RECENT DEVELOPMENTS

SUCCESSOR STATES-PROPERTY RIGHTS-RUSSIA AND UKRAINE AGREE TO SHARE CONTROL OF THE FORMER SOVIET UNION'S BLACK SEA FLEET

I. FACTS

On December 8, 1991, Russia, Byelorussia, and Ukraine formed the Commonwealth of Independent States and declared the termination of the Soviet Union as a legal and political entity. The creation of the Commonwealth marked the culmination of two years of internal turmoil in the Soviet Union, and by December 21, 1991, eight more republics had joined the CIS. The Soviet Union formally ceased to exist. 


2 In April of 1991, retail prices on many goods and services in the USSR rose as much as fivefold because of Soviet President Gorbachev’s scheduled relaxation of state controls on the Soviet economy. Dorff, supra note 1. Political discontent prompted several republics to declare independence from the Soviet Union. For example, on March 11, 1990, the Lithuanian parliament declared independence; on August 19, 1991, the Estonian parliament declared independence; and on August 21, 1991, the Latvian parliament declared independence. Soviet Union Disbands, Replaced by Commonwealth; Gorbachev Resigns, Ending Historic Era, WORLD NEWS DIG., Dec. 31, 1991, at A1. On August 19, 1991 a group of right-wing Soviets, denouncing Gorbachev’s proposed Union Treaty, seized power one day before Russia, Kazakhstan and Uzbekistan were due to sign the Treaty. By August 21, 1991, the Coup collapsed, destroying the conservative, unionist caucus at the center of Soviet politics. Id. Thus, the foundation was laid for the demise of the Soviet Union.

3 Azerbaijan, Kazakhstan, Uzbekistan, Armenia, Kyrgyzstan, Tajikistan, Moldova, and Turkmenistan are the other eight members of the CIS. CIS Agreement, supra note 1, at 147.
exist when Soviet president Mikhail Gorbachev resigned on December 25, 1991.4

The new Commonwealth is not a successor state to the former Soviet Union but a confederation of independent republics.5 Although the Commonwealth members have reached numerous agreements concerning their alliance, they failed to reach an agreement on unified control of conventional armed forces and permitted each republic to maintain their own forces.6 Consequently, Russia and Ukraine began

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4 Gorbachev's critics discredited Gorbachev and his liberalizing reforms by blaming the reforms for the Soviet Union's political and economic problems. For more information on Gorbachev's resignation, see Robert G. Kaiser, *Gorbachev: Triumph and Failure*, 70 FOR. AFF. 161 (1991).

5 The Commonwealth is not a successor state to the Soviet Union because it is not a state since it does not have a government, parliament, constitution, central bank, or any enforcement mechanism to implement its decisions. Dimitri K. Simes, *America and the Post-Soviet Republics*, 71 FOR. AFF. 73, 74 (1992). In order to qualify as a state, an entity must have: (1) a permanent population; (2) a defined territory; (3) a government; and (4) a capacity to enter into relations with other states. Montevideo Convention on the Rights and Duties of States, Nov. 2, 1933, art. 1, 49 Stat. 3097, 3099, 165 L.N.T.S. 19, 21. Furthermore, the CIS Agreement designated neither the Commonwealth nor any one of the eleven CIS republics as the sole successor state to the Soviet Union. *CIS Agreement, supra* note 1. Since relations between the republics were to be developed on the basis of equality, presumably all eleven republics share the status of successor states to the Soviet Union. The world, however, has recognized Russia as the unofficial, sole successor state, since Russia has the most people, industry, and military assets of all the republics, John T. Correll, *Russia and the Eleven Dwarfs*, 33 AIR FORCE MAG. 2, 3 (1992), and because Russia succeeded to the former Soviet seat on the U.N. Security Council. *Decision by the Council of Heads of State of the Commonwealth of Independent States*, Dec. 21, 1991, reprinted in Annex V, U.N. SCOR, 47th Sess. at 8, U.N. Doc. A/47/60 (1991), reprinted in 31 I.L.M. 151 [hereinafter *Decision by Heads of State Council*]. Ukraine, however, has the potential to challenge Russia's position as the de facto successor to the Soviet Union. Ukraine is Europe's second largest state in terms of territory and possesses Europe's second largest armed forces. Ukraine is also a major agricultural and industrial center in the CIS. Adrian Karatnycky, *The Ukrainian Factor*, 71 FOR. AFF. 90 (1992).

