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Bosnia: Europe's Time to Act

I. OVERVIEW

After years of hesitancy, European Union (EU) member states should make 2011 the year when the lead international role in Bosnia and Herzegovina shifts from the Office of the High Representative (OHR) to a reinforced EU delegation. Bosnia has outgrown the OHR established in 1995 after the Dayton Peace Agreement and the creation of the Peace Implementation Council (PIC). Today the country needs EU technical assistance and political guidance to become a credible candidate for EU membership, not an international overseer to legislate for it or maintain security. Member states should rapidly install a comprehensive plan to reinforce the EU presence, including an embassy led by a strong ambassador, strengthen the membership perspective and build local credibility. OHR should withdraw from domestic politics and, unless a threat to peace emerges, focus on reviewing past decisions.

Member states should step up the EU's presence even while Bosnia's political parties struggle to form entity- and state-level governments more than three months after the 3 October 2010 general elections. Reform is urgently needed to avert political and economic crisis, but the OHR is no longer the entity that can cajole Bosniak, Serb and Croat leaders into change. EU membership perspective can better stimulate a shared vision of the country's future among its leaders and encourage key reforms needed to improve institutional efficiency. "Enlargement fatigue" and the crisis of the euro should not allow sceptics among member states to undermine Europe's success at securing stability in the western Balkans in what is a major test of the capability of the new European External Action Service (EEAS) to deliver a more effective common foreign and security policy.

The PIC announced its readiness to close OHR five years ago, but this now seems remote. Slipping calendar deadlines gave way in 2008 to a set of five objectives and two conditions ("five plus two") – of which Bosnia has completed three of the former and one of the latter. Because the remaining two objectives – division of state property and of defence property – have defied all attempts at a political solution, OHR is likely to remain open throughout 2011, if not longer. Several non-EU PIC members also want to see stronger evidence of leadership from Brussels, notably through greater resource commitment, before handing over the baton.

Solution of the property issues has little bearing on state viability but has become a symbol of Bosnians' ability to govern on their own. The symbol should not obscure the actual situation: Bosnians do manage their affairs without significant help. While the PIC and Bosnian elites have debated OHR's fate, much of the transition to domestic responsibility has quietly happened. State institutions have full use of the property they need, despite lack of clear ownership status. The Serb-dominated Republika Srpska (RS) National Assembly passed its own property law in 2010, which is now being challenged at the Bosnian constitutional court. The armed forces have unhindered access to all military facilities and properties. Ownership will have to be established sooner or later, to allow for re-sale and investment, but this is not urgent.

The political scene has also shifted. Most Bosniaks voted for moderate parties in the 2010 elections while those who campaigned on the old issue of defence of the state against Serb challenges lost heavily. In RS, the ruling SNSD conducted a nationalist campaign but did less well than it had hoped. The small Croat population supported its own ethnic parties. Wrangling over the composition of the state government and its agenda has continued into 2011, when governments at state and entity levels – especially in RS – will face massive budget deficits, as the global economic slump belatedly hits Bosnia. Leaders consequently have limited room for intransigence. All major parties are now at least declaratively behind key reforms and speeding up EU integration; none count seriously on OHR intervention to help them with the required tough decisions.

Important PIC stakeholders such as the U.S., the UK and Turkey, together with some domestic elites, worry that Bosnian politicians are not ready to govern on their own (though sovereign Bosnia has been entrusted with a UN Security Council seat) and will be unable to form a functional coalition government, that the RS will attempt secession and violence ensue. They fear OHR closure would trigger the country's break-up, or at least remove a barrier to moves in that direction. But the OHR is no longer the security guarantor it once was. In the event of a threat to territorial integrity and advised by their on-the-ground ambassadors, the EU, the U.S. and others in the interna-

tional community could muster the political will and military means to act, whether OHR remains or not; Bosnian politicians who acted irresponsibly would be vulnerable to the same diplomatic and other international mechanisms, including sanctions or, in the extreme case, use of force, as any other national leaders. Meanwhile, however, the OHR gives them an excuse to deflect responsibility for their failures to the international community.

2011 can be the pivotal year during which the EU builds up and the OHR downsizes gradually. For an effective soft transition, EU member states and the key Brussels players – primarily the EU High Representative for Foreign Affairs and Security Policy/Vice-President of the European Commission (Catherine Ashton) and the European Commission – should take several steps in parallel:

- Ashton should name, without extending what is already a six-month delay, a strong ambassador to head the EU Delegation (the formal term for its embassy) in Sarajevo, ideally a former member-state senior official with solid EU experience in, particularly, enlargement issues;
- increase significantly the capacities of the Delegation's political section to advise the ambassador on Bosnian developments, liaise with senior party and government leaders on bringing legal and institutional structures into compliance with EU norms and coordinate the contributions of other EU actors;
- create or strengthen the Delegation's legal, communication, economic and security sections, drawing on other EU staff already in Bosnia and upgrading the field office in Banja Luka; increase the Delegation's own budget to a level commensurate with its new responsibilities; and
- increase funding under the Instrument for Pre-accession Assistance (IPA) to levels comparable to those in neighbouring countries and consistent with the EU's stated aim to lead in Bosnia.

Though the EU has long aspired to lead the international effort in Bosnia, member states and other Brussels actors still have to settle differences over timing, strategy, staffing and financing of a reinforced presence and mission. If they cannot do so in early 2011 – starting with a comprehensive discussion by foreign ministers at the 31 January Foreign Affairs Council – and Bosnian officials fail to support the process by making a genuine effort to work towards EU integration, the handover risks being botched. Bosnia could then be left with the worst of both worlds: rivalry between an enfeebled OHR and an EU Delegation struggling ineffectively to assert itself.

To help avoid this, the PIC should:

- refocus OHR on its own unfinished business, especially dealing with the cases of Bosnians it has barred from public office, while limiting its use of executive powers to a true emergency;
- support the EU's leading role in Bosnia by agreeing to a transfer of the EU Special Representative (EUSR), currently double-hatted as the High Representative, and that official's staff to the EU Delegation; and
- continue to commit to Bosnia's territorial integrity and sovereignty, support the executive mandate of the EU military force (EUFOR) that took over from NATO in the country and keep the UN Security Council apprised of any threat to the 1995 Dayton Agreement or subsequent Security Council resolutions.

Once freed from its link to OHR, the EU's diplomatic team should be able to focus on facilitating the political process and helping Bosnia's disparate communities find the single voice required to interact responsibly with their European neighbours.

II. REINFORCING THE EUROPEAN UNION IN BOSNIA

Since 2005, the EU has offered to take over from Bosnia's international governor (High Representative) and his office (the OHR).[1] It has pledged to reinforce its diplomatic mission (Delegation) in Sarajevo[2] and help the country to present a credible membership application.[3] The capacities it puts into place now will strongly affect its ability to keep its commitments for the integration process.

The EU will not replace OHR. Its goals and tools are different. It will encourage implementation of the Dayton Agreement and the Stabilisation and Association Agreement (SAA) to help prepare the country for EU membership.[4] The accession process can help encourage reform, but Bosnian leaders will have to meet the criteria for candidacy themselves. The mood in the EU is less forthcom-

[1] "General Affairs and External Relations Council Conclusions on the Western Balkans", 21-22 November 2005, point 7.
[2] "Foreign Affairs Council Conclusions on the Western Balkans", 25 October 2010, conclusions on Bosnia and Herzegovina, points 2 and 5.
[3] "Communication from the Commission to the European Parliament and the Council Enlargement Strategy and Main Challenges 2010-2011", COM (2010) 660, p. 16.
[4] Bosnia signed the SAA, which formally launches the EU accession process, on 16 June 2008. It will enter into force when all EU member states ratify it. An Interim Agreement on Trade and Trade Related Issues entered into force on 1 July 2008.

ing than in 2000, when the Western Balkan states were originally given a membership perspective at the Feira European Council.[5] This is largely due to internal developments, especially corruption issues in Bulgaria and Romania, economic mismanagement in Greece, Ireland and elsewhere and even a perceived lack of understanding for some European values among seemingly stable member states like the Czech Republic, Hungary and Slovakia.[6]

Due in part to Brussels' "enlargement fatigue", Bosnia's leaders and citizens will have to prove to EU decision-makers that they deserve membership. The EU will help Bosnia implement needed reforms but not dictate policy, keep its government running smoothly or guarantee its stability. That stability will have to take root as a result of Bosnians solving their fundamental political problems themselves, over time and without undue interference.

The EU's core asset is its Delegation, which currently employs 96 staff, most of whom work on IPA fund projects.[7] It has a small political and economic unit (three international staff) in Sarajevo and a local office with one EU and two Bosnian professionals in Banja Luka. By contrast, Valentin Inzko, across town in his dual capacity as High Representative and EU Special Representative, is supported by 168 staff, seven of whom are similarly double-hatted.[8] The EU Police Mission (EUPM), whose mandate expires in December 2011, consists mostly of underemployed monitors but also has a small and able cadre of political staff at headquarters and in field offices. EUFOR, the successor to the NATO force, has about 1,600 troops, including 500 who are combat ready. Most member states have their own embassies in Sarajevo, and a few have offices in Banja Luka and elsewhere. All this is backed by IPA aid – €106 million in 2010 – plus bilateral programs, but the assets do not work as an integrated whole; even taken together, they are inadequate for a Union that aspires to a leading role.[9]

The Lisbon Treaty, which entered into force on 1 December 2009, aims at making the EU a more coherent, effective foreign policy actor globally by creating the European External Action Service (EEAS) and transforming the former European Commission Delegations into EU Delegations. The latter are part of the EEAS structure and contain both EEAS staff and personnel from relevant European Commission services.

