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## The Role of the OSCE in the Military Stabilization of Bosnia and Herzegovina<sup>1</sup>

### *The Dayton Mandate for the OSCE*

The General Framework Agreement of Dayton was signed under American mediation between the Republic of Bosnia and Herzegovina, Croatia and the Federal Republic of Yugoslavia in late 1995. It consists of a framework text of eleven articles and eleven annexes. The latter concern the matters of substance. Not only the mentioned states, but in some instances the two entities of Bosnia and Herzegovina (i.e. the Federation and the Republika Srpska) have also been made Parties to the Agreement with respect to those matters. The annexes create, *inter alia*, the constitutional basis for Bosnia and Herzegovina,<sup>2</sup> but they also assign several matters and tasks to different international institutions. The Organization for Security and Co-operation in Europe (OSCE) has been mandated with the following tasks:

- organization of free, fair, and democratic elections in Bosnia and Herzegovina, in accordance with relevant documents of the OSCE,<sup>3</sup>
- negotiations on military confidence- and security-building and arms control as well as assistance in the implementation and verification of achieved agreements,<sup>4</sup>
- together with the United Nations Commission on Human Rights, the United Nations High Commissioner for Human Rights, and other inter-governmental or regional human rights missions or organizations, to monitor closely the human rights situation in Bosnia and Herzegovina.<sup>5</sup>

In accordance with these mandates, the OSCE Mission to Bosnia and Herzegovina was established in mid-December 1995,<sup>6</sup> and has been structured correspondingly.

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1 The following observations are based on the author's participation in the negotiations on Confidence- and Security-Building Measures in Bosnia and Herzegovina in January 1996 and in the OSCE Mission's Office for Regional Stabilization from January 1996 until February 1997, and the monitoring of the situation thereafter.

2 Cf. Annex 4.

3 Cf. Annex 3.

4 Cf. Annex 1-B, "Regional Stabilization"; see below.

5 Cf. Annex 6.

6 Cf. Fifth Meeting of the Council, Budapest, December 1995, Decision no. 1, in: Arie Bloed (Ed.), *The Conference on Security and Co-operation in Europe, Basic Documents, 1993-1995*, The Hague/London/Boston 1997, pp. 215-228, here: pp. 218-221.

*The OSCE's Tasks in Regional Stabilization*<sup>7</sup>

The OSCE's tasks in the military field are rooted in Annex 1-B of the Dayton General Framework Agreement, which is titled "Agreement on Regional Stabilization". The Parties<sup>8</sup> have committed themselves, in parts under certain deadlines, to negotiations on arms control, some of which<sup>9</sup> should take place "under the auspices of the OSCE". The same annex mandates the OSCE to support these negotiations and, in some instances, the implementation and verification of resulting agreements.

Article II of Annex 1-B provided the framework for *Negotiations on Confidence- and Security-Building Measures in Bosnia and Herzegovina*. They were opened in Vienna on 4 January 1996 under chairmanship of Ambassador Dr István Gyarmati, and successfully concluded on 26 January 1996 with the *Agreement on Confidence- and Security-Building Measures in Bosnia and Herzegovina* ("Vienna/Article II Agreement").

Article IV provided the framework for *Negotiations on Sub-Regional Arms Control*, which included not only Bosnia and Herzegovina and her entities but also Croatia and the Federal Republic of Yugoslavia. These negotiations, too, were conducted in Vienna, under chairmanship of Norwegian Ambassador Vigleik Eide. The corresponding *Agreement on Sub-Regional Arms Control* was, however, signed in Florence ("Florence/Article IV Agreement") on 14 June 1996, due to politically motivated delays in adopting the text.

Finally, Article V of Annex 1-B provides that the OSCE will assist the Parties by designating a special representative to help organize and conduct negotiations under the auspices of the OSCE Forum for Security Co-operation (FSC) with the goal of establishing a regional balance in and around the former Yugoslavia. In contrast to the previous mandates for the two other negotiation fora, this provision does not contain any time-frame or deadlines for the beginning or duration of the negotiations. The pertinent decision was finally adopted at the Copenhagen Ministerial Council in December 1997.<sup>10</sup>

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7 Cf. earlier articles by Rüdiger Hartmann, in: Institute for Peace Research and Security Policy at the University of Hamburg/IFSH (Ed.), OSCE Yearbook 1995/1996, Baden-Baden, 1997, pp. 253-263, and Institute for Peace Research and Security Policy at the University of Hamburg/IFSH (Ed.), OSCE Yearbook 1997, Baden-Baden 1998, pp. 273-280.

8 Namely "The Republic of Bosnia and Herzegovina, the Republic of Croatia, the Federal Republic of Yugoslavia, the Federation of Bosnia and Herzegovina, and the Republika Srpska".

9 Namely the negotiations under Article II and Article IV; see below.

10 Organization for Security and Co-operation in Europe, Sixth Meeting of the Ministerial Council, Copenhagen, 18-19 December 1997, reprinted in this volume, pp. 431-438, here: Decision No. 2, pp. 442-443.

