CHAPTER FIVE

COLLAPSE OF THE FEDERAL STRUCTURE: FROM "ATTEMPTED CONFEDERATION" TO "COMMONWEALTH"
The Soviet Union under Gorbachev regime was the last phase in the unmaking of the Socialist experiment, affording the scholars an opportunity to analyse the first, also the last experiment with the socialist federal set up. What happened there was unprecedented in history, and brought to light inherent contradictions, *inter alia*, power and authority, as also the federation like state structure.

The abortive August Coup highlighted a decadent and exhausted political order, which, within its given framework, did not accommodate the transformation and restructuring of the system. The intensifying and sharpening crisis of the centre-republican relations presented the backdrop of the coup, which was attempted to forestall the imminent disintegration of the country. The question of nationalities, and inadequate and deteriorating performance of the economy, which impinged on the centre now and then, surfaced. These were further exasperated by the incompetence of the political leadership. The successive failures of the reforms processes, the aborted August Coup followed by the disintegration and replacement of the USSR by the *Commonwealth of Independent States* was the grand finale of this period.

This chapter analyses the causes of the coup, the subsequent creation of the *Commonwealth of Independent States (CIS)*, and the potentialities of resurgence of a federal or confederal set up among the Newly Independent States (NIS).

**THE COURSE OF THE COUP AND THE 'STATE COMMITTEE FOR STATE OF EMERGENCY'**

The mounting alarm of the cautious, right wing elements over what they perceived as the imminent destruction of the Soviet state came to focus on the proposed signing of the new Union Treaty on 20 August 1991. The conservative elements had long signalled their extreme dissatisfaction with the course that led to the creation of a new confederation, and they were particularly upset by the concessions Gorbachev had made to republic leaders at Novoogarevo. Thus, in an effort to avert the impending betrayal of the 'fatherland' as portrayed by the Leninists, a coalition
embracing representatives of the military, secret police, central communist party apparatus, and military-industrial complex comprised the ‘State Committee for the State of Emergency’ (Gosudarstvennyi komitet po chrezvychainomu polozheniu-GKChP), and attempted to proclaim a state of emergency,

"with a view to overcoming the deep and multilateral crisis, the political, inter-ethnic, and civil confrontation, the chaos and anarchy that threatens the life and security of the citizens of the Soviet Union, the sovereignty, territorial integrity, freedom, and independence of our Fatherland.”¹

Vice-President Gennady Yanaev issued an edict announcing that he was assuming the responsibilities of the president of the USSR, ‘in connection with Mikhail Gorbachev’s inability, for reasons of health, to carry out his duties as president of the USSR and in accordance with Article 127(7) of the USSR Constitution’, which mentioned that:

"If the President of the USSR is for any reason unable to continue to execute his duties, until the election of the new president his powers are transferred to the vice-president of the USSR or, if that is not possible, to the chairman of the USSR Supreme Soviet. In this case, the election of a new president of the USSR must take place within three months.”²

The edict, declaring a state of emergency in certain parts of the country for six months, was accompanied by the Resolution No. 1 of the SCSE of the USSR.

The implementation of the resolution was said to be "in accordance with Article 2 of the USSR Law on the Legal Regime of a State of Emergency and Article 127(3) of the USSR Constitution, paragraph 15" of which provided for the declaration of a state of emergency. The Constitution also allowed for the introduction of "temporary presidential rule while observing the sovereignty and territorial

¹ TASS, 19 August 1991; Pravda (Moscow) and Izvestia (Moscow), 20 August 1991, p.1.
² ibid. and Article 127 (7) of the 1977 Constitution of the USSR, see, F.J.M. Feldbrugge, "The Constitution of the USSR", Review of the Socialist Law (The Netherlands) vol.16, no. 2, 1990, pp.163-224. Since the constitution have not been reprinted in full with the amendments, the current articles has been pieced together from the following: "The Constitution of the USSR", Izvestia, 8 October 1977; Izvestia, 16 March 1990; Pravda, 27 December 1990.
integrity of the Union Republics", however; the enabling resolution was never approved. The resolution further declared the formation of SCSE in the USSR to govern the country and outlined specific measures to be taken, including a ban on strikes and demonstrations, and the introduction of central control over the mass-media.

The state of emergency ostensibly met "the demands of a wide section of the population for the adoption of the most decisive measures for the prevention of the society's slide into general national catastrophe for the upholding of the law and order." The SCSE in their appeal to the Soviet people, justified the seizure of power as they feared the act of "extremist forces" who had "adopted a course of destroying the Soviet Union". The Committee's declaration expressed its apprehensions and legitimised its actions in the following words:

"A real threat of disintegration has arisen, the breakup of a single economic-space, a single space of the civil rights, a single defence, and a single foreign policy. Normal life in these circumstances is not possible. In many regions of the USSR, as a result of the multinational - inter-ethnic clashes, there is bloodshed, and the breakup of the USSR would entail the most serious internal and international consequences. Under these circumstances, we have no other choice but to take decisive measures in order to stop the slide of the country towards catastrophe".

For Emergency Committee, the crisis affected not only polity and economy, but even the society suffered as the "elementary personal safety" was more and more "under threat". They further mentioned:

"Crime is rising rapidly - is organised and politicised. The country is immersed in a gulf of violence and lawlessness. Never in the history of the country has there been such a propaganda on sex and violence, putting the health and life and future

---

4 n. 1.
generations under threat. Millions of people are demanding measures against the spreading tentacles of crime and flagrant immorality.7

Emergency powers were declared to cope with social collapse, crime, lawlessness, insecurity, nationalist violence, economic disintegration and political chaos. Decree number One of the SCSE, published in Pravda, gave the coup leaders sweeping powers, to ban social movements and political parties, and to prohibit political meetings, demonstrations and strikes. Political pluralism effectively became illegal, and crucial prerequisites for a multi-party system were removed.8 As Yanaev argued, the aim was to create conditions for guaranteeing the safety of citizens through fast stabilisation and the normalisation of socio-economic life. Otherwise, tensions, confrontations, violence and suffering would increase.9

Indeed, this diagnosis presented by Yanaev was not based on hypothesis or conjectures, but firmly grounded in the events in the preceding weeks of the coup, when anticipating the outcome of the signing of the Union Treaty, Russia and Lithuania signed an agreement recognising each other as sovereign states, the Ukrainian government prepared the printing of a separate Ukrainian currency and the Kirghiz President Askar Akayev officially transferred the all-union enterprises on the territory of his republics to the public jurisdiction.10

Although the Union Treaty postulated to create a federal structure, in actual practice, it would have established a "loose confederation of states" - one whose centre was consumed by strife and conflicts over authority with its constituent parts. Moreover, the 'Rightists' (the Leninists), who formed the SCSE, never accepted the

7 ibid.
8 Pravda, n1.
Novoogarevo process, as mentioned above, since it legitimised the practical dissolution of the USSR and a radical decentralisation of powers to those republics that remained within the newly created confederation of "independent and sovereign states". ¹¹

Even before the coup was attempted, Anatoly Lukianov, Chairman of the Supreme Soviet, issued a declaration decrying the Novoogarevo agreement, for it did not contain measures that promised to end the war of laws ¹² between the centre and the republics; for changing the name of the country to the Union of the Soviet Sovereign Republics, for its inadequate protection of the USSR's "single economic space", and for its failure to secure continuity in the operation of the bodies of state authority."¹³

The GKGhP's three days nationality policy was its rejection of the treaty, and its firm promises to hold the country together. It is relevant here to underline the fact that the political institutions that were envisioned in the final version of the Union Treaty were those that were created in the aftermath of the coup, when the central government had completely collapsed. In this sense, the federalism in the Soviet Union had lost its legitimacy even before the coup had taken place.

¹¹ Initially, even Gorbachev was indeterminate and sceptical of the Union Treaty or any attempt to refederalise the Soviet political structure. The subject has been treated at length in 'Chapter 4' of this thesis. For other similar arguments, please see, Mark R. Beissinger, "The Deconstruction of USSR and the Search for a Post-Soviet Community", Problems of the Communism (Washington), vol. XL, no. 6, November - December 1991, pp. 27-35.

¹² The phrase denotes the conflicting legal situation, beginning towards the end of 1980, when centre and republic's constitutional proposals were producing a gridlock. The Republics amended their constitutions which were at variance with the Union Constitution, only to be declared unconstitutional by Moscow. This further led to the assertion by the republics to have legal force in its territories. The reformers attempted to keep the law in control so that it would control the centrifugal tendencies in the country. For details, please see, Leon Lipson's comments in "Round Table Discussions: Crises in the USSR", Cornell International Law Journal (Washington), vol. 23, no. 2, 1990, pp. 382-83.

Keeping the various confederal provisions of the July draft of the new Union Treaty in mind, when Lukianov conveyed to the First Deputy Chairman of the RSFSR Supreme Soviet, Ruslan Khasbulatov in the midst of the coup that "it was Yeltsin who had caused Gorbachev illness because of his intransigence in the Union matters,"14 he was reflecting the outlook of those who had taken it upon themselves to reverse what they saw as the impending collapse of the country.

In the final analysis of the debatable legitimacy and the outcome of the coup, the reliance of the Emergency Committee on the USSR Constitution revealed a more fundamental weakness and was part of its undoing because it gave the opposition formal mechanism with which to fight. The coup leaders neither substantiated their claim to exercise authority nor weighed their own tenuous constitutional legitimacy, against the popular legitimacy of the 'republican' government and 'democratic' opposition. Moreover, by limiting the scope of the declaration of a state of emergency so as to remain, at least nominally, within legal limits, the committee significantly hampered its ability to implement the crackdown. Although, perhaps not the deciding factor, the questionable legality of the coup certainly played a role in its collapse.

Hence, inspite of all of Gorbachev's attempts to prevent it from happening, the USSR on the eve of the coup was on a trajectory that would have resulted in an extreme devolution of the power to the republics, and the country's partial dismemberment whether the coup had taken place or not. Since the main conflict over all union and republic authority were yet to be resolved, it would be erroneous to presume that the signing of the Union Treaty would have saved the USSR from disintegration.

