

**BOSNIA AND HERZEGOVINA:
UNFINISHED BUSINESS**

HEARING
BEFORE THE
SUBCOMMITTEE ON EUROPE AND
EMERGING THREATS
OF THE
COMMITTEE ON
INTERNATIONAL RELATIONS
HOUSE OF REPRESENTATIVES

ONE HUNDRED NINTH CONGRESS

FIRST SESSION

APRIL 6, 2005

Serial No. 109-22

Printed for the use of the Committee on International Relations



Available via the World Wide Web: http://www.house.gov/international_relations

U.S. GOVERNMENT PRINTING OFFICE

20-402PDF

WASHINGTON : 2005

For sale by the Superintendent of Documents, U.S. Government Printing Office
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WEDNESDAY, APRIL 6, 2005

HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE ON EUROPE AND EMERGING THREATS,
COMMITTEE ON INTERNATIONAL RELATIONS,
Washington, DC.

The Subcommittee met, pursuant to call, at 12:14 p.m. in room 2200, Rayburn House Office Building, Hon. Elton Gallegly presiding.

Mr. GALLEGLY. We will call the Subcommittee to order. Today the Subcommittee on Europe and Emerging Threats is holding a hearing on the current political situation in Bosnia and Herzegovina, and the evolving status of its governing institutions.

The most urgent issue in the Balkans today is probably the final status of Kosovo. However, perhaps the more significant consideration in terms of long-term stability in the Balkans region and its integration with Euro-Atlantic institutions is the current status within Bosnia and Herzegovina.

The year 2005 marks the 10th anniversary of the Dayton Peace Agreement, the international peace agreement which ended the major conflict of the breakup of the former Yugoslavia from 1992 until 1995, a war which killed almost 250 thousand people, and resulted in nearly 2.2 million refugees.

The Dayton Agreement stopped the war. However, the overriding criticism of Dayton is that it resulted in the ethnic partition of the country, thus ratifying ethnic cleansing. The two entities established by the Dayton Agreement, the Federation, which is largely Bosnian Muslim and Croat, and Republika Srpska (RS), which is predominantly ethnic Serb, and nationalist politicians in many of the entity-governing institutions, continue to inhibit the development of a unified, state-level government.

However, much has been accomplished in the last 10 years since the end of the war. NATO has achieved stability and security throughout Bosnia. The office of the High Representative has achieved significant progress over the past 2 years in strengthening state-level institutions and developing their authority and legitimacy over entity-level institutions. A stable, unified, democratic state is beginning to emerge. Over one million refugees and displaced persons have returned. Quite remarkably, there has been significant progress since the end of 2004 with respect to Republika Srpska's willingness to confront the issue of war crimes.

However, one particular aspect of the refugee return issue could continue to be a problem. Although over one million refugees and

internally displaced persons have returned to Bosnia, less than 450,000 of these returnees are minority returns, or people returning to areas where they are no longer the ethnic majority.

Furthermore, of these minority returns, approximately three-quarters of these returns were to the Federation, and only one-quarter were to the RS. This raises the question of whether ethnic partition is still a serious issue in Bosnia, and whether the lack of minority returns to the RS may threaten the prospects of establishing an integrated, self-governing, unified Bosnian State.

The purpose of this hearing is to consider how the international community achieved the current status in Bosnia and Herzegovina, how the governing institutions of the Dayton Agreement have evolved over the past 10 years, whether ethnic partition is still an issue in Bosnia, whether the evolution of the Dayton governing institutions is sufficient to achieve a viable, unified self-governing Bosnian State, whether further minority returns to overcome ethnic partition in some areas of Bosnia may also be necessary, and what may be the implications for the Balkan regions.

Now it is my pleasure to turn to my good friend from Florida, the Ranking Member, Mr. Wexler.

[The prepared statement of Mr. Gallegly follows:]

PREPARED STATEMENT OF THE HONORABLE ELTON GALLEGLY, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF CALIFORNIA, AND CHAIRMAN, SUBCOMMITTEE ON EUROPE AND EMERGING THREATS

Today, the Subcommittee on Europe and Emerging Threats is holding a hearing on the current political situation in Bosnia and Herzegovina and the evolving status of its governing institutions.

The most urgent issue in the Balkans today is probably the final status of Kosovo. However, perhaps the more significant consideration in terms of the long-term stability of the Balkans region and its integration into Euro-Atlantic institutions is how Bosnia and Herzegovina has been developing.

The year 2005 marks the 10-year anniversary of the Dayton Peace Agreement—the international peace agreement which ended the major conflict of the breakup of the former Yugoslavia from 1992 until 1995—a war which killed almost 250,000 people and resulted in nearly 2.2 million refugees.

The Dayton Agreement stopped the war. However, the overriding criticism of Dayton is that it resulted in the ethnic partition of the country, thus ratifying ethnic cleansing. The two entities established by the Dayton agreement, the Federation (FBiH), which is largely Bosnian Muslim and Croat, and *Republika Srpska* (RS), which is predominantly ethnic Serb, and nationalist politicians in many of the entity governing institutions, continue to inhibit the development of a unified, state-level government.

However, much has been accomplished in the 10 years since the end of the war. NATO has achieved stability and security throughout Bosnia. The Office of the High Representative has achieved significant progress over the past two years in strengthening state-level institutions and developing their authority and legitimacy over entity-level institutions. A stable, unified, democratic state is *beginning* to emerge. Over one million refugees and displaced persons have returned. Quite remarkably, there has also been significant progress since the end of 2004 with respect to *Republika Srpska's* cooperation on the war crimes issue.

However, one particular aspect of the refugee return issue could continue to be a problem. Although over one million refugees and internally displaced persons (IDPs) have returned to Bosnia, less than 450,000 of these returnees were minority returns, or people returning to areas where they are no longer the ethnic majority. And of these minority returns, approximately three-quarters of these returns were to the Federation, and only one-quarter were to the RS. This raises the question of whether ethnic partition is still a serious issue for Bosnia and whether the lack of minority returns to the RS may threaten the prospects of establishing an integrated, self-governing, unified Bosnian state.

The purpose of this hearing is to consider how the international community achieved the current status in Bosnia and Herzegovina, how the governing institu-

tions of the Dayton Agreement have evolved over the past ten years, whether ethnic partition is still an issue for Bosnia, whether the evolution of the Dayton governing institutions is sufficient to achieve a viable, unified, self-governing Bosnian state, whether further minority returns to overcome ethnic partition in some areas of Bosnia may also be necessary, and what may be the implications for the Balkans region.

I will now turn to Mr. Wexler for any opening statement he may wish to make.

Mr. WEXLER. Thank you, Mr. Chairman. I first want to thank you for holding today's hearing, and thank the witnesses for being here. We look forward very much to hearing and learning from you.

It has been over 9 years since the Dayton Peace Accords were brokered, and although significant changes have occurred in Bosnia and Herzegovina, in terms of political, judicial, economic and social transformation, much more needs to be done to stabilize this nation and further the pace of democratic reform.

It is critical that the international mission led by the United States, the EU, and the U.N., carefully examine lessons learned over the past 9 years. At this juncture, despite difficulties and new global obligations, the international community, and especially the United States, must be fully engaged in Bosnia, as it takes steps to rebuild shattered communities, lessen ethnic violence and nationalism, and move further toward Euro-Atlantic integration.

The next several weeks will be particularly critical to this process as U.N. High Representative Ashdown briefs the EU and NATO on Bosnia's progress toward fulfilling necessary criteria for PFP membership, and an EU task force determines whether Sarajevo is ready to sign a stabilization and association agreement.

One of the main obstacles impeding Bosnia's Euro-Atlantic transition has been its obstruction of The Hague tribunal, and in this regard, we have witnessed significant progress. Republika Srpska authorities transferred six war criminals to The Hague over the past year. I am hopeful that this effort will continue and lead to the apprehension of all Balkan remaining war criminals, including Mr. Karadzic and Mr. Mladic.

While many refugees and displaced persons have returned to their homes and freedom of movement has improved, corruption and organized crime remain rampant in Bosnia. In this regard I support the decision of Mr. Ashdown to remove Mr. Covic as the Croatian member of the Bosnia Presidency due to the indictment on corruption and abuse of office. While this dismissal raises serious questions about the role of the international mission and the need to transfer even greater power to the Bosnian Government, it sends a strong signal that corruption is unacceptable and that the rule of law must be observed.

Mr. Chairman, it would be contrary to President Bush's policy of spreading global democracy if we failed to complete the goals outlined in Dayton. While the possibility of a fractured Bosnia and Herzegovina is less likely, fault lines still remain and it will take a Herculean effort on behalf of Bosnian Muslims, Croats and Serbs to ensure that their nation becomes a partner for democracy and tolerance in a "Whole and Free" Europe. Thank you very much, Mr. Chairman.

[The prepared statement of Mr. Wexler follows:]

PREPARED STATEMENT OF THE HONORABLE ROBERT WEXLER, A REPRESENTATIVE IN
CONGRESS FROM THE STATE OF FLORIDA

Mr. Chairman, I want to thank you for holding today's hearing and I look forward to hearing the witnesses.

It has been over nine years since the Dayton Peace Accords were brokered, and although significant change has occurred in Bosnia-Herzegovina in terms of political, judicial, economic and social transformation much more needs to be done to stabilize this nation and further the pace of democratic reform.

It is critical that the international mission led by the US, EU and UN carefully examine, lessons learned over the past nine years. At this juncture, despite difficulties and new global obligations, the international community and especially the US must be fully engaged in Bosnia as it take steps to rebuild shattered communities, lessen ethnic violence and nationalism and move further toward Euro-Atlantic integration.

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Mr. Chairman, it would be contrary to the President's policy of spreading global democracy if we failed to complete the goals outlined in Dayton. While the possibility of a fractured Bosnia-Herzegovina is less likely, fault lines still remain and it will take a herculean effort on behalf of Bosnian Muslims, Croats and Serbs to ensure that their nation becomes a partner for democracy and tolerance in a "Whole and Free Europe."

Mr. GALLEGLY. Thank you, Rob. I would like to introduce our witnesses for today's hearing. Our first witness is Ivan Vejvoda, who is the Executive Director of the Balkan Trust for Democracy, a project of the German Marshall Fund, dedicated to strengthening democratic institutions in southeastern Europe. Mr. Vejvoda came to GMF in 2003 from distinguished service in the Serbian Government as Senior Advisor on foreign policy, and European integration to Prime Minister Zoran Djindjic and Zoran Zivkovic. He has unique experience within the democratic reform movement with Serbia, and brings unique insight into the current political leadership in Serbia.

Our second witness is Dr. Gerard Toal, who is a Professor of Government and International Affairs at Virginia Polytechnical Institute and State University. His specialty is political geography, and he has conducted extensive field work in Bosnia on the refugee returns process, including projects sponsored by the National Science Foundation. The most recent published studies include: "The Effort to Reverse Ethnic Cleansing in Bosnia-Herzegovina," and "Embedding Bosnia-Herzegovina in Euro-Atlantic Structures: From Dayton to Brussels." He is currently working with a colleague on a book of the "localized geopolitics" of the returns process in Bosnia.

Our third witness is Dr. R. Bruce Hitchner, who is the Chairman of the Dayton Peace Accords Project, and is currently a Professor

at Tufts University. Dr. Hitchner has done extensive work on Dayton Agreement implementation over the past decade, and he was the Director of the Center of International Programs at the University of Dayton from 1996 to 2001. He is currently directing a project, funded by the Carnegie Corporation of New York and the German Marshall Fund of the United States, aimed at moving Bosnia beyond the political and constitutional structure of the Dayton Agreement and into Euro-Atlantic institutions.

I would ask that each of the witnesses do their best to confine their opening statements to 5 minutes, and we will provide without objection their entire statement to be made part of the record. So, with that, I welcome our first witness, Mr. Vejvoda.