*The Agreement on Confidence- and Security-Building Measures in Bosnia and Herzegovina*

The Agreement of 26 January 1996 was concluded between Bosnia and Herzegovina, the Federation of Bosnia and Herzegovina<sup>11</sup> and the Republika Srpska and pertains to the whole territory of Bosnia and Herzegovina. It consists of a set of various measures which are based partly on the OSCE-wide Vienna Documents of 1992 and 1994 on Confidence- and Security-Building Measures, but in part are also directly mandated by provisions within Annex 1-B of the Dayton Agreement.<sup>12</sup> The verification regime, on the other hand, has been by and large derived from the 1990 Treaty on Conventional Armed Forces in Europe (CFE). The main objectives of the Agreement are openness and transparency of the armed forces and the constraining of military options, as well as the prevention of unintended escalation, and the promotion of military co-operation between the two entities and the state of Bosnia and Herzegovina. It does not, however, foresee any limitations of forces and armaments.

The Parties have committed themselves to the measures presented in Table 1, which are in part further detailed in the annexes to the Agreement.

The Agreement thus contains a multitude of different provisions which in sum offer a well-balanced regulative framework for confidence-building. The measures may be categorized as

- measures of an *obligatory* character (the majority of provisions, as for example all those on notification, information, constraining provisions, etc.), and
- measures of a *non-obligatory* character, as for example the Programme for Contacts and Co-operation.

The latter provisions, by themselves, already have a strong confidence-building character. Their non-obligatory character does not result from being held in lower esteem, but from the fact that confidence-building in the proper sense cannot be enforced, but has to grow by the good will of the Parties concerned.

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11 During the negotiations in Vienna, however, the state of Bosnia and Herzegovina and the Federation were represented by a joint delegation. This practice was continued at the meetings of the Joint Consultative Commission until July 1996; since then Bosnia and Herzegovina and the Federation have been represented by separate delegations.

12 The Agreement does not constitute an official OSCE Document and has therefore neither been registered as such, nor officially translated into the other OSCE languages. However, unofficial translations by the OSCE language service exist. It is remarkable, however, that terminology of comparable measures is identical in the English versions of the OSCE-wide Vienna Document 1994 and the Vienna Agreement 1996, while there are, for example, distinct deviations in the German version of the Vienna Agreement from the established German terminology of the Vienna Document 1994.

*Table I*  
*Confidence- and Security-Building Measures*  
*(Vienna/Article II Agreement)*

MEASURE	CONTENTS
I	Exchange of Military Information
- I(I)	Annual Exchange of Information
- I(II)	Data Relating to Major Weapons and Equipment Systems
- I(III)	Demonstration of New Types of Major Weapons or Equipment Systems
- I(IV)	Information on Plans for the Deployment of Major Weapon and Equipment Systems
- I(V)	Information on Defence-Related Matters
II	Notification of Changes in Command Structure or Equipment Holdings
III	Risk Reduction
- III(A)	Mechanism for Consultation and Co-operation as Regards Unusual Military Activities
- III(B)	Co-operation as Regards Hazardous Incidents of a Military Nature
IV	Notification and Observation of and Constraints on Military Activities
- IV(A)	Notification
- IV(B)	Observation
- IV(C)	Constraining Measures/Annual Calendars
V	Restrictions on Military Deployments
VI	Restraints on Reintroduction of Foreign Forces
VII	Withdrawal of Forces and Heavy Weapons to Cantonments/Barracks
VIII	Restrictions on Locations of Heavy Weapons
IX	Notification of Disbandment of Special Operations and Armed Civilian Groups
X	Identification and Monitoring of all Weapons Manufacturing Capabilities
XI	Military Contacts and Co-operation
- XI(I)	Military Contacts
- XI(II)	Military Co-operation (joint exercises and training)
- XI(III)	Visits to Military Bases
- XI(IV) and Annex 7	Establishment of Military Liaison Missions
XII	Principles Governing Non-Proliferation
XIII and Annex 1	Verification and Inspection
XIV and Annex 4	Communications
XV and Annex 5	Implementation Assessment, Joint Consultative Commission

Furthermore, the Agreement contains provisions on rules of procedure and a review conference on 15 February 1998.

*The Agreement on Sub-Regional Arms Control*

The Agreement was concluded on 14 June between Bosnia and Herzegovina, the Federation of Bosnia and Herzegovina, the Republika Srpska, the Republic of Croatia and the Federal Republic of Yugoslavia. In its philosophy and structure, it follows the lines of the Treaty on Conventional Armed Forces in Europe.<sup>13</sup> At its core, it contains ceilings for major weapons systems/Armaments limited by the Agreement (AIA; main battle tanks, armoured combat vehicles, artillery, combat aircraft, and attack helicopters) for all Parties. The Parties also agreed on voluntary limits on the personnel of their armed forces.

*Table II*  
*Agreed Ceilings under the Agreement on Sub-Regional Arms Control (Article IV/Florence Agreement)*

PARTY	BATTLE TANKS	ARMOURED COMBAT VEHICLES	ARTIL-LERY PIECES	COMBAT AIR-CRAFT	ATTACK HELICOP-TERS
F.R.Y.	1025	850	3750	155	53
CROATIA	410	340	1500	62	21
BiH, out of which	410	340	1500	62	21
- FEDERATION	273	227	1000	41	14
- REP. SRPSKA	137	113	500	21	7

All excessive AIA are liable to reduction, whereby 25 per cent of the reduction liability may be exported. Certain numbers of combat aircraft may be converted to trainer aircraft. Basically, however, reduction has to be achieved by physical destruction of the weapons.

