup>19</sup> See paras. N.6.4 and 6.5.

<sup>20</sup> Para. G.3.3.

<sup>21</sup> See para. G.3.4



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be ensured throughout *Bosnia and Herzegovina* ~~the-Union~~.<sup>22</sup> In particular:

- (1) All persons within the territory of *Bosnia and Herzegovina* ~~the-Union~~ shall enjoy the rights:

[(a) To life;]<sup>23</sup>

[(b) To liberty, with arrest and detention authorized only by law;]

[(c) To equality before the law;]

[(d) To freedom from discrimination based on race, colour, sex, language, religion or creed, political or other opinions, and national or social origin;]

[(e) To fair criminal proceedings;]

[(f) To freedom from torture and cruel or inhuman treatment or punishment;]

[(g) To privacy;]

(h) To freedom of movement;

[(i) To asylum;]

[(j) To protection of the family and of children;]

[(k) To property;]

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<sup>22</sup> Para. G.2.4(b).

<sup>23</sup> Those rights bracketed here are those not mentioned explicitly in para. N.5.1. Presumably at least some of these are covered by the general reference to "normal international human rights standards and obligations" in para. G.2.4(b) and to "all other internationally recognized human rights in order to enhance and empower the democratic election process" in para. N.5.1(d).

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(1) To fundamental freedoms: free speech and press;  
[freedom of thought, conscience, and belief; freedom of  
religion, including private and public worship; freedom  
of assembly; freedom of association, including to form  
and belong to labour unions and the freedom not to  
associate; and freedom to work;]

[(m) To education;]

[(n) To social protection;]

[(o) To health;]

[(p) To nutrition;]

[(q) To shelter; and ]

[(r) To protection of minorities and vulnerable  
groups.]

[(2) All citizens shall enjoy the rights:

(a) To form and belong to political parties; and

(b) To political rights: to participate in public  
affairs; to have equal access to public service; to  
vote and stand for election.]

## [Article 2

All refugees and displaced persons have the right to freely  
return to their homes of origin.]<sup>24</sup>

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<sup>24</sup> It should be noted that the right of refugees and other  
displaced persons to freely return to their homes of  
origin is not provided for in either para. G.2.4(b) and  
N.5.1(b), but only the right to "repossess their homes or  
receive just compensation" -- which would therefore seem  
to mean that they only will have restored the property



- Article 3

(1) All persons shall have the right, to be implemented in accordance with legislation of the *Parliament Union* and of the *Constituent* Entities, to have restored to them any *homes property* of which they were deprived in the course of ethnic cleansing and to be compensated for any *homes property* which cannot be restored to them. [All statements or commitments made under duress, particularly those relating to the relinquishment of rights to land or property, shall be treated as null and void.]

(2) To ensure the implementation of paragraph (1) of this Article, a Commission of Displaced Persons shall be established, which may request and receive assistance from international organizations.<sup>25</sup>

[Article 4

The acquisition and termination of citizenship shall be regulated by legislation of the *Constituent* Entities, provided that:

- (a) No person shall be deprived of citizenship arbitrarily or in such a way as to leave him stateless.
- (b) All citizens shall be entitled to hold the citizenship of another state.]

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rights, which they can then use to sell or rent these homes (NB. no reference to farms and businesses) or to receive compensation if these homes have been destroyed. See also Article IV.3 below.

<sup>25</sup> Para. G.3.1. Details about the establishment and powers of the Commission will have to be added.

.. [Article 5

All common institutions of Bosnia and Herzegovina ~~the-Union~~ and all courts, administrative agencies and other governmental organs of the ~~Constituent~~ Entities shall apply and conform to the rights and freedoms provided in Article IV.1 and the instruments listed in Annex B.]

[Article 6

(1) Bosnia and Herzegovina ~~The-Union~~ shall as soon as possible become a party to each of the international treaties listed in Annex B.

(2) All common institutions of Bosnia and Herzegovina ~~the-Union~~ and all competent authorities of the ~~Constituent~~ Entities shall cooperate with any international human rights monitoring mechanisms established for Bosnia and Herzegovina and with the supervisory bodies established by any of the instruments listed in Annex B.]

Article 7

There shall be a Bosnia and Herzegovina Human Rights Commission to ensure that both Entities comply with the obligations arising for them under the present Chapter. The decisions of the Commission shall be binding on and be observed by the Entities.<sup>26</sup>

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<sup>26</sup> See para. G.3.2. The composition and methods of functioning of the BHHRRC will have to be specified. In particular it should be decided whether it might be organized as or include a judicial or quasi-judicial organ that could function in accordance with resolution 93(6) of the Committee of Ministers of the Council of Europe.



~~Each Constituent Entity shall make arrangements with the Council of Europe for the establishment of a Human Rights Court in accordance with Resolution 93(6) of the Committee of Ministers of the Council.~~

[Article 8

Each Constituent Entity shall provide for the appointment of Ombudsmen to assist in implementing the rights and freedoms specified in this Chapter. For an initial period of at least three years, the Ombudsmen shall be appointed by the OSCE.]

V. International Relations<sup>27</sup>

Article 1

[(1) ~~Bosnia and Herzegovina The Union~~ may apply for membership in European and other international institutions and organizations, as decided by the Presidency. ]

[(2) Each Constituent Entity may apply for membership in international institutions and organizations of which ~~Bosnia and Herzegovina the Union~~ is not a member, provided such membership would not be inconsistent with the interests of ~~Bosnia and Herzegovina the Union~~ or of the other Constituent Entity. Any dispute concerning an alleged inconsistency shall be decided by the ~~Constitutional Union~~ Court.]

(3) Each Constituent Entity may enter ~~into-cooperative arrangements-and~~ into parallel special relationships with neighbouring countries *consistent with the sovereignty and territorial integrity of Bosnia and Herzegovina*, ~~provided these~~

<sup>27</sup> The only provisions in the Agreed Principles that are relevant to this Chapter appear in para. N.6.6, which specifies that the common institutions (those provided for in Chapter III) "will have responsibility for the foreign policy of Bosnia and Herzegovina", and para. G.2.3, which relates to Article 1(3) of this Chapter.

~~do-not-change-the-international-identity-or-legal-personality-of~~  
~~the-Entity-and-provided-these-would-not-be-inconsistent-with-the~~  
~~interests-of-the-Union-or-of-the-other-Entity.~~ [Any dispute  
concerning these requirements shall be decided by the Union  
Court.]

[Article 2

*Bosnia and Herzegovina* ~~The-Union~~ shall continue all  
diplomatic relations of the Republic of Bosnia and Herzegovina  
until the Presidency decides to continue or discontinue them.]

[Article 3

(1) *Bosnia and Herzegovina* ~~The-Union~~ shall remain a party to all  
treaties in force for the Republic of Bosnia and Herzegovina on  
the date of the entry into force of this Constitutional  
Agreement, unless the ~~Union~~ Parliament decides that steps to  
denounce any such treaty shall be taken. However, steps to  
denounce treaties entered into after 18 November 1990 shall be  
taken unless the ~~Union~~ Parliament otherwise decides within three  
months of the date when it is first convened.

(2) *Bosnia and Herzegovina* ~~The-Union~~ may become a party to  
treaties if such participation is approved by the ~~Union~~  
Parliament. The Parliament may provide for participation in  
certain types of international agreements by decision of the  
Presidency. To the extent participation in a treaty would involve  
responsibilities that are to be carried out by the ~~Constituent~~  
Entities, their advance approval must be secured, except in  
respect of the treaties referred to in Article IV.6(1).

(3) Each ~~Constituent~~ Entity may, if eligible, become a party to  
a treaty if such participation would not be inconsistent with the  
interests of *Bosnia and Herzegovina* ~~the-Union~~ or of the other  
~~Constituent~~ Entities. Any dispute concerning an alleged



inconsistency shall be decided by the *Constitutional Union* Court.]

[Article 4

The Presidency shall appoint or arrange for the appointment of the diplomatic representatives of *Bosnia and Herzegovina* the *Union* to states and international organizations, and shall receive the diplomatic representatives of other states.]

[VI. Finances

Article 1

(1) The *Union* Parliament shall each year, on the proposal of the Prime Minister, adopt a budget covering the expenditures required to carry out only those functions of *Bosnia and Herzegovina* the *Union* relating to the maintenance of its common institutions and compliance with its international obligations, as well as such other functions as may from time to time be provided by *Parliament Union-legislation*.

(2) If no such budget is adopted in due time, the budget for the previous year shall be used on a provisional basis.

Article 2

(1) The expenditures provided for in the budget shall, except to the extent that other revenues are available or as otherwise specified by the *Union* Parliament, be covered two-thirds by the *Federation of-Bosnia-and-Herzegovina* and one-third by the *Republica Srbska*.

(2) Other sources of revenues, such as custom duties, fees for services or taxes on specified activities, may be determined by the *Union* Parliament.]

[VII. The Constitutional Agreement<sup>28</sup>

Article 1

(1) This Constitutional Agreement may be amended by *Parliament Union-legislation*, provided such amendment is subsequently approved by both of the *Constituent Entities* according to their respective constitutional processes.

(2) No amendment to this Constitutional Agreement may eliminate or diminish any of the rights or freedoms set out in Chapter IV, or alter the present paragraph.

Article 2

This Constitutional Agreement may not be denounced or otherwise terminated and neither of the *Constituent Entities* may withdraw from *Bosnia and Herzegovina the-Union* without the prior agreement of the other Entity. Such a decision may be appealed to the Security Council by either of the *Constituent Entities*, and the Council's decision shall be final.

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<sup>28</sup> The Agreed Principles do not clearly specify what the constitutional instrument of "Bosnia and Herzegovina" will be: a new Constitution or Constitutional Agreement (the term used in the 20 December 1994 draft and still tentatively used here) or the existing Constitution of the Republic of Bosnia and Herzegovina, suitably amended. However, para. N.6.4 suggests the latter solution. In this connection it should be kept in mind that the existing Constitution in its original form had over 150 pages, and has since been altered by some hundred amendments whose total length is well over 50 pages (including one that in effect incorporates the entire BH Federation Constitution); therefore, unless the proposed amendments simply substitute a short new instrument for the entire existing text (as so far amended), the end product will be largely unusable.

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Article 3

This Constitutional Agreement shall enter into force when approved by both of the ~~Constituent~~ Entities according to their respective constitutional processes.]

21 October 1995: Draft Constitutional Agreement for Bosnia and Herzegovina

1 518 537 6618  
PHONE NO. : 1 518 537 6618  
Oct. 22 1995 02:29AM P18

FROM : PAUL SZASZ

A N N E X A

THE BOUNDARIES OF THE CONSTITUENT ENTITIES

The boundaries of the Constituent Entities[, as well as of the Sarajevo District,] shall be as indicated on the Map below.<sup>29</sup>

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<sup>29</sup> See para. G.2.1, and Art. II.1 above.



[A N N E X B

HUMAN RIGHTS INSTRUMENTS TO BE INCORPORATED  
INTO THE CONSTITUTIONAL AGREEMENT OF  
BOSNIA AND HERZEGOVINA THE-UNION

1. 1948 Convention on the Prevention and Punishment of the Crime of Genocide
2. 1948 Universal Declaration of Human Rights
3. 1949 Geneva Conventions I-IV on the Protection of the Victims of War, and the 1977 Geneva Protocols I-II thereto
4. 1950 European Convention for the Protection of Human Rights and Fundamental Freedoms, and the Protocols thereto
5. 1951 Convention relating to the Status of Refugees and the 1966 Protocol thereto
6. 1957 Convention on the Nationality of Married Women
7. 1961 European Social Charter and the Protocol 1 thereto
8. 1961 Convention on the Reduction of Statelessness
9. 1965 International Convention on the Elimination of All Forms of Racial Discrimination
10. 1966 International Covenant on Civil and Political Rights and its 1966 and 1989 Optional Protocols thereto
11. 1966 International Covenant on Economic, Social and Cultural Rights
12. 1979 International Convention on the Elimination of All Forms of Discrimination against Women

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13. 1981 [UN] Declaration on the Elimination of all Forms of Intolerance and of Discrimination Based on Religion or Belief
14. 1984 Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment
15. 1987 European Convention on the Prevention of Torture and Inhuman or Degrading Treatment or Punishment
16. 1989 Convention on the Rights of the Child
17. 1990 Convention on the Rights of Migrant Workers and Members of their Families
18. 1990 Document of the Copenhagen Meeting of the Conference on the Human Dimension of the CSCE, Part IV
19. ~~1990-Council-of-Europe-Parliamentary-Assembly Recommendation-on-the-Rights-of-Minorities,-paras--10-13~~ 1994 [Council of Europe] Framework Convention for the Protection of National Minorities
20. 1992 [UN] Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities
21. 1992 European Charter for Regional and Minority Languages]<sup>30</sup>

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<sup>30</sup> This list is identical to the one annexed to the Constitution of the BH Federation, except that in #19 the new 1994 Framework Convention for the Protection of National Minorities that was adopted by the Committee of Ministers of the Council of Europe on 10 November 1994 has been tentatively substituted for the earlier 1990 Council of Europe Recommendation.



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[A N N E X BHUMAN RIGHTS INSTRUMENTS TO BE INCORPORATED  
INTO THE CONSTITUTIONAL AGREEMENT OF  
BOSNIA AND HERZEGOVINA THE-UNION

1. 1948 Convention on the Prevention and Punishment of the Crime of Genocide
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7. 1961 European Social Charter and the Protocol 1 thereto
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11. 1966 International Covenant on Economic, Social and Cultural Rights
12. 1979 International Convention on the Elimination of All Forms of Discrimination against Women

INTERNATIONAL CONFERENCE  
ON THE FORMER YUGOSLAVIA7/21  
1/3\*

TO: Mr. Louis Sell Fax No.: (41-22) 917-0542

FROM: P.C. Szasz *PC Szasz*

DATE: Germantown, 21 October 1995

SUBJECT: Updating of the 20 December 1994 draft of the proposed  
BH Union Constitution

1. Attached hereto, as requested in our telephone conversation on the 19th, is a revision of the last previous draft of a proposed BH Union Constitution -- i.e. that considered by the Contact Group on 20 December 1994, as slightly revised in accordance with proposals by the British member of the Group on 29 March 1995 -- to take into account the Agreed Basic Principles of 8 September (Geneva) and 26 September (New York) that you faxed to me on the 19th.
2. As explained at the top of the annexed draft, I have reflected the Agreed Principles in the draft by adding passages in *italics* and deleting passages by ~~striking-them-out~~; matters that were not touched on in the Agreed Principles I have [bracketed]. In the footnotes I have indicated the provisions of the Agreed Principles that I relied on in making changes, and in some cases have added some further explanations.
3. I trust that the attached will meet Mr. Bildt's requirements in preparation for the meeting scheduled for the 25th. I have arranged to arrive in Geneva on the morning of the 24th, and will be able to participate on the 25th until 15:45, when I shall have to rush for the airport.
4. On Monday, the 23rd, I expect to be reachable in Germantown until 13:30, when I take a train to NYC. Should I take an earlier train, I will be reachable in my NYC apartment (1-212-986-9529) some of the time from 11:00 until 17:00.
5. Looking forward to seeing you soon.

\* Last 2 pages did not go through last night, so are being repeated herewith.



1/2

INTERNATIONAL CONFERENCE  
ON THE FORMER YUGOSLAVIA

TO: Mr. Th. Stoltenberg  
Lord Owen

cc: Mr. B. Ramcharan Fax No.: (41-22) 917-0079

FROM: P.C. Szasz

DATE: Germantown, 7 May 1995

SUBJECT: BH Contact Group Meeting in Paris, 5 May

---

1. The BH Contact Group met at Political Director level at the Quai d'Orsay on Friday, 5 May, 12:15-19:00. The three Europeans were represented by both their regular representatives and their Political Directors, the USA by Frasure and Russia by Zotov.
2. The agenda was the same as for the 3 May meeting in London. As the discussions largely replicated the earlier ones, in general only the tentative conclusions are summarized below. The latter are clearly more sharply focussed than those reached in London.
3. The general atmosphere was low-key, weary and somewhat fractious. The split between the troop contributors and the others was again marked -- and remarked upon by Neville-Jones; as she explained, the former were more eager to accommodate Milosevic on sanctions for only so might he recognize Bosnia and Herzegovina, which Izetbegovic had made a condition for considering any extension of the cease-fire, which in turn might be necessary for the UNPROFOR to stay. Frasure was subdued -- he indicated that it was his Government's position that the line be held on sanctions, but on a personal basis suggested some solutions (see below) that he thought might be acceptable. Zotov appeared to be uneasy and without instructions.

Sanctions Relief

Elements of Lifting/Review Mechanism

4. France proposed that sanctions be suspended on a sine die basis, i.e. to be reimposed only and automatically upon a negative report of the Secretary-General, along the lines of the procedure specified in S/RES/943 (1994), para. 4. As this was not acceptable to Germany and the USA, Frasure on a "personal" basis proposed that there initially be a 6-month period of suspension, followed, on the basis of a vetoable vote, by lifting. It is this proposal that was referred to capitals, for a response by the next meeting.



### Definition of Strategic Trade Items

5. It was agreed to refer to capitals (explicitly: not just to "sanctions experts") the following compromise between the EU Action Plan list agreed to in Moscow last summer (in a somewhat different context) and the stricter UN list set out in S/RES/787 (1992), para. 9. In particular, it was proposed that the only items to be exempted from suspension/lifting be the items on the EU list, plus chemicals other than those used for agriculture (in particular fertilizers), for textiles and for plastics, plus energy-related equipment for new exploitations (e.g., in Eastern Slavonia).

### Financial Sanctions/Trade Start-up Funds/Frozen Assets

6. The initial US position is summarized in the annexed paper. However it was agreed that the proposals to be considered in capitals are:

- (a) No assets at present frozen are to be unfrozen;
- (b) There is to be complete freedom to establish new accounts for the purpose of facilitating trade, loans, investments and other transfers (e.g., payment of foreign pensions to FRY residents). It was pointed out that this would be analogous to the measures applied to Libya (apparently meaning those under S/RES/883 (1993), para. 4. The Security Council resolution would explicitly cover cash payments into new accounts.
- (c) The FRY to be authorized to sell up to £80 millions of aluminium (for which Montenegro has been trying to secure an authorization for some years) to supply funds for starting up trade. No other funds would be made available for this purpose.

7. Zotov suggested that in addition there be unfrozen and paid to the FRY, as well as to all the other SFRY successor states, such portions of the frozen SFRY assets as would not exceed the minimum these states could expect to receive from these assets. I pointed out that this could be done only by an agreement of all the parties reached within the context of ICFY's Succession Issues Working Group. It was unlikely that this could be done in time to provide trade start-up funds.

### Border Regime

8. It was agreed that the size, financing and equipment of the ICFY Mission be changed as discussed in London -- where actually little had been said about the second item.

9. There was considerable discussion of the reporting mechanism, in connection with which Steiner and Neville-Jones reported on their separate conversations with Lord Owen. After complaining that the two Contact Group members who contributed least to the Mission were demanding the most extensive



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1/5

INTERNATIONAL CONFERENCE  
ON THE FORMER YUGOSLAVIA

TO: Mr. Th. Stoltenberg  
Lord Owen

cc: Mr. B. Ramcharan Fax No.: (41-22) 917-0079

FROM: P.C. Szasz

DATE: Germantown, 7 May 1995

SUBJECT: BH Contact Group Meeting in Paris, 5 May

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changes, and that although attempts might be made to please the BH Government it could not demand changes, Neville-Jones reluctantly suggested (i.e. without even a personal endorsement) that consideration might be given to adding to the current procedure a further certification by the Head of Mission to the report he submits to the Co-Chairmen, that the report is true according to all the information available to him. Participants agreed to consider this.

10. Again, as in London, it seemed to be assumed that the Head of Mission be replaced -- but there was never any discussion or explanation of this assumption, or formalization as a proposal.

#### Next Meeting/Ministerial Meeting

11. For planning purposes it was tentatively agreed that the next Contact Group meeting, apparently again at Political Director level, take place next Friday, 12 May, at the FCO in London, at 10:00.

12. It was originally suggested that the Group might then consider immediately proceeding to the field, i.e. specifically to Belgrade. To this it was objected that if the Group presented to Milosevic another set of proposals that did not yet have Ministerial endorsement, he would merely make some more counter-proposals; consequently, a Ministerial meeting (for which no date was suggested) should precede any visit to Belgrade. No decision was reached.

13. Subject to your agreement, I am prepared to attend next Friday's meeting, if held as scheduled. However, for personal reasons I would have to return to New York that evening.

#### Communiqué/Press Guidelines

14. The attached draft Communiqué was circulated, which was revised as indicated.

#### Message from ICFY Co-Chairmen about 100-truck Convoy

15. At the end of the meeting, a request from the Co-Chairmen was read for Contact Group Governments to consider on an urgent basis the authorization of the passage of a 100-truck convoy carrying agricultural products and food to pass exceptionally through Bosnia in view of the current military activities in Croatia. It was agreed that this was outside the competence of the Group, but that the French Government, as host of the meeting, should immediately convey this request to the Chairman of the Sanctions Committee, for urgent action.



UJ Page  
BH CC 5 May 1975

CERTAIN FINANCIAL SERVICES WOULD BE ALLOWED SO THAT PERMITTED TRADE CAN BE CARRIED OUT. NEW ACCOUNTS COULD BE ESTABLISHED TO CONDUCT TRADE. ALL PAYMENTS TO FRY ENTITIES FOR PERMITTED TRADE WOULD BE PAID INTO THESE NEW ACCOUNTS. THESE ACCOUNTS WOULD BE REGISTERED WITH AND MONITORED BY NATIONAL AUTHORITIES. FRY IMPORTS WOULD BE PURCHASED USING FUNDS IN THESE NEW ACCOUNTS OR WITH CASH AVAILABLE TO FRY ENTITIES. EXTENSIONS OF CREDIT, LOANS, TRADE FINANCING, INVESTMENTS IN THE FRY AND OTHER TRANSFERS TO THE FRY OR TO FRY ENTITIES WOULD REMAIN PROHIBITED. (LETTERS OF CREDIT SECURED WITH FUNDS IN THE NEW ACCOUNTS COULD BE OPENED.)

FUNDS AND OTHER ASSETS NOW REQUIRED TO BE FROZEN WOULD REMAIN SO AND WOULD NOT BE RELEASED FOR ANY PURPOSE. FUNDS COULD NOT BE RELEASED FOR HUMANITARIAN PURCHASES BECAUSE SUCH PURCHASES COULD BE MADE THROUGH THE TRADE FINANCING ARRANGEMENTS OUTLINED ABOVE.

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DEMANDENT AUX PARTIES DE SE RENDRE SANS DELAI  
A L'INVITATION DE LORD OWEN ET DE M.  
STOLTENBERG./.



To: The Contact Group Through: Ambassador De Sedouy  
From: The Co-Chairmen  
Date: 5 May 1995

The Co-Chairmen have been alerted by the Mission Coordinator to a difficult situation which is building up at the Sremska Raca border crossing which is where the road from Bijeljina to Belgrade crosses the border. He says that

"... at the Sremska Raca border crossing point about 100 lorries said to be carrying livestock, timber and vegetables and other similar products are seeking the permission of the authorities to cross from Bosnia-Herzegovina into the Federal Republic of Yugoslavia destined mainly Vukovar. The full details of the number of lorries and their loads are not known at this time.

I have made it quite explicit to the FRY authorities that we cannot act at variance with the provision of Resolutions of the Security Council and that I would not be in a position to authorise the passage of the lorries from Sremska Raca into the FRY. I fully appreciate how sensitive the situation is but I feel that I am not in a position to authorise such a transit. I have asked the FRY authorities to request the "RSK" authorities in Knin to stop any further lorries from leaving UNPA zones."

As Co-Chairmen we feel that you should know urgently about the situation as it clearly affects your discussions. It is claimed that these lorries would normally have gone along the Zagreb-Belgrade highway into the eastern sector but in the present military situation they feel unable to use this route and this is why they are trying to reach the eastern sector by crossing the BiH - FRY border. It is of course possible that this traffic would have found its way to the FRY through the eastern sector anyhow. The question is whether the Security Council should recognise the present situation as an emergency and authorise the passage of these lorries immediately under an escort of FRY police accompanied by ICFY vehicles to ensure that they do go back into the eastern sector.

The UK chargé in Belgrade has just discussed this very issue with President Milosevic who describes the situation as "dire". He fears violent incidents between the customs officers and the lorry drivers particularly those with perishable goods or live animals.

President Milosevic has asked the Co-Chairmen to authorise this traffic in the belief that it is within our authority to do so. We would like the authority of the Governments of the Contact Group countries in the Security Council to authorise it, provided President Milosevic agrees to an escort of FRY police for a convoy of vehicles to the eastern sector accompanied by ICFY vehicles and subject to an agreed restriction on the number of lorries and the category of goods that they can carry for the period of the emergency, with a full report being made to the Security Council about this emergency traffic.

We should also warn you that the Croatian Government who have been supplying oil to the Croatian Serbs do not feel it possible to do this in the present situation. This is almost certain to produce demands from President Milosevic's critics that he should allow lorries with oil from the eastern sector to use the Sremska Raca border crossing. The Co-Chairmen would recommend that the Contact Group countries urge the Croatian Government to renew the supply of similar quantities of oil as happened prior to the conflict breaking out.

1/5

INTERNATIONAL CONFERENCE  
ON THE FORMER YUGOSLAVIA

TO: Mr. Th. Stoltenberg  
Lord Owen

cc: Mr. B. Rancharan Fax No.: (41-22) 917-0079

FROM: P.C. Szasz

DATE: London, 3 May 1995

SUBJECT: BH Contact Group Meeting in London, 3 May

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1. The BH Contact Group met at ambassadorial/expert level at the FCO in London from 10:00 to 15:00. Each of the delegations, except for the Russian one, was reinforced by sanctions and economic experts; Russia was only represented by an observer from the Embassy. A list of the participants is attached.

2. The agenda is attached. The conclusions reached and/or a summary of the relevant discussion appears under the following headings, corresponding to items on the agenda.

1. Sanctions Relief

3. Generally, little agreement was achieved on this item or its sub-items. The alignment was Germany-USA against France-UK, with the Russian observer never commenting. Decision was therefore postponed to next Friday's meeting (see para. 25 below), with Ehrman making a plea that all participants give serious thought as to how compromises could be reached.

a) Elements of Lifting  
e) Review Mechanism

4. Germany & USA opposed including any "lift" element, holding that suspension suffices. France & UK considered that it was psychologically important for Milosevic to provide for some lifting; there should, however, be an agreement that no permanent member would veto a reimposition of a lifted sanction.

5. UK suggested that as to suspension, it not be limited to a specified number of days, but be sine die, subject to automatic reimposition under the current mechanism: 5 days after SG reports to Security Council that Bosnian/FRY border is no longer sealed.



b) Definition of Strategic Trade Items

6. UK considers that the exception from any sanctions relief should be limited to the strategic items listed in the EU Action Plan (in effect, petroleum products, coal and strategic metals), rather than to the longer list in para. 9 of S/RES/787. To exclude further items would in effect limit FRY's trade to only one of the 7 categories it had been engaged in: export of fruits and vegetables, since all other categories would require at least some imports of other items on the 787 list.

7. USA objected to broad relief, not primarily because of the direct effect of permitting trade in the additional items, but because such trade would make more difficult the monitoring of sanctions -- i.e., the more trade that was permitted, the greater the volume of cross-border traffic, which complicates controls.

8. There was some debate as to whether a definitive decision as to which list to use had been reached last June in Moscow. Steiner pointed out that although it had been agreed there to use the EU list, the context of that decision had been different: it related to Track A, then under consideration.

c) Financial Sanctions

d) Trade Start-up Funds/Frozen Assets

9. It was generally agreed that, except as suggested below, the accounts now frozen should remain frozen (perhaps consolidated into a few accounts to be held by UN or by Bank for International Settlements), while new accounts should be established for any post-sanctions-relief trading and be registered with Sanctions Committee.

10. The UK proposed, with French support, that in order to permit the FRY to start up its trade, it be allowed to use about US\$1.2 billion in frozen assets (corresponding to about 2 months worth of the 1990 trade of Serbia and Montenegro).

11. Germany and USA responded that: (i) they saw no reason why the international community need assist the FRY in re-starting its trade; (ii) there were enough funds around, especially in private hands, that there should be no difficulty in finding start-up funds. The UK objected that (a) there was no mechanism for transferring these private funds into trading accounts; and (b) technically such funds should have been frozen, so that allowing them to be brought into play now would in effect condone an illegality. USA & Germany thought that this could be solved by including appropriate dates specifying authorized transactions in the Security Council resolution. There was some discussion on whether the "Libyan model" would be appropriate. Steiner expressed the fear that complicated control rules would benefit mainly Mafia-like operators.



15. In the ensuing discussion a large measure of consensus was achieved, though to some extent at the cost of precision. Aside from the questions covered directly by the agenda sub-items, the following points were taken up:

- (i) Possible transfer of Mission to UN auspices, which the BH government would apparently prefer. Though Hill seemed to suggest that USA might consider this favourably, they saw that it would complicate financing. No one else appeared to support a shift.
- (ii) It was suggested that name be changed to "International Border Control Mission". No decision.
- (iii) It appeared to be generally agreed that there should be a new Head of Mission. No reasons were indicated.

#### a) Size of Mission

16. The USA suggested a Mission size of about 500; the UK preferred 400. Germany suggested agreeing on 400-500. It was finally agreed that 400 be specified.

17. However, it was also agreed that, as Pellnas had suggested, air surveillance be left largely to UNPROFOR. (In that connection I raised the question of how the Head of Mission would be able to report on the overall situation -- see d) below -- if information as to air surveillance came exclusively from UNPROFOR; however, this was not deemed a problem.) In this connection it was suggested that this might allow some reduction of Mission size below 400 -- but the feeling was that that number should be specified as a goal, but need not be attained if operationally not necessary.

#### b) Finance

18. It was generally agreed that the increased financing would have to be provided, but no specific pledges or mechanisms were made or discussed. Presumably it was understood that the present ratios would roughly be maintained. Steiner stated that unless the USA and Japan made firm pledges, Germany would be unable to do so; the USA delegation gave somewhat evasive explanations, pointing to formal and political difficulties, but promised to see what could be done.

#### c) Equipment

19. No serious discussion of Pellnas's proposals -- though it appeared to be agreed that proposed helicopters were not necessary/feasible.



12. The financial experts present were asked to meet separately to see if they could resolve the technical aspects of that UK objection, especially the identification of blocked and unblocked funds. They did not report back, so were apparently unable to agree on a solution.

## 2. Border Regime

13. At the start of the discussion, the Co-Chairmen's letter to the Contract Group was distributed and noted. However, there was no explicit discussion, or indication of urgent pledges.

14. General Pellnas introduced the item by referring to a report he had given Steiner in February; however, no copies were distributed. He suggested:

- (a) Total force of Mission about 400-450;
- (b) Should have use of at least some helicopters with excellent photographic and night-flying capabilities. On questioning later he admitted: that this would be very expensive; that there was a possibility that flights of Mission helicopters would confuse monitoring; and the FRY unlikely to agree.
- (c) Radar surveillance against unauthorized flights (particularly helicopters) be provided. Could perhaps be done by monitoring the FRY radar -- which he suggested UNPROFOR could do under a 1992 Nambiar-Panic agreement.
- (d) As to deployment, about half of Mission force should be at border, to provide 24-hour surveillance as far as possible. There should also be a permanent presence at all FRY airfields, especially military ones (admitting that helicopters can readily land anywhere), and military installations, especially those close to border.
- (e) The expanded Mission would need an additional 60 4WD vehicles.
- (f) There should be better cooperation with UNPROFOR. NATO could also do more.
- (g) Adequate financing must be available and certain.
- (h) Head of Mission needs secure communications -- perhaps could be provided through local embassies.
- (i) He would be prepared to assist in negotiating expansion of Mission.

After a brief discussion aimed primarily at clarifying some of his proposals, Pellnas withdrew.

(b) Paris Meeting

25. It was agreed that the next meeting of the Contact Group would meet at Political Director level, in Paris, at noon on Friday, the 5th, at the Avenue Kléber Conference Centre. Meeting would continue, through a working lunch, as long as necessary and feasible.

26. I have arranged to attend this meeting.

(c) Ministerial Meeting

27. It was agreed that there should be a Ministerial meeting soon, to approve the conclusions to be reached in Paris. As to the date, it was agreed that it would be impractical to hold it at the margins of the celebratory summit scheduled for Moscow, because that would be too soon to allow adequate preparation and there was danger that the meeting would get lost among the larger events.



d) Reporting Mechanism

20. This was one point on which there was disagreement, and I was asked specifically to report to the Co-Chairmen. It is a matter whose resolution was postponed to Friday's meeting.

21. Germany and USA consider (apparently as does the Bosnian Government) that the Head of Mission should report directly to the UN Secretary-General, who should pass his reports directly to the Security Council. This would avoid introducing any accusation of political interference in what should be merely a technical matter.

22. France and UK consider that the present method be maintained of having the Co-Chairmen prepare the official report. de Sedouy suggested that this method might be particularly useful if governments wished to introduce into the process information that came from their secret services; he also pointed out that it had been the Co-Chairmen who had negotiated the arrangement with Milosevic.

Other Matters

(a) Contact Group "Recognition" Proposals

23. There was a brief discussion of the Proposals paper, on the basis of the reactions that had been received from Milosevic and from the BH government, including a relatively recent contact between Sacerby and Steiner. In general it was agreed:

- (a) In 2nd paragraph, the Contact Group should refer to the Republic of Bosnia and Herzegovina.
- (b) Though it was understood that Izetbegovic objected to "Republica Srpska" it was decided that, to demonstrate even-handedness, that name would have to be maintained (Hill briefly proposed "Serb Republic"), but that both it, and "Federation of Bosnia and Herzegovina" should be put in quotation marks.
- (c) It was agreed that deadlines for the start and completion of the negotiating process be maintained, but without any suggestion that if these dates were not met this would give a license to renew hostilities.

24. British undertook to prepare a new draft for the Paris meeting.

PROPOSED AGENDA

1. Sanctions relief
  - a) Elements of lifting
  - b) Definition of strategic trade items
  - c) Financial sanctions
  - d) Trade start-up funds/frozen assets
  - e) Review mechanism
  
2. Border Regime
  - a) Size of mission
  - b) Finance
  - c) Equipment
  - d) Reporting mechanism



Name

ardine Hall

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icqu Alain de SEDOU

oland GALTARAGUE

ne CATCHPOLE

TONY GAMMON

William Etkin

llan Charlton

THN Morrison

PAUL SZASZ

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Richard Stiner

duard STAUDT

JOSEPH WEISS

Michael Kalinin

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deric Baron

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Ministry of Foreign Affairs PARIS

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HIM Treasury 270 4452

BANK OF ENGLAND 601 4631

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Foreign and Commonwealth Office

Department of Trade & Industry  
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F.C. - Bonn, Economics Department

German CG-Member

Deutsche Bundesbank, Legal Dep.

GERMAN EMBASSY

Russian Embassy

U.S. Treasury / 202-622-2440  
WASHINGTON

Coordinator, Serbian Sanctions Task Force, U.S. Dept. of State  
202/647-9117

Director, Office of South Central Europe  
European Bureau Dept of State  
202/647-0608

1/5

INTERNATIONAL CONFERENCE  
ON THE FORMER YUGOSLAVIA

TO: Mr. Th. Stoltenberg  
Lord Owen

cc: Mr. B. Rancharan Fax No.: (41-22) 917-0079

FROM: P.C. Szasz

DATE: London, 3 May 1995

SUBJECT: BH Contact Group Meeting in London, 3 May

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1. The BH Contact Group met at ambassadorial/expert level at the FCO in London from 10:00 to 15:00. Each of the delegations, except for the Russian one, was reinforced by sanctions and economic experts; Russia was only represented by an observer from the Embassy. A list of the participants is attached.

2. The agenda is attached. The conclusions reached and/or a summary of the relevant discussion appears under the following headings, corresponding to items on the agenda.

1. Sanctions Relief

3. Generally, little agreement was achieved on this item or its sub-items. The alignment was Germany-USA against France-UK, with the Russian observer never commenting. Decision was therefore postponed to next Friday's meeting (see para. 25 below), with Ehrman making a plea that all participants give serious thought as to how compromises could be reached.

a) Elements of Lifting  
e) Review Mechanism

4. Germany & USA opposed including any "lift" element, holding that suspension suffices. France & UK considered that it was psychologically important for Milosevic to provide for some lifting; there should, however, be an agreement that no permanent member would veto a reimposition of a lifted sanction.

5. UK suggested that as to suspension, it not be limited to a specified number of days, but be sine die, subject to automatic reimposition under the current mechanism: 5 days after SG reports to Security Council that Bosnian/FRY border is no longer sealed.



b) Definition of Strategic Trade Items

6. UK considers that the exception from any sanctions relief should be limited to the strategic items listed in the EU Action Plan (in effect, petroleum products, coal and strategic metals), rather than to the longer list in para. 9 of S/RES/787. To exclude further items would in effect limit FRY's trade to only one of the 7 categories it had been engaged in: export of fruits and vegetables, since all other categories would require at least some imports of other items on the 787 list.

7. USA objected to broad relief, not primarily because of the direct effect of permitting trade in the additional items, but because such trade would make more difficult the monitoring of sanctions -- i.e., the more trade that was permitted, the greater the volume of cross-border traffic, which complicates controls.