6 CIS members agreed that Russia, Ukraine, and Belarus (formerly Byelorussia) would retain their memberships in the United Nations, with Russia assuming the Soviet seat on the U.N. Security Council. *Decision by Heads of State Council, supra* note 5. CIS members also agreed to honor the Soviet Union's arms control commitments and debt and treaty obligations. *CIS Agreement, supra* note 1, at 143. CIS members agreed to unified control over strategic forces and after failing to agree on unified command of conventional forces, decided to permit each republic to maintain conventional armed forces. *Agreement on Joint Measures with Respect to Nuclear Weapons*, Dec. 21, 1991, reprinted in Annex VI, U.N. SCOR, 47th Sess. at 9, U.N. Doc. A/47/60 (1991), reprinted in 31 I.L.M. 152. Ukraine strongly opposed unified control of conventional armed forces, since it wanted its own military force to support its quest for independence as a sovereign state.
to develop their own navies, and tensions soon developed between them over who would assume command of the former Soviet Black Sea Fleet stationed on the Crimean peninsula in Ukraine. On August 3, 1992, Russia and Ukraine agreed to a transitional period of joint control of the Fleet until 1995. While this Agreement may have eased Russian-Ukrainian tensions over Fleet control, it generates further problems by postponing the determination of the true successor state to the Soviet Union and by undermining the stability of the CIS in the interim.

The Black Sea warm water port is a strategic entry point to Europe. Russian geopolitical influence in the Mediterranean, Middle East, and the African Horn would be diminished without control of this naval branch. Bohdan S. Kordan, The Tussle between Ukraine and Russia over the Black Sea Fleet is Just the Beginning, Toronto Star, Jan. 14, 1992, at A13. The Fleet itself has over 300 vessels, including 28 submarines, 46 major surface ships, and 150 combat aircraft. Peter Adams, Disputes over Military Threaten to Split Commonwealth, DEF. NEWS, Feb. 10, 1992, at A28. Ukraine claims control of the Fleet under the CIS Agreement because the Fleet is not a strategic force subject to unified control since it does not carry nuclear weapons. Id. Ukraine also claims ownership because the Fleet is located on its territory and the Fleet's shipyards account for 40 percent of all shipbuilding in the former Soviet Union. Peter Adams, Ukraine Strides Uneasily on Road to Self Sufficiency, DEF. NEWS, Feb. 17, 1992, at A34. Russia defines “strategic” more broadly and claims control because the Fleet is strategic since it counters U.S. influence on the Mediterranean. Id.

The fight over the Fleet also involves the question of who controls Crimea since the Fleet is based on the Crimean Peninsula. In 1954, former Soviet President Khrushchev gave the Crimean peninsula (a part of Russia) to Ukraine to celebrate the 300th anniversary of the union between Ukraine and Russia. At that point in time, the shift in jurisdiction was insignificant because of the centralized Kremlin rule. Malcolm Gray, A Crimean Crisis, MACLEAN'S, May 25, 1992, at B20. In an attempt to re-gain control of Crimea and the Black Fleet, the Russian parliament recently proclaimed the 1954 transfer invalid since it was never recorded. Ukraine maintains it is the legitimate owner of the Fleet, as the 1954 transfer was valid. Rutskoi Claims Crimea for Mother Russia, WASH. TIMES, Aug. 8, 1992, at A2.

Under this Agreement, the Fleet is taken out of the CIS joint armed forces and is placed under the direct jurisdiction of the presidents of the Russian Federation and Ukraine. Each Republic will recruit by conscription in equal measure, 50 percent and 50 percent respectively. The servicemen called to serve during the transitional period shall swear allegiance to the state of which they hold citizenship. By 1995, Russia and Ukraine intend to develop a Russian Federation navy and naval forces of Ukraine from the Black Sea Fleet basis. Text of Russian Ukrainian Agreement on Black Sea Fleet, BBC, Summary of World Broadcasts, Aug. 8, 1992, at SU/1454/C1/a, available in LEXIS, Nexis Library, BBC file [hereinafter Black Sea Fleet Agreement].

