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# **NEGOTIATING FINAL STATUS FOR KOSOVO**

**Briefing Packet for the International Team**

**Negotiation Simulation**

**Public International Law & Policy Group**

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## OVERVIEW

Resolving the issue of Kosovo's final status will be complicated by two enduring facts: the absence of overlap between the stated objectives of the Serbs and the Albanians, the two major peoples directly involved in the disputed area; and the inability of the international community to make up its mind about its preferred outcome. If these two conditions continue to prevail, resolution of Kosovo's final status is likely to be prolonged, difficult, characterized by posturing on all sides, and marked by procedural points advanced to mask the fundamental political issues which the international community has consistently avoided facing.

Negotiations over Kosovo's future status could be almost as contentious within the international community as between the two parties themselves. It is possible that the international community will be unable to come up with a unified position, at least on some key issues. The U.S. role will be critical. Experience at Dayton, Rambouillet, Skopje and elsewhere has shown that where the United States takes the lead, it can usually bring along the internationals and the locals. When the United States hangs back, achieving agreement at anything other than the least common denominator level is difficult.

Unfortunately, Washington continues to lack a consistent policy on Kosovo. Three factors shape Washington's current approach toward Kosovo and the Balkans generally:

- Preoccupation of senior policy officials with other parts of the world;
- A shift in working-level personnel dealing with the region away from those with experience during the conflicts of the 1990s;
- Willingness in some parts of the bureaucracy to consider all options, even patently unrealistic ones such as returning Kosovo to some form of loose association with Belgrade, either out of ignorance of the region or because of new notions of U.S. security interests.

The absence of leadership in Washington has left the lead in Kosovo in recent years to the EU but Brussels, unfortunately, is just as divided and directionless about Kosovo as Washington. The new UNMIK chief, former Finnish president Harri Holkeri is said to be determined to take the lead in the upcoming talks between Belgrade and Pristina but history has shown that UN leadership is no panacea for resolving international problems. This has nothing to do with the capabilities of the individuals involved, which are sometimes quite high, but rather the lack of an institutional structure allowing decisive action within the UN itself and the inability of the UN to adopt actions without a consensus among the members of the Security Council. UNMIK under Holkeri may take the lead as long as the upcoming talks remain focused on technical issues but not once they begin to touch on vital political or security issues of the major players.

In theory, there are two ways the “gateway” issue of independence could be treated. One would be to try to resolve this difficult issue first, recognizing that once it was out of the way other issues would fall into place more easily. The other approach would be to put it

off for later resolution and to begin the talks with other issues, in an effort to build a sense of confidence and momentum before tackling the hard issue of independence.

The international community has opted for the second approach—at least for now—by deciding to begin talks between Belgrade and Pristina on technical issues which, it is said, will then in some vague fashion evolve into talks on Kosovo's future political status. The last UNMIK chief, Michael Steiner, apparently adopted the notion of beginning with talks on technical issues as a way to get the issue off square one in the absence of any effective policy leadership in either Washington or Brussels. It was also predicated on the notion that Serbian Prime Minister Zoran Djindjic was a pragmatic politician with whom it would be possible to work to achieve a realistic outcome in Kosovo. Now, with Djindjic dead and with a divided and weak leadership structure in Belgrade that seems driven by hard-line political posturing, prospects for this approach appear questionable at best. The situation in Pristina is not much better. The Kosovo Albanian leadership is united on independence as the only acceptable outcome but is internally divided on almost everything else and seems to have no concept of tactics or strategy for how to get to its goal. The surge in recent weeks of terrorist violence in Kosovo—although its origins are unclear—could also be a constraining factor on the willingness of the Kosovo Albanian leadership to compromise.

Many countries outside the region—including some leading members of the international community—fear Kosovo independence because of the potential impact on break-away regions in their own countries. These sentiments are seldom expressed openly but can have a powerful effect on the way representatives of these countries approach the issue of Kosovo's final status. “Kosovo can never be independent,” is the refrain with the unstated subtext being, “and neither can Corsica, the Basque region, Chechnya, nor Quebec.”

Regional issues are another complication. The neighbors of Kosovo have a strong interest in the outcome of the negotiations but are unlikely—at least initially—to be invited. The potential impact that changes in the political status or borders of Kosovo could have on Macedonia, Bosnia, and Albania is well understood both by regional and international players. It has always been one of the strongest arguments against major changes in Kosovo's status. If, on the other hand, the situation on the ground or the dynamics of the negotiation lead toward changes in Kosovo's status or borders, pressure could build to broaden the agenda and the participation of the talks beyond Kosovo alone.

During the 1990s the notion of “ancient ethnic animosities” often served as an excuse for diplomatic inaction but in the case of Kosovo it is a real factor. Serbs and Albanians genuinely dislike one another—and events over the past few decades have given both groups grounds for antagonism. Good personal relations between some Serb and Albanian negotiators are possible—some of the DOS leaders and the non-KLA Albanian leaders have known each other for years, going back to the days of the old Yugoslavia, when both constituted part of the so-called “alternative” to the Communists and then to Milosevic. But the distrust between the two peoples is deep and not easily bridged. It will affect the atmosphere and the substance of the talks in a range of tangible and

intangible ways. Albanians will cite Serb abuses going back to Milosevic's forcible suppression of the province's autonomy in 1989 as a justification for independence, while Serbs will cite the post-1999 war revenge attacks on Kosovo Serbs as one reason why the Albanians cannot be trusted with independence. In a broader vein, the record of violence will lend urgency to the perceived need of both sides for firm security arrangements, make minority rights issues more salient, and add strength to various partition options since—after the events of the past 15 years—few Serbs or Albanians can conceive of living together.

