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Kosovo: The Diplomatic and Military Options

On 12 October 1998 a breakthrough was announced in attempts to resolve the conflict between separatist and government forces in the predominantly ethnic-Albanian province of Kosovo. To ensure progress towards a diplomatic solution is maintained, NATO ministers decided on 12 October to issue Belgrade with a four-day ultimatum, later extended by a further ten days, warning of military action if full compliance with UN demands is not demonstrated.

This paper looks at developments in Kosovo since July 1998 and details the reaction of the international community. It then analyses the recent peace agreement and considers the prospects for a successful resolution of the crisis. The detailed background and origins of the current conflict are covered by Research Paper 98/73 *Kosovo*.

Tim Youngs

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Summary of main points

Fighting in Kosovo between the separatist Kosova Liberation Army (KLA) and the predominantly Serb forces of the Federal Republic of Yugoslavia (FRY) continued throughout the summer months. In July FRY forces launched an offensive against the badly equipped and trained KLA, regaining at least temporary control of much of the province.

The fighting has impacted severely on the civilian population and has displaced around 250,000 refugees. The use of scorched earth tactics by Yugoslav forces has resulted in the destruction of homes, food supplies and livestock, raising fears of an impending humanitarian disaster during the winter.

As the government offensive continued, international pressure on President Slobodan Milosevic increased. The UN Security Council demanded that FRY forces withdraw from the province and called for negotiations between Belgrade and the ethnic Albanian leadership, but disagreements on the use of force remained. Russia and China strongly opposed military action, whereas Western leaders believed that Milosevic would only bow to the demands of the UN if faced with the immediate threat of air strikes.

In late October NATO increased the pressure on Belgrade by proposing a wide-ranging air campaign against the FRY, while the US special envoy, Richard Holbrooke, held intensive talks with Milosevic. On 12 October, as NATO ministers authorised air strikes to start in four days, Holbrooke announced he had obtained an undertaking from Milosevic to comply with the demands of the UN Security Council.

The main aspect of the agreement relates to a political settlement to the crisis. The timetable agreed with Milosevic is for agreement to be reached by 2 November on the core elements of a political settlement, based on a paper proposed by the Contact Group. By 9 November rules and procedures will have been drawn up for elections, which are to be held within nine months under OSCE supervision.

Two further agreements have been signed to assist with verification of the planned reduction of FRY forces in Kosovo to pre-conflict levels. Verification from the air will be conducted by NATO reconnaissance planes, possibly with Russian involvement. On the ground, a 2000-strong "verification force" will be deployed under the auspices of the Organisation for Security and Co-operation in Europe (OSCE).

On 24 October the Security Council endorsed the agreements reached with Belgrade, but did not give explicit authorisation for action by NATO forces if the FRY fails to comply with UN demands. To maintain the pressure on Milosevic NATO imposed an extended deadline of 27 October for Belgrade to comply or face air strikes. Further talks between Milosevic and NATO commanders yielded an agreement governing the required scale of withdrawals by government forces, but a number of doubts remained over the issue of Belgrade's compliance and the possible reaction of the KLA.

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I Developments between July and October 1998

A. The July Offensive by Government Forces

The fighting that began in March 1998 between the guerrilla fighters of the separatist Kosova Liberation Army (KLA) and the government forces of the Federal Republic of Yugoslavia (FRY) continued throughout the summer months. By the end of September the KLA had suffered a number of reverses at the hands of the better-equipped and trained government troops, losing much of the territory it had captured earlier in the summer, including one of its principal strongholds at Malisevo.

One of the main reasons for the setbacks endured by the KLA appears to be its abandonment of guerrilla tactics in favour of attempting to take and hold ground in the face of the superior firepower of the Yugoslavs. During the spring and early summer the KLA did enjoy some initial success in capturing an estimated 40 per cent of Kosovo, but the high point came with the attempt to seize and hold the town of Orahovac in western Kosovo during mid-July. In response, the Yugoslav Army and security forces launched an extensive counter-offensive in late July aimed at destroying the support network established throughout Kosovo by the KLA, especially in the border region with Albania. The separatists have been hampered by a severe lack of heavy weaponry, a lack of training and poor co-ordination between local commanders. KLA fighters admitted in late August that their attempts to hold territory had failed and promised a return to more effective "hit-and-run" operations. A member of the Kosovar Albanian negotiating team said in August:

The concept of liberated zones has been defeated. The KLA fell into the trap of thinking you could have territorial defence. Now they must use mobile guerrilla tactics with small, well-trained units.¹

Some observers have questioned why the Yugoslav authorities took so long to respond to the significant advances made by the KLA during the first months of hostilities. It is possible that Belgrade decided to allow the KLA to overstretch itself before inflicting a strong counterblow. FRY forces also appear to have gained vital intelligence on the KLA during that period, which has been used effectively in the recent offensive, enabling the security forces to target KLA strongholds accurately.

The start of the offensive in late July by the Yugoslav Army and the interior ministry special police forces, known as the MUP, marked an important shift in approach by Belgrade. Prior to that point, the MUP had been responsible for most operations against the KLA, whereas the Yugoslav Army had been deployed solely along Kosovo's external borders with Albania and FYR Macedonia (The Former Yugoslav Republic of Macedonia). However, the Yugoslav Army subsequently engaged in joint operations

¹ *Guardian*, 19 August 1998

with the security forces inside Kosovo, and on 25 July it was announced that operational control had been transferred from the security forces to the Yugoslav Army.

The apparent aims of the government offensive were to restore control of important lines of communication; to disrupt the operations of the KLA and to severely dislocate its support network; and to punish villages suspected of providing assistance to the KLA, such as Malisevo. The main routes linking Pec to Pristina, Kosovska Mitrovica to Pec and Pristina to Prizren are seen as vital, but may prove difficult for government forces to hold against sporadic KLA attacks, should fighting resume.

In the face of the government forces' overwhelming superiority in heavy weaponry, the KLA offered little resistance, although it is far from defeated and should be able to regroup during the late autumn and winter, aided by the planned pull-back of government forces under international supervision.

The KLA's structure, which was never particularly cohesive, has been badly disrupted by the government offensive. This may further encourage the development of strong autonomous groupings that may hinder efforts to impose any centralised control, making future attempts to negotiate with the KLA fraught with complexity. There is little diplomatic pressure that the West can bring to bear on the KLA, which is largely financed by donations from the Albanian diaspora in Western Europe.²

The KLA leadership declared a cease-fire on 8 October, calculating that such a move would be more likely to increase the international pressure on Milosevic and ensure NATO air strikes went ahead.³ In the aftermath of the agreement reached between Holbrooke and Milosevic, reports in mid-October suggested the cease-fire had begun to crumble. In response to the killing of three Serb policemen in a KLA grenade attack on 17 October, government forces carried out attacks on KLA bases in central Kosovo, using tanks and artillery.

Low level conflict, often initiated by the KLA, is likely to continue during the winter. KLA commanders warned that they would resume full military action if Belgrade failed to withdraw forces by the NATO deadline of 27 October, although large-scale operations will be hampered by the worsening weather conditions. Sokol Bashota, a KLA political officer, stated that the aim of any future action would be "to break the morale of the Serb forces" by attacking isolated outposts and larger units "when they are not ready and not expecting us."⁴

² *Scotsman*, 21 October 1998

³ *Guardian*, 9 October 1998

⁴ *International Herald Tribune*, 23 October 1998

B. The Humanitarian Impact of the Fighting

Government forces have been keen to avoid heavy troop casualties and have relied on their superior firepower to pound suspected KLA strongholds, forcing the civilian population to flee. Belgrade maintained that its sole aim was to isolate the KLA "terrorists" from the civilian population and not to target the civilian population itself, although international observers disputed this claim.⁵

While it is true that, with the exception of a series of atrocities committed in late September, civilian casualties have not occurred on the same scale as in Bosnia, the death rate has the potential to increase substantially during the winter months due to the scorched earth policy adopted by government troops. Federal units have systematically razed Kosovar homes to the ground, destroyed food stocks and slaughtered livestock to hinder the return of refugees.

Many Kosovar Albanians were driven from their homes by the fighting and are facing the long winter from November to March without food and shelter, fuelling fears of an impending humanitarian disaster in the province unless aid is swiftly provided. The Office of the UN High Commissioner for Refugees (UNHCR) estimates that 250,000 ethnic Albanians, one quarter of the province's population, have been displaced and around 80,000 have sought refuge in neighbouring countries and other parts of Serbia. UNHCR figures from late August placed the number of refugees camping out in the open at 50,000,⁶ although the Foreign Secretary, Robin Cook, said on 25 October that an estimated 40,000 had returned to settlements in the valleys, following the withdrawal of some government units to barracks.⁷

Tens of thousands of refugees crossed into neighbouring Montenegro and Albania, leading the Montenegrin authorities to close the borders.⁸ The flow into Albania also decreased, following reports in September that the Yugoslav Army was mining the border with both Albania and FYR Macedonia to disrupt attempts to re-supply the KLA.

