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ABOUT PILPG

The Public International Law & Policy Group (PILPG) is a 501(c)(3) non-profit organization, which operates as a global *pro bono* law firm providing free legal assistance to developing states and states in transition involved in conflicts. To facilitate the utilization of this legal assistance, PILPG also provides policy formulation advice and training on matters related to conflict resolution. To date, PILPG has advised over a dozen countries on the legal aspects of peace negotiations and constitution drafting, and over fifteen countries in Europe, Asia and Africa concerning the protection of human rights, self-determination, and the prosecution of war crimes.

# KOSOVO: NEGOTIATING FINAL STATUS

## A Review of Lessons Learned From Negotiation Simulations Addressing Kosovo's Future



In March of 1999, NATO forces launched a 78-day humanitarian intervention in Kosovo that successfully brought an end to Serbian control of the region. Unfortunately, while NATO managed to halt the human rights' crisis occurring on the ground, it failed to address issues concerning the final status of Kosovo. Prior international negotiations at Rambouillet and Paris sought to lay the groundwork for issues revolving around final status but failed to reach agreement between the Kosovo Albanian and Serb delegations. The Rambouillet talks were hindered by disagreements between the Yugoslav and Kosovo Serb parties and also fell short of reaching consensus among the Albanians. During the subsequent, shorter talks in Paris, the Albanians signed the proposal sponsored by the six-nation Contact Group (United States, Britain, France, Germany, Italy,

and Russia) but the Yugoslav delegation—at the instruction of then Yugoslav President Slobodan Milosevic—refused to accept it.

In the wake of the NATO intervention that followed the failure of the talks, the international community assumed the question of final status for Kosovo would be resolved after self-rule had been implemented for Kosovo Albanians and Serbs. They further believed that this process would take several years to complete. Yet since the entry of NATO forces in June of 1999, and the establishment of the United Nations Mission in Kosovo (UNMIK), there has been no progress made in clarifying the issue of final status. The lack of progress is largely attributable to wariness on the part of the U.S. and its European allies about addressing the politically sensitive issues that would be on the table in final status talks; namely, independence for Kosovo. There also continues to be a lack of international consensus regarding Kosovo's final status as an independent state, a province of Serbia, or a republic in a Yugoslav federation.

There is profound disagreement between Serbs and Kosovo Albanians on the desired outcome of negotiations. Kosovo Albanians have threatened violence if not granted independence within a few years and have become increasingly reluctant to shelve negotiations for a later date. Leaders of Serbia's new democratic forces, on the other hand, fear that their fledgling democracy will be undermined if they are compelled to comply with the loss of Kosovo. Additionally, neighbors such as Macedonia—with a population that is nearly one-third ethnic Albanian—are anxious about the potential destabilizing impact final status decisions would have on the country. Several European countries have expressed a similar concern that final status talks resulting in Kosovo's independence might serve to

encourage independence movements within their own countries.

In recognizing the importance and sensitivity of Kosovo's unresolved final status as a potential source of renewed conflict in the Balkans, the Public International Law and Policy Group, with financial assistance from the United States Institute of Peace, organized three political simulations to focus on different aspects of the final status negotiating process. The Gaming Scenarios were designed according to the methodology used by the Department of State's National Foreign Affairs Training Center and brought together participants from a wide range of backgrounds. The simulations were held at American University's Washington College of Law during the fall of 2001 and winter of 2002.

The objective of the Kosovo Final Status Negotiation exercises was to provide structured training for government officials, academics and representatives from NGO's and think-tanks on the full range of issues surrounding final status talks on Kosovo. It was hoped that in facilitating the cross-training of the participants and exposing them to the perspectives of all parties, a greater ability to anticipate the dynamics and identify the most problematic issues of the impending Kosovo final status negotiations would be gained.

One of the most valuable aspects of the gaming exercises was that they offered a unique opportunity to capitalize on the broad base of experience, knowledge and perspectives represented by the group. By including such an eclectic group of interested agencies, institutions, and countries in the exercises, creative multi-disciplinary approaches were brought to bear on this pressing international dilemma. It was highly beneficial to share national, institutional and individual values and perspectives while exploring creative policy options. The game facilitated a broadening of perspectives and a better understanding of alternative options to approaching Kosovo's final status.

Several former officials with direct experience in Kosovo matters helped prepare the simulation materials. The drafts of the overall scene setter and Kosovo Albanian delegation materials were prepared by Louis Sell, a former State Department official who served two tours at the U.S. Embassy in Belgrade, including political counselor from 1987-1991, and was director of the International Crisis Group office in Pristina from May-October of 2000. Vladimir Matic, former assistant federal foreign minister of Yugoslavia who resigned in 1993 in disagreement over policy and moral issues and subsequently taught at Clemson University, drafted the documents for the Yugoslavia/Serbia delegation. Rick Lorenz, retired Marine Corps Colonel who served in Kosovo in 2000 as a legal adviser for UNMIK and earlier served in Bosnia with IFOR, prepared the drafts for the international delegation.

The Public International Law and Policy Group was pleased to host these gaming exercises on Kosovo's final status. We hope that the ideas and concepts presented herein will contribute to a better understanding of the dynamics and stumbling blocks that will potentially be encountered in upcoming negotiations about the future of Kosovo.

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## **BACKGROUND**

Resolving the issue of Kosovo's final status will be shaped—as has everything about Kosovo since Yugoslavia disintegrated in 1991—by two key facts: the absence of overlap between the stated objectives of the Serbs and the Albanians, the two major parties directly involved in the disputed area; and the inability of the international community to reach consensus on the preferred outcome. If these two conditions continue to prevail, resolution of Kosovo's final status is likely to be prolonged, difficult, characterized by posturing on all sides, and marked by procedural points advanced to mask fundamental political issues.

Negotiations over Kosovo's future status will begin within the international community and could be almost as contentious there as between the two parties. It is possible that the international community will be unable to come up with a unified position, at least on some key issues. The U.S. role here will be critical. Experience at Dayton, Rambouillet, Skopje and elsewhere has shown that where the United States takes the lead, it can usually bring along the internationals and the locals. When the United States hangs back, achieving agreement at anything other than the least common denominator level is difficult.

This dynamic will first be evident on the issue of final political status; that is, on whether or not Kosovo be-

comes an independent state. If the United States joins other members of the international community in ruling out independence, it will be much easier to forge international consensus, and much more difficult to persuade the Albanians to take the negotiating process seriously without former KLA members resorting to violence.

In theory, there are two ways the "gateway" issue of independence could be treated in the negotiations. One would be to try to resolve this difficult issue first, recognizing that once it was out of the way other issues would fall into place more easily. The other approach would be to put it off for later resolution and to begin the talks with other issues, in an effort to build a sense of confidence and momentum before tackling the hard issue of independence. If the international community can achieve unity on one preferred option for Kosovo's final status, it might well adopt the first negotiating strategy. If international unity on final status continues to be elusive, the second negotiating strategy is more likely.