Various responses and reactions to the 'coup'

An overview of the reactions and responses to the August Coup by several republican leaders provide valuable insights into the mixed motivations involved in various declarations of independence. Gorbachev, while reacting to the coup; most importantly, did not denounce the party for organising the coup, however, he was quite critical of its silence which encouraged the plotters. As he noted in his memoirs:

"... people in the leadership of the party, primarily in the Central Committee Secretariat, did not have the courage to speak against the coup, and in defence of the constitution of the Union and of General Secretary and to insist on a meeting with him. Having in essence supported the committee for the Emergency, they led the party astray and set it off on a fatal path. Many party Committees decided to help the plotters." 15

However, he accused his life long friend and the Chairman of the Supreme Soviet, Anatoli Lukianov, of 'treachery'. 16

The Baltic states strongly resisted the coup and it was quickly denounced, though Latvian Communist Party First Secretary, Alfred Rubiks favoured the state of emergency. The reaction in Armenia and Georgia were negative but more cautious. Moldovan President Mircea Snegur, condemned the coup attempt, and supported Yeltsin, banning any publications by the central press organs such as Pravda and setting up a Supreme Security Council in order to organise resistance to the Emergency Committee. 17 Some ethnic groups within the republics, particularly minorities and Russian settler communities, supported the activities of the committee. This gave rise to controversy in Moldova after the coup attempt, when Moldovan officials arrested two Gaguaz leaders, Stepan Topal and Mikhail Kendigelyan, and the Dniester Russian leader, Igor Smirnov. The arrest led to huge demonstrations

16 ibid., p. 35.
17 n. 6, pp. C1/11 - C1/17.
with many Russians in Moldova expressing their desire to secede from the republic. 18

With the exception of Kazakh President Nursultan Nazarbaev and Kirghiz President Askar Akayev, the governments of Central Asia supported the coup or remained conspicuously silent about Gorbachev's ouster. Akayev strongly asserted his republic's independence and banned all Communist Party activities in the Republic. 19 Other leaders were either supportive of the coup, or non-committed in their response. In Tajikistan, President Kakhar Mekhamov reportedly supported the leaders, allowing the resolution by the Emergency Committee to be printed in the republic. The Uzbek President Islam Karimov supported the SCSE, and strongly criticised the policies associated with perestroika. 20 After the coup, he maintained a stronghold in his republic, banning the activities of significant social movements such as the Islamic Renaissance Party. 21 Even Nazarbaev, a vocal critic of the coup, who resigned from the politburo in its aftermath, and who refused to impose a state of emergency in his republic, combined his denunciations of the coup with his criticism of Gorbachev and a call for fresh election of the Presidency. 22

Ukrainian President Leonid Kravchuk initially warned against "hasty judgements", but his reactions soon gave way to condemnation. Facing reports that the Soviet troops were active in the republics, he denounced any anti-constitutional measures that coup leaders might undertake, called for calm in the Ukrainian territory, and demanded Gorbachev's release and the convocation of an extraordinary meeting of the Supreme Soviet. 23

20 ibid., p. 29.
21 ibid.
22 ibid., p. 30.
The authority of the coup leaders was rejected by the Armenian Supreme Soviet, although President Levon Ter-Petrosyan, instead of active resistance, called for calm and stability in the republic, and claimed of his direct contact with the all-Union leadership. Georgian President Zviad Gamsakhurdia also ruled for calm, but using the pretext of the coup, removed his Prime Minister Tengiz Sigua and his foreign minister, Georgi Khoshtaria. Azerbaijan’s Ayaz Mutalibov would later deny that he supported the coup, albeit supported the committee’s call to disarm illegal formations, but according to some versions, he was in favour of removal of Gorbachev and was prepared to instigate a crackdown in the party.

In the Russian Republic, the governments of Tatarstan, Checheno-Ingushetia, Bashkoria, Komi and Mordova either openly embraced the emergency rules or refused to condemn it. Belorussian President M. Dzemyantsey supported the coup, as did the leadership of many minority mass-movements within the non-Russian republics.

In some of the republics, viz. Belorussia, Tajikistan and Russian Federation (Checheno-Ingushetia, Tuva, Kabardino-Balkaria, Chuvashia, etc.) the post-coup leaders were removed; sometimes this was accomplished even through armed struggle. In many cases power remained in the hands of the communist elites, who had supported the coup.

The primary opposition to the coup was regionally based, even if this opposition was not quite universal in scope. It is striking that after the attempted coup, Yeltsin emerged as the predominant political figure - not (as one might have expected in different circumstances) as a coalition of a military or other officials.

---

26 "Republican Reactions", n. 19, p. 28.
27 Beissinger, n. 11, pp. 27-35.
In the final analysis, answer to the pertinent question "why did the coup fail?" was the dispersal of power from the centre to the republics and the breakdown of the state monopoly on communications left several independent power bases outside the Kremlin chain of commands. The plotters themselves could not galvanize the population to take to the streets in protest to march, or to strike. Moreover, the coup lacked three essential elements: assured support from the military; control of transportation, telecommunications and electric power grids; and physical liquidation of the resistance leaders.

The post-coup nationality policy and federal reforms

A perusal of the various factors, forces and dimensions of the attempted coup and its subsequent failure suggests that the potential backing for a coup did exist in the USSR, but its leaders failed to foresee that democrats in a newly politicised society, even if in the minority, were hostile to the past to struggle against its return and were confident enough to resist forces. Escalating crisis had provoked the coup, but alternative interpretations demanded defiance of it.28 Opponents of the coup were varied and divided among themselves.

The defeat of the coup also provided an opportunity to those individuals who were willing to stop procedural and constitutional restraints and to accommodate temporarily to reality. They freed Baltics and began new negotiations to define the kinds of associative relationship that would remain or develop among the fragments of a fragmented empire. They abandoned and wrote off the old-Union Treaty, announced that the country would henceforth be a "Union of Sovereign States",29 and sought to focus attention on representatives of those states which would define common

interests in all major policy realms: economic, political, military. The salient consequences of the coup’s defeat was to "break the dam holding back a spontaneous, albeit partial, dismemberment" of their vast country.

The process of dissolution of state was accompanied by an accelerated process of regional fragmentation, which took many forms of which precipitated pursuits of "regional autonomy" within the individual republics was one. Rising demands for republic independence from Moscow intensified the demands by disaffected minorities within those republics for autonomy from republic control. This fragmentation triggered backlash in some republics. Rising regional assertion within the republics reinforced pressures for reaffirmation or consolidation of authority in the republic centre. All these problems long predated the coup but the suddenness of the coup and its aftermath unleashed additional forces at all levels, some in reaction to each other’s unleashing, that accelerated the earlier trends.

At the republic level and below, regional fragmentation took another form: vigorous efforts to advance a nation-building agenda that sought to identify republic independence with symbols of ethnic unity and hegemony. Secondly, efforts to reinforce the dissolution with the consolidation of republic state sovereignty also entailed accelerated efforts to gain international recognition of that sovereignty, to expand direct economic ties with the neighbouring states or great powers. In some cases, these pursuits included mini-summit meetings with foreign heads of states.

Thus the aborted coup accelerated the trends and tendencies that were already there before August 1991.

32 Breslauer, n. 30.
33 Ibid.
The Post-Coup Nationality Policy

Any hope of a 'final solution' to the nationalities question was always premised on the withering away of the nationalism on exposure to Soviet socialism. The seventy years of Soviet effort had been long enough to demonstrate that "a permanent solution to the intractably 'unwithering national question' was politically impossible".34

Thus, the strategy and result of Gorbachev's reforms for managing a multi-national state, which involved built-in-tensions, eventuated in the manifestation of its explosive potentials. In particular, the design of the Soviet state as a federation of ethno-territorial "union-republics" that were, symbolically if not in fact, national states, both materialized and converted nationality as a central aspect of individual identity and created a setting in which liberalization would catalyse ethno-national mobilization.35

Therefore, the objective difficulties of designing and enforcing a new post-coup nationality policy, while preserving the territorial integrity and ethno-territorial structure of the remainder of the Soviet Union were such that many Soviet as well as Western analysts became pessimistic about the chances of its success.36 Given the glaring disparities in economic, social and cultural development, the demands

---


of major ethnic groups were often irrevocable. Under such conditions, only a strong central state with massive resources at its disposal, operating a redistributive economy with the help of an extensive coercive apparatus, could preserve internal stability. Yet, even these conditions were no longer obtained in the Soviet Union, nor could they have been repeated.

The struggle in the Soviet Union was not one between the forces of empire, but between the conception of nation and empire.\textsuperscript{37} The disintegration of this empire presented serious concerns. Separation could have been the best guarantee for democratization in Lithuania, but this was not so clear in Moldova, Azerbaijan, or Russia itself. It was feared that ethnic formation, formerly subservient to the centre, could become new regional hegemons, and might come into conflict with national minorities.\textsuperscript{38} Thus, the Soviet authorities considered the reforms in the federal structure as the solution to the nationality problems in the post-coup period.

**Attempts at Federal Reforms and Confederalising Efforts**

The failure of the coup did not help Gorbachev’s discredited image, particularly as it showed that despite perestroika the party had not changed. The CPSU and the conservatives had completely lost their control over the Soviet State.

The coup also established that power had shifted from the centre to the republics. The main trends after the coup were: the search by several republics (Baltics, Moldova, Ukraine etc.) for independence; a further decline and dismantling of the Union institutions like the Congress of the People’s Deputies and banning of the


\textsuperscript{38} Goldman, Lapidus, Zaslavsky, ibid, p. 13.
CPSU; and a determined attempt by Yeltsin to hold on to the power he had gained after the coup, and to sideline Gorbachev and the Union government at any cost.

Against this background, and especially in the changed political situation in the coup after August, efforts to establish a federal political setup were found to be a futile exercise. However, Gorbachev hoped to work out a unique political structure having characteristics of both a federation and a confederation. His desire to have some salient features of federal system seemed to be guided by his own ambition to create some role for himself in the new political structure.

The post-coup USSR saw the creation of new structure of governance. It accommodated a role for the republican leaders in the running of the union government. The most powerful central authority was created, which was called the State Council headed by the President of the Union. It consisted of the supreme leaders of the various republics. The new Union Supreme Soviet was created and a new inter-republican economic committee was constituted to guide the structural changes in the economy of the country. Its chairman was to be appointed by the Union President and it also consisted of representatives from the republics.

The new confederal political setup for the country had been negotiated by the representatives of the republics and the union governments. Though, in the proposed confederation, its members would have a sovereign status, they would be under some control of the Union or Central government.

Under the basic principles of the draft treaty, it was clearly stated that "the Union of Sovereign States (USS) is a confederative democratic state exercising power

within the bounds of the powers voluntarily rested in it by the parties to the treaty.\textsuperscript{41} However, the USS would have "unified armed forces with centralised control", which would not be utilized within the country, "with the exception of their participation in eliminating the consequences of natural disasters or ecological catastrophes, and of the cases stipulated in legislation on a state of emergency".\textsuperscript{42} Of course, the states party to the treaty were to be entitled to set up republican armed formations whose functions and strength would be defined by the agreement.\textsuperscript{43}

Thus, it can be deduced that the process of the federal reforms that were introduced in the post-coup period were nothing but the continuation of the transformation of Soviet Union into confederal form, begun since the publication of the first and other subsequent drafts of the Union Treaty in 1990.

