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U.S. PARTICIPATION IN THE UNITED NATIONS AND
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HEARING

BEFORE THE
SUBCOMMITTEE ON
INTERNATIONAL ORGANIZATIONS
OF THE
COMMITTEE ON
FOREIGN AFFAIRS
HOUSE OF REPRESENTATIVES
NINETY-SIXTH CONGRESS
FIRST SESSION

PART II

Peacekeeping and Dispute Settlement

JUNE 14, 1979

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PEACEKEEPING AND DISPUTE SETTLEMENT

THURSDAY, JUNE 14, 1979

HOUSE OF REPRESENTATIVES,
COMMITTEE ON FOREIGN AFFAIRS,
SUBCOMMITTEE ON INTERNATIONAL ORGANIZATIONS,
Washington, D.C.

The subcommittee met at 2:10 p.m. in room 2200, Rayburn House Office Building, Hon. Don Bonker (chairman of the subcommittee) presiding.

Mr. BONKER. The Subcommittee on International Organizations will come to order.

This is the second in a series of hearings on United Nations Reform. The first hearing on U.S. participation in the United Nations, specifically on the President's 1978 Report on Reform and Restructuring of the System was held March 22nd. We had as our witnesses the U.S. Ambassador to the United Nations, Andrew Young, and the former U.S. Ambassador to that body, now Senator Daniel Patrick Moynihan.

Before we move into the subject matter of this session, I would like to first welcome our guests, diplomats from around the world, who are part of the School of Advanced International Studies, and who are specifically sponsored by an agency of the United Nations. This seems to be an appropriate, timely hearing for their benefit. So, we welcome you to the subcommittee hearing.

Today the subcommittee will focus its attention on another major area of the United Nations reform, that is the U.N.'s peacekeeping capability and the role and the use of the Security Council and International Court of Justice in the peaceful settlement of disputes.

The U.N.'s efforts to maintain world peace and resolve disputes are two of its most important functions, and the subcommittee is vitally interested in these areas. The first part of the President's U.N. Reform Report has devoted considerable attention to this topic and offered ways to improve the U.N.'s effectiveness in this area, such as the creation of a Special Peacekeeping Fund for a U.N. Peacekeeping Reserve.

The purpose of today's hearing is to examine the role of the U.N. and maintenance of international peace and security, and to consider possibilities for improving and strengthening the U.N.'s peacekeeping role in dispute settlement capabilities, including proposals that have been advanced by the President's report.

We are privileged, as usual, to have appear as the lead off witness the Assistant Secretary of State for International Organizations, Mr. Maynes, who has been a reliable witness before this subcommittee

on past occasions, and today he will be accompanied by Mr. Robert Rosenstock, the legal adviser for the U.S. Mission to the United Nations.

Are there others in your party, Mr. Maynes, that you would like to bring to the table, or just have as a resource? Laurel Shea?

Mr. MAYNES. Laurel Shea.

Mr. BONKER. Laurel Shea of the Office of U.N. Political Affairs.

Secretary Maynes, the subcommittee is very interested in the U.N. reforms that have been advanced by the executive branch, and we would hope to move beyond the report to ways that would have that body fully implement some of the reforms, so that we can maintain the vitality and the effectiveness of the United Nations.

We are pleased that you are here, and you may submit your prepared statement for the record and summarize, or you may proceed by reading your statement.

**STATEMENT OF HON. CHARLES WILLIAM MAYNES, ASSISTANT
SECRETARY FOR INTERNATIONAL ORGANIZATION AFFAIRS,
DEPARTMENT OF STATE**

Mr. Maynes was born in 1938 in Huron, South Dakota and raised in Utah. He attended Harvard University graduating Magna Cum Laude in 1960 in History. He was a Rhodes Scholar, studying at Oxford from 1960-62 where he earned First Class Honors in Politics, Philosophy, and Economics.

In 1962 Mr. Maynes entered the Foreign Service. For the first tour of service, he worked in the Department of State on United Nations matters. He was transferred to Laos in 1964 where he was the chief U.S. economist analyzing a multinational fund to support the Lao currency. After a year's Russian language study, Mr. Maynes was assigned to Moscow as an Economic/Commercial officer. In 1970, he became a Congressional Fellow initially working for Congressman Bradford Morse and subsequently for Senator Fred R. Harris whom he later served as Senior Legislative Assistant. He worked on Sargent Shriver's issues staff during the 1972 Presidential campaign. Mr. Maynes began work for the Carnegie Endowment in 1972 as Director of the International Organization Program and in 1973 became the institution's Secretary.

Mr. Maynes is a member of the Council on Foreign Relations and the United Nations Association. He is a recipient of the State Department Meritorious Service Award. He speaks French and Russian.

Mr. Maynes is married to the former Gretchen Schiele and the couple has two children.

Mr. MAYNES. Thank you very much, Mr. Chairman. As you mentioned, I am accompanied by Ms. Shea and Mr. Rosenstock, who have represented the United States in many of the key U.N. bodies that are concerned with U.N. reform, and I am sure that the subcommittee will benefit from their experience and wisdom on some of the questions which are concerning this committee.

As you know, we have made a number of proposals and suggestions on U.N. reform in the President's report. I will not discuss them in detail, I would rather comment in general terms on peaceful settlement of disputes, the International Court of Justice, and peacekeeping.

This administration believes that far greater use should be made of the International Court of Justice, it is a forum before which all states, large or small, may come as equals. We have suggested that its role of potential dispute settler and a source of international law be studied and expanded if we are ever to elaborate a coherent body of norms to govern the ever-increasing interactions of states. However,

there is no purpose in speaking of greater use of advisory opinions unless there is at least a political commitment to accord such advice a very high measure of respect.

In 1970, the United States introduced into the U.N. General Assembly an agenda item specifically intended to focus renewed international attention on the Court. After desultory debate, and unable to agree on any concrete positive measures, the General Assembly in 1974 contented itself with adoption of a resolution calling upon states to consider recourse to the Court for peaceful settlement of disputes.

There are, however, steps that we can take ourselves to enhance the use of the Court. In particular, it should be our standard practice to examine every treaty which the United States negotiates with a view to accepting the jurisdiction of the International Court of Justice in respect to disputes arising under the treaty. At a minimum, even if there is no mention of the Court, there should be a provision for binding third-party settlement of disputes arising under the treaty.

Unfortunately, however, any proposal by the United States to expand the use of the Court and strengthen it is likely to raise serious doubts as to our bona fides. The continued limitation upon U.S. acceptance of the Court's compulsory jurisdiction imposed by the Connally reservation is an obstacle to U.S. leadership to reform in this field.

The Department of State, as you know, Mr. Chairman, is on record as holding that the reservation does not provide the United States with any substantial benefit.

Peaceful settlement of disputes involves more than the Court, however. Under the charter, member states have an obligation and a responsibility to settle their differences by peaceful means. In addition, the charter contains specific provisions for the peaceful settlement of disputes. As has been the case with regard to most of its fields of activity, the United Nations has been called upon to perform its peaceful settlement functions under conditions different from those envisaged when the charter was written. In the years of its existence, the organization has had to function in an unsettled, often divided and even revolutionary world.

Resort by states to institutionalize third-party dispute settlement procedures is unhappily infrequent. This state of affairs periodically generates initiatives for institutional reforms. It would seem doubtful that the establishment of new institutions, however, would by themselves persuade parties to a dispute to have more frequent recourse to third-party dispute settlement. This is not to say that existing methods cannot be made more efficient or that, once the reasons are known why states do not use the existing machinery, new ones cannot be devised.

Without such an analysis which we have proposed, in fact, in the United Nations, the establishment of new machinery would probably have the effects of simply increasing the size of expense of international bureaucracies precisely at a time when we are calling for fiscal restraint.

In 1975, the Secretary General reported to the General Assembly on peaceful settlement of disputes and listed a number of institutions and procedures established under U.N. auspices, including the General Act for Peaceful Settlement of International Disputes, the Panel for Inquiry and Conciliation, the Peace Observation Commission and the register of experts for factfinding. As this document will show, Mr. Chairman, these institutions and procedures have been little if ever used. Given the reticence of states to submit their problems to third parties, it does not seem likely that the establishment of new bodies or panels to offer services in the field of arbitration, conciliation, or mediation would induce member states to make greater use of them.

Finding ways and means of encouraging the peaceful settlement of disputes, however, is a matter of particular concern to this administration. The fact is that if disputes are permitted to fester on, there probably will eventually be an explosion. Recent history in various parts of Asia, Central America, the Middle East, the Eastern Mediterranean; and various parts of Africa clearly demonstrate that unresolved disputes explode into violence. So long as the international community is not prepared to exert meaningful pressure on states to settle their disputes, these disputes will fester, there will be eruptions of violence, and there will be uses of force.

There are steps, however, that we can take to make more meaningful and effective the charter provisions dealing with the peaceful settlement of disputes. We should and will continue to call upon other member states to join with us in examining why the existing machinery has remained too little used, and to explore ways to increase the awareness of governments of the facilities which are available. In addition, it should be our policy that whenever the United States is a party to a dispute the continuation of which is likely to endanger the maintenance of peace and security, to give active and serious consideration to utilizing such U.N. dispute settlement procedures or mechanisms as would be appropriate to the particular dispute in question.

The role of the Security Council in encouraging and assisting the peaceful resolution of disputes likely to endanger peace and security can be strengthened. Once a dispute has reached the proportion that it attracts the attention of the international community, the Secretary General under article 99, or any member under article 35 of the charter, may bring the matter to the Security Council even if one of the parties does not. A number of our proposals are designed to encourage the Secretary General and U.N. members to do so. Other members of the Council should consider the utility of their bringing matters to the Security Council even if the parties themselves might not wish it. In addition, it is consistent with article 53 of the charter to encourage the use of regional organizations where appropriate.

We have suggested in the Committee on Enhancing the Effectiveness of the Principle of Nonuse of Force that states agree to interpret article 33 to mean that if a dispute is not settled after a reasonable period, the parties are obligated to seek third-party dispute settlement. We will continue to pursue this line with the view to obtaining broad agreement and shall also explore the possibility of a treaty on dispute settlement which contains an explicit obligation to move to third-party dispute settlement if bilateral efforts are not successful within a reasonable period of time.

We do not anticipate that either of these approaches will find ready acceptance in the international community because of the extreme negativeness of the Soviet Union and its allies, and the great hesitation shown by many Third World nations to accept any regime which might in their view entrap them in becoming bound to accept the application of rules of law which they, rightly or wrongly, regard as having largely evolved from exclusively Western-developed preceptions of what the law should be.

U.N. peacekeeping operations, Mr. Chairman, are among the most successful of U.N. activities. There are presently 12,700 officers and men from 27 nations involved in six separate peacekeeping operations, and I would hope that you, Mr. Chairman, and the other members of this committee, would at some time have an opportunity actually to visit some of these peacekeeping operations; they are really extraordinary innovations in the field of peaceful settlement of disputes for which, I think, the U.N. receives inadequate public credit.

The technique of peacekeeping is one of the true innovations of the U.N., as I mentioned, and one of the most hopeful. It is in response to this hope that we have continued to pursue and seek support for our various proposals on strengthening the peacekeeping capabilities of the U.N. Before I comment on some of our specific proposals, I should like to note that of the three most recent operations—UNEF, established in 1973; UNDOF, established in 1974; and UNIFIL, established in 1978—all in the Middle East—only 2 or 3 days elapsed between the adoption of the establishing resolution and the arrival of the first elements of the particular force in the designated region. No mean feat for what is in part—to use the term of the Secretary General himself—an “improvisation.” Yet, it is true that U.N. operations at times could have developed more efficiently if more states had available troops already trained and prepared to take part in U.N. peacekeeping. U.S. reform proposals are designed in part to respond to that problem.

UNIFIL is a particularly important operation and one, I might add, that is being renewed today in the U.N., with respect to the development of the U.N.’s capability in this field. It is a test of the U.N.’s ability to act effectively and impartially in a highly complex and violent situation. In addition, it is a test of the U.N.’s ability to gain the cooperation of the parties concerned. Unlike other peacekeeping operations, UNIFIL is operating without a precise agreement between the opposing parties; in an area where there has been little or no exercise of legitimate civil authority, it is attempting to maintain peace within the territory of a sovereign country where there are indigenous, rebellious armed groups supported from the outside.

Peacekeeping forces are restricted in their right to use force; force may only be used in self-defense. The strength of any peacekeeping operation lies not so much in the actual use of force, but in the presence of a military operation, in its peaceful, disciplined approach, and in the political consensus which lies behind it. Negotiation and persuasion must be the primary method for achieving its objectives. When one considers these factors, the record of the U.N. and its peacekeeping operations is even more impressive.

Our proposals are designed to strengthen institutionally the U.N.’s capability in this field. Since U.N. peacekeeping is for the most part highly effective, our suggestions are relatively modest ones, designed

to place the U.N.'s capability on a firmer footing. Our proposals for a U.N. Peacekeeping Reserve and for the training of standby units and observers would, we hope, make U.N. peacekeeping more flexible, more effective, and less improvised.

Thank you very much, Mr. Chairman. I would welcome any questions you might have.

[Mr. Maynes' prepared statement follows:]

PREPARED STATEMENT OF HON. CHARLES WILLIAM MAYNES, ASSISTANT SECRETARY
OF STATE FOR INTERNATIONAL ORGANIZATION AFFAIRS

Mr. Chairman, I appreciate your invitation to appear before this Subcommittee to discuss the United Nations and peace, security and international law.

As you know we have made a number of proposals and suggestions on these topics in the Secretary of State's Report to the President and the President's Report on UN Reform of March 1978. Since you are all aware of these proposals, I will not discuss them in detail but rather comment in general terms on the peaceful settlement of disputes, the International Court of Justice and peacekeeping.

Far greater use should be made of the ICJ. It is a forum before which all States—large and small—may come as equals. We have suggested that its role as a potential dispute settler and as a source of international law be studied and expanded if we are ever to elaborate a coherent body of norms to govern the ever increasing interactions of States. However, there is no purpose in speaking of greater use of advisory opinions unless there is at least a political commitment to accord such advice a very high measure of respect.

In 1970 the U.S. introduced into the UNGA an agenda item specifically intended to focus renewed international attention on the Court. Among the principal suggestions made were expansion of the Court's jurisdiction, broadening access to the Court's advisory opinion procedures, simplification of the rules of the Court in order to reduce costs and time delays and, increased flexibility in the use of chambers of the Court. After desultory debate, and unable to agree on any concrete positive measures, the General Assembly in 1974 contented itself with adoption of a resolution calling upon states to consider recourse to the Court for the peaceful settlement of disputes.

While there have been some promising Court-initiated modifications of its rules designed to make use of the Court less complicated, less protracted and less expensive, these have not yet led to any increased use of the Court. There is still widespread and regrettable reserve among States toward third-party dispute settlement. We have however continued to encourage greater use of the Court.

There are, of course, steps we can take to enhance the use of the Court. In particular, it should be our standard practice to examine every treaty which the U.S. negotiates with a view to accepting the jurisdiction of the ICJ in respect of disputes arising under the treaty. At a minimum, even if there is no mention of the Court, there should be a provision for binding third party settlement of disputes arising under the treaty.

Unfortunately, any proposal by the U.S. to expand the use of the Court and strengthen it is likely to raise serious doubts as to our bona fides. The continued limitation upon U.S. acceptance of the Court's compulsory jurisdiction imposed by the Connally Reservation is an obstacle to U.S. leadership to reform in this field. As you know, the Connally Reservation provides that disputes concerning matters within U.S. domestic jurisdiction as determined by the U.S.—and not by the Court—shall be withheld from the Court. The Department of State is on record as holding that the Reservation does not provide the U.S. with any substantial benefit. If we wish to strengthen the Court, we must take a leadership position in both the practical and symbolic sense. In order to be able to do this, we must first repeal the Connally Reservation. We, moreover, must make a greater effort to insert in bilateral treaties and arrangements, binding dispute settlement provisions, without crippling exceptions and, wherever practical, specify the Court as the dispute settlement mechanism.

Peaceful settlement of disputes involves more than the Court. Under the Charter Member States have an obligation and a responsibility to settle their differences by peaceful means. In addition, the Charter contains specific provisions for the peaceful settlement of disputes. As has been the case with regard to most of its fields of activity the UN has been called upon to perform its peaceful settlement

functions under conditions different from those envisaged when the Charter was drafted. In the years of its existence the Organization has had to function in an unsettled, often divided and even revolutionary world.

Resort by States to institutionalized third-party dispute settlement procedures is unhappily infrequent. This state of affairs periodically generates initiatives for institutional reforms and proposals for new machinery and procedures. It would seem doubtful that the establishment of new institutions would by themselves persuade parties to a dispute to have more frequent recourse to third-party dispute settlement. This is not to say however, that existing methods cannot be made more efficient or that once the reasons are known why states do not use existing machinery new ones can not be established. Without such an analysis (which we have proposed in the Charter Review Committee and in the Committee on Enhancing the Effectiveness of the Principle of Non-Use of Force) the establishment of new machinery would probably have the effect of simply increasing the size and expense of international bureaucracies—at a time when we are calling for zero program growth—without adding significantly to the use of available services for settlement of disputes.

In 1975 the SYG reported to the GA on the peaceful settlement of disputes and listed a number of institutions and procedures established under UN auspices including the revised General Act for the Pacific Settlement of International Disputes, the Panel for Inquiry and Conciliation, the Peace Observation Commission and the Register of Experts for Fact-Finding. These institutions and procedures have been little—if ever—used. Given the reticence of States to submit their problems to third parties, it does not seem likely that the establishment of new bodies or panels to offer services in the field of arbitration, conciliation or mediation would induce Member States to make greater use of them.

Finding ways and means of encouraging the peaceful settlement of disputes is a matter of particular concern to this Administration. The fact is that if disputes are permitted to fester on unresolved there will eventually be an explosion. Recent history in various parts of Asia, Central America, the Middle East, the Eastern Mediterranean and various parts of Africa clearly demonstrates that unresolved disputes explode into violence. So long as the international community is not prepared to exert meaningful pressure on states to settle their disputes the disputes will fester, there will be eruptions of violence and uses of force. The many proposals we and others have introduced in the relevant UN bodies are designed to involve the international community in exerting the necessary pressure in order that disputes will be settled through peaceful means.

The question of course is how can the international community exert such pressure on states to settle their disputes peacefully. Even if in any given case the parties hesitate to seek a settlement, the interest of the community as a whole should be so clearly expressed that parties may fear to hesitate. Even if in a given case involving ourselves we would hesitate, can we not look at the long-range problem and join in an advance commitment which will conduce to the greatest good of the greatest number. We do not lose our sovereignty when we so act, we exercise it constructively.

There are other steps we can take to make more meaningful and effective the Charter provisions dealing with the peaceful settlement of disputes. We should and will continue to call upon other Member States to join with us in examining why the existing machinery has remained too little use and to explore ways of increasing the awareness of Governments of the facilities which are available. In addition it should be our policy that whenever the U.S. is a party to a dispute, the continuance of which is likely to endanger the maintenance of peace and security, to give active and serious consideration to utilizing such UN dispute settlement procedures or mechanisms as would be appropriate to the particular dispute in question. The role of the Security Council in encouraging and assisting the peaceful resolution of disputes likely to endanger peace and security can be strengthened. Once a dispute has reached the proportion that it attracts the attention of the international community, the Secretary-General under Article 99 or any member under Article 35 of the Charter may bring the matter to the Security Council even if one of the parties does not. A number of our proposals are designed to encourage the Secretary-General and UN Members to do so. Other members of the Council should consider the utility of their bringing matters to the Security Council even if the parties themselves might not wish to. In addition, it is consistent with Article 53 of the Charter to encourage the use of regional organizations where appropriate.

We shall continue to explore ways of enhancing the obligation of states to seek third party settlement of their disputes. We have already suggested in the Committee on Enhancing the Effectiveness of the Principle of Non-Use of Force that

states agree to interpret Article 33 to mean that if a dispute is not settled after a reasonable period, the parties obligated seek third party dispute settlement. We shall continue to pursue this line with the view to obtaining broad agreement to it and shall also explore the possibility of a treaty on dispute settlement which contains an explicit obligation to move to third party dispute settlement if bilateral efforts are not successful within a reasonable period of time. We do not anticipate that either of these approaches will find ready acceptance in the international community because of the extreme negativeness of the Soviet Union and its allies and the great hesitation shown by many Third World nations to accepting any regime which might in their view entrap them in becoming bound to accept the application of rules of law which they, rightly or wrongly, regard as having largely evolved from exclusively western developed perceptions of what the law should be. It is not adequate to rely upon negotiation alone, for without the potential of some meaningful third party involvement a party which does not want to settle can too easily frustrate negotiation particularly if the negotiating parties are greatly disproportionate in strength. Nothing is as good a catalyst to meaningful negotiation than the potential for each party to take the matter to a binding forum.

We should not allow anachronistic and legally dubious theories about state sovereignty to bar us from meeting the needs of the contemporary world. We must accept the legal consequences of membership in the United Nations, the intention of its founders and, the nature of today's interdependent world.

STRENGTHENING UN PEACEKEEPING CAPABILITIES

UN peacekeeping operations are among the most successful of the United Nations activities. There are at present approximately 12,700 officers and men from 27 nations involved in six separate UN peacekeeping operations. The technique of peacekeeping is one of the true innovations of the United Nations. It is based on voluntary cooperation, restraint and a mutual interest in restoring and maintaining peace and security. The Secretary-General, in his annual report last year, expressed the hope that Governments of Member States would continue their efforts to improve the capacity of the UN for peacekeeping, to develop the technique in order that it is more applicable in other conflict situations and to provide the UN with the necessary arrangements, assistance and support to make its peacekeeping operations less improvised and more efficient.

It is in response to this hope that we have continued to pursue and seek support for our various proposals on strengthening peacekeeping capabilities of the UN. Before I comment on some of our specific proposals, I should like to note that of the three most recent operations—UNEF established in 1973, UNDOF—established in 1974 and UNIFIL established in 1978—only two to three days elapsed between the adoption of the establishing resolution and the arrival of the first elements of the particular force in the designated region. No mean feat for what is, in part—to use the term of the SYG himself—an “improvisation.” Yet it is true that UN operations at times could have developed more efficiently if more states had available troops already trained and prepared to take part in UN peacekeeping. U.S. reform proposals are designed in part to respond to that problem.

