

# OCCASIONAL PAPERS

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## THE CONTACT GROUP AND ITS IMPACT ON THE EUROPEAN INSTITUTIONAL STRUCTURE

*Christoph Schwegmann*

INSTITUTE FOR SECURITY STUDIES - WESTERN EUROPEAN UNION  
INSTITUT D'ETUDES DE SECURITE - UNION DE L'EUROPE OCCIDENTALE

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ON THE EUROPEAN INSTITUTIONAL STRUCTURE**

*Christoph Schwegmann*\*

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## SUMMARY

Among the institutions which emerged during the crisis management phase in Bosnia-Herzegovina and Kosovo, the so-called *Balkan Contact Group* turned out to be the innovation with the greatest impact on European institutional structures. Established in spring 1994 the Contact Group served as a coordination forum of the crisis management efforts of the United States, the Russian Federation, France, the United Kingdom, Germany and Italy (since 1996). Hence, the Contact Group became a decisive factor in uniting the international community of states. Despite many internal squabbles, the Contact Group maintained a common approach towards the belligerents and made peace negotiations possible. Having agreed on common positions, the Contact Group states, due to their prominent place in relevant international organisations, were able to act as lead nations of the international community. In this manner, the Contact Group was instrumental in negotiating the peace agreements for Bosnia and Kosovo and assuming responsibility for the peace implementation processes.

Despite the Contact Group's positive impact on the international community's crisis management capabilities, its existence raises normative questions concerning membership, admission, control and transparency. This is especially with regard to the European Contact Group members and their obligations resulting from the *Treaty of the European Union*.

This paper assesses the Contact Group's role in international crisis management and it discusses the relationship between the Contact Group and international organisations, especially the European Union. It argues, however, that the Contact Group does not harm the attempts to deepen the *Common European Foreign and Security Policy*. Instead, it is a useful addition to the European institutional structures and a helpful instrument in healing institutional deficiencies. Contact Group-like arrangements should, therefore, always be considered as an option in European crisis management, at least as long as no alternative institutional arrangement is available.

# THE CONTACT GROUP AND ITS IMPACT ON THE EUROPEAN INSTITUTIONAL STRUCTURE

*Christoph Schwegmann*

## **I. Introduction: changes in the European institutional structure**

The establishment of an appropriate security structure for Europe following the demise of the one in place during the Cold War is still a work in progress. In the meanwhile, the alignment of the institutional set-up and decision-making structures of existing international organisations to current tasks and needs, has taken hold. Four main reasons account for these changes: (1) the fact that a number of former Warsaw Pact members and Soviet Republics were applying for membership in Western security institutions; (2) the decision of several European states to widen their cooperation beyond the economic field to the domains of foreign policy and security (Common Foreign and Security Policy); (3) the obsolescence of many of the principal tasks of international organisations due to the new security situation (as has been the case with NATO); and (4) finally, the reality of war and civil war in the Balkans, which forced the European community of states to provide and enhance appropriate means and instruments for successful crisis management.

However, to match such new demands European states not only reformed their institutions but established new ones as well. These were founded within the framework of existing organisations (e.g. NATO's Partnership for Peace Programme - PfP) and aimed to give long-term perspectives for those states not yet able to join the Western<sup>1</sup> community and, by so doing, provide a contribution to European security. Additionally, ad hoc arrangements like the Contact Group and the coalition that ran Operation Alba were established beyond the realm (although connected with) existing organisations. They did not serve strategic aims. Instead, they responded to institutional deficiencies, which became obvious in the event of crisis management. These deficiencies derived from (1) the lack of suitable instruments (e.g. military capacities of the EU) in the hand of just one organisation; (2) the difficulties in obtaining consensual decisions in multilateral negotiation bodies (e.g. the European Council); and (3) a lack of coordination between organisations active in European security issues ('interlocking institutions'). It also became obvious that parties in conflict could easily play outside powers off against each other, as the international community could not find a way to address them with one voice.

The analysis of institutions and ad hoc coalitions, established outside of existing international organisations, promises to add to what can be called the 'flexibility debate'. This debate, currently taking place in some circles of applied political science, deals with the question of how the common European (that is the European Union/Western European Union) capacity to act in the field of crisis management can best be improved, without sidelining these institutions in order to conduct purely national operations.<sup>2</sup> In this context, this paper will

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<sup>1</sup> The word 'Western' here refers to the former East-West division of the Cold War.

<sup>2</sup> See Antonio Missiroli (ed.), 'Flexibility and enhanced cooperation in European security matters: assets or liabilities?', *Occasional Paper 6* (Paris: Institute for Security Studies of WEU, January 1999). Also compare the results of the IGC in Cologne on 3-4 June 1999 which can be seen as political answers to the demands of flexibility.

concentrate on the Contact Group for Bosnia and Herzegovina and for Kosovo, which had a prominent, but not well analysed, role in the management of crises.<sup>3</sup>

The Contact Group was, in the first instance, an informal forum, offering opportunities for information exchange and coordination of diplomatic strategies at different levels. Its declared aim in Spring 1994 was, according to Pauline Neville-Jones, to ‘establish an informal but strong policy-making core around which the main international players could unite.’<sup>4</sup> To fulfil this function, the Contact Group met at three levels: foreign-ministers-level, political-directors-level and at expert/working-group-level.<sup>5</sup> At all levels the European Commission and the Troika of the EU had observer status. Occasionally, members of other international organisations and special experts were invited to take part in discussions at all levels (e.g. special envoys of the EU or UN, or OSCE representatives), when appropriate. Usually the Contact Group met when its member states saw a certain need to discuss current issues. Contact Group meetings were, therefore, relatively spontaneous (*ad hoc*), normally unprepared and linked to a current issue. The host state chaired the sessions as a *primus inter pares*.

While the member states regarded themselves as (at least formally) equal, there were different perceptions of the representation of the European Commission and the European Presidency. On the one hand, there was a certain scepticism on the side of the Commission (Directorate General 1A) whether it was within its competence to demand an active role in the Contact Group; on the other hand, the European Contact Group member states did not like to be reminded to take European positions into consideration. Therefore, the influence of the European Presidency varied between the states in charge. It was generally observed that Contact Group member states used their position as EU President to gain additional authority in the Contact Group, while they were less willing to accept the authority of the EU Presidency in the hand of smaller and non Contact Group member nations.

All decisions and statements made by the Contact Group were based on consensus, since its underlying and crucial principle was to preserve the Contact Group’s unity. Thus, an implicit rule in the Contact Group was not to take actions and decisions which may jeopardise this unity. Given that the Russian Federation regularly pointed out that it would not accept military action without a Security Council Resolution one could conclude that decisions taken in the Contact Group have to follow international law and that the Contact Group wants to act in a manner considered legitimate by UN standards.

The structure of the Contact Group and its procedures are thus reminiscent of those of the G7/G8. The G8 also meets outside of existing institutions and aims at informal policy coordination. Policymakers in favour of the informal character of the G8 are even trying to avoid a further process of institutionalisation. Indeed, the G8 summits in Birmingham (15-17 May 1998) and Cologne (18-20 June 1999) were already much more informal at the head of state/government level than previous meetings. An additional parallel between the G7/G8 and the Contact Group is their information policies. Apart from joint statements at the end of each summit, hardly any official information is forthcoming. The G7/G8 does not have a charter, or other kind of written principles and rules. Striking differences, of course, are the time horizon and the agenda of both institutions. While the G7/G8 tries to coordinate policy towards a

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<sup>3</sup> A pioneering work on the Contact Group was done by Francine Boidevaix, *Une Diplomatie informelle pour l’Europe. Le Groupe de Contact Bosnie* (Paris, 1997).

<sup>4</sup> Pauline Neville-Jones, ‘Dayton, IFOR and Alliance Relations in Bosnia’, *Survival*, 38:4, Winter 1996-97, p. 46.

<sup>5</sup> The term working-group-level is used among diplomats, but is unclear in so far as these groups are not permanent but meet on *ad hoc* basis as well.



common grand strategy in the economic, financial, and recently in the ecological and security fields, the Contact Group is only concerned with ad hoc crisis management. The latter is not excluded from G7/G8 activity, as it was visible during the Asian financial crisis or towards the end of the Kosovo war (see below), but it remains an exception.<sup>6</sup>

The Contact Group's focus on crisis management and its composition led to some speculation on whether the Contact Group could be developed into a European security council.<sup>7</sup> Such a scenario, however, briefly considered by British and German diplomats, was never supported by the United States and the Russian Federation. These two countries had no intention to transfer Contact Group negotiations into a more institutionalised framework, as for instance into the OSCE system, and to question the monopoly of the United Nations Security Council (UNSC). For the US and Russia, the attractiveness of the Contact Group lies especially in its informal, less institutionalised format.<sup>8</sup> However, this refusal to further institutionalise it made the Contact Group even more suspicious for those who perceived it as a new kind of *directoire* or *concert* of major European powers.<sup>9</sup> The comparison of the Contact Group with the G7/G8, which is already dominating the international economic and financial policy and its institutions, supports this view.

