



BLUE HELMETS IN DONBAS?

A Phased and Sequenced Scenario
To Unlock The Minsk Agreements And Restore Peace in Ukraine

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About the Report

This report is the product of a special project undertaken by UPEACE Centre The Hague (UPH) in cooperation with the International Renaissance Foundation (IRF) in Ukraine.

UPH is grateful for the contribution to this project of the Dutch team of experts (see annex one).

It is hoped that the ideas and analysis offered in this report will contribute to increased understanding and awareness among decision makers and civil society in Ukraine and elsewhere about the risks and opportunities of carrying out a UN peace support mission in eastern Ukraine.

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EXECUTIVE SUMMARY

This report summarizes the findings of a team of practitioners from the Netherlands (see annex one) in international crisis management, who have been conducting quiet conversations with Ukrainian stakeholders, think tanks and civil society representatives during the past half year in Kyiv on the topic of UN involvement in Donbas in order to unlock the so-called Minsk agreements and restore peace in Ukraine.

Building on existing open sources that have already identified the issues to be addressed, in particular the Hudson Institute report “Can the United Nations Unite Ukraine?”¹, our report presents some basic considerations and a scenario as to how a UN led (or UN mandated) Peace Keeping Operation (PKO) could complement and invigorate the OSCE Special Monitoring Mission (SMM) already on the ground and help restore peace, territorial integrity and authority of Ukraine in the conflict zone, referred to in the Minsk agreements as “certain areas of the Luhansk and Donetsk regions in Ukraine.”²

Among the many practical issues to be addressed: an effectively monitored ceasefire; withdrawal of foreign armed formations and mercenaries from the conflict zone and effective monitoring of the international border; disarmament, demobilization and reintegration (DDR); an amnesty; local self-governance and decentralization; free and fair local elections leading to full restoration of Ukraine’s sovereignty and control of the international border; return of internally displaced persons (IDPs); and major humanitarian and reconstruction needs.

This is a daunting agenda and it is believed that the largely unstructured Minsk agreements (September 2014 and February 2015, see chapter two) are unlikely to be ever implemented in their present form. Without a renewed understanding reached at the highest level between Ukraine and the Russian Federation about a more detailed, sequenced and timed roadmap to implement the Minsk agreements, any UN involvement in the resolution of this conflict would hardly be feasible. However, if such a strategic understanding and political will to resolve the conflict materializes, it is also becoming increasingly clear that a more determined international effort will be needed to assist the parties in fully implementing the Minsk agreements. The urgent need to address an inherently unstable situation on the ground that could have serious repercussions for European stability and security, leads almost inevitably to the question of the UN’s involvement. In fact, unlocking Minsk and involving the UN have become twin issues in the international efforts to make progress.

In exploring UN involvement in this conflict the report first offers some basic assumptions and considerations (chapter 3). For example: the need for one clear UN Security Council mandate setting the framework and authorizing a UN led (or mandated) PKO in support of a full, properly phased and sequenced, implementation of the Minsk agreements; the importance of close cooperation with the OSCE, suggesting that a double-hatted SRSG should be appointed; a track record of several months of satisfactory compliance with a ceasefire

¹ Richard Gowan, *Can the United Nations Unite Ukraine?*, Hudson Institute, February 2018

² According to Ukrainian legislation the conflict zone is considered as temporarily occupied by the Russian Federation. The self-proclaimed “Donetsk Peoples Republic” (DNR) and “Luhansk Peoples Republic” (LNR) have not been recognized by the international community.

prior to PKO deployment (so-called “zero phase”) in order to create a minimum permissive environment; the importance of parties reconfirming their key commitments and to take early confidence building steps: for Russia the timely withdrawal of foreign armed formations and mercenaries and enabling effective monitoring of the international border; for Ukraine fulfilling its Minsk commitments, notably by clarifying when and how key laws (the “Special Law” providing for local self-governance and the Law on Amnesty) will be implemented.

Above all it is stressed that only a phased and sequenced UN/OSCE PKO can be realistically expected to address its complicated mandate to unlock the Minsk agreements. In an effort to carry the argument a step further, a scenario of such an approach is imagined (chapter 4). Preceded by the already mentioned critical zero phase, during which minimum permissive conditions should prevail, actual deployment of the PKO would take place in three stages.

Phase One: establishing hard security (non-resumption of hostilities)

During this phase a robust, mobile and intelligence driven UN mandated peace support operation, using Quick Reaction Forces (QRF), would be deployed to assist the OSCE in strengthening the ceasefire along the so-called Line of Contact and, subsequently, ensure protection and freedom of movement for the OSCE throughout the conflict zone up to the international border (24 hour monitoring). A key benchmark would be completion of the process of timely withdrawal of foreign armed formations and mercenaries from the conflict zone. The high risk environment would require a more robust mandate than a “classical” UN PKO, including the necessary capabilities to protect itself and OSCE monitors. It is believed that initial deployment would require 1500-3000 special forces while overall troop numbers needed would be significantly lower than mentioned in other studies.

Phase two: establishing broad security: an Interim Civilian Administration (ICA)

The main objective at this stage would be to establish broad security conditions permitting the organization of free and fair local elections to ensure progress on the Minsk agreements, which link these polls to the reassertion of Ukrainian sovereignty. This requires carrying out a process of DDR in close conjunction with an amnesty, while maintaining law and order in the conflict zone. An Interim Civilian Administration (ICA) would have to be established headed by the SRSG and working closely together with the Ukrainian government and local bodies. It is suggested that a supervised or shared authority type of ICA will be needed, granting the SRSG appropriate and clearly defined executive powers to carry out an agreed mandate. Depending on tasks and responsibilities assigned to ICA, it is estimated that by this time a PKO of up to 10.000-12.000, including a sizable police component, would be needed to maintain law and order.

Phase three: elections, reassertion of Ukraine’s authority and peace consolidation

At this stage local elections may be co-organized by the OSCE and Ukraine’s Central Elections Commission (CEC) while monitored by ODIHR and other international groups. Upon the SRSG’s assessment that the elections were conducted in free and fair conditions, in accordance with the Minsk agreements the reinstatement of full control of the state border by the government of Ukraine will follow directly. By this time all Donbas-related Western sanctions against Russia should be lifted. The government of Ukraine will take the lead in re-integration, reconstruction and other post-conflict/peace building activities, allowing the UN/OSCE PKO to downsize and gradually phase out the mission.

As for suggested time lines, they imply that a peace support operation from zero phase until elections at the beginning of phase three could last between 1-2 years. Another 1-3 years would be needed for the often underestimated process of peace consolidation. Of course these time lines are only indicative and it is quite possible that some phases may take significantly more time. The challenge would be to avoid stalemate and keep momentum towards implementing the Minsk Agreements in full within a reasonable time frame.

Finally, it is not clear at the time of writing if any of the preconditions mentioned can be fulfilled in the near future. Achieving Russian-Ukrainian understanding about the mission and minimum trust in each other's intentions, as well as agreeing in New York a clear and realistic mandate, will require much more grinding diplomatic work. But provided these conditions are fulfilled, there is no reason to doubt that a properly staged, sequenced and mandated UN/OSCE PKO could handle the situation in the Donbas region. The consequences of inaction in addressing a dangerous conflict that could threaten European security and peace may be dire.

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ABBREVIATIONS AND ACRONYMS

| | |
|------------|--|
| CBM | Confidence Building Measure |
| DDR | Disarmament, Demobilization, Reintegration |
| “DNR” | “Donetsk People’s Republic” |
| Donbas | The Donets Basin region of eastern Ukraine |
| ICA | Interim Civilian Administration |
| IDPs | Internally Displaced Persons |
| “LNR” | “Luhansk People’s Republic” |
| Memorandum | Minsk Memorandum (see Annex Two “The Minsk Documents” part 2) |
| MLRS | Multiple Launch Rocket System |
| NATO | North Atlantic Treaty Organization |
| KFOR | Kosovo Force, led by NATO (1999-present) |
| OSCE | Organization for Security and Cooperation in Europe |
| SMM | Special Monitoring Mission |
| ODIHR | Office for Democratic Institutions and Human Rights |
| PKO | Peace Keeping Operation |
| PM | Minsk Package of Measures (see Annex Two “Minsk Documents” part 3) |
| Protocol | Minsk Protocol (see Annex Two “The Minsk Documents, part 1) |
| TCG | Minsk Trilateral Contact Group |
| UNSC | United Nations Security Council |
| UN SRSG | UN Special Representative of the Secretary-General |