UNIFIL is a particularly important operation with respect to the development of the UN's capacity in this field. It is a test of the UN's ability to act effectively and impartially in a highly complex and violent situation. In addition it is a test of the UN's ability to gain the cooperation of the parties concerned. Unlike other peacekeeping operations, UNIFIL is operating without a precise agreement between the opposing parties; in an area where there has been little or no exercise of legitimate civil authority, it is attempting to maintain peace within the territory of a sovereign country where there are indigenous, rebellious armed groups supported from outside. Peacekeeping forces are restricted in their right to use force; force may only be used in self-defense. The strength of any peacekeeping operation lies not so much in the actual use of force but in the presence of a military operation, in its peaceful disciplined approach and, in the political consensus which lies behind it. Negotiation and persuasion must be the primary method for achieving its objectives. When one considers these factors the record of the UN and its peacekeeping operations is even more impressive.

Our proposals are designed to strengthen institutionally the United Nations capacity in this field. Since UN peacekeeping is for the most part highly effective, our suggestions are relatively modest ones designed to place the UN's capability

on a firmer basis. Our proposals for a UN Peacekeeping Reserve and for the training of stand-by units and observers would, we hope, make UN peacekeeping more flexible, effective and less improvised.

Mr. BONKER. Thank you, Mr. Secretary, for a comprehensive statement presented to us.

You know, when one looks at the United Nations as a peacekeeping enterprise and compares it with the recent conflicts in the world today, we can see that there is quite a gap between the potential capability we have dealing with these issues, and the lack of using that capability in the various regions of the world. I rather imagine it is because we have seen a dramatic shift from the early days of the United Nations when it was such a clear division between East and West, and most of the battles were on the Security Council between Eastern and Western forces. But now the world is so much more complex, and the confrontation has moved from East-West to the Third World, and we find ourselves engaged in a variety of ways with conflicts that are emerging from time to time.

When I look at the Middle East and the Horn of Africa, the Cyprus problem, and recent conflicts in Southeast Asia, herein lies the potential for real conflicts. And yet, the U.N. does not have a presence in each of these areas.

It also appears that the United States exacerbates the problem because we attempt to deal sometimes unilaterally with these problems rather than deferring completely to the U.N. when it seems to serve our self-interest.

Do we find that the U.N. just becomes a convenient forum when we want to use it as a means for bringing about peaceful settlement in these areas and neglect it when it does not serve our self-interest; or have we made a genuine effort in each of these cases to defer to the United Nations' peacekeeping ability before taking the initiative on a unilateral basis?

Mr. MAYNES. Mr. Chairman, it is an important question and I would like to comment on it both generally and specifically. Regarding the gap which you say—and I would agree—exists between the reality of conflictual situations in the world and the actual presence of the United Nations in helping to solve those conflicts, I am always struck when I look at discussions which take place between the U.S. Government and other governments about potential solutions to many of the violent situations that we all see around the world, by the fact that virtually every scenario for settlement that has any possibility of success at some point would involve the United Nations. Now, it just so happens that many of the conflicts we are talking about—Rhodesia, Cambodia, and Namibia—are extraordinarily difficult situations to solve—the Middle East, or Cyprus. It takes an orchestration of forces, bilateral and multilateral, to bring about a ripening of the situation so that the possibility of a peaceful settlement is really at hand.

I do not think there is any direct conflict between bilateral operations, bilateral activities at peaceful settlement and multilateral activities.

Mr. BONKER. Mr. Maynes, there may not be a conflict, but if we proceed to negotiate on a unilateral basis with countries in a hostile area, we are in effect sidestepping the United Nations. We are not utilizing that resource; we are not deferring to the unit's capability of dealing with that conflict, we just proceed in our own way to negotiate with the countries involved to bring about a settlement; do we not?

MR. MAYNES. I would argue that in many of the crises we faced in the last 2 years that, in fact, is not what has happened. If you take the efforts that we and the British have made to try to solve the Rhodesian issue, the first step in those efforts was to take the Anglo-American plan to the Security Council and to get authorization from the Security Council to involve the United Nations in the effort, the active effort, to try to negotiate that plan among the contending parties.

In the case of the Namibian exercise, the United Nations has been at the very center of our efforts. In fact, it was in combination with the Western members of the Security Council that we attempted to negotiate a settlement between the South Africans and SWAPO.

In the case of Cambodia, as a matter of fact, the United States did attempt, before the Vietnamese invasion of Cambodia ever took place, to take this issue to the Security Council. Unfortunately, we got no support from the other member states for our effort, but the effort was made and after the invasion took place the United States again took the lead with other states in trying to have the United Nations deal with that issue. In many of these cases, while there is a significant amount that can be done by various interested states on a bilateral basis, there almost always is a multilateral dimension to these conflicts and, while the United Nations may not always be in a position to take action, if there is to be a settlement at some point, there will have to be some kind of a consensus in the U.N. framework, in the international framework, which will permit the final steps toward settlement to go forward.

So, I would argue that in those cases we have not avoided the United Nations, in fact, we have taken major steps to try to involve it.

MR. BONKER. Is it your belief that there has to be near consensus among member nations in the United Nations before the Security Council can become involved in an active way? If there is a lack of will and a lack of support in the Cambodian situation, I just wonder how many examples we can use to draw the United Nations to confront a potentially hostile situation.

I noticed in your statement on page 8 you say that there is great hesitation shown by Third World nations to accept any regime which may in their view entrap them in becoming bound to accept the application of rules of law which they may regard as having largely evolved from exclusively western developed perceptions. Are you referring specifically to the ICJ, or to some other entity within the organization?

MR. MAYNES. Let me ask Mr. Rosenstock to comment in more detail on this question because it is a question that goes beyond the ICJ, it is an approach toward peaceful settlement generally on the part of developing countries which that statement refers to.

But, before I turn to him I would like to answer your question as to whether we need consensus on the Security Council before we can act.

MR. BONKER. Well, I guess it would be the Security Council. Also, it seems as if the power has shifted from the Security Council to the General Assembly in recent years. I know, as it relates to peace-keeping, the substantive power rests with the Security Council, but it seems the political influence comes out of the General Assembly. That is why I am wondering whether a consensus would be necessary before there is a potential for involvement in a hostile area.

Mr. MAYNES. Well, in fact, I would argue that both the General Assembly and the Security Council have acquired new importance in recent years. Certainly, I think it is difficult to sustain the proposition that the Security Council has lost influence because just in terms of the number of times that meetings take place, there has been an astronomical increase in recent years, compared to the 1950's or even the 1960's; and the United Nations has been involved in a growing number of items.

But, there is, I think, one fundamental fact about Security Council action that we have to recognize. If the dispute lies at the heart of the East-West conflict, then there is virtually no possibility of the Security Council taking effective action as long as there is a disagreement between the Soviet Union and the United States. The reason that the Security Council was unable to act on the Cambodian issue, whereas it has been able to act on Cyprus, or the Middle East, or in fact it would be able to act on the Namibian question, is that the Cambodian question does raise an East-West conflict issue in the minds of the Soviet Union.

These other questions are extremely important international questions, but the essence of the conflict is not an East-West conflict—although there may be aspects to the conflict that relate to East-West relations.

Mr. BONKER. What would be a couple of examples?

Mr. MAYNES. Well, certainly, I think the Middle East, Cyprus, and the various African questions that have been discussed in the U.N. In all those cases there either is a U.N. role, or there could be a U.N. role. The reason is that while the United States and the Soviet Union have major interests in those areas in terms of U.S.-Soviet relations, they also have major interests in terms of their bilateral relationship with countries in the region. Consequently, although the Soviet Union made it very clear that it was not terribly enthusiastic about a U.N. role in Namibia, it stated publicly in the Security Council that as long as the African states wished to see such a role, they would accept it.

It is quite clear from their record in the Middle East that they have adopted a similar position on the Middle East questions. But the minute you get an issue like Cambodia, or Hungary, some issue which strikes at the center of what the Soviet Union or the United States would regard as an East-West issue, the Security Council suddenly confronts the prospect of a veto, and then action is impossible.

But I would like to ask Mr. Rosenstock to comment on the other issue of the approach toward international law adopted by many members of the United Nations from the developing countries.

STATEMENT OF ROBERT ROSENSTOCK, LEGAL ADVISER, U.S. MISSION TO THE UNITED NATIONS

Mr. ROSENSTOCK. I would agree that primarily one sees the attitude of hesitation to accept binding results in terms of the International Court of Justice, but this carries over as well into all forms of third-party dispute settlement, particularly those that are binding in nature, but even those which are essentially conciliatory in nature.

It is in part based on distrust. It is in part, I think, based on the sovereignty of many of the new and smaller countries being fragile and new, and therefore something which they are at least as unwilling to see limited as any great power has ever been unwilling to see its sovereignty limited.

In the case of a great power the limitation of sovereignty may go to the ability to use force at a distant place. In the case of a small country it may go to the ability to seize the assets of a company and not pay compensation. It may go to the unwillingness to accept the notion of an international legal obligation to protect foreign nationals within the country. There are a lot of historical reasons for it, but the net effect is a resistance to accept being bound by any form of third-party dispute settlement.

I wonder if I could make a more general comment on the U.N., and that is, I think it is worth remembering that the U.N. is not really the concrete unit, the state is the concrete unit, the states members are the concrete unit, and the U.N. provides an opportunity for states which reach agreement to accomplish something. I think one sees this particularly in the peacekeeping area. For example, Secretary Maynes referred to Southern Africa. The U.N. mechanism stands ready, willing, and able to provide the entire underpinning for whatever settlement can be arrived at with regard to Namibia.

Now, in part the Namibia operation has to be run through the U.N., but in part, also, the realities of the world are such that South Africa cannot, and indeed all things considered, could not be expected to negotiate at this stage with the United Nations to find a solution. Therefore, the United States and the four other Western members of the Security Council at that stage having very extensive interests in South Africa, undertook the negotiation. But this was in large measure a negotiation undertaken, if you want, on behalf of the states members of the United Nations. The intention to do it was announced in the U.N. The plan, when it was developed, was taken to the U.N. for approval. But in that case there were very good and sufficient reasons why it was done that way.

It is interesting to note that in part the idea of these five countries taking on this negotiation with Namibia came on the suggestion of an African diplomat at a luncheon, saying, "Why do not you people who have such good relations with the South Africans take a whack at it." So, it was not acting outside of, in the sense of inconsistent with, but it was using the possibilities to attempt to work toward a solution in which the U.N. would play a major role, and to work toward a solution based on principles contained in the Security Council Resolution.

But the U.N. can only do what the individual members are willing to let it do. Where the individual members are willing to let it do a peacekeeping operation, it has done a pretty good job. Where the members are not ready or willing to permit that, there is not anything in the sense of peacekeeping by interposition that the U.N. can do.

Mr. BONKER. So, there has to be something of a consensus.

Mr. ROSENSTOCK. Basically the operation itself has to be a consent operation, and it is inconceivable without at least the acquiescence of all the permanent members of the Security Council.

Mr. BONKER. Mr. Hall.

Mr. HALL. Thank you, Mr. Chairman.

The purpose of this meeting is to get into the subject, I guess, of how the U.N. is handling peaceful settlement of disputes. I guess the first question would be, how many members of the U.N. are part, or participate as far as the jurisdiction of the International Court, how many accept compulsory decisions by the Court; how many participate?

Mr. ROSENSTOCK. Including those who do so with reservation, such as the United States, the number would be a little bit under 50. I do not have the precise number at my fingertips, we could supply that. The number is a little bit under 50, in other words, not quite a third; just about a third.

There are, however, multilateral treaties and bilateral treaties which provide for the jurisdiction of the Court, and in that sense a much larger number are obligated to settle disputes arising out of the interpretation of those treaties through the Court.

Mr. HALL. It is my understanding that this Court is very seldom ever used. How many times has it been used, let us say, in the last 12 months; how many times has this Court been used, how many opinions have been handed down? participated in?

Mr. ROSENSTOCK. Well, there are two matters that have been before the Court in the last 12 months, one a Greek-Turkish matter on which the Court found that it lacked jurisdiction because, Greek claims to the contrary, notwithstanding, the Court found Turkey had not agreed to submit the dispute to the Court.

There is a Tunisia-Libia matter currently before the Court on which, I think, the date for the submission of pleadings is approximately 12 months off. There are those two matters that the Court has dealt with, within the last year.

Mr. HALL. The President has initiated, I guess, several reform proposals prior to his election and after the election relative not only to peaceful disputes, but to overall U.N. reform.

Mr. MAYNES. We have tried to concentrate on a couple of areas where we thought we were more likely to get the consensus that the chairman was describing. Quite frankly, we have concentrated first on trying to implement some of our suggestions with regard to the Security Council. I think it is fair to say that we received a considerable amount of interest from the members of the Security Council who are not from Communist countries. We received either outright opposition, or a hostile reaction, very skeptical and unhelpful reaction, from both the Soviet Union and China.

This is a fundamental problem that one faces in dealing with any aspect of the U.N. from the standpoint of reform, even measures which do not require Charter review, but yet would significantly change and improve the operations of the organization.

We have not given up on those proposals, but a frank response to your answer is we have to indicate a major difficulty we have is the reaction of the Soviet Union and China to these proposals.

Mr. HALL. Now, you talked about consensus voting, is that fairly new to the U.N.?

Mr. MAYNES. I do not think it is new to the United Nations, but what is new is a greater determination on the part of the membership to continue negotiations on a controversial issue in the hope of arriving at consensus. There simply is more patience on the part of the members in many circumstances to continue striving to try to arrive at some

kind of agreement so that everyone can go along. That is not to say that there are not many issues at the United Nations where passions are so polarized that there is a drive right away for a vote. But it is something like 65 percent of the votes that are taken are now by consensus, and even in many controversial discussions you will find this effort to see whether there is a possibility of arriving at a consensus approach.

Mr. HALL. Under that kind of decisionmaking process, those states, those relatively small states. Do they have pretty much of a veto?

Mr. MAYNES. I do not think the problem with the United Nations is the small states, I think that is a misconception. I think the problem with the United Nations has been, is, and probably will continue to be the large states. I am not talking just about the permanent members large states. I am not talking just about the permanent members of the Security Council, but about states that have considerable influence in their region. These are the states that have an international foreign policy, if you will, that have opinions on a number of issues that are on the international agenda that use their diplomats to try to mobilize support for and against propositions. They are the people, they are the states that both make progress possible, and also create the obstacles that hold up projects.

Mr. Rosenstock may have a different opinion, but the problems of the United Nations are not caused by countries like Fiji.

Mr. HALL. And yet, they are treated practically the same as the large countries.

Mr. MAYNES. They are treated the same in the sense that they have one vote. But a country's role at the United Nations is not determined solely by the existence of the right to vote, it is determined by its influence in its region, and its region's influence on the rest of the membership. There are countries in the United Nations that are clearly leaders on various subjects.

India is a leader, it always has been. All of the South Asian countries are extremely important on North-South issues. If you look at the countries that provide the intellectual leadership for the developing world on North-South issues, you will usually find that you are talking about a major South Asian or Latin American state. These are the countries that devote the diplomatic resources to developing proposals that are put before the U.N. body. There are countries like Tanzania, and Algeria, Yugoslavia, that have a major influence in international organizations because they are willing to devote the diplomatic capital to advance their positions. They are the countries that determine, along with the major Western countries, how the organization is going to work or not work.

Mr. HALL. I guess the problem I have is that the United Nations, it has always seemed to me, is a body of personalities, strong personalities, which reflect the government that is presently in power. Because of that, they each represent their own country's mood and directions. The structure of the U.N. has never changed, and it seems to me the structure is pretty stifling. If they do not change the structure, what good are we really getting out of the U.N.?

Mr. MAYNES. There is no question that you could have improvements in the structure that would help the work of the U.N., and many proposals to that end are found in the President's report and

informally or less officially, Mr. Rosenstock and other U.S. representatives, and representatives from other countries have made proposals over the years.

But our basic problem in the United Nations is a lack of international community on issues that are important and controversial. It takes more than a change in the voting structure to achieve that degree of community. It takes painful negotiation and prolonged discussion. It may be that on some issues there just will never be a sufficient degree of community, that it will be impossible to achieve the degree of community—at least in time frames that you and I are talking about—to make the kind of progress we would like to see.

I think we have to focus on that fundamental reality, or we will deceive ourselves about what really is possible through reform of the institution. There has been, as the shock effect of World War II has worn off, a diminution, in my opinion, of this sense of community in the world, and it has had negative effects on the United Nations and a variety of other international instruments for peaceful settlement and international cooperation. On the other hand one can also see emerging in the future areas where the common interests are beginning to be perceived and progress might be possible in some of those areas.

Mr. HALL. Two last questions. Are we really pushing U.N. reform as proposed by the President's recommendations? Are we really pushing it, are we pushing it on a weekly basis, or a monthly basis; or are those just general recommendations for the record?

Mr. MAYNES. No; Congressman, we are pushing them. As a matter of fact, just this month we have made another major effort to try to raise the peacekeeping issue. We have gone out to a number of countries to discuss this question. Among the countries that we have approached there is general agreement about the desirability of the measures that the United States has proposed. There are differences of views as to whether this is the best time to push them forward.

What we have to decide as a Government is whether it makes sense in terms of our longer run objective of actually implementing some of these things, to push ahead even if we do not have sufficient support, or whether we should continue our effort to try to gain that support.

But, I would be happy to review with the committee in private precisely the diplomatic efforts that we made, and the responses that we got. You can judge for yourself whether we are trying. I would submit that the record would show we are.

Mr. BONKER. If the gentleman would yield for just a moment. We have before the subcommittee excerpts from the President's report on U.N. reform as they relate to peacekeeping activities. So, at this point in the record I will ask unanimous consent to have them included.

[The information follows:]

EXCERPT FROM THE PRESIDENT'S REPORT ON U.N. REFORM, MARCH 1978

A. PEACE, SECURITY AND STRENGTHENING INTERNATIONAL LAW

Establishing more effective U.N. machinery for the peaceful settlement of disputes

Member States are generally reticent to submit disputes to third parties despite the existence of ample machinery for that purpose. It is not likely that the creation of additional machinery for arbitration, conciliation or mediation would in itself induce greater use of third party services.

However, we are prepared to examine with other Member States why existing machinery has remained so little used and to explore ways of increasing the awareness of Governments of the facilities which are available.

Therefore, I have requested the Secretary of State to conduct a thorough examination of existing procedures and mechanisms for the peaceful settlement of disputes with a view to promoting their greater use, including the United States.

We shall examine with other Member States, particularly the permanent members of the Security Council, opportunities for strengthening the role of the Security Council in the peaceful settlement of disputes. We will explore the possibilities for greater use of informal meetings or subcommittees of the Council for the purpose of following up on Council resolutions. As part of such effort we favor holding annual private meetings at the Foreign Minister level for the purpose of reviewing the state of world peace and security in the light of reports prepared by the Secretary General.

We shall continue to treat the establishment of fact-finding missions as a procedural matter not subject to veto, so long as mandates are clear and non-prejudicial. We are prepared to examine with the other permanent members of the Security Council the possibility of a formal, joint voluntary statement to this effect. In this connection, it will be our policy to use technology available to us from aircraft reconnaissance to share with the Council pertinent factual information when the parties to a dispute agree.

Fostering greater use of the International Court of Justice

We support, if possible through amendment, the adoption of a procedure which would permit private parties to have indirect access to the Court on questions of international law essential to their courses of action. To this end, we would support a national appellate court, before rendering its own judgement in a case, having recourse to the International Court of Justice for an advisory "preliminary opinion" on issues of international law.

We will examine every treaty which the United States negotiates with a view to accepting the jurisdiction of the International Court of Justice over disputes arising under the treaty, pursuant to Article 36, paragraph 1 of the Court's Statute. Where one of the parties to the treaty will not accept the Court's jurisdiction, every effort will be made to include another dispute settlement provision.

I have also requested the Secretary of State to give thorough study to existing disputes with other States and identify those which could appropriately be submitted to the Court.

At an appropriate time, I shall request the Senate to re-examine the Connally Reservation, so that we may demonstrate the United States' new adherence to the compulsory jurisdiction of the International Court of Justice, pursuant to Article 36, paragraph 2, of the Court's Statute.

Strengthening the United Nations' peacekeeping capabilities

We believe that further efforts should be made to strengthen the UN's Peacekeeping capabilities, for example by the creation of a UN Peacekeeping Reserve composed of national contingents trained in peacekeeping functions.

We are also prepared upon request from the Secretary General to assist with the airlift of troops and equipment required for establishing a UN peacekeeping force authorized by the Security Council.

In order to be in a position to respond quickly to a request for assistance from the Secretary General, I am proposing that the Department of Defense initiate whatever contingency planning may be necessary.

In order to make a UN Peacekeeping Reserve a more effective force, we shall explore with other UN members arrangements for training of earmarked contingents as well as personnel of UN observer missions by the United Nations.

We shall examine with the United Nations ways to upgrade the technical equipment available to observer missions and peacekeeping forces and to enhance their observation and communications capabilities through modern technology.

We intend to press for progress in the Committee on Peacekeeping Operations.

We shall explore the possibility of establishing a Special Peacekeeping Fund to help cover the initial costs of peacekeeping operations authorized by the Security Council. The Fund might be in the order of \$100 million to be constituted over a reasonable period of time through such means as might be agreed upon.

Strengthening the United Nations' role in the field of disarmament

The Special Session of the General Assembly on Disarmament will convene in New York in the spring of this year. Member governments at the UN, including the U.S., are preparing proposals so that the United Nations could deal better with questions of arms control and disarmament. A variety of possible procedural and organizational improvements to this end is being considered.

B. DECISIONMAKING PROCESSES IN THE UNITED NATIONS

Weighted voting in the General Assembly and modified veto powers in the Security Council

There is no prospect for the adoption of a generally applicable weighted-voting system in the General Assembly. Even on a limited basis it has little likelihood of being accepted. In fact, pressure for change has been in the opposite direction: to replace weighted-voting in global institutions where it now exists with decision-making procedures on the model of the General Assembly. The tradeoffs proposed, which involve sharp curtailment of our veto power in the Security Council, are not in U.S. interests. Nor do we believe they would serve the organization well.

Therefore, it would be better to employ our efforts toward defining voluntary but common standards to curtail the use of the veto in the Security Council and reduce the necessity of invoking it.

While we are on the subject, Mr. Maynes, it does itemize those areas with respect to peacekeeping. Perhaps we will keep the record open, if you could comment in written form on each of these items, so that the members of the committee will have an idea on how you are progressing with respect to the President's recommendations, we will appreciate it.

[The information referred to follows:]

PROGRESS REPORT ON THE PRESIDENT'S PROPOSALS FOR U.N. REFORM

INTRODUCTION

The President's proposals a year ago on the Reform and Restructuring of the UN System are increasingly perceived by the other member states as one of the more constructive steps we have taken to make this organization effective and responsive to global needs.