Many countries outside the region, including some leading members of the international community, fear Kosovo independence because of the potential impact on break-away regions in their own countries. These sentiments are seldom expressed openly but can have a powerful effect on the way representatives of these countries approach the issue of Kosovo's final status. "Kosovo can never be independent," is the refrain with the unstated subtext being, "and neither can Corsica, the Basque region, Chechnya, nor Quebec."

Another complication will be the absent parties at the table. The neighbors of Kosovo have a strong interest in the outcome of the negotiations but are unlikely—at least initially—to be invited. The potential impact that changes in the political status or borders of Kosovo could have on Macedonia, Bosnia, and Albania is well understood both by regional and international players. It has always been one of the strongest arguments against major changes in Kosovo's status. If, on the other hand, the situation on the ground or the dynamics of the negotiation lead toward changes in Kosovo's status or borders, pressure could build to broaden the agenda and the participation of the talks beyond Kosovo alone.

Another absent party will be the victims—those of the 1998-1999 conflict and its aftermath and those from a long line of Serb-Albanian conflicts stretching back for centuries. During the 1990s the notion of "ancient ethnic animosities" often served as an excuse for diplomatic inaction but in the case of Kosovo it is a real factor. Serbs and Albanians genuinely dislike one another and events over the past few decades have given both groups grounds for antagonism. Good personal relations between some Serb and Albanian negotiators are possible some of the DOS leaders and the non-KLA Albanian leaders have known each other for years, going back to the days of the old Yugoslavia, when both constituted part of the so-called "alternative" to the Communists and then to Milosevic. But, the distrust between the two peoples is deep and not easily bridged. It will affect the atmosphere and the substance of the talks in a range of tangible and intangible ways. Albanians will cite Serb abuses going back to Milosevic's forcible suppression of the province's autonomy in 1989 as a justification for independence, while Serbs will cite the post-1999 war revenge attacks on Kosovo Serbs as one reason why the Albanians cannot be trusted with independence. In a broader vein, the record of violence will lend urgency to the perceived need of both sides for firm security arrangements, make minority rights issues more salient, and add strength to various partition options since, after the events of the past 15 years, few Serbs or Albanians can conceive of living together.

Another potential danger, especially since there is no objective cut-off date, is that the talks could go on indefinitely without solution. The absence of high-level political engagement by the United States would make such a result almost a certainty. Even under the most optimistic scenarios, international unity and the two parties negotiating seriously, serious roadblocks can be anticipated at various points in the talks, which will require engagement at the Foreign Minister or the Chief of State level to overcome. It is also possible that one of the local parties might decide to spin out negotiations. If the Albanians, for example, became convinced that independence was genuinely off the table they might see continuation of the talks as the best way to retain KFOR in Kosovo and to buy time to prepare for resumed conflict if Belgrade were allowed to return to Kosovo.

The ability of both the Serbs and Albanians to negotiate a final resolution of the disputed status is inhibited by the emotional importance that both attach to the issue, the existence within both communities of sharp political and personality differences, and the strain of violence within both communities. These circumstances invariably will make it hard for leaders on each side to compromise.

Nevertheless, the fact that all Albanians insist that Kosovo must become independent within its current borders and (virtually) all Serbs insist that Kosovo must remain part of Serbia does not mean that either side believes its professed preference is the only acceptable outcome. With enough pressure and patience some compromise is possible. Each side, however, also has red-lines beyond which it will not go.

On the Albanian side, the most important red line is the return of Belgrade's rule in any real capacity. Albanians will insist on the trappings and reality of complete self-rule. They will not allow Belgrade's representatives any role in Pristina—even a symbolic one. Nor will they send their own people to any kind of common institutions in Belgrade—except perhaps in a transition arrangement. Albanians will also insist on some kind of international security guarantees against Belgrade's future return. Their demand will be a permanent NATO presence that includes U.S. troops. They might conceivably settle for some kind of European military presence, provided it was accompanied by security guarantees to which the U.S. was also a party. Albanians will initially be willing to grant Kosovo Serbs just what Belgrade says it will give them—full minority rights. But Albanians might be willing to allow Kosovo Serbs special status, including some limited territorial jurisdictions—Serb schools, health care, and police—provided these Serb "cantons" are legally part of Kosovo and report to Pristina and not to Belgrade.

Serbs also have some red lines in Kosovo. The first is the northern part of Kosovo, which only became part of the province in 1957, has always been predominantly Serb-inhabited, and which international inaction allowed to become a Serb fiefdom after the 1999 war. No Belgrade government will allow the north of Kosovo to return to unrestricted rule by an Albanian government in Pristina. At a minimum, Belgrade will insist on some kind of autonomous status for the north, including the northern part of the divided city of Mitrovica. In the context of an otherwise acceptable settlement, Serbs might be willing to allow Mitrovica to be united under some kind of special status under continued international control. As a practical matter, however, the existing dividing line will probably continue for some time, even under the most optimistic scenarios.

Another Serb red line is the retention of some kind of special rights for the major Serb shrines in the southern part of Kosovo. The Pec Patriarchate and the Decani and Gracanica monasteries are the most important, but the Serbs will come in with a much longer list. Serbs will insist on extraterritorial status for the shrines if Kosovo separates from Serbia and on some kind of Serb security presence at the shrines under any option. Albanians will resist extraterritoriality but might eventually agree to a modest, largely symbolic Serb security presence, provided they received an acceptable deal on status and Western security guarantees. Belgrade will also insist on special rights for the population of the Serb enclaves in the south but might eventually fall off since Belgrade cares little for the Serbs of Kosovo and most Serbs in the south would, in any case, leave if they believed they were going to be ruled by Albanians.

Leaving aside "symbolic" issues, such as flag, seat at the UN, and national anthem about which both sides are capable of expending endless time in arguments, two underlying issues are likely to drive the talks: security and partition. There is a dynamic at work on both issues. The more secure Kosovo Albanians feel against a return of Belgrade's rule the more willing they will be to make concessions in other areas. If Kosovo has a permanent international security force, preferably NATO and including U.S. troops, Albanians will be more willing to settle for less than full independence and be more willing to grant—and respect—rights for Serbs. A similar dynamic will work on the issue of partition. Kosovo Albanians might be willing to accept partition along the Ibar River—provided they gained access to the Trepca metallurgical complex—but in that case they would be more insistent on full independence, less willing to consider even a symbolic role for Belgrade in the south, and also less willing to grant rights to remaining Serbs.

Given the virtually hermetic separation in which the Albanian and Serb communities in Kosovo exist and the continued hostility and violence between them, some kind of separation is inevitable. However, the word and the concept of "partition" will likely be anathema to Albanians and some in the international community, at least initially. The issue is whether the north separates entirely from Kosovo and rejoins Serbia or whether the north becomes some kind of autonomous "Krajina" within a separate Kosovo. Sub-sets of the partition issue are Mitrovica city and the Serb enclaves in the south, with acceptable outcomes in both areas depending on how a range of other issues are settled.

