

## Regional Arms Control in Europe: The Arms Control Agreements under the Dayton Agreement (Mid-1996 until Mid-1997)<sup>1</sup>

At the end of 1995, under extremely difficult conditions, the foundations for a regional arms control process in former Yugoslavia were laid at conferences in Dayton, Ohio, and on the Petersberg near Bonn. This process is characterized by innovative arms control procedures and heavy involvement of the international community. We can already say today that it works surprisingly well and as a consequence has made a major contribution to the consolidation of peace in former Yugoslavia. I described the first year of this process in the OSCE Yearbook 1995/1996. What follows portrays developments since the middle of 1996.

### *The Implementation of the "Agreement on Confidence-Building in Bosnia and Herzegovina"*

The implementation of the "Agreement on Confidence-Building in Bosnia and Herzegovina", also called "Article II Agreement" in conformity with the relevant article in Annex I-B of the Dayton Peace Agreement, proceeded in a generally satisfactory way. Repeatedly military information was exchanged, as had been agreed, although there were some delays. The inspections to verify the exchange of data - well over 100 so far - went for the most part according to plan. A programme of military contacts and visits to military installations was begun. Thus the OSCE Mission to Sarajevo, which along with the Personal Representative of the OSCE Chairman, Ambassador Krasznai (Hungary), plays an important role in the implementation of the Agreement, organized seminars on the "OSCE Code of Conduct on Politico-Military Aspects of Security" and on regional confidence- and security-building measures. Thus far more than ten meetings of the Joint Consultative Commission have been held under the chairmanship of Ambassador Krasznai or of the Head of the Office for Regional Stabilization in the OSCE Mission to Sarajevo and have proceeded without significant problems.

However, some parts of the Article II Agreement were carried out only partially or with significant delay. The provision of information on domestic weapons

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<sup>1</sup> The article expresses the personal views of the author.

manufacturing capabilities was particularly affected. The military liaison offices provided for in the Agreement could at first only be set up in the OSCE Mission to Sarajevo. Their establishment in the military headquarters of the Federation of Bosnia and Herzegovina, in Sarajevo, and of the Republika Srpska, in Pale, took place much later.

On the other hand, there were also innovative developments. To intensify the process of confidence-building and familiarize the Parties to the Treaty with confidence- and security-building measures going beyond what was called for in the Article II Agreement, Ambassador Krasznai in early 1997 proposed observation flights over the territories of the Parties along the lines of the Open Skies Treaty. There was an initial test flight over Bosnia in June 1997. The German Federal government, which in 1996 had already suggested arrangements similar to Open Skies as part of the "Article V Negotiations" (see below), thereupon offered the OSCE the use of the German Open Skies aircraft for one or two test flights over the Dayton Treaty area.

### *The Implementation of the "Agreement on Sub-Regional Arms Control"*

#### *Status of Implementation in July 1997*

The implementation of the Dayton disarmament agreement, also called "Article IV Agreement" in accordance with the relevant Article in Annex I-B of the Dayton Peace Agreement, has so far gone better than one might have expected considering the difficult political circumstances. Information on armaments holdings was exchanged several times. After certain initial difficulties the notified reductions are proceeding as planned. At the level of 2,800 heavy weapons about half of the notified weapons reductions have already been carried out. A process of confidence-building has begun. Inspections have been taking place for months without any problems. Internal political disputes and rivalries, whether in the Federation of Bosnia and Herzegovina, the Republika Srpska or the Federal Republic of Yugoslavia, have so far not had any lasting negative effect on the implementation of the Agreement. The disputed question as to whether all heavy weapons in the possession of the Bosnian parties have actually been notified is to be clarified in a co-operative manner.

Still, it is too early to regard this success as secure. The arms control process is not yet stable and self-supporting but, rather, depends on assistance from third parties. The risk of adverse consequences emerging from general political complications remains large. It will not be possible to draw an initial balance until after 31 October 1997, i.e. following the end of the reduction phase.

