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CAUCASUS REVISITED

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ABSTRACT

Three years ago, after the Kosovo war and the launch of the Stability Pact for South East Europe, there was a spasm of interest in the idea of a stability pact for the Caucasus. However nothing came of this, since neither the region's leaders nor the international community were willing or able to do anything of substance, although a comprehensive proposal had been published by CEPS as a 'track 2' initiative. As a result, the de facto secessions of Abkhazia and Nagorno Karabakh have become more deeply entrenched, but only with the protection of Russia and Armenia, respectively, with which these entities have become increasingly integrated de facto. Since conventional diplomacy in the Caucasus under UN or OSCE auspices has failed to deliver solutions over a whole decade, we take a wider look here at the kind of solutions that may emerge for these so-called frozen conflicts of the European periphery. New developments external to the region are coming from the EU and the US: the widening of the Europeanisation process on the one hand, and the 'democratic imperialism' or Pax Americana coming out of Washington since 11 September 2001 and now the Iraq war. We explore below how these developments may affect the prospects for the Caucasus.

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1. A stability pact for the Caucasus?

Soon after the Kosovo war in 1999, which gave birth to the Balkan Stability Pact, there was a spasm of interest in the idea of a stability pact for the Caucasus as a solution to the frozen conflicts of Nagorno Karabakh (NK), Abkhazia and South Ossetia.

No less than four presidents from the region (Demirel, Aliev, Kocharian and Shevardnadze) spoke in favour at an OSCE summit in Istanbul in November 1999, which gave this organisation an opening to do something important.

Nevertheless, none of these leaders, nor the OSCE as an institution made any substantive proposals. The external powers – the EU, Russia and the US – responded with a deafening silence.

Only at the ‘track 2’ level of policy research institutes were ideas forthcoming, notably from CEPS which published a detailed proposal in May 2002, for a stability pact for the Caucasus.¹ This was revised by October 2002 after a series of consultations with the four presidents, the leadership of the non-recognised secessionist entities and independent experts in the region.²

CEPS was proposing a comprehensive solution to the conflicts and a design for a new regional order. It was called ‘stability pact’ for want of a better name. It was not copying the Balkan Stability Pact precisely, except that both cases saw, or would see, the international community promoting comprehensive systemic solutions for complex regions with multiple ethnic conflicts or tensions.

More specifically the proposed Caucasus Stability Pact would have had the following features:

- federative solutions to the Abkhazian, South Ossetian and Nagorno Karabakh conflicts, built into ‘common state’ constitutions for Georgia and Azerbaijan;
- initiation of a South Caucasus Community regional organisation, which could also be a forum for autonomous substate entities (Abkhazia, South Ossetia, Nagorno Karabakh and maybe Adjara and Nakhichevan too) to have an asymmetric presence – where their competences were concerned – alongside the three international states;
- a regional security order established under the auspices of the OSCE, providing both peacekeeping and monitoring functions as well as security guarantees;
- an agreement between the EU and Russia to cooperate over policies towards the Caucasus and to join together, for the optimal development of Black Sea regional cooperation, through the BSEC organisation.

The overall idea was to introduce a step change in perspectives for the whole of the region, and to alter assessments by political, business and civil society leaders of their interests in solving the conflicts, lifting the frontier blockades (of Armenia and Abkhazia) and getting onto a new development path.

¹ S. Celac, M. Emerson and N. Tocci (2002), *A Stability Pact for the Caucasus*, CEPS Brussels.

² M. Emerson, N. Tocci and E. Prokhorova (2001), “A Stability Pact for the Caucasus in Theory and Practice – a Supplementary Note”, *Journal of Southeast European and Black Sea Studies*, Vol 1. No. 3.

But nothing was done at the official level and the idea faded into the background. Meanwhile the same old diplomacy continued year after year. The OSCE Minsk group (and notably the co-chairs France, Russia and the US) carried on with their secret meetings over Nagorno Karabakh with no results. The UN Secretary General's 'Friends of Georgia' group (France, Germany, Russia, the UK and the US) also struggled to agree on a proposal for a federal constitution to settle the Abkhazia-Georgia conflict, without result.

2. Taxonomy of multi-tier solutions

Solutions have been elusive, yet there has to be some future. The idea of 'frozen conflicts' cannot go on for ever. If a conflict is 'frozen' for ten years, it hardly qualifies as a conflict any more. It must have given way to some apparently durable regime, that the international community may still not want to recognise, but which has come to exist de facto.

Politicians and diplomats generally try to keep the discussions to the choice between two basic variants:

- mutually agreed secession and internationally recognised, independent statehood,
- when there is no agreement between the two parties, the international community does not recognise secession nor independence and looks for a federative solution within a single state under international law.

Nevertheless, real world solutions turn out to be far more complex and varied, especially in the European neighbourhood, where there is a proliferation of multi-tier governance systems. A taxonomy is offered in Box 1, listing options or elements for composite solutions for the dyadic, ethno-secessionist conflicts such as are seen not only in the Caucasus but also elsewhere in south-east Europe (the Balkans, Moldova and Cyprus).

Box 1. Taxonomy of solutions to dyadic, ethno-secessionist conflicts

One tier – secession and/or unitary state(s)

1. Secession denied, unitary state prevails
2. Secession and independence, recognised internationally
3. De facto secession and independence, non-recognised

Two tier – with federative solutions

4. Dyadic federation (one state in international law, decentralised powers)
5. Dyadic confederation (two states in international law, some common policies)
6. Common state (one state in international law, some common policies)

Three tier – with regional cooperation

7. Regional community of two or more states (and substate entities)

Four tier – with role of supranational or external powers

8. Multilateral, e.g. OSCE/UN/Council of Europe
9. 'Europeanisation'/'Russification'/'Pax Americana'
(for overarching protection/association/integration/annexation)
10. Coalition/consortium/condominion, e.g. the EU and Russia, or troika of the EU-RUS-US

Secession types. Secession and independence will be recognised internationally when the parties are in agreement, such as happened with the breakup of Czechoslovakia, or at least when the process is not seriously contested as with the primary breakup of the Soviet Union.

Disputed secessions may lead to de facto secession and independence, lacking international recognition, as seen in Kosovo, Transnistria, Abkhazia, Nagorno Karabakh and Northern Cyprus. However in such cases the seceding party may be perceived as a threat to others and may not be able to defend itself. Therefore the role of a third party may be crucial in some form or other – protectorate, association, integration or annexation. These variants call for more precise definitions, to which we return later (Box 2).

Federative models. Attempts to negotiate stand-alone federative solutions have proved popular with the international community, yet often unsuccessful for the parties concerned. Typically a negotiation between the two principal parties gets stuck between one side, normally the majority party, insisting on a federation (one state in international law with a vertical power structure) and the other side, normally the minority party, seeking confederation (two states in international law with a horizontal power structure).

Attempts to find a compromise have sometimes used the term ‘common state’, although it has no commonly accepted definition. We understand this term to mean a system where (despite having only one state in international law) the functional structure of government is more like a confederation with selected common policies. The weakness of this kind of scheme is that the functions and powers of the common state may not be substantial enough to prevent centrifugal forces from predominating it, and lead to the breakup of the common state. This is why it may need to be combined with a tier of supranational or external power, to hold it together. In the case of Serbia and Montenegro, the model is being attempted with the prospect of EU integration as the umbrella, and it may yet collapse. The UN Annan plan for Cyprus was another example that got stalled again in March of this year, but which might still come about, with full EU membership. Belgium within the EU is the mature case of a thin dyadic federal structure, made viable because of its deep integration with the EU tier of governance. The OSCE proposed in 1998 a very thin common state for Azerbaijan and Nagorno Karabakh (see Annex B), which failed to win agreement, but the text is worth noting a specimen in the collection of common state ideas.

Regional models. Also popular with the international community is the idea that conflictual regions should not only settle their differences with federative structures, but also set up structures to organise regional cooperation. Natural geographic regions such as the Caucasus and the Balkans (or Baltic Sea, Black Sea, etc.) always have a potentially useful agenda for cooperation over such matters as transport, energy and communications networks, policies for regional free trade and the movement of persons, environmental problems, combating cross-border crime, etc. It is also generally hoped that regional cooperation will create sufficient common interests to displace or dominate interests in conflict. But it is also observed that the incentives for regional cooperation in chronically conflictual regions tend not to be perceived as strong enough to tip the balance decisively from ‘war to peace’.