⁵ "Report of the Secretary-General Prepared Pursuant to Resolutions 1160 (1998) and 1199 (1998) of the Security Council", *S/1998/912*, 3 October 1998

⁶ *ibid*

⁷ *Financial Times*, 26 October 1998

⁸ 20,000 refugees are reported to have fled to Albania and 45,000 to Montenegro. Displaced people now form 12 per cent of the population of Montenegro, one of the two constituent republics of the Federal Republic of Yugoslavia. The relationship between the reformist Montenegrin government and the Serbian and Federal authorities has deteriorated rapidly during 1998, principally due to Montenegro's opposition to the conflict in Kosovo. "Report of the Secretary-General Prepared Pursuant to Resolutions 1160 (1998) and 1199 (1998) of the Security Council", *S/1998/912*, 3 October 1998, p.4

The Serb population in Kosovo has also suffered as a result of the conflict. A report published in early October by the human rights organisation, Human Rights Watch, documents a series of breaches of international humanitarian law by both sides.⁹ It accuses the Serbian special police and the Yugoslav Army of carrying out extra-judicial executions and systematically destroying civilian property. KLA fighters are also reported to have carried out summary executions and taken Serb civilians hostage.

International aid organisations, including the Red Cross and the UNHCR, were able to return to Kosovo in mid-October to carry out relief work. The Foreign Secretary, Robin Cook, announced on 19 October that the UK has pledged £3 million pounds to the international aid effort.¹⁰

⁹ *Humanitarian Law Violations in Kosovo*, Human Rights Watch, October 1998 from HRW web site at www.hrw.org/reports98/kosovo

¹⁰ HC Deb 19 October 1998, c953

II International Reaction

Since the commencement of hostilities in late February 1998 the international community has issued repeated demands for both sides in Kosovo to call a cease-fire and enter negotiations to find a political solution to the conflict. On 31 March the UN Security Council adopted Resolution 1160 condemning the excessive use of force by government forces and imposing a comprehensive embargo on the sale of arms and related materiel of all types to the Federal Republic of Yugoslavia. The Council also condemned "all acts of terrorism" by the KLA.¹¹

In early June, NATO ministers warned President Milosevic that a failure to comply with UN demands would provoke air strikes, but attempts to obtain a mandate for military action from the UN Security Council faltered.

Some concessions were obtained from Belgrade during talks in Moscow in mid-June between Milosevic and the Russian President, Boris Yeltsin, including an agreement on the deployment of an international observer group to the province. The team of around fifty diplomats, known as the Kosovo Diplomatic Observer Mission (KDOM), has played an important role in providing intelligence about developments on the ground, although it has been hampered to a certain degree by its small size.

During late June and early July the situation was complicated by the battlefield successes of the KLA, prompting concern among Western officials that NATO air strikes against FRY forces would only serve to assist the cause of the separatists. The advances made by the KLA also led to splits within the shadow Kosovar administration under Ibrahim Rugova, prompting the US special envoy to declare on 5 July:

The ethnic-Albanian leadership is confronting this crisis of war or peace without any coherence. Right now the Albanian side cannot speak with a single voice.¹²

Some observers have claimed that Western governments refrained from condemning the start of the counter-offensive by FRY forces in July, in the hope that it might force the Kosovars into negotiations. *The Economist* wrote on 8 August that, initially at least, the FRY offensive was "quietly condoned by western governments," on the assumption that "the Albanian side could be brow-beaten into co-operation with western mediation efforts if it was exposed to a taste of Serbia's wrath."¹³

Ethnic Albanian commentators were particularly critical of what they perceived to be a Western green light for Yugoslav aggression. Veton Surroi, the editor of the largest Albanian-language newspaper, *Koha Ditore*, claimed:

¹¹ *S/RES/1160 (1998)*. See Appendix 1 for the full text of the resolution.

¹² *Financial Times*, 6 July 1998

¹³ *Economist*, 8 August 1998

The international community allowed the offensive in a sense. Nobody in the West was terribly unhappy about the offensive against the KLA. It made it easier for Rugova [the president of the shadow Kosovar administration] to put together a different [negotiating] team.¹⁴

As the scale of the FRY offensive became apparent during August, international condemnation of Belgrade increased. On 23 September the UN Security Council adopted a second resolution, Resolution 1199¹⁵ under Chapter VII of the UN Charter, demanding that all parties immediately cease hostilities and maintain a cease-fire in Kosovo. The Security Council demanded that the Federal Republic of Yugoslavia "cease all action by the security forces affecting the civilian population and order the withdrawal of security units used for civilian repression." The Council also demanded Belgrade grant unimpeded access for international monitors and make rapid progress towards finding a political solution to the conflict.

A. NATO Threatens Air Strikes

By late September Western attitudes again appeared to be hardening in favour of military action against Belgrade. On 24 September NATO's North Atlantic Council (NAC) issued an ultimatum to Milosevic warning that air strikes would follow if he failed to stop the violence. The NAC also decided to move to force generation, bringing NATO military planning to a high state of readiness.¹⁶ A number of factors may have influenced the change in mood. Firstly, some observers believe that military action was delayed until after the Bosnian elections of 12-13 September because of fears that air strikes against Belgrade might strengthen the hand of the ultra-nationalist opposition in the Republika Srpska, the mainly Serb-populated component of Bosnia and Hercegovina.¹⁷

Furthermore, the conflict in Kosovo has fuelled tension in Albania between the government and the main opposition group under former President Sali Berisha in the north of the country. The unrest has already precipitated the resignation in late September of the Albanian Prime Minister, Fatos Nano, and the West is anxious to quell the conflict in Kosovo before Albania becomes further involved.

In addition, reports from the KDOM¹⁸ indicated that widespread offensive activity by government units had continued after the adoption of Resolution 1199. In the last week of September FRY security forces carried out offensives in the areas of Licovac, Glogovac and Cicavica. A number of atrocities were uncovered, including the massacre on 26 September of nineteen ethnic Albanian civilians, apparently by Serbian MUP units.

¹⁴ *Guardian*, 19 August 1998

¹⁵ *S/RES/1199 (1998)*. See Appendix 2 for the full text of the resolution

¹⁶ HL Deb 5 October 1998, c68w

¹⁷ In the event, the leader of the ultra-nationalist Bosnian Serb Radical Party, Nikola Poplasen, defeated the Western-backed incumbent, Biljana Plavsic, for the post of President of the Republika Srpska.

¹⁸ The Kosovo Diplomatic Observer Mission, see p.11

KDOM reported that the bodies of several women and children had been found near the village of Gornje Obrinje to the west of Pristina. The victims had been shot in the back of the head at close range as they tried to escape.¹⁹

In an attempt to undermine demands for military action against FRY, the Serbian Prime Minister, Mirko Marjanovic, declared at a special session of parliament on 28 September that the military campaign had been completed and that "peace reigns in Kosovo."²⁰ Fighting reportedly continued for a couple of days, but by early October activity by government forces appeared to have decreased. The UN Security Council recognises that Belgrade has a right to maintain a certain number of troops in the province, but has demanded the units in the province be reduced to pre-conflict levels.²¹

It was reported that several units had returned to barracks, although according to a Canadian member of KDOM, speaking on 10 October:

Despite a Yugoslav Army pull-back there are still Serbian Ministry of Interior police positions throughout Kosovo and there has been no significant reduction.²²

In Resolution 1199 the Security Council requested that the UN Secretary-General, Kofi Annan, keep it regularly informed of the situation and "provide an assessment on whether the Federal Republic of Yugoslavia had complied in a constructive manner."²³

In response, Annan presented a report to the Security Council on 5 October, in which he outlined the situation on the ground in Kosovo, declaring he was "outraged by reports of mass killings of civilians in Kosovo, which recall the atrocities committed in Bosnia and Hercegovina." He warned: "If the present situation persists, thousands could die in the winter" and appealed for the international community "to take urgent steps in order to prevent a humanitarian disaster." However, he concluded:

I do not have the means necessary to provide an independent assessment of compliance as required by the Security Council...Therefore, the Council may wish to make its own judgement in this respect on the basis of the present report.²⁴

On 6 October the Security Council met to discuss the Secretary-General's report, but failed to reach agreement on further action against Belgrade.

¹⁹ *Financial Times*, 30 September 1998

²⁰ *Times*, 29 September 1998

²¹ The Ministry of Defence estimates that prior to the start of the conflict in February 1998 the Yugoslav Army had 12,950 troops in Kosovo, and the MUP police units had 6,030.