Another potential danger is that the talks could drag on indefinitely, leading to impatience and fueling extremism on both sides. The absence of high-level political engagement by the United States would make such a result almost a certainty. Even under the most optimistic scenarios—international unity and the two parties negotiating seriously—serious roadblocks can be anticipated at various points in the talks, which will require engagement at the Foreign Minister or the Chief of State level to overcome. It is also possible that one of the local parties might decide to spin out negotiations. If the Albanians, for example, became convinced that independence was genuinely off the table they might see continuation of the talks as the best way to retain KFOR in Kosovo and to buy time to prepare for resumed conflict if Belgrade were allowed to return to Kosovo.

Both Serbs and Albanians bring a lot of baggage to the talks. The emotional importance that both attach to the issue, the existence within both communities of sharp political and personality differences, and the strain of violence within both communities will make it hard for leaders on each side to compromise.

Nevertheless, the fact that all Albanians insist that Kosovo must become independent within its current borders and (virtually) all Serbs insist that Kosovo must remain part of Serbia does not mean that either side believes its professed preference is the only acceptable outcome. With enough pressure and patience some compromise is possible. Each side, however, also has red lines beyond which it will not go.

On the Albanian side, the most important red line is the return of Belgrade's rule in any real capacity. Albanians will insist on the trappings and reality of complete self-rule. They will not allow Belgrade's representatives any role in Pristina—even a symbolic one. Nor will they send their own people to any kind of common institutions in Belgrade—except perhaps in a transition arrangement. Albanians will also insist on some kind of international security guarantees against Belgrade's future return. Their demand will be a permanent NATO presence that includes U.S. troops. They might conceivably settle for some kind of European military presence, provided it was accompanied by security guarantees to which the U.S. was also a party. Albanians will initially be willing to grant Kosovo Serbs just what Belgrade says it will give them—full minority rights. But Albanians might be willing to allow Kosovo Serbs special status, including some limited territorial jurisdictions—Serb schools, health care, and police—provided these Serb “cantons” are legally part of Kosovo and report to Pristina and not to Belgrade.

Serbs also have some red lines in Kosovo. The first is the northern part of Kosovo, which only became part of the province in 1957, has always been predominantly Serb-inhabited, and which international inaction allowed to become a Serb fiefdom after the 1999 war. No Belgrade government will allow the north of Kosovo to return to unrestricted rule by an Albanian government in Pristina. At a minimum, Belgrade will insist on some kind of autonomous status for the north, including the northern part of the divided city of Mitrovica. In the context of an otherwise acceptable settlement, Serbs might be willing to allow Mitrovica to be united under some kind of special status under continued international control. As a practical matter, however, the existing dividing line will probably continue for some time, even under the most optimistic scenarios.

Another Serb red line is the retention of some kind of special rights for the major Serb shrines in the southern part of Kosovo. The Pec Patriarchate and the Decani and Gracanica monasteries are the most important but the Serbs will come in with a much longer list. Serbs will insist on extraterritorial status for the shrines if Kosovo separates from Serbia and on some kind of Serb security presence at the shrines under any option. Albanians will resist extraterritoriality but might eventually agree to a symbolic Serb security presence, provided they got an acceptable deal on status and Western security guarantees. Belgrade will also insist on special rights for the population of the Serb enclaves in the south but might eventually fall off since Belgrade cares little for the Serbs of Kosovo and most Serbs in the south would, in any case, leave if they believed they were going to be ruled by Albanians.

Leaving aside “symbolic” issues such as flag, seat at the UN, and national anthem about which both sides are capable of expending endless time in arguments—two underlying issues are likely to drive the talks: security and partition. There is a dynamic at work on both issues. The more secure Kosovo Albanians feel against a return of Belgrade’s rule the more willing they will be to make concessions in other areas.

Given the separation in which the Albanian and Serb communities in Kosovo exist and the continued hostility and violence between them, some kind of separation is inevitable, although the word and the concept of “partition” will likely be anathema to Albanians and some in the international community, at least initially. The issue is whether the north separates entirely from Kosovo and rejoins Serbia or whether the north becomes some kind of autonomous “Krajina” within a separate Kosovo. Sub-sets of the partition issue are Mitrovica city and the Serb enclaves in the south, with acceptable outcomes in both areas depending on how a range of other issues are settled.

Full legal independence for Kosovo virtually guarantees a Serb effort to split the north away. Options less than full independence will increase Belgrade’s willingness to allow the north to remain part of Kosovo but, conversely, will increase Pristina's insistence on “its” issues in the north—Trepca, return of expelled Albanians, control over Mitrovica.

