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## **CONFIDENCE-BUILDING MEASURES IN THE TRANSDNIESTRIA CONFLICT**

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The subject of this conference is post-conflict rehabilitation, especially in the context of immediate post-conflict peace-building, and the use of confidence-building measures in that process.

That puts Moldova, with its Transdnestrrian conflict, in a unique category: officially, the conflict is not over – it has continued in a frozen way, a sort of Cold War; but unlike the real Cold War, there is little likelihood that military hostilities will begin again – and this frees the sides from the type of restraints the Cold War’s ever-present military threats forced on its two blocs.

Thus, though not a shot has been fired since 1992, the conflict has continued by other means; and though there are many on both sides who genuinely want a solution, opportunists on both sides have tended to view the international community and the confidence-building measures it proposes as tools in the struggle rather than as ways to solve serious problems or settle the conflict.

That has led to the odd situation in which ostensibly confidence-building mechanisms have actually turned out to be confidence-destroying mechanisms. Perhaps this is not surprising; the word “confidence” has several uses in English, among them not only those implying faith and reliability, but also the abuse of confidence: “confidence scheme,” “confidence man.”

Indeed, one participant in the conflict long ago outlined to me, with heavy irony, a corrupt deal in which then-leading people on both sides of the river, enemies in public, were secretly collaborating to make piles of money off the stalemate. “There’s your confidence for you,” he sneered. “That’s the way confidence works here.”

That is one lesson we can learn that has wider application: cooperation is not necessarily the same as confidence-building. To draw an example from another conflict, for many years Georgians and Abkhaz cooperated effectively to utilize the Inguri dam hydroelectric station, which geography prevented either side from using unilaterally. But that experience of cooperation never resulted in tangible confidence-building between the two sides.

Back to Transdnestrria, the populations on both sides of the river are vulnerable to the unusual arrangement in place. Unlike in other conflicts such as Nagorno-Karabakh, where there is no contact between the two populations, those who live on both sides in the Transdnestrria conflict maintain close contact with one another. There is little hatred or unease between the populations. Thousands, perhaps tens of thousands, cross the internal boundary every day to work, transit, visit friends or relatives, or just to go shopping. Villages controlled by the two sides are in close proximity to one another – driving through, you can

only tell which side a village is on by looking at the flag hanging from the village administration building – and they depend upon each other for utilities and for access to agricultural lands. I remember a feeling of unreality when the head of the Transdnestrian KGB complained to me about the activities of a Moldovan prosecutor; it turned out that the prosecutor actually lived in Transdnestria and commuted every day to his job in a Moldovan-administered facility.

That these populations should live peacefully together and maintain such close contacts is a tremendous advantage in conflict resolution; and we can only be thankful that people are not dying along the line of contact, as they do in great numbers to this day in the Nagorno-Karabakh conflict. But the interdependency also leaves the people hostage to confidence-destroying mechanisms on both sides. To a certain extent, the confidence-building efforts of the OSCE and other international partners amount to no more than undoing the effects of past confidence-destroying mechanisms; trying to get from confidence tricks to confidence-building; from a situation in which people profit from the failure to resolve the conflict to one in which there is an incentive to solve the problems it causes.

Just as an example, there was a 2001 agreement – a confidence-building measure – that established cooperation between the law enforcement bodies of Moldova and Transdnestria. But in the spring of 2004 the Transdnestrian *militia* (police) provoked a serious crisis involving Moldovan-administered schools on the left bank. In the summer of 2004 the same *militia* provoked another crisis by seizing Moldovan railway equipment that had hitherto transited Transdnestria enroute to Ukraine and Russia. Is it any wonder that in September, 2004, the Moldovan police ended their formal cooperation with the *militia*? But since that cooperation was enshrined in the 2001 agreement, the Transdnestrians now had an excuse to say that Moldova had broken its agreements, had breached confidence.

We have endless examples of this sort of tit-for-tat bad faith on both sides. To be even-handed, I will cite another: in 2005, after long negotiations, an agreement was reached between the sides to hold Moldovan elections in the disputed village of Corjova. Again, this raised confidence. However, in 2007 and again in 2009, the Communist administration then in power in Moldova refused to engage in negotiations, and just declared that they were going to hold elections in Corjova, virtually daring the Transdnestrians to stop them. Not surprisingly, the Transdnestrians took up the dare and blocked the voting. In return, the Moldovans opened criminal cases and issued arrest warrants against Transdnestrian officials, unleashing a cycle of tit-for-tat action restricting travel between the sides that is still destroying confidence today.