Such regional structures may also provide opportunities for substate entities to participate with their own voices in intra-regional relations. To a degree, this would mean asymmetric relations between states recognised in international law and substate entities. This would be an ordered asymmetric system, for which Northern Ireland provides some illustrative ideas.³

³ The British province is able to conduct some of its competences in direct cooperation with the Republic of Ireland, apparently without the British government having lost its ‘territorial integrity’. In addition there is a

Supranational or external power. We are thus observing circumstances in which there is a role for supranational or external powers – to overarch both common state and regional cooperation arrangements. Both of these have their value but may not be robust enough structures to survive in a post-conflict environment among the weak or failed states of the European south-eastern periphery. We may reflect on what the role of the overarching power might consist of, considering for the European periphery a matrix of the four types of relationship already mentioned (protection, association, integration and annexation – see Box 2) and several possible supranational or external actors or groupings (the EU, Russia, the US, the multilateral organisations and various coalition/consortium/condominion possibilities).

As a contemporary example, Bosnia lives under an international protectorate regime, but this is combined with recognised independence and statehood. Kosovo is another international protectorate, whose *de facto* secession is not recognised internationally. Association agreements between the EU and its neighbours are numerous – including the pre-accession cases, the Euro-Med associates, as well as the European Economic Area (e.g. Norway) as the deepest association model. Integration is seen in the process of accession to the EU. Northern Cyprus has been a Turkish protectorate for decades. Formal annexation by Turkey was long discussed as a political option, but was deferred because of Turkey's European ambitions. The Marshall Islands in the Pacific have also provided an interesting model, graduating in 1986 after four decades of UN trusteeship administered by the US into a 'free associated state', which is dependent on the US for its currency, defence and sponsorship in international organisations (see more below).

Box 2. Protectorates, association, integration and annexation

- **Protectorate:** an external power keeps the peace with the aid of military or police forces as necessary, and may also exercise powers of civil administration. The external power may be invited or uninvited, which leads to different degrees of democratic legitimacy.
- **Association:** a self-governing entity adopts some or even many of the policies and laws of an external power, usually its much bigger neighbour, but without becoming part of the political structure of the neighbour. This regime derives its legitimacy from being voluntarily sought or accepted.
- **Integration:** an entity voluntarily becomes a full part of the economic and political structures and jurisdiction of the formerly 'external' power.
- **Annexation:** an integration that occurs through the use of force, or without the consent of the parties directly concerned, nor the legitimising agreement of the international community.

As for the three big powers – the EU, Russia and the US (in alphabetical order) – they all have different kinds of interests in the Caucasus. In general, these three powers represent different paradigms of international relations, and certainly with respect to the European periphery, which presumably is why they have not succeeded in creating an effective international role in the region. Moreover their differences escalated dramatically during the recent Iraq war, and we have to discuss below the prospects for them to come together

Council of the British Isles at which two sovereign states (Ireland and the UK) sit together with three substates (Northern Ireland, Scotland, Wales) along with the Channel Islands and the Ile of Man. The positions of these islands defy short constitutional definitions, proving only that all kinds of compromises can be made over statehood and sovereignty if one really wants to find solutions: these islands are not part of the UK nor the EU, but are subject to much UK and EU jurisdiction, with the UK taking care of their external relations and the people of the islands having British passports (which are issued by the authorities of the islands and visibly have both the island and UK identity appearing on the face of the passport).

cooperatively in the Caucasus in the future. Briefly, the EU leads the process of 'Europeanisation' of the wider Europe, but it is not yet clear where the boundaries of the wider Europe lie. Russia aims at re-establishing 'its near-abroad' as a sphere of influence – Russification. The US makes its presence felt as executor of a Pax Americana. These three paradigms call for more precise definitions.

Europeanisation. The distinction is made between accession to EU membership (a formal political and legal act) and Europeanisation, which is a wider process of political, economic and societal transformation. Europeanisation works through three types of mechanism: a) the precise legal obligations that come from preparing for accession to the EU and acceding to the Council of Europe (which effectively serves as the EU's human rights training school and enforcement agency); b) a change in the domestic rules of the game in politics and business, altering the strategic position of domestic actors; and c) a change in the beliefs, expectations and identity of the individual (regional/ethnic, national, European). Synthesising these different mechanisms of law, economics, politics and sociology is the vital (yet subjective) will of the individual, political parties and interest groups in order to accept or even push for the adoption of European norms of business and politics.

Europeanisation is still a thin and remote part of the mind-set of the peoples and the leaders of the Caucasus. Nevertheless it could become increasingly relevant for three reasons. First, Europeanisation has a real record of achievement in the transformation of the formerly fascist dictatorships of southern Europe (Greece, Portugal and Spain) and now of the formerly communist regimes of central Europe acceding to the EU.⁴ Secondly, the process now extends into south-eastern Europe in the Balkans⁵ and Turkey, to the point that this wider Europe, of states with recognised EU accession prospects, now border the Black Sea and the Caucasus. Thirdly, the three south Caucasus states are all members of the Council of Europe. They have accordingly subscribed in principle and in international law to the political norms of modern Europe, and are therefore already on a preliminary course of Europeanisation. At this point, there is an obviously desirable opening for a combined EU-Turkish initiative, wherein Turkey would extend its own Europeanisation process and ideology through its Caucasus diplomacy. The EU and Turkey together could press more actively for a civilised resolution of the Nagorno Karabakh question, including normalisation of Turkish-Armenian relations. In fact signs of new thinking are emerging in Ankara, as we show below. The attempted blockade of Armenia by Turkey does not work. It is just a component of the Caucasian structures of corrupt inefficiency and low living standards.

Russification. Russia has had its Tsarist and then Soviet imperial presence in the Caucasus for 250 years. Russia was invited by Georgia into the region as a peacekeeper and guarantor in the 18th century. The Soviet period came and went. Today Russian policy towards the Caucasus seems guided by a general objective of maximising influence within the constraints of the post-Soviet geopolitical reality. The Commonwealth of Independent States (CIS) was a

⁴ For a presentation of the concepts and application to southern Europe see: K. Featherstone and G. Kazamias (eds) (2001), *Europeanisation and the Southern Periphery*, London: Frank Cass.

⁵ For a Bosnian view of Europeanisation a paper by former foreign minister Jadranko Prlic is quite clear: "The EU leverage is (the) identification of the EU in the (Balkan) region as an area with security, jobs, a decent and rising standard of living, the rule of law upheld by accountable, democratic, clean public institutions, and a system of minorities protected by law, not by the carving out of territories.... Without recognition that the future of the region is in the EU, there is no chance for the implementation of a coherent plan. Not only the political elite, military officers, intelligentsia, but also the majority of the public should share this opinion. For the first time all the countries from the region, even the participants in the recently ended conflict, are attempting to join the European main stream". Extracted from Prlic, J. (2003), *Milestones towards a reunited Europe – Agenda for integration of south-eastern Europe into the European Union*, working paper, University of Mostar, March.

first attempt to reconstruct links with the former Soviet republics through a Russian-led community modelled on the EU, but this hardly worked at all. Giving up on the dysfunctional CIS, Russia (under President Putin) has concentrated on core groups, including the Collective Security Treaty Organisation, with Armenia as the only member from the Caucasus, and the Euro-Asian Economic Area, in which Armenia is the only observer from the Caucasus so far. Russian policy towards Georgia is particularly complicated, given the Abkhazia, South Ossetia and Pankisi gorge situations – the latter seeing a spillover of the Chechnyan war – to which we will return. Russia's policies towards the Caucasus as a whole seem to be an uneasy mix of ideas, blending some old Soviet reflexes (e.g. as seen in some acts that pressurise Georgia) with the contemporary rules of the international community for relations between independent states. Indeed Russia's own transition has been influenced by the 'Washington consensus' (see below) and a degree of Europeanisation. Its leadership has to struggle to impose coherence on the workings of its bureaucracy that may be trying to play by international and European rules in some theatres of operation, while at the same time trying to exert Realpolitik influence in others, such as the Caucasus.

Pax Americana. Until 11 September 2001, US policy towards the Caucasus sought to support the newly independent states through the post-communist transition, with the ideology and policy prescriptions of the so-called 'Washington consensus' (norms of market liberalism and macroeconomic stability of the IMF and World Bank, democratic governance, etc.). Up to this point the process is quite compatible with Europeanisation. But Washington strategists under Clinton foresaw the area in terms of the 'great game' paradigm, of competing with Russia for influence in Central Asia and the Caspian basin, for which the promotion of the Baku-Ceyhan oil pipeline became the most tangible project.

Since 11 September 2001, US priorities have been transformed, and are now seen through the prism of the war against Islamic fundamentalist terrorism and the threat of arms of mass destruction falling into the hands of terrorists (possibly via the intermediation of criminal gangs in lawless states). The new priorities in US doctrine entail a greater willingness to deploy the military, special forces and the CIA, both unilaterally and pre-emptively. The chief ideologues in the Bush administration have set out their agenda for transforming the wider Middle East region, including any nearby places such as the Caucasus that might link together Islamic fundamentalist terrorism and the chronic criminality of weak or failed states. It is hoped that the Iraq war and the overthrow of the Saddam Hussein regime will deliver a demonstrative effect on other states in the region. If the message does not get through, then the doctrine of pre-emptive unilateralism stands, as and when needed.