8. There was some debate as to whether a definitive decision as to which list to use had been reached last June in Moscow. Steiner pointed out that although it had been agreed there to use the EU list, the context of that decision had been different: it related to Track A, then under consideration.

c) Financial Sanctions

d) Trade Start-up Funds/Frozen Assets

9. It was generally agreed that, except as suggested below, the accounts now frozen should remain frozen (perhaps consolidated into a few accounts to be held by UN or by Bank for International Settlements), while new accounts should be established for any post-sanctions-relief trading and be registered with Sanctions Committee.

10. The UK proposed, with French support, that in order to permit the FRY to start up its trade, it be allowed to use about US\$1.2 billion in frozen assets (corresponding to about 2 months worth of the 1990 trade of Serbia and Montenegro).

11. Germany and USA responded that: (i) they saw no reason why the international community need assist the FRY in re-starting its trade; (ii) there were enough funds around, especially in private hands, that there should be no difficulty in finding start-up funds. The UK objected that (a) there was no mechanism for transferring these private funds into trading accounts; and (b) technically such funds should have been frozen, so that allowing them to be brought into play now would in effect condone an illegality. USA & Germany thought that this could be solved by including appropriate dates specifying authorized transactions in the Security Council resolution. There was some discussion on whether the "Libyan model" would be appropriate. Steiner expressed the fear that complicated control rules would benefit mainly Mafia-like operators.



12. The financial experts present were asked to meet separately to see if they could resolve the technical aspects of that UK objection, especially the identification of blocked and unblocked funds. They did not report back, so were apparently unable to agree on a solution.

## 2. Border Regime

13. At the start of the discussion, the Co-Chairmen's letter to the Contract Group was distributed and noted. However, there was no explicit discussion, or indication of urgent pledges.

14. General Pellnas introduced the item by referring to a report he had given Steiner in February; however, no copies were distributed. He suggested:

- (a) Total force of Mission about 400-450;
- (b) Should have use of at least some helicopters with excellent photographic and night-flying capabilities. On questioning later he admitted: that this would be very expensive; that there was a possibility that flights of Mission helicopters would confuse monitoring; and the FRY unlikely to agree.
- (c) Radar surveillance against unauthorized flights (particularly helicopters) be provided. Could perhaps be done by monitoring the FRY radar -- which he suggested UNPROFOR could do under a 1992 Nambiar-Panic agreement.
- (d) As to deployment, about half of Mission force should be at border, to provide 24-hour surveillance as far as possible. There should also be a permanent presence at all FRY airfields, especially military ones (admitting that helicopters can readily land anywhere), and military installations, especially those close to border.
- (e) The expanded Mission would need an additional 60 4WD vehicles.
- (f) There should be better cooperation with UNPROFOR. NATO could also do more.
- (g) Adequate financing must be available and certain.
- (h) Head of Mission needs secure communications -- perhaps could be provided through local embassies.
- (i) He would be prepared to assist in negotiating expansion of Mission.

After a brief discussion aimed primarily at clarifying some of his proposals, Pellnas withdrew.



15. In the ensuing discussion a large measure of consensus was achieved, though to some extent at the cost of precision. Aside from the questions covered directly by the agenda sub-items, the following points were taken up:

- (i) Possible transfer of Mission to UN auspices, which the BH government would apparently prefer. Though Hill seemed to suggest that USA might consider this favourably, they saw that it would complicate financing. No one else appeared to support a shift.
- (ii) It was suggested that name be changed to "International Border Control Mission". No decision.
- (iii) It appeared to be generally agreed that there should be a new Head of Mission. No reasons were indicated.

a) Size of Mission

16. The USA suggested a Mission size of about 500; the UK preferred 400. Germany suggested agreeing on 400-500. It was finally agreed that 400 be specified.

17. However, it was also agreed that, as Pellnas had suggested, air surveillance be left largely to UNPROFOR. (In that connection I raised the question of how the Head of Mission would be able to report on the overall situation -- see d) below -- if information as to air surveillance came exclusively from UNPROFOR; however, this was not deemed a problem.) In this connection it was suggested that this might allow some reduction of Mission size below 400 -- but the feeling was that that number should be specified as a goal, but need not be attained if operationally not necessary.

b) Finance

18. It was generally agreed that the increased financing would have to be provided, but no specific pledges or mechanisms were made or discussed. Presumably it was understood that the present ratios would roughly be maintained. Steiner stated that unless the USA and Japan made firm pledges, Germany would be unable to do so; the USA delegation gave somewhat evasive explanations, pointing to formal and political difficulties, but promised to see what could be done.

c) Equipment

19. No serious discussion of Pellnas's proposals -- though it appeared to be agreed that proposed helicopters were not necessary/feasible.

d) Reporting Mechanism

20. This was one point on which there was disagreement, and I was asked specifically to report to the Co-Chairmen. It is a matter whose resolution was postponed to Friday's meeting.

21. Germany and USA consider (apparently as does the Bosnian Government) that the Head of Mission should report directly to the UN Secretary-General, who should pass his reports directly to the Security Council. This would avoid introducing any accusation of political interference in what should be merely a technical matter.

22. France and UK consider that the present method be maintained of having the Co-Chairmen prepare the official report. de Sedouy suggested that this method might be particularly useful if governments wished to introduce into the process information that came from their secret services; he also pointed out that it had been the Co-Chairmen who had negotiated the arrangement with Milosevic.

Other Matters

(a) Contact Group "Recognition" Proposals

23. There was a brief discussion of the Proposals paper, on the basis of the reactions that had been received from Milosevic and from the BH government, including a relatively recent contact between Sacerby and Steiner. In general it was agreed:

- (a) In 2nd paragraph, the Contact Group should refer to the Republic of Bosnia and Herzegovina.
- (b) Though it was understood that Izetbegovic objected to "Republica Srpska" it was decided that, to demonstrate even-handedness, that name would have to be maintained (Hill briefly proposed "Serb Republic"), but that both it, and "Federation of Bosnia and Herzegovina" should be put in quotation marks.
- (c) It was agreed that deadlines for the start and completion of the negotiating process be maintained, but without any suggestion that if these dates were not met this would give a license to renew hostilities.

24. British undertook to prepare a new draft for the Paris meeting.



(b) Paris Meeting

25. It was agreed that the next meeting of the Contact Group would meet at Political Director level, in Paris, at noon on Friday, the 5th, at the Avenue Kléber Conference Centre. Meeting would continue, through a working lunch, as long as necessary and feasible.

26. I have arranged to attend this meeting.

(c) Ministerial Meeting

27. It was agreed that there should be a Ministerial meeting soon, to approve the conclusions to be reached in Paris. As to the date, it was agreed that it would be impractical to hold it at the margins of the celebratory summit scheduled for Moscow, because that would be too soon to allow adequate preparation and there was danger that the meeting would get lost among the larger events.

Name

ardine Hall

huice DREISKI

regan Alain de SEDOUR

oland GALTARAGUE

ne CATCHPOLE

TONY GAMMON

William Etkin

llan Charlton

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Coordinator, Serbian Sanctions Task Force, U.S. Dept. of State  
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Director, Office of South Central Europe  
European Bureau Dept of State  
202/647-0608



**PROPOSED AGENDA**

1. Sanctions relief
  - a) Elements of lifting
  - b) Definition of strategic trade items
  - c) Financial sanctions
  - d) Trade start-up funds/frozen assets
  - e) Review mechanism
2. Border Regime
  - a) Size of mission
  - b) Finance
  - c) Equipment
  - d) Reporting mechanism

## FOREIGN AND COMMONWEALTH OFFICE

## EASTERN ADRIATIC UNIT

BR → TS

CLASSIFICATION: CONFIDENTIAL/RESTRICTED/UNCLASSIFIED

DATE: 21 April 1995

THIS TRANSMISSION CONSISTS OF two PAGES PLUS LEADER

FOR THE ATTENTION OF	FAX NUMBER
(i) Lord Owen London	538 4004
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FROM	Michael O'Neill EASTERN ADRIATIC UNIT ROOM W96 KING CHARLES STREET LONDON SW1A 2AH	TEL: 071 270 1485 FAX: 071 270 1415
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## MESSAGE

Laila - please forward to Mr Stoltenberg

In the event of incomplete transmission call 071 270 2109



FM PESC/PRES/COREU  
TO COREU ALL IMMEDIATE

PESC/PRES/COREU ...

SUBJECT: COYUG: CONTACT GROUP MEETING WITH GANIC, 20 APRIL

== POUR INFORMATION ==

AT THE REQUEST OF LORD OWEN'S OFFICE THE PRESIDENCY CIRCULATES THE FOLLOWING RECORD OF CONTACT GROUP TALKS IN VIENNA ON 20 APRIL, INCLUDING A MEETING WITH VICE-PRESIDENT GANIC AND AMB. SACIRBEY

== DEBUT DE CITATION ==

1. The Contact Group met Ganic and Sacirbey in Vienna on 20 April. The Group reported on its talks in Belgrade and Zagreb on 11-12 April, and on subsequent indications of a more positive attitude from Milosevic towards FRY recognition of Bosnia. Ganic endorsed the Contact Group's approach, while voicing scepticism about the prospects for success. The Contact Group subsequently agreed it would meet again as soon as possible to refine detailed aspects of its proposals prior to further contact with Milosevic.

#### DETAIL

2. Before meeting Vice-President Ganic and Ambassador Sacirbey, the Group discussed fresh indications from Milosevic of a more positive attitude towards FRY recognition of Bosnia. It appeared that on reflection he would no longer limit recognition to that of a future Union envisaged in the Contact Group plan, and understood that lifting of sanctions was impossible. The Group agreed that Milosevic's new position seemed to represent an important advance, but it would be necessary to confirm for sure that FRY recognition of Bosnia would be unambiguous and with immediate effect.

3. The Group then briefed Ganic and Sacirbey in detail on its meetings in Belgrade and Zagreb the previous week (PESC/PRES/PAR 975 of 13 April), and on subsequent signals of a more forthcoming approach on Milosevic's part, concluding that there seemed to be progress, which in the Group's view warranted further exploration.

4. In response Ganic and Sacirbey set out the principal concerns of the Bosnian Government in the peace process, including the need to respect Bosnia's sovereignty and territorial integrity; the importance of facilitating the return home of displaced persons; and that peace negotiations must not drag on indefinitely. Ganic underlined the risk of a freezing of the status quo on the ground if the cessation of hostilities were extended without significant political progress. He continued that, while diplomacy backed by force would be ideal, the current Contact Group approach, focussed on Belgrade, correctly recognised the fundamental causes of the crisis in Bosnia. He agreed that some progress had been made with Belgrade and, though still sceptical of the prospects for success, he would therefore not object to further Contact Group exploration of its proposals with Milosevic. It must however be certain that FRY recognition of Bosnia would be clear and unconditional, and sanctions relief should be limited to suspension rather than lift.



5. The Group agreed on the need for clarity over the precise form of negotiation, and confirmed that only partial sanctions relief would be available to the FRY for recognition of Bosnia alone. The Group added that, in addition to FRY recognition of Bosnia, maintenance of the FRY/Bosnia border closure would represent a continuing condition for sanctions relief for the FRY.

6. On other points, members of the Group expressed strong concern over recent attacks on UNPROFOR troops in Bosnia. Canic suggested such incidents could be avoided by the complete demilitarisation of Sarajevo, as the Bosnian Government favoured. Sacirbey referred to discussions in New York on the roll-over of existing sanctions suspension for the FRY, commenting that such a roll-over should be agreed, but for less than the current 100-day period.

7. After the meeting with Canic and Sacirbey the Group had a short discussion of next steps. The Group agreed to meet again as soon as possible to refine the details of its proposals, including on possible sanctions relief, prior to further contacts with Milosevic to clarify the exact terms of FRY recognition of Bosnia. [It was agreed that the importance and sensitivity of the next steps might warrant a meeting at Ministerial level at some point.]

[Addendum - for Co-Chairmen only]

- Both the terms and the alacrity of Canic and Sacirbey's comments strongly suggested they had already been briefed on the proposals, and on Milosevic's response, before the meeting with the Group.

- There was a series of difficult comments on such matters as use of the term "Republika Srpska", and the references to "Bosnia..." rather than "Republic of Bosnia...", in the Contact Group paper. They wanted the Group to set a timelimit for peace negotiations. They opposed any RS/FRY confederal links, but could accept the Contact Group phraseology of "parallel special relationships".

- Steiner dealt (helpfully) with all this by saying (i) several of the Bosnian concerns were effectively covered by other bits of the paper; (ii) on the rest, we do not live in an ideal world. Canic then set out the more positive general response in para 4 above. Nonetheless it remains to be seen (eg from today's Frasure/Steiner trip to Sarajevo) whether the Bosnian Government will accept this. (Steiner, unlike Frasure, did not tell the Group about his trip.)

- De Sedouy was outspoken on the question of attacks on French troops, and the real possibility of French withdrawal following.

- Within the Contact Group, the US and Germany are particularly clear that there must be a full stop not a colon after "borders" in the proposed sentence covering FRY recognition of Bosnia. In other words the sentence/act of recognition must be free-standing.

- France, UK and Russia can agree to lift the sanctions currently suspended, and suspend the rest bar strategic trade. Germany and the US, however, seem likely to oppose any element of lift at all.

- As of now (Friday evening) prospects for a Ministerial on 27 April are unclear. Christopher is said to be wavering but, more importantly, Kinkel apparently has significant diary problems.



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# INTERNATIONAL CONFERENCE ON THE FORMER YUGOSLAVIA

Palais des Nations, 1211 Geneva 10



FAX

Page 1 of 3

To: Intercontinental Hotel, Zagreb

Fax No: 385 41 444 431

Attn: **Mr Bertie Ramcharan**

From:  Ann-Marie

Date: 29 March 1995

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Attached, as requested, are the relevant paragraphs (55 onwards) on the establishment of the Contact Group from the July 1994 report.

Best regards.



52. In the circumstances, it was agreed that the parties should consult bilaterally and should also have discussions with the special envoys of the Russian Federation and the United States of America. In the light of those further consultation, the Co-Chairmen would assess the situation with a view to inviting the parties back to Geneva for further talks.

53. Subsequently, the Bosnian Muslims and the Bosnian Croats held discussions in Vienna and Washington, D.C., and on 1 March, the following agreements were signed by Dr. Silajdzic, Prime Minister of the Republic of Bosnia and Herzegovina, Dr. Granic, Deputy Prime Minister and Minister for Foreign Affairs of the Republic of Croatia, and Mr. Zubak, Head of the Bosnian Croat delegation (S/1994/255):

(a) Framework Agreement establishing a Federation in the Areas of the Republic of Bosnia and Herzegovina with a Majority Bosniac and Croat Population;

(b) Outline of a Preliminary Agreement for a Confederation between the Republic of Croatia and the Federation.

54. After further negotiations between the same delegations in Vienna and Washington, the "Constitution of the Federation of Bosnia and Herzegovina" was signed in Washington on 18 March. The Constitution provides that:

"Bosniacs and Croats, as constituent peoples (along with others) and citizens of the Republic of Bosnia and Herzegovina, in the exercise of their sovereign rights, transform the international structure of the territories with a majority of Bosniac and Croat population in the Republic of Bosnia and Herzegovina into a Federation, which is composed of federal units with equal rights and responsibilities."

It further provides that:

"The decisions on the constitutional status of the territories of the Republic of Bosnia and Herzegovina with a majority of Serb population shall be made in the course of negotiations towards a peaceful settlement and at the International Conference on the Former Yugoslavia."

The constitution of the Federation was subsequently approved by the Assembly of the Republic of Bosnia and Herzegovina, acting as the Constituent Assembly of the Federation; consequently, the Constitution entered into force. Follow-up agreements were signed at Vienna on 11 May.

55. With a view to facilitating further negotiations among the parties to the conflict in Bosnia and Herzegovina, consultations were undertaken on the establishment of a Contact Group that would work together with the parties to help bring about a comprehensive settlement. The Contact Group, as eventually established, consists of representatives of the Russian Federation and the United States of America and designees from the International Conference on the Former Yugoslavia, representing both the United Nations and the European Union. The Conference designees are representatives from France, Germany and the United Kingdom of Great Britain and Northern Ireland, as well as a legal adviser from the secretariat of the International Conference on the Former Yugoslavia. The

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3/3

Contact Group held its first round of discussions with representatives of the parties on 25 and 26 May. Since then, it has met on its own and has also had further contacts with the parties.

56. The members of the Contact Group have been guided by the past work done within the International Conference on the Former Yugoslavia, by the European Union Action Plan and by the communiqué issued by the Foreign Ministers of Belgium, France, Germany, Greece, the Russian Federation, the United Kingdom and the United States, who met at Geneva on 13 May (see S/1994/579, annex). The Co-Chairmen of the Steering Committee had an exchange of views with the Foreign Ministers on that occasion.

57. The Contact Group has thus far concentrated on the preparation of a map for the allocation of territory on the basis of 51 per cent for the Bosniac-Croat Federation and 49 per cent for the Bosnian Serbs; discussion of future constitutional arrangements; and the development of incentives and disincentives to encourage acceptance of a peace package and to discourage rejection thereof.

58. The Foreign Ministers of France, Germany, Greece, the Russian Federation, the United Kingdom and the United States met at Geneva on 5 July and considered recommendations of the Contact Group. The Ministers welcomed the territorial proposal developed by the Contact Group and directed it to present the proposal to the representatives of the Bosnian Government and the Bosnian Serbs. The Ministers strongly supported the territorial proposal "as a reasonable basis for an immediate political settlement". The Ministers considered that the proposal "represents an important moment of opportunity, which may not come again". They said they were united in the belief that the war could be ended now and that the consequences of failing to do so would be grave.

59. The territorial proposals of the Contact Group, together with indications of incentives and disincentives, were communicated to delegations of the Bosnian Government and the Bosnian Serbs on 6 July at Geneva. They have been asked to give their response within two weeks.

60. The Ministers indicated that there were important incentives for the parties to accept the proposed map. They said that for the Bosnian Government they were ready to assist in the implementation of a territorial settlement and to help with reconstruction, and that for the Serbs, sanctions would be suspended geared to their pullback to the lines indicated on the map.

61. The Ministers further indicated that if the parties did not agree they could expect more pressure to be applied. In particular, existing Security Council resolutions concerning safe areas would be rigorously enforced. They said that the necessary planning was being undertaken. The Ministers added that as a last resort, a decision in the Security Council to lift the arms embargo could become unavoidable and that would have consequences for the presence of UNPROFOR.

62. The Ministers called upon the parties to observe and prolong the cease-fire and to refrain from military action.

63. The Ministers agreed to meet again before the end of July.

/...





# INTERNATIONAL CONFERENCE ON THE FORMER YUGOSLAVIA

Palais des Nations, 1211 Geneva 10



## Office of the Co-Chairmen

To: Foreign Minister Juppé  
Paris

From: Lord Owen

Date: 29 March 1995

Subject: Contact Group: Proposal to put to Belgrade, Sarajevo and Zagreb

1. Stoltenberg and I hope you will consider consulting other Contact Group Foreign Ministers about para 3 in the UK draft before formally adopting it. If para 3 and para 4 are adopted as currently drafted, we fear it will compound the present stalemate that has lasted since the Contact Group plan was presented to the Bosnian Serbs in July 1994.

2. I put to you, as France holds the EU Presidency, a memo on Friday 24 March following our talk at Zvornik with Karadzic, Krajisnik, Koljevic and Buha. Mr Stoltenberg simultaneously informed the UN Secretary-General. Our memo contained a political option for breaking the present negotiating stalemate. Namely, to insist that the FRY keeps sanctions on the Bosnian Serbs during any negotiations, while accepting that they would no longer be required to agree the wording "on the basis of acceptance by both sides of the Contact Group plan" and instead agree "on the basis of the Contact Group plan as a starting point to a comprehensive peace settlement". As you know, following my conversation with Ambassador de Sedouy I gave this political option to the US member of the Contact Group, Mr Frasure, and also informed the British. I was told by the British that they were informed before the Contact Group meeting by Mr Frasure that our suggested political option was not acceptable in Washington. The British therefore decided not to put this matter on to the agenda and it was not discussed in London on Monday. Mr Stoltenberg and I accepted that decision with some regret but nevertheless we understand the Contact Group has to operate on the basis of consensus.

3 We have now read the proposed para 3 in the British paper. We are in favour of sanctions continuing while the Bosnian Serbs refuse to agree the language of para 4 but to insert para 3 as presently drafted would mean that you were in effect removing the main incentive that exists on the Bosnian Serbs to agree to the unchanged language of para 4. The FRY decision of the 4 August 1994 was:

"By its rejection of peace, the leadership of the Republic of Srpska has committed the gravest act directed against the FRY Serbian and Montenegrin peoples and all citizens living in this area.

Therefore, the Federal Government decided to:

- sever political and economic relations with the Republic of Srpska;
- ban the stay of the members of the leadership of the Republic of Srpska (Assembly, Presidency, Government) in the territory of the FY of Yugoslavia; and
- as of today close the border of the FR of Yugoslavia with the Republic of Srpska for all transports except food, clothing and medicine".

4. It may be that President Milosevic would accept para 3 and para 4 given the nature of his personal grudge match with Dr Karadzic. But is it wise for the Contact Group to tie itself even more to the "one club" strategy of relying on Milosevic to deliver the Bosnian Serbs to the negotiating table? Stoltenberg and I would prefer still to keep sanctions through the negotiations and take the wording which Karadzic would accept. But if that remains unacceptable we are both surprised and concerned that there could be any question of reducing our leverage such as it is on Dr Karadzic to return to the negotiating table at the earliest opportunity.

5. As to the thrust of the main paper, we assume it is to be the basis for a Paris meeting between all three Presidents which we still believe would be of value itself and for the bi-laterals that would take place in the margins. Unfortunately, we do not believe that para 2 as drafted would be acceptable to President Milosevic and see little point in putting forward a draft which if rejected will only sour the atmosphere at a time when we need his support with Knin for the new UN presence in Croatia.

6. We would suggest that para 7 should become para 2 and the old para 2 should become para 3 and should be changed so as to read:

3. "There should be early mutual recognition between the Federal Republic of Yugoslavia and Bosnia and Herzegovina. The Federal Republic of Yugoslavia should recognise Bosnia and Herzegovina, composed of two entities - the Federation of Bosnia and Herzegovina and the Republika Srpska - the Union of which accords with the Contact Group plan, as a state within its internationally recognised borders."



INTERNATIONAL CONFERENCE  
ON THE FORMER YUGOSLAVIA

TO: Mr. Th. Stoltenberg  
Lord Owen

cc: Mr. B. Ramcharan

FROM: P.C. Szasz

DATE: Germantown, 1 March 1995

SUBJECT: Reconstitution of the ICFY Arbitration Commission

Set to who  
BGR informed  
of caters

1. On 27 January 1993 the then Co-Chairmen of the ICFY Steering Committee promulgated revised "Composition and Terms of Reference of the Arbitration Commission of the International Conference on the Former Yugoslavia" (copy attached hereto). On 19 February 1993 they announced to the Steering Committee the following composition of the Commission (see also attached copy of original announcement):

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Roman HERZOG, President of the Constitutional Court of Germany;

Elizabeth PALM, Judge of the European Court of Human Rights (Swedish);

Jose Maria RUDA, former President of the International Court of Justice (Argentine).

2. Since that announcement:

- (a) Badinter has just retired from the French Constitutional Court; he told me that he is going to Geneva as a French member of the Panel of Conciliators and Arbitrators of the new Court of Conciliation and Arbitration of the Organization for Security and Cooperation in Europe (successor to the CSCE) and is likely to become the President of that Court.
- (b) Casavola was replaced already some time ago, and his successor has also now been replaced.
- (c) Herzog left the German Constitutional Court last year to become President of Germany.

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SUBJECT: Developments concerning the Federation of Bosnia and Herzegovina: Appointment of an Arbitrator

1. Further to my memorandum of 17 February on this subject, I have just learned from a Legal Officer of the US State Department that apparently the proposed appointment of Roberts B. Owen as the single Arbitrator foreseen in para. 1 of the Munich agreement concerning the Federation of Bosnia and Herzegovina, has not yet been confirmed by Secretary Christopher, allegedly because President Izetbegovic has expressed preference for the appointment of a German.

2. Apparently a way is now being sought to appoint two arbitrators -- which of course would require changing the Munich agreement, which clearly specifies a single arbitrator. Also, the use of two arbitrators is generally not considered desirable because of the possibility of disagreement between them, for which reason the normal number is an odd one, such as three.

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- (d) Palm is, as far as I know, still on the European Court of Human Rights
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Consequently, at this time at most one of the designated Commission members is still in place.

3. In light of this, the Co-Chairmen would seem to have the following alternatives courses of action:

- (a) As there is no present or immediately foreseeable business for the Arbitration Commission, to let matters rest until an occasion arises to revive it;
- (b) Reconstitute the Commission by:
  - (i) As to the 3 members from European constitutional courts, either assume:
    - (A) That the designation of countries at the end of para. 1(a) of the "Composition ..." paper still applies and merely notify the incumbent Presidents of the three constitutional courts that they are ipso facto members of the ICFY Commission;
    - (B) Ask the EU Council of Ministers to consider making new designation of countries;
  - (ii) As to the member appointed under para. 1(b) of the "Composition ..." paper, ask the President of the ICJ to make a new designation; the ICJ Registrar recently told me that the President is in any event considering doing so;
- (c) Follow a suggestion that Badinter made to me a few days ago at a conference in New York, and which he is likely to make to you at the next opportunity, to replace the existing Commission by a reference to the new OSCE Court in Geneva. Personally I would have serious concerns about such a course of action because: (i) The continuation of the former Arbitration Commission (of the Carrington Conference) was decided by the London Conference, and it is not clear that the Steering Committee Co-Chairmen have the authority to make such a radical change; (ii) to the extent that the present Commission has a certain authority derived from the alleged consent of the parties derived from their participation in the London Conference, that would be dissipated by such a radical change; (iii) as the OSCE "Court" really just consists of a number of national panels, the members of which may, if chosen, sit on particular conciliations and arbitrations referred to the Court, it is not clear what would be meant by

transferring the functions of the existing ICFY Arbitration Commission to the OSCE Court -- though probably some procedure could be worked out; (iv) although the Serbs, who are greatly opposed to the existing Commission, might welcome the change, the other Yugoslav parties might not -- and even the Serbs might be put off if they learn that the new Court is likely to be headed by Badinter (though he would not necessarily be a member of the panel dealing with the Yugoslav questions).

4. I would appreciate learning of your decision on this. If any but course 3(a) is chosen, I can then prepare the necessary correspondence, etc.



19 February 1993

NOTE TO THE STEERING COMMITTEE

RECONSTITUTION OF THE ARBITRATION COMMISSION

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2. Pursuant to sub-paragraphs 1(b) and 1(c) of that new instrument, we invited the Presidents of the International Court of Justice and of the European Court of Human Rights to make the designations required by those provisions. In the light of the responses we received, the Arbitration Commission is now composed as follows (in alphabetical order):

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Cyrus Vance

David Owen

27 January 1993

COMPOSITION AND TERMS OF REFERENCE  
OF THE ARBITRATION COMMISSION OF THE  
INTERNATIONAL CONFERENCE ON THE FORMER YUGOSLAVIA

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  - (b) One member designated by the President of the International Court of Justice from among former members of the Court or persons possessing the qualifications required by Article 2 of the Statute of the Court;
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No two members are to have the same nationality. Each member is to serve as long as he or she holds the office on the basis of which the designation was made.

2. Whenever the Arbitration Commission is engaged in a contentious proceeding, each of the contending parties may appoint an ad hoc member to the Commission, who must either be incumbent members of Constitutional Courts or highest courts existing in member States of the Conference on Security and Cooperation in Europe or have the qualification specified in sub-paragraph 1(b) or 1(c) above.
3. The Arbitration Commission shall be competent to:
  - (a) Decide, with binding force for the parties concerned, any dispute submitted to it by the parties thereto upon authorization by the Co-Chairmen of the Steering Committee of the Conference;
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4. The Arbitration Commission shall establish rules of procedure.

Cyrus Vance

David Owen



INTERNATIONAL CONFERENCE  
ON THE FORMER YUGOSLAVIA

TO: Mr. Th. Stoltenberg  
Lord Owen

cc: Mr. B. Ramcharan

FROM: P.C. Szasz

DATE: Germantown, 1 March 1995

SUBJECT: Developments concerning the Federation of Bosnia and Herzegovina: Appointment of an Arbitrator

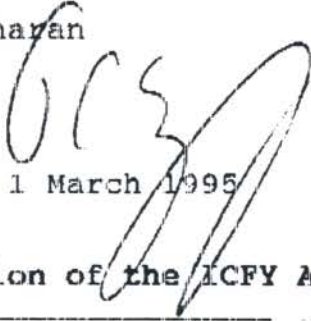
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27 January 1993

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The Arbitration Commission shall establish rules of procedure.

Cyrus Vance

David Owen

6/6  
19 February 1993

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Cyrus Vance

David Owen



28/02 '95 12:39  
20/02 '95 13:21

0041 177 364  
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When NATO began to police the No Fly Zone at around **3/93** they tried to stop helicopter flights as well as the flying of fixed wing aircraft. Whereas under the voluntary agreement fixed wing flying stopped, helicopter flying began to build up and NATO aircraft, despite taking action to force down some helicopters, soon found that helicopter violations continued regardless of their actions. There have been in total ~~some 36.85 thousand~~ violations since **4/92**. ~~These are broken down between . . . . for fixed wing and . . . . for helicopters.~~ The ~~helicopter~~ violations are broken down as follows: **14**... % for the Croats....., **31**...% for the Bosniacs and **48**...% for the Serbs: **7% unknown**

TOTAL UP TO 26 FEB

TOTAL 3936	- Breakdown	BSA	1813
		BIK	1295
		HVO	549
		UNK	279

CH = 14  
BM = 32 33  
BSA = 46  
7

INTERNATIONAL CONFERENCE  
ON THE FORMER YUGOSLAVIA

TO: Mr. Th. Stoltenberg  
Lord Owen

cc: Mr. B. Ramcharan

FROM: P.C. Szasz

DATE: Germantown, 17 February 1995

SUBJECT: Developments concerning the Federation of Bosnia and Herzegovina: Appointment of an Arbitrator

1. Further to paragraph 2 of my note on this subject of 6 February, I have just learned that it is all but certain that Secretary Christopher will appoint Roberts B. Owen, Esq., the Legal Adviser to the US State Department under Mr. Vance and now a senior partner in the Washington law firm of Covington & Burling, as the single Arbitrator foreseen in para. 1 of the Munich agreement concerning the Federation of Bosnia and Herzegovina.

2. I have just had a long conversation with Mr. Owen, briefing him on the formulation of the Federation Constitution and relevant events since then, including the prospects of arriving at a Union agreement between the Federation and the Republika Srpska. We agreed to stay in touch. I understand that it is likely that he will be visiting Sarajevo next week.

- \* \* \* -

3. As you know, I have arranged to attend the next Contact Group Meeting, scheduled to take place in Paris at 11:00 on Tuesday, the 21st. As it does not appear likely that there will be any immediately subsequent meeting, I am planning to return to NYC on the 22nd.

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**REPORT OF CONTACT GROUP MEETING, PARIS, 14 FEBRUARY**

1. THE CONTACT GROUP MET IN PARIS ON 14 FEBRUARY TO CONSIDER THE PROSPECTS FOR A RENEWED PEACE EFFORT, BASED ON THE CONCEPT OF MUTUAL RECOGNITION. DISCUSSION REVEALED EMERGING CONSENSUS ON KEY ELEMENTS OF SUCH AN APPROACH, WHILE DEMONSTRATING THAT SOME ASPECTS NEEDED TO BE ELABORATED. IT WAS AGREED THAT THE GROUP WOULD MEET AGAIN IN PARIS ON 21 FEBRUARY AFTER FURTHER EXPLORATION OF THESE POINTS.

**DETAIL**

2. THE CONTACT GROUP MET IN PARIS ON 14 FEBRUARY TO FOLLOW UP THE 5 FEBRUARY DISCUSSION IN MUNICH, AND THE FURTHER TALKS THE NEXT DAY AMONG EU FOREIGN MINISTERS, ON A POSSIBLE TRIPARTITE MEETING BETWEEN THE PRESIDENTS OF BOSNIA, CROATIA AND FR Yugoslavia, WHICH BY PROMOTING MUTUAL RECOGNITION COULD OPEN THE WAY FOR AN INTERNATIONAL PEACE CONFERENCE FOR FORMER YUGOSLAVIA.

3. THERE WAS AGREEMENT AMONG THE GROUP ON THE GREAT URGENCY OF THE CURRENT SITUATION, BEARING IN MIND IN PARTICULAR CROATIA'S POSITION ON RENEWAL OF UNPROFOR'S MANDATE, AND THE EXPIRY AFTER 30 APRIL OF THE CESSATION OF HOSTILITIES AGREEMENT IN BOSNIA. IT WAS AGREED THAT, IN TANDEM WITH MUTUAL RECOGNITION AND WIDER STEPS TOWARDS PEACE, NEW PROGRESS MUST BE SOUGHT ON BOTH THESE POINTS AT THE PROPOSED TRIPARTITE MEETING. THE NEXT SIX WEEKS WERE THEREFORE CRITICAL. BUT CAREFUL PREPARATION OF THE MEETING WOULD BE ESSENTIAL TO MAXIMISE THE CHANCES OF SUCCESS. IT WAS NOTED THAT RECENT PUBLIC STATEMENTS FROM PALESTINE SUGGESTED THE LEADERSHIP THERE WAS BEGINNING TO FEEL UNDER SOME PRESSURE.

4. ON FUNDAMENTAL REQUIREMENTS FOR THE MEETING, IT WAS FURTHER AGREED THAT RECOGNITION OF SUCCESSOR REPUBLICS WITHIN THEIR INTERNATIONALLY RECOGNISED BORDERS WOULD BE ESSENTIAL. THE FR Yugoslavia SHOULD BE EXPECTED TO SUPPORT THE PEACE PROCESSES IN BOTH BOSNIA AND CROATIA, ON THE BASIS OF THE RESPECTIVE PEACE PLANS ALREADY PRESENTED, AND TO MAINTAIN CLOSURE OF ITS BORDERS. THE GROUP AGREED THAT IN RETURN FOR SUCH MAJOR STEPS SUSPENSION OF ALL SANCTIONS AGAINST THE FR Yugoslavia WOULD BE APPROPRIATE. THE US REPRESENTATIVE SUGGESTED SUCH SUSPENSION SHOULD BE ON A SIMILAR EXTENDABLE BASIS AS ALREADY APPLIED IN UNSCRS 943 AND 970. EU MEMBERS OF THE GROUP RECALLED THE PROVISIONS OF THE EU ACTION PLAN, IN PARTICULAR THAT, AS WELL AS UN SANCTIONS, ADDITIONAL LEVERAGE EXISTED TO ENCOURAGE CONTINUED CONSTRUCTIVE BEHAVIOUR BY THE FR Yugoslavia IN THE FORM OF THE FR Yugoslavia'S FUTURE RELATIONS WITH THE UN, EU, OSCE AND THE INTERNATIONAL FINANCIAL INSTITUTIONS.

5. IN FURTHER DISCUSSION CONCERN WAS EXPRESSED OVER REPORTS OF HELICOPTER FLIGHTS IN EASTERN BOSNIA. THE GROUP AGREED ON THE IMPORTANCE OF ENSURING THE EFFECTIVE MONITORING OF BORDERS. THIS COULD BE PROMOTED BY REINFORCEMENT OF THE ICIFY MISSION. IT WAS NOTED THAT THE POSSIBILITY OF MUTUAL ASSISTANCE BETWEEN KRAJINA AND BOSNIAN SERBS POSED PARTICULAR DIFFICULTIES.

6. THE US REPRESENTATIVE SUGGESTED THAT, SHOULD THE CURRENT APPROACH NOT SUCCEED, FURTHER ATTENTION SHOULD BE GIVEN TO POSSIBLE COERCITIVE MEASURES SUCH AS THOSE DISCUSSED IN THE



MEETING HELD AT MINISTERIAL LEVEL IN GENEVA ON 30 JULY 1994.

7. THE GROUP AGREED THAT, WHILE CONSENSUS WAS EMERGING ON THE BROAD LINES OF A RENEWED PEACE EFFORT, FURTHER CONSIDERATION WAS NEEDED OF SUCH ELEMENTS AS MODALITIES FOR SUSPENSION OF SANCTIONS, AND POSSIBLE NEW REQUIREMENTS FOR BORDER MONITORING. IT WAS AGREED THAT THE GROUP WOULD MEET AGAIN IN PARIS ON 21 FEBRUARY AFTER FURTHER EXPLORATION OF THESE MATTERS.

=== FIN DE CITATION ===

[Addendum - for Co-Chairmen only]

i. Zotov was reticent on formal agreement to the wider approach. This would be difficult since it would imply a change in Russia's position over many months with Milosevic (ie that sanctions were imposed because of developments in Bosnia, and suspension would not therefore be linked with the situation in Croatia). But Zotov implied that Russia would in practice be able to come on board. He indicated that Kozyrev might go to Belgrade shortly.

ii. On the US non-paper, Frasure was flexible on the duration of sanctions suspension and on the "several hundred more" figure for border monitors (5th tiret). He readily accepted the view of all other members of the Group that the final tiret would be counter-productive, but the Group agreed that RSK/RS links posed a real problem. On the 7th tiret, the Group agreed on the need to be flexible on the Z4 Plan. Ehrman noted the UNPA East complication.

iii. Steiner was if anything even more insistent than Frasure on a clear linkage between additional border monitors and sanctions suspension. Ehrman, Sedouy and Zotov opposed this linkage.

iv. Steiner and Frasure were clear that heavy pressure should be applied on Tudjman over allowing a continued UNPROFOR presence.

v. Steiner said Germany continued to fear a Croatia/FRY deal at Bosnia's expense. He reported that Izetbegovic and Silajdzic had indicated to him their readiness, in the context of mutual recognition, to extend the cessation of hostilities agreement and to make some sort of statement on Bosnian Serb rights (extensive autonomy, dual-citizenship, parallel special relationships etc).