These observations illustrate that the Contact Group was a new and unique instrument for crisis management in the European security system,<sup>10</sup> which begs for further analysis. By comparing the role and importance of the Contact Group for Bosnia and Herzegovina and for Kosovo<sup>11</sup> in the crisis management of the 'international community', I will argue, (1) that the Contact Group did not constitute a return into the 19<sup>th</sup> century, when a concert of a handful of powers designed Europe's political structure<sup>12</sup>, and (2) that the Contact Group was not a threat to further European integration of foreign and security policies. Contact Group-like arrangements can rather be useful supplements to existing structures and can – by bridging institutional gaps – fit well into their deeper institutionalised environment given that no European institutions are able to take on Contact Group's functions.

I will begin my assessment by analysing the Contact Group's specific crisis management role in Bosnia and Kosovo. I will then discuss potential conflicts between Contact Group activities and the project of a European foreign and security policy. Finally, I will debate whether the Contact Group is an acceptable addition to the European institutional structure: does it have a future in European crisis management or does it harm the fragile attempts to deepen the CFSP and should, therefore, from a European point of view, remain an exception?

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<sup>6</sup> On the G7/G8 see Michael Hodges, John Kirton and Joseph Daniels, *The G8's Role in the New Millennium*, (Aldershot: Ashgate, 1999) and Peter I. Hajnal, *The G7/G8 System. Evolution, Role and Documentation*, (Aldershot: Ashgate, 1999).

<sup>7</sup> See Rob de Wijk, 'De Contactgroep: een Europese Veiligheidsraad?', *Internationale Spectator*, April 1998, p. 175; Francine Boidevaix, 1997, p. 124.

<sup>8</sup> This impression has been confirmed in interviews with American, Russian, German, and British diplomats dealing with Contact Group.

<sup>9</sup> See Daniel Vernet, 'Le Groupe de contact: le retour des grandes puissances en Europe?', *Relations Internationales et Stratégiques*, Autumn 1995, pp. 132-138.

<sup>10</sup> Parallels exist with the Contact Group for Namibia, which negotiated on behalf of the UN between 1977-82. See Margaret P. Karns, 'Ad hoc multilateral diplomacy: The United States, the Contact Group, and Namibia', *International Organization*, 41:1, Winter 1987, pp. 93-123.

<sup>11</sup> There exist alternative spellings: Kosovo or Kosova. For example, the former is used in Security Council resolutions; the latter by Albanian delegations. For simplicity and consistency, the spelling Kosovo has been used throughout this article.

<sup>12</sup> On this question, also see Daniel Vernet, 1995.

## II. The Contact Group in Bosnia and Herzegovina

### II.1 Genesis of the Contact Group

As stated above, the Contact Group is often regarded as a competitor to the EU's Common Foreign and Security Policy. Especially smaller European states like the Netherlands (which had contributed a relatively high percentage of UNPROFOR soldiers in Bosnia), as well as Greece and Italy with their specific regional interests complained about their exclusion when the Contact Group was founded, arguing that it contradicted the Treaty of European Union (TEU).<sup>13</sup>

Ironically the genesis of the Contact Group was not the result of new great power attitudes among Britain, France and Germany. It derived from the initiative of EU negotiator David Owen, who had, among others, realised that the negotiations within the International Conference on Former Yugoslavia (ICFY)<sup>14</sup> in Geneva had failed. Owen thought that substantial progress could only be made if the Europeans got the United States and Russia more involved in the management of the crisis. Before 1994, the United States was remarkably absent from the Yugoslav stage. But in March 1994, US diplomats (supported by their German counterparts) gained their first success in Bosnian crisis management by convincing the Bosnian Croats and Muslims to create a confederation. Russia already had demonstrated its influence on the Bosnian Serbs in February by persuading them to withdraw their heavy weapons from the Sarajevo mountains. Additionally, Russia and the United States, in diplomatic partnership with the Conference on Yugoslavia, worked out a compromise for the Krajina region at Zagreb (the so called Z-4 Plan) in March 1994. This solution, however, was eventually not accepted by the conflicting parties.<sup>15</sup>

Due to this diplomatic offensive by the United States, the relevance of ICFY further decreased as the belligerents began to think they could gain more through direct negotiations with the Americans. Although the US was extremely interested in having a common approach with the Europeans, it did not want to deal with all twelve governments or with the EU Troika. For the United States, the most relevant partners were the UNSC members France and Great Britain, plus Germany. A Troika of the EU in which Greece, holding the EU presidency at the time, followed a Yugoslavia policy at odds with that of the United States, could not serve US interests.<sup>16</sup>

Therefore, the Contact Group came into being due to two main reasons. First, the United States refused to cooperate with David Owen and UN negotiator Thorvald Stoltenberg within the framework of the ICFY. Secondly, some major European diplomats were convinced that a close cooperation between the main European powers, the US and the Russian Federation (RF) would be essential for a solution to the conflict. Consequently, the United States, Russia, France, Great Britain and Germany, encouraged by Owen's advice, established a policy-making group at expert level attended by representatives of the five powers following the

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<sup>13</sup> James Gow, *Triumph of the Lack of Will. International Diplomacy and the Yugoslav War*, (London: Hurst, 1997), p. 267; Antonio Missiroli, 'Italiens Außenpolitik vor und nach Maastricht', *APuZ*, B28/1998, pp. 27-36, p. 34.

<sup>14</sup> For the principles and the structure of the conference see Bertrand de Rossanet, *Peacemaking and Peacekeeping in Yugoslavia*, (Den Haag: Kluwer, 1996).

<sup>15</sup> Lenard J. Cohen, *Broken Bonds. Yugoslavia's Disintegration and Balkan Politics in Transition*, 2<sup>nd</sup>. Edition, (Boulder: Westview Press, 1995), p. 310; Leo Tindemans *et al* (eds.), *Unfinished Peace. Report of the International Commission on the Balkans*, (Washington: Aspen Institute Berlin, Carnegie Endowment for International Peace, 1996), p. 47.

<sup>16</sup> David Owen, *Balkan Odyssey* (Munich; Vienna: Hanser, 1996), p.365.

official appearance of the Contact Group on the European stage during its first meeting at the level of ministers of foreign affairs on 26 April 1994 in London.

## ***II.2 The Contact Group Plan***

The Contact Group Plan, mainly based on the ideas of the Europeans, was presented a few weeks later in Geneva on 13 May 1994 and. It called for the first time for a confederation model in which the Muslim-Croat Federation would control 51% of the territory and Republika Srpska 49%. In July the conflicting parties were presented with the final map and a working paper sketching five elements for a future constitution: (1) the commitment to the sovereignty, territorial integrity and political independence of the Republic of Bosnia and Herzegovina; (2) the existence of two entities (the Croat-Muslim Federation and the Republika Srpska) in this unitary state; (3) the 51:49 formula for the territorial division, open to further changes of territory on consensual basis; (4) the permission for the Bosnian Serbs to keep 'ethnically cleansed territory'; and (5) the option to maintain close relations with the mother countries (Serbia and Croatia).<sup>17</sup>

The difference with respect to previous peace plans consisted in the fact that the Contact Group Plan was presented to the belligerents on a take-it-or-leave-it basis without their prior consultations and involvement. The plan included incentives in case of acceptance and threats in case of rejection and was, in principle, not negotiable. In addition, the plan constituted an obvious step towards a realistic approach accepting for the first time that the Serbs could keep some of their territorial gains.<sup>18</sup>

To promote the Contact Group Plan, member states tried to assert pressure on the warring parties, according to their real or perceived influence: the Russians on the Serbs in Belgrade and Pale, the US on the Bosnian Muslims and the Germans on the Croats. The United Kingdom and France and the co-chairmen of the Yugoslavia Conference shuttled between the camps to gain support for the Contact Group's peace package.<sup>19</sup>

The peace plan eventually failed due to the opposition of the Bosnian Serbs, who were not willing to cede a great part of their territorial gains (in May 1994 they occupied about 72% of Bosnia-Herzegovina). As a consequence of the plan was at least a further alienation between Belgrade and Pale took place since Milosevic had supported the plan and reacted with the closure of the border between the Federal Republic of Yugoslavia and Republika Srpska. The Contact Group Plan, therefore, represented the first attempt by Contact Group member states to act in concert by imposing from outside a peace plan on the warring parties. It failed mainly because the situation on the battlefield did not convince the Bosnian Serbs to compromise.

