



BRCKO ARBITRATION: PROPOSAL
FOR PEACE

ICG Bosnia Report No. 18

20 January 1997

CONTENTS

| | |
|--|----|
| EXECUTIVE SUMMARY | i |
| I. Introduction..... | 1 |
| II. Why Brcko Matters | 2 |
| A. Background | 2 |
| B. Future of Brcko Lies in the Eye of the Beholder..... | 4 |
| 1. Serb Position | 4 |
| 2. Bosniac Position | 5 |
| 3. Croat Position | 5 |
| 4. International Community’s Position | 5 |
| III. What Should Be Done..... | 6 |
| A. Final Decision with Jurisdiction to Amend | 6 |
| B. Short, Interim Term: an International Governorship | 7 |
| 1. The Area of Arbitration | 7 |
| 2. International Governorship | 7 |
| 3. Security | 8 |
| 4. Demilitarised Zone | 9 |
| 5. Refugees and Internally Displaced | 9 |
| 6. Free Economic Zone | 10 |
| C. Long Term: Administration Under Common Institutions of Bosnia and Herzegovina | 11 |
| 1. Administration | 11 |
| 2. Security | 11 |
| 3. Final Result | 12 |
| ABOUT THE INTERNATIONAL CRISIS GROUP | 13 |

EXECUTIVE SUMMARY

The Dayton Peace Agreement postponed a decision on the fate of the Brcko area, one of the peace talks' most contentious and potentially explosive issues, until arbitration could take place. A decision is expected by 15 February.

The arbitration award could have serious consequences. If Brcko were awarded to the Federation, Bosnian Serbs may lose faith in the DPA, strengthening hard-liners and potentially causing tens of thousands of refugees from western Republika Srpska to flee. If Brcko were awarded to Republika Srpska, heightened tension and brinkmanship would result in the short term, and renewed armed conflict in the long term.

As a contribution to the arbitration process and in order to address the goals, needs and fears of all sides, thus preserving the precarious peace, the International Crisis Group offers the following recommendations:

- The arbitration panel must determine the final status of the municipality from the outset. At the same time, the panel must retain jurisdiction over the matter for at least five years, during which time, the parties to the dispute should have the right to appeal to the panel in cases of egregious violations. This could be a potent, yet passive and economical measure to enforce the decision.
- The area subject to arbitration must include the entire pre-war Brcko municipality.
- For an interim period of 18 months, an international governorship must be established. The main tasks for this period must be the return of internally displaced persons and refugees, the reconstruction of housing and infrastructures to support the returns, security for the returnees as well as for those remaining, and complete and permanent demilitarisation of the municipality.
- The international governorship will require a robust security mechanism to be ensured by SFOR contingents for the duration of their current mandate. A clear chain of command between the Governor and the local SFOR commander will need to be articulated.
- Civil policing is a vital issue. An international police force must be attached to the Brcko governorship drawing on lessons learned in Mostar. Local police must be recruited to assist the international police contingent.
- The Brcko municipality must otherwise become a completely demilitarised zone. Neither the Federation nor Republika Srpska should be allowed to station troops or military equipment in the zone. However, both could have transit rights along designated routes.
- From its inception, the international governorship must concentrate on ensuring the return of all displaced persons and refugees by the end of its mandate and before the withdrawal of international forces. Such a return cannot be organised without taking into account the needs of the new Serb settlers. A majority of the Serb

settlers are former residents of the Sarajevo suburbs; they must be encouraged to return to their original homes. The remaining settlers must be provided with new homes in the Brcko municipality.

- The Brcko municipality must be transformed into a customs or duty-free zone, thus encouraging trade from Croatia, Serbia, Republika Srpska, and the Federation. At the same time, international assistance programmes must be developed immediately. With time, the profit motive will make in-roads into the exclusive nationalist agenda which has caused widespread destruction and impoverishment.
- After the initial 18-month period of international governorship, the Brcko municipality must be handed over to the common institutions of Bosnia and Herzegovina for permanent administration.
- When the administration of the municipality is handed over to the common institutions, a further international armed forces presence must be considered. Such a force could be provided by NATO with military contingents from European states or a purely European *ad hoc* structure could be created for this purpose. This force should remain in Brcko municipality for a transitional period of 18 months and be phased out gradually. During the same period, the presence of an international police force would similarly be phased out.