US NON-PAPER, 14.11

-- THAT MILOSEVIC'S RECOGNITION OF CROATIA, BOSNIA, MACEDONIA AND SLOVENIA IN THEIR INTERNATIONALLY RECOGNIZED BORDERS BE GENUINE AND UNEQUIVOCAL;

-- THAT SANCTIONS BE SUSPENDED FOR 2-MONTH PERIODS, WITH A POSITIVE VOTE BY THE UN SECURITY COUNCIL REQUIRED TO RENEW EACH TIME;

-- THAT THE SANCTIONS ENFORCEMENT REGIME AGAINST THE FRY REMAIN IN PLACE, SO THAT SANCTIONS CAN BE REIMPOSED ON SHORT NOTICE;

-- THAT THE "OUTER WALL" OF SANCTIONS BE KEPT IN PLACE, I.E. MEASURES GOING BEYOND UNSC RESOLUTIONS: NO ASSISTANCE FROM THE IFIS OR THE EU; NO GRANTING OF A UN SEAT TO THE FRY; AND NO READMISSION TO OSCE (FOR OUR PART, WE WOULD NOT RECOGNIZE THE FRY AT THIS TIME);

-- THAT THERE BE A SIGNIFICANT TOUGHENING UP OF THE MONITORING REGIME ON THE BOSNIA/SERBIA AND CROATIA/SERBIA BORDERS, INCLUDING SEVERAL HUNDRED MORE MONITORS PLUS EQUIPMENT SUCH AS RADARS TO HELP DEAL WITH THE HELICOPTER PROBLEM;

-- THAT THERE MUST BE CONTINUED FIRM ADHERENCE BY MILOSEVIC TO THE CONTACT GROUP PLAN FOR BOSNIA;

-- THAT MILOSEVIC MUST ENDORSE THE PRINCIPLES IN THE ZAGREB-4 PEACE PLAN FOR CROATIA, I.E. THE REINTEGRATION OF THE OCCUPIED AREAS UNDER CROATIAN SOVEREIGNTY, WITH AUTONOMY FOR HISTORICALLY SERB-MAJORITY AREAS; AND

-- THAT NOTHING BE DONE IN ANY WAY THAT AFFECTS THE COMMITMENT TO THE WAR CRIMES TRIBUNAL.

-- THAT WE REQUIRE TUDJMAN'S AGREEING TO AN EXTENSION OF THE VITAL FUNCTIONS OF UNPROFOR;

-- THAT THE SANCTIONS RELIEF NOT GO INTO EFFECT UNTIL AFTER THE INTER-SERBIAN BORDER IS MORE TIGHTLY CLOSED AND THE EUROPEANS HAVE DEPLOYED ADDITIONAL MONITORS REQUIRED; AND

-- THAT WE SECURE FROM TUDJMAN HIS AGREEMENT TO TERMINATE ECONOMIC RELATIONS WITH THE KRAJINA SERBS SINCE THIS COULD UNDERMINE THE EFFECTS OF MILOSEVIC'S CUT-OFF OF SUPPORT TO THE KRAJINA AND PERMIT THE BOSNIAN SERBS TO RECEIVE SUPPORT THROUGH THE BACK DOOR.

INTERNATIONAL CONFERENCE  
ON THE FORMER YUGOSLAVIA

TO: Mr. Th. Stoltenberg  
Lord Owen

cc: Mr. B. Ramcharan

FROM: P.C. Szasz

DATE: Germantown, 6 February 1995

SUBJECT: Developments concerning the Federation of Bosnia and Herzegovina

1. Attached is a report that I just received from Ambassador Thomas on last weekend's meeting in Munich about the Federation of Bosnia and Herzegovina.

2. Ambassador Thomas told me, in respect of the final sentence of point 1, that he expected the parties would approach the United States for a person to appoint the sole international arbitrator.

3. Wednesday afternoon I will be meeting at the US Mission in New York with a Mr. Brierly, an assistant of Ambassador Thomas who is working especially on the Federation.

-\*-\*-\*

I am scheduled to be traveling in California from about 10-15 February. On the 14th I have been asked to give a lecture in San Diego on the general subject of the "Legal Aspects of Current Ethnic Conflicts in Former Yugoslavia".

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final version

## Munich Meeting on the Federation

### Remarks by the Chairman

We have just concluded an excellent meeting, convened by the United States at the request of the Federation of Bosnia-Herzegovina and including the participation by the Contact Group members, designed to strengthen the Federation. The participants included Federation President Zubak, Vice President Ganic and Prime Minister Silajdzic as well as Croatian Foreign Minister Granic and the Defense Minister Susak.

The Federation was created almost one year ago as a new beginning in the search for peace, reconciliation and stability throughout the region. Its Constitution and the related agreements must be fully implemented.

The participants today identified a number of key issues to be resolved: barriers to transportation and communication in the Federation need to be removed, financing needs to be ensured, unified border controls, customs, and police established, the problem of rotation of the Federal presidency resolved, Federal cantons formed, and a joint staff established as a step to an integrated military. The participants agreed to resolve these in the next two months. The nations of the Contact Group, and the broader international community, will seek to ensure that this is accomplished.

The Federation plays a critical role in the Contact Group plan. I am particularly pleased that this meeting follows on the heels of an important Contact Group meeting at which the participants expressed strong support for, and commitment to the Federation. In particular the work of the EU in Mostar and elsewhere is of enormous importance for the Federation.

We are taking further initiatives designed to enhance the long term perspective of the Federation, including:

#### *Nine-Point Plan To Support the Federation:*

1. An international arbitrator shall be appointed who will decide all matters referred to him by either side to advance implementation of the Washington Agreement, the Vienna Agreement and the Federation. The arbitrator shall decide on the basis of the Washington Agreement, the Vienna Agreement, the Federation Constitution and equitable principles. His decisions will be binding on all parties. The arbitrator shall be appointed by a person selected by mutual agreement of the parties.

2. We will form a standing commission in Sarajevo to oversee and monitor the development of the Federation. A timetable will be designed to provide priorities and specific dates for accomplishments.
3. We will send in constitutional experts to assist in developing institutional arrangements.
4. We will focus governments and international organizations on the issue of return of displaced persons as key to the viability of the Federation.
5. We will offer to send international mediation teams to help in dealing with differences in specific communities.
6. We will propose that these teams work with EU officials in Mostar and explore expanded cooperation with the EU in other areas.
7. We will propose institutionalized consultations every six months to review Federation development and problems.
8. We will review assistance programs to assure that we respond more promptly to real needs and ameliorate community tensions.
9. We will conduct training seminars for Federation officials in the area of public administration.

We will be asking our friends in the United Nations to consider joining us in these initiatives.

In addition, the U.S. will provide a retired senior U.S. military officer to assist in the integration of Federation military institutions.

By initiating today's gathering, and by their attendance, the participants have demonstrated their commitment to the Federation. We all agreed that a democratic, multi-ethnic Federation is essential to a successful outcome of the peace process. It is also an essential element of the new Europe, one in which ethnic diversity can flourish and again contribute to the stability and prosperity of the continent.

For centuries, Bosnians enjoyed ethnic coexistence; it is what most Bosnians want today. Those who seek other directions can expect no aid from the Contact Group and the broader international community. Conversely, those who help build a truly multi-ethnic Federation can expect a strong and sympathetic response.



PCSzasz, 3 February 1995

ACCOUNT OF THE DEVELOPMENT OF PROPOSALS CONCERNING THE  
CONSTITUTION OF BOSNIA AND HERZEGOVINA

I. INTRODUCTION

A. Existing Constitution

1. The existing Constitution of the Republic of Bosnia and Herzegovina derives by several amendments from the "Constitution of the Socialist Republic of Bosnia and Herzegovina" promulgated on 25 February 1974. By 31 July 1990, 80 amendments to that instrument had entered into force; in spite of many requests, ICFY has not received the texts of any later amendments (including those providing for the establishment of the existing independent republic), except for a Constitutional Law adopted on 30 June 1994 that has the effect of amending the BH Constitution to take into account the establishment (on 30 March 1994) of the Federation of Bosnia and Herzegovina.<sup>1</sup>

2. During the exercise of preparing a new Constitution for BH it appears never to have been suggested that the new Constitution should take the form of a series of amendments to the existing Constitution. However, the BH Government has from time to time insisted that any new Constitution must formally be adopted by the procedures set out in the existing Constitution -- which procedures have also been changed since 1974 -- in order to preserve the continued legitimacy of the state. This requirement, which is not acceptable at all to the Bosnian Serbs, has not been mentioned lately but has probably not been formally abandoned.

B. The Carrington Draft concerning Yugoslavia

1. On 4/5 November 1991 the EC Peace ("Carrington") Conference for Yugoslavia prepared a text titled "Treaty provisions for the Convention"<sup>2</sup>, which would have reconstituted the SFRY as a looser federal state. This proposal was in principle accepted by five of the Yugoslav Republics, but not by Serbia. Though the subsequent recognition of the independence of several of these Republics put an end to that exercise, Chapter II of that text: "Human Rights and Rights of Ethnic and National Groups" continues to inspire the various efforts to establish new constitutional

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<sup>1</sup> ICFY has had prepared an English translation of the basic SRBH Constitution (in 145 pages) and of the first 80 amendments (over 80 pages). Each amendment changes one or more provisions of the Constitution; as far as we know, no consolidated text incorporating all these amendments exists, either in English or in Serbo-Croatian.

<sup>2</sup> S/23169, Annex VII.

structures designed to resolve the conflicts in former Yugoslavia, and in particular the extensive human rights provisions that appear in the several texts referred to in Section II below.

### C. Constitutional Options Paper

1. Soon after the establishment of ICFY, the Co-Chairmen of the Steering Committee (hereinafter the "ICFY Co-Chairs") considered the range of constitutional options available for BH:

1. A fully centralized state with minor local functions assigned to a number (10-20) communes whose boundaries would be determined on other than ethnic lines. [BH Government = Muslim draft.]
2. A federal state with significant functions carried by 4-10 "constituent units" whose boundaries would take into account ethnic and other considerations (likelihood that most would have a significant majority of one of the ethnic groups, and all would have significant minorities of the others). [Present apparent position of ICFY.]
3. A loose federal state of three ethnically determined "constituent units". [18 March 1992 "agreed" draft.]
4. A loose federation of three ethnically determined states with significant or possibly even total independence in the foreign relations and defence fields and basically merely co-operative arrangements in most economic ones. [BH Serb draft.]
5. A "rump" Muslim state (possibly with boundaries drawn somewhat more generously than under the federation model), with the Serbs either becoming an integral part of Serbia/Yugoslavia or part of a federal unit of that state, and the Croats becoming a part of Croatia. [Probable real aim of the Serbs and Croats.]

2. As will be shown, all the earlier and later proposals for constitutional solutions can be fitted into one of the these slots or into areas between these.



## II. CHRONOLOGICAL LIST OF PROPOSALS

### A. Cutileiro Draft: 18 March 1992 Statement of Principles

1. On 18 March 1992 in the 5th "round of talks on future constitutional arrangements for Bosnia and Herzegovina" carried out under the auspices of the Carrington Conference, between the leaders of the SDA, SDS and HDZ parties under the chairmanship of Ambassador J. Cutileiro of Portugal, a 3-page "Statement of Principles for new constitutional arrangements for Bosnia and Herzegovina" were agreed to at Sarajevo.<sup>3</sup> At the 6th round, in Brussels on 30-31 March, a 4-paragraph addition on "Human Rights" was also agreed to.<sup>4</sup> Though informally accepted (apparently nothing was signed), the Statement of Principles was reputedly denounced by Izetbegovic on his return to Sarajevo from the Brussels meetings at the end of March.

2. Under these Principles (generally referred to as the Cutileiro draft), BH would have become a loose federal state of three constituent units (Option 3 above), with limited but still important competencies for the central government; many decisions would have required an 80% majority in a Chamber of Constituent Units in which each constituent unit would have been equally represented, thus giving a veto to each of them.

3. A sketch map of the proposed boundaries of the constituent units was attached to the Principles, showing something of a patchwork of Muslim, Serb and Croat territories. On 31 March 1992 it was agreed that a working group headed by an EC representative would meet promptly and present its recommendations by 15 May 1992 as to the territories of the constituent units; the group was apparently to take as the basis of its work the above-mentioned sketch with amendments thereto having to be justified by specified criteria. I don't know if the working group ever met; it certainly never presented its report, the war having broken out meanwhile.

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<sup>3</sup> Although the Statement of Principles was never referred to by the Security Council, it several times endorsed the talks -- e.g., in the Presidential Statement of 24 April 1992 (S/23842) and in paragraph 2 of resolutions 752 of 15 May 1992 and para. 20 of resolution 757 of 30 May 1992.

<sup>4</sup> Apparently none of these texts were reproduced in UN documents or other citeable publications.



B. July 1992 Elements for a new Constitution  
for Bosnia and Herzegovina

1. ICFY files contain a 13-page paper with the above title, probably from the files of the late Henry Darwin, with a manuscript annotation: "Given to Serbs, Croats. The Muslims took it but returned it to us the next day." This appears to be an attempt to expand the March 1992 Principles somewhat. It has apparently never since been referred to by any of the parties.

C. Precursor to Vance/Owen Plan

1. After considering the above-mentioned option paper (see para. I.C.1), the ICFY Co-Chairs decided that Option 5 fell outside of their mandate as it would not preserve the "territorial integrity" of BH (as required by the London Conference), and that neither Option 3 or 4 was likely to result in a stable arrangement; consequently, Option 2 was explored further. Accordingly an 11-page (plus Appendix) "Proposed Constitutional Structure for Bosnia and Herzegovina" was prepared, which was presented to the Security Council at the end of October 1992<sup>5</sup>, the next day to the ICFY Steering Committee and then to the parties.

2. The latter in general declined to comment in detail on that text, each asserting that without seeing a map of the proposed 7-10 "autonomous provinces" they could not give serious consideration to any constitutional arrangements. At some meetings of the BH Working Group (always conducted separately with each of the parties) the Muslims posed detailed questions, mostly concerning the distribution of competencies; the Serbs considered the entire proposal basically unacceptable as creating far too tight a state; and the Croats proposed some amendments to the decision-making procedures so as to assure themselves of extensive veto rights.

D. Vance/Owen Plan:  
Constitutional Principles for Bosnia and Herzegovina

1. On 2 January 1993 the ICFY Co-Chairs presented in Geneva to the first joint meeting of the Bosnian parties (plus the Presidents of FRY, Serbia, Montenegro and Croatia) the first two elements of the Vance/Owen Plan (VOP), then consisting of a map showing 10 Provinces, and a set of 10 "Constitutional Principles

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<sup>5</sup> S/24795, Annex VII; it was soon endorsed by para. 1 of SC resolution 787 of 16 November 1992.



for Bosnia and Herzegovina"<sup>6</sup>; a few days later the Bosnian Serbs responded with an 8-Principle list<sup>7</sup>. By the time the VOP was fully developed by end-March, it consisted of:

- (a) 9 Constitutional Principles;<sup>8</sup>
- (b) A slightly revised version of the 2 January map;
- (c) A military agreement;
- (d) An agreement on interim arrangements.

2. The Bosnian Croats (for whom the proposed map was very favourable) immediately accepted each of these proposed instruments and later variants. The Muslims reluctantly accepted all the instruments by end-March in New York.<sup>9</sup> Finally Karadzic signed on 2 May in Athens, subject to ratification by the Pale Assembly<sup>10</sup> -- but immediately announced he would oppose approval. Some days later the Assembly did turn down the VOP, and this refusal was two weeks later confirmed by a referendum.

3. The Constitutional Principles were derived directly from the Constitutional Structures Proposal (para. II.C.1 above), but were far less detailed. The 9 Principles in the final version, resulted from the combination into Principle (1) of the final set of original Principles (1) and (4), without any substantive change.

#### E. The Owen/Stoltenberg, "Invincible Package"

1. Some weeks after the collapse of the VOP, the Serbs and Croats informally presented to the ICFY Co-Chairs a revised set of "Constitutional Principles" that were along the lines of

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<sup>6</sup> S/25050, Annex V, Article II.

<sup>7</sup> S/25100, Appendix II.

<sup>8</sup> S/25479, Annex II, Article I; the same list already appeared in S/25100, Appendix III.

<sup>9</sup> The Security Council welcomed these signatures and in effect endorsed the VOP in its Presidential Statement of 25 March 1993 (S/25471); later it did so explicitly in para. 1 of resolution 820 of 17 April 1993 and again in para. 2 of resolution 836 of 4 June 1993.

<sup>10</sup> Welcomed by SC Presidential Statements to the press on 3 and 7 May 1993.



Option 4. The Co-Chairs, however, decided to depart from the idea of developing a set of principles which necessarily could not be detailed enough to elicit sufficiently definitive reactions, and instead presented to the parties, at renewed trilateral talks commencing on 27 July 1993 in Geneva, a draft "Constitution of the Union of Bosnia and Herzegovina", which by 30 July had been tentatively agreed to as the "Constitutional Agreement of the Union of Bosnia and Herzegovina"<sup>11</sup>. This draft represented an Option 3 approach, and thus constituted a compromise between the VOP and the Serb/Croat proposals mentioned above.

2. The Constitutional Agreement, with relatively minor changes, eventually became Appendix I to the proposed "Agreement on Bosnia and Herzegovina" that was the central instrument of the "Invincible Package".<sup>12</sup> Though most of the provisions directly relevant to constitutional arrangements were set out in that Appendix I, the principal Agreement and parts of six other Appendices (many of which had their own annexes) also set out provisions relevant to constitutional matters; for example, a mechanism for dissolving the Union appears in Article V(b) of the over-all Agreement as supplemented by Appendix V (which set out the 16 September Muslim/Serb Agreement).

3. Although in principle the verbal portions of the Invincible Package were all agreed to on 20 September on the carrier, in practice acceptance of the Package as a whole depended on agreement on the full package -- including the proposed territorial division. This the Muslims (i.e., the BH Government) refused, as they were only offered 30% and insisted on at least 33 1/3%; this refusal was later confirmed by the BH Assembly.

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<sup>11</sup> S/26260, Appendix I; S/26395/Add.1, Appendix I. The Security Council never specifically endorsed this draft, though it noted this report and urged the parties to continue negotiations under the ICFY Co-Chairs with a view to reaching an early agreement (para. 1 of resolution 859 of 24 August 1993).

<sup>12</sup> The "Invincible Package" itself never appeared in any Security Council documents. Largely it followed the texts that had been set out at the end of August in S/26395/Add.1, and in particular the Constitutional Agreement was only lightly changed subsequently. The constitutional changes that were negotiated after the joint meetings ended early in August appear mostly in the over-all Agreement Relating to Bosnia and Herzegovina, to which the Constitutional Agreement was Appendix I. For some additional texts included in the Invincible Package, see S/26486.



4. The Invincible Plan, in effect, again became the subject of negotiations from late November 1993 to 15 January 1994, consequent on an EU initiative to offer the Serbs some easing of sanctions in return for increasing the Muslim territorial share to 33 1/3%.<sup>13</sup> On the Constitution the only item that was reopened, principally between the Muslims and the Croats, was the dissolution provision (see end of para. 2 above) and its territorial consequences; no final text of this provision was ever agreed to, either between these parties or with the Serbs.

F. The Constitution of the Federation of  
Bosnia and Herzegovina

1. At a meeting in Bonn on 11-12 January 1994, President Tudjman presented to President Izetbegovic a rough plan for the establishment within BH of a Muslim/Croat entity and the confederation of the latter with the Republic of Croatia. Although at that time Izetbegovic showed no interest, this proposal was revived in the negotiations between the BH Government (now denominated as representing the "Bosniacs") and both the Bosnian Croats (Herzeg-Bosna) and the Republic of Croatia that took place under US auspices in Washington and Vienna from 27 February to 18 March 1994.

2. The Federation Constitution that emerged is in effect an Option 2 construct, albeit for only two of the three Bosnian entities;<sup>14</sup> as did the VOP (which required the creation of 10 "provinces"), the Federation required the creation of 8 "cantons" based largely on ethnic lines rather than on any historical or current administrative units. That Constitution entered into force on its approval by the BH Assembly, acting in its capacity as the Constituent Assembly of the Federation, on 30 March 1994;

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<sup>13</sup> S/26922.

<sup>14</sup> A Preliminary Framework Agreement for the Federation, signed on 1 March 1994, is set out in Attachment 1 to an Enclosure to S/1994/255, while Attachment 2 sets out a similar text in respect of the proposed Federation/Republic of Croatia confederation. The final text of the Proposed Constitution of the Federation of Bosnia and Herzegovina and of the Preliminary Agreement regarding the Establishment of a Confederation Between the Federation of Bosnia and Herzegovina and the Republic of Croatia, both signed on 18 March 1994, are not set out in any Security Council document; they are reproduced in the May 1994 issue of International Legal Materials, respectively on pp. 742-781 and 611-618.



it has already been amended once, on 23 June<sup>15</sup> -- but a further amendment, to extend the transitional period that ended on 30 September 1994 (before which all the permanent organs should have been established) has not yet been adopted. Meanwhile, on 30 June 1994, the Republic of BH Constitution (see para. I.A.1 above) was amended to take account of the establishment of the Federation encompassing a large part of the territory of BH.

G. Constitutional Agreement for a Union  
of Bosnia and Herzegovina

1. Although the Federation Constitution in principle contains an invitation for the Serbs to join, that invitation was understood not to have been serious (for one thing, it would have required a complete restructuring of the Federation Constitution, which reflects solely a Bosniac/Croat balance) and no-one thought that the Serbs would accept. Instead, it was understood from the beginning that agreements would have to be reached with the Bosnian Serbs concerning:

- (a) A territorial division of BH between the Federation and the Serb entity;
- (b) A constitutional arrangement concerning the interaction between the Federation and the Serb entity.

2. At the time of signature of the Federation Agreement, I prepared for the ICFY Co-Chairs the first draft of an agreement for a "Union of Bosnia and Herzegovina". The starting point of that draft was the draft Constitutional Agreement in the Invincible Package, though the new text was designed considerably looser in order to make it possibly acceptable to the Bosnian Serbs. It may thus be considered to be something of an Option 3 1/3 exercise.

3. At meetings of the Contact Group in early May I was asked to further "lighten" or "loosen" the draft Union Constitution -- i.e. to move it still further towards Option 4. Then, at the Talloires session of the Contact Group with the parties, I gave, at the request of the Group and of the parties, a brief oral description of the latest draft of a possible Union Constitution. Thereupon I was asked to prepare immediately a brief "elements paper" setting out these proposals without too much detail, and after review by the Group this text was informally handed to both parties on 25 May as "Some Possible Elements for a Constitution

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<sup>15</sup> Ibid., pp. 781-783; p. 784 sets out the map showing the several cantons that constitute the Federation.



for Bosnia and Herzegovina". The reactions I received, privately, were:

- (a) The Bosnian Croats would insist that they be represented equally with the Bosniacs and the Serbs, in all Union organs;
- (b) The Bosnian Serbs (Buha) questioned the need for any sort of Union and in any event considered that the entirely minimal functions that would be assigned to it were still too extensive.

4. During June I prepared several more drafts of a Union Constitution, culminating in a text of 5 July. That draft also contained extensive annexes concerning an interim UN regime for Sarajevo and rules for deciding on its final division between the parties at the end of the period, as well as proposed rules governing "protected routes, protected transport centres, cross-overs and fly-overs". That draft was circulated to the members of the Contact Group.

5. On 19 July I prepared, at the request of the Contact Group, a revision of the 25 May "elements paper", taking into account some of the internal reactions to the June and 5 July drafts. The Group considered this text and decided that it (with my name attached) be passed informally to the parties after the meetings on 20 July at which these gave their responses to the Contact Group map.

6. On 20 December I prepared and distributed to the Contact Group, at the request of Lord Owen, a slight revision of the 5 July draft, which differed from that text mostly in:

- (a) Using the formal names of the two Constituent Entities;
- (b) Substituting for the direct reference to "confederation" in para. (3) of Article V.1 a compromise formula derived from para. 2 of the 2 December 1994 (Brussels) agreed Ministerial Guidelines;
- (c) Deleting the annexes relating to the governance and eventual attribution of Sarajevo and to the rules for protected routes, etc.

### III. PRINCIPAL ISSUES

1. The principal issues that must be resolved in any constitutional arrangements between the Federation of Bosnia and Herzegovina and the Republica Srpska are the following (with the

solution proposed in the 20 December 1994 draft indicated in bold):

- (a) The division of competencies between the Union and the two Constituent Entities -- **which Article I.2 of the 20 December draft allocates almost completely to the latter**, a feature that the BH Government will not like;
- (b) The structure of the organs (legislative, executive and judicial) of the Union -- whether to be based on a 1:1 distribution for the Federation and the Republica Srpska (which the Serbs favour) or on 1:1:1 for the Bosniacs, Serbs and Croats (which the latter insist on); **Articles III.1-4 of the 20 December draft adopt the 1:1:1 solution;**
- (c) The decision-making processes of the Union organs, whether, **as is currently provided in Articles III.1-2, consensus or a high majority is to be required in all organs** (which makes it easy to block any action) or whether routine decisions should require only normal majorities (as provided in the Federation Constitution);
- (d) The extent of the international relations capacity of the Constituent Entities, and in particular the right-to-confederate issue (**which is largely evaded in Article V.1(3) of the 20 December draft;**
- (e) The arrangements for dissolving the Union (the "unzipping" provision); **Article VII.3 requires the prior agreement of an Entity if the other one wishes to withdraw from the Union** (the solution favoured by the BH Government but unlikely to be accepted by the Serbs, who favour retention of the dissolution mechanism agreed to on 16 September 1993 and referred to at the end of para. II.E.2 above).



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FAX NO: 385-41 170 199	FAX: 387-71-664-088 or VSAT 7239 BH COMMAND FORWARD HEADQUARTERS OR THROUGH ZAGREB 385-41 170-199
ATTN:	SCS REF: WE/JAN/95 DRAFTER: TITLE:
INFO: HCA, ZAGREB STOLTENBERG, ICFY, GENEVA VIA HQ	
SUBJECT: MINUTES OF COORDINATION COMMITTEE MEETING HELD ON 31 JANUARY 1995	

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## MINUTES OF THE COORDINATION COMMITTEE MEETING

January 31, 1995

The meeting was called to order at 1:05 pm. The Special Coordinator welcomed the participants and in particular the numerous Ambassadors, the new-comer representative of Pakistan and Mr. Eckhart Associate-Spokesperson of the Secretary-General. The minutes of the previous Coordination Committee meeting were adopted, with the Chairman taking note of the changes provided by Ms. Maric from DRDS concerning the paragraph on water supply.

Mr. Eagleton paid tribute to Mr. Rousselot, Director of Operations who will complete his tour of duty by the end of next week, for the important contribution to the Office of the Special Coordinator and to the Coordination Committee Meetings.

Concerning access, Mr. Eagleton reported that today's talks between the parties on the opening of the airport routes are not finalised yet. The meeting, which he had attended, was dealing with the modalities of implementation of the 23 January 1995 Protocol, calling for free passage across the airport for International humanitarian Organisations by 1st of February. The parties had further agreed to include the goods under the Special Coordinator Action Plan for Sarajevo. The sticking point under discussion concerns the modalities for local Non-Governmental Organizations. The talks are not confined only to checking procedures for crossing through the airport and include a broader range of issues of common interest under the Protocol, such as release of prisoners of war, freedom of movement and freedom to choose a place of living. Mr. Eagleton noted that the opening of the blue routes for goods under the Sarajevo Action Plan would be a major step forward.

Updating the Trust Fund, Mr. Eagleton reported that the system to release funds is in place and resources are being transferred from UNNY, the bureaucratic delays having been overcome. Mr. Rousselot reviewed the Trust Fund projects listed in the attached table, reporting that projects amounting to \$ 4.395 millions (of which \$ 2.366 mil. earmarked) had been submitted for approval to UNNY. Five projects had already been approved and ten others amounting to \$ 2. 747 mil. will be submitted by next week. The project for temporary repairs of schools had just been approved as well. Mr. Rousselot said he expected these concrete results to pave the way for a smooth functioning of the Trust Fund. Responding to French Ambassador Jacolin inquiry whether bilateral projects are also listed, Mr. Rousselot said that the table reflects only projects under the Trust Fund. A comprehensive progress report on the implementation of all projects under the Action Plan

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is available and, at the request of the French Ambassador will be attached to the Agenda of the next meeting.

Mr. Eagleton noted that part of the process of releasing resources from the Trust Fund is the projects' review by the Coordination Committee. He indicated that this is the appropriate forum to raise questions and to comment on Trust Fund projects' proposals.

Reviewing the utilities situation, Major Bouchard reported that the electricity supply is steady, with very little fluctuation. Regarding the gas rate flow, he referred to the newly-adopted graphic format (see attachment) indicating the outlet pressure at the Butila valve. Ups and downs were noted during the last two weeks, depending on the cold weather and on the amounts received through Serbia. He reported that the new distribution system adopted by "Sarajevo gas" provides gas supply every 24 hours to alternative halves of the city.

Concerning the compressors in Baranjica (Serbia), the spareparts required for the repairs should be transported on February 1 from Zagreb to Belgrade. Mr. Eagleton added that the Sanctions Committee is scheduled to meet today and the approval for the transshipment of additional gas from the Russian Federation is expected to be granted.

Mr. Rousselot then asked for the reports from the Action Managers:

**WATER:** The deputy Action Manager M. Kopicic, reported that the water flow is stable and most people have water for a few hours daily.

The representative of UNICEF briefed the Committee on UNICEF's water and sanitation program, amounting to approximately \$ 3 millions under the 1993/94 budget, which were spent mostly in Sarajevo for the restoration of the water network. He mentioned the progress achieved in water supply with the installation of the remote control and telemetric system at Mojnilo reservoir, as well as works at Bacevo pumping station. He listed the material brought in the city by UNICEF last week, notably for Bacevo wells, the Alipasini Most pumping station and the water laboratory. He thanked the European Community Task Force (ECTF) and ODA for their donations.

**ELECTRICITY:** the Action Manager, J. Perreux reported a second EDF convoy of electric equipment from Electricité de France (EDF) is scheduled for early March. Unfortunately due to problems locally, the clearance for the repairs of the two main power lines Kakanj-Vogosca and Velešići-Kosevo could not be obtained.

Mrs. Nikolic, from DRDS noted that the relatively good power supply, providing all households with 100 KW/Hr monthly on a continued basis, was due to improvements in the distribution system, rather than to increased quantities or more reliable power supply. Undertaking repairs on the Kakanj-Vogosca, Velešići-Kosevo and Jablanica-Sarajevo lines remained a top priority.

The French Ambassador extended his congratulations to "Elektroprivreda" for the new power distribution system. The Ambassador had also contacted "Electricité de France" to speed up the shipment of the additional electric equipment for Sarajevo, taking advantage of the Cessation of Hostilities Agreement.

**CIVIL ENGINEERING:** Mr. Rousselot reported that the projects regarding the first emergency repairs of roads on both sides, (\$ 1.2 millions) and the Bijela bridge by pass (\$

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200.000) had been approved by UNNY. The contracts are being prepared and works are expected to start mid-March.

With regard to schools, projects for urgent repairs to educational buildings on both sides amounting to \$ 850.000, are ready for submission to UNNY.

Concerning the rehabilitation of health centres, the team of Action Manager D. Biciato has initiated the survey of seven Ambulantas and Dom Zdravlja (local clinics), in consultation with WHO and the local authorities. The project is funded by the Belgian Government and will be implemented by the Belgian Red Cross.

Mr. Rousselot introduced the subject of the restoration of the Sarajevo airport, noting that, given the deteriorated conditions of the runway, taxiway and parking, repair work should be undertaken as a matter of urgency. The average width of cracks is 5 cm. for a total length of 85.000 m., according to UNPROFOR assessment. The first step concerning the complete repair of the surface of the runway, should be carried out at the latest next May-June, to avoid the risk of limiting air traffic or closing the airport. The second step, will include works to the taxiway and the parking areas. The total cost of the project amounts to approximately \$ 16 million.

Concerning the Railway line Sarajevo-Ploce, Mr. Rousselot reported that the French Ambassador had called on the SCS, in his quality of EU Presidency representative to officially communicate that 6.65 million ECU (\$ 8.55 mil.) have been allocated by the EU for the project. Discussion on repartition of works between Member States is being initiated under SCS coordination.

Sancho Ramshorst, from the International Rescue Committee (IRC) reported on progress in the USAID funded boiler houses project, which is a long term rehabilitation project, to be implemented during the course of 1995. The procurement phase is underway and additional equipment is expected to arrive in Sarajevo within next month.

Tony James, from Overseas Development Administration (ODA) reported on technical problems in the odorisation of gas. A team of Dutch experts, funded by their Government, will arrive in Sarajevo soon to assess the gas equipment. He noted that obtaining additional gas from the Russian Federation to increase the quantities from 100.000 to 250.000 c.m. was crucial. ODA continues to assist "Sarajevo-gaz" in repairing the illegal connections.

Frank Spencer, from ODA, reported that the contract regarding the project design for the repair of the Bacevo roof should be signed tomorrow. The arrival of the equipment to Sarajevo will have to be awaited to initiate the repairs.

Mr. P. Oldham from Catholic Relief Services (CRS) reported that US/OFDA had agreed to fund 14 garbage trucks and the containers for an amount of \$ 350/400.000. The total cost of the project on waste disposal designed by CRS amounted to \$ 730.000. The remaining part concerning the equipment for the dump site requires funding.

Major Bouchard from SCS, briefed the Committee on the various options under consideration to bring material to Sarajevo, in view of possible positive developments concerning the opening of the airport routes, according to the Chart attached. He will be the

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contact point for logistics in the SCS, with regard to goods required to implement the 250 listed projects under the Action Plan for Sarajevo. He mentioned that additional projects can be added. Mr. Eagleton cautioned that the viability of the routes will depend on developments in the implementation of the routes agreement.

**PUBLIC HEALTH:** MSF Holland's representative reported that the Dutch Government had accepted to fund a package of winterisation projects, amounting to USD 600.000 under the SCS/WHO health plan, which are implemented by MSF Holland.

**EDUCATION AND CULTURE:** Ms. M. Helena Enriquez Mueller, from UNESCO reported on the program for the restoration of six buildings of cultural value, including the Sarajevo National Museum, the Museum of History, the Academy of Arts and the National Theatre. UNESCO intends to establish a Government support "Task Force" to fund the projects, following the model of the one existing for the Sarajevo library. She invited the Ambassadors in Sarajevo, as well as their spouses to UNESCO office to discuss such initiative.

Regarding the project in support of independent media, Mrs. Mueller reported that thanks to donor's assistance the UNESCO communication project could be funded and a new television station ("TV 99") will be opened in Sarajevo shortly. She also mentioned cultural activities underway in Sarajevo, such as numerous concerts and the Sarajevo Festival starting on 7 February.

The representative of Bosnia-Herzegovina Regional Television inquired about the status of the request presented to UNESCO for supporting independent media, as well as the archives of radio and television films. Mrs. Mueller responded that given the limited funds available, UNESCO had to focus on top priority projects. Nevertheless, a UNESCO consultant is expected shortly in Sarajevo to review the cited film archives.

Swedish Ambassador Pierre, indicated that works to restore the heating system in the National Theatre were underway, thanks to a Stockholm based private institution grouping actors, which had collected 500.000 SEK (\$ 65.625)

With regard to the Trust Fund for Sarajevo, Italian Ambassador Pennarola inquired whether the interest rates accrued for the funds deposited could be added to the concerned donors' contributions and used for projects in keeping with the areas of interest expressed for the overall contribution. Mr. Eagleton responded that we were in process of checking the amounts deposited, since we were informed that there is a single UN Bank Account in NY for all UN Trust Funds. He always assumed that the accrued interest rates will be used as part of the donor's contribution.

The meeting was adjourned at 2.30 pm. The next meeting will be held in three weeks, on February 21.