The Agreement foresees a staged approach to its objectives. First, the Parties by 21 June 1996 had to declare their existing holdings ("baseline"), which were subject to a distinct inspection regime ("baseline validation"). Then, within 30 days after signing the Agreement, each Party had to notify its reduction liability, defined as the difference between its actual holdings as notified, and its agreed ceilings for holdings.

13 It appears that the CFE Treaty was followed too closely, ignoring the particular situation of "mixed" participation of states and non-state-entities which has led to some problems. Some provisions which might have been unproblematic in purely international setting (as for example on customs procedures for inspection teams at the points of entry) were of high political significance, as they could have been interpreted as implicit recognition of the Republika Srpska's claim of statehood.

Actual reductions were conducted in two phases, to be completed no later than 16 months after 1 July 1996. In the first reduction phase, i.e. within six months after 1 July 1996, each Party had to eliminate 40 per cent of its total reduction liability for artillery, combat aircraft and attack helicopters, and 20 per cent of its total reduction liability for tanks and armoured combat vehicles. In the second reduction phase, that is, no later than 16 months after 1 July 1996, each Party had to have eliminated its total reduction liability in each of the categories of armaments limited by the Agreement. Physical destruction of excessive armaments was to be executed on specific reduction sites under international verification.

The Agreement further contains specific provisions on reduction procedures, on information and notifications, and on on-site verification of exchanged information as well as of the reduction process. Similar to the CFE Treaty and the Agreement on Confidence- and Security-Building Measures in Bosnia and Herzegovina, it establishes a consultative body, the Sub-Regional Consultative Commission.

*Table III  
Comparison of the Article II (Vienna) and Article IV (Florence) Agreements*

	Article II (Vienna, 26.01.1996)	Article IV (Florence, 14.06.1996)
Purpose	Predictability; Openness, Transparency	Limitations on Armaments
Instruments	Notifications, Regulations for Actions, Verification	Agreed Limits, Reductions, Verification
Parties	BiH, Federation, Republika Srpska	BiH, Federation, Republika Srpska; Croatia; Federal Republic of Yugoslavia
OSCE Role	Quasi-Party; right to initiate, to assist, to verify	limited; only assistance with verification

#### *The Role of the OSCE*

Within the *Agreement on Confidence- and Security-Building Measures in Bosnia and Herzegovina* the OSCE has been given an active role in observation, verification and supervision ("Quasi-Party"), which in most cases was

foreseen to last until the end of 1997.<sup>14</sup> The OSCE is represented by a "Personal Representative of the Chairman-in-Office".<sup>15</sup>

In practice, the Personal Representative has been represented in the field, vis-à-vis the Parties, by a "designated agent".<sup>16</sup> This function has been discharged by the Deputy Head of Mission for Regional Stabilization within the OSCE Mission to Bosnia and Herzegovina, who also heads the Mission's "Office for Regional Stabilization".

In addition, a Verification Co-ordinator, subordinate to the Personal Representative, has been established at the OSCE's Conflict Prevention Centre in Vienna. He is responsible for the co-ordination and planning of inspections both by the OSCE and by the Parties to the Article II Agreement.

In contrast, the Agreement on Sub-Regional Arms Control provides only for a limited role of the OSCE. It has not even been mentioned in the Agreement, in an evident contradiction to the provisions of Article IV of Annex 1-B, which explicitly refers to an active role of the OSCE. The reason for that is to be seen in Yugoslavia's approach of using her consent to an active OSCE role as a bargaining chip to achieve a lifting of her suspension, in effect since 1992, from participating in the OSCE. As this attempt had been unsuccessful, Yugoslavia has in turn refused to accept a more active role for the OSCE. Thus the Agreement just mentions the Personal Representative of the Chairman-in-Office<sup>17</sup> whose function has been, however, further limited to assisting in verification. Even there he has not been given an active function, in contrast to the Article II Agreement, but has been limited to providing assistance if requested by the Parties. In addition, he participates and - in the initial phase - also chairs the meetings of the Sub-Regional Consultative Commission.

#### *The "Office for Regional Stabilization"*

The "Office for Regional Stabilization" was established within the OSCE Mission to Bosnia and Herzegovina immediately after the Agreement on Confidence- and Security-Building Measures in Bosnia and Herzegovina had been concluded. It is the OSCE body which takes concrete steps to carry out

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14 The first Review Conference extended the OSCE's role; Final Document of the First Review Conference, Vienna, 20 February 1998; CIO.GAL/8/98/Add.1.

15 The former chairman of the negotiations, Ambassador Gyarmati, continued in this function until June 1996 when he was succeeded by the then Head of Hungary's OSCE Delegation, Ambassador Márton Krasznai. He was then followed in late 1997 by the former Director of the Italian Center for Higher Defense Studies, General Carlo Jean. At the same time, the function was also merged with the Personal Representative for the Agreement on Sub-Regional Arms Control; see below.

16 Cf. Agreement, Article I, Definitions, para. 18.

17 The former chairman of the negotiations, Ambassador Vigleik Eide of Norway, continued in this function until the end of the reduction period in November 1997; he was then followed by General Carlo Jean; see above.

the Organization's responsibilities in assisting the implementation and verification of the achieved agreements. In accordance with its purpose, it has been organized along the lines of a military staff organization and has been staffed with officers experienced in peacekeeping operations or in verifying arms control agreements, in particular those with a background in verification agencies of States Parties to the CFE Treaty, but also with civilian experts in military confidence- and security-building and arms control.