In the past two years we have worked in the UN in an atmosphere of cooperation. This reflected not only the Administration's realization that a number of key multilateral issues would be affected and could be advanced by the work of the UN but also the Administration's desire to grant a position of much greater prominence to the UN in the conduct of our foreign policy.

On the other hand, the efforts at reform, if not hampered, were certainly made more difficult by the increasingly dissonant voices in the U.S. public fora attempting to find fault with the UN at all costs. They have hurt our credibility and distracted our resources.

Reforms are, however, proceeding—not only because of our own initiatives—but because they are the adjustment mechanisms in this international body to the new demands of global diplomacy.

In the three areas which constitute priorities for us—the role of the Security Council, Peacekeeping and improved procedures in the General Assembly—events have more than kept pace with our reform ideas. In the matter of engaging the Security Council more routinely in the business of peacekeeping and in preempting crisis situations recent trends have been in the right direction. The Council is currently meeting far more frequently than it did years ago, last year it met 116 times not counting informal consultations. And the Council has recently shown itself able to act with great dispatch.

Today, there are some 13,000 officers and men from twenty-seven countries involved in six UN peacekeeping operations. It is a larger contingent than the armies of many contemporary countries. Finally, the confusion and debacle of procedures at the last 33rd General Assembly have made more than one country—previous skeptics of UN reform—firm believers that the time has come to drastically change the GA's procedures.

FIRST YEAR OF IMPLEMENTATION OF THE PRESIDENT'S PROPOSALS ON U.N. REFORM

1. Policy of Implementation

Early in 1978, Assistant Secretary Maynes established within the Bureau of International Organization Affairs a Task Force on Follow-up to the President's Report to coordinate the various procedures through which we seek adoption of the reform proposals.

Among them, revision of the UN Charter, as pointed out in the Report, is impractical. The principal approach is to pursue reforms within the context of the current Charter. Accordingly, in consultation with the U.S. Mission to the UN, we are introducing specific proposals at a variety of UN committees and fora. These efforts are coordinated with informal consultations with the Permanent Representatives of other nations in New York and, bilaterally, in the respective capitals.

Many of the reform recommendations in the Report are sensitive to other governments. This means implementing by practice, where possible, those recommendations which do not require a formal vote or a formal change of procedure (such as stimulating greater use of informal consultations in various bodies of smaller groups to facilitate progress). It also suggests careful consultations with other nations—first with close allies, then with others—before introduction of recommendations before large committees or councils. After consultation, finding the optimal forum for formal introduction of the proposal; we do not raise all issues at the same time, and certainly not in combinations that other governments might find threatening or annoying, but at a pace which is most likely to achieve acceptance.

Our consultations also serve to stimulate and identify other reform ideas of member states which are supportive of the basic thrust of our proposals. Finally, we also view the process of implementation as an opportunity to increase public awareness not only of the need for UN reform but of the critical importance the UN plays as a principal channel of American multilateral diplomacy.

2. Distribution of Report

A complete report (the President's Report and the Report of the Secretary of State to the President on Reform and Restructuring of the United Nations System) was sent to all Permanent Representatives to the UN and to Secretary General Waldheim by Ambassador Andrew Young.

The complete report was printed as a Senate document by the Committee on Foreign Relations.

The complete report was published by the Department as Selective Documents No. 8 and received wide distribution among the public and with foreign governments.

The principal features of the UN Reform Proposals were also published by the Department as a GIST in November 1978.

Spanish and French translations of the President's Report and his letter of transmittal to Congress were distributed in relevant capitals.

At least one private organization has reprinted the President's Report and is continuing to give it wide distribution among those interested in UN reform.

3. Consultations

A circular airgram containing the President's message on UN reform was sent to all diplomatic posts on June 1, 1979 with instructions to discuss it with host governments in the normal course of business. There has been no direct response from posts or other governments to this instruction (the report was also distributed in New York to all UN delegations). We will be following up in the context of our pre-General Assembly diplomatic circular this year.

The question of UN reform was one of the subjects included in our series of pre-UNGA consultations in capitals and in New York. There was strong interest and response on UN reform from Mexico and Japan, the former being a leader in the UN committee on restructuring and the latter primarily interested in a permanent UN Security Council seat. The Federal Republic of Germany was interested in U.S. views on peacekeeping in light of its own initiative on this subject through the EC-9.

Assistant Secretary Maynes, during his meeting on April 21 with the Secretary General elaborated on the U.S. proposals, with particular emphasis on the role of the Security Council and peacekeeping. Waldheim's initial reaction was optimistic but cautious.

Assistant Secretary Maynes' direct consultations with the Foreign and Commonwealth Office of Great Britain resulted in a highly sympathetic and detailed written response from the FCO concurring in substance with all the reform proposals, with only minor tactical differences.

Assistant Secretary Maynes consultation with his counterpart in the Mexican Foreign Ministry has perceptibly improved Mexican cooperation on UN reform matters.

Informal consultations are continuing in New York with key delegations and will intensify in the coming pre-UNGA period.

UN Reform issues, particularly those relating to the strengthening of the Security Council, Peacekeeping and the improvement of the working of the General Assembly are priority matters in our multilateral consultations prior to the 34th UNGA.

4. *Congressional Response*

Congressional reactions, while not widespread, have been uniformly favorable. Senator McGovern publicly described the Report as "excellent." Staff members in both Houses of the Congress have commented favorably. Disappointment has been expressed on one of the specifics—the lack of our willingness to tackle the issue of weighted voting. (However, reform in this area is impossible, a point we believe is accepted by all who looked at the issue closely.)

UN reform issues were the subject of some discussion during several Congressional hearings before the House Subcommittee on International Organizations and the Senate Foreign Relations Committee during March 1979.

As far as we know, there will be hearings in the Senate by Senator Claiborne Pell in June on the progress of the implementation of the President's Report.

5. *Public Participation*

Those non-governmental organizations which are concerned with the UN system were generally highly favorable to the Report, though criticizing it in the sense that it has not gone far enough in proposing drastic reforms. All praised the seriousness and thoroughness of the Department's work.

As part of our implementation strategy, we are cooperating with the non-governmental organizations for a dual purpose: one, to elicit from them their cooperation and ideas to achieve a more efficient UN system and, two, to work together with them in a public education effort on the advantages of the UN for U.S. foreign policy and the American public.

To this end, so far, we have participated as principal speakers on UN Reform in the following programs organized by non-governmental organizations—

The Council of Washington Representatives of the United Nations Association, May 1978;

The Second Annual UN Reform Convention in Milwaukee held in conjunction with the annual meeting of the Midwest Region of World Federalists in May 1978;

United Nations Association annual conference in September 1978 in Washington, D.C.;

The Mid-Atlantic Conference on the President's Report on UN Reform in Villanova, Penna. in November 1978;

St. Louis Conference of the UNA on UN Reform in November 1978;

Maryland League of Women Voters Conference on UN Reform in Talbot, Maryland in February 1979;

We are currently scheduled to attend as speakers three UN reform related conferences in May, one in Chicago, one in Washington and one in Minneapolis.

Without question, the most active of all non-governmental organizations in support of the President's proposals has been the Campaign for UN reform under the infatigable and imaginative leadership of Walter Hoffman, its chairman. The Campaign for UN Reform has been instrumental in organizing and publicizing most of the meetings of non-governmental organizations focusing on UN Reform. The Mid-Atlantic Conference on UN Reform last November for example, brought together almost 400 people representing some 50 non-governmental organizations. On the basis of the success of this conference the Campaign for UN Reform has organized a nation-wide ad hoc coalition for UN reform which plans to hold regional conferences in several parts of the United States during the coming year.

PEACE, SECURITY, AND INTERNATIONAL LAW

1. ESTABLISHING MORE EFFECTIVE MACHINERY FOR THE PEACEFUL SETTLEMENT OF DISPUTES

Major Initiatives

To explore ways to strengthen the role of the Security Council, including greater use of informal meetings or subcommittees, and annual private meetings of Foreign Ministers of SC member countries.

To encourage the Secretary General to bring disputes of potential conflict situation to the attention of the Security Council.

To treat fact finding as not subject to veto.

To offer to share with Security Council information gained from aircraft reconnaissance technology.

Progress to Date

USUN as well as the Department have held several consultations prior and during the 33rd UNGA, with delegations of the Permanent Members of the Security Council, as well as with the Secretary General concerning each of the U.S. proposals to strengthen the role of the Security Council. Reaction from the Western Five representatives continues to be favorable as has been the attitude of Secretary General Waldheim. The Soviet and Chinese positions are, however, best characterized as ranging from opposed to hostile, and therefore, these proposals have not been institutionalized. But in actual fact the Security Council has been meeting with increasing frequency on a broad range of issues. For example, the Security Council has held extended discussions about the situation in South East Asia, Namibia, South Africa's raids into Angola, Rhodesia, and the Israeli settlements in occupied Arab territories.

During the last session of the Special Committee on the Charter of the UN and on the Strengthening the Role of the Organization, which concluded on March 16, 1979, the U.S. delegation continued to press forward with its proposals on the peaceful settlement of disputes. During the 1978 session of the Committee, the U.S. had introduced proposals for greater use of informal meetings or consultations of the Security Council members, for periodic meetings at the Foreign Minister level, for greater use of the Council as a forum for discussion of potential future problem areas, for more effective use of committees of the Security Council comprised of all members or a few members of the Council, and for a greater use of the Council as a vehicle to authorize fact-finding. With respect to fact-finding, the U.S. delegation said the U.S. was prepared, *inter alia*, to assist the Security Council in such efforts by making factual information available from some of the more advanced U.S. technology. The U.S. delegation also proposed that the Secretary General be urged to make greater use of the opportunities provided for in Article 99 of the Charter which states that the Secretary General may bring to the attention of the Security Council any matter which in his opinion may threaten the maintenance of international peace and security.

The U.S. delegation was able to gather support for reaffirming the obligations expressly enunciated in the Charter, specifically of the greater use of regional arrangements or agencies in the peaceful settlement of disputes pursuant to Article 52, of the principle contained in Article 2(3) concerning the settlement of international disputes by peaceful means, of enhancing the fact-finding capacity of the Security Council, and of the greater utilization by the Secretary-General of Article 99. A number of the proposals advanced by the U.S. delegation on the peaceful settlement of disputes did not, however, receive such wide support among the members of the Special Committee that they would appear to form the basis for further action there at this time.

Future Plans

Although we will pursue all possible means to gather more active support in the appropriate UN forum for the U.S. proposals on strengthening the role of the Security Council, our principal avenue to achieve this lies first through further consultation and work among the Western members of the Security Council and then with other delegations.

The consensus reached during the past year among the Western members of the Security Council and the discussion held with Secretary-General Waldheim continue to provide the best framework for future reform attempts. There was a general agreement in that group that attempts to hold periodic meetings at the Foreign Minister level and more frequent consultation among the Permanent

Representatives are in many ways mutually reinforcing. Nevertheless, a Foreign Minister level meeting would more likely give impetus to the idea of using the Security Council for informal exchanges of views among the members of the Council, and in the event that a Foreign Ministers' meeting cannot take place it would not necessarily preclude efforts to meet at a lower level. There is also an agreement that a "neutral" presentation on issues regarding international peace and security by the Secretary General would be more generally acceptable than a proposal for discussion made by a Security Council member since Secretary General Waldheim has indicated his willingness to provide oral report as a basis for discussion in the Council.

The current view of most members is that the proceedings of such meetings—whether at the Foreign Minister or the Permanent Representatives level—would be confidential permitting thus a more candid and informal exchange. Such informality and confidentiality are considered as the best way to avoid the possible rhetorical confrontation between the Chinese and Soviets since in such circumstances there would be little incentive for either to indulge in acrimonious attacks.

2. FOSTERING GREATER USE OF THE INTERNATIONAL COURT OF JUSTICE

Major Initiatives

To support, if it is decided to open the ICJ Statute for amendment, giving national courts resource to ICJ for advisory preliminary opinions.

To examine all treaties we negotiate with a view to including acceptance of ICJ jurisdiction in every such treaty.

To examine existing disputes with a view to those which could appropriately be submitted to the ICJ.

To recommend to the Senate, at an appropriate time, the re-examination of the Connally Reservation with a view to its withdrawal.

Progress to Date

At the last session of the Special Committee on the Charter of the UN and on the Strengthening the Role of the Organization, the U.S. delegation again called for greater use being made of the International Court of Justice. The U.S. had proposed during the 1978 session of the Committee that the greater use of the Court's potential in both contentious proceedings and ones leading to an advisory opinion should be explored and that the Court's role as a potential dispute settler and as a source of international law must be studied and expanded if a coherent body of norms to govern the ever-increasing interactions of States is to be elaborated. Granting all principal organs of the UN the right to seek advisory opinion was another proposal that the U.S. delegation said merited particular study; there was, however, no purpose in speaking of greater use of advisory opinions unless there was a political commitment to accord such advice a very high measure of respect.

The proposals on the International Court of Justice did not awaken immediate interest in the Special Committee. Comments were made to the effect that the continued existence of the Connally Reservation casts doubt on U.S. bona fides in the area.

A recent significant use of the ICJ has been in connection with the U.S.-Canadian maritime boundary question. On March 29, 1979, an East Coast Fisheries Agreement was signed by the United States and Canada, along with a treaty committing the two governments to resolve, by third party means, the disputed maritime boundary in the Gulf of Maine area. Also signed with the boundary settlement treaty were two related agreements. The first sets out in elaborate detail the method and procedures for submission of the delimitation of the maritime boundary in the Gulf of Maine area to a five-judge Chamber of the International Court of Justice. The other agreement describes, in similar detail, arrangements for submission of the issue to an ad hoc Court of Arbitration of agreed members should it prove impossible to proceed before a Chamber of the World Court. Administration officials have made clear that our preferred method of settling the boundary is by a Chamber of the ICJ because in the ICJ process, although the special Chamber would do the actual work, the award would be an award of the World Court. If the ICJ route is pursued, it would be the first instance in which a case submitted to that Court's jurisdiction by the United States would be decided by the Court. In our view, this would be a significant step in demonstrating that the United States is prepared to act in accordance with its stated beliefs regarding the importance of the ICJ.

Future Plans

The Department of State expects to have completed over the next months a compilation of existing international disputes with other States in order to identify those disputes which could appropriately be submitted to the Court. The example, of the U.S.-Canadian agreement, referred to above, is an encouraging sign that more such disputes can be so resolved.

3. STRENGTHENING UN PEACEKEEPING CAPABILITIES

Major Initiatives

To create a UN peacekeeping reserve composed of national contingents trained in peacekeeping functions.

To explore arrangements for training of earmarked contingents.

To assist with airlift of troops and equipment in peacekeeping operations.

To examine ways to upgrade technical equipment for observer missions and peacekeeping forces.

To explore setting up a special peacekeeping fund to cover initial costs.

Progress to Date

The proposals were submitted last year to the Secretary-General for consideration by the Special Committee on Peacekeeping (Committee of 33), and were published by the Committee along with recommendations from other countries. Meanwhile, the EC-9 prepared a draft declaration on peacekeeping which served as a general statement of principles, but did not advance specific proposals for strengthening peacekeeping. As the EC-9 president, the Federal Republic of Germany took the lead in working with the U.S. as a common approach to the issue seeking to attain U.S. and Community agreement on the declaration. The U.S. position was judged by the EC-9 to be further than they were prepared to go at that time, particularly in the case of stand-by capacities such as earmarking of contingents and training. The FRG articulated the concept of a two-phase approach, with a more modest approach the first year serving as a basis for further progress the second year.

The FRG, the Nordics and the Canadians saw the necessity to develop a consensus as being of paramount importance, since in their view a contentious resolution would probably not have gained the necessary support for passage. The U.S. eventually decided to co-sponsor the EC-9 draft, after considerable revision during consultations, the operative paragraphs of the resolution were changed to approximate more closely our suggestions for earmarking and training national contingents. The resolution (GA Resolution 33/114) was adopted in plenary session on December 18 by a vote of 106 (U.S.)-11-19.

At the last session of the Special Committee on the Charter of the UN and on the Strengthening the Role of the Organization, the U.S. delegation made a series of proposals on enhancing the UN's peacekeeping capabilities, including a UN peacekeeping reserve, earmarking troop contingents and training in peacekeeping functions.

We suggested that contingents could be either combatant or logistics units and should be available for UN service on short notice. Countries wishing to participate in peacekeeping operations would inform the Secretary-General of the type and size of troop contingents they would be prepared to make available; countries not in a position to provide military units might consider earmarking other facilities such as staging areas.

In order to make a UN peacekeeping reserve a coherent force, we proposed that arrangements for training of earmarked contingents by the UN in peacekeeping methods be explored; that adequate training of officers and perhaps NCO's in peacekeeping be considered as a key element of peacekeeping preparedness; that the UN and prospective participating countries might contract with appropriate institutions or facilities for such training. Alternatively some form of UN staff and training college should be considered for this purpose. In this regard we proposed that the possibility of developing a training program for personnel designed to serve on UN observer missions should be explored; that countries providing observers should, where possible, be asked to make them available for training one or two months prior to undertaking such duty and suggested that such training might be conducted at UNTSO headquarters.

In our proposal, we said the Secretary General should prepare a study of administrative and logistics problems connected with UN peacekeeping in order to develop recommendations for streamlining and systematizing procedures for establishing and operating peacekeeping forces, including recourse to commercial supplies where appropriate. With respect to the financing of peacekeeping operations, the U.S. proposal stated that all Members should fulfill their Charter obligations, to pay their assessed contribution for peacekeeping; that ways and means of eliminating the current UN deficit for peacekeeping be explored through voluntary contributions and for assessments under Article 17; that the possibility be explored among Member States, once the current peacekeeping arrears are eliminated by payments of amounts owned combined with voluntary and/or assessed contributions, of establishing on a reimbursable basis a special peacekeeping operation authorized by the Security Council.

The U.S. delegation informed the Special Committee that in the context of meaningful progress in this area, the U.S. would be willing to contribute as follows: (a) the U.S. would, on receipt of a request from the SYG, be prepared to consider assisting with the airlift of troops and equipment required for establishing a UN peacekeeping force authorized by the SC; (b) the U.S. is prepared to examine on a case-by-case basis the possibility of not requiring reimbursement for the provision of initial airlift facilities and; (c) the U.S. would be prepared to examine with the United Nations possible ways of upgrading the technical equipment available to observer missions and peacekeeping forces and of enhancing their observation through the use of or access to modern technologies available in those fields.

Future Plans

The U.S. hopes to go beyond a declaration of purpose this year to set forth various ways to strengthen institutionally the UN's peacekeeping capabilities.

We will initiate a new series of consultations aimed at the refinement of the resolution on peacekeeping passed by the 33rd GA, particularly with reference to the earmarking and training of national contingents.

At the minimum such consultations on our proposals should aid the Secretary-General in carrying out future peacekeeping operations.

4. STRENGTHENING UN ROLE IN DISARMAMENT

Major Initiatives

To examine various proposals for the Special Session on Disarmament.

To support change or expansion of UN's role in disarmament.

Progress to Date

In keeping with our desire to have the UN make a greater contribution in the area of arms control and disarmament, the U.S. supported a number of measures at the UN Special Session on Disarmament (SSOD) in the spring of 1978 and again at the 33rd Session of the UN General Assembly, aimed toward achieving this goal.

At the SSOD the U.S. joined in the decision to create the UN Disarmament Commission, a body composed of representatives from every member state. This deliberative body is charged with the responsibility to consider and make recommendations on various problems in the field of disarmament and to follow up the relevant decisions and recommendations of the SSOD. Among its first tasks, the Disarmament Commission will consider the elements of a comprehensive program for disarmament which will be submitted to the UNGA and through it to the Committee on Disarmament for possible negotiation.

The UN devotes attention to specific studies as part of its efforts on disarmament and arms control matters. At the 33rd UNGA and the SSOD, the U.S. supported among others, calls for an examination of the relationship between disarmament and development and for a study on disarmament and international security. The U.S. is participating directly in these studies.

Another way in which the UN contributes to disarmament efforts is through education. As a result of a resolution adopted at the SSOD, the UN is providing up to twenty fellowships for officials from developing countries. This program is aimed toward increasing expertise in the field of arms control and disarmament among developing states in order that they may participate more actively in this area, both within the UN system and in other international bodies.

Future Plans

The U.S. will participate actively in the consultations of the new UN Disarmament Commission this spring in order to work out a Comprehensive Program for Disarmament. At the same time, we will continue to participate in several UN mandated studies, such as on the relationship between disarmament and development and on military expenditures reporting.

DECISION-MAKING PROCESS IN THE UNITED NATIONS

WEIGHTED VOTING IN THE GENERAL ASSEMBLY AND MODIFIED VETO POWERS IN THE SECURITY COUNCIL

Major Initiatives and Progress to Date

The U.S. reform proposals envisaged little likelihood of a weighted voting system being accepted. A study on weighted voting was undertaken during 1978 to update an earlier (1964) study. Although the conclusion was that there are several formulas which would have improved the U.S. voting position in the General Assembly, it should be noted that the study did not factor in the growing use of consensus which has increased considerably since the earlier study.

During the recent session of the Special Committee on the Charter the U.S. made the following proposals on decision-making in the General Assembly that: (a) decisions be taken by consensus whenever possible or, at least by a sufficient majority so comprised as not only to lend decisions moral force but to engender the likelihood of their being implemented; (b) there be cooling off periods before any proposal is put to a vote; (c) consideration be given on an experimental basis to reaching a gentleman's agreement, whereby resolutions would be considered adopted only when they receive support from the majority of the members of at least four geographic groups and; (d) the number of co-sponsors of a resolution be limited to five so negotiation is not impeded by cumbersome groups.

Most delegations accepted the U.S. proposal that decisions should be taken by consensus whenever possible but expressed reservations to other aspects of our proposal on decision-making.

There were no serious attempts to curtail the use of veto in the Security Council.

PROCEDURES OF THE GENERAL ASSEMBLY

IMPROVING THE WORKING OF THE GENERAL ASSEMBLY

The Secretary's Report on UN Reform and Restructuring included a continuing U.S. commitment to seek greater efficiency in the working of the General Assembly.

Major Initiatives and Progress to Date

During the last session of the Special Committee on the Charter of the UN and on the Strengthening the Role of the Organization extensive discussions were held on the rationalization of the procedures of the Organization.

The Secretary-General has designated Under Secretary General Buffum, as Chairman of a Committee of Under Secretaries-General, to arrive at recommendations to avoid repetition of the organizational chaos of the 33rd session of the General Assembly. The Committee of Under Secretaries-General will consider all proposals made during past sessions and the current session of the Special Committee. It plans to report to the SYG by early June with a view to having the SYG issue a report and recommendations by June 30 so delegations will have ample time to consider the report before the 34th GA. Buffum told the Special Committee that the Secretariat was aware of the problems in the budget and finance area and was doing what it could to ameliorate them.