Multilateral organisations. Both the UN and the OSCE have experiences of mediation and monitoring cease-fire or peacekeeping situations in the Caucasus, and have representative offices there. With regard to mediation, both are working essentially through core groups of large powers (the UN 'Friends of Georgia', the OSCE Minsk group). Elsewhere the UN has had a more central role in mediation (Cyprus), and has been entrusted with major post-conflict operations (Kosovo, Afghanistan). The OSCE has not yet extended beyond softer roles, including monitoring. Neither the UN nor the OSCE have been mandated to enforce solutions. The Council of Europe has a significant role in the human rights and democracy domains, but is still a marginal actor. NATO becomes involved in the security domain through the Partnership for Peace programme, but again, only marginally.

Coalition/consortium/condominion. The unmanageability of international organisations governed by consensus rules and having large numbers of member states leads to situations where the formal multilateral framework is little more than window dressing, if indeed it manages to retain a role at all (e.g. the case of the US-UK coalition over Iraq). At present, the

US certainly looks to the formation of ad hoc coalitions of willing partners as the default mode and has little patience for protracted multilateral diplomacy. For the Caucasus, one can imagine all combinations of coalition: EU-US as the traditional Western allies, Russia-US as the new anti-terrorist alliance, EU-Russia as the two big European players (with overlapping near-abroads). There is no shortage of fora where all three together try in principle to work together. We discuss later how far these forms of bilateral or trilateral cooperation have been set back by the recent Iraq affair.

Eligible external players in the Caucasus have long included the other two big neighbours, Turkey and Iran. Turkey was itself one of the promoters of the Caucasus Stability Pact in 1999/2000. Iran has also recently raised its voice, with the visit of its foreign minister to the three south Caucasus states in May 2003, following a previous tour of the same kind in July 2001. At least the diplomatic discourse reaches the stage of simple arithmetic. Iran would like to see a 3+3 process, with Russia, Turkey and Iran to join the South Caucasus three. Others have suggested 3+3+2, to bring in the distant EU and US powers. Subtleties at this stage include whether the second three is composed of the EU/Russia/US, or Russia/Turkey/Iran; then whether the two are either the EU/US or Turkey/Iran.

3. The status quo

What has actually happened in these lands of frozen conflicts? To say ‘nothing’ would not be far from the truth, but that would be excessively brief. While the conflicts have remained unresolved, they have not been frozen.

Abkhazia. In de facto secession since the war of 1992-93, Abkhazia’s frontier with Georgia has been virtually closed, except for pedestrian movements of Internally Displaced Persons (IDPs) in and out to visit their properties in the southern Gali district. Tbilisi has no effective power in Abkhazia. It has become a de facto protectorate of Russia, whose peacekeeping forces on the Georgian frontier operate with a thin veneer of international recognition from the UN (with an unarmed monitoring presence) and the CIS (the label for the armed peacekeeping force, which is exclusively Russian). Recently, Abkhazia has become increasingly associated with Russia economically and integrated politically, but without formal diplomatic recognition by Russia or anyone else. Their currency is the Russian rouble and the population is in the course of acquiring Russian citizenship and passports, upon the expiry of the old USSR passports last year.⁶ The Abkhazia-Russian frontier is open for road transport and the Sochi-Sukhumi railway re-opened in recent months. Russia keeps border controls there, but the frontier is not blockaded as under sanctions. Integration with Russia therefore deepens, given territorial contiguity and an open frontier. This breaches the general UN-mandated blockade of Abkhazia’s Russian and Georgian frontiers, which is why Abkhazia is sliding from being under recognised UN protection into a hybrid case that has characteristics of association and integration – some would further say ‘creeping annexation’. Russia avoids any formalisation of this process, and still makes vague diplomatic speeches about supporting Georgia’s territorial integrity.

⁶ More precisely, most of the population of Abkhazia have in the course of the last year been able to register their applications to obtain Russian citizenship with the Russian authorities. At this point the applicants have only received a stamp in their old USSR passports, stating that their applications for Russian citizenship and passports are being processed. It is understood that these procedures will be completed by the end of 2003. An alternative, temporary solution might be for the UN to authorise the issue of international travel documents for Abkhazians and South Ossetians for those who prefer (for the time being) to use neither Georgian nor Russian passports. The UN in Kosovo issues such travel documents for Kosovars who do not want to travel on Yugoslav passports, and a similar system exists for Palestinian refugees in Lebanon, to whom Lebanon does not want to grant Lebanese citizenship.

Attempts by the former UN special representative, Ambassador Boden, to gain agreement on the principle of a federal solution failed to get beyond the stage of preliminary paperwork (see Annex A). Abkhazia's bottom line is to retain its independence from Tbilisi, relying on Russian protection if necessary. Foreign minister Sergei Shamba is explicit about how they would like to see Abkhazia fit into the international system. The objective in the short term is a version of the Taiwan model, and in the long term, a version of the Marshall Islands model.⁷ Taiwan has the protection of the US without international recognition, but retains partial inclusion in international organisations such as the WTO. The Marshall Islands have self-government in a free association with a major power (the US), which provides its currency, defence and the possibility of dual-citizenship, as well as sponsors its international recognition and membership in relevant international organisations. For Abkhazia, Russia plays the role of the US, and Georgia plays the role of China.

For some time there has been discussion between the parties over a partial solution, allowing the return of the Gali district to effective Georgian control, the return of many IDPs, and effectively redrawing the frontier between Georgia and Abkhazia northwards. In March 2003 there was a summit meeting between presidents Putin and Shevardnadze in Sochi, at which there was reportedly an agreement along these lines. In addition, the railway line would be re-opened both ways, from Sukhumi north to Sochi (already achieved) and south-east to Tbilisi. This would remove the blockades of Abkhazia on both sides. There would be rehabilitation of the Gali district and also of the Inguri hydroelectric complex. The Gali district might be policed by a combined force of Abkhazians and Georgians, possibly with Russians too. Georgia wanted agreement on federal principles for the final status of Abkhazia within Georgia, but Russia refused any substantive negotiation on this point (and therefore the status quo continues). The Sochi agreement has not yet been published. Irregardless, it has resulted in the setting up of three tripartite (Abkhaz, Georgian and Russian) working parties for economics, transport and refugees. The UN Geneva process used by the 'Friends of Georgia' (France, Germany, Russia, the UK and the US) has also activated three working parties, for economics, refugees and political issues. These two processes may yet come together.

Nagorno Karabakh. This is a case of de facto irredentist secession and integration with Armenia. Although the OSCE monitors the cease-fire line, Armenia's protection has no international status. Indicators of integration with Armenia include being part of the Armenian currency area and customs union. Armenian citizenship and passports are generally available to NK residents, most of whom are ethnically Armenian. Indeed, the President of Armenia is the former President of Nagorno Karabakh.

The OSCE Minsk group negotiations have been lacking in transparency, especially recently. The 1998 proposal for a common state of Azerbaijan and Nagorno Karabakh (Annex B) eventually found its way into the press. However the proposal died in the political turmoil following the assassination of the Armenian prime minister in 1999 (however this tragedy is believed not to have been related to these Nagorno Karabakh issues). At Key West in Florida, in the spring of 2001, there was a US-mediated negotiation at summit level with Presidents Aliev and Kocharian, following a summit in Paris. The Presidents returned home, allegedly with the outline of an agreement, but its content has not yet been published. All that is clear is

⁷ For four decades after the Second World War, the Marshall Islands were a UN Trusteeship territory administered by the US. In 1984 the Marshall Islands agreed a Compact of Free Association with the US, which granted the islands autonomy, with the right to terminate the agreement (i.e. secede).

that when President Aliiev tested domestic political opinion on its content, he was forced to retract the provisional agreement. The content seems to have included:⁸

- Return of part of the Azeri districts surrounding Nagorno Karabakh to Azerbaijan, with withdrawal of the NK armed forces. This would allow for the return of Azeri IDPs to these lands.
- A deal over land corridors for both Nagorno Karabakh and Nakichevan. The idea of either or both land swaps and/or internationally guaranteed corridors seems to have been discussed, with access through the Lachin corridor in favour of Armenia, in exchange for a link through Megri to Nakhichevan in favour of Azerbaijan.
- The Armenian borders with Azerbaijan and Turkey would be re-opened.
- On the fundamental question of final status for Nagorno Karabakh, the publicly available information (i.e. only press interpretations) has varied between two versions: either a constitutional deal of a federative type – possibly a common state model where Nagorno Karabakh remains in international law a part of the state of Azerbaijan, but with large autonomy; or a categorical land swap, where Armenia retains Nagorno Karabakh and Azerbaijan is compensated by the gain of territory presently separating Nakichevan and the rest of Azerbaijan.