#### Modalities

Modalities are likely to be very important and delicate in the initial stages of Kosovo status talks. Both the Serb and the Albanian sides will try to push their long-range

political objectives through ostensibly procedural issues. The auspices under which the talks will be held is likely to be the venue for the first procedural skirmish, which in reality will mask a more fundamental struggle over whether or not independence is on the table. The Serbs and their backers in the international community will insist that any agreement reached in the talks must be ratified in a UNSC Resolution and that no solution can go beyond the parameters of UNSC 1244. Albanians will insist that UNSC 1244 is not determining with respect to Kosovo's final status and, in general, will try to keep the UN's involvement to a minimum, recognizing that there is little chance of gaining UNSC agreement to a deal that grants independence to Kosovo.

A critical issue, which the international community and the Kosovo Albanians will have to face even before the technical talks begin, will be status and the composition of the Kosovar delegation. The current Kosovo constitutional framework allows Kosovars only limited role in foreign affairs. Efforts by the Kosovo Albanians to go beyond this have been slapped down hard by UNMIK. Up to now Kosovo delegations to international meetings, such as the recent EU summit at Thesaloniki have actually been led by UNMIK, which exercises legal sovereignty in Kosovo.

Kosovo Albanians have gone along with these arrangements in part because they had little option and in part because they recognize that little of vital importance is accomplished at these international confabs. Their attitude will be quite different toward the upcoming talks with Belgrade. Kosovo Albanians will not and should not participate in discussions which affect their vital issues without being in control of their own delegation. A structure for the current talks in which the UN heads a delegation which negotiates with Belgrade on behalf of the Kosovo Albanians would have no legitimacy in the eyes of either the Kosovo Albanian leaders or the population at large.

The notion of opening talks on technical issues, such as transportation or travel documents represents both opportunities and pitfalls. Dealing seriously and substantively with such technical issues would allow the Kosovo Albanians to demonstrate their "reasonableness" and lend weight to their pleas to be given greater control over their own destiny. On the other hand, Belgrade will seek to limit talks only to such issues, arguing that Kosovo's political status is determined by Serbia's new constitution and is not something for negotiation. The international community will also seek to limit initial talks to technical issues, in part because there is no consensus on what to do about the broader issues of Kosovo's future and in part because some—probably most—members of the international community support Belgrade's position. Kosovo Albanians, by contrast, cannot afford to participate in talks expressly limited to technical issues without some guarantee that all options regarding political status will be on the table in the future.

What this means is that the Kosovo Albanians even before the technical talks begin will have to work out their own position on two difficult and complex issues, both of which threaten to bring them into a conflict with the international community. Kosovo Albanians will need to work out a position that allows them to control their own delegation and also allows technical issues to be addressed without prejudice to broader political and economic issues associated with future status. Kosovo Albanians will have

to stake out their own positions on these points in the face of likely strong international pressure without entering into an open confrontation with the international community or allowing themselves to be pushed into the position of seeming to be intractable in comparison with Belgrade.

### Participants

Serbs will seek to avoid the impression of talks between two equal parties and will do as much as possible to foster the impression that the talks are between the center and one of its constituent parts. Serbs will likely seek to keep the international role limited to something like “good offices” or “facilitator,” although they would be happy to construct the talks between themselves and the international community, with the Kosovo Albanians in a subordinate status. One ploy in this direction would be to insist that Kosovo Serbs and Kosovo Albanians each participate as separate and equal sub-delegations. Belgrade might also resurrect Milosevic’s old tactic of insisting on equal representation for minority “communities” in Kosovo, including Turks and the various sub-categories of Roma. The Serbs may also float their own concept of “regional” talks, which would include states sympathetic to the Serb position on Kosovo, such as Macedonia, Bulgaria, and Greece.

Kosovo Albanians, by contrast, would prefer to keep Belgrade’s role in talks on future status to a minimum, arguing that the final settlement is between the people of Kosovo and the international community. Kosovo Albanians have accepted the concept of talks on technical issues but they will resist direct talks between them and Belgrade alone and insist that the international community be fully in charge of the negotiating process at all stages. Kosovo Albanians will be ambivalent on the form of Kosovo Serb participation. They will resist allowing the Kosovo Serbs to be part of the Belgrade delegation because of the implication that Belgrade has the right to represent the interests of any citizens of Kosovo. On the other hand, Kosovo Albanians would welcome anything which tends to confirm that the Kosovo Serbs are not independent actors but, in fact, are acting under the direction of Belgrade.

The history of diplomatic negotiations over the past decade in the Balkans shows that achieving an agreement requires the U.S. to take the lead role and devote major political capital to the process. Kosovo Albanians will insist that the U.S. be at least a co-chair of any negotiating process and may condition their own participation on such a U.S. role. Ironically, Belgrade may also support a strong U.S. leadership role in the talks, if it sees U.S. policy shifting away from sympathy toward the Kosovo Albanian cause.

### Venue

This is likely to be one of the earliest and most stubborn areas where procedural arguments mask deeper substantive differences. Belgrade, together with much of international community, will probably take the position that the talks should be held under UN auspices, that any agreement must be codified in a UNSC resolution, and that the task of the talks is to discuss complete implementation of UNSC 1244 but nothing more. This strategy will be facilitated by the concept of technical talks led by the UN.