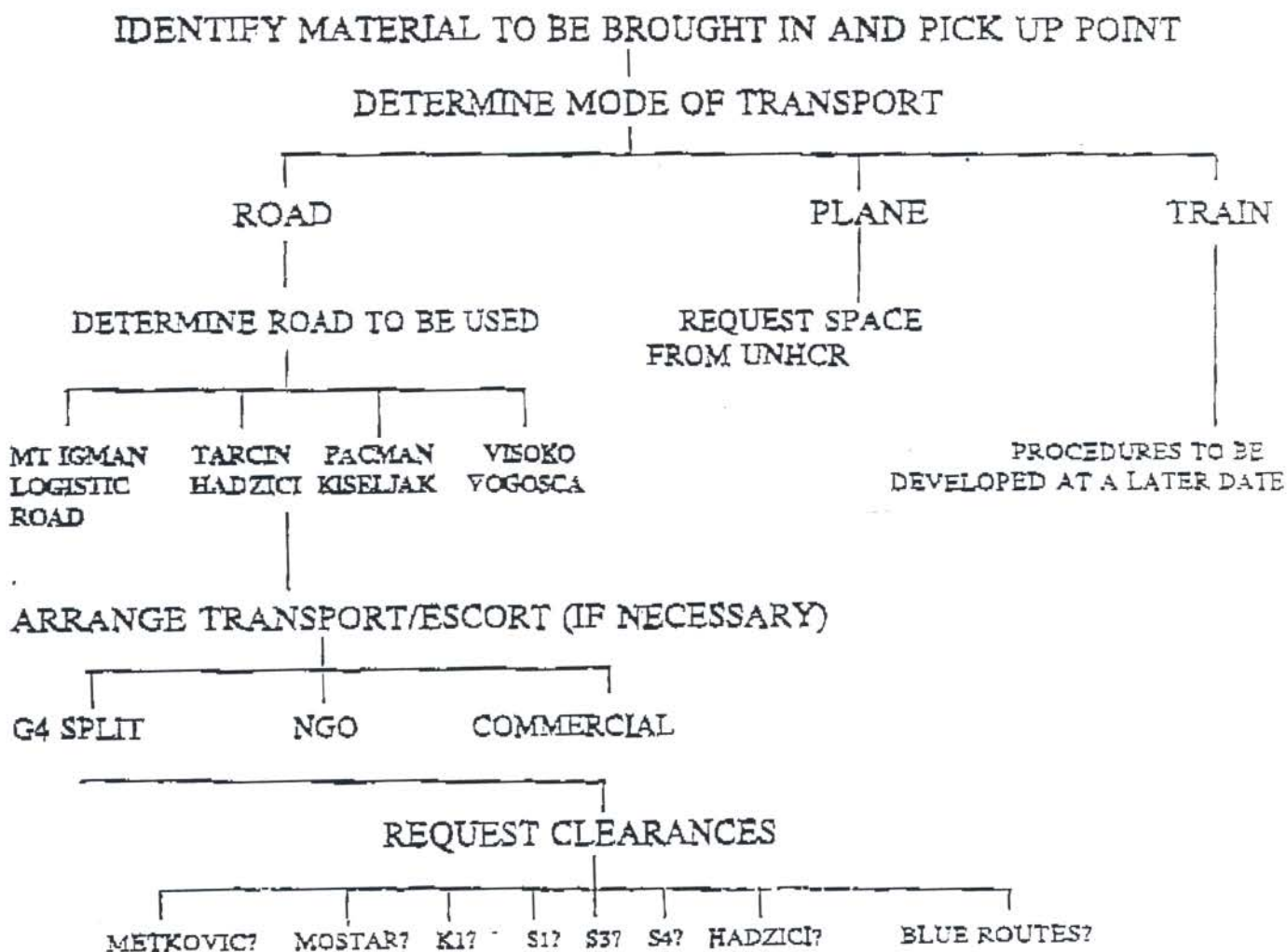
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## BRINGING MATERIAL IN SUPPORT OF THE ACTION PLAN



SPECIAL COORDINATOR'S OFFICE  
RESTORING LIFE TO SARAJEVO

mk031



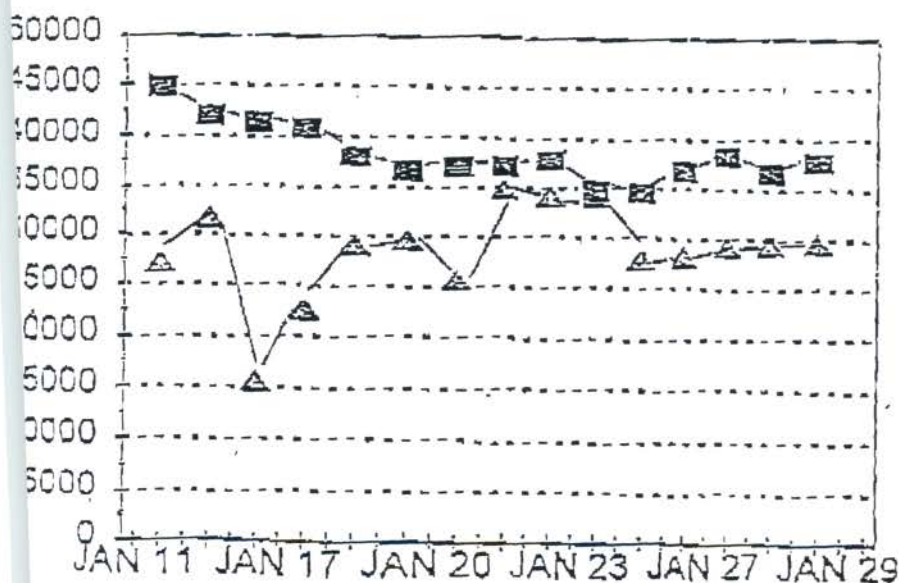
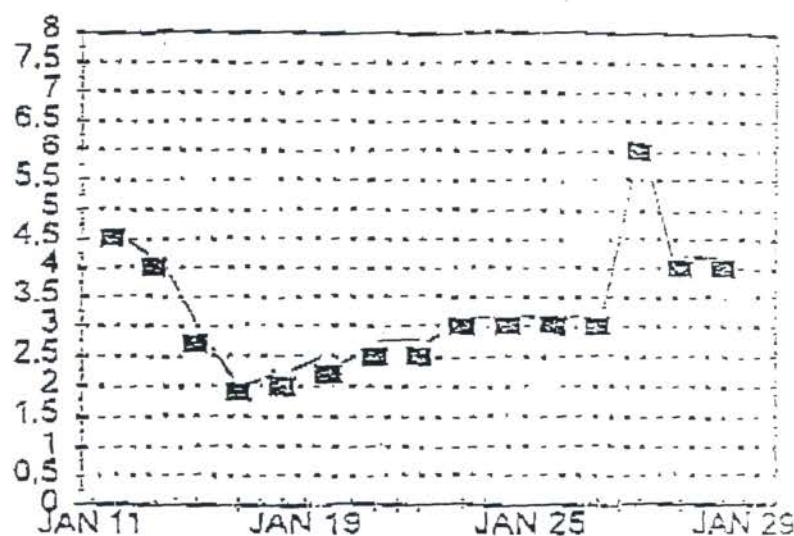
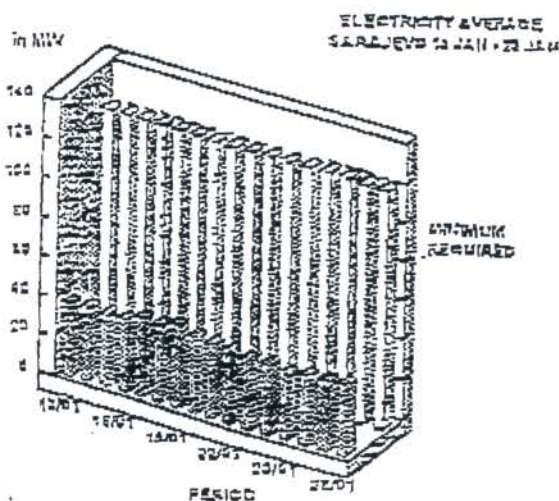
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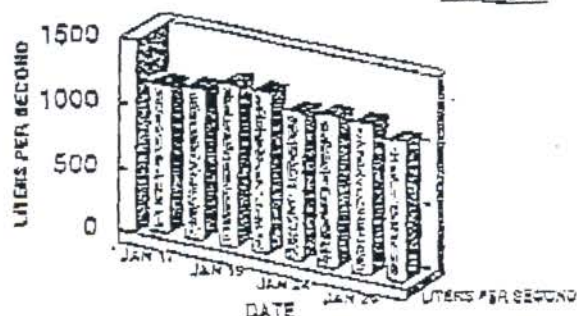
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# SPECIAL COORDINATOR & DIRECTORATE FOR THE RECONSTRUCTION AND DEVELOPMENT OF SARAJEVO

## UTILITIES SITUATION FOR THE PERIOD 17 TO 31 JAN 95



WATER SUPPLY 17-27 JAN 95  
SARAJEVO



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INTERNATIONAL CONFERENCE  
ON THE FORMER YUGOSLAVIA

TO: Mr. B. Ramcharan Fax No. (41-22) 917-0079

FROM: P.C. Szasz *CS*

DATE: Germantown, 26 January 1995

SUBJECT: BH Contact Group meetings in Sarajevo and Pale, 24-25  
January

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1. Attached is my report to the Co-Chairmen on the above meetings, on which I reported to you by telephone yesterday evening from Zagreb airport and this morning from Frankfurt airport.
2. For obvious reasons, please let me know of any developments that you know of: yesterday, today or later in Sarajevo and Pale; arrangements for any further CG meeting; arrangements for presenting the Z-4 Plan to the parties on the 30th; any important negotiations by the Co-Chairmen; texts of ceasefire and related agreements. As you know, I feel much left out.
3. Also, please let me have any comments on the Preliminary Draft of my constitutional developments paper that I left in Geneva on my departure last Monday morning. I would like to finalize it early next week -- for which purpose I may have to go the UN HQ the coming Monday.



INTERNATIONAL CONFERENCE  
ON THE FORMER YUGOSLAVIA

TO: Mr. Th. Stoltenberg  
Lord Owen

cc: Mr. B. Ramcharan

FROM: P.C. Szasz

DATE: Sarajevo, 25 January 1995

SUBJECT: BH Contact Group Meetings in Sarajevo and Pale, 24-25 January

1. Yesterday's and today's meetings of the BH Contact Group took place successively at:

- (a) US Embassy in Sarajevo, on the 24th, 11:00-11:45;
- (b) Presidency in Sarajevo, on the 24th, 12:00-12:50, with a 7-member BH Government delegation headed by Ganic;
- (c) Hotel Panorama in Pale, on the 24th, 15:00-19:30 (with a 1½-hour lunch break), with a 7-member Bosnian Serb delegation headed by Dr. Karadzic;
- (d) US Embassy in Sarajevo, on the 25th, 09:25-10:15;
- (e) Presidency in Sarajevo, 10:40-11:50, with a 10-member BH Government delegation headed by Izetbegovic, Ganic and Silajdzic.

These meetings were at the usual ambassadorial or expert level (Thomas assisted by Jack Zetkovic, and Zetov by Vladimir Krasavin), with Michael O'Neill and myself participating throughout. It had originally been intended for the Group to assemble in Sarajevo on the afternoon of the 23rd, but most of us missed the UN plane out of Zagreb that day, which declined to delay its departure even minimally.

A. Protocol on Implementing Cessation of Hostilities

2. During our meetings, both parties mentioned with satisfaction the further implementation agreement concerning the cessation of hostilities that had been signed on the 23rd, though both suggested that some issues were still open. The opening of the Blue Route by Sarajevo Airport is scheduled for 1 February at the request of the Government (apparently because the 1000th day of the Sarajevo siege will be commemorated this week).

B. Formula for Serb participation in Negotiations

3. Practically the sole subject of discussion with the parties was the formula under which the Bosnian Serbs could be brought into negotiations. Ambassador Thomas, who had been in Sarajevo since Saturday, reported at meeting (a) on three encounters that he had had with BH Government representatives and two with Bosnian Serb representatives. Although it had not been foreseen at the end of our meeting in Geneva on the 20th that he would spend the weekend "negotiating" on behalf of the Contact Group, he had in the course of these five encounters managed to achieve what appeared to be a tentative agreement between the parties on a formula, described below, for the Serb side to enter into the negotiations. Thomas described the principal developments as follows:

- (a) At the close of his first meeting with a Government delegation headed by Garic and Silajdzic, during which a hard line had generally been pursued, he was unexpectedly but clearly told that ultimately it was up to the Contact Group to decide when the conditions for negotiations had been met by the Serbs;
- (b) Thomas received from Holbrook a text that the latter had apparently discussed with Mr. Dordevic (the US Serb in touch with the Carter Center), which the latter said he had cleared with Dr. Karadzic.<sup>1</sup> The US Embassy in Cairo had shown it to Dr. Izetbegovic, who considered it "reasonable". Later Silajdzic in Sarajevo also expressed guarded approval.
- (c) Thomas then presented the formula to Karadzic, who indicated that he could accept it subject to the changes indicated in manuscript on the first attached paper, and that, after the Contact Group had issued the statement, he proposed to make the response also indicated in manuscript on the paper.
- (d) Agreement on the two-month period for negotiations, indicated at the end of the third paragraph, had apparently been elicited separately from both parties, so that neither considered it as having originated with the other.

4. At its 24 January meeting in Sarajevo, the Contact Group considered this news about the position of both parties to be encouraging. It was decided that instead of showing the changes proposed by Karadzic to the Government delegation at this stage, an attempt would first be made to have the former agree to somewhat fewer changes: i.e. to reformulate the text as indicated

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<sup>1</sup> This text is the one that appears in typescript on the first attached paper.



on the second attached paper, with a request that he simply sign that paper with an endorsement that he agreed with it.

5. During the meeting with the Government delegation the following points were made by the latter (while Contact Group members merely reiterated that they were sticking by their Plan and would not discuss with the Serbs either territorial or other substantive issues at this stage):

- (a) Government disturbed by a recent statement by Karadzic in which a claim was expressed in respect of Tuzla;
- (b) Although the Government was willing to consider in due course territorial swaps, all it had in mind were some small adjustments here and there, to be balanced by corresponding ones benefitting the other side;
- (c) Government please about meeting of Contact Group with OIC Contact Group, and hopes that a meeting will be arranged at Ministerial level;
- (d) Government would prefer negotiations to take place at Sarajevo Airport, initially probably in the form of proximity talks.

6. The meeting in Pale started almost immediately on a negative note, when Karadzic said that there appears to have been some misunderstanding about the Dordevic draft (para. 2(b) above), and only the version he had indicated to Thomas (para. 2(c)) counted. More importantly, he asserted that the Contact Group had reverted to its 5 July position "Take it or leave it", that the Muslims were calling the shots, and that the Serb people were disquieted about its leadership meeting with the Contact Group. There was no way that the Serbs could accept the Contact Group Plan for any purpose; no wording that suggested a linkage between the Serb acceptance of negotiations and the Contact Group Plan could be agreed to.

7. Members of the Contact Group indicated that the changes Karadzic had proposed to the earlier text could be accepted; when the latter indicated that his insertion of the words "on the basis of equitable and balanced arrangements" had been put in the wrong place (he wanted then not to modify "peace settlement" but rather "Negotiations", so as to indicate that from the very beginning the Serbs would be placed on an equal level) that was promptly agreed to. On the other hand, several statements by Karadzic that the final sub-para. was unacceptable were simply ignored. Group members explained that the purpose of the proposed Contact Group Statement was to make it possible for Karadzic simply to agree with it without having to say anything else. Reversion to the statement proposed at the end of the 13 January meeting was also suggested. Thomas reaffirmed that even if the Serbs entered into negotiations on the lines here proposed and these negotiations failed, the Contact Group would not then press



them to accept its Map; "unless everything is agreed, nothing is agreed"; in other words, the Serbs were fully protected even if they agreed/accepted to negotiate on the basis of the Contact Group plan.

8. Bruha raised the question of why the Contact Group had not drawn lines for dividing Sarajevo and had merely indicated a 2:1 ratio. He was told that this followed Ministerial directives, and foresaw an initial transitional period of UN administration.

9. Karadzic then advanced the idea of concluding a "memorandum of understanding" between the Serbs and the Contact Group (presumably along the lines presented during the 13 January meeting), plus a statement by the Serbs. The reply was that such an understanding would be difficult to formulate as it would have to be consistent with Ministerial directives. In any even, a secret understanding (as Karadzic had possibly suggested) could not be contemplated.

10. When Karadzic was asked once more why he could not now go along with the 13 January statement he himself had proposed, he said that had been done in a different context, and had in any event been meant as a joint statement with the Contact Group (plainly not so, from its very form) and now the Contact Group was envisaging making its own.

11. During a final short break, the Contact Group worked out the language set out in the third annexed paper: the first two paragraphs of the proposed statement by the Contact Group incorporate exactly what the Group had understood Karadzic to have suggested; the third paragraph is, however, retained; the proposed response is mildly adapted from the 13 January Serb proposal. This was presented to Karadzic at the short concluding session, with the request that he give it serious consideration. This somewhat abrupt ending of the meeting apparently surprised Karadzic, who in saying good-bye expressed the expectation that the Group would return the next day.

12. In meeting (d) the Contact Group decided that for the present it would not return to or send any message to Pale, leaving it for the Serbs to reopen contacts if they wished to do so. An explicit concern was that the Group should not appear to be in a position of supplicant vis-à-vis the Serbs; another that any formula that the Serbs would likely offer at this stage would clearly be unacceptable to the Government unless more pressure were put on the latter than seemed likely or seemly. Most members of the Group also suggested that it would be best if Thomas would also not return to Pale just now, but this was left to his discretion and the decisions of the State Department.

13. In reporting to the Government on the session in Pale, the Contact Group only made most general statements, indicating that some but still insufficient progress had been made and that the 24 December statement still represented its position. The draft



formula left with the Serbs was not mentioned explicitly. Izetbegovic and others expressed no surprise or regrets.

#### C. Deadlines for Starting and Completing the Negotiations

14. The proposed two-month period for negotiations, which had had the apparent approval of both sides, was not discussed again in Pale (though it appears in the third para. of the proposed Contact Group statement, which Karadzic said he would prefer to drop entirely).

15. In our final meeting with the Government, a possible misunderstanding about the limit came to light. Although Izetbegovic had from Cairo signalled that he considered the entire draft statement as reasonable, now Silajdzic suggested that the two-month limit was one that Ganic and he had accepted as the maximum period until negotiations might start (though they had really considered two weeks sufficient), while for the negotiations itself a one-month limit should be set. This matter was not then clarified, since Silajdzic kept reverting to his principal point (also supported by Izetbegovic and Ganic) that deadlines made no sense unless penalties could be attached to those guilty of not observing them, and this the Contact Group was unwilling, indeed unable, to do. This could not be denied.

#### D. Contact Group Tactics

16. Meeting (d) was a brief soul-searching session by the Contact Group. Ultimately it was concluded that no dramatic change in course was called for at the time, in particular because it was considered possibly that Karadzic had the previous day merely exercised brinkmanship and would be more reasonable soon. During the discussion de Sedouy, on instruction, raised the question of whether it might not be time for the Contact Group to reconsider not its Map/Plan, but possibly its tactics: requiring the Serbs to accept the Map before entering into negotiations.

17. After meeting (e) the Contact Group members dispersed, without even discussing a date for the next meeting, and with the intention of all, except possibly Thomas, meeting at the airport for a 15:15 departure. However, just as the cars were preparing to depart for the airport (14:00), Thomas announced that he had received definitive instructions to stay, and so had Ehrman and de Sedouy, from their respective political directors, who had evidently been called by Holbrook after Thomas had reported to him earlier in the day. As Zotov and Steiner were leaving, I decided to go too as the remaining members clearly did not constitute the Contact Group.

Germantown, 26 January 1995

18. Not being able to call Geneva to obtain instructions before our departure from Sarajevo, I did so from Zagreb, indicating that I could return to Sarajevo the next morning. However, I was not told to do so.

19. At Zagreb airport Steiner informed me that Holbrook had also called Coburg, but that the latter had, on the basis of reasoning such as set out in para. 12 above, said that he considered it inadvisable for Steiner and the others to stay. Steiner felt that Holbrook's proposal reflected some panic concerning Silajdzic's imminent appearance in Washington. He also reported briefly on the conversation he had had with Silajdzic during the flight to Zagreb (from whence the latter was proceeding to Vienna, Washington and Moscow) during which Steiner had asked what sort of additional pressures could be put on the Bosnian Serbs if they did not meet the deadline for starting negotiations, and that the only proposal Silajdzic made was to cut off all telecommunications (e.g., telephone) with Pale, both to decrease the Serb's media coverage and to increase their sense of isolation.

20. Though there had been no discussion about the date or venue of the next meeting of the Contact Group, Steiner considered it likely that there would be a meeting next week for the Group as a whole to receive a report on later developments in Sarajevo and Pale.



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The Contact Group, having consulted extensively with the parties, makes the following announcement, which has been agreed to by the parties:

o Negotiations with the aim of achieving a comprehensive peace settlement on the basis of equitable and balanced arrangements in Bosnia-Herzegovina, will resume in early February;

o These Negotiations, which will be conducted by the Contact Group, will be on the basis of acceptance of the peace plan of the Contact Group as a starting point, and will last for two months.

DHGG gave this to Karadzic 27.1.95, 1915, Pale

### Proposed Statement by <sup>the</sup> Contact Group

The Contact Group, having consulted extensively with the parties, makes the following announcement:

- Negotiations with the aim of achieving a comprehensive settlement in Bosnia-Herzegovina on the basis of equitable and balanced arrangements ~~will resume~~ <sup>will resume</sup> in early February.

- These negotiations, which will be conducted by ~~the~~ Contact Group, will be on the basis of acceptance of the peace plan of the Contact Group as a starting point, and will last for two months.

### Proposed statement by Dr. Karadzic

We have taken note of the Contact Group announcement, and we accept the basis for negotiations as proposed by the ~~Contact~~ Group.  
Contact



SECRET

The Contact Group, <sup>the</sup> having consulted extensively with [both] parties, makes the following announcement, [which has been agreed to by [both] parties]:

the

o Negotiations with the aim of achieving a comprehensive peace settlement in Bosnia-Herzegovina, will resume in early February;

o These negotiations, which will be conducted by the Contact Group, will be on the basis of acceptance of the peace plan of the Contact Group as a starting point, and will last for two months.

on the basis of equitable and balanced arrangements

Proposed response from the Serbs:

"I have taken note of the Contact Group announcement regarding peace negotiations and we approve that the Contact Group plan be the basis for further negotiation leading to a final territorial and political settlement. We agree that the negotiations be concluded within two months following their initiation."

INTERNATIONAL CONFERENCE  
ON THE FORMER YUGOSLAVIA

TO: Mr. Th. Stoltenberg  
Lord Owen

cc: Mr. B. Ramcharan

FROM: P.C. Szasz

DATE: Geneva, 20 January 1995

SUBJECT: BH Contact Group Meetings in Geneva, 19 and 20 January

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1. Yesterday's and today's meetings of the BH Contact Group took place at the French Mission in Geneva. They were at the usual ambassadorial or expert level (Thomas assisted by Jack Zetkusic, Coordinator of Balkan Action Teams in the Europe office of the State Department, and Zotov by Boris Kabirot), with Michael O'Neill participating throughout and myself just at today's meeting.

A. Meeting with OIC Contact Group

2. Yesterday's meeting was with the OIC Contact Group, on the basis of an arrangement that had been initiated by Steiner while the Germans still held the EU Presidency, but that had been several times postponed. I got the impression from de Sedouy that the French are less enthusiastic about this. I was told that Sacirbey spoke at the beginning of the meeting, then left and returned at the end, when he participated in the drafting of the attached Press Communiqué. The only noteworthy feature of the Communiqué is that it endorses a text of the formula to be accepted by the Bosnian Serbs in order to participate in Contact Group-sponsored negotiations, that had first appeared in the Carter/Izetbegovic paper of 20 December (evidently at the latter's suggestion) and was then included in the second paragraph of the Contact Group Position paper adopted on 21 December in Belgrade and in condition 1 of the Statement issued by the Group on 24 December; although during our meetings with the BH Government on 12 and 14 January it sometimes appeared (in particular from statement of Silajdic) that that formula was no longer considered adequate by the Government, the reaffirmation of the formula in a Communiqué in whose drafting Ambassador Sacirbey participated, suggests that the Government still would find it acceptable.



B. 20 January Meeting

3. Today the Contact Group met by itself, to discuss primarily the topics indicated below:

4. The Map: Because the OIC Contact Group had arrived late at yesterday's meeting, the review of territorial questions had to be postponed to this morning. David Ludlow gave an extended account of how all the principal features of the Contact Group Map had been developed and the positions of the parties as to these; he also responded to numerous questions. Towards the end of the presentation he mentioned various trades that some or all of the parties had at various times proposed, including such as would also involve the FRY (Serbia in particular) and Croatia. It was generally agreed that the latter were not within the Group's mandate.

5. Ambassador Thomas distributed copies of a map of Sarajevo that Karadzic had presented to Carter (copy attached), which divides the city into numerous blocks that Karadzic allegedly considers could be traded -- except S-7.

6. Constitutional issues: At the request of the Contact Group I gave a mixed historical, analytical account of the development of various constitutional proposals for structuring the post-independence BH. (As I was asked to present all this in a short written account, I am attaching a copy of that text.) I summarized by pointing out that there were some 5 issues that the Contact Group would have to resolve in approving a draft constitution -- i.e. by either accepting the solutions implicit in the 20 December 1994 draft of a Union Constitution or by agreeing on different ones; we know that the position of the parties are far apart on these:

- (a) The division of competencies between the Union and the two Constituent Entities -- which the 20 December draft allocates almost completely to the latter (which the BH Government will not like);
- (b) The structure of the organs (legislative, executive and judicial) of the Union -- whether to be based on a 1:1 distribution for the Federation and the Republica Srpska that the Serbs favour, or on 1:1:1 for the Bosniacs, Serbs and Croats (which the latter insist on);
- (c) The decision-making processes of the Union organs, whether, as is currently provided, consensus is to be required in all organs (which makes it easy to block any action) or whether routine decisions should require only normal majorities (as provided in the Federation Constitution);



- (d) The extent of the international relations capacity of the Constituent Entities, and in particular the right-to-confederate issue (which is evaded in Article V.1(3) of the 20 December draft);
- (e) The arrangements for dissolving the Union (the "unzipping" provision).

7. Steiner recalled the point that Karadzic had raised at the Pale meeting and that had engendered considerable discussion (paras. 13-15 of my 13/15 January report) concerning whether the proposed Union should be described as "composed" of the Federation and the Republica Srpska as "formed" by these two (which the Serbs favour). I opined that this point was more theological than practical or legal, but it was generally agreed that it was of considerable psychological importance. The Contact Group, in the only change it has so far made in the proposed draft Constitution, suggested that Article I.1 be brought closer to the text of the Invincible Draft (which on this point had been delicately negotiated by all three parties at the Geneva meetings at the end of July 1993); the following changes from the 20 December draft were tentatively agreed on:

"The Union of Bosnia and Herzegovina is composed of the Federation of Bosnia and Herzegovina and the Republica Srpska (hereinafter the "Constituent Entities"), and encompasses three constituent peoples: represents the Bosniacs, the Serbs, and the Croats, as well as a group of Other peoples. The Union will remain a member state of the United Nations, and as such it shall maintain or may apply for membership in other organisations of the United Nations system."

8. I cautioned that necessarily even a "complete" draft Constitution that the Contact Group might present to the parties would have to have added, consequent on negotiations between the latter, considerable amount of detail -- pointing to the difference between the framework agreement on the BH Federation signed in Washington on 1 March 1994 and the complete text signed on the 18th after 10 days of intense negotiations in Vienna. However, I also had to concede Ehrman's point that if the Union was to be just a pro forma construct, then it would not be necessary to expand the basic text greatly.

9. Methods of negotiation between the parties: The Contact Group then turned, possibly somewhat prematurely, to how negotiations with and between the parties could be conducted. In general it was agreed that it would be best to form three sub-committees to deal respectively with the Map, the Constitution and Military Matters; the latter would presumably be chaired by or at least have heavy involvement by UNPROFOR. I mentioned that at the meeting in Pale last week Foreign Minister Bruha had mentioned sanctions relief as a fourth topic for negotiations, but it was agreed that that would not be negotiated with the parties.



10. In this connection the Group considered the offer made by Akashi last week to assign a liaison officer to the Group. Steiner expressed concern that if such an officer was aware of all our negotiating tactics and plans, and reported these back to the UN, then it would not be possible to preserve the necessary privacy. I pointed out that the liaison officers assigned to ICFY were only selectively invited to its meetings, and mostly served to supply the Conference with expert advice, whether from their own resources or by contacting the competent officials in the sending organization. On this basis the Group decided it would, at least when negotiations started, respond positively to Akashi's offer.

11. As to negotiations concerning the Map it was concluded that the best would be to put our version on the table, and invite the parties to present overlays showing their proposed trades -- rather than having each present new maps of their own.

12. Similarly, in dealing with the Constitution, the parties would be invited to present their proposals in the form of draft amendments, rather than in the form of completely new texts. In other words, whatever draft Constitution we would propose would be considered the starting point for negotiations (just like the Map), but no effort would be made to require the parties to "accept" our constitutional draft at the outset, or to suggest that in case of a failure to reach agreement on some changes, our proposal would apply by default.

13. There was some inconclusive discussion about other negotiating details. In particular, no decision was reached as to how any working groups would be chaired, whether each by one or two members of the Contact Group or perhaps by outside personalities. I suggested that focus and continuity would be essential for any such functions. With respect to the level of representation of the parties, it was considered that at the beginning and end of the negotiations the most senior officials (head of state or government) should be required, but that the three sub-committees consist of senior representatives of the parties.

14. In connection with the plenary it was pointed out that in order to secure the participation of the top national officials, the presiding officers would have to be more senior than the Contact Group members. In that connection the ICFY Steering Committee Co-Chairmen were mentioned. Alternatively it might be the Contact Group Foreign Ministers, but Steiner pointed out that Secretary Christopher might still be reluctant to sit at any meeting with Karadzic -- a potential problem as to which Thomas admitted he did not know the answer.

15. Venue was also discussed briefly: De Sedouy was still looking for a Foreign Ministry chateau near Paris. The possibility of Norway was also mentioned. Sarajevo airport was considered unsuitable. It was agreed that the principal requirements were acceptability to both parties (e.g., where Karadzic would be admitted and would want to go) and the possibility of strict seclusion from the media.



16. Resumption of negotiations about negotiations. Originally it had been planned that the Contact Group proceed to Zagreb this afternoon, presumably with a view to reaching Sarajevo on Saturday; however, by the time the meeting started this morning, that plan had been dropped, and no immediate visit was planned. Indeed, some thought was given to exploring further in Sarajevo and Pale through a single individual (not named). However, in the afternoon Thomas spoke to Washington, where there was evidently impatience with the Contact Group and the threat/promise to replace it by a high-level negotiator, such as President Carter. The Contact Group thereupon decided to travel to Sarajevo on Monday afternoon, via Zagreb, where it would meet at the airport in the early afternoon. That afternoon the Group would then meet with Granic and then proceed on Tuesday to Pale.

17. The general conclusion of the Contact Group members was, on the basis of last week's meeting in Pale, that Karadzic is ready, some believed eager, to enter on a negotiating process -- but by no means at any price. He would certainly like to break out of the current isolation, which of course has already been breached by the Carter and Contact Group visits. On these assumptions it is considered worthwhile to push him further than the last time towards using an acceptance formula that would be satisfactory to the BH Government. Consequently an attempt will be made to have him agree to the formula discussed in para. 2 above. If he is still unwilling to do so, a fall-back formula would be explored, whereby the Contact Group would address a letter to him expressing its readiness to convene negotiations on the basis of its formula, and he would respond by acknowledging and accepting the invitation on that basis.

18. Evidently all this can only work if the BH Government consents. On this there were subtle differences between the members, with Steiner the most overtly insistent that the BH Government being consulted first on any formula to be proposed to the Serbs (lest the entire exercise back-fire), while others seemed more flexible on this point -- e.g. Ehrman thought that after the Serbs had approved a formula acceptable to the Group the latter (in particular the USA) should push the Government to go along.

19. Without completely resolving these points at this stage, the Contact Group decided to reassemble at the Zagreb airport early Monday afternoon, with a view to flying to Sarajevo by an UNPROFOR plane and seeing Granic there the same day; Tuesday the Group would go to Pale; the rest of the schedule was left open, though generally it was considered we would leave the area on Wednesday unless circumstances made a longer stay advisable.

20. Evidently some members of the Contact Group feel, though few will say, that we are at this point just going through the motions, largely compelled by US domestic considerations. However, the discussion of future negotiating techniques suggests that hope still springs eternal.



PRESS COMMUNIQUE  
ON THE FIRST JOINT MEETING BETWEEN THE OIC CONTACT GROUP AND THE  
INTERNATIONAL CONTACT GROUP ON BOSNIA-HERZEGOVINA HELD AT  
PALAIS DES NATIONS, GENEVA 19 JANUARY 1995

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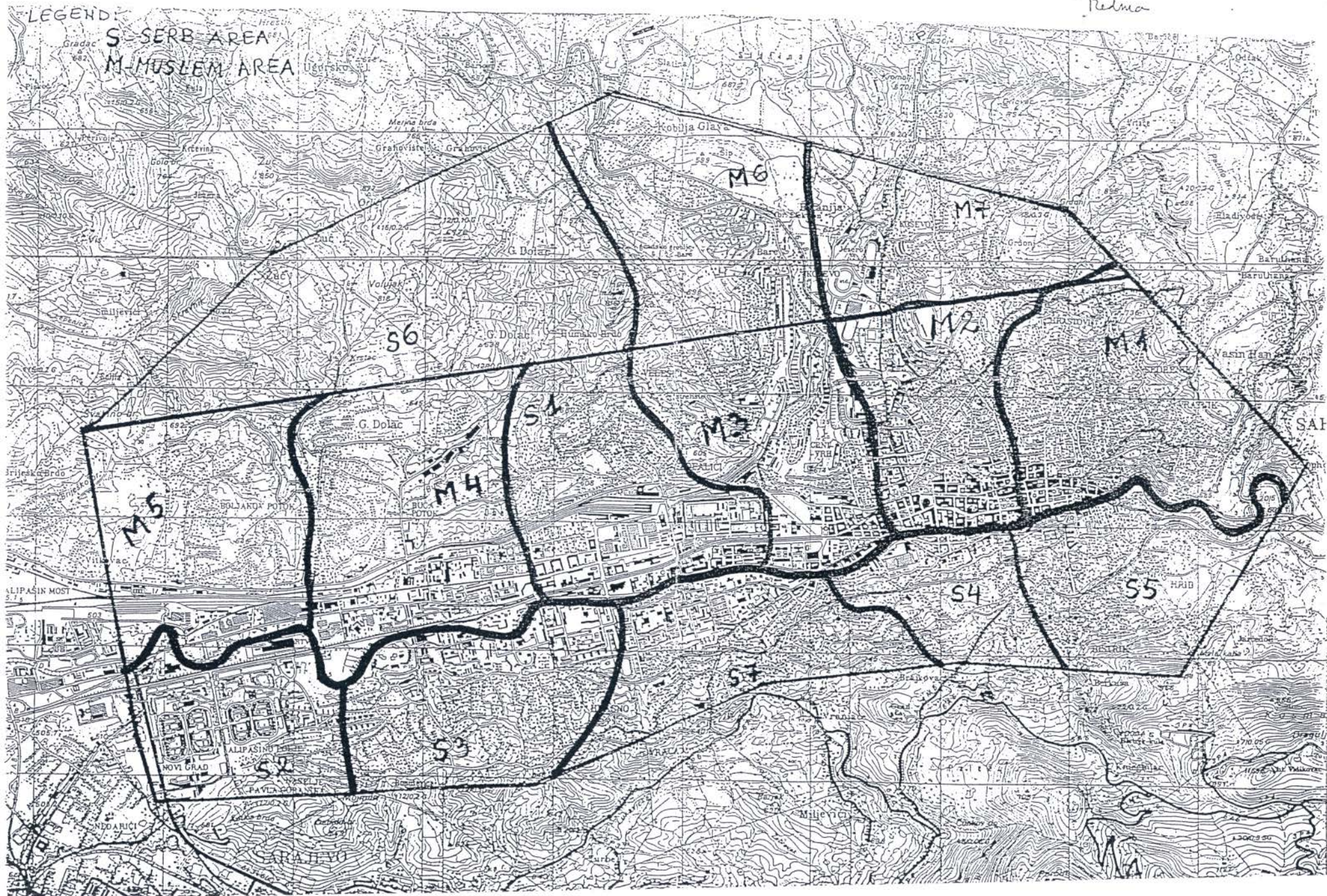
The first joint meeting between the OIC Contact Group on Bosnia-Herzegovina and the International Contact Group was held at Palais des Nations, Geneva on 19 January 1995.

The two Contact Groups reaffirmed their commitment to the International Contact Group plan as presented. They commend its acceptance by the Government of the Republic of Bosnia and Herzegovina. They support negotiations on the basis of acceptance of the International Contact Group plan as a starting point leading to an early comprehensive peace settlement.

The two Contact Groups exchanged views on the situation in Bosnia-Herzegovina, agreed on the need to continue these contacts and to explore modalities for close cooperation and coordination of their respective efforts for the restoration of a just peace in Bosnia-Herzegovina.



Map Given by Kanadzur to  
Rehman





ACCOUNT OF THE DEVELOPMENT OF PROPOSALS CONCERNING THE  
CONSTITUTION OF BOSNIA AND HERZEGOVINA

I. INTRODUCTION

A. Existing Constitution

1. The existing Constitution derives by amendments from the "Constitution of the Socialist Republic of Bosnia and Herzegovina" promulgated on 25 February 1974. By 31 July 1990 80 amendments had entered into force; in spite of many requests, ICFY has not received the texts of any later amendments, except for a Constitutional Law adopted on 30 June 1994 that has the effect of amending the BH Constitution to take into account the establishment (on 30 March 1994) of the Federation of Bosnia and Herzegovina.<sup>1</sup>
2. During the exercise of preparing a new Constitution for BH it appears never to have been suggested that the new Constitution should take the form of a series of amendments to the existing Constitution. However, the BH Government has from time to time insisted that any new Constitution must formally be adopted by the procedures set out in the existing Constitution -- which procedures have also been changed since 1974 -- in order to preserve the continued legitimacy of the state. This requirement, which is not acceptable at all to the Bosnian Serbs, has not been mentioned lately but has probably not been formally abandoned.