Confederation and Shift to Confederation: A confederation is a league or association of sovereign states usually possessing a central political or administrative organ to which is delegated power to act upon matters of common interest. That is to say, confederation is a qualified union of states which sometimes share certain institutions of government and by that what is intended is a permanent agreement. For example, a group of republics may share certain institutions, "common citizenship, an army, an arbitration tribunal, a secretariat, a council of Ministers, import duties levied at the common frontier, or even one House of a bicameral legislature. Thereby, they acquire a secondary collective personality and name of confederation."\textsuperscript{\textit{44}}

At the other extreme in a spectrum of federations or federal type of governments, lies the confederation, which is much looser association of constituent units. The ‘classic’ confederacy is marked by the fact that the ‘centre’, whilst representing the whole group for many purposes, only has much powers as are specifically allocated

\textsuperscript{42}ibid.
to it by the constituent units. Generally, it may only exercise those powers over the populace with the expressed or implied consent of the 'regions'.

Before analysing the reform processes introduced in the Soviet Union by the end of 1989, which was giving shape to a new political experiment of confederation, it would be pertinent to study the Western concept of confederation.

Eminent American political scientist K.C. Wheare describes confederation as,

"that form of association between states in which the general government is dependent upon the regional governments... It is true that the term 'confederation' has been used in the constitutions which did embody the principle of subordination by general government to regional governments.... Obviously, if the distinction of principles is to be kept clear, the use of 'confederation' will not be very useful. But, it would appear that where 'league' or 'alliance' is not sufficient to describe an association, 'confederation' is the only suitable term left." 46

Similarly, another political scientist, Daniel Wit, categorises confederation as a "loose association of independent states which, while not creating single new polity, does transcend an alliance by establishing some common political institutions." 47 He further comments,

"Since the sovereign equality of member states normally is emphasised, no truly governmental central organs exist. Thus, the customary representative assembly is essentially diplomatic rather than legislative, its members being delegates responsible to the component governments rather than real confederation law makers.

No unified police or armed forces raised, equipped, and directed by central authorities exist; the confederation must depend upon military contribution by member governments. Central authorities ... are dependent upon voluntary contributions of the member states. The confederation, therefore, is most useful in promoting territorial integration only when independent states are not willing to relinquish any national sovereignty, but do desire some degree of institutionalised political coordination." 48

48 ibid., p. 115.
Some of the political scientists and experts on jurisprudence hold the opinion that:

"a type of union between two or more states usually grows out of a temporary alliance, concluded for specific purposes, political or economic. The result is a confederation, which is intended to be a permanent arrangement and common institutions are established for carrying out of the purposes of the union. These institutions are usually very few in number, and generally the decisions of these common bodies have only a recommendatory, as opposed to a mandatory, force."\(^{49}\)

While some other authors on public and International law agree that:

a confederation is not a state, as it rests upon a treaty rather than upon constitutional law, does not possess any central government in the real sense of the term, and has no direct relationship with the citizens of the member-states.\(^{50}\)

On summarising the essential characteristics of confederation, it is:

1) a loose union over confederating independent states;

2) the outcome of an agreement or treaty made generally for a specific period (it may even be on a permanent basis but revisable in its term periodically);

3) in this set up, the powers of the common body or authority are narrow and extremely limited;

4) a system where the units are free to disassociate themselves from the union;

5) units retain their sovereignty; and


6) in a confederation, the general government is "subordinate" to the regional governments. 51

Confederalising Efforts: The confederalising efforts in the Soviet Union should be put under perusal against the background of above mentioned established definitions of 'confederation'. In the post-coup era the attempts to modify the new Union Treaty, which aimed at redefinition of the federal structure, proved in fact to be an exercise towards making of a 'confederation'. It was in the modified draft that one comes across the use of the phrase 'confederative democratic state'. 52 In other words, a radical transformation from federations to confederation was discernible.

In fact, for Soviet purpose, a more elastic confederal link was suggested suitable than a rigid federal structure. Indeed it was the only form of state capable of sustaining in the face of the strong regional assertions of authority. Certainly, the Soviet authors were considering the possibilities and ramifications of transferring from a federation to confederation. For instance, academician G.M. Khachaturiian, cited the possibilities of confederation in contrast to the Stalinist deformation of the USSR's federal structure that in practice turned it into a unitary state. 53

The post-August USSR witnessed the creation of new channels of administration for maintaining the Union, that was government council, 54 and Gorbachev lobbying for the conclusion of the Union treaty, threatening unforeseeable consequences if the republic presidents did not act quickly to bind the Union together in a new federal structure. The declaration of 2 September 1991, that established a "State Council", outlined the following objectives of a planned new agreement:

51 Wheare, n. 46, p. 11.
52 "Draft...", n. 41.
1. to prepare a Union Treaty of Sovereign States in which each state freely determines its participation in the Union;

2. to appeal to all the republics regardless of their political status to conclude an economic union as quickly as possible in order to establish a single, free economic space;

a) to create a ‘Soviet of Representatives of People’s Deputies’ on the principle of equal representation from the union republics of which 20 deputies were chosen from the elected people’s deputies of the USSR and the republics;

b) to create a State Council to include the president of the USSR and the high officials of the Union republics.

c) to empower the State Councils to coordinate relations among republics;

d) to create an inter-republican economic committee, with representatives from each republic, for the purpose of economic coordination;

4. to adopt an agreement to retain for collective security a single, unified armed force and to conduct reforms in the KGB, military, Ministry of Internal Affairs and the Procuracy’;

5. to insist on a rigid following of the USSR’s external treaties;

6. to adopt a declaration affirming the rights of all citizens regardless of ethnicity and nationalism; and,

7. to ask the United Nations to accept the republics as members.\(^{55}\)

\(^{55}\) ibid.
The announcement was signed by the President of USSR - Mikhail Gorbachev and the leaders of the RSFSR, Belarus, Uzbekistan, Kazakhstan, Azerbaijan, Kirghizstan, Tajikistan, Armenia and Turkmenistan.56

The State Council was to comprise of the Union President and the heads of the republics, to co-ordinate economic reforms; work on a new constitution to be approved by the republican Parliaments and by the Interim Council of the Representatives; and suspension of the Soviet Congress and Union Parliament.

The Council sat on 11 October 1991 to reaffirm, after the August political turmoil, not only the existence but also the new state structure. It began with an encouraging note, when the treaty on the economic community was considered to be a foregone conclusion. It was also decided upon to draft the new Union treaty which would bind Boris Yeltsin by certain commitments and send to the republics for amendment, suggestions and ratification. The Council in fact was the new style parliament that came into being as a result of the law "On the Organs of the State Power and Management of the USSR in the Transitional Period" adopted on 5 September 1991.57

As per the decision of the Council regarding draft of the new Union Treaty, the meeting at Novoogarevo began on 14 October 1991 where the amended versions of the text from the republics were also to be discussed. Hardly having started, the discussion on the future Union. Treaty diverted to the issues like the character of the future state entity. Gorbachev advocated the "federal state" to which corresponding powers would be delegated by a decision of the constituent members of the Union.

On the other hand, Yeltsin with the support from Stanislav Shushkevich, quite unexpectedly took the position against a unified state, and to the confusion and bemusement of everybody, voiced his disagreement with a constitution that would be one and the same for the whole Union. Thus, initial days of meeting witnessed the presentation of the two variants of the formulation. The meaning of the compromise was already obvious: a **unified confederative state** (according to Gorbachev) **lacking a single constitution** (according to Yeltsin). But, towards the end, the situation seemed to have pacified and the people were eager to listen from the eight participants of the Novoogarevo, viz., Belarus, the Russian Federation, Armenia, Kazakhstan, Tazikistan, Turkmenistan, Uzbekistan, and Kirghizstan, the name of the new country, if it was a Union, a community / commonwealth, a confederation or designated by some other name even less comprehensible.

In attempting to achieve a new form of a workable, stable confederation, there was one factor, which was also highlighted in the Nationality plenum of 1990, that weighed heavily. The Soviet authorities realised that the problems of the ethnic conflict were not necessarily solved by altering the structure of the legal power.58 Using the force of law to minimise inequalities could help to remove the overt causes of grievances, but no amount of legislation could change an entrenched mind-set or open-up friendship between the traditional enemies. The ideas of Soviet administration suggested that it believed that the answers to all its ethnic problems and tensions lay in the reformed ‘Union Treaty’.

Thus, keeping that in mind, when in late October 1991 a new draft treaty was published, it provided for a directly elected President, who would coordinate foreign affairs, the armed forces and economic, scientific and cultural cooperation. Each state / republic would be free to withdraw at will from the Union and be sovereign.
over its territory, economy and resources, but would contribute the funds necessary to run the unit.

The second round of Novoogarevo meeting took place on 4 November 1991 to accommodate the suggestions and recommendations of various states. The participants essentially were trying to bring the draft close to a more genuine 'confederation'. On 14 November 1991, as soon as the Novoogarevo talks were over, the participants in a press conference - that included Boris Yeltsin (Russia), Nazarbaev (Kazakhstan), S.S. Shushkevich (Belorussia), S. Niyazov (Turkmenistan), Askar Akayev (Kyrghizia), and Iskandarov (Tazikistan), among others - expressed their conviction and gist of a state which would be a 'union' of 'confederative nature', i.e. the Union of Sovereign States (Soyuz Suverennykh Gorudarstvo). The draft of the new treaty was to be printed later and the date for formal initialling the Union treaty was fixed to be on 25 November 1991, in the state council meeting.

The text of the new Union treaty which was already discussed twice behind the closed doors of Novoogarevo, was published on 26 November 1991. But this political agreement could not be initialled because of the volte-face staged by the leaders of the RSFSR, Belorussia and five Central Asian republics. At the same time, the hope was expressed that the treaty would be signed before the end of 1991, as all the participants agreed that it was an urgent matter since lack of a political


60 Azerbaijan could not participate in the council meeting because of the difficult situation there though in 14 November 1991 Council Meeting it had approved the draft. Pravda, 26 November 1991, p. 1.
union was very seriously affecting the whole situation in the country and jeopardising implementation of the economic community treaty.

The draft of the new Union Treaty incorporated changes agreed at the State Council meeting on 25 November 1991,61 preserved the definition, of 'USS' as a confederative democratic state62 with its own citizenship63 territory,64 integrated armed forces65 and government.66 It also repeated the statement that the 'USS' was successor state of the USSR67 that was in the text of the treaty that would have been signed on 20 August 1991 if the attempted coup had not intervened.

The new Union, which was a confederative and not a federative state, would have no separate constitution. The constitutional basis of the new Union would be the treaty itself and the 'Declaration of Human Rights and Freedoms'.68 In an attempt to upgrade the status of the signatory states, they were described as entities in international law rather than as "full members of the international community".69

The article entitled "Spheres of Joint Jurisdiction of the States Party to the Treaty and Multilateral Agreements"70 stipulated that multilateral treaties and agreements were to be concluded on the economic community; joint defence and collective security; the formulation and coordination of foreign policy; the coordination of the joint scientific and technical programmes; the defense of human rights and the rights of ethnic minorities; the coordination of ecological programs; power generation,
transportation, communication, and space; cooperation in the sphere of education and culture; and combating crime.