Albanians will need to find a way to participate constructively in technical talks without allowing this to undermine or divert the process from broader political objectives. They will insist that UNSC 1244 only deals with interim status for Kosovo and that final status goes beyond the provisions of UNSC 1244. Once the talks go beyond strictly “technical” issues, Albanians will seek to hold them under some kind of ad hoc group which they believe that the U.S. can dominate, such as the Contact Group. The Albanians will also try to bring forward aspects of the deal they accepted—or claim they accepted—at Rambouillet and Paris, especially the concept that the “will of the people” should figure in the determination of Kosovo’s final status and the notion of a three-year period for reaching a decision. They will seek to ignore aspects of Rambouillet they did not like, such as its constitutional provisions regarding minority communities.

### Timing

Kosovo Albanians seek a road map that points the way toward resolution of final status. If an agreement is reached, the international community will not be out of the woods—or out of Kosovo—yet. Implementation of any agreement will require a prolonged international civilian and military presence. Kosovo’s current status as an international protectorate will be gradually reduced even before final status negotiations conclude, as more authority is transferred to democratically elected Kosovo representatives. The international community will need to come up with a mechanism to cover a continued—although diminished—role, which will likely include enforcing implementation of the terms of an agreement, monitoring political and human rights developments, and security.

Serious money will continue to be needed after an agreement for economic restructuring and investment. It would make little sense to spend the time and effort to gain some kind of agreement on final status only to see it collapse under the strain of economic difficulties in Kosovo and in Serbia.

**SIMULATION SCHEDULE**

Location: Grand Hotel

- 9:30** Coffee and snack available for participants
- 10:00-10:10** Introduction and review of simulation schedule and procedures—Plenary Room
- 10:10-10:45** Individual team meetings to set strategy
- 1030-11:00** International Team 1 meets with Serbians  
International Team 2 meets with Albanians  
Small group meeting of some Serbian team members and Albanians if agreed to by both parties and mediated by International Team 3
- 11:00-11:45** First Plenary
- 11:45-12:30** Individual team meetings to re- focus strategy (lunch will be provided during this meeting)
- 12:30-1:15** Small Group Meetings as determined by International Team
- 1:15-2:00** Second Plenary
- 2:00-2:30** Review and Lessons Learned

## **TEAM SCENE SETTER**

MEMBERSHIP: United States, EU, Britain, France, Russia, United Nations

INTERESTS THAT HAVE BROAD APPEAL TO ALL OR MOST MEMBERS OF THE INTERNATIONAL COMMUNITY INVOLVED WITH KOSOVO

### Regional Stability

Delay in achieving a final settlement in Kosovo is causing political uncertainty, retarding economic development, impeding ethnic reconciliation, and encouraging low-level violence. Kosovo's uncertain future also fosters impatience with the international community and disillusionment with Kosovo's own leaders. Lack of clarity about final status underlies continued concern about potential instability in Kosovo and in the region as a whole.

Concern about the impact on neighboring states is often cited as a reason for deferring final settlement in Kosovo yet developments over recent months have also shown the potential cost of delay not just in Kosovo but in its neighbors as well. Incidents of violence and unrest appear to be increasing in the heavily Albanian populated southern Serbian region of Presevo. Macedonia remains fragile and its future as a united state uncertain. Political maneuvering in post-Djindjic Serbia seems to be causing an upsurge in harsh rhetoric about Kosovo. Scenarios of possible territorial division in Kosovo sometimes include the Republika Srpska in Bosnia as well. Political uncertainty and economic distress in the southern Balkans also retard efforts at integrating the region into European structures and contributes to fears of a "doughnut hole" of instability in the midst of a Europe moving toward greater cohesion.

### Promoting unity, democracy and stability for Serbia

The demise of the FRY and its replacement by a loose union between Serbia and Montenegro have diluted the relevance of federalism for Serbs as they view their own governing structures. The assassination of Prime Minister Zoran Djindjic has also altered the political landscape in Serbia. The international community is concerned that events in Kosovo not add to the difficulties besetting democratic and reformist forces in Serbia. Tough rhetoric on Kosovo coming from some elements in Serbia and moves toward a new constitution which includes Kosovo as a part of Serbia may be seen as pre-election maneuvering or as setting out a maximalist on-going bargaining position but they also show how uncertainty about the future of Kosovo continues to poison the climate in Belgrade.

### Maintaining NATO cohesion

NATO is working to promote increased security cooperation among NATO allies and partners in the region through the Southeast Europe Defense Ministerial process and NATO's Southeast Europe Initiative. Kosovo and Bosnia have been the testing grounds

for cooperation and power projection, and the participation of Russia has been a positive aspect of the missions. Moscow will not necessarily oppose action that strengthens the alliance and although Russian peace-keeping troops have left the region Moscow will seek to retain an influential role in the future. For the NATO partners, maintaining a common approach to the region is important to the health of the alliance.

#### Promoting democracy and human rights in Kosovo

The international community has expended significant effort and resources in Kosovo in the name of protecting human rights and achieving regional stability. For NATO and the Western democracies, there is much at stake. The international community has correctly made progress toward democracy, human rights, and ethnic reconciliation a touchstone of its stance toward Kosovo's future yet major questions remain about how these issues will be handled in a practical sense. Kosovo has held three democratic elections and established the framework of a functioning democratic system yet the international community continues to retard the transfer of effective power to the Kosovars. The "standards before status" exercise is widely regarded as a sham. The Kosovo Albanian leadership, after its disastrous connivance at the violence against the Serbs in the aftermath of the 1999 war has gradually—under strong international pressure—adopted a more assertive public posture against ethnic violence and inviting the return of Serb refugees. Yet the violence continues, in part through the action of Albanian extremist elements. Belgrade, for its part, has done little to help in reconciliation and seeks to magnify—if not actually instigate—violent incidents and the climate of fear in pursuit of its own political ends.