At that time and in the months that followed, the limits of concert diplomacy became visible. Until Summer 1995, Contact Group states could not agree on a set of measures to force the Bosnian Serbs to seriously participate in negotiations. Four opposing positions in the Contact

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<sup>17</sup> Dick A. Leurdijk, *The United Nations and NATO in former Yugoslavia, 1991-1996, Limits to Diplomacy and Force*, (Den Haag: 1997), p. 92.

<sup>18</sup> Cohen cites the American Contact Group diplomat Charles Redmann, who confirms: 'He [Redmann] admitted that the map left ethnically cleansed areas under Serbian control, but explained, that the contact group had found it necessary to 'jump over the moral bridge in the interests of wider peace'', in Lenard Cohen, 1995, p.312

<sup>19</sup> *Ibid.*, p. 312.

Group were identifiable: the United States was promoting a 'lift and strike' strategy;<sup>20</sup> France and Great Britain were threatening to withdraw their ground forces if the US undertook unilateral actions; Russia held air strikes unreasonable and considered evacuating its UN contingent in case of US air attacks; Germany, while generally supportive of the American position, was in favour of lifting the arms embargo, but tried to prevent a UNPROFOR withdrawal.<sup>21</sup> The question of air strikes was also one of status. For Russia, in particular, the rule of solidarity and mutual respect between the powers was at stake.

### *II.3 Dayton*

The Dayton accord is often regarded as a 'Pax Americana' and certainly, the biggest part of the negotiations was led by the American delegation under Richard Holbrooke. However, a closer look at the results, makes it clear, that the interests of all Contact Group states were taken into account and that the General Framework Agreement (GFA) included elements which had already been part of the 1994 Contact Group Plan.

Without a doubt, the Dayton accord was made possible by substantial changes on the Yugoslav battlefield: (1) the siege of the UN security areas Srebrenica and Zepa and the final banishing and slaughter of their Muslim citizens; (2) the capture of the Krajina by the Croat army ('Operation Storm') and the capture of the Bihac region by Croat and Muslim government forces combined with the mass flight of the Serb inhabitants into Republika Srpska and the Federal Republic of Yugoslavia; and (3) the dispatch of a well-armed 10,000 strong Rapid Reaction Force to Sarajevo by France, the UK and the Netherlands, able to protect UNPROFOR. This new situation and the emergence of Croatia as a political-military counterweight to the Federal Republic of Yugoslavia were extremely helpful for the American initiative allowing for new and ethnically more coherent political maps to be drawn up.

The possibilities, resulting from the new situation, became evident on 8 September 1995 when the foreign ministers of Croatia, Bosnia-Herzegovina and Yugoslavia met under Contact Group auspices. In this meeting, which was chaired by US special envoy Richard Holbrooke and EU negotiator Carl Bildt, the parties signed a joint declaration in which they agreed upon basic principles for a peace settlement. These principles, which had been introduced to the European allies in mid-August by US National Security Adviser Anthony Lake, enhanced the unity of the state Bosnia and Herzegovina, the two entity model on the basis of 51:49, the commitment to respect human rights, and the acceptance of free elections under international observation.<sup>22</sup>

On the basis of this agreement, American diplomats around Holbrooke further elaborated on a detailed peace plan, which was later deliberated with the Contact Group partners. In the meantime, the defence ministers of the United States and the Russian Federation, William Perry and Pavel Gratchev, discussed the conditions for Russian participation in a NATO-led peace force.

According to Holbrooke, the reasons for this sudden breakthrough in the negotiations lie in the NATO bombardments of Serb forces in Bosnia and in the US diplomatic initiatives

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<sup>20</sup> 'Lift and strike' aimed to lift the arms embargo in favour of the Croat and Muslim forces and to exert NATO air strikes against Bosnian-Serb positions.

<sup>21</sup> David Owen, 1996, pp. 376, 383.

<sup>22</sup> See 'basic principles' in [www.ohr.int/docu/d950925a.htm](http://www.ohr.int/docu/d950925a.htm).

carried out at the same time.<sup>23</sup> Carl Bildt, however, stressed that the turn in America's Bosnia policy was essential for the agreement. This concerned the recognition of Republika Srpska, which made the exchange of territory possible, and President Clinton's acceptance to back a peace initiative with robust military means (such as, for example, a strong NATO-led peace force).<sup>24</sup>

The peace negotiations at the Wright-Patterson Airbase near Dayton (Ohio) began on 1 November 1995 and lasted three weeks.<sup>25</sup> A decisive factor was the fact that the parties in conflict as well as the Contact Group states operated under extreme pressure for success. The Contact Group was divided into two camps by the US delegation: the three Western European countries, led by their political directors Wolfgang Ischinger, Jacques Blot and Pauline Neville-Jones, with their small teams (limited to eight members each), were nominally subordinated to Carl Bildt, who of course possessed no authority over them. The Russian negotiator, then Deputy Foreign Minister Igor Ivanov, was considered to be an equal partner along with Bildt and Holbrooke.<sup>26</sup> This arrangement was criticised by the British and French delegations, which stressed that Bildt could not speak in any case for their governments.<sup>27</sup> UN Secretary-General Boutros Boutros-Ghali had already declared in advance that the United Nations intended to withdraw from conflict management in Bosnia and Herzegovina and that the Contact Group should invent its own (that is, non-UN) mechanisms for the eventual peace-implementation.<sup>28</sup>

During the negotiations three tasks had to be mastered: finding agreement on common positions within the Contact Group; creating a constitution for Bosnia and Herzegovina; and finalising the territorial division of the state between the two entities. The monopolisation of the negotiations by the huge US delegation led to many irritations within the Contact Group. For example, the question of territorial division and other key issues were brought up independently by the American delegation. Moreover, the European and Russian negotiators had little access to the media since the Americans were keen to control the information flow out of the Air Base.

In principle, there were three tracks of negotiation: (1) the US negotiated with the belligerents, whereby the Bosnian Serbs were represented by Milosevic; (2) the Contact Group states negotiated among themselves over the several paragraphs of the annexes of the GFA, to be signed by the parties in conflict; and (3) the Russian Federation and the Europeans negotiated separately with the conflicting parties. The task sharing between the Contact Group states made it possible to reach breakthroughs on important side issues, while major issues were still unsolved. For instance, during the latter stage of the negotiations, the US and

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<sup>23</sup> Richard Holbrooke *Meine Mission. Vom Krieg zum Frieden in Bosnien*, (Muenchen: Piper, 1998), p.549.

<sup>24</sup> Carl Bildt, 'Holbrooke's History', *Survival*, 40:3, Autumn 1998, pp. 187-191, p. 188.

<sup>25</sup> Before the talks began, the European states in the Contact Group, especially France, had tried to prevent the peace negotiations from taking place in the United States. However, due to domestic considerations – Clinton needed to convince a sceptical Congress to support troop deployment – the US government insisted on negotiations in Dayton. In return, the Americans agreed that the parties officially sign the peace treaty in Paris. See Holbrooke, 1998, p. 292; Michael Trumann, 'Der unvollendete Nationalstaat – Bosniens Weg zum Abkommen von Dayton', Auswaertiges Amt (ed.), *Deutsche Aussenpolitik 1995, Auf dem Weg zu einer Friedensregelung fuer Bosnien-Herzegowina: 52 Telegramme aus Dayton*, Eine Dokumentation, (Bonn: Auswaertiges Amt, 1988), pp. 15-28.

<sup>26</sup> Pauline Neville-Jones, Winter 1996-97, pp. 45-65, p. 48.

<sup>27</sup> Richard Holbrooke, 1998, p. 373.

<sup>28</sup> *Ibid.*, p. 276.

Germany played an important role in the signing of the 'Federation Agreement' between the Bosnian Muslims and Croats, which also included the future status of Mostar.<sup>29</sup>

Generally speaking, one could argue, that the US delegation emphasised the territorial aspects of the negotiations and took care that decisions concerning the military implementation of the accord would gain support widely within the US administration. At the same time, the Europeans rather concentrated on political and constitutional matters aiming to establish durable political structures. According to such distinct priorities, the competencies for peace implementation were shared: the Western countries had already agreed on in advance that the US would lead the military operation, which was mainly worked out through NATO. However, the agreement with Russia on a unified command and the agreement on common principles for NATO and Russian troops within IFOR was remarkable.<sup>30</sup>

While the military operation was in the hands of NATO and its US-led command, the Europeans were rather interested in two important aspects of civilian implementation: the responsibilities and power of the civil administrator for Bosnia and Herzegovina, as well as his relation to the military command. According to Pauline Neville-Jones, one of the few instructions the European governments in the Contact Group received from the Council of Ministers of the EU was that the civilian counterpart to the American military commander had to be a European. However, the US would have liked to have this post as well as that of the head of the OSCE mission.