The U.S. submitted proposals on rationalization which inter alia would: elect the General Committee at the end of the previous session in order to organize better the next session of the General Assembly; have the General Committee review the work of the Assembly throughout the session; prune, group or merge agenda items to permit more detailed and careful consideration of each item; and discourage discussing the same item year after year. The U.S. also proposed that candidates for presiding officer be experts in the field or have eminence of a general nature and, in any event, have attended at least two prior sessions of the

General Assembly. With respect to the Main Committees of the General Assembly, the U.S. proposed that: (a) all items be allocated to one of the Main Committees before acted upon in Plenary; (b) all items with financial implications be taken up early in the session and in any event concluded not less than two weeks before the scheduled end of the session; (c) all committees except the Fifth Committee be required to cease work at least ten days before the scheduled end of the Assembly and; (d) consideration of certain items debated extensively at previous sessions be introduced by specially appointed Rapporteurs who would summarize the main issues emerging from previous debates. In addition, the U.S. proposed that: (a) time limits be fixed and adhered to for all speeches; (b) the work of the Fifth Committee be restricted exclusively to disarmament; (c) Chairmen of Main Committees meet once a week with the President of the Assembly to review the state of work in each committee; (d) consideration be given to intra-session subcommittees and working groups as a partial alternative to intersessional committees; (e) the GA review periodically the usefulness of its various subsidiary bodies with a view to disbanding those that are no longer useful or merging those that are similar; (f) the General Assembly President and Committee Chairmen enlist several assistants from the Secretariat and/or delegations to floor-manage specific agenda items.

On the Secretariat the U.S. urged that the role of the SYG as Chief Administrative Officer be respected. The U.S. proposed that methods to strengthen the process of selecting Secretariat staff be sought in order that competence and adherence to the solemn obligation contained in Article 101 are the rule; selection of staff be on the more effective vacancy announcement procedure to be established, greater use of competitive examinations, more intensive search procedures be conducted, mechanisms or procedures to discourage the practice of subjecting the SYG to political pressure concerning recruitment and promotion be elaborated, and the phasing out of fixed termed contracts in favor of a career service.

Most members of the Special Committee supported the majority of U.S. proposals. However, both some of the permanent and non-permanent members were unwilling to consider proposals which might at present or at some future time effect a reduction in their power or freedom of action. Reservations were expressed on automatically eliminating certain items from the provisional agenda, allocation of all items, except elections etc., to Main Committees rather than to plenary, and limiting the number of co-sponsors to only five states.

FINANCING THE UNITED NATIONS

1. MEETING THE UN DEFICIT

Major Initiative

To explore a new proposal for voluntary payments from member states to eliminate the current deficit.

Progress to Date

The nonpayment or withholding of assessed contributions by certain member states has created a financial crisis for the UN. Until those nations pay in a timely fashion, or cease withholding, the UN will continue to suffer a liquidity problem and could conceivably go bankrupt should additional programs be added from which certain member states will withhold.

The U.S. has continued to insist in the Fifth Committee and elsewhere that those responsible for the problem should cease withholding, and has in addition pressed for a solution in which voluntary contributions would be made by member states to the UN to ease the financial burden.

Future Plans

The Committee of 54 which has had the mandate to report to the 33rd General Assembly on possible solutions to the UN's financial problems did not report and the Committee itself will probably not be regenerated.

Compounding our problems is the existence of the prohibitory language on assessed contributions in the State Department appropriation bill for fiscal year 1979. Until this is repealed, the U.S. is in no position to press others to contribute to the UN.

2. SUPPLEMENTING UN FINANCES FROM OUTSIDE SOURCES

Major Initiatives

To explore various proposals to supplement UN finances from autonomous sources.

Progress to Date

We have developed a draft resolution for possible introduction at the 33rd General Assembly proposing that the ad hoc committee of experts which was established by GA Resolution 2046(XX) to examine the finances of the UN, be reconvened to consider the possibilities of obtaining autonomous sources of funding. After consultations it became clear, however, that such a resolution might provide unwelcome momentum to ideas for autonomous sources of funding that the United States has vigorously opposed in the Fifth Committee and elsewhere (e.g., taxes on oil imports or armament transfers).

Future Plans

Since this issue requires further examination, we are currently discussing the possibility of a State Department funded research grant to a qualified individual or institution or, alternatively, of eliciting the interest and obtain the support of a private foundation to undertake such a study.

ACHIEVING GREATER EFFICIENCY IN THE UN SYSTEM

1. RESTRUCTURING OF THE ECONOMIC AND SOCIAL SECTORS

Major Initiatives

To contribute to and monitor the implementation of the 32nd General Assembly's decisions and recommendations (i.e., Resolution 32/197) to restructure the economic and social sectors of the UN system.

Progress to Date

Despite continuing discussions in the ECOSOC, no progress has been made in the 32/197 recommendation that ECOSOC eliminate some (unspecified) of its numerous committees and commissions and substitute subject-oriented sessions of the ECOSOC itself. Resistance by different groups of members in defense of work of the committees and commissions that might be targeted and G-77 demands for increased participation in the prospective subject-oriented sessions (likely to lead to demands for increasing the membership of ECOSOC itself) raise serious questions whether pursuing this untested idea might not be counter-productive.

The lack of progress in ECOSOC notwithstanding, there are many aspects of the restructuring that have been implemented:

The creation of the post of Director General for Development and International Economic Cooperation and the appointment of Kenneth Dadzie to it.

The reorganization of the Economic and Social structure of the UN Secretariat into three separate parts: (1) the Department of International Economic and Social Affairs (to focus on research, analysis, surveys and projections; analysis and coordination of program planning; preparation of documentation for the UNGA and ECOSOC; and liaison with regional commissions); (2) the Department of Technical Cooperation for Development; and (3) the Office of Secretariat Services, Economic and Social Matters.

The restructuring and reform of internal working procedures of the Advisory Committee on Coordination (ACC) and its subsidiary machinery in order to improve cooperation and coordination among UN bodies and agencies in planning programming, budgeting, and evaluation.

FUTURE PLANS

Efforts are underway in the regional economic commissions and the various organizations and specialized agencies of the economic and social sectors of the UN system to strengthen the coordinating role of the regional commissions in their respective regions. This includes the extension and reinforcement of cooperative arrangements already in place between UNDP and the regional commissions.

Other plans include:

The establishment of a single governing body for UN operational activities for development (partly in place).

The establishment of a single annual pledging conference for those agencies.

Maximum uniformity of administrative, financial, budgeting personnel and planning procedures in UN agencies (gradually being implemented).

Harmonization and coordination of medium term plans, programs and priorities among UN agencies, with the assistance of the ACC and the Committee on Program and Coordination (CPC) of ECOSOC (also gradually being implemented).

In addition, there are other areas of restructuring where little or no process has been made but where there is a potential. These are:

Rationalization and streamlining the work and procedures of the UNGA in the economic and social sphere.

Development of an ECOSOC role as Preparatory Committee or screening committee for the UNGA on economic and social questions.

Ministerial-level sessions of ECOSOC to discuss global economic issues from time to time.

Integration of those programs and funds for development that are financed by extra-budgetary resources.

We are also exploring other ways of improving the functioning and prestige of ECOSOC, by reducing the amount of overlap between the deliberations in ECOSOC and its subordinate bodies and between those in ECOSOC and the UN General Assembly, and by encouraging integrated discussion of ECOSOC's various fields of interests and activities.

2. IMPROVING COORDINATION OF THE UN SYSTEM OF TECHNICAL ASSISTANCE

Major Initiatives

To strengthen the central role of UNDP.

To urge that most technical assistance financing be channeled through UNDP and be provided by voluntary instead of assessed contributions.

Progress to Date

The United States has supported the technical assistance efforts of the UN system because these activities: (a) have an impressive multiplier effect through facilitating large-scale development efforts managed and financed by other international institutions and/or private investments; (b) perform a catalytic role and provide technical expertise for initiating activities which otherwise may not be undertaken; (c) possess a unique capability for stimulating recipient development countries to improve their internal planning, management and related capabilities necessary to maximize benefits available from their own resources and other external assistance; (d) provide global benefits in fields such as nuclear safeguards, weather forecasting, air navigation safety, and the fight against communicable diseases; and (e) complement our bilateral efforts.

From all sources—voluntary and assessed contributions—the UN agencies spent approximately \$663 million on technical assistance in 1977, the last year for which overall information is available. This amounted to 27.6 percent of the total funds available within the UN system.

The major portion (81 percent) of the funds spent on technical assistance by the agencies of the UN system comes from voluntary contributions. Of this, 49 percent comes from contributions to the UN Development Program (UNDP), which funds activities by the UN and the specialized agencies acting as "executing agencies," and an additional 32 percent comes from voluntary contributions to programs such as the UN Children's Fund (UNICEF), the UN Environment Program (UNEP), and various trust funds established by the agencies to receive special purpose contributions from individual donor countries.

Assessed contributions amount to less than 19 percent of the total expenditures for UN system technical assistance activities—less than 5 percent if WHO's assessed health assistance programs, which serve global common interest, are excluded. Placed in larger perspective, assessed contributions for technical assistance amount to only about 5 percent of the total funds available within the UN system, and little more than 1 percent excluding the assessed WHO programs.

In passing the State Department's appropriation bill for fiscal year 1979 (Public Law 95-431), Congress approved an amendment initially proposed by Senator Jesse Helms (R-N.C.) to reduce the President's budget request for "Contributions to International Organizations" by \$27.7 million—an estimate of the U.S.

share of UN technical assistance financed by assessed contributions. The amendment, more importantly, also specified that of the total funds appropriated "no part may be made available for the furnishing of technical assistance by the United Nations or any of its specialized agencies."

The prohibitory language in the fiscal year 1979 Department of State appropriation bill now precludes any payment of U.S. assessed contributions to the UN agencies because we are unable to ensure that no part of such a payment would be used for technical assistance. The organic statute of each agency refers to the budget as a whole and makes no provision for earmarking within, or attaching conditions to, assessed contributions to the regular budget. Further, the agency heads do not have the right to earmark assessed contributions in such a manner as to prevent their being used to finance any specific activity or program.

Future Plans

Until the prohibitory language in the fiscal year 1979 Department of State Appropriation bill is removed, our chances to influence improved coordination of the UN system of technical assistance is virtually nil.

Since the chances of the repeal of this prohibitory language have improved recently, we can now again devote our attention to the reform proposal on technical assistance, unincumbered by the criticism that the Congressional action had provoked throughout the UN system.

A central and longstanding theme of U.S. policy has been to seek to strengthen the UNDP as the primary source of funding and overall coordination for technical assistance activities conducted by each of the relevant UN system agencies and programs. Through strengthening the capability of the UNDP to promote the necessary coherence, coordination, and effective management that we seek, we believe that the interests of individual countries and the world community will be enhanced.

In support of our major emphasis on the central role of the UNDP, the United States will continue to: (a) press in each UN agency to keep existing assessed funding technical assistance to a minimum consistent with overall U.S. policy objectives; (b) seek to avoid the introduction of new programs unless the need is extraordinary and can be fully justified; and (c) transfer, wherever appropriate, funding and policy responsibility for such programs to other agencies—especially the UNDP—utilizing voluntary contributions.

At the same time, American policy must take into account the fact that some of the UN agency organic statutes, accepted by the United States in joining the organizations, provided for the furnishing of some kinds of technical assistance out of assessed budgets. We do not accept, however, that it ever was intended for these agencies to be used by the majority as a means for making significant resource transfers from the developed to the developing countries.

In dealing with this issue, also, we believe that universal funding and burden-sharing for UN system technical assistance are appropriate in those instances where benefits serve a common interest. Examples of this are WHO's programs for the control and eradication of diseases, and efforts by other UN agencies to advance global norms (e.g., developing internationally acceptable criteria for foodstuffs involved in international trade).

Finally, it is U.S. policy to support assessed funding of technical assistance in individual UN agencies when important goals are better served this way than through the UNDP. For example, UNDP procedures often will not allow for meeting short-term emergency needs on a timely basis and the United States sometimes finds that the UNDP country programming system does not sufficiently accommodate priority needs identified by this country in particular program sectors (e.g., primary health care).

As we pursue this policy, every effort will be made to ensure that the UN agencies and other member governments clearly understand that the longstanding U.S. support for UN system programs could be seriously impaired if the repeated expressions of concern by us, the major UN contributor, are ignored.

3. IMPROVING U.S. PARTICIPATION

MAJOR INITIATIVES

To improve the U.S. Government's capacity to manage its participation in the UN system, particularly coordination among USG agencies and the melding of U.S. objectives in each agency with overall U.S. foreign policy goals.

PROGRESS TO DATE

In an effort to improve our overall participation in international organizations, last year we initiated on an experimental basis a policy management process within the Bureau of International Organization Affairs. The fundamental purpose of this new process was to identify at an early stage major issues expected to be confronted in a particular organization, to formulate how to deal with each issue when it arises in an organization, and to establish the means to monitor and evaluate our success in handling each issue. We believe that through such a systematic process, the U.S. will be better prepared to anticipate problems, to develop more considered response to them, and to determine the most appropriate means to resolve problems through evaluating action we have taken.

In particular, this new policy management process will enable us to—

monitor U.S. participation in international organizations and programs so as to identify and analyze issues and related U.S. interests from the central perspective of the Secretary, acting on behalf of the President;

elicit the most effective involvement of the different Executive Branch agencies concerned with U.S. participation in international organizations and programs;

assure that, on a systematic and timely basis, U.S. multilateral objectives are clearly identified, fully coordinated within the Executive Branch, and integrated within the context of overall U.S. foreign policy goals;

exercise greater influence in the international agencies by ensuring that we are better prepared on a more comprehensive and timely basis;

consider U.S. participation in international organizations and programs in a longer term and broader perspective and overcome currently too frequent tendencies to prepare for such meeting of an organization on a crash basis as an isolated event;

obtain more current and complete information about the international organizations and programs for use in preparing and justifying programs and budget requests (within the Department, with OMB, and before the Congress), drafting public statements, and responding to public inquiries; and

establish an approved basis on which to prepare instructions to U.S. Missions and delegations to international organizations and programs.

Under this process so far eight programs or agencies of the UN system has been reviewed, including the ILO, WHO, IAEA, ICAO, UNDP, FAO, UNESCO and the UN.

Future Plans

To become fully effective, this new policy management process will require further development and a longer period of time before it can become institutionalized. The major benefits to date are: (1) the general approach we have taken has proven to be a valid one; (2) greater attention is now being given within the Bureau to identifying likely future issues; (3) a process, though rudimentary, has been established for handling major issues which affect our overall participation in international organizations; and (4) the Bureau's ability to obtain information required for decisionmaking regarding particular anticipated issues has been improved.

We intend to build on the experience gained and to devote the resources necessary in the future to further develop the policy management process so that it becomes more central to determining our future participation in international organizations.

HUMAN RIGHTS

Major Initiative

Strengthening of existing special procedures for dealing with private communications of human rights matters (ECOSOC Resolution 1503), including more expeditious consideration of evidence.

Progress to Date

At the 34th (1978) and 35th(1979) sessions of the Commission on Human Rights, the United States delegation urged Commission discussions on these procedures as a priority matter. At both sessions encouraging progress was achieved in dealing with country situations involving consistent patterns of gross violations of human rights under the 1503 procedures. At the 35th session, the

Commission devoted more time to this single item than to any other item on its crowded agenda. On the basis of our experience at the last two Human Rights Commission sessions, it seems fair to conclude that acceptance of the procedures has become more firmly rooted and that through practice, the procedures themselves have been functioning more smoothly. In a number of instances the Commission, with strong U.S. support, has taken decisions which, in effect, have amended and strengthened the original ECOSOC Resolution 1503. For example, at the 34th session the Commission decided to grant access to the records of its closed meetings, in which country situation have been examined, to members of the Subcommission, an innovation which should result in a more cohesive approach as between the Subcommission and the Commission in dealing with the situation. Again at the 35th session, the Commission decided to encourage and facilitate greater participation by governments involved in the situation under review by authorizing advance notification to these governments of preliminary recommendations reached on the situations by the Commission's working group, which regularly meets prior to the opening of each annual Commission session. At the same session, the Commission decided to postpone consideration of certain other proposals designed to improve the manner in which the procedures operate.

Future Plans

On the basis of the experience gained, we expect to revise and perfect a proposal made but not passed by the United States Delegation at the 32nd (1976) Commission session to authorize the consideration by the Commission of evidence submitted in the interim between the original examination by the Subcommission and its examination by the Commission. At the same time, we will be exploring a further proposal to encourage greater cooperation from governments involved in situations being examined through increasing the automaticity of shifting from confidential to public discussion.

Major Initiatives

Scheduling more frequent regular sessions of the Commission.

Progress to Date

At its 35th session, the Commission had as its principal work project the conduct of an overall analysis of the alternative approaches and ways and means within the United Nations system for improving the effective enjoyment of human rights and fundamental freedoms. In the context of this project, the United States Delegation strongly urged the scheduling of more frequent regular sessions of the Commission. While we did not achieve this objective, our efforts resulted in significant steps toward this ultimate goal. In the resolution adopted by consensus, in which the Commission presented the results of its overall analysis, the Commission recommended that ECOSOC endorse an extension of the regular meetings of the Commission to six weeks each year, with an additional week for meetings of working groups, supported the holding in certain circumstances of special sessions of the Commission in order to complete unfinished business such as the drafting of human rights instruments, and called for the preparation of suggestions on the possibility of convening meetings of the Bureau of the Commission in intersessional periods in exceptional circumstances.

Future Plans

After ECOSOC endorsement of the proposals made by the Human Rights Commission, as described above, we will encourage their full implementation. Experience in holding special sessions or meetings of working groups made up of the entire Commission membership, for example, could lead to greater acceptability of a formal decision to schedule another regular annual session of the Commission itself. In this context, we will be urging that at least some of the additional meetings which may be scheduled should be held at UN Headquarters in New York. This will be in furtherance of our long-range goal eventually to return the Human Rights Division of the Secretariat back to UN Headquarters in New York.

Major Initiatives

Establish a new UN Senior Post of UN High Commissioner for Human Rights.

Progress to Date

As noted in the report of the Secretary of State to the President, the United States Delegation at the 32nd (1977) General Assembly made a determined effort to secure approval of the proposal to establish a High Commissioner for Human Rights. Instead the Assembly referred the proposal to the Commission on Human Rights for study. At the 35th Commission session, the U.S. Delegation, in the context of the Commission's overall analysis of alternative approaches for improving the effective enjoyment of human rights, strongly urged approval of the High Commissioner idea. Unfortunately, agreement was not attainable. Instead, the Commission reported back to the General Assembly that it could not reach agreement. This report at least precludes the possibility that the High Commissioner proposal could become bogged down in study by the Commission. The Commission's action had the effect of referring the proposal back to the General Assembly, which is ultimately the organ whose approval is required if the proposal is to be implemented.

Future Plans

We will be considering tactics and strategy on further efforts to secure acceptance of the proposal by the General Assembly. The 34th (1979) General Assembly will be receiving, through ECOSOC, the results of the Commission's analysis of the human rights work programs. As a part of this analysis, the High Commissioner proposal will be before the Assembly for such action as it may choose.

Major Initiative

Changes in the schedule of meetings of the Subcommittee on Prevention of Discrimination and Protection of Minorities.

Progress to Date

At the 35th Commission session, in the context of the Commission's overall analysis of alternative approaches, the United States Delegation supported more frequent sessions of the Subcommittee so that action on private petitions might receive more expeditious treatment. The Commission did not accept the scheduling of another regular annual session of the Subcommittee, but did agree that the regular annual session of the Subcommittee should be extended to four weeks. This extension should allow for a more thorough study by the Subcommittee of private petitions which underlies the country situations to be identified by the Subcommittee under the 1503 procedures.

Future Plans

In view of the failure of the Commission to authorize more frequent sessions of the Subcommittee, we will be exploring the possibility of a change in the scheduling of the Subcommittee's annual session in order to reduce the time between Subcommittee action on the country situation under the 1503 procedures and subsequent action by the Commission.

Major Initiative

Coordination of United Nations activities on behalf of human rights.

Progress to Date

At the 33rd (1978) session of the General Assembly, the United States Delegation proposed a new item for the agenda of that session. The item was entitled, "Review and Coordination of Human Rights Programs of Organizations in the United Nations System and Cooperation with other International Programs in the Field of Human Rights." Under this item, the United States Delegation proposed, with other co-sponsors, a draft resolution providing for the institution of measures to enable the Assembly to deal usefully with the coordination problem.

The resolution as adopted by the UNGA (Resolution 33/54) requested the Human Rights Commission, in the context of its overall analysis, to consult with other UN agencies and organs as well as with other regional intergovernmental bodies and to report its suggestions and proposals to the Assembly. At the 35th Commission session, the United States Delegation intensively pursued its interest in security progress in dealing with the problem of coordination. In response to our efforts, the Commission agreed to undertake consultations with specialized agencies and other organs and bodies of the United Nations system and to secure from them a survey of their human rights activities and programs. The material resulting from these consultations is to be compiled by the Secretary-General so that at its 37th session the Commission will, through a special sessional working group, be in a position to conduct a study of the material compiled and to make appropriate proposals for the coordination of specific human rights activities and programs within the United Nations system.

Future Plans

We will intensively build upon this very encouraging beginning achieved at the 35th Human Rights Commission session. The problem of coordination will clearly be the leading issue to be addressed by the Commission at its 37th session on the basis of the materials which are to be gathered during the intervening period.

Mr. ROSENSTOCK. I wonder if I could add something on this. There is a problem with ideas of ours if they have a "Made in U.S.A." stamp on them. There are various levels of reluctance and skepticism generated by ideas merely because they are ours. "You are a great power, what is in it for you. You would not be doing it if you did not have something to gain." Many ideas envision a view of the United Nations which is directly contrary to the view of the Soviet Union. So, in many areas we immediately set up an East-West split with the non-aligned hoping to be able to avoid taking sides if they possibly can.

So, in advocating these various proposals we can sometimes do more harm than good by hammering them ourselves too directly. We put our ideas forward. We try to stimulate them from other people when they are anything vaguely like the sort of thing we have in mind that comes from somebody else, we try to bend it, move it, shape it, support it. But I think we have to be careful not to give a good idea a much lesser chance of success by making it an American proposal to save the U.N. from itself, or indeed just an American proposal to improve things.