As time passes, it becomes ever clearer that uncertainty about Kosovo's final status is impeding progress toward democracy and reconciliation. The international community will either bite the bullet and move quickly toward resolving the issue or, alternatively, risk growing skepticism that its linkage of status to democracy and tolerance masks an unwillingness to face the future. In that case, the consequences are likely to be growing impatience, distrust, and violence.

#### European integration

The new democracies in Southeastern Europe (Albania, Bosnia, Bulgaria, Croatia, Macedonia, Romania, Serbia and Slovenia) should be integrated into the European mainstream. This will help promote further democratic, economic and military reforms in these countries, encourage greater regional cooperation and advance common interests, such as closer contact with NATO, and increased law enforcement training and exchanges to assist in the fight against terrorism and organized crime.

#### INTERESTS OF INDIVIDUAL TEAM MEMBERS:

##### U.S. National Interests

Without U.S. leadership a satisfactory solution to the final status of Kosovo will not be achieved. Washington understands that the Albanians look to the U.S. to be their advocate and protect their interests, fearing that the Europeans view Kosovo as little more

than a subset of their relationships with Serbia. But U.S. policy toward Kosovo and the Balkans is shifting. U.S. leadership continues to be essential for effective action but Kosovo Albanians cannot count on the same automatic sympathy and understanding that they have enjoyed from Washington since Milosevic began his nationalistic campaign in the late 1980s. U.S. security policy is shifting in the post-9/11 environment and this has implications for Kosovo and the Balkans generally. The U.S. also desires improved relations with Belgrade, and does not seek to further strain ties with Moscow—along with France, Serbia’s primary backer—in the aftermath of Washington’s effort to seek Russian support for combating international terrorism. As a NATO partner and the most influential member of the Alliance, the U.S. has an important stake in improving cooperation and strengthening the alliance. Experience elsewhere in the Balkans has shown that the European allies resist committing ground troops without U.S. participation in-kind. Any long-term security presence in Kosovo will be more difficult without a U.S. commitment. Overall, while understanding the crucial importance of its role in sorting through the final status issues, Washington has also sought to downplay the significance of the Balkans to U.S. interests as it focuses on its global responsibilities, a trend that will intensify as the war against international terrorism proceeds.

#### The EU

The Balkans is an area of strong EU interest and one where it has exercised a variety of initiatives in both the economic and the security field. Yet the Balkans also shows the difficulty which the EU experiences in crafting a coherent policy approach even in areas where there are no major disagreements among the major EU powers. Since the 1999 war Kosovo has been on the back burner of international attention and the EU presence has been largely manifest through a variety of reconstruction and assistance programs. No EU state seems to have strong policy views on Kosovo, which allows the Brussels bureaucracy more scope in formulating European policy toward the region. As the question of Kosovo final status has moved closer to the forefront, however, EU security chief Javier Solana is said to have become more interested in the issue and to be attracted to the idea of folding Kosovo into the loose union he was instrumental in creating between Serbia and Montenegro. But Solana is only one of the EU voices dealing with the Balkans. The critically important issues connected with EU enlargement and with working out new relationships between Brussels and the Balkans are managed out of the EU Commission whose foreign policy head is Chris Patten. Former UNMIK chief Michael Steiner argued that after Kosovo’s final status had been determined the EU should take over the UN’s role of civilian oversight but whether this will happen and how it would be received by the local population is uncertain.

#### UK National Interests

UK policy toward Kosovo, as in other areas of the world, is largely shaped by its dual role as a leading EU member and as the closest NATO partner of the United States. The UK was a major player in the Kosovo war and post-war military and diplomatic intervention but it has recently withdrawn most of its troops from the region in order to support its engagement in the Middle East. Without any perceived major policy interest of its own in Kosovo and in the absence of any U.S.-European split on the issue, London will be inclined to go along with whatever emerges as the EU consensus on Kosovo’s

final status. When U.S. and European security policies do not coincide, the UK can be expected to try to play a bridging role. This stance often leads London to be the capital responsible for floating policy initiatives designed to push the international community off of stalled blocking points.

#### France National Interests

As a NATO partner, France has a substantial interest in achieving peace and stability in the region. France has a major commitment, both diplomatically and militarily, to the Kosovo mission. France has a unique role in NATO, resistant to U.S. dominance, and reluctant to participate fully in NATO command structures. France will be careful to stake out its own negotiating position independent of the U.S. to ensure that the negotiations do not upset its established relationship with Serbia.