For two years subsequent to the withdrawal of all international military forces from the municipality, the common institutions administration of Brcko would still benefit from the arbitration panel's jurisdiction over the area and the threat of sanction or additional awards. By the end of that period, displaced persons would have returned and reintegrated, the rebuilding of homes and infrastructure be completed, economic interests and confidence among the three communities taken root, and the threat of any resumption of hostilities disappeared.

BRCKO ARBITRATION: PROPOSAL FOR PEACE

I. INTRODUCTION

The Dayton Peace Agreement (DPA) postponed a decision on the fate of the Brcko area, one of the peace talks' most contentious and potentially explosive issues, and left it to a binding arbitration. This was scheduled to take place by 14 December 1996, but a decision could not be reached by the deadline. On 9 December, the deadline was postponed to 15 February 1997. The arbitration hearing took place from 6 to 16 January 1997 in Rome, and a decision is expected by 15 February. The arbitration panel consists of one representative each from the Federation of Bosnia and Herzegovina and Republika Srpska, Professor Cazim Sadikovic and Dr Vitomir Popovic respectively. Roberts Owen, an American lawyer chosen by the International Court of Justice, is the presiding arbitrator.¹ Although the DPA states, "[t]he Parties agree to binding arbitration of the disputed portion of the Inter-Entity Boundary Line in the Brcko area indicated on the map attached at the Appendix," the map was omitted.² Consequently, not only is the status of Brcko to be determined but also the area subject to arbitration.

The arbitration award could have serious consequences. If Brcko were awarded to the Federation, Bosnian Serbs may lose faith in the DPA, strengthening hard-liners and potentially causing tens of thousands of refugees from western Republika Srpska to flee. If Brcko were awarded to Republika Srpska, heightened tension and brinkmanship would result in the short term, and renewed armed conflict in the long term.

On 31 August 1996, the International Crisis Group (ICG) published a report on the issue – "Brcko Arbitration". In order to avoid increased tension and armed conflict and ensure the implementation of the arbitrators' decision, as well as the right of refugees and internally displaced persons to return to their homes, ICG urged in its August report that the arbitration panel consider the following measures:

- the area subject to arbitration to include the entire Brcko municipality;
- an internationally-administered zone for the contested Brcko area as an interim measure;
- an administration under the common institutions of Bosnia and Herzegovina as a subsequent and permanent solution; and
- a free economic zone for the entire municipality to benefit all peoples in the country.

¹ The International Court of Justice (ICJ) appointed Owen after Republika Srpska refused to agree on the international member of the arbitration commission.

² DPA, Annex 2, Article V.

As a contribution to the work of the arbitration panel, the present report further elaborates the ICG proposal and updates the report published in August.

II. WHY BRCKO MATTERS

A. Background

Brcko is not just another war-ravaged Bosnian community. It is the nexus linking the eastern and western parts of Republika Srpska as well as the north-south route linking the industrial centre of Tuzla in the Federation with a port on the Sava River and Croatia. The Brcko municipality covers 487 sq. km. It had a pre-war population of 87,332; 44 per cent Bosniacs, 25.4 per cent Croats, 20.8 per cent Serbs and 9.8 per cent others. The town of Brcko and its suburbs covered about a fifth of the municipality's territory; and was home to 41,000 people, 55 per cent of them Bosniacs, 19 per cent Serbs, 7 per cent Croats and 19 per cent others.

The Brcko municipality was one of Bosnia's wealthiest communities. Its main assets were its location a few miles south of the Zagreb-Belgrade highway, the main overland trade route between central Europe and the southern Balkans, and its port on the Sava river, the largest river port in Bosnia, which handled all the water-borne imports to and exports from central Bosnia and Tuzla before the war.

After six days of fighting, Serb forces seized the town of Brcko on 7 May 1992. When the battle lines outside the town solidified, the Bosniacs and Croats were left in control of approximately two-thirds of the district and the Serbs held the rest, including the entire town and swathes of land to its east and west.