Although Russia has been recognized as the sole successor to the Soviet Union, see supra note 5, the ultimate controller of the Black Sea Fleet will have an opportunity to exert a great deal of influence in the Mediterranean. If Ukraine gains control of the Fleet, Russia will have no warm water port in the Mediterranean and
II. LEGAL BACKGROUND

The emergence of successor states and their rights to the predecessor state’s property is a recurring controversy in the current international arena. A succession of states is defined as “the replacement of one State by another in the responsibility for the international relations of territory.” Under international law, the predecessor state’s ca-

will lose its influence there. Consequently, Ukraine, not Russia could emerge as an international player and replace Russia as the unofficial successor to the Soviet Union. Kordan, supra note 7.

10 The Agreement undermines CIS stability because other republics were excluded from Russia and Ukraine’s decision to jointly control the Fleet, which all the republics helped to develop and maintain. According to one CIS agreement, all the member republics, acting through the Council of Heads of State, were to collectively determine policy on matters of common interest. CIS Coordinating Bodies Agreement, supra note 1.

11 For example, the reunification of Germany has posed problems for the new German government concerning obligations to return private property to citizens that was confiscated by the former East German Government. For more information regarding the German Unification, see Dorothy Ames Jeffress, Resolving Rival Claims on East German Property Upon German Unification, 101 YALE L.J. 527 (1991). The formation of the CIS leaves uncertainty as to which republic, if any, is the successor state to the Soviet Union and the legitimate commander of the Black Sea Fleet.

12 Vienna Convention on Succession of States in Respect of State Property, Archives and Debts, Apr. 7, 1983, U.N. Doc. A/CONF.117/14 (1983), reprinted in 22 I.L.M. 306, 308 [hereinafter Vienna Convention]. The predecessor state is the one that ceases to exist, and the successor state is the one that replaces it. Id. An example of state succession is the 1963 dissolution of the Federation of Rhodesia and Nyasaland (the predecessor state) into the successor states of Zimbabwe, Zambia, and Malawi (these three were treated equally after the dissolution; none was recognized as the sole successor state). For more information on the dissolution of the Federation of Rhodesia and Nyasaland, see Sir Roland Welensky, 4000 Days, (1964).

A total succession of state occurs when the legal identity of the predecessor state is completely destroyed by the successor state. D.P. O’Connell, LAW OF STATE SUCCESSION 3 (1956). Because Russia, Ukraine, and Belarus announced the demise of the Soviet Union’s legal identity and formed a new, democratic confederation of republics, a total succession of states most likely occurred with the creation of the CIS (although the member republics, not the Commonwealth, are the successor states to the Soviet Union).

International law distinguishes between the succession of states (which may create a discontinuity in statehood) and the succession of governments (which leaves statehood unaffected). When a state ceases to exist, its rights and duties are terminated. These rights and duties are not affected by a change in government. An example of this distinction is the USSR after the 1917 October Revolution. Although the new regime insisted that it was both a new state and a new government, other states perceived it only as a new government and expected the new regime to honor the obligations of the preceding one. James Crawford, The Creation of States in International Law 405 (1979).
pacities, property rights, and duties terminate with its statehood, and
the successor state gains the right to the predecessor's property.13

A successor state's acquisition of its predecessor's property depends
upon international recognition of its status as the legitimate suc-
cessor.14 A successor state may meet the de jure requirements for
statehood15 but be reduced de facto to a non-state if the international
world does not accept it as a legitimate successor to the preceding
state.16 Consequently, several states may compete to gain recognition

13 When the successor state is a newly independent state, movable and immovable
State property of the predecessor State connected with the activity of the predecessor
State in respect of the territory to which the succession of States relates shall pass
to the successor State. Vienna Conference, supra note 12, at 312. A newly independent
state means a successor state, the territory of which, immediately before the date
of the succession of states, was a dependent territory for the international relations
of which the predecessor State was responsible. Id. The property that the successor
receives, however, is public property. Public property is defined by three criteria:
(1) the public character it possesses by reason of its being governed by public law;
(2) the fact that it is not owned by a private person; and (3) the fact that it is for
the use of all the population. D. P. O'CONNELL, SUCCESSION OF STATES 144 (1970).
The dissolution of the Federation of Rhodesia and Nyasaland is an example of
successor States' appropriation of public property. The three newly independent
states of Zimbabwe, Zambia and Malawi agreed to equally divide the armed forces
among them and to jointly manage the former Federation's railway. For more
information, see WELENSKY, supra note 12.