The financing of the Union was left open for subsidiary negotiations. All references to Union taxes and levies had been dropped, and it was stated that the procedure for financing the Union budget was laid down in a special agreement. As regards the organs of the Union, the legislative and executive bodies remained by and large as in the pre-coup text, with the addition of the State Council. There were changes, however, as regards the judicial organs. The Constitutional Court had been abolished, its functions, in so far as the constitutional basis of the USSR was concerned, being performed by the Supreme Court. The Procurator's office lost its independent status and subordinated to the Supreme Court.

The draft retained a two-chamber parliament. Decisions of the Council of Republics, which had the right to veto laws passed by the Council of the Union (the lower house), were by consensus, which was likely to make the adoption of controversial legislations impossible.

The president remained commander in chief of the armed forces. Gorbachev, thus, managed to retain the concept of the popular election of the President, but, as a result of a compromise decision, the precise manner of his election was to be determined by a law for a term of five years and no more than two consecutive terms. This draft reinstated the office of the Vice-President, which was abolished by the Government after the coup. However, the State Council deleted the provision that substituted for the president if the latter was incapacitated.

71 ibid, Article 9.
72 ibid, Article 17.
73 ibid, Article 19.
74 ibid, Article 12.
75 ibid, Article 13.
76 ibid, Article 14.
President was the member of the State Council together with the heads of the member states and merely directed its works.\textsuperscript{77}

The Union Government, which after the coup was dissolved and replaced by the Interstate Economic Committee, was retained in the treaty.\textsuperscript{78} Finally, as regards the status of those republics that did not sign the treaty, the draft suggested that they were to be regarded as having seceded once the treaty was signed. There was just a statement that "relations with states not entering the 'USS' were based on generally recognised norms of international law."\textsuperscript{79}

The new draft was to be replaced by the text of the treaty and the declaration of human rights and freedoms. The 'Union of Sovereign States' - a subject of international law without the constitution of its own - envisaged a confederative community of former republics, something which meant, by definition, the absence of the centre's direct control over treaty member states.

In the organizational aspect, the country was to become somewhat similar to Switzerland. According to the new treaty states - the confederal subjects would have the right to sort out problems with their autonomous formations themselves, therefore, the burden of interethnic relations was being placed upon the leaders of the republics.

It was, therefore, obvious that the participants in the Novoogarevo were more concerned with the idea itself of forming a union than with detailing the provisions of the treaty. Even if the treaty was signed after all, the high contracting parties would have to take a long path of harmonizing more than ten individual agreements which regulated practically all spheres of life, from the formation of unified armed forces to cooperation in the sphere of education.

\textsuperscript{77} ibid, Article 15.
\textsuperscript{78} ibid, Article 16.
\textsuperscript{79} n: 66
Since there was going to be a new state, there was to be a new coat of arms, flag and anthem. The following chart brings out clear distinction between the USSR as a federation and the Union of Sovereign States as a confederal state.

<table>
<thead>
<tr>
<th>USSR</th>
<th>USS</th>
</tr>
</thead>
<tbody>
<tr>
<td>-Federation</td>
<td>-Confederation</td>
</tr>
<tr>
<td>-Constitution</td>
<td>-Union Treaty, declaration of rights and freedoms</td>
</tr>
<tr>
<td>-Autonomies Federation Subjects</td>
<td>-not mentioned</td>
</tr>
<tr>
<td>-Borders can be altered upon by agreement between republics stipulated</td>
<td>alteration of borders not</td>
</tr>
<tr>
<td>Union Taxes and Levies</td>
<td>Union budget not defined</td>
</tr>
<tr>
<td>-Single Army</td>
<td>Single Army, but armed formations in republics</td>
</tr>
<tr>
<td>-Union Property</td>
<td>-There is no union property</td>
</tr>
</tbody>
</table>

The subject "calling off the ceremony to mark the initialling of the Union Treaty and dissatisfaction of leaders" will be discussed at a later stage, as it is important to analyse and highlight an important development which was taking place simultaneously for the creation of the "Economic Union".

**Economic Union**: The post-coup period was also marked by sovereign states undergoing an acute economic crisis: the slump in education continued, the fulfillment of the 1991 commitments for supplying produce was not ensured and the imbalance of money circulation, growing inflation and the fall in the standard of living of the population further complicated the already complex social situation in the republics.

In order to emerge from the crisis as quickly as possible, to limit and regulate the inflationaty processes, it was of the utmost importance to have coordinated actions in the sphere of monetary and credit policy. A way out of this situation was outlined in the inter-republican bilateral and multilateral economic agreements and treaties reached earlier, which initiated the formation of the economic space based on rational economic ties by the sovereign states.

Probably hinting towards a possible solution to the given crisis situation, Vadim Medvedev, adviser to Mikhail Gorbachev, in an interview to a German weekly,
called for an economic agreement between the Soviet Union's constituent republics to counter the "increased economic difficulties" resulting from the growing independence trends. 80

For a stable political system, although the various leaders signed an agreement to create a State council, they viewed the situation from a different perspective than Gorbachev, the main architect of the political union. These leaders also saw the newly emerging situation as an opportunity for beginning a new stage of renegotiation that would allow them much more latitude in wresting control from the central bureaucracy. RSFSR President Boris Yeltsin took the initiative by pressing for quick adoption of a minimalist economic union on the assumption that the 'renegotiation of the political union was too difficult and too antagonistic'. 81

Negotiations on the formal provisions of an economic association - an accord which would establish an economic community in the former USSR - began in Alma Ata, at the initiative of the Kazakh President Nursultan Nazarbaev. 82 It was for the first time that heads of the thirteen republics gathered outside Moscow, on the neutral grounds to discuss the final draft of the economic agreement, and Gorbachev was not invited for the meeting, thus an awkward moment in Alma Ata. 83

The key issues of negotiations were:

1. Currency and banking system;

2. Management of the centralized economic infra-structure;

81 Gleason, n. 56, pp. 158-59.
3. restoration of trade and commercial connections between enterprises;

4. improvement of public attitudes and the encouragement of good work habits and labour discipline; and

5. establishment of unified external custom arrangements.\textsuperscript{84}

However, the economic agreement did not address a number of important and outstanding issues, including:

1. a transition to market prices;

2. the commercialization of economic relations for enterprises on the territory of different republics;

3. the deficits of the Union budget;

4. the social welfare system;

5. the problem of the interruption of the trans-shipment of goods through the republican territory; and

6. the republic’s share of the USSR’s foreign debt.\textsuperscript{85}

This agreement was to last initially for three years and later to be ratified by each republic’s governing body. The document noted that its participants were successful in determining and agreeing on common approaches to ensure the fulfillment in 1991 and to accelerate for 1992 the conclusion of inter republican economic agreements and treaties, and furthermore on the fundamental principles for the


\textsuperscript{85} Gleason, n. 56, p. 159.
economic co-operation between sovereign states, inter-republican horizontal economic, scientific, technical and cultural links. The inter-republican economic agreements and treaties which were reached earlier, became the basis for the creation of a new economic environment.

The Inter-Republican meeting in Alma-Ata produced an unexpected result, with twelve of the thirteen participant states viz. Azerbaijan, Armenia, Belarus, Georgia, Kazakhstan, Kyrgyzstan, Moldova, Russia, Tajikistan, Turkmenistan, Uzbekistan and the Ukraine declaring the necessity to conclude an economic agreement immediately. Latvia reserved the right to be a party to the treaty as an associate member. Russia, Belorussia and Kazakhstan stated that they were prepared to sign it immediately while others agreed to sign it by 15 October 1991, which ultimately was signed on 18 October 1991. These republics signed the communique outlining their intention to sign a treaty establishing an "economic community" which would fundamentally lay new foundations for economic relations between sovereign states. However, there was little progress on the resolution of military and political relations between the republics, and only seven republics participated in the first session of the new USSR Supreme Soviet.

In November, it was declared that an Inter-State Economic Community was to be established to replace the interim economic committee. This would coordinate a reduced share of the infra-structure, as many of the former USSR ministries were to become independent enterprises.

But, the sequence of events, as they unfolded themselves, made it more manifest and indisputable that USSR was not ordained to remain either a redefined 'confederal' structure or a single 'Soviet type economic space' and market. Especially, due to the discontented and dissatisfied remarks of the leaders like Boris
Yeltsin against new Union Treaty, or against any Central authority; and Ukrainian referendum of 1 December 1991, that any effort by other republics to create some kind of common space were jeopardised.

**RESENTMENT AGAINST THE UNION TREATY AND END OF THE DEBATES ON CONFEDERATION BUILDING**

It was important to have a new Union treaty for the joint existence of the country. In many ways the attitude of the republics reflecting the will in principle, to sign a new Union treaty was equivocal. On the one hand, they felt the need to remain in a political union with other Union republics. On the other hand, they wanted to be masters in their own house and not be bound by any laws or regulations that did not suit them. Yeltsin, for instance, repeatedly spoke of the need to sign a new Union Treaty, and he had cogent reasons for doing so. If all the republics were to become independent, the RSFSR could face an unmanageable flood of Russian refugees from the non-Russian republics and its own territorial integrity could be threatened by demands for self-determination from its indigenous minorities. At the same time, Yeltsin wanted to contribute to the centre's budget only as he saw fit and resented the idea of subsidizing the poorest republics. The Central Asians, for their part, needed the subsidies but were determined that they should be treated as equals. It is not surprising in these circumstances that attempts to negotiate a new Union treaty continually ran into difficulties and that the drafts were unsatisfactory and unworkable compromises.

**Initalling Ceremony and Volte-face by Yeltsin**

In the post-coup refederalising history of the USSR, the second volte-face was staged by Yeltsin at the sitting of the State Council on 25 November 1991, when he issued statement that new moments had arisen in the Russian position making it impossible for him to agree to the draft treaty in the shape it was presented.
The main cause of the cancellation of the initialling ceremony, which also got reflected in the deliberations of the committees of the Supreme Soviet, was a renewed demand by the RSFSR President Boris Yeltsin that the new Union of Sovereign States be not a state in its own right but rather a loose union or confederation. In other words, they were more interested in a formula of the union as a confederation of democratic state. At this juncture, the positions taken by both Gorbachev and Yeltsin contradicted each other. Gorbachev was adamant that the new Union must be a state accepted as such in the international law. Yeltsin, on the other hand, made no secret of the fact that he wanted to emasculate the centre completely and turn it into nothing more than a coordinating body with a representative president. Yeltsin had realised that a system of dual power would continue to survive in Russia as along as the strong centre continued. As such he could not gain complete control unless Gorbachev had been either reduced to a position of minimal importance or removed. 87 For the non-Russian Republics interested in being members of a new political union however, the preservation of an effective centre was important as a safeguard against complete domination by the Russian republics.