The Delegation's still-unnamed head will be the EU's chief representative in Bosnia, with authority over political and diplomatic staff, as well as the European Commission's mostly technical officers, who will report primarily to Ashton, the EU foreign policy chief, and Enlargement Commissioner Štefan Füle.[10] Member-state embassies are to "cooperate" with the Delegation – a deliberately vague Lisbon Treaty term whose implications remain to be worked out.[11] While all this is to happen throughout the EU's diplomatic outposts, Brussels has long recognised that Bosnia – due to the legacy of the war, including the complex government structures created at Dayton – requires a stronger Delegation.[12]

Therefore the EU will not only be implementing Lisbon but also and concurrently reinforcing capacities it has planned for since 2006. An EU official said, "the Lisbon Treaty will be implemented with or without OHR there. Transition is outdated. We will proceed with our plans … and won't be held hostage by five plus two".[13] Ashton and Füle outlined the key elements in a report presented to EU ambassadors in July 2010:

- a single EU representative: the head of the Delegation (with ambassadorial rank and title) should assume the "mandate and functions" of the EUSR, leaving Inzko as High Representative only;

[5] That June 2000 summit acknowledged that Western Balkan countries participating in the Stabilisation and Association Process were "potential candidates" for EU membership. This was further confirmed by the June 2003 EU-Western Balkans Summit endorsement of the "Thessaloniki Agenda for the Western Balkans".

[6] Crisis Group interview, former international official in Bosnia, Berlin, 15 December 2010.

[7] The European Commission (EC) delegations worldwide became Delegations of the European Union in 2009, when the Lisbon Treaty entered into force, but most staff members are still technical EC personnel.

[8] Crisis Group interview, senior OHR official, Sarajevo, 17 December 2010.

[9] For example, German bilateral aid to Bosnia is about €80 million per year, almost matching the whole IPA program; Crisis Group interview, former international official in Bosnia, Berlin, 15 December 2010. Tighter coordination of EU member state bilateral assistance, through the EU Delegation, would significantly increase its cumulative impact, while augmenting the EU's political weight.

[10] Delegation staff may also come from other Commission services, such as Trade and Justice.

[11] "Council decision of 26 July 2010 establishing the organisation and functioning of the European External Action Service", 2010/427/EU, Article 5.

[12] Already in 2006 and 2009 the then High Representative for the Common Foreign and Security Policy, Javier Solana, and Enlargement Commissioner Olli Rehn proposed ways to reinforce the EU's presence – in 2006 "in the context of the closure of the OHR", but in 2008 "without prejudicing the PIC's decision on transition". Javier Solana and Olli Rehn, "Reinforced EU Presence in Bosnia and Herzegovina", Brussels, 17 October 2006; and Javier Solana and Olli Rehn, "EU's Policy in Bosnia and Herzegovina: The Way Ahead", Brussels, 31 October 2008, internal EU papers made available to Crisis Group.

[13] Crisis Group phone communication, December 2010.

- transfer of double-hatted OHR/EUSR staff to the Delegation, in particular political, legal and press relations personnel;
- allowing the ambassador to direct funds to projects relevant to EU accession and terminate funds for projects "benefiting those who are working against the Dayton/Paris Peace Agreement or resisting necessary reforms"; and
- use of political conditionality and sanction mechanisms to deal with instances of non-compliance with Dayton.[14]

The Ashton-Füle concept should be adopted without delay, but some of its components are especially urgent, while others do not go far enough to equip the EU with the tools it needs to take over from OHR, especially adequate staffing and expertise. It is worrying that despite broad support for it, member states have neither approved it as an official blueprint nor decided on its details.[15] They have agreed only to conduct a thorough discussion on the issue at their 31 January 2011 Foreign Affairs Council meeting.[16] The slow pace has caused growing scepticism in the U.S. about the EU's ability to play a leading role.

The most visible symbol of EU reinforcement will be the new ambassador. The position has been left vacant since July 2010, including during Bosnia's crucial October statewide elections, thus demonstrating a lack of strategic thinking and unity of purpose at an unfortunate moment. The position was re-advertised among member states in July when it was upgraded – but Ashton has not yet selected a candidate. According to "the most optimistic scenario", an ambassador will be in place by March 2011.[17] Brussels is struggling to launch the EEAS worldwide and fill numerous high-level positions, so some delay is understandable, but the process has been opaque, allowing rumours to flourish. The Delegation urgently needs a credible head, someone with strong political support in EU institutions and key member states, with knowledge of Bosnia and enlargement issues and, crucially, without baggage that would hamper effectiveness with any of the country's three constituent peoples.

The new ambassador should become the EU's single authoritative voice on Bosnia, which means assuming Inzko's EUSR mandate and functions. The EUSR already has the key mandate of promoting EU political coordination and offering political guidance on military issues to ensure a stable, viable, peaceful and multi-ethnic Bosnia proceeding toward Dayton implementation.[18] To avoid any duplication, and ensure greatest effectiveness, EUSR staff now working in OHR should be transferred to the Delegation once the ambassador is in place[19] and budgetary implications have been worked out. Some EUPM headquarter staff could also move, so they can continue to bring together Bosnia's disparate police agencies once that mission formally closes at the end of 2011.[20] One of the EU's chief demands of Bosnia is that it learns to speak "with one voice"; Brussels' failure to do the same sets a poor example. It also gives credence to U.S. hesitancy about OHR closure.

The reinforced EU presence will require human resources beyond the ten additional staffers called for in preliminary plans. Each key Delegation section – political affairs, legal affairs, security sector, communications and economic affairs – will need an experienced senior director, with the stature to be taken seriously by Bosnia's leaders, but without any hint of partiality.[21] OHR already has all these sections. Replicating them in the Delegation might arouse fears Brussels was building another OHR. Yet, the Delegation would not be taken seriously as the leading international authority if it were forced to rely on OHR for expertise.[22] It will need its own resources, lest it seem an appendage of OHR or, worse, a rival European voice.

[14] Catherine Ashton and Štefan Füle, "Next Steps in Bosnia and Herzegovina: Through Stronger EU Presence to a Reinforced EU Policy", presented to Political and Security Committee ambassadors on 19 July 2010.
[15] According to an EU official, "concerning the scope of our future activities, we are still working on those details". Crisis Group phone communication, December 2010.
[16] EU Foreign Affairs Council conclusions, 13 December 2010.
[17] Crisis Group phone communication, December 2010.
[18] The EUSR's mandate has sixteen tasks, including promoting overall EU political coordination and coherence, chairing meetings of the EU heads of mission in Bosnia and, through the spokesperson, serving as the main point of contact for local media on Common Foreign and Security Policy/Common Security and Defence Policy (CFSP/CSDP) issues. Council Decision 2010/442/CFSP of 11 August 2010 extended Inzko's mandate to 31 August 2011, but under the provision that "it may be terminated earlier, if the Council so decides, on a proposal of the H[igh]R[epresentative] following into force of the Decision establishing the European External Action Service".
[19] OHR has only eight seconded international staffers and sixteen international contractors; most OHR officials are Bosnian nationals. A senior European Commission official told Crisis Group that double-hatted OHR/EUSR staff could help the new EU Delegation by making up shortfalls in expertise, but that some staff were "damaged goods", who could not work well with Bosnian officials; Crisis Group interview, Sarajevo, 11 November 2010.
[20] Some EU member states are considering extension of the EUPM mandate past 2011; Crisis Group interviews, senior OHR and EU officials, Sarajevo and Brussels, December 2010.
[21] Crisis Group interview, senior EU police mission (EUPM) official, Sarajevo, September-November 2010.
[22] Embassies still rely on the OHR legal section for advice on Bosnian law, an important service. Crisis Group interview, senior OHR staff, Sarajevo, 29 October 2010.

The Delegation's main task will be to encourage Bosnia forward in the European integration process, especially in implementing reforms that will make it possible to obtain EU candidate status and subsequently harmonise its legislation with the *acquis communitaire* (EU body of law). It should, among other tasks, maintain close contact with and offer advice to officials; monitor, report on and assess compliance with the Dayton Agreement and the Stabilisation and Association Process (SAP); and disburse or restrict IPA funds.[23] The political and legal sections will have to produce in-depth reporting and analysis of developments throughout Bosnia and among international stakeholders. To do this effectively will require a team of legal experts, with deep knowledge of Bosnian law, that is not currently available in the Delegation.[24] Likewise, member states still have to agree to reinforce the ambassador's "toolbox", including by giving authority to impose (or at least formally recommend to Brussels institutions with expectation of prompt acceptance) sanctions such as visa bans and asset freezes.[25]

To put their country irreversibly on the track to EU membership, Bosnia's leaders should formally apply for EU membership in 2011, sometime after the new government has been formed. The Council of the European Union could then invite the Commission to submit an opinion on the candidacy, while Bosnia works to implement the Interim Agreement and fulfil the requirements of the SAA. The Commission normally takes twelve to eighteen months to prepare such an opinion. If the opinion is positive, member states could then grant candidate status.[26] If negative it would serve as a useful technical assessment of the state of Bosnian institutions and provide specific recommendations for what needs to be done to meet the economic and political conditions for accession.

In 2009, the Commission imposed two conditions on Bosnia's candidacy: OHR closure and "reform of Bosnia and Herzegovina's constitutional framework to permit its institutions to function effectively",[27] but it dropped these a year later.[28] OHR closure is no longer a formal condition for candidacy, though in reality that would still have to happen before Bosnia could achieve membership.[29] Nor is there any longer a requirement for a specific constitutional reform, apart from implementation of the European Court of Human Rights (ECHR) ruling against the exclusion of minorities from the state presidency and House of Peoples.[30] The parties likely to join the new governing coalition all support a constitutional amendment on ECHR issues but disagree on the details.[31] Facilitating talks on this key reform could be an early task for the Delegation.