1. INTRODUCTION

During the first half of 2018 the possibility of a United Nations mission to help end the war in the Donbas region of eastern Ukraine seems to have gained some traction in the diplomatic arena. The issue was formally discussed at a meeting of the Normandy Four group (Germany, France, Russia, Ukraine) at Foreign Minister's level in Berlin on 11 June 2018. Even if major differences were reported between Russian and Ukrainian Foreign Ministers Sergey Lavrov and Pavlo Klimkin, UN involvement in the Donbas region of eastern Ukraine is expected to be included on the agenda of the forthcoming Normandy Four Summit later this year. On a separate track the US and Russia have been discussing the issue in meetings between US Special Representative for Ukraine, Kurt Volker, and Russian Presidential Representative, Vladislav Surkov, again without any major progress reported so far. The topic was also discussed at a summit meeting between Presidents Donald Trump and Vladimir Putin on July 16 in Helsinki.³

At the same time, implementation of the Minsk Agreements (September 2014 and February 2015) remains deadlocked, with intolerably high levels of violence and violations of the ceasefire reported by the OSCE SMM on almost daily basis. Deadly violence along the so-called Contact Line reached another spike during May 2018. Increasingly, it is becoming clear that the Minsk Agreements are unlikely to be implemented without renewed commitments by the leaders of Ukraine and Russia, supported by a more determined international effort to make it happen. The urgent need to unlock the Minsk Agreements as the only internationally endorsed basis to resolve the Donbas conflict leads almost inevitably to the question of the UN's involvement. In fact, unlocking Minsk and involving the UN have become twin issues in the efforts to make progress.

However, Russian and Ukrainian positions on what kind of PKO is needed to unlock the Minsk agreements have remained far apart. President Petro Poroshenko endorsed the idea to involve the UN as long ago as February 2015. Unexpectedly, in September 2017 President Putin suggested that he was willing to support a limited UN PKO to protect the unarmed OSCE SMM in order to establish a more effective ceasefire along the so-called Contact Line. In this regard, a draft UN Security Council resolution was tabled in New York by the Russian delegation.⁴ The Russian initiative was quickly rejected by Ukraine suspecting a ploy to freeze the conflict indefinitely along the Contact Line. It also failed to garner support among the wider international community wary about the prospects of a credible PKO in Donbas and getting involved in a high risk environment. But these developments triggered a discussion on what kind of PKO would be needed to unlock the Minsk agreements and bring peace to Donbas while restoring Ukraine's authority and territorial integrity.⁵ For example, three key concerns were raised in the Hudson Institute report for any PKO to address:

³ Reportedly, President Putin suggested the possibility of a referendum to determine the future status of the conflict areas in the Donbas region of eastern Ukraine. However, organizing a so-called referendum instead of local elections, as called for in the Minsk agreements, would be unacceptable to Kyiv and did not gain support in Washington or European capitals.

⁴ Letter dated 5 September 2017 from the Permanent Representative of the Russian Federation, document S/2017/754

⁵ An overview of useful publications on the issue of UN involvement in eastern Ukraine/Donbas is presented in annex 3.

- **Ensuring a stable and secure environment** throughout the Donbas, including reassurances to Kyiv that Russia will desist from military interference;
- **Enabling local elections** in the region to unlock progress on the Minsk Agreements, which link these polls to the reassertion of Ukrainian sovereignty;
- **Supervising public order and the civilian dimensions of reintegration** in the wake of elections, maximizing the local population's trust in the process.⁶

A crucial issue raised in the Hudson Institute and other reports is whether a PKO needs to be mandated to cover from the outset the whole conflict area from a 450 Km long Contact Line to the international border between Ukraine and Russia in the conflict zone. This also raises challenging questions as to the Force composition and number of troops required, with estimates varying from at least 20.000 troops up to 40.000, and in addition a large police component, needed to ensure a stable and secure environment. These numbers for a full scale stabilization type PKO may be unrealistic and would put a heavy burden on UN Peacekeeping resources.⁷ Moreover, they may not even be enough in a high risk situation. Armed formations presently deployed along the Contact Line are reported to total up to 40.000 militants, including two Russian-led⁸ Army Corps. They are reported to be heavily armed with hundreds of tanks, armed combat vehicles, artillery systems and MLRS rockets. Vast areas in Donbas have been heavily mined, already seriously limiting the freedom of movement of the OSCE SMM.

Yet the mandate issue (limited or throughout Donbas) is of critical political importance. The Russian limited UN/PKO proposal could very well end up in freezing the conflict along the Contact Line. What happened in Cyprus (UNFICYP) serves as an example. Even if it is important to first strengthen the ceasefire, it makes little sense to limit the mandate to protecting the OSCE SMM along the Contact Line only, if the objective is to unlock the Minsk agreements as a whole. It should be noted also that the OSCE SMM mandate already covers the whole conflict area up to the border with Russia. In practice, however, the unarmed monitors' freedom of movement is severely restricted by the high risk environment and dependence on prior coordination/ permission to be obtained (and often refused).

It is noteworthy in this regard that Russian academics acknowledged that a UN peacekeeping operation must not lead to a freezing of the conflict but to its settlement: "Turning the Donets Basin into another Transnistria – only ten times bigger – will not solve the problem but shift it onto future generations."⁹ They suggest to deploy, as a first step, UN peacekeepers on both sides of the Line of Contact with a robust chapter VII mandate that would include means to stop attempts from spoilers to prevent it from fulfilling its mandate. The geographic coverage of the peacekeeping's mission could then be widened and synchronized with an international political and humanitarian presence

⁶ See Hudson Institute report, p 9.

⁷ Today some 120.000 troops are involved worldwide in UN PKOs with a yearly budget of roughly USD 8 billion. A UN PKO as envisaged in some reports risks to exhaust UN resources.

⁸ These is strong evidence suggesting these forces are under Russian command-and-control, with the number of Russian military personnel in Donbas reportedly varying from 2500-4000.

⁹ "Russian Academics Examine Prospects of UN Peacekeeping Mission in Ukraine's Donets Region." Article by Aleksey Arbatov, member of World Economy and International Relations Institute (IMEMO), as reported in *Rossiyskaya Gazeta Online*, 15 January, 2018.

mission, whose tasks would include assisting in the implementation of non-military aspects of the Minsk accords.¹⁰

This strongly suggests that only a properly **phased** and **sequenced** PKO can realistically be expected to address its complicated mandate to break the present stalemate and begin implementing the Minsk agreements in full. It should be based on a political strategy and understanding reached by all major parties concerned enabling the PKO to respond to the specific challenges it is meant to solve and to avoid falling into the trap of deploying peacekeepers to mitigate or freeze an ongoing conflict without a clear long-term strategy.¹¹

In this report modalities for a phased and sequenced UN PKO aimed at fully implementing the Minsk agenda will be further explored. In chapter two a brief overview of the Minsk agreements is offered while highlighting the need for a renewed understanding at the highest level between Ukraine and Russia for a more detailed, timed and sequenced roadmap for their implementation. In chapter Three some assumptions and basic considerations will be raised first as a basis for any UN PKO to be considered in Donbas. In Chapter Four a scenario is charted for deployment of a UN mandated PKO in Donbas: a so-called **Zero Phase**, setting out necessary prior conditions to be met before PKO deployment; **Phase One** – establishing hard security (non-resumption of hostilities); **Phase Two** – establishing broad security (Interim Civilian Administration); and **Phase Three** – consolidating the peace by ultimately implementing the Minsk Agreements through free and fair elections directly followed by reassertion of Ukraine's control over the international border with Russia. In the concluding chapter some observations will be offered as to the opportunities and risks in this scenario.

¹⁰ Another Russian academic, Andrey Kortunov, also suggests a dynamic, rather than static peacekeeping mission: "In other words, the mission should be perceived as a set of successive stages, with the objectives of each subsequent stage defined by the preceding stage's achievements. For example, it would be correct to expect the peacekeeping's mission deployment area to expand gradually (all the way to the border between Russia and Ukraine), its potential to grow over time and its functions to gradually transition from the initial objectives (ensuring cessation of hostilities) to more complex matters (including, for example, technical assistance with the organization of local elections)." See Andrey Kortunov, "Will Donbass live to see the UN Peacekeepers?" Russian International Affairs Council, December 2016.