The main tasks of the office involve advice and support for the Parties to the Agreements and representing the Personal Representative vis-à-vis the Parties on a day-to-day basis. The concrete tasks are manifold and stretch from military diplomacy in mediating between differing interpretations of the Agreements to rather mundane issues such as for example providing the vehicles for inspection teams, etc. Main tasks are:

- acting as point of contact and representing the OSCE and the Personal Representative in all matters concerning the Agreements;
- supporting the implementation of concrete obligations, as for example by timely reminding the Parties of deadlines, and - if necessary - through concrete steps;
- monitoring implementation of agreed obligations and reporting to the Personal Representative as a basis for his decisions;
- preparing meetings of the Joint Consultative Commission under the Agreement on Confidence- and Security-Building Measures in Bosnia and Herzegovina<sup>18</sup> with respect to both substance and organization;
- chairing the scheduled meetings of the two entities' Military Liaison Missions which take place twice a week and serve *de facto* to prepare the meetings of the Joint Consultative Commission, but also as a way to make up for the missing of deadlines and to clarify misunderstandings and other questions which otherwise could lead to problems between the Parties;
- supporting inspections to verify compliance with the two agreements;
- initiating further steps in confidence-building, in particular with the non-obligatory measures in the area of contacts and co-operation.

#### *Verification of Compliance with the Agreements and Inspections*

Verification of compliance by on-site inspections is a crucial factor. Within both agreements, the inspection regime has been basically shaped along the lines of the CFE Treaty, but it has been adapted to the specific requirements

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18 The Office does not, however, organize the meetings of the Sub-Regional Consultative Commission as these are held at the OSCE in Vienna, due to the broader participation.



of the situation, in particular with the Agreement on Confidence- and Security-Building Measures.<sup>19</sup> Occasionally, inadequate terminology led to some misunderstandings, in particular when international inspection teams would have applied the CFE inspection regime unmodified.<sup>20</sup>

The inspection regime in the *Agreement on Confidence- and Security-Building Measures* pertains to verification of compliance, in principle, with all agreed measures. In practice, however, it has only been applied to verify the validity of the exchange of military information.<sup>21</sup>

During the "baseline inspection", which lasted until the end of June 1996, OSCE-led inspections were conducted practically on a weekly basis in both entities. During that time the OSCE was responsible for all inspections,<sup>22</sup> although in practice the team-leader and the majority of team-members were provided by the verification centres of a "lead-nation", i.e. a Party to the CFE Treaty. Planning and co-ordination was the responsibility of the Verification Co-ordinator.

Responsibility for inspections was subsequently transferred to the Parties to the Agreement,<sup>23</sup> which since then have been entitled to request and conduct inspections by themselves. However, co-ordination has remained with the Verification Co-ordinator. Also, the OSCE has continued to be represented by three international inspectors in each inspection team, and until the end of 1997 was still entitled to conduct 40 per cent of all possible inspections.

Verification of the *Agreement on Sub-Regional Arms Control* follows a similar procedure. It has come even closer to the CFE regime, as the purpose of the Agreement is closer to the CFE Treaty. Accordingly, the purposes of verification are more limited than in the Article II Agreement. Inspections had to verify

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19 In contrast, the Agreement on Sub-Regional Arms Control gives too little consideration to the local situation but was transferred from the CFE Treaty practically unchanged. For example, Article 2 of Chapter III of the Protocol on Inspections provides that inspectors should be "nationals" of the Parties to the Agreement. This term, however, is not applicable to the entities and is in contradiction to the terminology of the constitution of Bosnia and Herzegovina, as enshrined in the Dayton Agreement. The appropriate term would have been "citizenship", both with respect to the state and the entities; Dayton Agreement, Annex 4, Article I, para. 7.

20 For example, during the negotiations on Confidence- and Security-Building Measures, a simplified term of "Object of Inspection" was introduced which in the pertinent Protocol was defined geographically (Annex 2, Protocol on Information and Verification, Chapter III, Pt. 1 C). A less clear definition in the Protocol on Verification, and a deviating interpretation by the Verification Co-ordinator and the international inspectors finally tended to apply the term to individual military units, which consequently led to problems in the notifications and verification of such "objects".

21 In total, as of 31 December 1997, 131 Objects of Inspection were inspected; Report on Implementation; see above.

22 Cf. Protocol on Verification, Chapter I, Section II, para. 7 (A).

23 Cf. *ibid.*, para. 7 (B).

- the baseline data until 31 October 1996;
- the reduction of AIA during the following two reduction phases (1 November 1996 until 31 October 1997);
- the results of the reduction processes - i.e. reduction down to the agreed ceilings;
- the continued compliance with agreed ceilings.

A further essential difference has to be seen in the rather limited role of the OSCE under Article IV. First, the Personal Representative is not entitled by himself to request inspections. Secondly, there are no provisions whatsoever for any OSCE inspection teams in the proper sense.

### *Experiences and Evaluation*

#### *General Experiences and Evaluation of Implementation of the Agreements*

The experiences after two years of implementation of both agreements allow for some cautious optimism, but they also indicate some worrisome tendencies and trends.