The Croats and Bosniacs fought the Serbs as allies and joined together in a municipal "government-in-exile" until May 1993 when their unified local military unit split up due to the eruption of fighting between Croatian Defence Council and Bosnian Army forces elsewhere in the republic. However, these separate Bosniac and Croat armed forces continued to co-ordinate their military activities and the Bosniac and Croat political leaders continued to participate in the government-in-exile until June 1994, when the Croats created a community they called Ravne Brcko.

The Brcko municipality is now divided into two. About a third of the area is under the control of Republika Srpska, and two-thirds under the control of the Federation. The Inter-Entity Boundary Line between Republika Srpska and the Federation left within the former's jurisdiction about 26 per cent of the territory claimed by Croat Ravne-Brcko.

The population of Brcko municipality has fallen from its pre-war total of over 87,000 to an estimated 45,000 on the Republika Srpska side, of whom 44,100 are Serbs; only about 16,000 Serbs from the pre-war populace have remained. The remaining 28,000 people are Serbs displaced from areas elsewhere in Bosnia and Herzegovina and refugees

from the Krajina area in Croatia. About 39,000 Bosniacs left Brcko town and the suburbs and moved southward, mostly into villages within the municipality but now in Federation territory. The size of the Croat population of Brcko municipality has fallen from its pre-war total of 22,000 to an estimated 11,000, about 95 per cent of whom are now on the Federation side.³

Since IFOR's deployment and the reopening of the north-south route through Republika Srpska, business activity has blossomed across the confrontation line. The so-called "Arizona" roadside market is flourishing in the Zone of Separation, several miles west of Brcko town, attracting buyers from all sides. However, the DPA's creation of the demilitarised zone has also sparked a tense battle between the Bosniac and Serb authorities for possession of some 1,000 destroyed houses that lie within that zone. Both sides appear to be attempting to tilt the arbitration in their favour by changing the facts on the ground.

In three villages inside the zone of separation but on the Serb side of the former confrontation line,⁴ Bosniac displaced persons began repairing their destroyed homes. The Serb authorities responded by harassing them, blowing up several of their repaired homes, and launching a counter resettlement campaign by promising doors and windows to displaced Serbs who would occupy (mainly Bosniac) homes within the zone. Republika Srpska Prime Minister Gojko Klicovic announced that the Serbs would populate Brcko with as many refugees as possible. When tempers flared, IFOR declared a moratorium on repairs in mid-June. The incidents sparked the intervention of the Office of the High Representative, which resolved the matter by issuing "guiding principles" slowing the pace to a "phased and orderly" return of twenty families per week.

During the campaign for the September elections, Republika Srpska authorities used humanitarian aid as leverage to coax more than 12,000 of Brcko's large community of displaced Serbs to register with the local election committees to change their place of residence and vote in Brcko.⁵ Furthermore, over 31,000 Bosnian Serb refugees living in the Federal Republic of Yugoslavia were directed to register to vote in Brcko as their intended place of residence.⁶ The registration of these two groups assured the Serbs a clear majority. More recently, Republika Srpska authorities invited Serbs from Eastern Slavonia to resettle in the Brcko area this spring, when Zagreb assumes control of Eastern Slavonia.⁷ The Organisation for Security and Co-operation in Europe (OSCE) decision to postpone municipal elections throughout Bosnia and Herzegovina because of the wider effect of similar manipulation of voter registration

³ BH Estimates, IFOR, 30 June 1996.

⁴ Brod, Dizdarska and Omerbegovaca.

⁵ Report on In-Country Voter Registration, OSCE, 21 August 1996.

⁶ Report on Refugee Voter Registration, OSCE, 23 August 1996.

⁷ Reuter, 11 January 1997.

elsewhere eased the immediate problem in Brcko, but still left it exposed to future electoral manipulation and to attempts at influencing the outcome of the arbitration by changing the demography. It is crucial that the same kind of manipulation is not tolerated during the period leading to the municipal elections this spring. To this end, the OSCE should disallow any registration of voters in the Brcko municipality under the provisions of the rules permitting the casting of ballots in a municipality of future residence.