¹¹ See also Hudson Institute Report, p 11

2. THE MINSK AGREEMENTS: THE NEED FOR A PHASED AND SEQUENCED APPROACH

Three documents signed at different times by representatives of the OSCE, Ukraine and Russia, as well as by two unspecified individuals (representing unrecognized authorities in non-government controlled areas) represent together what is usually referred to as the Minsk Agreements (for the full texts, see annex 2):

1. Protocol on the results of the Trilateral Contact Group with respect to the joint steps aimed at implementation of the Peace Plan of the President of Ukraine, P. Poroshenko, and the initiatives of the President of Russia, V. Putin (signed in Minsk on September 1, 2014)
2. Memorandum with respect to the performance of the provisions of the Protocol of the results of consultations of the Trilateral Contact Group with respect to the steps aimed at the implementation of the Peace Plan of the President of Ukraine, P. Poroshenko, and the President of Russia, V. Putin (signed in Minsk on 19 September, 2014)
3. Package of Measures for the implementation of the Minsk Agreements (signed on 15 February, 2015)

They are complemented by the Declaration by the President of the Russian Federation, the President of Ukraine, the President of the French Republic and the Chancellor of the Federal republic of Germany in support of the Package of Measures for the implementation of the Minsk Agreements of 12 February 2015 attached to UN Security Council resolution 2202 (2015)

The first Protocol signed on September 1, 2014, can be best described as a short-list of 12 steps to be taken by the parties to ensure a ceasefire monitored by the OSCE and begin a political process to restore Ukrainian authority in Donbas through extending decentralization of power (Law on Special Status), an amnesty and the holding of local elections. Importantly, the Protocol also called for “permanent monitoring on the Ukrainian-Russian state border and verification by the OSCE, together with the creation of a security area in the border regions of Ukraine and the Russian Federation” (para 4), as well as “remove unlawful military formations, military hardware, as well as militants and mercenaries from Ukraine” (para 10).

However, on the day of signing the first Protocol, heavy fighting in fact escalated again, leading to further loss of territory by Ukraine, including in the southern part of the Donetsk region, north of Alchevsk in the Luhansk region and in other areas. The Memorandum, signed on 19 September, 2014, again called for the common cessation of the use of all weapons and “the stopping of the units and formations of the sides at the line of their contact as of September 19, 2014” (para’s 1-2, since then the Line of Contact). Moreover, it called for “the prohibition on the use of all types of weapons and the conduct of offensive operations” (para3), while creating several buffer zones for the withdrawal of different types of heavy weapons from the Line of Contact (para4). The OSCE was expected to deploy in the areas of separation of weapons in order to monitor compliance (para 8). Noteworthy is the call for a no-fly zone to the width of not less than 30 km on both sides of the Line of Contact (except for UAVs used by OSCE) (para7). Building on para 10 of the first Protocol the OSCE was assigned the responsibility to monitor the removal of all foreign armed groups, military hardware, as well as militants and mercenaries from the territory of Ukraine (para 9).

These more detailed ceasefire understandings were never implemented by the sides and a low-level conflict along the Line of Contact (shelling, deadly sniper fire) continued, with the OSCE SMM reporting numerous

daily incidents, in particular in several grey zone areas. Another offensive against Ukrainian army positions early in 2015 resulted in the capture of Donetsk airport and other Ukrainian losses. It prompted intervention of the Normandy Four group and resulted in the signing on 15 February 2015, of the Package of Measures for the implementation of the Minsk Agreements (PM), subsequently endorsed in UNSC resolution 2202. Since then major escalation of the fighting continued, leading to further loss of territory by Ukraine, including the city of Debaltseve and large areas on the Svitlodarsk bulge. The PM remained largely unimplemented with periodic renewed escalations taking place, including in Maryinka in mid-2015, around Andriyivka in early 2017, and other numerous continued violations of the ceasefire understandings reported by the OSCE SMM on daily basis.

The PM builds on the earlier Protocol and Memorandum and consists of 13 paragraphs, which can be subdivided as follows:

- Para's 1-3 follow the Memorandum and call again for a comprehensive ceasefire based on the de facto Line of Contact established on September 19, 2014.
- Para's 4, 5, 9, 11 and 12 deal with different political issues: Special Law of Ukraine "On interim local self-government order in certain areas of the Donetsk and Luhansk regions" (4); a pardon and amnesty (5); reinstatement of full control of the state border by Ukraine starting on day one after local elections (9); constitutional reform in Ukraine providing for decentralization and permanent legislation on the special status of certain areas of the Donetsk and Luhansk regions (11). This para includes a footnote with suggested areas to be covered, including right to linguistic self-determination, cross-border cooperation with districts in Russian Federation and creation of people's police units; finally, preparation of local elections, to be held in accordance with relevant OSCE standards and monitored by OSCE/ODIHR (12).
- Para's 6-8 address several humanitarian and economic issues: release of all hostages and unlawfully detained persons (6); safe access, delivery, storage and distribution of humanitarian assistance (7); modalities for full resumption of socio-economic ties, including social transfers (pensions and other payments) and reinstating taxation within legal framework of Ukraine (8). This para also specifically mentions the need for Ukraine to reinstate control of its banking system in the conflict zone, possibly through an international mechanism.
- A stand-alone para 10 reaffirms the Protocol (para 10) and Memorandum (para 9): "Withdrawal of all foreign armed formations, military equipment, as well as mercenaries from the territory of Ukraine under monitoring of the OSCE. Disarmament of all illegal groups."
- Para 13 tasks the Trilateral Contact Group (TCC) to implement the relevant aspects of the Minsk agreements, including through establishments of working groups.

While a link is established between local elections and constitutional reform in Ukraine on the one hand and reinstatement of full Ukrainian control of the state border on the other (para's 9, 11), the PM gives little to no guidance how the complicated package of political measures is supposed to be carried out in conjunction with a comprehensive and stable ceasefire, withdrawal of all foreign forces, mercenaries and military equipment, as well as disarmament and amnesty. The TCC did establish working groups dealing with political, security, humanitarian and economic issues and painstaking work has resulted in some progress made on the ground, notably in humanitarian and economic issues, but overall the stalemate continued. This is hardly surprising

as the PM lacks a clear road map, including sequencing and timing of the measures to implement the largely unstructured Minsk agreements.

As for Ukraine's political commitments, the Special Status Law adopted on October 18, 2014, "About special procedure for local self-government in certain districts of Donetsk and Luhansk" goes a long way in providing for the local self-governance envisaged in the Minsk Agreements, including by offering broad amnesty, an extended status of the Russian language, opportunities for cross-border cooperation, and even establishment of local police militias. However, as the security situation on the ground remained precarious involving continued Ukrainian losses in life and territory, the Special Status Law became deeply controversial in Ukraine and Ukraine's parliament, the Verkhovna Rada, amended the Law by qualifying that it would only enter into force after local elections and withdrawal of all foreign armed forces and mercenaries from Ukrainian territory. Another Law on Amnesty, called "On prevention of prosecution and punishment of persons—participants of the events in the Donetsk and Luhansk regions," was passed offering amnesty for persons involved in the conflict, citing as exceptions terrorist acts, murder, rape and plunder. However, for similar reasons this law is on hold and not signed yet by the President of Ukraine and the Speaker of the Rada. In the meantime other nation-wide legal measures on decentralization were adopted, offering Ukraine's regions significantly broader powers to run their own affairs. This corresponds with para 11 of the Minsk agreements, calling for constitutional reform¹² and decentralization. In January 2018 another Law was passed "About features of state policy on ensuring the state sovereignty of Ukraine in temporarily occupied territories in Donetsk and Luhansk regions." The continued stalemate and, as perceived by Kyiv, Russia's absence of political will to abide by its commitments under the Minsk agreements, prompted Ukraine to adopt a Law ensuring its state sovereignty in the "temporarily occupied territories" and invoking the right of self-defence according to article 51 of the UN Charter. However, on numerous occasions the leadership of Ukraine has reaffirmed its continued commitment to implementation of the Minsk agreements. On 4 October 2018, the Verkhovna Rada extended the Special Status law until 31 December 2019.

All this strongly suggests that without a renewed understanding reached at the highest level between Ukraine and Russia about a more detailed, sequenced and timed roadmap to implement the Minsk agreements, any UN involvement in the resolution of this conflict would hardly be feasible. On the security side this means that the urgent, viable and sustainable ceasefire cannot be achieved without addressing as well the other security paragraphs dealing with proper monitoring of the international border and timely withdrawal of all foreign forces, mercenaries and military equipment. This would pave the way for concomitant implementation of the political agenda of Minsk and for Ukraine to adhere to its commitments.

Prior to discussing how the UN could be involved in the implementation of the Minsk agreements, properly sequenced and timed by an agreed roadmap, some basic assumptions and considerations will be offered in the next chapter.

¹² It should be noted that amending the constitution on decentralization related to the Minsk Agreements has proved to be very controversial and even led to violent clashes outside the Rada, in which four policemen were killed, on the day of passage of the Law on constitutional amendments in its first reading (31 August 2015).