Gorbachev, on 20 November 1991 in Supreme Soviet, while referring to debates at the meeting of the USSR State Council in Novoogarevo on 14 November 1991 over whether the 'USS' should be a Union or a Union state, mentioned that it should be a "confederative democratic state" with all the hallmarks of a state. But when Yeltsin reopened the question at the State Council meeting on 25 November 1991, Gorbachev was aghast by this diametrical change in the position. He understood that he was being opposed by the concerted position of several republican presidents, thus, he decided to accept the challenge. Having felt the

crucial nature of the situation, in discussing the questions of the Union treaty, he displayed intransigence and firmness:

"I have to state that at the most crucial and even dangerous moment, the leaders of the republics engage in political manoeuvering and change their own positions. In these conditions, they ought to have said frankly that they no longer want the Union. I personally maintain that, acting in this way and going as far as ruining the state, you are assuming an exceptionally grave responsibility".  

Konstantin Lubenchenko, the chairman of the council of the Union of the USSR Supreme Soviet, referring to the State Council meeting, disclosed that ‘one republican president’ came with the set of amendments to the text of the treaty, which was a definite surprise for some participants and for State Council Chairman, and he added that they did not elicit much support as these amendments concerned "a freer union less like a single state". Gorbachev’s political advisor Georgii Shakhnazarov confirmed that the chief bone of contention had been whether or not the ‘USS’ should be a confederative state or confederation. Gorbachev, while referring to the State Council meeting, made it clear that some of his colleagues were under heavy pressure to abandon the idea of the new Union being a state.

He was clearly hinting at Boris Yeltsin who was under increasing pressure of late from Burbulis and some other members of the RSFSR leaderships to declare Russia the successor state of the USSR.

Gorbachev appealed to both the common sense and sensibility of the republican leaders, sought allies with public opinion inside the country, adduced leader arguments, and tried to shame those who took diametrically opposite turns in their

---

88 Quoted in Exerpts from Andrei Grachev’s “Gorbachev’s Shipwreck” (in Russian) in Moscow News, no. 45, 1992 p.9.
positions. But, all his efforts were hitting against a rigid position that had been formulated, and perhaps agreed upon. In a bid to shake up and scare the rebels and make a last ditch effort to cut across his position, he declared,

"I have a feeling of profound anguish and disappointment... I don't understand how you are going to live on after all, having created an almshouse instead of a unified state, you will wear out society... In general, think for yourself, but bear in the mind that if you turn down some form of a confederative state, you'll have to go without me. I am... asking you, the authorised representatives of your peoples, to debate the draft treaty on the ‘Union of Sovereign States’, and to approve it in the next few days."

Nevertheless, Gorbachev could not wait passively for the subsequent turn of the events, and jointly with his aides, started formulating his own version of State Council’s decisions which coincided with the version of Yeltsin. The general formulation was worked out and it was pointed out that, by submitting the agreed-upon text after consideration by the parliaments of the various states, the treaty would be signed and ratified before the end of the current year.

But, the Ukrainian election results tilted the balance in favour of the republics, thus striking the last nail. As against the expectations of the observers, it showed a very different trend. On 1 December 1991, out of the 84 percent of the total registered population turned for voting, 61 percent of the people voted for the candidate who was a proponent of an independent Ukraine. The election results demonstrated that the winning coalition was outside the federal formula advocated by Gorbachev.

This declaration of independence and secession of Ukraine from the Union in December 1991 effectively destroyed all remaining prospects for preserving even a loosely confederated union, leaving open the question of what economic,

---

military, and political agreements might be reached among the parts of the former Union, and indeed whether any such agreements were likely to be implemented. It soon however, transpired that the scenario of "blowing up" the Union had already been thought out in detail by the time the main legal formulae had been reached - only launching was awaited.

Disintegration of the State Structure.

The Ukrainian referendum of 1 December 1991, though came as an alibi, proved to be the final blow to any joint existence of the states, when 90 per cent of the voters approved the declaration of independence that had been adopted by the Ukrainian Supreme Soviet in August 1991. Before the referendum, Leonid Kravchuk had expressed his unwillingness to sign the Union Treaty and thus join any political union, as he feared that, there were no guarantees that the centre would not again usurp power. He was willing to accept a single economic, and military - strategic space, but thought that any future political union should be modelled on the European Community. The implications of Ukraine's decision were serious and far-reaching. As from the Russian point of view, without Ukraine, Russia would find itself in a political union comprising, besides itself, only Belorussia and the largely impoverished and conservative republics of Central Asia. This would shift the centre of gravity of the new Union towards Asia and leave Russia to bear alone the economic burden that it was already loath to carry. Moreover, from the Ukrainian perspective, if Ukraine was not part of a political union with Russia, there was also the threat of Russian territorial claims on it.

Both Gorbachev and Yeltsin were of the opinion that a Union without Ukraine was unthinkable. Gorbachev's reaction, however, was that the vote did not mean that Ukraine would not sign the Union Treaty. Yeltsin on the other hand, decided to act; he revived the idea abandoned earlier of acting without the participation of the centre.
Realising the changes in the situation and drawing lessons from the Ukrainian vote, Yeltsin informed Gorbachev of his intentions to go to Minsk, the Belorussian capital, to confer with Stanislav Shushkevich on "bilateral affairs", and mentioned in passing that it would not be bad to "listen" to Leonid Kravchuk and know his intentions in relation to the Union. But what actually happened was that the leaders of Russia, Belorussia and Ukraine first met behind tightly-closed doors in Minsk, and then in a secluded place of the Belovezhskaya Pushcha on 8 December 1991. In a quiet turn of the events, after the parliaments of the three republics voted unanimously to ratify the Belovezh agreement, de-facto end of Union was declared. In fact, on 3 December 1991, following the Ukrainian referendum, Gorbachev issued a desperate appeal to the republics to sign a Union treaty with the Centre or face poverty and collapse. The meeting of the three leaders at Belovezhskaya Pushcha and the subsequent hurriedly drafted declaration, announcing the end of the USSR and creation of Commonwealth of Independent States (CIS) on 8 December 1991, came as the response to Gorbachev’s plea. Gorbachev declared the declaration unlawful and called for negotiations. Reacting to the agreement, he mentioned that:

"Minsk pact has positive elements, but three republics can not invalidate union laws... The agreement declares outright that the USSR has ceased to exist. There is no question that every republic has the right to secede from the Union, but the fate of our multinational state cannot be determined by the will of these leaders of three republics. This question must be resolved only by Constitutional means with the participation of all the sovereign states and consideration for the will of their peoples.

The statement on terminating the operation of all Union legal norms which can only intensify the chaos and anarchy in the society, is also unlawful and dangerous.

96 "Gorbachev's Plea", n. 94.
98 For details, see, Gorbachev’s statement on 9 December 1991, in ibid. p. C1/2.
In the changed situation, it is necessary that all the republic Supreme Soviets and the USSR Supreme Soviet discuss both the draft Treaty on the Union of Sovereign States and the agreement concluded in Minsk. Since the agreement proposes a different formula for statehood, something that comes within the jurisdiction of the Congress of the USSR People’s Deputies, such a Congress must be convened. Moreover, I would not rule out holding a nationwide referendum on this question.

But all this cry and plea for a single politico-geographical entity/Union and Gorbachev’s craving for power, even though titular could not carry Boris Yeltsin - another equally power-hungry, narrow-minded politician - along with him.

The Minsk document contained fourteen articles. The signatories pledged to recognise human, civil, and cultural rights of the citizens; cooperate in politics, economics, culture, education, health, environment, science and trade, and honour all agreement, obligations, and commitments with foreign governments concluded by the old union that had already been assumed by the separate states. They also agreed to "preserve and support a joint military and strategic space under a common command including control over nuclear armaments, which would be regulated by special arrangement." The parties to the treaty undertook to create coordinating institutions in foreign policy and to manage jointly a common economic space, custom policy, transport, and communication and environmental protection. The agreement also named Minsk, the capital of Belarus, as

100 “Documents on Forming the Commonwealth”, Article 2, ibid. p. 11.
101 ibid., Article 4.
102 ibid., Article 1.
103 ibid., Article 6.
104 ibid., Article 7.
105 ibid.
the capital of the new formation. 106 The RSFSR Supreme Soviet moved swiftly to ratify the agreement on 12 December 1991.

The ‘Minsk Declaration’ had an immediate effect. Gorbachev wanted to get ‘nine of ten’ negotiating parties together and convince them to a formula. His offer was of a union for mutual benefits, but the republics intended differently. Gorbachev’s formula was determined to retain a "centre". The CIS leaders were determined to make the individual states the sole decision making units while still offering states a forum for continued negotiations. Barring Baltics and Georgia, the other republics saw temporary advantage in retaining the forum provided by the Commonwealth.

The Creation of Commonwealth of Independent States

The ‘Minsk Declaration’ announced the membership of the Commonwealth open to all the other republics. The Baltic’s declaration of independence was recognised by everybody including the West, as such, there was no offer or any interest shown by them. But, on 12 December 1991, the leaders of the five Central Asian Republics, namely, Kazakhstan, Uzbekistan, Kirgyzstan, Turkmenistan and Tazikistan met in Ashkhabad107 and agreed to join the ‘Commonwealth of Independent States’. After feeling left out, the leaders of Armenia, Moldova, and Azerbaijan too joined in. Consequently, on 21 December 1991, the representatives of eleven of the former union republics gathered in Alma Ata, the Kazakh capital and signed a new agreement and protocol on the formation of the broadbased ‘Commonwealth of Independent States’, 108 to be ratified in the Supreme Soviet of each of the States.109 The meeting produced a new agreement - not a treaty - which described a larger

---

106 ibid., Article 14.
Commonwealth, listing eleven states as original signatories. Georgia did not sign, though it sent its observers to the meeting.