Since the US was willing to contribute only a small financial share of the reconstruction and recognised that the Europeans maintained their position, it tried to delegate as few competencies as possible to the High Representative. Eventually, the High Representative had a lot of responsibility, but no direct authority to issue directives. He only had the right to mediate and coordinate.

On top of that, the American negotiators, urged by American NATO circles, prevented an agreement whereby consultations and deliberations between the civil administrator and the military command would have been institutionalised. The American military feared that a civilian influence would cause problems similar to those that occurred between the UN and NATO during the 'dual-key-arrangement'.<sup>31</sup>

#### ***II.4 Peace implementation***

The section above is meant to show the usefulness of the Contact Group as a negotiation forum for the great powers: while defending their own interests, they could reach an acceptable compromise. The implementation process, whose structures were agreed upon at Dayton, may illustrate the role of the Contact Group as an instrument of coordination for international organisations. It coordinates by defining competencies and responsibilities, by creating additional institutions if necessary, and by watching over the state of the peace implementation process.

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<sup>29</sup> Wolfgang Ischinger, '21 Tage Dayton', Auswaertiges Amt (ed.), *Deutsche Aussenpolitik 1995, Auf dem Weg zu einer Friedensregelung für Bosnien-Herzegowina: 52 Telegramme aus Dayton*, Eine Dokumentation, pp. 29-35, p. 32 f.

<sup>30</sup> On the structure of the co-operation see Leontij P. Schewzow, 'Die militaerische Zusammenarbeit zwischen Rußland und NATO in Bosnien: Ein Fundament fuer die Zukunft?', *NATO Brief*, March 1997, pp. 17-21.

<sup>31</sup> Pauline Neville-Jones, Winter 1996-97, p. 46; Richard Holbrooke, 1998, p. 423. The dual-key arrangement was active during the UNPROFOR mission whereby both the UN and NATO had to order use of military force together. Since the UN had no permanent working office, this agreement turned out to be very impractical, especially at night and on weekends.

The organisation of the peace implementation was outlined in the annexes of the General Framework Agreement. According to the GFA (Annex 1-A), the military mission had to be controlled independently by NATO, which held control over the Implementation Force (IFOR, later Stabilisation Force SFOR).<sup>32</sup> The CIMIC (Civil Military Cooperation) section of NATO was responsible for civil military cooperation on the military side. The Alliance, therefore, had full control over its cooperation with civil agencies.<sup>33</sup> Like IFOR/SFOR, the OSCE-Mission was headed by the US. According to the GFA, the task of the OSCE was subdivided into three sections: (1) the election committee for preparing, running and monitoring elections; (2) the human rights section; and (3) the section on arms control and confidence building measures.<sup>34</sup>

The mission of the United Nations was executed by its sub-organisations, UNHCR (United Nations High Commission for Refugees) and UNMIBH (United Nations Mission in Bosnia and Herzegovina), whereby the latter, according to Annex 11 of the GFA, held control over the International Police Task Force (IPTF), the civil affairs division, and the mine-sweeping program.<sup>35</sup> The financial help for the reconstruction of industry and infrastructure was provided by the World Bank, the International Monetary Fund, the European Bank for Reconstruction and Development, and to a large part by the European Union and single donor countries.<sup>36</sup> A special role in the organisation of the international peace implementation was played by the steering committee of the Peace Implementation Council (PIC) and the subordinated High Representative. Both bodies were already established at the London Peace Implementation Conference, as agreed upon in Dayton by the Contact Group states, and should be considered the successors to the Geneva Conference of the EU and the UN.

The PIC consists of representatives of all states, international organisations and agencies present at the London Conference. France as the chair of the G7, was the first to coordinate the activities of the PIC. Hence, a steering committee chaired by the High Representative was established to meet on a monthly basis and to maintain close contacts with the OSCE and the UN (but not with NATO). The steering committee included representatives of all G7 states - France, Germany, Great Britain, the United States, Canada, Japan, Italy (the G7) - Russia, the presidency of the EU, representatives of the European Commission and the Organisation of Islamic Countries (OIC).<sup>37</sup> Since 1996, the steering board of the Peace Implementation Council has met about two times a year on ministers level. A peace implementation conference with all parties concerned takes place every year in December.<sup>38</sup>

The Office of the High Representative, first held by EU negotiator Carl Bildt, had to fulfil a complex coordination task between governmental and non-governmental civil missions, while not having any authority over them. The High Representative chaired for instance the Joint Civilian Commission (JCC), in which political representatives of the parties in conflict, the commander of IFOR/SFOR, and representatives of several civilian organisations were present.

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<sup>32</sup> GFA, Annex 1-A.

<sup>33</sup> See William R. Phillips, 'Die Zusammenarbeit zwischen dem zivilen und dem militärischen Bereich als zentrales Element der Durchführung des Friedensabkommens in Bosnien', *NATO Brief*, March 1998, pp. 22-25.

<sup>34</sup> GFA, Annex 3, Annex 6, and Annex 1-B.

<sup>35</sup> See *OSCE Newsletter*, 3:1, January 1996.

<sup>36</sup> See GFA, paragraphs 40-43.

<sup>37</sup> See Conclusion of the Peace Implementation Conference, London 8-9 December 1995, Article 21.

<sup>38</sup> See [www.ohr.int](http://www.ohr.int).

Thus, the organisation of the peace implementation clearly illustrates the instruments the Contact Group possessed to compose and establish a useful institutional mix for all kinds of tasks, pursuant to peace implementation. The concert powers collectively defined competencies and responsibilities, created additional institutions if necessary, and agreed to watch over the state of the peace implementation process. At the same time, the specific interests of the Contact Group states were safeguarded by the typical distribution of tasks and roles: the three Europeans - France, Germany and the United Kingdom - used the economic and political power of the EU; the US secured its influence due to its leading role within NATO. Russia's role remained marginal because of its lack of economic strength, and was restrained to a rather symbolic contribution to IFOR/SFOR, where it held the deputy command. However, due to its close cooperation with the 'West', Russia thought to gain at least some influence on the design of the NATO mission, especially regarding constraints. Finally, all Contact Group member states made use of their influence on the OSCE, whose head of mission was an American, and the UN Security Council members of the Contact Group worked together in drafting the relevant UN Resolutions to back the decisions of the Contact Group.



### III. The Contact Group in Kosovo

During the peace implementation phase in Bosnia, the Contact Group met rather rarely and fulfilled mainly a supervising function.<sup>39</sup> It did meet, however, from time to time at the expert level to coordinate the activities of the agencies involved in the peace-building process. Nevertheless, it seemed that the Contact Group would lose its function since the management of the constituent issue – the Bosnian conflict – had been more and more transferred into the responsibility of international institutions.

When the Albanian President, Sali Berisha, asked for an international intervention in Albania in February 1997, the Contact Group made no efforts to become engaged in the management of the crisis. The reason is simple: unlike the Bosnian case, it proved difficult to arrive at a common understanding of the events, even among Western countries. While the most affected states, Greece and Italy, emphasised the crisis' disruptive potential for the whole region, including the Bosnian peace process; German and US leaders considered the spill-over effect as quite remote. Also, the Contact Group member states were exposed to the effects of the crisis (especially the massive refugee problem) in quite different ways. This led to differing views concerning the urgency of action and the question of direct engagement. Moreover, there were different perceptions in Italy and other Western countries concerning the future role of President Berisha. While Italy argued that he and his Democratic Party would be needed for the national reconciliation process, other states (especially Germany and the USA) insisted on Berisha's resignation. Finally, Western states (and the Albanians) did not see any reason for Russian involvement in the crisis-management, except in its role as permanent UN Security Council member.

Therefore, Operation Alba had to be run by a coalition of the willing, which, among the Europeans included the Contact Group members Italy and France, but excluded Germany and the UK. The USA provided diplomatic and military assistance, but was not officially engaged.<sup>40</sup>

Eventually, it was the occurrence of another crisis on the territory of former Yugoslavia which caused further Contact Group involvement in the region. The escalation of the Kosovo crisis was not at all surprising: there certainly was no shortage of concern at Dayton and earlier in diplomatic circles, as well as among political analysts, about developments in the FRY. However, the case of Kosovo was different from that of Bosnia. On the one hand, there was far less heterogeneity as far as the distribution of territory under the main ethnic groups (Albanians and Serbs) was concerned; on the other hand, however, Kosovo was just a (former) autonomous province of Serbia and not a federal republic with an internationally recognised right of secession. Furthermore, the aim of radical Albanians in Kosovo to unite with Albanians in Albania and Macedonia (to found a 'Greater Albania') was an additional threat to the stability of the region.<sup>41</sup>

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<sup>39</sup> See Contact Group Meeting Statement, Washington, D.C., 8 January 1998.