²² *Sunday Telegraph*, 11 October 1998

²³ "Report of the Secretary-General Prepared Pursuant to Resolutions 1160 (1998) and 1199 (1998) of the Security Council", *S/1998/912*, 3 October 1998

²⁴ *ibid*, p.3

B. Russian and Chinese Opposition to Air Strikes

Russia has repeatedly voiced opposition to any military action to resolve the crisis and threatened to veto any resolution in the Security Council proposing air strikes. The Russian Foreign Minister, Igor Ivanov, warned on 22 September:

The use of levers of power to resolve the Kosovo conflict might lead to a big war with unpredictable consequences for the Balkan Region and Europe at large.²⁵

A Russian military official stated that in the event of NATO action: "Russia will have the right to develop full-scale military co-operation with the Federal Republic of Yugoslavia."²⁶ Russia's opposition to NATO plans was reinforced by the Defence Minister, Igor Sergeyev, on 5 October when he warned that alliance air strikes could mark "a return to the Cold War" and jeopardise the already much-delayed ratification of the START II arms reduction treaty by the Russian parliament. Some NATO officials feared that the dispute could endanger the alliance's new relationship with Moscow in the NATO-Russia Joint Council, although Russian officials have issued similar threats in the past, notably at the time of NATO air strikes against the Bosnian Serbs in 1995.

The situation in Kosovo has provided an opportunity for the embattled government in Moscow to present itself as standing up to Western diplomatic pressure. Any incentive Moscow might have had for moderating its criticism of Western policy appears to have diminished now that the prospect of additional financial assistance from the IMF has receded.

China also indicated its opposition to military action. The Chinese Foreign Minister, Tang Jiaxuan, said on 12 October:

The Chinese Government resolutely opposes the use of force or the threat to use force in international relations, and hopes that the Kosovo crisis will be resolved peacefully at an early date. Some countries are now threatening to use force against Yugoslavia. This is disturbing.²⁷

In spite of this opposition, NATO made clear it would act militarily to prevent a humanitarian catastrophe without an additional resolution from the UN Security Council, explicitly authorising the use of force. Early on 12 October the new Italian caretaker government and the outgoing German cabinet became the last two NATO countries to approve the use of force.

²⁵ *Financial Times*, 23 September 1998

²⁶ *Scotsman*, 12 October 1998

²⁷ *BBC Summary of World Broadcasts*, 12 October 1998

III The Diplomatic Offensive

In tandem with the NATO threat of military action against the Federal Republic of Yugoslavia, the US special envoy Richard Holbrooke held a series of meetings with President Milosevic, in an effort to thrash out a political settlement for the province. The talks were characterised by Holbrooke as "intense and at times very heated", but ultimately proved successful.²⁸ On the evening of 12 October Holbrooke flew to Brussels to brief NATO leaders on the outcome of the negotiations, in which Milosevic agreed to a number of important concessions.

A. The Agreement

The central part of the agreement reached on 12 October deals with attempts to return a system of self-government to Kosovo. As of 27 October little more than an outline of a political settlement had been established, consisting of a number of basic principles. It is known that Milosevic has accepted a comprehensive timetable for action, leading to OSCE-monitored elections in the province within nine months, although the US has not revealed the precise detail of the agreement.

On 13 October the Yugoslav government released the following 11-point statement, detailing its interpretation of the agreement for the province (known to the Serbs as Kosovo-Metohija, or Kosmet):

1. A political approach and a peaceful solution to the problem in Kosmet [Kosovo-Metohija] achieved through dialogue is the only acceptable way of reaching a lasting, just and humane solution to all open issues.
2. Violence and terrorism, as unacceptable methods, are in violation of all international norms and must cease immediately.
3. Any solution to Kosmet has to respect the territorial integrity and sovereignty and the internationally recognized borders of the FRY, in line with the basic principles of the UN Charter, the Helsinki final document and the Paris OSCE charter.
4. The solution has to be based on full respect for the equality of all the citizens and ethnic communities in Kosmet. Full affirmation and equal treatment of all ethnic, religious and cultural values as historical heritage will be guaranteed.
5. The future of Kosmet lies in peace, equality, integration, economic prosperity and free coexistence, and not in ethnic, religious, cultural, or any other divisions and isolation.
6. The legal arrangements for the establishment of autonomy in Kosmet have to be in accordance with the legal systems of the Republic of Serbia and the FRY, as well as in accordance with international standards and the Helsinki final document.

²⁸ *The Today Programme*, Radio 4, 12 October 1998

7. The citizens of Kosmet will practise their democratic autonomy through assembly, executive and judiciary bodies in Kosmet. Within nine months, free and fair elections will be held for the Kosmet bodies, including municipal ones. The FRY Government has invited the OSCE to supervise these elections so as to ensure that they are open and fair.
8. The members of ethnic communities will enjoy additional rights so as to enable them to preserve and express their ethnic, cultural, religious and linguistic identity in line with international standards and the Helsinki final document. The ethnic communities will be equal in the legal sense, and they will not use their additional rights to threaten the rights of other ethnic communities or other civic rights.
9. In the context of a political solution for Kosmet, which will lead to the transfer of numerous responsibilities to the municipal level, local police will be established under local municipal control. This local police force, the structure of which will reflect the composition of the local population, will be coordinated by administrative bodies in Kosmet. This solution has to ensure full protection for all citizens and ethnic communities.
10. No person will be criminally prosecuted by state courts for crimes committed during the conflict in Kosmet, except for crimes against humanity and international rights as envisaged by Chapter 17 of the Federal Criminal Law. In order to ensure full transparency, the state will allow complete and unobstructed access to foreign experts, including forensic experts, who will cooperate with the state investigators.
11. The relevant bodies will reconsider verdicts passed on members of ethnic minorities in Kosmet convicted of criminal acts motivated by political goals, with the aim of an extraordinary easing of verdicts.²⁹

Both Milosevic and the Serbian Government declared their full endorsement of the agreement, which "fully preserves the territorial integrity and sovereignty" of Serbia, and "avoids conflict and creates conditions for a political dialogue...within the framework of the legal systems of the Republic of Serbia and the FRY."³⁰

Under the agreement Belgrade has agreed to reduce its forces in Kosovo to pre-conflict levels, which will involve a significant reduction from the levels at the end of September. President Milosevic has also consented to over-flights by NATO reconnaissance planes and to the establishment of a two thousand-strong verification force under the auspices of the OSCE. Any attempt to place the force under NATO command would have provoked strong opposition from Moscow and Belgrade, and a UN-run operation was unlikely following the experience with UNPROFOR in Bosnia. The involvement of Russian observers as part of the OSCE force is seen as vital to reassure the Serbs that the verification mission will be conducted in an unbiased manner.

²⁹ *Summary of World Broadcasts*, 13 October 1998

³⁰ *Yugoslav Daily Survey*, 13 October 1998

1. The Political Settlement

Attempts to deliver a political settlement will draw heavily on a paper prepared by the Contact Group at a series of meetings chaired by the United Kingdom. The paper has been subsequently amended, following consultation with both the FRY government and the ethnic Albanian leadership in Pristina and a further period of intensive negotiations is expected in an attempt to resolve outstanding issues.

On the question of Kosovo's future status, the paper apparently proposes re-establishing autonomy for Kosovo within the framework of Serbian sovereignty, giving the province its own autonomous government and police. The international community remains strongly opposed to independence and favours autonomy either within Serbia or as a constituent republic of the Federal Republic of Yugoslavia. However, the Kosovar leadership will undoubtedly insist on strong international guarantees to prevent a repetition of the events of 1989 when Serbia was able to revoke unilaterally the province's autonomy.

The timetable drawn up by Holbrooke calls for completion of the core elements of the political settlement by 2 November, followed by agreement on the rules and procedures for elections in the province by 9 November. The parliamentary and executive elections themselves are to be held within nine months and will be monitored by the OSCE to ensure they are free and fair.

A new police force to replace the existing all-Serb force is to be established under the control of the provincial government with a composition that reflects fairly the ethnic balance of the province. Furthermore, members of the Kosovo population convicted of criminal offences motivated by political aims will have their sentences reviewed.

To reassure the native Serb population of Kosovo, members of ethnic minorities will be granted additional rights to safeguard their national cultural, religious and linguistic identities.

2. The Verification Agreements

Two separate verification agreements have been signed with Belgrade to ensure its compliance. On 15 October the NATO Secretary General, Javier Solana, and the NATO Supreme Commander in Europe (SACEUR), General Wesley Clark, flew to Belgrade to sign the agreement authorising unarmed flights over Kosovo by alliance aircraft to verify the cease-fire and the withdrawal of government troops. Under the agreement, given the NATO code name "Eagle Eye", FRY forces are compelled to turn off all relevant radar systems while the verification flights are in progress.

Russia initially indicated a willingness to contribute aircraft to assist in enforcing the plan, but warned on 21 October that it would only take part once NATO has revoked its activation order authorising military action.³¹

On 17 October the OSCE Chairman-in-Office, Polish Foreign Minister Bronislaw Geremek, signed a separate agreement in Belgrade to establish the OSCE verification force, consisting of two thousand inspectors. Under the terms of the agreement, the UN Security Council must pass a resolution calling on the OSCE to establish the mission. The initial term is for one year, although extensions can be granted at the request of either the head of the OSCE or the FRY government. The members of the OSCE mission will have full freedom of movement and access throughout Kosovo and enjoy diplomatic immunity. Belgrade has agreed to guarantee the safety and security of the monitors and, in the event of a threat to their safety, will permit and co-operate with any evacuation. Communication and liaison with the OSCE mission will apparently be supplied by a NATO cell operating in FYR Macedonia.

