UNITED NATIONS REFORM

HEARING

BEFORE THE

COMMITTEE ON FOREIGN RELATIONS
UNITED STATES SENATE

NINETY-SIXTH CONGRESS

FIRST SESSION

ON

VARIOUS UNITED NATIONS REFORM PROPOSALS

OCTOBER 26, 1979

Printed for the use of the Committee on Foreign Relations

U.S. GOVERNMENT PRINTING OFFICE
84-916 O WASHINGTON : 1980

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UNITED NATIONS REFORM

FRIDAY, OCTOBER 26, 1979

UNITED STATES SENATE,
COMMITTEE ON FOREIGN RELATIONS,
Washington, D.C.

The committee met at 10:30 a.m., in room 4221, Dirksen Senate Office Building, Hon. Claiborne Pell presiding.

Present: Senator Pell.

Senator PELL. The Committee on Foreign Relations will come to order.

OPENING STATEMENT

Today our committee meets to hear testimony from the administration and public witnesses on various United Nations reform proposals. As we all know, the world is currently facing serious problems with respect to peace and security, the international economic order, the quality of human life, and the protection of human life.

The solution of all of these problems transcends the ability of individual governments. The current crisis in Cambodia and the response of the International Red Cross and the United Nations Children's Fund emphasizes the importance and need for cooperative international organizations.

It is essential that multilateral organizations, such as the United Nations and specialized agencies, remain strong and relevant to all their members.

The purpose of these hearings is to examine various current proposals to reform and restructure the United Nations, to make it a stronger and more effective organization—more akin to the organization we all had in mind in San Francisco.

I am probably the only person in the room—if there is anybody else, please hold up your hand—who was at the San Francisco conference. I remember working there for 3 months, particularly on articles 434 and 435 of the charter. We all resolved to make an organization that would not have the failures and weaknesses of the League of Nations, and we purposely did everything a little different from the way it was in the League. I would hope that the aspirations we had for the United Nations then might be achieved within our lifetime. Those who criticize the United Nations for things that it has not been able to do should bear in mind its very real achievements. These include the wars that have not been fought but which otherwise might have occurred; the millions of lives which have not been needlessly destroyed; the literacy that has appeared that might not otherwise have appeared; the victories over disease and pestilence that might not have been won.

So, I think in balance we can be glad there is a United Nations—very glad indeed—and do what we can to make it stronger.

At this point, too, I would say that Senator McGovern regrets very much he cannot be present at the opening of this hearing. He asked me to announce the release of the report he requested from the Library of Congress, analyzing the United Nations reform proposals submitted by the President in March 1978, in compliance with the McGovern-Baker amendment.

Senator McGovern asked the Library of Congress to assess the feasibility of the President's proposals in terms of their likely acceptance by members of the General Assembly and Security Council, to point out questions raised by the proposals that Congress should explore further, and to explore areas alluded to but not fully discussed in the President's report.

The Library of Congress study concludes that with the single exception of proposals relating to the International Court of Justice [ICJ] the report of the President poses no major innovative reforms of the United Nations. It does, however, suggest some small, practical steps, for reform in several areas.

Senator McGovern has requested that a summary of the Library of Congress study be inserted in the record of this hearing, which will be done without objection; and copies of the study will be available from this committee next week.

[The information referred to follows:]

LIBRARY OF CONGRESS SUMMARY OF REFORM OF THE UNITED NATIONS: AN ANALYSIS OF THE PRESIDENT'S PROPOSALS AND THEIR COMPARISON WITH PROPOSALS OF OTHER COUNTRIES

(By Carol Ann Capps, Analyst in International Relations, Foreign Affairs and National Defense Division, Congressional Research Service, Library of Congress, December 1978)

The recommendations for reform of the United Nations analyzed in this study are contained in a Report of the President transmitted in March 1978 to Congress in response to section 503 of the Foreign Relations Authorization Act of 1978.[1] The President's Report proposes few major innovative reforms. It does, however, suggest some smaller practical steps for strengthening the United Nations, particularly in the areas of peaceful settlement, peacekeeping, and the role of the United Nations Development Program in technical assistance, which approach or have sufficient support among U.N. member states to be implemented in the near future.

REFORM THROUGH CHARTER AMENDMENT OR BY OTHER METHODS?

This study concludes, as does the President's Report, that widescale reform of the United Nations through Charter amendment is not feasible because it is opposed by the Soviet Union and because a number of other influential countries, including the United States, have expressed preference for reforms that would not require amendment of the Charter. Thus, although some proposals for Charter amendment are discussed, the focus of this study is on changes that could be made through General Assembly or Security Council resolution, through informal agreement with other member countries, or through unilateral U.S. action.

The feasibility of the proposals is assessed on the basis of whether they would be acceptable to the U.N. majority, or in the event implementation would require Security Council resolution, to all the permanent members of the Security Council.

[1] Some analysts would question whether strengthening the United Nations is necessarily in the interest of the United States. Since section 503 is explicit in its support of "reforming and restructuring the United Nations system so that it might become more effective in resolving global problems," this report focuses on that immediate goal and does not attempt the broader task of assessing the potential impact of such changes on U.S. national interests.

When there is insufficient evidence to determine whether the necessary support exists, the suggestion is sometimes made that the proposals be explored further with other member states. Questions that Congress might ask the executive in hearings are noted. When an issue seems particularly vital to the interests of Congress, the options for Congressional follow-up are pointed out.

ESTABLISHING MORE EFFECTIVE MACHINERY FOR THE PEACEFUL SETTLEMENT OF DISPUTES

Since substantial international machinery for the peaceful settlement of disputes already exists, the U.S. proposals are focused on re-examining and improving existing machinery and on encouraging governments to make greater use of it. U.S. proposals (a) for improving Security Council procedures by upgrading technology used for fact-finding and by increasing consultations and (b) for encouraging the good offices role of the Secretary-General would probably be favorably received by other U.N. members because widespread support was voiced for similar initiatives in the U.N. Special Committee on the Charter. The basic problem is that states are reluctant to submit disputes to third party settlement. Implementation of the U.S. statement of intention to consider utilizing U.N. settlement procedures in disputes to which the United States is a party could set an example.

STRENGTHENING THE UNITED NATIONS PEACEKEEPING CAPABILITY

There is general agreement among U.N. member states that: (1) the United Nations can play a useful third person role in conflict resolution—through observation teams and interposition, or peacekeeping, forces dispatched with the consent of the parties concerned; and (2) the U.N. peacekeeping role needs strengthening. Several of the U.S. proposals would seem to have a good chance of acceptance, in particular: establishing a peacekeeping reserve, setting up training programs for observer mission and peacekeeping personnel, and creating a special contingency fund for peacekeeping. Consideration of congressional resolutions of support for some of these proposals would help to determine the degree of congressional favor for such measures.

The U.S. commitment to work toward the formulation of guidelines on peacekeeping in the U.N. Special Committee on Peacekeeping Operations should be taken note of, but in view of continuing disagreement over the role of the Secretary-General and General Assembly and over the question of financing peacekeeping, a final draft cannot be expected soon. Congress might want to ask the executive branch for clarification of its view of the General Assembly's role in peacekeeping.

FINANCING THE UNITED NATIONS

The United Nations is facing three major financing problems: (1) drawing up an assessment scale acceptable to both rich and poor member states; (2) eliminating the current deficit; and (3) finding autonomous sources of revenue for future programs. No countries have proposed easy answers to any of these problems. It is likely that assessments will continue to be based broadly on capacity to pay, as determined by national income, with special allowances for developing countries. Perhaps the most promising approach for dealing with the immediate deficit problem is to solicit voluntary contributions, as suggested by the United States. The U.S. indication of support for a U.N. study of autonomous sources of revenue for the international community is timely because of increasing U.N. financial requirements. The President's Report does not examine adequately the question of finding autonomous sources of revenue for the United Nations, however. In view of its funding role, Congress might want to study this issue more thoroughly, paying particular attention to the administrative arrangements needed under various revenue schemes and to the question of the advisability of granting independent revenue-raising power to the United Nations.

UNITED NATIONS TECHNICAL ASSISTANCE

It is generally acknowledged that decentralization of the U.N. system in the economic and social sectors into specialized agencies and a multiplicity of funds has resulted in the overlapping of technical assistance programs and in an inability to develop a coordinated approach. The restructuring process now under

way offers the United States the opportunity to try to persuade Secretariat officials and other member governments to implement the U.S. proposal for reinforcing the role of the UNDP (United Nations Development Program) in programming and coordinating all U.N. technical assistance activities.

The executive branch has suggested multi-year pledging of voluntary contributions, mainly through UNDP, to counter pressure from the Third World for increased financing of technical assistance through assessed budgets. In view of the current requirement for yearly appropriations, Congress may want to examine the argument that longer-term financial commitments would facilitate more effective, longer-term development planning.

GREATER USE OF THE INTERNATIONAL COURT OF JUSTICE (ICJ)

The proposals in the Report of the President that suggest major changes of the United Nations are those for expanding the advisory opinion jurisdiction of the International Court of Justice and for granting the United Nations the right to bring cases to the Court. Since these two proposals would probably require amendment of the U.N. Charter and ICJ Statute, it is unlikely that they could be implemented in the near future. Nonetheless, they deserve serious examination because they suggest a possible direction in which the Court might develop in keeping with the increasing transnational nature of the world community.

The President's Report also suggests several unilateral steps the United States could take to strengthen its commitment to the International Court of Justice, among them repeal of the Connally Reservation, which restricts U.S. acceptance of the Court's compulsory jurisdiction.

THE UNITED NATIONS AND THE PROTECTION OF HUMAN RIGHTS

The U.N. General Assembly has begun developing international standards for the protection of human rights through declarations and covenants, but U.N. application of human rights standards has been uneven. Member countries are unable to agree on which categories of human rights are most important and, if criticized for violations, frequently invoke the non-intervention principle of Article 2(7) of the U.N. Charter.

Furthermore, U.N. machinery to enforce human rights is rudimentary. It would therefore be useful to explore the proposals both of the United States and of other countries for strengthening U.N. enforcement machinery, especially those relating to the individual petition procedures established under ECOSOC (Economic and Social Council) Resolution 1503. Although there is support from other countries as well as from the United States both for establishing the post of U.N. High Commissioner for Human Rights and for creating a Human Rights Council, these two proposals would nonetheless appear to be sufficiently controversial to preclude immediate implementation. In view of broad-based interest in the regional approach to human rights issues, encouraging the use of regional machinery for the protection of human rights might be a complementary method of promoting human rights world-wide. Possibilities for unilateral action to emphasize the U.S. commitment to human rights include ratification of the four human rights treaties pending in the Senate.

UNITED NATIONS DECISION-MAKING

The two most frequently suggested reforms of U.N. decision-making are weighted voting in the General Assembly and restraint of the veto power in the Security Council. Acknowledging that across-the-board weighted voting would be unacceptable to the Third World countries that make up the General Assembly majority, the Report of the President raises the possibility of an informal trade-off between weighted voting on certain types of issues in the General Assembly and voluntary restraint of the veto power in the Security Council. As the President's Report concludes, however, proposals for weighted voting even on a limited basis are unlikely to gain acceptance among the U.N. majority. The informal steps suggested in the President's Report—wider use of the consensus procedure, greater recourse to smaller forums, and more extensive diplomatic efforts prior to voting, as well as voluntary restraint of the veto power in the Security Coun-

cil—are probably more feasible suggestions for alleviating some of the problems of decision-making in the United Nations.

MEMBERSHIP IN THE UNITED NATIONS

The U.S. proposal for associate membership for mini-states is unlikely to gain acceptance among the Third World majority since it is not in the self-interest of small states to agree to a qualified membership status without voting rights. An alternative proposal suggested in the U.N. Special Committee on the Charter would withhold from mini-states the right to elect and to hold office but would allow them voting privileges in the General Assembly. Even if more favorably received by the General Assembly, the latter proposal would not meet the U.S. criticism that very small states cannot adequately carry out the obligations of U.N. membership.

COMPOSITION OF THE SECURITY COUNCIL

Desirous of increasing their influence in the Security Council, Third World countries have pressed for equitable geographic representation as the basic criterion for Security Council membership. The United States, on the other hand, has consistently maintained that Security Council membership should be based on a state's contribution to the purposes of the United Nations. The proposal of the President's Report for permanent membership for Japan is based on this principle. Possibly the positions of both the United States and the Third World could be accommodated if agreement could be reached which would grant permanent membership status without veto power (a) to Japan and (b) to a representative of each major region of the world.

THE ROLE OF THE UNITED STATES IN U.N. REFORM

Although the United States can no longer command an automatic majority in the General Assembly, it can still play a leadership role in the United Nations. To do so, however, requires actively seeking support for its proposals from among all groups of member states.

It also requires improvement in U.S. procedures for participation. The policy analysis and resources management process being developed by the Department of State to this end would be an appropriate focus of close Congressional scrutiny. Other options open to Congress in its efforts to assure that the United States plays an effective leadership role in U.N. reform efforts include (1) re-examining, the legislative basis for participation and for the funding of contributions, and (2) adopting resolutions of support for reforms it would like to see implemented.

Senator PELL. Our first witness today is Assistant Secretary of State Charles William Maynes, who is in charge of United Nations Affairs at the State Department.

We welcome you here, sir.

STATEMENT OF HON. CHARLES W. MAYNES, ASSISTANT SECRETARY, BUREAU OF INTERNATIONAL ORGANIZATION AFFAIRS, DEPARTMENT OF STATE

Mr. MAYNES. Thank you very much, Mr. Chairman. I do have a statement that I would propose to read, unless you would like to move directly to questions.

Senator PELL. We do have some questions, but your statement can either be inserted in the record and digested by you, or read, whichever you wish.

Mr. MAYNES. Well, let me try to briefly summarize the statement then.

As you know, Mr. Chairman, we have made a number of specific proposals and suggestions on United Nations reform to the Congress.

Since you are familiar with these, I will focus on some of the more important areas for reform, such as improving the General Assembly and proposals relating to the Security Council, and peacekeeping, and human rights.

There has been some improvement in the functioning and effectiveness of the General Assembly. As a result of proposals which the United States and other countries have made, the Secretary General did issue a report this year, outlining suggestions and recommendations for making the General Assembly more efficient. The report incorporated a number of our suggestions and has been adopted by the General Assembly, and the assembly is now operating under the guidelines of this report by the Secretary General.

A key element of the proposals is the recommendation on ways that the General or Steering Committee may be used to advance the rational organization and general conduct of the Assembly's proceedings. This calls for the Committee regularly to review the progress of work of the session, and for staggering the consideration of items over 2 or more years. We obviously do not have the final results of this change in the procedures of the Assembly. We will be able to review them at the end of this Assembly, but we do regard this change as encouraging.

The President's Report on United Nations Reform put forward a cluster of proposals to strengthen the role of the Security Council in encouraging and assisting in the peaceful resolution of disputes threatening international peace and security. Those proposals include: Greater use of informal meetings or consultations among members of the Security Council on particular disputes; greater use of periodic meetings, perhaps as foreseen in article 28 of the Charter, with participation by officials from capitals; and more frequent use of committees of the Council, comprised either of all Council members or a few members of the Council.

We have devoted considerable attention to this in our bilateral discussions with other countries prior to the General Assembly. I personally participated in consultations with officials in the Soviet Union and the People's Republic of China and found them interested in several of our proposals. We are hopeful that we can pursue those discussions with the Chinese and the Soviets, and other members of the Council.

United Nations peacekeeping operations are among the most successful of the United Nations activities. In fact, until UNEF [United Nations Emergency Force] completed its mandate in the Sinai, there were almost 13,000 officers and men from 27 nations in United Nations peacekeeping activities. This is more than the United States had in its own military until the Civil War.

We have introduced our proposals on peacekeeping in the Special Committee on the Charter of the United Nations and in the Special Committee on Peacekeeping Operations. We have also delivered a report containing our views to Secretary General Waldheim in June, in accordance with General Assembly Resolution 33/114, which invited all member states to supply the Secretary-General with information on possible standby capabilities and experience gained in peacekeeping operations and national training programs. I will be happy to supply a copy of the report for the record.

[The information referred to follows:]

[From the United Nations General Assembly, Special Committee on Peace-Keeping Operations, Aug. 27, 1979]

COMPREHENSIVE REVIEW OF THE WHOLE QUESTION OF PEACE-KEEPING OPERATIONS IN ALL THEIR ASPECTS

REPORT OF THE SECRETARY-GENERAL

I. INTRODUCTION

1. The General Assembly at its thirty-third session adopted resolution 33/114 of 18 December 1978 entitled "Comprehensive review of the whole question of peace-keeping operations in all their aspects". Paragraph 5 of this resolution invites, *inter alia*, all interested Member States "to share by means of reports to the Secretary-General for consideration by the Special Committee on Peace-keeping Operations, experience already gained in peace-keeping operations and in existing national programmes for peace-keeping training". Paragraph 6 invites all interested Member States "to consider supplying the Secretary-General with up-to-date information relating to possible stand-by capacities, including logistics, which could, without prejudice to the sovereign decision of the Member State on each occasion, be made available if required."

2. Pursuant to these invitations, the Secretary-General on 13 March 1979 addressed a note to the Governments of Member States, transmitting the text of the resolution and drawing attention to the appeals and invitations contained therein.

3. The replies received from Member States as at 27 August 1979 are in section II below. Any further replies will be issued as addenda to this document.

II. REPLIES RECEIVED FROM GOVERNMENTS

CHILE

The Permanent Mission of Chile is pleased to inform the Secretary-General that its Government will continue, as it has done in the past, to collaborate directly in peace-keeping operations conducted by the United Nations by sending chief or senior officers as United Nations military observers.

With regard to training, these officers receive instruction concerning their special functions, as well as the political situation and general characteristics of the specific areas of observation.

As far as the reporting of experience is concerned, the Ministry of Foreign Affairs of Chile provides the Secretary-General with information on the basis of the reports submitted to the corresponding service of the armed forces and to the Ministry of Foreign Affairs at the end of each assignment.

Stand-by capacities to cover military observer posts are adequate and are acquired through the promotion of specialized officers of the military staff of the three services of the Chilean armed forces, who are duly prepared to discharge such duties.

Finally, the Chilean Government does not consider it feasible, at this time, to make available for peace-keeping operations contingents that can rely on their own logistic support.

FRANCE

The French Government has always attached the greatest importance to the question of peace-keeping operations. In particular, it associated itself with the proposal of the nine States members of the European Economic Community presented by the Ambassador of the Federal Republic of Germany in his statement of 28 November 1978 which led to the adoption by the General Assembly of resolution 33/114. It will also be recalled that French officers have participated for nearly 30 years in the UNTSO observation mission, and that France has assisted in the establishment and functioning of UNIFIL. The French contingent, which, for nearly a year, was the largest (1,290 men), is now responsible for the logistics of UNIFIL. The French military authorities have thus acquired sound practical experience both in observation missions and in peace-keeping operations.

With regard to the preparation for peace-keeping operations referred to in paragraph 5 and 6 of General Assembly resolution 33/114, France has opted to make use of highly-trained units consisting of regular army personnel, well

officered, which are given strict instructions about conduct and full information on the country of destination. These units are designated in the light of circumstances and availability, with a constant concern to keep all the options open until the last moment. In these circumstances, there would be no point in considering the possibility of specialized training in peace-keeping operations unless such training were extended to all the components of the armed forecs, which would be impossible. For the same reasons the French Government does not feel that it is in a position to designate in advance units which could be made available to the United Nations if the need arose; consequently, it is unable to provide information on this matter.

ITALY

The Italian Government has always attached the highest importance to United Nations peace-keeping operations, which it considers one of the most effective means whereby the Organization can ensure the maintenance of international peace and security. It is therefore firmly committed to actively supporting these operations and co-operating in all efforts to strengthen the capabilities of the United Nations in this field. It is in this spirit that the Italian Government associated itself with the proposal of the States members of the European Economic Community submitted by the Permanent Representative of the Federal Republic of Germany in his statement of 28 November 1978, which led to the adoption by the General Assembly of resolution 33/114.

Italy has long been contributing actively to United Nations peace-keeping operations: in Korea with a field hospital unit, in Zaire in 1961 with air transport units and, at present, with the participation of observers in UNDOF, UNTSO and UNMOGIP. Only recently, the Italian Government decided to respond positively to the Secretary-General's request to make a helicopter unit available to UNIFIL forces.

As to the matters referred to in paragraphs 5 and 6 of resolution 33/114, while reserving the right to make a case-by-case evaluation of peace-keeping operations particularly in the light of the areas where the forces will be deployed, Italy intends to use specialized operational units up to a maximum of one battalion of infantry or amphibious troops.

These forces could be made available to the United Nations on not less than 15 days' notice and could be transported to the field by units of the Italian Air Force or Navy. Each unit, which would have 20-day logistic reserves in rations and three-day fuel reserves, could serve in the operational area for three to six months, at the end of which period it could be replaced by a similar unit if necessary. This is because of the current conscription procedures in the Italian armed forces, which, moreover, do not permit the advance and annual designation of units to be made available to the United Nations.

For these reasons connected with the structure of its armed forces, Italy, from a more general standpoint, does not consider that specialized training for peace-keeping operations would be feasible. Such training should of necessity be given to units assigned to these operations in advance on a permanent basis. Italy is therefore not in a position to inform the Secretary-General of its views on this matter.

NETHERLANDS

I. INTRODUCTION

In September 1963 the Netherlands Government informed the Secretary-General of the United Nations that it had decided to put contingents of Royal Marines at the disposal of the United Nations. Three hundred marines were kept ready for action within twenty-four hours, others were available within a few days and competent staff officers could be attached at once at the headquarters of a United Nations force of which the marines would be a part.

On 5 October 1965, the Netherlands Minister of Foreign Affairs informed the General Assembly that his Government had decided to increase its original offer of stand-by forces considerably, expanding it to diversified units of navy, army and air force. This decision was based on the consideration, that experience since 1963 had demonstrated that the United Nations would in future need more elaborate and more diversified military contributions of its members if it was effectively to exercise its peace-keeping task.

In May 1968, the Netherlands Government included in its offer a detachment of the Royal Marechaussee, the Military Police Corps.

Section II comprises a detailed description of the contents of the offer as it stands today.

The offer of stand-by forces is made on the understanding that in each specific case in which the Secretary-General of the United Nations makes a request for the putting at his disposal of Netherlands units, prior consultation with and agreement of the Netherlands Government will be required.

It is the understanding of the Netherlands Government that the United Nations will conform to established practices regarding financial arrangements based on relevant General Assembly resolutions and decisions and reimburse the Government accordingly.

II. Organization of the Stand-by Forces

1. Royal Netherlands Navy

(a) General

(1) The contribution of the stand-by forces comprises in the first instance: (a) a contingent of the Royal Netherlands Marine Corps (RNLMC), composed of a contingent staff (in which a liaison group) and a reinforced company (approximately 300 men); (b) an underway replenishment ship, equipped with one or two helicopters (displacement 16,800 tons, service speed 18 knots); (c) a number of patrol ships (destroyer-, frigate type).

(2) In a later phase this naval contribution may be enlarged with other units: (a) command frigate type for headquarter duties; (b) destroyer-, frigate type for logistic and other supports; (c) a second contingent RNLMC as a reinforcement of the first contingent (similar in composition).

The offered ships are continuously and practically at once ready for prolonged actions and do not need special measures. The first contingent RNLMC is ready to move within 24 hours, the second contingent, if needed, will be able to move within two or three days.

(b) Characteristics of the marines contingent

(1) *General.*—The units of the RNLMC, being of a high professional quality should not be used for garrison and guard duties.

(2) *Mobility.*—If needed both contingents can on request be equipped with sufficient transport to carry all personnel.

(3) *Communications.*—Apart from equipment for communication within the own unit (radio and telephone up to 20 miles), the contingent is equipped for communication with a higher echelon at a distance of maximum of 150 miles.

(4) *Logistics.*

(a) Supply—for thirty days.

Fuel and lubricants for vehicles—the contingent will not carry fuel and lubricants for vehicles.

Maintenance—second echelon of armament and vehicles.

For resupply the contingent must revert to the United Nations supply system.

(b) Medical—

Sufficient drugs, dressing and instruments for first aid in the field.

Evacuation of casualties to the aid station.

Maintaining aid station for extended first aid and preparing the casualties for further evacuation to the rear, providing them with temporary shelter.

(5) *Missions.*—The contingent is capable of independent actions and specially trained for all circumstances and forms of action which may arise in peacekeeping operations.

Normally a reinforced rifle company is working as a whole. However, it is possible to detach parts of a company to operate separately as outposts, covering forces, patrols etc. The detached units, if operating beyond supporting distance may be reinforced with supporting infantry weapons. The organization of the rifle company into units down to the smallest team ensures effective control and permits flexibility and rapid reorganization. Equipment for riot-controlling actions is available.

2. Royal Netherlands Army

(a) General

The contribution of the army consists of: A reinforced mechanized infantry battalion; an independent medical company.

Besides these units there is also earmarked (exclusively for police tasks) a detachment of thirty members of the Royal Marechaussee, the Military Police

Corps. For reasons of logistics, putting this detachment at the disposal of the United Nations is possible only if other Netherlands military units are on United Nations peace-keeping missions in the area concerned.

(b) Characteristics of the mechanized battalion and of the medical company

(1) Organization:

(a) Mechanized infantry battalion:

(i) Headquarters company, consisting of: Battalion headquarters; reconnaissance group; signal group; quartermaster group; medical platoon.

(ii) support company, consisting of: 3 medium mortar platoons; 1 anti-tank platoon.

(iii) 2 or 3 rifle companies, consisting of: 3 rifle platoons each.

(iv) augmentation detachment, consisting of: Liaison group for liaison between headquarters and the United Nations Headquarters; pioneer platoon; quartermaster platoon.

(b) Medical company:

(i) Clearing platoon with a maximum capacity of 90 beds;

(ii) ambulance group with six 1-ton ambulances.

(2) Mobility:

(a) Air transported (4 to 6 weeks after called upon). The battalion (minus support company) and the medical company are not equipped with:

All heavy (exceeding 1-ton) trucks; all armoured vehicles with crew-served weapons.

The medical company is capable of static operations only.

(b) Sea transported (4 to 6 weeks after called upon). The battalion and the medical company carry their complete equipment and are logistically independent. The battalion is fully mechanized; the medical company is capable of mobile operations.

(3) Communications: Above normal equipment for communication within their own unit (radio and telephone up to 12 miles) the contingent is equipped for communication with a higher echelon at a distance of max. 66 miles. Furthermore the unit has a radio-set at its disposal, suitable for world-wide communications.

(4) Logistics:

(a) Transported by air: The battalion and the medical company are logistically self-supporting for a period of 7 days, except for patrol, which has to be drawn from United Nations stocks or local resources.

(b) Transported by sea: The unit carries spare parts, expendable and non-expendable supplies expected to cover a period of 4 months, a basic load of ammunition for 40 days and food for 14 days.

(c) Maintenance: The battalion and the medical company are self-supporting up to and inclusive third echelon (exchange of components). For higher echelon logistic support the units rely on the United Nations logistic system.

(5) Missions:

(a) Transported by sea: The battalion is fully operational as a mechanized infantry battalion for all combat and riot-controlling actions. The mobile medical company is fully operational.

(b) Transported by air: The battalion, minus armoured vehicles and supporting weapons, can be assigned the following tasks:

Dismounted patrols; special purpose patrols; guard duties; security detachment; convoy guarding duties; ambushes; terrain searches; house searches; riot-control and street-fighting.

The medical company is capable of static operations only.

(c) Characteristics of the military police detachment

(1) Organizations:

1 military police platoon, consisting of: a staff group; three groups of military policemen.

(2) Mobility: The platoon is equipped with 10 jeeps (¼ ton), 1 truck (1 ton), 1 so-called combi-car and 6 motorcycles. The unit is air-transportable and is—if air transported—fully operational in the mission area 7 days after called upon.

(3) Communications: The equipment provides for communications within the platoon by radio up to 12 miles.

(4) Logistics: The platoon is dependent on logistic support to be given by other Netherlands units in the mission area. This support is up to and inclusive

third echelon. For higher echelon support the platoon relies on the United Nations-logistic system.

(5) Missions: The platoon is capable of carrying out the following missions in close co-operation with local (military) police-organizations or with other United Nations police teams in the mission area:

To maintain public order; to protect personal and public property; to control the observance of laws and rules; to perform judicial- and traffic control duties; other specific tasks.

3. ROYAL NETHERLANDS AIR FORCE

(a) Organization

For peace-keeping operations of the United Nations are earmarked:

(1) One F-27 "Troopship" (troop/cargo transport aircraft) with three pilots, two flight mechanics and one wireless operator;

(2) Three Alouette III helicopters with six pilots and four mechanics;

(3) Additional technical personnel, when aircraft are operating in areas without possible technical support from their home country:

1 technical officer; 5 specialists F-27; 5 specialists Alouette III; 1 NCO administrator.

Except for personal small arms no armament is carried nor installed in the aircraft.

(b) Mobility

The units or parts thereof are able to deploy to the theatre of operation within forty-eight hours. Concerning the helicopters it is noted that—dependent on the geographic place of the mission area—transportation by ship might be necessary.

(c) Communications

Airborne communication equipment consisting of:

(a) for the F-27: VHF, UHF and HF; (b) for the Alouette III: UHF.

(d) Logistics

The spare parts package for aircraft and helicopters, communications and ground equipment are based on the expected need for three months with a minimum stock for one and a half months. However, normal aerodrome cross-servicing facilities are imperative. Utilization per F-27 and per Alouette III is estimated on fifty hours per month.

(e) Missions

Within the technical limitations of each type of aircraft, flights for all purposes can be carried out if normal aerodrome cross-services and landing facilities are available.

SWEDEN [1]

The positive attitude of the Nordic countries with respect to the peacekeeping operations of the United Nations is well known. They consider these operations as an essential element with regard to the world Organization's capacity to discharge its responsibilities for the maintenance of international peace and security according to the Charter of the United Nations. The Nordic countries therefore attach the greatest importance to the efforts of the United Nations to improve the performance of peace-keeping operations and they were all co-sponsors of resolution 33/114.

The Nordic countries have ever since peace-keeping operations were initiated taken part in almost all of them with troops as well as observers. At present the Nordic countries are represented with a total of five battalions in all current peace-keeping forces and with officers in both existing observer missions.

The Nordic countries have through their active participation gained a considerable experience with regard to peace-keeping operations. This experience has been of great value for the development of the Nordic stand-by forces, their training, equipment and other necessary preparations.

The Nordic countries recruit their national defence forces mainly through compulsory service. They have with few exceptions no standing forces which are immediately available for other purposes than to support their own national se-

[1] Reply submitted on behalf of the Governments of Denmark, Finland, Norway and Sweden.

curity. In order to be able to have forces ready for United Nations peace-keeping operations they therefore have developed a special stand-by-system which is, in essence, built on the recruitment of personnel for the service in special United Nations units, ready to take part in peace-keeping operations on short notice. This personnel, in addition to the basic national compulsory military training, have undergone special training for United Nations services.

These stand-by forces started to be organized already in 1964 after a decision by the Governments of Denmark, Finland, Norway and Sweden. Totally they now amount to about 5,000 men out of which nearly 3,000 are at present serving in United Nations peace-keeping operations.

The organization of these forces is described in the study "Nordic stand-by forces in the United Nations service (NORDBERFN)". A new version of this study has been circulated as an official document in the Special Political Committee (document A/SPC/33/3 of 20 October 1978). Furthermore this study covers the following subjects:

General outline and guiding principles for service with NORDBERFN military units with emphasis on the United Nations battalion, during the initial stages of a United Nations peace-keeping operation; guiding principles for Nordic collaboration within the framework of NORDBERFN; recommendations in broad outlines for the drafting of preliminary general regulations, through the United Nations, with a view of making the functioning of a peace-keeping force smoother during the initial phase.

The study further includes a training-programme which the Nordic countries maintain. This programme consists of yearly organized courses in the four Nordic countries for staff officers, observers and certain specialists. The courses are continuously revised in the light of recent experience obtained from participation in United Nations peace-keeping operations. These courses are held in English and all written material is in English.

The Nordic countries repeat their willingness to share their experience in peace-keeping training.

The financing of peace-keeping operations continues to be a serious problem. The fact that the United Nations is unable to meet all financial obligations in relation to peace-keeping operations imposes considerable extra burdens on the Governments that provide troops and other forms of support upon request of the world Organization. The Nordic countries wish to underline that all the Member States bear a collective financial responsibility for peace-keeping operations under United Nations auspices and urge that every effort should be made to overcome the difficulties of the financing of the peace-keeping operations.

In conclusion, the Nordic countries believe that they have already to a great extent implemented the recommendations of General Assembly resolution 33/114. They have thus reached a high degree of readiness to take part in peace-keeping operations and gained a considerable amount of experience in this field. It is therefore the position of the Nordic countries that their best contribution to the practical implementation of resolution 33/114 is their preparedness to share their experiences and methods in order to further improve other Member States' readiness and capacities to take part in United Nations peace-keeping operations.

United States of America

I. INTRODUCTION

The United States believes that an efficient and effective peace-keeping capability is vital and indispensable if the Organization is to accomplish its primary objective—the maintenance of international peace and security. Our Government has actively supported the adoption of practical measures designed to enhance the ability of the Secretary-General to mount and support peace-keeping operations authorized by the Security Council. We co-sponsored resolution 33/114, and we welcome this opportunity to report to the Secretary-General in accordance with its provisions. We hope that other Member States will likewise see fit to provide their views so that the Secretary-General can prepare and publish an analysis that would identify common concerns and attitudes of Member States with regard to practical measures, going beyond the generalized answers given to resolution 32/106, such an analysis would be helpful in the development of agreed measures for strengthening United Nations peace-keeping.

II. STAND-BY CAPACITIES

The United States undertakes to do the following:

On receipt of a request from the Secretary-General, the United States is prepared, as in the past, to consider assisting with the airlift of troops and equipment required for establishing a peace-keeping force authorized by the Security Council;

The United States remains prepared to examine, on a case-by-case basis, the possibility of not requiring reimbursement for the provision of initial airlift facilities;

The United States is prepared to examine with the United Nations possible ways of upgrading the technical equipment available to observer missions and peace-keeping forces, and of enhancing their observation capability through the use of, or access to, relatively inexpensive, easily operable, modern technologies available in those fields;

The United States is considering ways to provide funds and/or facilities, in coordination with the United Nations, for training of individuals or elements identified by Member States as being available for peace-keeping operations. We have included funds in our Fiscal Year 1980 Budget to conduct a pilot regional training programme;

— As in the past, the United States is prepared to consider with other Member States the possibility, once the current peace-keeping arrears are eliminated by payments of amounts owed, combined with voluntary and/or assessed contributions of establishing a special peace-keeping fund to help cover the initial costs of peace-keeping operations authorized by the Security Council;

Subject to national security considerations, the United States is prepared to approve overflight, landing and freedom of passage rights for United Nations peace-keeping forces in transit.

III. PRACTICAL EXPERIENCE GAINED IN PEACE-KEEPING OPERATIONS

The most direct practical experience acquired by the United States relevant to peace-keeping is in the provisions of air-lift and logistic support and the use of technical equipment.

A. Provision of air-lift and logistic support

The United States Government has contributed directly to all major United Nations peace-keeping operations by providing initial air-lift, as well as logistic support through the United States Army supply system. In practice, United States policy has been to provide air-lift on a non-reimbursable basis for the initial deployment of peace-keeping forces authorized by the Security Council. For the initial deployment of UNIFIL to Lebanon, the United States Air Force flew 117 missions (employing C–141 and C–5A aircraft) carrying 2,462 troops and 3,281 tons of cargo at a cost to the United States of $8 million. We have also planned to provide similar air-lift services for the initial deployment of UNTAG. Regarding logistic support, the United States provides the United Nations with equipment, supplies, and services on a reimbursable basis, provided these items are available in sufficient quantity in the United States inventory. Through United Nations assist letters, military items and spare parts are requisitioned and are shipped direct to United Nations forces in the field or to the supply depot in Pisa, Italy. The number and dollar volume of these assist letters increased from 68 requests valued at $825,000 in the fiscal year 1977 to 117 requests valued at $2 million in fiscal year 1978.

B. Use of technical equipment

The United States Sinai Support Mission has operated a tactical early warning system in a United Nations Buffer Zone in the strategic Mitla and Giddi passes of the Sinai Peninsula since 22 February 1976. This system functions as an integral part of the comprehensive disengagement and arrangements of the 1975 basic agreement between Egypt and Israel and the over-all supervision of the United Nations. It serves as a tactical supplement to the strategic surveillance facilities allowed the two parties.

The United States Early Warning System deploys a network of unattended ground sensors in order to detect any unauthorized movement into or within the early warning area. When an intruder triggers one or more of the sensors, an

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alarm is transmitted instantly to a watch station where observer personnel on duty seek to identify the intruder visually. The watch stations are equipped with high-power binoculars, night observation devices, and, in one instance, a remotely-controlled, day-and-night television camera which allows operators to monitor a remote area where there is no watch station.

If it is determined that an unauthorized intrusion has occurred, the two parties (Israel and Egypt) and the United Nations are notified immediately. If the identity of the intruder cannot be determined, or if some interdictory action appears necessary, the Sinai Field Mission calls upon UNEF for appropriate action.

Drawing upon experiences acquired during more than three years in the Sinai, we believe that the basic operational concepts employed there may be applicable, with modifications to accommodate local terrain and weather conditions, to other border or buffer areas. An early warning/alert system can be designed to monitor a border or disengagement line, possible invasion routes, or even an entire area, using a combination of unattended ground sensors, advanced night observation devices, aerial surveillance and observer personnel. Such a surveillance system could detect any hostile movement of ground forces or clandestine infiltration by armed groups and provide sufficient alert to allow an interdiction force to react.

In considering the possible installation of such an early warning/alert system, it is important to note that, in addition to the sensors and observation devices currently used in the Sinai, there are many other surveillance devices. All are based on one or more of the scientific principles of seismic, acoustic, infra-red, magnetic, electric, pressure and electromagnetic phenomena. The choice of equipment for deployment in any given situation depends upon the particular geographic, climatic and demographic conditions. The specific selection from among the wide range of sensor and other surveillance equipment that has been developed in the United States should be determined after an on-site inspection by technical personnel experienced in the use of these devices. Surveillance devices essentially sharpen and extend in range the eyes and ears of an observer. Therefore, the combination of equipment and human observers provides a more effective and efficient utilization of resources than do the individual components taken alone. By equipping observer stations with high quality surveillance devices such as image intensifying night observation devices and ground surveillance radar, the effectiveness of observer personnel can be greatly enhanced. In addition, the remote imaging surveillance system developed for use in the Sinai shows great promise of extending substantially the distance at which an operator can observe activity of a military or paramilitary nature, even under adverse weather conditions.

The application of concepts used by the Field Mission could, under the right circumstances, make a valuable contribution to easing tensions and improving the climate for political negotiation in other parts of the world. Such arrangements are not, however, a substitute either for diplomacy or for peace treaties or other agreements. The technology employed is not prohibitively expensive, though it would obviously increase the budget of a normal peace-keeping operation.

It is probable that a force augmented by technology would require a substantially smaller staff to perform the same tasks at the same level of effectiveness. Thus, whenever the early warning and surveillance can contribute to peacekeeping efforts, the concepts merit careful consideration.

Much of the surveillance equipment in question employs fairly advanced technology. Qualified personnel will be needed initially to survey and determine the exact mix of equipment required for a particular environment, to train operators and to maintain the equipment. Once a system is in place, it can be operated by relatively unsophisticated military or civilian forces.

We have also consulted with a number of other governments over the last several months to see if there is sufficient support for a new resolution on peacekeeping in this General Assembly. Regrettably, other governments did not feel that the time was opportune for this. While most of them did not support the idea of a new resolution on peacekeeping at this stage, however, a number of them have indicated their intention to make reports to the Secretary-General.

In the area of peaceful settlements of disputes we believe existing methods can be made more efficient. We also believe that until the reasons are known why states do not use the existing machinery, the establishment of new machinery would probably have the effect simply of increasing the size of the international bureaucracy. We have proposed an analysis of these reasons in the Charter Review Committee and in the Committee on Enhancing the Effectiveness of the Principle of Non-Use of Force.

Mr. Chairman, we believe that far greater use should be made of the International Court of Justice. 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 among states. However, there is no sense in speaking of greater use of advisory opinions until there is at least a political commitment to accord such advice a very high measure of respect.

Unfortunately, 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 on 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.

At the current General Assembly there are a number of reform proposals which we feel will enhance the efforts of the United Nations in the area of human rights. The Canadian Foreign Minister in her speech to the Assembly recommended the creation of an Under Secretary General for Human Rights. At other General Assemblies, developing countries have urged the creation of a High Commissioner for Human Rights. These and similar proposals have been warmly received and, we believe, will escalate efforts to strengthen the status and the program of the Secretariat's Human Rights Division, even if the explicit proposals themselves are not adopted.

We are encouraged by signs that human rights is becoming more of a priority area in international organizations. U.S. initiatives in this area have served as a catalyst for active participation by individuals and groups in the grievance process. Procedures under the Human Rights Commission for petitions against countries have produced growing response and more countries are adhering to procedures under the International Convention on the Elimination of All Forms of Racial Discrimination and the International Covenant on Economic, Social and Cultural Rights. Perhaps most importantly, United Nations members are more sensitive to human rights issues and therefore more willing to consider human rights initiatives and the human rights records of individual countries.

I will be happy, Mr. Chairman, to answer questions.

[Mr. Maynes' prepared statement follows:]

PREPARED STATEMENT OF HON. CHARLES WILLIAM MAYNES

Mr. Chairman: I appreciate your invitation to appear before this Subcommittee to discuss our ongoing efforts to bring reform and improved functioning to the United Nations.

As you know, we have made a number of specific proposals and suggestions on U.N. reform in the Secretary of State's Report to the President and the President's Report to Congress on U.N. Reform and Restructuring in March 1978. Since you are familiar with these reports, I will focus on some of the

most important areas for reform. In some, such as improving the functioning and effectiveness of the General Assembly, progress has been made. In others such as enhancing the role of the Security Council and the peacekeeping operations of the U.N., and in the area of Human Rights, more progress needs to be made. In yet others, such as the peaceful settlement of disputes and use of the International Court of Justice progress is decidedly too slow.

IMPROVED PROCEDURES OF THE GENERAL ASSEMBLY

There has been marked improvement in the functioning and effectiveness of the U.N. General Assembly. As I stated in testimony before the House Foreign Affairs Subcommittee on September 13, the Secretary General has issued a report outlining suggestions and recommendations for making the GA more efficient. The report incorporated many of our own proposals and has already had a positive influence on the work of the current session of the Assembly. The General Committee of the 34th GA recommended that the Assembly approve the suggestions and recommendations of Secretary-General Waldheim on the organization of the session and on September 21, the GA adopted those recommendations.

A key element of the SYG's proposals is the recommendation on ways the General (Steering) Committee may be used to advance the rational organization and general conduct of the Assembly's proceedings. This calls for having the Committee regularly review the progress of work of the session, and for staggering the consideration of items over two or more years. Other important proposals included in the report were the early selection of candidates for election to the General Committee so that presiding officers and the Committee itself might prepare more thoroughly for upcoming sessions; the requirement that candidates for presiding officer have two years' prior experience in the U.N. system; and that Committee officers conduct, whenever appropriate, informal negotiations aimed at reaching agreement on specific issues. Several of the main committees of the General Assembly have already implemented this latter proposal.

The United States and numerous other member nations have been concerned by the organizational chaos that affected last year's session. We believe the Secretary General's report, and the action of the Assembly in approving it, will have a major positive effect on this and future General Assemblies.

ENHANCING THE ROLE OF THE SECURITY COUNCIL

The President's Report on U.N. Reform put forward a cluster of proposals to strengthen the role of the Security Council in encouraging and assisting in, the peaceful resolution of disputes threatening international peace and security. These proposals are designed to identify areas of threats to peace and to explore actions the Security Council might take to defuse potential crises.

Our proposals include:

Greater use of informal meetings or consultations among members of the Security Council on particular disputes;

Greater use of periodic meetings—perhaps, as foreseen in Article 28 of the Charter, with participation of officials from capitals;

Greater use of informal consultations of the Council;

More frequent use of committees of the Council comprised either of all Council members or a few members of the Council as well as periodic oral reports by the Secretary General to informal sessions of the Council.

In preparation for this session of the General Assembly, we have devoted increased attention in our bilateral discussions to enhancing the role of the Security Council. I personally participated in consultations with officials of the Soviet Union and the People's Republic of China and found them supportive of several of our proposals. We have also seen a growing appreciation, on part of other members of the Council, of the need for a broadened informal role for the Council.

STRENGTHENING U.N. PEACEKEEPING CAPABILITIES

U.N. peacekeeping operations are among the most successful—and unheralded—of the United Nations activities. There were, until UNEF completed its mandate on the Sinai, almost 13,000 officers and men from 27 nations involved in 6 separate U.N. peacekeeping operations. The technique of peacekeeping is one of the true

contributions of the U.N. membership to the maintenance of international peace and security. We continue to seek support for our proposals which we feel would strengthen the U.N.'s peacekeeping capabilities. For example, our proposals for a U.N. Peacekeeping Reserve and for the training of standby units and observers would make U.N. peacekeeping operations more flexible and effective and less expensive.