I think that is one of the constraints we operate under. I think in part there are things the United States could do and is doing to diminish the suspicion of our ideas. I think the changes in the African policy of this administration are significant. And yet, when we come in with fairly far-reaching reforms and assert that it is because of our commitment to the U.N. and then we see something—talking now from the U.N. perspective—we see this great debate in the United States over Rhodesia sanctions, it is interesting to note that no one looks at the fact that it would be a violation of our charter obligation for us to break Rhodesian sanctions. The huge row is whether it is in our interest or not in our interest; whether the elections were fair; whether the other guys are Communist; whether, if we do not keep the sanctions up, the Russians will gain or the Russians will lose, heaven only knows what. But you do not see either the Congress or, I must say, in large measure the public statements of the press or, perhaps, the administration, pointing out that one of the most serious aspects of this would be to take the collective security system of the United Nations and ignore it and break it.

If you take the collective security system and you ignore it, and violate it on one day, and then you come around with a series of proposals to strengthen peacekeeping—which is another element of the collective security system—it is perhaps understandable that there is a measure of skepticism as to what motives lie behind it, even if the motives are as pure as driven snow, a Third World country is faced with our advocating these; the Soviet Union is opposed to it; there being no immediate tangible gain for them in taking sides in this kind of an issue, and you get a withdrawal and a “hands off” attitude, and it becomes more difficult, then, to push the idea, particularly if we have said it 18 times.

So, that is part of the problem in translating those ideas into accepted steps forward in the U.N. system.

Mr. BONKER. Thank you.

Mr. HALL. I have just one other question, and it relates to the International Court again. Do you have a figure relative to the numbers of opinions that the Court has rendered in the past, say, 30 years?

Mr. MAYNES. We could supply that for the record.

[The information follows:]

The following is excerpted from the “International Court of Justice Yearbook 1976-77”:

The first case entered in the General List of the Court (Corfu Channel) was submitted on 22 May 1947.

Between then and July 31, 1977 the Court has had a total of 61 cases to deal with * * * In those cases it gave 38 judgements and 16 advisory opinions.

Mr. BONKER. Mr. Bowen.

Mr. BOWEN. Thank you, Mr. Chairman.

I would like to pursue one issue just a bit. I have been very actively involved recently in supporting the legislation we will take up next Wednesday, dealing with the Panama Canal. There have been some members who have made statements about whether or not under a certain circumstance Panama would be violating the treaties, or would violate them, or whether we would. For example, let us suppose we passed legislation here which would be a potential violation, shall we say, of treaty obligations and would become a violation, theoretically, if we failed to perform an obligation under the treaty after it came into effect.

First, what would be the function, the method of operation of the World Court in addressing an issue where there was some disagreement? For example, let us say Panama argued that the United States had violated the treaties in a particular manner through action which we took in domestic law which would prevent us, let us say, from making a payment to Panama under the treaty, or something to that effect. If the United States should dispute the fact that that was a violation, how would we go to the International Court? What steps would have to be taken, and how long would it take to get adjudication of it?

I know there is an established pattern of international law, there is a treaty on treaties, which we, as I understand it, did not sign, which sets down a method of structuring treaties. I think I am correct in stating there is an established standard in international law that if one party violates a treaty the other party is justified in announcing the termination of the treaty—I believe I am correct—and then the issue is whether they both agree that there has been a violation.

Mr. ROSENSTOCK. The law, just to back up 1 second, the Law of Treaties, the Convention on the Law of Treaties, the United States signed it; we have not yet ratified it because it is hung up in the Senate because of a certain clause which is essential to us and all other countries internationally, which has made the Congress nervous because it would seem to suggest that the domestic illegality of an action cannot be cited as a reason to justify breaking a treaty. Obviously, that is essential, you do not want to go around concluding treaties with people and find out that some obscure law of theirs has been violated and you do not have a treaty.

In the context of the power struggle between the executive and the legislative branches in this country, that hung it up. So, we are not a party to it, although it is accepted as stating the law as it is.

We do not have in the treaty with Panama provisions for taking the matter to the International Court of Justice. I have had the opportunity socially to meet one of the Americans who was engaged in that negotiation, and I asked why. The answer was, "Oh, my God, we are going to have trouble enough getting this thing through as it is, that is all we would need."

If we and Panama had a dispute with regard to the treaty, we would have to reach an agreement with Panama to take the matter to Court. We and Panama would have to agree to have the Court settle that, as a separate agreement. That, presumably, would then have to be approved by the Congress.

Mr. BOWEN. How many months of the year does the International Court meet, and how long would it take to get the matter considered?

Mr. ROSENSTOCK. The problem with the length of time matters take before the Court is normally the amount of time states believe they need to fully prepare themselves. The Court has demonstrated in several recent cases an ability, when asked by the states to move expeditiously, and when provided with the pleadings expeditiously, to move from the pleadings to the decision fairly rapidly. So, it need not take a great deal of time, although, certainly the pattern, both in International Court and its predecessor, is that states themselves usually want 1 year to prepare their case. Then the other side has to have a long period; then you have periods for rebuttal and surrebuttal; so, it tends to be a lengthy process. But the actual time from the time states are finished pleading to the time a decision comes down is normally fairly rapid, unless the documentation is very voluminous.

Mr. BOWEN. I notice here one of the reforms that is proposed is that a nation with a dispute can request an advisory opinion on notice of the other party. So, that would relieve you of the problem of getting both parties to agree to go to the Court, just one party could go and get an advisory opinion.

Mr. ROSENSTOCK. That proposal was suggested. That would require a revision of the charter, which could never be done because the Soviet Union—if no one else—would never accept that change; therefore, it would not come about.

There are other ways it could be done, through the General Assembly agreeing to seek those opinions, and indeed, we pushed that in the Charter Review Committee, without immense success. But some measure of interest, and I think that is an idea which we and the Philippines, and Italy, and a few other countries, can keep gently nudging along, and it may eventually achieve sufficient support. I do not know.

Mr. BOWEN. Let me make sure I am clear on this point, this is hung up in getting Senate ratification. You are saying the treaty on treaties, as it is sometimes commonly referred to, has a provision which says that a domestic action is not to be regarded as a violation?

Mr. ROSENSTOCK. No. What it says is that a state—let us say state A and state B have signed a treaty. State A subsequently discovers that it did not have authority to enter into that treaty, or the executive lacked authority and had not properly submitted it to the legislature, or for whatever reason a treaty could be invalid under domestic law. State A cannot cite that domestic illegality as an excuse for violating its international obligation.

Mr. BOWEN. I see.

Mr. ROSENSTOCK. That is a provision we insisted on having in there. The United States wanted that.

Mr. BOWEN. We put it in there, but the Senate is concerned about ratifying with that provision in it?

Mr. ROSENSTOCK. Yes, the Senate is concerned about that because it came to the Senate at a time of great sensitivity between the powers in the international field, post-Vietnam mood, between the executive and the legislature. The Senate, or some in the Senate seemed to have the concern that this can be used, or abused, or at least can be thought to be an agreement by the legislature to give the executive more power.

Mr. BOWEN. Well, let us take, for example the recent argument that is still going on as to whether or not the House should have participated in the transfer of property in the Panama Canal. There are those who argue the treaties are invalid because the House was not consulted, and that is a violation of the Constitution. But I happen to agree that if you could find anything that theoretically could be a violation of a state's domestic law and use that as an argument for rendering invalid a treaty, you could junk everything all over the globe because in this case we had adjudication of this matter. It was determined in the courts, the Supreme Court, that the treaty was equal to a statute and property could be transferred. Even though I have to disagree, nonetheless, the courts have ruled that way, and I certainly accept that decision.

Now, I presume under established international law, then, I am also told that if you have reason to believe there is a clear violation of domestic law in the ratification process, if you are put on notice to that effect, then you are justified as regarding that treaty as invalid. In this case we had reason to do just the opposite because our court system in this country has ruled that the process of treaty-making was adequate defense for transferring property.

So, the other notion is correct too, if you have a clear perception that is a violation, you regard it so, Panama had every reason to believe we acted in good faith, and therefore it had every reason to regard the treaty as valid, and we had every reason to regard it as valid also because the courts ruled it as such.

Mr. ROSENSTOCK. That is correct.

Mr. BOWEN. One last question, and that is back to Rhodesia, again. You were talking about our obligations under the Charter. I presume, of course, one of the reasons that the matter is being overlooked somewhat these days is because if it is a violation, we violated it previously because we have gone back and forth in terms of policy in this regard, in terms of the chrome situation, the Byrd amendment.

So, I gather the fact that we have made exceptions in the past tends to soften the perception of the public that there is any issue involved in the violation now. Would you say that probably is one of the reasons for that?

Mr. ROSENSTOCK. I do not know, perhaps. Perhaps it gets easier each time you do it. But the effect in the United Nations does not become less each time you do it.

Mr. MAYNES. If I might comment on that as well. I think that this is really an inadequately understood and poorly perceived aspect of the whole sanctions problem. The United States, as a permanent member of the Security Council, has a vested and long-run interest in maintaining the obligation of member states to respect the decisions of the Security Council. Article 25 of the charter says that member states should respect decisions of the Security Council.

We are in a privileged position in that body to determine what the mandatory obligations on the membership shall be. So, we have a long-run interest in insuring that those decisions are respected. We are cavalierly pulling down one of the major pillars of collective security which was erected at the end of World War II, and we are doing it without considering at all the long-run interests of the United States as a permanent member of the Security Council.

It is a point that has been often made inside the administration, and it is one of the reasons that the President's statement on that did specifically mention our international obligations. But it is not an argument that has been adequately debated on the hill and one, that I think, even those who might in the end decide to come out against the administration need to think through clearly when they come to a final decision about the pros and cons of this particular decision that the Congress is about to make.

Mr. BOWEN. So, in effect you are saying, since we were part of the agreement as a permanent member, there is every reason for us to abide by it.

Mr. MAYNES. We voted for these sanctions under three administrations.

Mr. BOWEN. Thank you, Mr. Chairman.

Mr. BONKER. May I followup on that, Mr. Maynes, for just a moment. When we made an exception during the time that the Byrd amendment was in effect and we removed sanctions as they related to Rhodesian chrome, was there an outcry, was there a challenge of our legal, political, or moral responsibility at that time?

Mr. MAYNES. It became an enormous international issue, raised in every international forum and all bodies of the United Nations. It was constantly pointed out to us in areas like the Middle East. We are very insistent that Security Council resolutions be respected; we see those as the foundation stones of the potential settlement; and here, in another area in the world, on decisions which the United States did not simply acquiesce to but actually voted for, we were disregarding our legal responsibility.

It becomes very hard for the international community to tell a nonmember of the Security Council that it should respect the decisions of the Security Council, which they are obliged to do under international law, when a member of the Security Council is not respecting its decisions, and particularly a member that has it within its right at any time to block action.

Mr. BONKER. As our colleague noted, it makes it easier each time because this subcommittee, along with the Subcommittee on Africa, conducted several days of hearings and the legal obligation to the U.N. was never raised throughout all the hearings; if it was raised, it was just momentarily. So, it is something we are taking lightly in our overall considerations of the sanctions issue.

I have just one last question, and that involves the funding of U.N. peacekeeping forces. It seems there are two problems that plague our commitment and capacity to deal with peacekeeping activities. One, delays once a decision has been made; and the second is the funding.

Do you have any suggestions, or comments on our responsibility and other member nations' as it relates to funding requirements?

Mr. MAYNES. The issue of the timing of the arrival of U.N. forces in a crisis situation is really a two-stage problem. The United Nations has been very successful in responding in token forces almost immediately. Whenever there has been a decision by the Security Council, within a couple of days the Secretary General has managed to get U.N. troops on the ground.

But in fact, when you look behind the scenes of what is happening, he is robbing Peter to pay Paul. He is taking troops from the Sinai and moving them into southern Lebanon; or from Cyprus to the Golan Heights. That works as a temporary measure, but if you take the case of southern Lebanon where we had a very serious conflict on our hands, and one that could have expanded into an all-out war between Syria and Israel, perhaps bringing in other countries in the area, we were very anxious to see the United Nations get the requisite number of troops in there as soon as possible.

The Israelis delayed their withdrawal by several weeks as the U.N. forces began to build up, and it was not until more than 2 months had passed before the Secretary General was finally able to reach the 6,000 figure.

We have proposed in our reform proposal that states earmark and train forces ahead of time to be ready for more immediate action by the United Nations, or be on more immediate call for the U.N.'s service. We are continuing to push that. We think it is the next stage of peacekeeping activity in the United Nations. We are currently involved, as a matter of fact, in consultations with other governments to see what is possible in the context of the coming General Assembly.

At this point it is too early to say how much we can accomplish. At the last General Assembly we did push very hard for inclusion of this concept in the initiative which the EC-9 took in collaboration with us. There was not sufficient support for it, so we did not insist on it; although we pushed very hard behind the scenes. We did feel that there was an implicit agreement at the time that this was the next thing that should be done. But, we do need the necessary degree of support.

On the question of financing, the basic problem is the Soviet Union and China. This is something that we regularly discuss with them. Both countries have made statements to the effect that they would participate in a voluntary effort to clear up the U.N.'s financial problem if the other side would take the first step. We have felt, in light of the act that it was the Soviet arrears that are causing the problem, that the Soviet Union should take the first step.

It is a very controversial issue, as you know, in the Congress, the question of nonpayment of Soviet obligations. We feel that in order to have a package to which the United States could make a contribution we must have a significant step on the part of the Soviet Union, otherwise the package will not receive sufficient support.

The membership as a whole has consistently supported the concept of collective responsibility, collective financial responsibility. The single exception is the Cyprus operation which, I think, has convinced everyone that it should remain an exception. It is very difficult to raise the funds. We get into interminable arguments with other countries, each country contending that its share ought to be less. I think that experience proves the wisdom of having a collective responsibility approach to this problem.

Mr. BONKER. Thank you, Secretary Maynes. If there are no further questions we want to thank both you and your colleagues for your time this afternoon and for your testimony.

Mr. MAYNES. Thank you very much.

[Whereupon, a short recess was taken.]

Mr. BONKER. The subcommittee will come to order. I apologize to the witnesses and others for the unexpected delay—the House is not always as efficient as it should be. Hopefully we can proceed without any further interruptions.

For the record, we have in the second panel before us today two distinguished witnesses, Mr. John Mroz, executive vice president of the International Peace Academy in New York, and also Walter Hoffman, the chairman of the Campaign for U.N. Reform, and a member of the American Bar Association, who has been involved in these activities in recent years.

Gentlemen, you can proceed with reading your written statements, or submit your prepared text for the record and proceed by summarizing. I have, Mr. Mroz, your supplemental views in written form which, without objection, I will have included in the official record.

So, Mr. Mroz, we will proceed with you.

**JOHN EDWIN MROZ, EXECUTIVE VICE PRESIDENT,
INTERNATIONAL PEACE ACADEMY, INC.**

John Edwin Mroz serves as executive vice president of the International Peace Academy, a professional training institute established in 1970, which provides peacekeeping and negotiation/mediation educational programs for officials from 114 nations including the United States.

In his position, Mroz is responsible for the day to day operations of the academy, including the design of curriculum, governmental negotiations and teaching. He previously served as director of development at the academy. Mroz's research activities center upon the security considerations and third party roles in the Middle East. He is currently completing a publication: "Perceptions, Security Requirements and Third Party Roles in a Comprehensive Middle East Settlement."

Mroz completed his Ph.D. studies at the Fletcher School of Law and Diplomacy. He has previously served as a special fellow of the NSF and has taught at the university level. His area specializations include the Middle East and Eastern Europe.

He has delivered scores of papers at professional meetings and teaching seminars in Europe, Africa, Middle East, Latin and North America.

Mr. MROZ. Thank you, Congressman. My colleagues and I would like to thank you for inviting us to meet with you this afternoon. As you know, General Ted Leslie, whom you had originally asked to testify here on behalf of the academy unfortunately suffered a heart attack last week and at this hour still remains in a coma.

The academy for 10 years has trained over a thousand military and diplomatic officials in the skills of peacekeeping mediation and negotiation. This includes people like Mr. Maynes, who was here earlier, Dr. Boutros Ghali in Cairo, and many of the U.N. Force officers. One hundred and fourteen nations, including the United States, regularly send officials to our training programs. Thus, you see our interest in the subject at hand. We want to begin by saying that we are heartened by the President's report and certainly hope that further initiatives such as this will be taken.

We view peacekeeping as an international third party intervention designed to prevent, contain, or localize conflicts and to establish an environment which might lead to successful negotiation of a dispute. Peacekeeping is not an end, but rather a means. Its primary function is to help build confidence among the disputants and facilitate the continuation of, or in fact reversion to diplomacy.

The disillusionment in America in the past years over peacekeeping can perhaps be attributed to a misunderstanding of peacekeeping's role. A careful analysis, for instance, of U.N. operations demonstrates that most peacekeeping missions succeed in carrying out their mandate. These mandates, however, are usually not synonymous with total resolution of the root causes of the conflict; rather, they are meant to buy time; that is, to establish conditions of basic trust that a settlement could be negotiated in good faith. This is a time-consuming and frustrating process.

The Egyptians and Israelis give this kind of credit to the work of UNEF II and to the U.S. Sinai field mission. Similarly, in Cyprus, Golan, and Lebanon, the parties see the United Nations' role in that light.

It has been noted that after the 1967 war in the Middle East and during the War of Attrition, more Israelis died from violence than were killed during the previous war. Yet, there were few deaths between 1956 and 1967, while UNEF I was deployed in the region.

The United States, France, and other countries have learned during this decade that international peacekeeping is very often preferable to unilateral intervention, or to refusal by the international community to prevent widespread violence—for example, in Southern Lebanon.

Beyond the United Nations, at the regional level, there is renewed interest in international peacekeeping. We have recently conducted training programs with the support of the Organization of American States, the Inter-American Defense Board, and the Organization of African Unity in this area of peacekeeping training. The recent meeting in Addis Abbaba of the OAU Defense Commission was able to agree on a detailed set of recommendations concerning the establishment of a possible OAU peacekeeping capability. It, by the way, will be considered by the heads of state of Africa in Monrovia next month.

We have also recently seen the need to improve our own understanding and capability to launch ad hoc peacekeeping missions. I refer here to the possible alternative to U.N. peacekeeping in the Sinai, which the Soviet probably will threaten to veto the redeployment of UNEF.

In my written testimony I have made a number of specific suggestions as to how the United States could strengthen international peacekeeping, and perhaps I can summarize several of our suggestions in reference to these points.

The first is in regard to the President's report on a peacekeeping reserve. We feel that experience and the practical realities of politics indicate that few nations will probably earmark troops in the foreseeable future. However, many countries, more than 45, are definitely interested in providing more extensive training to their key officers and officials in the skills and procedures to U.N. peacekeeping. Accordingly, developed nations might earmark foreign aid funds to include cost of education for peacekeeping. For example, scholarship funds could be made available to send Third World participants to international training seminars in peacekeeping, which are already held in various regions in the world in English and Spanish languages. Many countries, such as Fiji, which is currently contributing troops in Lebanon, are unable to send participants because of the cost factor of those international training programs.

Mr. BONKER. Before you move to the second point, who would be responsible for the funds that would cover the costs of education for peacekeeping training? Would that be a private group, resident government, or who?

Mr. MROZ. The United Nations itself is unable to do training for peacekeeping because of the Soviet objection to preparation of peacekeeping forces. This is why the International Peace Academy was established 10 years ago at the suggestion of the then Secretary General.

Mr. BONKER. So, you would be the one training.

Mr. MROZ. Ourselves, or perhaps also the Nordic countries. They also do some basic training in peacekeeping. We are the two groups that do the training.

Mr. BONKER. What I am trying to understand is a matter of funding source.

Mr. MROZ. That is important.

Mr. BONKER. Where do you now get your money?

Mr. MROZ. Our money comes from tuition fees which we assess governments, particularly the developed world, pay tuition fees; and foundation and private grants which we are receiving in the United States and Canada.

Mr. BONKER. It would be a little bit easier if you had a direct appropriation. Well, if the Russians would disapprove of the U.N. training, would they not also object to funds being used for this purpose?

Mr. MROZ. The East Europeans participate actively in our training programs, and have since the beginning in 1970. The Soviet Union has taken a lukewarm attitude, obviously, toward what we are doing. However, they do periodically send people to our training programs.

Our board has recently made the decision to seek some government funding. Initially, we have approached several European governments, and our intention was later to see if the U.S. Government would be interested.

The total amount of money involved is very small. We run the training programs in all parts of the world—Africa, Middle East, Latin America, North America, Europe—plus publications, for about half a million dollars a year. So, the total sum of money we are talking about is very, very small.

Mr. BONKER. Do you want to proceed to your second point?

Mr. MROZ. Thank you, sir.

The second point is on the particular contributions which the United States can make. I noted in my written testimony that one of the most immediate and important contributions which the United States makes to peacekeeping is providing airlift equipment and technical assistance to contingents, since geographic balance requires that less developed countries actively participate.

In terms of a suggestion, following up on the report of the Secretary of State and the President, we suggest that consideration be given for a required course in peacekeeping being added to the curriculum of some of our country's advanced military training schools. That is now being done, instituted slowly, in other governments. It seems that this would be something that could provide some valuable basic services.

Also, we feel greater efforts must be made to demonstrate to the higher echelons of our Ministries, our Government departments such as the Pentagon, that this should be receiving some priority. It is receiving more priority now than it has in the last 20 years, but it is still not up to par with other countries.

The third area is in terms of training and technical equipment. Here there is a very strong need for expanding the amount of international training which is now given. We were encouraged by the fact that Congress is now considering IMET appropriation for Latin America which would provide funds for peacekeeping training. This is a positive step, we think, in the right direction. We note that there are some political problems with that appropriation; for example, several countries must be excluded on the basis of human rights considerations. This causes a difficulty in the sense that peacekeeping training traditionally works only when politics at that level are kept out. Accordingly, there are some difficulties with appropriation, but it seems it is certainly a step in the right direction.

Next we should look at the Sinai field mission as an example of how technology can enhance peacekeeping effectiveness. We are pleased to tell you that a number of governments, including the United States—the Departments of State and Defense are assisting the Academy in a major task force effort to explore how technology could improve peacekeeping effectiveness. This will be culminating at a ministerial level meeting to be sponsored by the Canadian Government in 1980. We do want to go on record that the U.S. Government has given significant help in supporting this idea of expanding technology for peacekeeping.

In the area of administration and logistics, we agree with the recommendation of the President that a major and very detailed study at a high level must be made on how the situation can be improved in the logistic area. In addition, the United States might want to encourage and provide equipment for those who would otherwise be unable to maintain logistic units, so that they can be made available to the U.N.

The U.N. traditionally finds its greatest problem in finding manpower in the logistics area. Canada supplies most of that and they are badly overextended.