If its leaders can achieve other key breakthroughs – settling state property, passing a law for a census and carrying out public administration reform, for example – Bosnia could anticipate obtaining candidate status in the life of the government that is now being negotiated.[32] That would give access to additional IPA funds, participation in EU programs and agencies and significantly more in-depth assistance, dialogue and monitoring in support of implementation of the *acquis*.

The Commission's technical help is already changing Bosnia more effectively than outright international pressure. Its assistance currently works mainly through six annual

[23] Crisis Group Europe Briefing N°57, *Bosnia's Dual Crisis*, 12 November 2009, p. 15; see also Catherine Ashton and Štefan Füle, "Next Steps in Bosnia and Herzegovina", op. cit. The SAP is the EU policy for the countries of the Western Balkans and consists of bilateral Stabilisation and Association Agreements governing internal reforms; trade preferences; and financial assistance.

[24] Crisis Group interviews, senior European Commission officials, Sarajevo, July-August 2009.

[25] This was also suggested by Catherine Ashton and Štefan Füle in "Next Steps in Bosnia and Herzegovina", op. cit.

[26] However, this status does not guarantee a successful candidacy. The Commission scrutinises the application in light of the accession criteria (Copenhagen criteria), while the accession process starts with the European Council decision to open accession negotiations. Depending on their circumstances, candidate countries may be required to institute a reform process in order to bring their legislation into line with the Community *acquis* and to strengthen their infrastructure and administration, as happened, for example, with Montenegro and Albania in November 2010.

[27] "Communication from the Commission to the European Parliament and the Council Enlargement Strategy and Main Challenges 2009-2010", COM (2009) 533. "Bosnia and Herzegovina" is the country's full name. For convenience, the more customary short form "Bosnia" is used throughout this briefing. These formal conditions were dropped deliberately as closure of the OHR appeared unlikely in the coming period and as EU leaders understood they needed more flexibility in their approach, Crisis Group interviews, EU officials, Sarajevo, Brussels, September-December 2010.

[28] "Communication from the Commission", (2010), op. cit. The Commission limited itself to noting that "making progress toward" the 5+2 "remains essential", as does "harmonising the Constitution with the ECHR".

[29] Crisis Group interview, EU member-state ambassador, Sarajevo, 9 November 2010.

[30] For more on the ECHR decision and how it could be implemented, see Crisis Group Briefing, *Bosnia's Dual Crisis*, op. cit., pp. 9-10.

[31] Crisis Group interviews, leaders of the HDZ Bosnia (Hrvatska demokratska zajednica), HDZ 1990 (Hrvatska demokratska zajednica 1990), SDA (Stranka demokratske akcije), SDP (Socijaldemokratska partija) and SNSD (Savez nezavisnih socijaldemokrata), Banja Luka, Mostar and Sarajevo, October-December 2010.

[32] Crisis Group interview, senior European Commission official, Sarajevo, 11 November 2010. The next general election is scheduled for 2014.

meetings with Bosnian officials: one plenary and five topical sub-committee sessions. Each requires three or more preparatory meetings among the Bosnian stakeholders, at which a consensus position is hammered out and approved by the Council of Ministers, and then brings key officials from Brussels together with the relevant people from the Bosnian state, both its entities and Brčko district.[33] Through this process, Bosnia engages with Europe and with itself, finding the "one voice" it needs to function as a state as well as interact externally. This kind of close cooperation with the EU and meticulous completion of the visa "road map" – a long list of Commission requirements[34] – has just brought Bosnians visa liberalisation throughout the Schengen zone as of 15 December 2010.

IPA-funded projects also help advance EU integration, but Bosnia's IPA assistance is proportionately the lowest in the region, at €23 per capita. Neighbouring Serbia receives €27.18, Albania €29.17, Kosovo €37.29, Macedonia €43.64 and tiny Montenegro €54.63. Bosnia's receipts would not rise significantly, even if it achieved early candidate status, since these ratios are not scheduled to change significantly through 2013.[35] As its level of development is comparable to that of Macedonia, and it faces similar ethnic challenges, however, a gradual increase in IPA funding to similar levels seems appropriate.[36] U.S. assistance to Bosnia, though still much smaller than the EU's, is rising steeply, from $27 million in 2008, to $36 million in 2010 and a projected $47 million in 2011.[37]

III. REFOCUS THE OHR

While the EU builds up, OHR will remain in place. Its once-imminent closure now seems to be a distant prospect; the PIC's 1 December 2010 communiqué was the first in years to make no mention of it.[38] The U.S. has indicated to its European partners that it will not allow OHR to close in the near future, and "no one talks about closing OHR any more".[39] Yet, the PIC did not strengthen OHR's executive or legislative role, instead emphasising that "the essential decisions to move forward must come from within" Bosnia.[40] Without saying so, the PIC seems to have chosen a strategy of soft closure: OHR will remain in place, but the High Representative will not use his executive powers except in an emergency. The U.S. publicly and privately emphasises the need for Bosnian leaders to show they are able to handle more responsibilities and that completing the conditions established for OHR closure is a symbol of that readiness, but it also stresses the need for the EU to robustly strengthen its capabilities. In the absence of those steps, the U.S. continues to support the OHR.

Previous plans were better. In June 2005, the PIC "expressed its readiness" to close OHR based on a three-step process.[41] The OHR would finish "transferring responsibilities to the Bosnian authorities", the High Representative would be replaced by an EU Special Representative, and, finally, the UN Security Council would endorse the new arrangement.[42] A year later, the PIC set 30 June 2007 as the closure date, pledging that the OHR's termination did not mean the end of international safeguards or of the PIC, which "would not tolerate any attempts to undermine the Dayton Peace Agreement – before or after" OHR closed.[43]

This was the right agenda for Bosnia's transition to full sovereignty: government responsibility, OHR closure, a stronger EU presence, an ongoing security guarantee and UN endorsement. But it began to slip almost immediately. Crisis Group had called in February 2007 for ending OHR and the Bonn powers, with the EU taking on "the major job of bringing Bosnia to where it can stand on its own feet", guided by the PIC and authorised by the UN Security Council.[44] However, the PIC, alarmed by the prospect of Kosovo's declaration of independence from Serbia,

[33] Crisis Group interviews, Directorate of European Integration official, Sarajevo, 4 November 2010; European Commission officials, Brussels and Sarajevo, October 2010.
[34] The EU was noticeably stricter with Bosnia than it had been with neighbours such as Serbia; Crisis Group interviews, Directorate for European Integration official, Sarajevo, 4 November 2010; senior EU official, Sarajevo, November 2010.
[35] Crisis Group interview, senior European Delegation official, Sarajevo, 8 November 2010. €11.6 billion is available under IPA for 2007-2013 to be shared among all accession and pre-accession countries. A revised multi-annual indicative financial framework has been set for 2011-2013. Bosnia is currently implementing a Multi-annual Indicative Plan for 2009-2011.
[36] This would require a substantial increase of 89.9 per cent, to about €205 million for 2011.
[37] "Advancing reform in Bosnia: The Role of U.S. Assistance", Foreign Service Institute, 20 October 2010. U.S. support to Bosnia is also comparatively low for the region.
[38] PIC Steering Board Communiqué, 1 December 2010.
[39] Crisis Group interview, EU member-state diplomats, Sarajevo, 9 November 2010.
[40] PIC Steering Board Communiqué, 1 December 2010.
[41] In mid-2004, Paddy Ashdown, then High Representative, lobbied governments to support closing OHR before the tenth anniversary of Dayton in November 2005. Crisis Group Europe Report N°180, *Ensuring Bosnia's Future: A New International Engagement Strategy*, 15 February 2007, p. 6, fn. 32.
[42] PIC communiqué, 24 June 2005.
[43] "Towards Ownership", PIC communiqué, 23 June 2006.
[44] Crisis Group Report, *Ensuring Bosnia's Future*, op. cit., p. 27. The "Bonn powers" are the High Representative's extraordinary governing powers and have been used to appoint and dismiss officials, impose legislation and amend the entities' constitutions.

which it feared would stimulate a push for secession in RS, and influenced by the High Representative's lobbying,[45] extended OHR's mandate to June 2008. This was meant to "complete transition in the shortest possible time", not merely to defer it to a calmer moment.[46] Nevertheless, on the recommendation of OHR, the PIC dropped the timetable altogether in February 2008 and decided that the institution would remain until Bosnia had fulfilled the so-called five objectives and two conditions.[47]

As described below, these conditions have become increasingly politicised. At the same time, the OHR has weakened, with few of its previous powers remaining. Warning that "the most dangerous option of all … would be to take no decision at all", Crisis Group recommended in November 2009 that the PIC either reinforce the OHR, back the High Representative's use of his executive (Bonn) powers and strengthen the EUFOR security mission to allow it to reinforce OHR decisions, or close OHR quickly and begin the transition to a reinforced EU presence.[48] But "no decision" is precisely what has happened. OHR should be closed, but even without that PIC decision, the EU urgently needs to start the transition.