We have introduced our proposals on peacekeeping in the Special Committee on the Charter of the United Nations and in the Special Committee on Peacekeeping Operations. We also delivered a report containing our views to Secretary-General Waldheim in June, in accordance with GA resolution 33/114, which invited all Member States to supply the Secretary-General with information on possible standby capacities and on experience gained in peacekeeping operations and national training programs. I will supply a copy of our report for the record.

We have consulted a number of other governments over the last several months, to see if there is sufficient support for a new resolution on peacekeeping in this UNGA. We have also called the attention of a number of governments to the text of our June report to the Secretary-General, urging them to make similar reports if they had not already done so. While most other governments did not support the idea of a new resolution on peacekeeping at this stage, a number of them have indicated their intention to make reports to the Secretary-General.

PEACEFUL SETTLEMENT OF DISPUTES

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.

Resort by States to institutionalized third-party dispute settlement procedures is unfortunately not frequent. This state of affairs periodically generates initiatives for institutional reforms. It is 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. We believe, first, that existing methods can be made more efficient. We also feel that until the reasons are known why states do not use existing machinery, the establishment of new machinery would probably have the effect of simply increasing the size and expense of international bureaucracies. We have proposed an analysis of these reasons in the Charter Review Committee and in the Committee on Enhancing the Effectiveness of the Principle of Non-Use of Force.

INTERNATIONAL COURT OF JUSTICE

We feel that 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 sense 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 UNGA an agenda item 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. The General Assembly was unable to agree on any concrete positive measures, and in 1974 merely adopted a resolution calling upon states to consider recourse to the Court for the peaceful settlement of disputes.

While there have been some promising modifications of the Court's rules designed to make use of the Court less complicated, these have not yet led to any increased use of the Court. There is still widespread reluctance among States toward third-party dispute settlement.

Steps can, of course, be taken to enhance the use of the Court. For instance, it should be our standard practice to examine every treaty which the United States negotiates with a view to accepting the jurisdiction of the ICJ in disputes arising under the treaty. 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 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.

HUMAN RIGHTS AND U.N. REFORM

At the current General Assembly there are a number of reform proposals which we feel will enhance the efforts of the U.N. in the area of human rights. The Canadian Foreign Minister, in her speech to the Assembly recommended the creation of an Under Secretary General for Human Rights. At other General Assemblies developing nations have urged the creation of a High Commissioner for Human Rights. These and similar proposals have been warmly received and we believe will escalate efforts to strengthen the status and program of the Secretariat's Human Rights Division. There is a good deal of support for moving the division back to New York from Geneva.

We are encouraged by signs that Human Rights is becoming more of a priority area in international organizations. U.S. initiatives in this area have served as a catalyst for active participation by individuals and groups in the grievance process. The procedures under the Human Rights Commission for petitions against countries have produced growing response and more countries are adhering to procedures under the International Convention on the Elimination of All Forms of Racial Discrimination and the International Covenant on Economic, Social and Cultural Rights. Perhaps most importantly, U.N. Members are more sensitive to human rights issues and therefore are more willing to consider human rights initiatives and the human rights records of individual countries.

Thank you, Mr. Chairman.

Senator PELL. Thank you very much, indeed. I am delighted that you are here.

STRENGTHENING OF MILITARY STAFF COMMITTEE

I would like to begin with a very specific question: Why has the Military Staff Committee done nothing since it was set up? What can we do to strengthen it? Is the problem the Security Council veto and is there any way to get around the veto?

Mr. MAYNES. I think the principal problem, Mr. Chairman, is that the founders of the United Nations assumed that there would be a sufficient degree of consensus among the permanent members to make the mandatory provisions of the charter work, and in particular chapter 7. As we all know, we have not had that degree of consensus, although I think one of the most hopeful developments in the United Nations in recent years has been a growing number of issues where the Council has been able to be more active.

If you look at the history of the Security Council in the 1950's, one is struck by the decreasing use of the Council to the point that, in 1959, the Council met only 5 times in the entire year. In recent years, we have had the Council meeting as many as 100 days out of a year.

Now, admittedly it is on a limited group of topics—the Middle East, southern Africa, Cyprus—but there is a sufficient degree not of identity of views of the permanent members, but at least of a sufficient understanding of the dangers, to permit the Council to play some kind of role, the United Nations to play some kind of role.

Until we get the degree of consensus among the permanent members, however, which the founders assumed, I think it will be extremely difficult to make the provisions that you are talking about really operative.

IMPROVING CALIBER AND INTERNATIONAL CHARACTER OF PERSONNEL

Senator PELL. How can the quality of personnel in the Secretariat be improved? Do you have any thought on how to make it a true international civil service?

Mr. MAYNES. It is a very serious problem and one that you are quite right to underscore. This is an issue which, I think, concerns the Secretary-General a great deal, and he tried to take steps this year to improve the situation by appointing one of the outstanding international civil servants in the Secretariat, James Jonah, who was formerly an assistant to Bryan Urquhart, to take over the personnel office. Mr. Jonah has already created some desirable, or favorable controversy, by making clear that he sees as his mission in that office a much more rigorous adherence to the provisions of the charter regarding the international character of the personnel there and their international obligations.

We very strongly support this move and believe that it is in the best long-run interest of the organization.

In terms of practical steps, I think the most effective thing that can be done right now is to try to support the reform efforts Mr. Jonah has undertaken.

UNITED NATIONS SENIOR CIVIL SERVANT

Senator PELL. Who is the senior civil servant in the United Nations system? Is it Mr. Urquhart or Mr. Jonah?

Mr. MAYNES. I suppose the senior civil servant would be Bryan Urquhart, who is an Under Secretary-General. Mr. Jonah is an Assistant Secretary-General.

STATIONING OF AMERICANS IN SECRETARIAT

Senator PELL. How do we handle the stationing of young Americans in the Secretariat? How many go in each year?

Mr. MAYNES. I do not have these figures immediately in my head, but we have approximately 18 to 19 percent of the Secretariat in New York who are Americans; that is by far the largest percentage. We have maintained that percentage in recent years, notwithstanding very strong pressures from other countries to see our percentage reduced.

Senator PELL. Are you talking about professionals, or are you talking about all employees?

Mr. MAYNES. The 19 percent is professional, subject to geographic distribution.

Senator PELL. Right. So, we probably have nearer 95 percent of the janitors and police officers.

Mr. MAYNES. We have a large number. The General Service employees are not subject to geographic distribution.

STRENGTHENING HUMAN RIGHTS MACHINERY

Senator PELL. What can we do to strengthen the human rights machinery, the Commission on Human Rights?

Mr. MAYNES. There have been some developments that are worth flagging, which we strongly support. We think the process, however, should be accelerated. I think everyone recognizes the unprecedented nature of what the United Nations is attempting to do. Never before in history have we had an attempt to implement human rights covenants which are seen by many states as an infringement on their internal affairs.

The United Nations began this effort in the early 1970's, and we were very unhappy with the results, because the tendency was to concentrate on three countries, Chile, South Africa, and Israel. In the last 2 years the Human Rights Commission has taken up a number of other cases, Uganda, Kampuchea, Uruguay, Paraguay, Equatorial Guinea, and a number of others. We have very strongly supported this development, and we will continue to support it.

We are also supporting both the Canadian proposal to create an Under Secretary for Human Rights, and the Italian proposal which is to upgrade the current director of the Human Rights Division to an Assistant Secretary-General and give more status and prestige to that unit.

We also are working hard to strengthen the 1503 procedures which permit individuals to write the United Nations to complain about human rights violations in their country. There has been a tremendous increase in the last couple of years in the number of individuals around the world who are writing to the United Nations to draw attention to human rights violations in their countries. We would like to see the impartiality and professionalism of those procedures strengthened.

Finally, in the President's report we said that we believed that member states should appoint people to the Human Rights Commission with a deep background and experience in the human rights field. The President will be appointing Jerome Shestak, who is the president of the International League of Human Rights, to be our representative on the Human Rights Commission, someone who has spent many years in the field and has a deep appreciation of the opportunities and the problems in this area.

PRESIDENT'S RECOMMENDATION FOR SPECIAL PEACEKEEPING FUND

Senator PELL. Has the administration dropped the President's recommendation for a special peacekeeping fund of $100 million?

Mr. MAYNES. We have not dropped any proposal in the President's report. We have tried to give priority to some. It is clear that of the proposals in the report that is clearly the most controversial and probably has the least support among other members of the United Nations.

EFFECTS CONNALLY RESERVATION HAS ON U.S. PARTICIPATION IN TREATIES

Senator PELL. The President's report recommends the Senate reexamine the Connally Reservation on the U.S. adherence to the World Court. Is the administration going to submit a request for a revised adherence to the World Court? What effect has the Connally Reservation had on our participation in international treaties?

Mr. MAYNES. Well, as I indicated in my statement, Mr. Chairman, it has had a very deleterious effect on all of our proposals to reform the International Court of Justice. Our bona fides in that area are not accepted because of the existence of the Connally reservation.

In terms of submitting this to the Senate for reconsideration, it is a question of the priorities that we have. We also have a request for the Congress to ratify the two important Human Rights Covenants, but we do intend to come before the Congress at the appropriate time on this.

DUTCH PROPOSAL—INTERNATIONAL DISARMAMENT ORGANIZATION—FRENCH PROPOSAL—INTERNATIONAL SATELLITE AGENCY

Senator PELL. Why did not the United States support the Dutch proposal for an International Disarmament Organization; or the French proposal for an International Satellite Agency?

Mr. MAYNES. The French proposal for an International Satellite Agency takes a very valid idea in development, namely the ability of satellites to provide significant information on military development, and translates it into a form which we felt would not be helpful. The cost of such an organization alone would be almost the size of the current United Nations budget. The two countries that have the capability to provide the equipment for such an agency—the Soviet Union and the United States—have both decided that for national security interests they would be unable to participate in such an agency. Thus the only two sources of equipment for this would not be made available for national security reasons.

We also feel that there are profound problems connected with the interpretation and the management of the data which would be supplied by such an agency.

In terms of upgrading the disarmament aspects of the Secretariat's work, we are in favor of that. We do not see the need for an additional center of some sort, but the French in particular have taken one of their other proposals and are now suggesting that perhaps UNITAR [United Nations Institute for Training and Research] could be given an enhanced role in the field of disarmament, to carry out some of the studies that might be done. I think the United States would probably take a favorable view of that although we have not seen their full proposals. The suggestions that have been made to upgrade the United Nations' capability in this area are being modified by the authors of some of those proposals and I think that we will end up with a form that the United States will be able to support.

GENERATING U.S. ENTHUSIASM FOR UNITED NATIONS

Senator PELL. The absence of press coverage here today is, in my view, indicative of the apathy the American public feels toward United Nations issues. Given the very positive effect the United Nations can have on our lives, what can we do to generate more interest in and enthusiasm for the United Nations?

Mr. MAYNES. It is a problem that I have given a great deal of thought to. I think that what is happening in this area right now is very, very damaging to our long-range interests. I think what has happened in the United States is that a gap has developed between the public on the one hand and our leadership on the other with respect to the United Nations. Paradoxically, public opinion polls show that there is more support among the general public than I sense there is among the leadership group, as witness the press tables today. Every year amendments are proposed in the Congress that I think, if they ever pass, would severely damage the interests of the United States. The only way I think this can be turned around is if the people who have control over our policy—particularly in the Congress—are given more information about the advantages that we derive from the United Nations. I think that the Secretary of State tomorrow, before the members of the United Nations Association, and with the diplomats here in Washington, will be making an important statement precisely on this issue because he is increasingly concerned that the United States is imposing a self-inflicted wound in this area. There are tasks that we simply cannot carry out unless we have the United Nations, and yet, this hard fact is being ignored by a growing number of people.

Senator PELL. I am glad to hear that and look forward to reading the Secretary's statement.

Thank you, Mr. Maynes, for being with us. Is there anything more you would care to say?

Mr. MAYNES. No; thank you, Mr. Chairman.

Senator PELL. I understand you will be kind enough to stick around while the private witnesses, the nonpublic witnesses, testify in case there are any questions. Thank you very much. The record will stay open for the submission of questions by my colleagues.

Now, we will have a nongovernmental panel. Our witnesses are Mr. Walter Hoffmann, National Chairman, Campaign for United Nations Reform, from Wayne, N.J.; Mr. Donald Keys, United Nations Observer, World Association of World Federalists, New York; and Mr. John Logue, Director of the World Order Research Institute of Villanova University. Apparently Mr. Logue is not yet here.

I notice in the audience Chauncy Olinger, who is really responsible for this hearing today; he stirred me up on it. He is very modestly staying in the background, but he should get due credit for this hearing taking place.

Welcome, Mr. Hoffmann.

STATEMENT OF WALTER HOFFMANN, NATIONAL CHAIRMAN, CAMPAIGN FOR UNITED NATIONS REFORM, WAYNE, N.J.

Mr. HOFFMANN. Mr. Chairman, I want first of all to thank you and the subcommittee very much for holding these hearings and giving us the opportunity to present our views. I have submitted a lengthy statement to the committee and would ask that it be incorporated into the record. I will attempt to summarize it very briefly, if I may.

Senator PELL. Go ahead.

Mr. HOFFMANN. We think it is very appropriate for this committee to hold hearings on United Nations Reform because, as you recall, it was this committee or its predecessor which was responsible for incorporating into the Foreign Relations Authorizations Act of 1978 the so-called McGovern-Baker United Nations Reform rider, section 503, which in turn required President Carter to submit to Congress his report on the reform and restructuring of the United Nations system. President Carter submitted this report in March 1978.

We, in the Campaign for United Nations Reform, applaud most of the proposals in President Carter's report, particularly the proposal for a United Nations Peacekeeping Reserve, the proposal for a United Nations High Commissioner of Human Rights, the promise that he will at an appropriate time submit to the Senate a request for reexamination and repeal of the Connally amendment, and his long-term commitment for supplemental United Nations financing.

We hope that the administration will give higher priority to these proposals than has been evidenced in the past. We hope that they will put it on the front burner, in other words.

There are, however, three areas in the report where the Campaign for United Nations Reform has some disagreement. My statement, which I submitted, deals primarily with these three areas.

The first is on United Nations dispute settlement machinery. It is the position of the Campaign for United Nations Reform that there would be a great advance in international institutions if we were able to establish a United Nations Regional Mediation Service, similar to our own United States Federal Mediation and Conciliation Service that operates in the labor-management field.

What happens now on disputes is that they are frequently debated openly in the General Assembly or the Security Council, which we believe is not conducive to settling disputes; or the Secretary-General may offer his good offices, but sometimes, they are not used; or a third nation—such as the United States in the case of the Camp David Accords—attempts to mediate a dispute between two parties.

We submit that it is very difficult for a third nation to mediate a dispute and it is rare that such a nation is able to be successful because one side or the other usually suspects the motives of a third party.

We believe that a United Nations Regional Mediation Service with a trained staff, with offices on every continent, would do much to mediate disputes. It should have the authority on its own motion—much as the Federal Mediation Service does—to interject itself and to try to isolate and conciliate disputes before they erupt and as a matter of last resort are submitted to the United Nations.

The Special United Nations Committee on the Charter and on Strengthening the Role of the Organization, has been considering two proposals along these lines: One would be authorized by the General Assembly, and the other would be under the auspices of the Security Council.

Unfortunately, because of the consensus rules adopted by the committee, all that has happened in the committee is that it indicated that interest has been shown on those proposals, but that consensus or general agreement was not possible.

We are concerned and disappointed that the United States has not been working for those proposals.

The second area of disagreement is in the decisionmaking process. President Carter's report says that there is no prospect for weighted voting and that modification of the veto would not be in the United States' interest. We respectfully disagree. We think that there should be an effort made to get some kind of weighted voting in the General Assembly in return for some modification of the veto in the Security Council. The reason is that large nations, we feel, are reluctant to take matters to the General Assembly for fear of being outvoted by smaller nations. On the other hand, some small nations feel that there has been an abuse of the veto power in the Security Council. Voting changes do not necessarily have to be adopted by charter amendment; they can be adopted either by tradition or by changes of rules in the committee procedures. As you know, the two-thirds voting majority concept has been replaced to some extent now by the consensus procedure. That has been done by tradition. We say that the problem of consensus voting is that any one nation can object and it does not become a consensus.

We believe there should be something in between the extreme of consensus voting and the two-thirds "one-nation, one-vote" system. One suggestion which I rather like is the proposal of Richard Hudson, the director of the War/Peace Center, in which an item that passes the General Assembly would not be considered to have been passed unless it also has the support of nations that have two-thirds of the world's population, plus nations that make two-thirds of the contributions to the United Nations budget.

That is just one of many proposals but we believe that is the kind of thing that we should work for. In terms of General Assembly procedures, the General Assembly does have the authority to set up committees; and we suggest that it might impose some kind of weighted voting in those committees, which could be done without a charter amendment.

In terms of modification of the veto, as I mentioned before, there have been some nations that have been complaining about the abuse of the veto power. The Soviet Union has used the veto some 111 times since the beginning of the United Nations, the United States 20 times; the other three permanent members a little bit less. It has been applied, I think, 51 times to the admission of new states. It can be applied to the appointment of factfinding commissions. There have been proposals to modify it so that it could not be applied to the admission of new states, and the question of whether a legitimate government exists would be decided by the International Court of Justice. There have also been proposals to modify the veto so that it would not apply to the appointment of factfinding commissions.

We hope that the Senate will encourage the administration to explore these avenues further.

Finally, on the United Nations' role on disarmament we feel the President's report is very skimpy. We think that the key to effective international disarmament lies in trying to create and establish some kind of international verification system to supplement the national technical means of verification that now exist.

The Campaign for United Nations Reform previously submitted to the full Senate Foreign Relations Committee in, connection with

SALT, a lengthy paper on the proposal for an international verification agency. As we proceed past SALT II, hopefully, toward SALT III, and toward, hopefully, reduction of armaments and not just limitations—as we proceed to smaller armaments such as the cruise missile, laser beams, and nuclear bombs themselves—we believe that the need for some kind of international verification agency with onsite inspection authority will be an absolute necessity. We believe this is the key to disarmament.

As the chairman indicated, the French Government did propose in the Special Session on Disarmament a world monitoring surveillance agency. The Netherlands did propose an international disarmament organization, but neither one of these proposals was incorporated in the final document of the Special Session on Disarmament, primarily because it was hammered out on a consensus basis.

We hope that the Senate of the United States will make clear to the administration that it should, after ratification of SALT II, work toward the creation of an international verification agency so that when SALT III is submitted, or when other treaties dealing with a comprehensive test ban or chemical warfare are submitted to the Senate, there will be, in place, some kind of international verification agency with onsite inspection authority.

In conclusion, I would like to leave with the committee copies of our full 14-point program for United Nations reform. They do deal with other subjects which I will not go into, such as an International Criminal Court which, incidentally, was endorsed by the House of Delegates of the American Bar Association; an International Ocean Authority; a stronger United Nations environmental program, and so on.

We believe that the American people are somewhat disillusioned with the United Nations, but they support the United States participation in the United Nations. We think it is obvious, then, that the American people will support efforts to reform the United Nations and make it more effective.

We believe that most of these reforms—if not all of them—can be accomplished without charter amendment. We believe that the Senate understands the disillusionment of the American people, and we hope that the Senate will take the lead—much as it did in 1977—in urging the administration to give United Nations reform a higher priority; and in urging the administration to reconsider its positions on the United Nations dispute settlement machinery, on the decisionmaking process, and on the United Nations role in disarmament.

Thank you. I will be open to questions.

Senator PELL. Thank you very much, Mr. Hoffmann. Without objection, the text of this pamphlet will be put into the record along with your statement.

Mr. HOFFMANN. Thank you.

[The information referred to follows:]

PREPARED STATEMENT OF WALTER HOFFMANN

As national chairman of the Campaign for U.N. Reform, I wish, first of all, to thank the subcommittee for this opportunity to present our views on the very important subject of United Nations Reform. It is particularly appropriate that this Committee should hold hearings now on U.N. reform, since it was this

Committee in 1977 that annexed Section 502—the so-called McGovern-Baker U.N. Reform Rider—to the Foreign Relations Authorization Act of 1978. This required President Carter to submit a Report to Congress on U.N. Reform and Restructuring, which he did on March 2, 1978.

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

We also applaud the President's recommendation for and support of a new post of U.N. High Commissioner for Human Rights, the President's promise to request the Senate at an appropriate time to repeal the Connally Reservation, and the President's support of the long range goal of supplemental financing for the United Nations system.

We believe, however, that the reform of the U.N. system in these areas 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.

There are some areas of the President's Report on U.N. Reform with which the Campaign for U.N. Reform disagrees. I will be concentrating my testimony today on three such areas in the hope that Congress, and the Senate in particular, will take the lead in urging the Administration to reconsider some of its positions. The three areas are (1) U.N. dispute settlement machinery; (2) the U.N. decision making process; and (3) the role of the U.N. in the field of disarmament.

DISPUTE SETTLEMENT MACHINERY

In regard to dispute settlement machinery, I regret to inform you that the United States has been among those nations at the United Nations who have opposed the establishment of any formal dispute-settlement machinery. In an attachment to President Carter's Report, the State Department indicated that the establishment of new machinery "probably would have the effect of simply increasing the size and expense of international bureaucracies without adding significantly to the use made of available services for settlement of disputes."

Article 33 of the U.N. Charter provides that "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."

Carlos Romulo, the Secretary of Foreign Affairs for the Philippines, in a speech in 1970, stated that Article 33 was "deficiently drawn, and its provisions had proven clearly inadequate in practice." He went on to say that "The Article does no more than to recommend 'solution by negotiation, enquiry, mediation, conciliation, arbitration, judicial settlement, etc.' No modalities are indicated, no machinery is provided, no specific obligations are defined. . . . This failure has been reflected in the fact that the U.N. has frequently succeeded only in 'freezing' a conflict, while leaving the dispute unresolved."

Before analyzing the dispute settlement procedures and machinery of the United Nations, it might be well to examine an analogous dispute settlement institution within the United States. This is the Federal Mediation & Conciliation Service, which mediates and conciliates labor/management disputes in the private, as well as in the public sector. Formed in 1947, it has a 32-year history of outstanding success. It has settled more than 220,000 cases and has assisted in the settlement of more than 300,000 other cases. The service operates with one national office in Washington, D.C., eight regional offices throughout the country, and more than 75 field offices. It handles over 25,000 mediation cases a year and over 6,000 arbitration cases.

Under Title 2 of the Labor Management Relations Act of 1947, the Service has wide discretion to offer its services in any labor dispute "either upon its own motion or upon the request of one or more of the parties to the dispute, whenever in its judgment such dispute threatens to cause a substantial interruption of commerce."

Both labor and management have grown increasingly accustomed to this cost-free government service which is provided to them. Today, mediators around

the country find themselves widely accepted as the helpmate of the collective bargaining process.

Now compare the mediation machinery of the United Nations. No separate, independent mediation and conciliation service similar to the Federal Mediation & Conciliation Service in the U.S. exists at the U.N. There are no trained, full-time mediators employed in regional and field offices around the world. Typically instead, the dispute is brought before a meeting of the Security Council or sometimes before a meeting of the General Assembly. The matter is then debated openly in the public, sometimes in an emotionally charged atmosphere. The Security Council then may organize an "ad hoc" investigatory body to find out the facts. Even these actions are subject to a veto by one of the permanent powers. The Security Council then appoints some agent, usually the Secretary General or one of his representatives, to attempt diplomatic intervention.

At times, the Security Council merely adopts a resolution urging a certain course of action upon the parties and does not even bother with the appointment of an agent to attempt diplomatic intervention. Sometimes the Security Council has been unable even to adopt a resolution recommending a certain course of action. Unable to reach an agreement either because of a threatened or actual veto, no action has been taken at all.

At other times, the Secretary General has taken on the responsibility of acting on his own without a Security Council or General Assembly resolution. Sometimes when the General Assembly or Security Council has failed to act, a third party nation has attempted to mediate outside the United Nations. The outstanding example was when President Carter, in 1978, brought about the Camp David accord between Israel and Egypt. Third nation mediation, however, is relatively rare since most nations suspect the motives of another power. It is extremely difficult to find a government that has not taken a public position in support of or in opposition to the actions of one of the parties to a conflict.

In addition, there is no procedure at the United Nations for a party to a dispute, even if it so desired, to move sequentially from negotiation to conciliation to mediation to arbitration. Nor is there any sequence that the Security Council has established in its own procedures. The result has been that there is no increasing pressure for the parties to negotiate and settle as there is in labor/management disputes in the United States.

The United Nations has tried several times to remedy the defect in its dispute settlement procedures. A summary of the history of U.N. efforts to develop procedures for the peaceful settlement of disputes was submitted to the General Assembly in 1975 by the Secretary General.

There is no question that the dispute settlement mandate of the United Nations is one of its most important functions. The experience of the last 35 years has indicated that this function cannot be fulfilled merely by adopting resolutions or declarations, or even by preparing lists of possible fact-finders or mediators. What is needed is a special department or agency, with a full-time staff that will "on its own motion" intervene as mediator and conciliator whenever international disputes arise.

There have been proposals to reform this basic defect in the U.N. structure but they have met a rocky road. In March of 1978, the Special U.N. Committee on the Charter and on Strengthening of the Role of the Organization discussed a proposal for a "permanent commission of the General Assembly to be established to fulfill the functions of mediation, good offices and conciliation." It also considered a proposal that "members of the Security Council be encouraged to establish a standing body of fact-finding, conciliation and mediation." Because of the consensus rules accepted by the committee, the committee merely noted that interest was shown in these proposals, but general agreement was lacking. The Campaign for U.N. Reform has proposed the creation of a U.N. Regional Conciliation and Mediation Commission which could be established under the general authority of Article 33 of the Charter without the necessity of formal Charter amendment. It has suggested that regional offices be located on every continent and that the offices be staffed with trained professional mediators and conciliators familiar with the problem of each particular region.

Article 33 also talks about arbitration but because of the failure of the U.N. to adopt the arbitral procedures recommended by the International Law Commission there are no procedures by which one party can invoke arbitration even of a non-binding character. What happens now is that the Security Council itself acts as mediator, arbitrator and enforcer. If the situation gets serious enough, then the Security Council attempts to impose a decision, but this decision is often

based on political considerations and not on the basis of fact-finding, legal precedent or equity. Little wonder then that the United Nations has frequently failed to resolve conflicts and has at most only been able to obtain a temporary "cease-fire".

We must ask ourselves whether we can afford to continue to live in jeopardy of a major conflagration growing out of a confrontation involving one or more of the superpowers. Just think of the many disputes that have involved such powers: the Berlin blockade, the first, second and third crises; Czechoslovakia; Hungary; the Greek-Turkish crisis of 1947; the Korean War; the Vietnam War; the Suez Crisis of 1956; and the Cuban Missile Crisis. Think what would have happened if any one of these conflicts had reached an eyeball-to-eyeball situation where neither side would back down, and war ensued. Think also of the many additional disputes involving other countries which had the potential of escalating into a Third World War: the numerous Middle East crises and wars; the Kashmir dispute; the Indian/Pakistan War of 1975; Cyprus; the Horn of Africa War between Ethiopia and Somaliland; the South Yemen/North Yemen conflict; Rhodesia; the Congo; Cambodia and Vietnam; Vietnam and China and the Lebanese War.

Unless we develop better dispute resolving capabilities on the part of the United Nations, sooner or later one of these conflicts, or one similar to them, will erupt into nuclear war, and we who have not learned from history will suffer its consequences.

WEIGHTED VOTING

Let me now turn to the decision making process. President Carter's Report says:

"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 * * * . The trade-offs 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."

We wonder whether the administration has given sufficient thought to the fact that 31 countries that are full-fledged members of the United Nations have a population less than the population of the state of Rhode Island. Each of those 31 countries with a population of less than one million have the same vote as the United States with 216 million, or the Soviet Union with 252 million, or India with 625 million, or China with 866 million.

Of the original 51 signatory nations to the United Nations Charter, only one nation, Luxembourg, has a population of less than Rhode Island. On the other hand, of the 101 nations admitted since 1945, 30 have populations of less than one million, i.e. less than that of Rhode Island. Three of those nations, Seychelles, Sao Tome and Principe, and Dominica, each have a population of less than 100,000, which is less than one-half the population of Racine, Wisconsin.

In order to pass matters of substance at the U.N., a two-thirds majority of nations present and voting is required. If all 152 nations vote, any 51 nations can block substantive action. If the smallest 51 join together, it would be theoretically possible for countries having less than 2 percent of the world's population to block any action by the General Assembly. It would also be theoretically possible for the 100 nations that came into the United Nations after 1945 to pass a resolution over the objections of all of the original 51 charter members. If that happened, the resolution would be adopted by countries representing less than 30 percent of the world's population.

In the early days of the United Nations, the United States was sometimes accused of having an automatic majority in the General Assembly by virtue of its Western European allies and its supporters in Central and South America. Today the situation is different. The so-called Third World "Group of 77" (which now actually consists of 92 countries), sets the tone of the resolutions that are adopted. They have sufficient votes to adopt any resolution they want, even when the United States and the Soviet Union are both opposed.

The most publicized resolution adopted by the General Assembly over the vigorous objection of the United States is the resolution that defined Zionism as "a form of racism and racial discrimination." This was passed by the General Assembly on November 10, 1975 by a vote of 72 to 35 with 32 abstentions and 3 delegations absent.

It is interesting to note that those opposing the resolution contributed over 58 percent of the United Nations assessed budget.

As Assistant Secretary of State Samuel dePalma testified before a House Foreign Affairs Subcommittee on October 13, 1971 "the steady increase in U.N.

membership has made of the General Assembly a body unsuited for the consideration of any questions of importance to the United States and other major powers. The United States, correctly, is unwilling to accept as having binding force the judgment of a majority of members of the United Nations who could collectively, in theory, represent only a tiny fraction of the world's power, or of contributions to the U.N.'s budget."

There are those who argue that the one-nation, one-vote system of voting in the General Assembly is acceptable since resolutions adopted by the General Assembly are only recommendations. While this is true, it is also obvious that highly controversial resolutions not supported by a majority of the world's population will simply not be followed by those nations who have opposed them. The U.S. Ambassador to the United Nations, Daniel Moynihan, for instance, declared with reference to the Zionism is racism vote that the United States "does not acknowledge, it will not abide by, it will never acquiesce in this infamous act." Secretary of State Henry Kissinger said that the United States would "ignore" the United Nations anti-Zionism vote.

It is important that we realize, however, that by ignoring the United Nations, we undermine its ability to play a useful role in solving the many critical problems confronting our very survival on earth. It would be far better if we structured the U.N. so that effective resolutions can be passed to help cope with these problems.

Unfortunately, some believe that the one-nation, one-vote system in the General Assembly is "sacred" and impossible to change. We in the Campaign for U.N. Reform disagree. In fact, in large measure the legally authorized two-thirds majority voting in the General Assembly has already been replaced in many instances by "consensus" voting. This means that any nation, no matter how small, can stop a vote from occurring at all by simply registering an objection. The result is tediously long negotiations before the adoption of any resolution, and then resolutions that are adopted are often so watered down as to be meaningless. We believe it is possible for the United Nations to develop an alternate procedure between the extremes of consensus voting, which gives every nation a veto, and voting by a two-thirds majority of nation states, which often reflects neither a majority of the world's people, or the views of militarily and economically strong nations.

There have been many proposals for adjusting the voting system in the General Assembly to avoid the problems we have discussed. For instance, in 1978, Richard Hudson, Director of the War/Peace Center, proposed in an article in the *Bulletin of Atomic Scientists* that the Charter be amended to provide that decisions of the General Assembly on important questions should be made by a two-thirds majority of the members present and voting, *provided* those two-thirds *also* represented two-thirds of the world's population and two-thirds of the contributions to the United Nations system. Under that system, there would still be only one vote but a computerized calculation would be required to determine if the three types of majorities had been obtained. Hudson calls his proposal the Nations/People/Power voting proposal. While it would be doubly difficult to get resolutions passed at the General Assembly, Hudson contends that the three types of majorities would encourage nations to abide by, rather than flaunt, resolutions that were passed.

Former Congressman William Hungate, when testifying before a House Foreign Affairs Subcommittee in 1972, pointed out that other parts of the U.N. system do use weighted voting. Two examples are the International Monetary Fund, where the U.S. has 67,250 votes as compared to Grenada's 270 votes, and the International Development Association, where the U.S. has 626,654 votes as compared to Benin's 600 votes. Other examples are the International Sugar Council and the International Wheat Council, both of which also use a weighted allocation of votes. If weighted voting can be used in some parts of the U.N. system, why, Hungate asked, should it not be applied to the General Assembly itself?

Opponents of voting changes argue that it is impossible to obtain an amendment of this magnitude to the United Nations Charter. However, if consensus voting can be adopted as a matter of tradition, so too can the "N/P/P" proposal of Hudson's. Whether a voting change is adopted by Charter amendment or by tradition is not important. What is important is that some change be made.

There are other alternatives for accomplishing voting changes besides tradition or Charter amendment. Under Article 21 of the Charter, the General Assembly has the authority to adopt its own rules of procedure. Under Article 22 it also

"may establish such subsidiary organs as it deems necessary for the performance of its functions." Under this Article, the United Nations has created seven standing committees at the United Nations. There is no legal impediment to the General Assembly providing for weighted voting in those standing committees and requiring that all resolutions pass through them before coming to the floor of the Assembly.

The General Assembly also could create a subsidiary organ consisting of representation based upon the world's population and require that such a "second house" pass resolutions before they can be submitted to the General Assembly. Such a "second house" might be composed of elected parliamentarians from national governments. This would put the United Nations in closer touch with parliamentary bodies the world over.

Another proposal, not requiring Charter amendment, is for the General Assembly to create a financial review committee composed of the largest contributors to the United Nations and to require that any resolution involving the expenditure of funds be approved by the majority of that committee.

These are but some of the many proposals that have been made. The exact formula is not important. What is important is that populous nations be given a larger voice in the Assembly commensurate with their power on the world scene and the number of people they represent. We believe the essential quid pro quo for obtaining weighted voting is for the five permanent members of the Security Council to agree to modify their right to an absolute veto in the Security Council. Without such a trade-off, we predict that there will be no change in the inequitable General Assembly voting structure. If no change is made, large, powerful nations will continue to by-pass the United Nations.

The question we must answer then is can the veto in the Security Council be modified, and would this be in our best interest. To answer these questions let's take a look at some of the history and the facts regarding the veto.

VETO MODIFICATION

At the San Francisco Conference in 1945, the United States wanted only a limited veto that would secure for the major powers the right to veto the use of force. The Soviet Union on the other hand wanted a veto to prevent the Security Council from making any peace proposal which the Soviets did not wish to accept. They also wanted a veto over Security Council agenda items. The latter was finally withdrawn in a compromise that gave the five major powers the right to veto any peace proposals whether or not the use of force was involved. In return for that compromise, however, Stalin assured the United Nations Conference that the Soviet Union would not use the veto "capriciously." That promise was not followed. In all, through March of 1979, the Soviet Union has used the veto 111 times; the United States, 20 times; the United Kingdom, 15 times; France, 11 times; and China, 4 times.

Most of the vetoes which have been exercised have not involved the use of United Nations forces in enforcement actions. The admission of new members to the United Nations has been vetoed no less than 51 times. Examples of other vetoes are: Russia's veto of proposals to supervise compliance with a cease-fire in Indonesia; Russia's veto of the reappointment of Secretary General Trygvie Lie; Russia's veto of a 1966 resolution that would have asked both Syria and Israel to comply with an armistice agreement; and Britain's veto of a 1963 resolution that invited certain powers not to let military assets revert to Southern Rhodesia. Other vetoes have involved the Spanish question, the Atomic Energy Commission, the regulation and reduction of armaments, germ warfare, Egypt-Israeli cease-fire, the 1956 Hungarian crisis; the Congo, the Kashmir, South Africa and Namibia.

In recent times the veto has been used somewhat less than formerly. In large measure this is because the permanent powers have worked behind the scenes to reduce Security Council resolutions to the lowest possible denominator under the threat that otherwise they will veto. An example of this was the Security Council's decision of July 24, 1979 to pull out of the Sinai its 4,000-member United Nations Emergency Force rather than face a Soviet veto of any extension beyond its mandate which ended at midnight on July 25th.

Because of the number of vetoes which have been exercised, many nations at the United Nations have criticized the major powers for what they term to be the "abuse" of the veto power. They assert that the veto was never intended to be used in the admission procedure for new states, on resolutions that merely called

for establishing fact-finding commissions, or on resolutions that merely urged a particular peace proposal on combating or disputing parties.

In 1974 and 1975, several governments submitted comments to the ad hoc and special United Nations Committee on the Charter which called for the elimination of the veto. Proposals were made to modify the veto, also, short of its complete elimination. A summary of some of the better known modification proposals follows.

The Government of Colombia proposed in 1970 that the statehood of an applicant for membership in the United Nations should be decided by the International Court of Justice on the basis of general criteria set forth in a resolution of the General Assembly. As a part of that proposal, Colombia proposed that the unanimity requirement among the permanent members of the Security Council for the admission of new states be eliminated.

Article 27 of the United Nations Charter presently requires that a member of the Security Council (including permanent members) should abstain from voting in decisions on the pacific settlement of disputes (Chapter VI) if the member is itself a party to the dispute. The Charter is silent, however, on the right of a permanent member to block Security Council enforcement action under Chapter VII with respect to threats to the peace that might arise out of the same dispute. It has been proposed that when a permanent member is a party to a dispute, it should be required to abstain not only under the dispute settlement provisions of Chapter VI but also under the enforcement provisions of Chapter VII.

In order to carry out its functions under both Chapter VI and Chapter VII of the Charter, the Security Council frequently attempts to appoint a fact-finding commission to ascertain the facts on which the Security Council should base its decision. The very appointment of a fact-finding commission, however, is subject to a veto by one or more permanent members of the Security Council. This should be changed.

The Government of the Philippines has gone to the heart of the problem. In 1977, the Special U.N. Committee on the Charter attached a series of proposals to its report to the General Assembly which included a proposal by the Philippines that unanimity should not be required in peacekeeping by the use of interposition forces and other non-enforcement actions. This could avoid a veto when the Security Council wanted to interpose peacekeeping forces to maintain the status quo while it attempted to mediate the basic dispute. Still others have proposed that the veto should at least not apply to the placement of U.N. observers in situations that might erupt into conflict.

The 20th report of the Commission to Study the Organization of Peace proposed a gradual modification of the veto in three different stages. First, that permanent members relinquish their right of veto with respect to recommendations relating to the peaceful settlement of disputes under Chapter VI of the Charter, and that the voting rules for the Security Council be changed to allow decisions by concurrent vote of a majority of the permanent members and a majority of the non-permanent members. As a second stage, the Commission proposed that the veto be removed with respect to enforcement measures under Chapter VII that did not involve the use of armed force by the United Nations. As a third step, the Commission recommended the voting rules for decisions under Chapter VI be extended to Chapter VII with the provision that no state should be required to use armed force without its own consent.

Others have proposed that the General Assembly should be allowed to override a veto in the Security Council by a three-quarters or four-fifths vote in the Assembly. Still others have proposed different kinds of votes in the Security Council itself. The Cranston-Taft Resolution which was adopted by the Senate in 1974, suggested, for example, that the Administration negotiate a change in the voting procedures of the Security Council which would enable a four-fifths vote of the Security Council with four-fifths of the permanent members voting in favor, to refer a matter to the International Court of Justice for an advisory opinion.

At one point, the United States did devise a procedure to "get around" a Security Council veto. When the Security Council was able to act in the Korean War only because the Soviets had walked out of the Security Council and therefore could not exercise a veto, Secretary of State Dean Acheson became fearful that a Soviet veto might be used to block U.N. action in a similar situation in the future. At U.S. urging, the General Assembly adopted in November 1950 a "Uniting for Peace" resolution which provided that the Assembly should meet on an emergency basis, at the request of the majority of the Security Council, if a veto had prevented the Security Council from meeting a threat to the peace.

This procedure, which has doubtful validity under the Charter, was defended on the theory that the Assembly "action" would be only a "recommendation" to member nations. Be that as it may, the "Uniting for Peace" procedure has been used only three times: in the Suez and Hungary crises of 1956, in the Congo crisis after the United States-Soviet agreement on U.N. operations broke down in 1960, and during the India-Pakistan War of 1971.

With the exception of the "Uniting for Peace" procedure, the United States, the Soviet Union, Great Britain and France, have been adamant in their opposition to any curtailment of their veto power. China is the only permanent member championing a modification of the veto, but some argue that it is doing so only to curry favor with the Third World.

Nevertheless, the fact that China and a growing number of smaller nations at the U.N. are complaining about the "abuse" of the veto power gives the United States and the Soviet Union an opportunity to trade-off a modification of the veto in the Security Council for a fairer, more equitable vote in the General Assembly. You may well wonder whether the Soviet Union would agree to such a trade-off, even if the United States supported it. Again, we must bear in mind that the U.S.S.R. has long been courting the Third World nations, which overwhelmingly favor modification of the veto power. If the U.S.S.R. were to be the only major power opposing modification of the veto, she would indeed be in a difficult position, and might well undermine her standing with the Third World nations. I believe this only underscores the fact that it would be in our own best interest to support and push for modification of the veto power now. Whether this is done through an expansion of the "Uniting for Peace" procedure, or through some other modification suggested herein, is not important. What is important is that a serious attempt be made at the United Nations to effectuate such a compromise, and that the Senate Foreign Relations Committee encourage the Administration to make such an effort.

I think it is important that we recognize that the world can no longer afford the luxury of the big power veto in the Security Council, which under the Charter has the primary responsibility for maintaining world peace. If the veto remains unmodified, the United Nations will be paralyzed on any matter in which the five permanent members do not agree. It would be far better to modify the veto power in exchange for a voting system that will more accurately reflect the will of the vast majority of the world's people in the General Assembly, thus effectively strengthening both arms of the United Nations so that the U.N. can act esponsibly and effectively on our behalf.

U.N. ROLE IN DISARMAMENT

Finally, let me turn to the role of the U.N. in the field of disarmament. President Carter's report merely stated that a variety of possible procedural and organizational improvements were being considered for submission to the Special Session of the General Assembly on Disarmament. We in the Campaign believe that what was later submitted fell far short of what is needed to strengthen the U.N.'s role in disarmament.

It is essential to recognize that the key to genuine arms control and disarmament lies in developing some kind of effective international verification system to insure that nations will not violate the arms agreements they sign. The 1961 McCloy/Zorin Agreement did recognize that international inspection was the key to disarmament. Paragraph Six of that agreement reads: "* * * To implement control over the inspection of disarmament, an international disarmament organization including all parties to the agreement should be created within the framework of the United Nations. This international disarmament organization and its inspectors should be assured unrestricted access without veto to all places as necessary for the purpose of effective verification." It is possible to negotiate strategic arms limitation agreements which put high upper limits on huge launching systems which can be observed by satellites or what are euphemistically called "national technical means." But, if the Soviet Union and the United States proceed down the path of SALT III toward arms reductions, particularly with respect to smaller, less observable weapons such as the cruise missile, laser beams, and nuclear bombs themselves, then clearly some kind of international on-site inspection will be required.

It is important to understand also that SALT I and SALT II only deal with launching systems and do not deal with nuclear bombs themselves. The SALT II Agreement, for example, limits each side to 2,250 launching systems whether they be composed of heavy bombers, submarine launchers or land-based launching

systems. What is sometimes overlooked, however, is that each side has between 10,000 and 20,000 nuclear bombs which, with the development of multiple warheads, can be used to completely destroy other nations. In short, with each side having the 2,250 launching systems. the United States and the Soviet Union can destroy the whole planet 27 times over with the existing bombs available.

There was a time when nuclear weapons were first being developed that the United Nations could have controlled the nuclear arms race. An earnest attempt was made to control the awesome might of nuclear power, but the United Nations System failed in its attempt. The first attempt by the United Nations was made in 1946. It was known as the Baruch Plan. At the first meeting of the United Nations Atomic Energy Commission, Bernard Baruch, the representative appointed by President Truman to represent the United States, outlined a series of dramatic, far-reaching proposals for the international control of atomic energy. The United States proposed the creation of an international atomic energy authority to which would be entrusted all phases of the development and use of atomic energy, starting with the raw material and including control, ownership, and the power to inspect and license all atomic activities. The Baruch Plan provided that when an adequate system for control of atomic energy was established, the manufacture of all atomic bombs would stop, and existing atomic bombs would be destroyed. In a dramatic speech, Baruch said: "We are here to make a choice between the quick and the dead * * * we must elect world peace or world destruction * * *."

The Baruch Plan, however, floundered on the rocks of a Cold War confrontation between the United States and the Soviet Union. The United States wanted a system for the control of atomic energy established first before it would cease the manufacture of atomic bombs and destroy its existing bombs. It also wanted to avoid having punishments for violations of the agreement subject to a veto in the Security Council. The Soviet Union, on the other hand, wanted the manufacture of bombs stopped immediately and existing bombs destroyed before a system of control of atomic energy was established. It also refused to give up the veto.

The second major attempt by the United Nations to limit the nuclear arms race came in 1957 with the establishment of the International Atomic Energy Agency, which was followed in 1968 by the Treaty on the Non-Proliferation of Nuclear Weapons. The IAEA and the Non-Proliferation Treaty did not prevent the five nuclear powers from continuing to stockpile nuclear weapons. Their purpose instead was to prevent the spread of nuclear weapons to other countries while allowing other countries to use nuclear power for peaceful purposes. Despite the best of intentions, it now seems evident that this attempt also, is headed for failure.