Once it is operational, the OSCE force will absorb the existing fifty-strong Kosovo Diplomatic Observer Mission, although, in the meantime, KDOM observers will remain active. According to the Foreign Office, KDOM members returned to Kosovo in mid-October to monitor the situation as the first OSCE verifiers began to arrive. The UK is contributing an initial group of around one hundred and fifty monitors with a possible further fifty, taking the total to two hundred.³²

The specific terms of reference for the mission are to verify the maintenance of the cease-fire by all sides and to investigate cease-fire violations. The mission is tasked with looking for and reporting on "roadblocks and other emplacements",³³ which may hinder the return of refugees. The head of the OSCE mission has the power to request the removal of any roadblock. Other ground rules for the monitors have yet to be established.

The UN has also dispatched a small team of observers to act as the "eyes and ears" of the Secretary-General, Kofi Annan.³⁴ The twenty-strong team arrived in the province on 20 October.

³¹ *International Herald Tribune*, 23 October 1998

³² HC Deb 19 October 1998, c954

³³ "Agreement on the OSCE Kosovo Verification Mission", 16 October 1998

³⁴ *Scotsman*, 21 October 1998

3. The International War Crimes Tribunal

The International War Crimes Tribunal for the Former Yugoslavia was established in May 1993 to investigate and prosecute war crimes committed on the territory of the former Yugoslavia from 1991. The Tribunal has publicly indicted approximately eighty individuals for crimes committed in Bosnia and Croatia and issued sealed indictments for several others.

According to the Statute of the Tribunal, any violations that occur in Kosovo during the conflict fall within the jurisdiction of the Tribunal, a fact that was explicitly stated by the Tribunal prosecutor's office in a press release on 10 March 1998. According to the press release, the Tribunal "is empowered to prosecute persons responsible for serious violations of international humanitarian law committed in the territory of the former Yugoslavia since 1991. This jurisdiction is ongoing and covers the recent violence in Kosovo."³⁵

This was further reaffirmed on 7 July by a letter from the chief prosecutor of the Tribunal, Justice Louise Arbour, to the Contact Group.

In Resolution 1199, which forms the basis of the Holbrooke agreement, the UN Security Council called upon the FRY authorities to comply fully with the Tribunal, although the first team of international forensic experts, due to arrive in Kosovo during September, were denied visas by the FRY authorities.

However, as part of the deal with Holbrooke the Yugoslav president stated that he would grant access to the teams, but would not recognise the jurisdiction of the Tribunal. Western diplomats therefore believe that Milosevic will permit the forensic teams to carry out their investigations, but that he may decide not to comply with any extradition requests that may emerge if indictments are issued.³⁶ This would be in defiance of the UN since under Security Council Resolution 827, which established the Tribunal, the Council decided that "all States shall cooperate fully with the International Tribunal and its organs."³⁷

A four-member advance team left for Kosovo on 23 October and Belgrade has agreed to grant full freedom of movement and access.³⁸

³⁵ *Humanitarian Law Violations in Kosovo*, Human Rights Watch, October 1998

³⁶ *Financial Times*, 22 October 1998

³⁷ *S/RES/827 (1993)*

³⁸ *Financial Times*, 22 October 1998

B. Reaction to the Plan

The reaction to the plan agreed by Holbrooke and Milosevic has been generally positive, although a number of questions remain. Western leaders are aware that Milosevic might renege on the agreement or at least use stalling tactics to delay seriously its implementation, hoping that NATO's resolve to launch military action will ebb away. At a press conference early on 13 October President Clinton warned Milosevic that the West would remain vigilant to ensure the commitments are carried out: "Commitments are not compliance. Balkan graveyards are filled with President Milosevic's broken promises."³⁹

As a result, NATO sought to maintain the pressure on Belgrade to comply by announcing late on 12 October that the NAC had agreed to issue the "activation order" for military action, transferring authority for alliance forces to General Wesley Clark, the Supreme Allied Commander Europe.

Execution of the order, covering both limited air strikes and a phased air campaign, was initially delayed until 17 October to provide President Milosevic with time to demonstrate compliance with the agreement. Due to the complexity of the situation in the province, NATO subsequently agreed on 17 October to extend the activation order for an additional ten days to 27 October, although the decision was accompanied by criticism at the slow pace of withdrawal of government forces from the province.

This message was reinforced by General Clark, who told President Milosevic during talks in Belgrade that further withdrawals would be necessary to avoid alliance air strikes. By 21 October an estimated 7,500 police and soldiers had been withdrawn from Kosovo, but NATO insisted that an additional 4,500 troops must also leave.⁴⁰ Milosevic initially refused, claiming that recent attacks by the KLA made further withdrawals impossible, but it was announced on 26 October that agreement had been reached on the levels to which FRY forces must be reduced.

According to Ministry of Defence estimates on 26 October the Yugoslav Army has been reduced to below pre-conflict levels of around 12,950 to the current figure of around 12,000. With regard to the MUP special police units, Ministry of Defence estimates place the pre-conflict levels at around 6,030, whereas the current figures are believed to be between 9,500 and 10,000.⁴¹

Reports on 26 October indicated that further withdrawals were taking place ahead of the NATO deadline, although it appears that most of the troops involved were merely withdrawing to barracks within the province, which would enable them to re-deploy again at short notice. As of 27 October Milosevic seemed to have done enough to avert the

³⁹ *Guardian*, 13 October 1998

⁴⁰ *Times*, 22 October 1998

⁴¹ Latest estimates from Her Majesty's Government

immediate threat of air strikes and NATO officials were meeting in Brussels to discuss the situation. Western leaders are aware that NATO forces cannot be maintained indefinitely at a very high state of readiness and are seeking ways of maintaining the pressure on Belgrade in the coming months.

On 24 October the UN Security Council adopted Resolution 1203, endorsing the agreements signed by the FRY government with the OSCE and NATO.⁴² The vote in the Council on the resolution went through 12-0. Russia and China abstained, despite the fact that all references to military action by NATO had been removed. In the resolution, the Security Council demanded that the Federal Republic of Yugoslavia "comply fully and swiftly with resolutions 1160 (1998) and 1199 (1998) and cooperate fully with the OSCE verification Mission in Kosovo and the NATO Air Verification Mission over Kosovo."⁴³ It demanded that the Kosovo Albanian leadership do likewise, and insisted that they also "condemn all terrorist actions" and "pursue their goals by peaceful means only."

In addition, the Security Council affirmed "that, in the event of an emergency, action may be needed to ensure [the] safety and freedom of movement" of the OSCE mission, although it did not specify exactly what form that action might take.

1. Reaction from Belgrade

By appearing on television to endorse the Holbrooke agreement, Milosevic has committed himself publicly to its success. At the same time though, he has sought to downplay the extent to which he has compromised on his earlier opposition to any international involvement in Kosovo's affairs. The Yugoslav government has imposed strict controls on the media, banning local newspaper, radio and television reports on the scale of government troop withdrawals.

Indeed, some observers anticipated problems for Milosevic in selling the deal to the population at large and in winning the support of key political figures, such as the Serbian Deputy Prime Minister and leader of the ultra-nationalist Serb Radical Party, Vojislav Seselj. Western diplomats were concerned that Seselj might decide to denounce the Yugoslav President for betraying Serb interests, but in the event he joined Milosevic in endorsing the deal.

⁴² *S/RES/1203 (1998)*. See Appendix 3 for full text of the resolution.

⁴³ *ibid*

2. Ethnic-Albanian Reaction

Some observers remain convinced that the agreement will fail to halt the conflict as neither side is in favour of autonomy as a solution.⁴⁴ Albanian commentators have criticised Holbrooke for imposing a deal without consulting the KLA. Veton Surroi of the Albanian-language newspaper, *Koha Ditore*, said on 20 October:

Nobody went to them [the KLA] and said: "This is the deal. Now will you settle down"...The KLA has not been included in this process so the Serbs can rightfully say that if they withdraw, the KLA will come down from the hills into the towns. Of course they will.⁴⁵

Prominent KLA members have also denounced the agreement for failing to offer anything more than a return to autonomy. They insist that the KLA cease-fire of 8 October remains in force, although a number of attacks by guerrillas in mid-October indicate it may be on the verge of collapse. KLA commanders have warned that full-scale attacks on FRY forces will resume if Belgrade fails to withdraw its forces by the NATO deadline of 27 October.

Nonetheless, the KLA's position appears to have become more flexible, following the heavy defeat by government forces during the summer. An insistence on independence has been replaced by demands for the Yugoslav government to fix a date for the Kosovo population to achieve "self-determination" by means of a referendum, although this is still strongly opposed by Belgrade.