B. Future of Brcko Lies in the Eye of the Beholder

1. Serb Position

Brcko's strategic, military and commercial position makes it an area of vital importance for the Serbs who wish to retain exclusive control over ethnically cleansed areas of western Bosnia. As mentioned, the Serb leaders have already tried to pre-empt the arbitration process by attempting to resettle refugees in the damaged, deserted villages which had a pre-war Muslim majority, on the southern flanks of the town. With Serb television, radio and hard-line Pale leaders exhorting, Serbs expect the arbitration process to reaffirm their control of Brcko town and to net them land now under Federation control. The official Serb position, articulated recently by Republika Srpska's President Biljana Plavsic, is that arbitration will only concern part of the Inter-Entity Boundary Line and will focus on widening the Serb-held Brcko corridor from its present 6 to 20 km, and it will not involve Brcko town itself. In exchange for such an arrangement, Republika Srpska authorities are prepared to grant the Federation transit rights to a port on the Sava River. However, should the arbitration decision grant Brcko to the Federation, Republika Srpska officials have threatened dire consequences. Serb member of the Presidency Momcilo Krajisnik has said that the integrity of Republika Srpska via Brcko is more important than peace and that they "would go to war over Brcko."⁸

After months of refusing to participate in the deliberations of the arbitration panel, on 2 December 1996, Republika Srpska pulled out all together from the arbitration process. In a letter addressed to Roberts Owen, Prime Minister Gojko Klicovic accused him of favouring the Bosniac side and said: "Republika Srpska does not intend to participate any longer in such an arbitration proceeding."⁹ However, a few days after the formal arbitration hearings started in Rome in early January 1997, Republika Srpska changed its decision and Dr. Vitomir Popovic, the Serb member of the panel, finally started to participate.

⁸ Reuter, 8 January 1997.

⁹ Reuter, 2 December 1996.

While the Bosnian Serbs make frequent pronouncements about the arbitration, the position of the Yugoslav authorities is less clear. When the Bosnian Serbs refused to help select the third member of the panel, the Yugoslav foreign minister issued a blistering condemnation, expressing its “anger, great concern and regret” over the Serb hard-liners’ intransigence and demanding absolute and immediate co-operation.

2. Bosniac Position

Now that the north-south route through Brcko has opened, Bosniacs have a taste of the past, which has been intensified by nostalgic radio news broadcasts. The UN High Commission for Refugees (UNHCR) states that the Federation-controlled part of the Brcko municipality is unique in that all of its 8,000 displaced persons come from Brcko town itself or the Zone of Separation. These displaced persons demand that they be allowed to reclaim their property and cite DPA to back their demands. The Bosniacs insist that the arbitration should determine only the status of Brcko town and not the inter-entity boundary or the width of the corridor. They have expressed a particular interest in the railway line, the roads and the port on the Sava, which the Serbs control and without which the Bosniacs in the Federation feel isolated and landlocked. The local Bosniacs insist that either Brcko will be placed under Federation control or the Bosnian Army will cut the corridor by force. Bosniac officials say that, once they control Brcko town again, they will be happy to provide the Serbs transit access.

3. Croat Position

The Croat leaders of Ravne-Brcko do not trust the ruling elite of *Hrvatska demokratska zajednica* (HDZ) in Mostar, which has followed a separatist path since mid-1992 in an effort to merge their home region, Western Herzegovina, with Croatia itself. Members of the Croat leadership of Ravne-Brcko have expressed alarm that they will be swallowed up by the Federation and that their local concerns will be overlooked. The Ravne-Brcko authorities have said that the United Nations should take control of Brcko town so that all three ethnic groups can use the area as a cross-roads. For Croats, Brcko could be a key bridge to Croatia itself.

4. International Community’s Position

While a decision on the future of Brcko is clearly up to the arbitration panel and is to be based on “relevant legal and equitable

principles”,¹⁰ political pressure on the panel from various quarters, especially the international community, can influence the outcome.

Some in the international community have suggested that the Inter-Entity Boundary Line should not be changed, i.e. Brcko town and part of the municipality should be left within Republika Srpska; displaced persons from the municipality should be allowed to return and an expedited reconstruction program to repair damaged homes completed; the Sava River port should be administered by the DPA Annex IX common institutions; and the Federation should be provided with access to the port via a corridor road policed by a special force yet to be designated, possibly under the supervision of the UN International Police Task Force (IPTF).