<sup>40</sup> Ettore Greco, 'New Trends in Peacekeeping: The Experience of Operation Alba', *Security Dialogue*, 29, 1998, pp. 201-212, p. 204 f; also see Georgios Kostakos and Dimitris Bourantonis, 'Innovations in Peace-Keeping: The Case of Albania', *Security Dialogue*, Vol. 29, 1998, pp. 49-58.

<sup>41</sup> These political and legal problems are well discussed by Marc Weller, 'The Rambouillet conference on Kosovo', *International Affairs*, 75, 2/1999, pp. 221-251.

### *III.1 The Holbrooke-Milosevic agreement*

As early as 24 September 1997 the Contact Group (now including Italy)<sup>42</sup> stressed its deep concern about the developments in Kosovo and called for peaceful dialogue between the parties.<sup>43</sup> Apparently, this appeal remained as ineffective as the appeals made at the Peace Implementation Conference in Bonn (9-10 December 1997) and at the Contact Group meeting on 8 January 1998. These were not able to bring about any kind of conciliation between the parties or to prevent the escalation of the crisis. As in the case of Bosnia, the unwillingness to settle the conflict in a peaceful way was diminishing due to the increase of violence – circumstances that made external mediation and crisis management ever more difficult. Moreover, Milosevic remained unimpressed by further economic sanctions against the Federal Republic of Yugoslavia.

From the beginning, the tactics of the Contact Group were to force the parties in conflict into a diplomatic dialogue, while supporting the moderate elected ‘President’, Ibrahim Rugova, on the Albanian side.<sup>44</sup> Hence, the Contact Group supported the diplomatic efforts by the OSCE, the United Nations and Russia. The political aim of the Contact Group was the restoration of the autonomy and the self-determination of Kosovo, which would have been negotiated between the Yugoslav government and an Albanian delegation under the auspices of an external actor.

Since the diplomatic efforts remained unsuccessful until the summer of 1998, the Contact Group decided to back its threats by military means. NATO air strikes to protect the Albanian civilian population were especially considered. However, making these threats credible proved quite difficult. As mentioned above, the conflict was in the first instance an internal one and Kosovo was an autonomous region and not a federal republic. It therefore had no right to secession as Croatia and Slovenia among others. Indeed, none of the Contact Group states was ever in favour of an independent Kosovar state or its unification with other Albanian populated territories. A military intervention in Kosovo would therefore have implied a violation of Yugoslav sovereignty as well as a UNSC resolution according to Article VII of the UN Charter. The Russian Federation was, especially, unwilling to support a UN resolution which would harm Yugoslav integrity, and called instead for a diplomatic solution.

The background was that Russia tried to appear as the protector of Serb interests and, by so doing, to gain additional influence on Milosevic thereby strengthening its position within the Contact Group. However, since Milosevic did neither respond to the general threat to use military means nor to Russian mediation efforts, and he refused to negotiate with the Americans at a time when reports on massacres of Albanian civilians increased; the United States considered NATO air strikes even without an UNSC resolution. This threat, which was eventually supported – although with reservations– by all Western Contact Group-members,<sup>45</sup> led to the shuttle diplomacy of Richard Holbrooke in September and October.

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<sup>42</sup> Italy, which had always complained about its exclusion, entered the Contact Group as the holder of the EU presidency in 1996, but was reluctant to leave when its term was over. Eventually, Italy managed to stay in the Contact Group by exerting enormous pressure on the United States. It threatened, inter alia, to forbid the deployment of the new US stealth bombers on NATO air bases in Italy.

<sup>43</sup> Statement on Kosovo of the Contact Group Foreign Ministers, New York, 24 September 1997.

<sup>44</sup> Rugova was elected ‘President’ in an underground election among the Kosovo Albanians.

<sup>45</sup> In particular, the German Minister for Foreign Affairs, Klaus Kinkel, doubted that NATO attacks could be carried out without a UN mandate. However, he changed his mind in October 1998.

During this phase, a deep friction between Russia and the other Contact Group member states over NATO's air strike option became apparent. In this sense, the Holbrooke-Milosevic negotiations can be seen in the light of intra Contact Group negotiations. The Contact Group urgently needed credible military pressure to extract an agreement from Milosevic. This military threat could only stem from NATO, which had already declared to be willing and able to resort to military action. A NATO strike however was by no means acceptable to the Russian Federation, since this would have meant a further increase of US influence in Europe and a precedent for a NATO attack on a sovereign state.<sup>46</sup> For these reasons, Russia could not agree on a Security Council Resolution which would go beyond UNSC Resolutions 1160 and 1199. These resolutions demanded, among other things, that all parties put an immediate and verifiable end to violence, but they did not include a military enforcement of these demands. They only supported an international observation of compliance with the Security Council Resolution.

If the Europeans and Americans had acted alone (as they did later), Russian interests would have been harmed in two respects. The Western powers would have ignored Russian interests in the Balkans and they would have harmed the authority of the UN Security Council, one of the most important instruments of Russian foreign and security policy. Considering that the Western Contact Group states rated cooperation with Russia as crucial for their crisis management capabilities in the region, they were glad to find a solution acceptable for both sides. From the beginning of October 1998, Richard Holbrooke, sometimes accompanied by NATO General Michael Short, negotiated with President Milosevic. Through the presence of the NATO General during the negotiations, and even more since the activation order (ACTORD) for NATO forces of 12 October 1998 (including a last 96 hour deadline) was in force, Milosevic was expected to realise that a NATO-attack was imminent.<sup>47</sup>

In light of this ultimatum, Holbrooke, who was negotiating not just for the US but for the entire Contact Group, reached a breakthrough with the Yugoslav president. On 15 October 1998 the deal was formally accepted by the Contact Group, which agreed to launch a UNSC resolution to back it. The most important elements of the agreement were:

1. President Milosevic agreed to full compliance with UNSCR 1199.
2. A verification mission (Kosovo Verification Mission - KVM) of around 2,000 personnel with substantial powers would be established by the OSCE, which would have freedom of movement and could operate anywhere inside Kosovo. The special role of the KVM would be to verify compliance by all parties in Kosovo with UN Security Council Resolution 1199 and report instances of progress and/or non-compliance to the OSCE Permanent Council, the UN Security Council and other organisations, to maintain close liaison with FRY, Serbian and local Kosovo authorities, political parties, other accredited national and international organisations, and to supervise elections in Kosovo.
3. NATO would provide air surveillance to verify compliance by all parties with the provisions of UNSCR 1199. The mission would be comprised of NATO non-combat aircraft operating over Kosovo in conditions that fulfil all standards of safety.

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<sup>46</sup> One has to bear in mind that the Russian Federation has problems similar to those Serbia has with Kosovo, in Chechnya.

<sup>47</sup> Statement by the NATO Secretary-General following the decision on the ACTORD, 3 October 1998: 'Just a few moments ago, the North Atlantic Council decided to issue activation orders - ACTORDs - for both limited air strikes and a phased air campaign in Yugoslavia, execution of which will begin in approximately 96 hours.'

4. The Agreement to reach a political settlement with the Kosovar Albanians to include broad self-government in Kosovo, elections to a Kosovo Assembly which will be overseen by OSCE, and an amnesty provision.

This account was not impressive, at least in the view of most of the European Contact Group diplomats. Milosevic had already proven all too often (in Bosnia for example) that he was not at all impressed by non or lightly armed international monitors. Nevertheless, the agreement was seen as a last opportunity for the Serbian government to avoid NATO air strikes. During autumn 1998 the hope to avoid resorting to the use of military means was underlined by several efforts of the Contact Group to seek a political solution based on the agreement between Holbrooke and Milosevic. This process was led by US ambassador to Macedonia, Christopher Hill, who was already in charge of the American diplomatic efforts before Richard Holbrooke intervened in the negotiations. The Hill plan avoided defining the legal status of Kosovo, but assigned instead public authority to differing levels of governance. The principal authority was located in the local communes of Kosovo, while a second level of authority was exercised by the national communities, who would enforce special and additional rights through their own institutions. The Kosovo region itself would have an assembly and a directly elected chairman who would head a government. In case of acceptance, the agreement would be subjected to a comprehensive assessment after a period of three years and should be open for improvements in case of agreement between both sides. However, the Hill draft plan and its numerous revised versions were rejected by the FRY government.

### *III.2 The Rambouillet process*<sup>48</sup>

If the Dayton process was successful in terms of outcome, Rambouillet was a failure. Indeed, the aim of the Rambouillet conference (6-23 February 1999) was to stop the violation of human rights and to restore Albanian autonomy in Kosovo as well as to prevent Western governments from intervening with NATO air strikes (as threatened at least with ACTORD). Since the Contact Group was the initiator of the Rambouillet process, it is fair to ask whether the Contact Group had contributed to this failure, or whether the circumstances did not allow for a successful outcome to the negotiations.