**STATEMENT OF MR. IVAN VEJVODA, EXECUTIVE DIRECTOR,
BALKAN TRUST FOR DEMOCRACY, GERMAN MARSHALL FUND**

Mr. VEJVODA. Thank you very much, Mr. Chairman. It is a true honor to be invited here in front of your Subcommittee to testify on these important matters 10 years after Dayton, and within a framework of overall Euro-Atlantic integration of the region.

I would like to start out this brief intervention by saying that we have to consider that the Western Balkans, or what the policy-makers call the Western Balkans; Croatia, Bosnia and Herzegovina, Serbia, Montenegro, Albania, and Macedonia, are the last unintegrated parts of the European Union and of NATO. There is a positive movement of the region as a whole toward these integration processes—Rumania, Bulgaria, and Slovenia have joined NATO, and Slovenia is a member of the European Union. We see an overall movement of the region to accomplish a Europe whole and free, at least in its original or basic geographic definition. Bosnia and Herzegovina is part of that movement. So what I want to stress as a first point is that we have to consider Bosnia and Herzegovina as part of this broader movement.

Some of the mistakes that were made in the 1990s were to treat the region in a piecemeal fashion with quick fixes, with attempts to solve ad hoc challenges and questions that were being posed. What we are seeing now as we enter the 21st century is that the region is well advanced in this process. In that respect, I would like to say that the European Union is really taking a lead, foremostly by its statement at the Thessaloniki Summit in the summer of 2003 when it clearly and adamantly stated that this region would be a part of Europe. In the words of the former President of the European Commission, Romano Prodi, “without if’s and but’s.” Obviously the test and the homework was that these countries met the standards of democratic reform, market economy, and, what are called in European Union jargon, the Copenhagen Criteria.

I think that we have seen, as the Congressman has said, advances over this period. There is significant regional cooperation, which I think is an unsung story. Fortunately, the Balkans are on the backburner of the media today for the right reasons because they are not prone to conflict and to flaring up.

That is both good and bad. It is bad because the good story is not getting out. There are many significant advances that have happened. Symbolically as we know, the reconstruction of the bridge in Mostar in a sense symbolically testifies to the those proc-

esses of reconciliation and of moving beyond the post-conflict zone. Has everything been excellent? No, of course it has not. Much unfinished business needs to be addressed, and I think the fact that the European Union has taken a lead again exemplifies the example that the NATO mission of SFOR has been transformed into EUFOR.

Four months ago in December, 7,000 troops from 33 nations partaking in this mission, again testified to the fact that the European umbrella, to speak simply, is the future framework for Bosnia. It is within that context that we have to understand the efforts that we all, I think, are trying to underpin to see Bosnia move forward both within these issues of constitutional architecture, that have to be addressed, and the role of the High Representative, which has both the U.N. and a new hat, to see maybe how we can move on that issue. But also in the broader security framework Dayton, among other things, allowed for a definition of the security and the military. There are clear statements of how the countries of the Dayton triangle—Serbia, Croatia, Bosnia—have to define their militaries. In that respect, I would like to make a plea here that I think it is, to use a hard word, an absurdity that Bosnia and Herzegovina, Serbia, and Montenegro are not members of the Partnership for Peace yet. This is a global security framework of Eurasia. Countries without any underestimation, such as Belarus, Turkmenistan, and Azerbaijan, are members. I think that it would help the cause, the joint public good, of the region of Europe and transatlantic relations if we saw these countries be encompassed by the Partnership for Peace Program. That would allow a helping hand to these reform-minded people in the policy circles, in the military and secret services of these countries.

A final word on civil society. I think it is very important that as we move forward toward the 10th anniversary, and as we reconsider how Bosnia and Herzegovina can move forward, that there be created a community of consensus around how Bosnia moves forward. And it is not only the elected officials or the international community, but Bosnian society and civil society have to be engaged. I would add the young people of the region, who need a vision for the future, a forceful vision that is buttressed by policies that their leaders will bring forward.

As my 5 minutes run out, I think the key issue is to support those who are reform-minded. They are present. The region has moved on and we have to make additional pushes to help these people accomplish what their vision is. Thank you very much, Mr. Chairman.

[The prepared statement of Mr. Vejvoda follows:]

PREPARED STATEMENT OF MR. IVAN VEJVODA, EXECUTIVE DIRECTOR, BALKAN TRUST FOR DEMOCRACY, GERMAN MARSHALL FUND

Mr. Chairman, it is an honor to be invited to testify before you today at this significant moment in the Euro-Atlantic integration of the Balkans. This most timely hearing occurs in the year in which we will, on December 14, mark the tenth anniversary of the signing of the Dayton Peace Accords in Paris. The three-week long deliberations that took place in the United States, at Wright Patterson Air force base in Dayton, Ohio, in November 1995 brought to an end the conflict in Bosnia and Herzegovina and opened the path to stability and lasting peace in the region.

I am here to offer you my personal views on the regional dynamics and framework that inform the current situation in Bosnia and Herzegovina, as well as on the sa-

lience of EU and Euro-Atlantic integration for the betterment of the country and the region as a whole.

INTRODUCTION

A war the wars of the breakup of Yugoslavia, occurred without forewarning at the end of the twentieth century, much to everyone's astonishment and unpreparedness. The fall of communism in 1989 had as its collateral effect the demise of three communist federal states—the Soviet Union, Czechoslovakia, and Yugoslavia, with this last one marred by violence and armed conflict.

These were not Balkan wars, but wars in one country of the Balkans that had nefarious effects on the region even though it did not directly implicate neighboring countries.

Today, the Balkans, or Southeastern Europe, live in a different mind set and face different priorities. The democratically elected governments of the region have an eye to EU integration and accession to NATO. The region has moved away from the immediate post-conflict zone into that of sustained transitional democratic reform policies, addressing developmental issues and tackling the challenges of Euro-Atlantic integration.

Important strides have been made by countries of the region: Slovenia is a full member of the European Union; Slovenia, Romania and Bulgaria are members of NATO; and, Romania and Bulgaria expect to become the twenty sixth and twenty seventh member states of the European Union on January 1, 2007.

Moreover, Croatia is a full candidate for EU accession and Macedonia expects to become one at the end of this year. Also, Albania is engaged in an EU Stabilization and Association Process. All three of these countries are currently members of NATO's Partnership for peace program and formed two years ago a regional security grouping—the Adriatic Charter—in view of possible full NATO membership in the near future, following the precedent of the Vilnius group.

The regional laggards in these efforts toward Euro-Atlantic integration are Serbia and Montenegro, and Bosnia and Hercegovina, although both have declared their EuroAtlantic priorities with forcefulness and determination. I shall return to them.

Due to the absence of the Balkans issues from the international headline news, in these introductory remarks I would like to stress what I see as positive regional dynamics, without, of course, neglecting or disregarding the major remaining difficulties, unresolved issues and subsequent challenges that lie ahead.

There is a positive peer group effect among the countries in the region. On an important level they do act as communicating vessels—observing each other and having a mutual pulling effect toward Euro-Atlantic integration. The general post-1989 rush of a “return to Europe” has taken over this part of the post-communist world.

At the Thessaloniki Summit in June 2003, the European Union, for its part, clearly and adamantly foresaw the prospective future membership of all Western Balkan countries, provided they fulfill all the prerequisite conditions.

As opinion polls demonstrate, Balkan societies are exhausted by the conflicts of the 1990s: their economies are in an impoverished state and overall public services have lowered quality and delivery. Citizens of these countries demand normalcy and existence based on a decent job and salary.

The polities of the region are turned in their majority to the future, with a strong desire to fully reintegrate the family of nations. They are not economically self-reliant, but heavily dependent on international economic support through international financial institutions and bilateral agreements. This implies a relationship of mutual responsibility for the furthering of democratic reform, the rule of law, and the need for them to create enabling legal environments conducive to foreign direct investments.

Mr. Chairman, the region in this tenth year after Dayton is moving on. I wish to highlight two events and processes that exemplify in Bosnia and Hercegovina these positive forward looking dynamics. One is the symbolically laden accomplished reconstruction and opening of the bridge in Mostar on July 24, 2004. The reconnection of the two sides of the river Neretva that runs through Mostar and the equally fundamental institutional reunification of the 1990s bitterly divided city, speaks to the overcoming of the recent legacies of the past with a civic and democratic approach.

The second, also last year, is of equal historical significance—pertaining to the recognition of Republika Srpska of Bosnia and Hercegovina—of the crime committed in Srebrenica, following an extensive governmental investigation and report. This is an important step in the necessary process of reconciliation and Bosnia and the region are addressing it.

UNFINISHED BUSINESS

The unfinished business in the Balkans has to do with multiple legacies—principally those of communism (or the absence of democracy and the market economy in the post-second world war period) and those of war (destruction, disintegration, displacement, suffering, trauma and concomitant economic and societal neglect).

The challenge of entering the global economy, steering the process of EU integration, along with the task of a simultaneous reform of virtually every sector of state and society—is the mountain to be climbed. These are still in many administrative dimensions weak states. Additionally, in the Balkans there are still states that are not fully defined and/or are protectorates of the international community. These unresolved state issues and “controlled democracies”, hybrid regimes, in which overbearing international actors have the defining influence over the domestic, democratically elected ones—are those that in this year 2005 are to be addressed so as to advance the countries concerned on the road where their peers are already well advanced.

This is the price being paid for having had war and for the fact that resolving the conflicts of the 1990s was possible thanks to the involvement of the international community. Not that that involvement did not at times itself contribute to the aggravation of the situation, but it ultimately brought forth an end to the conflicts.

The year 2005 will see the opening of the talks which will address the issue of the final status of Kosovo. At the same time, the tenth anniversary of Dayton will be conducive to addressing the outstanding issues regarding the character of the domestic institutional architecture and that of the protectorate of the international community in Bosnia and Hercegovina.

As fear, insecurity and uncertainty about the future recede and an awareness of the need to rejoin the current global, European and regional democratic dynamics take over, there is a strong need to reinforce and support all those endeavoring for that new frontier of freedom.

REGIONAL COOPERATION IN THE BALKANS AND BOSNIA'S ROLE

Regional collaboration and cooperation is an untold story of the Balkans. Its multifaceted forms have grown and branched out across the region. The homegrown South East European Cooperation Process that Bosnia and Hercegovina chaired in 2003–2004 is one of the most significant intergovernmental institutions of the region. It has spearheaded an agreement on cooperation in the field of energy, by the announcement of the creation of a regional energy market. One only needs to read the Sarajevo Declaration of 21 April 2004 to realize the range and depth of ongoing initiatives in the fields of combating organized crime, security and defense exchanges, asylum, migration and sustainable return.

The Southeast European Cooperation Initiative (SECI) Center for Combating Trans-border Crime, based in Bucharest is a key regional institution which in recent years has been coming to grips with one of the most burning issues, that of organized crime. It has brought together on a focused task not only the ministries of interior and police forces of the region but nongovernmental organizations that are pro-actively involved in addressing issues of trafficking and crime.

With the Stability Pact for South East Europe, launched in Sarajevo in July 1999, in the aftermath of the NATO intervention, the region is supported through activities of three working tables in the field of democratization, economy and security. The activities are streamlined to and organized in conjunction with EU integration needs and policies. The Sava Basin Initiative bringing together the four countries Slovenia, Croatia, Bosnia and Hercegovina and Serbia and Montenegro under the auspices of the Stability Pact is but one offspring of the Stability Pact's long term approach to linking the countries and their common concerns. Whatever criticisms one may have of aspects of the Stability Pact's (in)efficient efforts, it has over the past six years done much, in general and specific ways, to create a regional spirit of cooperation and joint purpose.

In the field of economy, a web of bilateral free trade agreements has been fostered by the Stability Pact covering the whole region. Now they will be upgraded into a multilateral trade liberalization agreement which should spur on free trade. This will eventually lead to a custom's union and ultimately integration into the EU's single market. However, recent raising of tariff barriers on a number of products between BiH and Serbia and Montenegro and Croatia shows the precarious nature of some of these dynamics in weak markets. i.e. economies.