Gorbachev opposed the plan, but stripped of power, influence, and now authority, he was finally constrained to support it. In fact, he suggested the "most appropriate name of the Commonwealth" as "The Commonwealth of European and Asian States." 110 The final paradox had been that as Gorbachev's de jure authority to wield extensive powers increased after March 1990, his de facto power was decreasing and was being perceived by his critics as illegitimate. 111

The Commonwealth of Independent States was a transitional and temporary interstate alliance which was intended to be neither a state nor a suprastate formation. 112 The Alma-Ata Declaration was more a statement of intentions than a definition of spheres of authority and responsibility. Signatories agreed to the principle of national sovereignty, territorial integrity, sovereign equality, non-interference, peaceful settlement of disputes, avoidance of force and economic threat or other types of pressure and recognition of human rights. The signatories consented to maintain international strategic stability, as well as a unified military command and a single control of the nuclear weapons. The parties to the protocol agreed to attempt to maintain a single economic space, and European and Eurasian Market. Finally, they were unanimous on the dissolution of the USSR. With the conclusion of this document and, perhaps most important, the rapid approbation that it received from the Western countries fearful of complete societal collapse - the project of federal reform of the Soviet Union was brought to an end on 25 December 1991,
when President Gorbachev resigned\textsuperscript{113} followed by the dissolution of the Supreme Soviet of the USSR.\textsuperscript{114}

THE COMMONWEALTH OF INDEPENDENT STATES

The Concept

'Commonwealth' is a historic term in political theory, used by different writers to refer to their ideal state. It has also been used in the title of the voluntary associations of the states, the Commonwealth of Nations, which gradually emerged during the first half of the 20th Century to replace the British Empire as former colonies achieved self-government and became independent, and in that of the Commonwealth of Independent States set up as an attempt to preserve some unity and cooperation among the former republics of the USSR. Thomas Hobbes used the term to mean that there existed some common 'weal' or wealth or values which rational people would co-operate to defend.\textsuperscript{115}

The Commonwealth is a free association where the members share broadly common pattern of political institutions but retain independence in their domestic and foreign affairs. It has never been more than a loose linkage between the member states, with no central authority, virtually no civil service, and no general policies or founding treaty. It is not an economic unity or an organised military alliance.

Commonwealth is formed with a common purpose, who belong together because the members decided of their own volition to give and take their fair share in a world-wide partnership.

\textsuperscript{114} ibid., p. 20.
The Structure : An Analysis

The analysis of the structure of the Commonwealth of Independent States (hereafter CIS), in the light of the above elucidation of the concept, illustrates that the CIS provided for a loose inter governmental frame for multilateral cooperation of the twelve Newly Independent States (hereafter NIS) except the Baltics. It was not a replacement for the old Soviet Union (federation), nor even a much looser confederation. It, instead, was seen merely as a coordinating mechanism, and was more a process rather than an organisation.

The CIS was not a state, and as per the Statute, it was not a state subject to international law, though, in March 1994, it was granted the registration as an observer in the United Nations.

The manner in which the decisions in CIS meeting were arrived at, the actual decision-making rule could be characterised as "consensus of interested parties", which paved the way for selective participation in most of the 600 agreements. This kind of decision making promoted early differentiation in the CIS and the emergence of a core of the members that included Russia, Belarus, Kazakhstan, and Kyrgyzstan with Armenia, Georgia, Uzbekistan and Tajikistan being rather close to the core. The other states viz. Azerbaijan, Moldova, Turkmenistan and the Ukraine - reduced their cooperation to merely economic issues and continued objecting to the idea of providing the CIS with 'supranational' functions.

The CIS proclaimed respect for the territorial integrity of the signatory states and free movement across the frontiers. It also said that the members of the Commonwealth would seek the elimination of nuclear weapons. Their areas of joint activity were listed as the coordination of the foreign policy; the formation and development

117 ibid., p. 266.
of common economic space and European and Eurasian markets; customs and migration policy; the development of transport and communication systems; environmental protection and ecological safety; and the fight against organised crime. The agreement also stated that on the territory of signatory states, the norms of the USSR no longer applied and the activity of Union agencies was to cease. Other republics of the USSR as well as other states sharing the Commonwealth's aim could join it. Last but not the least, Minsk was chosen as the official location of the Commonwealth coordinating agencies, an obvious choice intended to allay fears of Russian domination of new alliance.118

The CIS appeared to be a device for an orderly dismantling of the USSR and a framework for solving the multiple problems arising from its disintegration and the necessity to share its complex heritage. These required rapid and momentous developments which created the broad framework for a radically new set of political arrangements. A protracted period of negotiations and coalition-building was necessary before a number of outstanding problems could be resolved.

The first set of issues involved the relationship of the newly proclaimed independent states and the commonwealth, and the delineation of their respective jurisdictions. The new arrangement envisaged only limited coordination of the policies of the member states, primarily in the military and the economic spheres. Yet even here, the provisions for a unified command of nuclear forces or for the preservation of a common economic space required detailed delineation of respective jurisdictions. There was considerable potential for friction over the scope and structure of military forces, or even the way in which coordinated economic policies and open borders could be combined with the desired degree of economic autonomy of states with vastly divergent economic resources, priorities and needs.119

119 Gail W. Lapidus, "From Democratisation to Disintegration : The Impact of Perestroika on the National Question", in n. 25, p. 65.
Secondly, the uncertain duration of the CIS arrangement comprised another set of problems. The commonwealth was a transitional arrangement but whether it was to cushion the road to full independence, or whether it would define for itself a valued and enduring role in balancing the diverse interests of its members, was an important question. Managing the intricacies of these relationships, demanded, at a minimum, skillful leadership.

Finally, the unresolved territorial and border disputes, and the presence of substantial minority population outside the territory, especially Russian, magnified the potential sources of conflict among the members of the Commonwealth.

These set of problems and issues plagued the shaky start of the CIS, which later on took the grave dimensions.

CIS: Constitutional and Juridical Sanctity

The CIS was created not as a move towards greater integration but rather as a way of preventing further disintegration. Aside from the pressing need to avoid further disruption of economic ties, it was argued that it would make no sense to destroy a level of integration, which the countries of West-Europe were striving for.

But the disintegration of the USSR and its replacement by the CIS was both unconstitutional and illegal. It was unconstitutional because, the foundation of the USSR i.e. the Treaty of the 1922, contained no provision for its repudiation by any single republic or a group of republics. It could only be modified with the consent of all the constituent republics. Republics could secede from the Union following the relevant constitutional provisions of holding a referendum and fulfilling the
conditions prescribed by the law adopted on 7 April 1990 for the settlement of questions relating to the secession of a republic.120

Considering the illegality involved, the CIS could not come into existence with the signing of the Belovezh and Alma-Ata agreements; for these agreements were concluded in opposition to both the will of the people as clearly expressed through the referendum held in March 1991, and the law then in force. In Russia, the CIS was neither recognised nor approved by the Congress of People's Deputies. The Congress also did not recognise the ratification of the Belovezh and the Alma-Ata agreements by the Supreme Soviet of Russia.121 Ratification of these agreements by the parliaments of other republics did not legitimise the CIS122 for their constitutions affirming inclusion in the USSR had not been amended.

The unconstitutional character of the CIS was not disputed even by the legal and constitutional experts. Andrei Lipsky, an expert, observed, "Unfortunately it is difficult to argue against the thesis about what may be euphemistically termed the inadequate legitimacy of the Belovezhsky agreement".123 However, he extended the question of legitimacy of actions of the Union, Russia and other republican authorities resulting in the replacements of the USSR by the CIS.

It was an accepted fact that, the originally well-conceived Soviet federalism, which degenerated into a unitary structure under Stalin, desperately needed sound reforms. But, what was questionable was whether the kind of reforms needed was not possible or difficult to achieve through the legal and constitutional means, by taking the people into confidence. The arguments put forth both by some of the Russian

---

121 n. 99, pp. 5-6 and n. 108, p.7.
122 ibid.
politicians and scholars as well as the Western publicists on the subject, that the CIS
was a political necessity and it was a lesser evil, completely tended to ignore and
underemphasised the responsibility of power-hungry politicians like Gorbachev,
Kravchuk and Yeltsin for the disintegration of the Soviet Union.

Thus, how could any structure, which was erected on the weak foundations of
unconstitutional and illegal means lacking people's confidence, cope up with the
acute problems of development of the economy, inter-ethnic conflicts, military and
strategic policy, and socio-political stability is the pertinent question.

PROBLEMS FACED BY THE NEW ENTITY

The dissolution of the Soviet Union represented not merely a return to the status-quo
ante as of 1917, it involved the loss of territory / territories and populations that had
long been a part of the pre-Soviet Russian empire. The political and psychological
trauma of this development, necessarily turbulent under any circumstances but
especially so in a country accustomed to perceiving itself and being treated as a great
power forced ‘issues of identity’ to the centre of attention.124 The question of "who
was guilty?" gradually overwhelmed all other issues of economic and political
reforms, and it were the democrats who were being blamed not only for the economic
and social crisis but also for the destruction of an idealised Soviet State.

The CIS started its life in the most adverse and unfavourable circumstances and was,
since its inception, turbulent, mired in confusion as regards its objective and the
future shape it ought to take. The fact that it survived despite scepticism and distrust
in the face of a tide of nationalism that sealed the fate of the USSR, was a testimony
to its resilience. It survived not because it was a transitional arrangement to facilitate
a ‘civilised divorce’, but because without it the successor states were doomed to long
years of hardships and would be left to fend for themselves in an uncertain world.

124 "Introduction", of Lapidus, n. 35, p. 4.
However, to begin with, the nature of CIS was quite uncertain; its membership, yet uncertain; and its purpose was confusing. Both centrifugal and centripetal forces were in operation within it and equally strongly. The final outcome was quite unpredictable.

At this point an examination of the functioning of the CIS, its charter and its institutions will give greater insights to further analyse the integrative versus disintegrative tendencies, the stresses and strains, and failures and successes.

Functioning of the CIS: Its Charter and Institutions.

Since no international organisation can function effectively without a charter or similar legal act defining the rights and obligations of signatory states, the endorsement of the commonwealth charter by the seven core member states at the Minsk Summit on 22 January 1993\(^ {125}\) was an important event in the progress of the commonwealth.

The question of a charter for the commonwealth had been put on the agenda of the first meeting of the heads of the States on 30 December 1991, but on the insistence of Ukraine that its freedom of action would be curtailed and thus infringe its new found sovereignty, was taken off.\(^ {126}\) The issue reemerged at the Tashkent summit on 15 May 1992, when the ministries of foreign affairs of the members were requested to produce a draft charter for the next summit.\(^ {127}\) Between October 1992 and January 1993, the number of articles of the draft were reduced from 65 to 48 and then to 45 at the Minsk summit, when the charter was approved by the leaders of Armenia, Belarus, Russia, Kazakhstan, Kyrgyzstan, Tazikistan and Uzbekistan.


Collapse of the Federal Structure

Ukraine, Turkmenistan and Moldova declined to endorse the charter but agreed to sign an accompanying declaration that left open the possibility of their adhering to it in the coming months.¹²⁸

In order to accommodate those states unwilling to participate fully in all the activities of the CIS, the charter provided not only full but also for associate membership and observer status. In addition, in a further effort to meet the reservations of these states, Article 43 allowed founding states, in ratifying the charter to opt out of military obligations and participation in many of the commonwealth organs.¹²⁹ Finally, the founding states were given a year to ratify the charter which was to come into force not latter than 22 January 1994 for those states that had ratified it.