3. INVOLVING THE UN: ASSUMPTIONS AND BASIC CONSIDERATIONS

A UN Peace Keeping Operation (PKO)

Any large scale PKO¹³ in the Donbas region would need a UN Security Council resolution mandate under Chapter VI or VII (partly?) to provide legitimacy and to satisfy Russia (veto power). Options: a UN led or UN mandated PKO (the latter requiring an implementing regional organization or framework nation). Ukraine's approval as host nation is required, as well as acceptance of the Mission by Russia. UN/PKO contacts with de-facto authorities on the ground, avoiding recognition, will also be required.

Complementarity and close cooperation with OSCE

Close cooperation with OSCE/SMM already on the ground is critical. As the main regional organization responsible for security and cooperation in Europe the OSCE should also be given the lead on implementation of civilian and humanitarian objectives of the Minsk Agreements, including preparation of elections. In order to ensure close coordination, the appointment of a double hatted SRSG, mandated to take overall lead of the Mission in all its political, civilian and military dimensions, should be seriously considered. The UN/OSCE mission should also seek to cooperate with other international and regional organizations able to make substantive contributions, notably: World Bank (economic reconstruction), and EU (humanitarian and economic assistance, police training and assistance).

Force Generation and Composition

Force generation will depend on the kind of PKO envisaged¹⁴, but also on a minimum permissive environment. Without prior significant improvement on the ground, in particular by parties' demonstrating their commitment to the ceasefire by at least substantive reductions in reported violations by OSCE SMM, it is considered unlikely that potential troop contributing countries would accept the high risk of having to enforce a ceasefire. Another issue would be the presence of foreign armed units and mercenaries in the area of operations. Without the prospect of timely and agreed implementation of relevant paragraphs in the Minsk agreements (Protocol para's 4 and 10, Memorandum para 9 and PM para 10), troop contributors may be reluctant to commit themselves. Therefore, a credible track record of intended compliance and manifest political will during a period of several months should be established in advance.

As for force composition, the principle of **impartiality** and acceptance by Moscow and Kyiv should be guiding the selection, as well as ability to contribute to required high quality military needs and equipment.

¹³ Most reports refer to a UN Peacekeeping operation (PKO) in Donbas. This may be somewhat misleading, as classic UN peacekeeping often amounts to interposition forces mitigating a conflict by monitoring ceasefire agreements. Fully implementing the Minsk Agreements implies a larger **Peace Support Operation (PSO)**, including DDR, amnesty, and deploying an Interim Civilian Administration (ICA). In this report PKO and PSO will be both used in the broad sense of UN involvement in fully implementing the Minsk agenda.

¹⁴ As already mentioned, troop numbers of 20.000-40.000 are considered unlikely and would risk to exhaust UN resources.

While it is generally assumed that non-NATO countries in Europe (Sweden, Finland, Austria), as well as some former Soviet bloc states would be invited to take part, a coherent and viable force may only be possible with involvement of some countries from existing military alliances. Adding liaison officers from the Normandy Four could also strengthen the effectiveness of the Force.

A strategic political understanding

As already observed, all parties concerned need to accept and understand that only a **phased** and **sequenced** PKO can realistically be expected to address its complicated mandate to unlock the Minsk agreements.

The above suggests an understanding reached between Ukraine and Russia, as well as at the international level between the West and Russia, on the full implementation of the Minsk Agreements **before** any UN PKO is deployed. After four years of conflict involving heavy human and material losses, it is hoped that the **mutually hurting stalemate** on the ground will bring all sides to the realization that a **political solution** is the only way forward. Such understandings between Ukraine and Russia, backed up by a, possibly expanded, Normandy Four format, should then be operationalized in one single UNSC resolution, setting the framework and authorizing a phased and sequenced PKO.

As for basic commitments to be reconfirmed by parties concerned, without the prospect of timely and agreed implementation of the paragraphs dealing with foreign withdrawal and monitoring of the international border (foremost a Russian obligation) it is considered unlikely that any PKO will be enabled to establish the minimum security conditions needed to implement the political agenda of the Minsk accords. Moreover, as we have seen, troop contributors may be wary to commit themselves without clear prospects when this key issue will be resolved.

The Russian Federation is one of the members of the Normandy Four that have been underwriting the Minsk Agreements. It never formally admitted its own role in the military formations, including command and control, presently deployed in the conflict zone. But there can be no doubt that Russia has taken a clear obligation upon itself to implement the relevant paragraphs in the Minsk agreements. As has also been suggested in other reports, Russia should seriously consider for its armed military personnel and heavy weapons to be quietly withdrawn behind its own border (“slip away”) in the early stages or even before deployment of a PKO.

As for Ukraine, it will have to demonstrate its commitment to the Minsk Agreements as well, notably by clarifying when and how key laws (the “Special Law” providing for local self-governance and the Law on Amnesty) will be implemented. For example, the process of DDR will be closely tied to implementing amnesty as well. Other early confidence building steps, including for example early resumption of banking services and pension payments to entitled citizens in the conflict areas, will be required in order to win back the hearts and minds of people in the Donbas region.

As for Western **sanctions** taken against Russia in connection with its involvement in eastern Ukraine, the EU has linked their lifting to full implementation of the Minsk accords. This suggests that only if Russia begins to implement its own principal obligations concerning foreign withdrawal and OSCE monitoring of the international border in the Minsk agreements (Protocol para's 4 and 10, Memorandum para 9, PM para 10), gradual **suspension** of sanctions could be considered. Sanctions against the Russian annexation of Crimea should not be affected (separate issue, unless otherwise decided).

Benchmarks, Zero Phase and Exit Strategy

A phased peace process always entails the risk of renewed stalemate, if spoilers manage to block the transition from one stage to another. In this case one party (Russia) wields veto power in the Security Council. It is strongly suggested that all sides should demonstrate their commitments to implementation of the Minsk agreements **prior** to actual deployment of a PKO in a so-called Zero Phase (to be elaborated in the next chapter). Moreover, clear performance based benchmarks should be established for each phase, defining the conditions to be met within a clear time schedule. An exit strategy defining the limits of the international community's engagement should also be formulated. This raises the question: who decides? A double-hatted SRSG should be given a major role in advising if benchmarks have been met and transition to the next phase is warranted. He or she should also liaise closely with the Normandy Four group, possibly expanded with the US and other key troop contributing countries. Political support extended by such a Normandy plus/Contact Group is crucial.

4. A SUGGESTED SCENARIO FOR A UN/OSCE PKO IN DONBAS

In this chapter it will be imagined how a UN/OSCE PKO, based on a phased and sequenced roadmap to unlock the Minsk agreements, could be established. Table one offers a schematic overview of the envisaged phases, as well as goals and key benchmarks to be achieved, and suggested time lines. The Minsk PM (February 2015, see chapter two, p. 9-11, and annex two, part 3), which builds on the earlier Protocol and Memorandum (September 2014), is used in this scenario to indicate how its 13 paragraphs could be properly phased and sequenced in order to fully implement the Minsk agreements.

A word of caution is warranted: some of the key issues, such as the legal aspects of carrying out an amnesty and what powers and responsibilities to accord to an Interim Civilian Administration (ICA), will need to be further studied. It is nevertheless hoped that the offered scenario may shed some fresh light on how the Minsk agenda could be finally implemented.

The Zero Phase Meeting essential preconditions

A number of key conditions will have to be met before any PKO can be realistically considered. No PKO will be able to support/monitor, let alone enforce, a comprehensive ceasefire in a high risk environment without the parties' demonstrated readiness to observe a calm for at least some time. This is why a zero phase is suggested, during which all sides should demonstrate their willingness to reduce violence along the Line of Contact to minimum acceptable levels, to be monitored by the OSCE SMM on the ground. The sides should also begin to implement step by step the withdrawals of heavy weapons behind the agreed separation lines, again to be monitored by OSCE SMM. Only after sufficient progress is made in testing the parties' readiness to observe a cessation of hostilities (calm), a process that could take 2-4 months, a PKO should be launched to back up and strengthen the ceasefire arrangements already in place on the ground (start phase one). The zero phase should also be used to already pre-deploy required forces and equipment in the host country Ukraine.

While a demonstrated ability by the sides to observe a calm for some time is the key benchmark during phase zero, there are also other important goals and benchmarks to be addressed even before a PKO is deployed. Both Ukraine's approval and Russia's acceptance are required, including cooperation by de-facto administrations on the ground. Russia should be committed to ensure compliance as necessary by relevant actors in non-government controlled areas. UN representatives should begin to establish informal contacts with relevant de-facto authorities on the ground (avoiding recognition) to prepare PKO deployment. Another issue that needs to be addressed already at this early stage is the withdrawal of foreign armed formations, military equipment and mercenaries from Ukrainian territory. Russia should at least begin the process with the aim to complete the withdrawal during phase one.