There are also doubts over the ability of the 54-member OSCE to carry out its mission. The organisation has deployed monitors to oversee elections across Europe, but has little experience in monitoring conflict situations. If Milosevic does not demonstrate compliance with the demands of the UN Security Council, then the danger is that the members of the OSCE verification force could be used as "human shields" against NATO air strikes, as occurred in Bosnia. The unarmed status of the observers will make them dependent on NATO forces should their position come under threat and the head of the OSCE, Bronislav Geremek, has called for a NATO force to be made available on call to provide protection.⁴⁶

The Foreign Office announced on 12 October that it was closing the British Embassy in Belgrade and withdrawing staff "as a precautionary measure." There are fears that NATO military action might lead to retaliatory measures by Serbs against Westerners in both Yugoslavia and Bosnia. During the NATO air campaign in Bosnia during 1995, the Bosnian Serbs took several hundred UN peacekeepers hostage and used them as "human shields" around high-risk targets.

⁴⁴ For example, Isabel Hilton in *The Guardian*, 16 October 1998

⁴⁵ *Daily Telegraph*, 21 October 1998

⁴⁶ *Times*, 16 October 1998

C. The Position of the United Kingdom

The British Government has welcomed the Holbrooke agreement, although the Foreign Secretary, Robin Cook, has acknowledged that the agreement is far from perfect. In a statement to the House of Commons on 19 October he said:

International agreements rarely are perfect. There is, however, nothing to be gained by wasting our time wishing we had a different agreement. The reasonable approach must be for us to do everything we can to make this agreement work. It will take great effort by the international community to deliver on its contribution, and it will take heavy pressure on President Milosevic to ensure that he sticks to his side of the bargain.

Britain played a leading part within the international community in putting the pressure on President Milosevic that made these agreements possible. Britain is now demonstrating that we are among the first nations to make a practical contribution towards making a success of the agreements. We will not let up on our efforts until President Milosevic carries out his commitment to withdraw forces, and until the people of Kosovo can return to their homes without fear, can rebuild their villages in peace, and can start to construct a self-governing Kosovo without repression from Belgrade.⁴⁷

He also insisted that the agreement had only been made possible by the threat of military force by NATO:

There can be no Member of the House who imagines that President Milosevic would have made such a commitment if the diplomatic efforts backed by the contact group had not also been backed by the credible threat of military action by NATO.⁴⁸

The Shadow Foreign Secretary, Michael Howard, welcomed what he called the "modestly encouraging news" announced by Robin Cook, but criticised the government for failing to take action earlier in the year:

Does he [the Foreign Secretary] not acknowledge that, if action had been taken along these lines in March or April, as I then urged, hundreds of lives would have been saved, hundreds of thousands of people would still be living in their homes and enormous suffering and anguish would have been prevented?...

The agreement that has been reached is to be welcomed, but on the basis of "better late than never". We must all hope that it works, but it is certainly no cause for self-congratulation.⁴⁹

⁴⁷ HC Deb 19 October 1998, c955

⁴⁸ HC Deb 19 October 1998, c953

⁴⁹ HC Deb 19 October 1998, c955-956

The Foreign Affairs spokesman for the Liberal Democrats, Menzies Campbell, stated his party's support for the agreement, and asked for confirmation that the Government would press for full co-operation with the International War Crimes Tribunal in The Hague. He also voiced concern over the unarmed status of the monitors, fearing that, in the event of NATO air strikes, they may be subjected to "the same kind of intimidation as was found by the representatives of UNPROFOR during the Bosnia conflict."⁵⁰

⁵⁰ HC Deb 19 October 1998, c957

IV The Military Option

A. The Legal Basis for the Use of Force

Opinions differ over the possible legal basis for the use of force by NATO. Security Council Resolution 1199 of 23 September was adopted under Chapter VII of the UN Charter, which covers "Action with Respect to Threats to the Peace, Breaches of the Peace, and Acts of Aggression." According to Article 39 of the Charter:

The Security Council shall determine the existence of any threat to the peace, breach of the peace or act of aggression and shall make recommendations, or decide what measures shall be taken in accordance with Articles 41 and 42, to maintain or restore international peace and security.

Article 41 states that the Council "may decide what measures not involving the use of armed force are to be employed to give effect to its decisions," such as the imposition of economic sanctions. If, however, the Council considers that these measures "would be inadequate or have proved to be inadequate," Article 42 stipulates that "it may take such action by air, sea, or land forces as may be necessary to maintain or restore international peace and security."⁵¹ However, it has usually been considered necessary for the Security Council to adopt a resolution explicitly authorising such action.

Paragraph 16 of Resolution 1199 states that the Security Council:

16. Decides, should the concrete measures demanded in this resolution and resolution 1160 (1998) not be taken, to consider further action and additional measures to maintain or restore peace and stability in the region;⁵²

Critics argue that Resolution 1199 does not constitute sufficient legal basis, believing that the Security Council has to adopt an unambiguous resolution authorising the use of "all necessary means". Such a resolution has not been forthcoming due to objections from two of the five permanent members of the Security Council, Russia and China. Furthermore, both Moscow and Beijing have warned NATO that taking military action without a further resolution would amount to circumventing the Security Council. The Chinese Foreign Minister, Tang Jiaxuan, said on 9 October:

Military action against Yugoslavia will not only violate the UN Charter and other universally acknowledged norms of international law, but will also do nothing to help resolve the issue; it may even give rise to serious consequences.⁵³

⁵¹ Chapter VII, *Charter of the United Nations*

⁵² *S/RES/1199 (1998)*

⁵³ *BBC Summary of World Broadcasts*, 12 October 1998

On the other hand, the NATO Secretary-General, Javier Solana, questioned whether UN authorisation is needed at all for what he believes is an essentially humanitarian operation:

There may be a moment in which it is necessary to act for humanitarian reasons, when a UN Security Council resolution will not be necessary or will not be even appropriate because the UN charter does not contemplate humanitarian acts.⁵⁴

The British government has supported the view that military action would be justified to prevent a humanitarian disaster in the province. On 11 October the Foreign Secretary Robin Cook outlined the principal objective for Western policy:

Our concern is to make sure that Belgrade complies with the demands of the United Nations and now of the Contact Group. Our immediate concern, as I have said, is to make sure that we avert a humanitarian catastrophe of people being left on the hillside as the snows come in. That has to be our main concern.⁵⁵

The question of the legality of the use of force for humanitarian purposes is the subject of considerable debate in international law and remains essentially unresolved. Such actions appear to contravene the principle of the inviolability of national sovereignty, underpinning the UN Charter, but humanitarian grounds have been cited increasingly in recent years and seem coherent with the protection of basic rights and freedoms, as enshrined in the Universal Declaration of Human Rights and other international human rights instruments.⁵⁶

Nonetheless, Western officials accept that additional justification may be necessary in the future if the humanitarian situation in the province improves. Therefore, NATO governments were keen to obtain a fresh resolution from the Security Council that endorses the Holbrooke agreement and threatens NATO action should Belgrade fail to comply.

However, continued opposition to NATO air strikes from Moscow and Beijing has prevented a more strongly worded resolution from being passed. Security Council Resolution 1203, adopted by the Security Council on 24 October, makes no reference to military action by NATO, although it does refer to the need to ensure the safety of the OSCE mission in the province. In paragraph 9 of the resolution the Council "affirms that, in the event of an emergency, action may be needed to ensure [the] safety and freedom of movement [of the members of the OSCE mission]..."⁵⁷

⁵⁴ *Financial Times*, 9 October 1998

⁵⁵ *Interview by the Foreign Secretary, Robin Cook*, GMTV, 11 October 1998, from FCO web site at www.fco.co.uk

⁵⁶ These basic rights include the right to life, liberty and security and the right to shelter.

⁵⁷ *S/RES/1203 (1998)*

Furthermore, NATO aircraft carrying out missions over Kosovo under the terms of the Air Verification Mission would enjoy the rights of self-defence under customary international law. It is possible to see action, which might be claimed as self-defence, occurring in response to actions contrary of the air verification agreement such as the lighting-up of FRY air-defence radar systems. Such incidents have occurred relatively frequently in the air-exclusion zone over southern Iraq and have provoked a swift reaction from Allied aircraft patrolling the zone.

B. The Balance of Forces

On 4 October the UK announced the deployment of an additional four RAF Harrier GR-7 ground-attack aircraft to the airbase of Gioia del Colle in Italy, bringing the total to eight. In addition, the RAF has provided two Tri-star tankers and two E-3 AWACS early warning aircraft, and has a number of Tornado strike aircraft that can be deployed at short notice from bases in Germany and the UK. The only NATO members not to contribute forces are Luxembourg and Iceland, which have no combat aircraft, and Greece, which has approved the use of its airbases and airspace.⁵⁸ The Netherlands and Norway have F-16s deployed at Aviano airbase in Italy and the outgoing German Chancellor, Helmut Kohl, announced on 30 September that Germany would provide 14 Tornado strike aircraft. The German cabinet has approved the NATO activation order, but parliamentary approval is required prior to any German forces being sent into combat. The incoming Chancellor, Gerhard Schröder, has pledged to maintain continuity in foreign policy, although his likely coalition partners, the Greens, have said that explicit UN authorisation is required before military action can be taken. The prospective foreign minister in the Schröder government, Joschka Fischer, is a member of the Green Party.