In the first place, some 37 countries have refused to sign the Nuclear Non-Proliferation Treaty. One of those countries which refused to sign was India, which exploded its first nuclear device on May 18, 1974. Other countries which refused to sign the treaty and will soon acquire the capability of making their own nuclear weapons include Pakistan, Libya, Egypt, Israel (which may already have nuclear weapons), Argentina, Brazil, Chile, Algeria, Saudi Arabia, and South Africa.

If the atomic genie is ever to be brought under control, it is clear that something much stronger and more effective than the IAEA safeguards system is needed. In its place we must create something similar to the Baruch Plan, under which the United Nations would have owned all nuclear material, or else something similar to the 1961 McCloy/Zorin proposal for an International Disarmament Organization with inspectors who would have "unrestricted access without veto to all places as necessary for the purposes of effective verification."

Various other plans have also been suggested over the years. In 1979, the Campaign for U.N. Reform proposed the creation of an International Arms Control Verification Agency which would have on-site inspection authority. Under the plan, inspectors would have unrestricted access to all areas of the United States and the Soviet Union as well as other nuclear powers. On-site inspections could be ordered by the agency's administrator, either as part of a routine surprise checkup, or as the result of a complaint lodged with the administrator by one of the signatory nations.

In a report submitted to the full Senate Foreign Relations Committee on SALT II, the Campaign said: "The most important addition to the verification process that an International Verification Agency could provide, however, is the ability to conduct on-site inspections to supplement national technical means and to determine by such inspections whether cheating has occurred. It should be emphasized that the International Verification Agency would never replace

national technical means. It would only supplement such means through on-site inspections."

In 1978, at the Special U.N. Session on Disarmament, France's President, Valery Giscard D'Estaing, called for the establishment of a World Satellite Monitoring Agency. In arguing for such an agency, D'Estaing said: "Disarmament is impossible without controls; controls cannot be valid without international supervision. Progress in space technology now offers possibilities in this respect that were hitherto unknown. These should be placed at the disposal of the international community. To this end, France will propose the establishment of a World Satellite Monitoring Agency."

At the same session on disarmament, the government of the Netherlands proposed the establishment of an International Disarmament Organization and suggested that the final document of the Special Session of the General Assembly on Disarmament contain an invitation to all member states to give their views on such an International Disarmament Organization. Neither the French proposal for a World Satellite Monitoring Agency, nor the Dutch proposal for an International Disarmament Organization, were adopted by the United Nations Special Session on Disarmament. The reason why they were not adopted or even put to a vote was that the Final Document of the Session was hammered out by consensus which meant that a single objecting nation was able to keep an item out of the Final Document.

Instead of establishing an effective international verification system for arms agreements, the United Nations established the Conference Committee on Disarmament which met again and again and brought forth nothing. The 1978 U.N. Special Session on Disarmament, instead of proposing an international reconnaissance agency or an international disarmament organization, changed the name of the Conference Committee on Disarmament to the Committee on Disarmament. The main difference between the two committees is that the first was co-chaired by the United States and the Soviet Union while the second is under a rotating chairmanship with a larger membership, and includes the participation of France. The world needed dynamic proposals. Instead the Special U.N. Session on Disarmament brought forth a change in the name and the chairmanship of a committee which up until then had discussed disarmament problems without results.

It can be argued persuasively that the United Nations can do no more in the field of disarmament than the member nations permit it to do and that to hope for anything more is unrealistic and idealistic. The problem with this so called "realistic" approach is that it is leading directly to a worldwide conflagration which will destroy humankind.

If 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 U.N. for an International Arms Control Vertification Agency which can verify whether nations are complying with arms control treaties.

14-POINT PROGRAM

I am leaving with you copies of the entire fourteen-point program for U.N. 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 U.N. 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.

I would emphasize that most, if not all, of the reforms advocated by the Campaign for U.N. Reform can be accomplished without amending the U.N. Charter. What is required is the will to accomplish them and, perhaps more important, a

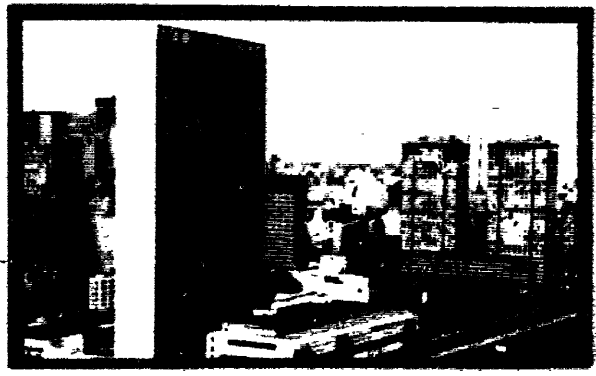
sense of urgency and a realization that our current global problems will never be solved without a much more effective U.N. system than now exists.

To summarize, we in the Campaign for U.N. Reform applaud the President's report as a good first step. It is particularly good in the area of peacekeeping, the International Court of Justice, Human Rights, and U.N. finances. We believe it is lacking in imagination in the area of dispute settlement, the decision making process and the role of the U.N. in disarmament.

A large portion of the American people are disillusioned with the United Nations but want the United States to continue to participate in it. This being the case, it is obvious to us that they would like to see it made more effective. We believe Congress understands this, and because Congress does understand this, we hope that Congress will take the lead again in urging the administration to give U.N. reform much higher priority and to take a more positive reformist approach to U.N. dispute settlement machinery, the U.N. voting structure and the U.N. role in disarmament.

I thank you again for the opportunity to present these views.

A PROGRAM TO REFORM AND RESTRUCTURE THE U N SYSTEM



According to recent public opinion polls, the American people want the United States to remain in the United Nations, but they have less faith than before in the ability of the U N system to solve serious global problems. In response to Section 603 of the Foreign Relations Authorization Act of 1978, President Carter submitted a special report to Congress containing his recommendations for the reform and restructuring of the U N system.

President Carter's recommendations represent a good first step, but many observers believe they do not go far enough. This brochure is an attempt to present a concise, easily readable summary of the reforms in the U N system that are advocated by the Campaign for U N Reform.

By
The Campaign for U N Reform
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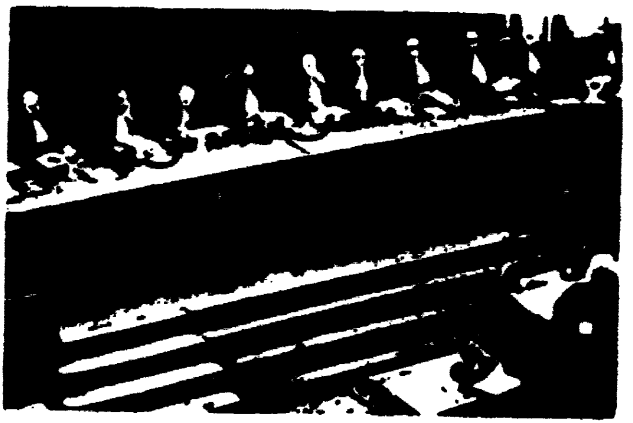
1. IMPROVING THE DISPUTE SETTLEMENT PROCESS

NEED FOR REFORM: The dispute settlement process of the U N system is imprecise. Article 33 of the Charter refers to conciliation, mediation, and arbitration, but there are no procedures for either a disputing party or the U N itself to invoke mediation or arbitration. As a result, the United Nations has been ineffective in resolving conflicts.

PROPOSAL OF THE CAMPAIGN: Specific procedures for introducing third party involvement in the dispute settlement process, including:

- **A highly trained U N Conciliation and Mediation Service, that would attempt to mediate international disputes;
- **Panels of arbitrators that would be available to make non-binding or binding arbitration decisions on boundary disputes or other conflicts;
- **Procedures for any disputing party to request mediation or non-binding arbitration;
- **Procedures for the U N Security Council to request binding arbitration in the event of a threat to international peace and security;
- **A Charter amendment allowing parties to compel submission of disputes either to arbitration or to the International Court of Justice.

2. INCREASING THE USE OF THE INTERNATIONAL COURT OF JUSTICE



NEED FOR REFORM: The International Court of Justice, consisting of fifteen judges, sits at The Hague but hears less than two cases a year. Even when it is used, nations invoke self-defeating reservations or simply refuse to abide by its decisions.

PROPOSAL OF THE CAMPAIGN: Provisions should be made to encourage much greater use of the International Court of Justice, including:

- **Permitting any nation with a dispute to request an Advisory Opinion on notice to the other party;
- **Allowing the Secretary-General or a regional international organization to request Advisory Opinions;
- **Granting jurisdiction to the Court over legal disputes referred to it by the Security Council after a finding that they threaten international peace and security;
- **Urging governments to repeal self-judging restrictions such as the Connally reservation;
- **Permitting multi-national corporations that have disputes with nations to be parties before the Court;
- **Giving private parties access to regional international courts on questions of international law.

3. IMPROVING THE U N'S PEACEKEEPING CAPABILITY

NEED FOR REFORM: Despite the enabling provisions of the Charter, no permanent U N peacekeeping force has been formed. Consequently, when a conflict does erupt, the U N has had to enlist an Ad Hoc force on an emergency basis. Often this has been too late and inadequate to halt major conflicts.

PROPOSAL OF THE CAMPAIGN: A permanent peacekeeping force of sufficient size and mobility to maintain the status quo during the dispute settlement process. This should include:

- **direct recruitment and training by the U N;
- **use of peace observation teams whenever a conflict occurs;
- **established peacekeeping guidelines;
- **a special fund for peacekeeping operations;
- **authorization of interposition forces without the necessity of a host country invitation;
- **elimination of the veto on the use of interposition forces.

4. MORE STABLE U N FINANCES

NEED FOR REFORM: Some nations have failed to pay their peacekeeping assessments. As a result, peacekeeping operations face a continual financial crisis. Other parts of the U N system also lack sufficient funds to assure an effective operation.

PROPOSAL OF THE CAMPAIGN: A special peacekeeping revolving fund as part of the regularly assessed U N budget in order to assure a rapid response by the United Nations in the early phases of hostilities. The Campaign also proposes the creation of a special commission to explore supplemental revenue raising possibilities, including:

- **deep seabed revenue producing arrangements;
- **multinational corporate licensing fees;
- **a one cent levy on international mail;
- **airline and shipping fees;
- **satellite and telephonic communication fees;
- **ocean and atmospheric pollution penalties;
- **a levy on national military expenditures above a specific proportioned minimum.

5. MODIFICATION OF THE VETO

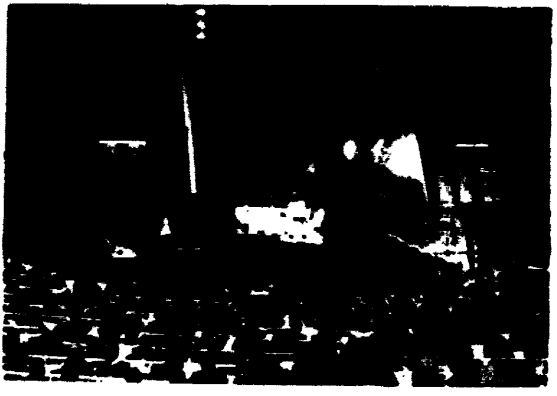
NEED FOR REFORM: The veto has frequently been used by one or another of the major powers to block constructive action offered in the interests of world peace. The veto has also been applied in situations not contemplated by the U N founders.

PROPOSAL OF THE CAMPAIGN: The veto power should be modified, either by voluntary agreement or through Charter amendment, so that it could not be used in the following situations:

- **on the appointment of fact-finding commissions;
- **on admission of new members (the statehood question should be decided by the International Court of Justice);
- **by a permanent member when it is one of the parties to a dispute;
- **on authorizing the use of interposition forces to maintain the status quo during the dispute settlement process.

(These modifications in the veto power should be used as a "trade off" for modifications of the General Assembly voting structure.)

6. A MORE EQUITABLE GENERAL ASSEMBLY VOTING STRUCTURE

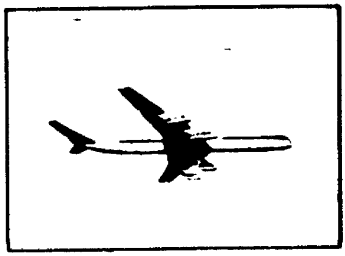


NEED FOR REFORM: With the admission of numerous mini-states, several with populations of less than 100,000, the voting structure of the General Assembly has become inequitable. A country like Seychelles with a population of only 59,000 has the same vote as the United States with over 210 million. Due to this gross inequity, large nations are reluctant to bring issues before the General Assembly for fear of being out-voted.

PROPOSAL OF THE CAMPAIGN: Micro-states should be offered an "associate state" status which would enable them to enjoy the economic benefits of U N membership without the financial burdens or the voting privileges of full membership. In addition, one of the following should be adopted in exhange for a modification of the veto power:

- a financial review committee composed of major contributors to review Assembly resolutions with substantial financial implications;
- a second House based upon a modified population basis; or
- a requirement of concurrent multiple majorities based not only on nations, but also on populations and contributions.

7. AN INTERNATIONAL CRIMINAL COURT TO TRY HIJACKERS AND TERRORISTS



NEED FOR REFORM: Aircraft hijacking and international terrorism have increased dramatically in recent years. Some nations have been reluctant to extradite persons accused of hijacking or terrorism to the victim's state for trial for fear of mistreatment or an excessively harsh sentence.

PROPOSAL OF THE CAMPAIGN: International Criminal Court of limited jurisdiction should be created to try persons accused of aerial hijacking or international terrorism. The substantive jurisidiction of such a Court could be based upon:

- **the Hague Convention defining aircraft hijacking;
- **the Montreal Convention defining the crime of violence aboard international aircraft;
- **the Crimes Against Diplomats convention;
- **the proposed convention against the taking of international hostages; and
- **the proposed convention on international terrorism.

8. IMPROVED HUMAN RIGHTS MACHINERY

NEED FOR REFORM: Human rights matters are now treated separately by a number of different U N organs. There is a lack of coordination and focus. There is much rhetoric, but little accomplishment.

PROPOSAL OF THE CAMPAIGN: The Trusteeship Council, which has little to do since most trust territories have achieved their independence, should be reconstituted as the "Human Rights and Trusteeship Council". All human rights functions should be centralized and coordinated under it, thereby raising the importance of human rights concerns to a Council level. The Campaign also proposes:

- **a U N High Commissioner for Human Rights to investigate complaints of violations;
- **a Court of Human Rights modelled after the European Court of Human Rights, to render decisions in cases of alleged violations.
- **ratifications by governments of all existing human rights conventions.

The Campaign for U N Reform is sponsored by the U N Reform Electoral Campaign Committee and the World Federalist Political Education Committee. The report of the Electoral Campaign Committee is on file with the Federal Election Commission. The report of the Political Education Committee is on file with the Clerk of the House of Representatives and the Secretary of the Senate in Washington, D.C.

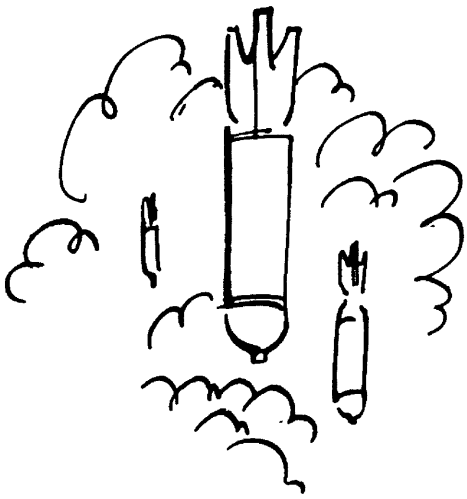
9. AN INTERNATIONAL OCEAN AUTHORITY

NEED FOR REFORM: Oceans comprise seventy percent of the earth's surface. At present there is no international body with authority over the high seas or the living and mineral resources in the oceans and on the ocean floor. As technical skills to exploit the resources of the deep seabed and of ocean fisheries improve, the chances for serious international conflict between nations increase.

PROPOSAL OF THE CAMPAIGN: An International Ocean Authority should be created as part of the current Law of the Sea negotiations, in order to manage the resources of the oceans, to protect the ocean environment, to assure freedom of the seas, and to adjudicate ocean disputes. An International Ocean Authority would have the duty to:

- **protect the oceans from pollution;
- **assure free and open transit;
- **manage the mining of deep seabed mineral resources;
- **protect fishery areas from over-fishing;
- **provide a structure for arbitrating disputes between nations on ocean matters;
- **provide revenue for international development, for environmental protection, and for the U N itself.

10. AN INTERNATIONAL DISARMAMENT ORGANIZATION



NEED FOR REFORM: The global arms race, which costs over $400 billion per year, must be brought under control. An international body is required to supervise and enforce arms control and disarmament treaties. Without such an organ, nations will suspect each other of not living up to their agreements. Such distrust will defeat these vitally necessary measures.

PROPOSAL OF THE CAMPAIGN: An International Disarmament Organization must be created as part of the U N system. Its duties should include:

- **monitoring the arms race and initiating new disarmament treaties;
- **verifying that arms limitation agreements are being implemented by all parties;
- **monitoring step by step phased disarmament agreements;
- **adjudicating disputes that arise over the interpretation of arms agreements, particularly as they might apply to new weapons.
- **establishing procedures for enforcing treaties against violations by individuals.

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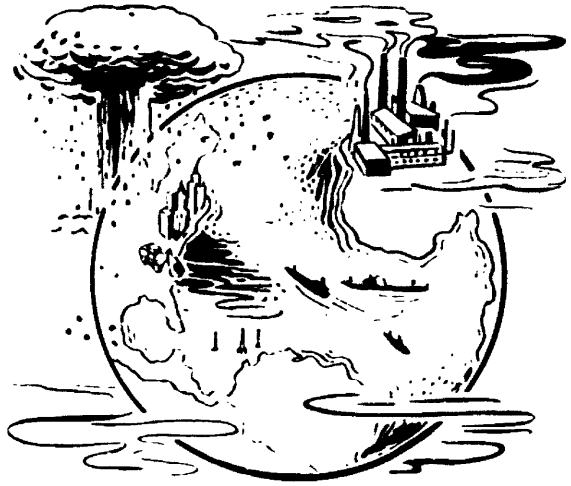
11. A STRONGER U N ENVIRONMENTAL PROGRAM

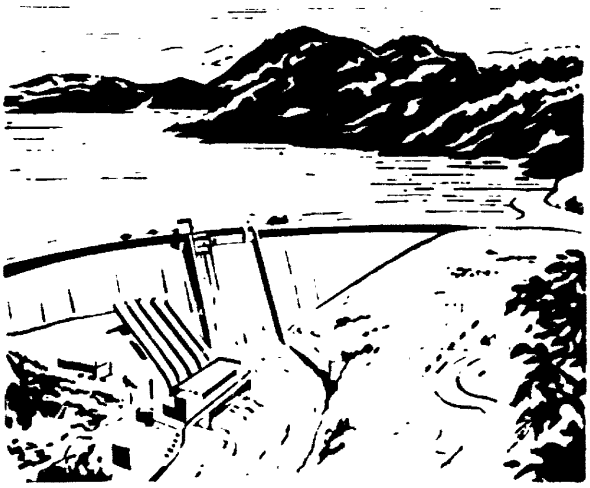


NEED FOR REFORM: The life-support systems of the earth are under assault. The present U N environmental program attempts to monitor the pollution of the oceans and the atmosphere, but it has yet to develop firm guidelines to halt pollution. If regulations are not written and enforced, the atmosphere may become poisoned and the oceans may become dead, no longer producing the life-sustaining oxygen we require.

PROPOSAL OF THE CAMPAIGN: The U N Environmental program should be given more funds and more authority. In addition to monitoring the pollution of the oceans and the atmosphere, it should be able to:

- **develop firm guidelines to prevent pollution of the oceans and the atmosphere;
- **enforce regulations against repeated international polluters;
- **arbitrate disputes that may arise over environmental guidelines.

12. A MORE EFFECTIVE U N DEVELOPMENT PROGRAM

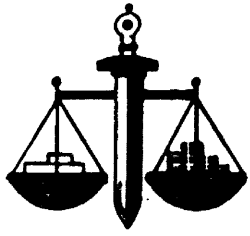


NEED FOR REFORM: The U N economic programs and agencies have increased considerably, but they are often inefficient and poorly coordinated.

PROPOSAL OF THE CAMPAIGN: The Campaign welcomes the appointment of a United Nations Director General to coordinate economic development work throughout the U N system. However, we also call for:

- **adequate authority and support for the U N Director General of Development and International Economic Cooperation;
- **eventual establishment of a single United Nations Development Authority;
- **reorganization of the work of the Economic and Social Council to ensure more coherent research, analysis and policy planning;
- **creative U N management of a personnel system based more on merit than on geographical representation, with greater interchange among U N agencies.

13. MORE EFFECTIVE WORLD TRADE AND MONETARY SYSTEMS

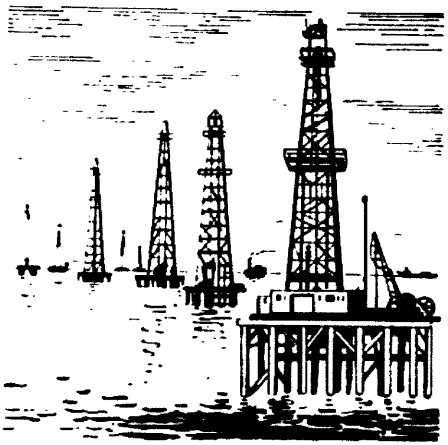


NEED FOR REFORM: Our planet has become increasingly interdependent economically, but remains politically divided. Reforms of both trade and payments arrangements lag, and protectionist policies threaten world economic stability.

PROPOSALS OF THE CAMPAIGN: The International Monetary Fund and the U N Conference on Trade and Development should be given more authority to establish cohesive and equitable monetary and trading systems. For example, the Campaign recommends:

- **an International Common Fund to moderate commodity price fluctuations and help single-crop countries diversify their economies;
- **implementation of UNCTAD proposals to make the world trading system more responsive to the needs of less developed countries;
- **development of regional monetary networks and a centralized international credit reserve system.

14. GLOBAL CONSERVATION OF RESOURCES



NEED FOR REFORM: The world has limited resources. With the growth of population and continued industrialization, some resources are being depleted at an alarming rate. The rapid depletion of petroleum resources, for example, is already apparent. Coordinated conservation and resource management policies are required.

PROPOSAL OF THE CAMPAIGN: The Campaign proposes the creation of a United Nations Global Resources Program to monitor the depletion of non-renewable resources, and to suggest guidelines for international conservation of the global commons. Its recommendations might include:

- **faster development of alternative energy sources through U N sponsored international cooperative research;
- **monitoring the military use of non-renewable resources;
- **creation of an international system for the storage and distribution of food reserves.

The Campaign for U N Reform considers these fourteen measures to be the minimal ones necessary to assure the health and safety of this planet. They are of a piece, each related to the other. Some are easier of realization than others. Some, like the voting proposals, may take years to implement. However, to advocate anything less is to short-change our children and their children.

Senator PELL. Mr. Keys?

STATEMENT OF DONALD KEYS, UNITED NATIONS OBSERVER, WORLD ASSOCIATION OF WORLD FEDERALISTS, NEW YORK, N.Y.

Mr. KEYS. Thank you, Mr. Chairman. I am very happy to be here this morning.

I will be confining my remarks to subjects which have not been commented on by my colleague, and also to those which are essentially before the United Nations Special Committee on the charter. The proposals contained in the President's report—and this is a summary of my statement.

Senator PELL. Your full statement will be inserted in the record at the appropriate place.

Mr. KEYS. Thank you.

The proposals contained in the President's report are at the same time, perhaps, both too pessimistic and too optimistic. They do not take, perhaps, sufficient account of the broad support for some rather striking reforms; and they are perhaps too optimistic about what can be adopted on a unanimous, or consensus basis.

The U.S.S.R. has sought throughout the meetings of the Special United Nations Committee to allow no proposals to go forward for later consideration by the General Assembly unless they could be adopted by consensus in the committee. This negative application of the principle of consensus amounts to according the U.S.S.R. a veto over the proposals to be considered by the General Assembly. I believe that because of its general advocacy of the use of consensus in the United Nations, which is quite proper, the United States has tended to go along with this practice, in effect giving the Russians a veto over advancement of some of its own proposals. I believe that the delegation should be urged to reconsider this rather self-defeating posture.

The United States proposals on peacekeeping are among the most forthcoming: The peacekeeping reserve, peacekeeping training, meeting financial obligations, a special peacekeeping fund, and I think most of these should be capable of adoption over time. There is quite high interest just now among United Nations members in providing some standard training for United Nations peacekeepers.

However, in addition, the United States should advance, for purposes of discussion and education, other measures which would start to flesh out the concept of a truly comprehensive and effective world security system.

The United Nations should have the option to interpose itself between adversaries, whether or not they agree, whenever it should determine that in accordance with the charter a threat to the peace exists. At present it only does so if the parties agree.

The agreements of article 43, which are obligatory under the charter, have never been implemented and should be implemented by members, earmarking contingents for enforcement action by the United Nations. Even if never called upon, this measure would provide a backup for present United Nations peacekeeping by interpositions making it much less likely that states would violate United Nation,

peacekeeping arrangements. As the U.S.S.R. is among those states which have continuously advocated activation of article 43, the chances of its adoption in some form might be fair. I want to turn now to a discussion of the negotiations aspect of the peaceful settlement of disputes and the consensus problem in this committee.

The Special Committee is in a position this fall to report to the 34th Assembly on 12 proposals on peaceful settlement on which it found general agreement was possible. Most of these are quite valuable. However, general agreement was lacking on nine other, even more interesting, proposals, including several advanced by the United States on the International Court of Justice, increased use of article 99, and so forth.

Two important proposals concerned establishment of standing machinery for mediation and conciliation. All these proposals are worthy of consideration by the General Assembly and they enjoyed broad support within the committee, but they failed of consensus or of evoking what has come to be called general agreement. By acquiescing to this inappropriate process—in fact, I have to say by encouraging it—the United States is scuttling some of its own important proposals as well as other equally worthy ones.

Unfortunately, I believe, U.S. negotiators have lent themselves to this subversion of the work of the committee, very largely Soviet inspired, which is greatly diminishing the possibility of adoption by the committee of important proposals.

I want to turn now briefly to the question of human rights and speak about some matters in addition to those which have been discussed. I would like to call attention first to the question of ratification of human rights instruments. The United States has done itself no favor by its continuing failure to ratify a number of major human rights instruments, including the two Covenants on Civil and Political Rights, on Economic, Social and Cultural Rights; the Convention on Racial Discrimination, and the Genocide Convention, particularly since, under the covenant on Civil and Political Rights and The Convention on Racial Discrimination, important machinery for review of human rights violations has been set up, and the United States is a nonparticipant. By nonratification the United States has excluded itself, which is especially important in this formative stage of these committees' lives. I hope it may be possible that the atmosphere will change sufficiently here so that these shortcomings can be amended.

On the High Commissioner for Human Rights, we certainly applaud the strong support for this proposal which has been forthcoming from the United States and many other countries for some years. However, I have to say that I believe the United States made an error in judgment in bringing up the issue in the 32d General Assembly after recent setbacks before that time. There was neither the time nor the possibility to get major momentum in motion at that time in favor of the proposal. It is to be hoped that better-timed efforts will succeed subsequently.

The question of a Human Rights Council has been brought up in the Special Committee. The United States has set it as a long term goal, perhaps. I would like to comment on this. One of the great needs in the human rights programs in the United Nations is for rationalization and relief from redundancy, overlapping and duplication of function.

It would take at least a page to list all of the committees, commissions, units, and offices in different departments that are performing human rights functions in the United Nations.

It is logical and necessary to bring these functions together in a coordinated way, in an area which is becoming of paramount concern to the United Nations. A major suggestion lies in giving the Trusteeship Council, which is running out of work, new responsibilities and a new title as a Trusteeship and Human Rights Council. This would elevate the human rights concern to its proper level; remove a tremendous block of work from the overburdened ECOSOC [Economic and Social Council] and provide effective leverage for combining and/or eliminating widely dispersed and often duplicated functions. Objections have been raised that this approach would require an amendment to the charter of the United Nations; perhaps so, but there have already been several amendments, and the argument is not all that compelling. The proposal has gained early support from a number of countries.

I would like to turn just briefly to discuss something concerning the Security Council and also the principle of unanimity. One of the issues before the Special Committee on which the United States urgently needs to develop a positive policy concerns the membership of the Security Council. There is presently rational pressure to find ways to provide other major powers than the permanent members a more comparable status within the Security Council, which would be much to the benefit—I have to say—of the functioning of the Council.

One of the most creative proposals for accomplishing this would add one additional seat to the Council for each world political region. That seat would be held alternatively by the major powers of the region not now permanent members, providing in a sense a semipermanent status. The right of veto would not be extended to these new seats.

The United States ought to consider affirmative support for such a proposal, which is much more realistic than its present position of supporting a permanent membership for a single state, Japan.

The offer of the United States in the President's report to take part in a formal joint statement with other permanent members in defining areas not subject to the veto is most laudable and should be well received among most United Nations members. While it is not feasible in the near future to consider abolishing the veto, its abuse by some members had led to justified appeals for its limitation to certain classes of questions, and permanent members should be prepared to respond constructively to this appeal.

Further, a couple of words on the United States in the negotiations in this committee. I think it is my duty to report that the spirit of the President's proposals and the Secretary of State's paper is not being carried forward with clarity in the Special Committee. Not all negotiators can change when policies change, and the newer, present policies need and deserve better support than they are getting.

Second, there is a middle element of concerned and sober leadership within the Special Committee, which undertook the initiative of establishing the committee and of outlining many of the major proposals before it. I believe the United States should collaborate much more closely with this leadership than is presently the case.

The United States should be prepared to take more positive leadership at the United Nations on the issue of United Nations reform and improvement, advancing some proposals which cannot be expected to be immediately accepted. For one thing, the United Nations is engaged in a self-education exercise. Most of the members were not there present at the founding; most of them have little experience in international processes, in due process measures; and even if some proposals cannot be adopted at the outset, they can provide an important increment for it in global understanding through a self-education process.

Thank you, Mr. Chairman.

[Mr. Keys prepared statement follows:]

PREPARED STATEMENT OF DONALD KEYS

REFORM AND RESTRUCTURING OF THE UNITED NATIONS

The U.N. needs examination

All institutions, no matter how good or how poor, require periodic examination and improvement. In this respect, the U.N. is no exception. It has been enabled its members to perform well in many areas, most of them humanitarian, but only marginally in the area of maintenance of international peace and security, the primary purpose for which it was created.

Pre-atomic organization

Structurally, it is a pre-atomic organization, its charter designed before the explosion of the first atomic bomb. The processes for securing peace inscribed therein are therefore more lax and hopeful than they otherwise might have been. The idea of a concert of powers, the winners of World War II, acting together to enforce peace, broke down almost immediately, and nothing has yet been designed to take its place. There has been no "follow on" by a new global system for the maintenance of international peace and security. What we have had is not collective or pooled world security, but a series of stop gaps and half measures, and a mixture of successes and serious mishaps.

At least until now, 34 years later, the world organization has never been reexamined to learn whether it might be possible through such an examination both to improve it structurally and functionally, and more importantly, gain new levels of commitment to what has long been a United States goal: the concept of true emergent world order where peace is secured by legally sanctioned and orderly means.

The bugaboo of charter review

Proposals for U.N. improvement have generally been either of a procedural and minor character—too weak to have much effect, or too sweeping to be considered. In particular, the bugaboo of "Charter Review" has impeded reform efforts—the notion that changes could not be considered because they would open a "Pandora's box" of wholesale modifications and revisions of the Charter. In point of fact, the Charter has been amended several times without any disaster whatsoever, and furthermore, the Charter has proven flexible enough to allow many important changes without amendment.

Limits of change

Generally speaking, the prospects for U.N. improvement are bounded by the interest and commitment of Member States to fuller instrumentation of world community enterprises in the common good. States generally at this stage in development are ambivalent toward world organization. On the one hand they are generally aware that peace by nuclear deterrent is ultimately suicidal, and that national means are incapable of providing lasting security for their populations. On the other hand, true pooled security approaches appear to fly in the face of self-reliance and the tradition and habit of self-defense. At this period in world history we are in the grey area between the rugged individualism of independent States, and the instrumented interdependence of a global community. Herein lies our dilemma, our challenge and opportunity. In one sense, the task is that of securing functional and operational participation in the process States have committed themselves to in approving the U.N. Charter and joining the

World Organization. The litmus paper test along the scale of the ambivalance or commitment to support and development of the world organization can be seen in present efforts at its reform.

New efforts at reform

Current attempts to mount a reexamination began with the 25th General Assembly of the U.N. in 1970. Its advocates were neither radicals nor conservatives, but a middle group led by Philippines, Italy, Japan, Colombia, and a few others. The early detractors from the effort were the Permanent Members of the Security Council, minus China, namely the United States, U.S.S.R., U.K., and France. These States initially went to considerable and concerted efforts to try to head off and then to kill what has become known as the Special Committee on the Charter of the U.N. and on Strengthening the Role of the Organization. We shall refer to it subsequently as the "Special Committee."

Historically, two important developments altered this situation. Romania broke with the U.S.S.R., and joined an item of its own to the item on the Charter of the U.N.; and the U.S. administration changed, bringing with it a much more constructive and more traditional attitude toward the U.N. than had been in evidence for some years. Within the Special Committee the U.S. stance changed from obstruction to construction.

The President's report

Encouraged by the need to make a constructive response in the Special Committee, and by the request of Congress for a report from the President on recommendations for reform and restructuring of the U.N. system, the Department of State and subsequently the President produced such studies and recommendations (the latter dated March 2, 1978). These are currently making their way into the deliberations of the Special Committee. The proposals contained in the President's Report are very moderate and modest ones. They are also at one and the same time perhaps too pessimistic and too optimistic. They do not take sufficient account of the broad support for some rather striking reform, and they are perhaps too optimistic about what can be adopted on a unanimous or consensus basis.

Consensus, veto, and the Russians

The U.S.S.R. has sought throughout the meetings of the Special Committee to allow no proposals to go forward for later consideration by the General Assembly unless they could be adopted by consensus in the Committee. This negative application of the principle of consensus amounts to according the U.S.S.R. a veto over proposals to be considered by the General Assembly. Because of its general advocacy of the use of consensus in the U.N. the United States has tended to go along with this practice, in effect giving the Russians a veto over advancement of its own proposals. The delegation should be urged to reconsider this self-defeating posture.

Reasons for reform

The nature of the exercise in efforts at U.N. reform is at least threefold. There is the benefit of adoption of improvement for their own sake—the more effective working of the world organization in the common interest. Secondly, there is the desirability of removing from Member States the excuse for non-recourse to the U.N. because of present inadequacies. Thirdly, it is also an exercise in self-education for the U.N. Membership, only 51 of whom were "present at the founding," and most of whom have everything to learn about, for instance, third party usefulness in peaceful settlement of disputes, or about the role of non-involved peacekeeping. If no other purpose were served at all, this process of self-education of the Membership would be well worth it, and in this process, the United States has a distinct responsibility. United States proposals in this exercise should not be based only or merely on whether they can be accepted, but also on what they do to help instruct the U.N. community about the nature of legitimately sanctioned international processes.

Not all the problems or objections to the U.N. can be met by foreseeable reform measures. A better understanding, however, of the manner in which the U.N. currently functions may help to alay fears either that U.S. interests are jeopardized, or that pursuiug world oriented U.S. goals at the U.N. is not worthwhile.

One nation, one vote

The President's Report points out quite accurately that there is no real or immediate prospect of altering the one State-one vote system in the General Assembly. However, this is not as dire as on the surface it may at first seem. In the first place, the famous automatic majority is far from automatic, and is a very shifting majority. It is a concatenation of varying interests with a varying membership. Secondly, the major issues are decided long before a resolution gets to the floor of the Assembly, having been thrashed out by "contact men" between regional groups or other special interest groups. Unless a resolution can be generally supported by all the regions, it is very unlikely to see the light of day. Thus, the roll-up of votes on a resolution in the Assembly is not very meaningful.

"Two house system" Emerging

There is another interesting factor in U.N. decisionmaking. A rough approximation of a two house system is emerging, especially when important issues are at stake. The lower house, the Assembly is characterized by the one State-one vote system. This is balanced, however, by increasing recourse to the "upper house", the Security Council where representation is weighted by regional groups, population and power. And of course, where the veto obtains for the Permanent Members. Although the mandates of the two "houses" are differently described in the Charter, that of the Assembly being recommendatory, and of the Security Council being binding, in fact, the two are functioning more and more concurrently—important issues requiring the agreement of both.

Having dealt with principles and generalities, let us move to specifics, and take a look at U.S. proposals in several areas.

Peacekeeping

U.N. peacekeeping forces are traditionally under-manned, under-mandated, under-armed and under-financed. That they have played the important role they have is remarkable. U.S. interest in and support for U.N. peacekeeping has been consistent, and U.S. proposals in this field are among the most forthcoming.

Peacekeeping reserve

The U.S. suggests that States that have not yet done so should explore possibilities of earmarking troop contingents for a U.N. peacekeeping reserve of national contingents, trained in peacekeeping functions. There is perhaps not much new in this proposal, except that it formalizes an existing situation, and borrows from Article 43 of the U.N. Charter, never implemented, which requires Members to make agreements with the Security Council to supply troop contingents or other assistance for enforcement action—a function distinct from the U.N. practice of peacekeeping by interposition.

Peacekeeping training

The United States also supports arrangements for U.N. training of earmarked contingents and observers in special peacekeeping and observation functions, and suggests that the U.N. contract with appropriate institutions or set up a U.N. staff training college. This is a very significant proposal inasmuch as troops are trained to shoot, not to keep the peace: the function is entirely different. It is also an "on target" proposal, since there is considerable interest among members in providing for such training, perhaps based upon the considerable combined Nordic experience. The U.S. proposal also would require States to fulfill their legally binding obligations to peacekeeping missions assessed on the basis of the regular budget. Illegal withholding of monies from peacekeeping missions is now becoming a major problem, and a threat to the integrity of the whole U.N. system, and it will be important to keep on the pressure on this question. The U.S. proposal would also set up a very important special peacekeeping fund to pay initial costs of new operations authorized by the Security Council, before regular funds could be raised.

These proposals should be capable of adoption over time, if the United States does not allow them to be sunk by a distorted use of the consensus by Soviet Bloc States.

Further peacekeeping measures

In addition, however, the United States should advance for purposes of discussion and education of the Members, more advanced measures which would start to flesh out the concept of a truly comprehensive and effective world security system.

1. The U.N. should have the option to interpose itself between adversaries, *whether or not they agree*, whenever it should determine that, in accordance with the Charter, a threat to the peace exists. At present it only does so if the parties agree, acting, as it were, as "policeman by invitation."

2. The agreements of Article 43, which are obligatory under the Charter, should be completed by Members, earmarking contingents for enforcement action by the U.N. Even if never called upon, this measure would provide a backup for present U.N. peacekeeping by interposition, making it much less likely that States would violate U.N. peacekeeping arrangements, since by implication preponderant international force could be brought against them. As the U.S.S.R. is among those States which have continuously advocated activation of Article 43, the chances of its adoption might be fair.

Peaceful settlement of disputes and the consensus

Since this second aspect of international security is being treated exhaustively by others, let me just discuss a few points about the negotiations on this matter in the context of the Special Committee. The Committee is in a position to report to the 34th General Assembly on 12 proposals on peaceful settlement on which it found "general agreement" was possible. Most of these are quite valuable, and could go a long way toward educating the membership on the nature of peaceful settlement processes, an area in which knowledge is notable lacking.

However, "general agreement" was lacking on nine other, even more interesting proposals, including several advanced by the United States (on the International Court of Justice, the Secretary-General's increased use of Charter Article 99, etc.). Two important proposals concerned establishment of standing machinery for mediation and conciliation.

Now, there is the rub. All these proposals are worthy of consideration by the General Assembly, and they enjoyed broad support within the Committee. But they failed of consensus, or of evoking "general agreement." By acquiescing to this inappropriate process, in fact by encouraging it, the United States is scuttling some of its own important proposals, as well as other equally worthy ones.

The mandate of the Special Committee has no such requirement. Under it, the Special Committee is to "identify those [proposals] which have awakened *special interest*," and "to accord priority to the consideration of those areas on which general agreement is possible," and "to be mindful of the importance of reaching general agreement whenever it has significance for the outcome of its work."

Unfortunately, U.S. negotiators have lent themselves to this subversion of the work of the Committee, very largely Soviet-inspired, which is greatly diminishing the possibility of adoption by the Assembly of proposals it will never see, and thereby diminishing the possible contribution of the Special Committee to the prospects for meaningful U.N. reform. Romania, correctly reading this deliberate blockage, has bypassed the Special Committee and is taking its proposal for creating standing conciliation and mediation machinery directly to the General Assembly in the current session. It is to be hoped that the United States will not continue to contribute to this misuse of the Special Committee, perhaps in the wrong notion that collaboration with the U.S.S.R. is more important at every point than the purpose of the exercise itself.

Human rights

By human rights, we mean here civil and political rights. Americans tend to forget that matching the Covenant on Civil and Political Rights is a second one on Economic, Social and Cultural Rights—which is at this point in time more significant to a large portion of the world's peoples than the content of the human rights with which we are so familiar historically. In approaching human rights questions in the U.N., it is important to demonstrate a concern for both, or to be considered as diverting attention from one or the other.

Ratification of human rights instruments

The United States has done itself no favor by continuing failure to ratify a number of major human rights instruments, including the two Covenants on Civil and Political Rights and on Economic, Social and Cultural Rights; the Convention on Racial Discrimination, and the Genocide Convention. Under the first two of these, important machinery for review of human rights violations has been set up. By non-ratification, the United States has excluded itself—which is especially important at this formative stage in the development of this machinery.

Reform of human rights processes

The general approach of the United States to reform of the human rights functions of the U.N. is most commendable. In particular, the progress in strengthening of the procedures for dealing with private communications on human rights violations has been remarkable, and for many U.N. hands, unexpected. It shows that human rights at the U.N. have not become so politicized that progress in expediting due process approaches is not possible, as some fear.

Scheduling of human rights sessions

Changes in scheduling of meetings, or more frequent meetings of the Human Rights Commission and Sub-Commission might also assist in speeding consideration and action on human rights complaints, and it is to be hoped that progress can be made along this line.

High Commissioner for Human Rights

The United States and many other countries, notably Costa Rica, have for years supported the establishment of a post of a High Commissioner for Human Rights as emissary and intervenor, and the United States is doing what it can to advance this development. Unfortunately, the proposal has been sharply diluted over the years, and whether it should be put forward in its present form should be examined.

In the view of a number of veteran U.N. observers, the United States made an error in judgment in bringing up the issue in the 32nd General Assembly after recent setbacks. There was not the time or possibility to get a major momentum in motion in favor of the post. The issue has become a touchstone of the division between States actively concerned with advancing the U.N. role in monitoring and improving human rights, and those who resist such a role. It is to be hoped that better timed subsequent efforts will succeed.

The U.N. in the United States

The United States has announced as a goal the reestablishment of the Human Rights Division in New York. It was pried loose from Headquarters by a coalition of Soviet and Arab States, aided by a few African countries with political debts, and thus removed from the political center of the U.N.—to the detriment among other things, of the Black Africans' causes. The goal of returning the Division to New York is laudable, but not to be soon accomplished. The failure of New York City and the U.S. Congress to agree and support as they had planned, a U.N. building expansion program opened the door to the success of the Soviet ambition, a cause shared by the John Birch Society!

Human rights council

One of the great needs in the U.N. human rights programs is for rationalization and relief from redundancy, overlapping and duplication of function. It would take at least this page to list all the committees, commissions, units and offices in different departments performing human rights functions in the U.N. It is logical and necessary to bring these functions together in a coordinated way in an area which is becoming a paramount concern of the U.N.

A major suggestion lies in giving the Trusteeship Council, which is running out of work, new responsibilities and a new title as a Trusteeship and Human Rights Council. This would elevate the human rights concern to its proper level, remove a tremendous block of work from overburdened ECOSOC and provide effective leverage for combining and/or eliminating widely dispersed and often duplicated functions. Objections have been raised that this approach would require an amendment to the Charter of the U.N.; but there have already been three amendments, and the argument is not all that compelling. The proposal has gained early support from a number of countries.

Membership of the Security Council and the principle of unanimity

One of the issues before the Special Committee upon which the U.S. urgently needs to develop a positive policy concerns the membership of the Security Council. There is little rationale left, of course, for some States to be Permanent Members of the Council while others are not; unless, that is, the badge of permanency is nuclear weapons! And even in this case, India should immediately be granted a permanent seat. There is no present move to unseat any permanent member, nor is one likely, but there is rational pressure to find ways to provide other major powers a more comparable status within the Security Council, which would be much to the benefit of the functioning of the Council.

One of the most creative proposals for accomplishing this would add one additional seat to the Council for each world political region. That seat would be held alternatively by the major powers of the region not now permanent members, providing in a sense, a semi-permanent status. The right of veto would not be extended to the new seats (requirement of the principle of unanimity). The United States ought to consider affirmative support for such a proposal, much more realistic than its present position of supporting a Permanent Membership for a single State—Japan.

Limits to the veto

The offer of the United States in the President's Report to take part in a formal joint statement with other Permanent Members in defining areas not subject to the veto is most laudable, and should be well received among U.N. Members. While it is not feasible in the near future to consider abolishing the veto, its abuse by some Members has led to justified appeals for its limitation to certain classes of questions, and Permanent Members should be prepared to respond constructively to this appeal.