B. Constitutional Options Paper

1. Soon after the establishment of ICFY, the Co-Chairmen of the Steering Committee (hereinafter the "ICFY Co-Chairs") considered the range of constitutional options that might be considered for BH:

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<sup>1</sup> ICFY has had prepared an English translation of the basic Constitution (in 145 pages) and of the first 80 amendments (over 80 pages). Each amendment changes one or more provisions of the Constitution; as far as we know, no consolidated text incorporating all these amendments exists, either in English or in Serbo-Croatian.

1. A fully centralized state with minor local functions assigned to a number (10-20) communes whose boundaries would be determined on other than ethnic lines. [BH Government = Muslim draft.]
2. A federal state with significant functions carried by 4-10 "constituent units" whose boundaries would take into account ethnic and other considerations (likelihood that most would have a significant majority of one of the ethnic groups, and all would have significant minorities of the others). [Present apparent position of ICFY.]
3. A loose federal state of three ethnically determined "constituent units". [18 March 1992 "agreed" draft.]
4. A loose federation of three ethnically determined states with significant or possibly even total independence in the foreign relations and defence fields and basically merely co-operative arrangements in most economic ones. [BH Serb draft.]
5. A "rump" Muslim state (possibly with boundaries drawn somewhat more generously than under the federation model), with the Serbs either becoming an integral part of Serbia/Yugoslavia or part of a federal unit of that state, and the Croats becoming a part of Croatia. [Probable real aim of the Serbs and Croats.]

2. As will be shown, all the earlier and later proposals for constitutional solutions can be fitted into one of the these slots or into areas between these.

## II. CHRONOLOGICAL LIST OF PROPOSALS

### C. 18 March 1992 Statement of Principles

1. On 18 March 1992 in the 5th "round of talks on future constitutional arrangements for Bosnia and Herzegovina" carried out under the auspices of the EC Peace ("Carrington") Conference, between the leaders of the SDA, SDS and HDZ parties under the chairmanship of Ambassador Cutileiro of Portugal, a 4-page



"Statement of Principles for new constitutional arrangements for Bosnia and Herzegovina" were agreed to at Sarajevo. At the 6th session, in Brussels on 30-31 March, a 4-paragraph addition on "Human Rights" was also agreed to. Though agreed to, the Statement was apparently denounced by Izetbegovic on his return to Sarajevo in early April.

2. Under these Principles (generally referred to as the Cutiliero draft), BH would have become a loose federal state of 3 constituent units (Option 3 above), with limited but still important competencies for the central government; many decisions would have required an 80% majority, in effect giving a veto to at least two of the units.

3. A sketch map of the proposed boundaries of the constituent units was attached to the Principles, showing something of a patchwork of Muslim, Serb and Croat territories. On 31 March 1992 it was agreed that a working group headed by an EC representative would meet promptly and present its recommendations by 15 May 1992 as to the territories of the constituent units; the group was apparently to take as the basis of its work the above-mentioned sketch with amendments thereto having to be justified by specified criteria. I don't know if the working group ever met; it certainly never presented its report, the war having broken out meanwhile.

#### D. July 1992 Elements for a new Constitution for Bosnia and Herzegovina

1. ICFY files, probably received from the papers of the late Henry. Darwin, contain a 13-page paper with the above title, with a manuscript annotation: "Given to Serbs, Croats. The Muslims took it but returned it to us the next day." It appears to be an attempt to expand the March Principles somewhat. It has apparently never since been referred to by any of the parties.

#### E. Precursor to Vance/Owen Plan

1. After considering the above-mentioned option paper, the ICFY Co-Chairs decided that Option 5 fell outside of their mandate as it would not preserve the "territorial integrity" of BH and that

Options 3 and 4 were unlikely to constitute a stable arrangement; consequently, Option 2 was explored further. Accordingly an 11-page (plus Appendix) "Proposed Constitutional Structure for Bosnia and Herzegovina" was prepared, which was presented to the Security Council at the end of October 1992 (and soon endorsed by para. 1 of its resolution 787 (1992)), the next day to the ICFY Steering Committee and then to the parties.

2. The latter, in general declined to give detailed consideration to that text, each asserting that without seeing a map of the proposed 7-10 "autonomous provinces" they could not give serious consideration to any constitutional arrangements. At some meetings of the BH Working Group (always separately with each of the parties) the Muslims presented detailed questions, mostly addressed to the distribution of competencies; the Serbs considered the entire proposal basically unacceptable as creating far to tight a state; and the Croats proposed some amendments to the decision-making procedures so as to assure themselves of extensive veto rights.

#### F. Vance/Owen Plan:

##### Constitutional Principles for Bosnia and Herzegovina

1. On 2 January 1993 the ICFY Co-Chairs presented in Geneva to the first joint meeting of the Bosnian parties (plus the Presidents of FRY, Serbia, Montenegro and Croatia) the first two elements of the Vance/Owen Plan (VOP), then consisting of a map showing 10 Provinces, and a set of 10 "Constitutional Principles for Bosnia and Herzegovina". By the time the VOP was fully developed by end-March, it consisted of:

- (a) Constitutional Principles;
- (b) A slightly revised version of the 2 January map;
- (c) A military agreement;
- (d) An agreement on interim arrangements.

2. The Bosnian Croats immediately accepted each of the texts and later variants. The Muslims reluctantly accepted the texts by end-March in New York. Finally Karadzic signed on 2 May in



Athens, subject to ratification by the Pale Assembly -- but immediately announced he would oppose approval. Some days later the Assembly did turn down the VOP, and this refusal was two weeks later confirmed by a referendum.

3. The Constitutional Principles were derived directly from the Constitutional Structures Proposal (para. E.1 above), but were far less detailed. In the final version there were 9 Principles, two of the original 10 having been combined.

#### G. The Owen/Stoltenberg, "Invincible Package"

1. Some weeks after the collapse of the VOP, the Bosnian Serbs and Croats informally presented to the ICFY Co-Chairs a revised set of "Constitutional Principles" that in effect expressed Option 4. The Co-Chairs, however, decided to depart from the idea of presenting a set of principles which by their nature could not be detailed enough to elicit sufficiently definitive reactions, and instead presented to the parties, at renewed trilateral talks commencing on 27 July 1993 in Geneva, a draft "Constitution of the Union of Bosnia and Herzegovina", which by 30 July had been tentatively agreed to as the "Constitutional Agreement of the Union of Bosnia and Herzegovina". This draft represented an Option 3 approach, and was thus meant as a compromise between the VOP and the Serb/Croat proposals mentioned above.

2. The Constitutional Agreement, with relatively minor changes, eventually became Appendix I to the proposed "Agreement on Bosnia and Herzegovina" that constituted the "Invincible Package". Though most of the provisions directly relevant to the Constitution were set out in that Appendix I, the principal Agreement and parts of some seven other Appendices (many of which had their own annexes) also set out provisions relevant to constitutional matters; for example, one of the Appendices set out the 16 September Muslim/Serb agreement in which provisions were made concerning the mechanism for dissolving the proposed Union.

3. Although in principle the verbal portions of the Invincible Package were all agreed to on 20 September on the carrier, in practice these agreements were all made dependent on agreement on the full package -- including the proposed territorial division.

This the Muslims refused, as they were only offered 30% and insisted on at least 33 1/3%; this refusal was later confirmed by the BH Assembly.

4. The Invincible Plan, in effect, again became the subject of negotiations from late November 1993 to 15 January 1994, in course of the EU initiative to offer the Serbs some easing of sanctions in return for increasing the Muslim territory to 33 1/3%. On the Constitution the principal item that was subject to negotiation, principally between the Muslims and the Croats, was the dissolution provision and its territorial consequences. No final text as to this provision was ever agreed to, either between these parties or with the Serbs.

#### H. The Constitution of the Federation of Bosnia and Herzegovina

1. At a meeting in Bonn on 11-12 January 1994, President Tudjman presented to President Izetbegovic a rough plan for the establishment within BH of a Muslim/Croat entity, and the confederation of the latter with the Republic of Croatia. Although at that time Izetbegovic showed no interest, this proposal was revived under US auspices in the negotiations between the BH Government (now denominated as representing the "Bosniacs") and both the Bosnian Croats (Herzeg-Bosna) and the Republic of Croatia, which took place in Washington and Vienna from 27 February to 18 March 1994.

2. The Federation Constitution that emerged is in effect an Option 2 construct, albeit for only two of the three Bosnian entities. That Constitution entered into force on its approval by the BH Assembly, acting in its capacity as the Constituent assembly of the Federation, on 30 March; it has already been amended once. on 23 June -- but a further amendment, to extend the transitional period that ended on 30 September (before which all the permanent organs should have been established) has not yet been adopted, Meanwhile, on 30 June, the BH Constitution was amended to take account of the establishment of the Federation on a large part of the territory of BH.



I. Constitutional Agreement for a Union  
of Bosnia and Herzegovina

1. Although the Federation Constitution in principle contains an invitation for the Serbs to join, that invitation was understood not to have been serious (for one thing, it would have required a complete renegotiation of the Federation Constitution) and no-one thought that the Serbs would accept. Instead, it was understood from the beginning that an agreement would have to be reached with the Bosnian Serbs concerning:

- (a) A territorial division of BH between the Federation and the Serb entity;
- (b) A constitutional arrangement concerning the interaction between the Federation and the Serb entity.

2. At the time of signature of the Federation Agreement, I prepared for the ICFY Co-Chairs the first draft of an agreement for a "Union of Bosnia and Herzegovina". The starting point of that draft was the draft Constitutional Agreement in the Invincible Package, though it was designed considerably looser in order to make it possibly acceptable to the Bosnian Serbs. It may thus be considered to be something of an Option 3 1/2 exercise.

3. At a meeting of the Contact Group on about 10 May I was asked to further "lighten" or "loosen" the draft Union Constitution. Then, at the Talloires session of the Contact Group with the parties, I gave, at the request of the Group and of the parties, a brief description of the draft Union Constitution. Thereupon I was asked to prepare immediately a brief "elements paper" setting out these proposals without too much detail, and after review by the Group this text was informally handed to both parties on 25 May as "Some Possible Elements for a Constitution for Bosnia and Herzegovina". The reactions I received, privately were:

- (a) The Bosnian Croats would insist that they be represented equally with the Bosniacs and the Serbs, in all Union organs;

- (b) The Bosnian Serbs (Buha) questioned the need for any sort of Union and in any event considered that the entirely minimal functions that would be assigned to it were still too extensive.

4. During June I prepared several more draft Union Constitution, culminating in a text of 5 July. That draft also contained extensive annexes concerning an interim UN regime for Sarajevo and rules for deciding on its final division between the parties at the end of the period, as well as the rules governing "protected routes, protected transport centres, cross-overs and fly-overs". That draft was circulated to the members of the Contact Group.

5. On 19 July I prepared, at the request of the Contact Group, a revision of the 25 May "elements paper", taking into account some of the internal reactions to the June and 5 July draft Constitutions. The Group considered this text and decided that it (with my name attached) should be handed informally to the parties after the meetings on 20 July at which these gave their responses to the Contact Group map.

6. On 20 December I prepared and distributed to the Contact Group, at the request of Lord Owen, a slight revision of the 5 July draft, which differed from that text in:

- (a) Using the formal names of the two Constituent Entities;
- (b) Substituting for the direct reference to "confederation" in para. (3) of Article V.1 a compromise formula derived from agreed Ministerial statements;
- (c) Deleting the annexes relating to the governance and division of Sarajevo and to the rules for protected routes, etc.



1/17

INTERNATIONAL CONFERENCE  
ON THE FORMER YUGOSLAVIA

TO: Mr. B. Ramcharan Fax No. (41-22) 917-0079

FROM: P.C. Szasz *[Signature]*

DATE: Germantown, 16 January 1995

SUBJECT: BH Contact Group meetings in Pale, Sarajevo and Zagreb,  
13-14 January

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1. Attached is my report to the Co-Chairmen on the above meetings, on which I reported to you yesterday morning by telephone from Frankfurt airport.

2. Aside from the two attachments mentioned in the report (paras. 1(a) & 2), I am also attaching the following:

(a) The three attachments to my report of the 11th from Belgrade (which attachments you told me you had not received):

(i) Contact Group Position agreed to on 11 January;

(ii) CG Talking Points agreed to on 11 January;

(iii) Draft by the Milosevic faction in the Pale Assembly of a resolution that it then withdrew at the 29 December meeting;

(b) The signed Decisions Taken at the Meeting of Army Commanders at Sarajevo Airport on 11 January, designed to aid implementation of the 31 December Cessation of Hostilities Agreement;

3. If you need any of the other papers referred to in para. 2 of the report please let me know.

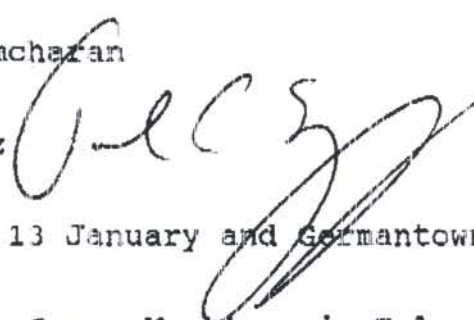
4. Later today I will send you a fax concerning Lord Owen's query as to the latest draft of the Krajina agreement.

5. Also later today I will send Ms. Kifle a request for the NYC-Geneva-NYC portion of the travel mentioned in paras. 27-28 of the report.

INTERNATIONAL CONFERENCE  
ON THE FORMER YUGOSLAVIA

TO: Mr. Th. Stoltenberg  
Lord Owen

cc: Mr. B. Ramcharan

FROM: P.C. Szasz 

DATE: Sarajevo, 13 January and Germantown, 15 January 1995

SUBJECT: BH Contact Group Meetings in Pale, Sarajevo and Zagreb,  
13-14 January

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1. On the 13th and 14th the following meetings of the BH Contact Group took place:

- (a) On the 13th, at the Hotel Panorama in Pale (10:00-19:40, including a luncheon); that meeting was with 8 members of the Bosnian Serb leadership (list attached), chaired by Dr. Karadzic. Also sitting with the delegation was a Mr. Dordevic, a US citizen, whose role is discussed in para. 24 below.
- (b) On the 13th, a brief informal follow-up meeting of the Group itself at UNPROFOR Headquarters in Sarajevo.
- (c) On the 14th, a meeting at the Presidency in Sarajevo (10:00-13:00, including a 1½-hour and a ½-hour break) with an 8-member BH Government delegation headed by Izetbegovic and Silajdzic.
- (d) On the 14th, brief meetings with General Rose before and after the meeting at the Presidency.
- (e) On the 14th, a brief meeting at the Zagreb airport with Ambassador Zuzuj.

All meetings were at the usual ambassadorial or expert level, with Michael O'Neill and myself participating throughout.\*

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\* Except for my absence from meeting (e) -- because I had to take a later plane from Sarajevo to Zagreb.



A. General Remarks about the meeting in Pale

2. At the beginning of the meeting each member of the Contact Group received a packet of documents, consisting of: copies of the signed texts of the 24 December Ceasefire and the 31 December Cessation of Hostilities Agreements, copies of the papers signed with Carter on 19 and 20 December (the latter in its manuscript form, as well as English and Serb typescripts), the transcript of an interview with Ambassador Thomas carried on 9 December and headlined: "Contact group plan could be changed significantly US envoy says" (the principal quotation in which the latter characterized as incomplete and incorrect), and the draft of a Memorandum of Understanding (copy attached). The Contact Group handed over its "Contact Group Position" paper which had been developed on Wednesday in Belgrade (see para. 2(a) of my 11 January report), after it had been read by Ambassador Thomas in his opening statement.

3. The meeting was conducted throughout in a business-like and friendly manner, with no long propaganda diatribes, and generally brief and subjective discussions of differences. President Karadzic a number of times expressed optimism and gratitude at the "change" in the Contact Group's position and at the clarifications that members of the Group offered. It appeared, especially from the result (see para. 7) that the Serbs were prepared, if not eager, to engage in negotiations -- but from the substantive matters discussed (see D-F below) that such negotiations are likely to be lengthy, difficult and quite possibly unproductive -- at least for a long time. The following matters were taken up -- with the relevant discussions at the several subsequent meetings also mentioned:

B. Formula for the Acceptance of the Contact Group Plan

4. This was the most important item considered in Pale. It was mentioned briefly in the opening statements, and then was taken up towards the end of the afternoon, initially in plenary meetings, then in bilateral consultations between Thomas and Karadzic (with Mr. Dordevic listening in), then with the two delegations in separate rooms, then with Ambassador Thomas huddling with some or most members of the Serb delegation, with the outcome of the latter consultation finally confirmed in plenary.

5. The first formula mentioned by the Contact Group, was that included in para. 2 of the CG Position paper: "negotiations on the basis of acceptance of the Contact Group Plan as a starting point leading to a comprehensive peace settlement". The principal preliminary ones proposed by the Serbs, and considered inadequate by the Group were:



- (a) Accepting the concept of the Contact Group Plan as the basis for negotiations;
- (b) We accept negotiations about the concept/proposal of the Contact Group as the basis of the solution of the conflict;
- (c) We accept negotiations about the Contact Group proposal as the basis of the solution of the conflict;

6. Finally, the Serb side proposed "We accept the basis for negotiations as proposed by the Contact Group". Thomas indicated that the Contact Group was prepared to take this back to the BH Government, as we recognized that the Serb party had worked hard to produce it, although he did not think that this was the formula that had the best chance of acceptance. He said that we would not add anything to this formula, and asked that the Serbs also refrain from doing so. This Karadzic promised, adding that the Muslims should not do so either, nor should they loudly exult. Steiner cautioned that it was important that in the next few days there be no statements that could be used by the opponents of negotiations on either side.

7. Though the Contact Group was hopeful that this formula, which we considered substantially equivalent to the one included in the Contact Group Position paper (see chapeau of para. 5 above) would be deemed adequate, if not perfect, by the BH Government, we were disappointed. Izetbegovic's immediate reaction was negative, though he said he would have to consult his colleagues, and Silajdzic's was even more critical. After a break of 1½ hours, the delegation returned with the following proposal for a statement to be made by Karadzic:

"We accept the map as proposed by the Contact Group. The map may be corrected with the agreement (sic) of both sides, within 51:49 proportion.

"If, within thirty days, the agreement on the corrections is not reached, the map, as proposed by the Contact Group, remains valid. In that case negotiations on the constitutional and interim (sic) arrangements and guaranties, will continue."

Members of the delegation suggested that this text should be acceptable to the Serbs, as they claimed it was based on the Working Group's formula and is merely a descriptive form of saying "Yes" to the Map as required by the Foreign Ministers on 5 July 1994.

8. Although it was immediately clear to the members of the Group that this formula would be entirely unacceptable to the Serbs, we took a ½-hour break to consider our response. At its conclusion Thomas and others indicated disappointment that the



Pale formula had found no favour with the Government; at Thomas's request I gave a legal analysis to the effect that it was legally the equivalent of the Group's formula quoted in para. 5 above. It became clear, however, that Silajdzic had for the moment prevailed in the delegation in continuing to demand that the Serbs make exactly the same acceptance of the Map as the Government was required to make on 20 July 1994. The Group indicated that the Government's proposal would clearly not be satisfactory to the Serbs because acceptance of the CG Map had been specifically rejected by the Pale Assembly and the referendum; in addition, that proposed formula included procedural details about the conduct of the negotiations which the Group considered should not be addressed now or in this way. At the conclusion of the meeting the Government delegation was requested not to publish the various proposed formulae under discussion, as that would make agreement less likely; Izetbegovic said he could at most make a very limited commitment in this regard, for matters of this sort could not be kept from the media for long.

#### C. Equal Treatment

9. This was the first matter raised at the Pale meeting from the Serb side, and also recurred throughout (e.g., in a strong statement by Mladic). It came up in numerous contexts:

- (a) Could the Republica Srpska enter into the same sort of confederation agreement as the Federation did with Croatia in March 1994? Our answer was as indicated in para. 12 below..
- (b) How could there be equal treatment if the Federation had already been internationally recognized as a state and the older Republica Srpska had not? See also para. 13 below.
- (c) The imposition by the international community of sanctions against the Serbs proved unequal treatment.

10. In general, the Contact Group's response was that it would never apply a double standard, so that whatever applied to one party in the negotiations, as well as in the agreements to be negotiated, would apply equally to the other party. At the very end of the meeting, Karadzic asked that the Contact Group refer to "equality" in its coming statement on the negotiations. Ambassador Thomas put aside this request" as untimely and as

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\*\* It would evidently be dangerous to accept "equality" as one of the goals of the negotiations -- see, e.g., the Serb claim for equal distribution of natural resources and infrastructure, as set out in para. 5(b) of the



already substantively covered by other Contact Group statements (the ones referring to equitable and balanced treatment) and Karadzic thereupon merely asked that the matter be taken up again soon.

#### D. The Map

11. Although no details of the Contact Group's Map were raised at the Pale meeting, a number of the Serb speakers, in particular Krajisnic and Mladic, indicated that the 49/51 division was not acceptable. In particular it was recalled that the 51% figure for the Federation, which had arisen from an addition of 33 1/3% for the Muslims and 17 1/2% for the Croats had never been accepted by the Serbs, but rather consisted of two separate figures tentatively and conditionally proposed at different times, which could not merely be added as they included an element of "overlap". Members of the Contact Group did not address this question at all.

#### E. Confederation

12. Early on the question was raised of whether the Serbs would be allowed to enter into precisely the same sort of Confederation with FRY or Serbia as the Federation had entered into with Croatia. Our response was that, aside from the fact that the Preliminary Agreements as to Confederation signed in Washington on 1 and 18 March 1994 had never been perfected as an actual Confederation Agreement, these were points that could only be taken up during negotiations between the parties. However, members of the Contact Group indicated, in response to specific questions, that they considered that the principle of equal treatment (see C above) would apply to this issue, and that generally each entity would be allowed to establish relations with outsiders that did not threaten the integrity of the Union.

#### F. Legal nature of the Republica Serpska

13. Early on Karadzic raised the seemingly minor point that the Serbs would prefer the Union to be described not as "composed of the Federation and the Republic Serpska" but as formed by these two states. When Foreign Minister Buha expanded on this point it became plain that he was reverting to the long-standing issue of the legal nature of the various entities involved:

- (a) The Republica Serpska is considered by the Bosnian Serbs as a state under international law, having a people, territory and a functioning government -- though admittedly it lacked international recognition;

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attached draft Memorandum of Understanding.



it had been created not by secession from Bosnia and Herzegovina (which never came into existence -- see (b)) but directly by reluctant separation from Yugoslavia, and was therefore at least as old, if not older, than the Republic of Bosnia and Herzegovina.

- (b) The Republic of Bosnia and Herzegovina had never come into being at all, even though mistakenly recognized, because it never had a defined territory or a functioning government.
- (c) The Federation of Bosnia and Herzegovina had been created [by the US, according to the Serbs] by the 18 March 1994 Washington Agreement, and had immediately achieved international acceptance, e.g., by concluding a Confederation Agreement with Croatia and by also entering into a secret military agreement with that state -- which in turn was used to justify the deployment of Croatian troops in BH. At Thomas's request I pointed out that under Article I.1 and VII.1 of the Federation Constitution, as well as under the corresponding provisions of the 1 March 1994 agreements, the Federation was not a state in the international sense but was only an entity created within that part of the territory of BH in which the Muslims and Croats had a majority, and which entity had certain limited foreign relations competencies in effect delegated to it by the Republic -- and that when the proposed Union was established the Federation would have the same internationally subordinate relation to it as it now had to the Republic.
- (d) The Contact Group indicated that the proposed Union of Bosnia and Herzegovina would be a "loose union" that would continue the international legal personality of the Republic of Bosnia and Herzegovina (which the Serbs of course deny), as a member of the UN and other international organizations (but not necessarily of regional ones -- e.g., the OIS).

14. It may be recalled that the point raised by Karadzic is precisely the one that occupied largest amount of time in negotiating the Constitutional Agreement in July-August 1993, and was ultimately resolved in Article I.1 of Appendix I to the Inevitable Agreement. Probably the only way of resolving this issue -- which of course is essentially theological with no practical consequences -- is along the lines of that 1993 text.

#### G. Proposed Memorandum of Understanding

15. About half way through the meeting the Serb delegation presented the draft Memorandum of Understanding that had been

included in the initial packet of documents (para. 2 above). The Contact Group indicated it was not interested in negotiating such a text, and the matter was dropped.

16. Late in the meeting Mr. Dordevic informally presented to members of the Group a redraft of the Contact Group Position paper (end of para. 2 above). It was pointed out that that paper was not one we had come to negotiate, and this matter too was dropped.

#### H. Sanctions

17. The subject of sanctions was a complaint raised repeatedly, though not forcefully, by the Serbs -- in particular by Mladic. The Contact Group never responded on this.

#### I. Subjects to be negotiated

18. Foreign Minister Buha listed the items that will have to be negotiated once the process starts:

- (a) Map: including the 49/51 division;
- (b) Constitution: in which connection he referred to a 17 March 1994 draft (which must have been the first draft of a Union Constitution -- precursor of the 5 July and 20 December drafts -- which the Co-chairmen had handed informally to Redman and Churkin after the Federation signature ceremony), wanting to know why that complete text had never been handed to his government;
- (c) Implementation, e.g. the military arrangements;
- (d) Removal of sanctions.

#### J. Blue Routes

19. At our initial briefings on 12 January by Akashi in Zagreb and General Rose in Sarajevo the Contact Group had been informed that a general agreement on the implementation of the 31 December 1994 Cessation of Hostilities Agreement had been signed by the respective military commanders on 11 January, and that this had inter alia called for an expert meeting on the modalities of reinstating the 17 March 1994 agreement (which the Serbs had denounced on 26 July, alleging Muslim misuse for smuggling weapons).

20. As reported in para. 7 of my 12 January memo, during our meeting in the afternoon of that day with the Bosnian government, Izetbegovic announced that the blue route expert talks had just



broken down, because of Serb intransigence -- for which he implicitly blamed the Contact Group's planned visit to Pale. Returning to UNPROFOR Headquarters we were informed by Rose and Andreev, that in their view the problem had rather been that the Muslims were insisting that the 17 March agreement be reinstated not as written (traffic restricted to civilians and to humanitarian goods brought by internationally (i.e. by UNHCR) recognized agencies) but as actually implemented during much of the time (including commercial goods and also national humanitarian agencies). Rose informed us that he proposed to reopen the blue routes on the 14th on the basis of the 17 March text, and asked the Contact Group to convey this message during our visit to Pale, to make sure that the Serbs had no objection (since, in effect, the reopening would be in accordance with their stated demands).

21. Towards the end of the meeting in Pale, the above message was conveyed to the Serb delegation. Karadzic and Krajisnic responded, the latter in detail, explaining that in the long run the Serbs would insist that the reopening be tied to Muslim compliance with their commitments under POW exchange agreements, but that for the present they would not interfere with the reopening of the routes; General Mladic was present during this exchange. We then conveyed this information to Rose on our return from Pale on the evening of the 13th.

22. After our meeting with the BH government on the 14th, Rose informed us that the Serbs had allowed the routes to be opened during the 2-hour period designated for Serb traffic, but then had refused to have them opened for Muslim traffic, allegedly on direct orders of Mladic, on the ground that no new agreement had been signed on this subject (as the experts meeting had not resolved the outstanding issues). Rose was livid -- referring to this as bad faith and evidently annoyed that his farewell was being spoiled. Andreev thought that the matter might be another example of bad coordination (difficult to explain in view of our exchange the previous day in the presence of all competent Serb officials): as we were leaving Sarajevo, a message was coming in to him setting a number of new Serb conditions for reopening the routes.

23. As a result of this it was decided that Thomas should not give a call to Karadzic on the BH Government's reaction to the negotiations formula or to complain about the blue routes situation; it was considered that silence at this stage might be a more eloquent protest. [Incidentally, the Government did not raise the issue with us during our meeting of the 14th, though they must have been aware of the matter.]



K. Carter Center

24. As mentioned above, the Serb delegation in Pale was assisted by a Mr. Dordevic, who introduced himself as a US citizen and the person who had arranged for the Carter visit and appeared to claim to be a quasi-representative of the Carter Center; although he did not participate in the debate, he spoke extensively with Ambassador Thomas and participated in small group consultations between the latter and Dr. Karadzic and other Serb participants, and a few times carried proposals between the delegations.

25. At various times during our discussion in Pale the idea of bringing President Carter back into the process was raised by Mr. Dordevic and by others of the Serb delegation. However, when during next days meeting with the BH Government delegation, the Group referred, incidentally, to the 18 December agreement the government had signed with Carter, Izetbegovic said that he saw no reason to bring Carter back into the picture.

26. When Rose informed us of the latest contretemps about the blue routes (see para. 22 above), he said he was considering calling the Carter Center, which had asked to be kept informed about developments relating to the cessation of hostilities. Andreev persuaded him not to do so immediately.

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27. Future plans of Contact Group: It was decided that the Contact Group would meet next Thursday, the 19th, in Geneva, in the afternoon with the OIS Contact Group and in the evening to discuss territorial issues; the session is to continue on Friday the 20th, to discuss, really for the first time, constitutional issues -- based on the 19th July Elements paper (handed informally to the parties) and the 20 December complete draft Union Constitution. Thereafter it is possible that the Group would continue on to Sarajevo/Pale/Belgrade.

28. Subject to your approval I propose to join the Group at its meeting on constitutional issues on the 20th (On the 19th I am meeting my NYU class for the first time) and then continue on with the Group should they visit the area before the following Thursday.



1 Radovan Karadžić - Presid.  
of RS

1 Nikola Koljević - Vicepres. of  
RS

1 Biljana Plavšić - Vicepres. of  
RS

1 Momčilo Krajišnik - Presid.  
of Ass. of RS

1 Aleksa Buha - Min. of for. aff.  
Gen. Ratko Mladić

Gen. Zdravko Tolimir

Ladomir Lukić, Dep. of min. of  
for. aff.

Dorđević

*Review for B. Smith, D.I. '95*

## MEMORANDUM OF UNDERSTANDING

It is understood that Republic of Srpska will resume negotiations under the following circumstances:

1. Republic of Srpska shall be treated equally as the Moslem-Croatian Federation under the Washington accord with respect to legal status and current international economic sanctions against the Serbian peoples.

2. Permanent cessation of hostilities with interposition of U.N. forces at confrontation lines.

3. Resumption of Final Peace negotiations in \_\_\_\_\_ with the Contact Group proposal as the basis for negotiation of all points, in full cooperation with the Contact Group.

4. Republic of Srpska agrees that all parties shall abide by all applicable international standards for human rights.

5. Final settlement would take into account the following:

a) viability of the two states in possible confederation with each other;

b) roughly equal distribution of natural resources and infrastructure;

c) natural and defensible frontiers;

d) transformation of Sarajevo into two cities;

e) access to the sea for the Republic of Srpska;

f) lifting of the United Nations and Yugoslavian economic sanctions against Serbian peoples during negotiations.

6. In a final settlement all has to be agreed. If all is not agreed, nothing is agreed.



## Talking Points

### Constitution

1. There will be a Union of Bosnia and Herzegovina composed of the Bosniac-Croat Federation and the Republika Srpska.
2. The Union will be a loose one. It will continue the international legal personality of Bosnia and Herzegovina, i.e., as a member of the United Nations and other international organizations.
3. All other governmental functions and powers will be exercised by the Federation and the Republika Srpska.
4. Balanced treatment of the Federation and the Republika Srpska will be essential, including the establishment of parallel special relationships with neighboring countries, provided this is consistent with the integrity of Bosnia and Herzegovina.

### Sanctions Relief

5. If the Bosnian Serb authorities agree to enter negotiations on the basis of acceptance of the peace plan of the Contact Group as a starting point, the Contact Group will recommend to the Security Council that it consider SCR 942 again.

## CONTACT GROUP POSITION

1. The Contact Group peace plan provides for a viable, reasonable and realistic solution for all parties and offers the peoples of Bosnia and Hercegovina the prospect of a secure future. On 2 December Contact Group Ministers reaffirmed the plan which must be accepted by all parties.

2. The Contact Group wants to see early negotiations on the basis of acceptance of the Contact Group Plan as a starting point leading to a comprehensive peace settlement. Its members reiterate that the cessation of hostilities agreement must be respected by all parties.

3. The contact Group wishes to make clear the following in relation to its plan:

(i.) The territorial proposal of the Group, with its 51/49 parameter, remains the basis for a settlement, while being open to adjustment by mutual agreement between the parties. During negotiations, the Contact Group is prepared to facilitate rapid agreement on this.

(ii) As regards constitutional arrangements, balanced treatment of the Bosniac-Croat and Bosnian Serb entities will be essential, including the establishment of parallel special relationships with neighbouring countries, provided this is consistent with the integrity of Bosnia and Hercegovina.

(iii) Following agreement on constitutional arrangements and possible territorial adjustments, there will be withdrawal to the lines agreed. The Contact Group will look to the United Nations to make arrangements to ensure the separation of forces and to provide effective monitoring of these lines.

(iv) The settlement should provide for refugees and displaced persons to have the possibility to return freely to their homes of origin.



Drift J A J(10) - to Rob Amely -  
Not printed Amely

Received Jan 17  
on 11/95

The National Assembly of the Serbian Republic, at its session of December 29th, 1994, has adopted the following:

### CONCLUSION

1. The National Assembly of the Serbian Republic endorses in their entirety the documents signed by the leadership of the Serbian Republic and former US President Jimmy Carter.

2. The National Assembly of the Serbian Republic expresses its satisfaction over the positive stance taken by the Contact Group in connection with consideration of an all-inclusive peace plan and its readiness for early negotiations under its auspices, leading to a comprehensive peace settlement for Bosnia and Hercegovina.

Therefore, the National Assembly of the Serbian Republic has so decided and informs the Contact Group accordingly, pursuant to its statement of 24 December 1994, that:

a) it confirms the readiness of the Serbian Republic to negotiate a comprehensive peace agreement on the basis of the acceptance of the peace plan of the Contact Group as a starting point;

b) it declares that the forces of the Serbian Republic are observing in full the Cease-fire Agreement.



MEETING OF ARMY COMMANDERS

Sarajevo report, 11 January 1995

DECISIONS TAKEN

(a) It was agreed that the sides shall desist from the use of language which undermines the agreement on complete cessation of hostilities and shall, in general, refrain from the use of provocative language in the mass media.

(b) It was agreed that meetings of the Regional Joint Commissions shall take place, as agreed, on the level of Commanders or Central Joint Commission, on the contact line.

(c) It was agreed that the existing contact line shall be defined by UNPROFOR in agreement with the parties, and that maps so defined shall be agreed by 31 January 1995. With respect to the line of contact around the city of Sarajevo, there should be a return to the line as of 9 February 1994.

(d) UNPROFOR shall prepare a draft agreement on full freedom of movement with the sides by 18 January 1995.

(e) It was agreed that the following separate meetings should be convened on 12 January 1995.

i. Meeting at 1030, to be chaired by UNPROFOR, on modalities for the implementation of the agreement of 17 March 1994, with the intention of opening the routes for civilian and humanitarian traffic as soon as possible, and not later than 14 January 1995.

ii. Meeting, to be chaired by UNHCR, on medical evacuation.

iii. Meeting, to be chaired by ICRC, on the exchange of detainees, bodies and information on persons not accounted for.

(f) Following the withdrawal of forces from the demilitarized zone of Igman and Bjelasnica to the lines in accordance with the agreement of 14 August 1993, there shall be a joint inspection by 14 January 1995.

2. FUTURE ACTIONS

(a) The sides shall reaffirm their commitment to the full implementation and compliance with the agreements of 23 December 1994 and 31 December 1994 with a view to achieving a lasting peace settlement before the expiration of these agreements.

(b) The map marking crossing points along the contact line and observation posts will be considered at the Central Joint Commission on 19 January 1995.

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(c) There will be a Regional Joint Commission meeting on 14 January 1995 in the area of Bihac to facilitate the implementation of the agreements of 23 December 1994 and 31 December 1994, and, in particular, the withdrawal of any foreign troops present, and to establish observation posts.

(d) There will be a Regional Joint Commission meeting on 14 January 1995 in the area of Livno and Kupres, to facilitate the implementation of the agreement of 23 December 1994 and 31 December 1994 and, in particular, the withdrawal of any foreign troops present, and to establish observation posts.

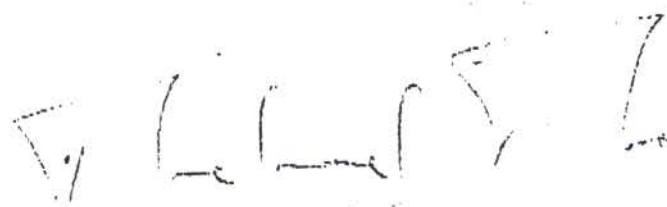
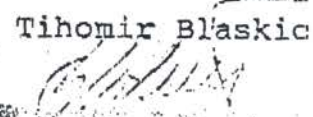
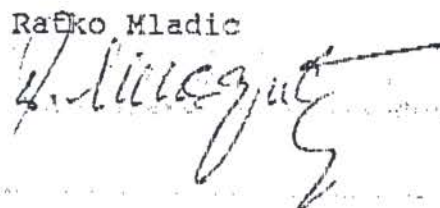
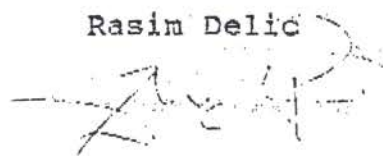
### 3. DATE OF NEXT MEETING

It was agreed that the next meeting of the Central Joint Commission will take place on 19 January 1994 at 1200 hours at Sarajevo airport, at the Chief of Staff level.