#### Russia National Interests

Russian troops have left the Balkans but Moscow retains potential to influence the outcome of these negotiations. Without Russian consent a new Security Council resolution would be impossible. Russia's supposed historical affinity for the Orthodox Serbs is a myth, but one which both Moscow and Belgrade have sometimes found convenient to foster. Neither Moscow nor Serbia care deeply about the other and both would be happy to ditch the supposed "special relationship" if more attractive offers come along. The NATO 1999 bombing campaign against Serbia crystallized resentment which had long been building in Moscow against Western and especially U.S. actions which were seen as trampling on Russia's pride and historical role. This feeling remains strong but in the post- September 11 era the Putin regime has found it convenient to adopt a cooperative relationship with the United States. Insurrection in Chechnya and a growing domestic terrorism problem will incline Moscow to retain its ties to Washington despite growing questions about whether Russian is gaining enough. Russia can be expected to continue supporting the Serb position, particularly with respect to protection of Serbs in Kosovo and autonomy of Kosovo within Serbia, but not to the point of undermining post-September 11 ties with the U.S.

#### Interests of the UN Representative

The UN mission in Kosovo (UNMIK) has the legal responsibility for running the Kosovo interim government under UN Security Council Resolution 1244. The new UNMIK chief former Finnish president Harri Holkeri has insisted that the UN will take the lead in upcoming talks with Belgrade. The UN will face a challenging task in creating modalities for the talks which are in accordance with the very limited foreign affairs role which the 2001 constitutional framework allows to Kosovar institutions and at the same time are seen as legitimate by the Kosovo Albanians. At some early point in the talks this will probably require UNMIK to relax its current quasi-colonial approach and allow the Kosovars to represent themselves. Such moves, however, would face strong opposition from Belgrade and from some international players. If the talks shift from the "technical issues" which they are supposed to begin with to broader issues of final status, the role of UNMIK and of the UN generally will be questioned. UNSC 1244, on which the current UN role in Kosovo rests, is expressly an interim regime. It leaves open all options on final status and is unclear about what, if any, role the UN would play in either

determining final status or in a post status talks regime. Kosovo Albanians will probably try to keep this UN role to a minimum

## COMMON OBJECTIVES

Achieving a stable end point is the overriding major interest for all of the major international players although they may have different views about how this should be achieved. No major power perceives that it has significant security interests in Kosovo although some do believe they have political, security or economic interests in Kosovo's neighbors. All international actors tend to view Kosovo's final status in terms of what impact it would have on regional stability, which tends to tilt the field against independence and partition.

Avoiding the outbreak of violence by frustrated Albanians against elements of the international community working in Kosovo. The international community understands that there are limits to the patience of the Albanians regarding settlement of final status, and worries that a solution that promises less than independence would prompt violence on the part of ex-KLA members against the international community. Neither NATO nor UNMIK wishes to be perceived by the majority Albanians as a hostile occupation force.

Addressing final status issues without undermining Serbian democratization. The final status question is essential to Kosovo's democratization and economic growth as well as regional stability, but should be resolved without distorting or derailing Serbia's progress toward democratization. Achieving these outcomes will require balanced diplomatic efforts led by the United States, without which progress is unlikely.

Supporting Kosovo's democratically elected self-governing authority and UNMIK's residual transitional administration. The election of a Kosovo parliament and president has provided the Albanians with such responsibilities and burdens of self-government as UNMIK has been willing to give up, as well as opportunities to demonstrate their commitment to democracy, minority rights and regionally stabilizing policies. The civilian authorities are being challenged to eliminate "parallel structures" and other unauthorized vestiges of Albanian power that have flourished during the ten years of Serbian repression and over four years of UNMIK/NATO presence. UNMIK has been hampered by these parallel structures, corruption, and a Kosovo Protection Corps that wields more power than authorized. UNMIK has a continuing role to play in enhancing Kosovo's stability, which should be supported by the international team.

Protecting minority rights and Macedonia's stability. Without guarantees by the Kosovo Albanians of rights for Kosovo Serbs and other minorities, and acceptance of the border with Macedonia, the international team should not support independence for Kosovo.

## NEGOTIATING THE ISSUES

### 1) KOSOVO FINAL STATUS

#### U.S. Objective:

- Conditional independence for Kosovo, some form of limited sovereignty under international supervision. This would eventually lead to full independence.

#### Acceptable Minimum:

- Complete local self-rule within Serbia. This could be some kind of “commonwealth” or loose federation with symbolic leadership from Belgrade.

#### Background

U.S. diplomats have affirmed that the United States is “fully committed to the implementation of Resolution 1244.” But this does not necessarily mean that a road map to independence should be off the table.

#### EU Objective

- A final settlement which avoids conflict, allows refugee return, allows smooth transition to associate status for states in the region, and establishes the EU as the primary civilian and—at least for some EU members—security body in post-final status Kosovo.

#### Acceptable Minimum

- Peaceful and stable outcome which allows for continued EU engagement.

#### UK Objective:

- EU unity and no break with U.S.

#### Acceptable Minimum:

- No break with U.S.

#### France Objective:

- Oppose independence for Kosovo, and demand implementation of UNSC 1244.

#### Acceptable Minimum:

- Consider some alternative final status arrangement that provides necessary safeguards for Serbs and other communities.

#### Russia Objective:

- Oppose independence for Kosovo, and demand implementation of UNSC 1244.
- Continued cooperation with U.S. in struggle against terrorism.

Acceptable Minimum:

- Consider some alternative final status arrangement that provides necessary safeguards for Serbs and other communities.
- Be prepared to cooperate to some extent with the U.S.

UN Objective:

- Promote an outcome consistent with the Constitutional Framework and with a continued supervisory role of some type for the UN.

Acceptable Minimum:

- The same.