Full legal independence for Kosovo virtually guarantees a Serb effort to split the north away. Options less than full independence will increase Belgrade's willingness to allow the north to remain part of Kosovo but, conversely, will increase Pristina's insistence on "its" issues in the north—Trepca, return of expelled Albanians, and control over Mitrovica.

## THE GAMING SCENARIO

The gaming exercises were conducted by the Public International Law and Policy Group on September 28 and November 2, 2001 and February 15, 2002. Participants in the exercises included current and former members of the Department of State, former and current EU and European officials, former UNMIK officials, former military commanders, former CIA operations officers with experience in Kosovo, Congressional staffers, senior fellows at local think tanks, members of international NGOs, former Kosovo aid workers, members of the media, international lawyers, and members of the academic community.

The objective of the gaming exercise was to provide structured training to the participants in the range of issues that would be addressed in Kosovo final status negotiations and facilitate cross training of the participants by exposing them to perspectives from all the parties. The intention was to shed light on the dynamics of the final status process and help participants consolidate lessons learned for use in future Kosovo final status negotiations. The scenario was designed to draw upon the subject matter expertise of the participants and to enable the participants to understand the full range of issues likely to arise during the negotiating process.

The one-day gaming exercise was conducted three times. Each simulation was conducted in a sequence mirroring the real world unfolding of the negotiating process. PILPG provided a scene-setter for each simulation and role descriptions for participants prior to each role-play. The information provided to the participants and the agendas for each simulation integrated legal and foreign policy issues reflecting concerns and attitudes displayed by Contact Group governments, the United Nations, and regional protagonists. No attempt was made to prejudge the outcome of the simulations or direct the participants toward any particular outcomes. Instead, the simulations were designed to highlight key issues that the parties would need to address to achieve outcomes that would avoid a renewal of conflict. In each simulation, time was allotted to plenary negotiations and individual/small group negotiating activities to prepare for the plenary sessions. The participants were allowed to alter the schedule as well as engage in shuttle diplomacy as they felt necessary.

The gaming exercise began with individual delegation meetings. The purpose was to give the delegations an opportunity to define objectives and determine strategy. The delegation meetings were followed by small group meetings with the international delegation dividing into two sub-delegations and meeting individually with the Serbian and Albanian delegations. An opportunity was provided for the Albanian and Serbian delegations to meet one another at this stage either under the good offices of the members of the international delegation, or alone. These meetings were followed by a general plenary session on modalities. After the plenary session the delegations returned to delegation meetings to discuss substantive issues over lunch. After the delegation meetings, three separate tripartite meetings were held with representatives from all the delegations on Final Status/Security, Economics, and Human/Religious/Minority Rights. These meetings were followed by a final general plenary session. At the conclusion of the plenary session, the participants stepped out of role and engaged in a brief lessons learned session.

To ensure adequate preparation for the gaming exercise each participant was provided a listing of all participants and their delegation assignments and the schedule for the component parts of the simulation. The also received a negotiating package that included:

- An overview of final status negotiating issues, including: Modalities, Participants, Venue, Location and Timing
- A scene setter for their delegation, including: International, Regional and Local Interests; Contentious Topics; Problematic Realities; Political Climate; and other Impediments to the Process
- Guidelines for their delegation on “Negotiating the Modalities” of final status, including: Agenda; Possible Negotiating Contexts; Basis for Negotiations; Location and Format of the Negotiations
- Guidelines for their delegation on “Negotiating the Issues” of final status including: Kosovo Final Status; Mitrovica and Borders; Security and the Future of KFOR; Minorities and Refugees; Economic and Property Issues and Reparations; Monuments and Religious Sites; Future of International Civilian Presence: UNMIK and OSCE Confidence Building Measures

The participants were also provided a resource packet consisting of the texts of United Nations Security Council Resolution 1244, the Rambouillet document signed by the Kosovo Albanian delegation in Paris, the Military Technical Agreement between NATO and Yugoslav forces, and the Constitutional Framework for Kosovo issued by UNMIK in early 2001. A copy of the resource packet was also placed in each delegation room during the gaming exercise.

### **International Delegation**

The instructions for the Internationals included a scene setter, common interests, individual interests, common objectives and acceptable minimums. Generally, the objective was to establish that the purpose of the negotiations was to determine a “final settlement” in Kosovo, as called for in UNSC 1244. The Internationals were to accomplish this without abandoning the validity of UNSC 1244, which provides that Kosovo enjoys broad autonomy and confirms the territorial integrity of the FRY. The acceptable minimum was to establish continuity with previous talks on Kosovo, especially the Rambouillet accord, but avoid being bound by all the terms of previous discussions on Kosovo. The issues that needed to be grappled with individually and collectively were regional stability; promotion of democracy and human rights; military, diplomatic and economic commitments; final status; negotiating issues and context; UNSC 1244 and Rambouillet.

### **Kosovo Albanian Delegation**

The Kosovo Albanian instructions included a scene setter as well as a list of objectives and acceptable minimums and background on each issue. The obvious and unswerving goal of the Kosovo Albanians is ultimate de jure independence; however, as long as de jure independence is not taken off the table, other issues may be addressed. The political climate in Kosovo is such that no member of the delegation can be perceived to be sacrificing this goal. The US is expected to be and perceived as a necessary ally. All members of the delegation will want to see Belgrade’s role in the talks on the future status to be minimal, arguing that the final settlement is between the people of Kosovo and the international community. While the current borders are preferred, partition is something that they might consider. Furthermore, the Kosovo Albanians have a strong interest in keeping the Internationals militarily involved in their security, preferably permanently, as well as wanting their own local military force. While the Kosovo Albanians are willing to negotiate minority and refugee rights and religious site protection, they will not accept any Serb forces from Belgrade on their soil under any circumstances.

### **Yugoslav/Serbian Delegation**

The Yugoslav/Serbian instructions included a scene setter as well as a list of objectives and acceptable minimums and background on each issue. The political climate in Serbia is such that de jure independence for Kosovo is not an option. While Serbs realize that only the establishment of stable democracies in Serbia and Kosovo would open the way for a permanent solution acceptable to the both sides, engagement of the Kosovar government by Serbia in any negotiations in an active pursuit of a political settlement would probably lead the demise of its own government and new elections in an electrified atmosphere. Serbs believe that Albanians, NATO and the international community are the ones responsible for the conflict in Kosovo and the current situation in the Balkans. The Serbs will use a lack of international consensus on the final status of Kosovo to their advantage by fostering doubt as to the efficacy of Kosovo independence. The Serbs are interested in a continued international presence. Also, the Serbs are interested in minority and refugee as well as religious sites rights. Finally, the situation in Serbia makes a step-by-step approach to the Kosovo issue more likely to be successful in improving the situation in Kosovo and stabilizing the region while supporting democratization in Serbia and Kosovo.

For purposes of the simulation, the control team arbitrarily established that the final status talks would begin after the November 2001 parliamentary elections in Kosovo and that elections would also have taken place in Yugoslavia/Serbia, thus removing the need for immediate pre-election maneuvering by Kosovo Albanian and Belgrade officials. The control team also predicated the simulation on the assumption that the Federal Republic of Yugoslavia (FRY) would still be in existence when final status talks begin, though this was not meant to imply any preferred outcome by the organizers of the simulation regarding the issue of Montenegro’s independence nor any other related territorial issue regarding the FRY and its neighbors.