A word on the United States in negotiations

1. The spirit of the President's proposals and the Secretary of State's paper is not being carried forward with clarity in the Special Committee. Not all negotiators can change when policies change, and the newer, present policies need and deserve better support.

2. There is a "middle element" of concerned and sober leadership within the Special Committee, which undertook the initiative of establishing the Committee and of outlining many of the major proposals before it. The United States should collaborate much more closely with this leadership than is presently the case.

3. It is not appropriate to succumb to the practice of consensus (misconstrued as unanimity) in setting aside proposals to be considered by the General Assembly. If there is wide interest, or a majority interest, such proposals should not be withheld from the Assembly.

4. The U.S.S.R. group will often go along with a measure, even one to which it has had strenuous objections, if a majority will make it clear that they are going ahead anyway (c.f.: "Common Heritage of Mankind" principle).

5. In some ways it is understandable that the U.S. advances only those proposals which it feels have a good chance of adoption. But it misses two points. There is now a reservoir of informed opinion among delegates after several years discussions. Proposals which might not have been understood or accepted at one time might be accepted now. Further, the United States has a responsibility to stake out new ground for the future, and to contribute to the education of the U.N. Members on the needed outlines and directions for a better world order. The United States should be prepared to take more positive leadership at the U.N. on the issue U.N. reform and improvement, advancing some proposals which cannot be expected to be immediately accepted.

Senator PELL. Thank you very much, Mr. Keys. Has Mr. Logue turned up yet?

U.S. DELEGATION NOT PRESSING HARD ENOUGH FOR UNITED NATIONS REFORM

I was very interested in both of your statements, and I want to pick up on this last point you mentioned. I gather you do not feel that our delegation to the United Nations is pressing hard enough on United Nations reform.

Mr. KEYS. Well, I treated this rather tenderly and will try to do so. The representative on the Committee is a junior person.

Senator PELL. Who is he?

Mr. KEYS. His name is Mr. Rosenstock. We do feel that it would be useful if a more senior member could be representing the United States on that Committee.

Senator PELL. He is not one of the President's 10 representatives?

Mr. KEYS. Excuse me?

Senator PELL. Is he one of the 10 representatives of the President on the U.S. delegation?

Mr. KEYS. No; he is a legal staff officer in the U.S. Mission.

Senator PELL. Right. I would like to ask Mr. Maynes, who do we have as the delegate covering this subject?

Mr. MAYNES. Well, Ambassador Leonard was the Ambassador.

Senator PELL. Is one of the committees of the General Assembly responsible for U.N. reform issues?

Mr. MAYNES. No.

Senator PELL. It is not?

Mr. MAYNES. You are talking about the Charter Review Committee. Mr. Rosenstock, who is a class II officer, is our representative and has been for some time.

Senator PELL. I see. So, his area does not come under the purview of any of the six committees of the General Assembly.

Mr. MAYNES. He would be reporting to Committee 6, which is the Legal Committee.

Senator PELL. Who is our representative on that?

Mr. MAYNES. Mr. Reis, who is Mr. Rosenstock's superior, is our representative on that. He is the senior legal adviser for the mission.

Senator PELL. We have five representatives and five alternate representatives, do we not, at the General Assembly?

Mr. MAYNES. That is right.

Senator PELL. Which one of those is assigned to Committee 6?

Mr. MAYNES. Committee 6, because it is the legal committee, has always been handled by legal scholars from the Department or from inside the mission. If there happens to be an issue where a major statement has to be made, the Ambassador might be detailed to give that statement. But the work of the Committee, which is legal, requires legal skills. So, we have Mr. Reis and Mr. Rosenstock to cover that work.

Senator PELL. In other words, none of the President's representatives would be on it.

Mr. MAYNES. If there is a major policy statement to be made, one of the representatives might deliver it; but the actual work is done by Mr. Reis or Mr. Rosenstock.

Senator PELL. Which one of our delegates or alternates is assigned to Committee 6, or is any of them?

Mr. MAYNES. They are assigned by subcommittee, not by committee.

Senator PELL. Mr. Hoffmann?

Mr. HOFFMANN. It is my understanding that some of the public delegates are assigned to certain of the committees, but none of them to Committee 6, to my knowledge.

Senator PELL. I was delegate to the General Assembly and, as I recall, each of the delegates was assigned to a different committee. I do not think anyone was assigned to Committee 6.

Mr. MAYNES. We have started assigning people to subcommittees, rather than committees.

Senator PELL. I see Mr. Logue has joined us. If you would care to make your presentation now, please do so, and then we will go on with the questions.

STATEMENT OF DR. JOHN J. LOGUE, DIRECTOR, WORLD ORDER RESEARCH INSTITUTE, VILLANOVA UNIVERSITY, VILLANOVA, PA.

Mr. LOGUE. I will make a very brief statement based on the prepared statement which I request appear in the record. My name is John Logue, I am director of the World Order Research Institute of Villanova University and associate professor of political science at that university. My prepared statement includes a somewhat larger biography.

[The following information was subsequently supplied.]

SUPPLEMENTAL INFORMATION SUPPLIED BY DR. LOGUE

My brief statement will focus on a proposal now before the United Nations Conference on the Law of the Sea which would give the United Nations a new and important source of revenues, i.e. autonomous revenue. As you know, President Carter's report on the Reform and Restructure of the U.N. System suggested that careful consideration be given to proposals for autonomous revenue sources. The particular proposal which I will speak to would find that revenue source in the mineral wealth of the oceans. While most of the revenue in the plan I will speak to would not be given to the U.N., a significant portion would. However, the funds given directly to states to assist their economic development would also have an important and beneficial effect on the international system and would strengthen the capacity of the United Nations to build and maintain peace.

My testimony will be concerned with a strategy for strengthening the capacity of the United Nations to build and maintain peace and economic and social justice. A key part of that strategy is a proposal which Nepal and eight other nations introduced into the Law of the Sea Conference during last summer's New York session of the Law of the Sea Conference. This proposal is known as the Common Heritage Fund Proposal, or CHF proposal.

I have appended to this statement the 135-word text of the proposal. It takes the form of two amendments, to the draft Law of the Sea Treaty now before the Law of the Sea Conference—that is the Informal Composite Negotiating Text, or ICNT/Rev. 1.

I am also appending a copy of the September 1979 issue of Common Heritage, which is the name of our institute's newsletter. The issue is devoted entirely to the CHF proposal. It summarizes some of the arguments for and against the proposal which were made by the 30 nations who spoke on it during the New York session of last summer. It also includes a good part of the speech on the CHF proposal which the chairman of the Nepal delegation, Shailendra Upadhyay gave in negotiating group 6.

In brief, the purpose of the CHF proposal is to harness a small but significant portion of the immense mineral wealth of the oceans to five international community purposes. One of those purposes is to support programs of the United Nations. The others are to assist the development plans of developing nations; to help fund the fight against ocean pollution; to assist the transfer of marine technology; and to help finance the Enterprise which is, as you know, the name of the operating arm of the proposed International Seabed Authority.

Let me stress that the Common Heritage Fund's revenues would come from offshore mineral wealth as well as from the mineral wealth of the deep ocean. This is important because, as everyone knows, the

overwhelming proportion of ocean mineral wealth is found within the proposed 200-mile exclusive economic zone—or EEZ—which in some form, will become part of the final Law of the Sea Treaty. Nepal estimates that the annual income of the Common Heritage Fund may reach $4 billion a year in the near future and considerably more in the years to come. Of that $4 billion, the U.S. annual required contribution might reach $400 to $500 million a year.

Certainly, $400 or $500 million a year is a substantial sum. However, it is important to stress that it would be matched by approximately nine times that amount from other countries, in all, this would mean some $4 or $5 billion a year regular revenues for international community purposes. It is worth mentioning that in "real dollars" that $500 million required annual contribution from the United States is only one-thirtieth the amount which Congress appropriated in each of the several years for the Marshall Plan. An average annual appropriation was $5 billion a year. But that dollar of the late forties was worth approximately three times the dollar of the late seventies. Finally, it is worth mentioning that the mineral wealth which the sponsors of the CHF proposal are asking coastal states to share was, under traditional international law, the "common property" of mankind and not the property of any nation. Even with the CHF proposal the United States would get an immense amount of that "common property" as its own property which it agreed to give a small portion of that wealth to the Common Heritage Fund for the aforementioned purposes. In my judgment that would be a great bargain.

I realize that I have already said enough about the CHF proposal to move skeptics to dismiss champions of the proposal as "utopians" with no sense of political reality. Let me offer my own opinion that the champions of the CHF proposal are the most realistic people in the Law of the Sea Conference. While their proposal is obviously very desirable in its own terms, it has the additional merit that it would—or so I believe—help the Law of the Sea Conference reach accommodation on the issue on which it has been stalled for more than 3 years, the nature and powers of the proposed International Seabed Authority. But most important, the proposal would make a major contribution to improving the international political situation and to reconciling nations, east and west, north and south.

I have already spoken about the content and rationale of the proposal; I want to add that there is substantial sup ort for the proposal outside the Law of the Sea Conference. Last year, an international committee was formed to educate public opinion to the idea. Known as Common Heritage International, the committee is chaired by Arthur Lall, former Indian Ambassador to the United Nations, and has prominent citizens from 28 nations on it, for example, Nobel Prize winners Jan Tinbergen of the Netherlands, Sean MacBride of Ireland, Charles Yost, former Ambassador to the United Nations, Rev. Theodore Hesburgh, president of Notre Dame, Arvid Pardo, former Maltese Ambassador to the United Nations.

Early this year, a resolution was introduced in the U.S. House of Representatives which can help focus attention on the CHF proposal. This Common Heritage Fund Sense Resolution—House Resolution 18—was introduced by Congressman Robert Edgar of Pennsylvania. It is my hope that the House will schedule hearings on House Reso-

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lution 18 in the near future, and that a similar resolution will be introduced in the Senate and be followed by appropriate hearings.

In my judgment the CHF proposal is especially significant because it addresses itself to a central weakness of the United Nations, its lack of any substantial sources of revenue. In San Francisco 34 years ago, we dedicated the United Nations to many high purposes. But since that time we have given the United Nations almost no funds. Somewhere in the Federalist Papers Alexander Hamilton said, "You do not truly will an end, an objective, a purpose unless you will the means to the accomplishment of that purpose." The world spends approximately $400 billion a year for armaments and approximately $4 billion a year for the United Nations. Obviously, we do not will the means to the accomplishment of the goals stated in the United Nations Charter. The CHF proposal could change that.

Of course, one can argue that any increase in United Nations financing must await a major reform and restructure of the whole United Nations system; or one can argue that it should await more responsible behavior on the part of the United Nations' General Assembly These arguments raise a fundamental question of strategy, namely, which comes first, adequate United Nations funding or a change in United Nations structure and/or behavior? I wish that restructure or good behavior would come first, but I do not think they will. For example, although a change in the one nation-one vote rule would be very desirable, most small states and ministates are unwilling to yield · greater share in United Nations decisionmaking power to the larger states. One can argue that they should be willing to do so. However I think they will not do so, at least not in the near future.

In my judgment it is foolish to give up on the United Nations. It is foolish to entrust our security to the mad race for armaments which, unless it is stopped, will surely destroy the world. In my judgment, it is equally foolish to spend a great deal of time designing a perfect structure for the United Nations, but litt'e if any time on asking how we get "there" from "here".

How do we get "there" from "here"? In my view, the Common Heritage Fund proposal is one way and a very practical way, of getting from here to there. It would be a modest but very significant experiment in building community, in building institutions, in building trust. For me the obvious analogies are the European Coal and Steel Community and the European Economic Community which have done a remarkable job in Western Europe. Those institutions started modestly and slowly. There were many points at which the member nations could turn back. Indeed, they can still turn back. But these two institutions and the nations which are members of them have done a tremendous work of building peace, prosperity, and interdependence, and making good friends of nations which were bitter enemies a short time ago. In my opinion, an imaginative approach to the Law of the Sea Conference would do a similar job of building peace and prosperity, interdependence and trust in the world of tomorrow.

Some Senators may regard the Common Heritage Fund proposal as an exotic idea. In a way it is, but Congress is beginning to take seriously ideas involving exotic sources of energy. Congress takes them seriously because the energy shortage is real; because it is acute; because it is potentially fatal. Mr. Chairman, the arms race is real. It is acute. It is

potentially fatal. No one should be distracted by the charge that the CHF proposal is exotic or unrealistic. Instead we should take a really serious look at the proposal.

In conclusion, I would urge the Committee on Foreign Relations to schedule one or more hearings at which they can take a close look at the CHF proposal. I am sure that the proposal could be improved. Its sponsors have indicated that they welcome any constructive suggestions. The CHF proposal is worth looking into because it may show how we can get away from the present mad race for armaments and build a United Nations which has the authority and the power to keep the peace, and to promote liberty and justice for all.

Mr. Chairman, I am submitting copies of my testimony and some appended materials to you.

[Mr. Logue's prepared statement follows:]

PREPARED STATEMENT OF DR. JOHN J. LOGUE

My name is John J. Logue, I am Director of the World Order Research Institute of Villanova University and an Associate Professor of Political Science at that university. I should add that in November our institute's name will become the Common Heritage Institute. My brief statement will focus on a proposal now before the United Nations Conference on the Law of the Sea which would give the United Nations a new and important source of revenue, i.e. autonomous revenue. As you know President Carter's recent Report on the Reform and Restructure of the U.N. System suggested that careful consideration be given to proposals for autonomous revenue sources. The particular proposal which I will speak to would find that revenue source in the mineral wealth of the oceans. While most of the revenue in the plan I will speak to would *not* be given to the U.N., a significant portion would. However, the funds given directly to states to assist their development would also have an important and beneficial effect on the international system and would strengthen the capacity of the United Nations to build and maintain peace.

Before going on it may be relevant to say that I have spent a good part of the last nine years reading, researching, writing and educating about the important issues before the Law of the Sea Conference. I have attended every session of the six year old conference and I am personally acquainted with hundreds of law of the sea delegates from every part of the world. I have lectured on the law of the sea in sixteen countries, including Kenya, India, Mexico, Iceland and the United Kingdom. I will add that I have been interested in the question of strengthening the United Nations ever since it was founded. In November of 1978 I was program chairman of the very successful Mid-Atlantic Conference on President Carter's Report on the Reform and Restructure of the United Nations System. Sponsored by more than thirty groups, the Conference attracted more than 350 persons to its three days of meetings. We expect to publish the Proceedings of the Conference in January of next year.

My brief testimony will be concerned with a strategy for strengthening the capacity of the United Nations to build and maintain peace and economic and social justice. A key part of that strategy is an imaginative proposal which Nepal and eight other nations introduced into the Law of the Sea Conference during last summer's New York session of that Conference. It is known as the "Common Heritage Fund Proposal" or "CHF Proposal." I have appended to this statement the 135-word text of the CHF Proposal. It takes the form of two amendments to the draft law of the sea treaty now before the Conference, i.e., the Informal Composite Negotiating Text/Revision 1 (ICNT/Rev.1).

I am also appending a copy of the September 1979 issue of *Common Heritage*, which is the name of our Institute's newsletter. The issue is devoted entirely to the CHF Proposal. It summarizes some of the arguments for and against the proposal which were made by the thirty nations who spoke on it during that New York session of last summer. It also included a good part of the speech on the CHF Proposal which the chairman of the Nepal Delegation, Shailendra Upadhyay, gave in Negotiating Group 6.

In brief, the purpose of the CHF Proposal is to harness a small but significant portion of the immense mineral wealth of the oceans to five international community purposes. One of these purposes is to support programs of the United Nations. The others are: to assist the development plans of developing nations, to help fund the fight against ocean pollution, to assist the transfer of marine technology and to help finance the Enterprise which is, as you know, the name of the operating arm of the proposed (International Seabed) Authority. Let me stress that the Fund's revenues would come from offshore mineral wealth as well as from the mineral wealth of the deep ocean. This is important because, as everyone knows, the overwhelming proportion of ocean mineral wealth is found within the proposed 200-mile exclusive economic zone (EEZ) which, in some form, will become part of the final law of the sea treaty. Nepal estimates that the annual income of the Fund may reach four billion dollars a year in the near future and considerably more in the years to come. Of that four billions the U.S. "annual required contribution" might reach four or five hundred million dollars a year.

Certainly four or five hundred million dollars a year is a substantial sum. However it is important to stress that it would be matched by approximately nine times that amount from other countries. In all, this would mean some four or five billion dollars a year of regular, assured revenues for international community purposes. It is worth mentioning that in "real dollars" that 500 million dollar required annual contribution from the U.S. is only 1/30 the amount which Congress appropriated in each of several years for the Marshall Plan. An average annual appropriation in those years was five billion dollars. But that dollar of the late forties was worth approximately three times the dollar of the late seventies. Finally it is worth mentioning that the mineral wealth which the sponsors of the CHF Proposal are asking coastal states to share was, under traditional international law, the "common property" of mankind and not the property of *any* nation. Even with the CHF Proposal the United States would get an immense amount of that "common property" as its own property by agreeing to give a small portion to the Common Heritage Fund for the aforementioned purposes. In my judgment that would be a great bargain.

I realize that I have already said enough about the CHF Proposal to tempt you to dismiss its champions as utopians who have no sense of political reality. Let me offer my own opinion that the champions of the CHF Proposal are the most realistic people in the Law of the Sea Conference. While their proposal is obviously very desirable in its own terms it has the additional merit that it would, or so I believe, help the Law of the Sea Conference get an acceptable treaty. It would help it reach an accommodation on the issue on which it has been stalled for more than three years, i.e. the nature and powers of the proposed Authority. And, most important, the proposal would make a major contribution to improving the international political situation by reconciling nations East and West, North and South.

I have already spoken enough about the content and rationale of the CHF Proposal. I want to add that there is substantial support for the proposal outside the Law of the Sea Conference. Last year an international committee was formed to educate public opinion to the Common Heritage Fund idea. Known as Common Heritage International, the committee is chaired by Arthur Lall, former Indian Ambassador to the United Nations. Among its members are prominent citizens of some 28 nations. They include Nobel Prize winners Jan Tinbergen of the Netherlands and Sean MacBride of Ireland; former U.S. Ambassador to the UN Charles Yost; the President of the Club of Rome, Aurelio Peccei; political scientist, Hans Morgenthau; Maurice Strong, founding director of the UN Environment Program; Minasse Haile of Ethiopia, former chairman of the Council of Ministers of the Organization of African Unity; Arvid Pardo of Malta, the "father of the Law of the Sea Conference;" Rev. Theodore Hesburgh, President of the University of Notre Dame; and Leacroft Robinson, the Chief Judge of the Court of Appeals of Jamaica.

Fortunately a resolution has been introduced in the U.S. House of Representatives which can help to focus attention on the CHF Proposal. Early this year Congressman Robert Edgar (D., Pa.) introduced a Common Heritage Fund Sense Resolution, H. Res. 18 which would put the House on record as favoring the CHF idea. It is my hope that the House will schedule hearings on that resolution in the near future and that a similar resolution will be introduced in the Senate and have appropriate hearings. I have appended a copy of the Edgar

Resolution to my testimony together with a copy of the statement which Congressman Edgar made when he introduced it for the first time in August of 1978.

The CHF Proposal is especially significant because it addresses itself to a central weakness of the United Nations, its lack of any substantial sources of revenue. Thirty-four years ago the founding members of the United Nations dedicated the organization to many high purposes, not least among them, "to save succeeding generations from the scourge of war." But this year, some 34 years later, the nations of the world are spending almost 400 billion dollars a year for armaments and only about four billion dollars a year for the United Nations. Somewhere in the Federalist Papers Alexander Hamilton said that 'You do not truly will an end, an objective, a purpose unless you will the means to the accomplishment of that purpose.'

We have not willed the means which would enable the UN to keep the peace. But ocean mineral wealth could and should be a major portion of that means. With it the UN could do much more to accomplish the high purposes it was dedicated to in San Francisco.

Of course one can argue that any increase in UN financing must await a major reform and restructure of the whole UN system Or one can argue that it should await more responsible behavior on the part of the General Assembly. These considerations raise a fundamental question of strategy, namely, which comes first, adequate UN funding or a change in UN structure and/or behavior? I wish that restructure—or good behavior—would come first—but I don't think either will. For example although a change in the one nation-one vote rule would be very desirable, most small states and mini-states are unwilling to yield a greater share in UN decision-making power to the large states. One can urge that they should be willing to do so and that that is the only way to get the large states to give real power and adequate financing to the United Nations. However I think the small states are too suspicious to do this, at least in the near future. They believe, and with considerable reason, that the big powers—and especially the superpowers—don't really want a stronger UN.

In my judgment it is foolish to give up on the United Nations. It is foolish to entrust our security to the mad race for armaments which, unless it is stopped, will surely destroy the world. But it is equally foolish to spend a great deal of time designing a perfect structure for the UN but little if any time on asking how we get there from here.

How do we get there from here?

In my view the Common Heritage Fund Proposal is one way, a very plausible way, of getting from here to there. The CHF Proposal would be a modest but very significant experiment in building community, in building institutions, in building trust. For me the obvious analogies are the European Coal and Steel Community and the European Economic Community which have done such a remarkable job in Western Europe. Those institutions started modestly and slowly. There were many points at which the member nations could turn back. Indeed they can still turn back. But these two institutions—and the nations which are members of them—have done a tremendous work of building peace, prosperity and interdependence and making good friends of nations which were bitter enemies a short time ago. In my opinion an imaginative approach to the Law of the Sea Conference could do a similar job of building peace and prosperity, interdependence and trust in the world of tomorrow.

Some Senators may regard the Common Heritage Fund Proposal as an exotic idea. In a way it is. But Congress is beginning to take seriously ideas involving exotic sources of energy. Congress takes them seriously because the energy shortage is real, because it is acute, because it is potentially fatal. Mr. Chairman, the arms race is real. It is acute. And it is potentially fatal. No one should be distracted by the charge that the CHF Proposal is exotic or unrealistic. Indeed we should take a really serious look at the proposal.

In conclusion, I would urge the Committee on Foreign Relations—and particularly this Subcommittee—to schedule one or more hearings at which you can take a close look at the CHF Proposal. I am sure that the proposal can be improved. Its sponsors have indicated that they welcome any constructive suggestions.

The CHF Proposal is worth looking into because it may show how we can get away from the present mad race for armaments and build a United Nations with the authority and the power to keep the peace and to promote liberty and justice for all.

Attachments.—Sept. 1979 issue of *Common Heritage* (including text of CHF Proposal); Text of H. Res. 18, the (Edgar) Common Heritage Fund Sense Resolution; Statement of Beliefs and Purposes' of Common Heritage International;

August 10 letter to President Amerashinghe of Law of Sea Conference asking that CHF Proposal be considered in detail (Signers are from 17 countries.); Logue article "The Nepal Proposal for a Common Heritage Fund" in the Summer 1979 issue of the *California Western International Law Journal.*

[From the Congressional Record, Aug. 11, 1978]

A Common Heritage Philosophy for the Law of the Sea

Mr. Edgar. Mr. Speaker, today I am introducing H. Res. 1312 (now H. Res. 18), the Common Heritage Fund Sense resolution. The major objective of this resolution is to put the House on record as favoring the establishment of a "Common Heritage Fund" as part of the Law of the Sea Treaty now under negotiation in the United Nations Conference on the Law of the Sea. As you know, that giant conference is well into its 5th year. Immediately ahead is a 4-week—August 21 to September 15—working session in New York City.

The purpose of the proposed Common Heritage Fund would be to insure that a significant portion of the trillions of dollars of ocean mineral wealth, both offshore and in the deep ocean, is regarded as "the common heritage of mankind" and used "to assist developing nations, to fight pollution and to assist in some measure the work of the United Nations, especially in the area of peacekeeping."

For those who have followed the Law of the Sea Conference, the phrase "common heritage of mankind" is a familiar one. However, its precise meaning has been in dispute for more than 10 years, since Ambassador Arvid Pardo of Malta used the phrase in his historic address to the United Nations General Assembly on November 1, 1967. But there is, I think, broad agreement that the phrase "common heritage" implies that the new law of the sea must in some way reflect and improve upon the traditional view that, except for a narrow territorial sea, the oceans and their resources are either "common property" or "no one's property."

A central question in the Conference is: "Where does the common heritage begin?" Does it begin just beyond a 3-mile territorial sea? Or a 12-mile territorial sea? Or does it begin 200 miles out? Or even further out? This is an absolutely basic question because in dollar value, the overwhelming proportion of exploitable ocean mineral wealth is within 200 miles of shore. Indeed, the value of that "within 200" mineral wealth is estimated to be $30 trillion.

The conventional answer to my question is that the principle of the common heritage does not begin to apply until at least 200 miles from shore. That is the position taken in the treaty text now before the Conference, the informal composite negotiating text (ICNT). The practical result of that treaty will be to give the coastal States—and especially a fortunate few among them—all of that immense off-shore wealth. It is not surprising that Dr. Pardo has characterized the resource zone provided for in the treaty as a "monumental grab for riches, unprecedented in world history." With it, he has said, "the rich get richer, the poor remain poor and the landlocked countries which, with few exceptions, are the poorest of the poor, become poorer."

The dimensions of this great "sea grab" are becoming ever more clear. A recent study examines "who gets what" as a result of the 200-mile exclusive economic zone (EEZ) provided for in the treaty. This study shows that of some 25 million square nautical miles of EEZ awarded by the treaty, more than half, that is, 53 percent, will go to 10 nations, 6 of them already very rich. Third World states are beginning to see that in its present form, the EEZ hurts the Third World much more than it helps.

Mr. Speaker, I do not believe that the Members of this House should remain silent about this great sea grab, the arbitrary exclusion of the real ocean wealth from the common heritage. I realize that the administration believes, and many learned commentators believe, that it is too late to stop that grab, and that it is too late to revive the common heritage and give substance to it. Perhaps it is too late. But I think we should try, for the issues at stake are momentous issues.

A real common heritage would not only be worthwhile in its own terms, but it might also do much to revive the faltering Conference. For while some delegates say it is too late to restore the common heritage, another view is beginning to be heard in the Conference. That view holds that unless the great sea grab is reversed, the Conference will remain deadlocked. This view holds that the steady erosion of the common heritage is making the Conference more radical, more ideological. It is making the Third World less willing to compromise on such important issues as the nature and powers of the International Seabed Authority and the sharing of the living resource off coastal states with neighboring landlocked developing

states. This alternative view finds great merit in the bold and imaginative Common Heritage Fund proposal which the delegation of Nepal introduced at the spring session of the Law of the Sea Conference in Geneva.

Mr. Speaker, the resolution I am introducing would provide for some sharing of the mineral wealth within 200 miles of shore, that is, some sharing of that wealth with the international community. In a word, it would state that there is a common heritage dimension to that offshore wealth and a common heritage claim on some portion of it.

I believe that a thorough discussion of this resolution would make a major contribution to clarifying some of the great issues before the Law of the Sea Conference, issues which are of immense importance to mankind. And I think that would be a very healthy thing.

I am sure that I speak for many Members of the House when I say that in my view the issues before that Conference urgently need clarification. It is my impression that many of those issues are being discussed in a language so technical that most Members, including myself, find it very hard to follow the discussion, much less take part in it. Yet what is at stake in that Conference is the fate of the oceans and with it, as Thor Heyerdahl reminds us, the fate of mankind.

It is for this reason that I would urge that this resolution go directly to the House International Relations Committee and that that committee hold hearings on it. Those hearings could be and should be the occasion for a broad-ranging inquiry into U.S. ocean policy and how it relates to our ideals and objectives as a Nation. All too often congressional action involving the oceans begins in specialized committees and takes the form of very specialized legislation, for example, on fishing limits, on deep sea mining, on tanker catastrophes. The House International Relations Committee and the Senate Foreign Relations Committee are forced to comment on finished products of other committees which, capable as they are, necessarily look at ocean policy from rather specialized points of view.

Mr. Speaker, it may well be that a bolder and more imaginative approach to the ocean problem will yield similar results but on a much larger stage, that is, the world as a whole. For if the nations of the world can work together to save the oceans and to use their resources to build development and peace, the world will have taken a giant step forward.

It may be that the Common Heritage Fund suggested in this resolution will help achieve these high purposes. In my view, it is at least worth a close look.

The Edgar Common Heritage Fund Sense Resolution

(Congressman Robert Edgar of Pennsylvania, D., originally introduced this resolution late in the 1978 session. He reintroduced it in January 1979 as House Resolution 18.)

[H. Res. 18, Expressing the Sense of the House of Representatives With Respect to the United Nations Conference on the Law of the Sea and Urging the Establishment of a Common Heritage Fund]

Whereas, the vitally important United Nations Conference on the Law of the Sea is now well into its fifth year; and

Whereas, impatience with the progress of the Conference has helped precipitate further unilateral claims to ocean resources and jurisdiction by a number of coastal States; and

Whereas, recent marine disasters have underlined the need for an international treaty to protect the oceans' ecological system, to preserve marine species, and to reconcile the many competing uses of the marine environment; and

Whereas, the development of effective international institutions to deal with important aspects of the ocean problem will help build experience in and sentiment for world community and world peace; and

Whereas, the trillions of dollars of ocean mineral wealth, almost all of which was traditionally regarded as "common property" or as "no one's property" could provide a major source of assistance to Third World development, to peacekeeping, and to the protection of the oceans against the growing menace of marine pollution; and

Whereas, the Delegation of Nepal recently introduced a proposal into the Law of the Sea Conference which would establish a Common Heritage Fund which would use a significant share of those revenues for those very worthwhile objectives: Now, therefore, be it

Resolved, That it is the sense of the House of Representatives that—

(1) the United States should continue to work to achieve agreement on a comprehensive and broadly supported law of the sea treaty;

(2) such a treaty should assure the protection of such traditional law of the sea freedoms as freedom of navigation and freedom of research while, at the same time, providing protection for the marine environment and for marine species threatened with depletion;

(3) an international seabed or ocean authority should be established to regulate the exploitation of deep ocean minerals in an equitable manner, with appropriate roles for private, national, and international entities;

(4) a significant portion of ocean mineral revenues, both offshore and in the deep ocean, should be regarded as "the common heritage of mankind" and used in a "Common Heritage Fund" to assist developing nations, to fight pollution, and to assist in some measure, the work of the United Nations, especially in the area of peacekeeping; and

(5) the House of Representatives welcomes the recent initiative of Nepal in proposing the establishment of such a fund.

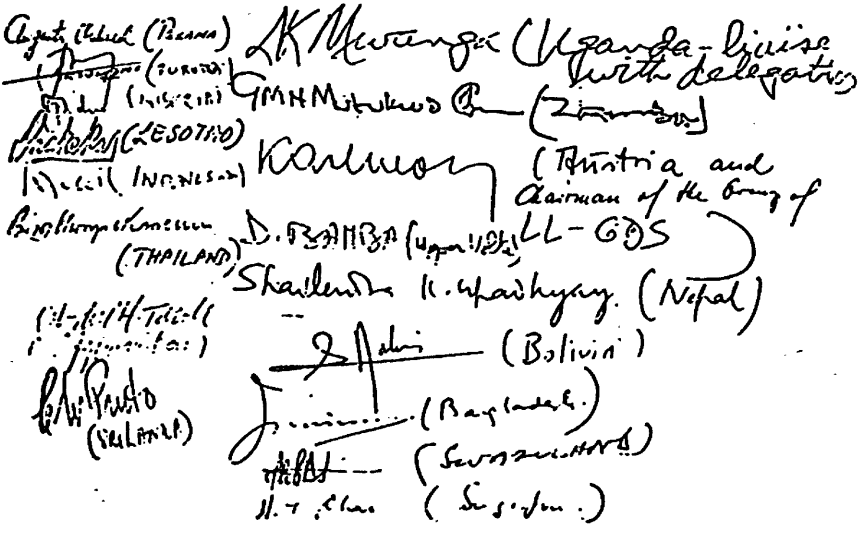
AUGUST 10, 1979.

His Excellency the President of the Third United Nations Conference on the Law of the Sea, United Nations, New York, N.Y.

EXCELLENCY: We the undersigned representatives beg to draw your attention to document A/CONF. 62/65 Rev. 1 which seeks to establish a Common Heritage Fund in a manner which we believe the Conference will be willing to consider.

We, therefore, request you very kindly to assign this proposal in its revised form to one of the existing negotiating groups or to a new negotiating group, whichever course you may deem appropriate.

With the assurances of our highest consideration.



Signatories of the letter to the President

1. H.E. Mr. Louis K. Mwagaguhunga—Chairman of Delegation—Uganda
2. Mrs. Gladys M. Mutukwa—Zambia
3. H.E. Dr. Karl Wolf—Chairman of Delegation—Austria
4. M. Dimbon Bamba—Upper Volta
5. Mr. Shailendra K. Upadhyay—Leader of Delegation—Nepal
6. H.E. Dr. Sergio Palacios de Vizzio—P. R. of Bolivia
7. H.E. Mr. K. M. Kaiser—Chairman of delegation—Bangladesh
8. Mr. Ph.B. Dlamini—Counsellor—Swaziland
9. Mr. Hick Tin Chao—Vice-Chairman of Delegation—Singapore
10. Mr. Augusto Villarreal—Panama
11. M. Benoit Seburyamo—Burundi
12. Mr. M. O. Adio—Nigeria
13. H.E. Mr. T. Makeka—Chairman of Delegation—Lesotho
14. Dr. Hasjim Djalal—Third Vice-Chairman of Delegation–Indonesia
15. Dr. M. L. Birabhongse Kasemsri—Vice-Chairman of Delegation—Thailand
16. H.E. Dr. Abdul Hakim Tabibi—Chairman of Delegation—Afghanistan
17. H.E. Mr. C. W. Pinto—Vice-Chairman of Delegation—Sri Lanka

TO SAVE THE SEAS

and use their wealth

for all mankind

common heritage international

EL PRINCIPIO DEL PATRIMONIO COMMUN.....LE PATRIMOINE COMMUN DE L'HUMANITE

THE COMMON HERITAGE OF MANKIND....."人类共同继承财产"

общего наследия человечества..... تراث مشترك للانسانية

[Issued at U.N. Press Conference, Aug. 22, 1978]

STATEMENT OF BELIEFS AND PURPOSES OF COMMON HERITAGE INTERNATIONAL

Common Heritage International is a committee of men and women from many nations and many backgrounds. We share a common belief that the resources of the oceans should be regarded as "the common heritage of mankind" and used to aid Third World development, to protect the marine environment, and to assist the work of the United Nations to build a world of peace and justice. In our view,

the ongoing Third United Nations Conference on the Law of the Sea furnishes a great opportunity to use those resources for those objectives. The purpose of our committee is to educate public opinion to that opportunity.

We believe that a significant portion of ocean mineral wealth, both offshore and in the deep ocean, should be used for each of the objectives we have stated. We believe that a Common Heritage Fund based on those revenues could make a major contribution to reconciling nations East and West, North and South, as they work together in a common effort to save the seas and use their resources to build a better world.

Although the hour is late, we believe there is still time to make the Law of the Sea Conference a major turning point in the struggle to build a new and more just economic and political order, to protect the gravely threatened marine environment, and to preserve endangered marine species. But for this to happen the Conference must recover the vision that inspired its launching, the vision of the oceans as the common heritage of mankind. More particularly, it must apply the concept of the common heritage to the thirty trillion dollars of offshore mineral resources, since the deep ocean mineral wealth will not be a major source of income for many decades.

We believe that common heritage contributions should be in proportion to the per capita income of the coastal state as well as to the amount of its offshore revenues. Thus, the richest states would have to contribute the most. The largest share of development assistance should go to the poorest states. We believe the Fund should be an integral part of the law of the sea treaty now under negotiation.

We realize that some coastal states will be reluctant to share any of the resources off their shores. Yet we would urge them to remember than under traditional international law, all of the resources within the proposed 200-mile exclusive economic zone were either "common property" or "no one's property." And we must point out that if the coastal states are to get all of that immense treasure, the major beneficiaries will be a handful of rich states. The overwhelming majority of poor states would get little or nothing of that offshore mineral wealth.

Common Heritage International warmly welcomes the Nepal Proposal for a generously financed Common Heritage Fund as part of the law of the sea treaty. We especially approve the Proposal's philosophy that the richest states should make the largest contributions to the Fund from their exclusive economic zones and the poorest states should get the most help from the Fund. In our view, adoption of the Nepal Proposal could make a major contribution to healing the divisions in our troubled world and building that new and more just economic and political order which is an essential step toward achieving a just and lasting peace.

We urge men and women in every country to acquaint themselves with the important work of the Law of the Sea Conference and with the Nepal Proposal in particular. We urge them to make their views known to their delegates and the governments whom they represent. In our view, an informed and concerned public opinion can put a new wind in the sails of the great Conference and help speed it to its goal. We hope that men and women everywhere will urge the delegates to raise their sights and their sails.

Chairman: Arthus Lall, former Ambassador of India to the United Nations; Arvid Pardo, Malta, "Father of the Law of the Sea Conference", former Ambassador of Malta to the UN; Jan Tinbergen, Netherlands, Nobel laureate in economics; Norman Cousins, U.S.A., Board Chairman, Saturday Review, Pres., World Federalists Assoc.; Maurice Strong, Canada, founding Director UN Environment Program; Shailendra Upadhyay, Nepal, former Ambassador from Nepal to the UN; Aurelio Peccei, Italy, President, the Club of Rome; David MacDonald, M.P., Canada; Charles Yost, U.S.A., former U.S. Ambassador to the UN, Aspen Institute; Anne S. Walker, Fiji, Director, International Women's Tribune Center, Inc.; Bengt Hubendick, Sweden, Dir., Natural History Museum, Gothenberg; Major General Indar Jit Rikhye, India, Pres., International Peace Academy, former Commander UN Emergency Force; Hans J. Morgenthau, U.S.A., Emeritus Professor of Political Science, University of Chicago; Albert Seidl, Canada, Master, Barba Negra; Lord Ritchie-Calder, United Kingdom; John J. Logue,* U.S.A., Dir., World Order Research Institute; Willem Deswarte, Belgium, former Pres., Sabena Airlines; Bernard G. Segal, Esq., U.S.A., former Pres., American Bar Assoc.; Zlatibor Milovanovic, Yugoslavia, political scientist; Dr. Minasse Haile, Ethiopia, former Chairman, Council of Ministers of the Organization of African Unity; Johan Galtung, Norway, University of Oslo;

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Frank Barnaby, Sweden, Dir., SIPRI; David Knox, M.P. United Kingdom; Keith D. Suter, Australia, Political Science Dept., University of Sydney; Rev. Theodore Hesburgh, C.S.C., U.S.A., Preisdent, University of Notre Dame; Elisabeth Mann Borgese, U.S.A., Chairman, International Ocean Institute; Sean MacBride, Ireland, Pres., Amnesty International, Nobel Peace Prize; Francis Auburn, New Zealand, Prof. of Law, University of Auckland; Ashraf Nadoury, Esq., Egypt, Lecturer, University of Cairo; Dr. Max Habicht, Switzerland, Honorary Chairman, World Federal Authority Committee; Guy Marchand, France, Coordinator, World Citizens Movement; Mihai Bacescu, Rumania, Dir., Museum of Natural History; Patsy Takemoto Mink, U.S.A., Ass't Secretary of State for Ocean Affairs in '77–78; Sergio Palacios de Vizzio, Bolivia, Ambassador to the U.N.; Gunnlauder Thornallsen, Esq., Iceland; Hermod Lannung, Denmark, President, World Assoc. of World Federalists; S. Ambalavaner, Esq., Sri Lanka, World Peace through Law Committee; Justice Syed Muhammad Husain, Pakistan Supreme Court; Hon. Leacroft Robinson, Jamaica, Chief Judge, Court of Appeals.

The Barba Negra, pictured on the reverse side, is the symbol of Common Heritage International. Built as a whaler in Norway in 1896, the beautiful barkentine was recently refitted and refurbished by two Canadians, Albert Seidi and Gary Schisow. The ship sailed in the 1976 Bermuda to Newport race and in Operation Sail, the visit of tall ships from all over the world to New York City on July 4, 1976. UN Law of the Sea delegates from some thrity-five countries have sailed on one or more of her three "Interdependence Sails." On one of them they adopted a "Barba Negra Appeal" to the Law of the Sea Conference, subsequently signed by many famous people.

(Update: During the summer 1979 meetings of the Conference in New York the campaign for a Common Heritage Fund (CHF) gained new support. Nine nations, including Nepal, introduced a revised version of the original (1978) CHF proposal. Seventeen nations—some coastal, some landlocked—petitioned the Conference President, asking him to assign it a Conference Negotiating Group. He did so. In Negotiating Group 6 and in Committee II some thirty nations took part in a wide-ranging discussion of it. At the 1980 Session of the Conference (New York, March 3–April 3, and Geneva, July 28–August 29) the CHF Proposal will be an important subject of discussion. Its advocates believe that it can help the Conference reach agreement on an acceptable law of the sea treaty.)

[From the World Order Research Institute, of Villanova University, No. 33, September 1979]

Common Heritage Fund Proposal Gaining Strength as Law of Sea Conference Looks to 1980 Sessions

THIRTY NATIONS DISCUSS PROPOSAL TO USE SOME OF OFFSHORE WEALTH TO HELP DEVELOPMENT, AND OTHER PURPOSES

A nine-nation Common Heritage Fund (CHF) Proposal made substantial progress in the summer '79 meetings of the United Nations Law of the Sea Conference at UN headquarters in New York City. In the last days of a busy five-week session thirty nations took part in a lively debate on whether it would be desirable and/or practical to incorporate offshore sharing in the law of the sea treaty now being negotiated in the giant 160–nation Conference.

By the end of the summer session it seemed clear that the 135–word CHF Proposal (see page 4) would be a major item for discussion in the two five-week sessions which the delegates agreed to hold in 1980: a March 3–April 3 session in New York and a July 28–August 29 session in Geneva. The delegates hope that by the end of the 1980 session they will reach their goal, i.e., broad agreement on a final draft of a comprehensive law of the sea treaty.

The new CHF Proposal, a revision of the more elaborate one which Nepal introduced in the Spring of 1978, would require coastal states to contribute a portion of their offshore mineral revenues to a Common Heritage Fund. The portion would depend on "the relative capacity of states to make such payments and contributions" and would be determined by the Council and Assembly of the proposed (International Seabed) Authority.

The Fund, which might (see p. 3) have an income of four billion dollars a year in the near future, would be used especially for Third World development. It

would also be used to fight ocean pollution, to transfer marine technology, to help the work of the United Nations and, finally, to help launch the Enterprise, i.e. the operating arm of the Authority.

WILL 1980 BE THE YEAR OF DECISION?

If the first (i.e. the New York) 1980 Session goes according to plan the Conference officers will come up with a revised treaty draft by the end of the fourth week of that session. The new draft will replace the present working draft. "ICNT/Rev. 1", i.e. Informal Composite Negotiating Test/Revision 1.

The officers may—or may not—incorporate the CHF Proposal in the new draft. In either case a "CHF amendment" is probable, i.e. to *add* it if it *isn't* in the new draft or to *eliminate* it if it *is!* It will be during the third and fourth weeks of the summer (Geneva) session that such amendments will be considered. In the long period between the two sessions national governments will have plenty of time to decide whether they want to support this effort to revive the principle of "the common heritage of mankind."

THE SUMMER '79 CHF DEBATE

Due to the lateness of the hour there was no debate on the CHF Proposal in the crowded Plenary on the last day of the New York session. However, in the lively discussions in Negotiating Group 6 and in Committee II some thirty nations spoke up on the Proposal, some for and some against it. Helping to trigger that debate was an August 10 letter to Conference President Amerasinghe from seventeen countries. The letter asked that the CHF Proposal be considered by one of the Conference's negotiating groups. Signers of the letter included seven coastal nations, among them oil rich Nigeria and Indonesia. (Signers were not thereby signifying agreement with the CHF Proposal but they were saying that the Proposal ought to be discussed.)

The debate indicated broad agreement that the objective of the CHF Proposal was a "noble" one. However opponents of the Fund, including several Latin American states, suggested that it was too late for the Conference to give serious attention to the CHF Proposal. They also argued that consideration of the Proposal might upset "the delicate balance" of compromises in ICNT/Rev. 1.

WOULD A CHF "DISTURB" OR "RESTORE" BALANCE?

Proponents took the opposite view, i.e. they suggested that the Proposal would help the Conference reach agreement on an acceptable treaty. Thus in a speech which he prepared for—but was not allowed to deliver in—the August 24th Plenary, Shailendra Upadhyay, Chairman of the Nepal Delegation, said that the CHF Proposal would *restore* balance to a treaty now heavily weighted in favor of the coastal states. The same point was made more strikingly by Ambassador Abdul Hakim Tabibi, head of the Afghanistan delegation. Urging that ICNT/Rev. 1 ignored the interests of the more than fifty landlocked and geographically disadvantaged states, the veteran diplomat said: "The Conference should not expect that one-third of the Conference are there to celebrate their own funeral!"

One Latin country suggested that a system of offshore sharing might be possible *after* the treaty would be adopted. Another stressed the poverty of his country and said that he did not believe his people would permit any sharing of the wealth off their shores, however small the contribution might be. A third country suggested that the CHF Proposal would open up a Pandora's box of new proposals. Its representative suggested that developing coastal states should be exempted from any contribution to the Fund.