As previously described, there was a stalemate between the forces on the ground in Bosnia at the time of the Dayton negotiations. During the Rambouillet negotiations, by contrast, Yugoslav forces had just entered a further phase of the so-called 'Operation Horseshoe' to expel the Albanian population from the region.<sup>49</sup> This operation had started after the OSCE-led Kosovo Verification Mission to observe the withdrawal of Serb armed forces, as mandated by the Holbrooke-Milosevic agreement of October 1998, had failed in the winter of 1998/99. In Spring 1999, the Kosovo Liberation Army (KLA) remained a weak, although growing, enemy which was only lightly armed and not able to protect Albanian villages. Since Milosevic obviously did not expect NATO to intervene in favour of the Kosovar Albanians, he had no reason to negotiate and did not appear personally at Chateau Rambouillet. The Albanian delegation, dominated by radical KLA leaders, did not have much interest in making concessions either. Considering their weakness on the battlefield, they were

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<sup>48</sup> On the Rambouillet Process see the study by Marc Weller (1999), which provides a comprehensive account of the negotiations with a stress on questions of international law.

<sup>49</sup> The term 'operation Horseshoe' was created within NATO to describe the offensive movements of Serb forces in Kosovo. However, it is fiercely debated whether such a plan really existed. The German Defence Minister, Rudolf Scharping, has repeatedly stressed in the German Bundestag that the Serb offensive did take place.

more interested in a NATO military intervention, which would provide unintentional air support while the KLA fought on the ground, than in signing an agreement which left many of their desires unfulfilled. In contrast to the Dayton Conference, politics were made elsewhere at Rambouillet.<sup>50</sup>

Despite the fact that success at Rambouillet was improbable, it is interesting to observe that both the negotiations and the relations between the Contact Group delegations were rather tense and difficult. Since Dayton was dominated by the American delegation, there was widespread consensus among the Europeans in the Contact Group that the Kosovo negotiations should be led by the Europeans and should therefore take place in Europe. However, a European leadership role appeared to be difficult as four European states competed for it. Germany, promoting the idea of a conference since October 1998 and holding the Presidency of the Council of the European Union, tried to play a leading role in the diplomatic process, but was quickly outmanoeuvred by France and Great Britain. These two governments had met before the Contact Group ministerial meeting of 29 January 1999 and agreed (together with the US administration) to hold the conference in Chateau Rambouillet near Paris<sup>51</sup> and to have Hubert Vedrine and Robin Cook act as co-chairmen of the conference. A third proposal suggested that the foreign ministers of France and Great Britain take part in the negotiations together with Christopher Hill and the Russian Boris Mayorski. According to a German media report, German Foreign Minister, Joschka Fischer, had to intervene three times to obtain the appointment of the Austrian EU special envoy Wolfgang Petritsch as the negotiator for the European Union, instead of Cook and Vedrine. Fischer also managed to convoke an informal EU foreign ministers' lunch to deliberate the modalities of a common approach.<sup>52</sup>

While the Dayton negotiations were characterised by a division of the Contact Group into three, the situation in Rambouillet was even more complex. Although the negotiating team of Hill/Mayorski/Petritsch worked very well together, the unity of the Contact Group was not as tight as it was in 1995. The reason for that lies in the relative power games among single Contact Group states. Mayorski, for instance, although cooperating effectively within his competence, had been ordered by Moscow not to negotiate on the security annex of the agreement.<sup>53</sup> The Contact Group did not even address this issue. When the draft of the security annex (Annex B) was presented to the FRY/Serb delegation, Boris Mayorski did not represent the Contact Group since Russia did not agree to it. As a consequence, the FRY/Serb delegation could later declare it had not seen a Contact Group draft concerning NATO involvement.

By the time European Contact Group members met, France and the UK had already formulated common positions. In this manner, the Europeans gave up on considerations about an OSCE force, which would have been acceptable for Russia, and agreed instead on a NATO led operation. Only Italy, whose view however remained isolated, stuck to an OSCE mission.

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<sup>50</sup> US Ambassador Hill, who was already in Holbrooke's team at Dayton, considered the Rambouillet negotiations to be more difficult than those at Dayton (Press Briefing by the Contact Group negotiators, Rambouillet, 18 February 1999).

<sup>51</sup> Germany had been in favour of a conference at the Petersberg near Bonn, while Austria suggested Vienna (*Die Zeit*, 12 May 1999).

<sup>52</sup> *Ibid.*

<sup>53</sup> '... if there were active discussion on military aspects [...] I can insure you that we [the Russian Government] were not taking part in those discussions', (Press Briefing by the Contact Group negotiators, Rambouillet, 18 February 1999).

In mid-February 1999, when no substantial progress was in sight, the American delegation began bilateral talks with the Yugoslav government: Secretary of State Madeleine Albright was engaged personally by telephoning President Milosevic.<sup>54</sup> On 16 February, Christopher Hill decided together with Robin Cook and Hubert Vedrine to fly to Belgrade in a final attempt to conclude a settlement. Neither Germany representing the EU presidency, nor Italy, nor Wolfgang Petritsch as the EU negotiator had been informed. German and European attempts to get at least Petritsch on board failed. Boris Mayorski, who was also kept uninformed, considered leaving Rambouillet and moving into the Russian embassy.<sup>55</sup>

Despite these relative power games in the Contact Group there was some substantial outcome to Contact Group deliberations. Against the background of the massacre of Racak on 15 January 1999 where 45 Albanian civilians were killed by FRY armed forces and the breakdown of the cease-fire and the full resumption of hostilities, the Contact Group stated on 29 January that the situation in Kosovo remained a threat to the peace and security of the region, raising the prospect of a humanitarian catastrophe. This act was encouraged by similar announcements by the Secretaries General of NATO and the UN, Javier Solana and Kofi Annan.<sup>56</sup> The Ministers 'called on both sides to end the cycle of violence and to commit themselves to a process of negotiation leading to a political settlement.' To that end, the Contact Group:

- considered that the proposals drafted by the negotiators contained the elements for a substantial autonomy for Kosovo and asked the negotiators to refine them further to serve as the framework for agreement between the parties;
- agreed to summon representatives from the Federal Yugoslav and Serbian Governments and representatives of the Kosovar Albanians to Rambouillet by 6 February, under the co-Chairmanship of Hubert Vedrine and Robin Cook, to begin negotiations with the direct involvement of the Contact Group. The Contact Group recognised the legitimate rights of other communities within Kosovo. In the context of these negotiations, it would work to ensure their interests are fully reflected in a settlement;
- agreed that the participants should work to conclude negotiations within seven days. The negotiators should then report to Contact Group ministers who will assess whether the progress made justifies a further period of less than one week to bring the negotiations to a successful conclusion.<sup>57</sup>

Additionally, the Contact Group insisted that the parties accept that the basis for a fair settlement must include several principles set out by the Contact Group. These included: an end to the violence, no unilateral change of the interim status, territorial integrity of the FRY and neighbouring countries, protection of the rights of all national communities, international involvement, and full cooperation by the parties on implementation.<sup>58</sup>

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<sup>54</sup> The negotiating team complained that visits by ministers merely served national interests and interfered with the negotiations. See *Die Zeit*, 12 May 1999.

<sup>55</sup> When speaking to the press, the negotiators tried to downplay this episode. Petritsch stated: 'Let me just add that we are working as a team, basically. But of course [...] there might be situations where some of us have bilateral chores to fulfil, so this is nothing extraordinary. The center of the negotiations is here in Rambouillet [...], but in many ways it is necessary that things will be done also some place else if we speak of some aspects of this [...] we consider it not as a breach of anything'. Transliteration of the Press Briefing by the Contact Group negotiators, Rambouillet, 18 February 1999.

<sup>56</sup> NATO Press Release, 28 January 1999; Statement by the Secretary General of the United Nations, Kofi Annan, Brussels, 28 January 1999.

<sup>57</sup> Chairman's conclusions, Contact Group meeting, London, 29 January 1999.

<sup>58</sup> This list was taken from Marc Weller, 1999.