The first Review Conference in February 1998 on the Agreement on Confidence- and Security-Building Measures was a good occasion for stock-taking.<sup>24</sup> In many instances it confirmed earlier observations. Initial problems had in many cases been caused by organizational, administrative, or technical shortcomings rather than the Parties' lack of political will. Frequently, there were delays and missed deadlines, and occasionally also a lack of implementation in substance. However, in most cases it was possible - not least by a certain degree of flexibility in application of the pertinent provisions - to solve emerging problems on-site, before they could grow into disputes. Thus, with respect to the measures of an obligatory character, even at an early stage a relatively positive implementation pattern emerged.

There was, however, a significant lack of willingness to apply the non-obligatory measures in the area of contacts and co-operation. Thus, the OSCE Mission in 1996 and 1997<sup>25</sup> organized seminars on confidence-building subjects for the Parties to the Article II Agreement. They were to serve two purposes: on the one hand, to establish and deepen contacts between the

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24 The following assessment has in parts been based on the author's earlier analyses for the Office for Regional Stabilization, and on the Report on Implementation of the Agreement by the Chairman of the Joint Consultative Commission of 10 December 1997, which served as a working paper for the Review Conference in February 1998.

25 When the Personal Representative, the Deputy Head of Mission for Regional Stabilization and his Adviser on Confidence- and Security-Building Measures had changed, the practice of organizing seminars was discontinued for the rest of 1997 and early 1998.

political and military elites of the Parties to the Agreement; on the other hand, to make them better acquainted with the subjects concerned. The following seminars were subsequently organized:

- a seminar on democratic control of armed forces (December 1996); the subject was intentionally selected to address pertinent deficiencies of the Parties;
- a seminar on regional arms control (February 1997); it was to make the Parties better acquainted with the role of regional arms control in the overall context of arms control and confidence-building in Europe, in particular with reference to the idea of an open-skies regime;
- a seminar on military doctrines (June 1997); in analogy to earlier CSCE/OSCE-wide seminars it was intended to lead to more openness and transparency with respect to the respective military doctrines, which indeed succeeded.

Against the background of experience gained, the following implementation assessment for the Agreement on Confidence- and Security-Building Measures might be undertaken:

- the quality of exchanged military information has consistently improved. Exchanged information until mid-1997 did not yet contain any indication on notifiable reserve, police and similar forces, but additional information was requested and finally provided. Also in mid-1997, a breakthrough was achieved in the notification of weapons manufacturing capabilities which had until then been a contentious issue due to a differing interpretation of that term by the Republika Srpska.
- Establishing of the Military Liaison Missions in both entities has finally been achieved, leading to the agreed presence - albeit not yet continuous - of the Missions as military representatives to the other entity. In addition, the regular meetings of the Missions under chairmanship of the OSCE, although in no way foreseen by the Agreement, have developed into a crucial pillar of confidence-building between the Parties.
- Inspections could be conducted successfully, after initial complications, and confirmed *grosso modo* the exchanged military information;
- Parties in the course of 1997 have undertaken first steps with respect to non-obligatory measures. For example, the Federation invited the Republika Srpska and the OSCE to visit a weapons depot for armaments provided under the "train-and-equip" programme, which formally was not yet notifiable under the terms of the Agreement. In a similar way, both sides organized visits to weapons manufacturing capabilities.

There are, however, some remaining deficiencies to be addressed:

- different standards in information exchange and in the use of agreed formats;
- inadequate information exchanges on defence planning where Parties still lack the basics;
- neglecting the necessity for information exchange and notification, whenever similar or identical information has already been exchanged under the Article IV Agreement, or notified to SFOR; the Parties tend to mix up the different regimes;
- in a similar way, neglecting concrete notification of military activities, whenever they had already been subject to notification in the Annual Calendars;
- direct communication links between the headquarters of the two entities' armed forces have not yet been established and have had to be "subsidized" by using the OSCE Mission as a kind of go-between.

In a further step, an implementation assessment by the Chairman of the Joint Consultative Commission also criticizes the fact that communication between the Parties is mainly conducted in the local languages but not in English. This criticism appears misguided, however, for several reasons. First, both the text of the Agreement and the pertinent Protocol on Communication make clear that English and the local languages are equal, and that there would be no preference. Secondly, Bosnian, Croatian and Serbian are quite close to each other, and the use of local languages would be less prone to mistakes within direct communication between the Parties, than a translation and re-translation into and from English. Thirdly, however, the criticism appears to ignore that the main purpose of the Agreement and the measures therein is to build confidence *between the Parties* which would make the demand for such an unnecessary translation even more absurd.

It had therefore been understood, both during the negotiations and in the initial phase of the OSCE's operation, that no such translation would be required. However, this kind of understanding has apparently got lost with increased dominance by native English speakers, and a simultaneous decline in the willingness to understand the local situation (including the languages).<sup>26</sup>

The *Agreement on Sub-Regional Arms Control* had a clearly defined objective in achieving reduction to the agreed limits, which it proved possible to realize after some delays, on 21 November 1997, with 6,580 items of military

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26 In contrast to most other mission members, both the author and his deputy in the Office's analysis section had extensive knowledge of the local situation, including the local languages. After both had left the Mission in February and July 1997 respectively, there was no more adequate replacement.

hardware eliminated. The residual holdings are subject to further verification, which should be completed by 1 June 1998. In the future, any further changes in holdings have to be notified, and exchanged information will be subject to further verification.