Clearly, such an outcome will ignore the “relevant legal and equitable principles”, making the return of displaced persons impossible to accomplish as evidenced by the total absence of returns to Republika Srpska during the first year of DPA’s implementation. Furthermore, the suggested outcome may jeopardise the entire peace process in Bosnia.

III. WHAT SHOULD BE DONE

A. Final Decision with Jurisdiction to Amend

While the rules under which the arbitration is conducted allow “interim, interlocutory, or partial awards”,¹¹ in order to avoid brinkmanship and demographic manipulations by the parties to the dispute, the arbitration panel’s decision should determine the final status of the municipality from the outset and should not be limited to the interim period only. In addition, a referendum now or at some future date in order to determine the final status of the municipality should be avoided.

The arbitration panel should retain jurisdiction over the matter for at least five years, during which time, the parties to the dispute should have the right to appeal to the panel in cases of egregious violations of the provisions of the panel’s decision or international law. This could be a potent, yet passive and economical measure to enforce the decision.

The arbitration panel’s retention of jurisdiction on the matter for a period of five years could be the key to a successful and good faith implementation of its decision. It could also serve to remedy the missing element in post-war Bosnia for the implementation of any agreement – confidence. If either party to the dispute fails to implement the provisions of the decision in full, the panel would be in a position to assess appropriate sanctions or revise its decision and reward the compliant side with additional rights, jurisdiction or the territory as a whole. Furthermore, the threat of such

¹⁰ DPA, Annex 2, Article V(3).

¹¹ United Nations Commission on International Trade Law (UNCITRAL) Arbitration Rules, Article 32(1).

sanctions and additional awards could serve as an impetus to stimulate compliance with or improved implementation of other provisions of the DPA elsewhere, in particular the functioning of common institutions (see part C below), the return of Serbs to the Sarajevo suburbs (see part B(5) below), freedom of movement, and the return of displaced persons to their homes in Brcko.

B. Short, Interim Term: an International Governorship

1. The Area of Arbitration

The area subject to arbitration must be clearly defined. In the absence of the map in the DPA, the panel of arbitrators should decide to include the entire pre-war Brcko municipality, including Serb-held Brcko town as well as territory under Federation control. The Inter-Entity Boundary Line should be changed accordingly. This would be a compromise position.

2. International Governorship

The arbitration decision cannot possibly satisfy the conflicting territorial, equitable and legal claims of both parties. Whether the arbitrators decide in favour of the Serbs, giving the Serbs the corridor but the Bosniac displaced persons the right of return, or in favour of the Bosnian government, giving the Serbs the right to remain and transit, an enforcement mechanism will be needed to break the intransigence. Though Brcko's geographic and commercial position ought to produce a creeping integration over time, the town's unresolved status now leaves a window for the creation of an international governorship. This may be the only viable means of addressing the goals, needs and fears of all sides.

Since the status quo favours the Serbs, the creation of such an administration would be perceived to favour the Bosniacs, but Eastern Slavonia and Mostar supply two useful precedents. Under the auspices of the UN Transitional Authority in Eastern Slavonia and the leadership of a strong American administrator Jacques Klein - but thanks principally to Serbia's abandonment and the viable threat of Croatian military force - the Serb-held territory in Eastern Slavonia looks destined to pass peacefully into Croatian government hands. In Mostar, the two-year European Union Administration has failed to unify the city, despite the presence of a strong administrator and binding powers of arbitration, because Croatia is still actively supporting the separatists and because, unlike the Serbs in Eastern Slavonia, Croatian nationalists in the town face no military threat.

ICG proposes that an international governorship be established for 18 months as an interim stage of a longer-term settlement. However, in both Eastern Slavonia and Mostar the administrations

are working towards a lasting solution: the hand-over of Eastern Slavonia to Croatia and the reunification of Mostar. In Brcko too, an international governorship should have a similar *raison d'être*. This should be a second phase in which the international governorship hands over authority to a permanent administration under the common institutions of Bosnia and Herzegovina, and Brcko becomes a sort of open municipality to be enjoyed by both entities equally with guaranteed right of transit through a free economic zone. During the interim “cooling off” period under an international governorship, economic imperatives and a reduction in social tensions might soften the parties’ intransigence.