Rasin Delic

Ratko Mladic

Tihomir Blaskic



INTERNATIONAL CONFERENCE  
ON THE FORMER YUGOSLAVIA

7/10

TO: Mr. Th. Stoltenberg ✓  
Lord Owen ✓

cc: Mr. B. Ramcharan

FROM: P.C. Szasz

DATE: Sarajevo, 12 January 1995

SUBJECT: BH Contact Group Meetings in Zagreb and Sarajevo, 12 January

1. Today's meetings of the BH Contact Group took place first at the Zagreb airport, then at UNPROFOR Headquarters in Sarajevo, then at the Presidency in Sarajevo and finally again at UNPROFOR HQ. All meetings were at the usual ambassadorial or expert level, with Michael O'Neill and myself participating throughout.

A. Briefings in Zagreb and Sarajevo

2. Mr. Akashi and the new UNPROFOR Chief of Staff briefed the Contact Group at the Zagreb airport, from 1045 to 1130. Mr. Akashi was basically optimistic in the wake of the military agreement concluded the previous evening at Sarajevo airport concerning various aspects of implementing the 31 December 1994 Cessation of Hostilities Agreement. He approved of the planned visit to Pale, advising that Karadzic might take an initially hard line but was basically prepared to enter into negotiations. He recalled that after the conclusion of the 31 December Agreement Karadzic had been ebullient, stating that once the initial 4-month period had passed it would be difficult to reopen hostilities; the BH Government representatives had been correspondingly subdued, evidently with the same consideration in mind. Akashi advised the Contact Group to go promptly to work to try to reach a political settlement within the period -- indeed, if possible, within the first two months.

3. Akashi asked the Contact Group to keep him informed of its work, and in particular concerning any military or other matters that would require UNPROFOR actions, such as monitoring; he offered to assign senior level liaison officers to the Group, who could also help on matters requiring expertise, such as on the drawing of boundaries. Mr. Steiner responded that at present the Contact Group was just trying to get negotiations going, but once substantive talks had started the Group would certainly consult with UNPROFOR closely on all matters that might require its participation or on which its expertise could be helpful.



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4. At UNPROFOR Headquarters in Sarajevo, General Rose advised that the Bosnian Serbs were eager to negotiate. The 5th Corps's initially successful forays out of Bihac had been a shock to them, and although they contained and reversed that attack, there was only few times they would be able to do so again because of limitations on their fuel, etc. -- unless they could be resupplied from FRY. The BH Government was very suspicious, concerned that the peace process might get stuck in a cessation-of-hostilities mode, leading to a Cyprus-like situation. Rose confirmed that there had been a very low level of hostile incidents during the past two weeks, mostly in Bihac and even there rather few. He complained that the BH Government was causing difficulties about the stationing of UNPROFOR and Serb liaison officers on its territory, as foreseen in and essential for the maintenance of the 31 December Agreement. He remarked on the good atmosphere at yesterday's meeting of the top-level military leaders at Sarajevo airport, considering a good augury for the Contact Group's work.

5. Mr. Andreev essentially confirmed that there was a growing eagerness for peace in the Bosnian Serb leadership, reflecting both strategic considerations and pressures from the population. He thought negotiations should be outside the country, where Karadzic could act more freely. Andreev reported on the 3 negotiations taking place at the airport today consequent on yesterday's Agreement: (i) Experts meeting on blue routes; (ii) ICRC-chaired meeting on POWs; UNHCR-chaired meeting on medical evacuations.

#### B. Meeting with Bosnian Government

6. The Contact Group met with a 9-member delegation of BH Republic/BH Federation officials, headed by Republic President Izetbegovic, Federation President Zubak, Vice-President Ganic and Republic/Federation Prime-Minister Silajdzic, at the Presidency, from 1550 to 1700. The purpose of the meeting was to reassure the BH Government about the continued support of the Contact Group and its Governments for the Contact Group Plan, to explain the purpose of the imminent visit to Pale and to announce

Izetbegovic clearly introduced Zubak by that title, and Ganic as Vice-President, even though the 6-month interim term for which these had been elected pursuant to the transitional provisions of the Federation Constitution had expired in mid-December. Mr. Andreev has informed me that the proposed amendment to the Federation Constitution that would have extended the transition period (see para. 10 of my memo of 22 September) had not yet been adopted due to Croatian opposition -- which technically throws into doubt the legality of the entire Federation government, and thus also that of the Republic.



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that at its conclusion the Group would return to report to the BH Government on the outcome.

7. All the BH Government representatives who spoke, led off by Izetbegovic, reacted very negatively to the proposed visit to Pale. The principal reason for the opposition was that they considered that until Karadzic had not unconditionally accepted the Contact Group's Map, as the BH Government had been required to do, nothing should be done to break its isolation. If the Group chose to go ahead nevertheless, it would be held responsible for any negative consequences on the peace process, on the continuation of the cessation of hostilities, etc. (When during our visit news came that the expert talks on blue routes at the airport had allegedly broken down, Izetbegovic was quick to lay the blame on the Contact Group for its ill-advised planned visit. Finally, all our interlocutors agreed that the Pale visit would be fruitless, with no acceptable Serb reaction foreseeable.)

8. Silajdzic, no doubt, was the most negative speaker. He repeatedly demanded whether the Contact Group was ready to set deadlines for a positive Serb response and, thereafter, for a positive outcome of any ensuing negotiations; without such deadlines, and appropriate threats to the Serbs if they missed these, Silajdzic asserted that the Contact Group really had no plan. He concluded by saying that at end of meeting he was even more discouraged than at its beginning.

9. An interesting point came up about the definition of the Contact Group's Plan or Proposal. Silajdzic asserted that all it consisted of was the 5 July Map, as that was all that the BH Government had been asked to accept and did accept; he did not consider that the several FM declarations (those of 13 May, 5 and 30 July and 2 December 1994), and particularly those that were later than the BH Government's 20 July-statement, were technically part of the CG Plan, as Ambassador de Sedouy and other Contact Group members claimed. However, at end of this discussion Izetbegovic appeared to concede that certain points in these declarations as to future constitutional structure might be part of the CG Plan.

#### D. POSTMEETING meeting at VRS/RSK Headquarters

10. Reassembling after the meeting at the Presidency, the Contact Group considered whether it should go on to Pale in light of: (i) the late hour (we were advised it would take about 1 1/2 hours to drive one way in the snow, and was very risky); (ii) the strongly negative BH Government position; (iii) the difficulties in the blue routes talks, about which Andreev and others briefed us before and after they had adjourned for the day.

11. Consideration (i) ruled out a visit tonight. As to (iii), both General Rose and Mr. Andreev advised that situation not so serious and in any even not clearly attributable to Serb obduracy; both strongly advised that the visit go ahead tomorrow



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-- Rose thereby in effect again certifying that the Serbs were not violating or preventing the implementation of the Cessation of Hostilities. A final decision on a visit was postponed to tomorrow morning.

INTERNATIONAL CONFERENCE  
ON THE FORMER YUGOSLAVIA

TO: Mr. Th. Stoltenberg  
Lord Owen

cc: Mr. B. Ramcharan

FROM: P.C. Szasz

DATE: Belgrade, 11 January 1995

SUBJECT: BH Contact Group Meetings in Zürich and Belgrade, 11  
January

---

1. Today's meetings of the BH Contact Group took place first at a lounge at the Zürich airport in transiting from Paris to Belgrade, and then in Belgrade, at the Presidency with President Milosevic and at a restaurant with members of the Pale Assembly. All meetings were at the usual ambassadorial or expert level, with Michael O'Neill and myself participating throughout.

A. At Zürich Airport

2. During an over 2-hour layover at the airport, the Contact Group reviewed the instructions it had received from the political directors at yesterday's meeting, as set out in the Lignes de Conduite agreed to at the conclusion of that meeting, and made plans for the meetings scheduled for this week, and in particular those set for today. The Group agreed on the following two papers, copies of which are attached, to be used in connection with the meeting with the Delegates to the Pale Assembly:

- (a) "Contact Group Position" consisting of the paper agreed to in Belgrade at the morning meeting on 21 December 1994, stripped of its final two sub-paragraphs (3(v) - (vi), which dealt with sanctions), to be handed to the Delegates;
- (b) Four Talking Points on "Constitution" (paras. 1-3 constituting paraphrases of the first three paras. of the 19 July 1994 non-paper on "Elements for a Constitution of the Union" and para. 4 a paraphrase from para. 2 of the unpublished "Guidelines for the Contact Group" annexed to the 2 December Ministerial Text) and one on "Sanctions Relief", which are not to be handed over.

3. Other decisions taken are reflected in the statements by Contact Group representatives at the meetings in Belgrade reported below.



B. Meeting with President Milosevic

4. The meeting with President Milosevic took place from 16:00 to 18:00 at the Presidency. The subjects underlined below were the principal ones discussed.

5. General tactics in dealing with the Bosnian Serbs: President Milosevic advised:

- (a) He had been told that the pro-negotiation group in the Assembly now constituted a majority. This group had late last year constituted itself as a formal one within the meaning of the Rules of Procedure of the Assembly, giving it the right to introduce procedural and substantive proposals, etc.; this was done over the opposition of Karadzic and the leadership of the Assembly. Apparently all votes in the Assembly require only a simple majority.
- (b) This group drafted, in consultation with Milosevic and in response to the Contact Group's 21 December Declaration (published on 23 or 24 December) the attached draft resolution for adoption by the Pale Assembly; apparently the leadership pretended to accept it, but in the last minute advised the Assembly to adopt only para. 1, and the group did not feel strong enough to push for the adoption of the rest.
- (c) The leadership and much of the membership of the group comes from Western BH, and is therefore, unlike Karadzic, less interested in Sarajevo than in a solid northern corridor, and may be willing to trade territory in that sense. [Milosevic also suggested that Izetbegovic may be less interested in Western BH, where his support is weak, and may therefore be amenable to such trades.] Some group members also come from areas such as Mostar, to which they want to return even though they would be Federation territory -- while Karadzic keeps declaring that no Serb would live under Muslim rule.
- (d) The 4-year term for which the Pale Delegates were elected expired mid-December, and their continuance in office is on the basis of the war-time emergency. It is possible that the group may try to call, within a month for new elections -- from which one could expect a wholly new Assembly some two months later; incidentally, this may be a reason why such a maneuver might fail, for many of the Assembly members realize they would not be re-elected. [On being asked who might oppose Karadzic in such an election, Milosevic said General Mladic might, and would get three times as many votes as Milosevic.]

- (e) The Contact Group must make use of the 4-month cessation of hostilities period, and work urgently. It must be seen as treating both parties equally, and go to both Sarajevo and Pale.
- (f) Milosevic believes that Karadzic and Krajsnic may be ready to negotiate now -- in part because of increasing pressure from members of the Assembly. However, unlike the members of the Pale group, who are desperate for peace, K & K are basically not, for peace would mean loss of their own positions.
- (g) He advised that after any negotiations with Karadzic the Contact Group should publicly announce the proposals made and rejected, and the reasons given therefor -- so that members of the Pale Assembly might be able to form their own opinion of how Karadzic is carrying out his mandate.

6. BH Constitution:

- (a) Milosevic speculated that although Karadzic is insisting on complete independence for the Serb entity, members of the Assembly group might be willing to accept a loose Union.
- (b) Milosevic again suggested that the Contact Group simply present the Invincible draft Constitutional Agreement, which had been "accepted" by all three parties in 1993, and which should prove acceptable now. [NB. He may not realize that aside from calling for a Union of 3 rather than merely 2 entities, the 1993 draft provided for a considerably more substantive Union than foreseen in any of our current drafts.]
- (c) Milosevic cautioned against letting "small" problems, e.g. names such as "Union", "Republic", "Confederation", etc. get into the way of substantive solutions that may be acceptable.
- (d) He did not clearly express himself on the question of "confederation" with Serbia, and did not seem overly eager that such a possibility be preserved for the Bosnian Serbs.

7. Sanctions relief: Milosevic expressed, at some length, though low key, his bitterness that the SC resolution being examined in New York for extending the SC resolution 943 period did not call for any further sanctions relief -- e.g., in connection with Danube traffic. Again he insisted that he was



principally concerned with the symbolic effect of some additional relief, and considered the failure to grant it a grave mistake. While he would remain dedicated to peace, the failure to grant him recognition for that might have serious consequences.

8. Mr. Ehrman and other members of the Contact Group pointed out that the political climate in New York would not allow going further at this time; indeed, in an introductory statement, de Sedouy had said that further relief would require further constructive actions from Milosevic. They called attention to their unanimous support for the delivery of Russian gas, and hoped this would soon have an effect.

#### C. Meeting with Members of Pale Assembly

9. 7 Delegates and an interpreter showed up for the meeting (from 18:30 to 20:45). Their leader explained that there would have been more except for the bad weather.

10. Ambassador Thomas made the opening presentation, inter alia reading the five Talking Points (see para. 2(b) above) verbatim and emphasizing, among other points and as almost all the other Contact Group members did later, that under the Contact Group's present interpretation (which had been implicit but not clear at the July meetings) there would have to be no withdrawal by the Serbs to agreed lines until full agreement had been reached, i.e. on the Map and on the Constitution. Consequently, the Serbs risked nothing by accepting the CG Plan now and engaging in negotiations. There was no thought of imposing any peace proposals on the parties by force.

11. Various Delegates made the following points:

- (a) As the Contact Group's July proposal had been rejected by a referendum, before accepting to negotiate on that basis one would have to show some significant differences in the current approach.
- (b) Once they understand that the Contact Group's territorial proposals would under no condition be imposed, Serbs could start negotiating on them. [This assurance, which was requested by several Delegates, was given firmly by Thomas and by others.] At least one Delegate insisted that this assurance be given formally, in writing.
- (c) Probably a swap involving territorial continuity around the Sava against land around Sarajevo could be arranged.
- (d) Bosnian Serbs must have same right to confederate as Federation had under the Washington agreement.

- (e) The Delegates are not politicians, but represent the Serb people directly -- the vox populi.
- (f) The international community must realize that the peace plan is not for its own benefit, but for the people in the area, who will have to live with it.
- (g) Serb people are entitled to same rights as other people. From that point of view, clear that Serbs cannot accept the boundaries proposed by Contact Group. Proposed Map would not make it possible for Serb entity to be viable. It is deep conviction of Serbs that proposal is deliberately one-sided, and are in any event irrational.
- (h) As Serbs achieved a military victory, they are entitled to some consideration.
- (i) Although 49/51 ratio may be acceptable, quality of Serb lands must be improved.
- (j) One Delegate, at present a refugee from Tuzla, asked about how the rights of refugees to return and to live unmolested would be assured. [Steiner pointed out that this is also a concern of the Muslims and Croats -- and thus, being a common concern, could certainly be settled in negotiations.] Another Delegate pointed out that unless right of refugees to return home is assured, many of them would have to emigrate.
- (k) One Delegate declared that there was a deep desire for peace among the Serbs, and probably among the other peoples. E.g., now POWs were being taken, rather than just having them killed as at beginning of war.
- (l) Listening to Contact Group explanations, one Delegate said he now realizes to what extent he had been misled. They were for negotiations leading for a lasting peace.
- (m) Delegates had come and were consulting with Contact Group at some personal risk.

12. In general, I felt that many of the statements showed how difficult it will be to conduct successful negotiations with even this group of Delegates who allegedly were the least militant in the Assembly. [Milosevic had cautioned that none of these could risk being labelled as anti-nationalistic.]

13. At the end of meeting the paper described in para. 2(a) was handed over, the value of the meeting was asserted by all, and promises were made to remain in contact.



Belgrade, 11 I '95

## Talking Points to Pale Deputies

### Constitution

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2. The Union will be a loose one. It will continue the international legal personality of Bosnia and Herzegovina, i.e., as a member of the United Nations and other international organizations.
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5. If the Bosnian Serb authorities agree to enter negotiations on the basis of acceptance of the peace plan of the Contact Group as a starting point, the Contact Group will recommend to the Security Council that it <sup>re</sup>consider SCR 942 ~~again~~.

Drift of A J(10) - to Rob Amly -  
Not printed Amly

Received Jan 17  
on 11.1.95

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2/10

INTERNATIONAL CONFERENCE  
ON THE FORMER YUGOSLAVIA

TO: Mr. Th. Stoltenberg  
Lord Owen

cc: Mr. B. Ramcharan

FROM: P.C. Szasz

DATE: Belgrade, 11. January 1995

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2. During an over 2-hour layover at the airport, the Contact Group reviewed the instructions it had received from the political directors at yesterday's meeting, as set out in the Lignes de Conduite agreed to at the conclusion of that meeting, and made plans for the meetings scheduled for this week, and in particular those set for today. The Group agreed on the following two papers, copies of which are attached, to be used in connection with the meeting with the Delegates to the Pale Assembly:

- (a) "Contact Group Position" consisting of the paper agreed to in Belgrade at the morning meeting on 21 December 1994, stripped of its final two sub-paragraphs (3(v) - (vi), which dealt with sanctions), to be handed to the Delegates;
- (b) Four Talking Points on "Constitution" (paras. 1-3 constituting paraphrases of the first three paras. of the 19 July 1994 non-paper on "Elements for a Constitution of the Union" and para. 4 a paraphrase from para. 2 of the unpublished "Guidelines for the Contact Group" annexed to the 2 December Ministerial Text) and one on "Sanctions Relief", which are not to be handed over.

3. Other decisions taken are reflected in the statements by Contact Group representatives at the meetings in Belgrade reported below.

3/10

- 2 -

B. Meeting with President Milosevic

4. The meeting with President Milosevic took place from 16:00 to 18:00 at the Presidency. The subjects underlined below were the principal ones discussed.

5. General tactics in dealing with the Bosnian Serbs: President Milosevic advised:

- (a) He had been told that the pro-negotiation group in the Assembly now constituted a majority. This group had late last year constituted itself as a formal one within the meaning of the Rules of Procedure of the Assembly, giving it the right to introduce procedural and substantive proposals, etc.; this was done over the opposition of Karadzic and the leadership of the Assembly. Apparently all votes in the Assembly require only a simple majority.
- (b) This group drafted, in consultation with Milosevic and in response to the Contact Group's 21 December Declaration (published on 23 or 24 December) the attached draft resolution for adoption by the Pale Assembly; apparently the leadership pretended to accept it, but in the last minute advised the Assembly to adopt only para. 1, and the group did not feel strong enough to push for the adoption of the rest.
- (c) The leadership and much of the membership of the group comes from Western BH, and is therefore, unlike Karadzic, less interested in Sarajevo than in a solid northern corridor, and may be willing to trade territory in that sense. [Milosevic also suggested that Izetbegovic may be less interested in Western BH, where his support is weak, and may therefore be amenable to such trades.] Some group members also come from areas such as Mostar, to which they want to return even though they would be Federation territory -- while Karadzic keeps declaring that no Serb would live under Muslim rule.
- (d) The 4-year term for which the Pale Delegates were elected expired mid-December, and their continuance in office is on the basis of the war-time emergency. It is possible that the group may try to call, within a month for new elections -- from which one could expect a wholly new Assembly some two months later; incidentally, this may be a reason why such a maneuver might fail, for many of the Assembly members realize they would not be re-elected. [On being asked who might oppose Karadzic in such an election, Milosevic said General Mladic might, and would get three times as many votes as Milosevic.]



4/10

- 3 -

- (e) The Contact Group must make use of the 4-month cessation of hostilities period, and work urgently. It must be seen as treating both parties equally, and go to both Sarajevo and Pale.
- (f) Milosevic believes that Karadzic and Krajsnic may be ready to negotiate now -- in part because of increasing pressure from members of the Assembly. However, unlike the members of the Pale group, who are desperate for peace, K & K are basically not, for peace would mean loss of their own positions.
- (g) He advised that after any negotiations with Karadzic the Contact Group should publicly announce the proposals made and rejected, and the reasons given therefor -- so that members of the Pale Assembly might be able to form their own opinion of how Karadzic is carrying out his mandate.

6. BH Constitution:

- (a) Milosevic speculated that although Karadzic is insisting on complete independence for the Serb entity, members of the Assembly group might be willing to accept a loose Union.
- (b) Milosevic again suggested that the Contact Group simply present the Invincible draft Constitutional Agreement, which had been "accepted" by all three parties in 1993, and which should prove acceptable now. [NB. He may not realize that aside from calling for a Union of 3 rather than merely 2 entities, the 1993 draft provided for a considerably more substantive Union than foreseen in any of our current drafts.]
- (c) Milosevic cautioned against letting "small" problems, e.g. names such as "Union", "Republic", "Confederation", etc. get into the way of substantive solutions that may be acceptable.
- (d) He did not clearly express himself on the question of "confederation" with Serbia, and did not seem overly eager that such a possibility be preserved for the Bosnian Serbs.

7. Sanctions relief: Milosevic expressed, at some length, though low key, his bitterness that the SC resolution being examined in New York for extending the SC resolution 943 period did not call for any further sanctions relief -- e.g., in connection with Danube traffic. Again he insisted that he was

principally concerned with the symbolic effect of some additional relief, and considered the failure to grant it a grave mistake. While he would remain dedicated to peace, the failure to grant him recognition for that might have serious consequences.

8. Mr. Ehrman and other members of the Contact Group pointed out that the political climate in New York would not allow going further at this time; indeed, in an introductory statement, de Sedouy had said that further relief would require further constructive actions from Milosevic. They called attention to their unanimous support for the delivery of Russian gas, and hoped this would soon have an effect.

#### C. Meeting with Members of Pale Assembly

9. 7 Delegates and an interpreter showed up for the meeting (from 18:30 to 20:45). Their leader explained that there would have been more except for the bad weather.

10. Ambassador Thomas made the opening presentation, inter alia reading the five Talking Points (see para. 2(b) above) verbatim and emphasizing, among other points and as almost all the other Contact Group members did later, that under the Contact Group's present interpretation (which had been implicit but not clear at the July meetings) there would have to be no withdrawal by the Serbs to agreed lines until full agreement had been reached, i.e. on the Map and on the Constitution. Consequently, the Serbs risked nothing by accepting the CG Plan now and engaging in negotiations. There was no thought of imposing any peace proposals on the parties by force.

11. Various Delegates made the following points:

- (a) As the Contact Group's July proposal had been rejected by a referendum, before accepting to negotiate on that basis one would have to show some significant differences in the current approach.
- (b) Once they understand that the Contact Group's territorial proposals would under no condition be imposed, Serbs could start negotiating on them. [This assurance, which was requested by several Delegates, was given firmly by Thomas and by others.] At least one Delegate insisted that this assurance be given formally, in writing.
- (c) Probably a swap involving territorial continuity around the Sava against land around Sarajevo could be arranged.
- (d) Bosnian Serbs must have same right to confederate as Federation had under the Washington agreement.



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- (e) The Delegates are not politicians, but represent the Serb people directly -- the vox populi.
- (f) The international community must realize that the peace plan is not for its own benefit, but for the people in the area, who will have to live with it.
- (g) Serb people are entitled to same rights as other people. From that point of view, clear that Serbs cannot accept the boundaries proposed by Contact Group. Proposed Map would not make it possible for Serb entity to be viable. It is deep conviction of Serbs that proposal is deliberately one-sided, and are in any event irrational.
- (h) As Serbs achieved a military victory, they are entitled to some consideration.
- (i) Although 49/51 ratio may be acceptable, quality of Serb lands must be improved.
- (j) One Delegate, at present a refugee from Tuzla, asked about how the rights of refugees to return and to live unmolested would be assured. [Steiner pointed out that this is also a concern of the Muslims and Croats -- and thus, being a common concern, could certainly be settled in negotiations.] Another Delegate pointed out that unless right of refugees to return home is assured, many of them would have to emigrate.
- (k) One Delegate declared that there was a deep desire for peace among the Serbs, and probably among the other peoples. E.g., now POWs were being taken, rather than just having them killed as at beginning of war.
- (l) Listening to Contact Group explanations, one Delegate said he now realizes to what extent he had been misled. They were for negotiations leading for a lasting peace.
- (m) Delegates had come and were consulting with Contact Group at some personal risk.

12. In general, I felt that many of the statements showed how difficult it will be to conduct successful negotiations with even this group of Delegates who allegedly were the least militant in the Assembly. [Milosevic had cautioned that none of these could risk being labelled as anti-nationalistic.]

13. At the end of meeting the paper described in para. 2(a) was handed over, the value of the meeting was asserted by all, and promises were made to remain in contact.

Belgrade, 11 I '95

## Talking Points to Pale Deputies

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Constitution

1. There will be a Union of Bosnia and Herzegovina composed of the Bosniac-Croat Federation and the Republika Srpska.
2. The Union will be a loose one. It will continue the international legal personality of Bosnia and Herzegovina, i.e., as a member of the United Nations and other international organizations.
3. All other governmental functions and powers will be exercised by the Federation and the Republika Srpska.
4. Balanced treatment of the Federation and the Republika Srpska will be essential, including the establishment of parallel special relationships with neighboring countries, provided this is consistent with the integrity of Bosnia and Herzegovina.

Sanctions Relief

5. If the Bosnian Serb authorities agree to enter negotiations on the basis of acceptance of the peace plan of the Contact Group as a starting point, the Contact Group will recommend to the Security Council that it <sup>re</sup>consider SCR 942 ~~and~~.



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The National Assembly of the Serbian Republic, at its session of December 29th, 1994, has adopted the following:

#### CONCLUSION

1. The National Assembly of the Serbian Republic endorses in their entirety the documents signed by the leadership of the Serbian Republic and former US President Jimmy Carter.

2. The National Assembly of the Serbian Republic expresses its satisfaction over the positive stance taken by the Contact Group in connection with consideration of an all-inclusive peace plan and its readiness for early negotiations under its auspices, leading to a comprehensive peace settlement for Bosnia and Hercegovina.

Therefore, the National Assembly of the Serbian Republic has so decided and informs the Contact Group accordingly, pursuant to its statement of 24 December 1994, that:

a) it confirms the readiness of the Serbian Republic to negotiate a comprehensive peace agreement on the basis of the acceptance of the peace plan of the Contact Group as a starting point;

b) it declares that the forces of the Serbian Republic are observing in full the Cease-fire Agreement.

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## CONTACT GROUP POSITION

1. The Contact Group peace plan provides for a viable, reasonable and realistic solution for all parties and offers the peoples of Bosnia and Hercegovina the prospect of a secure future. On 2 December Contact Group Ministers reaffirmed the plan which must be accepted by all parties.
2. The Contact Group wants to see early negotiations on the basis of acceptance of the Contact Group Plan as a starting point leading to a comprehensive peace settlement. Its members reiterate that the cessation of hostilities agreement must be respected by all parties.
3. The contact Group wishes to make clear the following in relation to its plan:
  - (i.) The territorial proposal of the Group, with its 51/49 parameter, remains the basis for a settlement, while being open to adjustment by mutual agreement between the parties. During negotiations, the Contact Group is prepared to facilitate rapid agreement on this.
  - (ii) As regards constitutional arrangements, balanced treatment of the Bosniac-Croat and Bosnian Serb entities will be essential, including the establishment of parallel special relationships with neighbouring countries, provided this is consistent with the integrity of Bosnia and Hercegovina.
  - (iii) Following agreement on constitutional arrangements and possible territorial adjustments, there will be withdrawal to the lines agreed. The Contact Group will look to the United Nations to make arrangements to ensure the separation of forces and to provide effective monitoring of these lines.
  - (iv) The settlement should provide for refugees and displaced persons to have the possibility to return freely to their homes of origin.



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## Talking Points

### Constitution

1. There will be a Union of Bosnia and Herzegovina composed of the Bosniac-Croat Federation and the Republika Srpska.
2. The Union will be a loose one. It will continue the international legal personality of Bosnia and Herzegovina, i.e., as a member of the United Nations and other international organizations.
3. All other governmental functions and powers will be exercised by the Federation and the Republika Srpska.
4. Balanced treatment of the Federation and the Republika Srpska will be essential, including the establishment of parallel special relationships with neighboring countries, provided this is consistent with the integrity of Bosnia and Herzegovina.

### Sanctions Relief

5. If the Bosnian Serb authorities agree to enter negotiations on the basis of acceptance of the peace plan of the Contact Group as a starting point, the Contact Group will recommend to the Security Council that it consider SCR 942 again.

INTERNATIONAL CONFERENCE  
ON THE FORMER YUGOSLAVIA

TO: Mr. B. Ramcharan Fax No. (41-22) 917-0079

FROM: P.C. Szasz

DATE: Vienna, 7 January 1995

SUBJECT: BH Contact Group meetings, Bonn, 5 January 1995

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1. Attached is my formal report on the above meeting. As we discussed, the subject of Mr. Stoltenberg's role is referred to only obliquely in para. 22.
2. Could you please let me know as of what time Mr. Stoltenberg is likely to be at the SAS Palace Hotel in Vienna, by leaving a message with my hotel or with Mr. Scherzer/Ms. Allison (IAEA, 43-1-2360-1555).
3. If possible, send any papers that I should have through Mr. Stoltenberg.
4. Were you able to locate the human rights report that I had asked for?



INTERNATIONAL CONFERENCE  
ON THE FORMER YUGOSLAVIA

TO: Mr. Th. Stoltenberg  
Lord Owen

FROM: P.C. Szasz

DATE: Vienna, 6 January 1995

SUBJECT: BH Contact Group Meetings in Bonn, 5 January

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1. The most recent meeting of the BH Contact Group took place at a German Foreign Ministry guest house, at the ambassadorial or expert level (Ambassador Thomas was assisted by Mr. Hill), with Michael O'Neill and myself participating throughout. The purpose of the meeting was stock-taking and the development of plans for the immediate future. In particular the topics underlined below were examined.

2. Carter visit: As at our Belgrade meeting on 21 December, it was agreed that while the visit of former US President Carter to Sarajevo may have been of some utility to the "Akashi track" (i.e., negotiating a cease-fire and cessation of hostilities), it did not advance the "Contact Group track" (negotiating a lasting peace, and in particular the territorial division of BH and its future constitutional structure). It was pointed out that even with respect to the former, the really difficult issue of achieving a cease-fire in Bihac had not been addressed by Mr. Carter, as he never established any contacts with Abdic or the Croatian Serbs. As appears from para. 10 below, the French at least have not yet overcome their pique about the Carter mission.

3. Ambassador Thomas distributed copies of Carter's letter to Milosevic of 27 December (text faxed yesterday to Geneva from Bonn). At a later point he indicated that it was his feeling that although President Carter is not now inclined to press Karadzic in respect of the negotiations on the Contact Group Plan, he would not be adverse to being brought back into the process. In any event, the US Administration has to treat the Carter initiative positively, because it has wide public and media support in USA.

4. Proposed new US legislation: Ambassador Thomas distributed the text of a bill that had been introduced in the US Senate the previous day by Senators Dole and Lieberman, of a proposed "Bosnia and Herzegovina Self-Defense Act of 1995" (text faxed yesterday to Geneva from Bonn). He and Mr. Hill pointed out that up to then this draft had received only about 10 sponsors, though many more could be expected. They thought that the Senators would not move for adoption of the bill for some months, but this could



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not be certain, and they admitted that the Administration had been surprised by the early date of this initiative. They declined to speculate about the possibility of a Presidential veto.

5. Milosevic communication to UK Chargé: Mr. Ehrman informed the Group of a recent meeting between the British Chargé in Belgrade and President Milosevic -- evidently the latest meeting that any Contact Group representative had with the latter. Milosevic had made two proposals:

- (a) The Contact Group should meet in Belgrade with 10 representatives of the Pale Assembly;
- (b) There should later be a more prominent meeting ("mega meeting") perhaps hosted by the ICFY Co-Chairs, the Contact Group and President Carter, at which the various clarifications, etc. of the Contact Group Plan would be publicly presented to the Pale representatives and the press.

Milosevic had also indicated that he knew of the proposed meeting between Lord Owen and Messrs. Krajcnic and Koljevic next Monday, and saw no harm in that.

6. Mr. Ehrman indicated that while the UK favoured the first proposal, it had serious reservations about the second. That appeared to be the view also of other Group members.

7. Attitude towards Karadzic: Underlying much of the Group's discussion was the question of whether one should continue to isolate Karadzic in the hope that Milosevic would manage to neutralize him in the Pale Assembly, or whether serious attempts should now be made to draw him into direct negotiations.

8. In this connection Mr. Ehrman pointed out that UK information suggested that for the present Karadzic could be expected to adopt a hard line: insisting on more than 49% and on no Union. He also pointed out that at the 29 December meeting of the Pale Assembly only about 20 representatives (i.e. those who ultimately abstained or absented themselves) in effect took the Milosevic line.

9. It was agreed that the Contact Group should stick by and reiterate the statement it had agreed on after the visit with Milosevic on 21 December and which was apparently issued on 23/24 December, but omit from it the final clause of the first condition, i.e. that the Contact Group be formally informed of the Pale Assembly's agreement for the "Bosnian Serb party to negotiate ... on the basis of the acceptance of the peace plan ...". This change would imply that if Karadzic indicated any willingness to negotiate, this would be deemed to be on the basis of an implicit acceptance of the Contact Group Plan (at least for purpose of such negotiations); however, the Bosnian Government



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would be assured that if such negotiations failed, the Contact Group would take the position that then the original Plan still stood.

10. Mr. deSedouy, after telephoning with Paris, said his government opposed meeting with the Pale 10 in Belgrade, basically because it considered that in light of the Carter visit and the Contact Group's present willingness to meet with Karadzic even without an explicit prior acceptance by him or his Assembly of the Contact Group Plan the dump-Karadzic approach had implicitly been abandoned. He indicated that his government might even consider it logical on that basis to abandon the resolution 942 special sanctions and perhaps even the border closing to which resolution 943 relates -- but he did not press this point.

11. Even Hill appeared to accept the desirability of dealing with Karadzic directly, pointing out that one would not wish to inform the US Congress that instead of so doing one was relying on Milosevic as a tactical ally. He even suggested that the Contact Group might wish to present its position to the Pale Assembly directly, but Ehrman and deSedouy immediately termed that as too risky.

12. The general feeling was that the Contact Group must be seen as talking to both sides, and that it should not be seen as trying to influence internal Serb politics. However, it was also recognized that the BH government must be prepared to go along if Karadzic were to agree to attend negotiates without an explicit prior acceptance; for this the US will have to lean on them.

13. Proposed actions by the Contact Group: It was generally agreed that the Contact Group should not be perceived as letting matters drift, and especially not during the entire 4-month cessation of hostilities. Therefore some actions should be undertaken, and the decision referred to in para. 9 as well as the proposed schedule of meetings set out in para. 24 should be understood in that context.

14. It was, of course, noted that the Pale Assembly's decision of 29 December did not refer to the Contact Group Plan but to the "agreement with Carter" and that it was later specifically announced that the Assembly's action did not imply acceptance of the CGP. This underscores that the differences articulated by the various parties as to the basis of further negotiations were not merely semantic ones -- much as the Contact Group might prefer to pretend otherwise. The real point to ascertain is whether both parties are really ready to negotiate -- a point that might be doubted but must be explored; the visits referred to below would serve that purpose.

15. Mr. Ehrman proposed that the Group might now engage in shuttle diplomacy. This was opposed by Zotov and in particular by Steiner. For example, if Pale and Sarajevo were to be visited next week, there should be only one call on either place, and



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although the party visited first might later be informed of the reactions of the party next visited, this should not be done by a return to the first party but through some less formal mechanism (e.g., a low-level briefing at or a phonecall from the Sarajevo Airport).

16. A number of suggestions were made for attempting to "pre-wire" acceptable answers from some of the principals to proposals that might then be publicly be made by the Contact Group (e.g., in particular that someone -- e.g., Lord Owen -- might ask Karadzic that if the Contact Group makes an announcement along the lines explored in para. 9 above, he simply announce that he is prepared to attend negotiations without at the same time reiterating his non-acceptance of the Group's Plan); however, most such suggestions were dropped on the ground that the parties were generally too unreliable to be trusted to make statements or take actions precisely as agreed.

17. Scope of possible negotiations: I suggested that Map-swaps might be facilitated if the Constitutional issues were on the table at the same time, because it would give greater scope for negotiations -- e.g., territory for increased autonomy.

18. Though Mr. Steiner feared that this might risk getting stuck on both issues, Ehrman mentioned that it was time that the Contact Group devoted some time to studying the Constitutional proposals.

19. Sanctions: Ambassador Zotov indicated that his government naturally wished the 100-day suspension of certain sanctions to be extended -- and if possible even to be made more extensive. Mr. Steiner warned that the Group could not well go back to Belgrade if the sanctions suspension were to terminate.

20. Ambassador Thomas indicated that the US government saw several positive features, such as the increase in the number of monitors and the cessation of the trans-shipments to the Krajina. However, it was still disturbed by evidence of too much leakage, and also at the recent authorization for 7 tanker trucks to go from Belgrade to the Krajina; as to the latter it was pointed out that if that shipment had gone by the Belgrade-Zagreb highway there was no problem, since then it would have had to have been authorized by the Croatian government -- which would also be in accord with paragraph 12 of SC resolution 820. The US attitude would be determined at a meeting the next day (Friday) of representatives of all offices concerned.