A. OHR Executive and Legislative Authority Weakens

The executive and legislative powers given to the OHR in December 1997 are no longer useable, and there is little political will to restore them. The PIC authorised the OHR in 1997 to convene government sessions; impose executive and legislative acts; and take other steps, including dismissal of government officials. These powers fall into two categories: the "substitutive power" (such as legislation), that the High Representative can use to act in place of a Bosnian institution to impose a law; and the "international powers", with no Bosnian analogue, that the High Representative can use to impose sanctions on persons or parties. OHR considers the latter immune to judicial review and final but acknowledges the right of Bosnian legislatures to amend or repeal and the power of courts to strike down substitutive impositions.[49]

Paddy Ashdown, the last truly executive High Representative (2002-2006), cut back on imposing legislation as his term in office progressed.[50] Since his departure, no successor has intervened to strengthen the state's capacities. In effect, OHR's role as architect of the Bosnian state lasted about seven years, to the end of 2004. From 2005 to 2008, it intervened sporadically to keep Bosnia running smoothly but did not attempt significant reforms.[51]

Thereafter, the state-building process – transforming Bosnia from a "post-conflict to a more conventional transition country" that would not need the "unique and highly intrusive, and potentially dependency-inducing" OHR – stalled.[52] RS Prime Minister Milorad Dodik increasingly challenged the High Representative and spoke publicly of secession. Two High Representatives tried to rein him in and failed, partly for lack of international support.[53] OHR emerged badly weakened from those tests of will and strength. Many Bosnian and international observers concluded that OHR's decline (and Dodik's ascent) caused a breakdown in state-building that could only be reversed by restoring international authority. In September 2009, Valentin Inzko tried to reassert OHR's role as referee and guardian of Dayton with a set of largely technical impositions that RS openly defied, without adverse consequences. This in effect marked the practical end of Bonn powers.[54] Over the past sixteen months, the OHR has taken little action.[55]

[45] "The High Representative and EU Special Representative started his consultations with PIC members in advance of the February PIC in Berlin. He has since held meetings in Paris and Brussels. These meetings have shown that PIC capitals share Mr Schwarz-Schilling's concerns about the situation with the result that maintaining Bonn Powers beyond mid-2007 is now a serious option", Chris Bennett, OHR director of communications, press conference in Sarajevo, 23 January 2007. By this time, the PIC had twice re-affirmed the June 2007 closure date; PIC communiqués, 20 October and 7 December 2006.

[46] "Maintaining Progress", PIC communiqué, 27 February 2007.

[47] PIC communiqué, 27 February 2008.

[48] Crisis Group Briefing, *Bosnia's Dual Crisis*, op. cit.

[49] Crisis Group interview, OHR legal staff, 11 November 2010.

[50] Ashdown initially wielded the Bonn powers boldly and made a total of 447 decisions during his term.

[51] Crisis Group interview, OHR staff, Sarajevo, 29 October 2010.

[52] "OHR Mission Implementation Plan", 30 January 2003.

[53] Late in 2006, High Representative Christian Schwarz-Schilling prepared a package of sanctions against Dodik but could not get support from the U.S., which wanted to keep Bosnia quiet while dealing with Kosovo's final status; Crisis Group interviews, Christian Schwarz-Schilling, Sarajevo, March-June 2010. In late 2007, his successor, Miroslav Lajčák, was forced to give up a renewed campaign of legislative impositions and to negotiate with RS over how his decisions would be implemented; Crisis Group Europe Report N°198, *Bosnia's Incomplete Transition: Between Dayton and Europe*, 9 March 2009, pp. 12-14.

[54] Crisis Group Briefing, *Bosnia's Dual Crisis*, op. cit.

[55] In December 2009, the HR did resolve a long-running dispute in Mostar, but that was an issue that could have been handled without recourse to Bonn powers and was rooted in an apparent earlier OHR drafting error; see Crisis Group Europe Briefing N°54, *Bosnia: A Test of Political Maturity in Mostar*, 27 July 2009; and "Decision enacting amendment to the Statute of the city of Mostar", 14 December 2009. He also extended the mandate of international judges and prosecutors working on war

Nevertheless, the U.S. and Turkey, as well as the UK and several other EU states, remain convinced that the OHR should continue in existence.[56] They believe the EU is not yet resourced sufficiently to justify closing and that as long as ethnic interests trump national governance objectives and PIC conditions have not been met, OHR should remain available at least to put a brake on separatist actions that could lead to violence.[57] In this view, the High Representative could still remove from office a local leader whose actions seriously undermined the country's integrity. But past RS defiance and international acquiescence to it show that this would be risky. The PIC has not strengthened the OHR so that it could respond adequately to local challenges and risks. Even some diplomats who backed OHR in the past see it as irrelevant in its present form: "We should get rid of OHR if it's not going to do anything. It's an embarrassment now. This is not to say there's no need for it – there is – but this kind of OHR is just worthless". [58]

OHR's strongest local advocates, the left-leaning Social Democratic Party (Socijaldemokratska partija, SDP) and the centrist Party for Democratic Action (Stranka demokratske akcije, SDA), both predominantly supported by Bosniaks, are coming to terms with life without an international governor.[59] None of the Bosnian officials or party leaders Crisis Group spoke to thought OHR was helping their country; rather, they considered it useless in its current form,[60] though the SDA leadership argued for its brief revival, to impose one final set of reforms.[61] Most Bosniak party leaders still strongly support an international guarantee of Bosnia's sovereignty and territorial integrity, but they believe this does not require OHR, since EUFOR and NATO, with their UN peacemaking mandate and strong EU and U.S. support, are available. Bosnian Serbs appear no longer concerned about an OHR they consider to be largely impotent, saying "an OHR like this can stay for 300 years; what do they do, other than draw salaries?"[62]

OHR staff is frustrated. Deeply knowledgeable about Bosnia, they feel their advice is increasingly ignored: "We work hard every day trying to save the country, but no one pays attention".[63] Most believe they are still needed to handle issues that other organisations do not. They also tend to believe Bosnian leaders continue to require the monitoring and guidance they are best placed to provide. Yet, they have little aspiration to regain a strong executive role. At times the office appears to be a citadel under siege, its staff reacting with suspicion or outright hostility to those who disagree.[64] Challenges to areas OHR believes its special responsibility, like legal interpretation of the Dayton Agreement, can be strongly rebuffed.[65]

Bosnian courts are also becoming critical. On 20 April 2010, the Federation constitutional court struck down part of the civil service law. OHR condemned this as a "rollback of crucial international community-sponsored public administration reforms … largely instigated by the Federation President, a member of the Croatian Democratic Union (Hrvatska demokratska zajednica, HDZ) [Bosnia]".[66] OHR has apparently intervened to block Federation passage of civil service laws drafted in line with EU best practices.[67] In November 2010, Bosnia's constitutional court overturned a key element of the OHR-imposed Mostar city statute and associated provisions of the Federation constitution and Bosnian election law.[68] The Federation constitutional court struck down entity education laws,

crimes, a step RS rejected on principle but has not opposed in practice.

[56] Crisis Group interviews, U.S., UK and Turkish officials, Washington, Sarajevo and Ankara, September-November 2010.

[57] Crisis Group interview, U.S. official, Washington DC, 21 December 2010.

[58] Crisis Group interview, international military official, Sarajevo, 28 October 2010.

[59] Crisis Group interviews, SDA, SDP and Party for a Better Future (Stranka za bolju budućnost, SBB) leaders, Sarajevo, October-December 2010.

[60] Crisis Group interviews, members of state, Federation and RS parliamentary assemblies and Bosnia's Council of Ministers and leaders of HDZ, HDZ 1990, NS, SBB, SDA, SDP and SNSD, Banja Luka, Mostar and Sarajevo, September-December 2010.

[61] Crisis Group interview, Sulejman Tihić, SDA president, Sarajevo, 27 October 2010. Tihić suggested OHR could impose a solution to the state property issue along the lines previously agreed by him, Dodik and HDZ leader Dragan Čović; water down consensus rules in the parliamentary assembly; change the electoral law to make it compliant with the ECHR; transfer some competencies from entities to the state; and create a state Supreme Court.

[62] Crisis Group interview, Mladen Ivanić, president of the Party of Democratic Progress (Partija demokratskog progresa, PDP), Banja Luka, 2 November 2010.

[63] Crisis Group interview, senior OHR official, Sarajevo, 19 November 2010.

[64] Crisis Group interview, European ambassador, Sarajevo, 9 November 2010.

[65] Crisis Group interview, European Commission official, Brussels, 15 October 2010.

[66] "Political Update", 20 November 2010, p. 14, OHR document prepared for the PIC and made available to Crisis Group. The Court's ruling in the case (U-27/09, 20 April 2010) was unanimous.

[67] Crisis Group interview, Slaviša Šućur, member of the Federation House of Representatives, Sarajevo, 29 November 2010. The laws were drafted by the Federation's Association of Municipalities and Towns.

[68] Case U-9/09, 26 November 2010. As noted above, OHR considers the High Representative's legislative impositions subject to judicial review, unlike his "international powers" (eg, dismissal from office). See also Crisis Group Briefing, *Bosnia: A Test of Political Maturity in Mostar*, op. cit., p. 10.

returning jurisdiction to the cantons. Such reversals should not be surprising given the volume of internationally-driven legislation earlier in the decade. Even OHR defenders say some impositions are a poor fit for the country's constitutional architecture.[69] Yet, most survive, a testimony to the generally high quality of OHR legal drafting.