Table One

A Phased and Sequenced Scenario for UN/OSCE PKO in Donbas

| PKO Phases/ Minsk PM Sequencing P: preparatory phase C: continued F: fully implemented | Zero Phase Ceasefire P(PM 1-3) Special Law P(PM 4) Amnesty P(PM5) Release hostages F(PM 6) Humanitarian assistance C(PM 7) Socio-economic recovery P(PM 8) Foreign withdrawal P(PM 10) | Hard Security Ceasefire C Special Law C Amnesty C Humanitarian assistance C Socio- economic recovery C Foreign withdrawal F | Broad Security Ceasefire F Special Law C Amnesty F Humanitarian assistance C Socio-economic recovery C Elections/external border control by Ukraine P(PM 4, 9,11-12) | Elections, External Border Control and Peace consolidation Special Law F Humanitarian assistance F Socio-economic recovery F Elections/external border control by Ukraine F |
|---|--|---|--|---|
| Goals/Key Benchmarks | Calm established along Contact Line; Release of all hostages; Acceptance of UN/ OSCE PKO by all parties concerned, including compliance/cooperation by de-facto actors on ground; Early CBMs, including on Ukraine's legal commitments, socio- economic recovery and foreign withdrawal (Russia) | Ceasefire consolidation; PKO deployment in support of OSCE SMM throughout Donbas; Robust monitoring presence at external border; Security zones, including for early cantonment of heavy weapons and critical infrastructure; foreign withdrawal completed | DDR and amnesty; Deployment of ICA and international policing; Re-establishing Rule of Law and safe environment for local elections; Major returns of IDPs; full scale reconstruction underway | Free and fair elections, directly followed by Ukraine reasserting control over external border; Special local self-governance arrangements in effect; continued return IDPs and full scale reconstruction; both military and civilian components of PKO downsized and gradually phased out |
| Time Lines | 2-4 months | 4-6 months | 6-12 months | 1-3 years |
| Other Observations | On day one: adoption of UNSC framework resolution and appointment of double- hatted SRSG; UN PKO preparation and first pre-deployment | Ensuring a stable and secure environment for deploying ICA and maintaining law and order in the next stage | Preparatory stage for enabling local elections and fully implementing Minsk agreements | All Donbas related (remaining) sanctions against Russia lifted |

As for Ukraine, it should demonstrate its goodwill by clarifying the status of legal commitments to achieve the comprehensive political settlement envisaged in the Minsk agreements. The recent extension of the Special Status law by the Verkhovna Rada until 31 December 2019 is a welcome step. It remains important that before PKO deployment Ukraine reaffirms its commitments to the Minsk agreements, notably by a clear expression that the Special Status Law will be enacted as soon as this becomes possible, as well as a due process of pardoning any persons involved in the conflict and willing to give up their arms, except for those accused of having committed war crimes or other serious crimes. It should express its readiness to work closely together with an Interim Civilian Administration (ICA) as

part of the PKO to carry out the amnesty, an essential prerequisite for enabling a peacekeeping mission to also carry out disarmament.

Another essential role the government of Ukraine must play in reasserting its authority in Donbas and regain local acceptance is to offer the region a socio-economic future.¹⁵ There have been calls by some politicians in Ukraine for retribution and punishment of local authorities that have cooperated with separatist authorities. While this has never been the policy of the government, such feelings of resentment and revenge on both sides cannot be underestimated and should be addressed in a process of transitional justice. However, the government of Ukraine should send a strong signal that a major effort for early social-economic recovery and rebuilding of Donbas will be launched alongside deployment of UN peacekeepers. While Kyiv should take the lead in this effort, the UN, OSCE and EU, as well as the World Bank and EBRD, should work closely together in pooling civilian expertise and raising/directing funding into the Donbas. As a UN peacekeeping mission will play a major role in these efforts, this will also be critical for the mission to win the hearts and minds of the local population.

Last but not least, it is strongly advised that in the zero phase the parties agree a comprehensive release and exchange (“all for all”) of hostages and unlawfully detained persons (Protocol para 5, PM, para 6).

All this is unlikely to be achieved without a renewed determined effort of the international community to help the parties to begin implementing the Minsk Agreements. It has already been argued that a ***strategic understanding*** needs to emerge, which then should be formalized in a framework-setting UNSC resolution at day one of the suggested zero phase, calling for a phased and sequenced PKO in order to assist the parties in fully implementing the Minsk Agreements. It would be crucial for the Secretary Generals of UN and OSCE to appoint in consultation with each other one double hatted Special Representative (SRSG) who should be given broad powers to lead the mission, including in assessing and advising if key benchmarks have been met for the process to transition from one phase to the other. The SRSG should lead and reinvigorate already existing structures (TCC) for dialogue and consultation with parties involved and liaise closely with the already suggested Normandy Plus/Contact Group and of course the UNSC. A broad enabling mandate and political backup from UNSC/Normandy Plus will be crucial for the SRSG to carry out his/her mission. This could be complemented by a statement of invitation by the government of Ukraine confirming its understanding and acceptance of the SRSG’s authority and responsibilities.

Phase One Establishing Hard Security (non-resumption of hostilities)

Subject to OSCE/SMM confirming satisfactory ceasefire implementation and the SRSG’s overall assessment that a minimum permissive environment has been established, a UN PKO should be deployed with a mandate in the hard security phase to:

- strengthen the ceasefire by ensuring the security of the OSCE SMM exercising 24 hour monitoring in the buffer zones on both sides of the Line of Contact, from which forces and military equipment have been withdrawn (Protocol paras 2 and 4; Memorandum para 5; PM paras 1-3);

¹⁵ See also Hudson Report, p 32-33

- ensure free and unhindered access of OSCE SMM throughout certain areas in the Luhansk and Donetsk regions in the pursuit of all agreed activities to implement the Minsk agreements, notably humanitarian assistance (Protocol para 8; PM para 7), early socio-economic recovery (and return of IDPs) (Protocol para 11; PM para 8), and foreign withdrawal from the territory of Ukraine (Protocol para 10; Memorandum para 9; PM para 10).
- Ensure permissive security conditions for transiting to the next stage, including by beginning demining, protection/repair of critical infrastructure, and cantonment of heavy weapons (in preparation of DDR). Establishing special security zones may be required to enable these tasks, including around critical infrastructure facilities.

It is strongly suggested that for these tasks a robust, mobile, and intelligence driven peace support operation, using special or Quick Reaction Forces (QRF), will be needed rather than a “classical” UN peacekeeping operation. Given the high risk environment the Force should be given a robust mandate to protect itself and the OSCE monitors, including by self-extraction and Medevac capabilities. Freedom of movement throughout the mission area will be vital in order to carry out the mandate. In this regard, the Force should be equipped with robust information capabilities and include an air component (aircraft and helicopters). Extending the already existing no-fly zone (Memorandum, para 7) to the whole mission area would help to protect the Force and strengthen its capabilities to gather information and deploy throughout the mission area as required. It is suggested that the Force should establish its Headquarters in a declared and self-protected safe zone inside the mission area nearby a suitable airfield, from which initially all PKO missions will be deployed and return. From this established base the Force could then spread out like an inkblot by building a presence throughout the mission area up to the international border with Russia, including by establishing other safe zones as required, for instance for the cantonment of heavy weapons and to protect/repair critical infrastructure facilities.

It is estimated that such a phase one PKO would initially need a force between 1500-3000 with special forces as the core element supplemented by reconnaissance, intelligence and guard (infantry) units, as well as EOD, medical units, enablers and an air component. When the Force spreads out over the mission area and when additional tasks are added to its mandate in later stages, the Force may grow to larger numbers, possibly some 3000-6000 at the end of phase one.¹⁶ In order to forestall any break down of law and order, Formed Police Units (FPUs) are to deploy as soon as conditions permit.

It would be important at this stage to begin repairs of critical infrastructure and early economic recovery activities. One suggested measure would be for Ukraine to re-establish bank services at locations inside the safe zones to be established by the PKO. This would alleviate the plight of thousands of persons, notably pensioners, who at present are forced to make perilous crossings over the Line of Contact in order to receive their remittances.

Key benchmarks at this stage should be completion of the process of foreign withdrawal and early establishment of an efficient UN/OSCE 24 hour monitoring presence along the international border with

¹⁶ All force numbers mentioned are indicative and should be subjected to military advice once the mandate is defined. It is believed, however, that the suggested, gradual, deployment of a PKO involves significantly lower numbers than suggested in other studies. On the other hand, the core of such a force should be composed of Special Forces and high quality information and air capabilities will be needed.