14 A successor state will be recognized by the international community when it
has met the requirements of statehood (see supra text accompanying note 5) and
has lawfully succeeded the predecessor state. Third states (states other than the
successor and predecessor) are required by international law not to recognize successor
states who have unlawfully succeeded. Unlawful succession usually involves the
attainment by an entity of the characteristics of statehood or the acquisition of
12, art. 3 at 308.

The country in which the public property of the predecessor is situated is not
obliged to acknowledge the pretensions of the successor unless it has recognized the
latter as the de jure sovereign. For example, the Emperor of Ethiopia was denied
the right to recover money owed to his country by a British defendant because Great
Britain recognized Italy (who had annexed Ethiopia) as the de jure successor and
the owner of the right to recover. Haile Selassie v. Cables and Wireless Limited,
reprinted in O'CONNELL, supra note 12, at 234.

15 See supra note 5.

16 An example of the power of international non-recognition involves China and
Taiwan. After the 1949 Communist Revolution in China, the international community
(excluding the United States until January 1979) recognized the People's Republic
of China as the successor to the Kuomintang Government (in exile in Taiwan),
although the Kuomintang Government still claimed it was the legitimate government
of China. The international recognition of the People's Republic (exemplified by its
admission to the United Nations in 1971) legitimized its takeover of China, while
the non-recognition of the Kuomintang Government caused the regime to fade from
as the legitimate successor, particularly when a federation of states is dissolved. The dissolution of the Soviet Union and the failure of the CIS members to designate a successor state present a situation ripe for a successor state struggle.

Ironically, the republics responsible for the dissolution of the Soviet Union, Russia, Ukraine, and Byelorussia, also were responsible for its creation in 1922. Under the Soviet Constitution, the Union, a federation of the republics, possessed plenary powers leaving the republics virtually powerless and dependent upon the federation for their continued existence. By the late 1980s, communism had proved to be an unworkable system for the Soviet Union, and poor economic conditions and national unrest prompted its dissolution. Russia, Ukraine, and Byelorussia again met to create a new federation, the Commonwealth of Independent States. The CIS was officially formed

the international arena. For an in depth analysis of Taiwan's international status, see Leonard B. Boudin, The Effects of Derecognition and Government Succession upon Locus Standi and Property Rights: The Kokario Case, 13 Hastings Int'l & Comp. L. Rev. 205 (1990).


The Soviet Constitution states that "the sovereignty of the member Republics is limited only in matters indicated in the present constitution, as coming within the competence of the Union. Outside of those limits, each member Republic exerts its public powers independently." Id. at 54. The extensive powers reserved to the Union, however, include: conducting international relations; organizing and directing the armed forces of the Union; directing transportation and postal and telegraphic services; and establishing a unitary monetary system. Id. at 53. The Republics thus had little power independent from the federation. The Republics did have some international participation, since Ukraine and Byelorussia, along with the Soviet Union, were founding members of the United Nations, although they were not permitted to conduct international relations independently of the Soviet Union. Indeed, one author suggests that Ukrainian and Byelorussian membership in the United Nations depended more upon their participation in World War II rather than their status as independent, sovereign states. See Crawford, supra note 12, at 133. For more information on the charter members of the United Nations, see Robert E. Riggs and Jack C. Plano, The United Nations, International Organization and World Politics (1988).

The Soviet Constitution also states that "the territory of the member republics cannot be modified without their consent." U.S.S.R. Const., supra note 17, art. 4 at 54. In 1954, however, Khrushchev gave Crimea, a part of the Russian republic, to Ukraine, over Russian objections. Russia has recently questioned the constitutionality of the Crimean transfer. Rutskoi Claims Crimea for Mother Russia, supra note 7. Consequently, the Union appears to have had extensive powers despite the language of the Constitution.

See supra note 2.

Article 5 of the CIS Agreement states that "the High Contracting Parties
when eight other republics joined on December 21, 1991.\textsuperscript{21} Officially, no republic has been designated as the sole successor state to the Soviet Union and hence the legitimate owner of the former Soviet Union's Black Sea Fleet.\textsuperscript{22} Russia and Ukraine are currently embroiled in a struggle to be recognized as the sole successor state to the Soviet Union and to gain control of the Black Sea Fleet.\textsuperscript{23}

III. ANALYSIS

The Russian and Ukrainian Agreement to share control of the Black Sea Fleet\textsuperscript{24} circumvents the problem of ascertaining which republic is entitled to Fleet ownership as the sole successor to the Soviet Union, thereby postponing the emergence of a true, sole successor state to the Soviet Union until 1995.\textsuperscript{25} This Agreement is significant because it threatens the stability of the CIS and the international order.\textsuperscript{26}