In 2002, in view of the collapse of the Key West provisional deal, discussions resumed between the two parties over a partial agreement, which bears some analogue with the partial deal emerging over Abkhazia. Unofficial sources reported that some or most of the Azeri districts currently occupied by Nagorno Karabakh and Armenia to the south and east of Nagorno Karabakh would be returned to Azerbaijan, and that the railway line along the Aras river would be re-opened (going from Baku to Yerevan via Nakichevan). In addition, the Turkish-Armenian frontier would be re-opened. Armenia is understood to have refused this package.⁹

Recently the new Turkish government sent out some signals in the direction of re-opening the frontier with Armenia. A meeting of the two foreign ministers in early June 2003 seems to have identified a possible short-term agenda for opening cross-border trade, before establishing formal diplomatic relations and a complete opening of borders.¹⁰

The blockading of Armenia by Azerbaijan and Turkey, and of Abkhazia by Georgia and Russia had presumably hoped to make these illegal secessions unsustainable, and to bring the two secessionist entities to the negotiation table, if not to their knees. After a decade it is evident that the use of the blockade as a weapon has had insufficient leverage to bring the two entities to bargain away their de facto secessions.

Armenia is not actually blockaded at all, since the frontier with Georgia is open, and Georgian commercial intermediaries are serving to arrange trade between Armenia and Turkey. The ‘source’ or ‘destination’ for Armenian trade becomes Georgia, with the aid of a little special paperwork and a less than trivial commission charge.

⁸ Details have remained secret, which hardly helps informed political discussion and debate.

⁹ Details from official sources would be welcome.

¹⁰ See U. Ergan (2003), “Ankara and Yerevan trade signals”, *Hurriyet* newspaper, Ankara, 6 June. The journalist goes on to report what he understands to be Ankara’s four conditions for establishing diplomatic relations and for the borders to be completely open: 1) “Yerevan must give up its genocide claims. The issue has to be left to the historians”; 2) “The article in the Armenian constitution concerning the territorial claims towards Turkey must be removed”; 3) “Armenian forces must withdraw from the occupied territories of Karabakh”; and 4) “The security corridor between Azerbaijan and Nakhichevan must be opened”.

Russia has given up compliance with the UN-mandated sanctions against Abkhazia, and opened the railway between Sochi and Sukhumi in early 2003.

The closed borders do, however, impose a considerable economic cost through missed opportunities for trade and the extra costs of transport. The World Bank studied these questions in some detail.¹¹ The potential benefits of lifting the blockades are especially high for Armenia, whose trade flows could more than double and lead to an increase of GDP by 30%. Nevertheless even for Azerbaijan, the costs it would incur to close its frontier with Armenia are estimated to be a useful 5% of GDP. Some important trade flows are completely cut off, notably the export of gas from Azerbaijan to Armenia (which it is getting instead from Iran via a new pipeline), and of electricity from Armenia to Turkey. For Turkey, the macroeconomic cost of foregoing trade with Armenia is not as large at the national level, yet it is significant in hampering the economic development of its eastern regions.

Georgia exploits its monopoly to the maximum for the transit of Armenian trade. Anecdotal evidence from traders reports that of the cost of sending a loaded truck from Yerevan to Moscow, 80% of the total is incurred in crossing little Georgia.¹² A truck of 10-20 ton capacity pays a transit fee of \$245. Railway tariffs are not properly regulated and are riddled with corruption.

South Ossetia. This small territory is largely outside the effective jurisdiction of Tbilisi. Nevertheless it is not closed nor blockaded, nor is it annexed by Russia, nor unified with North Ossetia. Peacekeeping is undertaken by joint patrols of Russian, Georgian and Ossetian forces, mandated and monitored by the OSCE. South Ossetia survives economically as a smuggling enclave between Russia and Georgia, and the system is sustained with the aid of considerable complicity between Georgian, Ossetian and Russian profiteers – a bizarre case of corrupt autonomy with international protection. A year ago there was talk of Georgia becoming able to re-establish customs procedures at the frontier point between Southern and Northern Ossetia (i.e. between Georgia and Russia), but this has not so far been implemented.¹³ This frontier is naturally easy to control because of the Caucasian mountain geography, since it can be passed only through a single road tunnel. Smugglers or profiteers have been able to pass that frontier without paying Georgian import duties or excise taxes. The cheaper internal Russian price levels, especially for petrol, tobacco and alcohol, created the illegal ‘duty-free shop’ foundations of the South Ossetian economy. The open market place on the southern frontier of South Ossetia is conveniently located within a few kilometres of Georgia’s principal east-west highway. The loss of revenues to the Georgian budget must be considerable.

A principal criterion for assessing whether South Ossetia is in a state of de facto secession from Georgia is therefore whether it is falling outside Tbilisi’s fiscal jurisdiction. If Georgia’s fiscal jurisdiction fails to apply, South Ossetia becomes something of an illegal Caucasian version of some European micro-states. The closest analogue in this respect is Andorra¹⁴ – a

¹¹ Evgeny Polyakov (2000), “Changing Trade Patterns after Conflict Resolution in South Caucasus”, World Bank working paper.

¹² B. Gultekin and N. Tavitian (2003), “Les Relations Armeno-Turques – La Porte Close de l’Orient”, working paper, Groupe de recherches et d’information sur la paix et la securite (GRIP), Brussels.

¹³ Georgian police have check points on the frontier between South Ossetia and Georgia, but without levying Georgian customs tariffs – to do so might be interpreted as recognising de facto South Ossetia’s secession.

¹⁴ Andorra and the other tax-haven micro-states of Europe are now, in fact, finding their situation to be under increasing pressure from the European Union, in the context of its efforts to adopt harmonised taxation of earnings from savings. The deal recently reached within the EU has been conditional on negotiations with Andorra, Liechtenstein and Monaco for them to adopt tax measures to reduce their capacity to profit from the

small entity occupying a mountain divide between two other states, living off tax-haven and smuggling economics, and subject to a condominium of the big neighbours to oversee it (Georgia and Russia for Southern Ossetia, France and Spain for Andorra¹⁵).

4. What next?

Default scenario. This first case assumes that the external actors do not change their positions fundamentally, and so between them devise no sufficient incentives, pressures or forceful intervention to alter the status quo. This default scenario sees Abkhazia and Nagorno Karabakh as determined not to lose the essence of what they gained in war. To assure this, they need continued protection from Georgian and Azeri threats to re-invade and re-establish the authority of Tbilisi and Baku respectively. This protection is currently provided by Russia for Abkhazia. It is initially supplied by Armenia for Nagorno Karabakh (with an implicit Russian protection in the background), and by Russian bases near the Armenian frontier with Turkey to balance Turkish support for Azerbaijan. As long as the protection is perceived to be valid, the secessionist parties feel under no compelling need to negotiate something they do not like. Russia continues to defer its withdrawal from some of the military bases, to which it was committed by the OSCE summit of 1999.¹⁶

If one listens to various political personalities in the Georgian and Azerbaijan parliaments, one can have the impression that the default scenario leads to renewed war, with invasions of Abkhazia by Georgia and/or of Nagorno Karabakh by Azerbaijan. This discourse is, needless to say, considered by external observers to be both irresponsible and unrealistic in the extreme. The would-be invaders do not seem to digest the fact that these two entities benefit from at least implicit Russian security guarantees. Nor would the US nor the EU have any sympathy for such attacks. It is now most unlikely that a 'Europeanising' Turkey would back an Azeri attack. These speeches are made with a lot of emotion, but they are no more than a tragically surrealist distraction from attending to the real needs of the people.

Simple, partial solutions. Recent developments point towards simple, partial solutions that do not try to resolve questions of final status, but still seek to improve the quality of the status quo. The details of this general option have already been described. There would be partial territorial concessions by Abkhazia (Gali district) and Armenia/Nagorno Karabakh (Azeri districts to the south and east of NK currently occupied by Armenian/NK forces). In both cases significant numbers of IDPs would be able to leave their wretched refugee camps and re-start normal lives. Additionally, in both cases there would be a re-opening of the increasingly ineffective frontier blockades, with the railway lines re-opening from Sukhumi to

displacement of EU savings. These three European micro-states are all, however, internationally recognised sovereign states, members of the UN and the OSCE.