On the final day of the Rambouillet talks (23 February), the Contact Group member states agreed on an 'Interim Agreement for Peace and Self-Government in Kosovo', which constituted a comprehensive and detailed set of rules for the future distribution of powers between Kosovar Albanians and Serbs and the constitutional system, including democracy and confidence-building measures.<sup>59</sup> Despite national differences, the Contact Group did not fall apart but held together - an achievement that was particularly stressed in the co-chairmen's conclusions to the Rambouillet accord.<sup>60</sup>

However, the Rambouillet accord was not signed at the Chateau and the Contact Group had to agree to host a follow-up conference to cover all aspects of implementation on 15 March. Also at the Paris talks, the Serb delegation did not appear to contribute constructively to the discussions. Indeed the opposite was the case. Instead of discussing several aspects of implementation as suggested by the Contact Group, the FRY/Serb delegation presented a counter-draft in order to re-open the discussion on a political settlement, including non-negotiable principles. According to an analyst, 'the draft would have introduced a regime of what external observers have described as an institutionalised system of apartheid in Kosovo.'<sup>61</sup>

Under these circumstances further negotiations did not make any sense and it was decided to declare the draft version of 23 February open for signature on 18 March 1999. When the Kosovar Albanian delegation signed the agreement in a formal meeting, Mayorski refused to be present. According to Marc Weller: 'There was even an attempt to prevent the European Union negotiator to witness the signature. This attempt was overruled by the government representing the Presidency of the European Union [Germany].'<sup>62</sup> For the first time an overt conflict in the Contact Group was visible.

The following day, after a last fruitless attempt to engage the FRY/Serb delegation into substantive discussions, the co-chairmen issued a statement which allotted sole responsibility to the Yugoslav government alone responsible for the failure of the negotiations. It stated: 'We [the Contact Group] will immediately engage in consultations with our partners and allies to be ready to act. We will be in contact with the Secretary General of NATO. We ask the Chairman in office of the OSCE to take all appropriate measures for the safety of the KVM. The Contact Group will remain seized of the issue.'<sup>63</sup>

On 22 March, a negotiating team led yet again by Richard Holbrooke travelled to Belgrade for a final attempt to persuade the FRY/Serb government to cease military operations in Kosovo and to sign the Rambouillet accord. Again no progress was made. Richard Holbrooke then returned to Brussels to brief the North Atlantic Council on the discussions in Belgrade. Holbrooke's information convinced the officials of NATO that Milosevic would not change his mind and they authorised the commencement of military operations against the FRY.<sup>64</sup> When it became obvious that the interests within the Contact Group would remain too

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<sup>59</sup> Here is not the place to go into details, but a full text version of the accord can be found in <http://bicc.uni-bonn.de/coop/fiv/suedost/rambouillet.html>.

<sup>60</sup> 'The important efforts of the parties and the unstinting commitment of our negotiators Ambassadors Hill, Petritsch and Mayorsky, have led to a consensus on substantial autonomy for Kosovo, including on mechanisms for free and fair elections to democratic institutions, for the governance of Kosovo, for the protection of human rights and the rights of members of national communities [...]' Co-chairmen's conclusions, Rambouillet, 23 February 1999.

<sup>61</sup> Marc Weller, 1999, p. 235.

<sup>62</sup> *Ibid.*

<sup>63</sup> Declaration by the Co-chairmen Hubert Vedrine and Robin Cook, Paris, 19 March 1999.

<sup>64</sup> Statement by Javier Solana, NATO Press Release, 23 March 1999.

diverse, the price of preserving the unity of the Contact Group was deemed to have become too high. Western Contact Group states thought that NATO air strikes against the FRY would serve their interests better than to maintain Contact Group cooperation with the Russian Federation. After the start of the military operation, the Contact Group did not officially meet again. An unofficial meeting was held during the NATO operation on 7 April 1999 in Brussels, but it did not result in a statement.

During and after the NATO campaign, Contact Group functions were transferred into the G8 framework. There are four main reasons for this development:

1. Russia had frozen cooperation with NATO countries in some forums (such as the NATO-Russia Council) and was not yet willing to return to the negotiating table, where her concerns against NATO air strikes, without prior UN Security Council resolution, were overtly rejected.
2. The G8 were about to meet in June at their Cologne summit anyway and for the Russian government this was a good opportunity to be back on stage with Victor Chernomyrdin as one of the peace mediators (along with the Finnish President Martti Ahtisaari and US Deputy Secretary of State Strobe Talbott). Also, the G8 setting implied upgrading the negotiations to level of the heads of state.
3. Since the deliberations would include questions of reconstruction and peace-building, it made sense to have the participation of Canada (who was then a UN Security Council member) and especially Japan as potential donor countries.
4. G7/G8 involvement in the Bosnian peace-implementation process suggested a certain tradition of G8 involvement. For example, an ad hoc G8 foreign ministers meeting (to discuss the recent Indian and Pakistani nuclear tests) in London on 12 June 1998 was transformed into a Contact Group meeting. This meeting also included Canada and Japan – presumably, however, due to the vagaries of timing.<sup>65</sup>

Nonetheless, it was the former Contact Group formation of states which led the peace implementation process in Kosovo. This became obvious during the founding conference of the Stability Pact for South Eastern Europe on 10 June 1999. Although this conference of states and international organisations took place in direct connection with the G8 foreign ministers meeting, Japan and Canada were not deemed to be participating states, but rather ‘facilitating’ ones.

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<sup>65</sup> Peter I. Hajnal, 1999, p. 39 f.



#### **IV. Conclusion: the Contact Group and CFSP**

The preceding case studies show that cooperation in the Contact Group has helped devise common approaches in the crisis management of the international community on a more pragmatic basis. In particular, the declared aim of its member states to preserve the unity of the Contact Group was achieved during most of its existence. Only when the interests within the Contact Group became too diverse, as was the case at the end of the Rambouillet process, did the price of preserving such unity become too high. Western Contact Group states thought that NATO air strikes against the FRY would serve their interests better than maintaining Contact Group cooperation with the Russian Federation.

Nevertheless, it remains difficult to judge, whether the Contact Group's unity was decisive in negotiating the Dayton Accords or whether the developments on the battlefield, the strong US involvement and the use of military pressure by the international community were more instrumental. The Contact Group provided at least a negotiation forum, in which the main international players could agree on the measures taken by international organisations. The institutional structure for peace implementation in Bosnia was designed in this manner.

From a European perspective, the results reached by the European Contact Group member states and the United States met very well with the interests of their European allies. The demands formulated by the European Council and the North Atlantic Council have been well supported by the Western Contact Group states. NATO, especially, turned out to be a very important instrument for crisis management. Additionally, the Rambouillet process proved that the European states and the EU have increased their share in crisis management and that they are ready to take over more responsibility. The European share in the NATO operation in Kosovo, the Kosovo Force (KFOR) and the peace implementation process are consistent with this development. The common, although often nationally inspired efforts, by Great Britain, France and, to a lesser extent, Germany to play a leading role in crisis management are at the root of such wider European engagement. The decision of the European Council to adopt for the first time a 'common strategy' towards a third country (Russia) during the European Summit of Cologne in June 1999 and the results of the Helsinki Summit point in the same direction.<sup>66</sup>

Despite the generally positive balance sheet drawn from Contact Group involvement from the European members' point of view, some doubts about the coherence of the Contact Group with the European Common Foreign and Security Policy (CFSP) as agreed upon in the Treaty of the European Union (TEU) persist. This problem touches upon the procedures in the Contact Group that may overrule the principles agreed upon in the European Treaties and cause tensions with European allies.

The main conflict arising in this context is that the Contact Group appears basically as a great-power concert and that access is (and was) denied to further applicants. Only Italy managed to enter the Contact Group at a later time by exerting pressure on the United States. After entering the Contact Group regularly as EU presidency in the first half of 1996, Italy threatened to forbid the deployment of American Stealth Bombers from Italian air bases.<sup>67</sup> That the Contact Group states were aware of this problem becomes obvious in the efforts to legitimise the composition of the Contact Group when it came into existence in Spring 1994. EU negotiator Lord Owen suggested to the EU presidency to appoint three experts from the

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<sup>66</sup> See Daniel Vernet, 1995, p. 137.

<sup>67</sup> See Carl Bildt, *Peace Journey, The Struggle for Peace in Bosnia*, (London: Weidenfeld a. Nicholson, 1998), p. 101.

International Conference on Former Yugoslavia (ICFY) representing the EU, the UN and the Conference itself to join negotiations with the Russian Federation and the United States. The fact that the three experts were French, British and German was soon criticised by other European states.<sup>68</sup> Excluded states and the European Commission argued that the Contact Group counteracts the efforts to establish the EU as a coherent political power in the foreign and security policy (Title V, TEU). Small states, in particular, were suspicious that their interests were not very well considered in the Contact Group. The Netherlands, for example, feared that the Contact Group in 1995 would take decisions over NATO air strikes while Dutch blue helmets were on the ground in Bosnia.<sup>69</sup>

Another point is that the scope, the level and the durability of Contact Group responsibility is all but clear. The Contact Group declared itself responsible for Bosnia and Herzegovina, while it never openly took up responsibility for Croatia, or for the Albanian crisis in 1997. With regard to Kosovo, the Contact Group declared itself more or less immediately in charge, when the crisis escalated in 1997.<sup>70</sup> If the Contact Group gets involved or not, depends on the common interest of its member states.