And I mean that literally: only yesterday I received a call on this from Moldova's Deputy Foreign Minister. Yesterday was a holiday in the Orthodox world, a day when people visit the graves of their ancestors. My friend's ancestors are buried in Transdnestria, and he visited them every year as a private citizen, but now as a Moldovan official he cannot go without prior agreement – a Transdnestrian reciprocal ban in revenge for the criminal cases imposed by the Moldovans. He received permission (he thought), but when he got to the boundary he was turned back anyway. I find this cruel and unnecessary, but such petty harassment is part of the daily official interaction between the sides.

In September, 2009 a new alliance came into power in Moldova, and Prime Minister Vlad Filat backed efforts to engage with the Transdnestrians and build up confidence by solving problems of importance to the day to day life of people on both sides. This opened up greater

possibilities for the international community and the OSCE in particular. Even before the Alliance took power, in May, 2009 the OSCE Mission to Moldova held a conference in Mauerbach, Austria devoted to confidence-building, reviving a package of military confidence- and security-building measures that the Mission had proposed to the sides four years before. The package was drawn up largely based on previous models such as Dayton and the Vienna Document, and we received input from Russian and Ukrainian experts as well. The package met with little response in 2004, and I have to say that we did not meet with much response in 2009, either, but the contact between the sides led to a mutual recognition that renewed cooperation was needed in the law enforcement field. This cooperation was enshrined in an agreement reached at a conference we held for law enforcement officials of both sides in November, 2009.

Meanwhile, a series of sectoral working groups were created in the fields of agriculture and ecology; railways, transport and infrastructure; economy and trade; health; and humanitarian aid and social issues; and, as I mentioned above, law enforcement. Telecommunications experts have been meeting ad hoc and this is sometimes referred to as a group; and both sides have agreed to form a group on problems of civil registration.

The OSCE has been the main driving and coordinating force behind these groups. In reality, however, the groups demanded a certain level of political confidence and ownership by the sides themselves before they could function with any results, and I think we are only just beginning to approach that level of confidence. I cannot be satisfied with the performance of these groups so far.

Most of the groups have met rarely if ever, usually only when there appeared to be some sort of point to make to the international community, such as shortly before meetings of the 5+2. The economy working group met recently for the first time in over a year – perhaps not coincidentally, this was just before the most recent 5+2 meeting. The law enforcement group I mentioned earlier never followed up on its agreement to review previous agreements to see where cooperation could be re-established. All of us involved in the process have the impression that these efforts are not high up on the list of priorities of the officials who participate in the working groups.

When the groups do meet, results are scarce. Some groups, such as the health care group, have met fairly regularly; but in general the real progress that has been made has followed meetings at the senior leadership level, at which political decisions could be taken, not just technical decisions. Even then, important political decisions taken during the meetings that have come to be known as “football diplomacy” – decisions on issues such as the re-opening of freight rail traffic and fixed-line telephone contacts – have yet to be implemented.

Last year a 5+2 meeting suggested that an agreement between the sides on a set of regulations for the working groups – how often they must meet, etc. – would help the situation. A text was close to agreement at the end of last year, but now new requests for revision have left the sides further apart.

There are some bright spots. The Ecology working group met on the 29<sup>th</sup> of April and signed an agreement to work further on cooperation against flooding in the river Dniestr. So there are occasions on which the groups can be self-starting and produce results. I take this as evidence that we are approaching – as I put it earlier – the level of confidence needed for a self-sustaining process.

One reason for ambivalence is that non-military CBMs are almost invariably designed to make daily life better for affected populations. This can lead to accusations from hard-liners that the intent of the CBMs is to perpetuate the frozen status quo by making it easier to bear.

Ultimately, the groups – and indeed any confidence-building mechanisms – cannot function or be politically sustainable in isolation; they need to be part of an integrated negotiation mechanism that includes the 5+2, the 1+1 channel that we opened up between the political representatives in late 2009 and, we would hope, in a meaningful channel of communication between the leaders of the two sides.

The OSCE Mission to Moldova has taken the lead in bringing confidence-building measures into the informal 5+2 process that has existed since the suspension of official negotiations in early 2006. Following indications of interest by the sides, we have produced matrices of problems in areas such as freedom of movement; we have produced an inventory of previously signed documents that can be analyzed to reinvigorate cooperation in areas where it has lapsed. We have brought the sides together to analyze these documents.