With the dissolution of the Soviet Union, the CIS republics qualify as newly independent successor states under the terms of the Vienna
Convention. As newly independent successor states, they each are entitled to ownership of the predecessor's movable public property located in their territory. Under international law, the Black Sea Fleet satisfies the three requirements of state property to be inherited by the successor states. In previous circumstances where no sole successor state was designated, the several successors have shared the predecessor's public property equally. Russia and Ukraine, however, have excluded the other successor states from controlling the Fleet in the hopes that one of the two will emerge as the sole successor to the Soviet Union.

Russia has asserted claims to the Fleet on the basis of its position as the de facto sole successor state to the Soviet Union. Because the Fleet is stationed on Ukrainian territory, Ukraine maintains that it legitimately owns the Fleet, citing the CIS agreement of December 21, 1991 and the Act of Proclamation of Ukrainian Independence.

27 As members of the USSR, the republics were dependent upon the Soviet Union for all international relations. See supra text accompanying notes 13 and 18.
28 See supra text accompanying note 13.
29 The Fleet is public property because it is governed by public law, not owned by a private person, and utilized for the benefit of all the population. See supra note 13.

The Fleet, however, involves more than a simple question of property to be claimed by the successor state. The Fleet is stationed on the Crimean Peninsula in the Ukraine. Khrushchev's gift of Crimea to Ukraine was insignificant in 1954 because Crimea was still controlled by the Soviet Union. With the demise of the Soviet Union and the creation of independent, sovereign states, Crimea is now controlled by the Ukraine. The Russian Republic wants Crimea returned to its control and recently declared Khrushchev's act giving Crimea to Ukraine as unconstitutional and void, because it is unrecorded. The Crimeans, composed of ethnic minorities, long for independence from Ukraine. Crimea recently declared its independence in May 1992, but later rescinded the proclamation after protests from Ukrainian nationalists. The Ukraine has subsequently given Crimea latitude to set its own foreign economic relations and social and cultural policies to forestall a fight over Crimean independence. Crimea Suspends Plans for Independence Referendum, Reuter Libr. Rep., July 9, 1992, available in LEXIS, Nexis library, LBYRPT file.
30 An example is Rhodesia and Nyasaland. See supra note 13. This public property was dispersed throughout the territories of all of the successors, and not located in just one successor state, as the Fleet is located only within Ukrainian territory.
31 Other CIS members were angry that Russia and Ukraine did not follow the established CIS procedures for decision making in reaching the Black Sea Fleet agreement. See infra note 40.
33 The Act of Proclamation of Ukrainian Independence declares everything on Ukraine territory to be the property of its people. Ukrainian Republican Party Opposed to Black Sea Fleet Agreement, BBC, Summary of World Broadcasts, Aug.
Ukraine appears to have a stronger claim because the Fleet is stationed on Ukrainian territory. Additionally, Ukraine does not have to honor Russian claims to predecessor property in Ukrainian territory since Ukraine has not recognized Russia as the de jure successor state to the Soviet Union.\(^\text{34}\) Russia's claims to Fleet ownership would be strengthened greatly, however, if it is determined that the Fleet actually is on Russian territory because Kruschev's 1954 transfer of Crimea from Russia to Ukraine is void.\(^\text{35}\) The Black Sea Fleet Agreement to jointly control the Fleet avoids the difficulty of determining which republic has the more legitimate claim to sole ownership, but it does not resolve the underlying question of which republic will emerge as the sole successor state.

At the present, it appears that Ukraine may prevail as the successor state. After 1995, Russia can no longer use the joint control of the Fleet as a justification for Russian access to the Crimean port because Russia will have its own navy stationed at its own ports.\(^\text{36}\) Absent this justification, it is unlikely that Ukraine will continue to permit Russia to use this port, since Ukraine, a strong proponent of sovereignty, vehemently has objected to any invasion of its territory by the other republics.\(^\text{37}\) If Ukraine successfully excludes Russia from the port, Russian influence in the Mediterranean will decrease as Ukrainian influence rises.\(^\text{38}\) As a result, Russia's importance as an international figure may decrease, leaving Ukraine to gain world recognition as the successor to the Soviet Union.\(^\text{39}\)