Thus a wide web of networks spans the region not only in the fields of governmental, or economic exchange but also in those of the environment, culture (a council of ministers of culture of South East Europe was created and signed into life only

several days ago in Copenhagen), education, and a myriad of municipal cross-border initiatives. The creation of Euroregions in the Balkans is a case in point. The mayors of the capitals of the region have been meeting to streamline their regional policy approaches.

These are but a few examples of the ongoing activities. Can we be satisfied with the accomplished level of cooperation? In fairness, much has been done, but much more remains and needs to be done. Bosnia and Hercegovina is a key contributor to these efforts and will be in the future.

To many this is an invisible network. But it has taken on a life of its own and is a crucial component of the general movement toward reconciliation and toward the recognition of common interests and approaches to joint challenges.

It is of fundamental importance that Bosnia and the other countries continue to build on these best practices. It is in this manner that they eminently demonstrate their espousal of European and transatlantic values.

SECURITY IN THE DAYTON TRIANGLE—EU INTEGRATION AND A PLEA FOR PARTNERSHIP FOR PEACE MEMBERSHIP

The priority goal of Bosnia and Hercegovina and its neighbors in the region is membership in the EU and NATO. The EU is now clearly taking the lead and should do so even more forcefully to achieve stability and the foundations of lasting peace through continuing completion of the European project—a Europe whole and free.

Security in the Balkans is still and shall be dependant on the presence, in particular in the protectorates on the United States, the European Union and NATO. They are seen as the guarantors in the ongoing EuroAtlantic processes.

In Bosnia and Hercegovina, the EU mission Althea on December 1, 2004 took over from NATO's peacekeeping mission and transformed it from its 33 nation, 7000 SFOR into Eufor troops. Similarly, the same changing of the guard has happened in Macedonia with the EU mission Proxima.

With the backing of the US, the EU is taking the lead both in military and in civilian affairs matters.

Regarding NATO, there is currently an absurd situation in that in Europe only two countries are not yet part of NATO's Partnership for Peace program: Bosnia and Hercegovina, and Serbia and Montenegro.

Although the conditions imposed for membership will remain, it seems ultimately propitious for the goal of stability and peace in the region to advance these two countries into this first stage of an overall NATO security framework. Such a move would further reinforce all democratic, reform minded actors and give them a sense of finally departing from the barren land of non-involvement in collective security arrangements.

Notwithstanding arguments to the contrary, Croatia for example was bought forward, on its merits, as a full candidate for membership in the EU with a remaining outstanding obligation to the International Criminal Tribunal for the Former Yugoslavia (ICTY). The same could be replicated here.—take these two countries (BiH And SaM) into Partnership for Peace, and you will reinforce and accelerate democratic and reform dynamics in the armed and security forces, and strengthen regional security frameworks which will add a strong buttress to overall European stability.

The outstanding obligations would then be fulfilled equally, in parallel to integrated reform dynamics, and within an existing NATO Security framework.

It should be noted that in the past two months there has been a sudden surge in compliance with obligations to the ICTY. To date several indictees from Republika Srpska and Serbia and Montenegro reached the Hague Tribunal, others have been announced to be going. All of this allows a glimmer of hope that the end of the outstanding indictees required to go to the ICTY is in sight. Clearly until all, and in particular Radovan Karadzic and Ratko Mladic are in the Hague, this obligation will not be fulfilled.

THE EU MAGNET, THE "HELSINKI MOMENT" OR "EUROPE'S TRANSFORMATIVE POWER" IN THE BALKANS

As the histories of the past dissipate and as the scars of conflict slowly recede, the vision of integration takes precedence. The attraction that the model of membership creates and the historical accession of ten new members states into the EU and the NATO accession last year, all provoke a pulling effect, or at least one in which no one wants to be left behind.

It is time now in 2005 for the EU in particular to make good on its June 2003 Thessaloniki declaration by preparing to bring in the five countries of the Western

Balkans, of which Bosnia and Hercegovina is one. The EU with its new Commission, under Jose Manuel Barroso's leadership, has made a significant institutional rearrangement—the Western Balkans file has been moved to the brief of the European Commissioner for enlargement (Olli Rehn, from Finland). The enlargement file consists, at this moment, of the Western Balkans and Turkey.

As it prepares its next long term (2007–2013) budget the EU has prepared a new instrument IPA (Instrument of Pre-Accession). It is my strong conviction, as that of other specialists of the region, that the greater public good would benefit from equalizing candidates and non-candidates in this IPA; or even more boldly preparing to give candidate status to all countries in the next two years—provided of course that these countries comply and fulfill the prerequisite Copenhagen criteria. By giving them candidate status, or “a date for a date” to begin negotiations would create a highly (already in the case of Turkey, Romania and Bulgaria witnessed) motivating moment (Gerald Knaus, Mark Cox) which mobilizes all resources of society toward democratic reform. A strong incentive is injected which allows for the “soft” transformative power of the EU (Mark Leonard) to begin its work, this in turn creates a positive domino effect.

A new bold strategy of enlargement, building on existing best practices is called for. This wholesale approach would counter the frequent piecemeal approaches that have not taken into consideration the need to understand the region in its complexity and mutuality.

Clearly, the principle of each country moving at its own speed toward integration and according to its own merits stands immutable. No country can delay the accession process of another. It is the positive competition fostered by the “transformative power of Europe” that can promote and accelerate these processes in the each country.

WHERE IS BOSNIA AND HERCEGOVINA TODAY?

These aforementioned proposals to speed up integration processes are spelled out expressly because of the unfinished business in the Balkans and thus also in Bosnia and Hercegovina. The region is, I would submit, closer to success than to failure, although possible failure, or backsliding is never too distant. That is the reason for urgency and not complacency.

Bosnia and Hercegovina was in the eye of the storm of the 1990s wars. It faces a tremendously difficult legacy of those years, but also that legacy common to all post-communist countries. It also, as other transitional countries, is prone to a disillusionment with the democratic process, and with politics tout court. The experience of instrumental, manipulative politics from the communist era has left a legacy of distrust and disbelief in the possibility of a redignified, rational politics. The concomitant distrust in state institutions and administration is often pervasive.

And yet post-war reconstruction with all its “Lessons (not) learned”, and much squandered resources has put the country back on its feet. Ten years of peace have allowed for a series of democratic elections and peaceful changes. Yes, the political parties that were present at the beginning of the conflict are still in power today, yet it would be an exaggeration to say they have not undergone a transformation. Has it been sufficient? Surely not. More needs to be done in the sphere of political society.

The overall relinquishing of tensions in the Dayton triangle, the multiplication of links and relationships, and the regular exchange/visits of high-ranking business exchange, all are progressively laying the foundations for more lasting solutions, i.e. ultimately membership in NATO and the EU.

The normalization of relations between Croatia and Serbia and Montenegro has been crucial also for the future of Bosnia and Hercegovina. The Dayton Accords and the constitution stipulated in Annex 4 are the basis from which future functional solutions will be sought. The two entities: the Federation of Bosnia and Hercegovina and Republika Srpska and the central governmental institutions have had to confront the harsh realities of economic and social challenges. It is these pressing issues that are defining much of the agenda. Governments are pressed to deliver to their citizens. In situations of high unemployment and lack of outlook, this becomes all the more arduous.

It is most indicative that the Council of Europe, based in Strasbourg, in its Resolution 1384 (2004) has forcefully underlined that the constitution formulated in the Dayton Annex 4 is “the result of a political compromise achieved in light of ending the war, (but) that it cannot ensure the long term efficient functioning of the state, and that thus it must be reformed, as soon as there is the achievement of national reconciliation and the full establishment of mutual confidence”. It is only through

the full accord and agreement of the domestic actors that change toward greater functionality can be achieved on a firm basis.

The Office of the High Representative, additionally strengthened by the Bonn powers in 1997, signifies the strong influence of the international community in the executive, legislative and judicial branches of power (or its possibility to intervene at any time and override the domestic actors), while Bosnia is at the same time a sovereign state. The role of international actors in a variety of other institutions speaks to the fully undefined character of the state. The societal and reform dynamic is knocking at the door asking for a more efficacious and efficient system, which is compatible with EU democratic and governance standards, while clearly keeping by the specificities of the state and society.

Bosnia and Hercegovina, its elected leaders and citizens are faced with the arduous task of defining the way forward. This tenth year is one in which the fledgling democratic process has to be reinvigorated, through a broad-based debate in the public sphere where priorities will be fleshed out to demand to take things into their own hands. Obviously, in agreement with international actors it is time, in the words of Immanuel Kant "to exist from self-inflicted immaturity" (applicable to all post-communist countries) and start defining the agenda of the future.

Taking responsibility is a task also incumbent upon the international community to know when is the right moment to start "letting go". There is a need for effective governments, states and administrations to create economic prosperity. The devastation of state capacities has had negative effects on consolidation, and much remains to be done in that regard. Thus a policy creating a strong constituency for reform, bringing together political parties, civil society and economic actors ready to take over responsibilities and the hard work of change is warranted for.

These processes must be conducted with care and caution.

The forecasted opening of talks on the final status of Kosovo later this year also require a partaking of all stakeholders within a process which will channel the proposed options and lead to a consensual decision.

There are those in Bosnia and Hercegovina who fear that abrupt solutions in Kosovo could be potentially destabilizing. That is, again, why it is important to impress the overall European Union framework and strategy within which ultimately all the unfinished business will find its resolution and completion. There is no solution to the unfinished business outside of the EU and NATO. It is within a Europe whole and free that the Balkans will finally loose their "powder keg" label.

Machiavelli argued, Mr. Chairman, that political life has in it both Fortuna and Necessita. Maybe the fortune of the moment is that the region of the Balkans and the EU have now the ingredients ready to make virtue out of necessity.

This requires still continued support and attention of the international community. Success is not so far removed. For this reason a well structured process bringing together key domestic and international stakeholders, with the peer support of the neighbors can help deliver the result.

Mr. GALLEGLY. Thank you very much. Dr. Toal.

STATEMENT OF GERARD TOAL, PH.D., PROFESSOR, GOVERNMENT AND INTERNATIONAL AFFAIRS, NATIONAL CAPITAL REGION DIRECTOR, MASTERS OF PUBLIC AND INTERNATIONAL AFFAIRS, VIRGINIA POLYTECHNIC INSTITUTE AND STATE UNIVERSITY

Mr. TOAL. Thank you very much, Mr. Chairman. It is indeed an honor to be here before this Committee. Thank you for inviting me. It is always a challenge for a professor to summarize a set of remarks in 5 minutes, but I am going to give it a go.

The first thing that I want to talk about is the returns issue, and basic facts on the returns issue. The pre-war population of Bosnia was 4.4 million, over a million refugees, over a million people were internally displaced. So 50 percent of the population was displaced as a consequence of the war.

As you have mentioned, Mr. Chairman, as of September 2004, the UNHCR, and also the Bosnian Ministry of Human Rights and Refugees, declared that one million returns had happened. And that is indeed a landmark achievement for the international com-

munity. But you are also correct, Mr. Chairman, that of those one million returns, you have minority returns. Those are persons who have crossed the inter-ethnic boundary line, and returned to their homes, and they constitute 448,880. I checked the figure, and that is it as of the 31st of January. Most of these minority returns are Bosnian Serbs returning to the Federation, predominantly to Sarajevo. But there are also Bosniaks who have returned to Republika Srpska, and I can talk to you in detail about some of the particular issues they are facing.

The rate of return has slowed significantly in the last year. There were over 14,000 minority returns in 2004, compared to 102,000 in 2002. Now, what worked for the international community to have this success?

Well, there are five factors: Security and strategy; international cooperation and coordination; localized capacity; the imposition of standardized national laws; and developing local ownership of the process.

But there are also limits that I think are worth bearing in mind, limits to return. Again, I have five factors: Inevitable urbanization, which is occurring in the region; ethnic engineering, which I can go into greater detail about in the question and answer; the funding gap, and local ownership questions—there are people who still want to return to their homes, but do not have funding to do so in Bosnia; education and pensions; and economic sustainability, which is absolutely a huge issue covering the whole area.