On the question of the Special Committee on Peacekeeping Operations, the fifth point, here we find not much room for optimism, and in fact we would say not only is agreement on peacekeeping guidelines probably impossible between the United States and the Soviet Union, but many experts argue that specific publicly agreed guidelines to U.N. peacekeeping might in fact inhibit and cause problems in future operations. The flexibility and ad hoc nature of peacekeeping is in fact one of its strengths—it is one of its weaknesses, but it is also one of its great strengths.

Finally, in terms of the idea of setting up a voluntary fund for peacekeeping, which is suggested in the President's report, here we find again a great deal of difficulty in seeing where this could practically come about. Mr. Maynes mentioned the tremendous deficit already on the Cyprus peacekeeping force, which is on a volunteer basis.

I would like to suggest that the United States might wish to shift the emphasis of this fund from a general support of peacekeeping missions, to a special fund to cover the extra cost of incorporating more sophisticated technology into peacekeeping missions.

A sizable amount of funds could be saved by the U.N. with new technology facilitating or replacing manpower. Industrialized countries might be more willing to contribute to a special peacekeeping fund that basically supported the cost of technological-related elements in peacekeeping. It would be expected that the technology experts and trainers would be provided primarily from the countries contributing the funds.

The scope of peacekeeping, finally, need not be confined to traditional military roles. We believe a major military effort is needed to reassess the concept of peacekeeping.

I know I have now gone over my 5 minutes. I want to conclude with a very brief observation that my colleague, General Leslie, had been preparing for his remarks to present to you today—I quote from the beginning of his presentation:

It is essential that governments frankly assess peacekeeping and its role in the future. We must not be bound by historical precedents by politics, or by existing institutional arrangements.

He continued:

It will be our boldness in such an assessment and our willingness to translate that assessment into working political and technical realities that will determine if we are to be able to cope with international conflicts in the last two decades of this century without having to think the unthinkable.

I would be pleased to entertain any further questions that you have.
[Mr. Mroz' prepared statement follows:]

PREPARED STATEMENT OF JOHN EDWIN MROZ, EXECUTIVE VICE PRESIDENT,
INTERNATIONAL PEACE ACADEMY, INC.

INTRODUCTION

Around the world, diplomats, military officers, political leaders, and administrative officials charged with the preparation and implementation of UN peacekeeping missions, are lending support to the recommendations made by President Carter for strengthening UN peacekeeping—an increasingly favored tool for conflict management in the 1970's. Peacekeeping missions in southern Lebanon, the Golan Heights, Sinai, and now perhaps Namibia, have been instituted in large

part as response to the initiative of the United States. The term "peacekeeping", as used in the President's Recommendations, and by most of the international community, refers to: "The prevention, containment, moderation, and termination of hostilities between or within states, through the medium of a peaceful third party intervention organized and directed internationally, using multinational forces of soldiers, police, and civilians to restore and maintain peace".¹

Although peacekeeping may be employed at the UN, regional or ad hoc levels, the President's Recommendations limit us to a discussion of peacekeeping within the UN context. The remarks presented here are intended to: (1) review the President's recommendations; and (2) make suggestions for the strengthening or expansion of each peacekeeping recommendation contained in the President's Report and the Report of the Secretary of State to the President on the Reform of the U.N.

REVIEW OF RECOMMENDATIONS

(1) *UN peacekeeping reserve*

There is great merit in having countries earmark troop contingents within their military establishments who are trained in the skills and procedures of UN peacekeeping. The call for earmarked troops is not a new one, having been espoused by Hammarskjöld (for example in 1960, when 12 countries responded in the affirmative, including 4 from East Europe). The lack of success over the years in achieving the goal of earmarking prepared contingents is due to several important concerns: (1) the very ad hoc nature of UN peacekeeping; (2) the politics of peacekeeping; (3) the legal questions surrounding peacekeeping, the word itself does not appear in the Charter, and current practice fits neither under Chapter VI nor VII and (4) the financial costs. Perhaps the quickest way to illustrate these problems is to compose a checklist of questions which any government would use to ascertain if it will support and contribute to a peacekeeping mission. Among the items would be the following:

(a) Do the disputants accept the need and conditions for the peacekeeping mission? Is there a degree of consensus on the purpose and length of mandate, and the financing of the mission?

(b) Is the conflict a civil war (internal strife) or an international conflict posing a threat to regional or international peace and security?

(c) Will peacekeeping freeze the status quo and prevent the political resolution of the conflict, or will the peacekeeping operation "buy" sufficient time for the parties to work out their differences in a peaceful atmosphere?

(d) Is there any likelihood that the peacekeeping force will simply sustain an unpopular or repressive government (or protect rebellious elements within a state) or will peacekeeping be nonideological and prevent unnecessary violence and slow down the spiraling sale of arms to the disputants?

(e) Will peacekeeping provide a face saving device for the disputants, thus allowing a termination of hostilities and an opportunity for negotiations, or will peacekeeping enable both sides to avoid defeat, and thus prolong settlement?

(f) Will peacekeeping allow for the immediate termination of hostilities, or will U.N. troops who are deployed to the conflict area with no defensible lines become embroiled in a hopeless and dangerous situation?

(g) Will contributing troops to the peacekeeping operation endanger the ability of their government to meet basic security demands at home (example, the Indian Government recalled its troops from ONUC in 1963 after the Chinese incursion into Indian territory)?

(h) Will a peacekeeping operation demonstrate international commitment to resolving the conflict and bringing peace to the region, or will it be seen as interference by the large powers (Security Council) or special interest groups?

(i) Will the third parties promoting the conflict support the introduction of an international peacekeeping mission or will this be seen as a defeat to their interests?

A further complication is the confusion over the very term "earmarked." Following the Korean and Congo operations, it is understandable why nations have been unwilling to provide regular "standby" troops for U.N. use in peacekeeping missions. However, "earmarked" contingents are not committed standby troops but rather trained units which could be made available to the U.N. for specific peacekeeping missions. It is this latter "earmarking" of troops which is proposed by President Carter and which we support today.

¹ "Peacekeeper's Handbook" (London; International Peace Academy, 1978, p. 111/4).

Suggestions.—Experience and the practical realities of politics indicate that few nations will earmark troops in the foreseeable future; however, many countries are interested in providing basic training to their key officers and officials in the skills and procedures of UN peacekeeping. Accordingly, developed nations might earmark foreign aid funds to include costs of education for peacekeeping. For example, scholarship funds could be made available to send Third World participants to international training seminars in peacekeeping which are already held in the English and Spanish languages each year. Encouragement could be given to Academies of National Defense and Diplomacy to include at least some basic coursework in UN peacekeeping in their officer training programs.

Such assistance should not be tied to the proviso that these countries earmark UN troops. Rather, it should be seen as a method for building within the country, a clientele of officials who understand peacekeeping and will be more prone to cooperate in future missions.

Greater emphasis could also be placed on earmarking OBSERVERS for UN duty. The financial and political commitments are easier for certain countries to justify than full military contingents.

(2) *U.S. contributions*

One of the most immediate and important contributions which the United States makes to peacekeeping is providing airlift and equipment to contingents. The need for geographic balance requires that troops from less developed countries make up a substantial percentage of UN peacekeeping forces. Many of these countries such as Nepal, Senegal and Fiji (all of whom serve in UNIFIL in southern Lebanon) require air lift assistance, for example.

Timing is often of the essence. It is imperative that sophisticated contingency planning be undertaken by the Pentagon in this area, and that assistance to international peacekeeping missions be understood as an important function of the military's overall role in this country.

Suggestions.—A required course in peacekeeping might be added to the curriculum of some of our country's advanced military training schools. Serious efforts could be made to insure that military officers at the highest levels be aware of the importance (and need for priority) of peacekeeping-related duties. It is understandable that UN peacekeeping is seen as a low priority by many in the military establishment. Accordingly, greater efforts must be made to demonstrate the importance of past U.N. operations to U.S. Foreign Policy, and the possible contingencies which might arise in pending operations, for example in southern Africa.

(3) *Training and technical equipment*

The United States' role in the Sinai (U.S. Sinai Support Mission) since 1973 has proven the benefits of utilizing technological equipment to enhance peacekeeping effectiveness. Accordingly, the sharing by the United States of its technologies with other nations participating in UN peacekeeping is a very important development in promoting peacekeeping. Educational training might be better conducted under international auspices than by direct United States military assistance to other nations. The political sensitivities involved in any "military-type" training provided by a Great Power to a Third World country must be borne in mind.

The belief that special attention be given to developing specialized training for for UN observers deserves careful attention and support. It is in fact, these observer missions which might play an increasingly important role in meeting future peacekeeping needs.

Suggestions.—There is now a growing body of materials for training developed by the International Peace Academy and the Nordic countries.

This is too rarely translated and published into other languages, for example, Arabic, Spanish and French (which would give them much greater use). Attention could be given to establishing an Office of Peacekeeping Technology within the U.S. Government which would be charged with assisting the United Nations and its troop contributing countries to improve the use and effectiveness of technology in peacekeeping missions (this would include civilian as well as military functions).

The United States might also consider establishing research funds on a contract basis for studies which could examine such questions as: involving UN peacekeepers in rehabilitation and disaster relief (for example in Beirut); employing UN Observers as investigators and data collectors in future disputes over resources and pollution; utilizing UN Observers for roles in inspection duties

under arms control agreements; exploring how new technologies could enhance peacekeeping effectiveness; recommending procedures for lessening the language and cultural problems faced in international peacekeeping efforts; and the like.

(4) *Administration and logistics*

The recommendation that the Secretary General undertake a study of the administrative and logistic problems of UN peacekeeping is of limited use. Both the UN Secretariat personnel (Field Service Division) and those countries providing logistic support (such as Canada, Poland, France and Norway) are well versed in the litany of problems which hinders complete effectiveness of the peacekeeping forces, both in the deployment state and during day-to-day operations. What needs to be addressed is suggested methods for altering the system or inventing new methods for resolving major roadblocks (for example, UN contracts must be put up for world-wide bidding so that delays and sometimes costs run beyond what would normally be expected).

Suggestions.—An international working conference of those directly involved in UN peacekeeping could be called at the highest level possible to make suggestions on how such problems could be corrected or avoided in the future. This should include UN officials, logisticians of stature who have experience with large scale international operations; and civilian contractors. In addition, attempts could be made by the United States to interest other nations in earmarking logistic troops for UN service. It must be noted that the UN has grave difficulties in securing logistic units for peacekeeping forces. Logistic units are difficult for any army to give up to an international force. The United States might encourage and provide equipment for those who would otherwise be unable to maintain logistic units which could be made available to the UN.

(5) *Special Committee on Peacekeeping Operations*

This is a difficult area and there appears little reason for hope of accommodation between the United States, and the Soviet Union, who have remained deadlocked on several basic peacekeeping issues since 1965. However, the lack of noticeable progress in this Committee should not discourage American efforts to seek agreement.

Suggestions.—A priority higher than political agreement should be given to the by-products of this Committee's discussions. Greater attention should be given to peacekeeping practitioner-oriented publications and training programs outside of the realm of the Committee. Many of the ideas and items still debated in the Committee are reaching decision-makers and training academies in finished forms, but at the unofficial level. In fact, many experts argue that specific, publicly agreed guidelines on peacekeeping could inhibit future peacekeeping possibilities rather than facilitate them.

(6) *Financing peacekeeping operations*

Certainly the solution to the UN's problems over financing of peacekeeping operations would make peacekeeping a much more effective instrument in the world's arsenal of international peace and security instruments. However, there are some political difficulties involved with this idea, not the least of which is the willingness of the Socialist states to pay into any voluntary peacekeeping fund. In addition, the contributions from the Third World Countries would be minimal. This would result in the need for the Western industrial countries to seek an agreement to defray most of the costs of this fund.

Suggestions.—Develop the support of the clear majority of the UN member states for the purpose of establishing greater "political will" by the industrialized powers to contribute heavily toward this fund. In addition, the United States would have to take the initiative in announcing its willingness to contribute substantially (a minimum figure would be 25 percent of the total costs).

In the meantime, the United States might wish to shift the emphasis of this Fund from a general support of peacekeeping missions (which most likely will have to be raised on a case by case basis through agreed procedures), to covering the extra costs of incorporating more sophisticated technology in peacekeeping operations. An over all sizeable amount of funds could be saved by the UN with new technology facilitating or replacing some manpower. Industrialized countries might be more willing to contribute to a Special Peacekeeping Fund that basically supported the costs of introducing technological-related elements into peacekeeping forces. It would be expected that the technology, experts and trainers would be provided primarily from the countries contributing the funds.

It is difficult to imagine the Western industrialized countries agreeing to put up a significant amount of money for a general peacekeeping fund. At a time when UNFICYP is in debt some \$50 million and the West will have to pay a high percentage of the costs of Namibian operations, it seems that an "added incentive" would be necessary. The decision to tie the Special Fund to technology seems to be an approach worthy of some exploration.

Conclusion

Peacekeeping is not an end in itself, but rather a means to an end. It is my hope that one day peacekeeping will be expanded in the scope of its definition and usage to include the fact finding/verification types of duties alluded to earlier. If we start with the premise that conflicts will continue to escalate in the years ahead with sophisticated weapons and complex interrelationships of actors, we can better understand why the instrument of peacekeeping needs improving.

The President's Recommendations represent a solid step in that direction. What is required at this stage is the willingness of the United States to push these recommendations both within and without the UN forum. Today more than 25 countries are contributing some 27,000 troops or observers to UN peacekeeping missions on several continents. The United States could make an effort to facilitate dialogue and action on proposals such as those contained in the President's Report, among these states. In addition, several dozen other countries are paying a large amount of money to sustain these operations, some on a voluntary basis. Yet, little progress is being made in improving peacekeeping. It will require more than Presidential proposals to make these ideas take hold and become implemented.

Renewed interest and creativity by Congress is also essential if peacekeeping and other pragmatic alternatives to the use of force and violence are to be improved and utilized in the 1980's.

Mr. BONKER. Thank you. The questions will follow after we hear from our next witness, Mr. Hoffmann, the chairman of the Campaign for U.N. Reform, and who is associated with the American Bar Association.

STATEMENT OF WALTER F. HOFFMANN, CHAIRMAN, CAMPAIGN FOR U.N. REFORM

National Chairman, Campaign for United Nations Reform.
Chairman, Arms Control & Disarmament Committee, American Bar Association.

Vice-Chairman, International Courts Committee, American Bar Association.
Secretary, International Law Section, N.J. Bar Association.

Vice President, World Federalist Association.

Member, World Peace Through Law Center.

Co-Chairman, Mid-Atlantic Conference on the President's Report on the Reform and Restructuring of the UN System.

1976 and 1977 State UN Day Chairman for New Jersey, by appointment of Governor Byrne.

Has attended international conferences in Geneva, Belgrade, Abidjan (Ivory Coast), Ottawa, Brussels, and New Delhi.

Senior Partner, law firm of Hoffmann & Fiorello.

Former Assistant County Counsel of Passaic County, N.J.

Former Law Secretary of Judge McLaughlin, U.S. Court of Appeals for Third Circuit.

Former Attorney Advisor to Judge Opper, Tax Court of the United States.

Former Staff Attorney, House Ways & Means Subcommittee investigating the administration of the Internal Revenue Laws (known as the King Committee).

Former Trial Attorney, National Labor Relations Board.

Former Bill Drafter for Illinois Legislature (during term of Governor Adlai Stevenson).

Elected Delegate, 1978 Democratic Mid-Term Conference.

Councilman for eight years in Wayne, New Jersey (a town of 50,000 population).

Member, Thompson Commission for the Reform of the Democratic Party in New Jersey.

Author of "On Building a Peace Movement" in Vista (UNA) magazine.

Author of "Lawmakers as Judges" in The Reporter magazine.

Author of "Outline for Peace" in LINK, a serviceman's religious magazine.

Author of "The Constitutional Limitations on Congressional Investigating Committees" appearing in Rutgers Law Review.

Moderator for two years of the "Global Issues Forum" heard monthly on WPAT.

Commentator for one year of "A Global View of the News" seen weekly on WMCC-TV.

Graduate, University of Michigan (B.A.).

Graduate, University of Chicago Law School (J.D.).

Former Associate Editor, University of Chicago Law Review.

Veteran, United States Marine Corps, 1943 to 1946 (Pacific Theatre).

Citizenship Merit Badge Counsellor and Explorer Advisor, Boy Scouts of America.

Former President, Wayne Lakeland YMCA.

Former Deacon, Preakness Reformed Church.

Former President, Wayne Kiwanis Club.

Born in Newark, New Jersey, on December 21, 1924.

Married to Lois Hoffmann, who is a Vice-President of the League of Women Voters of N.J., and member of a Task Force to study operations of Tristate

Regional Planning Commission (by appointment of Governor Byrne).

Walter and Lois have two married daughters, and a son now in college.

Mr. HOFFMANN. I am national chairman of the Campaign for U.N. Reform. That is my primary interest; and I am here in that capacity. I am working with the bar association also.

I want to thank, first of all, the subcommittee for the opportunity to present my views and the views of the Campaign for U.N. Reform. I did not intend to read my entire written statement, but I would request that this be incorporated in the record as if it were read.

Mr. BONKER. Without objection, your entire prepared text will be included in the official record.

Mr. HOFFMANN. I would like to highlight orally certain points in that written statement.

The first is to try to put in focus the whole issue of U.N. reform. The central fact about world affairs today is that the United Nations has not lived up to the hopes and dreams of its founders in 1945 that it would save succeeding generations from the scourge of war. That failure to live up to that hope affects all of our foreign policy. Because the U.N. has not provided a secure world, each nation tries to seek its own security through an arms race, which in turn affects the whole foreign policy and all domestic programs of each nation.

Therefore, one of the most important things that we can possibly do, is to make the U.N. more effective, so that it will live up to that promise.

President Carter in his report said that if we are to develop adequate machinery for the management of the world's common problems, a central concern of our foreign policy in the remaining years of this century must be the building of a more effective U.N. system. Those words are great, and there is much more in the Carter report to be recommended. However, we do not feel that the Carter administration, at this point, has given that report, and the issue of U.N. reform, the kind of priority it deserves. In our view, it is still on the back burner, and we hope that these subcommittee hearings will help push the administration toward making U.N. reform a greater priority.

On the issue of dispute settlement, we are disappointed with the President's report. He states it is not likely that the creation of additional machinery for arbitration, conciliation, or mediation would in itself induce greater use of third-party services. We disagree. We believe that if there were a U.N. mediation service around the world, with regional offices, with the ability to enter at its own initiative into disputes, world peace would be better insured.

To say that nothing would happen despite the creation of imposed machinery for settling disputes is like saying, "Well, we do not really need a Federal Mediation Service, and we do not need a public employment relations mission in various states." We analogize improved dispute-settling machinery to those institutions and believe the U.N. should develop and train staff persons on a regional basis. This would involve additional expenditures, but nothing is more important to the preservation of world peace.

President Carter did beautifully in bringing about the Camp David Accord, but that cannot always be done by a major power. Sometimes it is very difficult for a major power to act as mediator because smaller nations may suspect the motives of the major power, we believe it would be preferable for the U.N. to be the third party more frequently.

The U.N. Special Committee on the Charter did receive various proposals for something similar to a U.N. mediation service. It had, for example, a proposal for members of the Security Council to be encouraged to establish a standing body of fact finding, conciliation and mediation.

There was also a permanent commission of the General Assembly which was discussed by the committee to fulfill the functions of mediation, good offices and conciliation. For those particular proposals interest was shown, but general agreement was not reached. We are not aware that the U.S. Department of State pushed those particular proposals. I believe they came originally from the Philippines. That is the kind of proposal that the State Department and hopefully Congress will take an interest in.

In terms of the International Court of Justice, the President's report indicates that the United States would examine present treaties, and future treaties with a view toward increasing the use of the International Court of Justice in existing treaties, and providing in the new treaties a provision which would allow any party in the event of a dispute over the language of the treaty to take the matter to the International Court of Justice.

This same recommendation was in the Cranston-Taft resolutions in 1974. One of the resolutions urged the administration to do this. I do not believe that has been done, at least with respect to major treaties. The Panama Canal Treaty was mentioned earlier; such a provision is not in that treaty. To merely say, "Well, it would be difficult to accomplish" is not a sufficient excuse. We should really push it.

In terms of setting an example—and this is an important area—there is a provision in the Carter report which says, "I have requested the Secretary of State to give a thorough study to existing disputes and to identify those which will be appropriately submitted to the Court."

No disputes have been submitted by the United States this year following this report and in fact, in 1974 the Cranston-Taft resolution suggested to the Nixon administration that 28 minor territorial disputes be submitted. We think these disputes should be submitted to the International Court of Justice. What are we waiting for? It should be done.

Of course, we agree with the suggestion of reexamining the Connally amendment, but the mere fact that the Connally amendment exists should not be a deterrent to proceeding on these other fronts. We also advocate greater use of the advisory access opinion. The advisory access opinion should be opened up and the administration should push that.

In terms of peacekeeping, we support the President's proposal. It is one of the best parts of the President's report. Just think about the recent UNIFIL operation. A resolution was passed by the Security Council on March 19. On March 22, U.N. presence came into being—but that consisted of only 100 U.N. soldiers.

On April 4, 2½ weeks later, the force still had just 1,774 people. One must conclude, in looking at the history, that the U.N. has been extremely lucky that nothing very serious has occurred. It is important in the future to have a U.N. peacekeeping reserve as recommended by the President, so that we will not have the difficulty of the Secretary General having to put together an ad hoc force. If you add to this the airlifting proposal and the special peacekeeping fund, you will have a much stronger peacekeeping operation.

Finally, let me just touch on two things that are related to the issue of peace, security, and international law. One is in the disarmament area. We believe that the issue of verification is very important. Efforts should be made to develop some kind of international verification agency with onsite inspection authority that could supplement national technical means. As we proceed toward SALT III and SALT IV, that will become more and more important.

Finally, on the issue of consensus, voting in the General Assembly, which was raised earlier, the whole practice of consensus voting is something that has developed by tradition. It is not in the Charter. We believe that sometimes consensus is an obstacle to agreement, particularly when you apply it in a committee proceeding. Then only the most minimal items are approved because of the consensus problem. We contend that some kind of tradition in between the two-thirds majority voting the consensus voting should be adopted. One of the suggestions is to consider something approved if it has a two-thirds vote of the nations, plus two-thirds based on population, plus two-thirds based on contributions to the U.N. budget. That is an idea worth studying.

I left with you our entire 14-point program which I would like all of you to read. If you would like to incorporate it in the record, we would be very happy, but we recognize that space may not permit it. I will accept any questions you have.