8, 1992, at Su/1454/C1/1, available in LEXIS, World Library, BBC subfile (summarizing Ukrainian Television Broadcast, Aug. 4, 1992). Ukraine maintains that Russian control over a Fleet based in Ukrainian territory would be an impermissible violation of Ukrainian sovereignty. \(\text{Id.}\) The December 21, 1991 Agreement stated that CIS members would "recognize and respect each other's territorial integrity and the inviolability of existing borders." \(\text{CIS Agreement, supra note 1.}\)

\(^{34}\) Under the CIS Agreements, all the republics are to be treated equally and no sole successor is named. \(\text{See CIS Agreement, supra note 1; see also supra text accompanying notes 14-16.}\)

\(^{35}\) \(\text{See supra note 7.}\)

\(^{36}\) \(\text{See supra note 8.}\)

\(^{37}\) Ukraine has proclaimed its independence as a sovereign republic. \(\text{See supra note 33.}\) Ukraine also took steps to further its sovereignty by pursuing a policy aimed at keeping the Commonwealth a weak confederation by opposing attempts to create permanent CIS coordinating structures and blocking efforts to build a central CIS bureaucracy. \(\text{See Karatnycky, supra note 5, at 91.}\)

\(^{38}\) The Mediterranean is a key area for a republic to exercise its geopolitical influence. \(\text{See supra note 7.}\)

\(^{39}\) \(\text{Id.}\)
In addition to delaying the determination of the successor state, the Black Sea Fleet Agreement threatens CIS stability. Russia and Ukraine violated the CIS Agreement with the Black Sea Fleet Agreement because they did not consult the other CIS members in reaching their decision to jointly control the Fleet. Consequently, they have antagonized the other CIS republics by acting outside of proscribed CIS methods and by denying the republics part of the Fleet to use to develop their respective navies. Furthermore, if Ukraine rises in international stature and replaces Russia as the accepted successor state to the Soviet Union, the other CIS republics may no longer view the CIS arrangement as advantageous for them, thereby prompting its dissolution.

Finally, the Russian-Ukrainian Agreement to divide the Black Sea Fleet undermines the security of the CIS by setting a dangerous precedent to divide other components of the Soviet military. Because Russia and Ukraine both intend to develop their own armed forces, using the Black Sea Fleet as a basis, other republics will be encouraged to divide Soviet equipment amongst themselves to develop their own forces. Currently, it would be extremely difficult for each republic to divide such assets without coordination. Therefore, the Black Sea Fleet Agreement has the potential to undermine the stability of the CIS.

On January 17, 1992, CIS leaders met in Moscow and created a commission to resolve problems relating to the future of the Black Sea Fleet. The commission included representatives of Russia, Ukraine, and the Armed Forces Command. Ex-Soviet Military in Confusion, Distress, Vasily Kononenko, CURRENT DIG. SOVIET PRESS, Feb. 19, 1992, at 1. Issues of common interest for the member republics, such as strategic armed forces, were to be presented to the Council for approval. CIS Coordinating Bodies Agreement, supra note 1. When the Russian/Ukrainian Agreement was announced, the Republic of Belarus was not pleased because the Agreement had not been presented to the Council of Heads of States for approval. The Chairman of the Presidium of the Belarus Parliament stressed that his country, as well as Russia and Ukraine, had participated in building the Black Sea Fleet, and that the property ownership of the Fleet needed to be resolved by the CIS members. Valery Kovalev, Byelarus Disagrees with Yalta Agreements on Black Sea Fleet Division, SOVIET PRESS DIG., Aug. 11, 1992.

Other successor states (who contributed to maintaining military forces under a federation of states) have shared military forces equally when the federation of states dissolved and no sole successor was recognized. See supra note 13.

In forming the CIS, the member republics were more concerned about internal threats from fellow republics than they were about external threats from other countries. Many of the smaller republics did not want a Russian dominated coalition, and they agreed to the CIS arrangement because Ukraine was uniquely positioned to counterbalance Russia. Since the republics were so against a Russian dominated CIS, it is unlikely that they would accept an Ukrainian dominated CIS any easier. See Karatnycky, supra note 5, at 105.

See supra note 8.

For example, the Soviet Union spent $400 billion over 40 years to develop a
republic to maintain independent armed forces capable of successfully repelling a military attack. In such a situation, the entire CIS will be placed at risk of invasion because none of the republics will have a military capable of withstanding attack. Additionally, it is unlikely that the republics will coordinate military efforts because each is concerned with becoming an independent, sovereign nation. Consequently, the CIS will be ripe for an invasion if each republic tries to maintain separate forces.