The rules of the simulation were straightforward: there were no rules. However, there were strict time allotments for group meetings, private negotiations, and plenary sessions to address modalities of process and substantive issues. The division between modalities and substantive issues was artificial; process and substance were, of course, intertwined. Since the control team could not provide background material on all issues that delegations might conceivably raise, it chose issues that—in the judgment of the control team—appeared likely to arise. The control team did not assume that all of the issues could be negotiated during the simulation or that agreements could be reached on each of them. Each delegation was required to decide its own priorities and tactics. The guidelines provided for the negotiations on modalities and substantive issues were to be treated as guidelines that should be consulted but not necessarily rigidly applied.

The control team did not expect participants to play the roles of specific individuals, such as Ibrahim Rugova, Vojislav Kostunica, Colin Powell, or Tony Blair. The overview and individual delegation scene setters provided background that enabled each participant to use common sense in reflecting the general orientation of his/her particular delegation assignment in approaching the negotiations on modalities and substantive issues.

## **LESSONS LEARNED: STATE BEHAVIOR**

### **Internationals**

While the countries making up the international delegation will be discussed individually in the following paragraphs, there are a number of noteworthy dynamics attributable to the International delegation as a group. Most important, despite the presence of Russian delegates, the International delegation held little credibility in the eyes of the Serbs. Despite the massive amount of international assistance provided to Serbia since the beginning of Serbia's democratic transformation, the Serbian officials continued to portray themselves as victims of the NATO air campaign and held the international community responsible for the failure to protect the Kosovo Serbs from Kosovo Albanian revenge killing in June and July of 1999. The Serb delegation generally held the international community responsible for the failure to implement UN Security Council resolution 1244, in particular the provisions providing for the return of some level of Yugoslav jurisdiction over Kosovo. Thus, whenever the International delegation sought to persuade or pressure the Yugoslav/Serb delegation on the question of final status, the Yugoslav/Serb delegation would resist, countering with a demand to first see concrete results under the existing framework of UNSC 1244 before creating a new one.

While agreeing to act as a single delegation with a uniform message, the individual members of the International delegation were constantly subjected to efforts by the Albanians and the Serbs to persuade them to act individually on the basis of perceived allegiances with either the Albanians or the Serbs. These efforts met with mixed results. More often than not, the Russians sided with the Serbs, and acted as advocates for the Serbs from within the International delegation. The only time the Russians took more of a "hands off" approach was at the simulation that occurred soon after September 11<sup>th</sup>, where they reached agreement with the U.S. on a jointly imposed settlement. Similarly, the U.S. generally favored the Albanians, which the former often expressed in the negotiations by taking a hard line position in favor of concrete moves towards Kosovo independence. The U.S.-Albanian alliance was less obvious and less reliable than the Russian-Serb alliance. At times, as in the third simulation, the Americans seemed to be more concerned with maintaining the trust and cooperation of the Serbs, without much concern for the reaction such behavior might draw from the Albanian delegation.

Within the International delegation itself, the relationship between the US and the UN was generally tense. In all simulations except the first, the U.S. dominated the International delegation. However, when there was a strong personality in the role of the UN, the UN tended to resist the U.S. domination and claimed an unusually enhanced role in the negotiations on the basis of its stewardship of Kosovo by UNMIK. For example, in the third simulation, the U.S. chose not to send the head of its delegation to meet with the Albanians, who consequently felt snubbed because they had to meet with the second-ranking U.S. delegate. Despite the fact that the Albanians requested to meet with the head of the U.S. delegation, the U.S. refused to comply. The UN clearly disagreed with the U.S. decision not to send the head of the delegation to meet with the Albanians and tried to mediate between the two parties, but ultimately, the UN did not carry much weight with the U.S. (or with the rest of the International delegation).

The UK generally backed the U.S., but took a less hard-line position. France was less predictable although they sometimes were empathetic to the Russian-Serbian arguments that breakaway independent states should not be legitimized by the international community, especially those that use terrorism to attain their goals.

One issue that arose in the third gaming exercise was the importance of U.S. approval, or at least U.S. attention, to both the Serbs and Albanians. The negotiations were effectively stalled for half the morning session because the chief U.S. delegate refused to meet with the Albanians. The rest of the International delegation seemed to be baffled and irritated by the importance presumed by the U.S. delegation, considering that the Europeans were expected to fund and implement most of the solutions that were reached. Thus, while the refusal by the head of the American delegation to pay minimal attention to the Kosovo Albanian delegation caused tension with the latter, the insistence on such attention created resentment against the Albanians by the Europeans and Russians.

In two of the three gaming scenarios, towards the end of the sessions the Albanian and Serbian delegations began to reject the involvement of the entire International delegation and sought to resolve many of the issues in small bilateral meetings. In each instance the Albanians and Serbs made proposals that suited their individual interests but directly undermined the interests of the international community. For instance, when left alone the Albanian and Serbian delegation were quite ready to engage in a division and reallocation of territory—regardless of the consequences for Macedonia and Bosnia. The International delegation was thus required to spend a considerable amount of effort coaxing the Albanians and Serbs out of their bilateral discussion and into multilateral negotiations, and then had to re-orient them away from partition. The International delegation was not successful in all instances.

### **United Kingdom**

The UK was played very strongly in one scenario, but somewhat less forcefully in the others. The stronger role was helpful in backing up the U.S.—it was the UK that finally located and applied the economic leverage that was successful in bringing the Serbs to the negotiating table. (See Substantive Issues section, *infra*.) In each of the gaming scenarios, the UK acted as a broker of U.S. and European interests in Kosovo when the U.S. and European role-players disagree on important matters. The UK generally emphasized the “carrots” the European community had to offer both the Serbs and the Albanians including membership in the European Union and continued monitoring by European-dominated forces.

One strategy that was not often utilized, but might have been useful, was for a strong UK and a strong U.S. to “divide and conquer” the rest of the Internationals. Instead of the U.S. and UK doing shuttle diplomacy as a delegation, they could have split up with one member of each delegation sticking with the Russians, French, and the UN. This tactic was employed successfully in the third gaming scenario. In those negotiations, the UK was paired with the UN a couple times, especially when the Internationals were trying to bring the Albanians back to the negotiating table. Because the Albanians were angry with the U.S. delegates and because the U.S. delegates refused to “cave in” and negotiate with the Albanians, the UK served as a stand-in for the U.S. in talking to the Albanians. Along with the UN, the UK was eventually able to help the parties reach an agreement that allowed the negotiations to continue.

### **France**

Despite its vested interest in the negotiations, France did not play an especially pivotal role in any of the gaming exercises. The Serbs tried to appeal to France’s problems with the Basque separatist movement to create sympathy, however the strategy was only mildly successful. France generally was the pragmatist of the group because French delegates did not perceive themselves having as much of a political agenda in the conflict as did the Russians, Americans, or British. The primary focus of France was on promoting the role of European institutions in the final resolution of the Kosovo problem.