¹⁵ While this comparison is appealing, it should be added that Andorra is an independent sovereign state, with two heads of state: the President of France and a Spanish bishop. Southern Ossetia might not be against following this Andorran model further (why not the President of Georgia and a Russian bishop?). On the subject of condominiums, the UK has proposed a condominium solution to Spain for the Gibraltar problem, but the people of Gibraltar rejected this in a referendum.

¹⁶ Negotiations between Russia and Georgia over the Akhalkalaki and Batumi bases were frozen in the autumn of 2002 as a result of the Pankisi gorge crisis and Kodori incident, and only restarted in the past two months. Russia is now asking between eight and ten years for its military personnel to be withdrawn, whereas Georgia wants three years. As for the Gudauta base in Abkhazia, there is still disagreement on its final status. Russia claims to have withdrawn most of the equipment, and this was verified by the OSCE and UN observers. The base is still open as a recreational/logistical base for Russian peacekeepers in Abkhazia, and is guarded by about 100 Russian troops. Georgia therefore does not recognise that the base is closed in accordance with the Istanbul OSCE commitment of 1999. (I am grateful to Oksana Antonenko of IISS, London, for this information.)

Tbilisi and from Baku to Yerevan via Nakichevan. Under this scenario, Turkey would also re-open its frontier with Armenia. These partial solutions would bring humanitarian advantages for some of the IDPs and economic gains from renewed trade or more efficient trading regimes. There would be gains for both sides of these conflicts, without anyone having made any concessions of principle on the final status questions. It seems that Georgia and Russia may have agreed to the Abkhazian element of this scenario, but this remains to be confirmed and implemented. It seems that recent negotiations between Armenia and Azerbaijan on the Nagorno Karabakh element have become stalemated, with refusal this time apparently coming from Armenia, whereas Azerbaijan was more amenable. However the new Turkish government seems to be initiating an interesting dialogue with Armenia over possible openings for bilateral trade, which might lead to activation of trilateral negotiations with Azerbaijan over Nagorno Karabakh. The South Ossetian contribution to this scenario would be to re-establish some Georgian fiscal jurisdiction on its northern frontier.

Complex, comprehensive solutions. These simple, partial solutions might prevail for a number of years and new realities could begin to take root. The re-opening of frontiers could create new bonds of common interest, raise economic welfare and foster a fresh political environment in the region that would facilitate negotiations. On this basis more ambitious schemes might gradually emerge. The agenda for regional cooperation between the three states would become relevant again, perhaps starting with practical steps like transport and energy linkages and then cooperation between law enforcement departments.

This interim phase could last about ten years, which sounds a long time, but is no more than the recent period of frozen conflicts in the Caucasus (the Cyprus conflict was frozen for almost thirty years). Then the ground could become more fertile for institutional developments, since the costs of non-resolution of the final status issues are obvious. The international financial institutions are still unable to help Abkhazia and Nagorno Karabakh, because they are non-recognised entities. Also negotiations between the three states and the substate entities are hampered by lack of legalisation of the latter's status. In due course, perhaps around the year 2015, the potential for regional cooperation may come to be seen as sufficiently rich to justify and indeed require some institutional organisation.

This also would require that the final status of the secessionist entities be clarified. As a result some quite complex or subtle solutions emerge, of the kind that have been seen in Europe. For example, Nagorno Karabakh could use some features of the Aland Island model,¹⁷ as an autonomous ethnic Swedish province of Finland, protected by international guarantors, and combine it with elements of the Northern Irish model.¹⁸ Abkhazia has its own ideas, already described above, to graduate from the Taiwan model to the Marshall Islands model. This would lead to some kind of association with Russia and international recognition for participation in relevant international organisations, but falls short of sovereign state independence. Nonetheless it is wishful thinking of the Abkhazian leadership to dream of international recognition as a free, associated state of Russia, unless they are ready to negotiate a civilised resolution of the refugee issue for the whole of Abkhazia, (not just the Gali district). This would in turn mean an agreed and ordered relationship with Georgia. Without that, Abkhazia remains a semi-pariah entity, under-populated and depressed.

It would be total illusion to suppose that the Caucasus can jump straight into a thoroughly Europeanised (or advanced Pacific) structure. Some of these compromise formulae might be

¹⁷ For a summary account of the Aland island model see M. Emerson (2002), *The Wider Europe as the European Union's Friendly Monroe Doctrine*, CEPS Policy Brief No. 27, Brussels, October.

¹⁸ See footnote 3 above.

useful. But the main design has to respond to the problems of the weak Caucasian state. This would indicate that:

- On the one hand, the federative structures of the Caucasian states would have to be quite simple and minimal. Therefore the 'common state' idea is suggested as something between the usual federal and confederal models.
- On the other hand, the role of the external guarantors would have to be very strong, certainly in the first period of obtaining an agreement, and also for some years in overseeing its implementation.
- Overall, this amounts to a four-tier model (entity, common state, region and overarching power) from the taxonomy presented above. It is worth noting that a model of this kind was emerging already in the Balkans in the 1990s, albeit with the differences that the Balkans are a somewhat bigger and more complex region, and see a more important EU role than in the Caucasus.

Why not a Caucasian roadmap and quartet? The idea of a slow evolutionary process, by stages over the next decade, might be considered realistic so as to allow for generational change in the attitudes of the peoples of the Caucasus and their leaderships. It might also be considered convenient for the EU, which shows little sign at present of wanting to promote early Europeanisation of the Caucasus, except in token ways. The EU's priorities for the foreseeable future are to digest its current enlargement and then the next ones that are programmed to extend up to the Black Sea and Caucasus (with Bulgaria, Romania and perhaps Turkey). By this time the Europeanisation of Russia itself will have matured further, which in turn may facilitate cooperation over the South Caucasus as well as possibly the execution of some solution to the Chechnya problem. This view of current EU attitudes today is consistent with the Commission's recent 'Wider Europe' Communication,¹⁹ which sketched new neighbourhood policies for the Balkans, the Mediterranean, Russia and the Western CIS (Russia, Belarus, Moldova and the Ukraine), yet explicitly excluded the Caucasus. This exclusion may still not become EU policy, since the Council and European Parliament sometimes take more activist and strategic lines than the Commission.²⁰

But this scenario of convenience for the EU and South Caucasus leaderships may not hold. In any case there is a new wild card in the equation: the next steps in the post-Saddam agenda of the US 'democratic imperialists' (to use the current terminology of Washington political commentaries). The answer to this question, whatever it may be, is likely to come quite soon. It will not wait ten years. US policy (post-Saddam) is moving on to Syria and Iran, right up to the Caucasus. Today the Caucasus may not register prominently on the US's strategic radar screen. However the US already has established a military foothold in Georgia and surely has the Pankisi gorge still under surveillance, given its past role as a haven for a mixed cocktail of Chechnyan refugees, Islamic fundamentalist terrorists and drug traffickers. The US has gained extraordinary access to Georgia for its military (freedom to move in and out with their equipment without visa or even passport). The US may want to turn the heat up diplomatically, for example, to obtain at least the simple, partial solutions described above.

This leads back to the fundamental foreign policy issues of the post-11 September 2001 and now post-Saddam eras. As recently argued by Pierre Hassner, the world now moves on

¹⁹ European Commission (2003), "Wider Europe – Neighbourhood: A Framework for Relations with our Eastern and Southern Neighbours", COM(2003)104 final, Brussels, 3 November.

²⁰ These institutions are less preoccupied than the Commission by the burden of managing its existing responsibilities, and therefore can be more open to new tasks.

towards the third round of the Iraq affair.²¹ In the first round, the US/UK suffered a spectacular diplomatic defeat, risking failure to get even a simple majority in the UNSC had it gone to the vote, as France had successfully built an impressive anti-war coalition with Germany, Russia, China and many other supporters. In the second round, the US/UK achieved a spectacular military victory. The question now, is what happens in the third round. Prime Minister Blair manifestly tries to re-build broken bridges, notably with Chancellor Schroeder, Presidents Chirac and Putin. The French leadership of the anti-war coalition was impressive as an act of opposition, but (as Pierre Hassner argues) France cannot drive constructive acts of foreign policy without unity within the EU and a working cooperation with the US. Russia, for its part, is deeply resentful of US hegemonic unilateralism. The experience of the diplomatic costs of the unilateral Iraq war may persuade more people in Washington to tone down the aggressive unilateralism spoken out most clearly by Richard Perle: “We don’t need allies”, and to return to broader coalition diplomacy in the third round.