However, it is not just the scope of responsibility which remains unclear, but also the level. It is widely accepted that the Contact Group should fulfil a coordinating function in crisis management and the Contact Group is seen as a useful negotiating body to bring about common positions between the Europeans, Russia and the United States. Less accepted, however, is that the Contact Group makes pre-decisions on matters which do not clearly lie in its competence. The Contact Group, for example, decided on 9 March 1998 to endorse the following measures to be pursued immediately:

1. UN Security Council consideration of a comprehensive arms embargo against the FRY, including Kosovo;
2. Refusal to supply equipment to the FRY which might be used for internal repression, or for terrorism;
3. Denial of visas for senior FRY and Serbian representatives responsible for repressive action by FRY security forces in Kosovo;
4. A moratorium on government financed export credit support for trade and investment, including government financing for privatisations in Serbia.

In the view of the EU Commission these proposals, although not legally binding, far exceed the competence of the European Contact Group member states and fall at least partly within that of the European Union because they relate to economic matters. A preliminary decision of the European Council would have been necessary in advance. This behaviour of the Contact Group member states parallels G7/G8 *modus operandi*. The Group of Seven, in particular, often gave recommendations to international organisations (such as the World Bank and the OECD) which the latter even interpreted as binding. However, the reluctance of smaller EU states and of the EU bureaucracy to follow the dictates of France, Great Britain, Germany and Italy illustrates that the use of political power is valued differently to that of financial power especially when national security interests are at stake. This lack of legitimacy could probably be accepted by most European states in cases where it makes sense that a Contact Group with its special functions is needed; when the Contact Group works

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<sup>68</sup> See the COREU by David Owen, reprinted in Francine Boudevaix, 1997, p. 143.

<sup>69</sup> Indeed the Netherlands tried to exert pressure on Contact Group states over NATO and EU channels to get as much information over and influence on Contact Group decisions. See Rob de Wijk, 1998.

<sup>70</sup> Statement on Kosovo by the Contact Group Foreign Ministers, New York, 24 September 1997.

efficiently in the sense that it fulfils those functions; and if European Contact Group states serve European rather than national interests.

Since the Contact Group was established to meet the national interests of its member states and it does not convene on unanimous European request only, and a common understanding of the European interest is difficult to define, the lack of legitimacy is hard to overcome. Also neither is efficiency easy to measure nor is decision making necessarily easier in smaller numbers. However, the fact that the Contact Group had similar difficulties in producing common positions as international organisations is not an argument in favour of generally following a multilateral (instead of a unilateral) approach.<sup>71</sup> The questions European governments would have to ask themselves are: Is there any institution which can fulfil Contact Group functions? Would the crisis management in Bosnia and/or Kosovo have been more efficient without the Contact Group? Certainly, the answer to these questions would depend on particular national interests, but the fact that no European state had complained about the Contact Group as such, but only about its own non participation in it leads to the conclusion that at least most European states would have to answer in the negative to these questions.

Another potential conflict with the European partners derives from the demand for transparency of Contact Group decisions and negotiations. According to Title V, Article J.9 of the Treaty of Amsterdam: 'Member States shall coordinate their action in international organisations and at international conferences. They shall uphold the common positions in such forums. In international organisations and at international conferences where not all the Member States participate, those which do take part shall uphold the common positions. [...] Member States represented in international organisations or international conferences where not all the Member States participate shall keep the latter informed of any matter of common interest.'

Given that no formal common positions on a number of issues discussed in the Contact Group exist, Contact Group states are at least obliged to keep the other EU countries informed. They do it two ways: (1) the representative of the EU Presidency in the Contact Group informs the other European countries via COREU; and (2) European Contact Group states inform their EU partners in the General Affairs Council. The representatives of the European Commission (experts from the DG 1A) in the Contact Group are not in charge of reporting to any EU member states. Considering that the Commission can nonetheless serve as a source for information on Contact Group activities and that bilateral sources can also be used all EU states should at least be well informed *ex post facto* about Contact Group activities. Two level games on behalf of the Contact Group states are therefore less likely, not to say nearly impossible. A more serious problem for non-Contact Group EU states is that they are excluded from making initiatives in the Contact Group as long as they are not able to define common positions, which would be binding for European Contact Group states. Since the Contact Group usually meets on an ad hoc basis, this right of initiative is an essential political tool in the Contact Group's decision making process.

With the transfer of Contact Group functions onto the G8 level, the problems remained basically the same despite the fact that the European Commission has no right to speak at the G7/G8 level. Furthermore, the EU presidency does not automatically participate in G7/G8 meetings. From a European point of view, the Contact Group has in that respect advantages when compared with the G8.

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<sup>71</sup> The terms 'mini- and multilateralism' are taken from Miles Kahler, 'Multilateralism with small and large numbers', *International Organization*, 46:3, Summer 1992.

Finally, one has to realise that there is a general tendency among great powers to deliberate ahead of important meetings of international organisations. Delegations of the United States, France, Great Britain and Germany meet regularly before North Atlantic Council (NAC) meetings and diplomats refer to a New York Contact Group that meets before UN Security Council meetings. In this respect the Contact Group is a quite transparent example of 'minilateralism'.

The Contact Group and CFSP do not fit perfectly together. The CFSP was established because European states saw the necessity for a common approach on foreign and security policy. The Contact Group was established because some European states realised that CFSP's lack of the appropriate means to deal with the Bosnian crisis, did not serve their interests. However, the Contact Group was intended to substitute the European approach; it was meant to supplement it. The Contact Group, therefore, not only served the particular interests of its member states, but had, under appropriate circumstances, substantial impact on the management of particular crises. It, thus, also served European interests. Furthermore, EU states and institutions became actively involved in peace-building and reconstruction measures in Bosnia and Herzegovina and now in Kosovo. This provides the chance to expand the importance of the EU further in the foreign and security field, if the European institutions learn to use the economic power of the EU as a political leverage.

Another advantage for smaller European states derives from the fact that great powers are more willing to engage actively and with wide use of resources if they are able to control the operations. Only after the crisis management for Bosnia was transferred from the Geneva Conference of the European Union and the United Nations to the Contact Group, did the United States (and to a certain extent the European Contact Group powers and Russia) commit themselves to take up the responsibility of leadership. This engagement indirectly served the interests of middle or small states fearing the escalation of the conflict, or like Italy or Austria having a serious refugee problem.

From a European point of view, Contact Group activities are welcomed, as long as external states can assure that they are extensively kept informed. With the Treaties of Maastricht and Amsterdam, European states possess a good leverage for keeping European Contact Group states within the European framework. Additionally, the latest efforts to strengthen the common European policy on security and defence by (inter alia) incorporating the WEU into the EU demonstrate the importance of a European approach in foreign and security matters for the European Contact Group states.<sup>72</sup> Despite some intra-European struggles, Contact Group experiences during the Bosnian and the Kosovo crises might even have encouraged them to follow this European approach.

If European bodies and EU states want to avoid arrangements like the Contact Group, they have to provide an adequate substitute which meets not only European demands, but also those of the United States and Russia. It would have to be a small European council with not more than five representatives (the three EU Contact Group states, the EU Presidency, and the European Commission) powerful enough to make decisions for the entire EU. Perhaps it could be possible to agree on a variable ad hoc 'crisis council', where the most interested EU states unite around the High Representative for Common Foreign and Security Policy as a substitute to the participation of the EU Presidency. The fear that no state would voluntarily resign from membership in such a council cannot be confirmed by the experiences of

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<sup>72</sup> See Chairman's Conclusions, Cologne Summit, 3-4 June 1999, Annex III.

Operation Alba, where some of the less interested great European powers preferred not to be involved.<sup>73</sup>

The Contact Group relates to an issue and disappears from the spotlight when that issue is solved (or proves hardly solvable). Currently, the management of the Kosovo crisis and of the reconstruction of the province have been transferred to international organisations and newly established institutions, as it was the case in Bosnia earlier. Nonetheless, the Contact Group recently stepped out of the shadows of the G8 and met again to discuss the state of the peace implementation process in Kosovo and to deliberate about how to best support the democratic forces in Serbia. The future of the Contact Group in its current format will depend on developments in the Balkans. In this particular region, the Contact Group has proved to be a useful tool to coordinate and lead the common efforts of the international community in crisis management. Whether the Contact Group will have a successor in a different crisis and in other parts of the world, will always depend on particular circumstances. However, based on the Balkan experience it is likely that the great powers will consider a contact group option more often.

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<sup>73</sup> Here is not the place to develop this idea further.