Background

All Security Council resolutions are subject to political compromise, and the decision on UNSC 1244 followed the NATO bombing campaign against Yugoslavia that was opposed by China, Russia, and many other states. Substantial support existed for a resolution that would guarantee autonomy for Kosovo, but only within the Yugoslav Federation. No United Nations member state supported Kosovo independence, or union with Albania or Macedonia. As a result, the preamble to UNSC 1244 contains a provision “reaffirming the commitment of all Member States to the sovereignty and territorial integrity of the Federal Republic of Yugoslavia and the other States of the region...” Without these terms, an agreement on a resolution ending the conflict would have been impossible. But the guarantee of Yugoslav sovereignty has proven to be inconsistent with the other objectives of UNSC 1244. In practice, Serbia now exercises no control in Kosovo outside of the northern region and the enclaves and the Albanian majority will not accept any form of control from Belgrade.

## Key questions remain:

- What kind of regime should replace UNSC 1244?
- Will a new Security Council resolution be required to ratify the final status of Kosovo?
- Could the concept of “conditional independence” or “intermediate sovereignty” be the foundation for an internationally-brokered settlement? By achieving consensus under U.S. leadership, many of the other problems and issues could be resolved.

## 2) MITROVICA AND BORDERS

U.S. Objectives:

- Retain Kosovo as a single, unified entity within its current borders.
- Reunite the divided city of Mitrovica and eliminate the illegal Serb administration that currently controls northern Mitrovica and the northern part of Kosovo.
- Arrange shared access and management of the Trepca production complex between Pristina and Belgrade.

U.S. Acceptable Minimums:

- Retain Kosovo in its current boundaries except for the three northern municipalities, which are predominantly Serb populated and which did not join Kosovo until 1957.
- Offer control of Trepca to the Serbs, which could be a major bargaining chip.

### Background

Mitrovica is the most northerly region of Kosovo. Its population in 1997 was estimated to be 300,000, including some 43,000 Serbs. After July 1999 the city became divided, with the predominantly Serb north and the Albanian south separated by the Ibar River. There are three municipalities in the north. In addition to the city of Mitrovica there is Zubin-Potok, Zvechan and Leposovic which are predominantly Serb, except for small enclaves of Albanians.

In Mitrovica city, the Ibar River forms a natural fault line between the northern and southern sections of the town, now populated respectively by Serbs and Albanians. The focus of effort for UNMIK has been the division of the city and whether to seek to end it. Violence in February 2000 resulted in the flight of additional Albanians to the south, increasing the ethnic divide. Until recently, Mitrovica had been somewhat quieter, a development symbolized by the withdrawal—although not the disappearance—of the bridge watcher Serbian thugs. The increase in violence in Kosovo in the late summer of 2003 has led to a number of violent incidents in Mitrovica.

There are estimated to be between 40,000 and 60,000 Serbs in northern Kosovo, but failure to participate in the census has hampered an accurate count. There was concern from the outset that the area north of the Ibar River would simply become a part of Serbia, because there is a common northern border of the Mitrovica region and Serbia. This would effectively partition Kosovo. In Mitrovica city the courthouse is in the Serb dominated north and the Orthodox Church is in the Albanian dominated south.

Resolution of the issues related to northern Kosovo is essential to the negotiation of Kosovo's final status. Mitrovica remains the most significant flash point in Kosovo, the divided city that is a symbol of the challenge to reestablish the rule of law. The preferred alternative would be a united Kosovo, but practical factors may favor some form of partition. This could provide a means to obtain Serbian approval of a final status that envisaged Kosovo's independence.

### UK Objective:

- EU unity and no break with the U.S.

### UK Acceptable Minimum:

- No break with the U.S.

### France Objective:

- Retain Kosovo as a single, unified entity within its current borders.

### France Acceptable Minimum:

- Support partition of Kosovo if it does not threaten regional stability and Serb interests are protected.

Russia Objective:

- Stress the rights of the Kosovo Serbs and demand a key role for them in negotiations, as well as in the final status government of Kosovo.

Russia Acceptable Minimum:

- Support a change in borders if Serb interests are protected.

UN Objectives:

- Retain Kosovo as a single, unified entity within its current borders.
- Provide for a shared governmental mechanism in Mitrovica consistent with the Constitutional Framework.

UN Acceptable Minimum:

- Develop a plan for shared Serbian-Albanian access and management of the Trepca complex, as well as plan for supporting Albanian access to the courthouse in the north, and Serb access to the Orthodox church in the south of Mitrovica.

### 3) SECURITY AND THE FUTURE OF KFOR

U.S. Objectives:

- A definable limit on NATO (and U.S.) presence in Kosovo.
- A predominantly European long-term security force in Kosovo based upon international security guarantees to which the United States is a party and contributes some troops.

U.S. Acceptable Minimum:

- An “indefinite” NATO/U.S. presence and a significant cutback in the size of the overall NATO force if an acceptable agreement is reached on final political status, though still including some U.S. troops. Exploration of semi-permanent forward basing rights.