The history of the Agreement's implementation to date makes clear that the relatively favourable picture we see at present cannot be taken for granted. Rather,

it is the result of difficult and tough negotiations between the Parties and the OSCE Chairman's Personal Representative, Ambassador Eide, along with other participants, above all the countries of the Contact Group.

### *Problems of Implementation*

#### *a. Status Questions*

A number of problems that have emerged in the course of implementing the Agreement were related to the special character of the constitutional construction of Bosnia and Herzegovina. In particular, they have affected the carrying out of the agreed inspections.

As in the CFE Treaty, implementation of the Article IV Agreement required the designation of official "Points of Entry/Exit" (POE) that have to be used by the inspection teams. Problems arose because not for all borders POE were notified. Thus Croatia, owing to the absence of an official border-crossing to the Republika Srpska, at first had not notified a POE there, and the same held true for the Federation because of the lack of any state authority on its border with the Federal Republic of Yugoslavia. Even though it might have been possible to go by air (using the agreed "air POE"), a number of inspections had at first to be postponed - according to the explanation offered by the Parties. But the situation became less tense by the autumn of 1996 and it proved possible to make up the postponed inspections.

There were further difficulties of implementation in the autumn of 1996 when the Bosnian central government demanded the right to carry out inspections of its own in Croatia and in the Federal Republic of Yugoslavia even though it had no military forces of its own (in the Article IV Agreement it had declared an upper personnel limit of its own of only 60,000 men). This was tied to a demand that it have the right to co-ordinate the dispatch and reception of inspections from Croatia and the Federal Republic of Yugoslavia in both Bosnian "Entities". That is not provided for in the Dayton Agreement. The Republika Srpska, in particular, rejected the demand. That was another reason why at first several inspections could not be held.

Difficulties in co-operation, within the "Federation of Bosnia and Herzegovina", between the Bosnian and the Bosnian-Croatian armies created a further impediment to implementation of the disarmament agreement. For a long time, for example, the two Federation armies did not present any consolidated joint exchange of information. And the division of joint reduction liability between the two armies was only decided on after some delay.

With regard to all of these issues the Contact Group made clear to the Parties that there was to be no interference with Dayton. Every attempt to alter the solution of status issues achieved at Dayton would call into question the entire Agreement and thus the peace process as a whole. This clear stand taken by the

Contact Group was an important reason why disputes over status questions hardly played any role in 1997.

*b. The Discussion of Permissible Exceptions to the Counting Rules*

As in the CFE Treaty, the Article IV Agreement prescribes that in principle all weapons that fit the definitions set forth in the Treaty must be included in the exchange of information and counted in the calculation of reduction liabilities. Exceptions are limited to a group of conditions and only allowed "in a manner consistent with (... the) normal practices" of the Parties (Art. III,1). The Republika Srpska was the only Party to the Agreement to misuse this provision for a large number of weapons - more than 1,000 systems. The reduction liability that remained thereafter was minimal. While the Federation had to destroy about 780 weapons systems in the first reduction phase, the corresponding figure for the Republika Srpska would have come to just 45 systems. Thus the Republika Srpska flagrantly violated both the letter and spirit of the Article IV Agreement.

Despite intensive efforts by Ambassador Eide and the Contact Group there was at first very little progress on this matter. In 1996 the Republika Srpska increased its reduction liability only minimally. It was not until the end of January 1997 that a breakthrough came at a meeting of the Sub-regional Consultative Commission, a body that meets regularly in Vienna and in which the Parties to the Agreement discuss implementation issues. At this meeting exceptions to the counting rules were limited *in principle* to five per cent of the weapons holdings reported on 16 December 1996. This corresponded to a guideline established on the initiative of the Contact Group by the "Peace Implementation Conference" (PIC), the association of the international donor community, on 5 December 1996 in London.