The charter listed as the organs of the commonwealth the "Council of Heads of State", the "Council of Heads of Government", the Council of Ministers of Foreign Affairs", the "Council of Ministers of Defence", the "Main Command of the Joint Armed Forces" (abolished in June 1993),¹³⁰ the "Council of the Commanders of the Frontier Troops", the "Coordinating Consultative Committee", the "Economic Court", the "Commission on Human Rights", and organs of sectoral cooperation. In addition, there was the "Interparliamentary Assembly" set up in Alma-Ata in March 1992, by the seven core group members.¹³¹ All the standing organisations, except the Interparliamentary Assembly located in St. Petersburg were based in the CIS capital Minsk, the official language of the CIS being Russian.

¹²⁹ ibid., Article 43.
As soon as the Commonwealth was set up, two of its most important organs created were the "Council of the Heads of the State" and the "Council of the Heads of the Government", where the decisions were adopted by consensus. At the same time, "any state could declare its non-interest in a given question" which was of course not to be regarded as obstructing the decisions. This provision had been used extensively in the commonwealth, as it became evident from the fact that relatively few documents had been signed by all the member states. 132

The other key Commonwealth organ was the Coordinating Consultative Committee (C-CC), which was described as the Commonwealth's "standing executive and coordinating agency". Kazakh President Nazarbaev had proposed the creation of a standing executive body in July 1992, but its statutes were declared approved at the 14 May 1993 Moscow summit after Ukraine consented to the creation of the Committee. Each state was to be represented on its committee by its Deputy Premier responsible for the economy, the chair being held by each one in turn for a period of six months. The purpose of C-CC was said to be to agree and prepare documents and decisions in the economic, foreign policy, and military spheres. With its creation, the working group that had been responsible for arranging CIS summits and running the headquarter in Minsk was transferred into the Executive Secretariat, and its coordinator, The Belorusssian Ivan Korotchenya, became the CIS - Executive Secretary. At the May Summit the Heads of State also approved the institution of Permanent Representatives of the State at Minsk. 133

An indication that the Commonwealth could have taken more permanent substance was the signing of a protocol by the Belorussian head of the state, Stanislav Shushkevich, and the CIS executive Secretary Ivan Korotchenya, in Minsk on 12

October 1993. The protocol called for the early conclusion of an agreement between the Belorussian government and the CIS executive Secretariat about the headquarter of CIS in Minsk and diplomatic immunity for its employees on Belorussian territory. The protocol also spoke of the Belorussian government and local construction organisations in the creation of the edifice of the Commonwealth in Minsk.

The Draft Charter adopted at Minsk too was plagued with contradiction in its 'Articles'. Their main thrust was towards a multilateral agreement based on a differentiated approach to participation of the republics. According to Article 9, states desiring to leave the CIS could give written notice of their intention at a year in advance. The third section of the draft charter entitled "Collective Security and Military - Political Cooperation" was a subject of dissention. Only six states actually signed the Tashkent Treaty on Collective Security; Belarus and Ukraine adopted laws on their non-participation in military - political blocs. There were some apparent contradictions in Article 3 and 29. Article 3 maintained the establishment of the relations of the participants on the basis of the principle of 'non-intervention in the internal and external affairs of each other'. In contrast Article 29 laid down that the Council of Foreign Ministers would perform the function of coordinating the activities of the member states in international organisation.

CIS: A Shaky Beginning, Uneasy Relationship

It was a hasty beginning for the CIS, and was inevitable, however, that, for member states the need to preserve existing ties would be in conflict with the imperative of asserting their independent statehood vis-a-vis Russia, and it soon became evident that the centrifugal forces that had led to the demise of the USSR were still dominant.

134 Izvestia, 13 October 1993.
135 ibid.
136 For details, see Kaushik, n. 123, pp. 37-38.
Ukraine’s fear of once again coming under Russian domination, a major impediment to the development of the CIS, got manifested from the very outset. The Ukrainian parliament, when ratified the Belovezhskaya Pushcha agreement - only days after President Leonid Kravchuk signed it, modified its already weak provisions; and at the Alma Ata summit, Ukraine insisted on guarantees that the Commonwealth was not a supranational body and that its decisions had the force only of recommendations. At the first summit in Minsk on 30 December 1991, Marshal Yevgenyi Shaposhnikov, the Commander-in-chief of the Commonwealth Joint Forces, failed to persuade Ukraine, Moldova and Azerbaijan to give up the idea of creating their own armed forces. But beginning with Ukraine and later followed by Belarus and Uzbekistan created their own armed forces which left no option for Russia but to create its own national army.

Some of Russia’s actions also contributed to the strained relations between the Commonwealth states, especially when it insisted on going ahead with price liberalisation, forcing other states to take defensive measures. These measures included the introduction of coupons as cash substitutes, when Russia, only which had the rouble printing press, could not supply adequate cash roubles to the fellow Commonwealth members to compensate their populations for the higher prices. The single economic space very soon became little more than fiction. Russia’s appropriation of Soviet Union’s assets abroad too roused the ire of Ukraine.

All those Commonwealth states, which considered the independence imposed upon them, began to relish it, seek friends outside the former Soviet Union and bask in the attention of the outside world. Some sought to capitalize on their new found freedom to extract world prices for their raw materials or to find alternative markets,

---

thus further disrupting the economic ties between them. Also, taking different countries as their models for development their legislations began to diverge, thus further exacerbating the situation.\textsuperscript{139}

\textbf{Stresses and Strains on the Structure}

Though, the idea of the CIS of Slav Republiсs and Kazakhstan was already there in the minds of the leaders since the end of 1990 and early 1991, the actual creation of the structure towards the end of 1991 virtually came out of the blue. None of the three founding leaders seriously thought through the consequences of their actions. Indeed the two proponents, Russia and Ukraine, had different aims and calculations, though they both realised that CIS membership was unavoidable and inevitable. For Ukraine, it became inescapable, as temporary necessity occasioned by the weakness of its economy and the knowledge that US recognition of its independence depended on its effective joint control of the former Soviet Union's nuclear arsenal. Its aim was to become part of Europe and considered CIS membership to be 'civilized manner of separation'. For Russia, the CIS was viewed as a way of preserving some form of the Union and in particular of keeping Ukraine in that Union. They also wanted to be rid of any centralised structure and the communist system, but by all means wished to see the existence of a 'single entity'.

Secondly, the states of the former Soviet Union did not make any preparations for the independent statehood. Indeed, some of these republics viz. Kazakhstan, Belarus, and the five Central Asian republics, were not actively seeking independence and had it imposed upon them. The members of the NIS were not prepared...
to tackle the problems of the division of the liabilities including massive armed forces in the aftermath of the outright disappearance of the metropolitan centre. They even lacked the hallmarks of independent statehood.

Then, an objective factor militating against the creation of a cohesive and harmoniously functioning association was the overwhelming size and economic strength of Russia. In effect, CIS represented more than anything an attempt by the non-Russian republics of the former Soviet Union to redefine their relations with Russia. The matter was aggravated by the fact that Russia was trying to redefine itself and, cope with the loss of empire and its independence.

Fourthly, the leadership of the NIS, whether former Communist Party bosses or otherwise, were inexperienced and had no knowledge of government except the communist system. They were faced with the colossal task of establishing in short order democratic regimes and market economies in territories in those cases which had no tradition of independent statehood and political pluralism. They were psychologically unprepared for democracy and a market economy. Moreover, the economies of the independent states were relatively underdeveloped, uncompetitive in the world market and suffered from gross price distortions. In addition, the CIS came into being at a time of growing disruption of the economic ties and hence declining economic performance.

Given the circumstance and fact that "the CIS arose to a large extent as a forced alliance, generated more by the impossibility of parting than a desire to continue to live together", 140 it was not surprising that the CIS was subjected to several stresses and strains giving rise to disintegrative tendencies and discontented feeling.

140 For details, see Izvestia, 2 January 1992, p. 1.
The issue of the Sustenance of CIS: The Membership Dichotomy

Against this background of continuing centrifugal tendencies, claims by the heads of state after their summit meetings that the Commonwealth was a big success, rang rather hollow. To begin with, these leaders met approximately every month, and then at two month’s intervals, where a variety of agreements, decisions, declarations, statements and protocols were signed. The leaders took these as evidences of commonwealth’s success, but few were deceived about the reality of the situation.

First, many of the documents were no more than statements of intents and reiterations of principles already subscribed to earlier;

Second, by no means did all the member-states sign all the documents, and the agreements were not always ratified by the member state’s parliaments;

Third, the signatories did not feel bound by the agreements they had signed and there was no provision for the sanctions against those who did not fulfil the obligations they had undertaken; and,

Fourth, it proved to be impossible to arrive on agreements on many key issues.

The CIS summits in the early part of the 1992 were invariably preceded by the pessimistic commentaries about the viability of the structure. Following disparaging remarks by Leonid Kravchuk at the Kiev Summit in March 1992, there were even forecasts that the Tashkent summit in May 1992 could see the Commonwealth’s collapse.\(^{141}\) Relations between Ukraine and Russia remained strained but by the time of the May summit six of the seven core states signed a collective security pact, Belarus opting out on the grounds of constitutional neutrality.

---

After Russia and Ukraine resolved their differences in Dagomy in June 1992, the CIS existence no longer seemed threatened. In the mid-July 1992, the Russian leaders commented that the period between the May and July Summits had marked a turning point in the inter-state relations in the CIS. Whereas member states, earlier, had hoped that they could rely on the West or had looked to cooperate with neighbouring states in Asia, they later realised that it would be difficult for them to manage without Russia, and the need for coordinating structure had also been recognised. But the effort to turn CIS into an effective body continued to be thwarted by Ukraine’s equivocal attitude towards the Commonwealth. Kazakh President Nazarbaev, the most open protagonist of the greater integration, again suggested that those member states willing to turn the CIS into a properly functioning body should go ahead without the rest. But, Russia, as ever seemed unwilling to create a situation that might force Ukraine to leave, thus, making the prospects of the CIS functioning and sustenance brighter.

An Appraisal of the CIS Functioning

The CIS was not an arrangement out of any political necessity or because it was a lesser evil. Nor it was a compromise born out of a necessity to avoid both a much-feared centre and an uncontrolled disintegration of the post-Soviet space. The CIS did not come into existence as a result of a vision of a new Eurasian order. On the contrary, any hope that the CIS states were about to be integrated quickly with the Europe and the world economy were dashed. The efforts of entripetal forces in the later half of 1992 and 1993 to turn the Commonwealth into a more effective body were also largely the result of complete dependence of the member states on the Russian army for defence of their external frontiers, the national armies being still in the embryonic stage. Though the need for greater integration and smooth

142 Izvestia, 15 July 1993.
functioning of the CIS was realised, and numerous agreements to further this aim were signed, for a variety of reasons little progress was made in this direction.