We have found, however, that just leading the horse to water is a long way from getting him to drink. Actual dialog on these issues is hard to foster, no matter how much the sides express their interest in solving the problems that only dialog can solve. We brought a non-paper to the last 5+2 meeting selecting specific problems to start solving in the fields of freedom of movement and previously reached agreements; that 5+2 meeting took place on 4 April; in the month since, the sides have done no work. Nonetheless, we and the rest of the international community should continue to press for these CBMs, viewing them as a longer-term investment in the resolution of the conflict. In particular the “guarantees” discussed in the 5+2, now still at the stage of reviewing previously signed documents, are a form of CBM because they increase political confidence in the ability to reach ever more difficult agreements and implement them successfully.

I have outlined what might appear to be a paradox: that a certain level of confidence at the political level is needed before confidence building measures can be effective. The role of the international community, it seems to me, is to “prime the pump” – induce that level of confidence through international involvement, and then encourage the sides to take ownership and build confidence with one another. Part of that effort includes providing the political cover necessary to protect participants against accusations of “softness” from those who believe that any interaction is inherently “unpatriotic” and that the confidence-building needed to create an environment conducive to a negotiated settlement is to be condemned as “preserving the status quo.”

The OSCE Mission to Moldova continues to promote confidence-building in the military and security fields. We have continued to hold seminars, roundtables and conferences that bring together military and security officials on a variety of subjects such as peace support operations, disaster relief, etc. However, we have still not made progress on promoting traditional confidence-building measures such as transparency, data exchange, mutual inspections, etc.

The body that oversees security in the conflict zone, the Joint Control Commission, has been stalemated for a number of years. The same people have represented both sides for years, and they seem only to rehash the same arguments to one another. Little or nothing is actually

accomplished to resolve incidents and relieve tensions. To be sure, the JCC does perform a real service in ensuring that relevant officials on both sides, plus representatives of Russia, Ukraine and the OSCE, have easy access to one another, to help resolve emergent issues “offline;” that is, outside the formal format of the JCC.

To sum up, traditional and even track-2 confidence-building along the Dniestr has been stymied by the absence of political confidence. It is easy for hard-liners on both sides to create incidents; hard-liners on both sides have become so expert at creating these incidents and whipping up public opinion that one could almost suppose collusion between them to sabotage progress in achieving a settlement.

We therefore concentrate on giving individuals the opportunity to have successful experiences of cooperating to solve problems, priming the pump for more advanced efforts down the line. Ultimately, we can only help: it is the sides themselves who have to refrain from confidence-destroying and engage in confidence-building. And as I implied at the beginning, that demands looking at the current state of affairs not as one of continuing the conflict by other means; but as a problem requiring resolution.

And I think that concept is key to lessons we may draw from this experience to apply elsewhere. I have just painted a grim picture of confidence-building in the Transdnistria conflict, even though this conflict is the least explosive of all the conflicts in the former Soviet space, the one with the least animosity dividing the populations, and the one most outsiders consider the easiest to resolve. If we ask ourselves why CSBMs were successful in the Cold War and other difficult circumstances, while both CSBMs and CBMs are problematic in this conflict, perhaps the answer is that the risks are smaller. In the Cold War, miscalculation could lead to catastrophe; therefore confidence-building of all sorts was essential for survival. Absent that calculation, there is too great a tendency to see the confidence building process as either marginal or as a propaganda tool in the continuing conflict.

The question then becomes, “How do we impart to both sides of a conflict the sense that CBMs are an important investment in producing a climate that is both safer and more conducive to a solution?” To this difficult question there are no easy answers. The sides themselves will determine their own perceived interests, though these may often be completely non-transparent to us. Rewards and other inducements are unlikely to change those calculations; rather, it is more likely that such an approach would only produce counter-tactics designed to extract the maximum in rewards without changing the basic attitudes towards the conflict. The one lesson we can take away is that – and let me stress this point again – especially in protracted conflicts, the sides are tempted to see CBMs and international involvement in general as tools to continue the conflict by other means. The only precaution the international community can take is to ensure that all CBMs are as non-political as possible. And the only systemic remedy is the slow and unsure process of education and moral suasion, to convince the sides that the international community will not be manipulated into taking part in an ongoing conflict; but rather that it expects the sides to take responsibility and resolve their problems through confidence-building.