Now, let me briefly talk about the larger picture, which is the movement from Dayton to Brussels, and the contradictions of embedding Bosnia and Herzegovina Euro-Atlantic structures. Essentially the OHR's strategy is for peace in Bosnia, and to have Bosnia on a track toward NATO, and for economic prosperity, and to have it on a track toward the European Union. Both of those tracks, I want to argue, are bringing to the surface structural conditions which throw into question the current Dayton framework. There are a series of contradictions, and I just want to highlight two: War criminals from Republika Srpska; and the Partnership for Peace process. The road to Brussels quite correctly runs through The Hague, and cooperation with the ICTY and the prosecution of war criminals is about the very nature of the democratic society. What I argue is that this is creating an existential crisis in Republika Srpska, because Republika Srpska is an entity founded by war criminals. The two founding fathers of the Republika Srpska are on The Hague's list, the very top of that list. So that is one deep contradiction within Dayton that we are seeing unfold.

The second contradiction concerns the Dayton structure and the European Union, the Stabilization and Association process. Very briefly what I want to argue is that Dayton created kind of a constitutional software, if you want to put it that way, for Bosnia to get it out of the war. But what Bosnia needs now is a new kind of constitutional structure which makes it "EU-ready." So there is a real kind of contradiction between moving from Dayton to Brussels, and right now what the OHR is doing is working within Dayton to try to get there.

There is a big question as to whether Dayton can be sufficiently transformed from within in order to make it EU-ready. I will finish there. Thank you.

[The prepared statement of Mr. Toal follows:]

PREPARED STATEMENT OF GERARD TOAL, PH.D., PROFESSOR, GOVERNMENT AND INTERNATIONAL AFFAIRS, NATIONAL CAPITAL REGION DIRECTOR, MASTERS OF PUBLIC AND INTERNATIONAL AFFAIRS, VIRGINIA POLYTECHNIC INSTITUTE AND STATE UNIVERSITY

Thank you for inviting me to appear before this Subcommittee. My academic training is in political geography and I have been doing research on Bosnia-Herzegovina (BiH) for almost a decade. The last few years I have worked on a National Science Foundation funded project on the returns process with a colleague (Dr Carl Dahlman, University of South Carolina). We are working on a book on this subject. As we approach the 10th anniversary of the Dayton Peace Accords, I would like to share with the subcommittee some of what I have learnt from research in Bosnia-Herzegovina that is relevant to the agenda before you.

I. THE WEAKNESSES OF THE DAYTON AGREEMENT.

The Dayton Peace Accords were the consequence of Euro-Atlantic security structures learning from failure. Initially, Europe and America treated the Bosnian war as a localized humanitarian crisis and not a regional strategic challenge to the future expansion of NATO and the European Union. But Bosnia was and remains today a strategic challenge because it is a *strategic symbol* of Europe's ongoing struggle to overcome the use of exclusivist nationalism for extremist and anti-democratic ends. It is important that we keep this initial lesson in mind: Bosnia is a strategically symbolic place.

While the Dayton Agreement is hailed by some as the triumph of hardnosed pragmatic diplomacy, it is worth underscoring the weaknesses of the agreement:

1. The Dayton Peace talks featured negotiations between perpetrators and victims, between those who initiated the war (the Milosevic regime and its local allies), those who exploited it (the Tudjman regime and extreme Croat nationalists), and those who suffered most from it (ordinary non-nationalist Bosnians, particularly Bosniaks). Slobodan Milosevic had a role at Dayton even though Western officials knew full well that his regime was a chief instigator of the Bosnian war. This triumph of short term pragmatism over long term principle did not serve Euro-Atlantic structures well (as the subsequent need to go to war against the Milosevic regime over Kosovo demonstrated).
2. The General Framework Agreement rewarded ethnic cleansing by dividing Bosnia into ethnoterritorial entities which were given state-like administrative powers. In recognizing Republika Srpska, it legitimated a wartime political entity with state aspirations that was cleared of non-Serbs by murder, forced displacement and acts of genocide.
3. The Dayton Peace Agreement mixed Yugoslav ('constituent peoples') and Western legal principles ('citizens'). It was marked by contradictions between its empowerment of ethnoterritorial polities and its articulation of principles that, if enacted, would undermine these ethnoterritories. An example is Annex 6 (which mandates cooperation with ICTY), Annex 7 (the right of the displaced to return to their pre-war homes) and the embedding of the BiH Constitution in international conventions and treaties. The recent Venice Commission's Opinion on the Constitutional Situation in BiH (March 2005) documents clear tensions between the BiH Constitution and the European Convention on Human Rights.
4. The Constitutions of BiH and its entities were forged during wartime and never received democratic legitimation through state-wide referenda. The Venice Commission correctly notes that "the Constitutions of BiH and the FBiH were political compromises to overcome armed struggle and the main focus was their contributions to the establishment of peace. They were negotiated in foreign countries and in a foreign language and can in no way be considered as reflecting a democratic process within the country" (p. 16).
5. The Dayton Peace Accords saddled BiH with an unwieldy bureaucratic structure of governance. BiH became a weak central state with two strong entities, ten cantons and a special district (Brcko), under military occupation and

international supervision. It had 13 different constitutions, prime ministers, assemblies and law making institutions. BiH thus has four or five levels of governance—(i) OHR, (ii) state, (iii) entity, (iv) canton (except RS), and (v) *opstina* [municipality/county]—all to rule less than four million people. In sum, the Dayton Peace Accords created what some have termed an ‘ungovernable country,’ a cumbersome excess of administrative offices for political party capture and patronage. The Venice Commission properly notes that “there are too many bureaucracies and too many posts for politicians.”

Dayton ended the war in BiH but did not resolve the conflict. It was the product of a particular geopolitical conjuncture. It marked a significant compromise of the principle of modern civic democratic politics within a unified polity. This has hindered the development of BiH as a modern effective and coherent state since then.

II. ONE MILLION RETURNS: SUCCESSES THROUGH OHR LEAD STATE BUILDING AND IMPOSED LAWS.

Nevertheless, the international community has achieved some remarkable success in Bosnia-Herzegovina in the years since Dayton. A central achievement has been the level of displaced person and refugee returns. Here are the salient statistical facts:

- With a pre-war population of 4.4 million, over one million persons were made refugees by the Bosnian war and another million internally displaced within the country. Additional displacement of over 60,000 people occurred after the transfer of territories between the two entities.
- In September 2004, the UNHCR and BiH Ministry of Human Rights and Refugees announced that over one million persons had returned to their pre-war homes in Bosnia-Herzegovina. This represents a landmark achievement for the international community and the Bosnians who have worked hard to make this happen.
- As of 31 January 2005, there were 1,005,958 returns. 441,000 are refugees who have returned from abroad while 565,028 returnees were internally displaced persons.
- The geopolitically significant figure is the number of minority returns: 448,880. These are persons who have crossed the IEBL to return to their homes in an entity where they are now a minority.
- Most minority returns are Bosnian Serbs to the Federation (269,367 so far), predominantly to Sarajevo, but many Bosniaks have returned to Republika Srpska (158,131). The largest minority return areas are: Sarajevo and its suburbs; western Bosnia around Prijedor and Banja Luka; and the northeast *opstina* of Dobo, Brcko, Bijeljina, and Zvornik. Others areas of notable return are Mostar, in southern Bosnia, and some of the central Bosnian *opstine* where total return numbers are small but significant in relation to the local population.
- In all of these areas, minority returns now constitute a presence in villages and towns ethnically cleansed during the war. In only a few places, however, have minority returns tipped the ethnic balance in their favor as most returns are to *opstine* where they are outweighed by resident and displaced persons of the locally dominant group. For example, in one of our research sites, the northeastern *opstina* of Zvornik, the return of over 13,000 Bosniaks is set against a pre-war Serb population of 28,000 enlarged by an additional 30,000 displaced Serbs. Before the war, Bosniaks were the majority in Zvornik. In contrast, a relatively small number of Serb minority returns to southwest Bosnia have reestablished their pre-war majority in three *opstine* (Drvar, Glamoc and Bosanski Petrovac). Many other *opstine*, despite some minority returns, show the results of ethnic cleansing through the persistence of homogeneous local populations.
- The rate of return has slowed significantly in the last year (over 14,000 minority returns in 2004 compared to over 102,000 in 2002). However, some of the most traumatic places for returnees in Bosnia—Srebrenica, Bratunac and Zvornik for Bosniaks—are active sites of return. Serbs are also slowly returning to Tuzla.

The returns of over 1 million people to their pre-war homes after a war as nasty as the Bosnian one is, as I mentioned, a remarkable achievement. This success, obviously, did not come overnight. It can be attributed to 5 central factors:

1. **Security & Strategy:** State-building was only possible in Bosnia because the country was at peace and demobilization occurred. IFOR/SFOR made this happen and created the possibility for change. The international community took Annex 7 of the Dayton Peace Accords seriously and correctly grasped that an extensive and effective returns process was central to building peace in Bosnia. It invested in this conviction. Returns demonstrated that the ethnic cleansers had not won, that the IEHL was not a border, and that people could live together again despite the horrors of the war. The international community was the decisive force that allowed Bosnia to move beyond the wartime politics of violent coercion to recover some of its multiethnic traditions and history.
2. **International Cooperation & Coordination:** After an initial period of disorganization, the international community, under the leadership of the Office of the High Representative, developed an inter-agency Reconstruction and Return Task Force that was a clearing house for returns strategy and the returns process. This allowed the development of a comprehensive approach to the returns challenge and brought together reconstruction funds from a number of different countries.
3. **Localized Capacity:** The international community established itself at the local level in Bosnia's *opstine*. IFOR, the OHR, the UNHCR and the OSCE all invested in local offices. This allowed them to take on the localized form (personnel and structures) of ethnonationalist obstructionism to return.
4. **The Imposition of Standardized National Laws:** The acquisition of the Bonn Powers by the OHR was absolutely crucial in tilting power at the local level towards the agenda of the international community. The OHR imposed a national license plate and a property law implementation process (PLIP) that facilitated a dramatic rise in minority returns numbers from 1999 to 2002.
5. **Developing Local Ownership of Process:** Returns would not have happened without the desire of the displaced to return. Displaced person associations were crucial in disseminating information and organizing the returns process among returnees. Entity and local authority politicians had to be persuaded that returns were inevitable but when this occurred—by 1998 with Dodik as Republika Srpska prime minister—their active participation in facilitating returns was necessary in allowing them to happen.

While over one million returns is an impressive achievement, it is worth remembering that there are limits to the returns process (O Tuathail and Dahlman, 2004).

III. THE LIMITS OF RETURNS.

1. **Inevitable Urbanization.** It is unrealistic to assume that Bosnia's demographic structure in 1991 can be restored. Ethnic cleansing was a war crime but also a traumatic and compressed forced urbanization. Young families displaced to cities developed networks there. Even if they have returned to their villages and towns across the IEHL, they retain links to urban places. In some instances, it is the older family members who return to the family home, with younger family members remaining in more service-rich urban space.
2. **Ethnic Engineering.** Facing the inevitability of return, many ethnonationalist organizations devoted their energies to 'locking in' their ethnic dominance in certain localities through a strategy of land allocations for displaced peoples. In this way, even if returns did materialize, returnees would never become an ethnic majority in the community again. Ethnic engineering began in Herzegovina among Bosnian Croats and is practiced, to a debatable degree, by all ethnic communities in Bosnia. Obstructionism and violence against returns are still found in parts of Bosnia.
3. **The Funding Gap And Local Ownership Questions.** The returnee policy process has been turned over to local institutions: a state-level Ministry of Human Rights and Refugees (MHRR), a Commission for Refugees and Displaced Persons, a Return Fund, and *opstina* level commissions for development and integration. How these will function, particularly given diminishing aid resources, is an open question. Over 23,000 families registered to return with the MHRR but there are not enough funds available to allow them to do so. The Return Fund still has not been fully capitalized by BiH entities. In March, the UNHCR called on the Bosnian Federation to ensure sufficient support for returns in 2005 by allocating what it was obliged to allocate to the Return Fund (BAM 1.35 million). A Norwegian NGO report on returns in BiH last month concluded that "the continued

involvement of the international community is crucial to ensure the sustainability of returns in the country” (Global IDP Project 2005).