Today, OHR staff monitor Bosnian government action, provide guidance to lawmakers and prepare reports for the international community, notably the PIC and the Security Council. The High Representative exhorts leaders to reform, though with little effect. OHR should refocus its agenda on matters needing resolution before closure.[70] Foremost among those tasks is review of the remaining High Representative-imposed bans on certain individuals holding public office; and creating and empowering a local authority to take on such review after OHR closes. It should also work with the UN to find solutions for the many police officers the long-closed, UN-authorised International Police Task Force (IPTF) barred from service.[71]

With the PIC deadlocked and unable to agree on either closing OHR or empowering it to act vigorously, the institution will likely limp on through 2011 and even into 2012. Steps can be taken, however, to help limit the damage caused by international discord. The PIC should revisit its Bonn conclusions, instruct the High Representative to make use of his Bonn powers only in an emergency situation that threatens the peace and advise Bosnian officials of this instruction. This could help rebuild credibility by demonstrating firm PIC commitment to the OHR's security role, while taking the office out of local daily politics. Member countries should also decide whether the PIC will continue to convene after the OHR has closed and based on what modalities.[72]

B. THE SECURITY SWITCH

No longer an executive authority, the OHR is no longer a security guarantor either. Yet, some policymakers in Bosnia, the U.S., Turkey, and the UK remain convinced that it could play an important role if territorial integrity and sovereignty were to be threatened. While Bosnia is a far more integrated place than it was in the late 1990s, and its neighbours appear committed to its survival, some dangers remain. The state would be handicapped, for example, in responding to an RS challenge, because the constitution gives each entity a veto over state action.

For this reason, some Bosnian leaders claim they still need an international "security switch", a mechanism that would trigger the international community's obligation to protect the country's sovereignty and territorial integrity.[73] Historically OHR has been this trigger. While the High Representative has no authority over international peacekeeping forces,[74] incumbents of that position have often requested and received support from them.[75] The U.S. and some others argue that a fully empowered High Representative would view it as his or her bottom-line responsibility to prevent or respond to deadly violence, while no single national ambassador would have equal responsibility, and the need for multiple national ambassadors to reach a consensus on the existence of an emergency could produce dangerous delay. But this is not convincing. If there was serious violence, it would be up to the U.S., the EU and possibly Turkey to respond, while a strong EUSR or the new head of delegation would be expected to exercise essential coordination among EU member states, as has been done in other contexts.[76]

[69] For example, Bosnia's conflict of interest law was reportedly modelled on a Finnish original unsuited to the Bosnian context. Crisis Group interview, SDP official, Sarajevo, 10 November 2010.

[70] Schwarz-Schilling began this process in 2006, but it has stagnated as transition has receded.

[71] See Crisis Group Report, *Ensuring Bosnia's Future*, op. cit.

[72] The PIC consists of 55 countries and agencies and last met at the ministerial level in May 2000; its executive authority rests with a Steering Board, whose members are Canada, France, Germany, Italy, Japan, Russia, the UK, the U.S., the presidency of the European Union, the European Commission and the Organisation of the Islamic Conference (OIC), represented by Turkey.

[73] Crisis Group interview, SDP official, Sarajevo, 10 November 2010.

[74] "The High Representative shall have no authority over the IFOR and shall not in any way interfere in the conduct of military operations or the IFOR chain of command". Dayton Peace Agreement, Annex 10 (2) (9).

[75] OHR, the NATO-led Stabilisation Force (SFOR), the U.S., EU and international agencies carried out coordinated operations against organised crime rings, individuals and networks suspected of supporting persons indicted for war crimes. One was announced on 7 July 2003, another on 16 November 2004. They included raids on military and security facilities, legal and regulative changes in Bosnia and assets freezes there as well as in neighbouring states, the U.S. and elsewhere in Europe. "High Representative announces further action in the fight against crime", OHR press release, Sarajevo, 7 July 2003; "High Representatives welcomes EU assets freeze on all ICTY indictees", OHR press release, Sarajevo, 16 November 2004.

[76] The most recent example was in Georgia in August 2008, when the EUSR for the South Caucasus stimulated the EU Presidency, then held by France, into quick action. Russia is likely to pose the biggest obstacle to any military intervention

Furthermore, even if the High Representative rang an alarm bell, the security switch would not function automatically. It would require the international community's will to act and contribute manpower. The condition for this would have to be a crisis of a much greater magnitude than Bosnia's recent troubles: little less than secession or state breakdown would be a sufficient catalyst to muster a consensus for action. And if RS were to break away, the PIC could request that EUFOR and NATO act even without a High Representative in place.[77]

EUFOR's mandate runs to November 2011, with the duty to ensure compliance with Dayton and maintain a safe and secure environment. But it has only 1,600 troops in Bosnia, slightly less than a third of whom are combat ready; even a minor show of force would require reinforcement by over the horizon units in Kosovo and elsewhere in Europe. Contributing states will probably withdraw more troops in 2011.[78] NATO still has peace enforcement authority from the Security Council but not the in-theatre capacity to implement it. EUFOR and NATO add a degree of weight to political and diplomatic messaging and are sources of reassurance and a last resort, but the best guarantee for Bosnia's sovereignty and territorial integrity is political, not military.

IV. RESOLVING FIVE PLUS TWO AND MAKING THE TRANSITION POSSIBLE

The main obstacle to closure of OHR and transition to a reinforced EU presence, as planned since 2005, is failure to resolve the "five plus two" conditions the PIC imposed in February 2008 as "essential for the creation of … a peaceful, viable state".[79] That judgment seems highly subjective today.[80] The conditions were proposed by the then High Representative, Miroslav Lajčák, a few days before the PIC meeting, and there was little discussion of their feasibility. Some members believed the "five plus two" meant a tough policy of strict conditionality, while others felt it was sufficiently elastic to allow the international community to walk away from Bosnia at any time.[81]

The PIC acted on the assumption that Bosnian leaders shared the goal of transition and would cooperate in meeting the declared objectives and conditions. The initial signs were hopeful. Over the next year, Bosnia substantially completed three of the five objectives and one of the two conditions.[82] The outstanding condition – "a positive assessment of the situation … based on full compliance with the Dayton Peace Agreement" – is purely a matter of PIC discretion. But the remaining two objectives – division of state and defence property – have defied all attempts at solution.[83] Leaders of the three largest ethnic parties announced an agreement in principle on them in November 2008 but were unable to agree on implementation. The parties have since retreated from their positions, and agreement now seems a distant hope.[84] These objectives have little to do with Bosnia's stability, however, and the EU has not made their achievement a requirement for progress toward European integration.[85]

"Five plus two" has nevertheless become a powerful symbol. Inability to fulfil the conditions serves as a strong argument for those who worry about undermining international credibility, so prefer to keep OHR. It risks also becoming an excuse for EU inaction, especially if some member states argue that they cannot reinforce Brussels' presence fully until the OHR closes. This has not occurred to date, but neither has the EU taken key decisions on appointing a new Delegation head and otherwise reinforcing its presence. Member states should understand that the fulfilment or non-fulfilment of the PIC conditions

to stop violence in Bosnia, but an OHR would be unlikely to affect Moscow's calculations or its ability to exercise influence at the PIC and the UN Security Council.

[77] If OHR had closed, the PIC, if still in existence itself, could re-open it.

[78] Crisis Group interview, senior EUFOR officials, Sarajevo, 8 December 2010.

[79] PIC communiqué, 27 February 2008.

[80] Crisis Group interview, participant in February 2008 PIC, Sarajevo, 10 November 2010.

[81] Crisis Group interview, European diplomat, Sarajevo, 10 November 2010, describing contemporaneous conversations with participants in the February 2008 PIC. Experts in the Council Secretariat warned that new conditionality could backfire and be manipulated by local politicians, especially those who wanted the OHR to remain in Bosnia, so would have an interest to block fulfilment of the conditions. Crisis Group interviews, Brussels, November 2007.

[82] The three objectives were ensuring fiscal sustainability; entrenching the rule of law; and completing the Brčko final award. Signature of a Stabilisation and Association Agreement with the EU on 16 June 2008 satisfied the PIC's first condition.

[83] The PIC communiqué of 27 February 2008 spoke of "acceptable and sustainable resolution of the issue of apportionment of property between the state and other levels of government".

[84] The three were the largely Bosniak Party of Democratic Action (Stranka demokratske akcije, SDA), the predominantly Serb League of Independent Social Democrats (Savez nezavisnih socijaldemokrata, SNSD) and the Croat Democratic Union (Hrvatska demokratska zajednica, HDZ); see Crisis Group Report, *Bosnia's Incomplete Transition*, op. cit., pp. 4-5.

[85] Crisis Group interviews, European Commission official, EU member-state ambassador, Sarajevo, 8 and 9 November 2010.

will have little or no effect on the work of a reinforced EU presence.

Each of the remaining objectives has created unnecessary controversy that has delayed Bosnia's progress and at times threatened its stability. Most recently, a dispute over state property has brought RS authorities into conflict with OHR and potentially with the state constitutional court. The defence property objective has kept Bosnia from starting its NATO Membership Action Plan (MAP) since April 2010. Esoteric legal disputes keep Brčko District under international supervision and in late 2009 provoked a crisis between RS and OHR that badly damaged the latter. Bosnia has little to show from its efforts to meet the objectives, as these costs have not been justified by comparable gains in state effectiveness.

A. STATE PROPERTY

Because new state institutions and ministries require premises, the resolution of state property ownership and use has become part of the international community's state-building project.[86] Nevertheless, "resolution of state property is elusive not because the problem is inherently hard, but because the PIC has it linked it to Bosnia's most controversial issue, the fate of the OHR".[87]

State property falls into two categories: that which Bosnia received through the Agreement of Succession Issues signed by the successor-states of former Yugoslavia, and that over which the pre-war Socialist Republic of Bosnia and Herzegovina enjoyed rights. In Bosnia's property registers, these latter sites are recorded as belonging to socialist-era entities that no longer exist. The Council of Ministers created a commission to draft laws dividing property among the state, entity and Brčko district governments. To prevent usurpation while the commission did its work, the High Representative imposed an interim ban in 2005 on the disposal of state property.[88] This was extended indefinitely, pending an agreement, in June 2008.[89] The commission has agreed on the criteria to be applied and prepared seven bills to implement them, but it has not been able to adopt a common draft.[90] The various governments were to compile lists of property they needed; to date only Brčko district has completed this relatively simple task.[91]

While the High Representative's ban is in place, the commission can issue exemptions for specific sites on application, and it has done so many times.[92] Yet, most key buildings remain under the disposal ban. Since their ownership is unclear, the occupants avoid investing in maintenance or making long-term plans with respect to them, so many buildings are increasingly decrepit. Properties not needed by a level of government are kept off the market. Recent moves toward a compromise are probably motivated more by entity leaders' desires to patch budget shortfalls by selling off state properties than anything else.