[Mr. Hoffmann's prepared statement follows:]

PREPARED STATEMENT OF WALTER HOFFMANN, CHAIRMAN OF THE CAMPAIGN FOR U.N. REFORM

As national chairman of the Campaign for U.S. Reform, I wish, first of all, to thank the subcommittee for this opportunity to present our views on the important subject of United Nations Reform.

In his statement to the Subcommittee on March 22nd, Ambassador Andrew Young stated that pressure and haste would defeat U.S. objectives for U.N. reform. We concede the need for avoiding undue pressure but respectfully assert that the present world situation demands considered but urgent action. The present state of relative anarchy in world affairs does not allow for business as usual.

We believe that the most important fact about our modern world that has more effect on our foreign policy and the foreign policy of other nations than anything else is the present weakness and frequent ineffectiveness of the United Nations system, particularly in the area of war and peace. Because of these shortcomings, our nation and other nations spend hundreds of billions of dollars annually on military expenditures to try to obtain some kind of security. But that security is illusory for the reason that the more we spend, the more others spend, and this in turn increases the likelihood of a devastating nuclear war through accident, the acts of a madman, or an eyeball-to-eyeball confrontation when neither side backs down.

When the United Nations was founded in 1945, the world hoped that the U.N. would "save succeeding generations from the scourge of war". But that hope, expressed in the Charter of the United Nations, has not been achieved because of the weakness and frequent ineffectiveness of the U.N., referred to above. For example, the United Nations has never developed adequate dispute settlement machinery; the U.N. has an International Court of Justice that is seldom used; the U.N. has never created a permanent and adequate peacekeeping force; the U.N. has frequently been bogged down by the veto in the Security Council and by an inequitable one-nation, one-vote system of voting in the Geneva Assembly, and by inadequate rules, procedures, and committee structures.

In his report to Congress on March 1978, President Carter stated that the United Nations "has frequently failed to meet popular expectations and the objectives of its founders". He recognized the "urgent need" to reform and restructure the United Nations. He also said that the improvement of the United Nations is "of central concern" to his Administration.

We, in the Campaign for U.N. Reform, praise most of the recommendations in President Carter's report and applaud the Administration's presentation of its proposal for a U.N. Peacekeeping Reserve to the recent meeting in Geneva of the United Nations Committee on the Charter and on Strengthening the Role of the Organization.

We believe, however, that the reform of the U.N. system must be given a much higher priority by the Carter Administration if the U.N. is to provide a substantial degree of global security. We recognize that the process at the United Nations is long and difficult, but that is all the more reason why the United States must try harder than it has done in the direction of reform.

Let me be specific. The State Department has appointed a Task Force to implement the President's recommendations on U.N. reform. I believe that the chairman of that task force has little or no authority, little or no budget, and is not consulted on matters of current U.S.-U.N. policy.

When President Carter has addressed the United Nations, he has mentioned the need to strengthen U.N. machinery in the area of human rights. He has failed, however, to mention the need for overall U.N. reform and has failed to indicate that his proposals to improve the U.N. system were of high priority. Instead his ambassador to the U.N. says we must not act in haste.

The situation in the Middle East, in Yemen, in the Horn of Africa, in Rhodesia, in South Africa, and on the Vietnamese-Chinese border all underscore the urgent need for much greater peacemaking and peacekeeping capability upon the part of the United Nations. President Carter's proposal for a U.N. Peacekeeping Reserve composed of earmarked national contingents is an important first step to strengthen the U.N.'s peacekeeping capability. In addition, the President's proposals for the airlifting of peacekeeping troops, and for a special peacekeeping fund in the order of \$100 million are important elements of the total peacekeeping package that is required.

It took the United Nations four weeks to get all of its forces in place in Southern Lebanon. Had the UN had a peacekeeping reserve with earmarked national contingents, it could have acted much sooner. We believe that Congress can strengthen the President's hand in presenting his peacekeeping package if it adopts a resolution endorsing the peacekeeping proposals in the President's Report on UN Reform and Restructuring. Other nations at the UN will then understand that Congress, which appropriates the funds, and the President are united when the Administration calls for strengthened UN peacekeeping capability.

Equally important to peacekeeping, is the urgent need to strengthen the dispute settlement machinery of the UN. Here we find the President's report itself and its implementation, deficient. The report requests the Secretary of State to "conduct a thorough examination of existing procedures and mechanisms for the peaceful settlement of disputes with a view to promoting their greater use." To our knowledge, the State Department has done nothing during the past year to carry out that request.

The report also states, that the creation of additional machinery for arbitration, conciliation or mediation would not likely in itself induce greater use of third party services. We believe that additional machinery at the United Nations is needed in order to conciliate and mediate the many troublesome disputes that keep developing around the world. What is required is a UN Mediation Service, similar to the U.S. Mediation Service, with regional offices in every continent. Such an agency would not have to wait to be asked to mediate a dispute but would have a staff of trained mediators, who would attempt to mediate between disputing nations.

President Carter, much to his credit, did play the major role in mediating the dispute in the Middle East. The United States, however, cannot and should not play the role of mediator for every conflict that erupts. Small nations often look with jaundiced eyes at a large nation that offers to mediate for they can easily suspect an ulterior motive. The mediation role should normally be played by representatives of the United Nations. That role could be played much better by the UN if there were a fully trained mediation service with regional headquarters and staffs. A proposal for such a mediation service was recently presented to the UN Committee on the Charter. We are not aware that the United States supported this proposal. We think it should.

A second part of the dispute settlement machinery of the UN is the seldom used International Court of Justice. President Carter, in his report on UN Reform, indicated that he had requested the Secretary of State to "give thorough study to existing disputes with other states" in order to "identify those which could appropriately be submitted to the Court." One year has elapsed since that request. So far as we know, the Secretary of State has failed to comply.

This is not the first time that such a request has been made of the State Department. In 1974, the Senate adopted a series of four resolutions on the International Court of Justice, which were known as the Cranston-Taft resolutions. One of those resolutions, Senate Resolution No. 74 urged the Administration to submit 28 minor territorial disputes we had with other nations to the International Court of Justice as a demonstration of our faith in that body. Despite that 1974 request and despite President Carter's request in March of 1978, the U.S. has not submitted any dispute to the Court.

The President's report on UN Reform also promised to examine every treaty with a view to accepting the jurisdiction of the International Court of Justice. If the other party would not accept the Court's jurisdiction, the report indicated that every effort would be made to include another dispute settlement alternative in the affected treaty. Senate Resolution 75 in 1974 requested the previous Administration to do the same thing. Despite this promise and this request, I know no major treaty in which the Court's jurisdiction was accepted or where another dispute settlement alternative was substituted.

The President's report does indicate that the President will, at an appropriate time, request the Senate to re-examine the Connally reservation in order to demonstrate our new adherence to the compulsory jurisdiction. We will support that request very strongly when it is made, and we urge the President to make it soon.

We also wish to call to the attention of the subcommittee the proposal of the Philippine government which would permit one nation with a dispute to submit that dispute to the International Court upon a finding by the Security Council that the particular dispute threatens international peace and security. We believe that the U.S. should support that proposal.

I should now like to turn to the decision-making process at the UN. President Carter's report states that a modification of the veto would not be in U.S. interests and that there is no prospect for weighted voting in the General Assembly. The report does promise to examine the possibility of offering very small new states some form of associate status with the United Nations in lieu of regular membership. We frankly do not know if this has been done. Columbia has made such a proposal and we are not aware of U.S. support.

The report also promises that the United States will give substantially greater weight to decisions arrived at by consensus. Consensus voting is relatively new in the United Nations and is a custom which has evolved outside the provisions of the Charter. In our view, consensus decision-making is an extreme measure that allows the smallest nation to exercise a veto of General Assembly action and serves to reduce most decisions to a generalized nothing.

In our view, we need to strike a median position between the extreme of consensus voting and simple or two-thirds majority voting. Otherwise consensus voting will become a stumbling block to constructive UN action. Proposals for some kind of concurrent majority voting should be viewed as an alternative to consensus voting. Instead of the custom of unanimity, we propose that a measure not be considered adopted by the General Assembly unless there is (1) a two-thirds majority of nations, (2) nations representing a two-thirds majority of the world's population, and (3) nations representing two-thirds of the contributions to the regular UN budget. This proposal has been developed in detail by Richard Hudson, a member of our Board.

In order to obtain such a General Assembly voting formula, we believe it would be wise to trade off a modification of the veto in the Security Council. The veto has frequently been used to block constructive action. It should be modified so that it is not available to block the appointment of fact-finding commissions, to block the admission of new states, or to block the use of interposition forces to maintain the status quo during the operation of UN dispute settlement machinery.

United Nations reform involves more than reforms in the areas of peacekeeping, dispute settlement, and UN voting structure. We in the Campaign for UN Reform have a broader reform agenda.

One important area for reform is UN financing. In order to have a viable UN system, we believe it is necessary to develop independent supplemental sources of UN revenue. The President's report indicated that the U.S. favored this step as a long-term goal. There are several areas which the State Department should be exploring in this regard. We have listed a few in our UN Reform program. They include deep seabed revenue-producing arrangements, multinational corporate licensing fees, international postal fees, and fees on international freight. We hope that Congress will require the State Department to submit to it the results of its study on supplemental sources of UN revenue.

Another area much in need of reform is the UN economic system. A committee of 25 experts appointed by Secretary-General Waldheim and coordinated by Professor Richard Gardner, now U.S. Ambassador to Italy, recommended far-reaching improvements in the UN economic system. Most important was the consolidation of all UN pre-investment development activity under a single UN Development Authority headed by a single director. This was to replace the overlapping and duplicating independent agencies now in the UN system. In 1977, the General Assembly, with some fanfare, created a new post of Director General of Development and International Economic Cooperation, but failed to give him any real authority or to centralize pre-investment authority under a single UN Development Authority. The result is a new Director-General who is supposed to coordinate UN economic activities, but lacks the authority to accomplish the task. We in the Campaign for UN Reform believe the recommendations in the Gardner report have considerable merit and should be adopted.

Let me add, as a footnote, a word about the Helms Amendment, which was passed in the closing days of last year's session. That amendment underscores a weakness in the UN economic system—namely the duplication and overlapping of technical assistance programs in the UN system—something the President's report on UN reform deals with. The Helms Amendment, however, uses a sledge hammer approach to correct the situation by prohibiting U.S. contributions for technical assistance programs other than through our voluntary contributions to the UN Development Program. Since the UN cannot accept earmarked funds, the whole U.S. contribution was in danger of refusal by the UN, along with a probable financial crisis for continuing UN operations. Had the President pushed harder for the concept that technical assistance programs should be funded through one centralized agency, the Helms amendment would probably not have succeeded.

It now should be repealed for the U.S. to meet and continue its long recognized obligation to the United Nations.

Let me turn to the UN role in disarmament—a subject that receives only passing mention in the President's report. In our view, beyond progress in peace-keeping and dispute settlement, the key to disarmament is adequate verification. As we proceed past SALT II to an extension of the SALT II protocol through SALT III, the need for some kind of international verification agency with on-site inspection authority to supplement our national means of verification will become absolutely essential. We hope that Congress will make clear to the President during and after the debate on SALT II, that before SALT III is submitted, he must negotiate at the UN for an International Arms Control Verification Agency which can verify whether nations are complying with arms control treaties.

This aspect of UN reform and restructuring is frequently overlooked but it is crucial to the verifiability of future arms control agreements. Verification by our satellites of land-based ICBM launchers is relatively easy, but verification of compliance with an agreement on the range of cruise missiles without supplemental international on-site inspection authority would be next to impossible.

The President's report strongly endorses strengthening UN Human Rights machinery. We hope he will continue to push for a UN High Commissioner of Human Rights to investigate complaints of human rights violations. We also hope he will endorse the proposal to reconstitute the Trusteeship Council as a "Human Rights and Trusteeship Council," thus raising the level of human rights concern at the UN from a commission to a council.

I am leaving with you copies of the entire fourteen-point program for UN Reform that is advocated by our Campaign. I will not go into detail on every other proposal, but you will note that our program includes many areas not mentioned in the President's report. Those other areas include the need for an International Criminal Court to try persons accused of aerial hijacking and international terrorism (incidentally, this proposal was endorsed by the House of Delegates of the American Bar Association); an International Ocean Authority to manage the resources of the oceans; a stronger UN Environmental Program with guidelines to prevent the pollution of the oceans and the atmosphere; a more effective world monetary and trade system; and a global resources program to monitor the depletion of scarce resources and to develop alternative energy sources through international cooperative research.

Finally, I would emphasize that most, if not all, of the reforms advocated by the Campaign for UN Reform can be accomplished without amending the UN Charter. What is required is the will to accomplish them and, perhaps more important, a sense of urgency and a realization that our current global problems will never be solved without a much more effective UN system than now exists.

While the President's report on U.N. reform is a good first step, we find no strong sense of urgency or high priority on the part of the Administration to implement the report. Congress, however, understands that a large portion of the American people are disillusioned with the United Nations. We, therefore, hope that Congress will take the lead in requiring the Administration to give UN reform a much higher priority.

Mr. BONKER. Thank you, Mr. Hoffmann. I would like to commend both witnesses for excellent statements, helping the subcommittee proceed with this subject of U.N. reform, how we can hopefully implement some of the recommendations that have been advanced by your organizations, as well as by the President.

The President's recommendations come as a result of a congressional request. It always seems that institutionally things do not happen very dramatically or quickly, and I think you can judge by the response we picked up earlier today from the administration spokesman, there is not a great deal of anxiety and excitement about coming forth with new reforms that are going to make the United Nations more effective. I think that is more of an institutional malaise than it is lack of personal initiative. So, from time to time Congress has to do something rather dramatic in order to provoke some imagination and action in the executive branch.

But the witness who was with Mr. Maynes, Robert Rosenstock, added some comments that I think carry weight with the subcommittee about any U.S.-stamped set of recommendations that would be perceived by the United Nations as something that was either patronizing, or had some other various motives behind it.

I would like to ask each of you to comment briefly on that response; is that credible? Are we so suspected in the United Nations that we cannot advance some legitimate, honest, well-meaning reforms?

Mr. HOFFMANN. I would like to make two comments. The first relates to the history of the movement at the United Nations for U.N. reform, insofar as the Special Committee on the Charter and strengthening the role of the organization is concerned. Until the Carter administration, the initiatives for reform came from some of the smaller countries, notably Colombia, the Philippines, Romania, and some others. The stumbling blocks were the United States and the Soviet Union, in our view. We think that the Carter administration has changed the direction of that. But there are a number of excellent proposals by the smaller countries that should be considered.

Mr. BONKER. When I came to Congress back in 1974, many of us campaigned on the issue of congressional reform, doing something about the seniority system and the mechanisms of this institution. We were fairly polled and we had some numbers in our class that made possible a number of meaningful reforms. But we had to start with something. The Democratic Study Group developed a package, and we had a task force.

I just wonder, if the administration were serious about possible implementation of these reforms, if it could not at least take the leadership to set up a task force, or a committee of member nations and just do it in the background—they do not have to be out front, if you can get some of the smaller countries who share the commitment to these reforms, and come up with something that will actually be submitted to the appropriate component—whether it is the Security Council or General Assembly—so that at least the ball is beginning to roll.

Mr. HOFFMANN. I would certainly agree with that because otherwise, if one believes that any U.S. proposal should not be made because it would be harmful, a prescription for doing nothing emerges. The United States could get those nations together that are interested in reforms, try to agree on a package, and present it as a group proposal. I believe that very much can and should be done.

Mr. BONKER. It does not necessarily have to be from the State Department, it could be nongovernment organizations. Obviously, your organization is committed, and there is no reason why you could not have a dinner some night and invite well-meaning delegates, representatives to the U.N., who obviously share those concerns, to see what you could do to motivate some delegates to picking up your set of recommendations, plus additional comments they could pick up among their colleagues.

I mean, somebody has to get the ball rolling if we are going to be serious about it.

Mr. HOFFMANN. That is one thing we have been considering, and we have had different get togethers at the U.N. Of course, it carries more weight if it comes from the U.S. Government. An outside organization does not have the same thrust as a government does, to put it mildly.

Mr. BONKER. Mr. Mroz, did you have any comments on that?

Mr. MROZ. Yes, if I may. We are of course looking with sympathy at the possibility of major reform in the U.N. Since our major prerogative at the Academy is immediate professional training, we have tried to tackle the ball by taking a series of specific problems which have inhibited the capability of the U.N. and regional organizations to help resolve conflicts, particularly in the peacekeeping area, and try to find ways to move around the problem. For instance, on the technology issue, Vice President Mondale last June made a statement in the Special Assembly on Disarmament that the United States was going to share its technology to help other countries improve their peacekeeping. This idea was taken up, not through the spearhead of the U.S. Government, but through a series of informal channels—both by nongovernmental organizations and by Third World countries. The progress which is being made is fairly substantial at the moment in moving this idea forward. The idea has come at the suggestion of the United States and with its prodding and financial assistance, but without the United States actually serving as the focal point.

The same thing is true in the reform of U.N. logistics and administration matters, which is one of the most serious problems that U.N. peacekeeping faces despite the Canadian Government's willingness to assume leadership.

Mr. BONKER. Who is that, again?

Mr. MROZ. This is the area of logistics and administration for peacekeeping, one of the big hangups or problems.

Mr. BONKER. You say that is one of the biggest problems?

Mr. MROZ. This is one of the biggest problems that the United Nations has traditionally faced, and still does today. This ball is being taken by the horns through the cooperation of the Government of Canada, which has offered to sponsor a ministerial-level meeting on these problems, together with the International Peace Academy and other countries to explore methods to strengthen U.N. peacekeeping.

So, there are ways for the United States to take the initiative, throw the idea out; and through general channels to push without having to take the accusation that we have ulterior motives, or whatever the accusations might be.

Mr. BONKER. Mr. Mroz, what about something that would guarantee a geographic balance in terms of the U.N. peacekeeping force? Are there particular countries or areas that seem to carry the burden when it comes to supply and support of manpower for peacekeeping activities?

Mr. MROZ. Yes; there is a group of about 25 countries, including the the Nordic countries, Austria, Canada, and a number of Third World countries, such as Ghana, that have traditionally supplied the brunt of U.N. forces.

In terms of acceptability, for instance contingents from regions like the Middle East, and Latin America are among the most acceptable. Yet, they are nearly impossible to get involved in U.N. peacekeeping, for a number of reasons. That is why this IMET possibility of increasing training in Latin America is a suitable idea.

The geographic balance idea is extremely important. For instance, having the Poles involved in UNEF was a very important development because it was the first time an Eastern bloc country became involved, and they have done credit to themselves. So, the idea of

geographic balance is important. There are a lot of countries who, with some proper training, and some technical assistance, could participate in peacekeeping.

Mr. BONKER. In your estimation, Mr. Mroz, are the recommendations from the President's report as they relate to peacekeeping machinery adequate? Are they pretty much on target on what needs to be done if we are going to improve and make this a more effective agency?

Mr. Mroz. We think so. I have made some note in my written statement where we think they are weak, particularly in the area of training. I think there is this important need for increased emphasis on this whole question of training and preparation. This is a particular problem.

Mr. BONKER. That is your area, training.

Mr. Mroz. We see this need. This is the reason why a lot of governments are not able to contribute troops to the United Nations due to a lack of trained personnel.

Mr. BONKER. It seems to me it would benefit many countries to contribute volunteers for training purposes because many, especially in the Third World, are trying to develop their own armed forces, and any access to more sophisticated training, it seems to me, would be a good exercise if we had a permanent, continuing program; at the same time have people on call so if an emergency arises we have somebody on the spot right away.

Mr. Hoffmann, what about your response to the President's proposals? I have really not had a chance to compare item by item the President's report and yours. Are they fairly close?

Mr. HOFFMANN. We think the President's report is an excellent first step. In other words, a U.N. peacekeeping reserve—

Mr. BONKER. That is kind of double-handed.

Mr. HOFFMANN. In the long run we would like to see a U.N. international force of its own that is trained. We believe that should be the long-term goal. Earmarked reserves is a good step. Of course, there also has to be training.

There is mention of trying to explore arrangements for training earmarked contingents in the President's report. The only difference is that in the long run we see a U.N. force of its own.

Mr. BONKER. Well, at some time I would like to meet with leaders in your organization to see how we can begin moving, with or without the State Department, on a task force of U.N. delegates who are committed to this subject. I think the reform has to come within the institution, and there has to be some leadership and commitment within the United Nations if it is going to be realized.

I can perceive more problems in Third World continents, border disputes and hostilities that are historic and sometimes geographic, but nonetheless there is going to be a greater need for the United Nations to deal with these issues.

I was fairly close to the situation in the Horn of Africa, and here is a legitimate problem with both sides well established in their positions. It is a matter of whether you recognize current reality or whether you try to rest on a historic and legal claim to an area that lies within two countries. That is a legitimate issue and is one that should be resolved peacefully. And yet, that place is going to be in a state of war for I do not know how many years.

The United Nations ought to be able to deal with these disputes in a fair and reasonable way. Throughout our debate on that issue, trying to find a way to reconcile the differences between Somalia and Ethiopia we had looked to the OAU as a possible mediator; we had looked to the Sudan to try to work it out with both sides, and so forth; but very little attention was given to the U.N.'s capacity to deal with those issues. That problem is not going to go away.

If we were tempted to fully back Somalia when they anxiously wanted us, we add another potential for a major scale confrontation between Russians who are backing Ethiopians and the United States. There is the same potential for problems in the Shaba Province south of Zaire between Angola and disparate factions in that hostile area. Again, you get into something of a boundary dispute, or some factions that are vying for power.

So, the United Nations has great potential for mediation and working out the differences, and providing police power to keep the peace until there is an amicable solution. But if the machinery is not working, and there is no confidence in the process, then everyone is going to ignore the United Nations altogether.

Mr. HOFFMANN. I think there is a tremendous opportunity. The problem is that we sometimes sit back and say, "Well, the machinery is there but it is not being used." Well, sometimes disputing parties do not make the first move to use the machinery; they do not say, "All right, we are going to take the case to the Security Council." So, when a dispute erupts into violence, somebody brings it to the Security Council. At that point it may be too late because it is in a much more extreme situation.

Mr. BONKER. The first thing they do is look at what friends and enemies they have on the Security Council.

Mr. HOFFMANN. That is right. There ought to be a step before that, one involving conciliation through a U.N. presence on a regional basis. Second, some kind of factfinding process should exist. If the dispute must go to the Security Council a background of factfinding and mediation efforts would precede the peacekeeping situation and might make the latter more successful.

I would like to add one other item. Mention was made of charter reform. I would say that 95 percent of what we are advocating can be accomplished without charter amendments. In other words, most of the things can be done within the existing framework of the charter.