France’s role as one of the more politically neutral members of the International delegation was not fully exploited by any of the parties. Generally in shuttle diplomacy scenarios, France was paired with (and overshadowed by) the Russian delegate. In the second simulation, France did join with the UK in the final plenary session, warning the Serbs that failure to negotiate would adversely affect their prospects for joining the European Union. The French delegate admonished all parties that they should be vying to be a part of “Today’s Europe.” On the whole, however, there was little unity or cooperation between the French and British delegates. They certainly did not jointly convey any sense

of a European agenda, rather both France and the UK seemed to latch on to their more visible colleagues in the international delegation (Russia and the U.S., respectively).

### **United States**

The roll the U.S. played in the simulations was strongly linked with success or failure in making progress on a final solution. When the U.S. declined to assume a leadership position in the negotiations, the United Nations filled the void. At the opposite end of the spectrum, when the U.S. took a very forceful position, the Serbs and Kosovo Albanians became so concerned that they moved toward partitioning the territory amongst themselves. (See Territorial Partition, *infra*.)

The key to U.S. leadership is to create a strong presence in the negotiations by articulating either an acceptable solution or a substantive position on the final status of Kosovo. The Serbs were mistrustful of the U.S., which impacted the credibility of the delegation in the negotiations. However, both the Serbs and Albanians sought the attention of the U.S. in the negotiations. It seemed clear to them as well as to the rest of the parties involved that the United States was the real power broker in the room.

Assuming its central role, the U.S. tended to adopt a high-handed approach. Other delegates from the International delegation noted that the U.S. delegates rarely sought or listened to their advice, except the UK, and tended to dominate the meetings, consequently marginalizing the other delegates. As a result, the other delegates sought to exert influence in bilateral shuttle diplomacy meetings where no Americans were present.

While the U.S. recognized that the Albanians looked to the United States to protect their interests, U.S. role-players did not always behave in a way that would indicate a complete allegiance with that group. In the majority of the gaming exercises, the U.S. insisted that the Serbs consider the idea of independence and that they take steps beyond UNSC 1244 towards that end. In fact, the U.S. generally took a hard-line position with the Serbs, pushing them towards independence or at least some form of intermediate sovereignty.

In the third gaming exercise, however, the U.S. sought to accommodate the interests of the Serbs, advising them that independence did not necessarily have to be on the table in the immediate future. The United States, in a meeting with the Serbs, stated, “this is not the forum to discuss specific outcomes.” The delegate went on to advise the Serbs that they did not need to go through the U.S.—that the American role was more of an “honest broker” in the negotiations, implying that the U.S. had no agenda of its own to pursue. In contrast, the Serbs in the same meeting were *asking* the United States to get involved and to advocate on their behalf. This was quite a change from the previous negotiations where the U.S. and Serbs were more clearly adversaries, and where the U.S. had a definite tilt toward independence for Kosovo.

The three gaming exercises underscored that achieving an agreement requires the U.S. to take the lead role and devote political capital to the process.

### **Russia**

The Serbs generally turned to Russia to represent their interests from within the International delegation. As with France, the Serbs tried to use Chechnya to appeal to Russian fears about “illegitimate” independence movements. The Russian delegate advocated for the Serbs in each of the gaming exercises, citing Russia’s historical and religious ties to the Serbs. Additionally, Russia’s distrust of the United States and the UN (in the wake of NATO bombing of Serbia) was obvious, allowing Russia to position itself as the “watchdog” of the International delegation.

Although the Russian delegates occasionally disagreed with their American counterparts in plenary sessions as well as in internal delegation discussions, the Russian delegates consistently maintained moderate positions, to the point that the Serbs in a couple of the gaming simulations felt betrayed. The Russians would generally represent the Serbian position to the International delegation, but were unwilling (and realistically unable) to use high pressure tactics to force their International colleagues to consider non-independence oriented solutions for Kosovo. What the Russians were able to do successfully was to help the Serbs condition any movement towards Kosovar independence on gains in the substantive areas of minority rights and refugee return.

In at least one gaming exercise, Russia pursued a highly supportive and united role with its International colleagues and was rarely confrontational on its own or on the Serbs' behalf. In this simulation, Serb loyalty was not very pronounced, but rather Russia worked as the Internationals' partner with the Serbs and sought to use its perceived sympathy as leverage to move the Serbian delegation toward agreement on key issues. This effort ultimately failed, as the Serb delegates sensed Russia's weak support for their position and came to distrust Russia more than any of the other International delegates.

In a different negotiation, the Russian delegate was able to unsettle the negotiations by bluntly telling the Albanian delegation that the question of independence was not on the agenda for the negotiations. While this was not necessarily the case, it sidetracked the Albanians from their own negotiating strategy. They spent much of their time trying to clarify whether any possibility of independence was or was not on the agenda, which limited the ability of the United States and UK to build consensus on the less controversial substantive issues prior to addressing the question of independence. Russia was also able to blunt the effectiveness of the U.S. by insisting on consensus within the International delegation, then blocking consensus on key proposals raised by the U.S., UK, and even France.

The simulations, which all took place post September 11th, revealed a stronger than expected alliance between Russia and the U.S. Russia's willingness to support the West in the international "war on terrorism" could be tested in Kosovo status negotiations if Russia sought to enter into a genuine partnership with the U.S. to achieve a constructive outcome rather than simply to curry favor with Belgrade.

### **United Nations**

When the United States failed to aggressively lead, the United Nations sought to step into the power vacuum in an attempt to spearhead the settlement negotiations. Surprisingly, the United Nations' leadership was unsuccessful in part because of its lack of credibility with the Serbs. On each occasion the UN sought to lead, the Serbs rejected a strong role for the UN on the basis that it had failed to ensure the implementation of UNSC 1244, and thus was not qualified to speak about the need to move past 1244 in an effort to find a solution to the conflict.

The position of the UN within the International delegation was quite delicate. While the UN was nominally "in charge" of the negotiations, in most instances the state members of the delegation sought to exercise influence and to sideline the UN representatives. In each of the negotiations, the UN had to try to exercise power within the International delegation, and preserve the legitimacy of its activities on the ground in Kosovo, while helping the other members of the International delegation move the Serbs and the Albanians past the confines of UNSC 1244.

Importantly, the goals of the United Nations were seldom consistent with those of the United States. Of all the members of the International delegation, the U.S. had the greatest incentive to reduce the number of U.S. civilian and military forces in the region while most of the proposals devised by the UN required the continuation of a robust civilian and security presence. While the U.S. tended to see Kosovo as a successful test of American leadership and resolve, the UN saw Kosovo as a continuing test of its ability to engage in nation building.

### **Serbs**

When pressured by the international community to confront the possibility of an independent Kosovo, the Serbs used the Kosovo Albanian human rights record as evidence that they could not be trusted to protect the Serbian minority in the state. By defining themselves as victims of abuse rather than perpetrators of ethnic cleansing, the Serbs were able to leverage the International delegates for protection-related concessions.