4. Education & Pensions. Education is still organized along ethnic lines in parts of Bosnia; there are still 52 “two schools under one roof” where children are segregated according to ethnicity (Global IDP Project 2005). This has long been a serious obstacle to return though progress is slowly being made on this issue. Also divergent pension benefits between the entities have been a disincentive to returns.
5. Economic Sustainability. The major outstanding obstacle to return is lack of employment. The nominal unemployment rate in the Federation is 45.4% (September 2004) and is thought to be higher in RS. BiH enjoyed real GDP growth of 3.5% in 2003 but aggregate real GDP is estimated at only 72% of what it was in 1990 (World Bank, 2004, 25). GDP per capita in Bosnia in 2002 was estimated at \$1,671 by the World Bank; 15% of the FBiH and 25% of the RS population live below the poverty line (19% of total population, as defined by the Living Standard Measurement Survey of November 2001; see UNDP, 2005, 20). Discriminatory employment in those industries that remain productive is a problem. In *some* instances, return is viable because people can provide for themselves if they have agricultural land free of landmines. For example, in one town, my colleague and I interviewed former factory workers who are now returnees learning to become farmers (they receive support for their food cooperative from USAID).

Has ethnic cleansing been reversed? No, it has not. Bosnia is still scarred by the legacy of this criminal ‘nation-building’ practice. But the project of partitioning BiH into separate ethnoterritorial spaces has not succeeded either. Between 1 in 6 and 1 in 9 persons (depending on which estimation of the population one uses) in RS are non-Serbs. Demographic shifts associated with returns highlight the anachronistic nature of the ethnic and territorial voting provisions of the BiH Constitution. Voters in Republika Srpska, for example, can only vote for the self-identifying Serb member of the BiH presidency (see section V, 2 of the Venice Commission’s recent opinion).

IV. FROM DAYTON TO BRUSSELS: THE CONTRADICTIONS OF EMBEDDING BOSNIA IN EURO-ATLANTIC STRUCTURES.

The grand strategy of the international community is to fully incorporate and embed Bosnia into modern Euro-Atlantic geopolitical space. In the words of European Union High Representative (Foreign Minister designate), Javier Solana, the goal is to move from ‘the era of Dayton’ to ‘the era of Brussels.’ This OHR led grand strategy proceeds from analysis of Bosnia as having two central challenges: (i) the challenge of removing war and violence as an option from its political life, and (ii) the challenge of post-socialist transition to a capitalist market society as the basis for future economic prosperity. The response is an embedding of Bosnia within processes and procedures that lead towards eventual NATO and European Union membership. The goals can be plainly represented by the OHR as peace and economic prosperity (O Tuathail, 2005). The process of starting along the path towards these eventual goals is one that has produced some innovative and creative state building on the part of the OHR, particularly under the leadership of the current OHR, Paddy Ashdown.

The OHR’s two track strategy, while ostensibly avoiding any formal revision of Dayton, is constructively transforming that Agreement as it seeks to embed BiH within NATO and EU structures. But, the strategy is bringing to the surface structural contradictions that throw into question the current Dayton framework. This process is accompanied by political instability; even more is likely as the contradictions sharpen. However, I would argue that this process can, if handled deftly and judiciously, be a productive one and offer Bosnia’s citizens a way beyond wartime Dayton structures towards the modern state structures it needs for eventual membership in the European Union.

Lets us consider the first contradiction:

1. *War Criminals and Republika Srpska: The Partnership for Peace Process.*

The road to Brussels runs through the Hague. Cooperation with the ICTY and the prosecution of war criminals is about the very nature of the democratic society the international community is trying to cultivate in South-East Europe. Ratko Mladić and Radovan Karadžić are the ‘founding fathers’ of Republika Srpska and the polity they presided over was one based on murderous nationalism and rampant criminality. Dayton legitimated that polity but it also mandated cooperation with the ICTY. The OHR’s insistence on this cooperation has produced an existential identity crisis within Republika Srpska. This crisis is forcing the political class in RS to con-

front a dilemma: in order to maintain their entity, they have to confront the war crimes that established it, and turn over their 'founding fathers' and their many accomplices to the ICTY. If the RS is to transcend its past, it needs to make a clean break with it by fully cooperating with the ICTY, and efficiently conducting local war crimes trials (The War Crimes Chamber of the Court of BiH was inaugurated in 9 March 2005).

The war criminal issue, in other words, is not about a few personalities holding up the future of the region. It touches all local communities in Bosnia where the physical and emotional legacy of the war remains. It is about repudiating the past, establishing norms of accountability, and actively choosing a Euro-Atlantic future for the region. This year has demonstrated that the international community's consistent line on cooperation with ICTY is yielding results. The RS has turned over 5 indicted war criminals to the Hague and is slowly confronting some of its foundational myths (others endure). However, it remains to be seen if its 'founding fathers' will be produced and it can transcend its past.

2. *The Dayton Structure and the European Union: The Stabilization and Association Process.*

The second contradiction is between the Dayton General Framework and BiH's desire to enter the European Union. The EU Feasibility Study makes this clear that Bosnia's wartime divisions (and, by implication, the resulting entities) are a structural problem: "Dealing with these divisions and securing a functioning state is important in the context of a SAA, as *only coherent, functioning states can successfully negotiate an agreement with the EU*" (European Commission, 2003, p. 14, emphasis in the original). The Venice Commission reiterates this point: "The extremely limited responsibilities explicitly granted by the BiH Constitution to the state were insufficient for ensuring the functioning of a modern state" (2005, 4).

In order to enter the European Union, BiH must be a modernized state. It must transcend the Dayton Framework, which is a wartime anachronism. The OHR has played a crucial role in managing the contradiction between 'Dayton' and 'Brussels' but it is apparent that the bureaucratic and inefficient decision-making processes sanctioned by Dayton are slowing if not stifling the progress of the country. The ongoing political struggles over education, defense reform, pension benefits, government posts, taxation and budgets are evidence of this. An emergent crisis over the financing of bureaucracy—50% of GDP within BiH goes to this—may foreground the costs of Dayton further. The Venice Commission opinion on the structural defects in current BiH state capacity is clear: "With respect to the EU it is unthinkable that BiH can make real progress with the present constitutional arrangements. The EU will not countenance the kind of delay, indecision and uncertainty that a multiplicity of governments entails" (2005, 8).

Bosnia's has the possibility of a future in the European Union. There is a political consensus within BiH for the 'road to Brussels.' An EU Consultative task force will arrive in BiH in mid May to assess the country's progress on the 16 requirements of the EU Feasibility Study. If progress is assessed positively, BiH may get a 'green light' for talks on a Stabilization and Association Agreement.

But this will require that the country face the fact that it needs a significantly revised constitutional structure. There is some consensus on this within the Bosnian Federation (though the details will probably provoke resistance by vested interests). There is active opposition to this among dominant political parties in Republika Srpska. In order to have a European Union future, they will have to accept diminishment of the RS entity if not its outright abolition (not because it is the RS, but because it is an encumbrance to a modernized EU-ready state; this EU-ready state should be decentralized, with some state-level ministries located in Banja Luka). This raises two crucial questions for the next year or so:

1. Will the political class in Republika Srpska still choose 'the road to Brussels' as it becomes more apparent that this may mean there will be no 'RS in the EU'?
2. Will the international community and EU-enthusiast Bosnians allow the dominant RS political class, and the presumed majority of Bosnian Serb opinion they could mobilize, to dictate the pace or even exercise a veto over its progress on the 'road the Brussels'?

There are serious dilemmas that need to be handled deftly. The OHR and the international community have chosen the path of transforming Dayton from within to make Bosnia EU-ready. They may have to face that fact that this strategy will fail and that a clean break from Dayton may be required.

I would like to suggest that one path towards change is through a state-wide referendum on a new constitutional convention. Voters in all of Bosnia could be asked

if they approve of the establishment of a constitutional convention under EU supervision to draft a new constitution to make BiH an EU-ready state (with decentralized ministries). The assumption going into the referendum would be that the entities and the OHR would be abolished together (the latter has to happen anyway if Bosnia is to enter the EU). The referendum could prove divisive, but, if promoted as a choice between the stagnant past and a prosperous future, it could draw significant multiethnic support and create an opportunity for Bosnia to transcend the dysfunctionality of its Dayton-era constitutional structures.

The future of Bosnia will, of course, also be shaped by what happens in the larger region (and the uncertain fate of EU enlargement policies). Progress between the EU and Croatia can help Bosnia isolate Bosnian Croat separatism. Progress between the EU and Serbia could also help (especially with Mladić and Karadžić). The EU accession process, if it can sustain its momentum, can be a catalyst for necessary modernization and economic development in this region. It offers a path of progress from chauvinistic nationalism and the criminal political economy it sanctioned towards more civic democratic polities.

Active, positive cooperation between the United States and the European Union has generated notable achievements in this region over the last decade. It is vital that this continue so that the road to Brussels becomes an irreversible course for Bosnia-Herzegovina and the states of the region.

Thank you for giving me this opportunity to present these arguments before you.

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Mr. GALLEGLY. Thank you very much, Dr. Toal. Dr. Hitchner.

**STATEMENT OF R. BRUCE HITCHNER, PH.D., CHAIRMAN,
DAYTON PEACE ACCORDS PROJECT, TUFTS UNIVERSITY**

Mr. HITCHNER. Thank you very, very much, Mr. Chairman. It is a great opportunity for me to be here today, and I am very happy to express some views on the matter of the Constitution in Bosnia. As you know, Mr. Chairman, Bosnia and Herzegovina has struggled to function as a viable democratic State from the day that it achieved independence in 1992.

Three years of war and ethnic cleansing destroyed whatever sense of shared national unity that existed at the time of independence. The Dayton Agreement, which ended the war, also redefined the Bosnian State along ethnic lines. Dayton was never envisioned as a long term instrument, but an interim, minimal solution until stability could be reestablished. Regrettably, although Dayton did bring an end to open conflict, all sides in Bosnia were prepared to continue the struggle by political means. As a result, Dayton devolved rapidly from an interim solution to a virtually fossilized end-State instrument for governing the country over the last decade.

The international community, fearful that further negotiation of Dayton would re-ignite conflict, acquiesced in its vision and focused

its energies on keeping the peace, directly confronting NATO's obstruction to implementing the agreement, and tinkering with reform around the edges of Dayton. Over time, this approach did lead to major reforms in the governing structure of Bosnia, using section 3.5c of the Dayton Constitution, which allowed the entities to accede authorities to the central Government, a number of state institutions were created.

There are some though who now assert that, as a consequence of these reforms, we are already in the post-Dayton phase in Bosnia. This assessment is premature. The simple fact is that despite all the reforms made to date, Bosnia and Herzegovina is still largely governed by the flawed Dayton Constitution. That being said, there are many in both Bosnia and the international community who believe that the time has come to address the state of the Constitution. As you know, the Venice Commission issued a report in March, which identified the major flaws in Dayton. It said that despite the reforms made to date, the Constitution is too weak to make sufficient progress toward European integration and that there needs to be a comprehensive—not a piecemeal—transfer of competencies from the entities to the state.

The current state and legislative instructors are not efficient nor rational. The Dayton Constitution enshrines too many prerogatives for ethnic or group rights, and not enough for citizens. The constitutional arrangement in the two entities are not parallel, and in the Federation in particular, are neither efficient nor rational. Finally, the Constitution does not deal with the question of the relationship of the state to the entities in a direct way. Neither the current state or entity Constitutions provide a sound basis for the future. Given all of these flaws, and given these problems, what needs to be done? First, the international community must make constitutional reform a policy priority over the next 2 years.