21. Mr. Hill announced that it had been decided that the shipments of Russian gas to Serbia and Bosnia should be authorized as per the long-standing Russian request, with respect to what Hill described as a significant quantity. This decision had taken into account that the BE government had supported the request. A telegram of instructions (presumably to the US representative on the Sanctions Committee) was being sent.



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Ambassador Zotov welcomed this news -- but indicated that the Russian gas company itself might consider this a mixed blessing as payments for the proposed deliveries was not assured, especially from the Bosnian government -- which apparently conditioned its support for the shipment on an understanding that it would not have to pay.

22. Future of Contact Group: Unsurprisingly, the members of the Contact Group felt, when the issue was briefly raised, that the Group should continue its work and should not be superseded by the ICFY Co-Chairmen.

23. As to its internal structure, a tentative suggestion that a formal rotating chairmanship be introduced was turned aside; the present system is satisfactory, whereby the host of a meeting (in a member country or in the embassy or mission of such a country if the meeting takes place elsewhere) assumes the chairmanship, and for meetings with the parties a spokesman is chosen ad hoc. [I did not express my view, except to some members individually, that the Group is suffering from lack of continuous leadership, and that its meetings were almost always too brief to permit any but a cursory examination of the issues most immediately at hand.]

24. Tentative schedule of future meetings and travels:

- (a) Next meeting in Paris on the 10th, at 11:00, at political directors level. Expect to hear briefings from Lord Owen about his meetings the previous day with Messrs. Krajacic and Koljevic, and from Ambassador Thomas on meetings in Sarajevo.
- (b) Thereupon, subject to the approval of the political directors, the Group would travel to:
  - (i) Belgrade on the 11th, to meet with Milosevic and with press, and possible with the 10 Pale representatives (as to which the French have expressed reservations -- see para. 10 above);
  - (ii) Sarajevo & Pale on the 12th (using an UNPROFOR plane and overnighting in Sarajevo);
  - (iii) Zagreb on the 13th, to meet with Croatian government and with Akashi.
- (c) Tentatively some further meetings, probably the following week, were discussed, including one to study the proposed Union Constitution (see para. 18 above). I indicated that I would have to be back in NYC on Thursday, the 19th, to start the seminar I am teaching.



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MSG: HQ

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FROM: PRESS&amp;INFO

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UNPROFOR ON FK 2672

Press Release 6 - 405 \* Info: UN Info Service Geneva

Page 1 of 5

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UNPROFOR  
DIVISION OF INFORMATION

## Press Briefing

by Mr. Michael Williams, Spokesman  
for the Special Representative of the Secretary-General

UNPROFOR HQ Zagreb, 3 January 1995, 12:00

Mr. Williams began the briefing by saying that he was very pleased that 1995 had started with the implementation of the cessation of hostilities agreement in Bosnia and Herzegovina. Copies of the agreement would be available to journalists at a later stage, he added.

He then said that the comprehensive cessation of hostilities agreement came into effect at 1200 hours on Sunday, 1 January 1995, and provides the structure and procedures necessary to take the peace process in Bosnia further forward, hopefully, towards a comprehensive peace settlement. While the agreement had been in effect for only a few days, the initial indications were that both sides were fulfilling their obligations under it.

Mr. Akashi, the Special Representative of the Secretary-General had been in touch with the Headquarters in New York and the members of the Contact Group to brief them on what was believed one of the most significant developments in two and a half years of the conflict in Bosnia, Mr. Williams said. UNPROFOR was now looking forward to development on the political and diplomatic sides with regard to the Contact Group's initiative. In this respect, he believed that the Contact Group was likely to meet later this week.

As a follow-up to that agreement, he continued, General Rose, Commander of UN troops in Bosnia, travelled to Mostar yesterday to meet with the Bosnian Croat leader and President of the Bosnian-Croat Federation, Mr. Kresimir Zubak, and discuss with him the cease fire agreement signed on 23 December and the agreement on a comprehensive cessation of hostilities. Both documents had been signed yesterday in General Rose's presence by Mr. Zubak, Mr. Williams said.

He continued by saying that General Rose and Mr. Zubak had also signed a statement of understanding elaborating the Bosnian Croat position with regard to forced conscription and ethnic cleansing. He then quoted the statement of understanding as saying that the Bosnian Croat side was signing the agreement on the understanding that (a) Croats and Muslims should not be forcibly conscripted into the Serb armed forces as combatants or workers, and that all those already



The National Assembly of the Serbian Republic, at its session of December 29th, 1994, has adopted the following:

## CONCLUSION

1. The National Assembly of the Serbian Republic endorses in their entirety the documents signed by the leadership of the Serbian Republic and former US President Jimmy Carter.

2. The National Assembly of the Serbian Republic expresses its satisfaction over the positive stance taken by the Contact Group in connection with consideration of an all-inclusive peace plan and its readiness for early negotiations under its auspices, leading to a comprehensive peace settlement for Bosnia and Hercegovina.

Therefore, the National Assembly of the Serbian Republic has so decided and informs the Contact Group accordingly, pursuant to its statement of 24 December 1994, that:

a) it confirms the readiness of the Serbian Republic to negotiate a comprehensive peace agreement on the basis of the acceptance of the peace plan of the Contact Group as a starting point;

b) it declares that the forces of the Serbian Republic are observing in full the Cease-fire Agreement.

Belgrade, 21 Dec. 1994

Fax: RAMCHARAN, ICFY Geneva.

Attached are:

1. The statement of the BH CG position, to be handed to by the Milosovic, and later to be used by the EC Endorsers at discretion.
2. Carter Open Statement in Sarajevo, 20 XII 94
3. Supplementary Agreement negotiated by Carter during 21 visit to Pale.

Signed by Ramcharan.

Phoned by Carter to Izetbegovic for Sarajevo report and Izetbegovic agreed.

Paul



21 December 1994

## CONTACT GROUP POSITION

1. The Contact Group peace plan provides for a viable, reasonable and realistic solution for all parties and offers the peoples of Bosnia and Hercegovina the prospect of a secure future. On 2 December Contact Group Ministers reaffirmed the plan which must be accepted by all parties.
2. The Contact Group wants to see early negotiations on this basis leading to a comprehensive peace settlement. Its members reiterate that a ceasefire around Bihac and a general ceasefire throughout Bosnia and Hercegovina must be in place. Freedom of movement for UNPROFOR forces and freedom of movement for the humanitarian effort must also be fully restored.
3. The Contact Group wishes to make clear the following in relation to its plan:
  - (i) The territorial proposal of the Group, with its 51/49 parameter, remains the basis for a settlement, while being open to adjustment by mutual agreement between the parties. During negotiations, the Contact Group is prepared to facilitate rapid agreement on this.
  - (ii) As regards constitutional arrangements, balanced treatment of the Bosniac-Croat and Bosnian Serb entities will be essential, including the establishment of parallel special relationships with

neighbouring countries, provided this is consistent with the integrity of Bosnia and Hercegovina.

(iii) Following agreement on constitutional arrangements and possible territorial adjustments, there will be withdrawal to the lines agreed. The Contact Group will look to the United Nations to make arrangements to ensure the separation of forces and to provide effective monitoring of these lines.

(iv) The settlement should provide for refugees and displaced persons to have the possibility to return freely to their homes of origin.

(v) Initial sanction relief which had been agreed to be given to the Federal Republic of Yugoslavia (Serbia and Montenegro) following the decision to close the border with the Bosnian Serb entity should be promptly provided particularly in view of the humanitarian conditions there in winter.

(vi) Existing sanctions will be implemented until the UN Security Council decides otherwise in connection with significant steps towards a negotiated solution. As soon as the parties have accepted the plan and in the light of an implementation of the economic agreement between the government of the Republic of Croatia and the Krajina Serb authorities, Ministers will recommend to the UN Security Council a resolution regarding the suspension of all sanctions, the key requirement for which will be withdrawal to the lines agreed.



Press statement, Sarajevo, 20 December, 1994

Since arriving in the Balkans two days ago, we have had extensive discussions with the president of Croatia, the U.N. special representative, present and former members of the multi-national Contact Group, commanders of UNPROFOR, representatives of relief agencies and human rights groups, and the leaders of the government of Bosnia-Herzegovina and the Bosnian Serbs.


Mutual agreements have been reached between the warring parties as follows:

1. An implementation of a nationwide cease-fire within 72 hours, including monitoring by U.N. forces along all lines of confrontation.
2. The commencement of negotiations on an agreement for a total cessation of hostilities on December 23, 1994, with the intent to conclude the agreement by January 1, 1995. This cessation of hostilities will last for four months, or for a longer period if mutually agreed by both parties.
3. The negotiation of a comprehensive peace agreement, with [the proposal of the Contact Group as the basis for negotiation of all points] [acceptance of the proposal of the Contact Group as a starting point]. This will be done at a mutually acceptable site under the auspices of the Contact Group, using mediators proposed by the Contact Group and mutually agreed by the parties.
4. During this period there will be unrestricted movement of relief convoys, use of the airport at Sarajevo in accordance with existing agreements, and the delivery of humanitarian services by official institutions and non-governmental organizations. Each side may join with UNPROFOR inspectors to assure that no armaments or weapons of war are included in the cargoes to be delivered.
5. Each side will be responsible within its controlled areas for the total elimination and prevention of the firing of any guns or weapons of any kind that might be damaging to people or property.
6. Each side will be responsible within its controlled areas for the protection of human rights in accordance with international standards. All people, regardless of age, sex, or ethnic origin, shall have the right to live in a location of their choice. International observers, including the Special Rapporteur of the Commission on Human Rights, will be free to observe compliance with this agreement.

7. There will be an early exchange of all detainees under the auspices of the International Red Cross. In accordance with the Geneva Conventions, the ICRC will have unimpeded access to all detainees to insure that the provisions of this agreement are fulfilled.

8. In a final agreement, all has to be agreed; otherwise, nothing is agreed.

It is realized that other difficult issues and unresolved questions will have to be resolved. This will be done peacefully, utilizing the services of the Contact Group or UNPROFOR as appropriate.

A handwritten signature in dark ink, appearing to read "Jimmy Carter". The signature is fluid and cursive, with a long horizontal line extending from the end of the name.



UNITED NATIONS



NATIONS UNIES

UNPROFOR

20 December 1994

Additional agreement to that of 19 Dec. 1994.

1) It is agreed that the negotiations to establish a total cessation of hostilities will commence on 23 December, 1994, with the intent to conclude the agreement by 1 January 1995.

2) A complete ceasefire, throughout Bosnia-Herzegovina, will be implemented at noon, 23 December 1994, monitored by U.N. forces along all lines of confrontation, by cessation of all military activities.

3) Based on assurances that convoys and humanitarian services will pass freely, the Bosnian ~~government~~ forces will withdraw from the Dayton demilitarized zone in accordance with the existing agreement, prior to commencement of the negotiations described in item (1) above.

Pogo Im Burum

Witnessed:

Jimmy Carter

20 December 1994

DRAFT CONSTITUTIONAL AGREEMENT OF THE UNION  
OF BOSNIA AND HERZEGOVINA

I. The Union of Bosnia and Herzegovina

Article 1

The Union of Bosnia and Herzegovina is composed of the Federation of Bosnia and Herzegovina and the Republica Srpska (hereinafter the "Constituent Entities"), and represents the Bosniacs, the Serbs, and the Croats, as well as Other peoples. The Union will remain a member state of the United Nations, and as such it shall maintain or apply for membership in other organisations of the United Nations system.

Article 2

All governmental functions and powers, except those assigned by this Constitutional Agreement to the Union or to any of its institutions, or such as may be required to be carried out by the Union in order to fulfil its international obligations, shall be those of the Constituent Entities.

Article 3

The capital of the Union shall be Sarajevo.

Article 4

The flag and emblem of the Union shall be specified by the Union Parliament.

Article 5

Any citizen of either Constituent Entity shall be a citizen of the Union.



## II. The Constituent Entities and their Responsibilities

### Article 1

(1) The boundaries of the Constituent Entities shall be as set out in Annex A and may only be changed by the procedure provided for amending this Constitutional Agreement.

(2) There shall be no border controls at boundaries between the Constituent Entities affecting the freedom of movement of individuals throughout the territory of the Union.

### Article 2

(1) Each Constituent Entity shall have its own constitution, which shall provide for democratic forms of government, including democratically elected legislatures and chief executives and independent judiciaries, as well as for the highest standards of human rights and fundamental freedoms.

(2) The initial elections in each Constituent Entity after this Constitutional Agreement enters into force shall be supervised by the United Nations and the Conference on Security and Cooperation in Europe (CSCE).

### Article 3

All acts taken by a competent governmental authority of either of the Constituent Entities shall be accepted as valid by the other Constituent Entities.

### Article 4

(1) Neither Constituent Entity shall threaten or use force against the other such Entity, and under no circumstances shall any armed forces of either Entity enter into or stay within the territory of the other Entity without the consent of the government of the latter and of the Presidency of the Union.

(2) The Constituent Entities shall conclude, immediately after the signature of this Constitutional Agreement, an agreement limiting their military forces according to the principles and criteria accepted by relevant CSCE documents, the Vienna Document 1992 and by the CFE and CFE-1A treaties. Any military forces existing on the date of the entry into force of this Agreement that exceed the limits set as above for either Constituent Entity, shall be progressively disarmed and demobilized under the supervision of the United Nations and the [European Union]/[CSCE].

### III. The Common Institutions of the Union

#### Article 1

(a) The Parliament of the Union shall be composed of 120 representatives: 80 to be elected by the Federation Legislature of the Federation of Bosnia and Herzegovina and 40 to be elected by the Bosnian Serb Assembly.

(b) The Union Parliament may adopt laws within the competence of the Union by a two thirds majority, which shall include a majority each of the Bosniac, of the Serb and of the Croat representatives.

#### Article 2

(1) The Presidency of the Union shall consist of the President and the Vice President of the Bosniac-Croat Entity and of the President of the Bosnian Serb Entity.

(2) The Chairmanship of the Presidency shall rotate every four months among the three members of the Presidency. The Chairman of the Presidency shall represent the Union.

(3) The Presidency shall take all its decisions by consensus.



Article 3

(a) The head of the Council of Ministers of the Union shall be the Prime Minister, who shall be appointed and may be removed by the Presidency. The post shall rotate every year so as to be occupied in turn by the nominee of a different member of the Presidency.

(b) The Presidency shall also appoint and may remove a Foreign Minister and a Foreign Trade Minister. The post shall rotate every year so as to be occupied in turn by the nominee of a different member of the Presidency.

(c) The Prime Minister, the Foreign Minister and the Foreign Trade Minister shall each be from different peoples.

(d) Other Ministers may be appointed by the Presidency. They and the Prime Minister and the Foreign Minister and the Foreign Trade Minister shall constitute the Council of Ministers, with responsibility for the policies of the Union in relation to foreign affairs, international trade and the functioning of the common institutions, as well as any other functions and institutions that the Union Parliament may from time to time specify by law.

Article 4

(1) There shall be a Union Court to resolve any disputes between the Constituent Entities relating to the present Agreement or to actions taken by any of the common institutions pursuant thereto, and to decide such other matters as are specified in this Agreement or are submitted by the Presidency.

(2) Each member of the Presidency shall appoint one Judge to the Union Court, from among the judges of either of the Constituent Entities. A fourth and a fifth Judge, one of whom shall be the President of the Court, shall be appointed by the Presidency or, if it is unable to reach a decision, by the President of the International Court of Justice at the request of any member of the Presidency; these Judges need not be citizens of the Union.

(3) Decisions of the Union Court shall require the concurrence of a simple majority of the Judges. The Court shall adopt its own rules.

#### Article 5

The two Constituent Entities may by agreement establish joint authorities or enterprises, whose relations to the common institutions shall be as defined in such agreements, or they may be established by Union legislation.

### IV. HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS

#### Article 1

The application of the highest level of internationally recognized rights and freedoms provided in the instruments listed in Annex B shall be ensured throughout the Union. In particular:

(1) All persons within the territory of the Union shall enjoy the rights:

- (a) To life;
- (b) To liberty, with arrest and detention authorized only by law;
- (c) To equality before the law;
- (d) To freedom from discrimination based on race, colour, sex, language, religion or creed, political or other opinions, and national or social origin;
- (e) To fair criminal proceedings;
- (f) To freedom from torture and cruel or inhuman treatment or punishment;



- (g) To privacy;
- (h) To freedom of movement;
- (i) To asylum;
- (j) To protection of the family and of children;
- (k) To property;
- (l) To fundamental freedoms: free speech and press; freedom of thought, conscience, and belief; freedom of religion, including private and public worship; freedom of assembly; freedom of association, including to form and belong to and labour unions and the freedom not to associate; and freedom to work;
- (m) To education;
- (n) To social protection;
- (o) To health;
- (p) To nutrition;
- (q) To shelter; and
- (r) To protection of minorities and vulnerable groups.

(2) All citizens shall enjoy the rights:

- (a) To form and belong to political parties; and
- (b) To political rights: to participate in public affairs; to have equal access to public service; to vote and stand for election.

Article 2

All refugees and displaced persons have the right to freely return to their homes of origin.

Article 3

All persons shall have the right, to be implemented in accordance with legislation of the Union and of the Constituent Entities, to have restored to them any property of which they were deprived in the course of ethnic cleansing and to be compensated for any property which cannot be restored to them. All statements or commitments made under duress, particularly those relating to the relinquishment of rights to land or property, shall be treated as null and void.

Article 4

The acquisition and termination of citizenship shall be regulated by legislation of the Constituent Entities, provided that:

- (a) No person shall be deprived of citizenship arbitrarily or in such a way as to leave him stateless.
- (b) All citizens shall be entitled to hold the citizenship of another state.

Article 5

All common institutions of the Union and all courts, administrative agencies and other governmental organs of the Constituent Entities shall apply and conform to the rights and freedoms provided in the instruments listed in Annex B.



Article 6

(1) The Union shall as soon as possible become a party to each of the international treaties listed in Annex B.

(2) All common institutions of the Union and all competent authorities of the Constituent Entities shall cooperate with any international human rights monitoring mechanisms established for Bosnia and Herzegovina and with the supervisory bodies established by any of the instruments listed in Annex B.

Article 7

Each Constituent Entity shall make arrangements with the Council of Europe for the establishment of a Human Rights Court in accordance with Resolution 93(6) of the Committee of Ministers of the Council.

Article 8

Each Constituent Entity shall provide for the appointment of Ombudsmen to assist in implementing the rights and freedoms specified in this Chapter. For an initial period of at least three years, the Ombudsmen shall be appointed by the CSCE.

V. International Relations

Article 1

(1) The Union may apply for membership in European and other international institutions and organizations, as decided by the Presidency.

(2) Each Constituent Entity may apply for membership in international institutions and organizations of which the Union is not a member, provided such membership would not be inconsistent with the interests of the Union or of the other

Constituent Entity. Any dispute concerning an alleged inconsistency shall be decided by the Union Court.

(3) Each Constituent Entity may enter into cooperative arrangements and into parallel special relationships with neighbouring countries, provided these do not change the international identity or legal personality of the Entity and provided it would not be inconsistent with the interests of the Union or of the other Entity. Any dispute concerning these requirements shall be decided by the Union Court.

#### Article 2

The Union shall continue all diplomatic relations of the Republic of Bosnia and Herzegovina until the Presidency decides to continue or discontinue them.

#### Article 3

(1) The Union shall remain a party to all international treaties in force for the Republic of Bosnia and Herzegovina on the date of the entry into force of this Constitutional Agreement, unless the Union Parliament decides that steps to denounce any such treaty shall be taken. However, steps to denounce treaties entered into after 18 November 1990 shall be taken unless the Union Parliament otherwise decides within three months of the date when it is first convened.

(2) The Union may become a party to international treaties if such participation is approved by the Union Parliament. The Parliament may provide for participation in certain types of international agreements by decision of the Presidency. To the extent participation in an international treaty would involve responsibilities that are to be carried out by the Constituent Entities, their advance approval must be secured, except in respect of the treaties referred to in Article IV.6(1).



(3) Each Constituent Entity may, if eligible, become a party to an international treaty if such participation would not be inconsistent with the interests of the Union or of the other Constituent Entities. Any dispute concerning an alleged inconsistency shall be decided by the Union Court.

#### Article 4

The Presidency shall appoint or arrange for the appointment of the diplomatic representatives of the Union to states and international organizations, and shall receive the diplomatic representatives of other states.

### VI. Finances

#### Article 1

(1) The Union Parliament shall each year, on the proposal of the Prime Minister, adopt a budget covering the expenditures required to carry out only those functions of the Union relating to the maintenance of its common institutions and compliance with its international obligations, as well as such other functions as may from time to time be provided by Union legislation.

(2) If no such budget is adopted in due time, the budget for the previous year shall be used on a provisional basis.

#### Article 2

(1) The expenditures provided for in the budget shall, except to the extent that other revenues are available or as otherwise specified by the Union Parliament, be covered two-thirds by the Bosniac-Croat Entity and one-third by the Bosnian Serb Entity.

(2) Other sources of revenues, such as custom duties, fees for services or taxes on specified activities, may be determined by the Union Parliament.

## VII. The Constitutional Agreement

### Article 1

(1) This Constitutional Agreement may be amended by Union legislation, provided such amendment is subsequently approved by both of the Constituent Entities according to their respective constitutional processes.

(2) No amendment to this Constitutional Agreement may eliminate or diminish any of the rights or freedoms set out in Chapter IV, or alter the present paragraph.

### Article 2

This Constitutional Agreement may not be denounced or otherwise terminated and neither of the Constituent Entities may withdraw from the Union without the prior agreement of the other Entity. Such a decision may be appealed to the Security Council by either of the Constituent Entities, and the Council's decision shall be final.

### Article 3

This Constitutional Agreement shall enter into force when approved by both of the Constituent Entities according to their respective constitutional processes.



A N N E X    A

THE BOUNDARIES OF THE CONSTITUENT ENTITIES

The boundaries of the Constituent Entities, as well as of the Sarajevo District, shall be as indicated on the Map below.

A N N E X    B

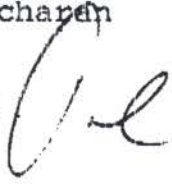
HUMAN RIGHTS INSTRUMENTS TO BE INCORPORATED  
INTO THE CONSTITUTIONAL AGREEMENT OF THE UNION

1. 1948 Convention on the Prevention and Punishment of the Crime of Genocide
2. 1948 Universal Declaration of Human Rights
3. 1949 Geneva Conventions I-IV on the Protection of the Victims of War, and the 1977 Geneva Protocols I-II thereto
4. 1950 European Convention for the Protection of Human Rights and Fundamental Freedoms, and the Protocols thereto
5. 1951 Convention relating to the Status of Refugees and the 1966 Protocol thereto
6. 1957 Convention on the Nationality of Married Women
7. 1961 European Social Charter and the Protocol 1 thereto
8. 1961 Convention on the Reduction of Statelessness
9. 1965 International Convention on the Elimination of All Forms of Racial Discrimination
10. 1966 International Covenant on Civil and Political Rights and its 1966 and 1989 Optional Protocols thereto
11. 1966 International Covenant on Economic, Social and Cultural Rights
12. 1979 International Convention on the Elimination of All Forms of Discrimination against Women



13. 1981 [UN] Declaration on the Elimination of all Forms of Intolerance and of Discrimination Based on Religion or Belief
14. 1984 Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment
15. 1987 European Convention on the Prevention of Torture and Inhuman or Degrading Treatment or Punishment
16. 1989 Convention on the Rights of the Child
17. 1990 Convention on the Rights of Migrant Workers and Members of their Families
18. 1990 Document of the Copenhagen Meeting of the Conference on the Human Dimension of the CSCE, Part IV
19. 1990 Council of Europe Parliamentary Assembly Recommendation on the Rights of Minorities, paras. 10-13
20. 1992 [UN] Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities
21. 1992 European Charter for Regional and Minority Languages

INTERNATIONAL CONFERENCE  
ON THE FORMER YUGOSLAVIA

TO: Mr. B. Ramcharan  
FROM: P.C. Szasz   
DATE: Germantown, 18 December 1994

SUBJECT: BH Contact Group meeting in Belgrade, 21 December

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1. Unfortunately, we were cut off before you could explain to me Lord Owen's instructions concerning adjustments to the proposed Union Agreement for Bosnia and Herzegovina.

2. The 5 July 1994 draft of the Union Agreement contained the following Article V.1, para. (3):

(3) Either Constituent Entity may enter into a confederation with other similar entities or with states, provided such confederation would not be inconsistent with the interests of the Union or of the other Constituent Entity. Any dispute concerning an alleged inconsistency shall be decided by the Union Court.

3. The 19 July 1994 Working Paper on ELEMENTS FOR A CONSTITUTION OF THE UNION OF BOSNIA AND HERZEGOVINA (which was informally handed to the parties under my name), contained the following para. 13(c):

(c) Each Entity may enter into cooperative arrangements and into confederations, provided these do not change the international identity or legal personality of the Entity and provided it would not be inconsistent with the interests of the Union or of the other Entity.

4. Is it desired that I modify either of these texts along the lines of para. 2 of the unpublished Annex to the Brussels Ministerial Declaration of 2 December 1994?

5. Is there some other paper I should prepare on the basis of the Guidelines set out in that Annex?

6. Please try to call me between 0730 and 0800 on Monday morning. I must leave at 0830 for NYC, for some appointments and probably for onward travel that evening. I have sent a fax to Ms. Kifle asking me to fax me a choice of routings.

7. If necessary, it might be possible to reach me from 12:00 to 14:30 at the UN (212-963-5349, fax 963-3155) and thereafter at NYU (%Prof Franck: 212-998-6209, fax 995-4535).



**INTERNATIONAL CONFERENCE  
ON THE FORMER YUGOSLAVIA**

**TO:** Mr. Th. Stoltenberg  
Lord Owen

**FROM:** P.C. Szasz

**DATE:** Geneva, 30 November 1994

**SUBJECT:** BH Contact Group Meetings in Paris, Belgrade, Zagreb  
and Sarajevo, 27-29 November

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1. The most recent meetings of the BH Contact Group took place at the following dates and venues, and with the indicated interlocutors; the five Ambassadorial representatives to the Group (Zotov alone for Russia), as well as Paul Johnston and myself participated throughout.

- (a) Quai d'Orsay, Sunday, 27th, 1830-2230, the Contact Group alone.
- (b) Roissy Hilton, Monday, 28th, 0830-1020, the Contact Group alone. At the end of the meeting a brief Press Communique was issued (which I phoned to Geneva for faxing to you.)
- (c) Karajordjiovo, 28th, 1500-1800, with President Milosevic and FRY Foreign Minister Jovanovich.
- (d) UNPROFOR HQ, Zagreb, Tuesday, 29th, 0830-1000, with SRSG Akashi, General de Lapresle and their staffs.
- (e) Presidency, Sarajevo, 29th, 1500-1600, with a BH Government delegation lead by Vice President Ganic, Presidency Member Kljuic and President of Assembly Lazovic.
- (f) UNPROFOR BH HQ, Sarajevo, 29th, 1615-1640, with General Rose and staff.
- (g) UNPROFOR HQ, Zagreb, 29th, 1945-2000, with SRSG Akashi and staff.
- (h) Government Villa, Zagreb, 2030-2300, dinner with Croatian Ambassador Zuzul and others.

2. The comments below are arranged thematically rather than chronologically.

A. Purpose of Meetings

3. The principal purpose of the above round of meetings was to prepare for the Ministerial level meeting of the Contact Group in Brussels on 2 December in the afternoon. It is intended that at this meeting the FMs will issue a Declaration "clarifying" the Contact Group's Peace Plan in such a way that without changing any elements of substance or the main element of the procedure (no negotiations with the Bosnian Serbs until they accept the Map proposed to both parties on 6 July), the Plan be presented more attractively to the Serbs and in any event so as to be easier for Karadzic to accept it or more difficult (vis-a-vis his own people) to reject it. After agreeing roughly on the elements of the clarification at the Paris meetings, those with Milosevic and the BH Government delegation were principally designed to give them some advance notice of the substance of the planned Declaration and reassurance that no change in substance was intended, but also to get a reading of their reactions that might be taken into account in formulating the actual Declaration. No draft appears to have surfaced up to now, and the text is to be worked out by the Contact Group at the Ambassadorial level in Brussels on the 30th (meeting from 1000 at EU HQ), to be reviewed by Political Directors during the forenoon of 1 December and to be adopted by the Ministers that afternoon. It was agreed that the Declaration should be as short and simple as possible, so as to minimize opportunities for misinterpretations; there might, however, be an explanatory annex.

4. The principal elements of the clarification, and consequently of the Declaration, are to be the following:

- (a) As soon as the Bosnian Serbs accept the 6 July map, the Contact Group will encourage a process of **swapping of territories** between the two parties. In this connection the following ideas were also explored, and some of them might be reflected in the Declaration or perhaps in an annex thereto:
  - (i) Milosevic suggested that the Contact Group or ICFY should offer to sponsor such negotiations, to take place during a limited period -- he suggested 1 month; this idea appealed to members of the Group.
  - (ii) At General Rose's briefing we learned that in connection with the cease-fire negotiations (see para. 16 below), it might suggested that the parties immediately engage in swap negotiations, the results of which could be announced at the same time as the Serbs accept the Map -- so that, in effect, they would be accepting a modified Map (which should be easier for them). Some of us pointed out that while the parties were of course free to negotiate at any time on anything, the



Group itself could not sponsor such negotiations before receiving the Bosnian Serb formal acceptance of the 6 July Map.

- (iii) There is no objection if the swaps change the 51/49 % ratio -- as long as the parties agree thereon.
  - (iv) From time to time (e.g. in the meeting with Milosevic) there surfaced suggestions of swaps that would involve Croatia (e.g., Prevlaka, access to sea for Bosnian Serbs, area of Dubrovnic) but never in detail, nor was any mechanism suggested for such widened negotiations. However, the possibility was not rejected.
- (b) With respect to the issue of **confederation**, it would be made clear that any constitutional arrangements would provide for **complete equality for the entities**, i.e. whatever one of them would be permitted to do, the other could do also. It is not clear whether the term "confederation" would be used in this connection, particularly in light of the flap about the alleged change in the US position on this subject -- which Thomas vigorously denied, in particular in the Group's meeting with Ganic. In general it was decided to somehow signal to the parties that the 19 July "Working Paper: Elements for a Constitution of the Union of Bosnia and Herzegovina", which had been informally handed to the parties under my own name, in fact represented the position of the Contact Group; that paper stated, in para. 13(c) that: "Each Entity may enter into cooperative arrangements and into confederations ...".
- (c) The Serbs would also be reassured that immediately upon agreeing to the Map, the **discussion on constitutional issues** would commence, in which connection the last sentence of (b) above is also relevant. [Milosevic suggested that as the Invincible Agreement already contained a constitution that the Muslims, Serbs and Croats had agreed on, constitutional negotiations need not take excessively long because the parties could be reminded of their old agreement and told they would be held to it. In effect, a time limit (e.g., 3 months) can only be set for such negotiations if there is a default text one can refer to -- as with the Map; if there is such a text, one can say that except to the extent that agreement on any changes is reached by a set deadline, the original proposal, whether map or constitutional text, will be considered as accepted.]



- (d) Finally, it would be made clear that **withdrawal to the new boundaries** would only be expected once the territorial swapping process had been completed (so the withdrawal would be to the lines on the adjusted Map) and a constitution agreed on. Ehrman repeatedly made the point that the new boundaries should not be considered as lines of confrontation, because they would be the result of an agreement and not of military action; consequently it should also be easier for the international community to monitor them and keep them peaceful.

In addition to these clarifications, it is possible that the Declaration will briefly address related and inter-related issues such as mutual recognition and the conditions and extent of sanctions relief, which are discussed under separate headings below. It was also suggested that there be some sort of an ultimative threat against any party that would breach the agreements thus arrived at - but no-one has yet suggested what a credible threat might be.

#### B. Agreements concerning Croatia

4. At the Paris meetings Johnston distributed the new text of the draft Croat/Knin Economic Agreement, and explained the conditions of its negotiations, how it differed from the earlier text that the Serb Assembly had rejected some days ago, and the prospects for and the timing of the signature. The Contact Group agreed that any such signature (if it took place before the afternoon of Friday the 2nd) should be welcomed in the Declaration. It might also be said, explicitly in the Declaration or otherwise, that implementation of the Agreement would constitute satisfaction of the modus vivendi condition that had earlier been set as one of the bases for sanctions relief. [In this connection Milosevic said that he had never considered that condition as a legitimate one, because it set a Croatia-related condition for lifting sanctions established solely in relation to BH, but that he would not object if the proper implementation of the Economic Agreement would be considered as satisfying the condition.]

5. It was generally accepted that the chances for a successful conclusion followed by prompt and smooth implementation of the Economic Agreement should not be jeopardized at this stage by starting up immediately political negotiations about the Krajina, etc. Indeed, some delay in starting such talks might inure to their benefit, in permitting their launch in a more favourable climate. Account was also taken of the Co-Chairmen's concern that it might be best to avoid raising these political issues at just this time.

6. In this connection I reported briefly on the present status of the so-called ICFY or Z-4 Draft. First of all it was accepted



that the term should be the "International Draft". Secondly, both Ehrman and de Sedouy opposed any reference to such a draft in the proposed FM Declaration, because their governments were unfamiliar with that text and with the latest changes now under consideration.

7. For this and other reasons (e.g., disagreement about the sanctions easing exercise) "Plan B" of the "Multi-track" has, at least for the present, been set aside and instead efforts will be made to enhance Plan A, by setting other tasks through which Milosevic could attain an easing of sanctions and that do not necessarily require the collaboration of the Bosnian Serbs. The principal such task under consideration is mutual recognition with at least BH and Croatia (no explicit mention was made this time of Macedonia).

### C. Sanctions Easing

8. There was no explicit discussion of sanctions easing in the Contact Group by itself, so it was not possible to ascertain whether this silence signalled some resolution of the differences between the US and the EU positions that came to a fore at the last several Contact Group sessions, or whether it was thought best at this stage to avoid talking about any remaining differences. The putting aside of Plan B of course simplified this matter too.

9. Milosevic made sanctions easing a constant refrain throughout our meeting with him. In particular he made the following points:

- (a) If sanctions had been lifted at the time he first accepted the Map, the peace process would have advanced much further. In fact, the FRY had not yet received all the benefits of sanctions relief provided for in SCR 943.
- (b) Although as man of peace he would of course keep furthering that process, it would be easier for him if sanctions were lifted. He trusted that there would be a decision at the Ministerial meeting to ease sanctions substantially.
- (c) There no longer was any legal justification for continuing SCR 820 sanctions in respect of the FRY, which had done everything in its power to resolve the Bosnian conflict.
- (d) The importance of lifting sanctions lies not so much in the material consequences but in the psychological ones -- if the international community would react more positively, both Karadzic and the opposition parties in

Serbia would understand that Milosevic was on the right track and they on the wrong one.

- (e) **Mere suspension of sanctions** is not enough and would not send the right signal. Aside from being understood as a means of putting continuous pressure on the FRY, the practical consequences of mere suspension are important: e.g., FRY football teams are still barred from certain matches because they will take place after the designated 100-day period, or are part of a longer series that extends beyond that limit.

10. The point was repeatedly made to Milosevic that in view of the ongoing incursion of the Bosnian and Croatian Serbs into Bihac, any substantial easing of sanction on any Serbs would be politically impractical just now -- unless there was a substantial new reason for such a reward (e.g. recognition of Bosnia and Croatia). However, he was promised that whatever could practically and quietly be done through the SC's Sanctions Committee would be done quickly.

#### D. Turning the Bosnian Serbs

11. It is Milosevic's firmly held view that there is no way in which Karadzic and his immediate circle can be convinced or persuaded to change their rejection of the Contact Group's Plan. For one thing, they could not politically survive a change to peace.

12. Consequently, the most promising way of dealing with Karadzic is to destroy his political base. Milosevic is already talking frequently with representatives of the Pale Assembly (a matter that he naturally does not wish to have advertised) and hopes that in due course he can convince a majority to reject Karadzic -- perhaps at a special meeting of the Assembly convened outside Pale, possibly even in Belgrade. However, when pressed by Steiner about how many members might already be in his camp, he did not give any number over 20, admitted that there was a hard core of Karadzic supporters, and that this effort would likely take many more months. Incidentally Akashi, in a different context, gave the same estimate with respect to the proposed manoeuvre -- and indicated that we could not afford to wait that long.

13. Milosevic briefly discussed the possibility of General Mladic as a possible successor, principally because he was the most popular leader -- about ten times more so than Karadzic. However, Mladic was apolitical. As a soldier he was also not likely to disobey civilian leadership -- i.e. he would also not resist another properly installed leader's demand for the fighting to stop.



14. Meanwhile, in any event, Milosevic asked that the isolation of Karadzic not be ended, certainly not by or on behalf of the Contact Group.

E. Cease-Fire and Other Negotiations

15. In view of the situation in Bihac, and especially at our meetings with Akashi and de Lapresle and with Rose, there was extensive and often confused discussion of possible cease-fire alternatives and their likely acceptability to the two parties. Finally, the following terminology was suggested:

- (a) Cease-fire = a mere stopping, for an indefinite but probably short period, of shooting;
- (b) Cessation of hostilities = a more structured, monitored and reinforced cease-fire of a duration long enough (at least several months) to justify the effort at negotiating and setting up the necessary infrastructure.
- (c) Termination of hostilities = a permanent end to military operations.