A large part of the Serbs' strategy was to delay any discussion of final status by focusing on negotiating modalities, or by shifting attention onto the failure of the international community to effectively implement the current UNSC 1244 framework. The Serbs did not perceive any motivation to cooperate or initiate compromises on any of the issues, and when effective initiatives by the Internationals were lacking, the Serbs were able to filibuster by arguing over anything and everything *except* final status. Further, the Serbs tried to characterize the Albanian delegation as a nonessential player in the negotiations—their position was that the real discussions were between themselves and the Internationals with the Albanians playing a subordinate role.

In one of the simulations, the Serbs refused to divide into sub-delegations in order to attend “breakout” sessions for the purpose of discussing the substantive issues. They objected to the idea that one of the substantive breakout groups was focused on “final status.” The Serbs insisted that none of the other issues—minority rights, refugee return, protection of sacred lands, etc.—could be discussed without some clarification of the intentions of the Internationals on the question of final status. The Serbs argued that without some commitment that Kosovo would remain part of Serbia, negotiations over the other substantive issues were moot. The Serbs argued that “final status” was such a distant idea that it should not be discussed at this time, while simultaneously insisting that the Internationals agree that independence was off the table as a “final status” option.

On the whole, the Serbian delegates were united in their strategy and their desire to prevent any negotiation of independence. Additionally, despite recruitment attempts in two of the three simulations, the Kosovo Serbs were never seriously tempted to join forces with the Kosovo Albanians in an effort to reach a pragmatic solution, and consistently refused to do so.

### **Kosovo Albanians**

The Kosovo Albanians had one overriding goal—independence. As long as independence was on the table, they were willing to talk. They were not interested in talking to the Serbs. They felt that the Serbs were not and should not be a part of these discussions. Also, at best, UNSC 1244 could be a starting point, but it was not to be a central topic of discussion. They acknowledged that it gave them more than they had before the war, but felt that its usefulness had passed and that it was time to move past it. In all three simulations, the Kosovo Albanians were most interested in getting the United States on their side. Furthermore, they felt entitled to speak for the Albanian population that had given them an electoral mandate to achieve independence. Thaci was generally hard-edged, Rugova projected reasonableness, and Haradinaj tended to be of marginal influence.

In the first simulation, in which the UN took a leading role, the Albanians were not enthusiastic about working with them. They wanted the U.S. as their partner. Also, the Albanians felt pressured because there was little talk of independence, and perceived the Serbs as engaged in stalling tactics. The Albanians decided that they wanted some one-on-one talks with the Serbs early on, as they believed the only way to actually secure a deal was to negotiate directly on a bilateral basis with the Serbs. Importantly, they saw the International delegation headed by the UN as merely an obstacle to a resolution of the conflict.

In the other two simulations, where the leadership position was held by the U.S., the Albanians felt as if they were being forced into an agreement they could not accept and that their concerns were seldom seriously addressed.

In the final two simulations, the position of the Kosovo Serbs was an issue. At the beginning of the negotiation, Kosovo Serbs were not members of the Kosovo delegation. The Internationals inquired about this. To the Internationals, the Albanians would say that they had no problem with a Kosovo Serb being on the delegation. However, they privately expressed concern about this because they assumed this person would report everything he/she heard back to the Yugoslav/Serb delegation.

### **LESSONS LEARNED: MODALITIES**

The gaming exercises revealed that modalities are likely to be important and delicate in the initial stages of Kosovo status talks. Both the Serb and Albanian parties sought to pursue their long-term political objectives through ostensibly procedural issues. As such, many of the first procedural skirmishes masked a more fundamental struggle over whether or not independence would be an option considered during the talks. For instance, the Serb delegation and their supporters in the international community insisted that any agreement reached in the talks be ratified in a UNSC resolution and that no solution could go beyond the parameters of UNSC 1244. They also sought to have the talks held under UN auspices and in one instance requested that the UN chair the talks. On the other side, the Albanians insisted that UNSC 1244 was not determinative with respect to Kosovo's final status and, in general, sought to minimize UN involvement, recognizing that there was virtually no chance of gaining Security Council support for a settlement that granted independence to Kosovo.

A related issue was the status of the Kosovo Albanian delegation vis-à-vis the UN administration in Kosovo (UNMIK) and how any deal reached might be codified by the Kosovo Albanians. Because the constitutional framework promulgated in 2000 by UNMIK gave the new Kosovo government only limited authority in the field of foreign relations there was much concern within the Albanian delegation that UNMIK might seek some role with respect to representing the interests of the Albanians during the talks.

As a result of the masking of substantive issues within modalities, there was generally little success at reaching agreement on basic modalities during the first half of each gaming exercise. In the first simulation, the control team instructed the delegations to spend the first hour and a half discussing the modalities. What happened in practice was that the delegations spent an inordinate amount of time arguing about when and where the next round of meetings was to take place and who was going to run them.

In the second simulation, the control team allowed the delegations a more limited time to work out the modalities, then at a certain point announced what the modalities would be for the next meeting. The delegations were instructed to move on to substantive issues. While this approach was more successful, the discussion and argument over the venue continued throughout the simulation and the delegations expressed some resentment at not being allowed to continue to negotiate modalities—even though it was a gaming exercise.

In the third and final attempt to regulate the modalities discussion, the control team tried doing away with them all together in order to encourage the delegations to spend the time discussing the substantive issues. What happened, however, was that the parties found other non-substantive issues to argue over, and the third gaming exercise ended up being the least focused on substantive issues of all the simulations. Much of the diplomatic energy was spent in this negotiation trying to work out the relationship between the American and Kosovo Albanian delegates.

The U.S. had sent the head of its delegation to meet with the Serbs while the deputy chief met with the Albanians. The Albanians felt slighted—they said that they were used to dealing with the Secretary of State, and did not understand why the U.S., their ally, would send the more important delegate to meet with their enemy. The U.S. responded to the Albanians' demands that the delegation head meet with them by digging in and asserting that they would not allow their negotiation agenda to be dictated to them by the Albanians. It was not until after lunch that the U.S. and Albanian delegates finally met again and the negotiations were able to proceed. A lesson here might be the necessity of leaving some of the modalities on the table in order to allow the parties to “cut their teeth” on some non-substantive issues before moving on to the more contentious ones. Another lesson might be that the U.S. needs to exercise self-restraint in allowing egos to become fully engaged with effort to micro-manage regional partners.

### **The Relationship of the Parties to the Negotiation**

From the first simulation, the Serb delegation sought to avoid the impression the talks were between two equal parties. Rather, the Serbs sought to foster the impression that the talks were between the Federal government and one of its constituent parts. The Serbs also sought to minimize the role of the International delegation, and in one simulation attempted to have them confined to providing only good offices and refused to examine any proposals put forward by the Internationals.