The Governor should be an American. This would garner Bosniac confidence and Serb respect. It would also help the US Administration justify US troop involvement. The Governor should have a military background in order to ensure smooth relations between the civilian administrator and the US military command and to guarantee that, on the Governor’s advice, the military will take a more proactive stance. The Governor must be a strong character with significant experience in the former Yugoslavia and Bosnia and Herzegovina. This will again generate immediate local trust and respect. Leaders of the EU Administration in Mostar say their learning curve was so steep at the outset that the parties immediately perceived weakness; they were never able to recover the initiative or respect; and by the time they were ready to tackle local obstructionists robustly, the international focus had shifted and the early momentum had been squandered.

3. Security

In the arbitration decision, clear pronouncements must be made that the Governor’s main tasks for the 18 months interim period must be the return of internally displaced persons and refugees, the reconstruction of housing and infrastructure to support this policy, security for the returnees as well as for those remaining, and complete and permanent demilitarisation of the municipality.

The US Commander in the area in May estimated that such a job would require one heavy battalion and one light battalion, or approximately 1,200 troops. It may also be valuable to maintain the Russian military presence in order to appease the Serbs and further NATO-Russian co-operation. Because both entities’ leaders are creating artificially high expectations for the arbitration, any internationally governed zone will need a robust security mechanism. The main military component would be American SFOR contingents. A clear chain of command between the Governor and the local US commander would need to be articulated.

Brcko's critical importance for a long-lasting peace in Bosnia requires a substantial reinforcement of the international civilian police monitors (IPTF) in the town of Brcko. Civil policing is a vital issue. The Mostar example shows that a police force without executive powers can do little to confront rampant organised crime and uncooperative extremist politicians. At the outset it should be SFOR that take on policing functions, making the administration in effect a military governorship. But the Governor should also adopt some of the mechanisms developed in Mostar and Eastern Slavonia in order to develop a joint Serb-Croat-Bosniac police force. A Western police force, along the lines of the 200-officer West European Union contingent in Mostar, could be attached to the Brcko governorship drawing on lessons learned in Mostar. The international forces should initially control border crossings, customs and security, with a phased hand-over to the local authorities.

4. Demilitarised Zone

During the international governorship when SFOR will ensure security and the subsequent, permanent stage, the Brcko municipality should otherwise be a completely demilitarised zone. Neither the Federation nor Republika Srpska should be allowed to station troops or military equipment in the zone. However, both could have transit rights along designated routes - the Federation from Brcko port to its territory, and Republika Srpska from the eastern and western parts of its territory. The modality and penalties for any violation of such rights should be spelled out clearly.

5. Refugees and Internally Displaced

Since DPA clearly enshrines the right of the displaced to return to their original communities, this principle must be upheld irrespective of the outcome of the arbitration. From its inception, such a governorship should concentrate on ensuring the return of all displaced persons and refugees by the end of its mandate and before the withdrawal of international forces. The return of Brcko's displaced Bosniacs and Croats cannot be organised without taking into account the needs of the new Serb settlers who have nowhere else to go. The latter, many of whom are former residents of the Sarajevo suburbs,¹² must be encouraged to return to their original homes. The remaining settlers could be provided with new homes in the Brcko municipality.

International agencies should be careful to award reconstruction assistance only to original owners and to withhold it from displaced

¹² In January, the Sarajevo-based Serb Civic Council estimated that some 10,000 Serbs from the Sarajevo suburbs currently live in Brcko.

persons attempting to stake their claims to “abandoned” property. This will create incentive for rightful returns and disincentives for unlawful occupation of homes in the municipality. However, Serb settlers who are unable to return to their original homes, must be accommodated, if necessary, in a new community.

6. Free Economic Zone

By creating a customs or duty-free zone, the Brcko governorship could encourage trade from Croatia, Serbia, Republika Srpska, and the Federation. People would come to shop simply because goods would be cheaper.

International assistance programmes should be developed immediately. The programmes should not be seen as a free lunch provided by the international community. If local inhabitants and businesses are enticed by aid, they will merely wait for the donors’ cumbersome mechanisms to provide the funds. Instead, local entrepreneurs and initiatives should receive backing. By creating a secure environment, the Brcko governorship would increase local investor confidence. Rebuilding the shattered southern suburbs will require a large investment. With time, the profit motive will make in-roads into the exclusive nationalist agenda which has caused widespread destruction and impoverishment.