In this context, the Caucasus becomes a relevant and interesting case. It does not register that large on the threat perception radar screens. But it is still tangential to the Middle East and a haven of illegality and poor governance. It is a conduit for the trafficking of drugs, and the links between Islamic fundamentalist groups and Chechnyan insurgents have actually been more substantively documented than those between Saddam Hussein’s regime and Al Qaida. As for the next steps of US action in the Caucasus, one could imagine either of two approaches. A first option would be ‘assertive bilateralism’, and would, for example, see an increasing presence of the US military and CIA agents to curb disorders such as those in the Pankisi gorge. The US would, in this scenario, also be playing up to Georgia’s expectations for its NATO relationship and implicit protection, and at the same time fostering resentment and old ‘great game’ hostilities in the Russian political discourse. A second option would be a cooperative thrust of policy for conflict resolution and improvement of law and order, undertaken together with the EU and Russia, and possibly using the OSCE framework more seriously.

A desirable scenario would be to see the US to correct its ‘we don’t need allies’ policy and the EU to correct its ‘do nothing much for ten years’ policy. Both parties would join with Russia now to stabilise and impose order in the Caucasus. The substance of this policy has already been sketched. The simple, partial solutions might be pushed through quickly by joint agreement of the EU, Russia and the US. The final status talks might be brought forward to a three to five year time horizon. These talks would define federative constitutional arrangements, schemes for regional cooperation and the overarching international security guarantees. The overall plan might strangely resemble what was called a ‘stability pact’ a few years ago. But nobody seems to like that name any more. So let us call it a ‘roadmap’ instead. Also the quartet of the perhaps renascent Middle East peace process – the EU, Russia, the US and the UN – is a model of cooperation that could be easily transposed. For the Caucasus, the EU might rationalise its representation in the UN and the OSCE mediation exercises, since it is already in the process of nominating a new Special Representative for the region. The mix of UN and OSCE roles in the Caucasus should itself be rationalised, with a structure that lends itself towards consistent and synergetic regional solutions, rather than the segmented ones as at present. While both organisations could do the job, on balance it might be preferable to rationalise around the OSCE, which is more specialised in this region and less stretched than the UN these days.

²¹ P. Hassner (2003), “Etats Unis-Iraq-Europe – Troisieme Round”, *Le Monde*, 26 avril.

5. Conclusions

Foreign policymakers interested in the Caucasus are presumably giving thought now to the question of “what next?” for this region in the aftermath of the Iraq war, bearing in mind an emerging US offensive against Iran and a continuing push by Washington to re-order the wider Middle East. By comparison with Iraq or Iran, the unresolved conflicts of the Southern Caucasus rank only in the second level of priorities, although they may be more easily tractable.

The default scenario, in which the external powers take no united initiative to sort out the region, is one of deepening entrenchment of the de facto secessions of Abkhazia, South Ossetia and Nagorno Karabakh, (the first two becoming virtually annexed by Russia and the third by Armenia). The US and Russia would be implicitly carving up the region, with Russia standing behind Armenia and the US increasing its support for Georgia and the strategic Baku-Ceyhan oil pipeline under construction, to be accompanied probably by a Baku-Ezrum gas pipeline. The EU would be present only in token ways. The region’s internal politics and economics would remain, as far as one can see, entangled in the most comprehensive networks of corruption, leaving a few enriched and the population as a whole reduced to third world living standards. Maybe this would be a more or less stable situation strategically, and just a very poor outcome for the people. Actually, the scale of emigration is so high, especially of the young and able, that this scenario may not be stable at all in the long run.²² Some politicians of the region do talk of war, especially in Azerbaijan and to some extent in Georgia too. But for the time being, this is no more than a bankrupt distraction from more constructive political discourse.

There could be better futures for the region, but the people of the region themselves tend to believe that this could only come if the external powers decided to intervene in a united and determined manner. There is surely no quick recipe for de-corrupting the politics and economics of the region, with or without the external powers. Nevertheless, sorting out the unresolved conflicts and removing the semi-blockaded frontiers of the region is in principle far more tractable – since simple, partial solutions have at least been identified and discussed. By way of simple, partial solutions the key moves could be:

- For Abkhazia, the southern Gali district would be returned to effective Georgian control and more Georgian IDPs could return there under safe conditions; the railway line would be re-opened both north and south; and there would be cooperation over electricity supplies, etc. Peacekeeping arrangements would be restructured. Internationally recognised travel documents might be arranged for Abkhazians (and South Ossetians) who do not want either Russian nor Georgian passports for the time being.
- For South Ossetia, Georgian fiscal jurisdiction over the frontier between Russia and Georgia would be re-established (at the exit of the tunnel between North and South Ossetia).
- Concerning Nagorno Karabakh, the nearby Azeri districts to the south and east would be returned to Azerbaijan, and land corridors would be internationally guaranteed to suit both Armenia/Nagorno Karabakh (Lachin) and Azerbaijan (the Megri district linking with Nakhichevan). The railway line from Baku to Yerevan via Nakhichevan would be re-

²² In May 2003 new Georgian census data was published, giving a population figure of 4.4 million, compared to 5.5 million in 1989 (Institute for War & Peace Reporting [info@iwpr.net]). There have also been reports of huge declines in Armenia’s population.

opened, and this would link up with the rest of the Caucasus rail network in Georgia. Turkey would re-open its border with Armenia.

Final status issues would be deferred, but the above are well-identified steps that have almost been agreed in recent times. They would be obvious improvements to the status quo on both humanitarian and economic policy grounds.

The fact that these initiatives have not yet been fully agreed nor implemented can be read in different ways. A first hypothesis is that all that is needed is a really determined, united and publicly transparent push by the external powers. A second hypothesis is that these simple, partial measures cannot be disassociated from the final status issues, as Georgia and Azerbaijan would surely argue, being the parties that have lost territory. This argument could be met by adopting a staged process, analogous with the principles of the Middle East Roadmap adopted by the quartet there, with interim and final stages. In fact, such a proposition for the Caucasus looks far easier than for the Middle East, but the logic would be the same. There would be a timetable, with final status conferences scheduled for several years ahead, allowing for the Aliev and Shevarnadze successions. The issue then would be whether the content of the final stage would be left entirely open beyond the rendezvous clause, or whether there would be some substance on the nature of the constitutional solutions. As examples from Europe cited above have shown, there are ways of achieving multi-tier governance solutions for regions with complex divisions such as the Caucasus. The Caucasian case is a natural candidate ultimately for a four-tier structure (substate entities, federative states, regional structures and an overarching external or international role).

Perhaps the European Union ought to take a lead with ideas here, using the services of its (proposed) special representative for the region. The EU itself cannot impose a solution. Yet it has an ideology and a degree of impartiality that makes a mediating role conceivable – with both the region's leaders and the other external powers. President Putin looks for some new Greater Europe initiative. The EU is developing a Wider Europe policy. The US wants to see an ordering of the entire wider Middle East area. Russia and the US would have to agree that they wanted to undertake a Caucasus initiative together. That is an open question. Maybe recent events (the simultaneous suicide bombings in Chechnya and Riyadh) could tip the balance to re-establish the commonality of purpose created by the events of 11 September 2001, even after Iraq.

Looking beyond this immediate context, the underlying question is how the interested external powers and multilateral organisations are (or are not) going to shape up as an overarching tier of power and influence for stabilising regions of chronically weak and conflictual states. The Caucasus, like the Balkans, has little history of independent statehood, having been invariably subject to various imperial powers. For the Balkans it is clear that the Europeanisation process is beginning to transform the region, as a plausible model of 21st century cosmopolitan democracy. For the Caucasus, however, the model needs further refinement, and while questions regarding it remain open, this paper has hinted at some answers.