Implementation of the Agreement during its initial phase was delayed due to the broader participation and the higher complexity caused thereby. This refers in particular to the equal participation of three sovereign states and two non-state entities (but with partial subject status under the Agreement), which on the side of Bosnia and Herzegovina led to the - partly justified, but also exaggerated - fears that the Republika Srpska could claim full statehood.

Thus the Federation for some time saw reason not to establish the required "Points of Entry/Exit" for inspection teams along the inter entity boundary line, which led to delays with the scheduled inspections. It also concerned the conduct of inspections by Bosnia and Herzegovina,<sup>27</sup> as the Republika Srpska for quite some time refused to participate in mixed inspection teams of Bosnia and Herzegovina, while the Federal Republic of Yugoslavia, for its part, would not have accepted such inspections without participation of the Republika Srpska, etc.

In substance, problems similar to the implementation of the Agreement on Confidence- and Security-Building Measures could be identified:

- exchanged information tended to be incomplete. Furthermore, there was substantiated suspicion that the Republika Srpska would have taken excessive advantage of exception clauses - a problem which could be solved only by a more stringent definition of these provisions;
- the above-mentioned political questions led to delays in the baseline validation and thereby to a backlog in the beginning of the reduction process as well as in completing its first and second phases in time.

#### *Practical Experiences and Evaluation of the Inspection Regime*

Reliable verification of agreed obligations is a cornerstone for military stability. The conduct of inspections is thus a core matter where the Parties as well as the international inspection teams representing the OSCE can directly contribute to building mutual confidence, but also to objective military security. Their professionalism thus constitutes a main pillar of the Agreements' durability.

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27 For a detailed discussion of these issues, see Hartmann, OSCE Yearbook 1997, cited above (Note 7), pp. 275-276. His view, however, that Bosnia and Herzegovina should not be entitled to conduct inspections in Croatia and Yugoslavia, as she had "no armed forces of her own" is incorrect. Possession of armed forces is not a criterion under the Agreement for requesting and conducting inspections.

Practice has proven that inspection teams, both of the Parties concerned and of the OSCE, have in general lived up to expectations on the technical level, but there were also some shortcomings to be registered. It is quite natural that the Parties had difficulties, in particular in the initial phase when the first inspections under the Agreement on Confidence- and Security-Building Measures were to be conducted as early as March 1996. They were in part rooted in lack of acquaintance with the inspection procedures, but also in a continuation of enemy images from the war which had been terminated less than half a year earlier. Furthermore, during this period the then military leadership of the Republika Srpska, which was still controlled by General Mladic, frequently attempted either to be at least implicitly accepted by the OSCE as an equal partner,<sup>28</sup> or to undermine the beginning process of co-operation between the two sides and the OSCE. It was possible, however, to overcome these problems, not at least thanks to the training and increased professionalism of inspectors from both entities.

Subsequently, however, complaints by the Parties increased against the actions of international inspection teams, as they appeared to indiscriminately follow the established procedures of CFE inspections, without considering the differences under the Article II Agreement, compliance with which they were supposed to verify. The teams had, so to say, acted too professionally for their purpose.

In a similar way, teams were not always aware of the particular situation on the ground, as, for example, the *de facto* division of the Federation's armed forces into a Croat and a Muslim component.<sup>29</sup> Although in some cases one could assume that the local Parties used such complaints to deflect blame from their own mistakes towards the representatives of the international community in general, and the OSCE in particular, there still remains a hard core of ignorance on the side of international inspection teams that were put at the OSCE's disposal only for a limited period every time.

#### *Experiences and Problems in the Office's Work*

The Office's work proved to be complicated, in particular during the initial phase, mostly because of the complex pattern of subordination. On the one hand, it was part of the OSCE Mission to Bosnia and Herzegovina. On the other hand, it had been given an auxiliary function for the Personal Representatives and subordinated to them. Finally, the establishing of the Verifica-

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28 This could not be accepted by the OSCE Mission as the Dayton Agreement has excluded any person indicted by the International Tribunal on Former Yugoslavia from public offices, which would also include any leading military position; General Framework Agreement, Annex 4, Article IX, para. 1

29 The author, while accompanying an inspection in the Federation, witnessed such a mistake, which resulted in the hectic - and unsuccessful - search for a unit of the (Croatian) HVO in the information exchange on the (predominantly Muslim) "Armija".

tion Co-ordinator in Vienna and of a Verification Operation Section (VOS) within the Office complicated the situation further, as the VOS tended to perceive itself as directly subordinated to the Verification Co-ordinator, and to bypass the Mission as well as the Head of the Office.<sup>30</sup>

Further shortcomings were caused by the rather short terms of service of the VOS members, all of whom came from NATO countries. In contrast to other mission members who as a rule served at least six months and, in most cases, significantly longer, the VOS members were as a rule deployed no longer than four months. Their professional background enabled them to act professionally within their narrow technical tasks, but time was too short to develop even a minimum understanding for the local situation, or any kind of "corporate identity" with the OSCE Mission.

They remained mentally locked within their own verification agencies and frequently tended to perceive their assignment to the Mission as an unwelcome interruption of their supposedly more important tasks in verifying the CFE Treaty. This, in turn, frequently led to arrogance vis-à-vis other members of the Office, in particular those from non-NATO states, even when the latter had a comparable background in their respective verification centres. It also caused a lack of understanding vis-à-vis the representatives of the local Parties.