The inconvenience is real, but minor. State institutions pay about 28 million KM (€14.3 million) annual rent for offices and facilities that probably belong to them.[93] The same problem exists at entity level: for example, the Federation government has been forced to rent premises in a building it apparently owns but is claimed by the Social Democratic Party.[94] This money could be better spent, but it is only about 2 per cent of the state budget. Fully resolving all state property disputes may take many years, as happened between Slovakia and the Czech Republic.

A workable compromise has been on the agenda since November 2008.[95] The state would receive ownership of all property its institutions need to function effectively, and the remainder – the majority – would be divided on a territorial basis by the entities. No alternative proposal has attracted more than minority interest. Yet, despite a consensus on the terms of the division, Bosnia's leaders

[86] The PIC called on "all levels of authority … to ensure that all the institutions of [Bosnia] – at the State level – have the premises they need", and noted that "[f]ailure to do this will amount to obstruction of [Bosnia's] further progress toward Euro-Atlantic integration". Communiqué, 24 September 2004; Crisis Group interview, OHR staff, 11 November 2010. For more background, see "Final Report", OHR state property inventory project, December 2009.

[87] Crisis Group Briefing, *Bosnia's Dual Crisis*, op. cit., p. 10.

[88] "Decision enacting the law on the Temporary Prohibition of Disposal of State Property of Bosnia and Herzegovina", 18 March 2005, and related decisions on the Federation and RS, imposed on the same date.

[89] The ban holds until an agreement is "endorsed by the Peace Implementation Council Steering Board, or the High Representative decides otherwise". "Decision amending the law on the Temporary Prohibition of Disposal of State Property of Bosnia and Herzegovina", 25 June 2008, and related decisions on the Federation and RS. This appears to be the first time that endorsement by the PIC, an ad hoc foreign body, has been written into Bosnian law.

[90] Crisis Group interview, Zvonimir Kutleša, chair of state property commission, 4 November 2010.

[91] Ibid. "Update on the delivery by the [Bosnia] authorities of the five objectives and two conditions set by the PIC steering board for OHR-EUSR transition", 28 June 2010, OHR paper made available to Crisis Group.

[92] Crisis Group interview, Zvonimir Kutleša, chair of state property commission, 4 November 2010.

[93] Ibid, 18 November 2010.

[94] Ibid, 4 November 2010; the Federation government building belonged to the League of Communists of Yugoslavia before the war; the OHR property survey listed it as state property.

[95] Crisis Group Report, *Bosnia's Incomplete Transition*, op. cit., p. 4.

have repeatedly failed to agree on its details. Part of the disagreement concerns how much the state truly needs, with Federation-based parties arguing for an expansive definition encompassing current and foreseeable future needs and RS-based parties pushing for a minimal list of sites. But the parties also quarrel over arcane details of procedure – so much so that they seem determined to avoid an agreement.[96]

In the absence of a mutual agreement on property even with substantial international assistance, Bosnian authorities began efforts in 2010 to resolve the property issue unilaterally in their favour. In April 2010, the state deputy attorney-general, apparently acting "at the behest of the Chair of the [Bosnian] Presidency, Haris Silajdžić", sent the property inventory compiled by OHR to Federation registries, with instructions to register all sites as property of the relevant state institutions.[97] The PIC and OHR stepped in, reminding the attorney-general that such actions "violate[d] the High Representative's ban on state property transfers and … are null and void".

Going even further, the RS National Assembly passed its own law in September, purporting to lift the High Representative's ban, claiming ownership of all state property on the entity's territory and allowing the RS government to lease the property to the state administration for an unlimited period.[98] The state could invest in leased sites but would have to return them once they were no longer necessary and would have no right to recover even substantial investments.[99] Bosniak deputies in the RS assembly claimed the law violated their vital national interests and appealed to the RS constitutional court, which, however, approved it.[100]

The RS legislation, insofar as it promotes a unilateral claim to disputed property and forces the state administration to invest in property it will have to return, is bad law.[101] It may also be unconstitutional. Sulejman Tihić, leader of the SDA, has challenged it before the state-level constitutional court.[102]

OHR responded on 5 January 2011 with an order suspending implementation of the RS law, pending resolution by the state constitutional court.[103] The order is carefully phrased; it addresses courts and land registries in RS, barring them from registering property under the impugned law; since courts are supervised by the state-level High Judicial and Prosecutorial Council, not by the RS government, it might have greater effect. RS has refused to publish any further HR impositions in its gazette,[104] but the validity of this order does not depend on such publication. As an "international" rather than a "substitutive" act, it cannot be overturned by the RS legislature or courts. OHR's action is also modest. It does not annul or overturn the RS law and simply gives time for Bosnia's own institutions to work.[105]

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[96] The SDA insists that all property be registered first with the state, which would then transfer its ownership stake to the entities; it argues this is necessary to respect Bosnia's continuity with the 1991-1995 Republic of Bosnia and Herzegovina; Crisis Group interview, Sulejman Tihić, Sarajevo, 27 October 2010. The SNSD insists the property should go directly to the entities and seems worried that any other approach could be exploited to freeze the process halfway, with all property still in state hands. Crisis Group interviews, Igor Radojičić, RS Assembly speaker, Banja Luka, 2 November 2010; Zvonimir Kutleša, chair of state property commission, Sarajevo, 4 November 2010.

[97] "Update", OHR paper, op. cit.

[98] Crisis Group interview, Igor Radojičić, president of RS National Assembly, Banja Luka, 2 November 2010.

[99] Zakon o statusu državne imovine koja se nalazi na teritoriji Republike Srpske i nalazi se pod zabranom raspolaganja [Law on the status of state property on the territory of RS under the disposal ban], August 2010, Articles 5-7.

[100] The RS constitution (Article 70 as revised by amendment 82) allows minority delegates to appeal laws that they believe violate their vital national interests to the entity constitutional court, which rules on them in a panel consisting of seven judges (two Bosniaks, Croats and Serbs apiece and one other), with only two votes needed to sustain a claim. The constitutional court has circumvented this provision by enacting a rule of procedure (52) that requires at least five votes to sustain a claim. While the rule derogates from the constitution and in effect deprives minorities of protection, there is no recourse within RS other than to the same constitutional court. Crisis Group interview, OHR staff, 11 November 2010.

[101] Crisis Group interview, OHR staff, 11 November 2010. The PIC ambassadors (apart from Russia) issued a statement criticising the RS law as a unilateral act but did not say it was illegal. "PIC members underline that unilateral acts will not resolve state and defence property", press release, OHR, 15 September 2010.

[102] Crisis Group telephone interview, senior SDA official, 6 January 2011. That court could find that the constitutionally enumerated responsibilities of the state (Article III.1) imply ownership of such property as is necessary to carry them out, or as is "necessary to preserve the sovereignty [and] territorial integrity" of the state (Article III.5); or even that Article I, providing that Bosnia continues the legal existence of the pre-war Republic of Bosnia and Herzegovina, gives the state title to all property that belonged to its predecessor.

[103] "Order suspending the application of the Law on the Status of State Property Situated in the Territory of Republika Srpska and Under the Disposal Ban", 5 January 2011. The international community had been pondering such a move since fall 2010. Crisis Group email correspondence, PIC member-state official, 21 October 2010; Crisis Group interview, OHR official, 29 October 2010.

[104] See Crisis Group Briefing, *Bosnia's Dual Crisis*, op. cit., p. 2.

[105] Suspension of the RS law by a preliminary action of the state constitutional court until it ruled on its merits would have arguably been more appropriate.

The sides could now wait for the constitutional court's ruling, but a better solution exists, though it would require RS cooperation. The state property commission could exempt all sites required by the state from the High Representative's ban if the action were to receive a majority of votes from each government.[106] State institutions could then register the property as their own in the relevant land registries.[107] To avoid any conflict, the RS National Assembly should amend its law to omit properties granted exemption by the property commission, as it already does for previously registered properties.[108] Once the state has registered its property, Tihić could withdraw his appeal at the constitutional court. The RS law could then take effect, since it exempts property that has already been registered and would thus only cover the remaining sites on RS territory. The Federation should then pass a similar law. This would resolve the state property issue with a minimum of procedural complication, while defusing the brewing confrontation over the unilateral RS move.

Two hurdles stand in the way: defusing the OHR-RS confrontation and defining the state's needs. RS President Dodik has promised to introduce legislation taking property registration away from the courts and assigning it to the executive branch.[109] This would defy the OHR order, dangerously escalate his conflict with the international community and needlessly complicate Bosnia's regulatory structure. The RS would be better advised to cooperate on the solution described above. It should work with a trusted arbitrator – possibly the new EU Delegation – to agree on a list of sites used by existing state institutions. Most future institutions will be located on Federation territory and could be transferred later; those on RS territory could work on long-term leases, as provided in the RS law. Finally, the commission should exempt the agreed sites from the ban and, in the same action, certify that the state's needs are satisfied, thus triggering the lifting of the High Representative's freeze with no need for further measures.