Russia (Protocol paras 4 and 10; Memorandum para 9; MP para 10), first at major crossing points and then gradually expanded to cover all parts of the border throughout phase one. Such a presence would generally serve as a deterrence to foreign military actors/forces from re-entering Ukrainian territory and enable the mission to detect and report any violations that would have to be urgently addressed. Another important objective would be to begin cantonment of remaining heavy weapons in the conflict zone in preparation of DDR to be implemented in phase two. In response to foreign withdrawal expected to be completed during this phase and weapons cantonment, Ukraine should also begin to withdraw some of its military formations and heavy equipment from the Contact Line and agreed buffer zones. All this would pave the way for the SRSG to assess that minimum permissive conditions prevail for moving to the next phase.

Phase Two Establishing Broad Security (Interim Civilian Administration)

The main objective at this stage is to establish broad security conditions that would permit the organization of free and fair local elections, as well as re-establishing Ukraine's control over the international border, at the beginning of phase three. Successfully carrying out a process of DDR, in conjunction with amnesty, while maintaining law and order, will become a crucial benchmark in this phase. It is estimated that Force numbers may increase up to 10.000 and in addition a sizable international police mission (2000-3000?) would have to be launched to assist in maintaining law and order during the critical DDR period. In order to carry out these tasks an Interim Civilian Administration (ICA) would have to be established headed by the SRSG and an international staff, working closely together with Ukrainian authorities and local bodies. It is suggested that a Supervised or Shared Authority type of ICA will be required, granting the SRSG appropriate and clearly defined executive powers to carry out the mandate, including:

- DDR (note the scope: the number of militants serving in military and other security units in non-government controlled areas is estimated to total some 40.000!). After their disarmament and demobilization in exchange for amnesty (see below), reintegration into the society should become a crucial part of the process. After a vetting process ensuring they were no war criminals or linked to organized crime, a number of former militants could be retrained to (re-)enter local police bodies or the police militias, envisaged in the Special Law. Supervision of this process by the international police component of ICA will be very important, as well as using available OSCE and EU police training capabilities.¹⁷ Other retraining opportunities should be offered as well, in particular focussing on skills needed in major reconstruction work that should be underway by this time.
- In accordance with Ukrainian legislation, an amnesty (presidential pardon?) for all militants laying down their arms, except for those suspected of war crimes or other serious crimes. This also implies an internationally assisted investigation into possible war crimes committed by any side and their prosecution (by whom? A special court with a strong international element/support?). It should be noted that on 8 September 2015 Ukraine formally submitted a declaration of acceptance of the jurisdiction of the International Criminal Court (ICC) in the Donbas conflict.

¹⁷ The EU has already deployed a police reform assistance mission in Kyiv, which could play a key role in vetting/retraining of former militants.

- Re-establishing local bodies and district administrations (and temporarily heading them?), including dismantling illegitimate “DNR” and “LNR” structures as part of steps to restore the rule of law (transitional justice, appointment of judges, adjudication of property rights, etc.).
- Promoting and supervising accelerated return of IDPs, including by taking measures to ensure a safe environment.
- Promoting and supervising major reconstruction works in Donbas to be undertaken by Ukraine in close cooperation with the World Bank, EU and others.
- Preparation for free and fair elections, in accordance with Ukrainian legislation and the Special Law (PM, para 4) and with close engagement of the Central Elections Commission (CEC) and OSCE/ODIHR.

It is suggested that at least a period of 6-12 months will be needed, possibly longer, for implementing all the complicated tasks creating the broad security conditions for holding local elections and thereby fully unlocking the Minsk Agreements in the third phase. For example, freedom of expression and of establishment of political parties’ branches are important indicators for ensuring free and fair elections. It would be incumbent on the SRSG, in close cooperation with the government of Ukraine and other parties concerned, to advise if such conditions exist to transit to the final stage.

Phase Three Elections, reassertion of Ukraine’s authority and peace consolidation

Phase three commences with the holding of local elections in certain areas of the Luhansk and Donetsk regions, as envisaged in the Minsk protocol, para 9, and PM paras 4, 9, 11 and 12. They would be co-organized by OSCE and CEC and monitored by ODIHR (other monitor groups may be invited as well). Upon the SRSG’s assessment that the elections were conducted in free and fair conditions, in accordance with PM, para 9, they would be directly followed by reinstatement of full control of the state border by the government of Ukraine. By this time all arrangements of the ceasefire understanding should have been completed and become redundant, allowing the PKO to begin downsizing its own force strength.

All Donbas-related Western sanctions against Russia should have been lifted by this time. Ukrainian border authorities are expected to practice an open border regime, allowing for legitimate cross-border activities.

While local newly elected bodies begin to assume their responsibilities within agreed self-governance arrangements, the central government re-establishes its authority and control over the re-united Donbas region. The government of Ukraine will also take the lead in re-integration, reconstruction and other post-conflict/peace building activities, allowing the UN/OSCE PKO to downsize and gradually phase out the mission. The international agenda in Donbas will undergo a transformation from taking direct security and civilian responsibilities to supporting peace building activities, in particular by playing an important role in social and economic rehabilitation.

Experience elsewhere teaches that the challenges in the peace consolidation phase should not be underestimated, in particular when the outcome of elections becomes contested. It is therefore advisable not to downsize the mission too quickly and keep a limited force/police component in place, at least for the first 6-12 months after the elections. A time line of 1-3 years is suggested before it may be possible to end the mission.

5. CONCLUSION: COULD IT WORK?

The suggested phased and sequenced scenario to implement the Minsk Agreements would amount to a unique operation, in which the UN will have to work closely together with the OSCE and, as required, other international organizations, to meet the manifold challenges on the ground. Given the UN's mixed record in peacekeeping the question should be asked if the Organization is able to carry out successfully a multi-phased operation, involving significant resources and a robust, intelligence driven mobile Force to conduct the PKO. In this regard, instead of a UN led operation, the option of a UNSC mandated PKO, consisting of an operationally autonomous military force led by a framework-nation, may have clear advantages. It would pave the way for and complement an international civilian presence under the overall UN/OSCE leadership to implement the humanitarian, civilian, election and other tasks of the Minsk agenda. This option should therefore be seriously studied, as the overall operation may also involve significantly less troop numbers than suggested in other studies.

As the many political, security and other risks cannot be underestimated, it is crucial that the very conditions for a PKO will be tested first **before** deployment begins. This is why the **zero phase** has been suggested, a period in which intentions of the parties concerned to observe a ceasefire and begin implementing other key Minsk obligations must be demonstrated prior to the international community's undertaking to invest in a costly and risky peace support operation. No PKO should be considered without parties recommitting themselves by their actions to implementing the Minsk Accords. A strategic understanding at the international level should also emerge how a PKO could be best deployed with a clear and realistic mandate. The importance of all sides demonstrating their intentions in the zero phase is therefore underlined. A peace support operation subsequently deployed in a more permissive environment on the ground may have a better chance to succeed.

What happens in a phased and sequenced approach if the process stalemates or brakes down when benchmarks are not reached because of lack of implementation by one or more parties involved? The worst case scenario would be renewed outbreak of major hostilities, involving use of heavy weapons. In this case the UN (mandated) Force on the ground would have no other option than to self-extract itself with the aim to end the operation. Some over-the-horizon forces and (air) capabilities may be required to assist in such emergency conditions.

From a Ukrainian point of view, it may be feared that a stalemate could emerge already during phase one, if withdrawal of all foreign forces, military equipment and mercenaries is not or only partially completed. This would also cause major challenges to the UN (mandated) Force on the ground, having to co-exist with a Russian armed presence nearby. Here the importance of a strategic understanding and testing intentions already in a zero phase is stressed again, although this will not by itself guarantee compliance later on. In any case, the Force must be able to establish freedom of movement for itself and the OSCE monitors throughout the mission area up to the international border with Russia in order to carry out the assigned tasks, including to monitor compliance by Russia of its commitments under the Minsk agreements. The SRSG should play an important role in raising any issues at the political level and propose a way forward. If all efforts fail to overcome obstacles, the Ukrainian government as host nation could as a last resort withdraw its support for the PKO, thereby ending the mission. The probability of renewed hostilities in such a scenario would be high.

From the point of view of Russia and the militants, it may be feared that early foreign withdrawal and deployment of a UN (mandated) Force throughout the conflict zone would destabilize the situation and could lead to retributions and punishment from the Ukrainian side. Provided Ukraine demonstrates its commitments as suggested in the zero phase as well, it is believed that such fears would be unwarranted. Moreover, as the foreign presence is reduced and phased out, Ukraine is expected to reciprocate by beginning to withdraw military units and equipment from the Line of Contact/buffer zones as well.

As for the suggested time lines (see table one), they imply that a peace support operation from zero phase until elections at the beginning of phase three could last between 1-2 years. Another 1-3 years would be needed for the often underestimated process of peace consolidation. Of course these time lines are only indicative and it is quite possible that some phases may take significantly more time. The challenge would be to avoid stalemate and keep momentum towards implementing the Minsk Agreements in full within a reasonable time frame.