A vulnerable CIS also threatens international stability. The Persian Gulf War underscored the fact that the United States is not unilaterally able to perform the function of world policeman. Instead, the war demonstrated the need for a new international security system based on multipolarity. If the CIS does not emerge as a stable power in the system because its members compete with each other, and it is vulnerable to military attacks, a serious power vacuum will emerge, making it difficult to establish a new, stable balance of power.

A better solution to the Black Sea Fleet crisis would be to continue CIS command of the Fleet indefinitely. Under this arrangement, complex air-defense network and military satellite assets. Adams, supra note 7. Ukraine and several of the other republics want to develop their own territorial air defense system by appropriating former Soviet equipment stationed in their territory. Id. According to military experts, none of the republics has the financial capacity to build a competent air-defense network. Id. Furthermore, the entire CIS would be jeopardized by splitting up the system because no republic would be capable of ascertaining when a nuclear attack was imminent. Id.

For example, if Azerbaijan intends to maintain its own forces (experts believe that there are four motorized infantry divisions, thirty fighter planes, 100 attack planes, and a naval base in Azerbaijan), military specialists predict that the absence of specialists, servicing, maintenance, facilities and spare parts provided by a unified effort of the republics will make Azerbaijan's combat equipment and arms of the ground forces unusable in a year's time. A. Dokuchayev, Only Unified Forces Can Offer safety from Aggression, CUR. DIG. SOV. PRESS, Feb. 12, 1992, at 11. Experts point out that Iraq, even with all its petrodollars, has been unable to create an up-to-date army capable of successful defense. Id.

See supra notes 44 and 45.


By definition, a multipolar balance requires several powers to counterbalance one another. If no strong power emerges to replace the Soviet Union, a vacuum will exist in Eurasia that will disrupt the current multipolar balance. One possible consequence of the lack of a stable, multipolar balance of powers is that Germany and Japan might be propelled to acquire nuclear weapons, an act that would further imperil the tenuous balance of power. Id. at 20.

This solution would disrupt Ukraine's quest to become an independent sovereign
CIS stability would be promoted because a unified armed forces could defeat an attack more effectively than the divided republican forces.\(^{50}\) A strong CIS also would promote international stability by replacing the USSR, thereby maintaining the post Cold War multipolar balance of power.\(^{51}\) Furthermore, unified command of the Fleet will provide all countries who contributed to its maintenance the benefit of its protection and a voice in its control of the Fleet.\(^{52}\) Finally, with unified command, the situation will not exist where two republics, neither of whom is a successor to the predecessor state, seize control of an important strategic force to the detriment of the entire CIS.

### IV. CONCLUSION

The Russian-Ukrainian Agreement to share control of the Black Sea Fleet until 1995 does not end the controversy between Russia and Ukraine to gain recognition as the sole successor to the Soviet Union and is a strong step forward in undermining the stability of the CIS. The plan to divide the Fleet between Russia and Ukraine leaves the door open for Ukraine to assume control of the Black Sea Port and to assume a role of international importance, possibly even to replace Russia as the recognized successor to the Soviet Union. Russia and Ukraine's moves to create separate, republican armed forces threaten CIS security, because no republic can afford to maintain an up-to-date military capable of providing successful defense. Russia and Ukraine also have isolated the CIS members who were not consulted in reaching the decision to remove the Black Sea Fleet.

\(^{50}\) See supra notes 44, 45 and accompanying text.

\(^{51}\) See supra notes 47 and 48.

\(^{52}\) The most important factors in setting a policy to resolve property claims are fairness, predictability, stability, and the public interest. To promote the stability of the unified German state, the new government decided to try to compensate as many East German families who had their property taken by the East German Government as possible. Jeffress, supra note 11, at 528. By analogy, the CIS members should not be deprived of their property rights in the Black Sea Fleet. Each contributed to the maintenance of the Fleet, and the public interest, fairness, and the stability of the regime all favor their continued enjoyment provided from the protection of the Fleet.
from CIS command, an issue that surely was of common interest to all CIS members. Without some revision of the Agreement to put the Fleet back under CIS command before division of the Fleet in 1995, the CIS may be headed for possible dissolution and the international balance of power may be headed towards a crisis.

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