Background

While Washington has signaled its desire to limit U.S. military involvement in the region, and President Bush has commented that the U.S. would honor commitments to the NATO allies, there is some interest in the Pentagon following the advent of the war on terrorism in exploring semi-permanent basing for U.S. and NATO troops in Kosovo. Experience has shown that the U.S. is an indispensable party in military operations in the Balkans and that the Europeans are reluctant to be on the ground in Kosovo without a U.S. ground troop commitment. Despite the publicity about a new European defense identity, the defense budgets of the EU countries will not support a significant increase in peacekeeping in the foreseeable future. And the U.S. remains the only country with the military logistics, intelligence and command and control capabilities to lead a major

mission in the region. Political constraints and global priorities in the war against terrorism provide the biggest obstacles to continued U.S. involvement.

EU Objective

- EU security force takes over from KFOR.

UK Objective:

EU unity and no break with U.S.

UK Acceptable Minimum:

- No break with U.S.

France Objective:

- A new UN mission on the scale of UNPREDEP in Macedonia, with a French General in command.

France Acceptable Minimum:

- A limited European security force in Kosovo with international security guarantees to which France is a party.

Russia Objectives:

- A strict limit on NATO presence in Kosovo and no NATO security relationship with Kosovo after its departure.
- Return of the Serbian security presence to Kosovo consistent with UNSC 1244.

Russia Acceptable Minimum:

- A limited European, non-NATO security force in Kosovo with international security guarantees in connection with the OSCE.

UN Objective:

- A permanent international security force linked to the continued presence of UNMIK.

UN Acceptable Minimum:

- A permanent European security force in Kosovo with international security guarantees.

#### 4) MINORITIES AND REFUGEES

U.S. Objectives:

- Ensure that all refugees have the right to return consistent with the Framework Constitution.
- Provide Serbs and other minorities (“communities”) with all generally accepted minority rights.
- Agree on compensation for damage suffered during or after the 1998-1999 conflict.

U.S. Acceptable Minimums:

- In a unified Kosovo, Serbs would be allowed certain cultural rights and local autonomy, including use of their language, schools, and medical facilities and adequate representation on the police force (KPS).
- If Kosovo is partitioned with the northern counties separating, international assistance must be provided to parties who voluntarily wish to move or are forced out.

UK Objective:

- Same as U.S.

UK Acceptable Minimum:

- Same as U.S.

France Objectives:

- Guarantee the rights of Serbs and other minorities to return.
- Serbs and other minorities (“communities”) are entitled to all generally accepted minority rights.
- Serbs are entitled to compensation for damage suffered during or after the 1998-1999 conflict.

France Acceptable Minimum:

- Support any plan that guarantees minimal rights for minorities.

UN Objectives:

- All refugees have the right to return consistent with the Framework Constitution.
- Serbs and other minorities (“communities”) are entitled to all generally accepted minority rights.
- Agreement on compensation for damages suffered during or after the 1998-1999 conflict.
- Agreement for UNHCR supervision of any provision on refugee returns.

UN Acceptable Minimums:

- Serbs living in Kosovo would be allowed cultural rights and local autonomy, including use of their language, schools, and medical facilities and police participation guarantees.
- UNHCR participation in any agreement and continued involvement in the process.

## 5) ECONOMIC AND PROPERTY ISSUES AND REPARATIONS

U.S. Objectives:

- Establish a functioning Kosovo economy integrated as closely as possible with the EU and European institutions.
- Local control over all Kosovo economic assets, with the exception of Trepca.
- International agreement on the principle of reparations.
- A greater share in Kosovo reconstruction costs by the EU.

U.S. Acceptable Minimums:

- Limited Kosovo economic cooperation with Belgrade where necessary, e.g. electricity; any ties with EU do not go through Belgrade.
- Shared administration of Trepca, under international authority.
- Commitments for long term financing from the EU.

UK Objective:

- Same as U.S., except for increased European reconstruction burden.

UK Acceptable Minimum:

- Same as U.S., except for increased European share of reconstruction costs.

France Objective:

- Establish a functioning Kosovo economy integrated as closely as possible with the EU and European institutions.
- Ensure Serb control of Trepca and related institutions.
- Obtain international agreement on the principle of reparations.

France Acceptable Minimums:

- Kosovo economic cooperation with Belgrade where necessary, e.g. electricity; any ties with EU do not go through Belgrade.
- Shared administration of Trepca, under international authority.

Russia Objectives:

- Maintain the Kosovo economy linked to Belgrade and integrated as closely as possible with Serbia.
- Maintain full Serb control over common Kosovo economic assets, particularly Trepca.
- Obtain international agreement on the principle of reparations, including compensation for Serb property confiscated by Albanians.
- Support acknowledgement that Kosovo will not obtain a share of the assets of the SFRY.

Russia Acceptable Minimums:

- Limited local control over economic assets in areas controlled by Pristina.
- Technical economic cooperation with Belgrade where necessary, e.g. electricity.
- Shared administration of Trepca, under international authority.
- Protection of Serb assets consistent with UNSC 1244.

UN Objectives:

- Establish the Kosovo economy based entirely on the principles contained in the Framework Constitution and the Joint Interim Administrative Structures (JIAS) of UNMIK.
- International agreement on the principle of reparations.
- Agreement that Kosovo should obtain a specific share of the assets of the SFRY.

UN Acceptable Minimums:

- Full local control over economic assets in areas controlled by Pristina.
- Technical economic cooperation with Belgrade where necessary, e.g. electricity.
- Shared administration of Trepca, under UN authority.