Finally, it is not clear at the time of writing if any of the preconditions mentioned can be fulfilled in the near future. Achieving Russian-Ukrainian understanding about the mission and minimum trust in each other's intentions, as well as agreeing in New York a clear and realistic mandate, will require much more grinding diplomatic work. But provided these conditions are fulfilled, there is no reason to doubt that a properly staged, sequenced and mandated UN PKO could handle the situation in the Donbas. The consequences of inaction in addressing a dangerous conflict that could threaten European security and peace may be dire.

ANNEX ONE

List of Team Members

Robert Serry (team leader and author of the report)

Senior diplomat and international crisis management expert from the Netherlands, having served both with NATO and the United Nations. First Netherlands ambassador to newly independent Ukraine (1992-1996). Recent mission: United Nations Special Coordinator to the Middle East Peace Process (2008-2015). He also briefly served as special advisor to the UN Secretary General during the 2014 (“Euromaidan”) crisis in Ukraine. Chairman (since 2017) of UPEACE Centre The Hague, representing in Europe the UN established University of Peace in Costa Rica.

Albert Gerard (Bert) Koenders

Senior politician with wide experience in international affairs and crisis management. Former Member of Parliament of the Dutch Labour Party. Minister of Foreign Affairs (2014-2017). Minister for Development Cooperation (2007-2010). Recent missions for the UN: Special Representative and Head of the Multinational Integrated Stabilization Mission in Mali (MINUSMA, 2013-2014), Special Representative and Head of the Operation in Cote d’Ivoire (UNOCI, 2011-2013).

Pieter Feith

Senior diplomat and international crisis management expert from the Netherlands, having served both with NATO and the EU. Recent mission: International Civilian Representative for Kosovo (2008-2012). Other missions: ACEH Monitoring Mission (AMM) in Indonesia (2005-2006); EU Expert Team for Iraq (2005). Since 2014: senior diplomatic advisor of the European Institute of Peace at Brussels.

Chris Parthesius

Former Military Officer of the Royal Netherlands Airforce and Commander of the Woensdrecht Airbase (2000-2005). Wide experience in Operations, Logistics, Personnel, Defense Reform and International Military Affairs. Missions abroad include: Military Advisor to the NATO Senior Civilian Representative in Skopje during the conflict (2001-2004) in FYROM/Macedonia.

ANNEX TWO

The Minsk Documents

1. Protocol on the results of consultations of the Trilateral Contact Group with respect to the joint steps aimed at the implementation of the Peace Plan of the President of Ukraine, P. Poroshenko, and the initiatives of the President of Russia, V. Putin

Upon consideration and discussion of the proposals put forward by the participants of the consultations in Minsk on September 1, 2014, the Trilateral Contact Group, consisting of the representatives of Ukraine, the Russian Federation and the Organization for Security and Co-operation in Europe [OSCE], reached an understanding with respect to the need to implement the following steps:

- 1.** Ensure the immediate bilateral cessation of the use of weapons.
- 2.** Ensure monitoring and verification by the OSCE of the regime of non-use of weapons.
- 3.** Implement decentralization of power, including by means of enacting the Law of Ukraine "With respect to the temporary status of local self-government in certain areas of the Donetsk and the Lugansk regions" (Law on Special Status).
- 4.** Ensure permanent monitoring on the Ukrainian-Russian state border and verification by the OSCE, together with the creation of a security area in the border regions of Ukraine and the Russian Federation.
- 5.** Immediately release all hostages and unlawfully detained persons.
- 6.** Enact a law prohibiting the prosecution and punishment of persons in connection with the events that took place in certain areas of the Donetsk and the Lugansk regions of Ukraine.
- 7.** Conduct an inclusive national dialogue.
- 8.** Adopt measures aimed at improving the humanitarian situation in Donbass.
- 9.** Ensure the holding of early local elections in accordance with the Law of Ukraine "With respect to the temporary status of local self-government in certain areas of the Donetsk and the Lugansk regions" (Law on Special Status).
- 10.** Remove unlawful military formations, military hardware, as well as militants and mercenaries from the territory of Ukraine.
- 11.** Adopt a program for the economic revival of Donbass and the recovery of economic activity in the region.
- 12.** Provide personal security guarantees for the participants of the consultations.

Participants of the Trilateral Contact Group:

Ambassador Heidi Talyavini (*signed*)

Second President of Ukraine, L.D. Kuchma (*signed*)

Ambassador of the Russian Federation in Ukraine, M.Y. Zurabov (*signed*)

A.V. Zakharchenko (*signed*)

I.V. Plotnitskiy (*signed*)

2. Memorandum with respect to the performance of the provisions of the Protocol of the results of consultations of the Trilateral Contact Group with respect to the steps aimed at the implementation of the Peace Plan of the President of Ukraine, P. Poroshenko and the initiatives of President of the President of Russia, V. Putin

In accordance with Paragraph 1 of the Protocol of the results of consultations of the Trilateral Contact Group with respect to the joint steps aimed at the implementation of the Peace Plan of the President of Ukraine, P. Poroshenko and the initiatives of the President of Russia, V. Putin ([executed in] the city of Minsk, Republic of Belarus, [on] September 5, 2014) the participants of the Trilateral Contact Group, consisting of the representatives of Ukraine, the Russian Federation and the Organization for Security and Cooperation in Europe [“OSCE”], and the representatives of the certain areas of the Donetsk and the Lugansk regions have reached an understanding with respect to the following measures, aimed at securing the agreement regarding the bilateral cessation of the use of weapons.

- 1.** The cessation of the use of weapons shall be considered to be common [for both parties].
- 2.** The stopping of the units and military formations of the sides at the line of their contact as of September 19, 2014.
- 3.** The prohibition on the use of all types of weapons and the conduct of offensive operations.
- 4.** Within twenty four hours from the moment of the adoption of this Memorandum—the withdrawal of the means of destruction of caliber above 100 mm to a distance of not less than 15 km away from the line of contact, on each side (with the exception of those noted below), including from settlements, which would make it possible to create an area of the cessation of use of weapons of not less than 30 km in width (security area). At the same time, withdraw artillery systems of calibre above 100 mm to the maximum distance of their firing range away from the line of contact, and, in particular:
 - 100 mm cannon MT-12—9 km; 120 mm mortars—8 km; 122 mm howitzer D-30 (2S1 Gvozdika)—16 km; 152 mm 2S5 Giatsint-S (2S3 Akatsiya, 2S19 Msta-S, 2A65 Msta-B)—33 km; MLRS 9K51 Grad—21 km; 9K57 Uragan—36 km; 9K58 Smerch—70 km; MLRS Tornado-G—40 km; MLRS Tornado-U—70 km; MLRS Tornado-S—120 km;
 - tactical missile systems—120 km.
- 5.** Under the monitoring of the OSCE, the prohibition on the placement of heavy weaponry and military hardware in the area limited by the settlements of Komsomolskoye, Kumachevo, Novoazovsk, Sakhanka.
- 6.** The prohibition on the placement of new landmine-explosive engineering barriers within the boundaries of the security area. The obligation to remove the previously placed landmine-explosive barriers within the security area.
- 7.** The prohibition, from the moment of the adoption of this Memorandum, of the flights of combat aircraft and foreign unmanned aerial vehicles (“UAV”), with the exception of the UAVs used by the monitoring (observer) mission of the OSCE, along the entire line of contact between the sides in the area of the cessation of the use of weapons, to the width of not less than 30 km.
- 8.** Within twenty-four hours from the moment of the adoption of this Memorandum, the deployment in the area of the cessation of the use of weapons of a monitoring (observer) mission of the OSCE, consisting of groups of observers of the Organization. The above-noted area should be divided into sectors, the number and the boundaries of which shall be agreed upon in the course of preparation for the work of the monitoring (observer) mission of the OSCE.
- 9.** The removal of all foreign armed groups, military hardware, as well as militants and mercenaries from the territory of Ukraine, to be monitored by the OSCE.

Participants of the Trilateral Contact Group:

Ambassador Heidi Talyavini (*signed*)

Second President of Ukraine, L.D. Kuchma (*signed*)

Ambassador of the Russian Federation in Ukraine, M.Y. Zurabov (*signed*)

A.V. Zakharchenko (*signed*)

I.V. Plotnitskiy (*signed*)

Minsk, September 19, 2014

3. Package of measures for the implementation of the Minsk Agreements

- 1.** Immediate and comprehensive ceasefire in certain areas of the Donetsk and Luhansk regions of Ukraine and its strict implementation as of 15 February 2015, 12am local time.
- 2.** Withdrawal of all heavy weapons by both sides by equal distances in order to create a security zone of at least 50 km wide from each other for the artillery systems of caliber of 100 and more, a security zone of 70 km wide for MLRS and 140 km wide for MLRS „Tornado-S“, Uragan, Smerch and Tactical Missile Systems (Tochka, Tochka U):
 - for the Ukrainian troops: from the de facto line of contact;
 - for the armed formations from certain areas of the Donetsk and Luhansk regions of Ukraine: from the line of contact according to the Minsk Memorandum of Sept. 19th, 2014;

The withdrawal of the heavy weapons as specified above is to start on day 2 of the ceasefire at the latest and be completed within 14 days.