ANNEX A. GEORGIA: 'BODEN COMPETENCES PAPER'

1. Georgia is a sovereign State, based on the rule of law. The borders of the State of Georgia, effective on 21 December 1991, may not be altered except in accordance with the constitution of the State of Georgia.
2. Abkhazia is a sovereign entity, based on the rule of law, within the State of Georgia. Abkhazia enjoys a special status, within the State of Georgia, which is established by a Federal Agreement, providing for broad powers and defining the spheres of common competences and delegated powers, as well as guarantees for the rights and interests of the multi-ethnic population of Abkhazia.
3. The distribution of competences between Tbilisi and Sukhumi shall be governed by a Federal Agreement, which shall have the force of Constitutional Law. Abkhazia and the State of Georgia shall abide by the provisions of the Federal Agreement in good faith. They shall not amend or modify the Federal Agreement, nor terminate or invalidate it in any ways, other than by mutual agreement.
4. The distribution of competences between Tbilisi and Sukhumi will be defined, inter alia, on the basis of the Declaration on measures for a political settlement of the Georgian-Abkhaz conflict, signed on 4 April 1994. The rights and competences of Abkhazia will be greater than those enjoyed prior to 1992.
5. The Constitution of the State of Georgia shall be modified in light of the distribution of competences specified by the Federal Agreement, for the elaboration of which the Declaration on measures for a political settlement of the Georgian-Abkhaz conflict, signed on 4 April 1994, and in particular, paragraph 7 regarding quote powers for joint action unquote, may serve as one point of reference.
6. The Constitution of Abkhazia, for which the Constitution of Abkhazia adopted on 26 November 1994 may serve as a basis, shall be modified in light of the agreement on the distribution of competences between Tbilisi and Sukhumi as determined by the Federal Agreement.
7. Both the Constitution of the State of Georgia and the Constitution of Abkhazia shall include analogous provisions regarding the safeguard and protection of the fundamental human rights and freedoms of all individuals, including the rights of national minorities, without discrimination. Nothing in the Constitution of the State of Georgia and the Constitution of Abkhazia shall infringe upon the unconditional right of all refugees and displaced persons to return to their homes in secure conditions in accordance with international law.
8. The State of Georgia and Abkhazia shall agree on the composition and procedures of a Constitutional Court, which shall rule on the basis of the constitution of the State of Georgia, the Constitution of Abkhazia and the Federal Agreement on matters relevant to the distribution of competences between Tbilisi and Sukhumi.

Source: Paper prepared by Ambassador Dieter Boden, Special Representative of the UN Secretary General in Georgia, 27 November 2001.

ANNEX B. ON THE PRINCIPLES OF A COMPREHENSIVE SETTLEMENT OF THE NAGORNO-KARABAKH ARMED CONFLICT

[Prepared under the auspices of the OSCE Minsk Group, 7 November 1998]

Being determined to implement a peaceful settlement of the Nagorno-Karabakh conflict in accordance with the norms and principles of international law including principles of territorial integrity of states and self-determination of people, Armenia, Azerbaijan and Nagorno-Karabakh agree on the following:

Agreement on the Status of Nagorno-Karabakh

The Parties shall conclude an Agreement on status of Nagorno-Karabakh which includes the following provisions:

Nagorno-Karabakh is a statal and territorial entity in the form of a Republic, which constitutes a common state with Azerbaijan within its internationally recognized borders.

Azerbaijan and Nagorno-Karabakh shall sign an Agreement on delimitation of spheres of competence and on reciprocal delegation of powers between their relevant authorities, which shall have the force of a Constitutional Law.

Azerbaijan and Nagorno-Karabakh shall establish a Joint Committee, which shall include representatives of the presidents, prime-ministers, and chairmen of the parliaments, whose mission shall be to define policies and activities within the sphere of joint competence.

In order to maintain contacts and effect coordination of joint actions, reciprocal representations of Nagorno-Karabakh and Azerbaijan shall be established in Baku and Stepanakert respectively.

Nagorno-Karabakh shall have the right to establish direct external contacts with foreign states and relevant regional and international organizations in the areas of economics, science, culture, sports and humanitarian affairs through appropriate representations abroad. Political parties and non-governmental organizations in Nagorno-Karabakh shall have the right to establish links with political parties and non-governmental organizations of foreign states.

Nagorno-Karabakh shall participate in execution of the foreign policies of Azerbaijan, with respect to the issues touching upon its interests. Decisions on such issues shall not be taken without consent of the two Parties.

Where it has special interests, the government of Nagorno-Karabakh shall be entitled to have its own representatives in the embassies and consular missions of Azerbaijan accredited in foreign states. Nagorno-Karabakh may also include its experts in Azerbaijani delegations to take part in international negotiations that impinge upon the interests of Nagorno-Karabakh.

The borders of Nagorno-Karabakh shall correspond to the borders of the former Nagorno-Karabakh Autonomous Oblast. Should there be verification or alterations, these shall be the subject of special mutual agreement between Azerbaijan and Nagorno-Karabakh.

The borders between Azerbaijan and Nagorno-Karabakh shall be reciprocally open for free movement by their unarmed citizens. Citizens traveling and conducting business across the borders shall not be subject to customs fees and other tariffs. Their respective governments shall have the competence to grant the right of permanent residence.

Azerbaijan and Nagorno-Karabakh shall not use force or threaten to use force to settle disputes.

In the event of disputes or differences that cannot be resolved within the framework of the Joint Committee, the Parties shall be entitled to seek a consultative opinion of the OSCE Chairman-in-Office, which shall be taken into account in the final decision.

Nagorno-Karabakh shall also enjoy the rights and privileges, listed below, that shall be formalized in the Agreement on the Status of Nagorno-Karabakh and endorsed by the Minsk Conference.

1. Nagorno-Karabakh shall have its own constitution, adopted by the people of Nagorno-Karabakh through a referendum. This Constitution shall incorporate the provisions of the Agreement on the Status of Nagorno-Karabakh.

Azerbaijan shall likewise amend its constitution to incorporate this Agreement. The provisions of that Agreement, and those portions of the Nagorno-Karabakh and Azerbaijani constitutions that incorporate them, shall not be changed without the consent of all three parties.

2. The constitution and laws of Nagorno-Karabakh shall be in effect on the territory of Nagorno-Karabakh. The laws, regulations and executive decisions of Azerbaijan shall be in effect on the territory of Nagorno-Karabakh if they do not contradict the constitution and laws of the latter.

3. Nagorno-Karabakh shall have its own flag, seal and anthem.

4. Nagorno-Karabakh shall, pursuant to its Constitution, form its own legislative, executive and judicial authorities.

5. Citizens of Nagorno-Karabakh shall bear as their identification documents Azerbaijani passports carrying the special notation "Nagorno-Karabakh." The government of Nagorno-Karabakh or its authorized agencies shall have the exclusive right to issue such passports.

The citizens of Nagorno-Karabakh of Armenian descent may emigrate to Armenia and, in the case of a permanent resettlement, they may take up Armenian citizenship in accordance with laws of that country.

6. The people of Nagorno-Karabakh shall have the right to elect their representatives to the Parliament of Azerbaijan and to participate in the election of the President of Azerbaijan.

7. Nagorno-Karabakh shall constitute a Free Economic Zone. It shall have the right to issue its own currency notes, which will be in circulation along with Azerbaijani currency notes, as well as the right to issue its own stamps.

8. Nagorno-Karabakh shall have the right to free and unrestricted transport and communications access to Armenia and Azerbaijan.

9. Nagorno-Karabakh shall possess National Guard (security forces) and police forces formed on a voluntary basis. These forces may not operate outside Nagorno-Karabakh without the consent or special request of the government of Azerbaijan.

10. The army, security and police forces of Azerbaijan shall not have the right to enter the territory of Nagorno-Karabakh except with the consent of the Nagorno-Karabakh authorities.

11. The Armenian language shall be the primary official language in Nagorno-Karabakh. The second official language shall be Azerbaijani. Each citizen shall enjoy the right to use his or her native language in all official and non-official contexts.

12. The budget of Nagorno-Karabakh shall consist of receipts derived from its own resources. The Nagorno-Karabakh Government shall encourage and guarantee investments by

Azerbaijanis and foreign companies and persons.

The question of utilization of the Lachin Corridor by Nagorno-Karabakh, with a view to ensuring unrestricted communication between Nagorno-Karabakh and Armenia, shall be agreed upon separately, provided Azerbaijan and Nagorno-Karabakh do not agree on other arrangements concerning a special status of the Lachin district. The Lachin district shall remain permanently a fully demilitarized zone.

Regarding the towns of Shusha and Shaumyan

The Parties agree that all Azerbaijani refugees may return to the places of their residence in the town of Shusha. Their security shall be guaranteed by the appropriate authorities of Nagorno-Karabakh. They shall enjoy equal rights with all citizens of Nagorno-Karabakh, including the right to form political parties, to participate in elections at all levels, to be elected to all legislative bodies and organs of local self-governance, to enter military service and to serve in law enforcement agencies.

The same rights shall be granted to Armenian refugees on their return to the town of Shaumyan.

Citizens of the towns of Shusha and Shaumyan shall have unrestricted access by road, telecommunications and other links with the rest of Azerbaijan and Nagorno-Karabakh.

The authorities of Nagorno-Karabakh and Azerbaijan shall assist in the deployment and activities of the OSCE Office of Democratic Institutions and Human Rights (ODIHR) missions.

The Agreement on the status of Nagorno-Karabakh shall be signed by the three Parties and enter into force upon its endorsement by the Minsk Conference.