By early October the American Sixth Fleet had eight Tomahawk cruise missile platforms on station in the Adriatic; four submarines (USS *Narwhal*, USS *Atlanta*, USS *Newport News* and USS *San Juan*) and four surface ships (USS *Anzio*, USS *Arleigh Burke*, USS *Mitscher* and USS *Deyo*). In terms of combat aircraft, the carrier USS *Dwight D Eisenhower* deploys approximately 12 F-14 Tomcat fighters and 36 F/A-18 Hornet ground-attack aircraft. At Aviano, the US Air Force has several squadrons of F-16C/Ds, which can be supplemented at short notice by F-15Es and US Marine Corps F/A-18Ds. On 11 October six US B-52H cruise missile-capable bombers arrived at RAF Fairford, and there are reports that the US intends to deploy two B-2 "Stealth" bombers from their base in Missouri.

⁵⁸ *Times*, 12 October 1998

C. Possible Targets for an Air Campaign

In the event of military action being authorised, it is likely to take the form of a phased programme of air strikes against military targets both in Kosovo itself and elsewhere in the Federal Republic of Yugoslavia. The Foreign Secretary, Robin Cook, warned on 8 October that NATO was prepared to launch a series of air strikes and would not stop at "a rap over the knuckles".⁵⁹

The initial phase would probably consist of small-scale strikes delivered by cruise missiles from US warships in the Adriatic. If Belgrade should still refuse to comply with NATO demands, a more comprehensive series of attacks would begin. The aim would be to disrupt the Yugoslav air-defence system to permit alliance aircraft to operate with relative impunity. Radar installations, surface-to-air missile sites and air bases would all be targeted.

The offensive could then be stepped up to encompass targets in and around Kosovo, such as Yugoslav Army barracks and units in the field. A number of commentators believe that the British SAS and American Special Forces have been operating on the ground in Kosovo for some weeks.⁶⁰ In common with operations during the Bosnian conflict, these forces may be tasked with assisting NATO aircraft in target acquisition and target marking for laser-guided weaponry.

Most analysts believe that FRY forces would be rapidly overwhelmed by any NATO air campaign, although they are certainly capable of destroying a number of alliance planes, as witnessed by the shooting down of two US F-16s with Soviet-built SA-6 surface-to-air missiles, during NATO air strikes on Bosnian Serb targets in 1995.

D. Future Developments

NATO leaders insist that an effective response to crises such as the conflict in Kosovo is vital to ensure the alliance's continued relevance in the future. NATO planes will play an important role in monitoring the situation in Kosovo through the air-verification programme, and NATO ground forces may be required to provide support for the OSCE verification mission.

Some Western officials have mooted the idea of establishing a NATO rapid reaction force in the region that could be sent in should the situation require an evacuation of the OSCE monitors, although as of 27 October no formal NATO announcement had been made. However, the US Department of Defense spokesman, Kenneth Bacon, has indicated that NATO's Rapid Reaction Corps based in Germany "could well be the father" of such a force, or a separate force may be established. The force may be based in Albania, FYR Macedonia or in the Aegean or Mediterranean. Bacon also said that US participation in such a force is "likely", or although, in deference to opposition in Congress, US officials maintain that any deployment to the province to police a final political settlement should consist of European and not US troops.⁶¹

⁵⁹ *BBC Ceefax*, 9 October 1998

⁶⁰ See for example *Daily Mail*, 7 October 1998, and *Sunday Times*, 4 October 1998

⁶¹ *Jane's Defence Weekly*, 21 October 1998

Appendix 1

United Nations

31 March 1998

Resolution 1160 (1998)

Adopted by the Security Council at its 3868th meeting,
on 31 March 1998

The Security Council

Noting with appreciation the statements of the Foreign Ministers of France, Germany, Italy, the Russian Federation, the United Kingdom of Great Britain and Northern Ireland and the United States of America (the Contact Group) of 9 and 25 March 1998 (S/1998/223 and S/1998/272), including the proposal on a comprehensive arms embargo on the Federal Republic of Yugoslavia, including Kosovo,

Welcoming the decision of the Special Session of the Permanent Council of the Organisation for Security and Co-operation in Europe (OSCE) of 11 March 1998 (S/1998/246),

Condemning the use of excessive force by Serbian police forces against civilians and peaceful demonstrators in Kosovo, as well as all acts of terrorism by the Kosovo Liberation Army or any other group or individual and all external support for terrorist activity in Kosovo, including finance, arms and training,

Noting the declaration of 18 March 1998 by the President of the Republic of Serbia on the political process in Kosovo and Metohija (S/1998/250),

Noting also the clear commitment of senior representatives of the Kosovar Albanian community to non-violence,

Noting that there has been some progress in implementing the actions indicated in the Contact Group statement of 9 March 1998, but stressing that further progress is required,

Affirming the commitment of all Member States to the sovereignty and territorial integrity of the Federal Republic of Yugoslavia,

Acting under Chapter VII of the Charter of the United Nations,

1. Calls upon the Federal Republic of Yugoslavia immediately to take the further necessary steps to achieve a political solution to the issue of Kosovo through dialogue and to implement the actions indicated in the Contact Group statements of 9 and 25 March 1998;

2. Calls also upon the Kosovar Albanian leadership to condemn all terrorist action, and emphasises that all elements in the Kosovar Albanian community should pursue their goals by peaceful means only;
3. Underlines that the way to defeat violence and terrorism in Kosovo is for the authorities in Belgrade to offer the Kosovar Albanian community a genuine political process;
4. Calls upon the authorities in Belgrade and the leadership of the Kosovar Albanian community urgently to enter without preconditions into a meaningful dialogue on political status issues, and notes the readiness of the Contact Group to facilitate such a dialogue;
5. Agrees, without prejudging the outcome of that dialogue, with the proposal in the Contact Group statements of 9 and 25 March 1998 that the principles for a solution of the Kosovo problem should be based on the territorial integrity of the Federal Republic of Yugoslavia and should be in accordance with OSCE standards, including those set out in the Helsinki Final Act of the Conference on Security and Co-operation in Europe of 1975, and the Charter of the United Nations, and that such a solution must also take into account the rights of the Kosovar Albanians and all who live in Kosovo, and expresses its support for an enhanced status for Kosovo which would include a substantially greater degree of autonomy and meaningful self-administration;
6. Welcomes the signature on 23 March 1998 of an agreement on measures to implement the 1996 Education Agreement, calls upon all parties to ensure that its implementation proceeds smoothly and without delay according to the agreed timetable and expresses its readiness to consider measures if either party blocks implementation;
7. Expresses its support for the efforts of the OSCE for a peaceful resolution of the crisis in Kosovo, including through the Personal Representative of the Chairman-in-Office for the Federal Republic of Yugoslavia, who is also the Special Representative of the European Union, and the return of the OSCE long-term missions;
8. Decides that all States shall, for the purposes of fostering peace and stability in Kosovo, prevent the sale or supply to the Federal Republic of Yugoslavia, including Kosovo, by their nationals or from their territories or using their flag vessels and aircraft, of arms and related materiel of all types, such as weapons and ammunition, military vehicles and equipment and spare parts for the aforementioned, and shall prevent arming and training for terrorist activities there;
9. Decides to establish, in accordance with rule 28 of its provisional rules of procedure, a committee of the Security Council, consisting of all the members of the Council, to undertake the following tasks and to report on its work to the Council with its observations and recommendations:

(a) to seek from all States information regarding the action taken by them concerning the effective implementation of the prohibitions imposed by this resolution;

(b) to consider any information brought to its attention by any State concerning violations of the prohibitions imposed by this resolution and to recommend appropriate measures in response thereto;

(c) to make periodic reports to the Security Council on information submitted to it regarding alleged violations of the prohibitions imposed by this resolution;

(d) to promulgate such guidelines as may be necessary to facilitate the implementation of the prohibitions imposed by this resolution;

(e) to examine the reports submitted pursuant to paragraph 12 below;

10. Calls upon all States and all international and regional organisations to act strictly in conformity with this resolution, notwithstanding the existence of any rights granted or obligations conferred or imposed by any international agreement or of any contract entered into or any license or permit granted prior to the entry into force of the prohibitions imposed by this resolution, and stresses in this context the importance of continuing implementation of the Agreement on Sub-regional Arms Control signed in Florence on 14 June 1996;

11. Requests the Secretary-General to provide all necessary assistance to the committee established by paragraph 9 above and to make the necessary arrangements in the Secretariat for this purpose;

12. Requests States to report to the committee established by paragraph 9 above within 30 days of adoption of this resolution on the steps they have taken to give effect to the prohibitions imposed by this resolution;

13. Invites the OSCE to keep the Secretary-General informed on the situation in Kosovo and on measures taken by that organisation in this regard;

14. Requests the Secretary-General to keep the Council regularly informed and to report on the situation in Kosovo and the implementation of this resolution no later than 30 days following the adoption of this resolution and every 30 days thereafter;