The quickest and easiest impact could be achieved by turning the present roadside “Arizona market” into a permanent facility by building access roads and putting down paving for stall-holders and their vehicles. Such a market need not occupy the present site but could be set up anywhere nearby, allowing the present market to operate in the interval.

Subsidies for building materials would make wood, bricks, and roofing tiles cheaper within the zone. This would not only boost physical reconstruction of housing in the zone but also entice others to come and buy, although this would be more of a commercial project than humanitarian aid in the traditional sense.

Sponsorship of a series of programmes on small business development, city and municipality organisation, public company and utility administration, etc. (like those in Eastern Slavonia), would encourage further investment. These forward-thinking, get-yourselves-on-board-for-the-21st-century programs are more likely to find a captive audience in Brcko because of its pre-war wealth and its commercial potential.

For the municipality to develop its economic potential, ensuring freedom of movement for all peoples within the municipality and from the two entities will be of the utmost importance. During the initial international governorship, SFOR could ensure that freedom.

During the subsequent transitional period and beyond, the profit motive by then established will provide the incentive to all to respect the freedom of movement of others.

C. Long Term: Administration Under Common Institutions of Bosnia and Herzegovina

1. Administration

After the initial 18-month period of international governorship, the Brcko municipality should be handed over to the common institutions of Bosnia and Herzegovina for permanent administration. Nothing in the state-level Constitution or DPA can be interpreted to exclude such an arrangement. The municipality could be administered either under the auspices of the Presidency or the Council of Ministers.

While the experience to date with the common institutions does not provide confidence that such an administration would function properly, the arbitration panel's retention of jurisdiction as discussed in section III(A)(1) above could provide the impetus necessary for the effective implementation of the common institution administration.

In order for the three communities in the municipality to develop the necessary confidence to reintegrate, limited autonomy rights could be provided for the preservation and development of their respective cultural, educational and religious rights. However, such rights must not be territorially based in order to avoid hopelessly fragmenting the municipality.

2. Security

At the conclusion of the SFOR and international governorship mandate in July 1998, and as the administration of the municipality is handed over to the state-level common institutions, a further international armed forces presence must be considered. Such a force could be provided by NATO with military contingents from European states or a purely European *ad hoc* structure could be created for this purpose. This force should remain in Brcko municipality for a transitional period of 18 months and be phased out gradually. During the same period, the presence of an international police force would similarly be phased out. For two years subsequent to the withdrawal of all international military forces from the municipality, the administration of Brcko under the common institutions would still benefit from the arbitration panel's jurisdiction over the area and the threats of sanction or additional awards thereof. By the end of that period, displaced persons would have returned and reintegrated, the rebuilding of homes and

infrastructure be completed, economic interests and confidence among the three communities taken root, and the threat of any resumption of hostilities disappeared.

3. Final Result

Thus the Brcko municipality would have a five-year grace period within which to assert itself as a model community of three prosperous peoples, and in peace. It is hoped that such an outcome would serve as an example for the rest of Bosnia and Herzegovina and beyond. The message from Brcko should be loud and clear - co-operation and reintegration pay off.

Sarajevo, 20 January 1997

ABOUT THE INTERNATIONAL CRISIS GROUP

“We want to head off crises before they develop,
rather than react to crises after they happen.”

Senator George Mitchell, ICG Board Chair

The International Crisis Group (ICG) is a multinational non-governmental organisation founded in 1995 to reinforce the capacity and resolve of the international community to head off crises before they develop into full-blown disasters. ICG board members - many of them high profile leaders in the fields of politics, business and the media - are committed to using their considerable influence to help focus the attention of governments, international organisations and the private sector on impending crises and to build support for early preventive action.

Since February 1996 ICG has been engaged in Bosnia and Herzegovina in support of the international effort to implement the Dayton Peace Agreement. Based in Bosnia, the ICG staff have monitored progress towards implementation of the peace accord, identifying potential obstacles, alerting the international community to the existence of such obstacles and advocating strategies for overcoming them. At all times ICG's priority has been to assist the international community, including all those organisations involved in implementing the peace agreement, and to identify and pre-empt any threats to the peace process before they have a chance to re-ignite the conflict that has ravaged the region since 1991.