[It is, however, not clear that these definitions correspond to those actually in use, especially in respect of the current conflict, or that they would be understood in the sense here indicated if so used by us.]

16. The BH Government would prefer a cease-fire limited to Bihac, but might go along with a country-wide cessation of hostilities, as long as it is not overly long (maximum about 3 months) or structured so as to be likely to become permanent. The Bosnian Serbs would not agree to a cease-fire for just Bihac until they have accomplished the objective there (see para. 20(a)), but would prefer a long-term cessation or even a termination of hostilities; they might, however, agree to a short over-all cease-fire to permit the immediate start of negotiations on the BH Plan, but without the precondition of their prior approval of the Map.

17. In view of current situation it seems necessary to proceed along two tracks: cease-fire and related negotiations, to be carried out by UNPROFOR under the leadership of Akashi, and long-term political ones, to be carried out by the Contact Group. We discussed this point at both meetings with Akashi, indicating that of course we understood that a full separation of the two tracks would not be possible, but that therefore special care must be taken that both he and the Contact Group keep each other informed about any negotiations, particularly such as might cross the line. Although Akashi immediately undertook to conform to that request, it was clear that he was somewhat uneasy about it.

18. The specific reason for taking this matter up with Akashi the second time was that we had meanwhile learned from General Rose's staff that it was possible that Andreev, who was meanwhile in Pale, would come back with a proposal for a cease-fire linked to immediate negotiations along the lines indicated at the end of para. 16.

#### F. Military Evaluation

19. Of especial interest were the following evaluations we received separately but largely identically from Generals de Lapresle in Zagreb and Rose in Sarajevo.

20. As to Bihac:

- (a) The Serb objective is not so much to take the town or the entire area, but rather to destroy the BH 5th Corps; the purpose of this is to remove that unit as a constant threat to the adjoining areas and the military operations the Serbs wished to carry out therein.
- (b) The Serbs could probably reach this objective in about another week -- and were consequently unlikely to agree to a cease-fire until then.
- (c) The Serbs were on the one hand reacting to a clear violation by the BH of the safe area of Bihac (they still had 5th Corps HQ and other units in the city), and on the other were themselves restraining themselves so as to shoot into the safe area only at clear military objectives -- and sometimes even refraining from doing so and filing formal protests instead.
- (d) The reasons for the success of the Serbs in Bihac were unique to that area and not indicative of the relative military strengths of the BH Government and the Bosnian Serbs generally (see para. 21). The special features of the Bihac operation were:
  - (i) The Government troops had overextended themselves in the apparently successful attacks some weeks ago;
  - (ii) The Bosnian Serbs were being reinforced by the Croatian ones;
  - (iii) The Bosnian Serbs were also being assisted by substantial Abdic forces -- some of which, Milosevic suggested, had actually redefected from the 5th Corps into which they had been integrated this summer.

[It should be noted that none of these special reasons for the Serb success seem to be mentioned in the gloomy



analyses by the media, or even by Secretary of Defense Perry.]

21. As to the **overall relative strengths** of the Government and the Serbs (not even taking into account the HVO), it was the former who were in the ascendancy. They outnumber the Serbs two to one, are now receiving a number of recruits who are being better trained, and are also receiving an adequate flow of light weapons. The Serbs, on the other hand, are fighting with now tired troops and with less ability to manoeuvre their fire power as oil becomes scarce (now it is being taken from heating and agricultural uses) and weapons and vehicles can no longer be sent for repairs to the FRY but must be repaired in place, partly by cannibalizing other systems.

22. As to the **situation of UNPROFOR**, there have been two important developments:

- (a) Within just the past two weeks, the Serbs have deployed a significant number of SAMs (mostly 2s and 6s -- the latter being extremely mobile); it is not clear where these came from -- possibly they had been available but not deployed all along. The result is that UNPROFOR and NATO could no longer safely carry out routine or minor air operations (reconnaissance, supply drops, close-air-support) without mobilizing some 25-30 planes of various capacities; this in turn requires more time and coordination, and changes the character of the deployment from one still compatible with peacekeeping to a fully military one.
- (b) All land convoys thorough Serb territory have been stopped and are unlikely to be permitted to resume soon. The result is that UNPROFOR can no longer carry out its principal mission and that even its own resupply has become precarious. **If this situation continues, at least partial withdrawal of the force may become necessary within a few weeks.**

#### G. Croatian Message about UNPROFOR

23. Ambassador Zuzul, at his dinner, specifically conveyed the following message to us from President Tudjman: Although Croatia had shown great restraint in tolerating the continuing illegal activities in the UNPAs, and had even refrained from attacking when in the past days the Croatian Serbs had launched air and land attacks into Bosnia, this cannot continue. The next time such a situation arises, the Croatian armed forces would have to intervene. Moreover, if there is not substantial progress in resolving the situation of the UNPAs by 10 January 1995, the Government will be constrained, by domestic political pressures (e.g., a new political party of 200,000 displaced persons), to demand the removal of UNPROFOR.

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## PRESS RELEASE

The Contact Group met in Paris on 27 and 28 November. Before leaving for Belgrade, the Contact Group confirmed its unanimous position that the solution for the conflict for the former Yugoslavia can only be reached at the negotiating table - not on the battlefield. The Contact Group is united in its demand for an immediate ceasefire in Bihac and the cessation of hostilities throughout Bosnia and Herzegovina, in pursuit of the territorial settlement proposed by the Contact Group.

The Contact Group  
28 November 1994

cc: Co-Chairmen  
Mr. Akashi



INTERNATIONAL CONFERENCE  
ON THE FORMER YUGOSLAVIA

2/7

TO: Mr. Th. Stoltenberg  
Lord Owen

FROM: P.C. Szasz

DATE: Germantown, 19 November 1994

SUBJECT: BH Contact Group in London, 17 November

1. The BH Contact Group met at the Foreign Office in London on 17 November, from 10:00 to 13:00, then for lunch until 14:00 when both Russian representatives left, and thereafter without them, from 14:30 to 16:30. The UK delegation was led by Neville Jones (except at the lunch hosted by Neville-Jones), and the US one by Thomas; France was represented by De Sedouy, Germany by Steiner and the Russian Federation by Zotov and Nikiforov; Johnston and I attended throughout.

2. The over-all results were at best slight, at least in part due to the brevity of the meeting, the effective part of which was further abbreviated by the post-lunch departure of Zotov to Budapest (for a CSCE Meeting preparatory to the summit) and Nikiforov to Paris. (I understand that the Russians were somewhat reluctant about coming to the meeting at all, which had been tentatively agreed to in Zagreb on the 6th.)

A. Plan A: The Contact Group's Proposals as to BH

3. Zotov indicated that on the basis of a recent 6-hour conversation with Milosevic, it was clear that the latter did not fully understand Plan A. Thomas confirmed that that is what he had heard from the US Embassy in Belgrade. Milosevic had indicated that Karadzic understood the Plan even less, and this was generally considered to be likely. Milosevic had also told Zotov that he had received some 20 members of the Pale Assembly, whom he considered as representing the views of some 50 members -- an adequate majority; thus Milosevic might try to outflank Karadzic politically on the latter's own territory.

4. Ehrmann recounted that Silajdzic had recently visited London and had asked that it be conveyed to Milosevic that the Bosnian Government was flexible on the form of the proposed Union and on the possible types of collaboration of its constituent entities with other states. While Silajdzic would prefer not to use the term "confederation", in practice he could accept something close to it.



5. It was therefore considered desirable that the Contact Group visit Belgrade at an early date, to explain and if necessary clarify the Plan for Milosevic. As to whether this should also be done in Pale, it was felt that before breaking the latter's isolation Milosevic should be consulted, and that in any event this should not be done until the next Ministerial meeting of the Group; furthermore it would probably be preferable if the Group did not visit Pale collectively -- perhaps Stoltenberg should go, but only after Milosevic had been consulted and after the Ministers had approved a new statement. It was also suggested that whether or not Karadzic really misunderstood the Group's Plan, a "clarification" formally conveyed to him might serve to save his face should he now wish to move towards acceptance. Steiner repeatedly made the point that the number of opportunities to issue clarifications was limited and therefore that timing was crucial; it should neither be done too soon (i.e. before the Contact Group was completely agreed), or delayed too much (a number of troop contributors were getting restless); nor could this maneuver be repeated effectively.

6. As to the substance of the proposed "clarification", the UK at the beginning of the meeting distributed a paper titled "Telephone Line to Pale" (attachment A hereto), which might be included in a proposed Ministerial statement. (See also para. (ii) on p. 2 of the US non-paper -- described in para. 9 below.) In the discussion of the UK/EU paper, it was pointed out that although NATO could not guarantee the internal boundaries within Bosnia, the UN Security Council could recognize their inviolability by a resolution. Thomas proposed that a cease-fire should precede the withdrawal; de Sedouy and Ehrmann thought that as there had already been numerous cease-fires one should now call for a cessation of hostilities. Thomas suggested that as soon as an agreement had been reached the internal boundaries should be opened to normal traffic, and that an effort be made to re-establish trading patterns; others who expressed themselves on this suggestion thought this was over-ambitious and would overburden the process. It was however agreed that UNPROFOR should be asked to update its plans relating to disengaging the parties along the confrontation lines.

7. The UK delegation accepted the assignment of preparing a draft of the proposed Ministerial statement.

#### B. The Multi-Track Approach and Plan B

8. There was general agreement that it was important to maintain the "bold for bold" character of the proposal -- i.e. that the Contact Group should make extensive demands on Milosevic in return for promises of substantial sanctions relief. Zotov in particular considered that a secret non-paper that the US had sent to Contact Group governments the previous day (attachment B hereto) would upset the balance, by increasing the demands on Milosevic and lessening the rewards offered.



9. The US paper was then discussed in detail, against the background of a new version of the "Multi-Track Approach" distributed by the UK (attachment C -- identical to paper distributed on 6 November in Zagreb, with the words "the Union of" crossed out in para. (ii)).

10. One point of contention in the US paper was its call for FRY recognition of not only Bosnia and Croatia, but also Slovenia and Macedonia (para. (i) on p. 2). The European pointed out that the imposition of sanctions was related primarily to Bosnia and to a lesser extent to Croatia, and thus introducing requirements as to sanctions relief consequent on actions relating to Slovenia and Macedonia was not warranted and was confusing. Thomas stated that Christopher insisted that recognition of Macedonia be included; the US was also prepared to put pressure on the Greeks -- to which Steiner remarked that the Greeks believed that they had US support for their anti-FYROM embargo. At the very end of the meeting and at the closing of the discussion of sanctions (see para. 11 below), the Europeans made the suggestion that if the US went along with their approach on sanctions, they would consider the addition of the recognition of Macedonia and Slovenia to the list of alternative requirements for sanctions relief; Thomas took this under advisement -- having earlier suggested that the Macedonia issue might have to be decided at the Ministerial meeting. In connection with this discussion of recognition, Steiner pointed out (correctly) that the demand was only for the mutual recognition of the respective states (which would be essentially irreversible) but not necessarily of their governments.

11. In relation to the final paragraph on p. 2 of the US non-paper, there was an extended discussion in the afternoon (after the Russians had left) of the continuing differences between the European and the US views as to sanctions relief: (i) whether the relief should extend to the financial sanctions (it being common ground that relief could not extend to the unfreezing of official assets that might in part belong to other Yugoslav successor states); (ii) whether the exception as to trade sanctions should be based on the full list of strategic items set out in para. 9 of SCR 787, or only on those items listed in the EU Action Plan (Annex 2, section 1, second heading of that Plan). Zotov considered that sanctions should be terminated -- as he appears to have promised to Milosevic -- and not merely suspended; Thomas remarked that Zotov may have over-promised, but recognized that Milosevic needed to receive some sanctions relief, in particular to meet domestic (Serbian) pressures. Ehrmann mentioned that there were credible reports that the Serbs continued to pay members of the Bosnian Serb forces; de Sedouy thought that this might be to Serb officers assigned to the Bosnian Serb army; it was agreed that it would be best to stick merely to the SCR 943 requirements.



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12. As there were several references to other obligations that Milosevic would eventually be expected to fulfil (e.g., in respect of Kosovo and Vojvodina) as well as to further inducements that might be made to him (reintegration into European organizations, assistance by IFIs) consideration will be given to adding a further stage to the table attached to the Multi-Track paper to recognize these additional matters. There were two quite different objections to that: (i) it was suggested that this was outside the purview of the EU proposals on which the Contact Group's work had so far been based; (ii) it might not be opportune to signal to Milosevic now that eventually there would be further demands, and that even the complete lifting of sanctions would not automatically mean complete reacceptance into the international community.

13. After extended discussion of the US non-paper, the "Elements" paper (attachment D) was developed, which it was agreed that the UK delegation would use to prepare an even more simplified version of the corresponding part of the "Multi-Track" paper. The need for such simplification appeared to be generally felt and was expressed particularly by Zotov. (Personally I feel that the EU Multi-Track paper already constitutes about the simplest and rather elegant exposition of this complex subject, and that the refinements and compromises discussed at the three last meetings of the Contact Group -- NYC, Zagreb, London -- were more likely to lead to greater complexity than to allow for significant simplification.)

14. In an earlier intervention concerning his long meeting with Milosevic, Zotov reported that the latter doubted that the time was ripe for a solution of the Krajina problems.

15. With reference to the Plan concerning Croatia (generally referred to as the "ICFY Plan" but also as the "Zagreb 4 Plan"), I reported on its current status -- i.e. that various amendments to the text that had been distributed in Zagreb (the 28 October draft) were under consideration. It was not clearly decided by the Contact Group whether the Plan needed to be approved before or at the Ministerial meeting. (After the meeting I talked to Eide in Zagreb to find out what plans there were for reconvening the Z-4 to consider the amendments that I had suggested to Ahrens and which the latter had sent to the Co-Chairmen and to Eide. He promised to discuss this with Ahrens on the latter's return to Zagreb.)

16. At the beginning of the afternoon meeting there was a brief, inconclusive discussion of the possible desirability of finding some other name for "Plan B", which by itself conveyed no meaning. Steiner read out a list of suggestions from Greek mythology.



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C. Other Matters

17. After lunch Steiner distributed, merely for information, a confidential paper on "Establishment of a Demilitarized Zone (DMZ) Sarajevo" (attachment E), which constituted a translation of an analysis prepared by the German military. This was not discussed.

18. Zotov repeatedly pleaded that the simplification of the approvals for humanitarian relief for the FRY be implemented promptly. Everyone agreed that this should be done, and the British indicated that they chaired a 3-member sub-group of the Sanctions Committee in New York and promised to signal their representative in that sense. Zotov also distributed a copy of a letter his Mission in New York had sent to the Chairman of the Sanctions Committee concerning natural gas deliveries (attachment F), and solicited the Group's support. In this connection Thomas said that the US could not do anything until gas flowed freely to Sarajevo -- not necessarily for industrial purposes.

19. Johnston asked on behalf of UNPROFOR that the Contact Group's Bosnian map proposal be declassified. Steiner pointed out that it had already appeared as a Security Council document.

D. Further Meetings of Contact Group

20. At the end of the meeting, i.e. after the Russian had left, the following schedule of meetings was tentatively agreed to, ad referendum:

- (a) Sunday (27th) evening - Monday (28th) morning: Contact Group ambassadorial-level meetings at Paris airport to agree on draft Ministerial Statement (to be prepared by UK -- see para. 7 above) and perhaps simplified Multi-Track paper (see para. 13);
- (b) Take AF 277A to Belgrade, for Monday (28th) afternoon-evening meetings in Belgrade with Milosevic;
- (c) Take UNPROFOR plane from Belgrade to Sarajevo Tuesday (29th) morning for meetings with Bosnian Government;
- (d) Take UNPROFOR plane to Zagreb Tuesday afternoon for meetings with Tudjman or Granic;
- (e) Group disperses Wednesday morning (30th) in various flights out of Zagreb;
- (f) Group reconvenes in Brussels on Thursday (1 December) afternoon or evening to finalize draft of Ministerial Statement, etc.;

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- (g) Friday (2nd) morning Political Directors level meeting in EU premises;
- (h) Friday afternoon Ministerial meeting (on margins of NATO meeting) in EU premises.

\*\_\*\_\*\_\*\_\*\_\*\_\*\_\*

21. Subject to your approval, I would plan to attend the several Contact Group meetings outlined in para. 20 above. The break scheduled for most of Wednesday and Thursday I would spend in Geneva, at the session of the Succession Issues Working Group convened by the Chairman.

22. I again raised with Thomas the US attitude towards the draft Succession Agreement. He reiterated that the US considered this premature. I again reminded him that delay tended to favour the FRY, and suggested that he discuss this question with you at an early date.



SECURITY COUNCIL RESOLUTION 820 (1993) TO THE FEDERAL REPUBLIC  
OF YUGOSLAVIA (SERBIA AND MONTENEGRO)

(TO BE COMPLETED BY THE SECRETARIAT)

MM

DATE:

ADVICE FOR OBJECTIONS:  
FOR REQUEST

(TO BE COMPLETED IN FULL BY PROSPECTIVE EXPORTING COUNTRY (INT'L REG.))

MISSION OR INTERNATIONAL  
ORGANIZATION:

CERTIFYING SIGNATURE  
AND OFFICIAL SEAL

*[Signature]*  
Deputy Permanent Representative

DATE OF NOTIFICATION/REQUEST  
AND REFERENCE NUMBER

11/11/94

3. EXPECTED DATE  
OF SHIPMENT

as soon as the approval  
is granted

4. GOODS TO BE SHIPPED  
(name and/or description)

Natural gas (132,430,000 m<sup>3</sup> per month  
from October 1994 to April 1995)

QUANTITY OR VOLUME

5. APPROXIMATE TOTAL VALUE

US \$ 10,000,000 per month

ORIGINATING COMPANY

(agency, organization,  
body or individual -  
NAME AND ADDRESS

GVR "Gasexport" Russian Federation, Moscow,  
Leninskiy prospect, 20

RECEIVING COMPANY

(agency, organization,  
body or individual -  
NAME AND ADDRESS

"Progressgas-Trading", Federal Republic of Yugoslavia,  
Belgrade, Nicola Pashich Street, 1

6. BORDER POINT OR PORT BEFORE ENTRY INTO  
THE FEDERAL REPUBLIC OF YUGOSLAVIA

7. PARTICULARS OF THE MEANS OF TRANSPORTATION

via the territories of Russia,  
Ukraine, Hungary to the FRY by pipeline

8. ADDITIONAL INFORMATION,  
IF ANY

Russian request made in NYC  
Distributed at BH CG Meeting 17 Nov.

(F)

Постоянный Представитель  
Российской Федерации  
при  
Организации Объединенных  
Наций



Permanent Representative  
of the Russian Federation  
to the United Nations

116 East 67 Street  
New York N.Y. 10021

New York, 17 November 1994

Dear Mr. Chairman,

Upon the instructions from my Government I have the honour to request approval by the Committee for export to the Federal Republic of Yugoslavia of natural gas for essential humanitarian purposes (public heating including the heating of hospitals, kindergartens, schools etc.). The survey of the planned natural gas consumption and the standard notification form containing necessary details are enclosed herewith. (see Annexes).

It should be noted that the Italian company "ENT" through its subsidiary, the Italian firm "SNAM", and the World Health Organization are ready to provide the necessary effective forms of monitoring, guaranteeing that the gas is distributed exclusively for humanitarian purposes. Detailed information on monitoring arrangements will be presented to the Committee shortly upon the approval of this request.

I should like to underline that fuel is in great need in the Federal Republic of Yugoslavia and the acute shortage of it, especially during the winter, constitutes a real threat to the health and survival of thousands of people among whom are the most vulnerable segments of the population such as children, senior citizens, handicapped persons etc. This threat is widely recognized by

H.E. Mr. Ronaldo Mota Sardenberg  
Chairman of the Security Council Committee  
established pursuant to resolution 724 (1991)  
concerning Yugoslavia  
New York, N.Y.



representatives of the international humanitarian agencies acting in the FRY, in particular by WHO which submitted specific recommendations to the Committee in this regard (document S/AC.27/1994/Comm.23373 and Add.2).

Therefore I hope that the Committee will approve this request without delay taking into account, inter alia, that the Security Council in its resolution 943 (1994) invited the Committee to take measures for expediting its consideration of applications concerning legitimate humanitarian assistance.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'Sergey VLAVROV', with a stylized, cursive script.

Sergey VLAVROV

**SURVEY**  
**OF NATURAL GAS CONSUMPTION FOR HUMANITARIAN PURPOSES**  
 (the period from October 1994 to April 1995)

	Activity	Monthly consumption (1,000 cubic meters)
<b>1.</b>	<b>Health Sector (9)*/</b>	<b>2.037</b>
1.1	Hospitals (5)	1.576
1.2	In-patient wards	461
<b>2.</b>	<b>Heating of schools and children's institutions</b>	<b>658</b>
2.1	Elementary schools (8)	434
2.2	Secondary schools (2)	130
2.3	Higher schools (2)	48
2.4	Other (1)	46
<b>3.</b>	<b>Public Heating</b>	<b>129.735</b>
3.1	Consumer consumption (number of consumers 96.998)	43.043
3.2	District heating (19)	86.692
<b>Total:</b>		<b>132.430</b>

\*/Number of Institutions



Name		Place	Monthly consumption (1,000 m <sup>3</sup> )
			43.043
3.1	Consumer consumption		
			6.500
1.	"Grejanje"	Zrenjanin	120
2.	Block of flats	Karadordevo	1.350
3.	"Sečanj"	Sečanj	918
4.	"Ekot"	Zitiste	17
5.	"6. Oktobar"	Kikinda	400
6.	"Obnova"	V. Livade	700
7.	"7. Oktobar"	N. Kneževac	143
8.	"Čoka"	Čoka	5.830
9.	"Široka potrošača"	Kikinda	900
10.	"Komunalac"	N. Bečej	5.850
11.	"Plinara"	Pančevo	500
12.	"Metangas Pančevo" G. Grad	N. Bečej	1.500
13.	"Polet"	Plandiste	4.650
14.	"2. Oktobar"	Vršac	490
15.	"Usluga"	B. Karlovac	1.200
16.	"Doga"	Kanjiža	300
17.	"Široka potrošača"	Zabalj	250
18.	"Turija"	Turija	1.500
19.	"29. Novembar"	Temerin	2.900
20.	"Novo doba"	S. Pazova	25
21.	"Standard"	Ada	2.000
22.	"Ingas"	Indija	100
23.	"Budućnost"	Temerin	4.900
24.	"Novi Sad Gas"	Novi Sad	
			86.691
3.2	District Heating		
			1.370
1.	Batajnica	Batajnica	20.300
2.	Novi Beograd	Beograd	4.650
3.	Vofdovac	Beograd	1.640
4.	Kanarevo Brdo	Beograd	4.300
5.	Cerak	Beograd	4.680
6.	Banovo Brdo	Beograd	8.830
7.	Konjarnik	Beograd	3.800
8.	Dunav	Beograd	1.600
9.	Mladenovac	Mladenovac	12
10.	Smederevo	Smederevo	1.000
11.	Sabac	Sabac	5.200
12.	"Servo Mihalj"	Zrenjanin	2.700
13.	Senta	Senta	5.200
14.	"Enerģana"	S. Mitrovica	16.800
15.	Novi Sad Heating Plants	Novi Sad	405
16.	Banoci	N. Banovci	625
17.	Bečej	Bečej	3.300
18.	Subotica Heating Plant	Subotica	200
19.	"Graditelj"	Stobran	

	Name	Place	Monthly consumption (1,000 m <sup>3</sup> )
1.1	Hospitals		1,576
1.	General Hospital	Novi Sad	600
2.	Community Health Centre	Karadjordjevo	6
3.	Hospital	Kikinda	300
4.	Institute	Sremska Kamenica	660
5.	Institute for biology	Novi Sad	10
1.2	In-Patient Wards		461
1.	Centre for gerontology	Zrenjanin	86
2.	Solidarity	Kikinda	14
3.	Pensioners' Home	Futog	100
4.	Others		261

## 2. Heating of Schools and Children's Institutions

	Name	Place	Monthly consumption (1,000 m <sup>3</sup> )
2.1	Elementary schools		434
1.	"12. September"	Zrenjanin	80
2.	"1. Oktobar"	Karadjordjevo	70
3.	"Dura Jakšić"	Kikinda	39
4.	"Dura Jakšić"	Sremska Crnja	20
5.	"Jovan Popović"	Kikinda	12
6.	"Mila Pijade"	Kikinda	4
7.	Centre for physical culture	Temerin	200
8.	Others		9
2.2	Secondary schools		
1.	"Dušan Vasiljević"	Kikinda	80
2.	"Stevan Laja i Giga"	Kikinda	50
2.3.	Universities		48
1.	Students' Centre	Novi Sad	48
2.4	Others		46
1.	Children's Camp	Sremska Kamenica	46



INTERNATIONAL CONFERENCE  
ON THE FORMER YUGOSLAVIA

TO: Mr. Th. Stoltenberg  
Lord Owen

FROM: P.C. Szasz

DATE: Zagreb, 21 September 1994

SUBJECT: Joint Meeting of the BH Contact Group and the Zagreb-4

---

1. On the return of the BH Contact Group from Belgrade this evening it met with the three members of the Z-4 Group at the US Embassy Residence in Zagreb. Present were Galbraith and Thomas as hosts, Nikiforov, Manning, his designated successor and the British Ambassador in Zagreb, de Sedouy, Ahrens and Steiner, Eide, Szasz, and several US aids, including sanctions expert Bruce Carter from Washington (who had been with Pellnas in Belgrade up to now).
2. The first part of the meeting related mostly to the Z-4's recent draft. There were no discussions of details, but rather about the broad lines of the bargain. In particular there were questions about the proposed disposition of UNPA East, including the rapid demilitarization foreseen by Article IX.2, para. 2; it was suggested that the time limits there proposed be extended, and perhaps even the length of UNPROFOR presence under Article IX.1, para. 1.
3. In general it was the feeling of the BH Contact Group members, on the basis of their earlier meeting with Milosevic, that the latter would not at this point be inclined to engage himself for a political settlement. Rather, he would probably prefer some advance in developing the so-called modus vivendi at this time, in particular as the US is proposing to take account of this factor in connection with the easing of sanctions. It was also the feeling of most of the participants that in the immediate future an attempt be made again to tackle economic issues -- though it was recognized that until recently it was the Serbs who evaded discussion on this subjects, while due to current developments (e.g., the closing of the Serb/BH border) it would now be the Croatians who would be disinterested in economic talks and inclined to insist on progress on political issues. An example cited was Tudjman's recent comments in relation to the proposals for reopening the Belgrade-Zagreb highway.



4. There was some suggestion (though mostly from the British Ambassador), that the Z-4 draft was too detailed, thus inviting a multitude of objections; perhaps just the broad lines of the proposed bargain should be outlined (another "Principles" paper). This was resisted by Z-4 members, on the ground that any general principles would simply invite questions about precise interpretation and implementation.

5. It was generally felt that no instant progress could be made on the proposed Z-4 draft. First the five Governments that now had it would have to digest it properly, possibly other EU members consulted, and in any event nothing could be prepared for the Foreign Ministers meeting in New York next week. Although Galbraith expressed a clear preference for pressing on quickly with the Z-4 draft and had doubts regarding the prospects of achieving any results on economic issues, he seemed to accept that there was no support for his desire to present the draft to the parties in the near future.

6. The discussion then shifted to a possible BH Contact Group meeting in New York next Wednesday, in preparation for a Foreign Ministers meeting that would probably be scheduled for Thursday and at which perhaps an hour could be devoted to ex-Yugoslavia. After some search for a focus (subjects such as SC resolutions on sanctions and/or embargo easing were briefly mentioned) discussion concentrated on the resolution that would be required to extend the UNPROFOR mandate. It was suggested that in relation to Croatia such a resolution should recall the applicable G-8 statement and perhaps call for the preparation of proposals, under ICFY auspices, for resolving the outstanding issues; one problem would be how to strike an acceptable balance between calling for progress on economic and political issues.

7. After the members of the BH Group had largely left, the Z-4 members (with no Russian present) discussed a possible visit to Knin by Ahrens and Eide next Wednesday and/or Thursday, to reassure the authorities there that no negotiations on political issues (they had evidently heard rumours) were going on behind their backs. The occasion would also be taken to see what types of subjects the local authorities were now interested in and prepared to negotiate on. Galbraith would like to participate, and it would be explored whether the Russian Minister acting in Zagreb could also come.

\*\_\*\_\*\_\*\_\*\_\*\_\*\_\*

8. I am scheduled to be in Prague from Thursday evening to Saturday at a colloquium on "Nationality, Minorities and Succession of States in Central and Eastern European States". Leila will have contact numbers. Subject to any contrary instructions for yourselves, I intend to return to the States early next week. I understand that any Z-4 visit to Knin is not likely to become involved in any legal matters.





# INTERNATIONAL CONFERENCE ON THE FORMER YUGOSLAVIA

Palais des Nations, 1211 Geneva 10



Office of the Co-Chairmen

FAX

PLEASE PASS IMMEDIATELY TO:

PAGE 1 OF 2

To: David Ludlow  
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From: Ann-Marie Cox

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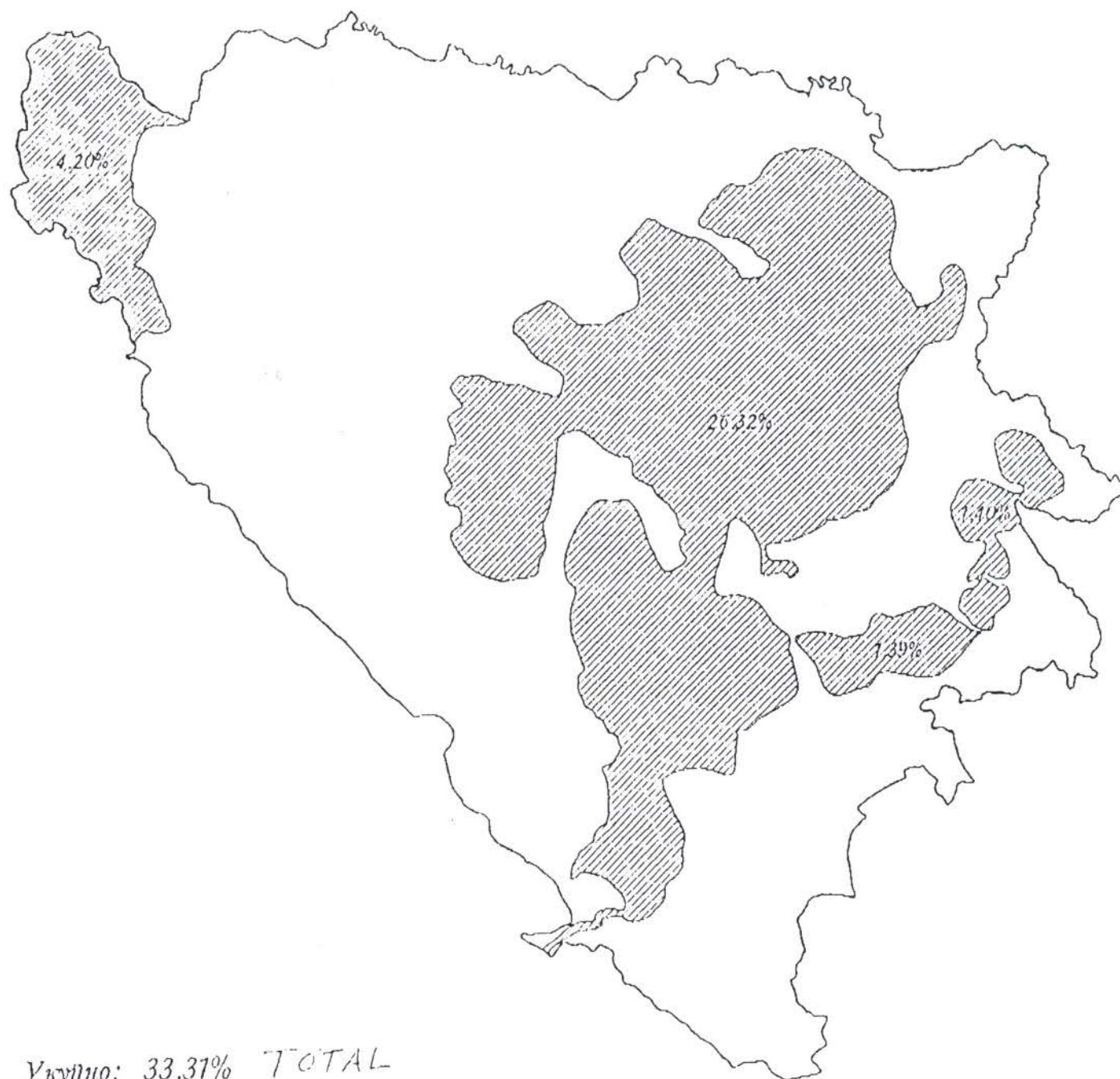
Date: 6 January 1994

Subject: MAP

If transmission incomplete please telephone (41-22) 917 1200

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Attached is the map from Mr Milinovic for the Co-Chairmen.



Укупно: 33.37% TOTAL



PCSzasz, 19 July 1994

WORKING PAPER

ELEMENTS FOR A CONSTITUTION OF THE UNION  
OF BOSNIA AND HERZEGOVINA

1. The Union of Bosnia and Herzegovina will be composed of the Bosniac-Croat Entity and the Bosnian Serb Entity (the "Entities") to represent the Bosniacs, the Serbs and the Croats, as well as other peoples.
2. The Union will continue the international legal personality of the Republic of Bosnia and Herzegovina and have the functions and powers necessary to do so, i.e. to continue as a member of the United Nations and other international organizations.
3. All other governmental functions and powers are to be exercised by the Entities.
4. All nationals of either Entity will be a citizen of the Union. Dual citizenship will be permitted.
5. There will be freedom of movement of individuals throughout the territory of the Union.
6. Each Entity will have its own constitution, which must provide for democratic forms of government, including democratically elected legislatures and chief executives and independent judiciaries, as well as for the highest standards of human rights and fundamental freedoms. The initial elections in each Entity after the Constitution enters into force will be supervised by the UN and CSCE.
7. Neither Entity may threaten or use force against the other Entity, and under no circumstances may any armed forces of either Entity enter into or stay within the territory of the other Entity without its consent.
8. The Union Parliament may adopt laws by a two-thirds majority, including a majority each of the Bosniac, of the Serb and of the Croat representatives.
9. The Union Presidency will consist of one representative each of the Bosniac, Serb and Croat peoples. It will take all its decisions by consensus, and its chairmanship will rotate every four months.

10. The Union Council of Ministers will be headed by a Prime Minister and two Deputy Prime Ministers (one of whom shall be the Foreign Minister) appointed by the Presidency. These posts will rotate every year and will always be from three different peoples. Other Ministers may be appointed by the Presidency to the Council.
11. The Union Court will resolve any disputes between the Entities or between these and organs of the Union or between such organs, and decide such other matters as are specified in the Constitution or are submitted by the Presidency. It will consist of one Judge appointed by each member of the Presidency and of two other Judges, who need not be Union citizens, appointed by the Presidency or, if it is unable to do so, by the President of the International Court of Justice.
12. (a) The application of the highest standards of internationally recognized rights and freedoms specified in listed world-wide and European instruments will be ensured throughout the Union. In particular, all refugees and displaced persons will have the right to return freely to their homes of origin, and all persons deprived of any land or property in the course of ethnic cleansing will have the right to have such land and property restored to them and to be compensated for any which cannot be so restored, for which purpose all statements or commitments made under duress, particularly those relating to the relinquishment of rights, shall be treated as null and void.  
  
(b) For these purposes each Entity will make arrangements with the Council of Europe for the establishment of a Human Rights Court in accordance with Resolution 93(6) of the Committee of Ministers of the Council, and will provide for the appointment of Ombudsmen, initially by the CSCE.
13. (a) The Union will continue the membership of the Republic of Bosnia and Herzegovina in the UN and related organizations, and may apply for membership in European and other international institutions and organizations, as decided by the Presidency.  
  
(b) Each Entity may apply for membership in international organizations of which the Union is not a member, provided such membership would not be inconsistent with the interests of the Union or of the other Entity.



(c) Each Entity may enter into cooperative arrangements and into confederations, provided these do not change the international identity or legal personality of the Entity and provided they would not be inconsistent with the interests of the Union or of the other Entity.

(d) The Union will remain a party to treaties in force for the Republic of Bosnia and Herzegovina on the date of the entry into force of the Constitution, unless the Parliament decides otherwise.

(e) The Union may become a party to international treaties by decision of the Union Parliament.

(f) Either Entity may, if eligible, become a party to an international treaty if such participation would not be inconsistent with the interests of the Union or of the other Entity.

(g) Any dispute concerning an alleged inconsistency referred to in sub-paragraph (b), (c) or (f) shall be decided by the Union Court.

14. The expenditures of the Union will be covered two-thirds by the Bosniac-Croat Entity and one-third by the Bosnian Serb Entity.
15. The Constitution may be amended by Union legislation that is approved by both Entities, provided no amendment may diminish any of the rights or freedoms referred to in paragraph 12.
16. The Constitution may not be denounced or otherwise terminated and neither Entity may withdraw from the Union without the prior agreement of the other Entity. These arrangements may be revised by mutual consent once the territorial settlement concerning Sarajevo has been concluded.