15. Further requests that the Secretary-General, in consultation with appropriate regional organisations, include in his first report recommendations for the establishment of a comprehensive regime to monitor the implementation of the prohibitions imposed by this resolution, and calls upon all States, in particular neighbouring States, to extend full co-operation in this regard;

16. Decides to review the situation on the basis of the reports of the Secretary-General, which will take into account the assessments of, inter alia, the Contact Group, the OSCE and the European Union, and decides also to reconsider the prohibitions imposed by this resolution, including action to terminate them, following receipt of the assessment of the Secretary-General that the Government of the Federal Republic of Yugoslavia, co-operating in a constructive manner with the Contact Group, have:

(a) begun a substantive dialogue in accordance with paragraph 4 above, including the participation of an outside representative or representatives, unless any failure to do so is not because of the position of the Federal Republic of Yugoslavia or Serbian authorities;

(b) withdrawn the special police units and ceased action by the security forces affecting the civilian population;

(c) allowed access to Kosovo by humanitarian organisations as well as representatives of Contact Group and other embassies;

(d) accepted a mission by the Personal Representative of the OSCE Chairman-in-Office for the Federal Republic of Yugoslavia that would include a new and specific mandate for addressing the problems in Kosovo, as well as the return of the OSCE long-term missions;

(e) facilitated a mission to Kosovo by the United Nations High Commissioner for Human Rights;

17. Urges the Office of the Prosecutor of the International Tribunal established pursuant to resolution 827 (1993) of 25 May 1993 to begin gathering information related to the violence in Kosovo that may fall within its jurisdiction, and notes that the authorities of the Federal Republic of Yugoslavia have an obligation to co-operate with the Tribunal and that the Contact Group countries will make available to the Tribunal substantiated relevant information in their possession;

18. Affirms that concrete progress to resolve the serious political and human rights issues in Kosovo will improve the international position of the Federal Republic of Yugoslavia and prospects for normalisation of its international relationships and full participation in international institutions;

19. Emphasises that failure to make constructive progress towards the peaceful resolution of the situation in Kosovo will lead to the consideration of additional measures;

20. Decides to remain seized of the matter.

Appendix 2

United Nations

23 September 1998

Resolution 1199 (1998)

Adopted by the Security Council at its 3930th meeting on 23 September 1998

The Security Council,

Recalling its resolution 1160 (1998) of 31 March 1998,

Having considered the reports of the Secretary-General pursuant to that resolution, and in particular his report of 4 September 1998 (S/1 998/834 and Add.1),

Noting with appreciation the statement of the Foreign Ministers of France, Germany, Italy, the Russian Federation, the United Kingdom of Great Britain and Northern Ireland and the United States of America (the Contact Group) of 12 June 1998 at the conclusion of the Contact Group's meeting with the Foreign Ministers of Canada and Japan (S/ 1 998/567, annex), and the further statement of the Contact Group made in Bonn on 8 July 1998 (S/1998/657),

Noting also with appreciation the joint statement by the Presidents of the Russian Federation and the Federal Republic of Yugoslavia of 16 June 1998 (S/1998/526),

Noting further the communication by the Prosecutor of the International Tribunal for the Former Yugoslavia to the Contact Group on 7 July 1998, expressing the view that the situation in Kosovo represents an armed conflict within the terms of the mandate of the Tribunal,

Gravely concerned at the recent intense fighting in Kosovo and in particular the excessive and indiscriminate use of force by Serbian security forces and the Yugoslav Army which have resulted in numerous civilian casualties and, according to the estimate of the Secretary-General, the displacement of over 230,000 persons from their homes,

Deeply concerned by the flow of refugees into northern Albania, Bosnia and Herzegovina and other European countries as a result of the use of force in Kosovo, as well as by the increasing numbers of displaced persons within Kosovo, and other parts of the Federal Republic of Yugoslavia, up to 50,000 of whom the United Nations High Commissioner for Refugees has estimated are without shelter and other basic necessities,

Reaffirming the right of all refugees and displaced persons to return to their homes in safety, and underlining the responsibility of the Federal Republic of Yugoslavia for creating the conditions which allow them to do so,

Condemning all acts of violence by any party, as well as terrorism in pursuit of political goals by any group or individual, and all external support for such activities in Kosovo, including the supply of arms and training for terrorist activities in Kosovo and expressing concern at the reports of continuing violations of the prohibitions imposed by resolution 1160 (1998),

Deeply concerned by the rapid deterioration in the humanitarian situation throughout Kosovo, alarmed at the impending humanitarian catastrophe as described in the report of the Secretary-General, and emphasising the need to prevent this from happening,

Deeply concerned also by reports of increasing violations of human rights and of international humanitarian law, and emphasising the need to ensure that the rights of all inhabitants of Kosovo are respected,

Reaffirming the objectives of resolution 1160 (1998), in which the Council expressed support for a peaceful resolution of the Kosovo problem which would include an enhanced status for Kosovo, a substantially greater degree of autonomy, and meaningful self-administration,

Reaffirming also the commitment of all Member States to the sovereignty and territorial integrity of the Federal Republic of Yugoslavia,

Affirming that the deterioration of the situation in Kosovo, Federal Republic of Yugoslavia, constitutes a threat to peace and security in the region,

Acting under Chapter VII of the Charter of the United Nations,

1. Demands that all parties, groups and individuals immediately cease hostilities and maintain a cease-fire in Kosovo, Federal Republic of Yugoslavia, which would enhance the prospects for a meaningful dialogue between the authorities of the Federal Republic of Yugoslavia and the Kosovo Albanian leadership and reduce the risks of a humanitarian catastrophe;
2. Demands also that the authorities of the Federal Republic of Yugoslavia and the Kosovo Albanian leadership take immediate steps to improve the humanitarian situation and to avert the impending humanitarian catastrophe;
3. Calls upon the authorities in the Federal Republic of Yugoslavia and the Kosovo Albanian leadership to enter immediately into a meaningful dialogue without preconditions and with international involvement, and to a clear timetable, leading to an end of the crisis and to a negotiated political solution to the issue of Kosovo, and welcomes the current efforts aimed at facilitating such a dialogue;
4. Demands further that the Federal Republic of Yugoslavia, in addition to the measures called for under resolution 1160 (1998), implement immediately the following concrete measures towards achieving a political solution to the situation in Kosovo as contained in the Contact Group statement of 12 June 1998:

(a) cease all action by the security forces affecting the civilian population and order the withdrawal of security units used for civilian repression;

(b) enable effective and continuous international monitoring in Kosovo by the European Community Monitoring Mission and diplomatic missions accredited to the Federal Republic of Yugoslavia, including access and complete freedom of movement of such monitors to, from and within Kosovo unimpeded by government authorities, and expeditious issuance of appropriate travel documents to international personnel contributing to the monitoring;

(c) facilitate, in agreement with the UNHCR and the International Committee of the Red Cross (ICRC), the safe return of refugees and displaced persons to their homes and allow free and unimpeded access for humanitarian organisations and supplies to Kosovo;

(d) make rapid progress to a clear timetable, in the dialogue referred to in paragraph 3 with the Kosovo Albanian community called for in resolution 1160 (1998), with the aim of agreeing confidence-building measures and finding a political solution to the problems of Kosovo;

5. Notes, in this connection, the commitments of the President of the Federal Republic of Yugoslavia, in his joint statement with the President of the Russian Federation of 16 June 1998:

(a) to resolve existing problems by political means on the basis of equality for all citizens and ethnic communities in Kosovo;

(b) not to carry out any repressive actions against the peaceful population;

(c) to provide full freedom of movement for and ensure that there will be no restrictions on representatives of foreign States and international institutions accredited to the Federal Republic of Yugoslavia monitoring the situation in Kosovo;

(d) to ensure full and unimpeded access for humanitarian organisations, the ICRC and the UNHCR, and delivery of humanitarian supplies;

(e) to facilitate the unimpeded return of refugees and displaced persons under programmes agreed with the UNHCR and the ICRC, providing State aid for the reconstruction of destroyed homes, and calls for the full implementation of these commitments;

6. Insists that the Kosovo Albanian leadership condemn all terrorist action, and emphasises that all elements in the Kosovo Albanian community should pursue their goals by peaceful means only;