"CHF compatible with EEZ"

A developed country's spokesman called the CHF Proposal a modest one that would be of real help to the nations most in need. He added that it did not in any way attack the concept of the exclusive economic zone, i.e. it merely adds one more obligation to the list of obligations which the coastal state already has in the EEZ. He pointed out that the Proposal, which had already undergone substantial modifications, could undergo still further changes.

An opponent of the Proposal suggested that adoption of it might cause his nation to review its position on a number of *other* issues. One nation contended that the common heritage principle was not relevant to the EEZ but only to the area beyond the EEZ, a point which Upadhyay disputes.

In an eloquent address (see below) in Negotiating Group 6 Upadhyay said that "offshore sharing is morally imperative and would be politically astute" and would do a great deal to lower the temperature of the North-South dialogue. He said that "by giving the world a challenging common task—the task of saying the oceans and using their wealth for all mankind—the Conference would draw public attention away from the mad race for armaments and toward the job of building a better and more prosperous life for every human person." He added, "fellow delegates, we should not focus on 'How much can we grab?' but on 'How well can we build?' "

An indication of the Conference's considerable interest in the CHF Proposal is the fact that delegates from thirty countries attended one or the other of two "working lunches" on the subject, one in English and one in French. Presiding was Arthur Lall, Chairman of Common Heritage International (CHI) and former UN Ambassador of India. Lall told the delegates that the purpose of CHI—which now has prominent members in 25 countries—was to see that there was "a genuine sharing for the benefit of the world community of the resources of the seabed." Sponsors of the luncheons were CHI, WORI, the Center for War/Peace Studies and the World Association of World Federalists.

The high number of participants and the liveliness of the summer '79 debate suggests that the CHF Proposal should have been considered much earlier. It is quite likely that the 1980 session will focus on the so-called "hard-core issues" that the Conference has been concentrating on for the last year and a half. A key one is the nature and powers of the "Authority" which is to supervise the exploitation of the manganese nodules of the deep ocean. However there is now good reason to believe that the CHF Proposal will become one of those hard-core issues.

CONCERNING THE COMMON HERITAGE FUND PROPOSAL

(By Shailendra K. Upadhyay, Chairman, Delegation of Nepal)

(Excerpts from a speech delivered in Negotiating Group 6 on August 17, 1979 during the New York Session of the Law of the Sea Conference.)

* * * The basic purpose * * * (of the CHF proposal) * * * is to ensure that some of the immense revenues from offshore oil and gas are regarded as the Common Heritage of Mankind and used for international community purposes. The most important purpose, of course, is to assist Third World development. But the Fund could also be used to help fight ocean pollution, to assist the transfer of marine technology and to help the work of the United Nations. A fifth purpose has been added, i.e. to help launch the Enterprise, the deep ocean mining effort of the International Seabed Authority.

Offshore sharing is "morally imperative"

In our view such offshore sharing is morally imperative and would be politically astute. Offshore sharing is morally imperative because all the trillions of dollars of mineral wealth within the 200-mile exclusive economic zone were, under traditional international law, regarded as "common property" or as "no one's property." Offshore sharing is morally imperative because in dollar value the overwhelming proportion of ocean wealth is within that 200-mile EEZ.

Offshore sharing is morally imperative because, as a recent UN publication pointed out, "as few as ten countries would acquire more than half the entire ocean area taken up by EEZs" and "six of these would be developed countries." Indeed, of the seven countries with the largest EEZs, six are rich countries. And three of the remaining four are so-called middle-income countries.

The July 22 issue of the New York Times quotes Under-Secretary-General Zuleta as saying that the probable benefits from the wealth of the deep ocean have been "grossly exaggerated" and that the amount of money nations can expect from the deep ocean in the year 2000 will amount to "peanuts."

Offshore sharing would be "politically astute"

I want to stress the equally important point that incorporating offshore sharing within the law of the sea treaty would be politically astute. It would be politically astute because it would demonstrate that the Conference is really concerned with the more than 50 landlocked and geographically disadvantaged nations in this Conference. Under the treaty text now before the Conference coastal states will get trillions and trillions of dollars of mineral wealth.

It would be politically astute because it would, in our judgment, help produce agreement on a treaty, something which has eluded us for almost six years. It

would be politically astute because it would show that rich nations are taking a very concrete and very meaningful step to bridge the gap between rich and poor nations. Such a solemn treaty commitment could do a great deal to better the lives of Third World countries.

It could do a great deal to lower the temperature of the North-South dialogue, a dialogue which is all too often a shouting match rather than a real dialogue. And by giving the world a challenging common task—the task of saving the oceans and using their wealth for all mankind—the Conference would draw public attention away from the mad race for armaments and toward the job of building a better and more prosperous life for every human person. In our proposal we have not spelled out the rates of contribution or the rates of disbursement, leaving that job to the Council and Assembly of the Authority. We continue to hope that that rate will be set at a figure which will yield at least four billion Common Heritage dollars a year by 1985.

Legal aspects of sharing within the EEZ

Let me say a few words about legal aspects of sharing within the exclusive economic zone. The major point I want to make is that international law is unclear on this question. The shape and context of the EEZ are for the Conference to decide. If one version of the EEZ is to be found in the negotiating text it is well to recall that solemn assurances were given that the negotiating texts are *negotiating* texts, not *negotiated* texts. It is true that a number of nations have claimed additional jurisdiction and/or resources during the Conference. But their claims are only *claims*. They are not international law. Indeed these claims were made in defiance of repeated urging not to extend claims while the Conference was going on.

The EEZ was almost unheard of at the time of the 1970 General Assembly Declaration on the Seabed. Thus the 1970 Seabed Declaration cannot tell us much about the EEZ. And though the Declaration tells us that the area *beyond* national jurisdiction is the common heritage of mankind, it does not tell us whether there should be a common heritage aspect to the area *within* national jurisdiction.

States have rights and obligations within the EEZ

We are all aware that the Informal Composite Negotiating Text/Revision 1 (ICNT/Rev. 1) indicates that coastal states have many duties within their exclusive economic zones. They have a duty to permit freedom of navigation and overflight. They have a duty to permit the laying of pipelines and cable. They have, under certain conditions, a duty to share their fish with neighboring states. They have a duty to prevent and abate pollution. We also know that by signing the Seabed Arms Control Treaty many states have undertaken a duty not to emplace nuclear weapons in their exclusive economic zones or indeed anywhere beyond 12 miles from shore.

Yes, coastal states have obligations as well as duties within the EEZ. Why should they not have an obligation to share some of that oil wealth within that zone? Let me put it as simply as I can: if *poor* countries have, under certain conditions, an obligation to share some of their *fish* with other *poor* countries, i.e., their neighbors, is it really so unreasonable to require *rich* countries to share some of their trillions of dollars of *oil* wealth with poor countries? We think it is quite reasonable.

Conflicting interpretations of the 1958 convention

All students of international law know that there are very conflicting interpretations of the Continental Shelf Convention, and especially as to the meaning of the two key terms "exploitability" and "adjacency." At one extreme are those who maintain that, logically, speaking, exploitability extends to the midpoint of the ocean. Justice Oda of the International Court of Justice (ICJ) has said that this position has a certain logic even though it would mean that there would be no common heritage area.

There are others who say that the words "continental shelf" mean "continental margin" and therefore the 1958 Convention gives them jurisdiction over the entire continental margin. Personally I have never understood the logic in this. I know that one can *say* that a man's head is his body. I know that one can *say* that a locomotive is a train. But people with common sense know that a head *isn't* a body, that a locomotive *isn't* a train and that a continental shelf *isn't* a continental margin. It just isn't!

Let me conclude my point by reminding you that that 1958 Convention talks about "adjacency" as well as about "exploitability" and that in the North Sea

Case the International Court of Justice said that by no stretch of the imagination could a point of land 100 miles offshore be called "adjacent." Yet, as you know, some states are claiming that the Convention has given them seabed rights over hundreds of miles offshore even if that seabed is part of the continental slope and continental rise.

What I am trying to say is that it is up to this Conference to clarify this question of coastal states rights and coastal states duties. Let me add that the Nepal delegation finds it amusing that some of the states that hold that the Continental Shelf Convention of 1958 is sacred also hold that another 1958 Convention, the Convention on the High Seas, can be ignored and violated by any state that wants to violate it. Need I remind you that though the Convention on the High Seas mandates freedom of fishing beyond 12 miles, at least 60 states have declared national fishing zones extending beyond 12 miles?

A wise and generous solution

There are many other observations I could make with respect to the legality of sharing mineral wealth within the EEZ. But I will close my brief remarks with this point. As we attempt to clarify this question of the proper mix of rights and duties within the exclusive economic zone, we should reflect on the certainty that a wise and generous solution to the question can make a most constructive contribution, not only to the law of the sea but to law and order and peace and prosperity on land as well.

Fellow delegates, we should not focus on "How much can we grab?" but on "How well can we build?" We should ask how can we use this precious opportunity of the Law of the Sea Conference to save the oceans and to build a new and more just economic and political order which will bring peace and prosperity to all nations.

I do hope that in the remaining days of this session and in the coming spring session each delegation will give serious consideration to the great potential of the Common Heritage Fund proposal for these important purposes.

THE REVISED INFORMAL PROPOSAL FOR A COMMON HERITAGE FUND

This "CHF Proposal" was introduced into Negotiating Group 6 of the U.N. Law of the Sea Conference on August 17, 1979 by the Delegation of Nepal on behalf of Afghanistan, Austria, Bolivia, Lesotho, Nepal, Singapore, Uganda, Upper Volta, and Zambia. It would amend two articles of the treaty draft now before the Conference, i.e. the Informal Composite Negotiating Text/Revision 1 (ICNO/Rev. 1).

Amendment One: Add a new paragraph, Paragraph 4, to Article 56 ("Rights, jurisdiction and duties of the Coastal State in the Exclusive Economic Zone") The new paragraph would read:

"4a. The coastal State shall make payments or contributions in kind to a Common Heritage Fund from the proceeds accruing to it from the exploitation of the non-living resources of the exclusive economic zone.

b. The rate of payments and contributions to the Fund shall be determined by the Authority, taking into account the relative capacity of States to make such payments and contributions.

c. The Authority shall make disbursements to the States Parties to this Convention on the basis of equitable sharing criteria, taking into account the interests and needs of developing countries, particularly the least developed and the land-locked amongst them. The Authority may also make disbursements to protect the marine environment, to foster the transfer of marine technology, to assist the work of the United Nations in the aforementioned fields, and to help finance the Enterprise."

Amendment Two: Add the underlined words below to Paragraph 4 of Article 82 ("Payments and Contributions with respect to the Exploitation of the Continental Shelf beyond 200 Miles.")

4. The payments or contributions shall be made *to the Common Heritage Fund, as established in Article 56,* through the Authority, which shall distribute them to States Parties to this Convention, on the basis of equitable sharing criteria, taking into account the interests and needs of developing countries, particularly the least developed and the land-locked amongst them."

Summer 1979 Volume 9 Number 3

CALIFORNIA WESTERN INTERNATIONAL LAW JOURNAL

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54-916 0 - 80 -

THE NEPAL PROPOSAL FOR A COMMON HERITAGE FUND

JOHN J. LOGUE*

On May 19, 1978, Ambassador Shailendra Upadhyay of Nepal introduced a proposal for a Common Heritage Fund (Nepal or CHF Proposal) in the Geneva portion of the Seventh Session of the Third United Nations Conference on the Law of the Sea (UNCLOS III).[1] This proposal would require each coastal state to contribute a portion of the net revenues from the exploitation of its offshore seabed minerals to a fund which would be used to assist developing nations, to fight ocean pollution, to assist in the transfer of marine technology to developing nations, and to aid the work of the United Nations, particularly in the area of peacekeeping.[2] At least seventy percent of the disbursements from the coastal states' exclusive economic zones (EEZ's) would be used for development aid.[3] One study estimates that the Fund's annual income would reach three billion dollars a year in the near future and substan-

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1. *See* Memorandum by the Leader of the Delegation of Nepal Relating to the Establishment of a Common Heritage Fund in the Interest of Mankind As a Whole but Particularly in the Interest of Developing Nations, U.N. Doc. A/CONF.62/65 (1978) [hereinafter cited as Nepal Proposal]. *See* note 135 *infra* for a summary of relevant developments in the recently concluded Spring 1979 meetings in Geneva, the first half of the Eighth Session of UNCLOS III. The Eighth Session will be resumed in New York from July 16 to August 24, 1979.

2. The Proposal provides that

> [t]he basic purpose of the Common Heritage Fund is to ensure that a substantial portion of the mineral revenues of the ocean is used to promote human welfare, to nourish world community and world peace and to preserve and protect the marine environment. To this end revenues from the Fund shall be used principally to assist developing nations. They shall also be used in limited amounts to protect the marine environment, to aid the transfer of marine technology and to assist the work of the United Nations, especially in peacekeeping.

Id. art. 298(4).

3. Until the year 2020 at least 70 percent of the revenues appropriated by the Fund must be used for development, whether in direct grants to states or through appropriate international agencies.

Id. art. 306(1).

tially larger sums in the years ahead.[4]

The Nepal Proposal would effect a bold change in the direction of UNCLOS III, which has been stalled on the question of the nature and powers of an international regime to govern deep seabed mining.[5] It would move UNCLOS III in the direction Ambassador Arvid Pardo of Malta championed in November 1967 in his now famous address in the United Nations General Assembly.[6] The Proposal would revive a key principle in Pardo's address — that a significant portion of ocean resources should be regarded as the "common heritage of mankind" and used for appropriate international purposes.[7]

The common heritage principle enunciated by Ambassador Pardo was warmly endorsed by the General Assembly[8] and has been frequently invoked in delegates' speeches. However, the coastal states' appetite for ocean resources and ocean jurisdiction has caused a decline in the vitality and influence of the common heritage principle in each successive session of UNCLOS III. Each victory for coastal state acquisitiveness was a defeat for Ambassa-

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4. *See* note 50 *infra*, and accompanying text.

5. *See generally* Smith, *The Seabed Negotiation and the Law of the Sea Conference — Ready for a Divorce?*, 18 VA. J. INT'L L. 43 (1977).

6. *See* Statement of Ambassador Pardo before the First Committee, United Nations General Assembly, U.N. Doc. A/C.1/p.v. 1515-16 (1967) [hereinafter cited as Pardo Statement]. In that address, Ambassador Pardo stated that "[s]hould the international agency be established and should revenues be approximately at the level we estimate, the international picture will be completely transformed. Upadhyay, *A Third World Perspective On Sharing In The Law Of The Sea Conference*, in PEACE JUSTICE AND THE LAW OF THE SEA 18 (J. Logue ed. 1978) [hereinafter cited as Logue].

7. One of the earliest spokesmen in favor of the common heritage principle was Ambassador H.S. Amerasinghe of Sri Lanka, who was later to become the first and only chairman of the Seabed Committee and the first and only President of UNCLOS III. Addressing the General Assembly only a few days after Ambassador Pardo's famous address, he stated:

> The Maltese proposal is . . . timely warning to the international community to avoid international competition for the acquisition of the resources of the seabed and the ocean floor in order to further purely selfish national interests. It is a timely warning against the colonization, in the sense of economic appropriation and exploitation, of the seabed and the ocean floor in somewhat the same manner as the voyages of the great navigators of the world, starting five centuries ago, discovered lands and territories which became the property of their nations. The Maltese proposal seeks to avoid the reenactment of that chapter of the world's history. The wealth that the seabed and ocean floor offer is seemingly beyond the dreams of avarice and the world's hopes of peace could be shattered if that wealth were left to be the prey of international rivalry and competition.

U.N. Doc. A/C.1/p.v. 1526, at 10-11 (1967).

8. *See* Declaration of Principles Governing the Sea-Bed and the Ocean Floor and the Subsoil Thereof, Beyond the Limits of National Jurisdiction, G.A. Res. 2749 (XXV), 25 U.N. GAOR, Supp. (No. 28) 24, U.N. Doc. A/8097 (1970) [hereinafter cited as Declaration of Principles].

dor Pardo's vision of the common heritage. The cumulative result is that the version of the common heritage in the treaty text now before the Conference, the Informal Composite Negotiating Text (ICNT),[9] will make only a very small amount of revenue available to the international community. This is true because the ICNT awards all of the immense mineral wealth of the EEZ to coastal states.

The proponents of the Nepal Proposal believe that the current deadlock in UNCLOS III can be broken if the Conference will revive the common heritage principle and make the Conference what so many people had hoped it would be—a major instrument for promoting economic and social justice, environmental sanity, and peace. They believe that adoption of the CHF would facilitate compromise on the deep seabed regime.

This article will examine the Nepal Proposal as an instrument designed to revive Pardo's vision of the common heritage principle. The Nepal Proposal will be compared and contrasted with the ICNT common heritage proposal now before the Conference. Of particular interest is the extent to which each proposal would benefit the developing nations of the world.

I. Caracas and the Decline of the Common Heritage

In 1967, shortly after Ambassador Pardo's address, the General Assembly formed an *ad hoc* committee to consider the legal status of the seabed beyond national jurisdiction.[10] In the following year, the General Assembly established the Committee on the Peaceful Uses of the Sea-bed and Ocean Floor Beyond the Limits of National Jurisdiction (Seabed Committee).[11] By the time of its last session, in the Summer of 1973, ninety-one nations were members of the Seabed Committee.

In December 1970, on the basis of the Seabed Committee's work and at the instance of Ambassador Pardo, the General Assembly adopted a Declaration of Principles (Seabed Declaration) which declared that the "sea-bed and ocean floor . . . beyond the limits of national jurisdiction . . . are the common heritage of

9. U.N. Doc. A/CONF.62/WP.10 (1977) [hereinafter cited as ICNT].

10. *See* G.A. Res. 2340 (XXII), 22 U.N. GAOR, Supp. (No. 16) 14, U.N. Doc. A/6964 (1967).

11. *See* G.A. Res. 2467A (XXIII), 23 U.N. GAOR, Supp. (No. 18) 15, U.N. Doc. A/7477 (1968).

mankind."[12] The Seabed Declaration made it clear that a major objective of UNCLOS III[13] would be to harness seabed wealth to assist the developing countries.[14] However, in its Declaration the General Assembly chose phraseology which did not rule out further extensions of national jurisdiction by coastal states at the expense of the common heritage. In his 1967 address, Pardo had consciously and repeatedly described the common heritage area as the area "beyond *present* national jurisdiction." In its Seabed Declaration, however, the General Assembly left out the word *present*, and described the area as the area "beyond the limits of national jurisdiction." Since the Assembly refused to decide where national jurisdiction ended, it was no surprise that in the decade following the Declaration many states extended their jurisdictional claims by unilateral actions. As a result, the common heritage became smaller and smaller with each passing year.

In 1974, three years after the General Assembly voiced support for the common heritage principle, the first working session of UNCLOS III was held in Caracas. The Caracas Session has been described by one commentator as the beginning of a reverse trend.[15] At that Session considerable support emerged for a 200-mile exclusive economic zone (EEZ), which would give the coastal states all the resources within 200 miles of shore. The surprise at Caracas was that the two superpowers, both of whom had previously opposed the EEZ, indicated a willingness to accept it. A 1975 estimate indicated that approximately seventy percent of the independent nations of the world voiced support for the 200-mile EEZ.[16] But the breadth and depth of support for the EEZ is yet to be determined. Only gradually did it become clear to the delegates

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12. *See* Declaration of Principles, *supra* note 8.

13. By resolution of December 17, 1970 the United Nations decided to convene the Third United Nations Conference on the Law of the Sea to consider a broad range of oceans issues. *See* G.A. Res. 2750C (XXV), 25 U.N. GAOR, Supp. (No. 28) 26, U.N. Doc. A/8028 (1970).

14. *See* Declaration of Principles, *supra* note 8.

15. The Caracas session . . . represents the beginning of a reverse trend. It was a return to traditional theories and practices, largely concerned with the question of how to extend national sovereignty over the seas in the most effective way. Once again, national sovereignty was given precedence over the common interests of mankind. Compared to "real politics" of international community [*sic*], the broad vision of Dr. Pardo's proposals (and of the General Assembly Resolution) appeared to be too revolutionary, even utopian.

Milovanovic, *What Does the Common Heritage of Mankind Mean?*, in Logue, *supra* note 6, at 2.

16. *See* Alexander & Hodgson, *The Impact of the 200-Mile Economic Zone on the Law of the Sea*, 12 SAN DIEGO L. REV. 570 (1975).

that a large proportion of ocean wealth was within the zone,[17] and that most of this wealth would go to wealthy states.[18] Hence, when the ten-week Caracas Session came to a close, it was clear that the Session was a major defeat for the ideals of Ambassador Pardo and a major victory for ocean nationalism.[19]

While some identify the Caracas Session as the beginning of the decline of the common heritage principle, Ambassador Upadhyay and others perceive its decline in prestige commencing well before that Session. In the Background Paper that accompanied his CHF Proposal, Upadhyay stressed the opposition the principle had encountered. He noted that since the common heritage was first enunciated more than a decade before, the principle "ha[d] suffered from misinterpretation . . . attrition and . . . neglect."[20] He stated that in his view the emergence of the 200-mile EEZ made a "cruel hoax of the concept . . ."[21] because the "overwhelming proportion of ocean mineral wealth . . . [is] found within the [EEZ]."[22]

Although they were not to prevail at Caracas, many expressed opposition to the 200-mile EEZ. Congressman Donald Fraser, Democrat from Minnesota, stressed that it would be impossible to have a meaningful common heritage if outright ownership of all offshore resources was given to the coastal states. He argued that acceptance of the 200-mile EEZ would deprive the developing countries of substantial revenues and result in the unprecedented division of the oceans into exclusive national areas "with all the consequences of narrow nationalism."[23] In 1972, John Stevenson,

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17. *See* note 40 *infra*.

18. *See* note 23 *infra*.

19. A 1978 article sketched the triumph of nationalism over the principle of common heritage:

> UNCLOS was originally launched against a background of pious slogans about "the common heritage of mankind." During its long sessions and long recesses, nearly a third of all the oceans has been arbitrarily appropriated by about 60 coastal states in the form of "exclusive economic zones." Seabed claims, in places, go still farther; they could be tripled by the now fashionable choice of the continental margin, instead of the shelf as a limit. A conference that began with much talk about the urgent need for co-operative, constructive international action looks like it is ending (if it ever ends) with the retrospective legitimizing of an unparalleled series of annexations.

The Sea Lawyers, THE ECONOMIST, April 15, 1978, at 15.

20. Nepal Proposal, *supra* note 1, at 3.

21. *Id.*

22. *Id.*

23. D. Fraser, The Ocean As a National Policy Issue 3 (Oct. 18, 1972) (address before the Conference on Uses and Abuses of the Seas, Minneapolis, Minn.) [copy on file with *California Western International Law Journal*]. Congressman Fraser questions whether these

head of the United States Delegation to the United Nations Seabed Committee, told a subcommittee of the House Foreign Affairs Committee that

> [r]evenues for the international community as a whole from seabed minerals will not be very meaningful unless payments for this purpose are made not only with respect to the deep seabed exploitation of hard minerals contained in manganese nodules, but also, at least in some measure, with respect to the exploitation of the petroleum and gas resources of the continental margin beyond the 200-meter depth line.[24]

Stevenson's statement was a reflection of the remarkable sharing proposal that the United States had introduced in the Seabed Committee in August 1970 as part of a United States Draft Treaty (Draft Treaty).[25] Two months before the Draft Treaty was made public, President Nixon stressed the common heritage character of seabed resources beyond the 200-meter depth line:

> I am today proposing that all nations adopt as soon as possible a treaty under which they would renounce all national claims over the natural resources of the seabed beyond the point where the

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nationalistic claims to the oceans are in the interest of the developing countries, many of which currently support the 200-mile EEZ.

> Estimates show that the nations with the greatest offshore wealth are the United States, the Soviet Union, Canada, and Australia — all highly developed economically. The 200-mile exclusive economic zone would deny the developing countries . . . the opportunity to benefit from economic exploitation off the coasts of the rich developed countries.

Id.

24. *Law of the Sea and Peaceful Uses of the Seabeds: Hearings Before the Subcomm. on Int'l Organizations and Movements of the Comm. on Foreign Affairs*, 92d Cong., 2d Sess. 7-8 (1972) [hereinafter cited as *Subcomm. Report*].

This view was shared by Frank L. LaQue, retired Vice President of the International Nickel Company. LaQue belittled the idea of limiting sharing to the mineral revenues of the deep seabed. In a 1972 memorandum submitted to the House Foreign Affairs Committee, he stated:

> If . . . only the revenue represented by some form of taxation of the "profits" from the exploitation of deep ocean metals is available for adjusting the relative prosperity of "developed" and "developing" nations the amount thus available, *e.g.* about 10% of the total market value of the metals, would represent only a little more than 0.025% of the world Gross National Product and only about 0.2% of the 1967 Gross National Product of the "developing" nations.
>
> On a per capita basis it would amount to only 41 cents per person if it were to be divided equally among the total population, 1594.9 million, of "developing" nations.

Id. at 65. LaQue concluded that developing nations should not count on any substantial sums derived from the exploitation of the deep seabed as a main component for their future development. *Id.* at 66.

25. Draft United Nations Convention on the International Sea-Bed Area: Working Paper Submitted by the United States of America, Report of the Comm. on the Peaceful Uses of the Sea-Bed and the Ocean Floor Beyond the Limits of National Jurisdiction 130-176, U.N. Doc. A/8021 (1970) [hereinafter cited as U.S. Draft Treaty].

> high seas reach a depth of 200 meters (218.8 yards) and would agree to regard these resources as the common heritage of mankind.[26]

Although not without its faults, the Draft Treaty clearly supported the common heritage principle. This is evidenced by provisions that:

> 1. The International Seabed Area shall be the common heritage of all mankind.
>
> 2. The International Seabed Area shall comprise all areas of the seabed and subsoil of the high seas seaward of the 200-meter isobath adjacent to continents and islands.[27]

The Draft Treaty established a "trusteeship zone" extending from the 200-meter depth line to the end of the continental margin. The coastal state would decide whether and by whom the trusteeship zone would be exploited and how much exploitation there would be. However, the coastal state would be required to contribute between fifty and sixty-six percent of the mineral revenues from its trusteeship zone to the international community.[28] This proposal would have created a substantial common heritage revenue. Indeed, according to some experts, the oil deposits beyond the 200-meter depth line, that is, in the proposed trusteeship zone, are at least equal in value to the oil deposits within that line.[29]

Not all Americans favored the Draft Treaty. Indeed some United States business leaders—particularly in the petroleum industry—were strongly opposed to it.[30] In particular, opponents of the Draft Treaty strongly objected to its provisions for concurrent jurisdiction—that is, national and international—within the trusteeship zone.[31] Oilmen believed that the legal questions posed by concurrent jurisdiction within this zone might delay exploitation of

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26. Nixon, *United States Policy for the Seabed*, 62 DEP'T STATE BULL. 737 (1970).
27. U.S. Draft Treaty, *supra* note 25, art. 1(1) & (2).
28. *Id.* app. C, ¶ 9(2).
29. *See Subcomm. Report, supra* note 24, at 39.
30. *See, e.g., id.* at 42 (statement of Northcutt Ely, National Petroleum Council).
31. *See id.* at 38. Mr. Ely filed a statement with the Committee urging that the United States should continue to exericise all of its present powers over its continental margin exclusively, and not concurrently with any international organization whatever. It is not necessary, indeed it would be suicidal, to reounce [*sic*] these sovereign powers to some international agency, as was once proposed, and to receive back delegated powers, limited to those enunciated in a treaty. Everything is wrong with that premise, starting with the dichotomy between the interests of the American consumer in obtaining an abundant supply of petroleum at reasonable cost, free of every restraint of trade, and the opposing interests of an international organization charged with the task of getting out of the consumer all that the traffic will bear, under the euphemism of "resource management."

oil reserves beyond the 200-meter line.[32] Business leaders were also less than enthusiastic about the sharing provisions of the Draft Treaty. Their objections focused, however, on the generous percentage of offshore wealth that would be awarded to the international community rather than on the *principle* of offshore sharing. This attitude is evident in a statement by Northcutt Ely, a member of the National Petroleum Council, presented to the same subcommittee before which John Stevenson had appeared. Ely indicated his opposition to the generous provisions of the Draft. However, he made it clear that he favored offshore sharing by referring to the "five commendable principles" in President Nixon's May 23, 1970 statement on the oceans. One of these principles provided for the "collection of substantial mineral royalties to be used for international community purposes."[33]

In the statement he prepared for the House Subcommittee, Ely indicated that he thought it appropriate for sharing to begin *twelve* miles from shore, that is, much closer to shore than the Draft Treaty's 200-meter depth line.[34] In this respect, Ely anticipated the position taken by the Trilateral Commission in its 1976 report, *A New Regime for the Oceans*.[35] In that report, the Commission stated that "[n]ational continental shelf jurisdiction should be limited to 200 miles, with international sharing by wealthy coastal states of a generous portion (such as one-half) of royalties derived from resource exploitation in this zone but beyond the territorial sea."[36]

The pre-Caracas position of the Soviet Union was also pro-common heritage.[37] In the 1972 debates of the Seabed Committee,

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32. *See id.*

33. *See id.* at 42.

34. *Id.* at 42.

35. THE TRILATERAL COMMISSION, A NEW REGIME FOR THE OCEANS (1976). The Commission is composed of prominent citizens of North America, Western Europe, and Japan.

36. *Id.* at vii. The date of issuance of this report is significant. By 1976 the United States Delegation had long since abandoned sharing within 200 miles of shore. It is also interesting to note the composition of the Trilateral Commission. Five of its members were to become the top foreign policy leaders in the Carter administration, namely: President Carter; Vice President Walter Mondale; Secretary of State Cyrus Vance; Secretary of Defense Harold Brown; and National Security Council Director Zbigniew Brzezinski. A sixth "graduate" of the Commission is Elliot Richardson, President Carter's choice to lead the United States Delegation to the Law of the Sea Conference.

37. In 1971, Canada was also on record as favoring offshore sharing. In May of that year, a Canadian delegate to the Seabed Committee proposed that all coastal states contribute, pending a final agreement on an international regime, "a percentage, perhaps as little as

Dmitri Kolesnik, the head of the Soviet Delegation, stressed the absurdity of beginning international sharing at the 200-mile mark. Kolesnik told Subcommittee II that "[a] 200-mile area would include ninety-three percent of the total volume of hydrocarbon resources, including both those that had already been discovered and those that would become exploitable in the near future."[38] Kolesnik claimed that the 200-mile concept would reduce the international area of the seabed to an "empty shell" and that all current discussion as to the nature and powers of the Seabed Authority would be "absolutely meaningless since [it] would not have at its disposal any part of the hydrocarbon resources involved or only a very small part of them."[39]

As noted above, both the United States and the Soviet Union deserted the common heritage principle at Caracas. Indeed, their "desertion" was the most important development at that crucial session. It created a "bandwagon" psychology for the EEZ.

II. Reviving the Common Heritage?

A. The Nepal Proposal

The Nepal Proposal is a conscious attempt to change the direction of UNCLOS III. Nepal believes, however, that the direction of the Conference cannot change unless it reopens a question which most delegates and experts consider closed—who gets the thirty trillion dollars worth of oil and gas within the 200-mile EEZ?[40]

Nepal wants the international community to have a share in that immense treasure. The supporters of the ICNT do not. If the ICNT proposal is adopted, common heritage dollars would come only from mineral exploitation *beyond* 200 miles from shore, that is, beyond the proposed 200-mile EEZ.[41] Hence, under the ICNT

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one percent, of the revenues, the governmental revenues *from all the offshore activity beyond internal waters . . . .*" in Fate of the Oceans 206 (J. Logue ed. 1972).

38. U.N. Seabed Committee, U.N. Doc. A/AC.138/SC.II/SR.65, at 18.

39. *Id.*

40. According to a 1973 study prepared for the United Nations, the ultimate recoverable offshore hydrocarbons were valued at over 27 trillion dollars. *See* R. Hudson, Three Scenarios: The Law of the Sea, Ocean Mining and the New International Economic Order 14 (1977); L. G. Weeks, Subsea Petroleum Resources, U.N. Doc. A/AC. 138/87 (1973). At 1979 prices, these reserves are worth well over 30 trillion dollars.

41. *Id.* art. 56(1) (a). This article provides:

> 1. In the exclusive economic zone, the coastal state has:
>
> a. sovereign rights for the purpose of exploring and exploiting, conserving and managing the natural resources, whether living or non-living, of the sea-bed and subsoil and the superjacent waters, and with regard to

proposal, common heritage dollars would come only from deep ocean mining[42] and, if agreement can be reached, from a very small portion of the hydrocarbon revenues where continental margins extend beyond 200 miles.[43] Neither of these sources, however, is expected to produce a substantial revenue for the international community.[44] Third World countries are gradually beginning to realize that most of the wealth from the EEZ will go to a very few geographically advantaged states, many of which are already rich.[45] This is in marked contrast to the Nepal Proposal, which provides that common heritage dollars be available from mineral exploitation *within* the EEZ as well as beyond it.[46]

Reference has already been made to the ambiguity of the phrase "beyond national jurisdiction," which was incorporated into the General Assembly's 1970 Seabed Declaration.[47] The tragic result of the Declaration's ambiguity is that nations which proclaimed devotion to the principle of the common heritage claimed increasingly more of the oceans' resources, thereby drastically reducing the size and hence the value of the common heritage area.[48]

The above considerations suggest the importance of examining each revenue-sharing proposal to determine precisely how many common heritage dollars per year will go to the international community. In the lengthy and very detailed discussions of the proposed International Seabed Authority, little attention has been

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other activities for the economic exploitation and exploration of the zone, such as the production of energy from the water, currents and wind.

42. *See* ICNT, *supra* note 9, art. 136.

43. *See id.* art. 82(1).

44. See text accompanying note 49 *infra*.

45. See note 104 *infra*, and accompanying text.

46. The Nepal Proposal provides:

> The sources of the Common Heritage Fund's revenues shall be:
>
> a. the revenues earmarked by the International Sea-bed Authority for distribution by the Fund.
>
> b. the revenues due to the Fund from the exclusive economic zones of States Members, according to the schedule which is outlined in this section of the Convention.
>
> c. the revenues due to the Fund from those portions of the continental margins beyond the exclusive economic zones of States Members, according to the schedule which is outlined in this section of the Convention.

Nepal Proposal, *supra* note 1, art. 303.

47. *See* text accompanying note 12 *supra*.

48. In a June 1976 banquet address at the Law of the Sea Institute's Tenth Annual Conference, Ambassador Pardo stated that "the provisions contained in the [RSNT] permit further, and perfectly legal, extensions of coastal state control in the seas." Pardo, *Emerging Law of the Sea and World Order*, in CONFERENCE OUTCOMES AND PROBLEMS OF IMPLEMENTATION 411 (E. Miles & J. Gamble eds. 1977).

focused on the questions "how much?" and "when?" The following table is revealing:

Projection of Annual Common Heritage Income In The Year 1985 From Three Proposed Sharing Plans

ICNT Proposal	$250,000,000[49]
Nepal Proposal	$4,000,000,000[50]
Maltese Proposal	$20,000,000,000[51]

Thus, for every common heritage dollar produced by the ICNT plan in 1985, there would be sixteen common heritage dollars produced by the Nepal Proposal and eighty common heritage dollars produced by the original Maltese proposal.[52] The developing countries of the world can, of course, do far more with a common heritage income of four to twenty billion dollars a year than with an income of $250 million a year.

Under the Nepal Proposal, poor coastal nations would have to contribute a portion of their offshore revenues to the CHF. Their

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49. This estimate is based on a 1978 study which revealed:

> If, as the U.N. study assumes, four-metal operations will mine and process 4 million tons of nodules in 1985, and three-metal operations 11 million tons, the total economic rent theoretically available for international purposes would be roughly $230 million.

STEINBERG & YAGER, NEW MEANS OF FINANCING INTERNATIONAL NEEDS 156 (1978).

50. This is a rough estimate calculated by applying an averge 15% contribution under Alternative A of the Nepal Proposal, *see* note 55 *infra*, and using 1976 production figures and prices. *See also* HUDSON, *supra* note 40, at 15-16. At current prices, of course, this figure would be significantly larger.

51. The projection of 1985 income from the Maltese Proposal was determined by quadrupling Pardo's projection of the 1975 yield of 5 billion dollars. *See* note 52 *infra*. The 20 billion dollar projection for 1985 would appear to be conservative in light of the quadrupling of oil prices between 1967 and 1975 and the inevitability of further increases in oil prices by 1985.

52. It is clear from Ambassador Pardo's 1967 address that he envisioned national jurisdiction ending at either a 200-meter depth line or at 12 miles from shore. Either alternative would insure that a major share of the revenues from offshore oil and gas would be a source of common heritage dollars. As Pardo stated in 1967:

> We have made some hasty calculations on the amount of revenue which the agency could be expected to receive from such activities. On the assumption that an agency would be created in the year 1970, that technology will continue to advance, that exploitation will be commensurate with the presently known resources of the ocean floor, that exploration rights and leases will be granted at rates comparable to those existing at present under national jurisdiction, and that the continental shelf under national jurisdiction will be defined approximately at the 200-meter isobath or at twelve miles from the nearest coast, we believe that by 1975, that is, five years after an agency is established, gross annual income will reach a level which we conservatively estimate at around $6 billion. After deducting administration expenses and all other legitimate expenses, including support to oceanographic research, the agency would, in our view, still be left with at least $5 billion to be used to further either directly or through the United Nations Development Programme the development of poor countries.

See Pardo Statement, *supra* note 6, (p.v. 1516) at 2.

contributions, however, would be very small; in nearly all cases the developing countries would receive substantially more *from* the CHF than they would be required to contribute *to* it. This results from the "graduated sharing" feature of the proposal. Under the graduated sharing provision, contributions to the Fund are graduated to the per capita gross national product (GNP) of the state in question.[53] "Development disbursements" from the Fund are also graduated,[54] but in reverse. In short, rich states would contribute the most, and poor states would get the most. The proposal contains two alternative plans for assessing the required coastal state contributions.

Alternative A is decidedly the most generous. Under this plan, coastal state contributions would range from a minimum of 1% to a maximum of 20% of net revenues.[55] During the first five years of the treaty's life, each state's contribution would be only half of the amount indicated.[56] In addition, Alternative A makes special provisions for "hardship" cases. The Fund's governing institutions are authorized to reduce a state's contribution by as much as one-half, if circumstances warrant.[57]

Alternative B would require much smaller contributions than Alternative A in two categories of production: (1) production that is "ongoing" at the time the Treaty goes into force,[58] and (2) areas which, though not in production when the Treaty enters into force, are under lease at that time.[59] In these cases, contributions would range from 1% to 10% depending on per capita GNP.[60] For all *other* minerals exploited within a nation's EEZ, required contribu-

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53. *See* Nepal Proposal, *supra* note 1, art. 304.

54. *See id.* art. 306(2)(a).

55. Each state shall contribute not less than one and not more than twenty percent of the indicated net revenues to the Common Heritage Fund. The percent required of it will be in approximte proportion to the per capita income of the State in question. In the first five years of the Fund's operation the base figure for determining the percentage contribution required of a State shall be 300 dollars, *i.e.* the particular State's contribution obligation will be one percent of its net revenues for each 300 dollars of per capita income or major fraction thereof up to a maximum contribution of 20 percent. After the first five years a comparable base figure shall be determined by the Board and Assembly, taking into account changes in the value of currency.

Id. art. 304, Alternative A.

56. *Id.* Alternative A(4).

57. *Id.* Alternative A(5). The power to recognize hardship cases, however, is limited to the first 20 years of the Treaty. *Id.*

58. Nepal Proposal, *supra* note 1, art. 304, Alternative B.

59. *Id.*

60. The contribution in the former would be 1%, in the latter 10%. *See id.*

tions would range from 1% to 20%, as in Alternative A.[61]

It must be stressed at this juncture that the Nepal Proposal *does not* reject the EEZ concept. What Nepal insists on is that there be a common heritage "contribution" to the international community from that zone. In effect, the contribution will be a common heritage "tax" on the EEZ's mineral revenues.[62] This aspect of the Nepal Proposal distinguishes it from the EEZ in the ICNT. The Background Paper Nepal submitted with the proposal attempts to reconcile the common heritage concept with that of the EEZ, two of the most central ideas in the Conference.

> The concept of the Common Heritage of Mankind has been damaged by those who contend that there is a necessary incompatibility between the idea of the Common Heritage and the idea of the economic zone. We believe that both ideas are essential and we believe that they are necessarily intermixed, *i.e.*, the economic zone can and should make a substantial contribution to the implementation of the concept of the Common Heritage.[63]

The minerals within the Nepal Proposal's EEZ would be the exclusive property of the coastal state, just as a homeowner's home is *his* exclusive property. However, in the same way that a homeowner is required to pay a tax on his exclusively owned property, the coastal state would be taxed on the revenues from mineral exploitation in its exclusively owned EEZ. According to the Nepalese Ambassador, "[I]t is morally appropriate to insist that some of that EEZ wealth be regarded as the common heritage of mankind [since] al-

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61. *Id.*

62. The concept of the 200-mile EEZ is contrary to the traditional law of the sea. According to that law, the sea beyond a very narrow — typically three mile — zone was regarded as either *res nullius*, that is, no one's property, or *res communis*, common property. Within that high seas area, no nation had a right to appropriate areas of the high seas for its exclusive use. Use of this area was open to everyone.

Modern technology, however, has undermined the traditional law of the sea and made important aspects of it counterproductive. Freedom of fishing, for example, threatens the very existence of marine species which are essential to human nourishment. Unrestricted pollution threatens the very life of the oceans. Unrestricted exploitation of seabed oil is economically unworkable. Large investments of capital are required for that exploitation, capital which will not be forthcoming unless the exploiting entity has the exclusive right to exploit within the area in question for a considerable period of time. In short, freedom of the seas is today a recipe for disaster.

However, if freedom of the high seas is an undesirable and unworkable policy for resource exploitation and protection of the marine environment, unrestricted control by coastal states is not the only alternative to it. A second alternative is to give the coastal states duties within the EEZ as well as rights and to put revenue-sharing high on the list of those duties. The ICNT *does* list some duties but revenue-sharing is not one of them.

63. Nepal Proposal, *supra* note 1, at 3.

most all the wealth within the EEZ was traditionally regarded as either *res communis* or *res nullius*."[64]

The Nepal Proposal contains ten articles which would become an integral part of the comprehensive Law of the Sea Treaty, on which the Conference hopes to achieve agreement.[65] Among other things, these articles provide that the affairs of the Fund will be administered jointly by a one nation-one vote Assembly — the Assembly of the International Seabed Authority — and by a thirty-six member Board of Governors.[66] Eighteen members of the Board would be elected to represent regions.[67] Of the remaining members, nine would be elected from "net contributors" to the Fund and nine from "net recipients."[68] Since contribution and distribution formulas are specified in the treaty articles, the powers of these decisionmaking bodies are quite limited.[69] Nevertheless, these bodies would have important responsibilities — for example, how to disburse the thirty percent of the Fund revenues which is not mandated to assist development[70] and whether to reduce the amount of a coastal state's contribution because of hardship.[71]

Arvid Pardo has warmly welcomed the Nepal Proposal, calling it a very constructive proposal which merits the most serious attention at UNCLOS III.[72] Other prominent personalities have also welcomed the CHF Proposal, including: Maurice Strong, founding

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64. *Id.*

65. These articles would become a new Part XVI of the ICNT. The original Part XVI, which deals with "Final Clauses", would be renumbered Part XVII.

66. Nepal Proposal, *supra* note 1, art. 299(1).

67. *Id.* art. 300(1)(a). These would be elected as follows: Africa (five); Asia (four); Eastern Europe (Socialist) (two); Latin America (three); and Western Europe and others (four). *Id.*

68. *Id.* art. 300(1)(b)-(c).

69. The Chairman of the Seabed Committee and President of UNCLOS III, Ambassador Amerasinghe of Sri Lanka, said of the international regime that

> [i]f the international area is to be so determined as to exclude those parts of the seabed and ocean floor which are capable of exploitation in the foreseeable future and if thereby the best part of the ocean wealth is to be left within national ownership, the international regime would not need to be provided with wide comprehensive powers but on the other hand would need to be equipped merely with marginal, residual or rudimentary authority.

Address by Ambassador Amerasinghe, World Federalists of Delaware (May 24, 1971).

70. Nepal Proposal, *supra* note 1, art. 301(2).

71. *Id.* art. 304(5).

72. WORLD ORDER RESEARCH INSTITUTE REPORT No. 29 (May-June 1978). Although Ambassador Pardo is no longer a diplomat, the "Father" of the Law of Sea Conference is still a close student of the Conference. Currently, he is Professor of Political Science and a member of the Institute for Marine and Coastal Studies at the University of Southern California.