Unfortunately, similar tendencies were not alien to other members of the Office, even when they served longer terms, in particular when they had the same background of professional arms control inspectors and thus a similar inclination to perceive their role exclusively from that perspective. Also, some exhibited a distinct lack of "corporate identity" with the OSCE and an unwillingness to understand the Organization. For example, a leading officer refused to wear what he called the "scrappy" yellow beret of the OSCE. Another striking example is the Office's contribution to the Mission's Annual Work Programme for 1998 which in its original version<sup>31</sup> stated that the Mission would undertake "the beginning of the process towards the establishment of a Forum for Security Co-operation whose aim will be the establishment of a regional arms control regime in and around former Yugoslavia", ignoring the fact that the FSC has been an OSCE institution since 1992.

Finally, the frequent rotation of personnel has led to a situation where the local representatives of the Parties have increasingly accumulated more knowledge, due to their continuous work in the matter, and have increasingly become more competent than the OSCE's frequently rotating representatives, who have to make themselves acquainted with their new functions, in many

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30 A major reason for this tendency could be seen in the common professional background of the VOS officers and the Verification Co-ordinator, all of whom had come from the verification agencies of major NATO states.

31 CIO/FR/7/97; 24 October 1997, p. 12. The quoted wording was then eliminated in the revised version.

cases without adequate background knowledge about the area and the concrete developments since the signing of the Agreements. The Mission - at least in its military component - thus runs the risk of becoming increasingly marginalized and meaningless. This might be a natural development and should be unproblematic as long as the process of confidence-building and military co-operation between the Parties became self-sustaining. As long as this has not been achieved, however, and the OSCE's assistance on the spot is still required, these tendencies need to be resisted.

#### *Prospects for the Article V Negotiations*

The Agreement on Confidence- and Security-Building Measures in Bosnia and Herzegovina constituted the first step towards military stability in that area of the war theatre in former Yugoslavia. Its implementation demonstrated that it was possible, despite understandable problems in its initial phase, to create a basis of mutual confidence between former belligerents in a relatively short time. This had been, *inter alia*, achieved by the active role of the OSCE and its Mission on the ground, which frequently had to act as catalyst, mediator, and mentor for implementation.<sup>32</sup>

At the same time, however, a basis was laid for the subsequent negotiations and agreements on arms control. Stability within Bosnia and Herzegovina and openness as well as verification of armed forces in that area paved the way for concluding the Agreement on Sub-Regional Arms Control, which - in turn - should create the conditions for further arms control efforts in South-eastern Europe

*Table IV*

MANDATE	SPACE	TIME	ROLE of the OSCE
<i>Art. II</i>	Bosnia and Herzegovina	concluded <i>short-term</i>	active in all areas
<i>Art. IV</i>	BiH, Croatia, FRY	concluded <i>mid-term</i>	limited to assistance in verification
<i>Art. V</i>	"in and around" former YU	negotiations to begin 1999	???

While in the step-by-step development from Article II to Article IV and Article V the zone of application has thus geographically widened, at the same time the active role of the OSCE appears to be diminishing. It was, apparently, a necessary condition - in particular at the initial stage when the proc-

32 It proved a good thing that the first Deputy Head of Mission for Regional Stabilization to lead the Office for Regional Stabilization, General Per Skov-Christensen (Denmark), had a long-standing professional experience with peacekeeping.



ess of confidence-building could hardly have taken off without the active participation of an impartial third party. It was still indispensable in the subsequent development, especially in Bosnia and Herzegovina, and in particular in helping to overcome the obstacles to implementation of the agreements that had been reached. However, the Agreement on Sub-Regional Arms Control no longer foresees - despite the explicit wording of its mandate in Article IV - any active role for the OSCE, as no consensus could be reached. Even less may be expected in this respect under Article V, as its wording is even less concrete, and would leave even less room for an active OSCE role. The Copenhagen text on the future negotiations under Article V has, in general, remained rather vague. However, it gets more concrete when it demands that existing arms limitations under the CFE Treaty or the Article IV should not be affected by negotiations under Article V.<sup>33</sup>

This would refer to the majority of potential participants with exception of Albania, Austria, Macedonia and Slovenia.<sup>34</sup> Thus, there remains only little room for negotiations on limitations. On the other hand, the Copenhagen Decisions explicitly refer to a "broad security dialogue" as "a significant element in establishing regional stability", and to "the development of CSBMs and other appropriate measures (...) and information exchange and verification activities", which could indicate a shift in emphasis towards "soft arms control", at least in the first instance. A possible structure might thus be seen in a staged approach, with emphasis on establishing a CSBM regime in the first step.<sup>35</sup>

Another factor that might influence the future negotiations is the development of the Kosovo-crisis. On the one hand it could be expected that a further escalation - possibly going as far as a direct confrontation between Albania and the Federal Republic of Yugoslavia - might drastically reduce the inclination of these states to enter into negotiations with each other on confidence-building or arms control. On the other hand, the threat of possible escalation might serve as a catalyst for both sides to enter into negotiations in

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33 "In particular, Article V should not alter obligations under the CFE Treaty or under the Article II or Article IV Agreements"; Sixth Meeting of the Ministerial Council, cited above (Note 10), Decision No. 2, last paragraph, p. 443. However, reference to Article II appears redundant as the pertinent provisions of the Copenhagen Decisions explicitly exclude any role of the entities and "affirm that Bosnia and Herzegovina must be represented by a single delegation appointed by the common institutions at all Article V related negotiations"; *ibid.*, para. 5, pp. 442-443.