Agreement on the Cessation of the Armed Conflict

The Parties agree that the agreement on the cessation of the Armed Conflict shall include the following provisions:

- I. The Parties renounce the threat or use of force to settle disputes among shall settle all such disputes, including any that may arise in connection with the implementation of the agreement on the cessation of the armed conflict by peaceful means, above all, through direct negotiations or in the framework of the OSCE Minsk process.
- II. The Parties shall withdraw their armed forces in accordance with the following provisions and as set forth in detail in Annex 1:
 - A. In the First Stage, forces along the current line of contact to the east and south of Nagorno-Karabakh shall withdraw to lines delineated in Annex 1, and in accordance with the schedule therein, with due consideration for the recommendations of the OSCE High Level Planning Group (“HLPG”), to facilitate initial deployment of the vanguard of an OSCE multinational force in a militarily sound transitional buffer zone, to separate the Parties along that line and to provide security during the second stage of withdrawals.
 - B. In the Second Stage, forces shall withdraw simultaneously and in accordance with the schedule set forth in Annex 1 as follows:
 - (1) Any forces of Armenia located outside the frontiers of the Republic of Armenia shall withdraw behind those frontiers.
 - (2) The forces of Nagorno-Karabakh shall withdraw behind the 1988 boundaries of the

- Nagorno-Karabakh Autonomous Oblast (“NKAO”), with the exception of the Lachin District, until achievement of an agreement on unrestricted communication between Nagorno-Karabakh and Armenia.
- (3) The forces of Azerbaijan shall withdraw behind lines delineated in Annex I on the basis of the recommendations of the HLPG and shall withdraw from any territory of Armenia.
 - (4) Heavy armaments shall be withdrawn to positions specified in Annex 1, on the basis of the recommendations of the HLPG. These withdrawals shall be monitored by the OSCE peacekeeping force, with requirements for transparency and reporting as set forth in that Annex.
- III. The territory subject to these withdrawals shall constitute a Buffer Zone and a Zone of Separation, the details of which are set forth in Annex 2.
- A. Upon completion of the withdrawal of forces, the Buffer Zone shall be located around the 1988 boundaries of the NKAO. It may be also located along the northern and southern boundaries of the Lachin District in the event of an appropriate agreement. The Buffer Zone shall be completely demilitarized and unpopulated except for the presence of elements of the OSCE Peace Keeping Operation (PKO).
 - B. The Zone of Separation shall be demilitarized with the exception of forces permitted to operate for the PKO in cooperation with the Permanent Mixed Commission, as set forth in detail in Annex 2, to include:
 - (1) elements of the PKO
 - (2) Azerbaijani units for border patrolling and de-mining; and
 - (3) civilian police whose numbers and permitted weaponry are delimited by Annex 2.
 - C. A no-fly zone shall be established in the Buffer Zone and the Zone of Separation in which the Parties shall exclude military flights, with monitoring by the OSCE peacekeeping force as set forth in Annex 2.
 - D. After withdrawal of forces in accordance with Article II, security in all the regions which remain under the control of Nagorno-Karabakh shall be maintained by relevant security forces of Nagorno-Karabakh.
- IV. Pursuant to OSCE’s decisions at the 1994 Budapest Summit, the Parties shall invite and facilitate deployment of the OSCE multinational peacekeeping operation (“PKO”) which will act in cooperation with the Permanent Mixed Commission (PMC) and the Armenian-Azerbaijani Intergovernmental Commission (AAIC). The PKO shall monitor the withdrawal of forces and heavy weapons, the exclusion of military flights, the maintenance of the demilitarization regime and the situation along the Armenian-Azerbaijani frontier, as set forth in Annex 2. The peacekeeping operation shall be established pursuant to an appropriate UN Security Council Resolution for an initial period of no more than one year, renewable as necessary upon recommendation of the OSCE Chairman-in-Office. The Parties agree that overall duration of the PKO shall be kept to the minimum period necessary in light of the situation in the region and the pace of the comprehensive settlement of the conflict. The Parties shall cooperate fully with the PKO to ensure the implementation of this Agreement, and to prevent any breach in or interruption of the peacekeeping operation.
- V. The Parties shall facilitate the safe and voluntary return of displaced persons to their

former places of residence within the Zone of Separation, as set forth in Annex 2. The PKF, in cooperation with the Permanent Mixed Commission, will monitor the security of the returnees and promote confidence of all the Parties in the observance of the demilitarization regime in this zone. The Parties shall conduct negotiations to achieve the earliest safe and voluntary return of all other persons not covered by this Agreement or the comprehensive settlement who were displaced by the conflict and by tensions between Armenia and Azerbaijan since 1987.

- VI. Simultaneously with the withdrawal of forces, the Parties shall undertake immediate measures to open roads, railroads, power, communications, trade and other links, including all work necessary to accomplish this in the shortest possible period, according to the schedule and detailed provisions set forth in Annex 3. The Parties shall ensure unrestricted use of these links to all, including unrestricted access by specific communities to corresponding communities elsewhere in the region. Each Party commits itself to lift all blockades and ensure delivery of goods and people to the other Parties without hindrance. The Parties shall ensure free and safe rail communication to one another.
- VII. The Parties shall cooperate fully with the ICRC, UNHCR and other international institutions to ensure (1) prompt and safe return of all persons detained in connection with the conflict, (2) investigation of the fate of those missing in action, (3) repatriation of all remains and (4) unimpeded delivery of humanitarian and reconstruction aid through territories under their control to the regions that have suffered during the conflict. The Parties shall cooperate with the OSCE PKF through the Permanent Mixed Commission to establish confidence-building measures.
- VIII. The Parties shall immediately establish a Permanent Mixed Commission ("PMC") to supervise the implementation of the provisions of this Agreement with regard to issues affecting Azerbaijan and Nagorno-Karabakh. The Chairman of the PMC shall be a representative designated by the OSCE Chairman-in-Office. The Vice Chairmen of the PMC shall be representatives of Azerbaijan and Nagorno-Karabakh. The primary responsibility of the PMC shall be to supervise implementation of the Agreement. The responsibilities of the OSCE Chairman shall also include mediation of cases of disagreement and authorization of responses to emergencies such as natural disasters. The PMC shall have Military, Economic, Humanitarian and Cultural, and Liaison Subcommissions. The structure, duties and other details concerning the PMC are set forth in Annex 4.
- IX. The Parties shall immediately establish an Armenian-Azerbaijani Intergovernmental Commission ("AAIC") to assist in the prevention of border incidents between Armenia and Azerbaijan, to conduct liaison between border-guard troops and other relevant security forces of both countries, and to observe and facilitate arrangements for opening roads, railroads, trade, communications, pipelines and other links. The AAIC shall have two Co-Chairs, one from Armenia and one from Azerbaijan. The Commission shall also include a representative designated by the OSCE Chairman-in-Office. The structure, duties and other details concerning AAIC are set forth in Annex 5.
- X. The Azerbaijan Republic and the Republic of Armenia shall engage in negotiations, bilaterally and multilaterally in appropriate international and regional fora, to ensure the larger security of the region, including military transparency and full compliance with the CFE Treaty.
- XI. Each Party shall fully respect the security of the other Parties and their populations;

undertake to promote good-neighborly relations among their peoples, facilitating trade and normal interaction among them; and refrain from statements or actions that could undermine this Agreement or good relations.

- XII. In addition to the specific provisions concerning peacekeeping and monitoring' of withdrawals set forth above, and recalling the relevant principles and commitments of the OSCE, including those reflected in the Helsinki Document of 1992 and the Budapest Document of 1994, the OSCE, through appropriate mechanisms, shall monitor the full implementation of all aspects of the present Agreement and take appropriate steps, in accordance with those principles and decisions, to prevent and respond to violations of the terms of this Agreement.
- XIII. The Agreement on the Cessation of the Armed conflict shall be signed by the three Parties and shall enter into force upon its endorsement by the Minsk Conference and ratification by Parliaments of the three Parties.
- XIV. The Azerbaijani Republic and the Republic of Armenia shall establish full diplomatic relations, with permanent diplomatic missions headed by ambassadors, following signature of the agreements and their endorsement by the Minsk Conference.

On Guarantees

1. The Parties shall take upon themselves mutual commitments to ensure compliance with the aforementioned Agreements, including guarantees of the security of Nagorno-Karabakh, its population and those refugees and displaced persons returning to the places of their former residence.
2. The UN Security council shall monitor implementation of the Comprehensive Agreement.
3. The Agreement on the status of Nagorno-Karabakh and the Agreement on the Cessation of the Armed Conflict may be signed by the Minsk Conference Co-Chairs as witnesses. The Presidents of France, the Russian Federation and the United States of America affirm the intention of the three countries to work in unison to monitor closely the progress of implementation of the Agreements and to take appropriate measures to promote compliance with this Agreement. The OSCE and the UN Security Council shall adopt appropriate diplomatic, economic or, in extreme cases, military measures in accordance with the UN Charter, should the need arise.

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