Mr. BONKER. By just a majority vote?

Mr. HOFFMANN. Or in the case of the Security Council it would have to be without veto. For example, in article 33, the charter talks about conciliation, mediation, and arbitration; but there are no procedures set forth on how to develop them. There are no institutions, except for the few that are mentioned, and no mediation service. The General Assembly or the Security Council could establish these procedures and institutions to fulfill and implement the charter.

Mr. BONKER. That is really interesting, I had not noted that before. But you say that 95 percent of the reforms that are advanced both by your organization and the President could be accomplished without amending the charter?

Mr. HOFFMANN. Right. Certainly the peacekeeping proposals. The charter itself talks about a military staff committee, and so on, which

never really functioned. Establishing such would not require any amendment of the charter. In the voting area, the committee procedures are set by resolution and you have some kinds of voting procedures within the standing committees. Changing them would require no charter amendment. Concensus voting is done by general agreement. It has grown up as a tradition, without any charter amendment.

Therefore a lot can be done. Maybe certain technical matters in the International Court of Justice field might require an amendment of that statute. However, Louis Sohn argues that even that can be done without charter amendment if the General Assembly would to refer disputes to the International Court of Justice for an advisory opinion, if one disputing party wants to refer a dispute to the International Court.

Mr. BONKER. I want to thank both of you gentlemen again for being here this afternoon, and for your excellent testimony.

The subcommittee stands adjourned.

[Whereupon, at 4:45 p.m., the subcommittee adjourned to reconvene subject to the call of the Chair.]

APPENDIX

STATEMENT OF HON. EDWARD E. HENRY, JUDGE OF SUPERIOR COURT¹ (RETIRED), SEATTLE, WASH., IN SUPPORT OF PRESIDENT CARTER'S REPORT ON THE REFORM AND RESTRUCTURING OF THE U.N. SYSTEM, RELATING TO FOSTERING GREATER USE OF THE INTERNATIONAL COURT OF JUSTICE, SUBMITTED ON BEHALF OF THE CAMPAIGN FOR U.N. REFORM

INCREASING USE OF THE INTERNATIONAL COURT OF JUSTICE

One of the great goals of mankind has been to seek ways and means by which nations might settle disputes between them peacefully, without resort to force. This thought was expressed at the San Francisco Conference by the Rapporteur of the First Committee of Commission IV as follows:

"In establishing the International Court of Justice, the United Nations held before the war-stricken world the beacons of Justice and Law and offer the possibility of substituting orderly judicial processes for the vicissitudes of war and the reign of brutal force."^{1a}

Unfortunately since the United Nations was set up, the Court has not been used as it was meant to be. Only about two cases a year have been submitted to it. Between 1946 and 1976, the Court has had a total of 60 cases to deal with. It gave 38 judgments and 16 advisory opinions.

Its predecessor—the Permanent Court of International Justice set up by the League of Nations in 1922—rendered 27 opinions between 1922 and 1935.

To increase the use of the Court, President Carter's Report on the Reform and Restructuring of the United Nations System asserted:

FOSTERING GREATER USE OF THE INTERNATIONAL COURT OF JUSTICE

"We support, if possible through amendment, the adoption of a procedure which would permit private parties to have indirect access to the Court on questions of international law essential to their courses of action. To this end, we would support a national appellate court, before rendering its own judgment in a case, having recourse to the International Court of Justice for an advisory 'preliminary opinion' on issues of international law.***"

"I have also requested the Secretary of State to give thorough study to existing disputes with other states and identify those which could appropriately be submitted to the Court.

"At an appropriate time, I shall request the Senate to re-examine the Connally Reservation, so that we may demonstrate the United States new adherence to the compulsory jurisdiction of the International Court of Justice, pursuant to Article 36, paragraph 2, of the Court's Statute."²

The significant purpose of these proposals is to educate the public on the work of the Court so that greater use may be made of it.

Scholars on International Law differ on whether the "advisory opinion" proposals require an amendment to the U.N. Charter.³

¹ Judge Superior Court, Retired, Seattle, Wash. Member Charter Review Committee, World Peace Through Law Center; member National Committee, National Campaign for U.N. Reform.

^{1a} Leo Gross—"The International Court of Justice: Consideration of Requirements for Enhancing its Role in The International Legal Order," vol. 65, American Journal of International Law, p. 255.

² Submitted to the Speaker of the House of Representatives and the Chairman of the Committee on Foreign Relations of the Senate pursuant to section 503 of the Foreign Relations Authorization Act, Fiscal Year 1978 (Public Law 95-105).

³ Gross—Vol. II, "The Future of the International Court of Justice," p. 736.

Article 65 of the Statute of the International Court of Justice provides:

ADVISORY OPINIONS

Article 65

1. The Court may give an advisory opinion on any legal question at the request of whatever body may be authorized by or in accordance with the Charter of the United Nations to make such a request.

Article 96 of the Charter of the United Nations provides:

"1. The General Assembly or the Security Council may request the International Court of Justice to give an advisory opinion on any legal question.

"2. Other organs of the United Nations and specialized agencies, which may at any time be so authorized by the General Assembly, may also request advisory opinions of the Court on legal questions arising within the scope of their activities."

There are now 18 specialized agencies which have been authorized by the General Assembly to request advisory opinions.⁴

RECOMMENDATIONS

1. Pursuant to the above provisions of the U.N. Charter and the Statute of the I.C. of J., the United States should recommend to the General Assembly that an Organ be established with authority to accept requests from National Appellate Courts to be submitted by the Organ in appropriate matters to the Court for an advisory—preliminary opinion—on issues of International Law.

Comment: A test case could be brought before the Court to see if it would accept jurisdiction on such matters.

2. The United States should present to the United Nations Special Committee on the Charter of the United Nations specific proposals that the Charter be amended to permit access to the Court by National Appellate Courts, International Organizations and Corporations and private parties on questions of international law essential to their sources of action.

THE CONNALLY RESERVATION

The Connally Reservation to the United States Declaration of August 14, 1946, struck a most damaging blow to the Court. The United States expressed its total lack of confidence in the Court by claiming for itself the right to determine whether or not the Court had jurisdiction in certain cases. States in the world noted this.

In an early case presented to the Court in 1949—"Peace Treaties (1)", alleging violation of Human Rights specified in the Treaties, at which the United States and the United Kingdom participated in oral proceedings, Bulgaria claimed the Court lacked jurisdiction, asserting the matters involved were within the domestic jurisdiction of Bulgaria, citing the United States Reservation. The Court denied Bulgaria's claim, declaring that Bulgaria had not made the reservation when it filed its Declaration to the jurisdiction of the Court.⁵

In October, 1957 the United States instituted a case against Bulgaria in the matter of the Areal Accident of July 27, 1955. Bulgaria claimed the Court lacked jurisdiction because of the "Made in America" reservation. The United States submitted observations that Bulgaria was not entitled to determine that the dispute was within the domestic jurisdiction of Bulgaria. Later the United States requested discontinuance of the proceedings.^{5a}

RE: EFFECT OF COMPULSORY JURISDICTION ON NATIONAL SOVEREIGNTY

The panel of scholars established by the American Society of International Law on the "Future of the International Court of Justice," in Part One declared:

Role of the court

1. In view of the terms and import of Articles 2 (3), 33, 36 and 92 of the Charter of the United Nations, recourse to the Court

(a) is an exercise and not a surrender of sovereignty;

(b) is not an unfriendly act;

(c) ENSURES EQUALITY OF States before the law;

* * *

⁴ ICJ—1977-78, p. 44.

⁵ Peace Treaties (1) ICJ-3/30/1950.

^{5a} Gross—Vol. 56, American Journal of International Law, p. 357.

(d) is a valuable and integral part of the processes of diplomacy and peaceful settlement of disputes. (Emphasis supplied) ⁶

Thus, when a Nation seeks to compel its adversary to submit the dispute between them to the Court or to Arbitration rather than pointing its guns at him—that is a friendly act—not a violation of sovereignty.

RECOMMENDATIONS ON CONNALLY RESERVATION

1. The United States Senate should be urged to repeal the Connally Reservation by striking the phrase "as determined by the United States of America" from paragraph (b) of the proviso in the Declaration accepting the jurisdiction of the International Court of Justice dated August 14, 1946. (Annex II). This would declare to the world that we have confidence in the Court.

In order to satisfy the concern of those Senators who feel that Compulsory Jurisdiction of the Court would infringe upon our sovereignty, the "contract out" principle might be considered. In 1959, the Institute of International Law by Resolution declared:

"In order to maintain the effectiveness of the engagements undertaken, it is highly desirable that declarations accepting the jurisdiction of the International Court of Justice in virtue of Article 36, paragraph 2, of the Statute of the Court should be valid for a period which, in principle, should not be less than five years. Such declarations should also provide that on the expiration of each such period they will, unless notice of denunciation is given not less than twelve months before the expiration of the current period, be tacitly renewed for a new period of not less than five years."

RE: COMPULSORY ARBITRATION OF DISPUTES

Many disputes between nations involve factual matters rather than questions of law and parties might prefer to submit such disputes to a panel of arbitrators. In the traditional sense, arbitration is a flexible process, the early steps of which are completely under the control of the parties, since it is they who choose the arbitrators and settle the terms of reference. It often achieves as great a success when the solution found for the problem is designed to reconcile the interests of the parties by giving a measure of satisfaction to each.

Furthermore, it is understood by members of divergent legal systems. The Communist States of Eastern Europe, the U.S.S.R. and mainland China prefer arbitration to the judicial settlement of disputes in their countries. (See attached article, "A System of Arbitration".)

So that arbitration may be more widely used, the American members of the Charter Review Committee of the World Peace Law Center, and the Campaign for UN Reform believe that the method of arbitration should be specifically spelled out in the Charter.

There are many treaties that provide for arbitration, but the method is not compulsory. They usually are filed away in the archives of the State Departments and the public is not aware of them or their contents.

If the method as described in page 2 of the attached article is added to Article 33 of the Charter of the United Nations, then members of the public, by reading the Charter, may be in a position of insisting that their government use that method rather than shooting their adversary.

Article 33 of the Charter provides as follows:

"1. The parties to any dispute, the continuance of which is likely to endanger the maintenance of international peace and security shall, first of all, seek a solution by negotiation, enquiry, mediation, conciliation, arbitration, judicial settlement, resort to regional agencies or arrangements, or other peaceful means of their own choice.

"2. The Security Council shall, when it deems necessary, call upon the parties to settle disputes by such means."

The method proposed as an amendment to Article 33 is the same as was successfully used in the Rann of Kutch dispute between India and Pakistan, decided in February, 1969. (See page 4 of attached article.)

HOW TO BUILD CONFIDENCE IN THE COURT

The United States should take the lead on this. As Professor Leo Gross, chairman of the Panel established by The American Society of International Law on "The Future of the International Court of Justice" asserted:

⁶ Gross—*ibid*—3, p. 729.

"Leadership is required for any improvement in the existing situation. It may be possible to make some headway by means of a General Assembly Resolution or what will be more difficult, by means of an amendment to the Statute of the Court, or by filling the present vacuum by submitting some contentious cases to the Court. In any event, no progress is likely to materialize unless one of the *leading powers* or groups of powers, takes the necessary initiative. In view of its adamant stand vis-a-vis the Court and the judicial function in general, the Soviet Union and its bloc must be ruled out, although its acquiescence in some changes of the Statute may become necessary. This leaves the United States and the group of liberal democratic nations with a tradition of arbitration and adjudication, as well as those new nations which, through their acceptance of the compulsory jurisdiction, have manifested their sense of appreciation of the judicial function."⁷

Professor Richard Kearney, member of the Panel, concluded:

"It may be impossible to establish a workable system of justice for international society. But unless enough of us keep on struggling to make real perhaps this impossible dream, there is no chance at all of attaining it. The ideal that can support such a long-range struggle is that in some future the International Court of Justice will be just that—the pivotal element in a world where justice reigns supreme."⁸

The United States should have nothing to lose and much to gain by taking the lead on these proposals.

Members of the Campaign for U.N. Reform earnestly support President Carter's Report on Reform and Restructuring the U.N. System, and urge Congress to implement them as soon as possible.

Respectfully submitted,

NATIONAL CAMPAIGN FOR U.N. REFORM,
WALTER HOFFMANN, *National Chairman*.
By EDWARD E. HENRY,
Member of the National Committee.

ANNEX I

A SYSTEM OF ARBITRATION

(By Edward E. Henry⁹)

A nation involved in a dispute with its adversary should have the right to compel its opponent to settle the dispute peacefully rather than by the use of force.

It is common practice now for multi-national corporations, many of whom have more resources than a majority of the sovereign state members of the U.N. to solve their disputes by arbitration.

To achieve these ends several thousand lawyers and judges who attended the World Peace Through Law Conferences in Bangkok, Thailand 1969, Belgrade, Yugoslavia 1971, Abidjan, Ivory Coast 1973, adopted the following resolution:

Whereas, Article 33 of the U.N. Charter does not spell out specific arbitration procedures which are necessary to further the speedy resolution of disputes, be it hereby

* * * * *

Resolved that Article 33 be amended to provide a method by which a party to a dispute may compel an adversary to submit the dispute to arbitration or to the International Court of Justice.¹⁰

The method recommended by the 35 U.S. members of the World Peace Through Law Center, United Nations Charter Review Committee, is as follows:

Resolved, that Article 33 of the United Nations Charter be amended by adding the following additional paragraphs:

3. If the dispute is not resolved under paragraphs 1 and 2 of this Article by other specific means of settlement, any party to the dispute may request that the matter be settled by arbitration.

4. The party requesting arbitration shall notify the Secretary-General of such request. Thereupon the Secretary-General shall notify the other party of such request; such notice shall state that a request for arbitration has been made, and that the other party should respond by agreement to arbitrate or to submit the dispute to the International Court of Justice. The other party

⁷ Gross—*ibid*—1, p. 271.

⁸ Kearney—Vol. I, *ibid*—3, p. 124.

⁹ Judge of the Superior Court, Seattle, Washington; member Charter Review Committee, World Peace Through Law Center.

¹⁰ Resolution No. 16, Abidjan.

must respond to such notice and make its selection of a panel member within sixty days after receiving the notice.

5. If arbitration is selected as in paragraph 4 above, the Secretary-General shall submit the dispute to a Board of Arbitration composed of three qualified members. Each party to the dispute shall appoint a member to represent it on the panel. The chairman of the panel, who shall not be a national of either party, shall be selected by mutual agreement of the arbitrators selected by the parties. If the arbitrators selected by the parties shall fail within sixty days to select a chairman, the Secretary-General shall appoint the chairman. The decision of a majority of the panel shall be binding on the parties.

6. If the arbitration has been selected and the party to a dispute refuses to arbitrate or to appoint a member to represent it on the panel within sixty days after being notified that the requesting party has appointed a panel member, the Secretary-General shall, upon request of the requesting party, appoint a panel member to represent the other party on the panel.

7. A state which is not a member of the United Nations may request that a dispute between it and a member be settled in the same manner as a dispute between members is settled.

Arbitration to settle disputes between nations is not new. It dates back to antiquity. In 418 B.C. there was concluded a treaty of peace for 50 years between Sparta and Argos which provided that disputes between towns should be settled by arbitration in which a neutral town would be the arbitrator.¹¹

Arbitration was effectively used by the United States and Great Britain under the Jay Treaty of 1794.¹²

During the 19th and 20th centuries, the United States has been in the forefront in advocating the settlement of disputes by arbitration. Thus, the Treaty of Ghent, 1814, and the Webster-Asburton Treaty, 1842, concerning the division of the St. Lawrence River and Lakes Ontario, Erie and Huron, provided for the settlement of these disputes by arbitration. Again, there was the Alabama Claims Arbitration of 1871-72, and the Treaty of Washington of 1871. A dispute involving the San Juan Islands nearly led to war between the United States and Great Britain. In this arbitration, commonly called the San Juan de Fuca case, the German Emperor was selected as arbiter. The Emperor awarded the San Juans to the United States.

In the last two decades of the 19th Century, there were no fewer than 90 international arbitrations between various states.¹³

On December 11, 1970, President Nixon issued a proclamation announcing the United States' accession to the United Nations Convention on the Recognition and Enforcement of Foreign Commercial Arbitral Awards.

Prior to the United States ratification, the Convention had previously been ratified by the Soviet Union and most of the communist countries in Eastern Europe.

In Latin America, at the Fourth Interamerican Conference on Commercial Arbitration held in Guatemala City, steps were taken to forge a viable system of arbitration and to integrate the Inter-American system into the world arbitration.

A recent successful arbitration between nations was the Rann of Kutch dispute between India and Pakistan, decided in February 1969.¹⁴ The arbitration panel consisted of a judge of the Constitutional Court of Yugoslavia, nominated by India, a former minister of foreign affairs of Iran, nominated by Pakistan, and the chairman was the president of the Court of Appeals for Western Sweden, appointed by the Secretary General of the United Nations. The tribunal met first in Geneva on February 15, 1966, and after a series of hearings rendered its verdict February 19, 1967. Its verdict was accepted by the governments of India and Pakistan.

In July, 1972 an agreement was signed by Argentina and Chile to submit the dispute between them concerning the Region of Beagle Channel to arbitration. The agreement included a provision for a Court of Arbitration composed of five judges of the International Court of Justice.

In the recent dispute between the United Kingdom and France, the Anglo-French Continental Shelf dispute which was submitted to arbitration, two of the five-member arbitral tribunal were judges of the ICJ.¹⁵

¹¹ Ralston, *International Arbitration from Athens to Locarno*, p. 55 (1929).

¹² Simpson & Fox *International Arbitration—Law and Practice*, p. 1 (1959).

¹³ *Id.* at 10.

¹⁴ 65 *Am. J. of Int. Law* 346.

¹⁵ 72 *Id.*, p. 422.

To facilitate the use of arbitration, pursuant to the United Nations Convention on the Recognition and Enforcement of Foreign Arbitral Awards, the UN Commission on International Trade Law (UNCITRAL) has recently adopted "The Uniform Arbitration Rules for International Trade."¹⁶

There is reason to believe that the UNCITRAL arbitration rules in view of their international origin will facilitate the use of arbitration as a means of settlement of international trade disputes.

A center for commercial arbitration in the Far East has been established in Bangkok, Thailand, to facilitate arbitration among corporations in Asia. Council of Europe has issued a draft for Arbitration Convention which provides for uniform law and arbitration which is designed to settle disputes in the future between common market countries.

The U.S.-U.S.S.R. Trade Agreement of 1972 accepted arbitration as the method for resolving disputes.¹⁷

The National Council for U.S.-China Trade is now engaged in preparing a trade agreement which provides for the use of arbitration to settle disputes between U.S. corporations and China.¹⁸

Arbitration of disputes between nations has been vigorously pressed by two former Chief Justices of the Supreme Court during this century: Chief Justice Taft while President stated in December 1910:

"If now we can negotiate and put through private agreements with some other nation to abide the adjudication of international arbitration courts in every issue which cannot be settled by negotiation, no matter what it involves, whether honor, territory, or money, we shall have made a long step forward by demonstrating that it is possible for two nations at least to establish between them that the same system which, through the process of Law, has existed between individuals under government."¹⁹

This was stated by Taft when he submitted proposed arbitration agreements with France and Great Britain to the Senate. Former Chief Justice Hughes, as Secretary of State, in advocating the Pan American Treaty, asserted:

"As a nation cannot properly demand that it be the sole judge of its own cause, the renunciation of war and the promise to seek peaceful settlements necessarily import a pledge to make available international judicial process wherever that is appropriate.

"As all arbitration must rest on agreement, what is called compulsory or obligatory arbitration means arbitration agreed to before the controversy arises. Such an anticipatory agreement is manifestly an assurance of peace and there is no valid reason for postponing the making of an agreement for arbitration to a time when national feeling may render the submission more difficult if not impossible."²⁰

So persuasive was Hughes that all but two of the American states in the Western Hemisphere announced a willingness to execute a treaty to provide for compulsory arbitration of disputes between nations of the hemisphere.

As arbitration is understood by members of radically different legal systems, it offers the hope of the first meaningful steps toward voluntary surrender of national sovereignty to the larger ideals of peaceful solution of disputes.

Thus it seems to those of us who have pondered the matter that a nation has little to lose and a lot to gain by ratifying such an amendment to the U.N. Charter.

If huge multinational corporations can settle disputes by arbitration, why cannot nations?

ATTENDANTS AT THE MAY 5-6, 1973, MEETING OF THE U.N. CHARTER REVIEW COMMITTEE, WORLD PEACE THROUGH LAW CENTER AT THE UNIVERSITY OF WISCONSIN, MILWAUKEE

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¹⁶ News and Views, Am. Arb. Assoc., May, June 1976.

¹⁷ 68 Am. J. of Int. Law, 710.

¹⁸ Id., p. 11.

¹⁹ Vol. 26, The Arbitration Journal 19 (Geo. F. Kennan).

²⁰ Hughes Pan American Peace Plans (1929).

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 Rapporteur for the conference: Dr. Belden H. Paulson, Dept. of Political Science, University of Wisconsin, Milwaukee.

The above members prepared the proposed Amendment to Article 33 of the United Nations Charter.

ANNEX II

UNITED STATES OF AMERICA

26 VIII 46.

I, Harry S. Truman, President of the United States of America, declare on behalf of the United States of America, under Article 36, paragraph 2, of the Statute of the International Court of Justice, and in accordance with the Resolution of 2 August 1946 of the Senate of the United States of America (two-thirds of the Senators present concurring therein), that the United States of America recognizes as compulsory *ipso facto* and without special agreement, in relation to any other State accepting the same obligation, the jurisdiction of the International Court of Justice in all legal disputes hereafter arising concerning

- (a) the interpretation of a treaty;
- (b) any question of international law;
- (c) the existence of any fact which, if established, would constitute a breach of an international obligation;
- (d) the nature or extent of the reparation to be made for the breach of an international obligation;

Provided, that this declaration shall not apply to

- (a) disputes the solution of which the parties shall entrust to other tribunals by virtue of agreements already in existence or which may be concluded in the future; or
- (b) disputes with regard to matters which are essentially within the domestic jurisdiction of the United States of America *as determined by the United States of America*; or
- (c) disputes arising under a multilateral treaty, unless (1) all parties to the treaty affected by the decision are also parties to the case before the Court, or (2) the United States of America specially agrees to jurisdiction; and

Provided further, that this declaration shall remain in force for a period of five years and thereafter until the expiration of six months after notice may be given to terminate this declaration.

Done at Washington this fourteenth day of August 1946.

(Signed) HARRY S. TRUMAN.