Director of the United Nations Environment Program; Jan Tinbergen, Director of the RIO Project and Nobel Prize-winning economist; Aurelio Peccei, Chairman of the Club of Rome; United States political scientist Hans J. Morgenthau; and Charles Yost, former United States Ambassador to the United Nations. During the August 1978 UNCLOS III meetings in New York, an international committee was formed to champion the CHF approach. The committee, which is called Common Heritage International, is headed by Arthur Lall, former Indian Ambassador to the United Nations, and is comprised of prominent members from twenty-one nations.[73]

The appeal of the CHF Proposal to internationalists is hardly surprising. Ambassador Upadhyay has stressed his country's belief that any treaty which the Conference adopts will have a significant influence on the international system as a whole. In his view, a treaty incorporating the CHF Proposal would have a very constructive effect on that system. At the Spring 1978 session of the Conference, he stated the "[i]mplementation of the [CHF] . . . would greatly improve the climate of international relations and would be a significant step toward the goal of a new and more just international economic order."[74] The required contributions to the Fund, he said, "would be a prudent investment in the future of humanity, in the furtherance of peace and justice and in the protection of the marine environment. It will also be a major step toward the reconciliation of nations East and West, North and South, developed and developing."[75] It is Upadhyay's belief that future generations will judge UNCLOS III by its success or failure in ensuring that a substantial portion of EEZ wealth "is used to build a just and peaceful world society."[76]

B. Nepal Challenges the Conventional Wisdom

It is clear that the Nepal Proposal challenges a central tenet of the conventional wisdom of UNCLOS III — that is, that any "adoptable" law of the sea treaty must, as the ICNT does, award *all* of the valuable minerals within the 200-mile EEZ to coastal states. Although critics of the proposal credit Nepal with idealism and im-

73. *See* Common Heritage International, Statement of Beliefs and Purposes (Aug. 22, 1978) [copy on file with *California Western International Law Journal*].

74. Upadhyay, *The Case For The Nepal Proposal*, in WORLD ORDER RESEARCH INSTITUTE REPORT No. 29, at 2 (May-June 1978).

75. *Id.*

76. Nepal Proposal, *supra* note 1, at 3.

agination, they contend that serious consideration of the CHF Proposal by the Conference would be a waste of time, divisive, and make agreement on a comprehensive law of the sea treaty more difficult. *Ergo*, the Nepal Proposal is too late.

Upadhyay and other supporters of the Nepal Proposal have responded to these and other criticisms. However, they have not always found it an easy task to get a hearing. Throughout the twelve weeks of the 1978 session — eight in Geneva and four in New York—the Conference officers allowed no discussion of the CHF Proposal. They explained that the agenda of that two-part Seventh Session had been set well before the Nepal Proposal was first circulated in March 1978.[77] The focus of these Seventh Session meetings was on so-called "hard core" issues,[78] such as the regime for deep seabed mining. Hence, Upadhyay was not allowed to address the Plenary meeting until the very last day of the eight-week Geneva Session. Although Upadhyay was offered the opportunity to introduce his plan in a *closed* meeting, he declined because he wanted his remarks to become part of the permanent record of the Conference.[79]

In his brief intervention in the Seventh Session, Upadhyay said that in Nepal's opinion, "the success or failure of the Conference depended upon the consideration of such a proposal."[80] He emphasized that the Proposal "did not raise any problem regarding the legal status of the exclusive economic zone; nor did it question the sovereign jurisdiction of the coastal state in that zone."[81] Although Nepal is flexible as to the details of its proposal, the following excerpt from the Summary Record of that 1978 meeting demonstrates Upadhyay's determination to solicit support for the proposal both within and without the Conference.

[Upadhyay's] delegation was aware that the proposal needed to

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77. The Nepal Proposal was officially introduced into the Conference by Ambassador Upadhyay's May 5, 1978 letter to the Conference President requesting that the Proposal be circulated as a Conference document. However, on April 12 the Conference had agreed to concentrate on seven "hard core" issues. A negotiating group was set up for each issue. While two of the groups dealt with the EEZ, only the issues of living resources within the zone and dispute settlement were addressed. *See* U.N. Press Release SEA/322, at 5 (May 22, 1978).

78. For a list of the seven hard core issues, *see* U.N. Doc. A/CONF.62/61, X OFFICIAL RECORDS OF THE THIRD UNITED NATIONS CONFERENCE ON THE LAW OF THE SEA 2 (1978).

79. Interview by the author with Ambassador Upadhyay of Nepal, in Geneva, May 4, 1978.

80. U.N. Doc. A/CONF.62/SR.106, at 17 (1978).

81. *Id.*

> be studied, discussed and perhaps clarified and that it was impossible to consider it immediately. It should therefore be studied during the intersessional period, in private meetings, informal meetings and meetings of individual delegations. At the next session, his delegation would seek the support of members of the Conference to ensure that the proposal would be considered as one of the main items for discussion.
>
> He thanked the delegations which had made their views known, or which had supported the idea of forming a common heritage fund. He proposed to make greater efforts to interest world public opinion in such a project and to obtain the support of members of the Conference.[82]

Ambassador Upadhyay began to solicit public support during the Geneva portion of the Seventh Session although, as the above passage suggests, he was aiming for the 1979 Session for a full, in-depth consideration of his proposal.[83]

The cool reception by some Secretariat members was matched by the cool reactions of some of the most prominent conferees. On May 18, one day prior to Upadhyay's speech, Norwegian Minister Jens Evensen, an important figure in the Conference, told the plenary meeting that there could be no sharing of mineral revenues from the EEZ.[84] It is interesting to note that Norway's four million people are among the greatest gainers from the ICNT-EEZ. Indeed, if the oil wealth within Norway's EEZ were prorated, each Norwegian citizen would get at least $22,000 of that wealth.[85]

The experts stress that the ICNT version of the EEZ appears to

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82. U.N. Doc. A/CONF.62/SR.106, at 17 (1978). The United Nations bureaucracy was not very helpful in bringing Upadhyay's speech to public attention. Ordinarily, the Summary Record of a plenary meeting is published within four or five days of the close of the meeting. Although Upadhyay's speech was in English, the English version of the May 19 Summary Record was not issued until late August, nearly 3 1/2 months later and midway into the resumed session of the Conference at United Nations Headquarters in New York City.

83. The first part of the Eighth Session was held in Geneva from March 19 to April 27, 1979. The session will resume in New York from July 16 to August 24, 1979. *See* note 135 *infra* for a summary of relevant developments.

84. The Summary Record of that meeting report the Norwegian Minister as saying that

> [he] wished to make it quite clear that the possibility of an accommodation between land-locked States and States with special geographical characteristics, on the one hand, and coastal States, on the other, must be restricted to access to living resources. Such an accommodation could in no circumstances cover minerals, either under the convention or under any other agreement.

U.N. Doc. A/CONF.62/SR.102, at 11 (1978).

85. Norway's crude oil reserves are estimated at six billion barrels and its population at 4,040,000. At $15 per barrel, the reserves are worth $90 billion or approximately $22,277 per capita. 1979 THE WORLD ALMANAC 565.

have broad support in the Conference, among developing as well as developed nations. Upadhyay apparently believes, however, that if delegate support for the ICNT-EEZ is broad, it is not deep, especially among Third World nations. He maintains that a fair examination of the implications of the ICNT-EEZ will confirm Ambassador Pardo's judgment of the ICNT's essentially similar predecessor, the Revised Single Negotiating Text (RSNT).[86] That text issued from the Spring 1976 Session of the Conference. Concerning the RSNT, Pardo stated: "Even the partial division of ocean space now contemplated will . . . enormously increase present inequalities between states and consequently will give rise to acute tensions and conflicts . . . ."[87] Upadhyay believes that on close examination the Nepal Proposal will be seen to have much broader appeal than the ICNT-EEZ. Indeed, the proposal has a number of features which should prove attractive to Third World states, especially those of low income.

III. Ocean Wealth as a Source For Development Capital

The CHF's most obvious appeal to low income countries is that it would be an important source of development capital—something which the ICNT Proposal will not supply in any significant amount. That this capital is urgently needed is a widely accepted view. In a recent study, the World Bank observed that "[e]ven maintaining present rates of progress will require large increases in the flows of capital to developing countries . . . . On current projections, it is clear that absolute poverty will continue to be a massive problem for many decades."[88] The World Bank study concludes on a pessimistic note, stating that the growing uncertainty in international trade and the declining pace of economic recovery in the industrialized countries have created an environment "less favorable for progress than it has been for much of the past twenty-five years."[89] Commenting on the failure of the developed countries to meet past targets for assistance to the poorest countries, the World Bank report concludes that while the funds available to those countries will gradually rise, they will "still fall far short of the internationally accepted target of 0.7 percent of do-

86. U.N. Doc. A/CONF.62/WP.8/Rev. 1/Parts I, II & III, V Official Records of the Third United Nations Conference on the Law of the Sea 125 (1976).

87. Pardo, *supra* note 48, at 411-12.

88. World Development Report, 1978, as summarized in 124 Cong. Rec. S.14223 (daily ed. Aug. 23, 1978) (remarks of Senator Mathias).

89. *Id.*

nor countries' GNP."[90]

Steinberg and Yager have also emphasized the need for increased capital flow to the developing countries to sustain the six percent annual growth rate target set by the United Nations for the Second United Nations Development Decade.[91] They estimate that the average annual flow of capital to the non-oil-exporting developing nations required to sustain a six percent growth rate is between $50 billion and $53 billion. This would leave these countries with an annual "shortfall" of approximately $18 billion.[92] That figure would be easily covered by the Maltese Proposal, and the Nepal Proposal would make a substantial dent in it. The ICNT Proposal, however, would cover less than two percent of that deficit.

The United Nations has made it clear, however, that the *amount* of aid is not the only important consideration. In General Assembly Resolution 3362, a Special Session of the General Assembly stated that "[c]oncessional financial resources to developing countries need to be increased substantially, *their terms and conditions ameliorated and their flow made predictable, continuous and increasingly assured* so as to facilitate the implementation by developing countries of long-term programmes for economic and social development."[93] The Nepal Proposal acquires special interest in light of the specifications of Resolution 3362. It is clear that, if adopted, it would not only increase the flow of capital to poor developing countries, but it would also make that flow *predictable, continuous, and increasingly assured.* As Steinberg and Yager point out, the same cannot be said of the grants from developed countries on which developing countries traditionally have pinned their hopes for capital assistance.[94] As they indicate, assistance from these countries has not been predictable, continuous or increasingly assured.

Michael Harrington, a leading American social critic, is one of

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90. *Id.* at S.14224.

91. *See* STEINBERG & YAGER, *supra* note 49, at 2.

92. *See id.* at 13.

93. G.A.O.R., Seventh Special Session, Supp. (No.1), Resolution 3362 (1975) (emphasis added). It was this Special Seventh Session which focused Third World attention on the goal of a "New International Economic Order (NIEO)". Development capital is essential to a realization of that order. Yet, as one commentator has pointed out, in the years since the Seventh Special Session, Third World countries have worked to give a relatively few countries offshore oil and gas worth trillions of dollars — dollars that could have provided much of the development capital the Third World needs.

94. *See* STEINBERG & YAGER, *supra* note 49, at 13.

the few liberal figures who has seen the oceans as a major source of development capital. Harrington asserts that "[i]f these riches could be developed on behalf of the world's poor it would not be necessary to transfer existing resources from North to South, with all the political problems that such a move entails."[95] Yet the world's response to this great opportunity has been to turn its back on "one of the greatest, and most painless, opportunities for international justice that has ever existed, or is ever likely to exist."[96] This, Harrington asserts, is the result of Third World support for the 200-mile EEZ, which maximized their short-term interests but had the long-term effect of conceding the hydrocarbon wealth to the wealthy nations.[97]

The United Nations Conference for Trade and Development (UNCTAD) has frequently stressed the developing countries' need for capital. A recent UNCTAD report stated:

> The payments difficulties now being encountered, and likely to persist in the period ahead . . . reflect changes of unprecedented magnitude taking place in the international economy, including in particular dramatic changes in relative prices and the world-wide impact of recession and continuing inflation in developing countries.
>
> To meet such deficits, induced primarily by events outside the control of developing countries, *institutional arrangements are urgently required to channel financial support on a scale far larger than is currently available.*[98]

Substantial annual infusions of ocean wealth would be of great assistance to the development plans of poor Third World nations. But revenues from the CHF Proposal could also be used to launch the "Common Fund" which UNCTAD is trying vigorously to promote.[99] The purpose of the Common Fund is to finance the purchase and storage of buffer stocks of key commodities.[100] It is hoped that the operation of the Common Fund will help developing countries to get just and stable prices for the commodities which

95. *See* M. HARRINGTON, THE VAST MAJORITY: A JOURNAL TO THE WORLD'S POOR 247 (1977).

96. *Id.* at 245-46.

97. *Id.* at 247.

98. Trade and Development Issues in the Context of a New International Economic Order, UNCTAD IV Seminar Program, U.N. Doc. UNCTAD/OSG/104/Rev. 1, at 16 (1976) (emphasis added).

99. UNCTAD IV—And Beyond, Background Paper No. 2 [copy on file with *California Western International Law Journal*].

100. *See id.* at 2.

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are such an important part of their exports.[101] UNCTAD hopes that the developed nations will provide a substantial portion of the six billion dollars which will be required to establish the Common Fund.[102] However, if these nations do not come through with the required sums, the CHF Proposal is a possible source for all or part of the required capital. This would require, however, some modification in the Nepal Treaty articles.

Another prominent individual who perceives the development potential in ocean wealth is Maurice Strong, the founding Director of the United Nations Environment Program and a member of Common Heritage International. Early in the fateful Caracas Session, Strong spoke of the opportunity that ocean wealth presents to poor countries. As summarized in the Summary Record,

> [H]e said that the problem of sea-bed resources raised a critical question of equity in the relations between the more industrialized and the developing countries, as well as between coastal and shelf-locked or land-locked States. Failure to create a strong sea-bed regime would lead to pre-emption of the lion's share of the benefits by those with the capital and technology required, and to an accumulation of new pollution problems that would threaten in particular those States least able to take protective measures.
>
> The two-thirds of the world's population whose lives were polluted by worsening poverty must receive their share of the benefits of exploiting the resources of the oceans; it was not a matter of charity but of equity. The Conference had the opportunity to provide the additional resources required to bring decent standards of life to those people. Such action would not only reduce their dependence on the vagaries of development assistance from the more wealthy countries but would also provide a new underpinning for their economic security, which was indispensable to a viable world order.[103]

IV. This Monumental Grab for Riches

Many factors have contributed to the undercutting of the common heritage principle—greed, nationalism, the sudden rise of oil prices, and, perhaps most importantly, shrewd packaging of the 200-mile EEZ in a "good for the Third World" wrapping. The last

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101. *See id.* at 1.

102. *See id.* at 5.

103. Statement of Maurice Strong, 8 July 1974, Mtg. of Plenary, UNCLOS III Records, U.N. Doc. A/CONF.62/SR.31 (1974).

point is particularly important. Indeed, as Nepal tries to revive the common heritage, much of its efforts is devoted to convincing the developing nations that it is the rich developed countries and not the poor developing countries that will gain the most from the ICNT-EEZ.

During the UNCLOS III meetings in Geneva in 1978, Ambassador Upadhyay made three simple but important points about the distribution of ocean mineral wealth. First, he stressed that in real dollar value, the overwhelming majority of exploitable ocean wealth is located within 200 miles of shore.[104] Second, if the ICNT-EEZ is adopted, over half of the world's EEZ would be claimed by just ten countries;[105] of the seven nations with the largest EEZ's, six are developed. More EEZ would go to the top thirteen developed countries than to all the developing nations.[106] Third, if the ICNT-EEZ is adopted, most poor countries would get only a tiny portion of the immense wealth of the oceans, totaling less than a billion dollars a year until well into the 1990's.[107]

Arvid Pardo has consistently stressed the same theme — the injustice inherent in the division of ocean wealth in the several negotiating texts. During the final meetings of the Seabed Committee in 1973, he stated:

> [T]he situation now is like sharks smelling blood in water; they go crazy, attacking the carcass, tearing it to pieces and killing each other; all at the same time. The states are trying to swallow the carcass of the ocean space beyond national jurisdiction and, in the process, are very likely to inflict serious injury on themselves.[108]

At a Villanova University address to mark the tenth anniversary of his 1967 speech, Pardo stated that "the magnitude of this monumental grab for riches is totally unprecedented in world history. . . . [T]he rich continue to get richer, the poor remain poor, and the landlocked countries, which with few exceptions are the poorest of the poor, become poorer."[109] Of the ICNT Proposal, he has said that it is clearly "excessive."[110] Pardo has concluded that

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104. Upadhyay, *supra* note 74, at 2.

105. *Id.* The ten countries are: the United States, Australia, Indonesia, New Zealand, Canada, the Soviet Union, Japan, Brazil, Mexico, and Chile.

106. Bridgman, *Who Gets What Resources in the ICNT: The Top Twenty-Five*, in Logue, *supra* note 6, at 11.

107. *Id.*

108. Pardo, *Justice and the Oceans*, in Logue, *supra* note 6, at 52.

109. *Id.*

110. *See id.* at 57.

if the common heritage principle is abandoned, UNCLOS III will not achieve results even if a comprehensive law of the sea treaty is agreed upon. In his tenth anniversary address, he made a very succinct statement of his views on the importance of the common heritage principle:

> The effort to implement the principles of equity and of the common heritage of mankind in the seas was the major impulse in the decision of the United Nations General Assembly to convene the present Law of the Sea Conference. This effort was the glue which gave a focus to the early stages of the negotiations. If the effort is abandoned, if the principles are forgotten, the Conference cannot achieve constructive results, even if agreement on a treaty is reached.[111]

Upadhyay agrees with Pardo's view that the basic fault with UNCLOS III is a moral one. In his view, the mineral and food resources of the oceans "are essential to the survival and prosperity of mankind."[112] In the absence of an equitable international sharing of the ocean's wealth, Upadhyay foresees the demise of UNCLOS III:

> [I]f the Law of the Sea Conference fails it will be because we, the participants in it, did not hold high the idea of the common heritage of mankind. We did not do that because, in spite of our awareness of new challenges facing the earth and its inhabitants, we are still victims of narrow self-interest.
>
> . . . .
>
> Look at the result! Most of mankind's share of ocean resources has been thrown into the coffers of a few rich countries.[113]

It was at the Pardo Colloquium that Upadhyay first sketched the outlines of the CHF Proposal which he would introduce in Geneva seven months later. In his proposal, the Nepal Ambassador stated that the time was ripe for a bold initiative in the Conference:

> There are signs that many delegations realize that great damage has been done to the concept of the common heritage. But man has the ability to correct wrongs. I suggest that if the least developed and the landlocked and geographically disadvantaged states decide to propose this Common Heritage Fund they will stimulate the thinking of the delegates to the Law of the Sea Conference. I believe those states are ripe for such an initiative. For, except for a handful of them, the developing countries

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111. *Id.*

112. Upadhyay, *A Third World Perspective on Sharing in the Law of the Sea Conference*, in Logue, *supra* note 6, at 17.

113. *Id.* at 18-19.

have little or nothing to gain from the ICNT.[114]

He concluded:

> In my view a plan of this kind is the only way in which there can be meaningful sharing in the Law of the Sea Treaty. It is the only way we can realize the concept of the common heritage of mankind and, through that concept, realize the ideas of equity and justice on which it is based.[115]

V. Ideology Comes to the Fore

The awarding of the real common heritage — offshore wealth — to the coastal states has been a major reason for the long deadlock in the Conference on the crucial issue of the nature and powers of the International Seabed Authority (ISA). Third World countries have begun to realize that if the ICNT-EEZ is adopted, Ambassador Pardo's dream of substantial common heritage funding for those countries will be shattered. Realizing that there would be no significant *financial* dividend from an ICNT treaty, many Third World nations became increasingly interested in obtaining an *ideological* dividend from a treaty. That ideological dividend is an ISA which is so powerful that it will be a symbol of, and a down payment on, the New International Economic Order (NIEO).

If the decline of the common heritage has made the Conference more ideological, a revival of the common heritage might have the opposite effect, that is, it might facilitate a pragmatic compromise on the question of the Seabed Authority. However, if the common heritage is not restored, there is reason to believe that the deep seabed question will continue to be approached ideologically, and a solution to it will continue to escape the Conference.

Professor Henkin of Columbia University perceives a connection between the erosion of the common heritage and the tendency of the Conference to become more ideological.

> Perhaps because it soon appeared that the deep-sea bed would not in fact produce tremendous wealth right away, the general agreement that there should be some revenue sharing was soon submerged beneath other, largely ideologically [*sic*] differences. "Radical" Third World states sought arrangements that would not only give the Third World virtually all the economic benefits, but would also give the exclusive right to mine to international institutions which the Third World would control and which would enable Third World governments and their citizens to be

114. *Id.* at 20.
115. *Id.*

> educated in the technology and to manage as well as operate the international enterprise.[116]

Henkin notes, however, that the developed states were not — and are not now — willing to accept such a "unitary" system of deep ocean exploitation.[117]

The connection between the diminution of the common heritage and the radicalization of Third World thinking has also been noted by other commentators. Friedheim and Durch have emphasized the attempt by the Group of 77[118] to force the developed states to accept the NIEO. Although the developed nations have moved some distance toward the Group of 77's position, the Group of 77 appears unwilling to compromise and has become more, rather than less, radicalized over time.[119] As Friedheim and Durch state, "The Group of 77['s] disinterest in incremental bargaining would be consistent with their insistence that ISRA is not a matter of compromise, . . . but a matter of principle."[120] The authors are not optimistic about the future of the Conference:

> The prospect of a New International Ecomonic Order appears to drive an intransigent Group of 77 to demand nothing short of unconditional acceptance of their unassailably just position by the developed states. If the 77 sincerely believe their own rhetoric — and we think that many of them do — then we see little hope for an outcome on ISRA that is satisfactory to all parties. The [Group of] 77 appear[s] to have made their choice, favoring political and symbolic ends over short-run economic gains.[121]

That an NIEO perspective deeply influences many Third World states is not just a perception of commentators from the developed world. Third World diplomats are also conscious of the NIEO concept in UNCLOS III. In a Spring 1978 meeting in Geneva, Alvaro de Soto Polar of Peru stated:

> There is a very different line of approach taken by the developed and the developing states toward seabed mining . . . . The main difference lies in an attitude, which has inspired the devel-

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116. Henkin, *The Changing Law of the Sea: Technology, Law and Politics*, in MARINE TECHNOLOGY AND LAW: DEVELOPMENT OF HYDROCARBON RESOURCES AND OFFSHORE STRUCTURES 143 (Ocean Association of Japan 1977).

117. *Id.*

118. The group of 77 is the "caucus" of developing countries in many international bodies. It is so named because the caucus consisted originally of 77 member states. Currently, 119 states are members.

119. Friedheim & Durch, *The International Seabed Resources Agency Negotiations and the New International Economic Order*, 31:2 INT'L ORGANIZATION 379 (1977).

120. *Id.*

121. *Id.* at 383.

> oping countries in all international negotiations in the last few years — the desire for a New International Economic Order. It is impossible to separate the negotiations on the seabed from those on the NIEO as a whole. The actions of developing countries have been influenced by the thought that the model created in an International Seabed Authority should be the first such model in a NIEO. It should thus be directed toward the ideal of transfer of resources, of technology, and also, ideally, of power from the developed to the developing countries.[122]

In these same meetings, Ronald Katz, Deputy Director of the United States Department of State's Office of the Law of the Sea Negotiations, stated that "the law of the sea negotiations are among the first to test the new concept of the NIEO."[123] Katz recognized that precedents in this regard are being set at UNCLOS III, but warned that "[i]f we try to load all of the ideology onto this one conference, it may collapse under all [the] weight."[124]

As noted above, Third World attitudes on the nature and powers of the ISA have tended to become more radicalized with the decline of the common heritage principle. The ISA's power to control production and set floors on prices, its one nation-one vote Assembly, and its right to the trade secrets of private companies are virtues to Third World countries who see the ISA as a model for future North-South economic relations. But what Third World countries perceive as virtues, developed countries consider vices. Indeed, the United States has taken the position that key features of the ICNT's deep seabed regime are quite unacceptable.[125]

VI. Deadlock in the Conference

At the close of the Seventh Session in late 1978, an acceptable compromise on the future ISA seemed far off. Nepal's answer to this deadlock was to revive the common heritage principle. The United States approach, on the other hand, was a move toward unilateralism.

The Chairman of the United States delegation to UNCLOS III, Ambassador Elliot Richardson, began to urge Congress to act unilaterally in a way that would rival in importance two earlier ex-

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122. Alvaro de Soto Polar, Summary of Remarks of the Speakers from Five Panel Discussions on UNCLOS III, at 6 (Geneva, 11 April-9 May 1978) [copy on file with *California Western International Law Journal*].

123. *Id.* at 11.

124. *Id.*

125. U.N. Doc. A/CONF.62/RCNG/1, at 27 (1978).

amples of United States unilateralism — the 1945 Truman Proclamation[126] and the 200-mile fishing zone bill.[127] After the Seventh Session, Ambassador Richardson made a major effort to secure passage of legislation which would authorize private industry to mine the deep seabed. It was generally assumed that Richardson believed that the threat of unilateralism would move the Conference toward agreement on a deep seabed regime which would be acceptable to Congress. In an August 1978 statement to the General Committee, he argued:

> Far from jeopardizing the Conference, sea-bed mining legislation should facilitate the early conclusion of a generally acceptable treaty by dispelling any impression that the Governments of the countries preparing to engage in such mining could be induced to acquiesce in an otherwise unacceptable treaty as the only means of obtaining the minerals of the seabed beyond national jurisdiction.[128]

Critics of the Ambassador believe that the Third World will not be pressured into an agreement, and that Richardson's "ploy" will increase Third World intransigence and possibly torpedo the Conference. On September 15, the last day of the Summer 1978 meetings, Ambassador Nandan, Chairman of the Group of 77, spoke out strongly against the unilateral approach.

> The Group of 77 considered the legislation in question contrary to the Declaration of Principles contained in General Assembly resolution 2749 (XXV), which had been adopted by consensus, and to the moratorium on sea-bed exploration and exploitation established by General Assembly Resolution 2574D (XXIV), as well as a similar resolution adopted by UNCTAD at its third session. According to those resolutions, unilateral legislation relating to sea-bed resources beyond national jurisdiction has no validity in international law, and activities conducted thereunder had no legal status.
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> . . . .
>
> It was incomprehensible that at a time when the Conference was at an advanced stage in negotiating an internationally agreed regime for the exploration and exploitation of the resources of the deep sea-bed, States engaged in those negotiations should contemplate unilateral action which could jeopardize the negotiations and the success of the Conference itself. There

126. Pres. Proclamation No. 2667, 3 C.F.R. 1943-1948 (Compilation) 67, 59 Stat. 884, 13 DEP'T STATE BULL. 485 (1945). It is known as the Continental Shelf Proclamation.

127. 16 U.S.C. § 1811 (1976).

128. U.N. Doc. A/CONF.62/BUR/SR.41, at 8-9 (1978).

> could be no substitute for a universally agreed treaty for a rational and equitable development of the resources of the deep sea-bed area in the interests of the world community as a whole. Over-all agreement should not be jeopardized through hasty and short-sighted actions.[129]

Nadan's tough statement contained an implied threat to the United States and other countries which might be tempted to act unilaterally and cautioned that such action would precipitate a chaotic situation with respect to ocean law.[130]

Ambassador Nandan's strong retort, which was echoed by other Third World countries,[131] may have caused the Senate to stop the Richardson-backed bill which, in similar version, had passed the House by an overwhelming vote.[132] The Senate bill did not reach the floor before Congress adjourned in mid-October 1978.

VII. Conclusion: Can Nepal Break the Deadlock?

Nepal's positive approach is profoundly different from the negative approach adopted by Ambassador Richardson. Nepal believes that a bolder and more generous treaty is the answer to the Conference deadlock. It offers the Common Heritage Fund and all that it could mean for development, peace, and saving the gravely threatened marine environment.

What chance does the Nepal Proposal have? The author agrees with the conventional view that it is unlikely the original version of the proposal will be part of the final treaty. He agrees with the conventional view that agreement on *any* law of the sea treaty is not likely. But he feels that the "support potential" for a treaty which incorporates the CHF approach is much greater than the support potential for a treaty, such as the ICNT, which does not incorporate that approach. If this judgment is correct, the problem for Nepal — and for other champions of the common heritage — is

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129. *Id.* at 7-8.

130. U.N. Press Release SEA/334, at 6 (Sept. 15, 1978). The release reported Nandan as saying that unilateral action

> may conceivably wreck the Conference and destroy the hard-won progress that it has made. . . . The responsibility of such an unfortunate consequence must rest squarely on their shoulders. . . . Unilateral recovery and appropriation of the resources which are the subject of the (Seabed) Declaration is more than claiming sovereignty. It, in fact, amounts to an exercise of sovereignty.

131. U.N. Doc. A/CONF.62/BUR/SR.41, at 11-12 (1978).

132. The bill passed the House of Representatives by a vote of 312 to 80. 125 Cong. Rec. H. 1212 (daily ed. March 8, 1979).

how to get the tired Law of the Sea Conference to take the Nepal Proposal seriously.

A significant step in that direction occurred in the days before the Spring 1979 Geneva Session. At a "common heritage workshop" held at the Church Center for the United Nations in New York, Rikhi Jaipal, India's Ambassador to the United Nations, said that the Conference should give a fair hearing to the Nepal Proposal. He told the workshop that he did not understand why the proposal "[had] not even been discussed by the Law of the Sea Conference"[133] and indicated his government's belief that the Nepal Proposal ought to be examined carefully by that Conference.

At the same mid-February workshop, Dr. Mohan Lohani, Ambassador Upadhyay's successor as head of the Nepal Mission to the United Nations, reiterated his country's hopes for its CHF Proposal. In a paper presented at the workshop, Lohani stated:

> Critics of the Nepal Proposal contend that the proposal with its noble objectives has come too late. But all of us know that the Law of the Sea Conference has now reached an impasse on the question of deep-sea mining. Nepal believes that a more imaginatively conceived and more generous treaty can revitalize the Conference and go a long way towards realizing the goals of equity, justice, peace and development. A treaty incorporating the CHF would have a positive and meaningful impact on the world order as a whole.[134]

Perhaps the most appropriate comment on Nepal's chances would be a variation on Winston Churchill's famous epigram: "The test of a great nation is what it can do when it is tired." The challenge to the six-year-old Law of the Sea Conference is what can *it* do when it is, as it is, *very* tired.[135]

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133. *In* India Urges Common Heritage Fund Proposal Get 'Fair Hearing' at Spring Law of Sea Meetings, Common Heritage Report No. 30, at 1 (Mar. 1979) [copy on file with *California Western International Law Journal*].

134. Would Generous Sharing Help Get a Law of the Sea Treaty? The Nepal Common Heritage Fund Proposal As an Example (statement of Mohan Lohani, Workshop held February 16, 1979 in New York City) [copy on file with *California Western International Law Journal*].

135. There were a number of interesting developments with respect to the Nepal Proposal in the March 19-April 27 Geneva portion of the Eighth Session of UNCLOS III and immediately thereafter. On April 27, the last day of the Session, Conference President Amerasinghe told the Plenary that the Nepal Proposal was one of a number of issues and proposals which should form the subject of further negotiations during the resumed session, which will meet in New York from July 16 to August 24, 1979. It seems probable the New York session will also consider two abbreviated versions of the CHF Proposal, which Nepal drafted and circulated. Both retain the key features of the original Nepal Proposal.

The first of these abbreviated versions, entitled "Informal Proposal for a Common Heri-

tage Fund," was circulated on April 20, 1979, by Nepal, Lesotho, Upper Volta, and Zambia. The Informal Proposal took the form of two brief amendments to Article 173 of the original ICNT, entitled "Special Fund." The Informal Proposal would have changed that title to "Common Heritage Fund" and made changes in paragraphs one and two of the article. However, the new draft treaty — ICNT/Rev. 1 — issued in mid-May made radical changes in Article 173, which the Informal Proposal sought to amend, including changing the title of Article 173 from "Special Fund" to "Expenses of the Authority." The wording of the article was so changed that Nepal decided it was no longer an appropriate "peg" on which to hang CHF amendments.

In early June, Nepal circulated a "New Informal Proposal for a Common Heritage Fund" essentially similar to its April 20th proposal. The New Informal Proposal is made up of two amendments to ICNT/Rev. 1. The first amendment would add a Paragraph 4 to Article 56, entitled: "Rights, jurisdiction and duties of the coastal State in the exclusive economic zone." The proposed new paragraph 4 of Article 56 would read as follows:

> 4. a. The coastal State shall make payments or contributions in kind to a Common Heritage Fund from the proceeds accruing to it from the exploitation of the non-living resources of the EEZ.
>
> b. The rate of payments and contributions to the Fund shall be determined by the Authority, taking into account the relative capacity of States to make such payments and contributions.
>
> c. The Authority shall make disbursements to the States Parties to this Convention on the basis of equitable sharing criteria, taking into account the interests and needs of developing countries, particularly the least developed and the land-locked amongst them. The Authority may also make disbursements to protect the marine environment, to foster the transfer of marine technology, to assist the work of the United Nations in the aforementioned fields, and to help finance the Enterprise.

The second amendment makes a related change in Paragraph 4 of Article 82, entitled: "Payments and contributions with respect to the exploitation of the continental shelf beyond 200 miles." If amended, paragraph 4 of Article 82 would read:

> The payments or contributions shall be made *to a Common Heritage Fund, as established in Article 56*, through the Authority, which shall distribute them to States Parties to this Convention, on the basis of equitable sharing criteria, taking into account the interests and needs of developing countries, particularly the least developed and land-locked amongst them.

The texts of the "Informal Proposal for a Common Heritage Fund" and the "New Informal Proposal for a Common Heritage Fund" were supplied by the Nepal Mission to the United Nations. [Copy on file with the *California Western International Law Journal*].

Speaking in Plenary on the last day of the Geneva meetings, Dr. Mohan Lohani, Chairman of the Nepal Delegation, briefly reviewed developments in the nearly twelve months since the Nepal Proposal was introduced and summarized some of the response to the proposal. The following are excerpts from that April 27 intervention:

> It is now nearly a year since the Delegation of Nepal introduced its proposal (A/CONF.62/65) for a Common Heritage Fund as part of the Law of the Sea Convention being negotiated in the Law of the Sea Conference. While we note with regret that the Conference has not yet seen fit to take up our proposal, we understand and respect the reasons why it has not done so. The Conference, as we have seen, has been spending almost all its time and energy on some outstanding "hard-core" issues.
>
> . . . .
>
> . . . But we want to add that in our judgment there are other important hard core issues . . . . In Nepal's view the poverty and misery of 800 million human beings is a hard-core issue about which the Conference must do something meaningful. Yet everyone agrees that the sharing provisions in the ICNT will prove insignificant in alleviating that poverty and misery. When the needs of the poor are so great, does it really make sense to award most of the thirty trillion dollars worth

of offshore mineral wealth to a very few States, many of them already very rich? We believe that does *not* make sense.

. . . .

We are fully aware that the CHF proposal has had its critics; . . . their criticisms have been most helpful. At the same time, we are happy that the proposal has found strong supporters. The best example I can give you is that late last summer an international committee was established to support the idea of a Common Heritage Fund and to warmly welcome the Nepal Proposal for such a Fund. The name of this new committee is Common Heritage International.

. . . .

The formation of such a distinguished group in such a short time suggests that the CHF Proposal has struck a very responsive chord. Two sentences from the group's "Statement of Beliefs and Purposes" illustrate this point: "Although the hour is late, we believe that there is still time to make the Law of the Sea Conference a major turning point in the struggle to build a new a more just economic and political order, to protect the gravely threatened marine environment and to preserve endangered marine species. But for this to happen the Conference must recover the vision that inspired its launching, the vision of the oceans as the common heritage of mankind."

. . . .

We earnestly hope that every delegation in this Conference will respond positively to this proposal. The establishment of a Common Heritage Fund will not only help to realize that noble concept which was the *raison d'etre* of the present Conference, but will also go a long way toward creating the new international economic and political order which is essential if we and future generations are to live together in peace and justice and in a healthy and prosperous world.

Address by Dr. Mohan P. Lohani, Eighth Session of UNCLOS III, in Geneva (April 27, 1979).

In his "Explanatory Memorandum by the President of the Conference," which serves as an introduction to the ICNT/Rev. I, President Amerasinghe restates his view that the Nepal Proposal should be considered at the resumed session:

> The team (the President and the Chairmen of the three Committees) agreed that it was most important that the President should stress, in this explanatory memorandum, that it had been able to address itself only to the texts placed before the Plenary by the respective Chairmen and by the President and that, accordingly, as the President had already recognized in the Plenary, many issues and proposals had not yet received adequate consideration and should form the subject of further negotiations during the resumed session.
>
> These included the other issues referred to in paragraph 6 of A/CONF.62/62 which mentioned, *inter alia*, . . . the proposal by Nepal on a common heritage fund (A/CONF.62/65) . . . .

U.N. Doc. A/CONF.62/WP.10/Rev.1, at 19-20 (1979).

[From the Congressional Record—Extension of Remarks, Oct. 7, 1975]

CANADA, THE THIRD WORLD AND THE LAW OF THE SEA

HON. ROBERT W. EDGAR OF PENNSYLVANIA IN THE HOUSE OF REPRESENTATIVES - TUESDAY, OCTOBER 7, 1975

Mr. EDGAR. Mr. Speaker, the law of the sea is one of the most important policy areas in which the United States is invloved. One of my constitutents. Dr. John J. Logue of Villanova University, has gone into this issue very deeply.

I think Members will be interested in the text of a lecture which Dr. Logue gave to the Society for International Development in Ottawa on March 11 of this year. It is entitled, "Canada, The Third World and the Law of the Sea." During the same Ottawa visit he gave shorter versions of the same talk to members of the Canadian Parliament and to a national audience on a Canadian Broadcasting Corporation television program.

I should like to add that Dr. Logue is director of Villanova University's World Order Research Institute and that in the summer of 1974 he served as chairman of the nongovernment organization observers at the Caraças session of United Nations Conference on the Law of the Sea. He has lectured on the law of the sea in 11 countries on four continents. Dr. Logue believēs that the national interest of the United States—and of Canada—is best served by adopting an approach to the law of the sea which stresses international cooperation and the strengthening of international institutions.

The text of the lecture follows:

CANADA, THE THIRD WORLD AND THE LAW OF THE SEA*

(By John Logue)

"This article is an edited version of the lecture which Dr. Logue gave to Canada's Society for International Development in Ottawa on March 11, 1975. He gave shorter versions of the same lecture to a breakfast meeting of 25 Canadian parliamentarians in the House of Commons and to a seminar at Carleton University. He also spoke on Canadian Broadcasting Corporation's TV program 'Viewpoint' and on CBS Radio's "As It Happens." Dr. Logue is Director of Villanova University's World Order Research Institute.

"It is a great pleasure and privilege to come back to Canada in order to give a second lecture on the Law of the Sea. It is a special pleasure to accept the invitation of the Society for International Development to speak on the subject of 'Canada, the Third World and the Law of the Sea.' Since my last visit, in February of 1974, I have spoken on the law of the sea in eleven countries on four continents and had, last summer, the honor of serving as chairman of the non-governmental organization observers at the Caracas session of the United Nations Conference on the Law of the Sea.

"When I spoke at Queens University last year I said I believe that the thousands or billions of dollars of ocean mineral wealth could and should provide 'a trillion dollar opportunity to promote Third World development, to promote peace and to promote ecological sanity. A year later I still believe that a substantial part of that wealth can and should be regarded as 'the common heritage of mankind' and become a major force for the kind of economic and social progress to which your society is devoted.

"You have asked me to comment on Canadian ocean policy. I am afraid I am going to say some things that some Canadians may not like to hear. I can only plead—with Edmund Burke—that the best way I can demonstrate my admiration and affection for Canada—a nation which has made so many contributions to the cause of peace—is to tell you what I really feel. Let me stress that I speak only for myself. I am not and never have been a member of the U.S. delegation. Indeed in my own country the few people who knew me—or know of me—know that I have criticized that policy in my book *The Fate of the Oceans*, in articles, in lectures, in testimony before Congressional committees and in public and private exchange with my country's ocean policy makers.

"In my trips abroad I was frank with my audiences and I will try to be frank with you. In the Norwegian Stortinget last May I told a group of parliamentar-

* The lecture text was sent to all Delegations at the spring 1975 Geneva Session of the Third U.N. Conference on the Law of the Sea. That Conference resumes in New York in the spring of 1976 and must deal with some of these issues. For extra copies write: WORI, Villanova University, Villanova, Pa.

lans that I thought Norway should agree that the international community should get a substantial share of the offshore oil she now claims as her exclusive property. In August, at the end of the Caracas Sesssion, I told a press conference that while I thought it very appropriate for the delegates to celebrate, as they did, Simon Bolivar the Liberator I wished they had also celebrated Bolivar the Unifier. For in my judgment Bolivar the Unifier would have deplored the nationalistic tendency of the Caracas Session.

"In Britain's House of Commons last November I told a committee of parliamentarians I believed Britain ought to contribute some of the revenues from North Sea oil to a world common heritage fund. As you know all—or almost all—of that oil is in water less than 200 meters deep. And in January of this year I told the Indian Society of International Law—and high government officials—that I hoped India, a poor nation blessed with a very long coastline—lead a movement away from the exclusive economic zone and help revive the idea of the common heritage. Needless to say such a policy would require some sacrifice on the part of India.

"The central thing I want to say to you this evening is that I believe Canada is the most influential force for nationalism in the current negotiations for a law of the sea treaty. And the basic message I want to leave with you is that I hope Canadians will take a closer look at their country's ocean policy and ask themselves whether this ocean nationalism is not a radical departure from Canada's great tradition of internationalism. And it is my hope that your great prime minister will reexamine Canadian law of the sea policy and then direct it into channels which would more adequately reflect his own deep concern for peace, for justice and for Third World development.

"What I want to say to you was said much better by a poet. T. S. Eliot said somewhere—and surely it is one of the most cynical observations on record—that there is only one thing worse in life than not to realize your dreams—and that is to realize them! Fortunately what Eliot said is not always true. But sometimes it is true. Personally I feel that it will be true of Canada if her ocean policy makers realize their dreams.

"For years now Canadian diplomats have been working for a new law of the sea, a law of the sea which would give coastal states the overwhelming share of ocean resources. That dream is almost a reality. The Law of the Sea Conference may soon agree that all of the twenty thousand billion dollars of oil and gas within 200 miles of coastal states belongs to these coastal states. And coastal states will probably get all—or most—of the fish off their shores. Should this happen, Canada can claim a large share of the credit—and, of course, an immense share of the wealth. But I believe Canada will come to regret, deeply regret, that policy for it will make it much harder to build development, to fight pollution and to build peace.

"Your diplomats have helped persuade Third World states that law of the sea policies which will bring great rewards to Canada will, by some unexplained logic, be wonderful policies for the Third World. In the short run those policies are good for Canada, the second largest country in the world, a nation with tremendous wealth off its shores. But they are bad, very bad, for most of the Third World. For those policies are helping to kill the promising idea that a substantial portion of the ocean mineral wealth will be treated as 'the common heritage of mankind.' And only through the common heritage idea can most Third World countries hope to get any meaningful share in 'the real ocean mineral wealth,' i.e. the wealth within 200 miles off shore.

"Somehow—but Canadian diplomats do not and cannot explain how—200 mile exclusive economic zones (and exclusive economic zones which go far beyond 200 miles) are supposed to be good for all states, even landlocked states, shelf-locked states, steep shelf states and short coastline states. As with Adam Smith's laissez-faire economic system and beneficence of this 200-mile EEZ must be taken on faith. It cannot stand close scrutiny. And so one hopes that Third World leaders, who have seen the ideology of laissez-faire economics for what it is, a disguise for the interest of the 'have' classes, will see the arguments for the EEZ for what they are: a disguise for the interest of a few geographically fortunate states, many of them already very rich."

"There were many obstacles in the path of coastal states as they worked to have international law sanction their immense claims beyond the traditional three-mile territorial sea. Traditional international law held that the resources of the sea belonged to no one, were res nullius. But, especially after World War II,

coastal states began to grab those resources. As you know, President Truman's famous 1945 Continental Shelf Proclamation was one the earliest and most influential of those grabs. Most states were a bit apologetic about their grabs and so they justified them at considerable length, citing arguments, legal, historical, geological, moral and what have you. The special contributions of Canada's diplomats, or so it seems to me, was not their arguments in favor of particular cases of unilateralism but their arguments in favor of unilateralism itself. As Ambassador Beesley said in 1972: 'We do not consider that either the multilateral approach or the unilateral approach should be allowed to predominate on the international scene.'

"And whenever a regional gathering of diplomats passed a multilateral declaration which would give coastal states exclusive sovereignty over resources one could count on Canada to praise that declaration as 'historic.' Perhaps one of you can tell me of an occasion when Canada's diplomats expressed regret at an exclusive economic zones (and exclusive economic zones which go far beyond extension of claims by coastal states. I do not know of one such occasion.

"Eloquent spokesmen—such as Ambassador Pardo of Malta—argued that a common heritage approach to seabed resources could have made a tremendous contribution to Third World development. In 1967 he estimated that by 1975, this year, ocean wealth could provide as much as six billion dollars a year for international community purposes. And last May he told the Committee on External Affairs and National Defense of your House of Commons that six billion dollars had been a conservative estimate since he thought the common heritage area should begin twelve miles from shore.

"How has Canada responded to Dr. Pardo's call for restraint?"

To answer that question let me quote from an unusually frank speech which Canada's Minister for the Environment and Fisheries made in the House of Commons on March 4, 1974. In a celebration of Canadian unilateralism the Honorable Jack Davis said:

"We are pushing our limits seaward, pushing them to the edge of the continental shelf, to the continental margin, to the margin including the slope. We are extending our resource base and adding to it by between one-quarter and one-third. We are adding immensely to the total area of land and sea for which Canada is responsible. Our area in acreage terms is being increased by forty percent over little more than a decade. . . ."