The process shall be facilitated by the OSCE and supported by the Trilateral Contact Group.

- 3.** Ensure effective monitoring and verification of the ceasefire regime and the withdrawal of heavy weapons by the OSCE from day 1 of the withdrawal, using all technical equipment necessary, including satellites, drones, radar equipment, etc.
- 4.** Launch a dialogue, on day 1 of the withdrawal, on modalities of local elections in accordance with Ukrainian legislation and the Law of Ukraine “On interim local self-government order in certain areas of the Donetsk and Luhansk regions” as well as on the future regime of these areas based on this law.

Adopt promptly, by no later than 30 days after the date of signing of this document a Resolution of the Parliament of Ukraine specifying the area enjoying a special regime, under the Law of Ukraine “On interim self-government order in certain areas of the Donetsk and Luhansk regions”, based on the line of the Minsk Memorandum of September 19, 2014.

- 5.** Ensure pardon and amnesty by enacting the law prohibiting the prosecution and punishment of persons in connection with the events that took place in certain areas of the Donetsk and Luhansk regions of Ukraine.
- 6.** Ensure release and exchange of all hostages and unlawfully detained persons, based on the principle “all for all”. This process is to be finished on the day 5 after the withdrawal at the latest.
- 7.** Ensure safe access, delivery, storage, and distribution of humanitarian assistance to those in need, on the basis of an international mechanism.
- 8.** Definition of modalities of full resumption of socio-economic ties, including social transfers such as pension payments and other payments (incomes and revenues, timely payments of all utility bills, reinstating taxation within the legal framework of Ukraine).

To this end, Ukraine shall reinstate control of the segment of its banking system in the conflict-affected areas and possibly an international mechanism to facilitate such transfers shall be established.

- 9.** Reinstatement of full control of the state border by the government of Ukraine throughout the conflict area, starting on day 1 after the local elections and ending after the comprehensive political settlement (local elections in certain areas of the Donetsk and Luhansk regions on the basis of the Law of Ukraine and constitutional reform) to be finalized by the end of 2015, provided that paragraph 11 has been implemented in consultation with and upon agreement by representatives of certain areas of the Donetsk and Luhansk regions in the framework of the Trilateral Contact Group.
- 10.** Withdrawal of all foreign armed formations, military equipment, as well as mercenaries from the territory of Ukraine under monitoring of the OSCE. Disarmament of all illegal groups.

- 11.** Carrying out constitutional reform in Ukraine with a new constitution entering into force by the end of 2015 providing for decentralization as a key element (including a reference to the specificities of certain areas in the Donetsk and Luhansk regions, agreed with the representatives of these areas), as well as adopting permanent legislation on the special status of certain areas of the Donetsk and Luhansk regions in line with measures as set out in the footnote until the end of 2015.¹⁸
- 12.** Based on the Law of Ukraine “On interim local self-government order in certain areas of the Donetsk and Luhansk regions”, questions related to local elections will be discussed and agreed upon with representatives of certain areas of the Donetsk and Luhansk regions in the framework of the Trilateral Contact Group. Elections will be held in accordance with relevant OSCE standards and monitored by OSCE/ODIHR.
- 13.** Intensify the work of the Trilateral Contact Group including through the establishment of working groups on the implementation of relevant aspects of the Minsk agreements. They will reflect the composition of the Trilateral Contact Group.

Participants of the Trilateral Contact Group:

Ambassador Heidi Tagliavini

Second President of Ukraine, L. D. Kuchma

Ambassador of the Russian Federation

to Ukraine, M. Yu. Zurabov

A.W. Zakharchenko

I.W. Plotnitski

¹⁸ Such measures are, according to the Law on the special order for local self-government in certain areas of the Donetsk and Luhansk regions:

Exemption from punishment, prosecution and discrimination for persons involved in the events that have taken place in certain areas of the Donetsk and Luhansk regions;

Right to linguistic self-determination;

Participation of organs of local self-government in the appointment of heads of public prosecution offices and courts in certain areas of the Donetsk and Luhansk regions;

Possibility for central governmental authorities to initiate agreements with organs of local self-government regarding the economic, social and cultural development of certain areas of the Donetsk and Luhansk regions;

State supports the social and economic development of certain areas of the Donetsk and Luhansk regions;

Support by central government authorities of cross-border cooperation in certain areas of the Donetsk and Luhansk regions with districts of the Russian Federation;

Creation of the people's police units by decision of local councils for the maintenance of public order in certain areas of the Donetsk and Luhansk regions;

The powers of deputies of local councils and officials, elected at early elections, appointed by the Verkhovna Rada of Ukraine by this law, cannot be early terminated.

4. Declaration of the President of the Russian Federation, the President of Ukraine, the President of the French Republic and the Chancellor of the Federal Republic of Germany in support of the “Package of Measures for the Implementation of the Minsk Agreements”, adopted on 12 February 2015 in Minsk

The President of the Russian Federation, Vladimir Putin, the President of Ukraine, Petro Poroshenko, the President of the French Republic, François Hollande, and the Chancellor of the Federal Republic of Germany, Dr. Angela Merkel, reaffirm their full respect for the sovereignty and territorial integrity of Ukraine. They firmly believe that there is no alternative to an exclusively peaceful settlement. They are fully committed to undertake all possible individual and joint measures to this end.

Against this background, leaders endorse the Package of Measures for the Implementation of the Minsk Agreements adopted and signed on February 12, 2015 by all signatories who also signed Minsk Protocol of September 5, 2014 and Minsk Memorandum of September 19, 2014. Leaders will contribute to this process and will use their influence on relevant parties to facilitate the implementation of that Package of Measures.

Germany and France will provide technical expertise for the restoration of the segment of the banking system in the conflict affected areas, possibly through the establishment of an international mechanism to facilitate social transfers.

Leaders share the conviction that improved cooperation between the EU, Ukraine and Russia will be conducive to the crisis settlement. To this end, they endorse the continuation of trilateral talks between the EU, Ukraine and Russia on energy issues in order to achieve follow-up stages to the gas winter package.

They also support trilateral talks between the EU, Ukraine and Russia in order to achieve practical solutions to concerns raised by Russia with regards to the implementation of the Deep and Comprehensive Free Trade Agreement between Ukraine and the EU.

Leaders remain committed to the vision of a joint humanitarian and economic space from the Atlantic to the Pacific based upon full respect for international law and the OSCE principles.

Leaders will remain committed to the implementation of the Minsk Agreements. To this end, they agree to establish an oversight mechanism in the Normandy format which will convene at regular intervals, in principle on the level of senior officials from the foreign ministries.

ANNEX THREE

Recommended Literature

“Can the United Nations Unite Ukraine?” Report by the Hudson Institute, Washington, February 2018 (Richard Gowan)

“Conflict settlement Practices around the World. Lessons for Ukraine.” Report by the Institute of World Policy, Kyiv, 2016

“Getting Beyond Minsk. Toward a Resolution of the Conflict in Ukraine.” Transatlantic Academy Paper Series, May 2017 (Michael Kimmage)

“How to Bring Peace to the Donbas? (Yes, It’s Possible).” Report by the Atlantic Council, Washington, January 2018 (Alexander Vershbow)

“International Interim Administration as a Model for Conflict Resolution in Donbas.” Report by the International Centre for Policy Studies, Kyiv, 2017 (Vasyl Filipchuk)

“Peacekeeping in Ukraine’s Donbas: Opportunities and Risks.” Report by International Crisis Group, Brussels, March, 2018

“Russian Academics Examine Prospects of UN Peacekeeping Mission in Ukraine’s Donets Basin.” English translation in Rossiyskaya Gazeta Online, 15 January 2018 (Aleksey Arbatov)

“UN Peacekeeping in Donbas? The Stakes of the Russia-Ukraine Conflict.” Report by European Council on Foreign Affairs, Brussels, June, 2018 (Andreas Umland)

“Will Donbas Live to See the UN?” Report by Russian International Affairs Council, Moscow, December, 2017 (Andrey Kortunov)

ANNEX FOUR

Map of the Minsk Line of Contact



The map is based on the information provided by Ukraine Crisis Media Centre