In October 2006, Bosnia will hold national elections to select a Government that will hold office for 4 years. If the country is to have any prospect of European integration in its near and immediate future, it must have an elected Government that conforms to the European human rights and self-government standards. And most importantly Bosnia must have a Government capable of negotiating a stabilization and association agreement. It does not have such a Government at this time, and it will not unless the Constitution is legally amended at least 180 days before the October election.

My second recommendation is that the PIC, as well as the Government of Bosnia, consider appropriately redefining the term and mandate of the new High Representative when Lord Ashdown's term expires in November of this year.

Indeed, I think it is time for the PIC to undertake a major review of all the assumptions driving the current international mission in Bosnia. There is a need to match international structures to core objectives. This means ending the intrusive international presence, and shrinking the remaining large institutions, including OSCE and OHR.

The bottom line here is that the future role of the international community must be based on two principles: First, the need for Bosnians to make decisions themselves; and second, for the inter-

national community to support and facilitate the Bosnians in this effort.

Let me close by saying that I think the United States must, as a guarantor of Dayton, as a long term guarantor, can and should take the lead in encouraging and supporting constitutional reform. We have an aid project right now which supports municipalization. We need a complimentary aid project that supports constitutional reform. In sum, I think the Venice Commission put it well. It said that while Bosnia still may need more guidance from the international community, this could be provided by more subtle means. Thank you.

[The prepared statement of Mr. Hitchner follows:]

PREPARED STATEMENT OF R. BRUCE HITCHNER, PH.D., CHAIRMAN, DAYTON PEACE ACCORDS PROJECT, TUFTS UNIVERSITY

Bosnia and Herzegovina has struggled to function as a viable democratic state from the day it achieved independence in 1992. Three years of war and ethnic cleansing destroyed whatever sense of shared national unity that existed at the time of independence.

The 1995 Dayton Peace Agreement, which ended the war, also redefined the three year old Bosnian state along ethnic lines. Dayton was never envisioned as a long term instrument, but as an interim minimalist solution until stability could be reestablished. This is plainly evident in the decision to publish the agreement, including the constitution of Bosnia and Herzegovina (Annex 4), in a foreign language, English; the deferral of a resolution of the status of Brcko district; and in the obvious underdevelopment of a number of the annexes. Regrettably, although Dayton did bring an end to open conflict, all sides in Bosnia were prepared to continue their struggle by political means. As a result, Dayton devolved rapidly from an interim solution to a virtually fossilized end-state instrument for governing the country. The international community, fearful that further negotiation of Dayton would reignite conflict, acquiesced in this vision and focused its energies on keeping the peace, directly confronting nationalist obstruction to implementing the agreement, and tinkering with reform around the edges of Dayton.

Over time this approach succeeded in clearing away obstructionist politicians and creating a framework for greater cooperation between the international community and locals. Indeed, as many of the original objectives of Dayton have been realized, the international community has increasingly shifted to a more consensual and functional model, relying on so-called soft impositions of needed legislation, giving locally elected authorities the opportunities to grapple with the issues first and weighing in only when it becomes clear that local politicians cannot reach a decision.

In recent years this approach has allowed the international community to begin to address one of the most serious flaws in the Dayton constitution: the almost sovereign position of the entities and the corresponding weakness of state institutions. Employing the power to cede authorities to the State under section 3.5c of the Dayton constitution, the international community and Bosnian authorities have put into place some of the attributes of a real state: a State Border Service, unified Intelligence Service, Security Ministry, Defense Ministry, state-level VAT and Customs authority, State Court, State Prosecutor, Criminal Code/Criminal Procedure Codes, Justice Ministry, and Civil Service Commission. These changes are consistent with the priorities of the Peace Implementation Council and the demands of European integration. However, none of these reforms have been formally incorporated into the Dayton constitution.

A critical component in the success of the international community's action was the acquiescence of the two ethnic minorities that had sought previously to break up the country. The Bosnian Croat nationalists' "Third Entity" movement has been repudiated by the very Croatian Democratic Union (HDZ) leaders who led the movement, and Bosnian Serbs have been an active partner in reforms, on the basis that they not threaten the continued existence of Republika Srpska. There is a palpable shift in the way people think about the future of Bosnia, with opinion polls since 2002 indicating that all minorities now believe that the state will survive, even if a strong Bosnian state may not be the first choice for ethnic minorities.

Another key factor has been the improvement in the regional environment. While still volatile, Bosnia and Herzegovina no longer inhabits a tough neighborhood

where neighboring states with designs on territory support separatist parties in Bosnia and Herzegovina. Another positive sign was the lack of regional spillover when ethnic violence erupted in Kosovo in the spring of 2004. And the recent transfer of peacekeeping operations from NATO to EUFOR demonstrates that Bosnia and Herzegovina has already reached a tipping point where a slide back to conflict is improbable—though not impossible, as the volume of cached weapons recovered almost weekly by SFOR and now EUFOR evidence.

There are some who now assert in the international community that, as a consequence of these reforms, we are already in the post-Dayton phase in Bosnia and Herzegovina, but this assessment is premature. Bosnia is still very much defined by Dayton and will be for years to come. The simple fact is that despite all of the reforms made to date, Bosnia and Herzegovina is still largely governed by the flawed Dayton constitution. To date, the international community has been unwilling to tackle the issue of constitutional reform head on because to do so would expose openly the degree to which core divisions along ethnic lines—still powerfully exploited by the nationalist parties—continue to plague the country ten years after the end of the war.

That being said, there are many both in Bosnia and in the international community who believe that the time has come to address the problem of the Dayton constitution. Over the past two years, Bosnian politicians and civil society leaders have openly called for constitutional reform. Others quietly support it. And still others are prepared for reform as long as the word *constitutional* is not attached to it. I believe, frankly, a strong majority of Bosnians would welcome constitutional reform.

What is problematic with the Dayton constitution? The European Commission for Democracy Through Law or Venice Commission published a report on 11 March 2005 that assessed the “conformity of the Constitution of Bosnia and Herzegovina with the European Convention for the Protection of Human Rights and Fundamental Freedoms and the European Charter of Local Self-Government, as well as the efficiency and rationality of the present constitutional and legal arrangements in Bosnia and Herzegovina.” The Commission concluded that:

1. Despite the reforms made to date, Bosnia and Herzegovina remains constitutionally too weak a state to make sufficient progress toward European Integration;
2. A comprehensive and not a piecemeal transfer of competencies from the entities to the state must be carried out to strengthen it;
3. The current state legislative and executive structures “are not efficient and rational but cumbersome and with too many possibilities of blocking the taking of any decision”;
4. The current constitution enshrines too many prerogatives for ethnic or group rights and not enough for citizens;
5. Constitutional arrangements in the two entities are not parallel, and in the Federation in particular are neither efficient nor rational (the Commission did not, however, directly address the equally vexed issue of the entities’ future relationship to the state);
6. Neither the current state or entity constitutions “provide a sound basis for the future. It is desirable for the citizens at some state to decide to have an entirely new constitution based on their own wishes and drafted during a period without ethnic strife.”

Given the views of the Commission and the growing sentiment in Bosnia for constitutional reform, what impedes the translation of this sentiment into real action? There are four reasons.

First, there remain powerful nationalist and frankly criminal elements opposed to any change in the status quo that protects their interests. These include persons indicted for war crimes and their supporters.

Second, there are many in the Republika Srpska who fear that constitutional reform will mean the end of their entity.

Third, because of the ethnic divisions enshrined in the country’s political structure, and the constraints on individual initiative in a country still dominated by communist era concepts of group think and identity, it is virtually impossible for any politician or political party to gain sufficient support or credibility across party and ethnic lines in support of constitutional reform.

Fourth, the continued international presence as a parallel authority perpetuates a dysfunctional political culture, as the local electorate look to the internationals to lead the reform process and to the incumbent parties to protect their ethnic interests. The current division of responsibilities allows all players in the local political game to have it their way. Ruling parties gain from this codependency since they

enjoy the benefits of incumbency with no accountability or ownership of foreign-imposed policies and reforms. In turn, the High Representative and OHR dominate the political space that should be occupied by homegrown reformist parties and platforms cognizant of the importance of multiethnic collaboration, compromise, and co-existence as the optimal way to much needed Euro-Atlantic integrations.

How to resolve these impediments to constitutional reform and move Bosnia from Dayton and into Euro-Atlantic institutions? I offer four recommendations.

First, the international community must make constitutional reform a policy priority over the next two years. In October 2006, Bosnia and Herzegovina will hold national elections to select a government that will hold office for four years. If the country is to have any prospect of European integration in its near- to medium-term future, it must have a government that conforms to European Human Rights and Self-Government standards, and most importantly a government capable of negotiating a Stabilization and Association Agreement. Bosnia and Herzegovina does not have such a government at present and will not unless the constitution is legally amended at least 180 days before the election 2006 campaign begins. This means that a constitutional reform process needs to begin now and be completed by the early spring of 2006.

The second recommendation follows from this; specifically, it must be the mandate of the international mission in Bosnia to encourage and support actively constitutional reform. To that end, it is critical that member states of the PIC, *as well as the government of Bosnia and Herzegovina*, consider appropriately redefining the term and mandate of a new High Representative to succeed Lord Ashdown when his term expires in November 2005.

Indeed, the time has come for the PIC to review many of the assumptions behind the continued international presence in Bosnia and Herzegovina. While the strong military and civilian powers of the international community were absolutely essential in all of the previous stages of our engagement in Bosnia and Herzegovina, they will become less useful for the next stage.

Third, there is also a need to match international structures to core objectives. This means ending the intrusive international community presence and shrinking its remaining large institutions, including OSCE and OHR. Although it may be too early to set an end-date for the international mission, one possibility would be January 2007, or 90 days after the October elections. The mission of the follow-on European peacekeeping force should also be reviewed as part of this process. Put succinctly, the following guidelines should be applied in assessing the future of the international role in Bosnia and Herzegovina: (1) the Bosnians need to make decisions themselves and (2) the role of the international community is to support and facilitate the process.

Finally, the United States, as the chief guarantor of Dayton, should take the lead in encouraging and supporting constitutional reform in Bosnia and Herzegovina. This could be done in a number of ways. First, the US could complement its current AID municipal reform package with a matching investment in support of reform at the level of state institutions. This would have the benefit of providing a direct stimulus to the Bosnian authorities to pursue a constitutional reform process. Second, Washington should work with the member states of the PIC and EU to recalibrate in part the mandate of the international mission to advise and assist Bosnia and Herzegovina in implementing constitutional reform in preparation for its assumption of full sovereignty by no later than early 2007 and the simultaneous launching of the process of SAP negotiations with the EU. To quote the Venice Commission: "While [Bosnia and Herzegovina] may still need more guidance from the international community, this could be provided by more subtle means." However, this recalibration should not include the shelving of the High Representative's Bonn Powers as there are still powerful forces of obstruction in Bosnia and Herzegovina capable of stalling indefinitely progress toward full democracy and European integration. The Bonn Powers should end on the day Bosnia and Herzegovina becomes a fully sovereign state.

Mr. GALLEGLY. Thank you very much, Dr. Hitchner. I just would like to preface my couple of questions by stating that in my 10 terms here, I think the three of you have achieved a remarkable feat. This is the first panel that I have had the honor of being present where you all finished within the time limit allotted, and that is an accomplishment that I think should be acknowledged. I know that was a difficult thing as you mentioned, Dr. Toal.

Dr. Hitchner, can constitutional reform be imposed by the international community, or does it have to come from Bosnia?

Mr. HITCHNER. It cannot be imposed by the international community. We cannot repeat the Dayton experience. I will say right now that we think that the appropriate way to do this is the Bosnians must undertake reform, but they need assistance.

That is to say there has to be a way to help them forward with the process of discussion, this is one of the things that I indicated in my testimony which I did not speak to directly, that because of the way the party structures exist in Bosnia and because of the divisions that Dayton creates, it is impossible for any one party or any individual to establish political capital to take the lead on the constitutional process. Any party that speaks publicly about constitutional reform and gets too far out in front will be criticized by another party. One of the things that we believe is essential is for the international community to work quietly and effectively with all the parties to help them define their own future.