He went on:

"This is a remarkable accomplishment. It is remarkable when one realizes that Canada in its land mass is the second largest country in the world. The extension of our area of responsibility to forty percent is a great achievement. Our continental shelf is immense. We have the world's biggest continental shelf. We are taking over these great resources, making them ours from the management point of view and, indeed, an ownership point of view, with very little effort and very little attention.

". . . Here is where the action is in terms of the extension of our boundaries; here is where we are increasing our resource base fantastically and in a remarkably short period of time. . . .

Mr. Davis isn't only celebrating past seizures. He is heralding future ones:

"When our limits are extended to the edge of the continental shelf we shall, physically and economically be forty percent larger than we are now . . ."

He goes on:

"We must push out our limits, especially our resources and development limits, limits connected with fisheries, oil and gas . . ."

It is not surprising that ocean nationalism, including Canadian ocean nationalism, has made Dr. Pardo a very disillusioned man. In the summer of 1973 he said that the common heritage would soon be limited to "a few fish and some seaweed." More recently he has described the struggle for ocean resources in the following way:

"The situation now is like sharks smelling blood in the water; they go crazy, attacking the carcass, tear it to pieces—and kill each other; all at the same time. The states are trying to swallow the carcass of ocean space beyond national jurisdiction and, in the process, are very likely to inflict serious injury on themselves. . . ."

"In my view Canada's law of the sea policy contradicts Canada's great and well-deserved reputation for internationalism. All over the world Canada has been known and respected for its support of international efforts to keep the peace, for its generous assistance to developing nations. That internationalism

reflects Canada's understanding that she—and every other nation—has a strong interest in assisting, as Prime Minister Trudeau recently put it, 'the two-thirds of the peoples of the world who are steadily falling farther and farther behind in the struggle for a decent standard of living.'

"Indeed Canada's reputation for internationalism has made it difficult for other nations—including Third World nations—to understand that the 200-mile EEZ is a moral monstrosity which, in its overall effect, rewards the 'haves' and impoverishes the 'have nots.' What I have said about Canada is equally true, in my view, of Norway and Australia. They too have great and well-deserved reputations for supporting international efforts of many kinds. And so there has been a reluctance to believe the truth: that all three nations are pursuing very nationalistic law of the sea policies.

"It is interesting to speculate as to what the Third World might have thought of the exclusive economic zone if the United States and the Soviet Union had been early and loud supporters of that policy. I believe that the Third World nations would have seen what many of them are just beginning to see, namely that the 200-mile EEZ is great for the superpowers, great for South Africa, beloved by Exxon, exceedingly profitable for Canada, Australia and Norway but very bad for most Third World countries.

"Let me stress that I am not talking about sharing fish resources. I am talking about sharing mineral resources. I think there is much to be said for a 200-mile fishing zone under the administration of the coastal state, with or without regional agreements. However, there should be in my judgment, provision for other nations taking some of the catch if the coastal state does not or cannot harvest the maximum sustainable yield. We must distinguish—practically and conceptually—the fish resources within 200 miles from the mineral resources within 200 miles. The problems are quite different.

"Fish can and do swim away. They are affected by pollution. It is easy for a distant-water fishing nation to violate international fishing regulations unless the coastal state has the authority and the means to enforce those regulations. The situation is quite different with minerals. The oil and gas, the really valuable minerals, don't move around like fish and they aren't affected by pollution. And keeping foreign rigs out of the waters off your coast is the simplest thing in the world. Rigs are so easy to sabotage that no bank in the world would lend a company the money, perhaps $180,000,000, to put a rig in a place where it had no legal claim to be. Let me add that including fishing revenues in the common heritage would be far too complex since there are so many individuals concerned. Including oil and gas would be relatively simple.

"I want to make clear that, as to minerals, I would urge that the coastal state have complete responsibility for administering their exploitation. It would decide whether, by whom, under what conditions and how much oil and gas would be exploited. The coastal state would, of course, get the major share of the revenues from that exploitation. While Ambassador Pardo suggested that the international community get all the revenues beginning 12 miles from shore I would agree with those who urge a maximum international share of twenty percent. However, I agree with Pardo that 'international sharing' should begin at 12 miles rather than at the very discriminatory 200-meter depth line. There should be contributions from the North Sea, the Gulf of Mexico and the Persian Gulf as well as from the open ocean. After all, the overwhelming proportion of ocean wealth exploitable in the near future is within 200 miles of shore.

"I want to stress that I favor a 200-mile economic zone but I am opposed to the idea of an exclusive economic zone. I support the concept of a 200-mile 'mixed economic zone' (MEZ) in which the coastal state would be required to contribute a proportion of the revenues from its mineral exploitation within the zone to a World Common Heritage Fund, according to a scale which would be incorporated in treaty articles. The contribution required would be proportional to the per capita income of the coastal state and, of course, to its seabed revenues. States would get assistance from the Fund in inverse proportion to their per capita income.

Let me conclude by saying that I hope Canadians will rethink their ocean policy and ask whether it really represents what Canada wants in this increasingly interdependent world. I hope that Canadians will decide that they can better serve their ideals—and their long-term interests—by leading a movement to revive the common heritage principle and all the bright promise it implies: peace, development and ecological sanity. Such a policy would be more in the Canadian tradition, in the tradition of Lester Pearson and Pierre Trudeau, than Canada's present law of the sea policy."

[From the Canadian Globe and Mail, March 15, 1975]

LAW OF THE SEA (V)

(By Geoffrey Stevens)

OTTAWA.—

"We must aim for nothing less than an acceptable distribution of the world's wealth. In doing so, the inequities resulting from the accidental location of valuable geological formations should no more be overlooked than should the present unequal acquisition of technological and managerial skills."—Prime Minister Pierre Trudeau.

"A 200-mile limit does not fully cover the Canadian case. We must obtain recognition of our rights and needs beyond that limit if we want to protect adequately our natural resources."—External Affairs Minister Allan MacEachen.

These two statements, both made this week—the one by Mr. Trudeau in an excellent speech in London, England, the other by Mr. MacEachen in a clear presentation to a parliamentary committee in Ottawa—set out with striking clarity the schizoid character of Canadian foreign policy.

The Prime Minister, in the best traditions of Pearsonian diplomacy, is touring Europe, preaching internationalism and calling for an equitable sharing of the world's wealth and resources. In Ottawa, his External Affairs Minister is spelling out a blatantly nationalist policy designed to guarantee that Canada will not have to share anything with anyone.

It sort of takes the breath away.

Nowhere is this schizophrenia more apparent than it is in Canada's approach to the Law of the Sea negotiations. No country adopted a more nationalist stance than we did at the Law of the Sea Conference last summer in Caracas. No one will be more nationalist than we will be when the conference resumes on Monday in Geneva. At the same time, however, a good many less favored nations will in Geneva, as they did in Caracas, accept at face value our sincere assurance that our most earnest desire is to protect the small and the poor from being ripped off by the big and the rich.

Canada, of course, is not alone in preaching internationalism while promoting national self-interest, we're just more efficient at it than most—we've been remarkably successful in internationalizing nationalism. Now, obviously even an imperfect Law of the Sea treaty, as long as it discourages every nation from setting its own rules, is much better than no treaty at all. But the original dream of a treaty that would truly treat the riches of the seas as the common heritage of all mankind is dead.

Some of the figures are startling. If every coastal nation establishes an exclusive economic zone for 200 miles off its shores, 30 per cent of the world's ocean space will be brought under national jurisdiction. The figure will be even higher if Canada and other broad-shelf countries are permitted to push their economic zones to the edge of the continental margin.

One estimate is that the coastal states will have the exclusive enjoyment of $20-trillion worth of oil, gas and minerals in the seabed of their 200-mile economic zones. This suggests that by the time it is necessary or economically practicable to develop the international deep seabed (whose revenues all nations would share), it may be a case of too little too late.

Some questions should be asked. Does Canada really need an economic zone that would stretch to the continental margin? If the Prime Minister's words this week mean anything, should we not turn our thinking around and contemplate sharing with the rest of the world even those resources that lie within 200 miles of our coasts?

A proposal to this effect was presented to a private breakfast of two dozen MPs in Ottawa this week by an American Law of the Sea expert, John J. Logue, director of the World Order Research Institute at Villanova University. Professor Logue proposed that up to 20 per cent of the revenue from each coastal state's 200-mile economic zone be contributed to a "world common heritage fund". The amount each nation would receive from the fund would be in inverse proportion to its per capita income. This way, at least a portion of the oil riches of such areas as the North Sea, Persian Gulf, Gulf of Mexico and the Canadian continental shelf would be spread among the poorer nations.

The fact that the MPs did not rush to embrace Mr. Logue's approach does not mean it does not have some merit. At the very least, we should take a critical look at our present Canada-first policy.

Last of a series

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COMMONWEAL NEW YORK, N.Y. February 8, 1978

THE SALT TALKS AND THE SALT WATER TALKS

JOHN J. LOGUE

Lack of vision has been a major fault

The "salt water talks" which have been going on for the last four years could do far more to limit strategic arms than the much publicized SALT talks. Unfortunately, the "arms control potential" of the giant United Nations Conference on the Law of the Sea has not been on the minds of the several thousand delegates who have participated in the Conference's six working sessions, most recently in last year's May-July session in New York City.

Lack of vision has been a major fault of the Conference. It is a major reason for the pessimism which envelops it as it limps toward a seventh session to be held in Geneva from late March to early May. Meanwhile in Washington, Congress is giving very serious consideration to deep seabed mining legislation which would torpedo the Conference.

If they thought about that arms control potential, the law of the sea delegates would adopt a very different approach to their work. Instead of asking, "How much can we grab?" they would begin to ask, "How well can we build?" They would do their best to build strong ocean institutions and provide substantial funding for them, especially from the thirty trillion dollars worth of oil and gas to be found in the continental margins of the world. By substantial funding I mean at least five to ten billion dollars a year. That kind of money could do a great deal to assist Third World development, to fund the urgent fight against ocean pollution and to assist the work of the United Nations.

A strong ocean authority with substantial funding could do for the world what the Coal and Steel Community and the Economic Community have done for Western Europe, i.e., build trust, community, prosperity and, most importantly, peace. Unfortunately, the four-year-old Conference is moving in the opposite direction. The chances are that it will end with no treaty or with a "giveaway treaty" that awards most of the immense wealth of the oceans to a very few nations. The draft treaty now before the Conference, the Informal Composite Negotiating Text (ICNT), is just such a treaty. It makes a mockery of the concept which inspired the Conference, the concept of ocean resources as "the common heritage of mankind."

JOHN J. LOGUE is Director of the World Order Research Institute of Villanova University and editor of the recent book, The Fate of the Oceans. He has lectured on the law of the sea in fifteen countries and attended each session of the Law of the Sea Conference.

It is now ten years since the day, November 1, 1967, when Ambassador Arvid Pardo of Malta made his famous speech, a four-hour one, urging the UN General Assembly to embrace that concept. Recently *Professor* Pardo—he is now on the political science faculty at the University of Southern California—fired a broadside at the ICNT. Speaking at Villanova University at a special colloquium in his honor Pardo said that the resource zone in the treaty is "a monumental grab for riches, unprecedented in world history." The result of it will be, he said, "the rich get richer, the poor remain poor and the landlocked countries which, with few exceptions, are the poorest of the poor, become poorer." The riches in question were, under traditional international law, *res communis*, i.e., common property.

As law of the sea diplomats work to give away the common property of mankind, arms negotiators are having one more try at restraining the mad race for nuclear armaments, delivery systems, laser beams, neutron bombs and the like. While one wishes them well, one cannot be optimistic as to the long-term results of their negotiations. They too lack vision—and boldness.

Unfortunately, the U.S. and Soviet Union appear to believe that arms control is a technical problem, a problem for the experts. So did the disarmament negotiators of the 1920s and 1930s. But nothing could be farther from the truth. Arms control and disarmament are basically political problems—not technical problems. The moral is clear. If you want workable arms control and disarmament you must build community and the institutions of community.

The Europeans learned this lesson at great cost. It took the horrors of World War II to teach it to them. In the late forties and early fifties Spaak, Monnet, Schuman and dozens of others saw that the best way to build peace in Europe was to build Europe. They were brilliantly successful in doing so. What they built was far from perfect. But it had a profound—and profoundly constructive—effect on the European scene. Former enemies became good friends. The French and Germans, who had fought three savage wars in seventy years, began to work in close and constructive cooperation.

The world is a very different place from Western Europe. But a workable strategy for building world peace will be essentially similar to the strategy that worked so well in Europe. Thus, what the SALT talks need most is not, as some appear to believe, an omniscient computer which links missile inventories, throw-weights, ranges, relative accuracies and a thousand other

variables in one magic formula. What they need most is another kind of linkage: a linkage of an arms control strategy with an imaginative strategy for building world community. Without such a linkage, the SALT talks will fail sooner or later. With it they can, and it is to be hoped, will succeed.

The salt water talks could play a major role in devising a community-building strategy. A law of the sea treaty which mandates—*and funds*—an effective anti-pollution strategy, a law of the sea treaty which mandates—*and funds*—a multi billion dollar economic development program—such a treaty could excite the interest and imagination of men and women everywhere.

Such a treaty would require a major change in the direction of the giant Conference. In particular, it would require a conscious decision that the common heritage will include a substantial portion of the revenues from offshore oil and gas. The present text awards all that wealth, the cream of the common heritage, to the coastal states and most of it to a handful of nations, most of them developed nations.

In a word, there must be sharing of the immense mineral wealth of the 200-mile economic zone, and not just the much less important wealth of the deep ocean. One interesting sharing proposal is the so-called "*Barba Negra* Formula." It is the central part of an "Appeal" to the Conference adopted by law of the sea diplomats and others during a sixty-mile sail from United Nations Headquarters out into the Atlantic Ocean. The sail on the square-rigger *Barba Negra* took place on August 22, 1976. The *Barba Negra* formula provides for graduated sharing of mineral revenues within the zone. It would require the poorest coastal states to contribute only one percent of their economic zone mineral revenues to a World Common Heritage Fund and the richest to contribute as much as twenty percent. The Fund would get three billion dollars a year now and considerably more in the years to come.

To change the Law of the Sea Conference's direction, to make it "come about," will be a very difficult task. The first step will be to persuade the delegates to cut through the fog of ideology, legalese and bloc politics and ask themselves two key questions. Is a giveaway treaty a good way to build peace? Will a giveaway treaty help the struggle for a new and more just international economic order?

Pardo, universally acclaimed as the father of the Law of the Sea Conference, has given his answer to those questions. In 1976, speaking of an earlier but essentially similar treaty draft, he said, "It will enormously increase inequality between states and consequently world tensions and conflicts." It is scandalous but hardly surprising that the preamble to the present treaty omits the word "justice" and does not even mention "the common heritage of mankind."

There is broad agreement that the Conference is in deep trouble. The conventional explanation for that trouble centers on the bitter struggle over the nature and powers of the proposed International Seabed Authority. But that struggle is a symptom, not a cause. The real cause of the trouble is much deeper. It is the betrayal of the common heritage by the leading nations in the Conference and not least by the United States which, in August of 1976, proposed a very generous sharing plan, a plan which it quickly abandoned.

To understand what has happened to the common heritage, one has to understand that if Pardo's 1967 plan had been adopted it would now be producing at least twenty billion dollars a year in common heritage revenues. The delegates know that twenty billion dollars a year could do a great deal to promote peace and justice. They know that twenty billion a year is more than sixty times the tiny amount—three hundred million dollars a year—which the Seabed Authority is expected to produce in 1987, i.e., ten years from now, if the present text is adopted. They know that three hundred million dollars a year can do next to nothing to solve the problems of a world of six billion people.

The atrophy of the common heritage has had a curious but little noticed effect on the Conference. It is making the Third World countries take a much more ideological approach to the nature and powers of the proposed Authority. They seem to be saying that if the common heritage won't bring meaningful revenues for the Third World, as everyone assumed it would, then at least the Third World must get an ideological dividend from the Conference. This will be accomplished if they get a strong Authority with powers not only to fix prices and to limit production, but also to ride roughshod on any private or state corporations which want to exploit the nodules in the deep ocean. In this view, the Authority's value does not come from what it produces. Indeed, some nations want it to produce very little. Its value is rather in how much power it has. It is as if the greater its power the more valuable it will be as a symbol of the radical, "new international economic order" which certain Third World countries are championing.

Meanwhile the head of the U.S. delegation, Ambassador Elliot Richardson, has voiced his feeling that Congress will not and should not approve the ICNT unless the articles on the Authority are drastically changed. If they are not, it is quite likely that Congress will defy the Conference and "go unilateral," i.e., it will authorize U.S. companies to mine the deep seabed and give them financial guarantees in the bargain. If legislation of this sort becomes law it may well sink the Conference.

It is admittedly very late to talk of a major change of course in the Law of the Sea Conference. Yet such a change is essential if the Conference is to write a worthwhile treaty and a treaty that will last. Such a treaty could help set the stage for a meaningful arms limitation treaty. It is time for Cyrus Vance and Elliot Richardson to sit down together. They, and their counterparts in every country, should begin to ask how the SALT and salt water talks can help each other. Law of the sea negotiators would not be so vulnerable to special interest groups if they could persuade the general public that the law of the sea treaty they are championing would be a major step toward peace, justice and economic and political stability. And meaningful SALT agreements would be much easier to achieve if the nations of the world were already working together to save the seas and to use the wealth of the seabeds to promote peace and justice.

A bold and generous treaty, a *real* common heritage treaty, will be easier to complete and to sell than the giveaway treaty now before the Conference. For a bold and imaginative treaty will permit practical compromises on problems, such as the Seabed Authority, which are almost insoluble when they are approached, as they are now, in a doctrinaire spirit. The same spirit of accommodation will permit compromises on problems of arms control and disarmament which now appear to be insoluble.

Could ordinary men and women—here and abroad—be excited by the prospect of a bold and generous law of the sea treaty? I believe they could. In July of 1976 almost all of us were moved by the visit of the tall ships to New York City. But when, less than a month later, the giant Law of the Sea Conference came into the city almost no one knew it was there.

If the Conference would raise its sights and its sails I believe that a new wind would fill its sails, the wind of an informed and enthusiastic public opinion.

Where are the Jean Monnets and George Marshalls of the oceans?

We need them badly.

Senator PELL. Thank you very much, Mr. Logue.

PRESSING UNITED STATES TO SUPPORT UNITED NATIONS REFORM

I would like to return to this question about the vigor with which the United States is pressing for reform and ask Mr. Maynes if he would offer some comments as to what could be done to stir up Mr. Rosenstock. Maybe this little dialog may help stir him up.

Mr. MAYNES. Let me say—and I will say it quite frankly—that I think Mr. Keys' statement about Mr. Rosenstock is very unfair; he is a gifted officer who, I think, was responsible for what degree of consensus there was at the recent meeting. As a matter of fact, he spent hours with the Soviet representative, until 1 in the morning, urging him to agree to a consensus approach on this, and to some of the proposals which had been put forward. The Mexican delegation, which has been among the most insistent that there be movement in the committee, praised to us Mr. Rosentock's efforts at this recent meeting and credited him with a large share of the credit for what progress was made. So, I really believe that any attack on him is unfair.

In the case of what we do, though, as a Government to try to move United Nations reform, our problem is one of—as Mr. Logue said and you said, Mr. Chairman—one of education. We cannot make progress in reform without the support of other countries, and we have to keep hammering away at these things. I made United Nations reform a major issue in my pre-GA consultations this year when I went to several countries to talk about this question.

There is a growing awareness that something must be done. I think the progress that we had, modest though it is, in the General Assembly is a sign that there can be changes in attitude. I do not want to promise something that is not going to happen. We cannot have fast progress on this simply because there are so many divided views within the United Nations family.

Senator PELL. What is your thought, Mr. Keys, that a political appointee would be more effective?

Mr. KEYS. Well, I am very sorry that the meeting has taken this turn.

Senator PELL. Well, I think it is much better to ventilate these things.

Mr. KEYS. I did not intend it as an attack on anyone. Mr. Rosenstock was given an earlier task under another administration of handling this question quite differently, and I appreciate his ability and his capacity. I just myself feel—and I think other observers on the spot feel, that a change in face would have done the U.S. position a lot of good. I think the position the United States has is fine, and it ought to be fully felt. I did not really intend it as an attack on any person.

Senator PELL. I understand that. Perhaps this dialog may float that thought. How long has he been in this position, Mr. Maynes?

Mr. MAYNES. He has served a number of years.

Senator PELL. How many, 2, 4, 6?

Mr. MAYNES. Oh, I think 10, at least.

Senator PELL. Is he an FSO, Foreign Service Officer?

Mr. MAYNES. He is a permanent employee of the mission.

Senator PELL. I see, but not an FSO.

Mr. MAYNES. He is not an FSO, he is in a special category that we have for permanent employees (U.S.–U.N.).

Senator PELL. I think there is merit in the thought there should be a certain amount of moving around. Ten years in the same job is, I think, 5 years too long. How do you feel about this? Do we have many people who have been in the same job for 10 years?

Mr. MAYNES. We have a number of people—they are a minority—who provide the institutional memory for our delegation. Mr. Rosenstock and Mr. Reis are two pillars of the mission in terms of having worked with the United Nations for many years and having that institutional memory.

Senator PELL. I agree with you on the importance of institutional memory and when I was a delegate, I relied on it. However, after too long in one job, a person can get stale. Anyway, I am sure this dialog will be noted by the Department.

Mr. MAYNES. Obviously, we have noted the dialog. But I want to make clear that Mr. Rosenstock is also not the only person in the United States–United Nations who works on these issues. The effort to try to get some reform in the General Assembly procedures was led by Ambassador Leonard over the last several months. That effort resulted in the Secretary-General's report. Ambassador Leonard, throughout, has taken a personal interest in this and provided guidance to Mr. Rosenstock. We have had a change in leadership up there and we are discussing with Ambassador McHenry right now who, among his ambassadors, should be given the primary responsibility for this. But, we have had someone at a high level in the mission paying attention to this.

Senator PELL. I agree with you about Mr. Leonard. I think his previous experience as president of the United Nations Association and his work for disarmament tremendously qualified him for the work he is doing.

There are not too many people who really believe in their guts in the importance of the United Nations and have fire in them about it. I have always been a tremendous United Nations aficionado but I do not think this feeling about the importance of the United Nations, the importance of helping it along, is one that is shared widely by our colleagues in either the executive or legislative branches. The American people as a whole, I think, frankly have more belief in the United Nations than many of those who are working with it.

Do you have any other comments or reactions, Mr. Maynes, to the points made by Mr. Hoffmann, Mr. Keys, and Mr. Logue?

Mr. MAYNES. Well, I will make some comments about the three areas that Mr. Hoffmann said he took issue with on the State Department's report, or the President's report.

I would frankly agree with him that the section of the report on disarmament is—to use his words—"skimpy". There was a reason for that. The report was written before the Special Session on Disarmament and for that reason we deliberately decided that we were not in a position to telegraph our position. As you know, the special session did reach a consensus conclusion and we strongly support the document which was issued from that. We also have made clear in consultations with other governments that we want to see

the disarmament function of the United Nations strengthened. Some of the other major countries are unhappy with the increased activity of the United Nations in the disarmament field; we do not share that view. We think that the United Nations can play an important role in its studies in the field of disarmament, even though we take issue with some of them.

But, for reasons that I cited, we have problems with the French satellite verification proposal. I was not clear whether Mr. Hoffmann would see the French proposal as meeting his needs, but we have severe national security and financial problems with that proposal.

We do understand the point that Mr. Hoffmann is trying to make, and in the President's report and also in our statements at the Special Session on Disarmament we made it clear that we were willing to make available to the United Nations in effect "eyes and ears" for verification, using some of the techniques that we have developed in the Sinai Field Mission. So, that is a standing offer of the United States to the United Nations trying to meet in part the legitimate concern that Mr. Hoffmann has raised.

In the field of dispute settlement, our problem, as my full statement indicates, is not that we find fault with the proposals Mr. Hoffmann has advanced, but rather that there are so many pieces of mediation machinery already in existence which are not used. Before we move to create a new piece of machinery, we believe we ought to take a close look at the reasons why the existing one is not used. For that reason, in the Charter Review Committee, we proposed that such a study be undertaken.

I might also point out that the OAS and the OAU have been quite active although not always as effective as we would all like to see them—in the last couple of years in trying to mediate disputes between parties in those two continents. There is an OAU Mediation Committee on the Spanish Sahara, for example. The OAU has tried to mediate the dispute between Somalia and Ethiopia, and there have been a number of attempts made by the OAU to mediate, where they have actually created machinery and actively tried to mediate. But unfortunately, the parties involved refused to respond adequately.

Regarding weighted voting, there, I think, we have—unlike the other two issues—a difference of perception from Mr. Hoffmann. We simply do not see a prospect for that in the near future, or even the intermediate future. The membership is driving for exactly the opposite objective, namely, to water down the existing influence of the major powers. We see no change in that current. There is already a form of weighted voting in the United Nations a very important form, in the existence of the vetoes in the Security Council. There is a strong drive to try to take that right away from the permanent members.

There also exists a form of weighted influence, if not weighted voting, in an informal practice which permits permanent members to have membership on every committee that is created in the United Nations, so that permanent members, the larger countries, always have a voice. Once again, the current is in exactly the opposite direction, to try to end that tradition. We believe the tradition is important and we are fighting very hard to preserve it.

Senator PELL. I agree with you. As more nations acquire nuclear weapons—and I see in the papers that South Africa may have exploded a bomb—the more necessary some international peacekeeping agency becomes. If we can't get such an agency directly, we might get it through the back door via an international enforcement agency, perhaps as part of the Law of the Sea regime. I have always thought the Law of the Sea would require an inspection agency which in turn might lead to a truly international force. This is one reason I place such importance on the Law of the Sea negotiations.

INTERNATIONAL VERIFICATION AUTHORITY

Now, do you think, Mr. Maynes—putting aside the French proposal—that there would be any value in an international verification authority that would complement, but not substitute for, the United States-Soviet bilateral verification in SALT?

Mr. MAYNES. Mr. Chairman, without knowing specifically what kind of technology one is proposing to give to this agency, it is difficult for me to answer the question. We had detailed discussions with the French when they put their proposal before the Special Session on Disarmament, and it was clear to the agencies of the U.S. Government which administer our own capability that it was impossible for us to support that and defend our own national security interests. The technology that would be required to make the agency effective is only available from us or from the Soviets, and we could not make that available to an international organization at this time, given the state of the art.

Now, perhaps that will change with time, or perhaps there are alternative formulations for this which would enable an international agency to play a role and our own people could conclude that our national security interests would not be jeopardized. But, without the details it is difficult to answer the question.

Mr. HOFFMANN. Mr. Chairman, can I clarify my remarks? The French proposal is a parallel proposal, but really not the same proposal we are talking about. The French proposal dealing with satellite surveillance, we think is a step in the right direction. However, what we are talking about is this. As we proceed toward arms reductions and limitations on smaller and smaller weapons, it will be necessary to have some kind of onsite inspection authority to supplement national technical means. If there is a suspicion of a violation, or if there is some charge that one country has violated a particular agreement, say, in regard to development of new weapons, there ought to be some kind of international authority to be able to go and visit the site involved, that is, visit a particular plant, to see if a violation exists.

This concept was involved to some extent in the Threshold Test Ban Treaty dealing with underground nuclear tests. We believe it would be more feasible, politically, and perhaps better from a national security standpoint, if we had an international agency with neutral observers that would be on hand and would be trained to make an onsite inspection if there was a charge made that there was a violation.

I think national technical means of verification are very, very important when you are dealing with major launching systems. But as we proceed down the path, hopefully, to SALT III, I think we are going to see the need for some kind of supplemental onsite authority.

Senator PELL. I think you are right. One of your missions as a nongovernmental agency, supporters of the United Nations, is to push national thinking along in that direction. I think Mr. Maynes is also correct, that the National Security Council would throw up their hands at this thought at this point in time. Perhaps in some years, the proposal will be more feasible.

Since its inception in 1945, I have watched the United Nations and, whenever I could, participated in it. I suppose I am a bit disappointed that, after its first 5 years, the United Nations has grown so little.

BOLSTERING SPECIAL AGENCIES

Another approach to strengthen the United Nations is to bolster the specialized agencies, agencies like UNEF, WHO [World Health Organization] and IMCO [Intergovernmental Maritime Consultative Organization] in the hope that some of their power will rub off on the parent organization. What is your reaction to this, Mr. Keys?

Mr. KEYS. Mr. Chairman, this is just a general comment. The difficulty, really, at the United Nations is at bottom the ambivalence of the member states toward the notion of world organization and to what they really want it to do. Now, the U.S. posture is much better in most respects than most countries. If I may say so, it took a major leap forward under Mr. Maynes' hands.

But the fact remains that on the one hand nations want the United Nations to accomplish certain ends, but on the other hand that means giving the United Nations somewhat more authority than they are really sure they want to give it. So, as a result the United Nations is kind of status quo, it does not move ahead as fast as we would like to see it move ahead because the states are really not so sure they are ready to let that happen yet. Some states are very much more ready than others. If one looks at the attitude in the record, say, of the group of Nordic states, or the Netherlands, or New Zealand, or even some unexpected ones, one will find a great deal more readiness toward the notion of implementing world organization than from the rest of the international community. In a sense we have to push as we can, and for what we can, during this time; and while we are living in this gray area we also have to be aware that there is a tremendously long-range task of global education among reluctant states before we can carry the United Nations to the point we really like to see it. I think this is at base the problem that we face.

Senator PELL. Mr. Logue?

Mr. LOGUE. I would just like to echo one of the points that Don Keys has made. I think that members of the United Nations understand the case for autonomous sources of revenue for the United Nations. It is easy to make that case. But that does not mean that they will buy it. Some of them will not buy it because it would give the United Nations a measure of autonomy, a measure of independence and they regard that as undesirable. That is why I stressed the point: Which comes first, improvements in the structure of the United Nations or a bigger allowance for the United Nations?

You may be interested in the comments on the Carter report which John Stoessinger made at the November 1978 Conference on the Carter report which was held at Villanova. Dr. Stoessinger is one of the leading scholars on United Nations financing. At Villanova he said that in his judgment there is a basic contradiction in the section of the report having to do with United Nations financing. On the one hand it seems to call for autonomous sources of revenue, and on the other it wants to have close control over how those revenues are used. It is almost as if you say to your son, "In order to develop your maturity I am going to begin to give you an allowance of $5 a week. Now, this is the way you must spend each of those dollars." That hardly develops maturity.

It seems to me, Mr. Chairman, that we really have to face up to this question of which comes first, the maturity or the allowance. It seems to me that if the United Nations were given some substantial sources of autonomous revenue its members could feel that the great powers were putting some trust in the organization and they might respond by using the organization, more wisely. That is my hope.

Senator PELL. Mr. Maynes?

Mr. MAYNES. I think Mr. Keys put the issue as clearly as it can possibly be put, that the problem, as he described it, is precisely the problem. I do think the United Nations has been more responsive than many people give it credit for in recent years. Just looking at the responsiveness of the family of institutions to U.S. objectives in recent years, I am struck by the degree to which we have been able to promote positive, constructive goals through these institutions. One can go down almost every institution, the IAEA has responded well to President Carter's and the Congress nonproliferation policy, notwithstanding the fact that it is highly controversial in the world. IMCO responded very positively to the effort of the administration to try to negotiate some kind of regime to prevent offshore oil spills. ICAO [International Civil Aviation Organization] favored a U.S. proposal to set up a new set of specifications for air navigation equipment, something that will mean hundreds of millions of dollars of exports for the United States. The Security Council has accepted the U.S. proposal to create UNIFIL; it has accepted Western proposals on the Namibia settlement.

So, the instrument in the last couple of years has been much more responsive, I think, than many people believe. I think that the family of institutions deserves a lot more credit than it has gotten from some of our leadership groups in this country.

I might just say on Mr. Logue's point, I do not see it as a contradiction or an ambivalence in the report, I see it as a very important distinction. The President was trying to say in his report on the question of autonomous revenues that there is a need for the international community to generate more funds for international purposes. We need a more reliable generator of finances for our international programs.

At the same time, the membership has to have control over how those funds are spent. It should not be a decision for the Secretary General or some other international civil servant; it should be a decision made by the membership under careful financial control.

Senator PELL. Yes, Mr. Hoffmann?

Mr. HOFFMANN. I share the view that the specialized agencies are developing institutionally and that we should continue to push for the development of the specialized agencies. I think the possibility of an International Seabed Authority is certainly one where at least in the area of dispute settlement in the composite negotiating text there appears to be a great advance.

I would like to return to one thing that Mr. Maynes said with regard to the mediation service that I was promoting to be another specialized agency almost—although that might be under the jurisdiction of the Security council. I think it is important to note the President's report itself on page 7 states that he has 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 greater use.

Mr. Maynes has said that the Special Committee in the United Nations should be doing that, but the Department of State already has the mandate to do this and should make a commitment in terms of both personnel and money. I recognize that Mr. Maynes is not the sole authority over that, but that is the kind of thing that in the past 2 years should have been done by our own State Department.

In terms of finances, there is also a commitment for a study of supplemental financing. The fact that there are existing factfinding, or existing lists of arbitrators, or existing procedures which are all summarized in the Secretary General's report in 1975, is not really an answer, however, to our request for a United Nations Mediation Service. What we need is a department or agency in the United Nations itself, working solely on mediation. That is the kind of proposal that I think the United States should support. I do not see how it does any harm, and I really believe it could do an awful lot of good.

Senator PELL. As Mr. Maynes knows, I am very interested in some of these treaties. The Deep Seabed Arms Control Treaty came out of my original proposal for a regime of ocean space; the Environmental Modification Treaty is now waiting to be ratified by the Senate. The country whose ratification brought it into being by Laos. It was particularly appropriate that they had the honor of doing that.

STATUS OF TREATIES GIVING NOTICE TO UNEP ON HARMFUL ACTION

What is the status now of those treaties requiring notice to UNEP whenever an action is taken that might harm a neighboring nation?

Mr. MAYNES. We raised that issue at the last meeting of the United Nations environmental program—UNEP. I am not familiar with the precise status of it now, but I would be happy to submit that for the record.

Senator PELL. I was hoping we could move along in this session of the GA, but I understand there is some political problem in that the developing nations all look at us with a certain amount of suspicion since we are the ones that dirtied the environment, and now we want to stop others from doing what we have done, but still keep what we have. One can understand that. So, we have to have as broad a consensus as possible.

Mr. MAYNES. We will submit that for the record.

Senator PELL. I would be very appreciative and interested, indeed.

[The information referred to follows:]

ENVIRONMENT ASSESSMENTS ALONG LINES OF S. RES. 49

[SUPPLIED BY DEPARTMENT OF STATE]

The United States is now consulting with a broad group of nations to determine their interest in developing international arrangements for conducting environmental assessments along the lines of Senate Resolution 49. We support the objectives of the initiative. At the United Nations Environmental Program Governing Council meeting in April, Under Secretary Benson expressed our strong interest in working with other governments to develop international arrangements under which governments would prepare environmental assessments for major actions they undertake in their own territory or the global commons that might cause significant harm to the environment of another country or the global commons and to consult with affected countries, or, in the case of the global commons, with UNEP to minimize environmental harm.

We have consulted with a number of countries on the proposal and find considerable interest in it. Some governments, however, are concerned about the initiative because they do not have assessment procedures for domestic use; others feel such procedures would restrict development or impose undue obligations on them in cases in which their actions may cause transboundary environmental damage.

Depending upon the outcome of our current consultations we are considering the introduction of a resolution in the 34th United Nations General Assembly's Second Committee proposing that international action be initiated on the proposal.

PROBLEM OF MINISTATES

Senator PELL. What can be done about the problem of the mini-states? Is there any way to prevent the dilution of the General Assembly by nations with little territory and almost no people? These mini-states are often irresponsible and some of them—like the Maldive Islands—do not even bother to show up.

Mr. MAYNES. Well, unfortunately irresponsibility does not always go with small size.

Senator PELL. Right.

Mr. MAYNES. The problem of the ministate is a serious problem which we tried to address in the late sixties unsuccessfully, we got no support from any other of the permanent members of the Security Council.

At this point, I think, any country that wants to accept the financial obligation to join the United Nations—and I would add for these smaller states that obligation is much more considerable than we might think—the floor on United Nations assessments means that these countries must pay much more than they would according to a simple criterion of ability to pay.

Senator PELL. What are the minimum dues now?

Mr. MAYNES. Zero point 1 percent of the total.

Senator PELL. Which in dollars is roughly what?

Mr. MAYNES. $60,000. But they also have the expenses of maintaining a mission. Now, the Maldive Islands, as you point out, have decided they cannot afford that expense. I think if that trend develops one is going to have to look at some kind of associate member status,

but one has to get support of the membership for that. They have always been opposed to it before.

The United Nations is to a degree that is seldom brought out—although there was recently an article in the New York Times on this—a major diplomatic center for the rest of the world. Many countries which cannot afford to have embassies all over the world will use their United Nations Mission as a very economical way to have relations with the entire world community.

For that reason these smaller countries are very, very desirous of being members of the United Nations.

USES OF UNITED NATION CENTER IN VIENNA

Senator PELL. What do you see, along these same lines, on the use that will be made of the new United Nations Center in Vienna?

Mr. MAYNES. I think the intention of the Austrians is to make it the science and energy city. They have there OPEC and IAEA, and obviously energy is an issue of major importance for the international community and one which the United Nations is finally, belatedly, coming around to discuss and address.

I am quite sure that the Austrians feel that any institutional developments in that field should be located in Vienna where they can take advantage of the presence of IAEA and OPEC. They were also very anxious to have the Science and Technology Conference meet in Vienna for precisely the same reason, that if to the degree there would be any institutional spinoff, that that would remain in Vienna and help create this science and energy center for the international community.

Senator PELL. Thank you. Yes, Mr. Keys?

Mr. KEYS. If I may, Mr. Chairman, just revert for a moment to the small nations problem. It is a problem, but it is perhaps not as dire as it might seem. For the first, the barn doors are open and the horses have left, and you are not going to get them back out of the United Nations in a sense. The permanent members, any one of them, could have withheld membership from countries below a certain size, but knowing the political onus of doing so, there was no way of engineering a cutoff.

But as a matter of fact, the automatic majority in the United Nations is far less automatic than is generally believed; it is a very shifting majority.

Second, the major issues are decided upon long before, usually, they reach the floor of the Assembly, as perhaps you well know, by contact men from regional groups negotiating with other regional groups within which the membership of particular little states does not really carry that much weight. So that the rollup of votes in the Assembly is not all as significant as we generally tend to think.

Senator PELL. Thank you very much.

Mr. HOFFMANN. I want to remind the Chairman that the President's report does contain a statement that he would explore again an offer to very small states of some kind of associate state status. I do not know exactly what has been done on that. There was a modified form of associate state membership suggested by Colombia to the Special

United Nations Committee on the Charter several years ago. I do not know if anything further has been done. I just point out that it is there in the President's report.

JURISDICTION OF ICJ ON SALT II

Senator PELL. I just have one final question. As you know, we are working on SALT quite hard. Obviously, neither nation is going to permit the ICJ to exercise jurisdiction on it. But will we go through the motion of examining this treaty with a view toward accepting the jurisdiction of the ICJ?

Mr. MAYNES. We have, as you will see in the progress report which we have submitted to the House, been examining treaties, and I do not think we find that one to be one that would be relevant for this. But we have examined treaties, as we promised, to see if the ICJ could be relevant to the dispute settlement machinery. As we reported to the House, there are a couple of treaties where we have inserted this.

Senator PELL. The Environmental Modification Treaty, and also the environmental one we are trying to work up now, UNEP. Thank you. Yes, Mr. Logue?

Mr. LOGUE. Could I make a brief comment on the mini-state problem? I think it is of some relevance that in the Constitutional Convention of 1787 the small and mini-states had the power to block the weighted voting that was finally adopted in the Constitution, but they didn't block it. I think it is interesting that Delaware, a mini-state, advertises on its license plates that it is "the First State." By ratifying the Constitution, Delaware was accepting less than equal epresentation in the new national political institutions. I think Delaware did so because it felt that to have less than equality in something substantial, that is the new government under the new constitution, was much more important than having formal equality in something that was very, very weak, that is the old Article of Confederation system. I am not, of course, Mr. Chairman, going to talk about Rhode Island.

Senator PELL. We were last to ratify.

Mr. HOFFMANN. Mr. Chairman, as you remember, the Cranston-Taft resolutions in 1974, which were adopted by voice vote, unanimously, among other things urged the administration to examine every treaty with a view to including in the treaty a reference to the International Court of Justice in the event of disputes over the language of the treaty. That concept has also been incorporated in the President's report. I do believe it is something that should be taken very seriously by the administration. As lawyers we know that you may think you have arrived at an agreement, and there may be a dispute very quickly over what a particular word means, or how it should be interpreted. Therefore, I believe at least with respect to treaty language, rather than enforcement or anything else, just in terms of treaty language, that it would be well to try to get into every treaty, including SALT—and it is obviously too late for SALT II at this point—but I think we should try. I think we would not be hurting ourselves if we took the position that we are trying to establish some kind of legal system in the world to interpret and rectify disputes that arise.

I recognize that you have the Standing Consultative Commission in the SALT I, but it would be a step further, and a well-taken step, if we could include some reference to the ICJ in the event of a dispute over treaty language.

Senator PELL. I would like to see that happen too.

Thank you, gentlemen, for being with us in this hearing and the testimony you submitted, and the responsive way in which you have answered our questions.

This concludes this hearing.

[Whereupon, at 12:15 p.m. the committee adjourned, subject to call of the Chair.]

[Additional questions and answers follow:]

ADMINISTRATION RESPONSES TO ADDITIONAL QUESTIONS FOR THE RECORD

Question 1. What is your opinion on the receptivity of the United Nations and international community to reforms?

Answer. In the abstract, no member nation of the international community would be opposed to reforming the United Nations. There are, however, considerable differences in the degree of enthusiasm for specific reform proposals—whether proposed by the United States or by others. Permanent members of the Security Council as well as most of the influential members of the U.N. are generally opposed to Charter amendment, preferring instead to pursue reforms within the context of the current Charter. This means implementing by practice, wherever possible, those reform proposals which do not require formal vote or a formal change of procedure.

There is no generalizable measure to gauge the interest of member states in specific reform proposals. During the session of the Special Committee on the Charter of the United Nations and on Strengthening the Role of the Organization which concluded on March 16, 1979, the U.S. delegation received support for several proposals while other proposals are still under study by the members of the Special Committee.

Perhaps the best indication of overall support for measures that would improve the function of the U.N. was the speedy adoption of the recommendations of the General Committee to the 34th General Assembly. (These recommendations concerned the rational organization and improvement of the Assembly's procedures.)

Question 2. What are the major areas of reform sought by the Administration? What steps are being taken to accomplish these reforms?

Answer. Three areas of reform constitute priorities for this Administration: The first is the establishment of a more effective machinery for the peaceful settlement of disputes. In this area, our major initiatives are a cluster of proposals intended to strengthen the role of the Security Council in encouraging, and assisting in, the peaceful resolution of disputes threatening international peace and security. Specifically, these proposals aim at greater use of informal consultations among members of the Security Council; greater use of periodic meetings—perhaps, as foreseen in Article 28 of the Charter, with participation of officials from capitals; and more frequent use of committees of the Council, comprised either of all Council members or a few members of the Council, as well as periodic oral reports by the Secretary General to informal sessions of the Council.

In preparation for this session of the General Assembly, and during the session, we have devoted increased attention in our bilateral discussions to enhancing the role of the Security Council. We did so in consultations with officials of the Soviet Union and the People's Republic of China and found them interested in several of our proposals. We have also seen a growing appreciation, on the part of other members of the Council, of the need for a broadened informal role for the Council.

The second area of reform concerns the strengthening of U.N. peacekeeping capabilities. Our proposals include the establishments by earmarking of a U.N. peacekeeping reserve composed of national contingents trained in peace-keeping functions, discussion of arrangements to train these contingents and assistance in peacekeeping operations through airlift of troops and equipment.

We have introduced our proposals on peacekeeping in the Special Committee on the Charter of the United Nations and in the Special Committee on Peacekeeping Operations. We also delivered a report containing our views to Secretary-General Waldheim last June.

The third important area of U.S. reform proposals included a continuing U.S. commitment to seek greater efficiency in the working of the General Assembly.

Last year the Secretary-General designated Under Secretary General Buffum to chair a Committee of Under Secretaries-General for the purpose of submitting recommendations for improved procedures of the General Assembly. On September 13, 1979, the Secretary-General issued a report outlining suggestions for making the General Assembly's operations more efficient. This report incorporated many U.S. ideas. On September 21, the 34th General Assembly adopted these recommendations.

Question 3. How do you assess your progress in the 34th U.N. General Assembly (UNGA) in advancing U.S. reform proposals?

Answer. Clearly the most significant progress was achieved in improving the working of the General Assembly. Key advances included the adoption of proposals regularly to review the progress of work of each session and to stagger consideration of items over two or more years. Other important elements concern the early selection of candidates for election to the General Committee; the requirement that candidates for presiding officer have at least two years' prior experience in the U.N. system; and that Committee officers conduct, whenever appropriate, informal negotiations aimed at reaching agreement on specific issues.

Question 4. If a special peacekeeping fund were established by General Assembly resolution, is it likely the Soviet Union would refuse to contribute to it?