7. Recalls the obligations of all States to implement fully the prohibitions imposed by resolution 1160 (1998);

8. Endorses the steps taken to establish effective international monitoring of the situation in Kosovo, and in this connection welcomes the establishment of the Kosovo Diplomatic Observer Mission;
9. Urges States and international organisations represented in the Federal Republic of Yugoslavia to make available personnel to fulfil the responsibility of carrying out effective and continuous international monitoring in Kosovo until the objectives of this resolution and those of resolution 1160 (1998) are achieved;
10. Reminds the Federal Republic of Yugoslavia that it has the primary responsibility for the security of all diplomatic personnel accredited to the Federal Republic of Yugoslavia as well as the safety and security of all international and non-governmental humanitarian personnel in the Federal Republic of Yugoslavia and calls upon the authorities of the Federal Republic of Yugoslavia and all others concerned in the Federal Republic of Yugoslavia to take all appropriate steps to ensure that monitoring personnel performing functions under this resolution are not subject to the threat or use of force or interference of any kind;
11. Requests States to pursue all means consistent with their domestic legislation and relevant international law to prevent funds collected on their territory being used to contravene resolution 1160 (1998);
12. Calls upon Member States and others concerned to provide adequate resources for humanitarian assistance in the region and to respond promptly and generously to the United Nations Consolidated Inter-Agency Appeal for Humanitarian Assistance Related to the Kosovo Crisis;
13. Calls upon the authorities of the Federal Republic of Yugoslavia, the leaders of the Kosovo Albanian community and all others concerned to co-operate fully with the Prosecutor of the International Tribunal for the Former Yugoslavia in the investigation of possible violations within the jurisdiction of the Tribunal;
14. Underlines also the need for the authorities of the Federal Republic of Yugoslavia to bring to justice those members of the security forces who have been involved in the mistreatment of civilians and the deliberate destruction of property;
15. Requests the Secretary-General to provide regular reports to the Council as necessary on his assessment of compliance with this resolution by the authorities of the Federal Republic of Yugoslavia and all elements in the Kosovo Albanian community, including through his regular reports on compliance with resolution 1160 (1998);
16. Decides, should the concrete measures demanded in this resolution and resolution 1160 (1998) not be taken, to consider further action and additional measures to maintain or restore peace and stability in the region;
17. Decides to remain seized of the matter.

Appendix 3

United Nations

24 October 1998

Resolution 1203 (1998)

Adopted by the Security Council at its 3937th meeting,
on 24 October 1998

The Security Council,

Recalling its resolutions 1160 (1998) of 31 March 1998 and 1199 (1998) of 23 September 1998, and the importance of the peaceful resolution of the problem of Kosovo, Federal Republic of Yugoslavia,

Having considered the reports of the Secretary-General pursuant to those resolutions, in particular his report of 5 October 1998 (S/1998/912),

Welcoming the agreement signed in Belgrade on 16 October 1998 by the Minister of Foreign Affairs of the Federal Republic of Yugoslavia and the Chairman-in-Office of the Organisation for Security and Co-operation in Europe (OSCE) providing for the OSCE to establish a verification mission in Kosovo (S/ 1 998/978), including the undertaking of the Federal Republic of Yugoslavia to comply with resolutions 1 1 60 (1998) and 1 1 99 (1998),

Welcoming also the agreement signed in Belgrade on 15 October 1998 by the Chief of General Staff of the Federal Republic of Yugoslavia and the Supreme Allied Commander, Europe, of the North Atlantic Treaty Organisation (NATO) providing for the establishment of an air verification mission over Kosovo (S/ 1 998/99 1, annex), complementing the OSCE Verification Mission,

Welcoming also the decision of the Permanent Council of the OSCE of 15 October 1998 (S/1998/959, annex),

Welcoming the decision of the Secretary-General to send a mission to the Federal Republic of Yugoslavia to establish a first-hand capacity to assess developments on the ground in Kosovo,

Reaffirming that, under the Charter of the United Nations, primary responsibility for the maintenance of international peace and security is conferred on the Security Council,

Recalling the objectives of resolution 1160 (1998), in which the Council expressed support for a peaceful resolution of the Kosovo problem which would include an enhanced status for Kosovo, a substantially greater degree of autonomy. and meaningful self-administration,

Condemning all acts of violence by any party, as well as terrorism in pursuit of political goals by any group or individual, and all external support for such activities in Kosovo, including the supply of arms and training for terrorist activities in Kosovo, and expressing concern at the reports of continuing violations of the prohibitions imposed by resolution 1160 (1998),

Deeply concerned at the recent closure by the authorities of the Federal Republic of Yugoslavia of independent media outlets in the Federal Republic of Yugoslavia, and emphasising the need for these to be allowed freely to resume their operations,

Deeply alarmed and concerned at the continuing grave humanitarian situation throughout Kosovo and the impending humanitarian catastrophe, and re-emphasising the need to prevent this from happening,

Stressing the importance of proper co-ordination of humanitarian initiatives undertaken by States, the United Nations High Commissioner for Refugees and international organisations in Kosovo,

Emphasising the need to ensure the safety and security of members of the Verification Mission in Kosovo and the Air Verification Mission over Kosovo,

Reaffirming the commitment of all Member States to the sovereignty and territorial integrity of the Federal Republic of Yugoslavia,

Affirming that the unresolved situation in Kosovo, Federal Republic of Yugoslavia, constitutes a continuing threat to peace and security in the region,

Acting under Chapter VII of the Charter of the United Nations,

1. Endorses and supports the agreements signed in Belgrade on 16 October 1998 between the Federal Republic of Yugoslavia and the OSCE, and on 15 October 1998 between the Federal Republic of Yugoslavia and NATO, concerning the verification of compliance by the Federal Republic of Yugoslavia and all others concerned in Kosovo with the requirements of its resolution 1199 (1998), and demands the full and prompt implementation of these agreements by the Federal Republic of Yugoslavia;

2. Notes the endorsement by the Government of Serbia of the accord reached by the President of the Federal Republic of Yugoslavia and the United States Special Envoy (S/1998/953, annex), and the public commitment of the Federal Republic of Yugoslavia to complete negotiations on a framework for a political settlement by 2 November 1998, and calls for the full implementation of these commitments;

3. Demands that the Federal Republic of Yugoslavia comply fully and swiftly with resolutions 1160 (1998) and 1199 (1998) and co-operate fully with the OSCE Verification Mission in Kosovo and the NATO Air Verification Mission over Kosovo according to the terms of the agreements referred to in paragraph 1 above;

4. Demands also that the Kosovo Albanian leadership and all other elements of the Kosovo Albanian community comply fully and swiftly with resolutions 1160 (1998) and 1199 (1998) and co-operate fully with the OSCE Verification Mission in Kosovo;

5. Stresses the urgent need for the authorities in the Federal Republic of Yugoslavia and the Kosovo Albanian leadership to enter immediately into a meaningful dialogue without preconditions and with international involvement, and to a clear timetable, leading to an end of the crisis and to a negotiated political solution to the issue of Kosovo;
6. Demands that the authorities of the Federal Republic of Yugoslavia, the Kosovo Albanian leadership and all others concerned respect the freedom of movement of the OSCE Verification Mission and other international personnel;
7. Urges States and international organisations to make available personnel to the OSCE Verification Mission in Kosovo.,
8. Reminds the Federal Republic of Yugoslavia that it has the primary responsibility for the safety and security of all diplomatic personnel accredited to the Federal Republic of Yugoslavia, including members of the OSCE Verification Mission, as well as the safety and security of all international and non-governmental humanitarian personnel in the Federal Republic of Yugoslavia, and calls upon the authorities of the Federal Republic of Yugoslavia, and all others concerned throughout the Federal Republic of Yugoslavia including the Kosovo Albanian leadership, to take all appropriate steps to ensure that personnel performing functions under this resolution and the agreements referred to in paragraph 1 above are not subject to the threat or use of force or interference of any kind;
9. Welcomes in this context the commitment of the Federal Republic of Yugoslavia to guarantee the safety and security of the Verification Missions as contained in the agreements referred to in paragraph 1 above, notes that, to this end, the OSCE is considering arrangements to be implemented in co-operation with other organisations, and affirms that, in the event of an emergency, action may be needed to ensure their safety and freedom of movement as envisaged in the agreements referred to in paragraph 1 above;
10. Insists that the Kosovo Albanian leadership condemn all terrorist actions, demands that such actions cease immediately and emphasises that all elements in the Kosovo Albanian community should pursue their goals by peaceful means only;
11. Demands immediate action from the authorities of the Federal Republic of Yugoslavia and the Kosovo Albanian leadership to co-operate with international efforts to improve the humanitarian situation and to avert the impending humanitarian catastrophe;
12. Reaffirms the right of all refugees and displaced persons to return to their homes in safety, and underlines the responsibility of the Federal Republic of Yugoslavia for creating the conditions which allow them to do so;
13. Urges Member States and others concerned to provide adequate resources for humanitarian assistance in the region and to respond promptly and generously to the United Nations Consolidated Inter-Agency Appeal for Humanitarian Assistance Related to the Kosovo crisis;

14. Calls for prompt and complete investigation, including international supervision and participation, of all atrocities committed against civilians and full co-operation with the International Tribunal for the former Yugoslavia, including compliance with its orders, requests for information and investigations;

15. Decides that the prohibitions imposed by paragraph 8 of resolution 1 160 (1998) shall not apply to relevant equipment for the sole use of the Verification Missions in accordance with the agreements referred to in paragraph 1 above;

16. Requests the Secretary-General, acting in consultation with the parties concerned with the agreements referred to in paragraph 1 above, to report regularly to the Council regarding implementation of this resolution;

17. Decides to remain seized of the matter.