The decision of the Consultative Commission was unable to take account of all exceptional circumstances explicitly, however, so that the overall problem of "abuse of the counting rules" remained unsolved. The agreement reached at that meeting was in fact limited to weapons in production, for research purposes and for export. For other categories of exceptional circumstances, like historic collections of weapons, those removed from service and those belonging to internal security forces and for transit, no agreement was to be found until the next meeting.

An evaluation of the new exchange of data on 26 February 1997 showed that the Republika Srpska had for the most part made good on its undertakings of January. It reported almost 1,000 weapons systems more than in the previous exchange of data on 31 December 1996. And its reduction liabilities also grew to over 1,000 systems.

The problem of exceptions to the counting rules was finally solved at the meeting of the Sub-regional Consultative Commission from 18-20 June 1997. There

it was agreed that the five-per cent rule should apply to all exceptional circumstances.

*c. Unreported Weapons*

The implementation of the Agreement is hampered by the suspicion that not all existing weapons are reported in the exchange of information. This suspicion is directed mainly at the Bosnian Parties, especially the Republika Srpska. A comparison can be made in this connection between data collected by IFOR and/or SFOR which to some extent differ substantially from the reported data. For a variety of reasons (different counting criteria, mistakes, etc.) doubts have repeatedly been raised about the applicability of SFOR data. Even so, it is clear that these suspicions must be allayed.

Mainly as a result of German insistence, NATO has made its detailed data on the weapons stocks of the Bosnian Parties available to Ambassador Eide since October 1996. Germany (and the Netherlands as well) has sent a data expert to work in Eide's staff to compare the data (gathered for various purposes). But, despite all efforts, things proceeded slowly at first. It was only at the meeting of the Sub-regional Consultative Commission on 18-20 June 1997 that the Bosnian Parties could agree on a German proposal. They undertook to carry on a continuing dialogue with Ambassador Eide and SFOR on the discrepancies between their reported data and the SFOR data and said they would be prepared, if necessary, to correct the exchange of information. Moreover, they in principle accepted special inspections by SFOR involving participation of OSCE experts with CFE experience. A detailed dialogue on data has since begun. This is a considerable advance which, it is to be hoped, will lead to early clarification of this issue.

*The Reductions*

At the end of the first reduction phase (31 December 1996) the reduction liabilities for the period had been completely fulfilled by Croatia and the Federal Republic of Yugoslavia, almost completely by the Federation, and only in small part by the Republika Srpska. For the second phase (until the end of October 1997) the Republika Srpska has accepted a reduction liability of about 1,100 weapons systems. The Federation notified 1,270 systems subject to reduction and announced that it would increase this figure to the extent that it received delivery of additional artillery weapons under the "Train and Equip" programme directed by the US. These two Parties have, in addition, presented plans for the distribution of planned reductions over the entire second reduction period. This is in conformity with requirements laid down by Ambassador Eide and the Contact Group.

So far (mid-July 1997) about 580 systems have been reduced in the Republika Srpska during the second phase and 100 in the Federation.

Croatia had already fulfilled its entire reduction liability in April through the destruction of 400 systems. Second phase weapons destruction started at the beginning of July in the Federal Republic of Yugoslavia.

#### *German Support for Implementation*

The support of the international community of states, especially the states of the Contact Group, has been of decisive importance for the progress so far made in implementing the Agreement. It has involved a broad range of measures including material assistance in the destruction of weapons, counselling and the dispatch of personnel, the application of pressure through argument, and the presentation of ideas for solving particular problems.

Most of the weapons reduced have been destroyed (other reduction methods are, for example, export or conversion). This was only possible through energetic assistance from outside, particularly the countries of the Contact Group. Thus Germany provided technical and material assistance to the Federation (including both parts of the Federation's army) during the first reduction phase. Civilian and military specialists were sent to Croatia as well to help with the destruction of weapons. In the second reduction phase Germany and France are together providing the Republika Srpska and the Federation with technical and material assistance - oxygen and acetylene - needed for cutting up the weapons. Italy and Great Britain have provided equipment and the US and the Netherlands have given financial support.