We can help them with ideas and we can help them with visions, but it is their process, and we have to be engaged in some ways in helping them do that. It is about assistance and not direction.

Mr. GALLEGLY. Dr. Toal, in your opinion has the international community declared victory a little prematurely on the return issue?

Mr. TOAL. That is an excellent question, Mr. Chairman. I would say yes, and there are still outstanding return issues. I was there last year, and one of the most interesting and moving cases of returns is the return of Bosniaks back to Srebrenica. That is an active site of return, and I think that the activities the international community supported in that area have been very admirable. There are still a number of blockages to return, and still a number of really serious issues that Bosnia has to confront.

As you know, the ownership of the returns process is being turned over to local actors, to a state-level ministry, and then there are also local commissions. And their work has been successful, but there is a funding gap. People are moving on to other emergency situations, other demands, like Afghanistan, and elsewhere.

I think that the international community should stick with the returns process until it is finally finished. Now, having said that, it is close to being finished. Bosnia certainly needs to have a census quite soon in order for us to begin to have the kind of instruments and the data that we will need in order to govern effectively, for the Bosnians to govern effectively. There are programs like the SUTRA Program that really deserve a lot of support. So yes, the international community has declared victory a little too early.

Mr. GALLEGLY. Mr. Vejvoda, to what extent is the issue of refugee reform and return on the political agenda in Belgrade?

Mr. VEJVODA. I would say it is an issue that has not gone off the agenda since the end of the war in Bosnia and the Dayton Agreement. There have been consistent policy efforts on the three parts of the Dayton triangle—often spearheaded by United States diplomatic efforts, the OSCE, and the European Union—that have been brought together at various junctures to simply benchmark what was going on.

I would like to simply subscribe to what Dr. Toal has said. Much has been done in all the Governments of Croatia, Serbia, and Bosnia. I think this is an issue that is on the table.

Now, I would like to also add that it is obvious that it has a strong economic and social dimension. The question of whether one will return, I think, is underlined by the question of whether there will be a meaningful existence for the returnees.

Will there be a job and will there be a salary that can pay for that job? I think that much of the decisionmaking at a very individual and private level of those who will be returning among all other questions that they are asking themselves about security, safety, et cetera, is underpinned by this economic dimension. I think everybody, the local actors themselves and also the international presence, has to address this, I would say more forcefully, to see what is the way in which these countries, and Bosnia as part of them, do enter the global market. That is the big question.

Those who have a vision, like the late Prime Minister Djindjic who was assassinated, have always said the region is meaningful only as a region of 55 million people. That the individual countries are too small economic entities to vie on the global market. Thus what I am saying is that, for example, the network of bilateral free trade agreements that have been made has to also be upgraded into a multilateral network, leading eventually possibly to a customs union which will allow for potential investors to come forward, and thus help also returns.

Mr. GALLEGLY. Thank you very much. Mr. Wexler.

Mr. WEXLER. Starting maybe if the panel would respond to two thoughts if possible. I have not ever been to Bosnia. I was in Serbia last December. One of the very strong impressions that I had was that in the case of President Tadic we have, it seems to me, this really great guy. He supported democracy to its greatest extent and could not be more cooperative with the goals of the United States and was very proactive in terms of articulating the reasons why Serbia ought to more fully comply with the international and criminal tribunal and the like. But at the same time I wondered whether the role that the United States played in part by aggressively requesting further assistance with the tribunal would ultimately create the political dynamic that would be less favorable to someone like President Tadic. Because there could potentially be this increased nationalism and this increased counter-reaction to American-European pressure that would not necessarily be in the best interests politically of somebody like President Tadic, as courageous as he is.

I wonder if you see any dichotomy in terms of what our goals are and what our policies are, and then the ramifications politically for the actors on the ground? Then wholly unrelated, I am just curious if you could provide an assessment as to the degree of cooperation in terms of the European Union playing a more paramount role in Bosnia relative to the United States?

Assuming that you would agree that the transfer has been cooperative and positive, what is the argument to say that the United States really shouldn't just wash its hands of it and turn it over to Europe in its entirety?

I mean, what is the argument to say to Americans why the United States at this point—I don't believe this, but I am just curious to hear what the argument is—why this just should not be entirely a European affair at this point in Bosnia?

Mr. VEJVODA. Very relevant questions, Congressman Wexler. Let me speak on April 6th, 2005. I think we are moving to see the completion of obligations to the international criminal tribunal on the former Yugoslavia. We have seen over the past 3 months a number of inductees who have gone to The Hague. There are obviously, and I have put in my written testimony, the outstanding as the Chairman mentioned, Karadzic and Mladic, and obviously this business will not be accomplished until they see The Hague tribunal.

I think that in all countries that are concerned by this tribunal, there is an awareness that there is no future without meeting these obligations. Now, we can look at the past and how the conditionality helped or did not help the reform-minded democrats to do the hard work of changing their societies. I think we could find reasons where sometimes the conditionality was overly stretched to accomplish what the joint goal of a democratic Balkans is. But as I said, speaking from today, I think that basically we are moving to reach the top of the hill and beyond it.

I think that the example of Croatia has been very positive in the sense that Croatia has moved very far forward in front of all the other countries as a full candidate to membership of the European Union. It has reached a threshold because it has to deliver General Gotovina. I think this is a message to the others in Bosnia and Serbia. The fact that former Prime Minister of Kosovo, Haradinaj, was indicted and then left, shows the region that the international community is very serious about this and that this is part of the democratic reform process to meet these conditions.

Very briefly on your second question, the reason why the United States should stay, and I think that my co-panelists have mentioned this, is because it is seen as the guarantor, the ultimate guarantor. It was the United States that helped the European Union solve these situations of conflict at very difficult moments. And I think the example is of what we have seen in Bosnia; the EU has taken over for NATO, but the U.S. remains with a presence. The Office of NATO is, I think, 200 troops if I am not wrong.

It is maybe that symbolic presence, but politically symbolic, that is very important. And I would say that all the key actors in the countries adhere to the claim that the U.S. should be there in this form. And I think that if we look around at Kosovo, for example, maybe troop levels can even go down, but ultimately there has to be that office or that presence, which will see through the process until the end.

Mr. HITCHNER. To answer your first question, the cost of apprehending war criminals has always been less than we imagined. In almost every instance when we have arrested someone, when the international community has, or someone has been turned over, the cost of that process has been less than predicted. There will sometimes be demonstrations. There will be difficulties for a short period, but the cost has not been high. That being said, there is a real problem within Serbia for someone who does arrest very significant figures, such as Mr. Mladic or Mr. Karadzic. We recognize the risks

and they are profound. I think, however, the pressure must be maintained, because if these countries are to pursue the true rule of law in the fullest sense, it must comply with their international obligations, and that must be maintained.

The second part is that I do agree with Mr. Vejvoda. One of the things that I think we need to recognize about Bosnia and the Balkans is that many in the region believe that part of the problem has been the division of the region in the past by other European powers, and that there has always been, for example, a willingness by certain countries to favor one group over another. By contrast, we are seen by the Bosnians, the United States, as an honest broker in the process. We are trusted. We can take the lead. It does not mean that this is not and should not be a European process. The moment in fact that it can be fully handed over to the Europeans, it should be, but that moment has not yet arrived and everyone recognizes that.

Mr. TOAL. If I could just address those two. On the war criminal issue, I would basically agree with what Dr. Hitchner has said. I would describe myself as a human rights hardliner, and I think that the argument that some people make—why hold up the progress of some countries over a few people—misses certain key points. It is about accountability, and it is about repudiating the past. It is about giving the entities like the Republika Srpska a chance to do that and to define themselves as other than their past, and the circumstances that gave rise to them. There is also a local issue. There are local war crimes, war criminals, and if the top ones are not held accountable, then the process of going after the local war criminals, who still are powerful at the local level in Bosnia, will be seriously compromised.

On the second issue, the United States has a deep strategic interest in the stability of Europe and the process of EU enlargement being successful. Bosnia has always been a very strategic place for symbolic reasons, not because it has oil, but because of what happened there, because of human rights violations there. And the United States has been the power that has kind of learned the lessons from the early 1990s and brought about change through its proactive actions in 1995, leading to the end of the war.

Mr. GALLEGLY. The gentleman from Texas, Mr. Poe.

Mr. POE. Thank you, Mr. Chairman. This is open to any of the three of you. Is al-Qaeda or groups linked to al-Qaeda operating in Bosnia or similar groups?

Mr. HITCHNER. That is a difficult question.

Mr. POE. That is why I ask it of you.

Mr. HITCHNER. I think that it has been recognized in the past that there were elements within Bosnia that people needed to be aware of. And I would say that at one point, I remember General Jacque Klein saying to me, that the nice thing about it is that we know where they are, and we can watch them from here.

I think the more relevant response is that the international community has made a great investment in creating and setting up security services, border services, a variety of institutions that can regulate and monitor the movement of peak trafficking, crime, and so forth, in Bosnia. Such that if there are any problems in the country, they now have the ability and they have had the ability

to deal with them in the recent years. I do not see it as a significant threat, sir.

Mr. POE. All right. Thank you. Any comments from either one of you?

Mr. TOAL. I would agree with that. I think that it is important to stand back a little bit and look at the general context of the war. There are two things. Some groups will use a fear of Islamic fundamentalism to further their own interests.

Islamic fundamentalism is very important in Serbs justification of their initial policies there. So I think we need to be very, very conscious of not falling into Islamic phobia. I know that you are not suggesting that in any way by the question. But there are groups within Bosnia who will want to use the bin Laden issue and say bin Laden visited Bosnia in order to try to serve their own interests. So if we are conscious of that and also monitoring the issue, which we are doing because NATO is there—they have got a unit on that particular issue; it is very much on the radar screens—then I think we are doing well on that issue.

Mr. VEJVODA. I would simply like to add that the context of the war on terrorism after September 11 has also put these countries and their Governments in the framework of collaboration on addressing the issue of terrorism. Recently, former Prime Minister Zivkovic mentioned, for example, that there was collaboration between the secret services of Serbia and the CIA in trying to track down General Mladic in the aftermath of the assassination of Prime Minister Djindjic.

This is maybe the tip of the iceberg that we who read the newspapers can see that, in fact there have been things going on. I think that this challenge has awakened those who deal with security policies in Bosnia, Croatia, Serbia and elsewhere, that there is a need to work closely with the United States and European services. I think in part that is the framework of this question that you have posed, Congressman Poe.

Mr. POE. One follow-up question, Dr. Hitchner. It has been reported that al-Qaeda was recruiting there because those individuals look European. What is your comment on that?

Mr. HITCHNER. There is something called the Active Islamic Youth, the AIO. We do not know much about this process, but what is going on with that has been of some concern to people that deal with the security issue side of this issue.

How do you detect “European Muslims” from the region who penetrate into Europe? It is an issue that has and is of concern, and it exists, and it is a problem more particularly in Bosnia at the moment than in places like Kosovo, for example. But the extent and scale of the problem, I can’t speak to it further than that I know that it has been something that people are attuned to.

Mr. POE. Thank you, Mr. Chairman.

Mr. GALLEGLY. You know, I had a real opportunity last year to take a personal trip in the fall to visit that region of the world, and it was a remarkable experience for me. In fact, my son was married in a little place called Split, and so I had some time to spend in Croatia, and also in Bosnia.

There is an incredible amount of—I guess the best way to describe it is that people are very encouraged about the future. Could

you maybe just give me your assessment of whether that is pretty much universal through the region, that people are more and more encouraged? Are there some that are very skeptical? What is the mood?

Mr. HITCHNER. Mr. Chairman, I think it depends on which country you are in.

Mr. GALLEGLY. Obviously.

Mr. HITCHNER. You went to Split and you were on that wonderful Croatian coast.

Mr. GALLEGLY. Yes, and I don't know how you would be very discouraged unless you were in the eye of the war a few years before.