The critics of the CIS viewed the structure as an obstacle in the way of achieving the complete independence of various states in the post-Soviet period. The Russian nationalists, on the other hand, feared that the CIS might result in the sacrifice of Russia's political and economic interests for the sake of preservation of the post-Soviet common space. Any attempt to strengthen the CIS was viewed by nationalists in the non-Russian republics as the imposition of the Russian hegemony. 143

The CIS seemed to have become and less and less relevant for the member states. It was so because the community was caught in an initial contradiction. Among its declared aims were the maintenance of centralised control over the nuclear forces and a part of the military; a certain coordination in the foreign policy, and cooperation in the economy in order to conserve a single economic space. But initially, the very essence of the newly formed States, which strove for the full independence and sovereignty pushed them to question almost all the objectives of the CIS.

The fact that millions of Russians were living outside Russia, itself led to a separate set of tensions if the authorities of the new states discriminated against them, as they did in Estonia. Problems of border between Russia and Kazakhstan was another dimension of the same problem.

Last but not the least, the CIS states were pursuing different foreign policy objectives. Russia, Ukraine and Belarus were more tempted to move towards West, whereas Moldova tilted towards Romania and the Central Asian states attracted towards Turkey, Iran, Saudi Arabia, Pakistan etc. A more serious face of the problem was that Russia and Ukraine were growing into full scale foreign policy rivals.

143 Kaushik, n. 123, p. 38.
But inspite of these problem areas, there were brighter side of the functioning and joint existence of the CIS, and integration between the republics of the former Soviet Union between the republics of the former Soviet Union.

The main achievement of the CIS in the first two years of its existence was that it had prevented the disintegration of the USSR degenerating into the Yugoslav situation, although the potential for large-scale ethnic conflict had existed. Upto November 1993, armed conflicts had occurred only within and not between member states. The confrontations comprised both civil-war, e.g., in Tajikistan and Georgia, and interethnic conflicts e.g., in Azerbaijan, Georgia, Moldova and Russia’s North Caucasus. A destabilising element in virtually all the republics of the former Soviet Union was the legacy which put an accent on the formal right of the nations to national self-determination, in the shape of national-territorial administrative units. Not for nothing did the Russian leadership consistently uphold the principles of the territorial integrity of the CIS states.

Some experts argued that, "if the CIS collapsed, it would inevitably intensify the process of disintegration within the states themselves, virtually all of which had sizable ethnic minorities". This, inevitably, would lead to an exacerbation of tensions between states over such hot spots as Crimea, and it was unlikely that the conflicts would be resolved peacefully if the CIS did not exist any longer. 144

The other achievements of the CIS could be the recognition of the newly independent statehood (having acquired attributes of statehood) by the international community. The republic’s control of the material resources on their territories, the solving of the question of division of assets including the defence forces, and, gaining a realistic assessment of the potentialities of state in the external political

and economic field were other brighter faces of CIS. It has been optimistically mentioned that with the passage of time, the CIS is likely to get strengthened as the "ideologues of independence make room for pragmatic economists at a higher level of power."¹⁴⁵

Having an insight of the above-stated advances in the post-Soviet state, however, does not rule out the threat or possibilities of inter-republican conflict situation or disintegration. Initially, disintegrative trends clearly dominated the integrative elements, the former having acquired their own dynamics as the latter remained static or even diminishing in importance. It was here that the role of national political and power elites became very important, and the process and formation of which at the level of republics is now well advanced. This is an indication of the fact that the trend towards step-by-step integration is discernible. Given an imaginative, cautious and skilful treatment of the situation may provide dominance to the integrative elements.

**PROSPECTS OF INTEGRATION AND THE FUTURE OF CIS**

The CIS was created with the expectations of ensuring political stability and peaceful settlement of the disputes among the NIS, control over nuclear weapons and conventional arms, the maintenance of a single economic space, respect for human rights and a smooth separation of the successor states of the former Soviet Union. Instead, it proved to be a source of disappointment in Russia which strove for a confederation in the CIS; and in many of the NIS because it failed to meet their problems.

The successive developments and fears revealed the dilemma: what options were open for the international community - 'further disintegration of the CIS or its consolidation?' both having its respective pros and cons. While further disintegra-

¹⁴⁵ Kaushik, n. 123, p. 40.
tion and the most intensive promotion of the NIS could hinder the development of yet embryonic imperial aspirations in Russia, a greater engagement of Russia in the area would promise to increase stability without requiring greater involvement of the West. Both the options, however, bore dangers for international security. The former would imply the increasing risk of proliferation and escalation of conflicts. The latter, on the other hand, could stop and block the democratic development in Russia. Hence, there was the necessity of intellectual and political challenge to invent options that would allow to combine a closer integration in the CIS.

Serious efforts to give the CIS a new meaning and shape earnestly began at the Minsk Summit in January 1993,\(^{146}\) when the CIS charter was adopted. The eighth summit of the CIS in January 1993 in Minsk was a landmark in the sense that it ended speculations about the future existence of the organisation and initiated a process of making the Commonwealth a more integrated institution.

Several arguments were used to justify the need for greater integration of the NIS. First, it was the unprecedented interdependence of the former Soviet republics which was referred to in order to explain that the decline of the industrial output was mainly due to the breakup of the previous economic links between the former republics. It was stressed that the specific features of the former Soviet Union was the technological interdependence with various technological stages in the production of many goods being located in different NIS.\(^{147}\)

The second general argument referred to the need for the developments in the former Soviet Union to fit into the global trend towards integration and implied that any disintegration was negative while any integration had to be positive. It was mainly the European Union that served as a model for designing the integration in the former

\(^{146}\) Sheehy, n. 125.

\(^{147}\) Jayashekar, "The CIS: Economic Reintegration or Disintegration?" in Patnaik (ed), n. 123, pp. 2-3.
Collapse of the Federal Structure

Soviet Union (hereafter FSU). This implied, inter-alia, that the CIS should also have followed the path of expanding integration beyond the economic field, and institutionalized that development including the establishment of supranational bodies. The debate was mainly over whether the process of institutionalization should have developed parallel in various fields rapidly, or whether it should have first embraced economic cooperation only and then be gradual.

Both the arguments revealed the basic deficiencies in the debate over integration of the FSU and helped to highlight the essence of the dilemma of the CIS.\(^{148}\)

The basic dilemma was not the 'disintegration' versus 'integration', but 'reintegration' versus 'new integration'. A reintegration imply a kind of restoration of the FSU around Russia. It would be a cost intensive process of reestablishing of the Soviet-type methods of the administration of the economy. It would not differentiate between the countries to be reintegrated - whether and what kind of reforms they pursued, whether their basic values, political and economic systems were compatible or not. In the end, a new state or a confederation would tend to be established on a non-democratic and non-market basis. The process of reintegration would legitimately raise concerns over reestablishing the Soviet Union in its old form.

At the same time, in the post Soviet context, the experience of the European Union, and especially its institutional experience, appeared hardly applicable. It was not only the starting position of both organisations that made difference but also many other aspects that appeared to be crucial in the context of the integration. It was difficult to identify common challenges and threat for all the CIS-states that would forge and stimulate European Union - type integration including the political and security dimensions.\(^{149}\) Many of the NIS had different or asymmetric interests. To

\(^{148}\) For details of the debate, see, Zagorski, n. 116, pp. 266-68.
\(^{149}\) Kaushik, n. 123, p.40.
an extent, the quasi-integrity of the was merely maintained because of the vertical links of the NIS with Russia.

None of the options discussed offered the answer to the crucial problem of providing the NIS with sufficient resources to master their problems upon the conditions of the implementation of real reforms. Russia did not have such resources at its disposal. The West appeared either unable or not prepared to make them available. Without resolving these problems, the alternative options of the CIS may not materialise leading to the trend towards a somewhat reintegrationist policy in the CIS. One may put optimistically that the transition from a unitary pseudo-federation to a soft well-integrated international commonwealth was not possible without the intermediate stage of establishment of fully independent states conscious of their national state interests.150 Yet, the argument that, the reintegration of the structure on a new basis in the form of CIS through the disintegration of the USSR was essential, does not hold ground.

Analysing the developments, one can suggest that prospects for integration are brighter. Economic decline and suffering, civil war and armed conflicts, crime and refugee problems are resulting in building up pressures for the creation of an effective and regular mechanism for solving common problems of defence, security, banking, trade regulations, a common system of transport, exploitation of natural resources and regular exchange of information. It looks as if the republics are once again experiencing an urge for integration. The members of the CIS now realise that they cannot solve many of their problems in isolation. Consequently, the interstate institutions have started coming up. The emergence of inter-parliamentary assembly, the coordinating committee, the economic court, etc. are the results. Russia and

150 Though the noted American expert on federalism Daniel J. Elazar would argue for a European Union type of confederation as a model for integration. See, Daniel J. Elazar, Federalism and the Way to Peace, Reflections Paper no. 13, (Kingston, Ontario, Canada; Institute of Intergovernmental Relations, Queen's University, 1994), p. 74.
the fate of reforms there is also a determining factor in the pace and mode of integration. A politically stable and economically vibrant Russia alone can serve as the nucleus of any new interstate organisation, be it a federation or a confederation.151

CONCLUSION

It is an important question whether the ex-republics of the USSR, linked through the CIS, will take some federal form or not. They are now politically sovereign republics and are trying to find a way to maintain some institutions in common, to share those things which they must share, or they feel it would be useful to share. In the course of the development of the CIS, realization for mutual trust and dependence has replaced the fear and hesitation of early years, the Minsk summit in January 1993 being a milestone in this regard.

There appears to be the possibility of a two-speed integration process in CIS in the future. It is no more a body of doubtful existence. Countries where nationalist forces wield a major influence on the government, have shown great reluctance to support integration. In cases, where Russian nationalism confronts the titular nationalisms, the opposition to integration has been the maximum. However, the realization about dangers inherent in this kind of confrontation as well as the loosening of nationalist influences in many of these states have created a conducive atmosphere for integration. The realities of economic hardships have replaced the early nationalist euphoria and the states see the need to have a common economic space for mutual benefit.

The CIS has been progressively moving towards integration. Cooperation has been quite advanced in some cases. Inter-state committees have been set up in the spheres of railway-transport, ecology, statistics, standardization, space and fight against crime. The two important areas which constitute the main focus of the integration

151 ibid., p. 46.
that are yet to materialise are the formation of a common economic space and coordination of foreign policy. The Minsk Summit of January 1993 has been a step in achieving those goals. The deteriorating economic conditions in the successor states, and lack of enough international assistance look like finally convincing the member states that the only way out is the integration of the CIS and its transformation into a more cohesive organisation and some kind of federal structure.