[106] There are five state members and four members from each entity; three votes from each are required. There is also one member representing the Brčko district. The commission has finalised its "wish list" on the basis of state institutions' expressed needs. Crisis Group interviews, Zvonimir Kutleša, chair of state property commission, 4 November 2010; and (telephone), 1 December 2010.

[107] Crisis Group telephone interview, Zvonimir Kutleša, chair of state property commission, 1 December 2010.

[108] This change would cover sites exempted but not yet registered, when the RS law comes into force. RS may otherwise have a claim on such unregistered properties. Ibid and Crisis Group interview, Bosnian attorney-general's office, Sarajevo, 23 November 2010.

[109] "Dodik: Zakon o državnoj imovini nije stavljen van snage" [Dodik: the law on state property has not been suspended], *Nezavisne novine*, 6 January 2011 (online).

B. DEFENCE PROPERTY AND NATO

"Acceptable and sustainable resolution of defence property" is even less of a problem in practice than state property. Moveable defence property – arms, ammunition and other equipment, archives and records – has already been settled, and Bosnia is slowly destroying stocks of obsolete and dangerous munitions.[110] The remaining issue is immoveable property: bases and buildings, 69 of which have been identified by the state presidency as potentially useable. The state-level Law on Defence bans disposal of these sites pending resolution of their ownership, and implies that they will be transferred to the state.[111] The RS law on property[112] specifically exempts defence property, whose status is to be determined by a separate agreement between the RS government and Bosnia's Council of Ministers.[113]

The armed forces have full access to and use of all 69 facilities.[114] In NATO member states, state ownership of the land military facilities are based on is not required, and some so used is merely leased.[115] Clarifying ownership is desirable but not urgent. The dispute likely has more to do with who would get to sell redundant facilities should the armed forces downsize than with their current or future operations.[116] The military's actual needs are probably more modest and will not require all 69 potentially useable sites.[117]

Nevertheless, defence property has now become entangled with Bosnia's ambition to join NATO.[118] From 2006 until 2010 integration with NATO was proceeding quickly.[119]

[110] "Update", OHR paper, op. cit.

[111] Law on Defence, Articles 71(3) and 74.

[112] RS leaders tend not to challenge the common military, though they do question its usefulness and whether its cost is justified. Crisis Group interviews, senior RS officials, Banja Luka and Sarajevo, September-November 2010.

[113] RS Law on Status of State Property, Article 9.

[114] Crisis Group interview, Selmo Cikotić, defence minister, Sarajevo, 8 December 2010.

[115] Crisis Group interview, NATO official, Sarajevo, 28 October 2010.

[116] Crisis Group interviews, RS officials, Banja Luka, September-November 2010.

[117] Crisis Group interview, NATO member-state ambassador, Sarajevo, 24 September 2010.

[118] NATO membership is an informal stepping-stone to EU accession; every new EU member since the fifth (Eastern European) enlargement had already joined NATO, except Malta, which is neutral, and Cyprus, which is blocked by Turkey.

[119] Following its successful defence reform, Bosnia joined NATO's Partnership for Peace (PFP) program in 2006. In 2008, it began to work on an Individual Partnership Action Plan (IPAP). In April 2008, NATO invited it to begin an intensified dialogue on the full range of political, military, financial and security issues relating to its aspirations to membership.

But it took intensive lobbying by some member states and others[120] to convince the alliance to offer MAP, even with conditions attached, at its Tallinn foreign ministers meeting in April 2010. Yet, NATO made resolution of the immovable defence property issue a condition for Bosnia to implement its MAP in practice.[121] The last-minute conditionality seemed more linked to anger over the country's rejection of past international reform efforts, notably the U.S. and EU-led constitutional reform package of October 2009, than to military functionality.[122]

Several member states insisted on requiring a resolution of defence property,[123] claiming that as long as Bosnian leaders remained disunited on key issues, NATO's consensus-based decision-making could be undermined. However, NATO does not give MAP countries a voice in its decision-making process. MAP is little more than a long list of reforms required for eventual membership, coupled with more frequent and intrusive NATO monitoring. In Bosnia's case, this list has substantial overlap with the reforms required for the EU accession process. Instead of supporting that EU accession process and internal cohesion by offering unconditional MAP, NATO contributed to domestic quarrels by asking for one set of requirements to be met before it would give another set of requirements.[124]

While acknowledging that efforts to reach agreement on dividing defence properties have long been stalled, the U.S. believes there is now reason for optimism. In a recent appearance before the Congressional Helsinki Commission, Deputy Assistant Secretary of State Tom Countryman welcomed what he described as "new, more realistic, more compromising talk that we think can lead to a solution fairly rapidly – almost concurrently perhaps – with the formation of the new government". While noting that the parties have not asked Washington to help list properties and determine their disposal, he said the U.S. will participate if asked and that if a "push from the outside" is necessary for progress, it will coordinate on how to do that.[125] Turkish diplomats, who staunchly support Bosnia's MAP, also express optimism regarding the resolution of defence property.[126]

Until recently, NATO membership was one of the few goals that most Bosniak, Croat and Serb leaders shared, despite the latter's ambivalence about membership in an organisation that once bombed their armed forces. While the leaders understood that NATO guarantees its member states against external, not internal threats, they considered that the tie would exert a powerful stabilising effect.[127]

However, a new hurdle to NATO membership has developed in RS, where NATO is becoming increasingly unpopular among Serbs.[128] Until the 2010 elections, Dodik's SNSD was willing to sacrifice some public support for progress toward membership without conditions. Since then, an aggressive attempt by the SDP to court the anti-NATO SDS and thereby shut the SNSD out of state government has encouraged Dodik to form a coalition with that rival Serb party. Part of the price was acceptance of the SDS's (popular) demand for an entity referendum on NATO membership.[129] While the SNSD can still agree to the defence property reforms needed to implement Bosnia's MAP, its tactical alliance with the SDS complicates the path to eventual NATO membership. The defence property conditionality consequently hindered rather than facilitated progress when an opportunity existed and has decreased rather than supported the local will to compromise. If an agreement on defence property fails to materialise in 2011, this conditionality should be quietly dropped at the next NATO foreign ministers meeting.

[120] Crisis Group strongly supported and lobbied for Bosnia to get MAP. See Crisis Group President Louise Arbour and Board of Trustees member Wesley Clark, "Why Bosnia Needs NATO (Again)", foreignpolicy.com, 29 April 2010.

[121] "The NATO foreign ministers decided in Tallinn today to give a Membership Action Plan (MAP) to Bosnia and Herzegovina. The first phase of the plan can begin when defence-related property is under the possession of the state", NATO press release, Tallinn, 23 April 2010 (online).

[122] Defence property had not been listed on a menu of potential conditions suggested earlier by NATO officers in Sarajevo. Bringing up military property as a condition for MAP was also a result of anger at rejection of the U.S.-sponsored Butmir package and the belief of some U.S. diplomats that Bosnia could not be rewarded for obstinacy without loss of international credibility. Crisis Group interviews ,U.S. and NATO officials, October 2010. For the October 2009 "Butmir package" of constitutional reforms, see Crisis Group Briefing, *Bosnia's Dual Crisis*, op. cit.

[123] The member states were the U.S., Germany and The Netherlands. Crisis Group interviews, NATO officials and Western diplomats, October-November 2010.

[124] Crisis Group interviews, NATO, U.S. and EU officials and diplomats, September-November 2010.

[125] Countryman testimony, 8 December 2010; Crisis Group interview, U.S. State Department official, 21 December 2010.

[126] Crisis Group interview, Turkish official, Ankara, December 2010.

[127] "[Bosnia] needs every success it can get, so if NATO membership would remove some fear from the population, why not". Crisis Group interview, European ambassador, Sarajevo, 9 October 2010.

[128] In the RS and Serbia. According to the Gallup Balkan Monitor survey, in 2006, 30.6 per cent of the population of Serbia was positive toward NATO, 20.5 per cent hostile and 36.4 percent neutral; in the RS, 26.4 per cent was positive, 18.2 per cent hostile and 37.5 per cent neutral. In 2010 in Serbia, 8.6 per cent was positive, 51.6 hostile and 30.2 neutral; in RS, 18.4 per cent was positive, 27.4 hostile and 47.2 neutral.

[129] Crisis Group interview, senior RS official, Banja Luka, 2 November 2010.