In another simulation, the Serbs sought to construct the talks between themselves and the international community, with the Kosovo Albanians in a subordinate status. One ploy was to insist that Kosovo Serbs and Kosovo Albanians each participate as separate and equal sub-delegations. The Serb delegation on one occasion also sought to resurrect Milosevic's old tactic of insisting on equal representation for minority "communities" in Kosovo, including Turks and the various sub-categories of Roma. In another gaming exercise, the Serb delegation sought to construct "regional" talks, which would include states sympathetic to the Serb position on Kosovo, such as Macedonia, Bulgaria, and Greece.

Kosovo Albanians, by contrast, preferred to keep Belgrade's role in talks on future status to a minimum, arguing that the final settlement was between the people of Kosovo and the Internationals. The Albanians generally resisted direct talks with Belgrade and insisted that the Internationals be fully in charge of the negotiating process. Only when the Albanians became highly frustrated with the proposals of the Internationals did they engage in direct talks with the Serbs, and then only on the matter of territorial exchange. Also, the Albanians welcomed the general perception that the Kosovo Serbs were not independent actors but, in fact, acted under the direction of Belgrade.

## **Auspices**

The selection of the auspices under which the negotiations would be held was one of the earliest and most stubborn areas where procedural arguments masked deeper substantive differences. The Serb delegation, together with some members of the International delegation, took the position that the talks should be held under UN auspices, that any agreement must be codified in a Security Council resolution, and that the task of the talks was to discuss complete implementation of UNSC 1244 but nothing more. The Albanians, understanding that these positions would rule out independence, predictably rejected a lead role for the UN. They also insisted that UNSC 1244 only dealt with the interim status for Kosovo and that final status goes beyond the provisions of 1244. The Albanians thus sought to have the talks under some kind of ad hoc group that they believed that the U.S. could dominate, such as the Contact Group. The Albanians also sought to bring forward aspects of the deal they accepted—or claim they accepted—at Rambouillet and Paris, especially the concept that the "will of the people" should figure in the determination of Kosovo's final status and the notion of a three-year period for reaching a decision. They downplayed aspects of Rambouillet they did not like, such as its constitutional provisions regarding minority communities.

## **Venue**

The Serb delegation sought to have the talks rotate between Belgrade and Pristina. The Albanians resisted going to Belgrade, and cited security implications of talks in Pristina. The Albanians, together with the International delegation sought a neutral site in Europe, such as Brussels or Vienna. The selection of venue turned out to be one of the most consistently contested subjects in the modalities discussions. The location of the event was seen as an important indicator of who was going to be in control of the meetings. The Serbs rejected out of hand any location in a NATO member state, while the Internationals wanted to stay away from cities that they considered to be impediments to successful negotiating, such as Geneva.

In the second simulation a proposal was made for Reykjavik, Iceland, which ended up being a breakthrough solution. Although the Serbs were still a little hesitant because of Iceland's NATO status, all parties were relatively agreeable to the city. The control team decided to impose Reykjavik as the venue in the subsequent simulation in order to reduce time spent on the modalities and increase attention on the substantive issues. The parties essentially ignored this imposition and spent some time debating venue as it was seen as important with respect to which power would exercise the most influence over the substance of the negotiation.

## **Timing**

The question of timing of the negotiations and the speed with which they would proceed seemed greatly influenced by the internal political dynamics of each delegation. Now that the Kosovo Albanians had an elected government of their own, they pushed for resolution of the final status issue. Given that their own political situation was still perceived to be in flux, they were willing to refrain from insisting on an immediate decision but indicated a willingness to accept a road-map that would point the way toward resolution. Both the Albanians and Serbs looked at the timing of final status talks in the light of developments in Belgrade and the region, including the Kostunica/Djindjic political balance, the outcome of independence efforts in Montenegro, and the situation in Macedonia and elsewhere in the region.

## **Operational Framework**

Another major modality argument was over the paradigm in which the future meetings were to take place. The Serbs insisted that the talks retain UNSC 1244 as the operational framework, while the Internationals wanted the talks to move past the constraints of 1244 towards a final agreement for Kosovo. This issue was never resolved in any of the simulations because it was inextricably linked to the final status issue itself. (See Final Status section, *infra*.) The farthest the participants got was to agree that UNSC 1244 would form the starting point for the talks, with the Albanians, U.S. and others insisting that 1244 would not be limiting.

## **Continued International Involvement**

It became obvious during the simulation that if agreement were reached, the Internationals would continue to be deeply involved in the affairs of Kosovo. Implementation of any agreement would require a prolonged international ci-

vilian and military presence. Kosovo's current status as an international protectorate will be gradually reduced even before final status negotiations conclude, as elections begin to transfer authority for local self-rule to democratically elected Kosovo representatives. The international community will need to come up with a mechanism to cover a continued—although diminished—role, which will likely include enforcing implementation of the terms of an agreement, monitoring political and human rights developments, and security.

Significant sums of international assistance will continue to be needed after an agreement for economic restructuring and investment. It would make little sense to spend the time and effort to gain some kind of agreement on final status only to see it collapse under the strain of economic difficulties in Kosovo and Serbia.

## **LESSONS LEARNED: SUBSTANTIVE ISSUES**

### **Economic Issues**

In the second simulation, the UK identified a tool for leveraging the Serbs and moving them towards at least entertaining the idea of independence for Kosovo. The representative from Britain pointed out that Serbia has made such economic progress in the past year since surrendering Milosevic to the Hague that they would be taking several steps backwards if they chose to play hardball with the international community over the Kosovo issue. The “carrot” offered to the Serbs was future inclusion in the European Union. The use of the economic issue was the first time that any party had been able to find a pressure point to leverage the Serbs, who had been content until that point to stonewall all discussion of “final status.” The French delegate was able to join the British delegate in using the promise of EU membership and economic incentives to encourage the Serbs to cooperate—this was one of the only times where a cross-European alliance was apparent or effective.

The problem with the economic/European Union pressure point is that the Europeans would probably be hesitant to use it in reality. Because of the Europeans’ general insistence on the higher democratic goals of inclusion in the European Union, they would not likely use the threat of exclusion from the group (and the resulting economic consequences) as a stick to prod the Serbs in negotiations. It is possible that the United States would have to be the one to locate and use the economic pressure point. For example, the U.S. has made effective use of Congressional pressures to withhold assistance from Belgrade unless specific conditions were met, including release of Kosovo Albanian political prisoners.

### **Human Rights**

The human rights record of the Kosovo Albanians became a central issue in each of the simulations. The Serbs were able to stave off discussions of final status in large part because they were able to point to the violence that has recently been perpetrated against Kosovo Serbs by the Albanians. The argument was made that the Albanians could not be trusted with an independent state, especially since they have committed the current rash of human rights abuses under the supervision of the United Nations.

By exploiting the human rights situation, the Serbs effectively redefined themselves as “victims” in the eyes of the International delegation. When the Kosovo Albanians would offer concessions on substantive issues like refugee returns in the negotiations, the Serbs were able to undercut the Albanians by turning to the International delegation and asking, “How can they be believed? Look at their actions instead of their words.”