Answer. The Soviets supported certain U.N. peacekeeping operations in the Middle East—the United Nations Emergency Force (UNEF—now terminated) and the United Nations Disengagement Observer Force (UNDOF)—and paid their assessed contributions until January, 1977. At that time they announced they would not contribute to that portion of the peacekeeping expenses attributable to the Egyptian-Israeli Agreement of September, 1975 (the Sinai withdrawal agreement). With respect to UNIFIL, the Soviets have taken the position that the aggressor (whom they allege to be Israel) should bear the full cost of the United Nations Interim Forces in Lebanon, and have stated that they will not pay their assessed share of this operation.

Accordingly, were a special peacekeeping fund to be established, we would expect the Soviet Union would refuse to contribute to it at this time.

Question 5. If such a fund were to be financed through special assessments, what would be the likely cost to the United States? If it were to be financed through voluntary contributions, does the Executive Branch have a special contribution figure in mind?

Answer. If a special peacekeeping fund were to be established in the near future, the United States would urge that its assessment rate be the same as used for the regular U.N. budget. Others would very likely propose that assessments follow a special peace and security scale like that used for UNEF/UNDOF and UNIFIL. Presently the United States does not have a specific contribution figure in mind were the force to be financed by voluntary contributions because much would depend on the willingness of others to contribute.

Question 6. The report of the President expressed a willingness on the part of the United States to share with the Security Council factual information made available by aircraft reconnaissance. Could this type of technology also be used to aid observer missions? Does the United States have any other suggestions for upgrading U.N. technical equipment?

Answer. Information obtained through aerial reconnaissance would certainly be valuable to observer missions. Since the zones available to peacekeeping/observer forces are normally severely limited, the agreement of the conflicting parties to allow overflight of reconnaissance aircraft would be essential.

During last year's session, we provided a report to the U.N. Special Committee on Peacekeeping Operations detailing our experience in the use of technical equipment in the Sinai. We also reaffirmed our willingness to examine with the U.N. possible ways of upgrading the technical equipment available to observer missions and peacekeeping forces. While various relatively inexpensive, easily

operable modern technologies are available, their employment and use must be tailored to the existing political, military and geographic situations. We will continue to pursue this approach whenever the U.N. requests our assistance.

Question 7. What has been the reaction of other countries to the U.S. proposals in the President's report for a U.N. peacekeeping reserve? Does the Administration intend to push this proposal?

Answer. We have proposed for consideration by the Charter Review Committee the establishment of a U.N. peacekeeping reserve. The response has not been enthusiastic but we will continue to encourage others to consider the proposal carefully on its merits. The proposal is designed to strengthen institutionally the U.N.'s capabilities, to assist U.N. peacekeeping operations to develop more efficiently and to place them on a firmer basis.

Question 8. For which specific reasons have delays occurred in obtaining the deployment of peacekeeping forces once a peacekeeping mission has been mandated by the Security Council?

Answer. Due to the efficient operation of the U.N. Secretariat the delays in establishing at least a nominal U.N. presence have been very slight. The U.N. has accomplished this by borrowing troops from existing operations on an interim basis. We believe that delays in bringing operations up to full strength could be diminished if countries were willing to have troops on an earmarked or standby basis for use in U.N. peacekeeping operations. At the 33rd General Assembly we cooperated with the EC–9 in obtaining a resolution which asks States Members what troops they might be willing to make available. To date there has not been much enthusiasm on the part of members to earmark troops or have them on a standby basis. We have, however, continued in the Peacekeeping Committee and other relevant committees to urge States to give greater thought to such proposals so that it will be possible to have the full complement of peacekeeping forces in place more expeditiously.

Question 9. Should another means be used to fund peacekeeping forces or can the present system be improved through modifications?

Answer. We believe the present system of financing the peacekeeping forces in the Middle East by means of the special peace and security scale of assessments is adequate at this time. What is not satisfactory is the deliberate refusal of certain members to pay their assessments.

The United States originally advocated that the United Nations General Assembly adopt the regular United Nations scale of assessments as the UNEF/UNDOF (peacekeeping) scale; however, we acquiesced in the adoption of a special "peace and security" scale, on which the UNIFIL assessment is also based. This scale recognizes the special responsibilities of the permanent members of the Security Council under the United Nations Charter for the maintenance of international peace and security. Also, it implicitly endorses the principle of collective responsibility of all members for the maintenance of international peace and security.

Question 10. Which of the U.N.'s peacekeeping forces to date has been the most effective?

Answer. It is difficult to rank peacekeeping forces in terms of effectiveness. For the most part each of them has been effective in its own way. In the Congo, for example, a vacuum was left by a withdrawing colonial power. There was a substantial risk of great power involvement. Due to the decision to turn to the U.N., direct confrontation of the great powers was avoided and at the end of the U.N. involvement there was an indigenous government functioning in the Congo (now Zaire).

The U.N. Emergency Force in the Sinai (the mandate of which lapsed in July of this year) assisted in maintaining the quiet in that area which contributed to the atmosphere in which the Camp David Agreements were possible. The disengagement force on the Golan Heights has maintained quiet in that volatile area. The U.N. interim force in Lebanon has provided a degree of security along the Israel-Lebanon border, but has not been able to fulfill its mandate providing for the restoration of Lebanese governmental sovereignty to the south. For all of the troubles it has experienced, there has been no doubt in the minds of any in the area that the violence would be far greater and the situation significantly more dangerous if UNIFIL was not in place. Finally, the U.N. force in Cyprus has maintained a high degree of peace and security along the line separating the Greek and Turkish areas of that country.

Question 11. The Secretary of State's report indicates that the Department supports the objective of changing the Trusteeship Council to a Human Rights Council. Did the U.S. support this proposal when it came before the Special U.N. Committee on the Charter in 1977? Has it formally announced its support of the proposal?

Answer. The Special Committee on the Charter has not addressed the issue of changing the Trusteeship Council to a Human Rights Council, either in 1977 or at the current session in Manila. Thus the United States has had no occasion to state formally our position on the proposal in the Special Committee. While conversion of the Trusteeship Council to a Human Rights Council would be a positive step, it must remain a long-range goal. The Trusteeship Council has not completed its functions and the prospects for obtaining the necessary support for Charter amendment are minimal in the near future. In any case, many of the advantages to establishing a Human Rights Council, such as increasing the frequency of meetings of the Human Rights Commission or authorizing it to meet on short notice on ad hoc questions, could be achieved without Charter amendment.

Question 12. To what extent has our delay in ratifying the Genocide Conventions and the two covenants dealing with political, civil, social and economic rights hindered our efforts in the area of human rights?

Answer. Our delay in ratifying the Genocide Convention and the two Covenants has not been totally destructive to our efforts in the area of human rights but it certainly has been a major hindrance. Not only is our poor ratification record inconsistent with our propounding human rights goals for all nations, thus making our rhetoric seem hypocritical, but it also gratuitously presents to those governments seeking to impede our human rights aims a telling talking point with which to attempt to discredit our efforts. Now that the Covenants have entered into force a new handicap has arisen. Because we are not a party to the Covenants we are precluded from playing an active role in the Human Rights Committee, the implementation organ under the Covenant on Civil and Political Rights. Likewise, under the Covenant on Economic, Social and Cultural Rights, we have been barred from membership in the special committee established by the Economic and Social Council to carry out the implementation provisions of that Covenant. As more and more states become parties to the Covenants, their implementation organs may be expected to assume increasing importance in the human rights machinery of the United Nations system. Until we ratify the Covenants we have no choice but to stand on the sidelines and watch other governments play a leadership role in the development of these new mechanisms.

Question 13. What are the major causes of budget growth in the U.N. system and what is the United States doing to restrain that growth?

Answer. The major causes of budget growth in the United Nations at the present time are high inflation rates and currency fluctuation. To a lesser extent, program growth increases reflect the greatly expanding scope of United Nations activity in a rapidly changing world.

In an effort to restrain budget growth, the United States, in September 1978, joined with France, Japan, the Federal Republic of Germany and the United Kingdom in an approach to the Secretary-General urging that the 1980–1981 U.N. budget be prepared on the basis of zero net program growth. Subsequently, the instructions to the U.N. staff for preparing the 1980–1981 budget stated that the Secretary-General "must take into account the clear consensus among member states in favor of greater restraint and more austere management of scarce resources on the part of the Secretariat. For these reasons, and in recognition of the unprecedented level which the budget has reached despite the general economic difficulties with which its member states have to contend, the Secretary-General has concluded that the net rate of real growth to be proposed for the next program budget as a whole should be as close to zero as possible."

In the course of Fifth Committee (Administrative and Budgetary) consideration of the various sections of the budget during the 34th U.N. General Assembly in 1979, the United States delegation, through questioning of specific items and opposition to certain sections, made an intensive effort to keep real budget increases to a minimum. These efforts were generally successful although on the overall vote for the 1980–1981 budget appropriations, the United States abstained. The United States position was that the absolute size of the

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budget, as well as certain unacceptable funding provisions, precluded U.S. support even though real budget growth had been kept at approximately one percent.

Question 14. What is your evaluation of how well the U.N. financial management system operates?

Answer. We believe that U.N. financial management, although by no means perfect, is better than its critics acknowledge. Nevertheless, the United States and other like-minded countries have been vigilant to identify areas where new or modified procedures are required and to seek support for their implementation.

Question 15. What initiatives is the United States proposing in the 34th UNGA for improved financial management?

Answer. The U.S. Delegation worked with the Canadian Delegation to advance the latter's proposal to improve financial management in the United Nations through the establishment of a professionally qualified audit group of appropriate size headed by an Auditor General of commensurate stature and experience.

The United States urged that a comprehensive manual setting forth U.N. financial management and control policies be completed promptly.

The United States mustered support for the efforts of the Joint Inspection Unit to improve the quality and extent of evaluation in the U.N. System.

Question 16. What are the prospects for identifying autonomous sources of revenues from the U.N. system and what difficulties does such a financing scheme pose?

Answer. There has never been much problem in identifying possible autonomous sources of revenue; they have been identified and generally fall into four categories:

(1) Revenue from internal operations or from services performed by U.N. agencies (e.g., sale of U.N. postage stamps, publications; operation of eating facilities in U.N. buildings; conduct of building tours, etc.).

(2) Imposition of charges on international commerce and communications.

(3) Voluntary contributions to U.N. agencies and programs by private citizens and institutions, encouraged through tax benefits and other measures.

(4) Revenue from the development of new resources, under the auspices of either the U.N. or some other international regime, in remote regions such as the deep seabed, outer space, or Antarctica.

Some of the difficulties relating to the implementation of these suggestions are as follows:

Returns from internal operations or services performed are not large enough to be significant.

Meaningful revenue from the exploitation of new resources is probably rather far in the future.

Controversy over the beneficiaries of autonomous sources of revenue is likely if the amounts are significant.

Encouragement of individual voluntary contributions to U.N. organizations could undermine the financing of domestic non-profit organizations.

The allocation of revenues derived from autonomous sources are likely to be allocated to new or expanded existing programs rather than defraying the ordinary expenses of an organization.

Question 17. A recent study of possible new methods of financing international programs by the Brookings Institution examines a number of independent financing schemes and concludes that two of the most promising revenue-raising possibilities are (1) an ad valorem tax on internationally traded commodities; and (2) economic rents from the exploitation of manganese nodules on the ocean floor. The study also proposed a tax on polluters of the marine environment, suggesting that the proceeds be used exclusively for environmental programs. The Brookings study concluded that all these revenue-raising possibilities would require formal treaty arrangement. How realistic are these suggestions?

Answer. The various funding suggestions made by the Brookings Institution, and other professional bodies, merit careful thought and discussion. It is problematic, however, whether treaty arrangements to impose taxes and rents could be obtained. Arrangements for the payment of royalties on deep sea bed mining to an international authority, which will distribute them for development purposes, are currently an integral part of the Law of the Sea treaty negotiations. The outcome of these negotiations may provide an indication of the prospects for future international agreements.

Question 18. A major criticism of the President's report is its failure to examine more thoroughly proposals for independent sources of revenue for the United Nations. For example, how should funds be collected; how should they be controlled; and what should they be used for? The President's report does not attempt to explain what it means by the statement that funds should be under the "adequate control" of member states. Can you now explain these questions in more detail?

Answer. The President's Report on U.N. Reform did not examine the alternatives for creating independent sources of revenue for the U.N. system. It suggested, instead, the need for such an examination and a study has been instituted to that end. Various schemes which involve direct international revenue taxes, either on trade in general terms or on some trade components such as oil, minerals, luxury goods, airline traffic or even international investment income have been suggested elsewhere. Trade taxes, however, conflict with world-wide efforts toward trade liberalization, and tax-based schemes of any kind must count with the reluctance of national legislatures and governments to share with an international authority their power to tax. Therefore, the study will focus on alternative approaches to revenue generation based on the principle of user-free assessment for the use or consumption of the global commons such as pollution charges, electromagnetic spectrum user-fees, revenues from the exploitation of the seabed, or Antarctica or outer-space. The study is expected to be completed in 1981.

Question 19. Do you believe the U.N. should be granted limited revenue-raising power?

Answer. Governments are traditionally conservative about their taxing powers. Some sort of international agreement would have to be worked out whereby governments could perceive mutual benefit in yielding limited revenue-raising powers to the United Nations before any such action would be possible.

Question 20. It has been suggested that the U.N. might charge service fees for the preparation of research, for technical advice, and for issuing international health certificates through the World Health Organization or international radio licenses through the International Telecommunications Union. A study on U.N. financing published by the Brookings Institution in 1964 expressed the view that levying licensing charges on radio stations was the only projected service charge that might bring in enough revenue to make its application worthwhile. Has the United States explored proposals of this type for implementation?

Answer. The concept of user charges has been addressed in several U.N. agencies but in only two has it stimulated interest, the International Telecommunications Union and the International Civil Aviation Organization. There is a precedent in the latter agency for funding services through imposition of user-fees. Certan navigational aids in the North Atlantic are now substantially funded through user-fees and will be fully funded on that basis from January 1, 1982.

Question 21. The President's report states that he has 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."

Why has the existing U.N. machinery for arbitration, conciliation and mediation been so little used? What measures can promote greater use of existing mechanisms for dispute settlement?

Answer. Member states have not generally been willing to use the existing machinery for dispute settlement. We are unable to determine precisely the motivations and reasons for this attitude. The tendency is for states to believe that they can solve their own problems and to be reluctant to use mechanisms in which they may lose control of the final result. We have consistently pressed in the Charter Review and Non-Use of Force Committees for an examination of this issue. We shall continue to advocate greater use of existing machinery.

At the 33rd General Assembly the United States submitted a working paper to the Special Committee on the Charter proposing, inter alia, to examine, through use of a questionnaire and study, why states do not make greater use of the existing machinery for peaceful settlement of disputes and explore how existing machinery can be made more effective. In his report, the Chairman stated that this topic "awakened special interest and proposals along these lines are ones on which general agreement is possible."

Question 22. The President's report promises to "examine every treaty which the United States negotiates with a view to accepting the jurisdiction of the ICJ (International Court of Justice) over disputes arising under the treaty." Has this been done? With what results? Why wasn't something included in the Panama Canal Treaty? Is something on this included in the SALT II package?

Answer. U.S. policy is to include in treaties acceptance of the ICJ's jurisdiction in respect of disputes arising under the treaty and, where such acceptance is not feasible, to include another appropriate dispute settlement provision.

In the case of the Panama Canal Treaty, one of the matters carefully considered in connection with its negotiation was the development of an appropriate framework for the settlement of any disputes which might arise. In light of the varied nature of the matters covered by the Treaty, ranging from highly technical engineering matters to sensitive political and security matters, it was decided to provide the Parties maximum flexibility to choose a dispute settlement mechanism appropriate to the nature of each particular dispute that might arise. Accordingly, Article XIV of the Panama Canal Treaty provides for settlement of disputes through various bilateral channels and, in the event the parties are unable to resolve a particular matter, they may agree to "submit to conciliation, mediation, arbitration or such other procedure for the peaceful settlement of the dispute as they may mutually deem appropriate." Although the ICJ is not expressly mentioned, it would certainly constitute one procedure for peaceful settlement within the scope of the Panama Canal Treaty provisions.

The SALT II Treaty does not provide for recourse to the International Court of Justice. However, it does provide in some detail for the discussion and resolution of questions relating to compliance with Treaty constraints through the bilateral Standing Consultative Commission created by the SALT I agreements. Because of the highly technical and confidential character of SALT compliance issues, because of the established practice of using this bilateral channel for reso ution of potential disputes, and because of the strong Soviet aversion to public treatment of such defense-related matters, it would not have been useful or feasible to provide for a reference of SALT disputes to the Court, nor could the Court have been given the access to classified material necessary for a complete adjudication of SALT questions.

Question 23. The President's report requests the Department to study existing disputes thoroughly to identify those which might appropriately be submitted to the ICJ. Has this been done? With what result?

Answer. Since the President's Report, disputes have been examined with a view to determining whether resort to the ICJ would be useful.

Most recently, the United States has, of course, brought the hostage situation in Iran before the ICJ, obtaining on December 15, 1979, a unanimous order by the Court indicating provisional measures, including an order to the Government of Iran to release all of the American hostages. The United States submitted its memorial to the Court on January 15, 1980.

Another 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.

The Administration will continue its assessment of existing disputes and any which may arise in the future to determine the appropriateness of referring disputes to the ICJ.

Question 24. How can countries be encouraged to make greater use of the International Court of Justice? Should private parties via national appellate courts be given the right to request advisory opinion from the ICJ?

Answer. There is no clear and easy solution to overcoming the reserve of many States to binding, third-party dispute settlement procedures, including the ICJ. We believe that the points raised in the President's Report, such as withdrawal of the Connally Amendment, procedural reforms in the ICJ and increasing the Court's jurisdiction through the establishment in treaties of dispute settlement procedures providing for the Court's jurisdiction would help.

The President's Report also supports, in principle, the concept of a "preliminary opinion" procedure whereby appellate national courts could refer questions of international law to the ICJ for its advisory opinion whenever deemed desirable by the national court.

Should such a procedure be adopted (and it would require amendment of the Court's Statute to do so), private parties would be afforded indirect access to the ICJ on questions of law essential to their causes of action whenever a national appellate court chooses to utilize the procedure.

Question 25. How can the fact-finding conciliation and mediation capacity of the Security Council be enhanced? What is your opinion of the suggestion to create a permanent UNGA Conciliation and Arbitration Commission?

Answer. The Council is well equipped to provide fact-finding conciliation and mediation services, and we believe that in some cases it would be useful to establish subcommittees and small groups of Council members to promote peaceful settlement of disputes. The major problem in this area is that nations have generally been reluctant to turn to the Council or to other established U.N. machinery for such services when disputes arise. We will continue to encourage greater use of this U.N. machinery with a view to changing the attitudes of member states. Given the general attitude, we see no utility in creating yet another body, such as a permanent UNGA Conciliation and Arbitration Commission, whose services would not be used.

Question 26. How can greater usage of regional arrangements or agreements for dispute settlement be encouraged? How would convening annual meetings of foreign ministers contribute to the U.N.'s capacity to resolve disputes?

Answer. With the exception of Latin America, where there has been a measure of success at the regional level, we are not in a position to influence directly the use of regional arrangements for dispute settlement. However, by lending our weight to efforts to bring real or potential disputes to the Security Council, we can influence the trend in this direction. We are encouraged by the fact that the African states, which are particularly intent on finding African solutions to African problems, seem more willing to develop the OAU as a more effective dispute settlement mechanism.

We believe that annual private meetings of the Security Council at the ministerial level could be a significant step in strengthening the Council's role in the settlement of disputes. Ministers could review the state of world peace on the basis of reports by the Secretary General; this would give increased attention to the peace-making capacity of the Council and would provide high-level focus on potential conflicts. We believe that a greater degree of regularity in the Council's consideration of disputes is needed if it is to play a more significant role in dispute settlement.

Question 27. Did the United States support the creation of a mediation and conciliation council under the Security Council, as proposed by some members of the 47-member Special Committee on the Charter? Why wouldn't such a proposal lead to greater use of U.N. machinery to settle disputes?

Answer. We see no merit in creating formal new bodies for mediation and conciliation in light of the failure of states in most instances to use existing bodies for these purposes. The Council itself is well equipped to provide this service, and we have suggested that on some occasions it could be useful for the Council to set up, as appropriate, subcommittees to facilitate peaceful settlement of disputes, and also to use small groups of Council members in mediatory roles. The Permanent Court of Arbitration offers a variety of services but is never used. In addition, the 1975 Report of the Secretary General to the General Assembly on the Peaceful Settlement of International Disputes lists a number of institutions and procedures under U.N. auspices for this purpose, 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 are little used. Our approach is to

encourage greater use of existing machinery. A change in the attitutde of member states toward the use of the U.N. machinery is much more important than the creation of new international bureaucracies whose services would not be used.

Question 28. What would be wrong with the U.N. having regional mediation offices similar to the U.S. mediation services, so individual nations like the United States would not have to mediate disputes?

Answer. We are reasonably sure that the U.N. member states would not utilize the regional mediation offices if they were established. We are continuing to urge better utilization of the available U.N. machinery.

Question 29. The Secretary of State's report states that the United States is considering a proposal for a U.N. mechanism to monitor world military expenditures and to keep records on the global arms trade. What is the result of that consideration?

Answer. A series of U.N. intergovernmental expert groups—in which the United States participated—have designed a standardized matrix for voluntary international reporting in detail of national military expenditures. The United States and a number of other countries are expected to submit data as part of a pilot test of this reporting instrument that is now going on. The deadline for submitting data is March 31, 1980 and the results of the test will be reported to the 35th General Assembly this fall. Development of a standardized reporting instrument was begun in the belief that systematic formation of a reliable data base would be necessary before realistic measures for the limitation of military expenditures could be contemplated. It was also hoped that such measures would help to build confidence and contribute to greater openness regarding military expenditures.

Question 30. The Secretary of State's report indicated that the Department is prepared to explore with other members of the U.N. their attitude toward a trade-off of a modest voluntary curtailment of veto rights in the Security Council in return for an increased voice for major contributors in budgetary questions coming before the General Assembly. Has this been done and with what result?

Answer. Although the time may not be ripe to consider such a trade off in the United Nations itself, it is noteworthy that the negotiations toward making UNIDO a specialized agency produced a substantially increased role in budgetary questions for the major contributors.

Question 31. The President's report indicates that he is prepared to explore an offer to very small states of some kind of associate state status. What has the Administration done on this? Why doesn't the Administration support the Colombian proposal for an associate state status for tiny states at the U.N.?

Answer. The Colombian proposal was to consider a new category of "associated states," thus allowing the so-called "mini-states" to enjoy certain benefits of the U.N. and participate in it without imposing the burdens of membership on them. This proposal is not an active one at the present time. However, the United States has, in fact, supported the concept of associated status for states which, because of their limited population and resources are unable to fulfill Charter obligations and participate adequately in the work of the U.N. We believe Charter amendment would not be required for such an arrangement. Little support has been shown thus far for this proposal from other U.N. members.

Question 32. The report of the President proposed that the major portion of U.N. technical assistance be funded by voluntary contributions and, in accordance with the U.S. emphasis on the central role of the U.N. Development Program (UNDP), through UNDP. Is there support for this position among other developed countries?

Answer. Most developed countries support the general principle that the bulk of technical assistance activities of the U.N. system should be funded on a voluntary rather than assessed basis. They also support U.S. policy which advocates strengthening the UNDP as the primary source of funding and overall coordination for such U.N. activities.

Last spring the United States took the lead in the Geneva Group, composed of the leading Western financial contributors to the United Nations, to articulate a policy on U.N. system technical assistance which would be acceptable to other members. That policy called on the Geneva Group members to (a) press in each U.N. agency to keep existing assessed funded technical assistance to a minimum consistent with overall policy objectives; (b) seek to avoid the introduction of new technical assistance programs unless the need is demonstrated and can read-

lly be justified; and (c) advocate the transfer, wherever appropriate, of funding and policy responsibility for such programs to agencies such as the UNDP which are supported by voluntary contributions.

Many of the Geneva Group members, however, were reluctant to support the policy advocated by the United States since they considered it to be too restrictive. Members did agree to monitor assessed-funded technical assistance activities, to pay closer attention to any expansion in funding levels, and to keep the subject on the agenda of the Geneva Group.

Question 33. A suggestion raised by the Department of State in hearings and discussed but not proposed in the report of the President is the possibility of reversing the current U.S. position on funding technical assistance and accepting assessments for funding of UNDP in exchange for weighted voting on a limited range of issues, such as adoption of the budget. Is any attention being directed towards this proposal? Would Congress be consulted before implementing such a proposal?

Answer. We are in the process of reviewing our overall policy and strategy concerning technical cooperation activities of the U.N. system. The suggestion mentioned is one of the possible policy alternatives. Certainly we will consult with Congress in reaching any final decision on this matter.

Question 34. The only proposal on funding technical assistance in the General Assembly restructuring resolution was the suggestion to hold a single annual pledging conference for all U.N. technical assistance activities funded by voluntary contributions, with provision for earmarking contributions for specific programs. How does the State Department view this proposal? Could a single pledging conference be a useful vehicle for encouraging contributions through UNDP rather than through separate programs?

Answer. The United States supported the call for a single annual pledging conference for all U.N. operational activities for development which was included in the restructuring resolution adopted by the General Assembly in 1977. Such annual pledging conferences have been held since 1978 including the United States as a participant. While we do not believe that the single pledging conference will encourage contributions through UNDP rather than through separate programs, it should encourage a more comprehensive approach to U.N. technical assistance overall which can lead to more coherent member state policies and more balanced contributions.

Question 35. What success has the United States had in promoting Japan for permanent membership on the Security Council? What about an informal agreement assuring Japan of a continuing non-permanent seat?

Answer. For some time Japan has wished to attain a permanent seat on the Security Council. It has served four times in the past as a rotational non-permanent member. The U.S. position remains that Japan, in our view, is fully qualified to become a permanent member of the Security Council. This could not be accomplished, however, unless the Charter were mandated. Both this issue and that of an informal agreement insuring Japan of a continuing non-permanent seat would be dependent on a consensus in the Council, in the Asian regional group and in the U.N. as a whole. It is our assessment that such a consensus does not exist at the present time.

Question 36. Have any countries supported a proposal that the caucusing groups select primarily for the non-permanent Security Council seats middle-sized nations which could participate fully in the maintenance of international peace and security?

Answer. The United States has continued to draw attention to Article 23 of the Charter which states, with regard to non-permanent members of the Security Council, due regard should be "specially paid, in the first instance, to the contribution of members of the United Nations to the maintenance of international peace and security and to the other purposes of the organization * * *. In most instances, regional groups take such considerations into account—witness Japan's election four times to the Council—but there is no such formal proposal now being discussed at the U.N. and we doubt that one would be acceptable to the regional groups.

APPENDIX

THE STANLEY FOUNDATION,
Muscatine, Iowa, November 6, 1979.

Hon. CLAIBORNE PELL,
Senate Office Building,
Washington, D.C.

DEAR SENATOR PELL: I am pleased to submit the attached statement concerning U.N. reform to your Arms Control, Oceans, International Operations and Environmental Subcommittee. I feel U.N. reform is a topic of great importance and one which deserves considerable attention.

In addition to my basic statement, I am also including testimony which I presented to the Ad Hoc Citizens Committee for Parallel United Nations Charter Hearings and reports from three conferences of The Stanley Foundation concerning the United Nations (Ninth Conference on the United Nations of the Next Decade, Tenth Conference on the United Nations of the Next Decade, and Ninth Annual Conference on United Nations Procedures).[1]

My opinions are based upon more than thirty years of observations, concern, and study regarding the United Nations and the world's quest for peace. I hope my statement and the included materials will be useful to you and your committee as you study this most important and complex problem of United Nations reform.

With warm personal regards,

C. M. STANLEY.

Enclosures.

PREPARED STATEMENT OF C. MAXWELL STANLEY

I sincerely welcome this opportunity to submit written testimony on United Nations reform to the Arms Control, Oceans, International Operations and Environment Subcommittee of the Senate Foreign Relations Committee.

I have resided in Muscatine, Iowa, since 1932. I am the founder and current chairman of the board of directors of Stanley Consultants, Inc., international consultants in engineering, architecture, planning, and management. I am also a founder and now chairman of the board of directors of Hon Industries Inc., manufacturers of office furniture and material handling equipment. My qualifications to testify on U.N. reform are based upon more than thirty years of observation and study of the United Nations and its specialized agencies. My duties with Stanley Consultants have involved many projects in the Third World. I have been active in many organizations concerned with U.S. foreign policy. For the past 23 years, I have been president of The Stanley Foundation, which encourages study, research, and education in the field of foreign relations contributing to secure peace with freedom and justice. Emphasis is given to activities related to world organization. Among the activities of the Foundation are the Strategy for Peace Conferences, the Conferences on the United Nations of the Next Decade, the Conferences on United Nations Procedures, the Conferences on Global Issues, and a number of Vantage Conferences dealing with various issues relating to U.S. foreign policy and international organization. As chairman of these conferences, I have had numerous and extended contacts with diplomats, governmental leaders, scholars, and officers and administrators of the United Nations and its many specialized agencies.

I have traveled widely, participated in many conferences other than those sponsored by The Stanley Foundation, written a number of articles on the United Nations and authored two books, Waging Peace (1956) and Managing Global Problems (to be released in the next few weeks).

"The United States should make a major effort toward reforming and restructuring the United Nations system so that it might become more effective in re-

[1] These reports are in the committee files.

solving global problems. Toward this end, the United States should present a program for United Nations reform to the Special United Nations Committee on the Charter of the United Nations and On Strengthening the Role of the Organization."

These are the words of neither a crusading idealist nor a scholarly professor; they are the words of elected members of the Congress of the United States, quoted verbatim from the Baker-McGovern U.N. Reform Rider to the Foreign Relations Authorization Act, Fiscal Year 1978 (Public Law 95–105).

This Rider called upon the President of the United States to submit his recommendations for reform of the United Nations to the Speaker of the House of Representatives and the Chairman of the Committee on Foreign Relations. The President's statement, dated March 2, 1978, contains a number of important recommendations for reform which would improve the operation of the United Nations. I concur, in general, with the President's recommendations but believe they are, in some respects, overly cautious.

Serious U.S. consideration of U.N. reform is long overdue. A more effective United Nations is not only desirable but indispensable, if global problems are to be resolved and managed by the world community. Critical world issues can be grouped into several major categories. I like to use the following six categories; you may prefer others.

1. Peace and security: Developing adequate systems to assure peaceful settlement of international differences and to protect the security of nations against overt and covert intervention, thus removing the need for threat and use of armed force and leading to arms reduction and disarmament.

2. Economic order: Improving the various systems and mechanisms comprising the world economic order to better manage trade, commerce, and development.

3. Development: Achieving an acceptable pattern and tolerable pace of economic and social development for the less developed two-thirds of the world's population.

4. Resource/population balance: Managing the finite resources of the earth and stabilizing population growth to achieve and sustain a quality of life compatible with human dignity.

5. Biosphere: Protecting and managing the biosphere to avoid hazardous deterioration and enhance environmental and resource contributions to the quality of life.

6. Human rights: Extending elemental human rights to all people and developing better systems to protect these rights.

These global problems must be confronted and managed in a climate of ever increasing interdependence. These global issues themselves are so interrelated that little progress can be made on any one of them in isolation. Where but from reduced military expenses will more adequate funds for economic and social growth be generated? Can there be substantial improvement in the world economic order without improved mechanisms to reduce tensions and peacefully resolve controversies? Can the resources necessary to provide a decent existence to growing numbers of people be assured without protection and enhancement of the environment? Finally, are not human rights more likely to be enlarged in a peaceful and secure atmosphere and a progressive climate encouraging economic and social development?

Sovereign nations too are becoming more interdependent. Very few, if any, nations are fully self-sufficient. Some nations have physical resources but lack technology. Others have technology but are short on resources; the United States is in this group. Many have deficiencies in both areas.

Because global problems are interrelated and nation-states are economically dependent upon one another, the world community's decision-making process is becoming ever more interdependent. None of the major global problems can be successfully managed unilaterally or bilaterally, and only a few lend themselves to solution on a regional basis; hence the importance of the United Nations, with all of its inadequacies and weaknesses, as an instrument for multilateral diplomacy and decision-making.

The nation-state model does not fully describe reality. While nation-states are decision-making and achieve the compromises fundamental to successful management of global problems, developing nations can achieve neither a new world economic order nor technology and finance for economic development without the assistance of developed nations. Developed nations can not reduce the bur-

den of armaments, improve the world's security system, or achieve desired changes in the world economic order without the cooperation of developing nations. No nation or bloc of nations, however strong, can gain desired objectives alone. Unfortunately, however, a few strong nations or a large bloc of countries can seriously impede progress.

A more effective United Nations is needed to facilitate compromise and decision-making, leading to the solution of global problems. The United States needs a more effective United Nations because its interests will, in the long run, be served and enhanced by better management of global problems.

For these reasons the initiatives of the Baker-McGovern Rider were welcome. They reflected a growing recognition that the United Nations as "man's best hope" is in need of improvement. It recognized the substantial changes that have occurred in the world since the U.N. Charter was drafted in 1945. The United States, as a motivating force in creating the United Nations, belongs in the forefront of efforts to improve the effectiveness of the organization.

But how is the United Nations to be reformed or restructured in order to be more effective in resolving global problems? Alternatives were explored in December, 1977, at a conference which I chaired; participants included officers and staffers from the Department of State and private citizens with varying academic, professional, or personal interests in the United Nations. By sharing our concerns, experiences, and knowledge, we identified and evaluated many approaches that merit the support of the President and the Congress of the United States.

On another occasion in August, 1975, I testified regarding U.N. reform before an ad hoc committee. A copy of that testimony is attached, together with reports of the three Stanley Foundation conferences which dealt with various phases of U.N. reform.

HOW TO REFORM AND RESTRUCTURE

The first approach to greater U.N. effectiveness is modifying and improving procedures and practices within its various organs and agencies. Rules of procedure of the General Assembly, the Security Council, and other organs and agencies can be changed. Time-honored traditions and practices can be modified. The responsibilities and duties of the Secretariat can be changed. Such modifications can improve the day-to-day functioning and decision-making of the United Nations. Only the will of nations, stimulated by positive leadership, is required to accomplish such improvements; the U.N. Charter need not be touched.

Restructuring of the functions and relationships of U.N. organs and agencies is a second approach to greater effectiveness of the United Nations. Coordination can be improved, overlap of functions can be eliminated, and operations can be better monitored and managed. This is the area of current study by the U.N. Ad Hoc Committee on Restructuring the Economic and Social Sectors of the United Nations. Again, the U.N. Charter need not be changed. The authority, and indeed the responsibility, to accomplish restructuring belongs to the General Assembly. This authority includes modifying the role of ECOSOC, altering the contractual relations between the United Nations and its agencies, and enhancing the competence and ability of the Secretariat. If the will to do so is present in the General Assembly, it can be done.

A third approach requires minor or relatively noncontroversial revisions of the U.N. Charter. To make the United Nations more compatible with the world of today, new organs might be established, functions of existing organs changed, and the size and distribution of membership in organs altered. Outdated Charter language or provisions might be altered. The Special United Nations Committee on the Charter of the United Nations and On Strengthening the Role of the Organization has discussed reforms of these types. Charter amendment procedures for these purposes are provided in Article 108; adoption is by a vote of two-thirds of the members of the General Assembly, with subsequent ratification by two-thirds of the members, including the permanent members of the Security Council. This procedure has been used to enlarge the Security Council and ECOSOC.

A fourth approach to reform of the United Nations is a general conference of the members of the United Nations called under the provisions of Article 109. A general conference may be called by a two-thirds vote of the members of the General Assembly and by a vote of any nine members of the Security Council. Thus the calling of a conference is not subject to the veto. This approach is the

most likely one to deal with major changes in the United Nations, such as modification of the veto of the Security Council or the one-nation/one-vote of the General Assembly. Alterations to the Charter, recommended by a two-thirds vote of the general conference, would take effect only when ratified by two-thirds of the members of the United Nations, including all permanent members of the Security Council.

OPPORTUNITY

Now is a unique and favorable time for dynamic and innovative U.S. leadership for the reform of the United Nations. First, the Carter administration has demonstrated greater determination to exert leadership commensurate with the inherent responsibilities of a large and powerful nation. Greater use of the United Nations has been emphasized. The need for enlarged cooperation with developing as well as developed nations has been stressed. Second, global attitudes toward accepting U.S. leadership are somewhat more favorable than in the past. The climate has improved due to many factors, not the least of which is the expressed determination of the Carter administration to take a fresh look at a number of global problems. Black Africans who have many votes in the General Assembly are impressed by attention given long-neglected problems of southern Africa. Developing nations are cautiously hopeful that the United States will continue to expand previous initiatives to deal with global economic problems. People everywhere are awaiting U.S. ratification of the SALT II treaty and subsequent SALT III negotiations to speed the process of checking the arms race.

There are other factors affecting the improved climate. Nations throughout the world, developed as well as underdeveloped, are feeling increased economic pressures, partly attributable to the burden of maintaining large military establishments. More national leaders are recognizing the need for more effective international and transnational approaches to world problem-solving. More moderate leadership and postures from the Group of 77 and from the nonaligned nations may be indications of these attitudes. The Security Council is functioning with greater consensus and less controversy. U.N. conference and special sessions of the General Assembly are constructively addressing various major global problems. None of these subtle changes mean that the United States can or should dictate world policy or dominate global decisions. However, the climate is emerging where intelligent and dynamic U.S. leadership can make positive contributions to the resolution of problems plaguing the world.

Through my professional activities and those of The Stanley Foundation, I have had numerous contacts with national leaders and diplomats throughout the world. It has been many years since I have sensed a climate as favorable as currently exists for constructive measures dealing with serious global problems. I sincerely hope that the hearings being held by your subcommittee will offer meaningful proposals for U.N. reform to the Special United Nations Committee on the Charter of the United Nations.

Ours is a world in limbo between a battered, centuries-old political system and a fledgling new world order, more responsive to the demands of peace, security, justice, progress and human dignity. The system that has served nations for centuries is beleaguered by its inability to adequately deal with the issues and problems of the post World War II era. This nation-state political system originated long before the revolution of science and technology of the last half century and the overdue, but sudden, collapse of Western colonialism in the 1950s and 1960s. New and exceedingly complex international issues have been tabled; dealing with them is more difficult in a world crowded with over 150 nation-states. While the evolution of the new world order is apparent to most scholars, many statesmen and some politicians, its parameters are indistinct and its pace of emergence is highly speculative.

The nation-state model does not full describe reality. While nation-states are still the leading actors on the world stage, the cast of characters is becoming more transnational. The actions or inactions of nations are no longer self-contained. The 30-year existence of the United Nations demonstrates that nations recognize the need for regional, multinational and international institutions to facilitate cooperation. But the traumas of an increasingly interdependent world are also symbolized in the United Nations. Its inadequacies clearly reflect that the United Nations is an instrument of the nation-state system lacking institutional autonomy and authority and employed—sometimes eagerly, sometimes reluctantly—by nation-states to enhance national interests and international cooperation.

The United Nations, serving as a primitive bridge between the nation-state political system and a more effective political order, has dual roles. Its immediate role is aiding and abetting the cooperation of nation-states to manage international crisis and solve global problems—a role that cannot be over-emphasized. Today's stakes are high, avoiding debilitating war and assuring quality of life—and perhaps survival. The longer range but equally important role of the United Nations is fostering an emerging world political system tailored for tomorrow.

Testifying on the Charter of the United Nations is a welcome but also a somewhat disturbing opportunity. Does one speak to the major revisions required to transform the United Nations into tomorrow's political system or does one focus upon reforms achievable within the context of the present Charter or requiring minor and comparatively non-controversial changes? I resist the temptation to address the longer range questions and direct my remarks to reforms necessary to increase the U.N.'s ability to perform its immediate role. I do so because the path to major Charter revision is uncertain, torturous and lengthy. For example, alternation of the veto in the Security Council and creation of an alternative to the one-nation, one-vote structure of the General Assembly are required along with many other major changes restraining national sovereignty. Today's climate is not conducive to early resolution of such matters.

The needs of the world community will not wait: The United Nations must be made to work better now. This need was anticipated, I believe, in Resolution 3349 of the 29th General Assembly establishing the Ad Hoc Committee on the Charter of the United Nations. This resolution clearly allows consideration of proposals for reform with or without amendments to the Charter.

I am convinced that much can and should be done, short of major Charter revision, to improve the United Nations. This judgment is based upon extensive contacts and discussions with diplomats, statesmen, politicians and scholars throughout the world. The Stanley Foundation has for years dealt with approaches to improving and reforming the United Nations. Fifteen Strategy for Peace Conferences, ten Conferences on the United Nations of the Next Decade, six Conferences on United Nations Procedures and others have consistently advanced ideas to improve United Nations machinery and procedures. Some of our recent reports are available here for you perusal.

Hence, the thrust of my testimony is (1) that the United Nations can and should be significantly improved by reforms short of major Charter revision and (2) that such action is needed in all of the organs of the United Nations. All links in the chain need strengthening. It is important that decision-makers at the United Nations and in member-states recognize how much could be done now to improve the system. Among the opportunities are the following (except as noted, none required Charter revision).

General Assembly

To improve decision-making processes in the General Assembly:

A. Elect the officers of the succeeding General Assembly and constitute its General Committee (consisting of the President, 17 vice presidents and chairmen of seven Main Committees) at the close of the prior General Assembly, or at a brief session early in the calendar year.

B. Revise General Assembly rules to establish additional categories of questions to be decided by a two-thirds rather than a simple majority and/or to count abstentions as a vote in determining the majority required to pass a resolution.

C. Hold more frequent special sessions on specific items including a special session on U.N. decision-making.

D. Facilitate General Assembly deliberations by more adequate preparation, limitations on length of general debate and on speeches in explanation of votes.

E. Improve Main Committee operations and structure by making greater use of working committees (or groups) on a year-round basis, reducing or eliminating general debate, eliminating assignment of the same subject to more than one committee and using more informal consultations and negotiations.

F. Replace committees of the whole by smaller committees with adequate geographic representation and restructure assignment of committees.

Security Council

To improve procedures in the Security Council:

A. Encourage trends toward gradual circumscription of the use of the veto including the passing of resolutions with abstention of one or more permanent members.

B. Facilitate Security Council decision-making by achieving an appropriate balance between official and informal meetings, by clearing its agenda of items no longer of current interest and by increasing the use of special missions for fact-finding, consultation and negotiations.

C. Carefully examine the possibility of enlarging and changing the composition of the non-permanent membership of the Security Council. Any such change would require Charter amendment.

D. Eliminate applicability of veto to Security Council actions calling upon parties in a dispute to undertake settlement in accordance with Article 33 of the Charter. This requires minor Charter amendment.

E. Encourage increased Security Council role in preventative negotiations directed towards early settlement of differences which may become threats to peace and security. Use of a standing committee, perhaps of the whole, to monitor potential trouble spots and bring difficulties to the attention of Security Council.

F. Increase activity by the Security Council in the specific settlement of disputes in accordance with Chapter VI of the Charter.

G. Establish a special committee to oversee an increased role by the Secretary General in the execution of peacekeeping.

H. Establish a policy that U.N. forces will not be withdrawn without Security Council approval when a nation consents to peacekeeping operations on its territory.

Secretariat

To improve the functioning of the Secretariat:

A. Expand the role of the Secretary General in settlements of disputes, using more skilled mediators, specialists and independent panels.

B. Encourage the Secretariat to take greater initiative in pointing out future trends and policy alternatives to the General Assembly in carefully defined areas.

C. Provide more adequate services to the Main Committees.

D. Establish permanent office within the Secretariat to assist small delegations.

E. Create a new top level post reporting to the Secretary General to direct Secretariat activities in economic and social matters.

F. Establish, under this new top level post, suitable units dealing with research and planning on economic and social matters and a unit dealing with administrative matters transferred from ECOSOC.

Economic and Social Council

To achieve greater harmonization of activities:

A. Strengthen the role of the Economic and Social Council (ECOSOC) to carry out its Charter-given responsibilities "for comprehensive policy formation and coordination of the activities of the U.N. system in economic, social and human rights fields."

B. Transform ECOSOC's function into one of establishing broad policy and objectives in the economic and social fields and of monitoring progress. Administrative matters should be handled by the Secretariat.

C. Reduce the number of ECOSOC subsidiary groups by merger and/or elimination.

D. Examine and update the contractual relations between the United Nations and the agencies.

E. Reduce the duplication of work of ECOSOC and the General Assembly and its committees.

Disarmament and Peacekeeping

To increase effectiveness of United Nations efforts:

A. Develop appropriate machinery for considering disarmament matters including a large body to establish general principles and guidelines in which all nations should be represented. Establish a small negotiating body, including all nuclear weapon states, to replace the Conference of the Committee on Disarmament (CCD), to develop proposed treaties and resolve complex technical problems.

B. Establish, by the Security Council, a subsidiary body under Article 29 to monitor arms trade and provide mechanisms for reporting arms transfers to the United Nations.

C. Establish a special U.N. peacekeeping fund allowing advance accumulation of voluntary contributions.

General

A. Establish a form of optional associate membership in the United Nations for mini-states. This may require Charter amendment.

B. Develop independent sources of revenue for the United Nations by treaty or Charter Amendment.

The above recommendations typify the opportunities for early reform to strengthen the United Nations and increase its effectiveness. Other potential improvements exist within areas discussed as well as with the International Court of Justice. These are the types of changes that can be made whenever nations display the will to do so.

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