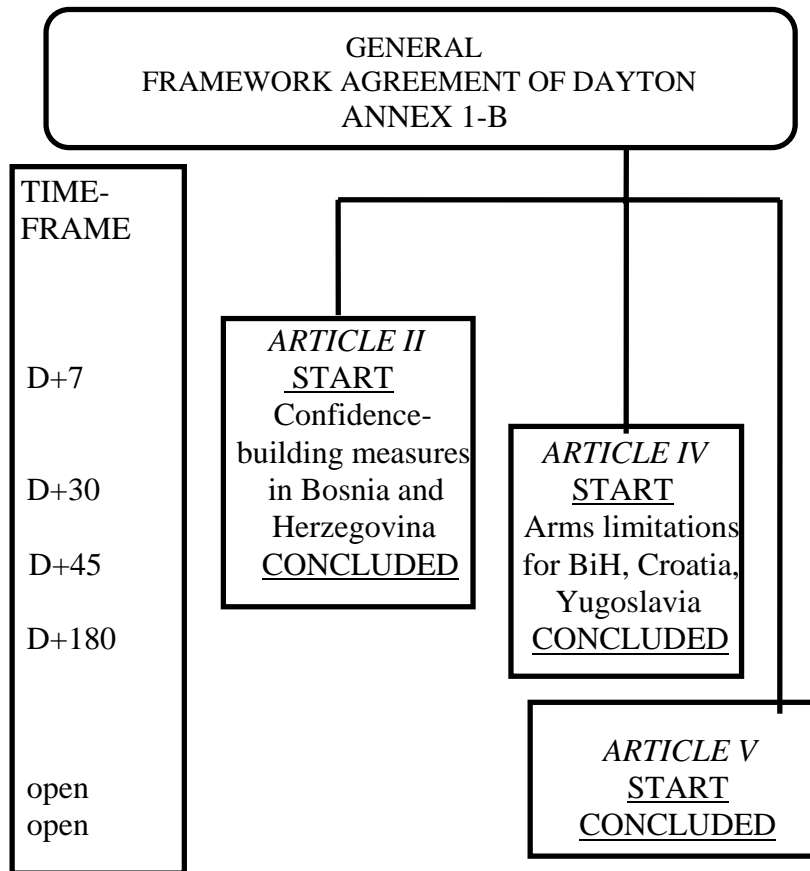
34 It was exactly for that reason that Austria has for a long time hesitated to join the negotiation process, with a possible change only parallel to the shift indicated by the Copenhagen Decisions.

35 An example of such a staged approach can be seen in the Madrid Follow-up Meeting's mandate for the Conference on Confidence- and Security-Building Measures and Disarmament (CDE) which provided for the first phase to negotiate and adopt "a set of mutually complementary confidence- and security-building measures" without, however, indicating what the second phase would have to aim at. On the idea of a staged approach see also Hartmann, OSCE Yearbook 1997, cited above (Note 7), pp. 279-280.

order to head off a confrontation none of the sides should be interested in. It would thus directly depend on the political will of both sides, as well as other interested states, to co-operate and to begin negotiations in time, in order to achieve meaningful results.

*Chart I*

*Framework and Time-Frame for Negotiations under Annex 1-B*



*Chart II*

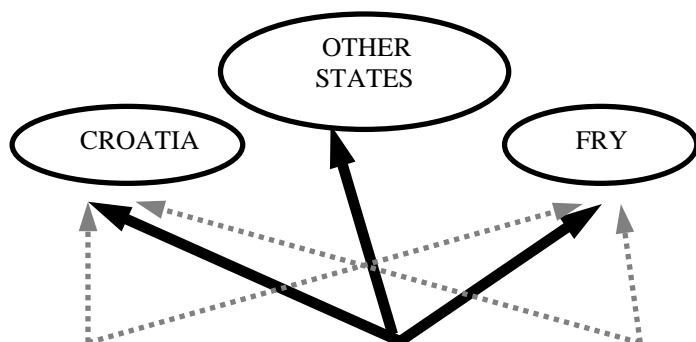
*Foreign/Diplomatic Relations*



*and*

*Special Relations*

*under the Article IV Regime*



<p>FEDERATION of BiH Federation Parliament (Fed. House of Representatives; Fed. House of Peoples) Federation Government</p>	<p>INSTITUTIONS of BiH Parliamentary Assembly; Presidency (including Standing Committee on Military Matters); Council of Ministers</p>	<p>REPUBLIKA SRPSKA National Assembly; Government</p>
<p>all other competencies (including Defence); Defence Ministry (but no Foreign Ministry)</p>	<p>Foreign Policy, Foreign Trade Policy, Customs Policy .....</p>	<p>all other competencies (including Defence); Defence Ministry (but no Foreign Ministry)</p>

*Chart III*

*Position of the OSCE Mission, the Office for Regional Stabilization and the Personal Representative and the Verification Co-ordinator*