### **Refugee Return**

One of the substantive issues the Serbs and Albanians were able to agree on was the issue of refugee returns. Both sides agreed that Serbs should be allowed to return to their homes in the Serb-dominated northern provinces of Kosovo, and that an international force should oversee such a return.

It was the Serbs, however, who candidly noted that many of the displaced refugees would most likely stay where they are now—that many people may opt not to return. One interesting issue that came up in the third simulation regarding returning refugees was a question of their official citizenship. The Albanians had placed a qualification on their agreement to accept returning refugees: they had to get Kosovo identification cards that would reflect their Kosovo citi-

zenship. The Serbs objected to this provision, noting that “citizenship” usually implies that the person belongs to an independent state. Since Kosovo is not independent, they should not require people to be citizens, especially returning refugees. The Serbs saw the citizenship issue as a ploy by the Albanians to adopt the trappings of a sovereign country.

### **Stealth Partition (Via Entities)**

In one simulation, the U.S. and UK suggested an “entity based” solution for Northern Kosovo, meaning independent self-governance for the Kosovo Serbs within the boundary of an independent Kosovo. The Albanians, however, viewed this as a means of facilitating the ultimate partition of Kosovo by creating an intermediate stage of entity-based communities.

### **Timeline**

One of the demands the Serbs had for the Internationals was a call for the creation of a timeline for a full implementation of UNSC 1244. The trade-off offered by the Serbs was that after the UN/Internationals had met their deadlines for 1244 implementation, they would *consider* discussion of final status for Kosovo. The Kosovo Albanians were also in favor of a timeline because it would be politically useful to show the people at home that things were moving forward; i.e., that there is a *schedule*.

Objectively, a timeline would be valuable to the parties because it would create a measuring stick for the successes and failures of the parties in fulfilling obligations. For example, if a timeline were implemented for return of Serbian refugees to Kosovo, the Serbs would be able to see progress and the Albanians could point to the success in meeting the deadline as a boost to their credibility. The existing state of ambiguity does not meet the needs of either the Serbs or Albanians.

Interestingly, the International delegation rejected the proposal of a timeline. In their view, setting up a schedule would only serve to create an excuse for the parties to retreat to their original positions when a deadline was missed. In other words, a timeline would be a set up for failure.

### **Final Status**

In at least one of the negotiations, there was extensive discussion over simply the use of the term “final status.” The Serbs strongly disliked “final status,” so the U.S. decided to use the term “resolution” instead. The U.S. actually incorporated the use of “resolution” as part of its negotiation strategy so as not to put off the Serbs from the start. The Serbs did not really fall for the switch in terminology—they understood that both terms suggested something they were unwilling to consider—movement away from UNSC 1244 and towards independence for Kosovo.

As mentioned earlier, the Serbs wanted to retain 1244 as the operating framework for all negotiations, and refused to consider any arrangement which would replace 1244 with any framework which would have as a goal an independent Kosovo.

One suggestion made on the issue of final status by the U.S./UK delegation incorporated the idea of intermediate sovereignty for Kosovo. According to the proposal, in exchange for Serb acceptance of intermediate sovereignty for Kosovo, the Internationals would provide an economic package for Serbia and consider Serbian membership in the EU. The Albanians would be required to grant full minority rights to Kosovo Serbs, and all Serbian refugees would have the right of return to Kosovo under security protection provided by international forces. Additionally, the International delegation suggested that sovereignty for Kosovo would be conditional on Albanian improvement in their performance regarding certain goals (in areas of human/minority rights and refugee returns).

## APPENDIX

### AGENDA

9:00am	Coffee and doughnuts available for participants
9:30-10:30am	Introduction and review of simulation schedule and procedures
10:00-10:30am	Individual delegation meetings to focus on modalities
10:30-11:00am	International Delegation 1 meets with Yugoslavia/Serbia International Delegation 2 meets with Albanians Small group meeting of some Yugoslavia/Serbia delegation and Albanians if agreed to by both parties and mediated by International Delegation 3
11:00-11:45am	Plenary: Modalities
11:45-12:00pm	Break
12:00-12:30pm	Individual delegation meetings to focus on substantive negotiating issues (Lunch will be provided during this meeting)
12:30-1:00pm	Small Group Meetings Final Status/Security – International Delegation 1 Economics –International Delegation 2 Human/Religious/Minority Rights – International Delegation 3
1:00-2:00pm	Plenary: Substantive Negotiating Issues
2:00-2:30pm	Review and Lessons Learned

## APPENDIX

### PARTICIPANTS

*September 28, 2001*

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## APPENDIX

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**OTHER REPORTS AVAILABLE FROM THE PUBLIC INTERNATIONAL LAW & POLICY GROUP AT [WWW.PILPG.ORG](http://www.pilpg.org) INCLUDE:**

**Unbreakable Bond: Serbs and Kosovo, (Field Report) December 2003.**

**Serbia After Djindjic: Can Invigorated Reforms be Sustained, (Field Report) October 2003.**

**Kosovo: Time to Negotiate Final Status, (Field Report) January 2003.**

**Somalia: Black Hawk Down No More, (Field Report) April 2002.**

**Kosovo: The Road Ahead, (Field Report) March 2002.**

**Nation Rebuilding in Afghanistan, December 2001.**

**A Blueprint for Next Steps in Kosovo, (Field Report) June 18, 2001.**

**Current Legal Status of the Federal Republic of Yugoslavia (FRY) and of Serbia and Montenegro, September 2000.**

**A Blueprint for Resolving the Nagorno-Karabagh Crisis, June 2000.**

**Intermediate Sovereignty as a Solution to the Kosovo Crisis, 1998.**

**Kosovo: From Crisis to Solution, November 1, 1997.**

**Implementing the Dayton Accords: Options and Recommendations, September 1997.**

**A Prima Facie Case for the Indictment of Slobodan Milosevic, April 1996.**

**PILPG NEGOTIATION SIMULATIONS:**

*Indonesia/Aceh:*

<http://www.publicinternationallaw.org/programs/peace/diplomacy/#Aceh>

*Democratic Republic of Congo:*

<http://www.publicinternationallaw.org/programs/peace/diplomacy/#Congo>

*Georgia/Abkhazia:*

<http://www.publicinternationallaw.org/programs/sovereignty/diplomacy/#Georgia>

*Iraq Constitutional Negotiations:*

<http://www.publicinternationallaw.org/programs/sovereignty/diplomacy/#Iraq>

*Kashmir:*

<http://www.publicinternationallaw.org/programs/sovereignty/diplomacy/#Kashmir>

*Kosovo Final Status:*

<http://www.publicinternationallaw.org/programs/sovereignty/diplomacy/#Kosovo>

*Nepal:*

<http://www.publicinternationallaw.org/programs/sovereignty/diplomacy/#Nepal>

*Sudan:*

<http://www.publicinternationallaw.org/programs/sovereignty/diplomacy/#Sudan>

*Tigris/Euphrates River Basin:*

<http://www.publicinternationallaw.org/programs/sovereignty/diplomacy/#Tigris>