Mr. HITCHNER. I would say that there is actually a degree of pessimism among the average citizen in Bosnia about the political process. One of the impressions that one gains is that although the country is no longer in the Tito era, many of the structures of daily life are still shaped by what I would call former Communist group-think, the nomenclature, the idea that if you belong to a party, you belong in a structure. The concept of an individual who has rights and liberties is not something that is well embedded right now in the society, and that explains why young people have not voted in recent elections. There is a level of cynicism about whether the process can be changed.

The younger generation don't believe in many instances that their party, their politicians, really represent their interests or are accountable to them. And that is one of the challenges that remain. You know, we are now into a generation of 20 or 30 years, and some of the young people who have grown up in Bosnia since 1995 are now going to be in a position where they start raising families and getting along with their life, and thus disengaging from politics.

The truth is that they are not going to become politically engaged. They will be another lost generation. We really do need to think more actively about how we engage the citizens of this country in a process, a truly democratic process, and that is why we keep talking about constitutional reform. They are not as optimistic as their neighbors are in Croatia, and for good reason.

Mr. TOAL. Yes, and just to follow up on that issue. I completely agree. I think that the mood in Bosnia generally is really pessimistic. Economic growth has not been what it should be, and as a consequence, there is widespread dissatisfaction with the current stalemate.

This gets to the dysfunctionality of Dayton. Whether Dayton is going to be a structure which will allow a Bosnia to become EU-ready or not, that is a serious question facing Bosnia. But I also think there is a political opportunity here, and that is that the European Union generally has very positive ratings in public opinion polls in Bosnia. And so there is an opportunity perhaps to have—and I have the suggestion in my testimony—a referendum amongst Bosnians asking whether they want to move beyond Dayton Bosnia to have a new Constitution to make Bosnia an EU-ready country.

Now, there are problems with that suggestion, and it could be divisive, because certain parties in the Republika Srpska, nationalist parties, may see it as a plot to try to undermine the Republika Srpska. But they have to decide if they want a prosperous future.

That may mean giving up Republika Srpska as a particular entity, because that entity itself, indeed both the Republika Srpska and the Federation, produce a state which is relatively incoherent, incoherent as far as the European Union is concerned.

So you have got a choice. Do you want to stay with Dayton and stay with stagnation? Or you have the possibility of moving to a new constitutional structure, which would be worked out by the Bosnians themselves under EU supervision, and the possibility of prosperity.

I would think that, given the pessimism in Bosnia right now, people would choose positively for that future.

Mr. VEJVODA. Most of the opinion polls addressed to the youth and to the student population give the answer that most of these young people want to leave. They don't see a future because of the various questions. Mostly economically. If you are a graduate computer scientist in Bosnia, you don't really see where your skills can be used.

The same goes for Serbia for that matter. What I think is important is to go back to this economic dimension. Obviously it is intimately related to the movement toward EU and NATO integration. What this movement means is that the potential investor, who is risk adverse, when they see that these countries will be also joining will simply say, "Well, it is time to go in." This does not mean that we don't have companies now, U.S. Steel is present in Serbia and others are in other countries and in Austrian banks. Some have come in. But it needs that added level of, I would say investment security, for new monies to come in. These countries are highly dependent on external financing, whether it is from the international financial institutions or new companies.

This is then intimately related to the need to sort of fix the legal framework of each of these countries; i.e., reforms, rule of law, and enabling the legal environment for investments. And it is more or less obvious, but I would like to reiterate it, that there is no difference here between the United States and Europe as far as the future solution. The Balkans are a post-intervention area like Iraq or Afghanistan. I think that we all together have a much easier road to success in the Balkans than these other two countries. Because the Balkans are a post-intervention area, if we can demonstrate success here, regardless of what everyone thinks of the intervention, then we can herald how this success was achieved.

I would like to add that I personally don't see the relinquishing of the entities in Bosnia today. One only has to think of a country like Belgium to see that there are a variety of solutions in which can make a viable democratic country in what may seem to a seminar in constitutional law as extremely complicated. I think we have to be creative, or as has been said clearly on this panel, the people of Bosnia have to be creative and imaginative and take the issues into their own hands, do the pollings that were suggested and see what are the viable solutions within that basic skeleton that was given. I think very much can be done to respond to the worries of the Venice Commission, to the Copenhagen criteria, that will allow Bosnia actually to enter a stabilization and association process.

Mr. GALLEGLY. I want to thank the three witnesses for being here today. I am sorry that we did not have more of our Subcommittee. The issue I think for that, or the reason for that, is that we have condensed a full week into one afternoon because of the events in the world, and so I don't think that the witnesses should take that as anything personal.

We have Members who have called and said that they really wanted to participate in this. In any event, your comments will be made available to all of them in the report, and I appreciate very much you being here, and I look forward to continuing to work with you in the next months in this Congress, because this is a region of the world that cannot be ignored.

We have too much of an investment and the potential role that we play there is too great. I thank you very much for being here.

Mr. TOAL. Thank you, Mr. Chairman.

Mr. VEJVODA. Thank you, Mr. Chairman.

Mr. HITCHNER. Thank you, Mr. Chairman.

Mr. GALLEGLY. The Subcommittee stands adjourned.

[Whereupon, at 1:09 p.m., the Subcommittee was adjourned.]

A P P E N D I X

MATERIAL SUBMITTED FOR THE HEARING RECORD

PREPARED STATEMENT OF THE HONORABLE DAN BURTON, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF INDIANA, AND CHAIRMAN, SUBCOMMITTEE ON THE WESTERN HEMISPHERE

Mr. Chairman, thank you for holding this timely and important hearing to highlight the unfinished business in Bosnia and Herzegovina. In 1995, the United States engineered the Dayton Agreement, which ended the civil/ ethnic wars that occurred in the Former Yugoslavia. The Agreement became the fundamental document for the organization and coordination of the newly independent Bosnia-Herzegovina and covered all areas of nation, from the structure of its government to the restitution of local property claims.

10 years have now passed since the signing of Dayton and Bosnia & Herzegovina finds itself at a crossroads. The question before us now is was the Dayton Accord agreement a successful international effort based on the Western tenets of unity and democracy or was it an international over-reach, and a recipe for disaster?

A cornerstone of the Dayton Peace Accord was structuring Bosnia's government as a multi-layered, multi-faceted entity. In all, Bosnia was officially divided into three "semi-autonomous" entities; the Federation of Bosnia-Herzegovina (BiH), mostly populated by Bosniak Muslims and Croats, the Serb-dominated Republika Srpska (RS), and lastly the independent District of Brcko.

This multi-layered government structure is a very complex and unwieldy affair and therefore, when it came time to implement the provisions of the Dayton Accords, the international community insisted that an international "governor" or High Representative be created and have all the rights and powers of a "governor", to oversee both structural reforms in Bosnia as well as the day-to-day activities of the governments and look out for the welfare of the people.

The current High Representative, Lord Paddy Ashdown (2002–Present), has had a tumultuous time trying to unite these once-warring communities. He has used his governing powers to purge uncooperative and negative elements of both the BiH and RS entity governments. He has reformed several industries that were left in complete disarray following the civil wars of the 1990's. He set out and successfully pushed through the privatization of state owned companies, and he encouraged both foreign direct and indirect investment.

Overall, I believe Lord Ashdown's time as High Representative has been a successful one; there is renewed Bosnian and RS cooperation with the International Criminal Tribunal for the former Yugoslavia, relative peace in the region, democracy is thriving, refugees are returning, the economy is stabilizing, and there is a steady and positive dialogue with various Trans-Atlantic organizations.

However, despite the successes there remains several critical pieces of unfinished business that need to be addressed and resolved if BiH, the RS, and the whole Balkan region is to continue to grow in prosperity and peace.

Since the end of the civil wars in the former Yugoslavia, over 50% of displaced persons—approximately 1 million in all—have returned to their homes and villages. That means though that over 1 million people are still displaced, and roughly 1,700 are still missing from the wars-years. I am encouraged that the newly formed BiH State Ministry for Human Rights and Refugees is committed to and has made the rights of returnees an essential part of their mission. The international community's should support this effort by continuing to make the rights of returnees a top priority for SFOR, and EUFOR after that, and to push for further reconciliation in BiH and the RS.

I have heard that one of the most significant impediments for returnees is the over-abundance of landmines throughout the BiH Federation and the RS. According

to one source, there are perhaps 18,000 minefields through BiH which hamper the freedom of movement for residents, refugees, and displaced persons. In 2004 alone, 41 accidents occurred, affecting 18 returnees, and killing 16 people.

The abundance of minefields does more than just injure Bosnian citizens; it also impedes the country's economic growth. Current statistics show that unemployment in Bosnia and RS is running between 40% and 50%. Area-intensive economic industries such as agriculture and ranching dominate the economy and it is not hard to see how unexploded mines can disrupt these activities.

Therefore for both the health of citizens, and the region's economy, the United States, along with our Allies in the international community, should focus more of our aid efforts on the de-mining of the Balkans through direct and indirect funding, as well as technical assistance. We should also work to fund and encourage organizations such as the International Trust Fund to continue their hard work on this subject, which has already yield just positive benefits for the people and the economies of Bosnia.

Another piece of unfinished business for Bosnia and Herzegovina is the furthering of Trans-Atlantic relations. Bosnia, under the firm direction of Lord Ashdown, and pro-Western entity Presidents have firmly set Bosnia's sights on a European identity with NATO's PfP membership, and ultimately EU ascension. This Euro-centric direction has slowly begun to bear fruit, with EU leaders beginning to discuss the signing of a Stabilization and Ascension agreement (SAA) with Bosnia in the near future. An SAA is usually the first step to eventual EU Membership.

Perhaps the two most pressing roadblocks impeding Bosnia's quick entry into NATO and the EU are the lack of government cooperation with the International Criminal Tribunal for the Former Yugoslavia (ICTY) and the lack of serious police/security reform.

Before the beginning of this year Bosnian and RS cooperation with ICTY could be described as negligible at best. In fact in the RS, where political control has been largely in the hands of political parties closely associated with indicted war criminals—who organized, assisted and participated in the ethnic violence during the civil wars of the 1990s—RS leaders such as Radovan Karadzic and General Ratko Mladic were so highly ingrained in the social and most importantly political/security culture of the RS, that before 2005, the RS failed to extradite even 1 suspected war criminal to the ICTY.

It was only after Lord Ashdown began to purge negative and non-cooperative elements of the RS political elite that the RS moved to cooperate with the tribunal. The change brought about by Lord Ashdown's action has been dramatic. Over just the last 2 months, the RS has sent 5 indicted war criminals to the ICTY.

15 indicted war criminals remain loose throughout Bosnia and the RS; but there are increasingly positive signs that the leaders of Bosnia and the RS are now more fully engaged in their eventual capture. Just recently, on March 22, 2005, the RS in fact started a widespread advertising campaign entitled: "Us or Them." The message is simple; the national allegiance to past so-called heroes like Karadzic and Mladic is hurting the whole community, and damaging the government's goals of further Trans-Atlantic integration. The advertising campaign will be broadcasted on the RS' popular TV, and radio stations throughout the country.

Bosnia still needs to confront many challenges, such as further cooperation with the International Criminal Tribunal for the former Yugoslavia, threats of extremist Islamic terrorism, sustained economic growth, reforms of the defense, education and police ministries, and lastly and most importantly the growth of a responsive and responsible local government structure. But all signs point to Bosnia and Herzegovina being clearly on a careful path forward, moving gradually towards a stable, multi-ethnic, united state. As the people and leaders of the Federation, and RS grow more united, the United States and the international community need to support this process by working to devolve more and more of the responsibilities and powers of government into the hands of Bosnia's locally-elected and democratically accountable leaders.

The United States is leading an international effort to foster democracy and freedom across the globe. We must not forget that this effort extends into the Balkans as well. Our continued assistance, through a united international effort, combined with positive developments in BiH and the RS, can ensure that the region remains secure, stable, prosperous and democratic.