C. BRČKO DISTRICT

A third objective, "the Brčko Final Award", can be considered largely completed, though the PIC most recently noted that electricity regulation and supply in the district is still to be finalised.[130] The requirement that the Brčko electricity dispute first be fully resolved shows how subjective conditionality has become. As each Brčko-related task has been completed, a new one has appeared. As a result, RS leaders say they no longer believe the PIC will agree to close OHR even after "five plus two" has been satisfied. Instead, new conditions will be imposed, making it pointless to compromise on fulfilling the existing ones.[131]

After the Bosnian parliament adopted a constitutional amendment regulating the status of Brčko district in March 2009, OHR and the international community cheered, believing that the end of Brčko's international supervision was imminent.[132] The PIC noted only three remaining issues: mutual debts, Brčko residents' citizenship and district electricity supply.[133] OHR expected these to be addressed quickly, since top local leaders seemed to have reached agreement. Principal Deputy High Representative and Brčko Supervisor Raffi Gregorian had already scheduled the closing ceremony of the Brčko arbitration and ordered printing of invitations for 19 November 2009.[134]

But with no progress on these three issues, OHR concluded that Bosnia's leaders would not quickly meet the remaining Brčko conditions, and on 19 September 2009 High Representative Inzko imposed a set of decisions he considered necessary for Brčko supervision to end.[135] Acting on suspicion that the RS leadership planned to break away from Elektroprijenos, the state electricity transmission monopoly, and create its own company, he included decisions that enabled the Bosnian power grid to continue normal functioning.[136] Though RS rejected and ignored those decisions, its National Assembly amended the citizenship law without fanfare on 11 February 2010, in exactly the fashion as the Inzko imposition. RS has continued to dispute the electricity supply decision, however, which had more political than economic implications.[137]

In addition to straining relations with RS, the High Representative's Brčko-related September 2009 impositions and supervisory order from 30 June 2009[138] also ran afoul of the European Commission, which complained that they violated at least two important EU principles.[139] As Bosnia will eventually need to acquire the *acquis communitaire* as part of the accession process, the Commission concluded – with what insiders said was palpable frustration among member states – that it had to re-write the OHR texts.[140]

A breakthrough on Brčko electricity dispute was eventually made possible in September 2010, after Roderick Moore (a U.S. diplomat) replaced Raffi Gregorian as Principal Deputy High Representative and Brčko supervisor. Moore worked with European Commission experts to create a joint plan for resolving the dispute that was presented to RS leaders at a meeting in Banja Luka on 13

[130] PIC communiqué, 1 December 2010. In OHR's 2005 Mission Implementation Plan, a document that served as the basis for the "five plus two", the extensive discussion of Brčko district made no mention of electricity regulation, now the sole issue keeping this objective open. "OHR Mission Implementation Plan for 2005", 7 March 2005, section 3.4.

[131] Crisis Group interview, Igor Radojičić, speaker, RS National Assembly, Banja Luka, 2 November 2010.

[132] The amendment was adopted by Bosnia's House of Representatives on 25 March 2009 and by the House of Peoples the next day. Brčko straddles the narrow corridor connecting RS territories in the east and west and Federation territories in the north and south. Due to its strategic importance, it was the only issue on which the warring parties failed to agree during the Dayton negotiations and was left to subsequent international arbitration and supervision.

[133] PIC communiqué, 26 March 2009.

[134] Crisis Group interview, senior OHR official, Sarajevo, 19 November 2010.

[135] These decisions included: amendments to the state and entity laws on citizenship to provide a mechanism for district residents to change their entity citizenship, if they so wish; amendments to state and entity laws on electricity to provide the necessary legal framework for electricity supply to the district; and amendments to a state law on the distribution of succession assets, to prevent any distribution of assets or funds at the expense of Brčko. OHR press release, 18 September 2009.

[136] According to this theory, successful break up of Elektroprijenos would pave the way for further moves intended to lead to greater independence of RS by testing international resolve to defend Bosnia's integrity. Crisis Group interviews, Western diplomats, 2009-2010.

[137] RS has always showed more interest in Brčko than the Federation. Continued supply of electricity to Brčko would bring the RS power company some profit, but even more political influence. In addition, legal solution of this problem, which RS desires, would mean that the entity would become involved in local distribution of electricity in Brčko, which is the constitutional responsibility of the district. Crisis Group interview, senior OHR official, Sarajevo, 19 November 2010.

[138] The High Representative's decisions order the Brčko district budget and a local distribution company to subsidise a part of the cost of electricity supply for Brčko residents from 1 July to 31 December 2010.

[139] Regulations on Brčko electricity supply and subsidies imposed by OHR are said to go against the regionally-agreed principle that the electricity market should be liberalised by 2014 and to infringe on what should be the authority of the state aid agency. Crisis Group interview, senior European Commission official, November 2010.

[140] Crisis Group phone communication, December 2010.

December 2010 and quietly accepted.[141] The RS government then adopted amendments to the electricity law and put them to the RS National Assembly, which approved them on 21 December.[142] This paves the way for closure of the Brčko arbitration. Meanwhile, Brčko district has functioned more smoothly than the rest of Bosnia, without apparent trouble from its unresolved electricity regulation regime.

V. CONCLUSION

Bosnia will not be a credible candidate for EU membership until it can conduct itself without the intervention of a foreign overseer. The problem is not OHR's presence, but rather dependence on OHR for key decision-making tasks such as legislation. Nationalist politics in RS have been sustained by OHR's permanent availability as a threat to mobilise against or as a punching-bag; and nationalist politics in the Federation have reacted to each RS provocation by setting aside real reform in favour of verbal assaults on the Serbian menace. The former tactic would end with the closure of OHR; the latter would not survive integration of the EU *acquis*. Transition can change the rules of the Bosnian political game, so the players are understandably nervous: skills learned over the past fifteen years risk becoming useless.

Perhaps for this reason, Bosnia's leaders have proved unhelpful in completing the "five plus two". Some observers believe that these international goals, once imposed as conditions for Bosnia, have mutated into tools with which Bosnians exercise leverage over the international community.[143] Whatever the reason, "five plus two" has lost its original sense and justification and no longer has much to do with the state's viability.

A soft transition risks leaving the OHR in place indefinitely, contending with the EU Delegation for Bosnians' attention, dividing the international community and diverting limited resources into turf battles. If this happens, Bosnians might well gravitate to the international office they find most congenial and claim its support for their conflicting policies. This would be the worst of both worlds.

Instead EU member states, together with Catherine Ashton and Štefan Füle, should take the decisive action necessary to convince the Bosnians, but also partners in the U.S., Turkey and elsewhere, that beginning in 2011 the EU will play the lead international role in Bosnia, guiding the country through reform and EU integration. As early as the 31 January Foreign Affairs Council, they should agree to details of a reinforced presence in Sarajevo. Lack of action on the powers, responsibilities and resources of the Delegation and the appointment of a strong ambassador strengthens the arguments of those who are sceptical of the EU's ability to act, including within the PIC. More than completion of the "five plus two", the establishment of an authoritative in-country EU presence may convince those sceptics that the time to close OHR has come.

Sarajevo/Istanbul/Brussels, 11 January 2011

[141] Crisis Group interviews, senior European officials, December 2010.
[142] Crisis Group interview, senior OHR official, Sarajevo, 17 December 2010.
[143] Crisis Group interview, PIC member-state ambassador, Sarajevo, 13 October 2010.

APPENDIX A

MAP OF BOSNIA AND HERZEGOVINA

Map No. 3729 Rev. 6 UNITED NATIONS
March 2007

Department of Peacekeeping Operations
Cartographic Section

APPENDIX B

ABOUT THE INTERNATIONAL CRISIS GROUP

The International Crisis Group (Crisis Group) is an independent, non-profit, non-governmental organisation, with some 130 staff members on five continents, working through field-based analysis and high-level advocacy to prevent and resolve deadly conflict.

Crisis Group's approach is grounded in field research. Teams of political analysts are located within or close by countries at risk of outbreak, escalation or recurrence of violent conflict. Based on information and assessments from the field, it produces analytical reports containing practical recommendations targeted at key international decision-takers. Crisis Group also publishes *CrisisWatch*, a twelve-page monthly bulletin, providing a succinct regular update on the state of play in all the most significant situations of conflict or potential conflict around the world.

Crisis Group's reports and briefing papers are distributed widely by email and made available simultaneously on the website, www.crisisgroup.org. Crisis Group works closely with governments and those who influence them, including the media, to highlight its crisis analyses and to generate support for its policy prescriptions.

The Crisis Group Board – which includes prominent figures from the fields of politics, diplomacy, business and the media – is directly involved in helping to bring the reports and recommendations to the attention of senior policy-makers around the world. Crisis Group is co-chaired by the former European Commissioner for External Relations Christopher Patten and former U.S. Ambassador Thomas Pickering. Its President and Chief Executive since July 2009 has been Louise Arbour, former UN High Commissioner for Human Rights and Chief Prosecutor for the International Criminal Tribunals for the former Yugoslavia and for Rwanda.

Crisis Group's international headquarters are in Brussels, with major advocacy offices in Washington DC (where it is based as a legal entity) and New York, a smaller one in London and liaison presences in Moscow and Beijing. The organisation currently operates nine regional offices (in Bishkek, Bogotá, Dakar, Islamabad, Istanbul, Jakarta, Nairobi, Pristina and Tbilisi) and has local field representation in fourteen additional locations (Baku, Bangkok, Beirut, Bujumbura, Damascus, Dili, Jerusalem, Kabul, Kathmandu, Kinshasa, Port-au-Prince, Pretoria, Sarajevo and Seoul). Crisis Group currently covers some 60 areas of actual or potential conflict across four continents. In Africa, this includes Burundi, Cameroon, Central African Republic, Chad, Côte d'Ivoire, Democratic Republic of the Congo, Eritrea, Ethiopia, Guinea, Guinea-Bissau, Kenya, Liberia, Madagascar, Nigeria, Rwanda, Sierra Leone, Somalia, Sudan, Uganda and Zimbabwe; in Asia, Afghanistan, Bangladesh, Burma/Myanmar, Indonesia, Kashmir, Kazakhstan, Kyrgyzstan, Nepal, North Korea, Pakistan, Philippines, Sri Lanka, Taiwan Strait, Tajikistan, Thailand, Timor-Leste, Turkmenistan and Uzbekistan; in Europe, Armenia, Azerbaijan, Bosnia and Herzegovina, Cyprus, Georgia, Kosovo, Macedonia, Russia (North Caucasus), Serbia and Turkey; in the Middle East and North Africa, Algeria, Egypt, Gulf States, Iran, Iraq, Israel-Palestine, Lebanon, Morocco, Saudi Arabia, Syria and Yemen; and in Latin America and the Caribbean, Bolivia, Colombia, Ecuador, Guatemala, Haiti and Venezuela.

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January 2011

APPENDIX C

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