Another example was the dispatch of German data experts to Sarajevo to help the Bosnian Parties put together their data exchange. Several seminars on verification were carried out either in Germany or with German support. Inspectors from a number of OSCE States have participated in verifying the exchange of data and the destruction of weapons. The meetings of the Sub-regional Consultative Commission, on the other hand, are attended only by member countries of the Contact Group and the countries holding the EU Presidency and the OSCE Chairmanship.

Finally, the implementation of the disarmament agreement has also been influenced in important ways by the PIC and SFOR. The PIC, which supervises the implementation of the Dayton Agreement, decided in London at the beginning of December 1996 that satisfactory implementation of the terms of the Dayton Accords, including the disarmament agreement, should be a condition for the granting of any financial assistance. Thus it was made clear to the Bosnian Parties, just a few weeks before the end of the first reduction phase, that the timely fulfilment of reduction liabilities would be regarded as a test of their good will.

This contributed substantially to the Parties' discipline in regard to implementation.

Full implementation of the Article IV Agreement is of direct interest to SFOR because it is indispensable for Bosnia's long-term stabilization and the complete withdrawal of SFOR that is foreseen for a future date would create great problems without it. SFOR supports the Personal Representative in particular by making available data on the weapons holdings of the Bosnian Parties but has offered in principle to provide other kinds of assistance such as the transport of heavy weapons to the place of reduction. SFOR's decision to destroy ammunition and weapons of whatever calibre that are found in unauthorized places also ought to have a favourable effect on implementation discipline.

*The Negotiations on Establishing "a Regional Balance in and around the Former Yugoslavia"*

The negotiations on creating "a regional balance in and around the former Yugoslavia", also referred to as "Article V Negotiations", are intended to put the Agreements under Articles II and IV into a larger regional context and to stabilize them. They have not yet begun. Based on views in the Contact Group, their start will depend on satisfactory implementation of the Article IV Agreement. The first step would be for the OSCE Chairman-in-Office soon to name a Special Representative as head of the negotiations. The actual negotiations should be completed as soon as possible, particularly in view of the fact that there is a time limit on the OSCE's involvement in implementation of the Article II and IV Agreements and that the Article V Agreement, which is being negotiated "under the auspices of the OSCE Forum on Security Cooperation", could help to achieve a compromise. An additional point is that SFOR's mandate ends in the middle of 1998.

As far as substance is concerned, Germany seeks a simple agreement that would consist, on the one hand, of a system of regional confidence- and security-building measures in South-eastern Europe and, on the other, would serve to tie the Article IV Agreement to the CFE Treaty, to which it is substantially equivalent in most parts. This kind of connection could be achieved, for example, if the CFE States Parties that participate in this Agreement and the Article IV Parties inform each other about the information exchanges and let them participate in inspections carried out under their respective regimes. Thus the Federal Republic of Yugoslavia, for example, would receive the information delivered from Hungary under the terms of the CFE Treaty (or from Germany, if it participates in the Article V Agreement), and would, for its part, pass on to other countries the information it provides under the terms of the Article IV Agreement. Similarly, one could imagine participation in inspections carried out

under the regime of the receiving country. Finally, countries in the region that belong neither to the CFE Treaty nor to the Article IV Agreement ought to establish their own ceilings for heavy weapons and declare their willingness to exchange information and participate in an inspection regime.

These are ideas which Germany introduced in early 1996 as an initial basis for discussions in the Contact Group and also made available to other interested OSCE States. They had a major influence on the discussions that followed.

### *Conclusion*

The approach to arms control adopted in Dayton is well under way despite many difficulties. It has not yet been fully realized. But one can already say that this approach has made a substantial contribution to military and political confidence-building and stabilization on the territory of the former Yugoslavia.